

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 3. AGRICULTURE

#### CHAPTER 3. DEPARTMENT OF AGRICULTURE ENVIRONMENTAL SERVICES DIVISION

#### PREAMBLE

**1. Sections Affected**

**Rulemaking Action**

R3-3-101	Amend
Table 1	Amend
R3-3-201	Amend
R3-3-202	Renumber
R3-3-202	New Section
R3-3-203	Renumber
R3-3-203	Amend
R3-3-204	Renumber
R3-3-204	Amend
R3-3-205	Renumber
R3-3-205	Amend
R3-3-206	Renumber
R3-3-206	Amend
R3-3-207	Repeal
R3-3-207	Renumber
R3-3-207	Amend
R3-3-208	Repeal
R3-3-208	New Section
R3-3-209	Amend
R3-3-210	Repeal
R3-3-211	Renumber
R3-3-211	Amend
R3-3-212	Renumber
R3-3-301	Amend
R3-3-302	Repeal
R3-3-302	New Section
R3-3-303	Repeal
R3-3-303	Renumber
R3-3-303	Amend
R3-3-304	Repeal
R3-3-304	Renumber
R3-3-304	Amend
R3-3-305	Repeal
R3-3-305	Renumber
R3-3-305	Amend

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

R3-3-306	Renumber
R3-3-306	Amend
R3-3-307	Repeal
R3-3-307	Renumber
R3-3-307	Amend
R3-3-308	Renumber
R3-3-308	Amend
R3-3-309	Renumber
R3-3-309	Amend
R3-3-310	Renumber
R3-3-310	New Section
R3-3-311	Repeal
R3-3-312	Repeal
R3-3-313	Repeal
R3-3-314	Repeal
R3-3-401	Amend
R3-3-402	Amend
R3-3-403	Amend
R3-3-404	Renumber
R3-3-404	New Section
R3-3-405	New Section
R3-3-501	Amend
R3-3-502	Amend
R3-3-503	Amend
R3-3-504	Amend
R3-3-505	Amend
R3-3-506	Amend

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 3-107, 3-343, 3-363

Implementing statutes: A.R.S. §§ 3-107, 3-341, 3-343, 3-344, 3-347, 3-350.01, 3-352, 3-353, 3-361, 3-362, 3-364, 3-365, 3-366, 3-367.01, 3-367.02, 3-368, and 3-370

**3. A list of all previous notices appearing in the Register addressing the adopted rule:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 3570, September 15, 2000

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Sherry D. Blatner, Rules Specialist

Address: Department of Agriculture  
1688 W. Adams, Room 235  
Phoenix, AZ 85007

Telephone: (602) 542-0962

Fax: (602) 542-5420

E-mail: sherry.blatner@agric.state.az.us

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

These rules set forth procedures for obtaining and renewing permits, licenses, and certification with respect to pesticide use. Procedures for pesticide use have been updated to meet current national and local practices. Recordkeeping and reporting requirements of sellers and applicators have been modified. A seller permit is only required for the sale of agricultural purpose pesticides, and excludes use intended for:

- The home, or
- Swimming pools or spas.

Definitions are refined, and additional definitions are included to standardize understanding of the rules. Language has been modified to conform to current publication requirements of the Office of the Secretary of State.

The time frame table has been modified to delete licensing of Continuing Education Approval. Penalties for noncompliance by repeat offenders are increased.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

This rulemaking stems from:

- Procedural initiatives by the Division,
- Changes proposed by the Division during its last Five-Year Review, and
- Suggestions provided by the Auditor General.

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

Adoption of this rule will have an impact on the following groups:

A. *The Arizona Department of Agriculture.*

The Department will incur training costs to advise staff and the regulated community of the changes in rules. The proposed restrictions on the number of times an applicant may retake an examination within a 12-month period will result in cost savings for the Department.

B. *Political Subdivisions.*

State agencies, other than the Department of Agriculture, will not be impacted by this rulemaking. The implementation of this rulemaking will impact the State of Arizona's general fund. Reduction of the number of businesses required to obtain seller permits may reduce general fund revenue by \$9,000 annually. The Department believes that the benefits of this rule-making offset any income reduction or other costs incurred by the Department.

C. *Businesses Directly Affected By the Rulemaking.*

The regulated community the Department serves will be affected by changes in qualifications for licensing, and testing modifications. Sellers of non-agricultural purpose pesticides will not require a seller permit. The economic penalties for noncompliance with the rules, by repeat offenders, are enhanced.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Sherry D. Blatner  
Address: Department of Agriculture  
1688 W. Adams, Room 235  
Phoenix, AZ 85007  
Telephone: (602) 542-0962  
Fax: (602) 542-5420  
E-mail: sherry.blatner@agric.state.az.us

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request a hearing on the proposed rule:**

Comments may be written or presented orally. A hearing is scheduled for:

Date: November 13, 2001  
Time: 10:00 a.m. to 2:00 p.m.  
Location: Department of Agriculture  
1688 W. Adams St., Room 206  
Phoenix, AZ 85007

The record will close at 2:00 p.m., November 13, 2001. Written comments may be mailed or delivered by 2:00 p.m., November 13, 2001, to the person named in item #9.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

**12. Incorporations by reference and their location in the rules:**

Federal Food, Drug and Cosmetic Act (FFDCA) as Amended by the Food Quality Protection Act (FQPA) of August 3, 1996, R3-3-101

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as Amended by the Food Quality Protection Act (FQPA) of August 3, 1996, R3-3-101

**13. The full text of the rules follows:**

**TITLE 3. AGRICULTURE**

**CHAPTER 3. DEPARTMENT OF AGRICULTURE  
ENVIRONMENTAL SERVICES DIVISION**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R3-3-101. Definitions  
Table 1 Time frames – Calendar Days

**ARTICLE 2. PERMITS, LICENSES, AND CERTIFICATION**

Section  
R3-3-201. ~~Permit – regulated grower~~ Regulated Grower Permit; Fee  
R3-3-202. ~~Core Examination~~ Core Examination  
R3-3-202. R3-3-203. ~~Permit – seller~~ Seller Permit; Examination; Fee  
R3-3-203. R3-3-204. ~~License – agricultural aircraft pilot~~ Agricultural Aircraft Pilot License; Examination; Fee  
R3-3-204. R3-3-205. ~~License – custom applicator~~ Custom Applicator Business License; Examination; Fee  
R3-3-205. R3-3-206. ~~License – custom application equipment~~ Custom Application Equipment License Tag; Fee  
R3-3-206. R3-3-207. ~~License – agricultural pest control advisor~~ Agricultural Pest Control Advisor License; Examination; Fee  
R3-3-207. ~~Commercial applicator certification~~  
R3-3-208. ~~Private applicator certification~~ Applicator Certification; Examination; Fee  
R3-3-209. ~~Persons exempt from permitting, licensing and certification provisions~~ Licensure and Fee Exemption  
R3-3-210. ~~Persons exempt from licensing and certification fees~~  
R3-3-211. R3-3-210. ~~Additional grounds for denial of licenses, permits or certifications~~ Grounds for Revocation, Suspension, or Denial of Licenses, Permits, or Certifications  
R3-3-212. R3-3-211. ~~Continuing education requirements for agricultural pest control advisors and certified applicators~~ CEU Course Approval; Topic Approval

**ARTICLE 3. REQUIREMENTS FOR PESTICIDE USE, SALES, AND EQUIPMENT**

Section  
R3-3-301. ~~Pesticide use~~ Use  
R3-3-302. ~~Custom application; requirement for written recommendations or written instructions; reports to Commission Form 1080; Requirement for Written Recommendations~~  
R3-3-303. ~~Premixing of chlorate defoliation compound~~  
R3-3-304. ~~Requirement for closed mixing and rinsing systems~~  
R3-3-305. ~~Storage and disposal~~  
R3-3-306. R3-3-303. ~~Experimental use permits~~ Use Permits  
R3-3-307. ~~Emergency~~  
R3-3-308. R3-3-304. ~~Pesticide management areas; criteria for designation~~ Management Areas; Criteria for Designation  
R3-3-309. R3-3-305. ~~Pesticide sales~~ Sales  
R3-3-310. R3-3-306. ~~Receipt of restricted use pesticides by noncertified persons~~ Restricted Use Pesticides by Noncertified Persons  
R3-3-311. ~~Equipment requirements~~ Repealed  
R3-3-312. R3-3-307. ~~Aircraft, pilots and federal certificates~~ Requirements for Aircraft and Agricultural Aircraft Pilots  
R3-3-313. R3-3-308. ~~Pesticide container disposal~~ Containers and Pesticides; Storage and Disposal  
R3-3-314. R3-3-309. ~~Returnable/reusable, recyclable, reconditionable pesticide containers~~ Returnable/Reusable, Recyclable, and Reconditionable Pesticide Containers

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

R3-3-310. Fumigation Use

**ARTICLE 4. RECORDKEEPING AND REPORTING**

Section

- R3-3-401. ~~Recordkeeping: sellers of general use and restricted use pesticides~~ Pesticide Seller Records  
R3-3-402. ~~Private applicator records~~ Applicator Records; Restricted Use Pesticide  
R3-3-403. ~~Reporting of bulk release~~ Bulk Release Report  
R3-3-404. ~~Regulated grower records~~ Form 1080; Reports to the Department  
R3-3-405. Disposal Records; Agricultural Pesticide Concentrate

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

Section

- R3-3-501. ~~Serious violations~~ Violations  
R3-3-502. ~~Nonserious violations~~ Violations  
R3-3-503. ~~De minimis violations~~ Violations  
R3-3-504. ~~Mitigation of violations~~ Exemptions and Mitigation  
R3-3-505. ~~Unlisted violations~~ Listed and Unlisted Violations  
R3-3-506. ~~Point system for administering penalties and fines~~ Penalty and Fine Point System

**ARTICLE 1. GENERAL PROVISIONS**

**R3-3-101. Definitions**

In addition to the definitions set forth provided in A.R.S. §§ 3-341 and 3-361, the words and phrases in this Chapter, unless the context otherwise requires, shall have the following meanings: terms apply to this Chapter:

1. "Act" means the federal Insecticide, Fungicide and Rodenticide Act of 1972 as amended as of December 23, 1985.
2. "Acute oral toxicity" means adverse effects that result from a single dose or single exposure to a chemical; any poisonous effect produced within a short period of time, usually less than 96 hours taken by mouth or ingested.
3. "Administrator" means the administrator of the United States Environmental Protection Agency.
4. "Adulterate" means a change in the pesticide whereby:
  - a. Its strength or purity falls below the standard of quality stated on the labeling under which it is sold; or
  - b. Any substance has been substituted wholly or in part for the pesticide; or
  - e. Any constituent of the pesticide has been wholly or in part abstracted.
5. "Agricultural aircraft pilot" means any person individual who:
  - a. Offers his services for hire to a custom applicator as a pilot of agricultural aircraft; or
  - b. Pilots his own pilots an agricultural aircraft in the business of custom application to apply a pesticide for agricultural purposes.

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

6. "Agricultural pest control advisor" means any person who, as a requirement of, or incidental to, his employment or occupation:
  - a. Offers a written recommendation to a regulated grower or to any public or private agency concerning the control of any specific agricultural pest condition;
  - b. Holds himself forth as an authority or general advisor on any agricultural pest condition; or
  - e. Holds himself forth as an authority or general advisor on any agricultural pest to a regulated grower.

A person who merely furnishes information concerning general and labeling usage of a registered pesticide shall not be deemed to be holding himself forth as an authority or general advisor for the purposes of this Chapter.

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

Home use, or

Use in swimming pools or spas.

7. "Aircraft" means any mechanism used in flight, excluding remote controlled.  
"ALJ" means an individual or the Director who sits as an administrative law judge, who conducts administrative hearings in a contested case or an appealable agency action, and who makes decisions regarding the contested case or appealable agency action. A.R.S. § 41-1092(1).

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

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

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

8. “Applicator” means any person individual who applies, or causes to have applied, any pesticide whether for his own use or on the property of other persons on an agricultural establishment.

9. “Attorney General” means the duly elected or appointed, qualified and acting Attorney General of Arizona and his duly appointed assistants.

10. “Authorized activities” means any organized activities which utilize school facilities or the school grounds; and whose sponsors or organizers have received the written or verbal approval of a responsible administrative official of the school.

“Buffer zone” means an area of land that allows pesticide deposition and residues to decline to a level that poses a reasonable certainty of no harm to a defined area. A buffer zone may receive direct application of pesticides as permitted by law.

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

12. “Certified applicator” means any person individual who has a valid commercial or private applicator certification issued by the Commission is certified by the Department to use or supervise the use of any restricted use pesticide which is classified for restricted use.

“CEU” means continuing education unit.

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

13. “Commercial applicator” means a person, certified applicator, although the individual is a private applicator regarding some uses, other than a private applicator or structural commercial applicator, who uses or supervises the use of any pesticide which is classified for restricted use; for any purpose or on any property other than property owned or controlled by:-

The applicator;

The applicator’s employer; or

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

14. “Competent” means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.

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

15. “Custom application equipment” means aircraft and ground equipment used for pesticide application by custom applicators.

16. “Custom applicator” means any person, except a person regulated by the SPCC, who applies pesticides:

a. For hire, or

b. By aircraft whether or not for hire.

“Daily pesticide application” means the continuance of an application of the same pesticide to the same field or application site within the same section, township, and range within a period of seven consecutive days.

17. “Day care center” means any facility licensed as such by the state.

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

19. “Device” means any instrument or contrivance which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals. It does not include firearms, mechanical traps, or equipment used for the application of pesticides when sold separately. FIFRA

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

“Direct release” means allowing a pesticide to be deposited off an application site, at the time of application, while the valve controlling the normal flow of pesticide from the application device is in the open position and the application device is not within the confines of the application site. Direct release does not mean the discharge of a pesticide caused by mechanical malfunction of the application device beyond the control of the operator, nor is direct release considered drift. Direct release does not mean a release caused by accident, or done to avoid an accident that would have resulted in greater harm than that caused by the pesticide release.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

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

“Drift” means the physical movement of pesticide through the air at the time of a pesticide application from the application site to any area off the application site. Pesticide drift does not include movement of pesticides or associated degradation compounds to off application sites when caused by erosion, migration, volatility, or windblown soil particles that occur after application, unless specifically addressed on the pesticide label, with respect to drift control requirements.

“EPA” means the United States Environmental Protection Agency.

20. “Experimental use permit” or “EUP” means a permit that is issued by the administrator EPA, or the Department pursuant to A.R.S. § 3-350.01, to a registrant person for the purpose of accumulating information and data necessary for the registration of a particular that pesticide.

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

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

“FFDCA” means the Federal Food, Drug and Cosmetic Act as Amended by the Food Quality Protection Act (FQPA) of August 3, 1996. This material is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions.

“FIFRA” means the Federal Insecticide, Fungicide and Rodenticide Act as Amended by the Food Quality Protection Act

(FQPA) of August 3, 1996. This material is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions.

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

21. “Ground equipment” means any device, other than aircraft, used in the application of pesticides that is either self-propelled or drawn by a power unit.

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

23. “Highly toxic pesticide” means a pesticide with an acute oral or dermal LD<sub>50</sub> of 50 or dermal LD<sub>50</sub> of 200 milligrams per kilogram of body weight or less and the label bears the signal words “danger” “poison” and shows a skull and crossbones.

“Individual” means a human being.

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

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

25. “Label” means the written, printed, or graphic matter approved by the United States Environmental Protection Agency on or attached to any pesticide container or its wrappers or on or attached to any device.

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

26. “Labeling” means all labels and all other written, printed, or graphic matter authorized by the manufacturer of any state or federal agency that:

a. Accompanies any pesticide or device at any time; or

b. Is referred to on the label or in literature accompanying the pesticide or device, except where that reference is to current official publications of federal or state agencies, institutions, or agencies authorized by law to conduct research in the field of pesticide.

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

(a) Upon the pesticide or device or any of its containers or wrappers.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

*(b) Accompanying the pesticide or device at any time.*

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

27. “LD<sub>50</sub>” means a single lethal dose of pesticide as determined by a United States Environmental Protection Agency an EPA approved procedure that will kill 50% percent of laboratory test animals.

28. “Livestock” means cloven-hoofed animals, horses, mules or asses.

29. “Milligrams per kilogram (mg/kg)” refers to the single dose of the pesticide in terms of milligrams of the substance per kilogram of body weight of the test animal.

30. “Owner” means that person who holds legal or equitable title or is the purchaser on contract of land upon which agricultural commodities are commercially grown or produced.

31. “Party” means each person or agency (including the Commission) named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

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

Offers a written recommendation to a regulated grower or to any public or private agency concerning the control of any specific agricultural pest condition, Claims to be an authority or general advisor on any agricultural pest condition, or Claims to be an authority or general advisor on any agricultural pest to a regulated grower. An individual who only furnishes information concerning labeling usage of a registered pesticide shall not be considered to be claiming to be an authority or general advisor for the purposes of this Chapter.

32. “Person” means an individual, employee, officer, managing body, trust, firm, joint stock company, consortium, public or private corporation, including a government corporation, partnership, association, state, a political subdivision of this state, or commission or the United States government or a federal facility, interstate body or other entity.

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

33. “Pest” means any insect, rodent, nematode, fungus, weed, mollusk, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganisms, except on or in living man, that are or may be injurious to vegetation, humans, animals, households or are or may be injurious when it is present in any environment.

“Pest” means: Any weed, insect, vertebrate pest, nematode, fungus, virus, bacteria or other pathogenic organisms. Any other form of terrestrial or aquatic plant or animal life, except virus, bacteria or other microorganism on or in living humans or other living animals, which the director declares to be a pest for the purpose of enforcement of this article. A.R.S. § 3-341(20)

34. “Pest control” means the use or application of any pesticide, or of any substance, method or device for pesticidal purposes including preventing, destroying, or repelling any pest or preventing, mitigating or correcting any disorder of plants or for the pesticidal purpose of inhibiting, regulating, stimulating or otherwise altering plant growth by direct application to plants, excluding foliar fertilizers.

*“Pesticide” means any substance or mixture of substances intended to be used for defoliating plants or for preventing, destroying, repelling or mitigating insects, fungi, bacteria, weeds, rodents, predatory animals or any form of plant or animal life which is, or which the director may declare to be, a pest which may infest or be detrimental to vegetation, humans, animals r households or which may be present in any environment. A.R.S. § 3-361(6)*

“Pesticide container” means any container whose interior surface is in direct contact with a pesticide. “Pesticide use” means the sale, processing, storing, transporting, handling, or applying of a pesticide, and disposal of pesticide and pesticide containers. A.R.S. § 3-361(7)

35. “Private applicator” means a ~~person~~ a certified applicator who uses or supervises the use of ~~any~~ a restricted use pesticide, ~~which is classified for restricted use, for the purpose of producing any~~ an agricultural commodity on property owned or rented controlled by:

him or his The applicator;

The applicator’s employer; or,

Another person, if the application is applied performed without compensation, other than trading of personal services between producers of agricultural commodities, ~~on the property of another person.~~

36. “Property boundary ~~of a day care center or health care institution~~” means:

~~the~~ The outer perimeter of the area of ~~a day~~ child care center facility or health care institution within which normal ~~authorized~~ activities are conducted; ~~or~~



*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

37. ~~“Property boundary of a residence” means the~~ The legal boundary of the land on which the a residence sits unless such other another boundary is established by a written agreement of the occupant of the residence, but in no event shall the boundary and shall not be less than ten feet from the residence; or
38. ~~“Property boundary of a school” means the~~ The outer perimeter of the area of a school within which where instruction, including physical education, is imparted, as well as and all adjacent grounds where educational or recreational authorized activities are authorized or sponsored by the school occur.
39. ~~“Range livestock” means livestock customarily permitted to roam upon the ranges of the state, whether public domain or in private control, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes.~~
40. ~~“Registrant” means any person who has registered any pesticide pursuant to the Act and with the Office of the State Chemist.~~
41. ~~“Regulated grower” means a person who makes~~ acquires or purchases of pesticides or contracts for the application of pesticides to commercial agricultural commodities or onto an agricultural establishment, as a part of such the person’s normal course of employment or activity as an owner, lessee, sublessee, sharecropper, or manager of land upon which application of pesticide is made.
42. ~~“Regulate use” means to establish the time during which, the location where and the conditions under which use of a named pesticide may be made or shall not be made.~~
43. ~~“Residence” means a dwelling place, whether or not it is attached to 1 or more other dwelling places, where one or more individuals are living.~~  
“Responsible individual” means a certified applicator, a licensed PCA, or an individual who has passed the core examination prescribed in R3-3-202.
44. ~~“Respirator” means a mask of a type that has been tested and approved by the National Institute for Occupational Safety and Health and found to be satisfactory for protection against the particular pesticide being used.~~
45. ~~“Restricted use pesticides” or “RUP” means those pesticides listed in 40 CFR 162.31 amended as of July 1, 1986, which is herein adopted and incorporated by reference and on file with the Office of the Secretary of State.~~  
“Restricted use pesticide” means a pesticide classified as such by the EPA. A.R.S. § 3-361(8)
46. ~~“Rodent” means all members of the order rodentia and rabbits and hares.~~
47. ~~“School” means a public (including charter) or private academic institution, registered with the Arizona Department of Education, whose primary purpose is the imparting of academic instruction to pupils in programs for preschool children with disabilities, kindergarten programs, or any combination of grades one through 12. A.R.S. § 15-101(19).~~
48. ~~“Seller” means any pesticide distributor, dealer or any other person who sells, or offers person selling or offering for sale, any a restricted use pesticide or a pesticide for agricultural purposes.~~  
“Service container” means any container used to temporarily hold, store, or transport a pesticide concentrate or registered ready-to-use pesticide other than the original labeled container, measuring device or application device.  
“SPCC” means the Arizona Structural Pest Control Commission.  
“Spot application” means a treatment in an area other than a greenhouse or nursery operation that is restricted to an area of a field less than the entire field.
49. ~~“Structural commercial applicator” means any person regulated by Title 32, Chapter 22, Article 4 of the Arizona Revised Statutes.~~  
“Triple rinse” means to flush out a container at least three times, each time using a volume of water, or other diluent as specified on the label, equal to a minimum of 10 percent of the container’s capacity or a procedure allowed by the label that produces equivalent or better results.
50. ~~“Under the direct supervision of” means that a pesticide is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.~~  
“Unreasonable adverse effects” means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or a human dietary risk from residues that result from a use of a pesticide in or on any food inconsistent with the standard under section 408 of the FFDCA, and as documented by the Department through its investigation and determined to be within the control of the applicator. The Director shall consider the risks and benefits of public health pesticides separate from the risks and benefits of other pesticides. In weighing any regulatory action concerning a public health pesticide, the Director shall weigh any risks of the pesticide against the health risks such as the diseases transmitted by the vector to be controlled by the pesticide.
51. ~~“Weed” means any plant which grows where it is not wanted.~~  
“Weed” means any plant which grows where not wanted. A.R.S. § 3-341(24)

**Arizona Administrative Register**  
**Notices of Proposed Rulemaking**

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

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time frame
Grower Permit	A.R.S. § 3-363	14	14	56	14	70
Seller Permit	A.R.S. § 3-363	14	14	56	14	70
Agricultural Aircraft Pilot	A.R.S. § 3-363	14	14	56	14	70
Custom Applicator License	A.R.S. § 3-363	14	14	63	14	77
Application Equipment	A.R.S. § 3-363	14	14	56	14	70
<del>Agricultural Pest Control Advisor (PCA)</del>	A.R.S. § 3-363	14	14	63	14	77
Commercial Applicator Certification	A.R.S. § 3-363	14	14	63	14	77
Private Application Certification	A.R.S. § 3-363	14	14	63	14	77
Experimental Use Permit	A.R.S. § 3-350.01	14	14	28	14	42
<del>Continuing Education Approval</del>	A.R.S. § 3-363	14	14	42	14	56
Pesticide Registration	A.R.S. § 3-351	14	14	91	14	105
Licensing Manufacture or Distribution of Commercial Feed	A.R.S. § 3-2609	14	14	42	14	56
Commercial Fertilizer License	A.R.S. § 3-272	14	14	42	14	56
Specialty Fertilizer Registration		14	14	56	14	70
Agricultural Safety Trainer Certification	A.R.S. § 3-3125 R3-3-1003	28	14	28	14	56

**ARTICLE 2. PERMITS, LICENSES, AND CERTIFICATION**

**R3-3-201. ~~Permit-regulated grower~~ Regulated Grower Permit; Fee**

- A.** ~~No regulated grower~~ A regulated grower shall not order, purchase, or take delivery of, use, or recommend the use of any pesticide ~~unless he has~~ for agricultural purposes without a valid regulated grower permit issued by the ~~Commission Department~~.
- B.** ~~All regulated grower permits will be valid for a period of 1 year, or portion thereof, and expire on March 31 of each year, except as otherwise provided in Title 41, Chapter 6, Article 6 of the Arizona Revised Statutes.~~
- B.** Any person applying for or renewing a regulated grower permit shall provide the following information on a form provided by the Department which includes:
1. The name, signature, and social security or employer's identification number of the applicant;
  2. The date of the permit application;
  3. The name, address and daytime telephone number of the company or farm where the applicant may be reached;
  4. The permit time-period option; and
  5. The sections, townships, ranges and acres of the land where pesticides may be applied.
- C.** Completed applications shall be submitted to the ~~Commission Department~~ and shall be accompanied by a nonrefundable \$20.00 fee for each year or portion of each year, of the permit.
- D.** ~~Applications for renewal of regulated grower permits shall be submitted to the Commission annually on or before March 1 and shall be accompanied by a \$20.00 fee.~~
- E.D.** Regulated grower permits are not transferable. A regulated grower permit is not transferable, expires on December 31, and shall, at the option of the applicant, be valid for one or two years.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

**R3-3-202, Core Examination**

- A.** Besides any additional requirement prescribed within this article, a score of at least 75 percent on a written core examination administered by the Department is required of any individual seeking:
1. A seller permit, or
  2. An initial license as
    - a. An agricultural aircraft pilot,
    - b. A custom applicator business,
    - c. An agricultural pest control advisor
  3. An initial certification as:
    - a. A private applicator, or
    - b. A commercial applicator.
- B.** Examinations shall be given by appointment at every Environmental Services Division office. The examination shall test the knowledge and understanding of:
1. Pesticide use, safety and toxicity;
  2. Pesticide labels and labeling;
  3. Pesticide terminology;
  4. Common causes of accidents;
  5. Necessity of protective equipment;
  6. Poisoning symptoms;
  7. Practical first aid; and
  8. Statutes and rules relating to the sale, application and use of pesticides.
- C.** Any individual failing the examination may retake it no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the time of the last examination.

**~~R3-3-202, R3-3-203, Permit — seller~~ Seller Permit; Examination; Fee**

- A.** No person shall act as a seller ~~unless he has~~ without a valid seller permit issued by the ~~Commission~~ Department.
- B.** Each physical location selling or offering for sale any restricted use pesticide or selling pesticides for agricultural purposes within the state shall hold a seller permit.
- C.** Each physical location selling or offering for sale within the state any restricted use agricultural pesticide shall have at that location a responsible individual.
1. If the responsible individual terminates employment from a physical location, the seller shall within 30 calendar days qualify another responsible individual with the Department.
  2. The responsible individual who is not a certified applicator or a PCA shall retake the core examination every six years as prescribed in R3-3-202.
- D.** Any person applying for a seller permit shall provide the following information on a form provided by the Department:
1. The name and signature of the responsible individual;
  2. The date of the permit application;
  3. The name, physical address, mailing address and daytime telephone number of the location selling a restricted use pesticide or a pesticide for agricultural purposes;
  4. The permit time-period option;
  5. The name and daytime telephone number of the Arizona contact for each out-of-state seller, if applicable;
  6. The address where records will be kept;
  7. If the applicant has had a similar license, permit or certification revoked, suspended, or denied in this or any other jurisdiction in the last three years; and
  8. The number of the license or certificate of the responsible individual, and current seller permit number, if applicable.
- E.** The applicant shall submit the completed application to the Department accompanied by a nonrefundable \$100 fee for each year, or portion of each year, of the permit.
- ~~B,F.~~ A** seller ~~permits~~ permit is not transferable, expires on December 31, and ~~will~~ shall, at the option of the applicant, be valid for a period of 1 year, ~~one or two years~~ or portion thereof, and expire on March 31 of each year, except as otherwise provided in Title 41, Chapter 6, Article 6 of the Arizona Revised Statutes.
- ~~C.~~** Completed applications shall be submitted to the Commission and shall be accompanied by a \$100.00 fee.
- ~~D.~~** Applications for renewal of seller permits shall be submitted to the Commission annually on or before March 1 and shall be accompanied by a \$100.00 fee.
- ~~E.~~** Seller permits are not transferable.

**~~R3-3-203, R3-3-204 License agricultural aircraft pilot~~ Agricultural Aircraft Pilot License; Examination; Fee**

- A.** No ~~person~~ individual shall act as an agricultural aircraft pilot ~~unless he has~~ without:
- a ~~A~~ valid agricultural aircraft pilot license issued by the ~~Commission~~ Department, and
  - A valid commercial applicator certification under R3-3-208.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

~~B.~~ In order to qualify for a license, the applicant must achieve a minimum score of 75% on an examination approved and administered by the Commission. Examinations will be given at every Commission office during regular office hours. Any person failing the examination may retake it as many times as he wants. Any examination retake will require a waiting period of at least 7 days from the time of the last examination. The examination will test the knowledge and understanding of:

1. Pesticide use and safety;
2. Safe flight and application procedures;
3. Operation and application in the vicinity of schools, day care centers, health care institutions and residences;
4. Steps to be taken before starting operations, such as survey of target area and consideration of possible hazards to public health and the environment;
5. Statutes and rules relating to the application and use of pesticides; and
6. Integrated pest management.

~~C.B.~~ In addition to the examination requirement specified in ~~R3-3-203(B)~~ subsection (F), an agricultural aircraft pilot license shall not be issued, renewed, or remain valid unless the applicant or license holder has a valid commercial pilot's certificate issued by the Federal Aviation Administration.

C. Any individual applying for an agricultural aircraft pilot license shall provide the following information on a form provided by the Department:

1. The name, social security number, and signature of the applicant;
2. The date of the application;
3. The address and daytime telephone number of the applicant;
4. The license time-period option;
5. The name, physical address, mailing address, and daytime telephone number of the applicant's employer, if applicable;
6. A copy of the applicant's commercial pilot certificate issued by the Federal Aviation Administration, if not previously filed with the Department;
7. The applicant's commercial applicator certificate number; and
8. If the applicant has had a similar certification or license revoked, suspended, or denied in this or any other jurisdiction with the last three years, and reason why.

~~D.~~ Agricultural aircraft pilot licenses will be valid for a period of one year, or portion thereof, and expire on December 31 of each year, except as otherwise provided in Title 41, Chapter 6, Article 6 of the Arizona Revised Statutes.

~~E.D.~~ Completed applications shall be submitted to the ~~Commission Department~~ and shall be accompanied by a nonrefundable \$50.00 fee for each year, or portion of each year, of the license.

~~F.~~ Applications for renewal of agricultural aircraft pilot licenses shall be submitted to the Commission annually on or before December 1 and shall be accompanied by a \$50.00 fee.

~~G.E.~~ Agricultural aircraft pilot licenses are not transferable. An agricultural aircraft pilot license is not transferable, expires on December 31, and is valid for one or two years at the option of the applicant, so long as the applicant possesses a valid commercial applicator certification and valid FAA commercial pilot's certificate.

F. Examinations.

1. Examinations shall be given by appointment at every Environmental Services Division office. Beside the core examination required in R3-3-202, a person applying for an agricultural aircraft pilot license shall demonstrate knowledge and understanding of the following by scoring at least 75 percent on a written examination approved and administered by the Department:
  - a. Safe flight and application procedures including the steps to be taken before starting operations, the survey of the treated area, and consideration of possible hazards to public health;
  - b. Calibration of aerial application equipment; and
  - c. Operation and application in the vicinity of schools, child care facilities, health care institutions and residences.
2. Any individual failing the examination may retake it no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the time of the last examination.

G. Renewal; Expired License.

1. An applicant may renew an expired license without retaking the written tests under the following conditions:
  - a. Renewal is made within 30 days of expiration, and
  - b. The applicant has not provided any pesticide-related service after the license expired.
2. All other applicants for renewal shall retake the written examinations prescribed in subsection (F).

**R3-3-204. R3-3-205. License custom applicator Custom Applicator Business License; Examination; Fee**

A. No ~~persons~~ person shall act as a custom applicator ~~unless he has~~ without a valid custom applicator business license issued by the ~~Commission Department~~.

~~B.~~ In order to qualify for a license, the applicant must achieve a minimum score of 75% on the core examination and a minimum score of 75% on the method examination (ground or aircraft) in which the custom applicator wishes to be licensed.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

Examinations must be approved by the Commission and will be given at every Commission office during regular office hours. Any person failing the examination may retake it as many times as he wants. Any examination retake will require a waiting period of at least seven days from the time of the last examination.

1. ~~The core examination will test the knowledge and understanding of:~~
  - a. ~~Statutes and rules relating to the application and use of pesticides;~~
  - b. ~~Pesticide use and safety; and~~
  - c. ~~Calibration of equipment.~~
2. ~~Methods examinations:~~
  - a. ~~The aircraft method examination will test the knowledge and understanding of aircraft equipment application procedures.~~
  - b. ~~The ground method examination will test the knowledge and understanding of ground aircraft equipment application procedures.~~

**B.** Any person applying for a custom applicator business license shall provide the following information:

1. The name and signature of the applicant;
2. The date of the license application;
3. The name, physical address, mailing address, and daytime telephone number of the business;
4. The tax identification number of the business;
5. The license time-period option;
6. Whether the application is for ground or air, or both;
7. The names and current certification numbers of the commercial applicators employed by the company, pursuant to subsection (C)(1).
8. Evidence of insurance coverage showing the name of the insurance carrier, the policy number, the policy term, policy limits, and any applicable exclusions; and
9. If the applicant has had a similar license revoked, suspended or denied in this or any other jurisdiction within the last three years, and reason why.

**C.** ~~In addition to the examination requirements specified in R3-3-204(B), except as otherwise provided in R3-3-204(E), a  $\Delta$  custom applicator business license shall not be issued, renewed or remain valid unless the applicant or license holder:~~

1. ~~Has Is a commercial applicator or employs at least one person employed individual who is, or is himself, certified as a commercial applicator, pursuant to R3-3-208; and~~
2. ~~Maintains at all times during the licensing period, public liability, drift, and property damage insurance coverage with an aggregate amount of at least \$300,000 during the licensing period (\$100,000 for property damage, \$100,000 for public liability, and \$100,000 for drift). Evidence of insurance coverage must shall be demonstrated to the Commission Department upon initial application; or application for each renewal; or upon request of the Department; and~~

**~~D.~~3.** ~~In addition to the requirements specified in R3-3-204(B) and (C), a custom applicator license shall not be issued, renewed or remain valid for any custom applicator utilizing aircraft, unless the applicant or license holder has Files with the Department a copy of the commercial applicator's valid Federal Aviation Administration commercial agricultural aircraft operator's certificate, if using aircraft. A If not already on file with the Department, a copy of the certificate shall be submitted to the Commission upon with the completed initial application or application renewal.~~

**E.** ~~Notwithstanding R3-3-204(C)(2), a custom applicator may terminate the liability insurance coverage required by that paragraph provided that the custom applicator immediately ceases to act as a custom applicator and does not again begin to act as a custom applicator until he has the required insurance. A custom applicator license that is valid in all other respects shall not be rendered invalid due to the termination of the required insurance coverage as long as this subsection and the rest of this rule are complied with.~~

**D.** A custom applicator business license may be temporarily relinquished, without affecting the custom applicator license, if the custom applicator:

1. Advises the Department of termination of the insurance prescribed in subsection (C)(2), and the effective date; and
2. Ceases to act as a custom applicator as of the termination date.  
The custom applicator business license may be reinstated within the same licensing time period, without additional fee as prescribed in subsection (E), upon purchase of insurance and notice to the Department.

**~~F.~~** ~~Custom applicator licenses will be valid for a period of 1 year, or portion thereof, and expire on December 31 of each year, except as otherwise provided in Title 41, Chapter 6, Article 6 of the Arizona Revised Statutes.~~

**~~G.~~E.** ~~Completed applications shall be submitted to the Commission Department and shall be accompanied by a nonrefundable \$100 fee for each year, or portion of each year, of the license.~~

**E.** Custom applicator business licenses are not transferable, expire on December 31, and shall, at the option of the applicant, be valid for one or two years.

**G.** Examinations.

1. Examinations shall be given by appointment at every Environmental Services Division office. In addition to the core examination required in R3-3-202, a person applying for a custom applicator business license shall demonstrate

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

knowledge and understanding of the following by scoring at least 75 percent on a written examination approved and administered by the Department:

- a. Calibration of application equipment;
- b. Aerial application procedures, if applicable; and
- c. Ground application procedures, if applicable.

2. Any individual failing the examination may retake it no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the time of the last examination.

~~H.~~ Applications for renewal of custom applicator licenses shall be submitted to the Commission annually on or before December 1 and shall be accompanied by a \$100.00 fee.

~~H.~~ Renewal; Expired License.

1. An applicant may renew an expired license without retaking the written tests under the following conditions:

- a. Renewal is made within 30 days of expiration, and
- b. The applicant has not provided any pesticide-related service after the license expired.

2. All other applicants for renewal shall retake the written examinations prescribed in subsection

~~I.~~ Custom applicator licenses are not transferable.

~~R3-3-205.~~ ~~R3-3-206.~~ ~~License – custom application equipment~~ Custom Application Equipment License Tag; Fee

~~A.~~ No custom application equipment shall be used unless the equipment has a valid custom application equipment license tag issued by the Commission Department. A valid custom application equipment license tag shall be prominently displayed and maintained on the pesticide application equipment.

~~B.~~ Any person applying for a custom application equipment license tag shall provide the following information on a form provided by the Department:

1. The name and signature of the applicant;
2. The date of the application;
3. The address and daytime telephone number of the applicant;
4. The name, physical address, mailing address, and daytime telephone number of the business, if applicable, and
5. The manufacturer, make, model and serial number, and if an aircraft, the aircraft registration number (“N” number) of the application equipment;

~~B.C.~~ A custom application equipment license tag shall not be issued, renewed, or remain valid unless the operator of the equipment is licensed as a custom applicator ~~business license remains valid.~~

~~C.~~ Prior to the issuance or renewal of an aircraft equipment license, the Commission may require that the aircraft be made available for inspection to determine compliance with the provisions of R3-3-311.

~~D.~~ Custom application equipment licenses will be valid for a period of 1 year, or portion thereof, and expire on December 31 of each year, except as otherwise provided in Title 41, Chapter 6, Article 6 of the Arizona Revised Statutes.

~~E.D.~~ Completed applications shall be submitted to the Commission Department and shall be accompanied by a nonrefundable \$25.00 fee for each piece of applicable equipment, for each year of the license.

~~E.~~ Custom application equipment license tags expire on December 31, and shall be valid for the same time-period as the custom applicator business license.

~~F.~~ Applications for renewal of custom applicator equipment licenses shall be submitted to the Commission annually on or before December 1 and shall be accompanied by a \$25.00 fee.

~~G.E.~~ Custom applicator equipment licenses are not transferable except as follows:

1. If a licensed piece of equipment has been destroyed, rendered unusable; or transferred out of the state, the license may be transferred to another piece of equipment.
2. If a licensed piece of equipment is leased, sold; or traded, the license ~~must~~ shall be transferred with the equipment to the lessee or new owner.
3. ~~Prior to~~ Before transferring a license, the license owner shall notify the Commission Department that the license is being transferred, to whom the license is being transferred, and to what piece of equipment the license is being transferred, or the license becomes invalid.

~~R3-3-207.~~ Commercial applicator certification

~~A.~~ No person shall act as a commercial applicator unless he has a valid commercial applicator certification issued by the Commission.

~~B.~~ In order to qualify for a commercial applicator certification, the applicant must achieve a minimum score of 75% on the core examination and a minimum of 75% in each specific category in which the commercial applicator wishes to be certified. Examinations must be approved and administered by the Commission and will be given at every Commission office during regular office hours.

1. The core examination will test the knowledge and understanding of:

- a. Pesticide labels and labeling;
- b. Pesticide terminology;

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- e. Pesticide safety and toxicity;
  - d. Common causes of accidents;
  - e. Need of protective equipment and clothing;
  - f. Poisoning symptoms;
  - g. Practicable first aid; and
  - h. Statutes and rules relating to the application and use of pesticides.
2. The specific categories in which a commercial applicator can be certified in are:
- a. Agricultural pest control.
  - b. Forest pest control.
  - e. Seed treatment.
  - d. Aquatic pest control. This category includes the application of restricted use pesticides to standing or running water but excludes applicators engaged in public health related activities who must be certified in the category of public health pest control.
  - e. Right of way pest control. This category includes the application of restricted use pesticides in the maintenance of public roads, electric power lines, pipelines, railway and right of ways.
  - f. Public health pest control. This category includes the application of restricted use pesticides by state, federal, or other governmental employees in public health programs for the management and control of pests having medical and public health importance.
  - g. M-44 regulatory pest control. This category includes the use of M-44 by state, federal or other governmental employees.
  - h. Rodent regulatory pest control. This category includes the use of restricted use pesticides by state, federal or other governmental employees for rodent control.
3. Any person failing the core or specific category examinations may retake either examination as many times as he wants. Any core or specific category examination retake will require a waiting period of at least 7 days from the time of the last core or specific category examination, respectively.
- C.** Commercial applicator certifications will be valid for a period of 1 year, or portion thereof, and expire on September 30 of each year except as otherwise provided in Title 41, Chapter 6, Article 6 of the Arizona Revised Statutes.
- D.** Completed applications shall be submitted to the Commission and shall be accompanied by a \$50.00 fee.
- E.** Applications for renewal of commercial applicator certifications shall be submitted to the Commission annually on or before September 1 and shall be accompanied by a \$50.00 fee.
- F.** Commercial applicator certifications shall not be renewed unless the commercial applicator has completed 6 credit hours of continuing education instruction, as set out in R3-3-212, in the previous licensing year or retakes the examinations required by R3-3-207(B).
- G.** Commercial applicator certifications are not transferable.

**R3-3-206. R3-3-207. License agricultural pest control advisor Agricultural Pest Control Advisor License: Examination; Fee**

- A.** No person individual shall act as an agricultural pest control advisor a PCA unless he has without a valid agricultural pest control advisor PCA license issued by the Commission Department. In order to advise in any of the categories listed in subsection (G), a PCA must pass the specific examination associated with the category.
- B.** Any individual applying for a PCA license shall provide the following information on a form provided by the Department:
- 1. The name, social security number, and signature of the applicant;
  - 2. The date of the application;
  - 3. The address and daytime telephone number of the applicant.
  - 4. The license time period option.
  - 5. The name, physical address, mailing address, and daytime telephone number of the applicant's employer, if applicable;
  - 6. The categories in which the applicant has passed required examinations; and
  - 7. If the applicant has had a similar license revoked, suspended, or denied in this or any other jurisdiction within the last three years.
- C.** Effective January 1, 2003, a person who has not held an Arizona PCA license within the last five years shall meet the following minimum qualifications:
- 1. Have either a bachelor's degree (B.A. or B.S.) in the agricultural sciences, biological sciences, or pest management;  
or
  - 2. Have 45 semester units (67.5 quarter units) of college-level curricula in the physical and biological sciences, crop health, pest management systems and methods, and production systems topic areas plus 24 months of technical experience.
  - 3. The college-level curricula specified in subsections (c)(1) and (2) shall include at least 45 semester units (67.5 quarter units) as shown in the following table:

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

<u>Area of Study</u>	<u>Semester Units</u>	<u>Quarter Units</u>
<u>Physical and biological sciences such as introduction to inorganic chemistry, organic chemistry, biochemistry, plant biology or botany, ecology, soils, irrigation, genetics, plant physiology, entomology, and zoology.</u>	<u>15</u>	<u>22.5</u>
<u>Crop health such as vegetative management or weeds, plant pathology, agricultural/economic entomology, plant nutrition or fertility, nematology, and vertebrate management.</u>	<u>12</u>	<u>18</u>
<u>Pest management systems and methods, with at least 1 course in pest management-systems and one course in pest management methods.</u>	<u>9</u>	<u>13.5</u>
<u>Pest management systems topics such as agricultural chemical applications, properties of pesticides, mode of action of agricultural chemicals, toxicology, environmental impact of pesticides, and biological control.</u>		
<u>Pest management methods topics such as IPM, alternative cropping systems, and sustainable agricultural systems.</u>		
<u>Production systems such as environmental horticulture, horticulture, ornamental horticulture, forestry, agronomy, crop science, vegetable crops, animal science, or other production systems.</u>	<u>9</u>	<u>13.5</u>
<u>Total Units Required</u>	<u>45</u>	<u>67.5</u>

4. The applicant shall submit to the Associate Director an official transcript verifying the courses completed and the degrees granted to the applicant. In addition, an applicant qualifying pursuant to subsection (C)(2) shall submit employment records, a statement from an employer, or other proof of technical experience to the Associate Director.
- B.** ~~In order to qualify for a license, a core examination and at least 1 specific category examination must be taken. The applicant must achieve a minimum score of 75% on the core examination and a minimum of 75% in each specific category in which the applicant wishes to advise. Examinations must be approved and administered by the Commission and will be given at every Commission office during regular office hours.~~
1. ~~The core examination will test the knowledge and understanding of:
 
    - a. Statutes and rules relating to the application and use of pesticides; and
    - b. Pesticide use and safety; and
    - c. Pesticide labels and labeling.~~
  2. ~~The specific categories in which an advisor can be licensed are:
 
    - a. Weed control.
    - b. Insect and mite control.
    - c. Nematodes.
    - d. Plant pathogens.
    - e. Vertebrate pest control.
    - f. Plant growth regulators.
    - g. Defoliation.~~
  3. ~~Any person failing the core or specific category examinations may retake either examination as many times as he wants. Any core or specific category examination retake will require a waiting period of at least 7 days from the time of the last core or specific category examination, respectively.~~
- C.** ~~Agricultural pest control advisor licenses will be valid for a period of 1 year, or portion thereof, and expire on December 31 of each year, except as otherwise provided in Title 41, Chapter 6, Article 6 of the Arizona Revised Statutes.~~
- D.** ~~Completed applications shall be submitted to the Commission Department and shall be accompanied by a nonrefundable \$50.00 fee.~~
- E.** ~~Applications for renewal of agricultural pest control advisor licenses shall be submitted to the Commission annually on or before December 1 and shall be accompanied by a \$50.00 fee.~~
- E.** A PCA license is not transferable, expires on December 31, and shall:
1. Be issued for one year as an initial license;
  2. Be renewed for one or two years, at the option of the applicant; and
  3. Require renewal of all categories of license for the same time period.
- F.** Renewals.



*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

1. The continuing education requirement shall be waived for those individuals who pass the test prescribed in subsection (G) and who make application for a PCA license after September 30.
2. Upon renewal, a PCA license shall be valid for one or two years, at the option of the applicant, provided the applicant meets the criteria prescribed under this subsection.
3. the renewal application shall be accompanied by the completed application and a nonrefundable \$50 fee for each licensing year or portion of each year.
4. Renewal; Expired License.
  - a. An applicant may renew an expired license without retaking the written tests under the following conditions:
    - i. The applicant has completed the CEU requirements.
    - ii. Renewal is made within 30 days of expiration, and
    - iii. The applicant has not provided any pesticide-related service after the license expired.
  - b. All other applicants for renewal shall retake the written examinations prescribed in subsection (G).

~~F.5. A Agricultural pest control advisor licenses PCA license shall not be renewed unless, prior to the expiration of the current license, the advisor has completed 6 credit hours of continuing education instruction completes 15 CEUs for each renewal licensing year sought, as set out prescribed under in R3-3-212, R3-3-211, in the previous licensing year or retakes passes the examinations required prescribed under by R3-3-206(B) subsection (G). CEU credit accrues from January 1 through December 31. CEUs earned in excess of the requirements shall not carry forward for future use.~~

6. The applicant shall provide the Department with documentation of completion of the CEU course before credit is given.

~~G. Agricultural pest control advisors licenses are not transferable.~~

~~G. Examinations.~~

1. Examinations shall be given by appointment at every Environmental Services Division office. In addition to the core examination required in R3-3-202, an individual applying for a PCA license shall demonstrate knowledge and understanding of integrated pest management in any of the following categories by scoring at least 75 percent on a written examination approved and administered by the Department:
  - a. Weed control.
  - b. Insect and mite control.
  - c. Nematodes control.
  - d. Plant pathogen control.
  - e. Vertebrate pest control.
  - f. Plant growth regulators, or
  - g. Defoliation.
2. Any individual failing the examination may retake it no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the time of the last examination.

**R3-3-208. Private applicator certification**

- ~~A. No person shall act as a private applicator unless he has a valid private applicator certification issued by the Commission.~~
- ~~B. In order to qualify for a private applicator certification, the applicant must achieve a minimum score of 75% on an examination approved and administered by the Commission. Examinations will be given at every Commission office during regular office hours. Any person failing the examination may retake it as many times as he wants. Any examination retake will require a waiting period of at least 7 days from the time of the last examination. The examination will test the knowledge and understanding of:~~
1. ~~Statutes and rules relating to the application and use of restricted use pesticides;~~
  2. ~~Pesticide labels and labeling;~~
  3. ~~Pesticide terminology;~~
  4. ~~Pesticide safety and toxicity;~~
  5. ~~Common causes of accidents;~~
  6. ~~Need of protective equipment and clothing;~~
  7. ~~Poisoning symptoms; and~~
  8. ~~Practicable first aid.~~
- ~~C. Private applicator certifications will be valid for a period of 1 year, or portion thereof, and expire on September 30 of each year, except as otherwise provided in Title 41, Chapter 6, Article 6 of the Arizona Revised Statutes.~~
- ~~D. Completed applications shall be submitted to the Commission and shall be accompanied by a \$50 fee.~~
- ~~E. Applications for renewal of private applicator certifications shall be submitted to the Commission annually on or before September 1 and shall be accompanied by a \$50 fee.~~
- ~~F. Private applicator certifications shall not be renewed unless the private applicator has completed 3 credit hours of continuing education instruction, as set out in R3-3-212, in the previous licensing year or retakes the examination required by R3-3-208(B).~~
- ~~G. Private applicator certifications are not transferable.~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

**R3-3-208. Applicator Certification; Examination; Fee**

- A.** No individual shall act as a private applicator or commercial applicator without being certified by the Department.
- B.** Any individual applying for a private certification shall be a regulated grower, or an employee or family member of a regulated grower.
- C.** Any person applying for either a commercial or private certification shall provide the following information:
1. The name, social security number, and signature of the applicant;
  2. The date of the application;
  3. The address and daytime telephone number of the applicant;
  4. The name, physical address, mailing address, and daytime telephone number of the applicant's employer, if applicable;
  5. If the applicant is applying for a commercial applicator or private applicator certification;
  6. The categories in which the applicant for commercial certification seeks to be certified;
  7. If the applicant has had a similar certification revoked, suspended or denied in this or any other jurisdiction within the last three years, and reason why; and
  8. The certification time-period option.
- D.** Private certification with fumigation endorsement.
1. A private applicator may apply for a fumigation endorsement for using, applying, or supervising the use or application of a fumigant for raw agricultural commodities or on-farm burrowing rodent control by testing and scoring at least 75 percent on a written fumigation test;
  2. If the fumigation endorsement is renewed at application renewal, the private applicator shall:
    - a. Retake and pass the written fumigation test; or
    - b. Submit CEUs required under Subsection I(4)(a); and
    - c. Submit three additional CEU's per year, as prescribed under R3-3-211, related to raw agricultural commodity or burrowing rodent fumigation.
- E.** The individual shall submit the completed initial application to the Department accompanied by a nonrefundable \$50 fee.
- F.** Applicator certification is not transferable, expires on December 31, and shall:
1. Be issued for one year as an initial certification;
  2. Be renewed for one or two years, at the option of the applicant; and
  3. Require renewal of all categories of certification for the same time period.
- G.** Examinations.
1. Commercial Certification. Examinations shall be given by appointment at every Environmental Services Division office. An individual applying for a certification shall demonstrate knowledge and understanding of the following by scoring at least 75 percent on a written examination approved and administered by the Department.
    - a. Label & Labeling Comprehension. Format, terminology, understanding instructions, warnings, symbols, and classification of the pesticide (restricted or other use);
    - b. Safety. Factors include pesticide toxicity and hazard to an individual, and common exposure routes; common types and causes of pesticide accidents; precautions necessary to guard against injury to applicators and others in or near a treated area; the need for protective clothing and equipment; symptoms of pesticide poisoning; and first aid and other procedures to be followed in case of a pesticide accident;
    - c. Environment. Potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as weather and other climatic conditions; types of terrain, soil, or other substrate; presence of fish, wildlife, and other non-target organisms; and drainage patterns;
    - d. Pests. Factors such as common characteristics of damage needed for pest recognition, recognition of relevant pests, and pest development and biology as it may be relevant to problem identification and control;
    - e. Pesticides. Factors such as pesticides; formulations; compatibility; synergism, persistence, and animal and plant toxicity of the formulations; hazards and residues associated with use; and factors which influence effectiveness or lead to such problems as resistance;
    - f. Equipment. Factors include types of equipment and advantages or limitations, and uses, maintenance, and calibration; and
    - g. Application Techniques. Factors include methods of procedure used to apply various formulations of pesticides and solutions; drift prevention or mitigation, and loss into the environment.
  2. Commercial Certification Categories. A commercial applicator may apply for certification in any of the following categories by testing and scoring at least 75 percent on a written examination approved and administered by the Department in each category:
    - a. Agricultural pest control:
      - i. Animal, and
      - ii. Plant.
    - b. Forest pest control;
    - c. Seed treatment;

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- d. Aquatic pest control; including the application of restricted use pesticides to standing or running water in an agricultural setting. This excludes applicators engaged in public health related activities who are certified in the category of public health pest control through the SPCC;
  - e. Public health pest control; including the application of restricted use pesticides by state, federal, or other governmental employees in public health programs for the management and control of pests having medical and public health importance not regulated by the SPCC;
  - f. Regulatory pest control; restricted to state, federal or other governmental employees, including use or supervision of restricted use pesticides in the control of regulated pests;
  - g. Demonstration and research pest control; including demonstration to the public of the proper use and techniques of the application of restricted use pesticides or supervision of this demonstration and individuals conducting field research with pesticides, and in so doing, use or supervise the use of restricted use pesticides; or
  - h. Rodent control.
3. Private Certification. Examinations shall be given by appointment at every Environmental Services Division office. An individual applying for a certification shall demonstrate knowledge and understanding of the following by scoring at least 75% on a written examination approved and administered by the Department.
- a. Recognize common pests to be controlled and damage caused by them.
  - b. Read and understand the label and labeling information, including the common name of pesticides applied; pests to be controlled, timing, and methods of application; safety precautions; any pre-harvest or re-entry restrictions; and any specific disposal procedures.
  - c. Apply pesticides following label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation.
  - d. Recognize local environmental situations that must be considered during application in order to avoid contamination.
  - e. Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.
4. Any individual failing an examination may retake it no more than three times in a 12-month period, and shall not retake an examination until at least seven days have elapsed from the time of the last examination.

**H. Renewal; Expired License.**

- 1. An applicant may renew an expired license without retaking the written tests under the following conditions:
  - a. The applicant has completed the CEU requirements,
  - b. Renewal is made within 30 days of expiration, and
  - c. The applicant has not provided any pesticide-related service after the license expired.
- 2. All other applicants for renewal shall retake the written examinations prescribed in subsections (D) and (G).

**I. Renewals.**

- 1. The continuing education requirement shall be waived for those individuals who pass the certification test prescribed in subsections (D) and (G), and who make application for certified applicator's certification after September 30.
- 2. The applicant for renewal of applicator certification shall select a one or two-year certification option.
- 3. The renewal application shall be accompanied by the completed application and a nonrefundable \$50 fee for each certification year or portion of each year.
- 4. CEU Requirements.
  - a. A private applicator certification shall not be renewed unless the applicator has completed three CEU's for each year for which certification is sought, as prescribed in R3-3-211(B), or retakes the written examinations prescribed in subsection (G)(3) or subsections (D) and (G)(3).
  - b. A commercial applicator certification shall not be renewed unless, prior to the expiration of the current license, the applicator completes six CEUs for each year for which renewal certification is sought, as prescribed in R3-3-211(B), or retakes the written examinations prescribed in subsections (G)(1) and (2). CEU credit accrues from January 1 through December 31. CEU credits earned in excess of the requirements shall not carry forward for future use.
  - c. The applicant shall provide the Department with documentation of completion of the CEU course before credit is given.

**R3-3-209. Persons exempt from permitting, licensing, and certification provisions ~~Licensure and Fee Exemption~~**

- A. Persons who apply pesticides in buildings or for structural pest control purposes are not required to apply for nor possess a license or certification from the ~~Commission~~ Department.
- B. Persons who sell, offer for sale, deliver, or offer for delivery a general use pesticide, to be used for private, noncommercial use in or around the home or persons selling general use pesticides for swimming pool or spa maintenance in a quantity not to exceed 1 gallon in liquid formulation, 15 pounds in a dry granular formulation, and 50 pounds in a fertilizer and pesticide mix per transaction are not required to apply for nor possess a seller's permit from the ~~Commission~~ Department.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- ~~C. Persons who purchase a general use pesticide for other than agricultural purposes, structural pesticide use, or use by a registered contractor, in excess of those described in above subsection of this rule must record their name, address, signature, and quantity purchased with the seller, as provided in R3-3-401(D).~~
- C. State, federal or other governmental employees making pest control recommendations or applying or supervising the use of restricted use pesticides while engaged in the performance of their official duties shall meet the requirements of this Article, but are not required to pay a fee for either a PCA license or commercial certification.

**R3-3-210. Persons exempt from licensing and certification fees**

Federal, state, city and county agencies and individuals applying pesticides under the direct supervision of these agencies are not required to pay the licensing or certification fee.

**~~R3-3-211. R3-3-210. Additional grounds for denial of licenses, permits or certifications~~ Grounds for Revocation, Suspension, or Denial of Licenses, Permits, or Certifications**

- A. The Commission Director may revoke, suspend, refuse to issue or renew or deny a license, permit, or certification to any person who:
  - 1. fails to demonstrate sufficient reliability, expertise, integrity, and competence to engage in pesticide use; or
  - 2. Submits an inaccurate application for a license, permit, or certification, or if a similar license, permit or certification has been revoked, suspended, or denied in the last three years in this, or any other, jurisdiction.
- B. The applicant may request, in writing, that the Director provide an administrative hearing pursuant to 3 A.A.C. 1 and 41 A.R.S. 6, Article 10 to appeal any revocation, suspension, or denial of a license, permit, or certification.

**~~R3-3-212. R3-3-211. Continuing education requirements for agricultural pest control advisors and certified applicators~~ CEU Course Approval; Topic Approval**

- A. In order to qualify for credit, continuing education instruction must be approved by the Commission. Commission approval will not be given unless the instruction is substantially related to the license or certification to which the credit is being applied.
- A. CEU course approval.
  - 1. Any individual applying for CEU course approval shall submit the following information to the Department:
    - a. The name, address, and telephone number of the sponsor;
    - b. The signature of the sponsor or the sponsor's representative;
    - c. The course outline listing the topics and indicating the amount of time allocated for each topic;
    - d. A brief description of the information covered under each topic;
    - e. A brief biography of the presenter demonstrating the presenter's qualifications;
    - f. Any fees charged for attending the course;
    - g. The date and location of each session; and
    - h. Whether the course is open to the public.
  - 2. Any individual requiring prior notification of the number of CEUs approved shall submit the information required above to the Department at least 15 business days before the course is held.
  - 3. Any CEU course monitored by the Department that varies significantly in content and length, or content or length from the approved curriculum, may have the number of CEUs modified. If the Department modifies the CEUs, the Department shall send a letter of modification to the course organizer who shall then inform all individuals who attended the course.
  - 4. Courses that do vary shall subject program organizers to a more thorough review of future programs.
- B. Topic approval. One hour of CEU credit will may be given granted for each 50 minutes of actual instruction, of an approved program relating to agricultural pest control or any of the following topics:
  - 1. Label and Labeling. Understanding of labels and labeling instructions, warnings, terms, symbols, pesticide classifications, and necessity for use consistent with the label.
  - 2. Safety. Toxicity and hazard to individuals and common exposure routes; the need for use of personal protective equipment (PPE), common types and causes of pesticide accidents; precautions necessary to guard against injury to applicators and other individuals in or near treated areas; the need for use of protective clothing and equipment; symptoms of pesticide poisoning; first aid and other procedures to be followed in the case of a pesticide accident; and identification, storage, transport, handling and mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to prevent children from having access to pesticides and pesticide containers.
  - 3. Environment. Potential environmental consequences of the use and misuse of pesticides as may be influenced by weather and other climatic conditions, types of terrain, soil or other substrate; presence of fish, wildlife, and other non-target organisms; and drainage patterns.
  - 4. Pests. Common features of pest organisms and characteristics of damage needed for pest recognition, recognition of relevant pests; and pest development and biology as it may be relevant to problem identification and control.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

5. Pesticides. Types of pesticides, types of formulations, compatibility, synergism, persistence and animal and plant toxicity of the formulations, hazards and residues associated with use, factors which influence effectiveness or lead to such problems as resistance and dilution procedures.
  6. Equipment. Types of equipment and advantages and limitations of each type; uses, maintenance and calibration.
  7. Application Techniques. Methods or procedure used to apply various formulations, solutions, and gases, together with knowledge of which technique of application to use in a given situation; relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and prevention of drift and pesticide loss into the environment.
  8. Laws and Regulations. Arizona laws and rules, and federal laws and regulations.
  9. IPM.
  10. Other. Any course providing recommendations to an agricultural establishment for the control of agricultural pests.
  11. Any other pesticide or pesticide use related topic approved by the Associate Director.
- C.** Before credit will be given, documentation of completion of the continuing education instruction must be provided to the Commission.

**ARTICLE 3. REQUIREMENTS FOR PESTICIDE USE, SALES, AND EQUIPMENT**

**R3-3-301. Pesticide ~~use~~ Use**

- A.** No person shall use, apply, or instruct another to apply a pesticide in a manner or for a use inconsistent with the ~~product~~ pesticide label or labeling except that:
1. A pesticide may be applied at a dosage, concentration, or frequency less than that specified on the ~~product~~ pesticide labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency.
  2. A pesticide may be applied against any target pest not specified on the labeling if ~~the~~ the application is to the crop, animal, or an application site specified on the product pesticide labeling, unless the labeling specifically prohibits use against the pest.
  3. A pesticide may be applied by any method of application not prohibited by the ~~product~~ pesticide labeling unless the labeling specifically states that the pesticide may be applied only by the methods specified on the labeling.
  4. A pesticide may be mixed with a fertilizer when the labeling does not prohibit the mixture.
  5. A pesticide may be used in any manner that is in conformance with Sections 5, 18, or 24 of FIFRA.
- B.** No person shall use, apply, or instruct another to use, apply, or store, any pesticide not registered with the Department unless the pesticide was previously registered with the Department and not cancelled or suspended by the EPA or the Arizona Department of Environmental Quality. This section does not apply to pesticide registrants temporarily storing pesticides produced for shipment out of the state, for pending registrations or exemptions in state, for research purposes on the grounds of a college or university agricultural center or campus, or a company-owned research facility.
- C.** No person shall allow pesticide drift which causes any unreasonable adverse effects.
- D.** Except as provided in subsection (F), an applicator shall not cause the direct release of a pesticide and an individual shall not instruct an applicator in a manner to cause the direct release of a pesticide causing any unreasonable adverse effects.
- E.** Regulated grower responsibility.
- ~~B.1.~~ After a pesticide is applied to a field, the regulated grower shall ensure that no crop from that field shall be is harvested, and no livestock shall be are permitted to graze in that field in violation of any provision of the pesticide labeling.
- ~~C.~~ No regulated grower shall allow any employee not wearing protective clothing as required by the product label to enter any field treated with pesticide prior to the reentry time period assigned to the pesticide.
- ~~D.2.~~ Prior to a pesticide application, the regulated grower shall ensure that all persons individuals and livestock subject to his the regulated grower's control have been removed from the area to be treated.
- ~~E.F.~~ Emergency pest control measures. No persons Individuals, other than those making applications pursuant to government sponsored control measures, shall may apply, cause or authorize another to apply or cause the direct release of a pesticide spray, dust or granules such that it comes to come into contact with persons individuals (other than those involved in the application who are wearing the proper protective clothing and equipment), animals, or property other than on or off the application site target crop being treated, unless such release is caused by accident, is done to avoid an accident that would have resulted in greater harm than that caused by the pesticide release or is caused by mechanical malfunction beyond the control of the operator.
- ~~F.G.~~ Applicator's Responsibility. Whenever possible when applying pesticides by aircraft, pilots shall fly crosswind, unless obstacles do not permit it, and shall begin their application at the downwind side of the field so that drift the pesticide will be dispersed on the return swathe.
- G.** Pilots who mix and load or in any manner handle highly toxic pesticides shall wear protective clothing as prescribed by the product label.
- H.** A highly toxic pesticide, other than a pesticide registered by the United States Environmental Protection Agency EPA for ultra low volume application, shall not be applied in a volume less than one gallon per acre in the final spray form. The content of that gallon shall be at least 50% percent water.

*Arizona Administrative Register*  
Notices of Proposed Rulemaking

---

**R3-3-302. Form 1080: Requirement for Written Recommendations ~~Custom application; requirement for written recommendations or written instructions; reports to Commission~~**

- ~~**A.** Agricultural pest control advisors and regulated growers shall put all recommendations or instructions concerning the control of any specific pest condition in writing and certify same on Commission Form 1080 when the application is to be made by a custom applicator. The recommendations and instructions shall include the location of the land (by county, range, township and section) on which the application is to be made, quantity of the land to receive application, date on which application is to be made, method of application to be used, who will be making the application, pest conditions present, harvest date, label days to harvest, worker reentry safety interval, crops to be treated and whether or not the land to receive application is a pesticide management area. Additionally, the recommendations and instructions shall include the name and quantity of the pesticide to be applied, its United States Environmental Protection Agency registration number, rate and dilution per acre, the pesticide delivery location, label restrictions and special instructions and whether or not a supplemental label is required.~~
- ~~**B.** An applicator shall not make a custom application of pesticides unless, prior to such custom application, the applicator is in receipt of a copy of the completed Form 1080. Applications shall be made in accordance with the recommendations and instructions on the Form 1080 unless those recommendations or instructions conflict with the product label in which case the application shall be applied in accordance with the provisions on the product label except as provided in R3-3-301(A) and so noted on the Form 1080.~~
- ~~**C.** The pest control advisor shall notify the regulated grower or his authorized agent verbally or in writing, prior to the application of any pesticide, of the date on which application is scheduled to be made.~~
- ~~**D.** After a custom application is made, the custom applicator shall endorse on the Form 1080 that the pesticide was applied in strict compliance with the recommendations and instructions and shall specify the date and time the application was made, the wind direction and velocity at the application site, the equipment used in making the application, and any deviation from the recommendation or instructions. The original of each completed Form 1080 shall be mailed to the Commission and shall be postmarked not later than the Monday following the week in which the application was made, except when holidays intervene. If no work was done during a specific weekly period, the custom applicator shall submit a written report to the Commission at the end of each month specifying those weeks in which he had no applications~~
- ~~**E.** The applicator, seller, and pest control advisor shall retain their copies of the Form 1080 for at least 2 years following the date of the custom application.~~
- A.** A PCA or regulated grower shall complete the following written information on a Form 1080, sign the form, and provide a copy to the custom applicator before each pesticide application:
1. The name and permit number of the seller;
  2. The date the recommendation is written;
  3. The name and permit number of the regulated grower upon whose crop or site the pesticide application is to be made;
  4. The county where application site is located;
  5. The pest conditions present;
  6. If the application site is within a pesticide management area;
  7. The anticipated date of the harvest;
  8. The restricted entry interval;
  9. The label days to harvest;
  10. The date recommended for the pesticide to be applied;
  11. The site or crop being treated;
  12. The township, range and section;
  13. The number of acres in each section being treated or the number of items being treated in each section;
  14. Additional field description, if any;
  15. The brand name and the EPA registration number of the pesticide to be applied;
  16. The rate and unit of measure per acre or dilution per 100 gallons;
  17. The total quantity of the pesticide concentrate to be applied;
  18. The total acres being treated and total volume per acre, or total number or volume of items treated;
  19. If the application includes an active ingredient that appears on the Arizona Department of Environmental Quality groundwater protection list as established in 18 A.A.C. 6, R18-6-301, and is soil-applied as defined in 18 A.A.C. 6, R18-6-101(26);
  20. If a supplemental label is required;
  21. The method of application to be used;
  22. The label restrictions or special instructions, if any;
  23. The name of the custom applicator making the application;
  24. The anticipated pesticide delivery location; and
  25. The signature and credential number of the regulated grower or the PCA making the recommendation.
- B.** No custom applicator shall apply a pesticide unless the custom applicator has received a signed copy of the instructions from the PCA or the regulated grower on the Form 1080 before the application. The application shall be made according

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

to the instructions on the Form 1080 unless the instructions conflict with the pesticide label or labeling, in which case the custom applicator shall note these deviations on the Form 1080 and apply the pesticide according to the pesticide label or labeling, or as provided in R3-3-301(A).

- C.** Before the application of a pesticide, the PCA shall notify the regulated grower, or the regulated grower's representative, of the date on which the application is scheduled. If the application date and time change from that scheduled with the regulated grower, the custom applicator shall notify the regulated grower of the revised date and time of the application.
- D.** After an application has been completed, the custom applicator shall sign the pesticide application report portion of the Form 1080 to verify that the application was made in compliance with the instructions and shall indicate:
1. The date and time each application was made;
  2. The date and time of the first and last spot application and a general description of the location, if applicable;
  3. The wind direction and velocity;
  4. The equipment tag number, if applicable;
  5. The name and credential number of the grower or custom application business; and
  6. The signature and credential number of the applicator; or
  7. The name of the application equipment operator, and if a restricted use pesticide is applied, the signature and credential number of the certified applicator.
  8. Any deviation from the instructions.

**~~R3-3-303.~~ Premixing of chlorate defoliation compound**

~~Sodium chlorate compound shall not be applied unless it has been premixed with the fire retardant component.~~

**~~R3-3-306.~~ R3-3-303. Experimental use permits Use Permits**

- A.** Any registrant receiving a federally approved experimental use permit which includes the state of Arizona for a testing site shall provide to the Commission, prior to any application being made pursuant to the permit, the following information: ~~Any individual supervising a pesticide application under a federal experimental use permit shall provide the Department with the following information in writing at least five days before the application of the experimental use pesticide:~~
1. A copy of the EPA approved experimental use permit, as required by FIFRA along with the program outline;
  2. ~~Experimental use permit number;~~
  3. ~~Name~~ The name, address, and ~~phone~~ daytime telephone number of the supervising technical personnel for the experimental use;
  4. ~~Names, addresses and phone numbers of the cooperators who will be involved in the application of the pesticide product;~~
  5. ~~The locations (by county, range, township and section) where tests will be conducted;~~
  6. ~~Crop and acreage to be treated;~~ The commodity or site to be treated, the location of the application site, the quantity of the commodity or the area of land to be treated, or the number of structures;
  7. ~~Total~~ The total amount of active ingredient to be applied in Arizona;
  8. ~~Application rate of formulation per acre~~ The rate of formulation applied per unit of measure as required in subsection (A)(3);
  9. ~~Method~~ The method of application;
  10. ~~The name and address of the applicator who will be making the applications;~~
  11. ~~Time frame~~ The time period in which applications the application will be made; and
  12. ~~Special~~ Any special experimental use permit conditions condition as determined by the Department or by the EPA.
- B.** ~~If, subsequent to after providing the written information specified in R3-3-306(A) subsection (A), any information changes, the experimental use permit is amended or extended, the registrant individual shall notify the Commission by telephone within Department at least 24 hours before the application of the experimental use pesticide, of such amendment or extension. The changes shall also be provided to the Commission in writing within 5 days of the amendment or extension. If the notification of changes is given verbally, the individual shall provide the Department with written confirmation within 15 days of the changes.~~
- C.** At least 24 hours before the application, the supervising technical personnel shall provide the Department with the following information:
1. The name, address and daytime telephone number of the regulated grower and PCA who will be involved in the application of the experimental use pesticide;
  2. The county, section, township, range and field description; if needed, of the intended application, or the address if it is a structural pest control application, as defined in A.R.S. § 32-2301(20);
  3. The name, address and telephone number of the applicator making the application; and
  4. The date and time of the intended application.
- E.** ~~It is the responsibility of the supervisor named in R3-3-306(A)(3) or his cooperator of record to notify the Commission of the exact time, date and location of an application at least 24 hours prior to the application.~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- D.** Small scale pesticide testing. Any person exempted by FIFRA from the requirement of a federal experimental use permit:
1. Shall, in addition to the requirements in subsections (A)(2) through (A)(8), provide a statement of purpose and an affidavit verifying that the pesticide is being applied to an application site that does not exceed a total of 10 acres within the United States;
  2. When testing on the grounds of a college or university agricultural center or campus, or company-owned research facility, is exempt from the reporting requirements in subsections (A), (B), (C) and (D).
- E.** Any person involved with small scale testing, except if exempt by subsection (D)(2), shall comply with the requirements prescribed in R3-3-302.
- ~~D~~E.** An applicator shall not apply any experimental use pesticide in any manner other than is specified ~~in~~ by the experimental use permit or other Department approved labeling that is provided to the applicator and the labeling shall be at the site when the application occurs.

**~~R3-3-304.~~ Requirement for closed mixing and rinsing systems**

- ~~A.~~** No person shall pour or mix or instruct another to pour or mix the liquid pesticide chlordimeform except by the use of closed mixing and container rinsing systems.
- ~~B.~~** The liquid pesticide chlordimeform shall be removed from the original shipping container and transferred to the mix tank or application vehicle tank by a closed system of hoses, pipes, or couplings that connect directly and are sufficiently tight to avoid exposure of a person to the pesticide concentrates and rinsing solution.
- ~~C.~~** The closed mixing and rinsing system shall provide for accurate measurement of the pesticide being used. The system shall also have the capacity to safely and adequately rinse containers and all the effluent from the rinsing operations shall go into the pesticide mix tank or application vehicle via the closed system. The rinsate shall be water containing no pesticide.
- ~~D.~~** After empty nonsalvageable (according to the label) containers are rinsed, they must be punctured or crushed so as to render them incapable of holding liquid materials. All salvageable (according to the label) containers need not be punctured or crushed but must have all bungs and closures replaced after rinsing and prior to disposal as a recoverable resource. Returnable containers must have bungs and closures replaced prior to return to supplier.

**~~R3-3-308.~~ R3-3-304, Pesticide management areas; criteria for designation Management Areas; Criteria for Designation**

- ~~A.~~** The ~~Commission~~ Associate Director shall annually publish a list of all locations within the state that are designated as pesticide management areas. ~~Lists shall be updated monthly and will~~ The list shall be available at every ~~Commission~~ Environmental Services Division office.
- ~~B.~~** Designation of any location as a pesticide management area shall be made by the ~~Commission~~ Director when all of the following evaluation criteria are met:
1. The distance between the ~~land~~ application site that is being or will be treated and the property boundary of any residence, school, ~~day child~~ care center facility or health care institution is less than 1/4 mile;
  2. The pesticide is applied by air;
  3. The pesticide is highly toxic ~~or odoriferous~~; and
  4. At least five percent of the residences, whichever is greater, ~~or any of the schools~~ school, ~~or any of the day-child~~ care centers facility or any of the health care institutions institution located less than 1/4 mile from the land that is being or will be treated have filed a pesticide complaint with the ~~Commission~~ Department.
- ~~C.~~** If, upon a written request from a person, or upon the Department's initiative, the Associate Director determines that any a pesticide management area which is listed by the ~~Commission~~ no longer meets all of the criteria listed in ~~R3-3-308(B)~~ subsection (B), it the Director may remove the pesticide management area shall be removed from the ~~Commission's~~ Department's list before the annual update.
- ~~D.~~** Any person may petition the ~~Commission~~ Department at any time to add or delete an area to or from the list of pesticide management areas. Petitions shall address all of the criteria listed in ~~R3-3-308(B)~~ subsection (B). All petitions shall be considered by the ~~Commission~~ Department no later than 90 days from the date the petition was submitted.

**~~R3-3-309.~~ R3-3-305, Pesticide sales Sales**

- ~~A.~~** No seller shall sell, offer for sale, deliver, or offer for delivery any restricted use pesticide or pesticide for agricultural purposes without first determining that the pesticide will be applied used by a person who has a:
1. ~~valid~~ Valid certification or permit issued by the ~~Commission~~ Department or SPCC for use of the pesticide; or
  2. Works under the direct supervision of a person who has a valid certification or permit issued by the ~~Commission~~ Department for the use of the pesticide except as otherwise provided in R3-3-209(B).
- ~~B.~~** For pesticides sold for agricultural purposes, the ~~The~~ permit numbers of the seller and regulated grower shall be written on each sale and delivery ticket ~~or invoice~~; and on each of the pesticide containers or cartons. When a pallet is delivered to an individual purchaser, the seller and regulated grower numbers shall be placed on the outside of the shrink-wrapped pallet.
- ~~C.~~** The seller shall register with the ~~Commission~~ Department the name and address of each salesperson and ~~pest control~~ advisor PCA employed for the purpose of selling pesticides within this state.



*Arizona Administrative Register*  
Notices of Proposed Rulemaking

---

**R3-3-305. Storage and disposal**

No person shall dump, negligently store or leave unattended any pesticide, or pesticide container or part thereof, at any place or under any condition where it presents a hazard to persons, animals or property.

**R3-3-307. Emergency**

For the purposes of A.R.S. § 3-372, the term "Emergency" means a regulated grower requires the application of a pesticide to his crop within 5 days and there are no custom applicators available to make the application within this time frame.

**R3-3-310. R3-3-306. Receipt of restricted use pesticides by noncertified persons Restricted Use Pesticides by Noncertified Persons**

- A. No person shall sell, offer for sale, deliver, or offer for delivery a restricted use pesticide to a person other than a certified applicator without having first ~~completed~~ obtained written documentation from a certified applicator or a noncertified recipient that the material is to be applied by or under the supervision of a certified applicator ~~in accordance with R3-3-309(A)~~. Such documentation shall consist of the following information:
1. The name and address of the residence or principal place of business of the noncertified purchaser;
  2. The name and address of the residence or principal place of business of the certified applicator who will apply or supervise the application of the material;
  3. The certified applicator's certification number and the expiration date of the certification;
  4. The categories in which the applicator is certified;
  5. The pesticide product name;
  6. The United States Environmental Protection Agency registration number;
  7. The state special local need registration number, if applicable;
  8. The emergency number granted under Section 18 of the Act if applicable;
  9. The quantity of pesticide sold to the purchaser; and
  10. The date of the transaction.
- B. Additionally, at the time of the delivery of the restricted use pesticide, the noncertified individual, if not known to be accepting the pesticide on behalf of a certified applicator, shall demonstrate to the seller proof of identity and at least 1 of the following: The written documentation required by subsection (A) may consist of one of the following:
1. The actual certificate of the certified applicator who will be applying or supervising the application of the restricted use pesticide;
  2. A photocopy or facsimile of the actual certificate of the certified applicator who will be applying or supervising the application of the restricted use pesticide ~~along with~~ and a statement signed by the certified applicator authorizing the noncertified individual to purchase or receive the restricted use pesticide ~~on his behalf for the certified applicator; or~~
  3. A photocopy or facsimile of the actual certificate of the certified applicator who will be applying or supervising the application of the restricted use pesticide ~~along with~~ and a copy of a signed contract or agreement authorizing the noncertified person to receive the restricted use pesticide ~~for and on behalf of the certified applicator; or~~
  4. A form on file with the seller that contains the following information:
    - a. The names of individuals authorized to receive the restricted use pesticides for the certified applicator.
    - b. The relationship of the authorized individuals to the certified applicator (partner, employee, co-worker or family member).
    - c. A list of the pesticides the authorized individuals are allowed to receive, specifying the:
      - i. Trade name; and
      - ii. EPA registration number; or
      - iii. State special local need registration number; or
      - iv. The emergency exemption number issued by the EPA under Section 18 of FIFRA, if applicable.
    - d. The signatures of the authorized individuals and the date signed.
    - e. The certified applicator's signature, work address, work phone number, certification number, and certification categories (private, or commercial and one or more of the following: agricultural pest, seed treatment, right of way, forestry, aquatic, regulatory, and public health). (Examples of these forms can be obtained from the Arizona Department of Agriculture.)
- C. The seller may request proof of identification from any noncertified individual accepting restricted use pesticides on behalf of a certified individual.
- D. All sale documents for restricted use pesticides to a noncertified individual shall be signed by the non-certified individual receiving the pesticide or pesticides on behalf of the certified applicator.
- ~~C.E.~~ If, at the time of the sale of the restricted use pesticide to a noncertified person, that person satisfied the requirements in ~~R3-3-310(B)~~ subsection (B) by presenting a signed statement, contract; or agreement, a copy of the signed statement, contract; or agreement must be kept on file with the seller.
- ~~D.E.~~ Records of all sales or deliveries made pursuant to this rule and the documentation required by this rule shall be retained by the seller for at least two years from the date of the sale.

*Arizona Administrative Register*  
Notices of Proposed Rulemaking

---

**R3-3-312. R3-3-307. Aircraft, pilots and federal certificates Requirements for Aircraft and Agricultural Aircraft Pilots**

- A. No person shall operate any aircraft in this state for the ~~custom~~ application of pesticides unless the aircraft has a valid Federal Aviation Administration airworthiness certificate and a valid equipment license ~~tag~~ issued by the ~~Commission~~ Department.
- B. ~~A custom applicator shall not permit an aircraft to be flown while engaged in the application of pesticides by a person who does not hold a valid agricultural aircraft pilot license issued by the Commission. The custom applicator shall not permit an individual who does not hold a valid agricultural aircraft pilot license and a valid commercial applicator certification to apply pesticides by aircraft.~~

**R3-3-313. R3-3-308. Pesticide container disposal Containers and Pesticides: Storage and Disposal**

- ~~A.~~ For the purpose of this rule:
- ~~1. "Pesticide container" means any package, can, bottle, bag, barrel, drum, tank, or other containing device that is used or has been used to enclose a pesticide.~~
  - ~~2. "Disposal" means the discarding of a pesticide container which results in the deposit, dumping, burning, or placing of the container into or on any land or water.~~
  - ~~3. "Diluent" means the liquid added to a pesticide by the user to reduce the concentration of the active ingredient in the mixture.~~
- ~~A.~~ Each person shall provide a secure location that is well-ventilated for the storage of pesticides and non-triple rinsed pesticide containers. Pesticide containers shall be clean, nonleaking, and closed when not in use. A sign shall be conspicuously posted at the entrance to the storage area that warns individuals that pesticides are stored inside.
- ~~B.~~ A service container shall not bear misleading wording or markings that are not related to the pesticide contained in the container. When a service container is used to store or transport a pesticide concentrate or registered ready-to-use pesticide, it shall bear a durable and legible label or tag that includes:
- ~~1. The name and telephone number of the applicator or custom applicator using the pesticide;~~
  - ~~2. The brand or trade name of the pesticide;~~
  - ~~3. The EPA registration number;~~
  - ~~4. The name and percentage of the active ingredient;~~
  - ~~5. The dilution in the service container;~~
  - ~~6. The signal word for the registered label; and~~
  - ~~7. The phrase "KEEP OUT OF REACH OF CHILDREN".~~
- ~~C.~~ No person shall store or transport any pesticide in a container that has been used for food, feed, beverages, drugs, cosmetics or because of their shape, size or markings the containers are identified with food, feed, beverages, drugs, or cosmetics.
- ~~D.~~ No person shall dump, negligently store or leave unattended any pesticide, service container, or pesticide container or part of a container, at any place or under any condition where it presents a hazard to persons, animals or property.
- ~~B.E.~~ No person shall cause the disposal of any pesticide or pesticide container except: according to label directions and all applicable laws.
- ~~1. At a sanitary landfill approved by the state and/or political subdivision of the state.~~
  - ~~2. By burning in the case of pesticide containers in the form of combustible bags or packages, provided that such burning:~~
    - ~~a. Is permitted by, and conducted in accordance with all applicable state and local regulations; and~~
    - ~~b. Is conducted in an open area isolated and downwind from populated areas, and~~
    - ~~c. Does not include combustion of containers that have been used to enclose inorganic pesticides (noncarbon-containing substances used as pesticides) or organic mercury, lead, cadmium, or arsenic compounds. This does not apply to agricultural inorganic compounds except those compounds containing mercury, lead, cadmium, or arsenic.~~
  - ~~3. At any site expressly approved by the Arizona Department of Environmental Quality as a hazardous waste disposal site.~~
- ~~C.E.~~ Prior to disposal of any agricultural purpose pesticide container in a sanitary landfill pursuant to subsection (B)(1) of this rule, the following steps must be taken:
- ~~1. Pesticide containers in the form of cans, bottles, barrels, drums, or tanks, other than pressurized containers, paper bags or those containers designed for reuse with the same pesticide referenced as described in R3-3-314 R3-3-309 shall be triple rinsed upon emptying at least 3 times, each time using a volume of water (or other diluent as specified on the label) equal to a minimum of 10% of the containers capacity.~~
    - ~~a. Rinsate shall be put back into a service container or into the application equipment to be applied to a labeled site or disposed of as allowed by the label.~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- b. The liquid from rinsing required by this ~~paragraph~~ subsection shall not be discharged into the environment except where used or disposed of ~~as a pesticide in accordance with~~ according to label directions, and all applicable laws ~~and regulations~~.
  - c. After containers are triple rinsed ~~as required by this paragraph~~, they shall be punctured or crushed so as to render them incapable of holding ~~liquid~~ any material.
2. Pesticide containers in the form of combustible bags or packages ~~must~~ shall be thoroughly emptied and either:
- a. Folded and tied into bundles; ~~or~~
  - b. Enclosed securely in secondary containers that are labeled as containing pesticide residue.
- D.** Subsections (B) and (C) of this rule shall not apply to pesticide containers of 1 gallon or less liquid capacity or 5 pounds or less solid capacity unless such containers have been used to enclose highly toxic pesticides as defined in R3-3-101.
- E.** A grower disposing of pesticide containers that are the result of his own use as a grower is not required to comply with the requirements of subsection (B)(1) provided:
- 1. He complies with the requirements of subsection (C)(1), and
  - 2. The grower shall obtain a permit pursuant to A.R.S. § 49-766 to operate an agricultural on-site disposal area from the county board of supervisors.

**R3-3-314. R3-3-309. Returnable/reusable, recyclable, reconditionable pesticide containers Returnable/Reusable, Recyclable, and Reconditionable Pesticide Containers**

- A. Pesticide containers, as defined in ~~R3-3-313(A)(1)~~ R3-3-101, containing label provisions as returnable/reusable containers, or provisions for recycling or reconditioning, may be shipped in accordance with the label directions to a dealer, distributor, formulator, or to reconditioning or recycling facilities that are operated in accordance with all applicable laws ~~and regulations~~.
- B. All pesticide containers being held for shipment pursuant to subsection (A) must, immediately after use, be placed in a secure environment inaccessible for any use other than shipment pursuant to label directions.

**R3-3-310. Fumigation Use**

- A.** A certified applicator having a fumigation endorsement shall either perform the fumigation or be physically present in the immediate vicinity supervising an individual or individuals during the application process.
- B.** When storing, handling or applying a fumigant, all label requirements shall be followed. If the label does not specify warning requirements, the following shall apply:
- 1. Before the commencement of fumigation, warning signs shall be posted in visible locations on or in the immediate vicinity of all entrances to and on every side of the space or area being fumigated.
  - 2. Warning signs shall be printed in red on white background and shall:
    - a. State the English and Spanish words "DANGER/PELIGRO";
    - b. Contain a skull and crossbones symbol;
    - c. State "Area and/or commodity under fumigation. DO NOT ENTER/NO ENTRE"; and
    - d. State the name of the fumigant, the date and time the fumigant was injected, and the name and telephone number of the applicator.
- C.** The certified applicator who is engaged in, or who supervises another in, the fumigation process, shall ensure that the label requirements are met, including the use of personal protective equipment and warning sign requirements.

**R3-3-311. Equipment requirements Repealed**

- A.** Every aircraft must have workable navigation lights when it is moving under its own power.
- B.** The equipment license must be prominently displayed in a visible position on the equipment and must be maintained in a legible condition.
- C.** If a custom applicator's license is suspended for any portion of the calendar year, the equipment license must be removed or obliterated from each piece of the suspended custom applicator's equipment until such time as the custom applicator's license is reinstated, at which time the Commission will furnish new equipment licenses to the custom applicator.
- D.** If the custom applicator's license is revoked or not renewed, the equipment license must be removed or obliterated from each piece of the former custom applicator's equipment. New equipment licenses may be applied for as provided in R3-3-205 if and when the custom applicator obtains a new license.

**ARTICLE 4. RECORDKEEPING AND REPORTING**

**R3-3-401. Recordkeeping: sellers of general use and restricted use pesticides Pesticide Seller Records**

- A. Sellers of restricted use pesticides ~~and general use pesticides sold for agricultural purposes~~ shall maintain records showing the receipt, sale, delivery or other disposition of ~~all pesticides~~ the pesticide sold or pesticide devices required by this Article for a period of at least two years from the date of sale. Sellers shall file with the ~~Commission Department~~, within 15 days from the effective date of this rule, a signed statement stating where the records required by this rule will be kept. If a seller intends to change the location of ~~where he keeps his records, he~~ the records, the seller shall file with the ~~Commis-~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

sion Department, prior to the move, a signed statement stating the new location address where the records required by this rule will be kept.

- B.** ~~If~~ ~~When~~ a restricted use or general use pesticide ~~for agricultural purposes, or a restricted use pesticide regulated by the SPCC, is sold, delivered or otherwise disposed of for agricultural purposes, structural pesticide use or for use by a registered contractor,~~ the seller shall maintain records ~~shall contain~~ containing the following information:
1. ~~Bill~~ The bill of lading or other record of the receipt of the product pesticide at the selling establishment;
  2. ~~Record~~ The seller's dated sales receipt, delivery receipt, or invoice of the sale transaction, delivery or other disposition of the product pesticide;
  3. ~~Name of consignor and consignee (sales made to Mexico shall be marked "for export only" on the invoice);~~
  3. Name and address of the purchaser;
  4. ~~Regulated grower permit number, structural pest control board or the SPCC license number or the registrar of contractor's license number of the purchaser, if applicable; and~~
  5. ~~Date of the sale, delivery, or other disposition.~~
  5. The special local need registration number issued pursuant to Section 24 of FIFRA, if applicable; and
  6. Any emergency exemption permit number granted by the EPA under Section 18 of FIFRA, if applicable; and
  7. The experimental use permit number, if applicable;
  8. The pesticide brand name and the EPA registration number; and
  9. The quantity of the pesticide sold to the purchaser.
- C.** In addition to the information required in ~~R3-3-401(B)~~ subsection (B), if ~~when~~ a restricted use pesticide is sold, delivered, or otherwise disposed of for use by a certified applicator, the seller's records shall contain the following information:
1. Name and address of the residence or principal place of business of each person to whom the restricted use pesticide was sold, delivered or otherwise disposed of; or the records required in ~~R3-3-310~~ R3-3-306;
  2. ~~With respect to the~~ The certified applicator applicator's who will be using the restricted use pesticide, his name, address, certification number, and the expiration date of his the applicator's certification; and
  3. ~~the~~ The categories in which he the applicator is certified, if applicable;
  3. ~~The pesticide product name;~~
  4. ~~The United States Environmental Protection Agency registration number;~~
  5. ~~The state special local need registration number, if applicable;~~
  6. ~~The emergency exemption permit number granted under Section 18 of the Act if applicable;~~
  7. ~~The quantity of the pesticide made available for use in the transaction; and~~
  8. ~~The date of the transaction.~~
- D.** ~~If a general use pesticide is sold, delivered or otherwise disposed of for other than agricultural purposes, structural pesticide use, or use by a registered contractor in amounts in excess of those described in R3-3-209(B), the records shall contain the name, address and signature of the purchaser and the quantity purchased.~~

**R3-3-402. Private applicator records Applicator Records; Restricted Use Pesticide**

- A.** Following a private ~~an~~ application of a restricted use pesticide, the private applicator shall complete an application record on a form approved by the ~~Commission~~ Department, which includes the following information:
- B.** The form shall contain the following:
1. Name of the private applicator and ~~his the applicator's~~ certification number;
  2. Name and permit number of the ~~person who sold him the pesticide that was applied~~ seller;
  3. Crop name and the number of acres that were treated with the pesticide, ~~or the site treated;~~
  4. Name of the pesticide that was applied and its ~~United States Environmental Protection Agency~~ EPA registration number;
  5. Rate per acre of active ingredient or formulation of pesticide, ~~or the rate used per unit treated;~~
  6. Total volume of mix per acre, ~~or the total volume of pesticide used if not treating a field;~~
  7. Date and time of the application;
  8. Location (by county, range, township and section) of the field that received the application; ~~and~~
  9. Name of regulated grower ~~and method of application; and~~
  10. Method of application.
- ~~C.B.~~ Records required by this rule Section shall be retained by the private applicator for at least two years from the date of the private application.

**R3-3-403. Reporting of bulk release Bulk Release Report**

- A.** A bulk release of a pesticide shall be reported by the applicator to the Commission by telephone as soon as practicable The applicator shall notify the Department at the Pesticide Hotline, 1-800-423-8876, as soon as practical after a bulk release, but in no event later than three hours after the bulk release. When ~~such~~ a bulk release is on a public highway, ~~or a~~ railway, or results in the death of ~~a person an individual,~~ the applicator shall immediately report the release to the Arizona Department of Public Safety duty officer ~~by telephone and the Commission as soon as practicable.~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- B. Within 5 30 days of the bulk release, the applicator shall provide a written report to the ~~Commission~~ Department listing all details of the release, including:
1. ~~the~~ The location of, ~~the amount of~~ and the ~~reasons for~~ cause of the release;
  2. ~~the~~ The disposition of the pesticide released, the measures taken to prevent unauthorized entry to the site of the release and;
  3. ~~the~~ The measures taken to ~~prevent further contamination~~ contain the bulk release;
  4. The name and EPA registration number of the pesticide released;
  5. The name and telephone number of the contact person;
  6. The time of the release;
  7. The specific environment into which the release occurred; and
  8. The estimated amount of pesticide or pesticide mixture released.

**R3-3-404. ~~Regulated grower records~~ Form 1080; Reports to the Department**

- ~~A. A regulated grower, following an application of a restricted use pesticide to his crop by himself or any person in his employ, except a custom applicator, shall complete an application record on a form approved by the Commission.~~
- ~~B. The form shall contain the following:~~
1. ~~Name of regulated grower,~~
  2. ~~Name of the certified applicator who made the application and his certification number,~~
  3. ~~Name and permit number of the person who sold the pesticide that was applied,~~
  4. ~~Crop name and the number of acres that were treated with the pesticide,~~
  5. ~~Name of the pesticide that was applied and its United States Environmental Protection Agency registration number,~~
  6. ~~Rate per acre of active ingredient or formulation of pesticide applied,~~
  7. ~~Total volume of mix per acre,~~
  8. ~~Date and time of the application,~~
  9. ~~Method of application, and~~
  10. ~~Location (by county, range, township, and section) of the field that received the application.~~
- ~~C. If an employee of the regulated grower is the private applicator, a copy of the private applicator record required pursuant to R3-3-402 shall fulfill the requirements of this rule.~~
- ~~D. Records required by this rule shall be retained by the grower for at least 2 years from the date of the application.~~
- A. The custom applicator shall submit a completed, signed copy of each Form 1080, as prescribed in R3-3-302, by mail or facsimile.
- B. Daily pesticide applications and spot applications may be reported on a single form 1080.
- C. The Form 1080 shall be submitted to the Department no later than Thursday following the calendar week in which the application was made. The submittal date for daily and spot applications is determined by the date of the last application included in the set of records to be reported.
- D. A PCA and applicator shall retain their copies of the Form 1080 for at least two years following the date of the custom application.
- E. A seller shall retain the seller's copy of a Form 1080 for two years from the date of sale.

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

~~Any agricultural pesticide concentrate disposed of by an applicator requires that the following records be kept for two years:~~

1. The type and amount of pesticide,
2. The method of disposal,
3. The date of the disposal, and
4. The location of the disposal site.

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

**R3-3-501. ~~Serious violations~~ Violations**

A serious violation is causing the exposure of an individual to a highly toxic or restricted use pesticide in a concentration that causes acute:

1. ~~oral or~~ Oral toxicity, except when the individual is participating in the pesticide application and has been provided the protective clothing and equipment as required by the pesticide label; or
2. ~~dermal~~ Dermal toxicity, except when the individual is participating in the pesticide application and has been provided the protective clothing and equipment as required by the pesticide label; or
3. ~~inhalation~~ Inhalation toxicity, unless except when the individual is participating in the pesticide application and is wearing has been provided the protective clothing and equipment as required by the pesticide label.

**R3-3-502. ~~Nonserious violations~~ Violations**

A. General violations:

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

1. Negligently storing, dumping or leaving unattended any pesticide, ~~or pesticide container or part of a pesticide container thereof, or service container,~~ at any place or under any condition where it presents a hazard to persons, animals or property.
  2. Making a false statement or misrepresentation in an application for a permit, license, or certification, or a permit, license, or certification renewal.
  3. Falsifying any records or reports required to be made by this Chapter.
  4. Operating an aircraft or ground equipment in a faulty, careless, or negligent manner during the application of a pesticide.
  5. Applying or instructing another to apply or cause (unless the application is made pursuant to a government-sponsored control measure) the direct release of a pesticide ~~spray, dust or granules~~ such that it comes into contact with persons (other than those involved in the application who are wearing the proper protective clothing and equipment), animals or property other than the target crop being treated, or unknown trespassing persons, animals or property, ~~unless such release is caused by accident, is done to avoid an accident that would have resulted in greater harm than that caused by the pesticide release or is caused by mechanical malfunction beyond the control of the operator.~~
  6. Using, applying or instructing another to apply a pesticide in a manner or for a use inconsistent with its ~~product~~ pesticide label or labeling except as ~~otherwise provided by the exceptions in R3-3-301(A).~~
- B.** Violations relating to sellers:
1. Selling pesticides without a valid seller's permit issued by the ~~Commission~~ Department.
  2. Providing a pesticide to a regulated grower who does not have a valid permit.
  3. Not maintaining adequate sales records of restricted use pesticides required by this Chapter.
  4. Providing a non-registered ~~product~~ pesticide to an unauthorized person.
  5. Adulterating a pesticide.
  6. Making false or misleading claims about a pesticide to any person.
  7. Modifying a label or labeling without proper authorization.
- C.** Violations relating to ~~agricultural pest control advisors~~ PCAs:
1. Acting as an ~~agricultural pest control advisor~~ PCA without a valid agricultural pest control license issued by the ~~Commission~~ Department.
  2. Making a false or fraudulent statement in any written recommendation about the use of pesticides.
  3. Making a recommendation regarding the use of a pesticide in a specific category in which the individual is not licensed.
  4. Making a written recommendation for the use of a pesticide in a manner inconsistent with its ~~product~~ pesticide label or ~~labeling except the exceptions~~ as provided in R3-3-301(A).
- D.** Violations relating to agricultural aircraft pilots:
- ~~1. Allowing an aircraft to be operated during the application of a pesticide by a person who does not have a valid agricultural aircraft pilot license issued by the Commission.~~
  - ~~2. Applying a pesticide by aircraft without a valid agricultural aircraft pilot license issued by the Commission~~ Department.
- E.** Violations relating to custom applicators:
1. Allowing ~~ground application~~ equipment to be operated in a careless or reckless manner during the application of a pesticide.
  2. Making a custom application without a valid custom applicator's license issued by the ~~Commission~~ Department.
  3. Making a custom application of a restricted use pesticide without a valid commercial applicator certification issued by the ~~Commission~~ Department.
  4. Allowing an aircraft to be operated during the application of a pesticide by an individual who does not have a valid agricultural aircraft pilot license issued by the Department.
  5. Applying a pesticide without a written Form 1080 as prescribed in R3-3-302.
- F.** Violations relating to regulated growers:
- ~~1. Purchasing, applying or using a pesticide without a valid regulated grower's permit issued by the Commission.~~
  - ~~2. Applying a restricted use pesticide without being a certified applicator.~~
- G.** Violations relating to certified applicators:
1. Allowing the unsupervised application of a restricted use pesticide.
  2. Not maintaining adequate records required by this Chapter.
  3. ~~Not filing reports as required by this Chapter.~~

**R3-3-503. De minimis ~~violations~~ Violations**

- A.** Violations relating to sellers:
1. Not placing seller and regulated grower permit numbers on containers, cartons and delivery tickets.
  2. Not registering their representatives.
  3. Not maintaining adequate records required by this Chapter ~~for general use pesticides.~~

**Arizona Administrative Register**  
**Notices of Proposed Rulemaking**

- B. Violations relating to ~~agricultural pest control advisors~~ PCAs:
  1. Failing to put recommendations in writing.
  2. Failing to provide complete information required on written recommendations.
- C. Violations relating to custom applicators:
  1. Not maintaining adequate records required by this Chapter.
  2. Not filing reports as required by this Chapter.
- D. Violations relating to regulated growers:
  1. Not maintaining adequate records required by this Chapter.
  2. Purchasing, applying, or using a pesticide without a valid regulated grower's permit issued by the Department.
- E. Violations relating to certified applicators: Not filing reports as required by this Chapter.

**R3-3-504. ~~Mitigation of violations~~ Exemptions and Mitigation**

- A. Violations listed in R3-3-501 are nonserious violations if the violator did not, and could not with the exercise of reasonable diligence, know of the safety or human health risk involved.
- B. Violations listed in R3-3-502 are de minimis violations if the violator did not, and could not with the exercise of reasonable diligence, know of the safety, health or property damage risk involved.

**R3-3-505. ~~Unlisted violations~~ Listed and Unlisted Violations**

Violations of this Chapter or of A.R. Title 3, Chapter 2, Article 6 of the Arizona Revised Statutes that are not listed in R3-3-501, R3-3-502 or R3-3-503 shall be classified as serious, nonserious or de minimis violations depending upon the specific factual circumstances surrounding the violation.

**R3-3-506. ~~Point system for administering penalties and fines~~ Penalty and Fine Point System**

- A. The ~~hearing officer~~ ALJ shall assess points against a violator for the violation of each pesticide rule or statute, or the director shall compute points for the violation of each pesticide rule or statute upon entering into a negotiated settlement, in accordance with the following point system. ~~One choice shall be selected, unless otherwise specified, from~~ From each of subsections (a)(1) through (6), ~~one choice shall be selected, unless otherwise specified,~~ based upon supporting evidence in the record of the proceeding before the ~~hearing officer~~ ALJ or director. ~~For the purposes of this rule, "exposure" means the inhalation or ingestion of, or eye or skin contact with, pesticides.~~ Points shall be totaled for the violation of each pesticide rule or statute.
  1. Health effects.
 

a. no evidence of human exposure to pesticides.	0
b. Evidence of human exposure to pesticides.	5 <del>10-20</del>
c. Exposure to pesticides that required treatment by a physician, nurse, paramedic, or physician's assistant, but which did not result in pesticide intoxication.	<del>6-10</del> <u>21-30</u>
d. Exposure to pesticides that required either hospitalization for less than 12 hours or treatment as an outpatient for five consecutive days	<del>11-30</del> <u>31-45</u>
e. Exposure to pesticides that required either hospitalization for 12 hours or longer or treatment as an outpatient for more than five days	<del>31-60</del> <u>46-100</u>
  2. Environmental consequences and property damage.  
(Select one or more as evidence indicates.)
 

a. No environmental or property damage.	0
b. Water source contamination.	<del>1-10</del> <u>5-20</u>
c. Soil contamination causing economic damage.	<del>1-10</del> <u>5-20</u>
d. Nontarget bird kills.	<del>1-10</del> <u>5-20</u>
e. Nontarget fish kills.	<del>1-10</del> <u>5-20</u>
f. Nontarget kills involving game or furbearing animals as defined by A.R.S. § 17-101(B).	<del>1-10</del> <u>5-20</u>
g. Any property damage (nonserious violation only pursuant to A.R.S. § 3-361(4)).	<del>1-10</del> <u>5-20</u>
h. Air contamination causing official evacuation by federal, state, or local authorities.	<del>1-10</del> <u>5-20</u>
i. Kill one or more threatened or endangered species.	<del>1-10</del> <u>5-20</u>
j. Killing one or more domestic animals.	<del>1-10</del> <u>5-20</u>
  3. Culpability.
 

a. <del>Unknowingly, i.e., reasonably</del> <u>Reasonably could not know or was</u> without any knowledge of the prohibitions or restrictions which are the basis of the misconduct cited.	0
b. <del>Knowing, i.e., knew or reasonable</del> <u>Knew or reasonably should have known by reasonable diligence of the</u>	<del>1-10</del> <u>5-10</u>

**Arizona Administrative Register**  
**Notices of Proposed Rulemaking**

- prohibitions or restrictions which are the basis of the misconduct cited.
- c. ~~Willfully, i.e., actual~~ **Actual** knowledge of the prohibitions or restrictions but ~~20-50~~ engages in misconduct, or alternatively, intentionally, or due to unjustifiable negligence fails to be informed of prohibitions or restrictions governing cited misconduct.

4. Prior violations or citations. Violations or citations within three years from the date of the completion of the hearing or negotiated settlement.  
 (Select one or more as evidence indicates.)

Prior violation history	Current violation Non-serious	Current violation Serious
None	0	0
One or more De minimis	5	0
One Nonserious	10	5
One Nonserious, same or substantially similar	20	10
Two Nonserious	30	15
Two Nonserious, same or substantially similar	40	20
Three Nonserious	60	30
Three Nonserious, same or substantially similar	70	35
Additional Nonserious: same or substantially similar, points per violation	10	5
One Serious	20	10
One Serious, same or substantially similar	40	20
Two Serious	60	30
Two Serious, same or substantially similar	80	40
Three Serious	120	60
Three Serious, same or substantially similar	140	70
Additional Serious: same or substantially similar, points per violation	20	10

- a. None. 0
- b. One or more prior de minimis violations. 5
- c. One prior nonserious or serious violation. 10
- d. One of the same or substantially similar nonserious or serious violations. 20
- e. Two prior nonserious or serious violations. 30
- f. Two of same or substantially similar nonserious or serious violations. 40
- g. Three prior nonserious or serious violations. 60
- h. Three of same or substantially similar nonserious or serious violations. 70
- i. ny additional same or substantially similar nonserious or serious violations (points per violation). 10

5. The length of time a violation has been allowed to continue by the violator after notification by the ~~Commission~~ **Department**.
- a. Less than one day. 0
- b. One day but less than one week. 1-10
- c. One week but less than one month. 11-20
- d. One month but less than two months. 21-30
- e. Two months or more. 31-40
6. Wrongfulness of conduct.
- a. Minimal, ~~i.e.,~~ conduct resulting in a violation that does not cause any immediate damage to public health, safety or property. 1-5
- b. Substantial, ~~i.e.,~~ conduct resulting in a violation that the 6-10



*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

evidence establishes may have or has had an immediate effect upon public health, safety or property, but such effect is less severe than that resulting from aggravated conduct.

- c. Aggravated, ~~i.e.~~, conduct causing the substantial probability of or resulting in serious physical injury, hospitalization, or sustained medical treatment for an individual or, additionally, degrading the pre-existing environmental quality of the air, water, or soil so as to cause a substantial probability of a threat to the public health, safety or property. 20-50

**B.** The hearing officer ~~ALJ~~, after determining points pursuant to ~~R3-3-506(A)~~ subsection (A) shall assess a fine or penalty, or fine and penalty, for each violation in accordance with the following schedules: ~~(For the purposes of this rule, the terms of suspension and revocation pertain to actions taken on permits, licenses or certifications pursuant to R3-3-615.)~~

1. Nonserious violation as defined under A.R.S. § 3-361.
  - a. 53 points or less. A fine of ~~\$150~~ to \$150; a penalty of one to three months' probation, with a condition of violating probation being one to three hours of continuing education.
  - b. 54 to 107 points. A fine of \$151 to \$300; a penalty of four to six months' probation with a condition of violating probation being one to 10 days' suspension.
  - c. 108 points or more. A fine of \$301 to \$500; a penalty of seven to 12 months' probation with a condition of violating probation being 15 ~~days~~ to 30 days' suspension of or revocation for a period of up to one year.
2. Serious violation ~~is as~~ defined under A.R.S. § 3-361.
  - a. 46 points or less. A fine of \$1,000 to \$2,000; a penalty of one to three months' probation with a condition of violating probation being five to 10 days' suspension for a nonserious violation or 15 to 30 days' suspension for a serious violation.
  - b. 47 to 93 points. A fine of \$2,001 to \$5,000; a penalty of four to six months' probation with a condition of violating probation being 15 to 30 days' suspension for a nonserious violation and 31 to 90 days' suspension for a serious violation.
  - c. 94 points or more. A fine of \$5,001 to \$10,000; a penalty of probation for seven to 12 months with a condition of violating probation being two to four months' suspension for a nonserious violation and four to 12 months' suspension for a serious violation, or revocation for the remainder of the license year and an additional period of one to three years.
3. A de minimis violation shall not be considered a violation of probation.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY**

**WASTE MANAGEMENT**

**PREAMBLE**

**1. Sections Affected**

R18-8-260	Amend
R18-8-261	Amend
R18-8-262	Amend
R18-8-263	Amend
R18-8-264	Amend
R18-8-265	Amend
R18-8-266	Amend
R18-8-268	Amend
R18-8-270	Amend
R18-8-271	Amend
R18-8-273	Amend

**Rulemaking Action**

**2. The specific authority for the rule making, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 41-1003 and 49-104

Implementing statutes: A.R.S. § 49-922

**3. List all previous notices appearing in Register addressing the rules:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 1489, April 6, 2001

**4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Deborah Blacik  
Address: Department of Environmental Quality, Waste Programs Division  
3033 N. Central Avenue  
Phoenix, AZ 85012  
Telephone: (602) 207-2223, (800) 234-5677, Ext. 2223 (AZ only)  
Fax: (602) 207-2302  
TTD Number: (602) 207-4829

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

Table of Contents

- A. Incorporations by Reference
- B. Descriptions of the Federal Rules Incorporated by Reference
- C. State-initiated Changes

**EXPLANATION OF THE RULE**

**A. Incorporations by Reference.**

The Arizona Department of Environmental Quality (ADEQ) is amending the State's hazardous waste rules to incorporate the text of federal regulations for the purpose of obtaining re-authorization of the State's hazardous waste management program by the United States Environmental Protection Agency (EPA). The State's hazardous waste rules are generally comprised of the federal regulations authorized by Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, which are incorporated by reference. The hazardous waste rules are well established and have been effective since 1984. This year's amendments cover changes in the federal regulations promulgated between July 2, 1999 and July 1, 2000.

Modifications to the text incorporated by reference are intended to make the language consistent with state terminology, and not make a substantive change to the content. For example, the federal regulations incorporated by reference refer to

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

the “EPA,” the implementing agency, but since Arizona is authorized to implement and enforce the program contained in the incorporated regulations, “EPA” is usually replaced with “ADEQ” when referring to the implementing agency. Because the changes to the federal regulations are generally to tailor the language to ADEQ, the changes to the incorporated text are not intended to have additional impact beyond the federal regulation.

A change made in the rules by the incorporations by reference is to replace July 1, 1999 with July 1, 2000 in subsection (A) of most sections. Subsection (A) of sections R18-8-260, R18-8-261, R18-8-262, R18-8-264, R18-8-265, R18-8-266, R18-8-268, R18-8-270, and R18-8-273 incorporate by reference the federal regulations published in 40 CFR 260 through 262, 264 through 266, 268, 270, and 273 as of July 1, 2000.

Incorporating the federal regulations will keep Arizona’s hazardous waste management program funded by EPA and in compliance with A.R.S. § 49-922. EPA requires that Arizona be re-authorized annually to manage the federal hazardous waste program instead of the EPA administering the program in Arizona. ADEQ received final RCRA authorization in 1985 and continues to apply for re-authorization to comply with changes to federal regulations. Adoption of federal regulations also promotes compliance uniformity among states. Most of the federal regulations incorporated by reference in this rulemaking are required for re-authorization.

**B. Descriptions of the federal rules incorporated by reference.**

A description of the rules which have been incorporated by reference follows.

1. 64 FR 36466: Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps. EPA is adding spent hazardous waste lamps to the federal list of universal wastes regulated under the Resource Conservation and Recovery Act (RCRA). Handlers of universal wastes are subject to less stringent standards for storing, transporting and collecting these wastes. EPA has concluded that regulating spent hazardous waste lamps as universal waste under 40 CFR 273 will lead to better management of these lamps and will facilitate compliance with hazardous waste requirements. This rule, which streamlines the Subtitle C management requirements for hazardous waste lamps, also supports energy conservation efforts.
2. 64 FR 52828 NESHAPS: Hazardous Air Pollutants for Hazardous Waste Combustors. This rule promulgates revised standards for hazardous waste incinerators, hazardous waste burning cement kilns and hazardous waste burning light-weight aggregate kilns. These standards are being promulgated under joint authority of the Clean Air Act (CAA) and RCRA. The standards limit emissions of chlorinated dioxins and furans, other toxic organic compounds, toxic metals, hydrochloric acid, chlorine gas and particulate matter. These standards reflect the performance of Maximum Achievable Control Technologies (MACT) as specified by CAA. These MACT standards will result in increased protection to human health and the environment over existing RCRA standards.
3. 64 FR 63209 NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors. This rule clarifies EPA’s intention associated with the Notification of Intent to Comply and Progress Report requirements of the revised standards for Hazardous Waste Combustors. In addition, this rule corrects a typographical error in the comparable fuels specification table and an omission pertaining to residue testing requirements in the Hazardous Waste Combustors Rule dated Sept. 30, 1999.
4. 64 FR 56469 Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters. On May 11, 1999 EPA published technical amendments corrections to the Land Disposal Restrictions (LDR) Phase IV final rule. EPA corrected two minor typographical errors and one omission, along with three other errors in the original May 26, 1998 LDR final rule.
5. 65 FR 12378 180-Day Accumulation Time under RCRA for Wastewater Treatment Sludges from the Metal Finishing Industry. As part of the Common Sense Initiative, EPA is finalizing a cleaner, cheaper and smarter opportunity for environmental protection for the metal finishing industry. This rule allows large quantity generators of F006 sludges (certain sludges from the treatment of electroplating wastewaters) up to 180 days (or up to 270 days, as applicable) to accumulate F006 waste without a hazardous waste storage permit or interim status, provided that these generators recycle the F006 waste through metals recovery and meet certain conditions.
6. 65 FR 14472 Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities. This rule vacates the regulatory provisions governing the identification of certain wastes as listed hazardous wastes. EPA is amending its regulations to conform with an order issued by the United States Court of Appeals for the District of Columbia Circuit in *Great Lakes Chemical Corp. v. EPA* (No. 98-1312). The order vacated EPA regulations listing certain organobromine wastes as hazardous substances under RCRA. EPA is also modifying the land disposal restrictions treatment standards of 40 CFR 268 by deleting these wastes and the associated treatment standards. In addition, EPA is vacating the reportable quantity requirements for these notifications. Under the Court’s order, and as amended in this rule, the

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

vacated hazardous waste listings and regulatory requirements based on those listings are to be treated as though they were never in effect.

7. 65 FR 36365 Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions. This rule corrects errors that appeared in the March 17, 2000 final rule (65 FR 14472) that vacated the regulatory provisions governing the identification of certain organobromine production wastes as listed hazardous wastes under RCRA. This rule also corrects a typographical error that appeared in the August 6, 1998 final rule listing four types of waste in the petroleum refining industry as hazardous. The new rule creates no new regulatory requirements.
8. 65 FR 30866 Amendments to streamline the National Pollutant Discharge Elimination System (NPDES) Program Regulations: Round Two Final Rule. EPA is revising the NPDES regulations to respond to a directive issued by the President on February, 15, 1995, which directed federal agencies to review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. Included in this rule are revisions which revise the permit appeals process for EPA-issued NPDES, Underground Injection Control (UIC) and Resource Conservation and Recovery Act (RCRA) permits by replacing the evidentiary hearing procedure with a direct appeal to the Environmental Appeals Board.

C. State-initiated changes.

1. The State is amending R18-8-260(F) to insert a previous omission in its amendment of the definition of “facility” in 40 CFR § 260.10 This action adds item (3) in 40 CFR 260.10, “Facility” as paragraph (c) in R18-8-260(F)(3).
2. The State is amending R18-8-265(J) to correct a clerical error in its amendment of 40 CFR 265.93. Reference to “paragraph (3)” in 40 CFR § 265.93 is replaced by paragraph (a).
3. The State is amending R18-8-271(Q) to comply with the requirements of A.R.S. Title 41, Chapter 6, Article 10.
4. The State is adding R18-8-260(N) to require that the fees authorized under A.R.S. § 49-931(A) be paid annually by small quantity hazardous waste generators and quarterly by large quantity hazardous waste generators.

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

Not applicable

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

**Background**

ADEQ updates the hazardous waste rules annually to be eligible for Resource Conservation and Recovery Act (RCRA) re-authorization. This is required for ADEQ to maintain authorization by EPA to administer the federal hazardous waste program. Maintaining authorization to administer the hazardous waste program also enables ADEQ to remain in compliance with ARS § 49-922 which requires the Department to adopt rules implementing a program that is equivalent to and consistent with federal hazardous waste regulations.

**Executive Summary**

The following are the amendments to the state’s hazardous waste rules that incorporate the text of federal regulations:

**I. 64 FR 36466 - Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps**

With this rule, EPA added spent hazardous waste lamps to the list of universal wastes. Handlers of universal wastes are subject to less stringent standards for storing, transporting and collecting these wastes. EPA has concluded that regulating spent hazardous waste lamps as universal waste under 40 CFR 273 will lead to better management of these lamps and will facilitate compliance with hazardous waste requirements. This rule also streamlines the management requirements for hazardous waste lamps and supports energy conservation efforts. Arizona already regulates hazardous waste lamps as a universal waste.

**II. 64 FR 52828 - NESHAPS: Hazardous Air Pollutants for Hazardous Waste Combustors Final Rule**

This rule promulgates revised standards for hazardous waste incinerators, hazardous waste burning cement kilns and hazardous waste burning lightweight aggregate kilns. These standards are being promulgated under joint authority of the Clean Air Act and RCRA. The standards limit emissions of chlorinated dioxins and furans, other toxic organic compounds, toxic metals, hydrochloric acid, chlorine gas and particulate matter. These standards reflect the performance of Maximum Achievable Control Technologies (MACT) as specified by CAA. These MACT standards will result in increased protection to human health and the environment over existing RCRA standards.

**III. 64 FR 63209 - NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Final Rule**

This rule clarifies EPA’s intention associated with the Notification of Intent to Comply and Progress Report require-

ments of the revised standards for Hazardous Waste Combustors. In addition, this rule corrects a typographical error in the comparable fuels specification table and an omission pertaining to residue testing requirements in the Hazardous Waste Combustors Rule dated Sept. 30, 1999.

**IV. 64 FR 56469 - Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters, Final Rule**

On May 11, 1999 EPA published technical amendments corrections to the Land Disposal Restrictions (LDR) Phase IV final rule. EPA corrected two minor typographical errors and one omission, along with three other errors in the original May 26, 1998 LDR final rule.

**V. 65 FR 12378 - 180-Day Accumulation Time under RCRA for Wastewater Treatment Sludges from the Metal Finishing Industry, Final Rule**

As part of the Common Sense Initiative, EPA is finalizing a cleaner, cheaper and smarter opportunity for environmental protection for the metal finishing industry. This rule allows large quantity generators of F006 sludges (certain sludges from the treatment of electroplating wastewaters) up to 180 days (or up to 270 days, as applicable) to accumulate F006 waste without a hazardous waste storage permit or interim status, provided that these generators recycle the F006 waste through metals recovery and meet certain conditions.

**VI. 65 FR 14472 - Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities Final Rule**

This rule vacates the regulatory provisions governing the identification of certain wastes as listed hazardous wastes. EPA is amending its regulations to conform with an order issued by the United States Court of Appeals for the District of Columbia Circuit in *Great Lakes Chemical Corp. v. EPA* (No. 98-1312). The order vacated EPA regulations listing certain organobromine wastes as hazardous substances under RCRA. EPA is also modifying the land disposal restrictions treatment standards of 40 CFR 268 by deleting these wastes and the associated treatment standards. In addition, EPA is vacating the reportable quantity requirements for these notifications. Under the Court's order, and as amended in this rule, the vacated hazardous waste listings and regulatory requirements based on those listings are to be treated as though they were never in effect.

**VII. 65 FR 36365 - Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments**

This rule corrects errors that appeared in the March 17, 2000 final rule (65 FR 14472) that vacated the regulatory provisions governing the identification of certain organobromine production wastes as listed hazardous wastes under RCRA. This rule also corrects a typographical error that appeared in the August 6, 1998 final rule listing four types of waste in the petroleum refining industry as hazardous. The new rule creates no new regulatory requirements.

**VIII. 65 FR 30866 - Amendments to streamline the National Pollutant Discharge Elimination System (NPDES) Program Regulations: Round Two Final Rule.**

By revising the NPDES regulations to eliminate any obsolete, ineffective, or unduly burdensome regulations, EPA is streamlining the permits appeal process. The revision included in this rule changes the permit appeals process for EPA-issued NPDES, Underground Injection Control (UIC) and Resource Conservation and **Recovery Act (RCRA)** permits by replacing the evidentiary hearing procedure with a direct appeal to the Environmental Appeals Board.

**Requirements for an EIS**

**Persons /Directly Affected by the Rule**

- I. 64 FR 36466** - There are four categories of participants in the universal waste management system:
1. Large quantity handlers of universal waste or LQHUU (those who handle > 5,000 kilograms of total universal waste at one time)
  2. Small quantity handlers of universal waste or SQHUW (those who handle < 5,000 kilograms of total universal waste at one time)
  3. Transporters of universal waste, and
  4. Owners and operators of treatment, storage and disposal facilities (TSDs), also known as destination facilities.

This rule has no incremental economic impact because Arizona already regulates spent hazardous waste lamps.

- II. 64 FR 52828** - The revised standards are for owners or operators of:

1. Hazardous waste incinerators
2. Hazardous waste burning cement kilns, and
3. Hazardous waste burning lightweight aggregate kilns.

None of these facilities currently exist in Arizona, therefore, there will be no economic impacts of this rule on facilities in the state.

**III. 64 FR 63209**

The rule pertains to requirements of the revised standards for hazardous waste combustors. EPA clarified the rule and made corrections to typographical errors in the comparable fuels specifications table.

**IV. 64 FR 56469**

This rule pertains to treatment standards for metal wastes and mineral processing wastes. EPA published technical amendments correcting the Land Disposal Restrictions Phase IV final rule. Since this rule merely makes corrections to two minor typographical as well as minor errors of omission, there are no incremental economic impacts associated with it.

**V. 65 FR 12378**

This rule affects the large quantity generators (LQGs), transporters, recyclers and owners or operators of destination facilities of F006 hazardous wastes (sludges from the treatment of electroplating wastewaters). LQGs are defined as facility owners who generate more than 1,000 kilograms of hazardous waste in a calendar month.

**VI. 65 FR 14472**

EPA published a final rule (63 FR 24596) listed as hazardous wastes under RCRA two wastes generated by the organobromine production industry. These two wastes and the associated treatment standards are now deleted, as are the reportable quantity requirements for these notifications.

**VII. 65 FR 36365**

In addition to the vacating of the hazardous waste listing of two wastes on the organobromine production industry, on August 6, 1998, EPA amended the regulations for hazardous waste management under RCRA to list as hazardous four wastes generated by the petroleum refining industry. The effect of the final rule was to subject the four wastes to stringent management and treatment standards under RCRA, and to emergency notification requirements for releases of hazardous substances to the environment.

**VIII. 65 FR 30886**

EPA has proposed several non-substantive changes to remove superfluous language to provide greater clarity for this rule, as well as streamline the permits process to remove unnecessary procedures. This does not impose an increased burden on either the regulated community or permitting authorities, and even carries the potential for reducing permits cycle times.

**Cost-Benefit Analysis**

1. **Costs and Benefits to State Agencies**

Arizona Department of Environmental Quality - ADEQ is the implementing agency for these rules. No additional full-time equivalent employees (FTEs) will be required to implement these rules updates, and the Department does not anticipate any increases in costs or revenues.

2. **Costs and Benefits to Political Subdivisions of the State**

Municipalities and counties that are regulated entities and owners or operators of transport, storage and disposal (TSD) facilities. These include the owners of a destination facility (defined as a facility that treats, disposes of, or recycles universal wastes), which are subject to all hazardous waste requirements. Political subdivisions of the state that are regulated entities will incur the same costs and benefits as businesses in the private sector. If significant, these will be reflected in their budgets, and passed on to the taxpayers in their respective jurisdictions.

3. **Costs and Benefits to Private Businesses, including Small Businesses -**

**I. Hazardous Waste Lamps (64 FR 36466) -** The addition of mercury-bearing spent lamps to the universal waste regulations is considered a deregulatory action and imposes fewer requirements on generators and transporters of lamps than the hazardous waste management standards. Inasmuch as Arizona already regulates hazardous waste lamps, there are no anticipated incremental costs for this rulemaking.

The EPA conducted an economic assessment of this rule. The assessment addressed only mercury-containing fluorescent lamps. EPA estimates that non-fluorescent lamps represent approximately 0.8 to 1.7 percent of the total universe of lamps included in this rule. The comparatively negligible proportion of other hazardous waste lamps is not expected to appreciably affect the economic impact estimates.

The EPA economic assessment indicates that total national annualized costs of compliance and disposal under the current rule is estimated at \$80.01 million and \$54.37 million under the high and low compliance scenarios. Under the final rule, these costs are projected at \$78.52 million for the high compliance scenario; and \$56.14 million for the low compliance scenario. The costs are close in the high compliance scenario because transportation and disposal costs, which account for about 76 percent of total costs, are virtually the same. Under the low compliance scenario, costs under the proposed rule are higher than under the current rule because of the higher compliance rate assumed under the universal waste scheme. EPA also examined compliance and disposal costs under the conditional exclusion option. Aggregate annualized costs under this option are estimated at \$73.9 million for the high compliance scenario; and \$52.6 million for the low compliance scenario. Recycling facilities may benefit indirectly due to the proposed rule. Benefits may result from additional revenues for firms owning or operating recycling facilities.

**II. Hazardous Waste Combustors (64 FR 52828) -** EPA has determined that this rule does not represent a significant regulatory action, and that annualized social costs for this rule range from \$50 million to \$63 million for the

final standards. To develop industry compliance cost estimates, EPA modeled combustion units based on source category and size, and estimated engineering costs for the air pollution control devices needed to achieve the proposed standards. The regulatory impact analysis also examined average total annual compliance costs per combustion unit. This indicator was designed to assess the relative impact of the rule on each facility type in the combustion universe.

While no one-to-one relationship exists between emissions and risk, EPA inferred that the proposed rule will reduce dioxin levels in foods over time, and therefore, reduce the likelihood of adverse health effects including cancer. The rule will also result in reduced mercury emissions. Mercury is a concern in both occupational and environmental settings. Human exposures to methyl mercury occur primarily from ingestion of fish.

- III. NESHAPS Final Rule (64 FR 63209)** -- Since this rule merely corrects typographical errors and clarifies EPA's intention associated with the Notification of Intent to Comply and Progress Report requirements of the NESHAPS final rule, this rule does not fit the definition of "significant regulatory action", and no incremental
- IV. Land Disposal Restrictions Phase IV (64 FR 56469)** – The LDR Phase IV final rule promulgated treatment standards for contaminated soil. EPA has determined that this rule has no significant regulatory impact. In addition, this rule does not impose any enforceable duty or significant or unique impact on regulated entities.
- V. 180-Day Accumulation Time under RCRA for Wastewater Treatment Sludges from the Metal Finishing Industry (65 FR 12378)**– RCRA established a national objective of "minimizing the generation of hazardous waste and the land disposal of hazardous waste by encouraging process substitutions, materials recovery, properly conducted recycling, reuse and treatment." In accordance with this objective, EPA has developed regulations to promote legitimate recycling of solid and hazardous waste while protecting human health and the environment against the development and use of unsafe or sham recycling practices.

This rule promotes materials recovery and reduces land disposal of sludges from the treatment of electroplating wastewaters (F006) for large quantity generators by allowing them up to 180 days (or 270 days, as applicable) to accumulate F006 on-site without a RCRA permit or interim status, subject to specified conditions.

EPA has estimated cost savings associated with this rule (180-day accumulation time, or 270 days where transport distance exceeds 200 miles) for LQGs of F006 waste. The agency evaluated two options in completing its economic analysis: Option 1 evaluated a maximum accumulation of 17.7 tons (16,000 kilograms) of material in a 180-day period (or 270 days); Option 2 evaluated a maximum accumulation of 22 tons (20,000 kilograms) in a 180- or 270-day period. The total annual incremental savings is estimated between \$3.9 million and \$5.0 million for Option 1, and between \$4.2 million and \$5.3 million for Option 2. The savings may result from reducing the total number of shipments of F006 waste off-site for recycling; and from lower transportation costs per ton since the fixed cost portion of transportation is less for a full truck as compared to a partial truck load.

EPA also performed a qualitative benefits assessment for the rule. The agency concluded that the shift from land disposal to recycling should result in a conservation of natural resources associated with minerals extraction, including reduced water and energy inputs and reduced solid waste (e.g., slag, tailings) outputs. Other benefits expected include conservation of hazardous waste landfill capacity, reduced balance of payments for non-ferrous mineral commodities, and conservation of strategic metals.

- VI. Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities Final Rule and Correcting Amendments (65 FR 14472)**-

This rule has no regulatory impact because it merely reflects the current legal status of the regulations. The effect of vacating the hazardous waste listing of these wastes is to clarify that the wastestreams are not subject to the hazardous waste management and treatment standards under RCRA. They are also not subject to emergency notification requirements for releases of hazardous substances into the environment. This rule is deregulatory, and as such, no significant economic impacts have been identified.

- VII. Organobromines Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions, Final Rule and Correcting Amendments (65 FR 36365)**-

This rule merely corrects errors in the Federal Register. EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has concluded that this rule has no significant regulatory impact since the amendments to RCRA hazardous waste management regulations only correct errors in CFR documents. Therefore, there are no anticipated economic impacts of this rule on either public or private entities.

- 4. Costs and Benefits to Residents and Consumers-

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

The primary benefit of this rule for residents and consumers pertain to their intended public health effects. However, in selected instances, there are economic impacts that are positive for regulated entities and any reduction in costs may be passed on to their customers and the general public. For example, in the case of the Hazardous Waste Lamp rule, a positive effect is anticipated because, although these lamps are already regulated in Arizona, economic benefits in the form of cost savings are expected to accrue to regulated entities. The addition of spent lamps to the universal waste regulations is considered deregulatory, and imposes fewer requirements and costs on the affected generators and transporters of spent lamps.

From the public health standpoint, EPA research indicates that hazardous waste lamp mismanagement, without government intervention, could lead to market failures. These, in turn, will lead to disposal activities resulting in unnecessarily high releases of mercury into the environment. Fluorescent lamps contain a small amount of mercury that emits light when stimulated with electrical current. When a fluorescent lamp breaks, the mercury in the lamp is released into the environment and may cause health risks. Neurotoxicity is the health effect of most concern to people; death, impaired growth and development and behavioral abnormalities are effects that may affect fish, birds and mammals.

5. Reduction of Rule Impacts on Small Businesses - ADEQ did not consider any reduction of rule impacts on small businesses because separate standards for large businesses are not considered legally feasible.
6. The Probable Impact of the Rule on Private and Public Employment- These rules are not expected to create any significant incremental impacts on private or public employment.
7. The Probable Effect of the Rule on State Revenues - no additional fees are to be charged by ADEQ or other state agency by this rule; hence, there are no expected economic impacts on state revenues.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement.**

Name: Mila Hill  
Address: Department of Environmental Quality  
3033 N. Central Avenue  
Phoenix, AZ 85012-2809  
Telephone: (602) 207-4660 or (800) 234-5677 ext. 4660 (AZ only)  
TTD Number: (602) 207-4829  
Fax: (602) 207-2251

**10. The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**

Date: November 14, 2001  
Time: 9:00 a.m.  
Location: Department of Environmental Quality, Room 1706  
3033 N. Central Avenue  
Phoenix, AZ 85012

(Please call 602-207-4795 for special accommodations pursuant to the Americans with Disabilities Act.)

Nature: Public hearings on the proposed rules, with opportunity for formal comments on the record. The close of the written comment period will be at 5:00 p.m., November 14, 2001. Submit comments to: Deborah Blacik, DEQ, Waste Programs Division, 3033 N. Central Avenue, Phoenix, AZ 85012-2809.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules.**

Not applicable

**12. Incorporations by reference and their location in the rules:**

Federal Citation	State Citation
40 CFR 260	R18-8-260
40 CFR 261	R18-8-261
40 CFR 262	R18-8-262
40 CFR 263	R18-8-263



*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

40 CFR 264	R18-8-264
40 CFR 265	R18-8-265
40 CFR 266	R18-8-266
40 CFR 268	R18-8-268
40 CFR 270	R18-8-270
40 CFR 124	R18-8-271
40 CFR 273	R18-8-273

**13. Was this rule previously adopted as an emergency rule?**

No

**14. The full text of the rules follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY**

**WASTE MANAGEMENT**

**ARTICLE 2. HAZARDOUS WASTES**

Section

R18-8-260.	Hazardous Waste Management System: General
R18-8-261.	Identification and Listing of Hazardous Waste
R18-8-262.	Standards Applicable to Generators of Hazardous Waste
R18-8-264.	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
R18-8-265.	Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
R18-8-266.	Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities
R18-8-268.	Land Disposal Restrictions
R18-8-270.	The Hazardous Waste Permit Program
R18-8-271.	Procedures for Permit Administration
R18-8-273.	Standards for Universal Waste Management

**ARTICLE 2. HAZARDOUS WASTES**

**R18-8-260. Hazardous Waste Management System: General**

- A.** Federal and state statutes and regulations cited in these rules are those adopted as of July 1, ~~1999~~ 2000, unless otherwise noted. 40 CFR 124, 260 through 266, 268, 270 and 273 or parts thereof, are adopted by reference when so noted. Federal statutes and regulations that are cited within 40 CFR 124, 260 through 270, and 273 that are not adopted by reference may be used as guidance in interpreting federal regulatory language.
- B.** No Change
- C.** All of 40 CFR 260 and the accompanying appendix, as amended as of July 1, ~~1999~~ 2000, (and no future editions), with the exception of §§ 260.1(b)(4) through (6), 260.20(a), 260.21, 260.22, 260.30, 260.31, 260.32, and 260.33, are incorporated by reference and modified by the following subsections of R18-8-260 and are on file with the Department of Environmental Quality (DEQ) and the Office of the Secretary of State.
- D.** No Change
1. No Change
  2. No Change
    - a. No Change
      - i. No Change
      - ii. No Change
    - b. No Change
      - i. No Change
      - ii. No Change
      - iii. No Change
      - iv. No Change
    - c. No Change
      - I. No Change
      - ii. No Change

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- iii. No Change
- d. No Change
  - i. No Change
  - ii. No Change
  - iii. No Change
- e. No Change
  - i. No Change
    - (1) No Change
    - (2) No Change
  - ii. No Change
    - (1) No Change
    - (2) No Change
  - iii. No Change
    - (1) Change
    - (2) No Change
    - (3) No Change
    - (4) No Change
- f. No Change
  - i. No Change
  - ii. No Change
  - iii. No Change
  - iv. No Change
  - v. No Change
- E.** No Change
  - 1. No Change
  - 2. No Change
  - 3. No Change
  - 4. No Change
  - 5. No Change
  - 6. No Change
  - 7. No Change
  - 8. No Change
  - 9. No Change
  - 10. No Change
  - 11. No Change
  - 12. No Change
    - a. No Change
    - b. No Change
    - c. No Change
    - d. No Change
    - e. No Change
    - f. No Change
    - g. No Change
    - h. No Change
    - i. No Change
  - 13. No Change
  - 14. No Change
  - 15. No Change
  - 16. No Change
  - 17. No Change
  - 18. No Change
  - 19. No Change
  - 20. No Change
  - 21. No Change
  - 22. No Change
    - a. No Change
    - b. No Change
  - 23. No Change
  - 24. No Change

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- 25. No Change
- 26. No Change
- 27. No Change
- 28. No Change
- 29. No Change
- 30. No Change
- 31. No Change
- 32. No Change
- F. No Change
  - 1. No Change
  - 2. No Change
  - 3. No Change
    - a. No Change
    - b. No Change
    - c. Notwithstanding subsection (f)(3)(b) of this definition, a remediation waste management site is not a facility that is subject to 40 CFR 264.101(as incorporated by R18-8-264), but is subject to corrective action requirements if the site is located within such a facility.
  - 4. No Change
  - 5. No Change
  - 6. No Change
    - a. No Change
    - b. No Change
  - 7. ~~“Universal waste” means any of the hazardous wastes that are subject to universal waste requirements in 40 CFR 273 (as incorporated by reference by R18-8-273) and described in 40 CFR 273.2 through 40 CFR 273.4 and in A.A.C. R18-8-273(D) and R18-8-273(E).~~
- G. No Change
- H. No Change
- I. No Change
- J. No Change
- K. No Change
- L. No Change
- M. No Change
  - 1. No Change
  - 2. No Change
  - 3. No Change
- N. Hazardous Waste generation fees must be paid pursuant to A.R.S. Section 49-931. ADEQ will send an invoice to Large Quantity Generators quarterly and Small Quantity Generators annually. Invoices must be paid within 30 days of the post mark on the invoice.

**R18-8-261. Identification and Listing of Hazardous Waste**

- A. All of 40 CFR 261 and accompanying appendices, as amended as of July 1, ~~1999~~ 2000 (and no future editions), are incorporated by reference and modified by the following subsections of R18-8-261 and are on file with the DEQ and the Office of the Secretary of State.
- B. No Change
- C. No Change
- D. No Change
- E. No Change
- F. No Change
- G. No Change
- H. No Change
- I. No Change
- J. No Change
- K. No Change
- ~~L. §§ 261.9, titled “Requirements for Universal Waste” is amended by adding paragraph (d): (d) Mercury-containing waste-lamps as described in R18-8-273.~~
- M. No Change
- ~~N. §§ 261.32 is amended by deleting the following Primary Copper:~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

~~K064. Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production;~~

~~Primary lead:~~

~~K065. Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities;~~

~~Primary Zinc:~~

~~K066. Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production;~~

~~Ferroalloys:~~

~~K090. Emission control dust or sludge from ferrochromiumsilicon production;~~

~~K091. Emission control dust or sludge from ferrochromium production.~~

**R18-8-262. Standards Applicable to Generators of Hazardous Waste**

- A. All of 40 CFR 262 and the accompanying appendix, as amended as of July 1, ~~1999~~ 2000, (and no future editions), are incorporated by reference and modified by the following subsections of R18-8-262, and are on file with the DEQ and the Office of the Secretary of State.
- B. No Change
  - 1. No Change
  - 2. No Change
  - 3. No Change
- C. No Change
- D. No Change
- E. No Change
- F. No Change
- G. No Change
- H. No Change
- I. No Change
  - 1. No Change
  - 2. No Change
- J. No Change
- K. No Change
- L. No Change
- M. No Change

**R18-8-263. Standards Applicable to Transporters of Hazardous Waste**

- A. All of 40 CFR 263, as amended as of July 1, ~~1999~~ 2000, (and no future editions), is incorporated by reference and modified by the following subsections of R18-8-263, and on file with the DEQ and the Office of the Secretary of State.
- B. No Change
- C. No Change
- D. No Change
- E. No Change

**R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**

- A. All of 40 CFR 264 and accompanying appendices, as amended as of July 1, ~~1999~~ 2000, (and no future editions), with the exception of A.R.S. §§ 264.1(d) and (f), 264.149 - 264.150, and 264.301(l), are incorporated by reference, and modified by the following subsections of R18-8-264, and are on file with the DEQ and the Office of the Secretary of State.
- B. No Change
- C. No Change
- D. No Change
  - 1. No Change
  - 2. No Change
- E. No Change
- F. No Change
- G. No Change
- H. No Change
- I. No Change
  - 1. No Change
  - 2. No Change
- J. No Change

- K. No Change
- L. No Change
- M. No Change
- N. No Change
- O. No Change
  - 1. No Change
  - 2. No Change
  - 3. No Change
  - 4. No Change
  - 5. No Change
  - 6. No Change

**R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**

- A. All of 40 CFR 265 and accompanying appendices, as amended as of July 1, ~~1999~~ 2000 (and no future editions), with the exception of A.R.S. §§ 265.1(c)(2), 265.1(c)(4), 265.149, 265.150, and 265.430, are incorporated by reference and modified by the following subsections of R18-8-265, and are on file with the DEQ and the Office of the Secretary of State.
- B. No Change
- C. No Change
- D. No Change
  - 1. No Change
  - 2. No Change
- E. No Change
- F. No Change
- G. No Change
- H. No Change
- I. No Change
- J. A.R.S. § 265.90, titled “Applicability”, paragraphs (a) and (d)(1), and A.R.S. § 265.93, titled “Preparation, evaluation, and response”, paragraph ~~(3)~~ (a) (as incorporated by R18-8-265), are amended by deleting the following phrase: “within one year”; and A.R.S. § 265.90, titled “Applicability”, paragraph (d)(2) (as incorporated by R18-8-265), is amended by deleting the following phrase: “Not later than one year”.
- K. No Change
- L. No Change
- M. No Change

**R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities**

- A. All of 40 CFR 266 and accompanying appendices as amended as of July 1, ~~1999~~ 2000 (and no future editions), are incorporated by reference and are on file with the DEQ and the Office of the Secretary of State.
- B. A.R.S. § 266.100, entitled “Applicability” paragraph (b) ~~(c)~~ is amended as follows:
  - (b) ~~(c)~~ The following hazardous wastes and facilities are not subject to regulation under this subpart:
    - (1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in subpart C of part 261 (as incorporated by R18-8-261) of this Chapter. Such used oil is subject to regulation under A.R.S. §§ 49-801 through 49-818 rather than this subpart;
    - (2) Gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery;
    - (3) Hazardous wastes that are exempt from regulation under A.R.S. § 261.4 and 261.6(a)(3)(iii)-(iv) (as incorporated by R18-8-261) of this Chapter, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under A.R.S. § 261.5 (as incorporated by R18-8-261) of this Chapter; and
    - (4) Coke ovens, if the only hazardous waste burned is EPA Hazardous Waste No. K087, decanter tank tar sludge from coking operations.

**R18-8-268. Land Disposal Restrictions**

All of 40 CFR 268 and accompanying appendices, as amended as of July 1, ~~1999~~ 2000 (and no future editions), with the exception of Part 268, Subpart B, are incorporated by reference and are on file with the DEQ and the Office of the Secretary of State.

**R18-8-270. The Hazardous Waste Permit Program**

- A. All of 40 CFR 270, as amended as of July 1, ~~1999~~ 2000 (and no future editions), with the exception of A.R.S. § 270.1(a), 270.1(c)(1)(i), 270.3, 270.10(g)(1)(i), 270.60(a) and (b), and 270.64, is incorporated by reference and modified by the following subsections of R18-8-270 and is on file with the DEQ and the Office of the Secretary of State.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- B.** No Change
  - 1. No Change
    - a. No Change
    - b. No Change
    - c. No Change
  - 2. No Change
    - a. No Change
    - b. No Change
- C.** No Change
- D.** No Change
- E.** No Change
- F.** No Change
- G.** No Change
  - 1. No Change
    - a. No Change
    - b. No Change
    - c. No Change
    - d. No Change
  - 2. No Change
  - 3. No Change
    - a. No Change
    - b. No Change
    - c. No Change
    - d. No Change
  - 4. No Change
  - 5. No Change
  - 6. No Change
    - a. No Change
    - b. No Change
  - 7. No Change
    - a. No Change
    - b. No Change
    - c. No Change
    - d. No Change
    - e. No Change
    - f. No Change
    - g. No Change
    - h. No Change
    - i. No Change
    - j. No Change
  - 8. No Change
  - 9. No Change
- H.** No Change
- I.** No Change
- J.** No Change
- K.** No Change
- L.** No Change
- M.** No Change
- N.** No Change
- O.** No Change
- P.** No Change
- Q.** No Change
- R.** No Change

**R18-8-271. Procedures for Permit Administration**

- A.** All of 40 CFR 124 and the accompanying appendix as amended as of July 1, ~~1999~~ 2000, (and no future editions), relating to HWM facilities, with the exception of A.R.S. § 124.1(b) through (e), 124.2, 124.4, 124.16, 124.20 and 124.21, are incorporated by reference and modified by the following subsections of R18-8-271 and are on file with the DEQ and the Office of the Secretary of State.

*Arizona Administrative Register*  
Notices of Proposed Rulemaking

---

- B. No Change
- C. No Change
- D. No Change
- E. No Change
- F. No Change
- G. No Change
- H. No Change
- I. No Change
- J. No Change
- K. No Change
- L. No Change
- M. No Change
- N. No Change
- O. No Change
- P. No Change

Q. A.R.S. § 124.19, entitled "Appeal of RCRA, UIC, and PSD permits", is replaced by the following:

- (a) ~~Within 30 days after a RCRA final permit decision (or a decision under A.R.S. § 270.29 (as incorporated by R18-8-270(A)) to deny a permit for the active life of a RCRA hazardous waste management facility or unit) has been issued under A.R.S. § 124.15 (as incorporated by R18-8-271(N)), any person who filed comments on that draft permit or participated in the public hearing may petition the Director to review any condition of the permit decision. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. The 30-day period within which a person may request review under this subsection begins with the service of notice of the Director's action unless a later date is specified in that notice. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) and when appropriate, a showing that the condition in question is based on:~~
  - (1) ~~A finding of fact or conclusion of law which is clearly erroneous, or~~
  - (2) ~~An exercise of discretion or an important policy consideration which the Director should, in his or her discretion, review.~~
- (b) ~~Within 30 days following the filing of the petition for review, the Director shall issue an order either granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action.~~
- (c) ~~To the extent that review of the permit is granted, a hearing shall be held pursuant to A.R.S. Title 41, Chapter 6, Article 6 and 18 A.A.C. 1, Article 2.~~
- (d) ~~For purposes of judicial review of agency decisions made pursuant to this Section, final agency action occurs when a final permit is issued or denied by the Director and agency review procedures are exhausted or the times for initiating review procedures have passed.~~

A final permit decision (or a decision under A.R.S. § 270.29 (as incorporated by R18-8-270(A)) to deny a permit for the active life of a RCRA hazardous waste management facility or unit) issued under A.R.S. § 124.15 (as incorporated by R18-8-271(N)) is an appealable agency action as defined in A.R.S. § 49-1092 and is subject to appeal under A.R.S. § Title 41, Chapter 6, article 10.

- R. No Change
- S. No Change
- T. No Change

**R18-8-273. Standards for Universal Waste Management**

All of 40 CFR 273, as amended as of July 1, 1999 ~~2000~~ (and no future editions), is incorporated by reference ~~and modified by the following subsections of R18-8-273 and are~~ and is on file with the DEQ and the Office of the Secretary of State.

~~B.~~ A.R.S. § 273.1, entitled "Scope" paragraph (a) is amended by adding the following:

- (4) ~~Mercury-containing lamps as described in R18-8-273(D).~~
- ~~C.~~ Applicability mercury-containing lamps. The requirements of this Section apply to persons managing mercury-containing lamps as described in subsection (D), except those listed in subsection (C)(1)(a):
  - 1. Lamps not regulated under this Section. The requirements of this Section do not apply to persons managing the following lamps:
    - a. Lamps that are not yet wastes under 40 CFR 261 (as incorporated by R18-8-261). Subsection (C)(2) describes when lamps become wastes.
    - b. Lamps that are not hazardous wastes. A lamp is a hazardous waste if it exhibits 1 or more of the characteristics identified in 40 CFR 261, Subpart C (as incorporated by R18-8-261).
  - 2. Generation of waste lamps.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- a. A used or spent mercury-containing lamp becomes a waste on the date it is removed from service.
- b. An unused mercury-containing lamp becomes a waste on the date the handler decides to discard it.
- D.** §§ 273.6, entitled “Definitions” is amended by adding the following definition: “Mercury-containing lamp” means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet (UV), visible, and infrared (IR) regions of the electromagnetic spectrum. Four common mercury-containing lamps are fluorescent lamps, sodium-vapor lamps, high- and low-pressure mercury vapor lamps, and high intensity discharge (HID) lamps.
- E.** §§ 273.6, entitled “Definitions” is amended by adding the following to the definition of universal waste:
  - (d) Mercury-containing lamps as described in subsection (D) in this Section.
- F.** §§ 273.13, entitled “Waste management” is amended by adding paragraph (d) as follows:
  - (d) Universal waste lamps. A small quantity handler of universal waste shall manage universal waste lamps in a way that prevents releases of any universal waste or component of any universal waste to the environment, as follows:
    - (1) A small quantity handler shall manage universal waste lamps in a way that minimizes lamp breakage. The small quantity handler shall:
      - (i) Contain unbroken lamps in packaging that will minimize breakage during normal handling, and
      - (ii) Contain broken lamps in packaging that will minimize releases of lamp fragments and residues.
    - (2) A small quantity handler of universal waste lamps shall immediately contain all releases of residues from hazardous waste lamps.
    - (3) A small quantity handler of universal waste lamps shall determine whether any materials (that is, mercury, residues, or other solid wastes) resulting from the release exhibit a characteristic of hazardous waste, and if so, shall manage the waste in accordance with all applicable requirements in 40 CFR 260 through 272 (as incorporated by R18-8-260 through R18-8-271).
    - (4) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste regulations.
    - (5) A small quantity handler of universal waste may remove mercury-containing arc tubes from universal waste lamps if the handler:
      - (i) Removes the arc tubes in a manner designed to prevent breakage of the arc tubes;
      - (ii) Removes the arc tubes only over or in a containment device (for example, a tray or pan sufficient to contain any mercury released from an arc tube in case of breakage);
      - (iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken arc tubes from the containment device to a container that meets the requirements of 40 CFR 262.34 (as incorporated by R18-8-262);
      - (iv) Immediately transfers any mercury resulting from spills or leaks from broken arc tubes from the containment device to a container that meets the requirements of 40 CFR 262.34 (as incorporated by R18-8-262);
      - (v) Insures that the area in which arc tubes are removed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
      - (vi) Ensures that employees removing arc tubes are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
      - (vii) Stores removed arc tubes in closed, non-leaking containers that are in good condition and are no greater than 5-gallons in size; and
      - (viii) Before shipment, minimizes empty space in containers either by the addition of packing material on top of the arc tubes or by filling the containers to minimize the empty space.
- G.** §§ 273.14, entitled “Labeling/marketing” is amended by adding paragraph (e) as follows:
  - (e) A universal waste lamp, or a container in which the lamps are contained shall be labeled or marked clearly with any 1 of the following phrases: “Universal Waste Mercury Lamp(s),” or “Waste Mercury Lamp(s),” or “Used Mercury Lamp(s).”
- H.** §§ 273.33, entitled “Waste management” is amended by adding paragraph (d) as follows:
  - (d) Universal waste lamps. A large quantity handler of universal waste shall manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
    - (1) A large quantity handler shall manage universal waste lamps in a way that minimizes lamp breakage. The large quantity handler shall:
      - (i) Contain unbroken lamps in packaging that will minimize breakage during normal handling, and
      - (ii) Contain broken lamps in packaging that will minimize releases of fragments and residues.
    - (2) A large quantity handler of universal lamps shall immediately contain all releases of residues from hazardous waste lamps.
    - (3) A large quantity handler of universal waste lamps shall determine whether any materials (that is, mercury, residues, or other solid wastes) resulting from the release exhibit a characteristic of hazardous waste, and if so, shall manage the waste in accordance with all applicable requirements in 40 CFR 260 through 272 (as incorporated by R18-8-260 through R18-8-271).



*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

- (4) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste regulations.
- (5) A large quantity handler of universal waste may remove mercury-containing arc tubes from universal waste lamps if the handler:
  - (i) Removes the arc tubes in a manner designed to prevent breakage of the arc tubes;
  - (ii) Removes the arc tubes only over or in a containment device (for example, a tray or pan sufficient to contain any mercury released from an arc tube in case of breakage);
  - (iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken arc tubes from the containment device to a container that meets the requirements of 40 CFR 262.34 (as incorporated by R18-8-262);
  - (iv) Immediately transfers any mercury resulting from spills or leaks from broken arc tubes from the containment device to a container that meets the requirements of 40 CFR 262.34 (as incorporated by R18-8-262);
  - (v) Ensures that the area in which arc tubes are removed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
  - (vi) Ensures that employees removing arc tubes are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
  - (vii) Stores removed arc tubes in closed, non-leaking containers that are in good condition and are no greater than 5 gallons in size; and
  - (viii) Before shipment, minimizes empty space in containers either by the addition of packing material on top of the arc tubes or by filling the containers to minimize the empty space.
- I:** §§ 273.34, entitled "Labeling/marketing" is amended by adding paragraph (e), as follows:
  - (e) Universal waste lamps (that is, each lamp), or a container in which the lamps are contained, shall be labeled or marked clearly with any 1 of the following phrases: "Universal Waste Mercury Lamp(s)," or "Waste Mercury Lamp(s)," or "Used Mercury Lamp(s)."
- J:** §§ 273.60, entitled "Applicability" is amended by adding paragraph (e) as follows:
  - (e) The owner or operator of a destination facility that manages mercury-containing waste lamps as a universal waste, is in operation as of the effective date of this rule, and required to submit a hazardous waste permit application shall submit Parts A and B of the application no later than 180 days following the effective date of this rule. Until such time that the Director takes final action on the application, the facility shall manage universal waste lamps in accordance with the document entitled "Arizona Department of Environmental Quality Compliance Agreement for a Mercury-Containing Waste Lamps Processing/Recycling Facility."