

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL 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	Amend
R3-3-209	Amend
R3-3-210	Repeal
R3-3-210	Renumber
R3-3-210	Amend
R3-3-211	Renumber
R3-3-211	Amend
R3-3-212	Renumber
R3-3-212	New Section
Appendix A	New Appendix
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
R3-3-306	Renumber
R3-3-306	Amend
R3-3-307	Repeal
R3-3-307	Renumber
R3-3-307	Amend
R3-3-308	Renumber

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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	Renumber
R3-3-313	Renumber
R3-3-314	Renumber
R3-3-401	Amend
R3-3-402	Amend
R3-3-403	Amend
R3-3-404	Repeal
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
R3-3-1002	Amend
R3-3-1003	Amend
R3-3-1012	New Section

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

Authorizing statutes: A.R.S. §§ 3-107, 3-343, 3-363, 3-3102, and 41-1073

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, 3-370, 3-3106, and 3-3125

3. The effective date of the rules:

March 6, 2004

4. A list of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 8 A.A.R. 3757, August 30, 2002

Notice of Proposed Rulemaking: 9 A.A.R. 3704, August 22, 2003

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

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6. An explanation of the rules, including the agency's reasons for initiating the rules:

These rules set forth procedures for obtaining and renewing permits, licenses, and certification with respect to pesticide control. Procedures for pesticide use have been updated to meet current national and local practices. Record-keeping 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. Each seller will be required to have a trained "responsible individual" available at each site where agricultural use pesticides are sold.

Definitions are amended and additional definitions are included to clarify understanding of the rules. The definition of "authorized activities" now points to the statute that it is further clarifying, A.R.S. § 3-365(D) and limits these activities to those authorized in writing, not orally. The Department was concerned that subsequent to an aerial application, a person engaged in an unauthorized activity might allege verbal permission that had not been granted.

Economic penalties are increased for noncompliance by repeat offenders and for offenses involving the actual use of pesticides versus technical errors. The minimum penalty is raised to \$50. A nonexclusive list of serious violations has been added to the rules as required at A.R.S. § 3-363(11).

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The worker protection regulations are amended to incorporate the most recent edition of CFR. Trainer certification is restated for clarity. A new Section is added to specify the time during which a worker safety violation is to remain posted, A.R.S. § 3-3110(C), which requires the posting does not indicate any time limitations for the posting.

Language has been modified to conform to current publication requirements of the Office of the Secretary of State.

This rulemaking stems from:

- Procedural initiatives by the Division,
- Changes proposed by the Division in its last Five-year Review Report,
- Suggestions provided by the Auditor General, and
- Suggestions provided by the Arizona Crop Protection Association, PCA division.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review any study for this rulemaking.

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

Adoption of these rules 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 rulemaking 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, renewals, and in re-testing restrictions.

Sellers of non-agricultural purpose pesticides will no longer need a seller permit.

The economic penalties for noncompliance with pesticide control rules by repeat offenders are enhanced. Penalties are established for violations related to the potential for harm.

Providers of CEU seminars will be held more accountable for the content of their programs.

Worker safety program trainers will follow revised licensing regulations.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

At R3-3-101, a definition has been added for "small scale test" to clarify use of the term at R3-3-212(B).

In Table 1, Article 1, the time-frame for Continuing Education Approval is stricken. A person is not prohibited from taking a class for potential CEU credit, the person just prefers to know in advance the credit the Department will allow.

At R3-3-203(C)(6), language has been added to reference the seller records required to be maintained at R3-3-401. The duplicative language at R3-3-401(A) was stricken.

At R3-3-208, subsection (B) as published in the Notice of Proposed Rulemaking is deleted. The subsection contained partial information regarding those individuals that may be certified as a private applicator. Private applicator is fully defined at R3-3-101. The subsections are renumbered. New subsection (C) is relabeled as "private applicator fumigation certification" and language in (C)(1) is restated to correspond to the label.

At R3-3-211, a course organizer will be requested to advise attendees of a modified number of CEUs earned, the Department does not have the regulatory authority to require the notification.

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The title of Appendix A, Article 2 has been changed to “Testing Categories” from “Testing Categories for Applicator Certification” as the categories are also applicable to PCAs and responsible individuals. The material in the Appendix is an almost exact restatement of language cited from CFR, except that where CFR uses the term “should,” the Department has instead used the term “shall.”

At R3-3-303, the term “cooperator” was replaced with “qualifying party,” a term in general use in the structural pest control field and defined at A.R.S. § 32-2301(20).

At R3-3-403(B), the person preparing a report of a bulk release shall include in the report any known human exposure to the release.

At 3-3-501, the introductory language to the list of nonserious acts is changed from “may be” to “are” in accordance with the statutory definition at A.R.S. § 3361(9) if the exemptions do not apply.

At R3-3-502(A), introductory language was added to clarify that violations are nonserious if they do not meet the definition of a de minimis violation or a serious violation.

At R3-3-502(G)(3), an additional nonserious violation was added for certified applicators. For consistency, all nonserious licensing violations are now located in the specific subsection for a licensee, and the general licensing violations in nonserious and de minimis are removed.

At R3-3-503(G), an additional exemption to de minimis violations is added for exposure to an unknown trespassing individual, animal, or property. The exemption exists as to nonserious violation, the inclusion in de minimis is to clarify the intent that the exemption was for both categories.

At R3-3-506(A)(1), references to exposure were amended to human exposure and the term “intoxification” was replaced with the term “poisoning.” Subsection (A)(3)(a) was stricken in full and part of subsection (A)(3)(b), as renumbered, was stricken in part. Language at subsection (A)(4) was amended to address prior violations within three years of the date the violation was committed. Subsection (A)(6)(a) as published in the Notice of Proposed Rulemaking is deleted as it overlapped with conduct penalized in subsection (A)(6)(b). All subsections within (A)(6) have been renumbered. Newly renumbered subsection (A)(6)(c) has additional language added to clarify that the conduct does not fall within new subsection (A)(6)(e). At subsection (B) the Associate Director was added after the ALJ to clarify that, as indicated earlier in the rules, either may determine points, penalties, or fines.

At R3-3-1012, the new rule is clarified to specify that the agricultural employer is the person prescribed to post a citation as prescribed under A.R.S. § 3-3110(C).

Minor technical and grammatical changes have been made to the rules based on suggestions from Department and G.R.R.C. staff.

11. A summary of the comments made regarding the rules and the agency response to them:

Jerry Muldoon, a Director of the Yuma Fresh Vegetable Association, wrote in support of the rulemaking. Mr. Muldoon thanked the Department for working closely with the regulated community while drafting the revised rules. He stated:

The pesticide rule revision process has been a lengthy one that has spanned a number of years. The regulated community is hopeful that the rule revisions will be adopted and we can all move forward with the implementation of this rule package.

Shelly Tunis, an attorney representing the Yuma fresh Vegetable Association, commented that she participated in drafting amended rules over the past decade and would like the current submission moved forward and finalized. She states:

...I understand the revisions are a compromise among many private and public entities who have differing views on the scope of regulation. One item is certain: Both the regulated industry and the ADA enforcement officers need to operate under a practical, current set of rules. This set of pesticide rules is practical and current. It should be adopted without further delay.

The Arizona Department of Agriculture’s Advisory Council supported the rulemaking by motion during a meeting held on July 15, 2003.

The Department thanks the Council and members of the regulated community for their support of this rulemaking.

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

None

13. Incorporations by reference and their location in the rules:

40 CFR 170, except 170.130 and 170.230, amended July 1, 2002—R3-3-1002

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

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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
~~R3-3-202.~~ ~~R3-3-203.~~ ~~Permit seller~~ Seller Permit; Fee; Responsible Individual
~~R3-3-203.~~ ~~R3-3-204.~~ ~~License agricultural aircraft pilot~~ Agricultural Aircraft Pilot License; Examination; Fee; Renewal
~~R3-3-204.~~ ~~R3-3-205.~~ ~~License custom applicator~~ Custom Applicator License; Examination; Fee; Renewal
~~R3-3-205.~~ ~~R3-3-206.~~ ~~License custom application equipment~~ Tag; Fee
~~R3-3-207.~~ ~~Commercial applicator certification~~
~~R3-3-206.~~ ~~R3-3-207.~~ ~~License agricultural pest control advisor~~ Agricultural Pest Control Advisor License; Examination; Fee; Renewal; Exemption
R3-3-208. ~~Private applicator certification~~ Applicator Certification; Examination; Fee; Renewal
R3-3-209. ~~Persons exempt from permitting, licensing, and certification provisions~~ License and Fee Exemptions
~~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 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; Subject Approval
R3-3-212. Experimental Use Permit
Appendix A. Testing Categories

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

- Section
R3-3-301. Pesticide use General
R3-3-302. ~~Custom application; requirement for written recommendations or written instructions; reports to Commission~~ Form 1080; Requirement for Written Recommendation
~~R3-3-303.~~ ~~Premixing of chlorate defoliation compound~~
~~R3-3-306.~~ ~~R3-3-303.~~ ~~Experimental use permits~~ Use
~~R3-3-304.~~ ~~Requirement for closed mixing and rinsing systems~~
~~R3-3-308.~~ ~~R3-3-304.~~ ~~Pesticide management areas; criteria for designation~~ Management Areas; Criteria for Designation
~~R3-3-305.~~ ~~Storage and disposal~~
~~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
~~R3-3-307.~~ ~~Emergency~~
~~R3-3-312.~~ ~~R3-3-307.~~ ~~Aircraft, pilots and federal certificates~~ 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
~~R3-3-310.~~ ~~Fumigation Use~~
R3-3-311. ~~Equipment requirements~~ Repealed
R3-3-312. Renumbered
R3-3-313. Renumbered
R3-3-314. Renumbered

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

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- 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~~
- R3-3-505. ~~Unlisted violations~~ Violations
- R3-3-506. ~~Point system for administering penalties and fines~~ Penalty and Fine Point System

ARTICLE 10. AGRICULTURAL SAFETY

Section

- R3-3-1002. Worker Protection Standards
- R3-3-1003. Pesticide Safety Training
- R3-3-1012. Citation; Posting

ARTICLE 1. GENERAL PROVISIONS

R3-3-101. Definitions

In addition to the definitions set forth 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 Articles 1 through 5 of 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 physiological effects that result from a single dose or single exposure to a chemical; or any poisonous effect produced by a single dose or single exposure to a chemical within a short period of time, usually less than 96 hours taken by mouth or ingested.~~
3. ~~“Administrator” means the administrator of the United States Environmental Protection Agency.~~
4. ~~“Adulterate” means a to change in the a pesticide whereby so that:~~
 - 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 licensed by the Department 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.

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

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

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

~~Home use, or~~

~~Use in swimming pools or spas.~~

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

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

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

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“Application site” means the specific location, crop, object, 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, for compliance with A.R.S. § 3-365(D), any organized activities which utilize scheduled at a school or child care facility that use the school facilities or child care facility or the school or child care grounds; and whose for which the sponsors or organizers of the activity have received the written or verbal approval of a responsible administrative official of the school or child care facility.

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

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 the 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 a child care facility by the Arizona Department of Health Services. A.R.S. § 36-881(3). Child care facilities are commonly known as day care centers.

13. “Commercial applicator” means a person, certified applicator (whether or not the applicator is a private applicator with respect to some uses) other than a private applicator or structural commercial applicator, who uses or supervises the use of any a restricted use 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 if legally applied.

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

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

16. “Custom applicator” means any person, except a person regulated by the SPCC, who applies pesticides:- a. For for hire or b. By by aircraft whether or not for hire.

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

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

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

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

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

“EPA” means the United States Environmental Protection Agency.

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 experimentation, which includes the accumulation of information and data necessary for the registration of a particular pesticide.

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

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

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

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

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

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

“Individual” means a human being.

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, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, and flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes and wood lice. A.R.S. § 3-341(14).

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

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:

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

Accompanying the pesticide or device at any time.

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

27. “LD₅₀” means a single lethal dose of pesticide that will kill at least 50 percent of laboratory test animals as determined by a United States Environmental Protection Agency an EPA- approved procedure that will kill 50% of laboratory test animals.

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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 licensed by the Department who, as a requirement of, or incidental to, the individual's employment or occupation:
- Offers a written recommendation to a regulated grower or to any public or private agency concerning the control of any agricultural pest.
- Claims to be an authority or general advisor on any agricultural pest or pest condition, or
- Claims to be an authority or general advisor to a regulated grower on any agricultural pest.
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 or households or which may be present in any environment. A.R.S. § 3-361(6).
- "Pesticide container" means any container with an interior surface that is in direct contact with a pesticide.
- "Pesticide use" means the sale, processing, storing, transporting, handling or applying of a pesticide and disposal of pesticide containers. A.R.S. § 3-361(7).
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 pesticide is applied 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 outer perimeter of the area of the day care center or health care institution within which normal authorized activities are conducted.
37. "Property boundary of a residence" means the legal boundary of the land on which the residence sits unless such other boundary is established by a written agreement of the occupant of the residence, but in no event shall the boundary be less than ten feet from the residence.
38. "Property boundary of a school" means the outer perimeter of the area of a school within which instruction, including physical education, is imparted, as well as all adjacent grounds where educational or recreational activities are authorized or sponsored by the school.

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- “Property boundary” means the legal boundary of the land on which a child care facility, health care institution, residence, or school sits, unless another boundary is established by a written agreement with the owner of the child care facility, health care institution, residence, or school. Under a written agreement, the parties shall not establish a boundary that is less than ten feet from the child care facility, health care institution, residence, or school.
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.~~
- “Ready-to-use” means a registered pesticide, in the manufacturer’s original container, that does not require dilution by the end user.
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 the land upon to which the application of pesticide is made applied.~~
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.~~
- “Reporting period” means no later than the Thursday following the calendar week in which an application is completed.
43. ~~“Residence” means a dwelling place, whether or not it is attached to 1 or more other dwelling places, where 1 one or more individuals are living.~~
- “Responsible individual” means an individual at a seller’s location who has passed the core examination prescribed in R3-3-202 and is designated by the seller under R3-3-203.
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 or private academie institution whose primary purpose is the imparting of academie established for the purposes of offering instruction to pupils in programs for preschool children with disabilities, kindergarten programs or any combination of grades one through twelve. A.R.S. § 15-101(19). School includes a private institution with membership in the North Central Association of Colleges and Schools serving students in kindergarten programs or any combination of grades one through twelve.~~
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 other type of pesticide intended to be used for an agricultural purpose.~~
- “Service container” means a container used to temporarily hold, store, or transport a pesticide concentrate or a registered, ready-to-use pesticide other than the original labeled container, measuring device, or application device.
- “Small scale test” means a test using a pesticide on land or water acreage as described at 40 CFR 172.3(c)(1) or (2).
- “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 that is 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.~~
- “Tag” means a custom application equipment license issued by the Department to a custom applicator licensee.
- “Triple rinse” means to flush out a container at least three times, each time using a volume of water, or other diluent as specified on the label, equal to a minimum of 10 percent of the container’s capacity or a procedure allowed by the label that produces equivalent or better results.
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 effect” means any unreasonable risk to a human being or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or a human dietary risk from residues that result from a use of a pesticide in or on any food as documented by the Department through its investigation.
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).

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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
<u>Regulated Grower Permit</u>	A.R.S. § 3-363	14	14	56	14	70
Seller Permit	A.R.S. § 3-363	14	14	56	14	70
<u>Agricultural Aircraft Pilot License</u>	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 <u>Tag</u>	A.R.S. § 3-363	14	14	56	14	70
<u>Agricultural Pest Control Advisor (PCA) License</u>	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 <u>Applicator</u> Certification	A.R.S. § 3-363	14	14	63	14	77
<u>Private Fumigation Certification</u>	<u>A.R.S. § 3-363</u>	<u>14</u>	<u>14</u>	<u>63</u>	<u>14</u>	<u>77</u>
Experimental Use Permit	A.R.S. § 3-350.01	14	14	28	14	42
Continuing Education Approval	A.R.S. § 3-363	14	14	42	14	56
Pesticide Registration	A.R.S. § 3-351	14	14	91	14	105
Licensing License to Manufacture or Distribution of <u>Distribute</u> Commercial Feed	A.R.S. § 3-2609	14	14	42	14	56
Commercial Fertilizer License Specialty Fertilizer Registration	A.R.S. § 3-272	14 14	14 14	42 56	14 14	56 70
Agricultural Safety Trainer Certification	A.R.S. § 3-3125 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 an agricultural purpose 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.** A person applying for a regulated grower permit, initial or renewal, shall provide the following information on a form obtained from the Department:
 1. Name, signature, and social security or employer's identification number of the applicant;
 2. Date of the permit application;
 3. Name, address, e-mail address, if applicable, and daytime telephone number of the company or farm where the applicant may be reached;
 4. Permit renewal period; and
 5. Sections, townships, ranges, and acres of the land where pesticides may be applied.

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- ~~C.~~ Completed applications shall be submitted to the Commission Department and shall be accompanied by a \$20.00 fee for each year or portion of the year during which the permit is valid.
- ~~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.~~ Regulated grower permits are not transferable. A regulated grower permit is not transferable, expires on December 31, and is valid for one or two years depending on the renewal period selected by the applicant.

R3-3-202. Core Examination

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

~~R3-3-202.~~ **R3-3-203. Permit seller Seller Permit; Fee; Responsible Individual**

- ~~A.~~ No A person shall not act as a seller unless he has without a valid seller permit, issued by the Commission Department.
- B.** A seller shall obtain a seller permit for each physical location where the seller sells or offers for sale any restricted use pesticide or pesticide for an agricultural purpose within the state.
- C.** A person applying for a seller permit, initial or renewal, shall provide the following information on a form obtained from the Department:
 - 1. Name and signature of the responsible individual, and license number, if applicable;
 - 2. Date of the permit application;
 - 3. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the location selling a restricted use pesticide or a pesticide for an agricultural purpose;
 - 4. Permit renewal period;
 - 5. Name, e-mail address, and daytime telephone number of the Arizona contact for each out-of-state seller, if applicable;
 - 6. Address where records required to be maintained under R3-3-401 will be kept;
 - 7. Whether the applicant has had a similar license, permit, or certification revoked, suspended, or denied in this or any other jurisdiction during the three years before the date of application; and
 - 8. If applicable, the number of the license or certificate of the responsible individual, and current seller permit number.
- D.** The applicant shall submit the completed application to the Department accompanied by a \$100 fee for each year or portion of the year during which the permit is valid.
- ~~E.~~ All A seller permits permit is not transferable, expires on December 31, and will be is 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 one or two years, depending on the permit renewal period selected by the applicant. The Department shall not renew a seller permit unless the seller is in compliance with the provisions established in subsection (F), if applicable.
- ~~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.

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- F.** A seller shall designate a different responsible individual for each physical location in this state that sells or offers for sale any restricted use pesticide.
1. If a responsible individual terminates employment at an assigned location, the seller shall designate another responsible individual within 30 calendar days and notify the Department of the replacement.
 2. For a responsible individual who is not a commercial applicator or a PCA:
 - a. The core examination expires December 31, unless the initial examination is passed in the last quarter of a calendar year, in which case the expiration is December 31 of the following year; and
 - b. The responsible individual shall retake and pass the core examination every year, unless the responsible individual completes three CEUs annually before the renewal date.
- R3-3-203. R3-3-204. License agricultural aircraft pilot Agricultural Aircraft Pilot License; Examination; Fee; Renewal**
- A.** ~~No person~~ An individual shall not act as an agricultural aircraft pilot unless he has without:
1. a valid agricultural aircraft pilot license issued by the Commission under this Section, and
 2. A valid commercial applicator certification issued under R3-3-208.
- 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.** ~~In addition to the examination requirement specified in R3-3-203(B),~~ The Department shall not issue or renew an agricultural aircraft pilot license shall not be issued, renewed, or remain valid and an existing agricultural aircraft pilot license is invalid unless the applicant or license holder has a valid commercial pilot's certificate issued by the Federal Aviation Administration and a valid commercial applicator certification.
- C.** An individual applying for an agricultural aircraft pilot license, initial or renewal, shall provide the following information on a form obtained from the Department:
1. Name, social security number, and signature of the applicant;
 2. Date of application;
 3. Address, e-mail address, if applicable, and daytime telephone number of the applicant;
 4. License renewal period;
 5. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the applicant's employer, if applicable;
 6. Copy of the applicant's commercial pilot certificate issued by the Federal Aviation Administration, if not previously filed with the Department;
 7. Applicant's commercial applicator certification number; and
 8. Whether the applicant has had a similar certification or license revoked, suspended, or denied in this or any other jurisdiction during the three years before the date of application and the nature of the violation.
- D.** ~~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.** ~~Completed applications shall be submitted~~ The applicant shall submit the completed application to the Commission Department, and shall be accompanied by a \$50.00 \$50 fee for each year or portion of the year during which the license is valid.
- 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.** ~~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 depending on the renewal period selected by the applicant.
- F.** Examinations.
1. The Department shall administer examinations by appointment at every Environmental Services Division office. In addition to the core examination required in R3-3-202, an applicant shall demonstrate knowledge and understanding of the following by scoring at least 75 percent on the written examination administered by the Department:
 - a. Safe flight and application procedures, including steps to be taken before starting a pesticide application, such as survey of the area to be treated, and considering the possible hazards to public health;
 - b. Calibration of aerial application equipment; and
 - c. Operation and application in the vicinity of schools, child care facilities, health care institutions and residences.

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

G. Renewal: expired license.

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

~~R3-3-204. R3-3-205. License custom applicator~~ Custom Applicator License; Examination; Fee; Renewal

- A. ~~No persons~~ A person shall not act as a custom applicator unless he has ~~without~~ a valid custom applicator 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. 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~~
 - e. ~~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. A person applying for a custom applicator license, initial or renewal, shall provide the following information on a form obtained from the Department:
 1. Name and signature of the applicant;
 2. Date of the license application;
 3. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the business under subsection (C);
 4. Tax identification number of the business;
 5. License renewal period;
 6. Whether the application is for ground or air custom application, or both;
 7. Names and current certification numbers of the commercial applicators employed by the business, as prescribed in (C)(1).
 8. Evidence of insurance coverage, showing the name of the insurance carrier, policy number, policy term, policy limits, and any applicable exclusions; and
 9. Whether the applicant has had a similar license revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation.
- C. ~~In addition to the examination requirements specified in R3-3-204(B), except as otherwise provided in R3-3-204(E), The Department shall not issue or renew a custom applicator license shall not be issued, renewed or remain valid and an existing custom applicator license is invalid unless the applicant or license holder:~~
 1. ~~Has Is a commercial applicator or employs at least 1 person employed one individual who is, or is himself, certified as a commercial applicator under R3-3-208; and~~
 2. ~~Maintains or the business that employs the applicator or license holder 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 The applicant or license holder shall provide evidence of insurance coverage must 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, an applicant or license holder shall submit a copy of the certificate shall be submitted to the Commission upon initial application or with the completed application renewal form.~~
- E. ~~Notwithstanding R3-3-204(C)(2), a custom applicator may terminate the liability insurance coverage required by that~~

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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 license holder may:
1. Temporarily relinquish a custom applicator license if the custom applicator:
 - a. Advises the Department of termination of the insurance prescribed in subsection (C)(2), and the effective date of termination; and
 - b. Ceases to act as a custom applicator on the termination date.
 2. Reinstate the custom applicator license within the same licensing time period, without again paying the fee as prescribed in subsection (E), if the custom applicator:
 - a. Purchases insurance as prescribed in subsection (C)(2), and
 - b. Notifies the Department of the effective date of the insurance.
- 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.** ~~Completed applications shall be submitted~~ The applicant shall submit the completed application to the Commission Department, and shall be accompanied by a \$100 fee for each year, or portion of the year during which the license is valid.
- E.** A custom applicator license is not transferable, expires on December 31, and is valid for one or two years, depending on the renewal period selected by the applicant.
- G.** Examinations.
1. The Department shall administer examinations by appointment at every Environmental Services Division office. In addition to the core examination required in R3-3-202, an applicant shall demonstrate knowledge and understanding of the following by scoring at least 75 percent on the written examination administered by the Department:
 - a. Calibration of application equipment;
 - b. Aerial application procedures, if applicable; and
 - c. Ground application procedures, if applicable.
 2. An individual who fails the examination may retake it no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.
- H.** 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 examinations in subsection (G) under the following conditions:
 - a. The applicant submits the completed application and fee within 30 days after the expiration date, and
 - b. The applicant does not provide any pesticide-related service after the date the license expired until the date the renewal is effective.
 2. All other applicants for renewal shall retake the written examinations prescribed in subsection (G).
- I.** Custom applicator licenses are not transferable.
- R3-3-205. R3-3-206. License custom application equipment Tag; Fee**
- A.** ~~No~~ A custom applicator shall not use custom application equipment ~~shall be used~~ unless the equipment has a valid custom application equipment license issued by the Commission tag. The custom applicator licensee shall place and maintain a valid tag so that it is prominently displayed on the pesticide application equipment.
- B.** A person applying for a tag shall provide the following information on a form obtained from the Department:
1. Name and signature of the applicant;
 2. Date of the application;
 3. Address, e-mail address, if applicable, and daytime telephone number of the applicant;
 4. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the business, if applicable; and
 5. Manufacturer, make, model and serial number, and if an aircraft, the aircraft registration number ("N" number) of the application equipment;
- B.C.** ~~A custom application equipment license shall not be issued, renewed, or remain valid unless~~ The Department shall not issue or renew a tag and an existing tag is invalid if the operator of the equipment is licensed as a custom applicator license is invalid.
- 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.

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- ~~E.D.~~ Completed applications shall be submitted An applicant shall submit the completed application to the Commission Department, and shall be accompanied by a \$25.00 \$25 fee for each piece of equipment, for each year or portion of the year during which the tag is valid.
- ~~E.~~ A tag expires on December 31, and is valid for the same time period as the custom applicator license.
- ~~F.~~ 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.F.~~ Custom applicator equipment licenses are not transferable A custom applicator licensee shall not transfer a tag except as follows:
1. If a licensed piece of equipment ~~has been~~ is destroyed, rendered unusable, or transferred out of the state, the ~~license may be transferred~~ custom applicator licensee may transfer the tag to another piece of equipment.
 2. If a licensed piece of equipment is leased, sold, or traded, the ~~license must be transferred~~ custom applicator licensee shall transfer the tag with the equipment to the lessee or new owner.
 3. ~~Prior to~~ Before transferring a ~~license tag~~, the ~~license owner~~ custom applicator licensee shall notify the ~~Commission Department~~ that the ~~license tag~~ is being transferred; and identify the person to whom the license tag is being transferred, and to what or identify the piece of equipment to which the license tag is being transferred, or the tag is 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;
 - c. 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.
 - c. 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).

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~~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; Renewal; Exemption**

- A. ~~No person~~ An individual shall ~~not 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. To advise in any of the categories listed in subsection (I), a PCA shall pass the specific examination associated with the category.
- 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~~
 - ~~e. Pesticide labels and labeling.~~
 - ~~2. The specific categories in which an advisor can be licensed are:~~
 - ~~a. Weed control.~~
 - ~~b. Insect and mite control.~~
 - ~~e. 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.~~
- B. An individual applying for a PCA license shall provide the following information on a form obtained from the Department:**
1. Name, social security number, and signature of the applicant;
 2. Date of the application;
 3. Address, e-mail address, if applicable, and daytime telephone number of the applicant;
 4. License renewal period;
 5. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the applicant's employer, if applicable;
 6. List, by category, the examinations that the applicant has passed; and
 7. Whether the applicant has had a similar license revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation resulting in the revocation, suspension, or denial.
- ~~C. 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.~~
- C. Effective January 1, 2005, a person applying for a PCA license, except a person who holds or has held an PCA license in this state within the previous five years shall possess:**
1. A bachelor's degree (B.A. or B.S.) in the agricultural sciences, biological sciences, or pest management; or
 2. Forty-five semester units (67.5 quarter units) of college-level curricula as shown in the chart in subsection (D) and 24 months of technical experience.
- D. 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:**

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<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>	15	22.5
<u>Crop health, such as vegetative management or weeds, plant pathology, entomology, plant nutrition or fertility, nematology, and vertebrate management.</u>	12	18
<u>Pest management systems and methods, with at least one course in pest management systems and one course in pest management methods. Pest management systems subjects include agricultural chemical applications, properties of pesticides, mode of action of agricultural chemicals, toxicology, environmental impact of pesticides, and biological control. Pest management systems subjects include agricultural chemical applications, properties of pesticides, mode of action of agricultural chemicals, toxicology, environmental impact of pesticides, and biological control.</u>	9	13.5
<u>Production systems, such as environmental horticulture, horticulture, ornamental horticulture, forestry, agronomy, crop science, vegetable crops, animal science, or other production systems.</u>	9	13.5
<u>Total Units Required</u>	45	67.5

- E.** An 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 under subsection (C)(2) shall submit employment records, a statement from an employer, or other similar proof of technical experience to the Associate Director.
- ~~**D.F.** Completed applications shall be submitted to the Commission Department, and shall be accompanied by a \$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.
- G.** A PCA license is not transferable, expires on December 31, and is:
1. Issued for up to one year as an initial license;
 2. Renewed every one or two years, depending on the renewal period selected by the applicant; and
 3. Renewed for all categories of license under subsection (I) for the same renewal period.
- H.** Renewal.
1. The continuing education requirement in subsection (H)(5) is not applicable to an individual who passes the examination prescribed in subsection (I) and who applies for a PCA license between October 1 and December 31 of the test year.
 2. Upon renewal, a PCA license is valid for one or two years, depending on the renewal period selected by the applicant, provided the applicant meets the criteria prescribed under this subsection.
 3. An applicant shall submit the completed application, accompanied by a \$50 fee for each licensing year or portion of the year during which the license is valid.
 4. Renewal: expired license.
 - a. An applicant may renew an expired license without retaking the written examinations under subsection (I) under the following conditions:
 - i. The applicant complies with CEU requirements in subsection (H)(5).
 - ii. The applicant submits a completed application and fee within 30 days after the expiration date, and
 - iii. The applicant does not provide any pest control-related service from the date the license expired until the date the renewal is effective.
 - b. All other applicants for renewal shall retake the applicable written examinations prescribed in subsection (I).
- ~~**F.5.** Agricultural pest control advisor licenses shall not be renewed. The Department shall not renew a PCA license unless, before the expiration of the current license, the advisor has completed 6 credit hours of continuing education as set out in R3-3-212, in the previous licensing year or retakes the examinations required instruction completes 15 CEUs for each year of the renewal period or passes any applicable examination prescribed in by R3-3-206(B) subsection (I). An advisor shall complete CEU credit from January 1 through December 31. CEUs earned in a year that are in excess of the requirements do not carry forward for use in future years.~~

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6. To obtain credit, the applicant shall provide the Department with documentation of completion of the CEU course.
- ~~G. Agricultural pest control advisors licenses are not transferable.~~
- I. Examinations.**
1. The Department shall administer examinations by appointment at every Environmental Services Division office. In addition to the core examination required in R3-3-202, an applicant shall demonstrate knowledge and understanding of integrated pest management in any of the following categories by scoring at least 75 percent on a written examination:
- a. Weed control.
 - b. Insect and mite control.
 - c. Nematode control.
 - d. Plant pathogen control.
 - e. Vertebrate pest control.
 - f. Plant growth regulators, or
 - g. Defoliation.
2. An individual who fails the examination may retake it no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.
- J. Exemption.** An individual operating in an official capacity for a college or university, providing recommendations in a not-for-profit capacity, or who merely furnishes information concerning general and labeling usage of a registered pesticide is not considered an authority or general advisor for the purposes of this Chapter.

R3-3-208. ~~Private applicator certification~~ Applicator Certification; Examination; Fee; Renewal

- ~~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.~~
- A. An individual shall not act as a private applicator or commercial applicator unless the individual is certified by the Department.**
- B. An individual applying for either commercial or private applicator certification shall provide the following information on a form obtained from the Department:**
1. Name, social security number, and signature of the applicant;
 2. Date of the application;
 3. Address, e-mail address, if applicable, and daytime telephone number of the applicant;
 4. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the applicant's employer, if applicable;
 5. Whether the application is for a commercial or private applicator certification;
 6. For commercial certification, the categories in which the applicant seeks to be certified;
 7. Whether the applicant has had a similar certification revoked, suspended or denied in this or any other jurisdiction during the last three years, and the nature of the violation; and
 8. Certification renewal period.

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- C. Private applicator fumigation certification.**
1. An individual seeking fumigation certification must first be certified as a private applicator or a commercial applicator.
 2. Fumigation certification allows a private applicator or a commercial applicator acting as a private applicator to use, apply, or supervise the use or application of a fumigant to an on-farm raw agricultural commodity or on-farm burrowing rodent problem.
 3. An applicant shall score at least 75 percent on a written fumigation examination administered by the Department;
 4. If the fumigation certification is renewed with the private applicator certification or the commercial applicator certification, the private applicator or commercial applicator shall:
 - a. Retake and pass the written fumigation examination; or
 - b. Submit evidence of completing the number of CEUs required under subsection (H)(4)(a); and
 - c. Submit evidence of completing at least three additional CEUs per year, at least one of which shall be related to the use of fumigants to a raw agricultural commodity or on-farm burrowing rodent problem.
- D. An applicant shall submit a completed application to the Department accompanied by a \$50 fee.**
- E. Applicator certification is not transferable, expires on December 31, and is:**
1. Issued for one year as an initial certification;
 2. Renewed for one or two years, depending on the renewal period selected by the applicant; and
 3. Renewed for all categories of certification for the same renewal period.
- F. Examinations.** The Department shall administer examinations by appointment at every Environmental Services Division office. An applicant shall achieve a passing score of 75 percent in the applicable subject area.
1. Commercial applicator certification. In addition to the core examination required for an initial commercial applicator certification in R3-3-202, an applicant shall demonstrate knowledge and understanding of the subjects listed in Appendix A, subsection (A).
 2. Commercial certification categories.
 - a. An individual may apply for commercial applicator certification in any of the following categories:
 - i. Agricultural pest control.
 - ii. Forest pest control.
 - iii. Seed-treatment.
 - iv. Aquatic pest control.
 - v. Right-of-way pest control.
 - vi. Public health pest control.
 - vii. Regulatory pest control, or
 - viii. Demonstration and research pest control.
 - b. An applicant shall demonstrate practical knowledge of the certification category subjects listed for the category in Appendix A, subsection (B).
 3. Private applicator certification. An applicant shall demonstrate knowledge and understanding of the subjects listed in Appendix A, subsection (C).
 4. An individual who fails 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 date of the last examination.
- G. Renewal; expired license.**
1. An applicant may renew an expired license without retaking the written examinations under the following conditions:
 - a. The applicant complies with the CEU requirements in subsection (H)(4).
 - b. The applicant submits a completed application and fee within 30 days after the expiration date, and
 - c. The applicant does not provide any pesticide-related service from the date the license expired until the date the renewal is effective.
 2. All other applicants for renewal shall retake the written examinations prescribed in subsections (F) or (C) and (F).
- H. Renewal.**
1. The continuing education requirements in subsection (H)(4) are not applicable to an individual who passes the certification examination prescribed in subsections (C) or (F) or (C) and (F), and who applies for private applicator certification between October 1 and December 31 of the test year.
 2. An applicant for renewal of an applicator certification shall select a one or two-year renewal period.
 3. An applicant shall submit the completed application accompanied by a \$50 fee for each year or portion of the year during which the certification is valid.
 4. CEU requirements.
 - a. The Department shall not renew a private applicator certification unless, prior to the expiration of the current certification, the applicator completes three CEU's for each year for which certification is sought or retakes and passes the written examinations prescribed in subsection (F)(3) or subsections (C) and (F)(3).

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- b. The Department shall not renew a commercial applicator certification unless, before expiration of the current certification, the applicator completes six CEUs for each year of the renewal period or retakes and passes the written examinations prescribed in subsections (F)(1) and (2).
- c. An applicator shall complete CEU credit from January 1 through December 31. CEU credits earned in a year that are in excess of the requirements do not carry forward for use in future years.
- d. To obtain credit, the applicant shall provide the Department with documentation of completion of the CEU course.

R3-3-209. ~~Persons exempt from permitting, licensing, and certification provisions~~ License and Fee Exemptions

- A. Persons ~~A person~~ who ~~apply~~ applies pesticides in buildings or for structural pest control purposes ~~are~~ is not required to apply for ~~nor~~ or possess a ~~any~~ license or certification from the ~~Commission~~ Department.
- B. Persons ~~A person~~ who ~~sell~~ sells, ~~offer~~ offers for sale, ~~deliver~~ delivers, or ~~offer~~ offers for delivery a general use pesticide, to be used for private, noncommercial use in or around the home or a person who sells general use pesticides for swimming pool or spa maintenance 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~~ is not required to apply for ~~nor~~ or possess a seller's permit from the ~~Commission~~ Department.
- ~~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. A state, federal, or other governmental employee who makes pest control recommendations or applies or supervises the use of restricted use pesticides while engaged in the performance of official duties shall meet the requirements of this Article, but is not required to pay a fee for either a PCA license or a commercial applicator certification.
- D. A person who only furnishes information concerning label requirements governing a registered pesticide is not required to apply for or possess a PCA license from the Department.

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 a License, Permit, or Certification

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

~~R3-3-212. R3-3-211. Continuing education requirements for agricultural pest control advisors and certified applicators~~ CEU Course Approval: Subject 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. A person who wishes to have the Department determine whether a course qualifies for CEU credit shall submit the following information to the Department:
 - a. Name, address, e-mail address, if applicable, and telephone number of the course's sponsor;
 - b. Signature of the sponsor or the sponsor's representative;
 - c. Course outline, listing the subjects and indicating the amount of time allocated for each subject;
 - d. Brief description of the information covered within each subject;
 - e. Brief biography of the presenter, demonstrating the presenter's qualifications;
 - f. Fees charged for attending the course;
 - g. Date and location of each session; and
 - h. Whether the course is open to the public.
 - 2. A person who requires prior notification of the number of CEUs that can be earned by completing an approved course before it is held shall submit the information required in subsection (A)(1) to the Department at least 14 business days before the course is held.

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3. The Department may modify the number of CEUs earned for a CEU course if the CEU course varies significantly in content or length from the approved curriculum. If the Department modifies the number of CEUs earned, the Department shall send a letter of modification to the course organizer, who shall be requested to inform all individuals who attended the course.
- B. Subject approval. ~~One~~ The Department shall grant one hour of CEU credit ~~will given~~ for each every 50 minutes of actual instruction in an approved program relating to agricultural pest control or any of the following subjects:
 1. Those listed in R3-3-208(F)(1).
 2. IPM, or
 3. Any other pesticide or pesticide use subject approved by the Associate Director.
- C. Before credit will be given, documentation of completion of the continuing education instruction must be provided to the Commission.

R3-3-212. Experimental Use Permit

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

APPENDIX A

TESTING CATEGORIES

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

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

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8. Demonstration and research pest control. Persons demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problems situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they shall demonstrate an understanding of a pesticide-organism interaction and the importance of integrating pesticide use with other control methods. In general, it would be expected that applicators doing demonstration pest control work possess a practical knowledge of all of the standards detailed in (G)(1). In addition, they shall meet the specific standards required for subsections (c)(1) through (7) of this subsection as may be applicable to their particular activity.

C. Private Certification, 40 CFR 171.5(a)(1) through (5).

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

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

R3-3-301. Pesticide-use General

A. ~~No~~ A person shall not use, apply, or instruct another to apply a pesticide in a manner or for a use inconsistent with the product label or pesticide 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 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 if the labeling does not prohibit the mixture.
5. A pesticide may be used in any manner that is consistent with Sections 5, 18, or 24 of FIFRA.

B. A person shall not use, apply, or store or instruct another to use, apply, or store a pesticide unless the pesticide is:

1. Registered with the Department and the EPA, or
2. Previously registered with the Department and the EPA and cancelled or suspended by the EPA with a current end-use provision in effect.

C. Subsection (B) does not apply to a:

1. Pesticide registrant that temporarily stores pesticides produced for shipment out of the state;
2. Person who has applied for registration or exemption in this state; or
3. Person who is acting under an experimental use permit on the grounds of a college or university agricultural center or campus, or a company-owned research facility.

D. A person shall not allow drift that causes any unreasonable adverse effect.

E. A person shall not cause the direct release of a pesticide and an individual shall not instruct an applicator in a manner to cause the direct release of a pesticide causing any unreasonable adverse effect.

F. Regulated grower responsibility.

~~B.1.~~ After a pesticide is applied to a field on an agricultural establishment, no crop from that field shall be harvested, and no the regulated grower shall not harvest a crop from the field, or permit livestock shall be permitted to graze in that the 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 Before a pesticide application, the a regulated grower shall ensure that all persons individuals and livestock subject to his the regulated grower's control have been removed from are outside the area to be treated application site.

~~E.G.~~ Emergency pest control measures. No persons, other than those making applications pursuant to government sponsored control measures A person acting under a government-sponsored emergency program, shall not 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 (other than those involved in the application who are wearing the proper protective clothing and equipment), animals an individual, animal, or property other than outside the boundaries of the application site, target crop being

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~~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.H.~~ If possible when applying pesticides by aircraft, pilots a pilot shall fly crosswind, unless obstacles do an obstacle does not permit it, and shall begin their the application at the downwind side of the field so that drift will be the pesticide is 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.I.~~ A person shall not apply 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 that is less than one gallon per acre in the final spray form. The content of that gallon shall be at least 50% percent water.
- ~~J.~~ A buffer zone may receive direct application or drift of pesticides as permitted by law.

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

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

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17. Total quantity of pesticide concentrate to be applied;
 18. Total acres to be treated and total volume per acre or total number of application sites to be treated;
 19. Whether the application includes an active ingredient that appears on the Arizona Department of Environmental Quality groundwater protection list and is soil-applied as defined in A.A.C. R18-6-101;
 20. Whether a supplemental label is required;
 21. Method of pesticide application;
 22. Label restrictions or special instructions, if any;
 23. Name of the custom applicator making the application;
 24. Anticipated pesticide delivery location; and
 25. Signature and credential number of the regulated grower or PCA making the recommendation.
- B.** A custom applicator shall not apply a pesticide unless the custom applicator has received a signed copy of the recommendation from the PCA or the regulated grower on the Form 1080 before the application. The custom applicator shall apply the pesticide according to the recommendation on the Form 1080 unless the recommendation conflicts with the pesticide label or labeling, in which case the custom applicator shall note these deviations on the Form 1080 and apply the pesticide according to the pesticide label or labeling, or as provided in R3-3-301(A).
- C.** Before the application of a pesticide recommended by a PCA, the PCA shall notify the regulated grower, or the regulated grower's representative, of the scheduled application date. If the application date or time changes from that scheduled with the regulated grower, the custom applicator shall notify the regulated grower of the revised date and time of the application.
- D.** After completing the application, the custom applicator shall sign the pesticide application report portion of Form 1080 to verify that the pesticide was applied according to the recommendation and provide the following information in writing on the form:
1. Date and time of each application;
 2. Date and time of the first and last spot application and a general description of the location, if applicable;
 3. Wind direction and velocity;
 4. Tag number, if applicable;
 5. Name and credential number of the grower or custom applicator business;
 6. Signature and credential number of the applicator; or name of the application equipment operator, and if a restricted use pesticide is applied, the signature and credential number of the certified applicator; and
 7. Any deviation from the recommendation.
- E.** Reporting shall be as prescribed in R3-3-404.

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

- 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:~~ A person supervising application of a pesticide under a federal experimental use permit shall provide the Department with the following information in writing at least five days before application of the experimental use pesticide:
1. A copy of the EPA-approved experimental use permit, as required by Section 5 of FIFRA along with the program outline;
 2. Experimental use permit number;
 - 3-2. Name, address, e-mail address, if applicable, and phone daytime telephone number of the supervising technical personnel individual 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;
 - 6-3. Crop and acreage to be treated; Application site to be treated, the location of the application site, the quantity of the commodity or the area of land to be treated, and the number of structures, if any;
 - 7-4. Total amount of active ingredient to be applied in Arizona this state;
 - 8-5. Application rate Rate of formulation applied per acre unit of measure;
 - 9-6. Method of application;
 10. The name and address of the applicator who will be making the applications;
 - 11-7. Time frame in period during which applications the application will be made; and
 - 12-8. Special Any special experimental use permit conditions condition as determined by the Department or by the EPA.
- B.** ~~If subsequent to providing the any information specified in R3-3-306(A) provided under subsection (A) changes, the experimental use permit is amended or extended, the registrant person supervising the pesticide application under a federal experimental use permit 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~~

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~~Commission in writing within 5 days of the amendment or extension. If the notification of change is given verbally, the person supervising the pesticide application under a federal experimental use permit shall provide the Department with written confirmation within 15 days after the date of the change.~~

- ~~C. At least 24 hours before the application, the supervising technical individual shall provide the Department with the following information:~~
- ~~1. Name, address, e-mail address, if applicable, and daytime telephone number of the regulated grower and PCA, or the qualifying party if it is a structural pest control application, that are involved in the application of the experimental use pesticide;~~
 - ~~2. County, section, township, range, and field description, if needed, of the intended application site, or the street address if it is a structural pest control application as defined in A.R.S. § 32-2301(20);~~
 - ~~3. Name, address, e-mail address, if applicable, and telephone number of the applicator applying the pesticide; and~~
 - ~~4. Date and time of the intended application.~~
- ~~C. 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.~~
- ~~D. An applicator shall not apply any an experimental use pesticide in any a manner other than is that specified in by the experimental use permit or other Department-approved labeling that is provided to the applicator. The applicator shall ensure that the labeling is at the application site when the application occurs.~~

~~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 under A.R.S. § 3-366. Lists shall be updated monthly and will The list is be available at every Commission Environmental Services Division office.~~
- ~~B. Designation of any The Director shall designate a location as a pesticide management area shall be made by the Commission when if all of the following evaluation criteria are met:~~
- ~~1. The distance between the land that is being or will be treated application site 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 A pesticide is applied by air aircraft;~~
 - ~~3. The A pesticide complained about under subsection (B)(4) is highly toxic or odoriferous; and~~
 - ~~4. At The Department receives complaints alleging pesticide misuse within a 12-month period from at least 5% five or five percent, whichever is greater, of the residences located less than 1/4 mile from the application site or a complaint from any 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 application site, land that is being or will be treated have filed a pesticide complaint with the Commission~~
- ~~C. If, upon a written request from a person, or upon the Department's initiative, the 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 annual list.~~
- ~~D. Any A 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 The petitioner shall address all of the criteria listed in R3-3-308(B) subsection (B). All petitions shall be considered by the Commission The Director shall make a decision on each petition no later than 90 days from the date the petition was submitted.~~

~~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.~~

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

- A. ~~No~~ A seller shall not sell, offer for sale, deliver, or offer for delivery any restricted use pesticide or pesticide for an agricultural purpose without first determining that the pesticide will be applied used by a person who:
1. ~~has~~ Has a valid certification or regulated grower 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 regulated grower permit issued by the ~~Commission~~ Department or SPCC for the use of the pesticide ~~except as otherwise provided in R3-3-209(B).~~
- B. ~~The~~ If a pesticide is sold for an agricultural purpose, the seller shall write 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~~ container or cartons carton. If a pallet is delivered to an individual purchaser, the seller may write the seller and regulated grower numbers on the outside of the shrink-wrapped pallet.
- C. ~~The~~ A 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~~ in this state.

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

- A. ~~No~~ A person shall not sell, offer for sale, deliver, or offer for delivery a restricted use pesticide to a person other than a certified applicator without having first ~~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 seller shall obtain one of the following types of written documentation to satisfy the requirement in subsection (A):~~
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 fax of the actual certificate of issued to the certified applicator who will be applying or supervising the application of the restricted use pesticide along with and:~~
 - a. A statement signed by the certified applicator, authorizing and identifying 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:~~
 - b. a A copy of a signed contract or agreement, authorizing and identifying the noncertified person to receive the restricted use pesticide for and on behalf of the certified applicator; or
 2. A form on file with the seller that contains the following information:
 - a. Name of any individual authorized to receive the restricted use pesticides for the certified applicator;
 - b. Relationship of an authorized individual to the certified applicator (partner, employee, co-worker or family member);
 - c. List of the restricted use pesticides an authorized individual is allowed to receive, specifying the:
 - i. Trade name; and
 - ii. EPA registration number; or
 - iii. State special local need registration number issued by the Department; or
 - iv. Emergency exemption number, issued by the EPA under Section 18 of FIFRA, if applicable;
 - d. Signature of the authorized individual and the date signed; and
 - e. Certified applicator's signature, work address, work phone number, certification number, and certification categories (private fumigation or commercial and one or more of the following: agricultural pest, seed treatment, right of way, forestry, aquatic, regulatory, or public health).
- C. A seller shall request proof of identification from any noncertified individual accepting restricted use pesticides on behalf of a certified applicator if the individual is unknown to the seller.

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~~D.~~ A noncertified individual who receives a restricted use pesticide on behalf of a certified applicator shall sign all sale documents for restricted use pesticides.

~~C.E.~~ If, at the time of the sale of the restricted use pesticide, to a noncertified person, that person satisfied the noncertified individual receiving the pesticide satisfies the requirements in R3-3-310(B) of subsection (B) by presenting a signed statement, contract, or agreement, the seller shall maintain on file a copy of the signed statement, contract, or agreement must be kept on file with the seller.

~~D.F.~~ Records The seller shall retain records of all sales or deliveries made pursuant to this rule and the documentation and maintain the documents required by this rule shall be retained by the seller Section for at least 2 two years from the date of the sale.

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.

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

~~A.~~ No A person shall not operate any an aircraft in this state for the custom application of to apply pesticides in this state unless the aircraft has a valid Federal Aviation Administration airworthiness certificate and a valid equipment license issued by the Commission tag issued under R3-3-206.

~~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. A custom applicator shall not permit an individual who does not hold a valid agricultural aircraft pilot license and a valid commercial applicator certification to apply pesticides by aircraft.

~~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 storing pesticides or non-triple rinsed pesticide containers shall:

- ~~1.~~ Provide a secure, well-ventilated storage location;
- ~~2.~~ Verify that the containers are nonleaking and closed if not in use; and
- ~~3.~~ Conspicuously post a sign at the entrance to the storage area warning others that pesticides are stored inside.

~~B.~~ A person shall not place misleading wording or markings on a service container that are not related to the pesticide in the container.

~~C.~~ A person using a service container to store or transport a pesticide concentrate or registered ready-to-use pesticide, shall place a durable and legible label or tag on the service container that lists:

- ~~1.~~ Name, e-mail address, if applicable, and telephone number of the applicator or custom applicator using the pesticide;
- ~~2.~~ Brand or trade name of the pesticide;
- ~~3.~~ EPA registration number;
- ~~4.~~ Name and percentage of the active ingredient;
- ~~5.~~ Dilution, if any, in the service container;
- ~~6.~~ EPA-assigned signal word (danger, warning, or caution) for the registered label; and
- ~~7.~~ The phrase "KEEP OUT OF REACH OF CHILDREN."

~~D.~~ A person shall not store or transport any pesticide in a container that has been used for food, feed, beverages, drugs, or cosmetics, or, because of shape, size, or marking is identified with food, feed, beverages, drugs, or cosmetics.

~~E.~~ A person shall not dump, negligently store, or leave unattended any pesticide, service container, or pesticide container or part of a container, at any place or under any condition that will create a hazard to an individual, an animal, or property.

~~B.F.~~ No A person shall cause the disposal not dispose 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.

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3. ~~At any site expressly approved by the Arizona Department of Environmental Quality as a hazardous waste disposal site.~~
- ~~C.G.~~ ~~Prior to disposal~~ Before a person disposes of any pesticide container, in a sanitary landfill pursuant to subsection (B)(1) of this rule, the person shall ensure that the following steps must be are taken:
1. ~~Pesticide containers in the form of cans, bottles, barrels, drums, or tanks. After emptying each pesticide container other than a pressurized containers container, a paper bag, or containers refereneed a container designed for reuse with the same pesticide and described in R3-3-314 R3-3-309 shall be rinsed 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. the container is triple rinsed and:~~
 - a. ~~The liquid from rinsing required by this paragraph shall rinsate is not be discharged into the environment except where used or disposed of as a pesticide in accordance with all unless the discharge is performed according to label directions, and applicable laws and regulations.~~
 - b. ~~The rinsate is placed into a service container or the application equipment for use on an application site, or the rinsate is disposed as allowed by the label.~~
 - c. ~~After containers are Each container is punctured or crushed after it is triple rinsed as required by this paragraph, they shall be punctured or crushed so as to render them to render the container incapable of holding liquid any material; and~~
 2. ~~Pesticide containers in the form of A pesticide container that is a combustibile bags bag or packages must be package is thoroughly emptied and either:~~
 - a. ~~Folded and tied into bundles or otherwise secured; or~~
 - b. ~~Enclosed securely in a secondary containers container that are is 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 A pesticide container, as defined in R3-3-313(A)(1) R3-3-101, containing label provisions labeled as a returnable, reusable containers container, or for which the label contains provisions for recycling or reconditioning, may be shipped in accordance with the according to label directions to a dealer, distributor, formulator, or to a reconditioning or recycling facilities facility that are is operated in accordance with all applicable laws and regulations.~~
- B. ~~All If a pesticide containers container is being held for shipment pursuant to under subsection (A), must, immediately after use, be placed the person holding the container shall, immediately after use, place it in a secure environment, inaccessible for any use other than shipment pursuant according to label directions.~~

R3-3-310. Fumigation Use

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

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.~~

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- 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.

R3-3-312. Renumbered

R3-3-313. Renumbered

R3-3-314. Renumbered

ARTICLE 4. RECORDKEEPING AND REPORTING

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

- A. Sellers ~~A seller of any restricted use and general use pesticides~~ pesticide, device, or any pesticide sold for an agricultural purpose shall maintain all records showing the receipt, sale, delivery, or other disposition of all pesticides the pesticide or pesticide devices device sold for a period of 2 at least two years from the date of sale. Sellers shall file with the Commission 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 a signed statement with the Commission ~~prior to Department before~~ the move a signed statement stating the new location address where the records required by this rule will be kept.
- B. If a restricted use or general use When any 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 a seller shall maintain the following records shall contain the following and information:
 1. Bill of lading or other similar record of the receipt of the ~~product~~ pesticide at the selling establishment;
 2. ~~Record~~ 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. State special local need registration number issued under Section 24 of FIFRA, if applicable;
 6. Emergency exemption permit number granted by the EPA under Section 18 of FIFRA, if applicable;
 7. Experimental use permit number, if applicable;
 8. Pesticide brand name and the EPA registration number; and
 9. Quantity of the pesticide sold to the purchaser.
- C. In addition to the information required in ~~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 records a seller shall contain~~ maintain records that contain the following information:
 1. Name and address of the residence or principal place of business of each person to whom the restricted use pesticide ~~was is~~ sold, delivered, or otherwise disposed of; ~~or the and any records required in R3-3-310 under R3-3-306;~~
 2. ~~With respect to the certified applicator who will be using the restricted use pesticide, his~~ Certified applicator's name, address, certification number, and the expiration date of his the applicator's certification; and
 3. ~~the categories~~ 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 to a field on an agricultural establishment of a restricted use pesticide, ~~a pesticide registered under Section 18 of FIFRA, or an experimental use permitted pesticide,~~ a private applicator shall complete an application record on a form approved by the Commission Department, that includes the following:

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- 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;~~
 - 4-3. 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;~~
 6. ~~Total volume of mix per acre;~~
 - 7-4. ~~Date and time of the application;~~
 8. ~~Location (by county, range, township, and section) of the field that received the application; and~~
 - 9-5. ~~Name of regulated grower and method of application;~~
 6. Method of application;
 7. Crop name and the number of acres treated with the pesticide;
 8. Rate per acre of the active ingredient or formulation of the pesticide;
 9. Total volume of pesticide used per acre; and
 10. County, range, township, and section of the field that received the application.
- B.** ~~Following an application to a non-field of a restricted use pesticide, a pesticide registered under Section 18 of FIFRA, or an experimental use permitted pesticide, a private applicator shall complete an application record on a form approved by the Department, that includes the following:~~
1. The information requested under subsection (A)(1) through (A)(6);
 2. Item treated;
 3. Rate per item treated;
 4. Total volume used in the application; and
 5. Application site location by county, range, township, and section, or by physical address.
- C.** ~~Records~~ A private applicator shall retain records required by this rule shall be retained by the private applicator Section for at least ~~2~~ 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. An 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 3 three hours after the bulk release. When such~~ If the bulk release is on a public highway, or 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 Office duty officer by telephone and the Commission as soon as practicable.
- B.** ~~Within 5 30 days of the after a bulk release, the applicator shall provide a written report to the Commission~~ Department listing all details of the release, including:
1. ~~the location of, the amount of~~ Location and the reasons for cause of the release;
 2. ~~the disposition~~ Disposition of the pesticide released, ~~the measures taken to prevent unauthorized entry to the site of the release and;~~
 3. ~~the measures~~ Measures taken to ~~prevent further contamination~~ contain the bulk release;
 4. Name and EPA registration number of the pesticide released;
 5. Name, e-mail address, if applicable, and telephone number of the applicator's contact person;
 6. Date and time of the release;
 7. Specific environment into which the release occurred;
 8. Known human exposure to the pesticide, if observed; and
 9. Estimated amount of pesticide or pesticide mixture released.

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.~~

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

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

An applicator shall maintain the following information for two years:

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

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

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

~~A serious violation is the exposure of an individual to a highly toxic or restricted use pesticide in a concentration that causes acute oral or dermal or inhalation toxicity unless the individual is participating in the pesticide application and is wearing the protective clothing and equipment as required by the pesticide label.~~

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

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

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

A. General violations: The following is a nonexclusive list of acts that are nonserious violations if the violation has a direct or immediate relationship to safety, health, or property damage, but does not constitute a de minimis violation or a serious violation, unless the violator did not, and could not with the exercise of reasonable diligence, know of such safety, health, or property damage risk in which case the violation is de minimis. A person shall not:

1. ~~Negligently storing, dumping or leaving~~ Improperly store, dump, or leave 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~~ Make a false statement or misrepresentation in an application for a permit, license, or certification, or a permit, license, or certification renewal.
3. ~~Falsifying~~ Falsify any records or reports required to be made by under Articles 2 through 4 of this Chapter.
4. ~~Operating~~ Operate an aircraft or ground equipment in a faulty, careless, or negligent manner during the application of a pesticide.
5. ~~Applying or instructing~~ Apply or instruct 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 so that it comes into contact with:
 - a. persons An individual, (other than those involved in the application who are wearing the proper protective clothing and equipment);
 - b. animals An animal; or
 - c. property Property, other than the target crop application site 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.

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6. ~~Using, applying or instructing~~ Use, apply, or instruct another to apply a pesticide in a manner or for a use inconsistent with its ~~product pesticide~~ pesticide label or labeling except as ~~otherwise~~ provided by the exceptions in R3-3-301(A).
 7. Use, sell, apply, store, or instruct another to use, sell, apply, or store a pesticide:
 - a. That is not registered with the Department and the EPA, or
 - b. Outside the EPA authorized end-use provision if previously registered with the Department and the EPA and cancelled or suspended by the EPA.
 8. Fail to provide accurate or approved labeling when registering a pesticide.
- B. Violations relating to sellers: Seller violations. A seller shall not:**
1. ~~Selling~~ Sell pesticides without a valid seller's permit issued by the ~~Commission-Department.~~
 2. ~~Providing~~ Provide a pesticide to a regulated grower who does not have a valid permit.
 3. ~~Fail to maintain records required under Articles 2 through 4 of this Chapter.~~
 - 3-4. ~~Not maintaining adequate~~ Fail to maintain complete sales records of restricted use pesticides required by under ~~Articles 3 and 4 of this Chapter.~~
 4. ~~Providing a non-registered product to an unauthorized person.~~
 5. ~~Adulterating~~ Adulterate a pesticide.
 6. ~~Making~~ Make false or misleading claims about a pesticide to any person.
 7. ~~Modifying~~ Modify a label or labeling without proper authorization. or
 8. Provide a pesticide to an unauthorized person.
- C. Violations relating to agricultural pest control advisors: PCA violations. A PCA shall not:**
1. ~~Acting~~ Act as an agricultural pest control advisor a PCA without a valid agricultural pest control advisor license issued by the ~~Commission Department.~~
 2. ~~Making~~ Make a false or fraudulent statement in any written recommendation about the use of ~~pesticides~~ a pesticide.
 3. ~~Making~~ Make a recommendation regarding the use of a pesticide in a specific category in which the individual is not licensed. or
 4. ~~Making~~ Make a written recommendation for the use of a pesticide in a manner inconsistent with its ~~product pesticide~~ pesticide label or ~~labeling~~ except the exceptions as provided in R3-3-301(A).
- D. Violations relating to agricultural aircraft pilots: Agricultural aircraft pilot violations.**
- 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 pilot shall not apply a pesticide by aircraft without a valid agricultural aircraft pilot license issued by the ~~Commission Department.~~
- E. Violations relating to custom applicators: Custom applicator violations. A custom applicator shall not:**
1. ~~Allowing ground~~ Allow application equipment to be operated in a careless or reckless manner during the application of a pesticide.
 2. ~~Making~~ Make a custom application without a valid custom applicator's license issued by the ~~Commission-Department.~~
 3. ~~Making~~ Make a custom application of a restricted use pesticide without a valid commercial applicator certification issued by the ~~Commission-Department.~~
 4. ~~Allow an aircraft to be operated during the application of a pesticide by an individual who does not have a valid agricultural aircraft pilot license issued by the Department, or~~
 5. Apply a pesticide without a written Form 1080 as prescribed in R3-3-302(A).
- F. Violations relating to regulated growers: Regulated grower violations. A regulated grower shall not:**
1. ~~Purchasing, applying or using~~ Purchase, apply, or use a pesticide without a valid regulated grower's permit issued by the ~~Commission, Department, or~~
 2. ~~Applying~~ Apply a restricted use pesticide without being a certified applicator.
- G. Violations relating to certified applicators: Certified applicator violations. A certified applicator shall not:**
1. ~~Allowing~~ Allow the unsupervised application of a restricted use pesticide. or
 2. ~~Not maintaining adequate~~ Fail to maintain complete records required by under ~~Articles 2 through 4 of this Chapter.~~
 3. ~~Not filing reports as required by this Chapter.~~ Use a restricted use pesticide without a valid applicator certification issued by the Department.
- H. Exemptions. The following incidents are not pesticide use violations under this Section:**
1. Exposure of an individual involved in the application who is wearing proper protective clothing and equipment;
 2. Exposure of an unknown trespassing individual, animal, or property that the applicator, working in a prudent manner, could not anticipate being at the application site; or
 3. Exposure of a person, animal, or property if the application is made according to a government-sponsored emergency program.

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

- A. ~~Violations relating to sellers:~~ Seller violations. It is a de minimis violation if a seller:
- ~~1. Not placing~~ Fails to record seller and regulated grower permit numbers on containers, cartons and delivery tickets; ;
 - ~~2. Not registering their~~ Fails to register the seller's representatives; or
 - ~~3. Not maintaining adequate~~ Fails to maintain complete records as required by under Articles 2 through 4 of this Chapter for general use pesticides.
- B. ~~Violations relating to agricultural pest control advisors:~~ PCA violations. It is a de minimis violation if a PCA:
- ~~1. Failing~~ Fails to put recommendations in writing as prescribed at R3-3-302(A);
 - ~~2. Failing~~ Fails to provide complete information required on written recommendations under R3-3-302; or
 - ~~3. Fails to maintain complete records as required under Articles 2 through 4 of this Chapter.~~
- C. ~~Violations relating to custom applicators:~~ Custom applicator violations. It is a de minimis violation if a custom applicator:
- ~~1. Not maintaining adequate~~ Fails to maintain complete records required by under Articles 2 through 4 of this Chapter; or
 - ~~2. Not filing~~ Fails to file reports as required by under Articles 3 and 4 of this Chapter.
- D. ~~Violations relating to regulated growers:~~ Regulated grower violations. It is a de minimis violation if a regulated grower:
- ~~1. Not maintaining adequate~~ Fails to maintain complete records as required by under Articles 2 through 4 of this Chapter; or
 - ~~2. Fails to file reports as required under Article 4 of this Chapter including whether the application includes a pesticide containing an active ingredient that appears on the Arizona Department of Environmental Quality groundwater protection list, and is soil-applied, as defined in A.A.C. R18-6-101.~~
- E. Certified applicator violations. A certified applicator shall not fail to file reports as required by under Articles 3 and 4 of this Chapter.
- F. A third de minimis violation of the same or similar type from among those listed in subsections (A) through (E) in a three-year period is a nonserious violation.
- G. Exemptions. The following incidents are not a violation under this Section:
1. Exposure of an individual involved in the application who is wearing proper protective clothing and equipment;
 2. Exposure of an unknown trespassing individual, animal, or property that the applicator, working in a prudent manner, could not anticipate being at the application site; or
 3. Exposure of a person, animal, or property if the application is made according to a government-sponsored emergency program.

R3-3-504. Mitigation of violations

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

R3-3-505. Unlisted ~~violations~~ Violations

- A. ~~Violations~~ The Department shall classify a violation of Articles 2 through 4 of this Chapter or of A.R.S. Title 3, Chapter 2, Article 6 of the Arizona Revised Statutes that are is not listed in R3-3-501, R3-3-502, or R3-3-503 shall be classified as a serious, nonserious, or de minimis ~~violations~~ violation depending upon the specific factual circumstances surrounding the violation.
- B. A third de minimis violation of the same or similar type in a three-year period is a nonserious violation.

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

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

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a. No evidence of human exposure to pesticides <u>and no evidence of the substantial probability of human exposure to pesticides.</u>	0
b. Evidence of human exposure <u>Substantial probability of human exposure</u> to pesticides but treatment not required by a physician, nurse, paramedic, or physician's assistant.	5-10
c. <u>Evidence of human exposure to pesticides but treatment not required by a physician, nurse, paramedic, or physician's assistant.</u>	11-20
e-d. Exposure <u>Human exposure</u> to pesticides that required treatment by a physician, nurse, paramedic, or physician's assistant, but which did not result in pesticide intoxification <u>poisoning.</u>	6-10 <u>21-30</u>
d-e. Exposure <u>Human exposure</u> to pesticides that required either hospitalization for less than 12 hours or treatment as an outpatient for 5 <u>five</u> consecutive days or less by a physician, nurse, paramedic, or physician's assistant for pesticide intoxification <u>poisoning.</u>	11-30 <u>31-45</u>
e-f. Exposure <u>Human exposure</u> to pesticides that required either hospitalization for 12 hours or longer, or treatment as an outpatient for more than five consecutive days by a physician, nurse, paramedic, or physician's assistant for pesticide intoxification <u>poisoning.</u>	31-60 <u>46-100</u>
f-g. Exposure <u>Human exposure</u> to pesticides resulting in death from pesticide intoxification <u>poisoning</u> (serious violation unless otherwise documented in the investigative record).	100 <u>101-180</u>
2. Environmental consequences and property damage. (Select + <u>one</u> or more as evidence indicates.)	
a. No evidence of substantial probability of environmental or property damage.	0
b. Water source contamination <u>Substantial probability of water contamination.</u>	1-10 <u>5-10</u>
c. <u>Evidence of water source contamination.</u>	<u>11-20</u>
e-d. Soil contamination causing economic damage <u>Substantial probability of soil contamination causing economic damage.</u>	1-10 <u>5-10</u>
e. <u>Evidence of soil contamination causing economic damage.</u>	<u>11-20</u>
d-f. Nontarget bird kills <u>Substantial probability of nontarget bird kills.</u>	1-10 <u>5-10</u>
g. <u>Evidence of nontarget bird kills.</u>	<u>11-20</u>
e-h. Nontarget fish kills <u>Substantial probability of nontarget fish kills.</u>	1-10 <u>5-10</u>
e-i. <u>Evidence of nontarget fish kills.</u>	<u>11-20</u>
f-j. Nontarget kills involving game or furbearing animals as defined by A.R.S. § 17-101(B).	1-10 <u>10-20</u>
g-k. Any property damage (nonserious violation only pursuant to <u>under</u> A.R.S. § 3-361(4)).	1-10 <u>10-20</u>
h-l. Air contamination causing official evacuation by federal, state, or local authorities.	1-10 <u>10-20</u>
i-m. Killing + <u>one</u> or more threatened or endangered species.	1-10 <u>15-20</u>
j-n. Killing + <u>one</u> or more domestic animals.	1-10 <u>15-20</u>
3. Culpability.	
a. Unknowingly, i.e., reasonably could not know or was without any knowledge of the prohibitions or restrictions which are the basis of the misconduct cited.	0
b-a. Knowing, i.e., knew or reasonable <u>Knew or reasonably should have known by reasonable diligence of the prohibitions or restrictions which that are the basis of the misconduct cited.</u>	1-10 <u>5-10</u>
e-b. Willfully, i.e., actual <u>Actual</u> knowledge of the prohibitions or restrictions but engages in misconduct, or alternatively, intentionally, or due to unjustifiable negligence fails to be informed of prohibitions or restrictions governing cited misconduct.	20-50
4. Prior violations or citations. Violations or citations within 3 <u>three</u> years from the date of the completion of the hearing or negotiated settlement <u>the violation was committed.</u> (Select + <u>one</u> or more as evidence indicates.)	

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<u>Prior violation history</u>	<u>Current violation</u>	<u>Current violation</u>
	<u>Nonserious</u>	<u>Serious</u>
<u>None</u>	<u>0</u>	<u>0</u>
<u>One or more De minimis</u>	<u>5</u>	<u>0</u>
<u>One Nonserious</u>	<u>10</u>	<u>5</u>
<u>One Nonserious, same or substantially similar to current violation</u>	<u>20</u>	<u>10</u>
<u>Two Nonserious</u>	<u>30</u>	<u>15</u>
<u>Two Nonserious, same or substantially similar to current violation</u>	<u>40</u>	<u>20</u>
<u>Three Nonserious</u>	<u>60</u>	<u>30</u>
<u>Three Nonserious, same or substantially similar to current violation</u>	<u>70</u>	<u>35</u>
<u>Additional Nonserious: same or substantially similar to current violation, points per each additional violation beyond three</u>	<u>10</u>	<u>5</u>
<u>One Serious</u>	<u>20</u>	<u>10</u>
<u>One Serious, same or substantially similar to current violation</u>	<u>40</u>	<u>20</u>
<u>Two Serious</u>	<u>60</u>	<u>30</u>
<u>Two Serious, same or substantially similar to current violation</u>	<u>80</u>	<u>40</u>
<u>Three Serious</u>	<u>120</u>	<u>60</u>
<u>Three Serious, same or substantially similar to current violation</u>	<u>140</u>	<u>70</u>
<u>Additional Serious: same or substantially similar to current violation, points per violation</u>	<u>20</u>	<u>10</u>

- 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. ~~Any 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

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- 6. Wrongfulness of conduct.
 - a. ~~Minimal, i.e., conduct~~ Conduct resulting in a violation that does not cause any immediate damage to public health, safety, or property. ~~4-5~~
 - b. ~~Substantial, i.e., conduct~~ Conduct resulting in a violation that the evidence establishes may have a substantial probability of or has had an immediate effect upon public health, safety, or property, ~~but such effect is less severe than that resulting from aggravated conduct.~~ ~~6-108~~
 - c. Conduct resulting in a violation that the evidence establishes had an immediate effect upon public health, safety, or property, but does not fall within subsection (6)(e). 9-10
 - ~~e.d. Aggravated, i.e., conduct~~ 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. ~~20-5035~~
 - e. Conduct resulting in serious physical injury, hospitalization, or sustained medical treatment for an individual or, degrading the pre-existing environmental quality of the air, water, or soil so as to cause a substantial probability of a threat to the public health, safety, or property. 36-50

B. The ~~hearing officer~~ ALJ or Associate Director, 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 ~~+\$1~~ \$50 to \$150; a penalty of ~~± one~~ to ± three months' probation, with a condition of violating probation being ~~± one~~ to ± three hours of continuing education.
 - b. 54 to 107 points. A fine of \$151 to \$300; a penalty of ~~4~~ four to ~~6~~ 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 ~~7~~ 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 ~~4~~ four to ~~6~~ 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 ~~7~~ seven to 12 months with a condition of violating probation being ~~± two~~ to ± four months' suspension for a nonserious violation and ~~4~~ 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~~ The first de minimis violation ~~shall~~ is not be considered a violation of probation.

ARTICLE 10. AGRICULTURAL SAFETY

R3-3-1002. Worker Protection Standards

- A.** ~~Except 40 CFR 170.130 and 170.230, worker~~ Worker protection regulations shall be ~~conducted~~ as prescribed in 40 CFR 170, ~~excluding 40 CFR 170.130 and 170.230, as amended June 26, 1996 July 1, 2002.~~ This material is incorporated by reference, on file with the Office of the Secretary of State Department, and does not include any later amendments or editions ~~of the incorporated matter.~~
- B.** When the provisions of 40 CFR 170 are inconsistent with this Article, the provisions of this Article shall apply.

R3-3-1003. Pesticide Safety Training

- A.** Any worker or handler who meets any of the following requirements is exempt from this Section:
 - 1. A handler who is currently certified as an applicator of restricted use pesticides, under R3-3-207 or R3-3-208;
 - 2. A worker who is currently certified as an applicator of restricted use pesticides, under R3-3-207 or R3-3-208, or who holds a current handler card;
 - 3. A worker or handler certified as a trainer in accordance with this Section;
 - 4. A worker or handler who is certified or licensed as a crop advisor by a program approved in writing by the Environmental Protection Agency or the Department.

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A. Training exemptions.

1. Handler. A handler who currently meets one of the following conditions is exempt from the requirements under subsection (D)(1) and (D)(3):
 - a. Certified as an applicator of restricted use pesticides under R3-3-208.
 - b. Certified as a trainer under this Section, or
 - c. Certified or licensed as a crop advisor by a program approved in writing by the EPA or the Department.
2. Worker. A worker who meets one of the following conditions is exempt from the requirements under subsections (C), (D)(1), and (D)(2):
 - a. Certified as an applicator of restricted use pesticides under R3-3-208.
 - b. Holds a current handler card under subsection (D)(4).
 - c. Certified as a trainer under this Section, or
 - d. Certified or licensed as a crop advisor by a program approved in writing by the EPA or the Department.

B. Training verification.

1. Handler. Before a handler performs a handling task, the handler employer shall verify, before the handler performs a handling task, that each the handler:
 - a. Meets a condition listed in subsection (A)(1); or
 - b. has received Received pesticide safety training during the last 3 three years, excluding the month in which the training was completed.
2. Worker. The agricultural employer shall verify that each a worker:
 - a. Meets a condition listed in subsection (A)(2); or
 - b. has received Received pesticide safety training during the last 5 five years before allowing a worker entry into the an area:
 - a-i. To which a pesticide has been was applied during the past last 30 days, or
 - b-ii. To For which a restricted-entry interval for the a pesticide has been was in effect within during the past last 30 days.
3. The agricultural employer and the handler employer, or designee, shall verify that a training exemption claimed in subsection (A)(1) or (A)(2) is valid by reviewing the appropriate certificate issued by the Department, the EPA, or an EPA-approved program.
- 2-4. The agricultural employer and the handler employer, or the designee, shall ensure that a worker or handler possesses a training verification card by visually examining the card visually inspect the handler's or worker's EPA-approved Worker Protection Standard training verification card to verify that the training requirements prescribed in subsections (B)(1) or (B)(2) are met. If the agricultural employer or the handler employer has no reasonable basis to believe that the believes that a worker or handler training verification card is invalid valid, that determination shall meet the requirement that the worker or handler has been trained the verification requirement of subsection (B)(1) or (B)(2) is satisfied.
- 3-5. An EPA-approved Worker Protection Standard training verification card is valid if issued:
 - a- The handler or worker training verification card has been issued in accordance with this Section; or
 - b. The worker training was completed within 5 years of the verification card issuance, or the handler training was completed within 3 years of the verification card issuance, excluding the month in which the training was completed.
 - a. As prescribed in this Section, or
 - b. By a program approved by the Department, and
 - c. Within the time-frames prescribed in subsection (B)(1) or (B)(2).
6. The agricultural employer shall provide a worker who does not possess the training required in subsection (B)(2) with the pesticide safety information prescribed in subsection (C) and the pesticide safety training prescribed in subsection (D)(1) and (D)(2). The agricultural employer shall provide pesticide safety training to a worker before:
 - a. The worker enters a treated area on an agricultural establishment during a restricted-entry interval to perform early-entry activities; or
 - b. The sixth day that the worker enters an area on the agricultural establishment if a pesticide has been applied within the past 30 days, or a restricted-entry interval for the pesticide has been in effect within the past 30 days.

C. Pesticide Safety Information safety information.

1. The agricultural employer shall provide the following pesticide safety information, in a manner that the employee can understand, to any a worker who does not possess a training verification card meet the training requirements of subsection (B) before that the worker enters an area on an agricultural establishment if, within the last 30 days a pesticide has been applied or a restricted-entry interval for the pesticide has been in effect. The agricultural employer shall provide safety information in a manner that the worker can understand. The safety information shall include the following:
 - a. Pesticides may be on or in plants, soil, irrigation water, or drifting from nearby applications;

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- b. Workers may prevent pesticides from entering their bodies by:
 - i. Following directions or signs, or both, about keeping out of a treated or restricted area;
 - ii. Washing before eating, drinking, chewing gum or using tobacco products, or using the toilet;
 - iii. Wearing work clothing that protects the body from pesticide residue;
 - iv. Washing or showering with soap and water, shampooing hair, and putting on clean clothing after work;
 - v. Washing work clothes separately from other clothes before wearing; and
 - vi. Washing immediately in the nearest clean water if pesticides are spilled or sprayed on the body, and as soon as possible, showering, shampooing, and changing into clean clothes.
- e. ~~Additional pesticide safety training shall be provided before the 6th day of entry into a pesticide treated area.~~
- 2. The agricultural employer shall ~~verify~~ document compliance by ~~using~~ obtaining the employee's signature or other verifiable means to acknowledge the employee's receipt of the information required in subsection (C)(1);

D. Pesticide Safety Training safety training.

- 1. ~~The agricultural employer shall provide pesticide safety training to a worker before:~~
 - a. ~~That worker enters a treated area on an agricultural establishment during a restricted entry interval to perform early entry activities;~~
 - b. ~~The 6th day that the worker enters an area on the agricultural establishment if a pesticide has been applied within the past 30 days, or a restricted entry interval for the pesticide has been in effect within the past 30 days.~~
- 2. The agricultural employer or handler employer shall ensure that pesticide safety training is provided before the sixth day of entry into a pesticide-treated area. The pesticide safety training program shall be in a language easily understood by ~~the workers or handlers~~ a worker or handler, using a translator if necessary. The program shall relate solely to pesticide safety training. Information shall be presented either orally from written material or in an audiovisual manner and shall contain nontechnical terms. The trainer shall respond to questions from attendees.
 - a. ~~General pesticide safety information, presented either orally from written materials, or audiovisually, shall contain nontechnical terms that the handlers and workers can understand. The trainer also shall respond to handlers' and workers' questions.~~
 - b. ~~Information shall relate solely to pesticide safety training.~~
- e.1. General Specific pesticide safety training information including: The following pesticide safety training shall be presented to either a handler or a worker:
 - i.a. Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and increased sensitivity;
 - ii.b. Routes by which pesticides can enter the body;
 - iii.c. Signs and symptoms of common types of pesticide poisoning;
 - iv.d. Emergency first aid for pesticide injuries or poisonings;
 - v.e. How to obtain emergency medical care;
 - vi.f. Routine and emergency body decontamination procedures, including emergency eyeflushing techniques;
 - vii.g. Warnings about taking pesticides or pesticide containers home; and
 - viii.h. How violations may be reported to report violations to the Department, including providing the Department's toll-free pesticide hotline telephone number.
- e.2. Worker training. In addition to the information in subsection ~~(D)(2)(e)~~ (D)(1), ~~the~~ a pesticide safety training program for ~~the~~ a worker shall include the following:
 - i.a. Where and in what form pesticides may be encountered during work activities;
 - ii.b. Hazards from chemigation and drift;
 - iii.c. Hazards from pesticide residue on clothing; and
 - iv.d. Requirements of this Article designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including:
 - i. ~~application~~ Application and entry restrictions,
 - ii. ~~posting~~ Posting of warning signs,
 - iii. ~~oral~~ Oral warning,
 - iv. ~~the~~ The availability of specific information about applications,
 - v. ~~protection~~ Protection against retaliatory acts, and
 - vi. ~~the~~ The design of the following warning sign:



e-3. Handler training. In addition to the information in subsection (D)(2)(e) (D)(1), ~~the~~ a pesticide safety training program for ~~the~~ a handler shall include the following:

- i-a. Format and ~~explanation meaning of~~ information contained on pesticide labels and in labeling, including safety information such as precautionary statements about human health hazards;
- ii-b. Need for and appropriate use of personal protective equipment;
- iii-c. Prevention, recognition, and first aid treatment of heat-related illness;
- iv-d. Safety requirements of handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup;
- v-e. Environmental ~~impact of concerns such as drift, runoff, and potential impacts~~ impact on wildlife; and
- vi-f. Requirements of this Article ~~that shall be followed by~~ applicable to handler employers for the protection of handlers and other ~~persons~~ individuals, including:
 - i. ~~the~~ The prohibition against applying pesticides in a manner that will cause contact with workers or other ~~persons~~ individuals;
 - ii. ~~the~~ The requirement to use personal protective equipment;
 - iii. ~~the~~ The provisions for training and decontamination, and
 - iv. ~~protection~~ Protection against retaliatory acts.

f-4. ~~Upon the successful completion of training, the~~ The trainer shall issue a an EPA-approved Worker Protection Standard training verification card, as prescribed by the Department, to each handler or worker who successfully completes training, and shall maintain a record in indelible ink containing the following information:

- i-a. ~~The name~~ Name and signature of the trained worker or handler;
- ii-b. ~~The training~~ Training verification card number;
- iii-c. ~~The issue~~ Issue and expiration date of the training verification card;
- iv-d. ~~The social~~ Social security number or ~~the~~ a unique trainer-assigned identification number of the worker or handler;
- v-e. ~~The name~~ Name and signature of the trainer; and
- vi-f. ~~The address~~ Address or location of where the training occurred, including city, county, and state.

~~E.~~ Training workers for early entry irrigation and limited contact activities, as prescribed in R3-3-1002, shall occur before the worker enters an area on an agricultural establishment during a restricted entry interval.

~~F.~~ Worker and handler training verification cards from federally approved worker safety training programs shall be accepted as proof of training.

~~G.~~ E. Trainer requirements.

1. ~~Any~~ A person applying to be certified as a for pesticide safety trainer certification shall:
 - a. Complete the Department pesticide safety training program established in subsection (D)(1) through (D)(3); or
 - b. Hold a current PCA license or restricted use certification, issued by the Department for a PCA or certified applicators applicator, as prescribed under R3-3-207 or R3-3-208.
2. An applicant shall submit a signed and dated affidavit to the Department verifying that ~~workers and handlers shall~~ each worker or handler will be trained according to the requirements of subsection (D)(2). The affidavit shall include the following applicant's:
 - a. ~~The name~~ Name, address, e-mail address, and telephone number and fax numbers, as applicable, and signature of the applicant; and
 - b. ~~The date of the application~~ Social security number.
3. Trainer certification ~~pursuant to subsection (G)(1)(a) is:~~
 - a. ~~nontransferable~~ Nontransferable; and

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- b. ~~is~~ Is valid for ~~3~~ three years from the date of ~~issuance~~ issued under subsection (E)(1)(a), excluding the month in which the trainer was certified, ~~except as otherwise provided in subsection (I). Trainer certification shall be renewed and is renewable upon completion of a the Department worker protection standard recertification course.~~ pesticide safety training program established in subsection (D)(1) through (D)(3); or
 - c. Is valid initially for one year from the date issued under subsection (E)(1)(b) if the PCA license or restricted use certification remain current, and is renewable for three years upon completion of the pesticide safety training program established in subsection (D)(1) through (D)(3).
 - 4. ~~Trainers~~ A trainer shall maintain the records ~~contained~~ required in subsection ~~(D)(2)(f)~~ (D)(4) for ~~5~~ five years for workers, and ~~3~~ three years for handlers, excluding the month ~~of in which~~ the verification card ~~issuance~~ was issued.
 - 5. ~~The~~ Upon request by the Department, the trainer shall make available ~~the~~ worker and handler records prescribed in subsection ~~(D)(2)(f)~~ (D)(4) for inspection and copying by the Department.
- ~~H.F.~~ The A trainer shall permit the Assistant Director or designee, ~~after showing identification and credentials, shall be permitted to inspect places~~ enter a place where worker safety training is being held and ~~presented to observe and question~~ trainers and attendees to determine compliance with the requirements of this Section.
- ~~I.G.~~ The following may be grounds for suspension, revocation, or denial of trainer certification: The Department may suspend, revoke, or deny trainer certification if any of the following occur:
- 1. ~~Failing to follow the worker and handler training requirements prescribed in subsections (D)(2)(a) through (e).~~ (D)(1) through (D)(3);
 - 2. ~~Failing to issue training verification cards to workers and handlers as prescribed in subsection (D)(2)(f).~~ (D)(4);
 - 3. ~~Failing to maintain the training information prescribed in subsection (G)(4).~~ (E)(4);
 - 4. ~~Acting as a trainer without certification as prescribed in subsection (G).~~
 - 5. ~~Failing to fulfill the requirements of the affidavit as prescribed in subsection (G)(2).~~ (E)(2); or
 - 6. ~~Having had a similar certification revoked, suspended, or denied in this jurisdiction or in any other jurisdiction within the last 3~~ three years.

R3-3-1012. Citation; Posting

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

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8. 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

9. The summary of the economic, small business, and consumer impact:

Identification of the rulemaking:

R20-5-629 The Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904

A brief summary of the information included in the economic, small business, and consumer impact statement:

The Division of Occupational Safety and Health (ADOSH) is amending R20-5-629 in order to conform with the Federal Occupational Safety and Health Administration's recent changes to 29 CFR 1904. ADOSH / OSHA is deleting two of the provisions of the Occupational Injury and Illness Recording and Reporting Requirements rule published January 19, 2001 (66 FR 5916-6135). These two provisions required employers to check the MSD column on the OSHA 300 Log when an employee experienced a work-related musculoskeletal disorder (MSD), and required employers to determine if the MSD was considered a privacy concern case. The rule will no longer require employers to make such decisions and does not require them to record the event in the column labeled MSD.

The rule will now require an employer to place a check mark in a column when an employee experiences a standard threshold shift (STS). An STS is defined in OSHA's § 1910.95 noise standard as a change in hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 decibels (db) or more at 2000, 3000, and 4000 hertz (Hz) in one or both ears. OSHA had previously delayed the effective date of this provision to allow more time for the public to comment. After the comment period ended, OSHA decided to keep the requirement the same and have employers begin checking the hearing loss column when an employee experienced an STS.

10. A description of the changes between the proposed rule, including supplemental notices, and final rule (if applicable):

The agency made minor, non-substantial syntactical and grammatical changes upon recommendation by the Governor's Regulatory Review Council staff.

11. A summary of the comments made regarding the rule and the agency's response to them:

The Division has not received comments regarding the rulemaking.

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

Not applicable

13. Incorporations by reference and their location in the rule:

Occupational Injury and Illness Recording and Reporting Requirements, as published in 29 CFR 1904, with amendments as of June 30, 2003, in R20-5-629.

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rule follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH CONSTRUCTION STANDARDS

Section

R20-5-629. The Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH CONSTRUCTION STANDARDS

R20-5-629. The Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904

All employers, both public and private, shall comply with the Occupational Injury and Illness Recording and Reporting Requirements, published in 29 CFR 1904, as amended June 30, 2003 July 1, 2002, incorporated by reference. ~~and on file with the Office of the Secretary of State.~~ This incorporation by reference contains no future editions or amendments. Copies of the ~~incorporated referenced~~ materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402.