3 A.A.C. 8 Supp. 19-1

# Arizona Administrative CODE

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This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of January 1, 2019 through March 31, 2019

**Title 3**

Office of the Secretary of State
ADMINISTRATIVE RULES DIVISION

## TITLE 3. AGRICULTURE

## CHAPTER 8. DEPARTMENT OF OF AGRICULTURE - PEST MANAGEMENT DIVISION

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**The release of this Chapter in Supp. 19-1 replaces Supp. 17-2, 1-27 pages**

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 Therefore, all superseded material should be retained in a separate binder and archived for future reference.

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), 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
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### RULES

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

### THE ADMINISTRATIVE CODE

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

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

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.
First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31
For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

### AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

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

### HOW TO USE THE CODE

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

### ARIZONA REVISED STATUTE REFERENCES

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

### SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State's website, under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

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

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

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

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

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

### EXEMPTIONS AND PAPER COLOR

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.

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

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# TITLE 3. AGRICULTURE

## CHAPTER 8. DEPARTMENT OF OF AGRICULTURE - PEST MANAGEMENT DIVISION

Authorizing statute: A.R.S. § 3-107(A)(1); A.R.S. § 3-3603(A)(1)

*Laws 2016, Ch. 221 established the Pest Management Division within the Department of Agriculture (Department). The Department was exempt from the rulemaking requirements of Title 41, Chapter 6 under this law. Rules were recodified to this Chapter from 4 A.A.C. 29 at 23 A.A.R. 1976, effective June 30, 2017; once recodified the rules were amended at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).*

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CHAPTER 8. DEPARTMENT OF OF AGRICULTURE - PEST MANAGEMENT DIVISION

## ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS

**R3-8-101. Definitions**

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

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

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

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

"Applicator certification" means a certified applicator license.

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

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

"CEU" means continuing education unit.

"Continuing education unit" means 50 minutes of participation in continuing education.

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

"Department" means the Arizona Department of Agriculture.

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

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

"EPA" means the U.S. Environmental Protection Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

"PMD" means Pest Management Division.

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

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

"QA" means certified qualified applicator.

"QP" means qualifying party.

"Qualified applicator certification" means a certified qualified applicator license.

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

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

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

"Special Local Need registration" means an authorization from the Department to use a pesticide, which meets an Arizona-specific need, in Arizona according to the terms of the registration.

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

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

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

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

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

"TARF" means termite action report form.

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

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

"WDIIR" means wood-destroying insect inspection report.

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

**Historical Note**
New Section recodified from R4-29-101 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-102. Certification Categories; Scope**

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

1. Industrial and institutional: pest management in, on, around or adjacent to a structure not covered by another category; pest management in or on asphalt, concrete, gravel, rocks and similar surfaces, including man holes, not covered by another certification category; pest management of health related pests wherever found; but excluding anti-microbial pest management and fungi inspection
2. Wood-destroying organism management.
   a. Wood-destroying organism treatment: inspecting for the presence or absence of wood-destroying organisms and treating for wood-destroying organisms in or about a residential or other structure by a means other than use of a fumigant.
   b. Wood-destroying insect inspection: inspecting for the presence or absence of wood-destroying insects only and excluding preparing treatment proposals.
3. Ornamental and turf: pest management, including weeds, pests in trees, shrubs, and flowers, turf and bare ground, not covered by the right-of-way category, by means other than the use of a fumigant. Excludes any pests within a structure.
4. Right-of-way: pest management of pests, including weeds, in the maintenance of public roads, electric powerlines, pipelines, railway rights-of-way or other similar areas by a means other than use of a fumigant, but excluding pest management in the maintenance of ornamental trees, shrubs and flowers.
5. Aquatic: pest management, including weeds, in standing or running water.
6. Fumigation: pest management using fumigants; except as provided in the wood preservation category.
7. Wood preservation: application of pesticides, including fumigants labeled for use on utility poles or railroad ties, directly to structural components of wood or wood products, to prevent or manage wood degradation by wood-destroying organisms including fungi and bacteria, which are not part of an existing structure.

**Historical Note**
New Section recodified from R4-29-102 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-103. Fees; Charges; Exemption**

**A.** Beginning March 1, 2019 through June 30, 2020, a person shall pay the following application and renewal fees for licensure, certification, and registration:
1. For an applicator:
   a. Applicator certification, $55.
   b. Applicator certification broadening application, $0.
   c. QA certification, $75.
   d. QA certification broadening application, $15.
2. For a qualifying party:
   a. Registration at same time as application for or renewal of the business license, $0.
   b. Registration at a different time than application for or renewal of the business license, $35.
   c. Registration broadening, $15.
   d. Temporary qualifying party registration, $75.
3. For a business:
   a. Business license, $185.
   b. Business license for federal entity, $0.
   c. Applicator registration, $0 per applicator.
4. For a branch:
   a. Branch office registration, $35 per branch.
   b. Branch supervisor registration at same time as branch office registration, $0.
   c. Branch supervisor registration at a different time than branch office registration, $15.

**B.** Beginning July 1, 2020, a person shall pay the following application and renewal fees for licensure, certification, and registration:
1. For an applicator:
   a. Applicator certification, $75.
   b. Applicator certification broadening application, $0.
   c. QA certification, $100.
   d. QA certification broadening application, $25.
2. For a qualifying party:
   a. Registration at same time as application for or renewal of the business license, $0.
   b. Registration at a different time than application for or renewal of the business license, $50.
   c. Registration broadening, $25.
   d. Temporary qualifying party registration, $100.
3. For a business:
   a. Business license, $250.
   b. Business license for federal entity, $0.
   c. Applicator registration, $0 per applicator.
4. For a branch:
   a. Branch office registration, $50 per branch.
   b. Branch supervisor registration at same time as branch office registration, $0.

c. Branch supervisor registration at a different time than branch office registration, $25.

**C.** A person renewing an applicator certification, QA certification, business license, branch office registration, or branch supervisor registration shall receive a 10 percent reduction in the renewal fee for renewals submitted for a two year renewal period.

**D.** In addition to the fees listed in subsection (A), a person shall pay a $10 handling fee for each application or renewal form not submitted electronically when PMD allows electronic submission.

**E.** A person shall pay a late fee equal to ten percent of the renewal fee for any license, certification, or registration that is not renewed timely.

1. If a business license remains expired for more than 30 days, to renew the license, a person shall also pay an additional late fee of $15 per month that the license remains expired, not to exceed $165. Late fees are in addition to the renewal fee.
2. If a certification remains expired for more than 30 days, to renew the certification, a person shall also pay an additional late fee of $10 per month the certification remains expired, not to exceed $110. Late fees are in addition to the renewal fee.

**F.** A business licensee shall pay the following TARF fees:

1. Electronic submissions, $2;
2. Electronic final grade treatment TARF submissions, $0;
3. Electronic TARF submissions for a pretreatment or new-construction treatment of an addition that abuts the slab of an originally treated structure, $0, if the business licensee:
   a. Performed the pretreatment or new-construction treatment of the main structure,
   b. Filed a TARF regarding the pretreatment or new-construction treatment,
   c. Has the structure under warranty, and
   d. Treats the abutting addition under the terms of the site warranty;
4. All paper submissions, $8; and
5. Late fee equal to the original TARF fee for any TARF submission more than 30 days after the due date, except that the late fee for an electronic final grade treatment TARF submission more than 30 days after the due date shall be $2.

**G.** If the PMD administers a certification examination, an applicant shall pay $50 to take the examination. If an examination service or testing vendor administers a certification examination, an applicant shall pay the examination service or testing vendor the examination cost established in the vendor's contract with the PMD.

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

**I.** An applicant who makes a payment for a fee due under this Section that is rejected by a financial institution will be subject to all of the following:

1. The PMD shall void any approval of the application or renewal.
2. The applicant shall pay any financial institution fee incurred by the PMD.
3. The PMD may require the applicant to pay all fees due using a method other than a personal or business check.
4. An application for renewal will be considered untimely if the substitute payment is not received by the PMD by the original due date, and the applicant will be subject to a late fee based on the date of receipt of the substitute payment.

**J.** The PMD may reject an application or request for service that is submitted with the incorrect fee and not process the application or provide the service. An application for renewal will be considered untimely if the substitute payment is not received by the PMD by the original due date, and the applicant will be subject to a late fee based on the date of receipt of the substitute payment.

**Historical Note**

New Section recodified from R4-29-103 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final expedited rulemaking at 25 A.A.R. 720, effective February 25, 2019 (Supp. 19-1).

**R3-8-104. Pest Management Division Council**

**A.** A five-member Pest Management Division Council is established to assist and make recommendations to the director regarding the administration and implementation of A.R.S. Title 3, Chapter 20.

**B.** The members shall meet the following qualifications:

1. Three members shall be business licensees or qualifying parties and shall each have a minimum of five years of pest management experience.
   a. At least one of these three members shall be a business licensee who has five or fewer applicators.
   b. For one of these three members, first priority shall be given to a business licensee or QP based outside of Maricopa and Pima Counties and secondary priority shall be given to a business licensee or QP who is not based outside of those counties but is associated with a business that has an office in Arizona outside of those counties. If there are no qualified first or secondary priority applicants, the Director may appoint any business licensee or QP with a minimum of five years of pest management experience.
2. One member shall be a representative of a political subdivision.
3. One member shall be a public member who does not provide pest management services or work for a business licensee.

**C.** Members shall serve three year staggered terms. Members shall not serve consecutive terms, except that a member who is appointed to fill a vacancy may serve the unexpired term that fills the vacancy plus one regular term. A member shall be ineligible for reappointment for three years.

**D.** The office of a member shall be deemed vacant under any of the following circumstances:

1. The member no longer satisfies the qualification in subsection (B).
2. The member is unable to perform the duties of the office.
3. The absence of the member from three consecutive Committee meetings if the absences have not been excused by the Committee.

**E.** The Committee shall annually select a chairman and vice-chairman from among its members.

**Historical Note**

New Section recodified from R4-29-104 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-105. Reserved**

**Historical Note**

New reserved Section recodified from R4-29-105 at 23

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

**R3-8-106. Reserved**

**Historical Note**

New reserved Section recodified from R4-29-106 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

**R3-8-107. Licensing Time-frames**

**A**. Overall time-frame. The PMD shall issue or deny a license within the overall time-frames listed in Table 1. The overall time-frame, which is the total number of days provided for both the administrative completeness and substantive review time-frames, begins when the PMD receives an application.

**B.** Administrative completeness review time-frame.

1. During the administrative completeness review time-frame, the PMD shall notify the applicant in writing whether the application is complete or incomplete. If the application is incomplete, the PMD shall specify in the notice what information is missing. If the PMD does not provide notice to the applicant within the administrative completeness review time-frame, the PMD shall deem the application complete.
2. An applicant with an incomplete license application shall supply the missing information within the completion request period listed in Table 1. The administrative completeness review and overall time-frames are suspended from the postmark date of the notice of missing information until the date the PMD receives the information.
3. If an applicant fails to submit the missing information before expiration of the completion request period, the PMD shall consider the application withdrawn and close the file. An applicant whose file is closed may apply for a license by submitting a new application and application fee.

**C.** Substantive review time-frame.

1. The substantive review time-frame listed in Table 1 begins when an application is administratively complete or at the end of the administrative completeness review time-frame in Table 1, whichever occurs first. If the PMD determines during the substantive review that additional information is needed, the PMD shall send the applicant a comprehensive written request for additional information.
2. Both the substantive review and overall time-frames are suspended from the date of the PMD's request until the date that the receives the additional information. The applicant shall submit the additional information within the additional information period listed in Table 1.
3. If the applicant fails to provide the additional information within the additional information period in Table 1, the PMD shall consider the application withdrawn and close the application. An applicant whose file is closed may apply for a license by submitting a new application and application fee.

**D.** Within the overall time-frame listed in Table 1, the PMD shall:

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

**E.** If the PMD denies a license or approval under subsection (D)(1), the PMD shall provide a written notice of denial to the applicant that explains:

1. The reason for the denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a fair hearing to challenge the denial; and
3. The time for appealing the denial.

**Historical Note**

New Section recodified from R4-29-107 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**Table 1. Time-frames (Calendar Days)**

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

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

**Historical Note**

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

**R3-8-108. Reserved**

**Historical Note**

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

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

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

**A.** Business license. A person doing an activity defined as the business of pest management shall first possess a valid business license, unless the person is:
1. A political subdivision;
2. Acting on behalf of a business licensee or political subdivision; or
3. Otherwise exempt by this Chapter or the PMD's statutes.

**B.** Qualifying party registration. A business licensee or school district shall only do an activity defined as the business of pest management if the business licensee or school district has a registered qualifying party. The business licensee or school district shall only provide pest management services in a certification category if the qualifying party is registered in that certification category.

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

4. An individual may not provide pest management services at a school, child care facility, health care institution, or food-handling establishment unless the individual is a certified applicator in the certification category for which services are being provided.
5. An individual using an animal to assist with identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations shall be a certified applicator in the certification category for which services are being provided.

**D.** Applicator registration. An applicator may not provide pest management services on behalf of a business licensee or political subdivision unless the applicator is registered as an applicator of the business licensee or political subdivision pursuant to R3-8-207.

**E.** Exemptions. A person is not required to be licensed who:
1. Provides general information about a label or labeling, the identification or management of a pest, integrated pest management or the use of a registered pesticide; does not directly or indirectly charge for the information; and does not make an on-site recommendation.
2. Performs sales work that does not include:
   a. Identifying on-site infestations or making inspections for the purpose of identifying or attempting to identify infestations;
   b. Making written or oral inspection reports or on-site recommendations with respect to infestations; or
   c. The application of pesticides or the use of devices for the purpose of eliminating, exterminating, controlling or preventing infestations.
3. Is an authorized representative of any educational institution engaged in research in the study of pest management and does not provide pest management services for hire.
4. Is a certified home inspector and documents evidence of wood-destroying organisms on a home inspection, but does not prepare a WDIIR, prepare a treatment proposal, make treatment estimates, bids, or recommendations, apply pesticides, or use devices.
5. Only uses, applies or installs home improvement articles, such as insulation, caulk and paint, that are pre-incorporated with a pesticide.

**Historical Note**
New Section recodified from R4-29-201 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-202. Business License**

**A.** An applicant for a business license shall submit the following information on a form obtained from the PMD:
1. About the business:
   a. Business name;
   b. Name and form of business organization;
   c. Names of the following persons authorized to act on behalf of the business:
      i. Owner if a sole proprietorship;
      ii. Managing or general partner if a partnership;
      iii. President and other authorized officers if a corporation;
      iv. All the managers or members if a limited liability company; or
      v. Person authorized to make decisions for the business if any other type of business form;
      vi. Names of all principals of the business including all individuals or other corporations or partnerships that own at least ten percent interest of the business.
   c. Telephone number;
   d. Physical address;
   e. Mailing address, if different from physical address
   f. E-mail address; and
   h. Chemical storage address.
2. Daytime telephone number of individuals identified under subsection (A)(1)(c);
3. Name of the qualifying party; and
4. The dated signature and title of an authorized representative of the business affirming that the information provided is true and correct.

**B.** In addition to the form required under subsection (A), an applicant shall submit:
1. The fee specified in R3-8-103;
2. The proof of financial security required by A.R.S. § 3-3615;
3. The name and physical address of the statutory agent of the business; and
4. A copy of the Articles of Incorporation or Organization, Certificate of Limited Partnership, trust, trade name certificate, partnership agreement, or other evidence of the form of business organization.

**C.** A business cannot be licensed without a registered qualifying party.

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

**E.** A business license expires on May 31, and is:
1. Issued with an expiration in the following calendar year as an initial licensure; and
2. Renewable for one or two years, depending on the renewal period selected by the applicant.

**F.** A business license may not be transferred except in accordance with R3-8-209 and may not be renewed beyond the expiration of the registration for the business's qualifying party.

**G.** If an applicant's proof of financial security includes an insurance policy which provides for a deductible in excess of one percent of the total financial security for each occurrence, the applicant shall provide other evidence of financial security for the excess deductible amount as required by A.R.S. § 3-3615 Financial security in the following forms will be acceptable, provided that the nature of the security provides adequate protection for persons who may suffer bodily injury or property damage as a result of the operations of the applicant:
1. Liability insurance, self-insured retention or surety bond issued by an insurer that holds a valid certificate of authority or that is permitted to transact surplus lines insurance in this state;
2. Bank statement evidencing a deposit of money in an amount equal to, or greater than, the excess deductible amount; or
3. Certified Check in an amount equal to, or greater than, the excess deductible amount.

**Historical Note**
New Section recodified from R4-29-202 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-203. Applicator Certification**

**A.** Application. An applicant for applicator certification shall submit the fee specified in R3-8-103 and the following information on a form obtained from the PMD:
1. Full name;
2. Applicator certification number, if any;
3. Home address;
4. Mailing address, if different from the home address;
5. Telephone number;
6. E-mail address;
7. Date of birth;
8. Social Security number;
9. A statement whether the applicant has ever had a license or permit to practice pest management denied, revoked, or suspended and if the answer is yes, the date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;
10. Name of employer, if any;
11. Employer's business license number, if applicable;
12. Employer's telephone number, if applicable; and
13. The applicant's dated signature affirming that the information provided is true and correct.
14. Information and documentation concerning lawful presence required by A.R.S. § 41-1080.

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

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

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

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

**F.** Certification. Applicator certification is not transferable, expires on May 31, and is:
1. Issued with an expiration in the following calendar year as an initial certification,
2. Renewable for one or two years, depending on the renewal period selected by the applicant, and
3. Renewed for all certification categories for the same renewal period, and
4. The responsibility of the individual to whom it is issued.

**Historical Note**

New Section recodified from R4-29-203 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-204. Qualified Applicator Certification**

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

**B.** Application. An applicant for QA certification shall submit the fee specified in R3-8-103 and the following information on a form obtained from the PMD:
1. Full name;
2. Applicator certification number, if any;
3. QA certification number, if any;
4. Home address;
5. Mailing address, if different from the home address;
6. Telephone number;
7. E-mail address;
8. Date of birth;
9. Social Security number;
10. A statement whether the applicant has ever had a license or permit to practice pest management denied, revoked, or suspended and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;
11. Name of employer, if any;
12. Employer's business license number, if applicable;
13. Employer's telephone number, if applicable;
14. Certification categories for which application is made; and
15. The applicant's dated signature affirming that the information provided is true and correct.
16. Information and documentation concerning lawful presence required by A.R.S. § 41-1080, if not on file.

**C.** Experience. An applicant shall possess one of the following qualifications:
1. Certification as an applicator for 24 months within the ten years preceding the application in the category applied for.
2. Certification as an applicator for 12 months within the ten years preceding the application and either:
   a. Successful completion of 12 semester hours or its equivalent within the 10 years preceding the application in pest management courses directly related to each category applied for; or
   b. A Bachelor's degree in agricultural sciences, biological sciences, or pest management with 12 semester hours or its equivalent in pest management courses directly related to each category applied for.
3. Twenty four months of verifiable experience in the business of pest management, in another State where licensure was not required, within the ten years preceding application directly related to the category applied for.

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

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

**F.** PMD review.
1. After notification by the PMD that the applicant is eligible for certification, the applicant may schedule and take the certification examinations described under R3-8-211.
2. If the PMD determines there may be cause to deny certification to an applicant, the PMD may send a written notice to the applicant requiring the applicant to appear at a specific location, date and time to answer questions.

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

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

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

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

**Historical Note**
New Section recodified from R4-29-204 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

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

**A.** An applicant for registration as a QP shall submit the fee specified in R3-8-103 and the following information on a form obtained from the PMD:
1. Full Name;
2. QA certification number;
3. Certification categories to be registered;
4. Name, and license number if applicable, of the business or school district for which the applicant will act as the QP; and
5. Dated signature of the applicant affirming that the information provided is true and correct;

**B.** An individual may only register as a QP in categories for which the individual possesses QA certification.

**C.** A certified applicator who is the representative of a business licensee or school district may register as a temporary QP if the QP has become disassociated with the business licensee or school district within the last 45 days. A certified applicator may only register as a temporary QP in the categories for which both the former QP was registered and the certified applicator is certified.

**D.** An applicant for registration as a temporary QP shall submit the fee specified in R3-8-103 and:
1. The information required in subsection (A), except subsection (A)(2);
2. The applicant's applicator certification number;
3. Written confirmation signed by the business licensee, school district, or former QP indicating that the former QP has become disassociated with the business licensee or school district; and
4. A written statement signed by the business licensee or school district that:
   a. The business licensee or school district has not operated in the business of pest management for more than five business days since the disassociation in the categories for which the disassociated QP was registered; and
   b. The business licensee or school district wants the certified applicator to act as a temporary QP.

**E.** A business licensee or school district shall not use a temporary QP to qualify the business or school district in a category for more than 180 days in any 12 month period.

**F.** Registration.
1. QP registration is not transferable, expires on May 31, and is:
   a. Issued with an expiration in the following calendar year as an initial registration,
   b. Renewable for one or two years, depending on the renewal period selected by the applicant, and
   c. Renewed for all registration categories for the same renewal period.
2. Temporary QP registration is not transferable, is valid for 90 calendar days and may be renewed once for the business license.
3. A QP or temporary QP may only register to qualify one business licensee or school district except as provided in subsection (F)(4).
4. A QP for school districts shall separately register as a QP for each school district served, but may not register as a QP for more than one school district without approval from the director pursuant to R3-8-402(C).

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

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

**A.** A business licensee may not do business from a branch office unless the branch office and a branch supervisor are registered with the PMD.

**B.** To register a branch office, the business licensee shall submit the fee specified in R3-8-103 and the following information on a form obtained from the PMD:
1. The business licensee's name and licensee number.
2. About the branch office:
   a. Full name of branch supervisor;
   b. Branch supervisor's applicator certification number;
   c. Telephone and fax numbers;
   d. Physical address;
   e. Mailing address, if different from physical address;
   f. E-mail address; and
   g. Chemical storage address; and
3. The dated signature of an authorized representative of the business licensee.

**C.** A branch office shall do business in the name of the business licensee only.

**D.** To register as a branch supervisor, the applicant shall submit the fee specified in R3-8-103 and the following information on a form obtained from the PMD:
1. Full name,
2. Applicator certification number,
3. Business name and license number,
4. Physical and mailing address of branch office where the applicant will be the supervisor,
5. Branch office telephone and fax numbers,
6. Dated signature of the applicant affirming that the information provided is true and correct, and
7. Dated signature of an authorized representative of the business licensee.

**E.** A branch supervisor may only register to supervise a branch office at one physical location.

**F.** Registration. Registration as a branch office or branch supervisor is not transferable, expires on May 31, and is:
1. Issued with an expiration in the following calendar year as an initial registration, and
2. Renewable for one or two years, depending on the renewal period selected by the applicant.

**Historical Note**
New Section recodified from R4-29-206 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-207. Applicator Registration**

**A.** Every applicator of a business licensee or political subdivision shall be registered with the PMD as an applicator for that business licensee or political subdivision before providing pest management services for the business licensee or political subdivision. This requirement is in addition to applicator certification requirements.

**B.** To register an applicator, a person shall submit the fee specified in R3-8-103 and the following information about the applicator on a form obtained from the PMD:
1. Full name;
2. Name, and license number if applicable, of the business licensee or political subdivision;
3. For an applicator of a business licensee, identification of the primary or branch office where the applicator's pest management records will be kept;
4. For a certified applicator, the applicator's certification number;
5. For an uncertified applicator, the applicator's:
   a. Home address;
   b. Mailing address, if different from the home address;
   c. E-mail address;
   d. Telephone number;
   e. Date of birth;
   f. Social Security number; and
6. Dated signature of the applicant affirming that the information provided is true and correct.

**C.** An uncertified applicator shall be at least 18 years of age.

**D.** Applicator registration is valid from the date the PMD receives all the information required under subsection (B) and the registration fee.

**E.** Applicator registration is non-transferable and expires on May 31.

**F.** A business licensee and QP are jointly responsible for ensuring compliance with this Section.

**G.** The director shall assess a business licensee with a $150 civil penalty for each unregistered applicator.

**Historical Note**
New Section recodified from R4-29-207 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

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

**A.** An application to renew a business license, applicator or QA certification, or qualifying party, branch office, branch supervisor, or applicator registration is due May 1 of the year the license, certification, or registration expires. Failure to receive a renewal application does not justify a failure to timely renew.

**B.** An applicant for renewal shall submit the following information on a form obtained from the PMD:
1. All renewals:
   a. A change in physical address and mailing address, if any;
   b. E-mail address;
   c. Telephone number;
   d. Dated signature of the applicant affirming that the information provided is true and correct; and
   e. License specific information described in this subsection, if applicable.
2. Business license:
   a. Full name of the qualifying party in each category for which the business provides pest management services, and
   b. Proof that the licensee still meets the financial security requirement in A.R.S. § 3-3615; and
   c. A change in the chemical storage address, if any.
3. Applicator and QA certification:
   a. Name of employer, if any;
   b. A statement whether the applicant has had a license or permit to practice pest management denied, revoked, or suspended during the last 12 months and if the answer is yes, the date, jurisdiction taking the action, nature of the action, and explanation of the circumstances; and
4. Applicator registration: The names and if applicable certification numbers of all of the business licensee's current applicators.

**C.** An applicant for renewal shall select a one or two year renewal period and shall pay the renewal fee listed in R3-8-103 for each year of renewal.

**D.** CEU requirements. The director shall not renew a certification unless, prior to the expiration of the current certification, the applicator obtains the CEUs required by R3-8-215.

**E.** Expired license, certification, or registration.
1. An applicant who submits a complete renewal application, including the renewal fee, after the expiration of the license, certification, or registration shall pay the late fee listed under R3-8-103 as a penalty in addition to the renewal fee.
2. An applicant may renew an expired applicator or QA certification without retaking the written examinations provided the applicant has satisfied the CEU requirements, during their most recent certification period.
3. A certification that has been expired for more than 11 months may not be renewed. The former certificate holder may apply as a new applicant and shall retake and pass the applicable certification examinations.
4. A business license that has been expired for more than one year may not be renewed. The former licensee may apply as a new applicant.
5. Notwithstanding subsections (E)(1) through (4), an applicant who fails to renew because the applicant is on active military duty may obtain the continuing education required under R3-8-215 and apply for renewal within one year of honorable separation from active military duty without paying a late fee.

**F.** Renewal effective date.
1. If an applicant submits a complete application for renewal, including the renewal fee, before the expiration of the license, certification, or registration, then the license certification, or registration does not expire until:
   a. The renewal has been approved; or
   b. In the case of denial or new limits on the license, certification, or registration, the last day for seeking review of the PMD order or later date fixed by a court.
2. If an applicant fails to submit a complete application for renewal, including the renewal fee, before the expiration of the license, certification, or registration, then the license, certification, or registration expires as provided in this Article and is not valid until the PMD has approved the renewal application. A business, branch office, or applicator with an expired license, registration, or certification may not provide pest management services or otherwise engage in the business of pest management. A qualifying party with an expired registration may

not qualify a business licensee or school district. A branch supervisor with an expired registration may not supervise a branch office.

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

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

**R3-8-209. Change in Business Licensee**

**A.** Transfer to spouse. A business license may be transferred to the licensee's spouse without a fee by submission of a Business License Entity Change Application if the licensee's spouse submits evidence of marriage to the licensee, keeps the same business name for the remainder of the licensee period and agrees to honor all of the licensee's customer contracts and warranties.

**B.** Transfer to new entity. A person may request a transfer of a business license to a new entity without a fee by submitting a Business License Entity Change Application if:
1. The owners of the current business licensee own a majority of the new entity,
2. The new entity keeps the same business name as the current business licensee for the remainder of the licensing period,
3. The new entity agrees to honor all customer contracts and warranties provided by the current business licensee, and
4. The current business licensee and the new entity are not the same form of entity.

**C.** When a business license is transferred under subsection (A) or (B), the new licensee shall be responsible for any outstanding fees or penalties owed to the PMD and for any disciplinary action taken by the PMD as a result of violations of this Chapter or the PMD's statutes by the former licensee.

**D.** Except as provided in subsections (A) and (B), a change in ownership of a licensed sole proprietorship requires a new business license.

**E.** If, through a change in ownership, a licensed business's office becomes a branch office of another licensed business, the new owner shall notify the PMD and comply with R3-8-206.

**F.** A business licensee shall report any change in the principals of the business to the PMD within 30 days. Principal means a person who owns at least a 10 percent interest in a business. Principal includes an owner that is itself a business as well as owners of a principal.

**G.** If a business licensee changes the name of the business, the licensee shall provide the following information on a Business Name Change Application submitted to the PMD prior to the change:
1. Name of business entity;
2. Current business name;
3. Business license number;
4. New business name requested;
5. Copy of the Registered Trade Name Certificate, amended Articles of Organization or Incorporation, amended Certificate of Limited Partnership, or amended Statement of Partnership Authority or Qualification showing the new name; and
6. Dated signature of the authorized representative of the business licensee affirming that the information provided is true and correct.

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

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

**R3-8-210. Certification Broadening**

**A.** To broaden an applicator certification, the applicant shall:
1. Submit the application described in R4-29-203,
2. Submit the fee required under R4-29-103, and
3. Take and pass the certification examination for the specific category in which broadening is sought.

**B.** A QA is eligible to broaden a QA certification only if, in the category in which broadening is sought, the QA has a valid applicator certification or a qualification listed in R4-29-204(C).

**C.** To broaden a QA certification, the QA shall:
1. Submit the application described in R4-29-204 and indicate on the application the category in which broadening is sought,
2. Submit the fee required under R4-29-103,
3. Submit the evidence of experience required under R4-29-204(C) for the category in which broadening is sought except as provided in subsection (D) of this Section, and
4. Take and pass the certification examination for the specific category in which broadening is sought.

**D.** Experience exemptions. A QA may become certified without meeting the experience requirement of R4-29-204(C) in the categories of:
1. Right-of-way or ornamental and turf if the individual has QA certification in the category of industrial and institutional, wood-destroying organism treatment, ornamental and turf, or right-of-way.
2. Wood-destroying organism management if the individual has QA certification in the industrial and institutional category.
3. Wood preservation if the individual has QA certification in the wood-destroying organism treatment category.

**Historical Note**
New Section recodified from R4-29-210 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

**R3-8-211. Certification Examination**

**A.** An applicant for applicator certification or QA certification shall make arrangements to take the certification examinations by contacting the PMD or the examination service or testing vendor with which the PMD has contracted.

**B.** The core and category-specific examinations may measure knowledge and understanding of the following content areas:
1. Pesticide label and labeling and pesticide types and formulations;
2. Pest identification, life cycles, and habits;
3. Safety and environmental factors relating to the use, handling, storage, and disposal of pesticides;
4. Application techniques, calibration and dilution, and equipment types, uses, and maintenance; and
5. Laws and rules.

**C.** To be certified, an applicant shall score at least 75 percent on the general standards ("core") examination and on the category-specific examination in each category for which the applicant seeks certification.

**D.** An applicant who fails an examination may not retake the examination for at least seven days or more than two times in a 6-month period.

**E.** An examination score is only valid for the earlier of 12 months from the date of application for certification or 12 months from the examination date.

**F.** The PMD shall void the examination score and deny the application of an applicant that the PMD determines cheated on an examination. The applicant may not reapply for one year.

**Historical Note**
New Section recodified from R4-29-211 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-212. Reciprocity**

Notwithstanding the examination requirements in R4-29-203(C), R4-29-204(G), and R4-29-211, the director may waive the examination requirements in whole or in part for an individual who is certified as an applicator pursuant to A.R.S. Title 3, Chapter 2 or by another state.

**Historical Note**
New Section recodified from R4-29-212 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

**R3-8-213. Political Subdivision Responsible Individual**

**A.** A political subdivision that uses pesticides to conduct pest management on property that is owned, leased or managed by the political subdivision, including easements, shall designate an individual or individuals responsible for the following:
1. Responding to inquiries or concerns by the Director or the Director's designee regarding compliance with A.R.S. Title 3, Chapter 20.
2. Identifying for the Director or the Director's designee where records required by this Chapter are maintained, where personal protection equipment is located, and where pesticides are stored.
3. Demonstrating that all applicators are properly certified.

**B.** The political subdivision shall annually submit the following information about the responsible individual(s) during the month of May on a form obtained from the Director or the Director's designee:
1. Full name;
2. Physical address;
3. Mailing address, if different from the physical address;
4. E-mail address;
5. Telephone number;
6. Dated signature of the responsible individual(s) affirming that the information provided is true and correct.

**C.** If the political subdivision changes its responsible individual(s), the political subdivision shall provide the information about the new responsible individual(s) listed in subsection (B) to the Director within 30 days.

**D.** School districts are exempt from this Section.

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

**R3-8-214. Reserved**

**Historical Note**
New reserved Section recodified from R4-29-214 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

**R3-8-215. Continuing Education**

**A.** A certified applicator who is not a QA shall, during the current certification period, obtain six CEUs in order to renew the certification for one year or 12 CEUs in order to renew for two years.

**B.** A QA shall, during the current certification period, obtain 12 CEUs in order to renew the certification for one year or 24 CEUs in order to renew for two years.

**C.** For an individual who holds both a certified applicator license and a QA license, obtaining the units required in subsection (B) satisfies the requirement in subsection (A).

**D.** CEUs earned during a certification period that are in excess of the requirements in this Section do not carry forward for use in a subsequent certification period.

**E.** An applicator who teaches a continuing education course may earn one unit of continuing education for each hour taught, not more than once during a calendar year.

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

**G.** No CEU credit will be earned by an attendee of a continuing education course who had previously attended the same course during the same licensing period.

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

**R3-8-216. Continuing Education Approval**

**A.** Only continuing education courses approved by the PMD may be used to satisfy the continuing education requirement in R3-

8-215. The PMD shall approve a continuing education course only if the course addresses:
1. Pesticide labels and labeling;
2. Safety, environmental factors, and consequences;
3. Pesticide use and disposal;
4. Laws and rules related to pest management and the business of pest management;
5. Application techniques;
6. Calibration and dilution;
7. Equipment;
8. Pest identification;
9. Life cycles and habits;
10. Calculation and measurements;
11. New pest management technologies;
12. Integrated pest management; or
13. Licensee responsibilities.

**B.** A person who wishes to have the PMD determine whether a course qualifies for CEU credit shall submit the following information to the PMD:
1. Type of continuing education listed under subsection (A);
2. Name of continuing education provider;
3. Address and telephone number of continuing education provider;
4. Course outline, listing the subjects and indicating the amount of time allocated for each subject;
5. Brief description of the information covered within each subject;
6. Brief biography of the presenter, demonstrating the presenter's qualifications;
7. Whether a fee is charged for attending the course;
8. Date and location of each session;
9. Whether the course is open to the public;
10. Number of continuing education units sought;
11. Previous continuing education number, if any; and
12. Dated signature of applicant;

**C.** The provider of an approved continuing education course shall:
1. Enter attendance information using the PMD's on-line continuing education reporting tool within 10 days after the date of the continuing education course, and
2. Maintain a copy of the verification of attendance and original sign-in sheet that lists the attendees' names and certification numbers for two years.
3. Allow PMD and Department employees to attend the course and review course materials without charge, except that the provider has no obligation to provide food to the employees that is made available for paying attendees.
4. Notify PMD in writing of the date, time and place of each continuing education course at least two weeks before each course. In-house and online courses are exempt from this requirement.

**D.** Unless otherwise indicated in the notice of approval, the PMD's approval of a continuing education course is valid for two years.

**E.** Approval of a continuing education course is not renewable. To reapply for approval of a continuing education course, a person shall comply with the requirements of subsection (B).

**F.** The provider of an approved continuing education course shall provide notice and updated information to the PMD within 10 days after the subject matter or instructor of the course changes.

**G.** To evaluate the effectiveness of a continuing education course, the PMD may monitor an approved continuing education course at no cost.

**H.** The PMD shall revoke its approval of a continuing education course if the PMD determines that the course fails to meet the standards for approval listed in this Section, the continuing education provider provided false information on its application or false information pertaining to attendance, or the continuing education provider fails to comply with the PMD's statutes and this Chapter.

**I.** The PMD may modify the number of CEUs earned for a CEU course if the CEU course varies significantly in content or length from the approved curriculum. If the PMD modifies the number of CEUs earned, the PMD shall send a letter of modification to the course organizer, who shall be required to inform all individuals who attended the course.

**Historical Note**
New Section recodified from R4-29-216 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

## ARTICLE 3. PEST MANAGEMENT

**R3-8-301. Using Pesticides and Devices**

**A.** An applicator shall use only a pesticide that is currently registered for use by the Department or was registered by the Department and does not have a passed EPA end use date.

**B.** An applicator shall not misuse a pesticide or device. It is misuse of a pesticide or device if an applicator:
1. Applies, handles, stores, or disposes of a pesticide or device in a manner that is inconsistent with the label or labeling;
2. Provides a pest management service or handles a pesticide without wearing clothing and using the personal protective equipment required by the label or labeling to protect the applicator from pesticide exposure;
3. Uses a pesticide in a manner that causes the pesticide to come into contact with a person, other than the applicator, animal, or property, other than the property receiving the pest management service, unless the contact results from an accident beyond the reasonable control of the applicator;
4. Uses a pesticide in a food-handling establishment that the label or labeling recommends not be used in a food-handling establishment; and
5. Uses a pesticide in a manner that contaminates food, feed, or drugs or equipment used to prepare or serve food, feed, or drugs.

**C.** While mixing a pesticide with water, an applicator shall protect the water supply from back-siphoning of the pesticide mixture. An applicator shall not add water to a tank in which a pesticide is mixed or from which a pesticide is dispensed by protruding a fill-pipe or hose connection into the tank. An applicator shall ensure that a fill-pipe or hose connection terminates at least two inches above the tank fill opening or is equipped with an effective anti-siphoning device.

**D.** An applicator shall ensure that all equipment, including auxiliary equipment such as a hose or metering device, used for mixing or applying a pesticide is in good repair and operating properly.

**E.** An applicator shall apply, store, or dispose of a pesticide designated by the EPA as restricted use only if the applicator is certified or working under the immediate supervision of an applicator certified in the category for which the restricted-use pesticide is applicable.

**F.** An applicator shall clean a pesticide spill in accordance with the pesticide label and labeling directions and in a manner that minimizes exposure to humans and other non-target organisms. If a pesticide spill may endanger humans, an applicator

shall clean the pesticide spill in accordance with recommendations by health and medical personnel and local authorities.

**G.** An applicator shall apply a pesticide at a rate provided by a Special Local Need registration issued by the Department and the pesticide labeling. The applicator shall have in the applicator's possession at the time of the application both the Special Local Need labeling and the EPA section 3 label and labeling.

**H.** If information regarding provision of a particular pest management service is not available on the pesticide label or labeling or addressed in the PMD's statutes or this Chapter, an applicator shall comply with the pesticide manufacturer's recommendation and the general industry practice prevailing in the community at the time the pest management service is provided.

**I.** If there is a conflict between any provision in this Section and labeling instructions, an applicator shall follow the more specific instruction.

**Historical Note**

New Section recodified from R4-29-301 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

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

**A.** An applicator shall store and dispose of a pesticide or device in a manner consistent with its label and labeling.

**B.** An applicator shall store a pesticide in a closed container that is free from corrosion, leakage, or pesticide contamination on the outside of the container and properly labeled.

**C.** An applicator shall ensure that a service container bears a durable and legible specimen label with the following information:

1. The name, address, and telephone number of the business licensee or political subdivision;
2. The common chemical or trade name of the principal active ingredients;
3. The EPA registration number;
4. The strength of the concentrate or dilution expressed as a percentage of active ingredients;
5. Any signal word required on the label; and
6. The phrase "KEEP OUT OF REACH OF CHILDREN."

**D.** An applicator shall not place words or markings on a service container or on the label affixed to the service container that are unrelated to the pesticide in the service container, except for markings related to a method of tracking the product.

**E.** If the label affixed to a pesticide container becomes lost or damaged, an applicator shall attach a specimen label to the pesticide container.

**F.** An applicator shall replace a damaged container, other than a fumigant container, with an identically labeled container or a properly labeled service container.

**G.** Application equipment from which a pesticide is directly discharged and in which the pesticide is not stored is not subject to the labeling requirements of this Section.

**H.** An applicator shall not store a pesticide in a manner which food, beverage, feed, drugs, cosmetics, eating utensils, or tobacco products can be contaminated.

**I.** An applicator shall not store a pesticide in a container that was used for food, beverage, feed, drugs, or cosmetics, or which by size, shape, or marking could be confused as being a food, beverage, feed, drug, or cosmetic.

**J.** An applicator shall not store a fumigant within a residence, office or cab of a vehicle.

**K.** An applicator shall ensure that a pesticide in an original or service container, an empty pesticide container that has not been prepared for disposal in accordance with its label, or a returnable or reusable pesticide container is kept in a locked storage space when on an unattended service vehicle or is within view and under the supervision of the applicator responsible for the service vehicle.

**L.** An applicator shall ensure that a pesticide in portable application equipment is kept locked when on an unattended service vehicle or is within view and under the supervision of the applicator responsible for the service vehicle.

**M.** To prevent damage during transit, an applicator shall ensure that a pesticide container is secured in a locked storage space while the pesticide container is transported on a service vehicle.

**Historical Note**

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

**R3-8-303. Pesticide and Device Storage Area**

**A.** A business licensee or political subdivision shall provide a pesticide and device storage area that complies with all federal, state, and local laws. The storage area may include an area on a service vehicle.

**B.** A business licensee or political subdivision shall secure the storage area required under subsection (A) from unauthorized entry by equipping its entrance or access with a lock.

**C.** Immediately after storing a pesticide, a business licensee or political subdivision shall conspicuously post a sign at the entrance or access to a non-vehicle storage area and on a vehicle storage area indicating there is a pesticide, chemical, or poison stored inside.

**D.** A business licensee or political subdivision shall provide sufficient ventilation to the outside of the storage area required under subsection (A) to prevent build-up of odors and preclude chemical injury to an individual or animal.

**E.** A business licensee or political subdivision shall provide the following in or immediately adjacent to the storage area required under subsection (A), including a storage area on a service vehicle:

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

**Historical Note**

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

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

**A.** The following devices are not subject to the licensure and registration requirements of this Chapter or the PMD's statutes:

1. Physical barriers used to remove or prevent infestation by pests;
2. Equipment used for the physical removal of pests or the habitat of pests;
3. Mechanical equipment used for the physical removal of weeds and other vegetation;
4. Mechanical traps used without a pesticide;

5. Installation equipment used for home improvement or modifications;
6. Raptors used to control or relocate other birds; and
7. Fire arms.

**B.** An unlicensed person who engages in the business of pest management, but is exempt from licensure and registration because the person does not apply any pesticides and only uses devices listed in subsection (A) shall prominently display or include the phrase "Not licensed to apply pesticides" in all written and oral advertisements.

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

**R3-8-305. Equipping a Service Vehicle**

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

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

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

**R3-8-306. Providing Notice to Customers**

**A.** Immediately following an application, the applicator shall provide a written notice to a customer for whom the applicator provides a pest management service that contains the:

1. Name and address of the customer;
2. Specific site to which a pesticide was applied;
3. Date of service;
4. Target pest or purpose of service;
5. Trade name of pesticide applied;
6. EPA registration number of restricted use pesticide applied;
7. Amount of pesticide applied, in terms of percent active ingredient and volume of diluted mixture or in terms of total amount of liquid concentrate, ready-to-use product, granular material, or bait stations;
8. Name and certification number of the applicator or if the applicator is uncertified, the name of the uncertified applicator and the name and certification number of the applicator providing supervision; and
9. Following statement printed in at least an eight-point font: "Warning—Pesticides can be harmful. Keep children and pets away from pesticide applications until dry, dissipated, or aerated. For more information, contact [business licensee's name and business license number issued by the PMD] at [business licensee's telephone number]."

**B.** The applicator may provide the notice required by subsection (A) electronically.

**C.** An applicator who provides a pest management service at a school shall comply with the notification requirements in A.R.S. § 3-3606.

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

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

**A.** Only an applicator certified in the category of wood-destroying organism management, who works under the direct employment of a business license and who has received the training required under A.R.S. § 3-3633 may complete a WDIIR.

**B.** An applicator completing a WDIIR shall inspect all areas of a structure including crawlspaces that are visible or accessible at the time of the inspection. The applicator may use techniques such as non-destructive probing and sounding.

**C.** An applicator completing a WDIIR may exclude from inspection an area that is permanently covered by a floor covering, wall covering, or built-in appurtenance such as a bookcase, cabinet, appliance, equipment, or furniture or that would require removing or marring finish work or moving furniture, appliances, or equipment. The applicator shall note on the WDIIR all areas that are not inspected and the reason the areas are not inspected.

**D.** An applicator completing a WDIIR shall inspect all areas where there is evidence of current or previous infestation and where a condition conducive to infestation exists. A condition conducive to infestation includes:

1. Faulty grade level. If a structure contains a slab or floor that is at or below grade, the existing earth level is considered grade level;
2. Inaccessible sub-area such as an area with less than 24 inches of clear space between the bottom of a floor joist and grade level;
3. Excessive cellulose debris. Cellulose debris is excessive when:
   a. The debris can be raked into a pile of at least one cubic foot,
   b. A stump or wood imbedded in a footing of the structure is in contact with earth, or
   c. Firewood or a lumber pile is within six inches of the structure;
4. Earth-to-wood contact, which involves wood that is part of a structure or that is attached to or securely abuts the structure and is in contact with the ground; or
5. Excessive moisture or evidence of a moisture condition in or around a structure.

**E.** To verify whether a corrective treatment was performed or a condition conducive to infestation was corrected, an applicator may conduct a supplemental inspection within 30 days after an original inspection. An inspection conducted more than 30 days after an original inspection is not a supplemental inspection.

**F.** An applicator completing a WDIIR may exclude from inspection other structures at the site. The applicator shall note on the WDIIR all structures at the site that are not inspected and the reason the structures are not inspected.

**G.** WDIIRs shall be prepared in accordance with R3-8-501(E).

**Historical Note**
New Section recodified from R4-29-307 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-308. Performing Wood-destroying Insect Management**

**A.** An applicator shall not perform wood-destroying insect management or fumigation unless the applicator is certified in the category of wood-destroying organism treatment or fumigation, respectively, or working under the immediate supervision of an applicator who is certified in the category of wood-destroying organism treatment or fumigation respectively.

**B.** An applicator shall not perform wood-destroying insect management, issue a treatment proposal, or quote a fee for service until the business licensee that employs the applicator ensures that:
1. An on-site inspection of the property is performed, in accordance with R3-8-307, by a certified applicator meeting the training requirement under A.R.S. § 3-3632(E),
2. A treatment proposal is prepared, based upon the on-site inspection, on a form approved by the PMD and contains the information required under A.R.S. § 3-3632(B) and (C), and
3. The treatment proposal is delivered to the person requesting the proposal or treatment, prior to the treatment.

**C.** An applicator shall apply a termiticide only in the quantity, strength, dosage, and manner prescribed on the termiticide label unless otherwise specified by this Chapter or a PMD order.

**D.** Pretreatment for commercial or residential construction.
1. Unless a contract between the business licensee and customer specifies additional requirements, an applicator performing a pretreatment shall:
   a. Establish a horizontal barrier of termiticide before any concrete slab under roof is poured or in conjunction with establishing the footings and supports for a raised foundation; and
   b. Establish a vertical barrier of termiticide in all critical areas visible during the time of pretreatment. An area is critical at the time of pretreatment if the area is identified as critical by the termiticide label or if there is soil in the immediate vicinity of:
      i. A penetration or protrusion through the slab;
      ii. An observable preset for crack or joint control;
      iii. A formed-up change of grade level;
      iv. Abutting slabs;
      v. A bath trap or tear-out;
      vi. The interior of a foundation or stem wall; or
      vii. A pier, pillar, pipe, or other object that extends from the soil to the structure.
2. Except as specified in subsection (D)(3) and unless the termiticide label requires more, an applicator shall treat all critical areas during a pretreatment at a rate of four gallons of chemical preparation per 10 linear feet for each foot of depth from grade level to the footer. If there is no adjacent footer, the applicator shall treat to a depth of one foot.
3. Unless the termiticide label requires more, an applicator is not required to treat a critical area during a pretreatment beyond a depth of four feet if:
   a. Treating beyond a depth of four feet will, or reasonably may, cause an off-site application;
   b. Access to the footer is not possible because of its distance below grade; or
   c. Treating beyond a depth of four feet will, or reasonably may cause an environmental contamination.
4. If an applicator does not treat a critical area during a pretreatment beyond a depth of four feet because the applicator determines that one of the exceptions in subsection (D)(3) is applicable, the applicator shall:
   a. Apply the amount of termiticide possible without causing an off-site application or environmental contamination, and
   b. Include evidence of the exception in the treatment record. Evidence of the exception may include:
      i. A photograph of the interior grade and adjacent location that would or reasonably might be contaminated by treating beyond a depth of four feet,
      ii. A photograph of the site after the pretreatment but before concrete placement,
      iii. A written statement from the general contractor concerning the fill material and compaction rating,
      iv. A written statement from the concrete subcontractor describing the depth of the footer as greater than four feet, or
      v. A written compaction rating statement from the engineering subcontractor.
5. If an applicator is advised before concrete is poured that a treated area is disturbed and the continuous horizontal or vertical chemical barrier established under subsection (D)(1) is broken, and if the applicator is provided an opportunity to re-treat the disturbed area, the applicator shall re-treat the disturbed area and re-establish a continuous horizontal and vertical chemical barrier.
6. Immediately after completing a pretreatment, an applicator shall securely affix a tag to the pretreatment site. The applicator shall ensure that the tag is visible, readily available for inspection, and unlikely to be covered with concrete or soil. If there is a contractor's permit or inspection board at the pretreatment site, the applicator may affix the tag to the board. The applicator shall ensure that the tag contains the following information about the pretreatment:
   a. Name of business licensee;
   b. Address of business licensee;
   c. Telephone number of business licensee;
   d. License number of business licensee;
   e. Location or address of project;
   f. Date of pretreatment application;
   g. Time that application was started (not time that applicator arrived at the site);
   h. Time that application ended (not time that applicator left the site);
   i. Trade name of pesticide used;
   j. Percentage of active ingredient in the pesticide used;
   k. Number of gallons of chemical preparation applied;
   l. Square footage of area treated;
   m. Linear footage of area treated;
   n. Type of slab construction;
   o. Name of applicator; and
   p. Certification number of applicator or, if not certified, the name and certification number of the applicator providing immediate supervision.
7. If it is necessary for an applicator to abandon a pretreatment site before completing the treatment, the applicator shall complete and affix the tag described in subsection (D)(6), representing the work completed, and after marking the tag "TREATMENT INCOMPLETE."

8. If a contractor requires a copy of the tag described in subsection (D)(6) for the customer's file, an applicator shall prepare and provide the contractor with a duplicate tag that is clearly marked "DUPLICATE."

**E.** New-construction treatment for commercial or residential construction.

1. Unless specifically precluded by the termiticide label, an applicator performing a new-construction treatment shall treat all critical areas visible at the time of the treatment. An area is critical at the time of a new-construction treatment if the area is identified as critical by the termiticide label or if there is soil in the immediate vicinity of:
   a. A penetration or protrusion through the slab;
   b. An observable crack or joint;
   c. Abutting slabs;
   d. A bath trap or tear-out;
   e. The interior of a foundation or stem wall; or
   f. A pier, pillar, pipe, or other object that extends from the soil to the structure.
2. An applicator shall comply with subsections (D)(2) through (D)(4) when treating a critical area during a new-construction treatment except that the treatment shall be at the labeled rate rather than at a rate of four gallons of chemical preparation per 10 linear feet for each foot of depth.
3. If an applicator is advised that a treated area is disturbed, the applicator shall re-treat the disturbed area.
4. Immediately after completing a new-construction treatment, an applicator shall securely affix a tag to the new-construction site in the manner described in subsection (D)(6). The applicator shall ensure that the tag contains the information listed in subsection (D)(6).
5. An applicator shall comply with subsections (D)(7) and (D)(8) when performing a new-construction treatment.

**F.** Final grade treatment for commercial or residential construction.

1. A business licensee that performs a pretreatment or new-construction treatment shall perform a final grade treatment. The final grade treatment must occur after all grading and other construction-related soil disturbance is complete, but within twelve months of the original pretreatment or new-construction treatment.
2. An applicator shall treat the soil along the exterior of foundation walls at a rate of four gallons of chemical preparation per 10 linear feet (unless precluded by label directions) after all grading and other construction-related soil disturbance is complete, but within twelve months of the original pretreatment or new-construction treatment.
3. An applicator shall leave a record of the final grade treatment in an unlocked electrical or circuit-breaker box, if available. Otherwise, the applicator shall conspicuously post or leave the record with the property agent. The applicator shall ensure that the record of the final grade treatment contains the information listed in subsection (D)(6), except the information required under subsections (D)(6)(l) and (D)(6)(n) is not required.

**G.** An applicator who performs a pretreatment, new-construction treatment or final grade treatment shall ensure that a copy of the information recorded on a tag required under subsection (D) or (E) or the final grade treatment record required under subsection (F) is provided to the business licensee for inclusion in the business licensee's service records.

**H.** A warranty regarding subterranean termite treatment shall only be issued to a builder if the structure received a pretreatment or a new-construction treatment.

**I.** Post-construction treatment for commercial or residential construction.

1. If an applicator uses a drilling and injecting application method for a post-construction treatment, the applicator shall space the treatment holes in each treated area no more than 24 inches apart or in accordance with the termiticide label, whichever is more restrictive. If an applicator determines that a structural feature makes it necessary to space treatment holes more than 24 inches apart, the applicator may space the treatment holes more than 24 inches apart if the greater distance is within the limits on the termiticide label.
2. After completing a post-construction treatment using a drilling and injection application method, an applicator shall securely patch all treatment holes, including those in an unfinished basement, enclosed porch, garage, or workshop, with a material that is nonporous and non-cellulose.
3. Unless precluded by label directions, any application to treat the soil along the exterior of foundation walls shall be made at an effective treatment rate of four gallons of chemical preparation per ten linear feet in a trench six inches wide or other method of treatment prescribed by the label to achieve the effective treatment rate.
4. All post construction treatments shall be made in accordance with the treatment proposal delivered as required under subsection (B). Any deviations to the original proposal shall be redelivered in writing in a revised treatment proposal and shall be approved prior to performing the treatment by the person who requested the original proposal or their authorized agent.

**Historical Note**

New Section recodified from R4-29-308 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-309. Termite Warranties and Retreatments**

**A.** If a business licensee or an employee of a business licensee is advised before concrete is poured that a pretreatment area is disturbed and the continuous chemical barrier is broken and if an opportunity is provided to re-treat the disturbed area or is advised that a new-construction treatment area is disturbed, the business licensee shall ensure that the disturbed area is retreated.

**B.** A business licensee that provides a subterranean termite treatment warranty shall ensure that the effective date of the warranty is the date on which treatment begins.

**C.** If subterranean termites occur in or on a residential or commercial structure within three years after a business licensee first performs a pretreatment or new-construction treatment of the structure, the business licensee shall re-treat the affected area of the structure free of charge in accordance with the label specifications of a termiticide available for use. If subterranean termites occur in or on an addition that does not abut the slab of a residential or commercial structure within three years after a business licensee first performs a pretreatment or new-construction treatment of the non-abutting addition, the business licensee shall re-treat the non-abutting addition free of charge in accordance with the label specifications of a termiticide available for use. For the purpose of this subsection, the business licensee is the business licensee who performed the pretreatment or new-construction treatment or a successor that acquired the business assets pertaining to wood-destroying insect treatment.

**D.** If subterranean termites occur a third time on the exterior of a one or two unit residential structure within three years after a

business licensee first performs a pretreatment or new-construction treatment, the business licensee shall re-treat the entire exterior perimeter of the structure free of charge.

1. As used in this subsection, exterior means a portion of a residential structure where termite activity originates and that is not livable and not a garage;
2. For the purpose of this subsection and subsection (E):
   a. A first occurrence means the first time evidence of subterranean termites exists after a pretreatment or new-construction treatment;
   b. A second occurrence means evidence of subterranean termites exists at least 25 feet away from the site of the first occurrence and at least 45 days after the date of re-treatment for the first occurrence; and
   c. A third occurrence means evidence of subterranean termites exists at least 25 feet away from the sites of both the first and second occurrences and at least 45 days after the date of re-treatment for the second occurrence.

**E.** If subterranean termites occur a third time on the interior of a one or two unit residential structure within three years after a business licensee first performs a pretreatment or new-construction treatment, the business licensee shall perform a post-construction treatment of the entire structure free of charge. As used in this subsection, interior means a portion of a residential structure where termite activity originates and that is livable or a garage.

**F.** A business licensee that performs a re-treatment under subsection (C) or (D) or a post-construction treatment under subsection (E) shall not charge the consumer for any expense incurred in providing the re-treatment or post-construction treatment to which the consumer is entitled under this Chapter.

**G.** If a business licensee goes to a structure to perform a re-treatment under subsection (C) or (D) or a post-construction treatment under subsection (E) and determines there is no evidence of subterranean termites, the business licensee may charge the consumer a reasonable amount for the expenses incurred in making the trip.

**H.** If a business licensee determines that a re-treatment or post-construction treatment is necessary because the continuous chemical barrier is disturbed, the business licensee may charge the reasonable cost of reestablishing the barrier.

**I.** If a customer refuses a re-treatment or post-construction treatment as described in this Section, access to the customer's property, or to allow drilling in an area where drilling is necessary, the business licensee shall obtain the customer's printed name and dated signature on a document evidencing that the business licensee:

1. Informed the customer of the right to a re-treatment or post-construction treatment at no charge,
2. Provided the customer with a copy of this Section and the termiticide label requirements,
3. Provided the customer with the PMD's telephone number, and
4. Explained to the customer the benefits of having and the detriments of not having a re-treatment or post-construction treatment.

**Historical Note**

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

**R3-8-310. Business Management**

**A.** Financial responsibility.

1. A business licensee shall maintain the financial responsibility required by A.R.S. § 3-3615 and this Chapter.
2. A business licensee shall ensure that the required financial responsibility covers all pest management activities provided from the primary business office and each branch office.
3. If there is an interruption in the financial responsibility of a business licensee, the business licensee shall immediately stop providing pest management services.

**B.** Use of business name and license number.

1. A business licensee shall prominently display the license issued by the PMD at the primary business office and each branch office.
2. A business licensee shall prominently display the business name and license number, as recorded on the license issued by the PMD, on:
   a. Customer proposals or contracts for pest management services;
   b. Service records;
   c. Inspection reports;
   d. Written materials provided to customers or potential customers;
   e. Correspondence;
   f. Advertisements; and
   g. Service vehicles and trailers used in providing pest management services. The business licensee shall ensure that the business name and license number display on a service vehicle or trailer used in providing pest management services conforms to the following:
      i. Is affixed to the service vehicle or trailer used in providing pest management services within 30 days after the PMD issues the license or issues a business license change or after the service vehicle or trailer is acquired, whichever is sooner;
      ii. Is in a color that contrasts with the color of the service vehicle and trailer;
      iii. Is on both sides of the service vehicle and trailer;
      iv. Uses at least two-inch letters for the principal words in the business name and at least one and one-half inch letters for other words in the business name; and
      v. Uses at least two-inch numbers for the license number.
3. A business licensee that always uses a service vehicle and trailer together is required to mark only the service vehicle or trailer as described in subsection (B)(2)(g). A business licensee that uses a vehicle only for sales, solicitations, or solely for inspections and does not carry a pesticide, and does not otherwise use the vehicle to provide a pest management service, is not required to mark the vehicle as described in subsection (B)(2)(g).
4. When complying with subsection (B)(2), a business licensee may use a slogan, trade name, or trade mark in addition to the business name and license number. When complying with subsection (B)(2), a business licensee may use a word or phrase to indicate its former licensed business name if it had a previously licensed business name.

**Historical Note**

New Section recodified from R4-29-310 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August

29, 2017 (Supp. 17-2).

**R3-8-311. Reserved**

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

**R3-8-312. Reserved**

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

**R3-8-313. Reserved**

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

**R3-8-314. Reserved**

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

**R3-8-315. Reserved**

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

**R3-8-316. Reserved**

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

**R3-8-317. Reserved**

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

**R3-8-318. Reserved**

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

**R3-8-319. Reserved**

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

**R3-8-320. Reserved**

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

## ARTICLE 4. SUPERVISION

**R3-8-401. Supervising an Applicator**

**A.** A QP and business licensee shall ensure that an applicator receives the training, equipment, and supervision that the applicator requires to comply fully with the PMD's statutes, this Chapter, and label and labeling directions.

**B.** A QP shall be readily available to an applicator while the applicator provides pest management services.

**C.** A QP shall ensure that the use, application, storage, or disposal of a pesticide is performed or supervised by an individual certified in a category applicable to the pesticide being used, applied, stored, or disposed.

**D.** A QP shall ensure that immediate supervision, which requires supervision by a certified applicator who is physically present, is provided when an uncertified applicator performs pest management services in the wood-destroying organism management, aquatic, or fumigation category, uses a restricted use pesticide, or uses a pesticide under an experimental use permit. A QP shall ensure that a certified applicator provides immediate supervision to not more than two uncertified applicators at a time.

**E.** In circumstances other than those described in subsection (D), a QP shall ensure that direct supervision, which does not require a supervising certified applicator to be physically present, is provided. A QP shall ensure that a certified applicator providing direct supervision considers the potential danger to the public or environment if the uncertified applicator misuses a pesticide. A QP shall ensure that a certified applicator providing direct supervision instructs the uncertified applicator in the following areas and has written evidence that the instruction was provided and understood:

1. Proper loading, mixing, applying, storing, and disposing of the pesticide;
2. Use of required safety equipment; and
3. Method and means by which to contact the supervisor immediately.

**F.** A QP shall ensure that an applicator has the protective clothing, safety supplies, and equipment specified by the label or labeling of each product used by the applicator and by the PMD's statutes and this Chapter. The QP shall ensure that the applicator is instructed regarding how to use, maintain, clean, and store the protective clothing, safety supplies, and equipment.

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

**Historical Note**
New Section recodified from R4-29-401 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

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

**A.** A business licensee or school district shall employ a QP in each category of pest management in which the business licensee or school district provides pest management services. A business licensee or school district may employ multiple QPs.

**B.** A QP may not qualify more than one business licensee or school district at a time.

**C.** Notwithstanding subsection (B), the director may allow a QP to qualify more than one school district if the director believes that the number of applicators, pest management needs, and distance of the school districts will not hinder the QP's ability to comply with R4-29-403.

**D.** A QP may only qualify a business licensee or school district in the categories of pest management in which the QP is registered.

**Historical Note**
New Section recodified from R4-29-402 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

**R3-8-403. Qualifying Party Management**

**A.** A QP shall be physically present at the primary business office at least once every 14 days and at each branch office at least once every 120 days and ensure that all of the following are done:

1. Determine pesticide use by reviewing records of pesticide acquisitions, storage, disposal, and current inventory;
2. Review the pesticide inventory, including pesticides stored on a service vehicle, to determine compliance with labels, labeling, and the PMD's statutes and rules;
3. Review the training, supervision, and equipping of applicators employed by the business licensee or school district to determine whether the training, supervision, and equipping is sufficient to enable the applicators to comply with labels, labeling, and the PMD's statutes and rules;
4. Review personnel records to determine whether an applicator employed by the business licensee or school district is registered and certified in all applicable categories within the time-frames specified by R3-8-201;
5. Review office records and recordkeeping procedures to determine compliance with required recordkeeping and reporting; and
6. Ensure that any deficiency noted when the responsibilities listed in subsections (A)(1) through (A)(5) are performed is corrected.

**B.** A QP shall develop a written plan that specifies how the duties and responsibilities of the QP are to be fulfilled if the QP is absent or unavailable for any reason. The QP shall ensure that the plan is implemented when the QP is absent or unavailable.

**C.** A QP shall not delegate the responsibility to be physically present at least every 14 days at the primary business office and at least every 120 days at branch offices unless the QP submits written documentation to the PMD from a licensed medical or mental health care professional that indicates the licensed medical or mental health care professional is treating the QP and is of the opinion that the QP is unable to fulfill the responsibility to be physically present as required.

**D.** A QP shall:
1. Be active in the management of all pest management related activities of the business licensee or school district.
2. During normal business hours, be readily available to the applicators of the business licensee or school district.
3. Ensure that a business licensee maintains current proof of financial security.

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

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

**R3-8-404. Branch Supervisors**
With respect to a branch office, the branch supervisor shall fulfill all the duties and responsibilities of a QP in this Article, except as follows:
1. The branch supervisor shall be present at the branch office at a minimum of once every 14 days to review pesticide use, storage and disposal and by ensuring the training, equipping, and supervision of the applicators.
2. The branch office may operate in each category of pest management in which the QP is registered even if the branch supervisor is not a certified applicator in the category, though R4-29-201(C) still applies.
3. The branch supervisor is not responsible for ensuring that the business licensee maintains current proof of financial security.

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

**R3-8-405. Supervision of Qualifying Party**
A business licensee or school district shall ensure that a QP of the business licensee or school district receives the training, equipment, and supervision that the QP requires to comply fully with the PMD's statutes and rules and label and labeling directions.

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

**R3-8-406. Responsible Individuals**
A responsible individual for a political subdivision shall
1. Respond to inquiries or concerns by the Director or the Director's designee regarding compliance with A.R.S. Title 3, Chapter 20.
2. Identify for the Director or the Director's designee where records required by this Chapter are maintained, where personal protection equipment is located, and where pesticides are stored.
3. Demonstrate that all applicators are properly certified.

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

**R3-8-407. Joint Responsibility**

**A.** An applicator, qualifying party, branch supervisor, or business licensee who supervises another person shall ensure that the supervised person is properly trained and equipped and receives the supervision necessary for the supervised person to provide pest management services in accordance with the pesticide label and labeling, this Chapter and the PMD statutes.

**B.** An applicator, qualifying party, branch supervisor, or business licensee who supervises another person may be held jointly responsible for the acts or omissions of the supervised person.

**C.** It is an affirmative defense to joint responsibility as described in subsection (B) if an applicator, qualifying party, branch supervisor, or business licensee complied with subsection (A) and can demonstrate that compliance with contemporaneously maintained records.

**D.** A QP and business licensee shall comply with every provision in this Chapter regarding applicator duties and responsibilities.

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

**R3-8-408. Reserved**

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

**R3-8-409. Reserved**

**Historical Note**
New reserved Section recodified from R4-29-409 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

**R3-8-410. Reserved**

**Historical Note**
New reserved Section recodified from R4-29-410 at 23

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

**R3-8-411. Reserved**

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

**R3-8-412. Reserved**

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

**R3-8-413. Reserved**

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

**R3-8-414. Reserved**

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

**R3-8-415. Reserved**

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

**R3-8-416. Reserved**

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

**R3-8-417. Reserved**

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

**R3-8-418. Reserved**

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

## ARTICLE 5. RECORDKEEPING AND REPORTING

**R3-8-501. Applicator Recordkeeping**

**A.** An applicator shall make all records required by law and provide the records to the business licensee or political subdivision that supervises, directs, or employs the applicator within five business days.

**B.** Service records. An applicator shall make a record of each pest management service provided. The applicator shall include the following information in the service record:
1. Name and address of the customer;
2. Specific site at which a pesticide was applied;
3. Date of service;
4. Target pest or purpose of service;
5. Trade name of pesticide applied;
6. EPA registration number of any restricted use pesticide applied;
7. Amount of pesticide applied, in terms of percent active ingredient and total amount diluent (water, etc.); total amount of concentrate and total amount of diluent (water, etc.); or total amount of ready-to-use product by weight or volume (e.g. lbs, grams, ounces, etc.); and
8. Name and certification number of the applicator or if the applicator is uncertified, name of the uncertified applicator and the name and certification number of the applicator providing supervision.

**C.** Pesticide purchase records. An applicator shall make a record of each restricted-use pesticide purchased or otherwise acquired. The applicator shall include the following information in the pesticide purchase record:
1. Date of purchase or acquisition;
2. Trade name of pesticide;
3. EPA registration number of pesticide;
4. Quantity of pesticide purchased or acquired; and
5. Name and license number of the applicator making the pesticide purchase record or name of the business licensee.

**D.** Pesticide disposal records. An applicator shall make a record of each pesticide disposed, sold, lost, or otherwise relinquished. The applicator shall include the following information in the pesticide disposal record:
1. Date of disposal;
2. Trade name of pesticide;
3. EPA registration number of pesticide;
4. Quantity of pesticide disposed;
5. Percent active ingredient in the pesticide disposed,
6. Method of disposal,
7. Location and type of disposal site or service; and
8. Name and license number of the applicator making the pesticide disposal record or name of the business licensee.

**E.** WDIIR. An applicator who completes a WDIIR shall:
1. Compete the WDIIR using a form approved by the PMD. A trademark or logo may be placed on the WDIIR if it does not alter the format or substance of the PMD approved form;
2. Submit an original WDIIR to the QP or branch supervisor within seven days after completing the wood-destroying insect inspection;
3. Submit a supplemental WDIIR to the QP or branch supervisor within seven days after completing a supplemental wood-destroying insect inspection to verify that a corrective treatment was performed or a condition conducive was corrected. The applicator shall include the original inspection number on the supplemental WDIIR;
4. If required by a federal agency, complete another inspection form in addition to but not instead of the PMD - approved WDIIR; and
5. Ensure that the following information is included on the WDIIR:
   a. Name, address, telephone number, and license number of business licensee. This information may be pre-printed on the WDIIR;
   b. Date of wood-destroying insect inspection, and the WDIIR number;
   c. Purpose of the inspection report;
   d. Whether the report is from an original or supplemental inspection;
   e. Name of property owner or seller;
   f. Address of inspected property;
   g. Inspected and un-inspected structures at the site and the reason why structures are un-inspected;
   h. Areas of the structure not inspected because they were obstructed or inaccessible and the cause of the obstruction or inaccessibility;
   i. Whether visible evidence of wood-destroying insects is observed;
   j. Whether visible evidence of infestation from wood-destroying insects is observed and if so, the date on

which a proper management measure is performed, if applicable;
k. Whether visible damage from wood-destroying insects is observed and if so, the insect causing the damage and the areas in which the damage is observed;
l. Whether visible evidence of previous treatment is observed and if so, the nature of the evidence;
m. If damage from wood-destroying insects is observed, whether or when the damage will be corrected and whether the damage will be corrected by the business licensee or another company;
n. Visible conditions conducive to infestation by wood-destroying insects;
o. Diagram or graph of the structure clearly indicating wood-destroying insects, damage, conducive conditions observed, and areas where further inspection is recommended, and a statement or indication on the diagram or graph clearly identifying inaccessible areas; and
p. Dated signature and certification number of the individual making the inspection. The individual making the inspection shall sign the WDIIR by hand or electronically and shall not use a signature stamp or allow another individual to affix the signature.

**F.** Wood-destroying organism treatment proposal. An applicator who is qualified under A.R.S. § 3-3632(B) and (E) shall complete a wood-destroying organism treatment proposal using a form approved by the PMD and provide a copy of the proposal to the person requesting the proposal or treatment and the QP.

**Historical Note**
New Section recodified from R4-29-501 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-502. Qualifying Party Recordkeeping**

**A.** In addition to ensuring that the records required under R4-29-501 are made, a QP shall ensure that complete records are made and maintained of the training, supervision, and equipping provided to an applicator.

**B.** At a minimum, QP training records must consist of the following information:
1. Date of the training,
2. Printed name and signature of the trainee,
3. Printed name and signature of the trainer,
4. Brief description of topic(s) covered, and
5. Copies of labels and any other pertinent material used in training.

**C.** A QP shall maintain the records described in this Section for three years, including after the applicator's employment ending date.

**Historical Note**
New Section recodified from R4-29-502 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

**R3-8-503. Business Licensee and Political Subdivision Recordkeeping and Retention**

**A.** In addition to ensuring that the records required under R3-8-501 and R3-8-502 are made and maintained, a business licensee and political subdivision shall make and maintain records of the following:
1. The specimen label and SDS for each registered pesticide currently used by an applicator supervised, directed or employed by the business licensee or political subdivision;
2. The financial responsibility required under R3-8-310(A), if applicable;
3. Purchase records of each pesticide purchased or otherwise acquired that include the following information:
   a. Date of purchase or acquisition;
   b. Trade name of pesticide;
   c. Quantity of pesticide purchased or acquired; and
   d. Name of the business licensee;
4. Date on which a service vehicle or trailer is acquired;
5. Incident reports submitted to the OPM PMD as required under R3-8-504;
6. A pest management service provided, including a service provided under a warranty;
7. The evidence of customer refusal of a re-treatment or post-construction treatment required under R3-8-309(J);
8. Written inspection reports;
9. Business licensee contracts for pest management services; and
10. Personnel records including for each applicator supervised, directed or employed by the business licensee or political subdivision:
    a. Date of hire or beginning of relationship;
    b. Date on which pest management services are first performed;
    c. Training and continuing education received;
    d. Supervision received;
    e. Protective clothing, safety supplies, and equipment issued to employee;
    f. Name of supervisor; and
    g. Employment or relationship ending date.

**B.** A business licensee or political subdivision shall maintain the records as follows:
1. Records under subsection (A)(1), as long as the registered pesticide is used by the business licensee or political subdivision. The business licensee shall maintain the records required under subsection (A)(1) at the primary business office or branch office from which the registered pesticide is used or at which the registered pesticide is stored;
2. Records under subsection (A)(2), current;
3. Records under subsection (A)(3) or R3-8-501(C) and (D), three years from the date of purchase or disposal;
4. Records under subsection (A)(4), as long as the service vehicle or trailer is owned by the business licensee or political subdivision;
5. Records under subsection (A)(5), until the statute of limitation for possible legal action resulting from the incident is expired or until resulting legal action is completed;
6. Records under subsection (A)(6) and (A)(7), three years;
7. Records under subsections (A)(8) and (A)(9), three years from the date on the inspection report or customer contract;
8. Records under subsection (A)(10), three years, including after the employment ending date;
9. WDIIRs completed under subsection (C), three years; and
10. Records under subsections (A)(5) and (A)(6) that pertain to the use of a restricted-use pesticide shall be maintained separate from other records.

**C.** When an applicator supervised, directed or employed by a business licensee submits a WDIIR, the business licensee shall record the following on the WDIIR:
1. TARF number,
2. If the business licensee has the property under warranty:
   a. Account number,
   b. Target pest,

c. Date of initial treatment,
d. Date of warranty expiration, and
3. The TARF number of each TARF completed regarding the property after the WDIIR is completed.

**D.** TARF. A business licensee or political subdivision shall:
1. Submit to the PMD a TARF, using a form approved by the PMD, within 30 days of completing an action specified under subsection (D)(3). For the purpose of reporting, a pretreatment or new-construction treatment is complete when no further preventative treatment is necessary until the final grade treatment unless it is necessary to re-treat a disturbed continuous chemical barrier. In a multiple-unit project, a pretreatment or new-construction is complete when no further preventative treatment is necessary for the last unit at the project until the final grade treatment unless it is necessary to re-treat a disturbed continuous chemical barrier;
2. Include the fee with each TARF and, if applicable, the penalty required under R3-8-103;
3. Unless exempt under subsection (D)(4), submit a TARF after completing each of the following:
   a. Pretreatment, including pretreatment of an addition that does not abut the slab of a previously pretreated structure;
   b. New-construction treatment, including new-construction treatment of an addition that does not abut the slab of a previously new-construction treated structure;
   c. Final grade treatment;
   d. Initial corrective termite treatment at a site; and
   e. WDIIR.
4. Not submit a TARF after completing:
   a. A supplemental WDIIR; or
   b. The first initial corrective insect termite treatment at a site if the business licensee:
      i. Performed a pretreatment or new-construction treatment at the site,
      ii. Filed a TARF regarding the pretreatment or new-construction treatment, and
      iii. Performs the initial corrective termite treatment under R3-8-309(D) or under a warranty.
5. Include the information required under A.R.S. § 3-3631 and the following on a TARF:
   a. License number of the licensed business that performed the work;
   b. Name of the QP;
   c. For a WDIIR, indicate whether:
      i. There was evidence of infestation, conditions conducive to infestation, or damage present;
      ii. Previous treatment was performed for an infestation; and
      iii. Corrective actions were taken for conditions conducive or damage present;
   d. For a pretreatment, new-construction treatment, or final grade treatment to establish an exterior vertical barrier, indicate:
      i. Chemical used and its EPA registration number,
      ii. Amount of chemical used,
      iii. Percentage of active ingredient in the chemical used, and
      iv. Square and linear footage treated; and
   e. For a post-construction corrective termite treatment, indicate:
      i. Type of treatment,
      ii. Target organism,
      iii. Chemical used and its EPA registration number,
      iv. Amount of chemical used, and
      v. Percentage of active ingredient in the chemical used.

**Historical Note**
New Section recodified from R4-29-503 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-504. Reporting Incidents and Bulk Releases**

**A.** Notice to PMD of an incident.
1. A business licensee and political subdivision shall provide written notice to the PMD within one business day after one of the following incidents is confirmed by medical personnel or an applicable regulatory agency to be caused by a pesticide applied by the business licensee or political subdivision:
   a. Death or illness of an individual;
   b. Contamination of food, feed, drugs, or water supply;
   c. Contamination of a structure that results in the hospitalization of an occupant or evacuation of the structure; or
   d. Contamination of the environment that results in evacuation of the area.
2. A QP shall determine if the business licensee or school district has complied with subsection (A)(1). If compliance has not occurred, the QP shall provide the written notice required by subsection (A)(1) to the PMD within the time-frame specified in subsection (A)(1).

**B.** Notice to PMD of a bulk release.
1. A business licensee or political subdivision shall notify the PMD at the Pesticide Hotline, 1-800-423-8876, as soon as practical after a bulk release, but no later than three hours after the bulk release. If the bulk release is on a public highway or railway, or results in the death of an individual, the person shall immediately report the release to the Arizona Department of Public Safety Duty Office.
2. A QP shall determine if the business licensee or school district has complied with subsection (B)(1). If compliance has not occurred, the QP shall provide the notices specified in subsection (B)(1) within one business day after the release.

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

**R3-8-505. Groundwater Protection List Reporting**

**A.** For each application of a soil-applied pesticide containing an active ingredient that appears on the Arizona Department of Environmental Quality groundwater protection list and has been detected in Arizona groundwater within the last five years, the QP shall submit the following information on a quarterly basis on a form approved by the PMD:
1. The county of use,
2. The name of product used and the EPA registration number,
3. The amount applied,
4. The dates covered by the report, and
5. Business license number.

**B.** For the purposes of this Section, "soil-applied pesticide" means a pesticide intended for application to or injection into the soil or for which the label requires or recommends that the application be followed within seventy-two hours by irriga-

tion. Soil-applied pesticides include pesticides applied for final grade treatment, post-construction exterior trench or rod treatment, or pre-emergent weed control, but exclude pesticides applied within the stem wall or footer of a structure or to soil that will be promptly covered with concrete.

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

**Appendix A. Reserved**

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

## ARTICLE 6. INSPECTIONS; DISCIPLINARY PROCEDURES

**R3-8-601. Inspection of Licensee Records**

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

**B.** If a person cannot timely comply with a request made under subsection (A), the person shall immediately provide written notice to the PMD, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.

**C.** If the PMD requests a record from a business licensee or political subdivision when there may be an immediate risk to the health or safety of an individual, non-target animal, or the environment, the business licensee or political subdivision shall provide the record to the PMD within one hour.

**D.** An applicator or branch supervisor is only responsible for producing records within the applicator's or branch supervisor's control.

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

**R3-8-602. Compliance with PMD Monitoring**

**A.** If the PMD makes a written request of an applicator for a list of the time and location of pest management services that the applicator is scheduled to provide on a specified date, the applicator shall make the information available within 24 hours. The applicator may make the information available in a manner prescribed by the PMD.

**B.** If an applicator cannot timely comply with a request made under subsection (A), the applicator shall immediately provide written notice to the PMD, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.

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

**R3-8-603. Corrective Work Orders**

**A.** If the PMD issues a corrective work order requiring a licensee to remedy deficiencies in treatment or to comply with this Chapter or the PMD's statutes, the licensee shall notify the PMD in writing by the date specified in the order that the corrective work is complete.

**B.** The director may consider a licensee's compliance with a corrective work order or lack thereof in imposing appropriate disciplinary action.

**C.** Failure to timely complete the corrective action or notify the PMD of the completion is a separate ground for disciplinary action.

**D.** A corrective work order issued by the PMD is not subject to A.R.S. § 41-1009(E)-(F) unless the PMD indicates in the order that timely compliance with the order will result in no disciplinary action being taken for a deficiency or violation.

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

**R3-8-604. Disciplinary Action**

To determine the disciplinary action that is appropriate, the Director may consider the following:
1. Prior violations,
2. Dishonest or self-serving motive,
3. Amount of experience as a licensee,
4. Submission of false evidence or statements or other deceptive practices during the investigative or disciplinary process,
5. Acknowledgement of wrongful nature of violation,
6. Practices put in place to prevent a similar violation from occurring again,
7. Compliance with a corrective work order,
8. Degree of harm resulting from the violation, and
9. Whether harm resulting from the violation was cured.

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

**R3-8-605. Consent Agreements**

**A.** A consent agreement shall include the following:
1. General nature of violations,
2. Citation to statutes and rules alleged to be violated,
3. Disciplinary action to be taken,
4. Effective date of the disciplinary action if different from the date of the consent agreement,
5. Corrective action to be taken, and
6. Date to complete any corrective action.

**B.** A person entering into a consent agreement with the PMD shall waive the right to a formal hearing, rehearing, or judicial review of the matters contained in the consent agreement.

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

**R3-8-606. Penalties**

**A.** When assessing a civil penalty for a violation, the Director shall assess a civil penalty for each violation based on the violation's total point value set out in this Section. To calculate the total point value, the Director shall sum the points for each

aggravating factor and may subtract the points for each mitigating factor. The Director, in his sole discretion, may treat multiple violations as a single violation for the purpose of calculating the civil penalty.

**B.** Aggravating factors.

1. Pesticide type.
   a. General use. 2
   b. Experimental use or special local need. 3
   c. Restricted use or unregistered. 5
2. Harm to humans and non-target animals.
   a. None or unverified potential harm. 0
   b. Potential harm. 3
   c. Actual, verifiable harm. 5
3. Harm to environment and economic loss.
   a. None or unverified potential harm. 0
   b. Potential harm or loss. 3
   c. Actual, verifiable loss of $10,000 or less. 4
   d. Actual, verifiable loss exceeding $10,000. 5
   e. Actual, verifiable environmental harm. 5
4. Non-pesticide violations.
   a. Negligent violations. 4
   b. Knowing or willful violations. 8
5. Prior similar violations.
   a. None. 0
   b. Warning letter within 12 months. 1
   c. One or more within 36 months, but none within 12 months. 2
   d. One within 12 months. 3
   e. More than one within 24 months, but none within 12 months. 4
   f. More than one within 12 months. 5
6. Culpability.
   a. Negligent violations. 2
   b. Knowing or willful violations. 4

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

1. Good will.
   a. Admission of fault. 1
   b. Admission and cooperation 2
   c. Admission, cooperation, and corrective action prior to request. 3
2. Environmental benefit.
   a. Clean up. 1
   b. Move toward less toxic methods. 2
   c. Develop IPM program. 3
3. Consumer benefit.
   a. Consumer education. 1
   b. Make consumer whole. 2
   c. Extend warranty. 3
4. Other benefits.
   a. Training (CEU). 1
   b. Equipment (modification or new). 2
   c. Purchase and use of computer for TARFs. 3

**D.** Civil penalty. To calculate the civil penalty, the Director shall:

1. For total point values of 6-10, multiply the value by $100 and then subtract $500.
2. For total point values of 11-15, multiply the value by $100 and then subtract $600.
3. For total point values of more than 16, assess the maximum penalty of $1000.

**E.** Other penalties. In addition to assessing a civil penalty, the Director:

1. For any total point value, may require extra continuing education.
2. For total point values of 6-11, may impose probation requirements.
3. For total point values of 12-17, shall impose probation requirements and may suspend the license, certification, or registration.
4. For total point values of 18 or more, shall suspend or revoke the license, certification, or registration.
5. May take any other action permitted by law, including imposing probation requirements after a suspension ends.

**Historical Note**

New Section recodified from R4-29-606 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

**R3-8-607. Reserved**

**Historical Note**

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

**R3-8-608. Reserved**

**Historical Note**

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

**R3-8-609. Reserved**

**Historical Note**

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

## ARTICLE 7. RESERVED

**R3-8-701. Reserved**

**Historical Note**

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

**R3-8-702. Reserved**

**Historical Note**

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

**R3-8-703. Reserved**

**Historical Note**

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

**R3-8-704. Reserved**

**Historical Note**

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

**R3-8-705. Reserved**

**Historical Note**

New reserved Section recodified from R4-29-705 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

**R3-8-706. Reserved**

**Historical Note**

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

**R3-8-707. Reserved**

**Historical Note**

New reserved Section recodified from R4-29-707 at 23

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

**R3-8-708. Reserved**

**Historical Note**

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