

TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 29. STRUCTURAL PEST CONTROL COMMISSION

(Authority: A.R.S. § 32-2301 et seq.)

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Article 1, consisting of Sections R4-29-101 through R4-29-107 and Table 1, made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

Article 1, consisting of Sections R4-29-101 through R4-29-107, adopted effective December 24, 1992 (Supp. 92-4).

Article 1, consisting of Sections R4-29-01 through R4-29-06, repealed effective December 24, 1992 (Supp. 92-4).

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Article 2, consisting of Sections R4-29-201 through R4-29-216, made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

Article 2, consisting of Sections R4-29-201 through R4-29-213, adopted effective December 24, 1992 (Supp. 92-4).

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Article 4, consisting of Sections R4-29-401 through R4-29-418, adopted effective December 24, 1992 (Supp. 92-4).

Article 4, consisting of Sections R4-29-40 through R4-29-47, repealed effective December 24, 1992 (Supp. 92-4).

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Article 5, consisting of Sections R4-29-501 through R4-29-505, made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

Article 5, consisting of Sections R4-29-501 through R4-29-504, adopted effective December 24, 1992 (Supp. 92-4).

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

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

ARTICLE 6. BUSINESS LICENSEE DUTIES AND RESPONSIBILITIES

Article 6, consisting of Sections R4-29-601 through R4-29-609, made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

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

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

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

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

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

“Control” means to exterminate, eradicate, destroy, kill, repel, sterilize, mitigate, remove, or a combination of these activities.

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

“Disassociate” means to die, become ill or disabled, resign, retire, be terminated, or be called to active military duty.

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

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

“EPA” means the U.S. Environmental Protection Agency.

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

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

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

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

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

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

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

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

ARTICLE 7. INSPECTIONS; INVESTIGATIONS; COMPLAINTS; DISCIPLINARY PROCEDURES

Article 7, consisting of Sections R4-29-701 through R4-29-708, made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

Section

- R4-29-701. General Provisions
 R4-29-702. Inspections, Investigations, and Complaints
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ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS

R4-29-101. Definitions

The definitions in A.R.S. § 32-2301 et seq. apply to this Chapter. Additionally, in this Chapter:

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

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

“Applicant” means:

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

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

An individual, for a sole proprietorship;

An officer, for a corporation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Pesticide,” as defined in A.R.S. § 32-2301, includes an insecticide, fungicide, rodenticide, termiticide, fumigant, larvacide, adulticide, herbicide, avicide, or molluscicide.

“Pest management services” means the tasks that comprise the business of structural pest control or structural pest control as defined in A.R.S. § 32-2301.

“Post-construction treatment” means a treatment that complies with standards in the Commission’s statutes and this Chapter to control subterranean termites or other wood-destroying insects in an existing structure, and is performed after all soil disturbance associated with construction is complete and after an applicator has completed an inspection of the structure and a treatment proposal under A.R.S. § 32-2323(A) and (B).

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

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

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

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

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

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

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

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

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

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

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

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

“Specimen label” means a label other than the label attached to a pesticide container that contains the same information as the label attached to the pesticide container.

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

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

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

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

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

“TARF” means termite action report form.

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

“Termiticide” means a chemical registered by the EPA and the Arizona Department of Agriculture and used for control of termites.

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

“WDIIR” means wood-destroying insect inspection report, which is a written report on a form approved by the Commission that is prepared in connection with the sale or refinancing of real property regardless of whether the report is used as part of the sale or refinancing.

“Web site” means the Commission’s Internet site at www.sb.state.az.us or a subsequent uniform resource locator.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-102. License Categories and Scope of Work

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

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

303 and reporting the results of the inspection on a WDIIR.

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

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-103. Complaint Information

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

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-104. Providing Information to the Commission

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

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-105. Fees; Charges; Exemption

- A. Under the authority provided by A.R.S. § 32-2317, the Commission establishes and shall collect the following fees:
 1. For an applicator:
 - a. License application, \$30;
 - b. License broadening application, \$10;
 - c. License renewal application, active or inactive status, online, \$20;
 - d. License renewal application, active or inactive status, on paper, \$25; and
 - e. Duplicate license, \$20.
 2. For a qualifying party:
 - a. License application, \$150;
 - b. License broadening application, \$50;
 - c. License renewal during active status, online, \$120;
 - d. License renewal during active status, on paper, \$125;

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- e. License renewal during inactive status, online, \$20;
 - f. License renewal during inactive status, on paper, \$25;
 - g. Change from inactive to active status, \$125;
 - h. Temporary qualifying party license application, \$25;
 - i. Temporary qualifying party license renewal application, \$25; and
 - j. Duplicate license, \$20.
3. For a business:
- a. License application, \$75;
 - b. License renewal application, online, \$70;
 - c. License renewal application, on paper, \$75;
 - d. Branch office registration application, \$35;
 - e. Branch office registration renewal application, \$35; and
 - f. Duplicate license, \$20.
- B.** Under the authority provided by A.R.S. § 32-2304(A)(21), the Commission establishes and shall collect a penalty that is double the license renewal fee for any license that is not renewed timely. The penalty is in addition to the license renewal fee.
- C.** If the Commission administers the examination required under A.R.S. § 32-2312(C) or 32-2314(C), the Commission shall charge \$50 to cover the cost of providing this service. If the Commission enters into a contract with an examination service or testing vendor, an applicant shall pay to the examination service or testing vendor the examination cost established in the contract.
- D.** Under the authority provided by A.R.S. § 32-2304(C), the Commission establishes and shall collect a fee of \$8 for each TARF required to be submitted under this Chapter except there is no fee to submit timely a TARF pertaining to a final-grade treatment.
- E.** Under the authority provided by A.R.S. § 32-2304(C), the Commission establishes and shall collect a penalty of \$8 for a TARF that is filed within 180 days after it is due and a penalty of \$16 for a TARF that is filed more than 180 days after it is due. The penalty is in addition to the TARF filing fee under subsection (D). The penalty in this subsection applies to an untimely TARF pertaining to a final-grade treatment.
- F.** Any payment to the Commission may be made by cash, credit or debit card, money order, or cashier's, certified, business, or personal check. If payment is made by money order or check, the payer shall make the money order or check payable to the Structural Pest Control Commission. If payment is made by business or personal check, payment is not credited until the check clears the bank. The Commission does not prorate fees. Fees are not refundable unless A.R.S. § 41-1077 applies. The Commission may refuse all forms of payment other than cash, cashier's check, or money order from a person that issued an insufficient-funds payment to the Commission.
- G.** An employee of the Commission or the Arizona Department of Agriculture who applies for or holds a Commission-issued license is exempt from the fees in subsections (A) through (C).
- H.** The Commission shall reject an application or request for service that is submitted with the incorrect fee and not process the application or provide the service.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-106. Joint Responsibility

- A.** An applicator, qualifying party, or business licensee who supervises another person, whether the supervised person is

licensed or unlicensed, shall ensure that the supervised person is properly trained and equipped and receives the supervision necessary for the supervised person to provide pest management services competently and safely.

- B.** Under A.R.S. § 32-2308, an applicator, qualifying party, or business licensee who supervises another person, whether the supervised person is licensed or unlicensed, may be held jointly responsible for the acts or omissions of the supervised person.
- C.** It is an affirmative defense to joint responsibility as described in subsection (B) if an applicator, qualifying party, or business licensee, complied with subsection (A) and can demonstrate that compliance with contemporaneously maintained records.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-107. Licensing Time-frames

- A.** Overall time-frame. The Commission shall issue or deny a license within the overall time-frames listed in Table 1. The overall time-frame, which is the total number of days provided for both the administrative completeness and substantive review time-frames, begins when the Commission receives an application.
- B.** Administrative completeness review time-frame.
1. During the administrative completeness review time-frame, the Commission shall notify the applicant in writing whether the application is complete or incomplete. If the application is incomplete, the Commission shall specify in the notice what information is missing. If the Commission does not provide notice to the applicant within the administrative completeness review time-frame, the Commission shall deem the application complete.
 2. An applicant with an incomplete license application shall supply the missing information within the completion request period listed in Table 1. The administrative completeness review and overall time-frames are suspended from the postmark date of the notice of missing information until the date the Commission receives the information.
 3. If an applicant fails to submit the missing information before expiration of the completion request period, the Commission shall close the file. An applicant whose file is closed may apply for a license by submitting a new application and application fee.
- C.** Substantive review time-frame. The substantive review time-frame listed in Table 1 begins when an application is administratively complete or at the end of the administrative completeness review time-frame in Table 1, whichever occurs first. If the Commission determines during the substantive review that additional information is needed, the Commission shall send the applicant a comprehensive written request for additional information. Both the substantive review and overall time-frames are suspended from the date of the Commission's request until the date that the Commission receives the additional information. The applicant shall submit the additional information within the additional information period listed in Table 1. If the applicant fails to provide the additional information within the additional information period in Table 1, the Commission shall close the application. An applicant whose file is closed may apply for a license by submitting a new application and application fee.

- D. Within the overall time-frame listed in Table 1, the Commission shall:
 - 1. Deny a license or approval to an applicant if the Commission determines that the applicant does not meet all the substantive criteria required by the Commission's statutes and this Chapter; or
 - 2. Grant a license or approval to an applicant if the Commission determines that the applicant meets all the substantive criteria required by the Commission's statutes and this Chapter.
- E. If the Commission denies a license or approval under subsection (D)(1), the Commission shall provide a written notice of denial to the applicant that explains:
 - 1. The reason for the denial, with citations to supporting statutes or rules;
 - 2. The applicant's right to seek a fair hearing to challenge the denial; and

- 3. The time for appealing the denial.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-108. Repealed

Historical Note

Adopted effective December 2, 1998 (Supp. 98-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

Table 1. Time-frames (Calendar Days)

Type of License, Registration, Change or Approval	Applicable Statute or Rule	Administrative Completeness Review	Response to Completion Request	Substantive Review	Response to Additional Information	Overall Time-frame
Applicator New Renewal Broaden Activate	A.R.S. § 32-2312					
	R4-29-203	30	90	100	180	130
	R4-29-207	30	90	100	15	130
	R4-29-212	30	90	100	180	130
Qualifying Party New Renewal Temporary Renew Temporary Broaden Activate	A.R.S. § 32-2314					
	R4-29-204	30	90	100	180	130
	R4-29-207	30	90	100	15	130
	R4-29-208	10	10	10	15	20
Business New Renewal Branch Office Name Change	A.R.S. § 32-2313					
	R4-29-206	30	90	100	15	130
	R4-29-207	30	90	100	15	130
	R4-29-213	30	90	100	15	130
Continuing Education Approval	A.R.S. § 32-2319					
	R4-29-216	20	60	55	15	75

Historical Note

Table 1 adopted effective December 2, 1998 (Supp. 98-4). Table 1 repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Table 1 made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

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

R4-29-201. Activities that Require a License; General Provisions

- A. Unless exempt under A.R.S. § 32-2311, an individual who provides pest management services shall obtain an applicator license from the Commission. An applicator shall perform pest management services only on behalf of a business licensed by the Commission.
- B. To obtain a license as a qualifying party, an individual shall also be licensed as an applicator.
- C. A licensed business shall provide pest management services only if the licensed business employs at least one individual who holds a qualifying party license. A licensed business shall provide pest management services in a category only if the licensed business employs an individual who has an activated

qualifying party or temporary qualifying party license in the category.

- D. A licensed qualifying party or temporary qualifying party shall not qualify more than one licensed business. A licensed business may employ more than one licensed qualifying party.
- E. An applicator or qualifying party shall provide pest management services only in the category for which the applicator or qualifying party is licensed. To provide pest management services in a new category, an applicator or qualifying party shall complete the license-broadening process described in R4-29-212.
- F. Under A.R.S. § 32-2312(D), an applicant for licensure is required to be of good moral character. The Commission shall deny a license to an applicant determined not to be of good moral character. In determining whether an applicant is of good moral character, the Commission shall consider whether the applicant:

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1. Committed an act, which, if committed by a licensee, would be grounds for disciplinary action against the licensee;
 2. Has been convicted of a felony or a misdemeanor; or
 3. Cheated on a licensing examination.
- G.** The holder of a license issued by the Commission shall not assign or transfer the license.
- H.** An applicator license expires on May 31 except that a new applicator license that is issued in May is valid until May 31 of the following year.
- I.** A qualifying party or business license expires on December 31 except that a new qualifying party or business license issued in December is valid until December 31 of the following year.
- J.** If a licensee files a timely and complete renewal application, the existing license does not expire until the Commission issues a notice granting or denying renewal. If the Commission denies license renewal, the existing license does not expire until all administrative appeals are exhausted.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-202. License Exemptions; Unlicensed Persons

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

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Sec-

tion repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-203. Obtaining an Applicator License

- A.** An applicant for an applicator license shall submit the following information to the Commission on a form obtained from the Commission:
1. Full name;
 2. Applicator license number, if any;
 3. Physical address;
 4. Mailing address, if different from the physical address;
 5. Telephone number;
 6. Electronic mail address, if any;
 7. Date of birth;
 8. Social Security number;
 9. A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, submit:
 - a. A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;
 - b. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;
 - c. A complete set of fingerprints; and
 - d. The fee for fingerprint processing;
 10. A statement whether the applicant has ever had a license or permit to practice pest management denied, revoked, or suspended and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;
 11. Name of employer, if any;
 12. Employer's business license number, if applicable;
 13. Employer's telephone number, if applicable;
 14. License category for which application is made; and
 15. The applicant's dated signature affirming that the information provided is true and correct.
- B.** In addition to the form required under subsection (A), an applicant shall submit the fee specified in R4-29-105.
- C.** Under the authority at A.R.S. § 32-2304(B)(2), if the Commission determines it is in the best interest of the state, the Commission shall require an applicant to submit a complete set of fingerprints and the fee for fingerprint processing.
- D.** If the Commission determines that an applicant is eligible for licensure, the Commission shall notify the applicant that the applicant may schedule and take a licensing examination described under R4-29-205.
- E.** If the Commission determines there may be cause to deny a license to an applicant, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.
- F.** The Commission shall issue a license to an applicant who meets all of the qualifications in A.R.S. § 32-2312 and this Chapter and passes the licensing examinations. The license authorizes the applicator to provide pest management services until May 31 if the applicator is employed by a licensed business.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7,

2007 (Supp. 07-1).

R4-29-204. Obtaining a Qualifying Party License

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

this Chapter and passes the licensing examination. Before working as the qualifying party of a licensed business, the licensee shall activate the license.

- F. An active qualifying party license authorizes the licensee to qualify one licensed business until December 31. A qualifying party licensee may qualify the one licensed business in each category in which the qualifying party is licensed.
- G. If a qualifying party applicant whose application is closed under R4-29-107(B)(3) or (C) submits a new application under subsections (B) and (C) within one year after the prior application closed, the Commission shall not require the applicant to appear before the Commission as described in subsection (D) unless the applicant was convicted of a felony or misdemeanor during the time between applications.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-205. Licensing Examination for an Applicator or Qualifying Party Applicant

- A. Under A.R.S. §§ 32-2312(C) and 32-2314(C), taking and passing an examination is a condition for licensure as an applicator or qualifying party.
- B. An applicant who has received notice from the Commission that the applicant is approved to take the licensing examination shall make arrangements to take the examination by contacting the Commission or the examination service or testing vendor with which the Commission has contracted.
- C. To assist an applicant to prepare for the licensing examination, the Commission shall maintain a list of study materials on its web site and may provide an examination training class. An applicant may also take an examination training class from a private vendor.
- D. The licensing examination measures knowledge and understanding of both general and category-specific information. To be licensed, an applicant shall score at least 75 percent on the general standards ("core") examination and the category-specific examination for each category in which the applicant seeks licensure.
- E. Both the core and category-specific licensing examination for an applicator and qualifying party measure knowledge and understanding of the following content areas:
 1. Pesticide label and labeling and pesticide types and formulations;
 2. Pest identification, life cycles, and habits;
 3. Safety and environmental factors relating to the use, handling, and disposal of pesticides;
 4. Application techniques, calibration and dilution, and equipment types, uses, and maintenance; and
 5. Laws and rules.
- F. The Commission or the examination service or testing vendor shall provide immediate, written notice to an applicant regarding whether the applicant passed a licensing examination.
- G. An applicant shall not take the same examination more than once on the same day.
- H. The Commission shall immediately close the application of an applicant that the Commission determines cheated on an examination.
- I. If an application is closed under subsection (H), the score received on the examination is void.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective

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tive April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-206. Obtaining a Business License

- A.** An applicant for a business license to conduct pest management services shall submit the following information to the Commission on a form obtained from the Commission:
1. About the qualifying party who will qualify the business:
 - a. Full name;
 - b. Physical address;
 - c. Mailing address, if different from the physical address;
 - d. Electronic mail address, if any;
 - e. Date of birth;
 - f. Social Security number;
 - g. Telephone number;
 - h. Qualifying party license number and applicator license number, if any;
 - i. License category of qualification; and
 - j. The dated signature of the qualifying party;
 2. About the business license applicant:
 - a. Full name,
 - b. Mailing address;
 - c. Electronic mail address, if any;
 - d. Telephone number;
 - e. Date of birth; and
 - f. Social Security number;
 3. About the business:
 - a. Business name;
 - b. Form of business organization and names of the following persons authorized to act on behalf of the business:
 - i. Owner if a sole proprietorship;
 - ii. Managing or general partner if a partnership;
 - iii. President, secretary, and statutory agent if a corporation;
 - iv. Manager or at least two members if a limited liability company;
 - v. Designated agent of an appointed or elected person or body if the state or a political subdivision; or
 - vi. Person authorized to make decisions for the business if any other type of business form;
 - c. Telephone number;
 - d. Fax number;
 - e. Physical address;
 - f. Mailing address, if different from physical address; and
 - g. Chemical storage address; and
 4. The business applicant's dated signature affirming that the information provided is true and correct.
- B.** In addition to the form required under subsection (A), an applicant shall submit:
1. The fee specified in R4-29-105;
 2. A completed Business License Application Supplement that includes the following information about the pest management business:
 - a. A description of how the qualifying party will manage the business;
 - b. A description of how the qualifying party will supervise the pest management services provided by the business;
 - c. A description of plans to provide training for all licensed applicators employed by the business;
 - d. A description of how the business will comply with the financial responsibility requirements in A.R.S. § 32-2313;
 - e. The names of all individuals who own at least 10 percent of the business;
 - f. The name of the statutory agent of the business; and
 - g. If a corporation, the names of all corporate officers;
 3. The following information on a completed Commission insurance certificate if the applicant will fulfill the financial responsibility requirements by purchasing liability insurance or a surety bond:
 - a. Name, address, and telephone number of the insured;
 - b. Existing business licenses held by the applicant;
 - c. Name, address, and telephone number of the insurer;
 - d. Name, address, and telephone number of the insurance producer or broker;
 - e. Number of the insurance policy or surety bond, effective and expiration dates, limits, and deductible, if any;
 - f. The categories of work covered by the insurance or bond; and
 - g. The dated signature and title of an agent of the insurer or producer or broker certifying that:
 - i. The company is authorized by the Arizona Department of Insurance to do business in Arizona;
 - ii. The insurance or bond has been issued to the insured for the period indicated;
 - iii. The insurance or bond complies with the Commission's statutes regarding coverage endorsements;
 - iv. The company will notify the Commission in writing within 30 days if the insurance or bond is cancelled, revoked, or falls below the legal limit or if the deductible exceeds \$10,000; and
 - v. The company will furnish information regarding the insurance or bond to the Commission upon request; and
 4. A copy of the Articles of Incorporation, trade name certificate, partnership agreement, or other evidence of the form of business organization.
- C.** The Commission shall deny use of a business license name that the Commission determines is similar to an existing business name and may cause a reasonable person to confuse the two businesses.
- D.** If the Commission determines there may be cause to deny a license to an applicant, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.
- E.** The Commission shall issue a business license to an applicant that the Commission determines is qualified under A.R.S. § 32-2313 and this Chapter. The business license, which is valid until December 31, authorizes the licensee to operate a structural pest control business in each category in which the licensee employs a qualifying party licensed in the category.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

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

- A.** The Commission shall mail a renewal form to a licensee at the licensee's address of record, provide access to a downloadable renewal form, or provide access to online renewal. Timely license renewal is the responsibility of the licensee. Failure to receive notice of renewal does not justify failure to renew.
- B.** If a licensee's renewal application is not administratively complete before the license expiration date, the Commission shall require the licensee to pay the penalty prescribed at R4-29-105(B).
- C.** Renewal applications are due as follows:
1. For an applicator license, May 1;
 2. For a qualifying party license, December 1; and
 3. For a business license, December 1.
- D.** To renew an applicator or qualifying party license, the licensee shall:
1. Submit the following information to the Commission on a completed renewal form:
 - a. A change in mailing address, if any;
 - b. Electronic mail address, if any;
 - c. Telephone number;
 - d. For a qualifying party, a statement whether the licensee wants to renew or inactivate each category in which the licensee is licensed. An applicator license cannot be inactivated by category but only in whole;
 - e. Name of employer;
 - f. Name of business for which the qualifying party provides qualification;
 - g. A statement whether the licensee has ever been convicted of a felony or a misdemeanor and if the answer is yes, a statement whether all felony convictions have been reviewed and voted on by the Commission and if the answer is no:
 - i. A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;
 - ii. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;
 - iii. A complete set of fingerprints; and
 - iv. The fee for fingerprint processing;
 - h. A statement whether the licensee has had a license or permit to practice pest management denied, revoked, or suspended during the last 12 months and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances; and
 - i. The licensee's dated signature affirming that the licensee complied with the continuing education requirement under R4-29-215. If the licensee is renewing a license in inactive status, no continuing education is required; and
 2. Submit the fee required under R4-29-105.
- E.** To renew a business license, the licensee shall:
1. Submit the following information to the Commission on a completed renewal form:
 - a. A change in mailing address, if any;
 - b. Electronic mail address, if any;
 - c. Telephone number;
 - d. A statement whether the licensee wants to renew an active or inactive license;
 - e. Name of the qualifying party in each category in which the business provides structural pest control services;
 - f. A statement that the licensee maintains the insurance or surety bond required by A.R.S. § 32-2313; and
 - g. The dated signature of the authorized representative of the business; and
 2. Submit the fee required under R4-29-105.

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

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-208. Obtaining a Temporary Qualifying Party License

- A.** A licensed applicator who is employed by a business licensee may apply for a renewable, temporary qualifying party license if the qualifying party, who is not a temporary qualifying party, of the business has disassociated from the business within the last 45 days.
- B.** A temporary qualifying party applicant shall submit the following information to the Commission on a form obtained from the Commission:
1. About the business licensee:
 - a. Business name;
 - b. Business license number;
 - c. Physical address;
 - d. Mailing address, if different from the physical address;
 - e. Telephone number; and
 - f. Fax number;
 2. About the licensed applicator:
 - a. Full name;
 - b. Applicator license number;
 - c. Physical address;
 - d. Mailing address, if different from the physical address;
 - e. Telephone number;
 - f. Electronic mail address, if any;
 - g. Fax number;
 - h. A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, a statement whether all felony convictions have been reviewed and voted on by the Commission and if the answer is no:
 - i. A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;
 - ii. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;
 - iii. A complete set of fingerprints; and
 - iv. The fee for fingerprint processing;
 - i. A statement whether the applicant has ever had a license or permit to practice pest management

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denied, revoked, or suspended and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;

- j. License category for which application is made; and
- k. The applicant's dated signature affirming that the information provided is true and correct.

C. In addition to the form required under subsection (B), an applicant shall submit:

1. The fee specified in R4-29-105;
2. A written notice of disassociation from the qualifying party who previously qualified the business;
3. A written request from the business licensee that an applicator licensed in the category in which the disassociating qualifying party qualified the business be granted a temporary qualifying party license. The Commission shall not issue a temporary qualifying party license to an applicator to qualify a business in a category different from the category in which the disassociating qualifying party qualified the business;
4. A written statement from the business licensee that the business has not operated since the disassociation in the category for which the disassociated qualifying party qualified the business; and
5. A written description of how the temporary qualifying party will:
 - a. Manage the pest management services provided by the business,
 - b. Supervise the pest management services provided by the business, and
 - c. Train and supervise all licensed and unlicensed applicators employed by the business.

D. The Commission shall issue a temporary qualifying party license to an applicant who is qualified under A.R.S. § 32-2314 and this Chapter. The temporary qualifying party license authorizes the licensee to qualify a licensed business for 60 days in each category in which the temporary qualifying party is licensed.

E. If a temporary qualifying party license expires, the business licensee qualified by the temporary qualifying party licensee shall not perform pest management services in the category for which the temporary qualifying party qualified the business.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-209. Renewing a Temporary Qualifying Party License

The Commission shall renew a temporary qualifying party license for an additional 60 days if the business licensee submits the fee required under R4-29-105 and:

1. The business licensee submits to the Commission a written request for renewal explaining why renewal is needed and the business licensee's contingency plan if the Commission denies renewal; and
2. As required by A.R.S. § 32-2314(F), the business licensee establishes good cause for delay in hiring a qualifying party licensee. The business licensee can establish good cause by showing:
 - a. The temporary qualifying party licensee or another licensed applicator of the business licensee has applied for a qualifying party license and has the practical experience required for licensure but:
 - i. The Commission has yet to receive the results of the background investigation;

ii. The qualifying party applicant has taken but not passed the core and category-specific licensing examination; or

iii. The qualifying party applicant completed all requirements to obtain a license, but the Commission was unable to schedule consideration of the qualifying party applicant before the temporary qualifying party license expired;

- b. The business licensee conducted a diligent but unsuccessful search for a qualifying party; or
- c. Fewer than six months have elapsed since the qualifying party who qualified the business disassociated from the business.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-210. Inactivating or Activating an Applicator License

A. To place a valid, active applicator license on inactive status, the licensee shall submit the following information to the Commission on a form obtained from the Commission:

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

B. An inactive license expires on May 31 unless renewed. To renew an inactive license, the licensee shall comply with the renewal provisions at R4-29-207(C) and (D). There is no continuing education requirement to renew an inactive applicator license.

C. To activate an inactive applicator license, the licensee shall submit to the Commission:

1. The following information on a form obtained from the Commission:
 - a. Name;
 - b. Applicator license number;
 - c. Categories in which the licensee is licensed;
 - d. Physical address;
 - e. Mailing address, if different from the physical address;
 - f. Electronic mail address, if any;
 - g. Date of birth;
 - h. Social Security number;
 - i. Telephone number;
 - j. A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, a statement whether all convictions have been reviewed by the Commission and if the answer is no, submit:
 - i. A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;

- ii. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;
 - iii. A complete set of fingerprints; and
 - iv. The fee for fingerprint processing;
 - k. A statement whether the applicant has ever had a license or permit to practice structural pest control denied, revoked, or suspended and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;
 - l. Name of employer;
 - m. Employer's business license number;
 - n. Employer's telephone number; and
 - o. Dated signature of the licensee affirming that the information provided is true and correct;
2. The fee required under R4-29-105; and
 3. Evidence described at R4-29-215(C) of completing six units of continuing education.

- D.** If the Commission determines there may be cause to deny activating an applicator license, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

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

- A.** To place a valid, active qualifying party license on inactive status, the licensee shall submit the following information to the Commission on a form obtained from the Commission:
1. Name;
 2. Qualifying party license number;
 3. Physical address;
 4. Mailing address, if different from the physical address;
 5. Electronic mail address;
 6. Date of birth;
 7. Social Security number;
 8. Telephone number;
 9. The license categories to be inactivated;
 10. Employer's name and telephone number; and
 11. Dated signature of the licensee affirming that:
 - a. The information provided is true and correct; and
 - b. The licensee shall not act to qualify a business in an inactive category without activating the license in that category.
- B.** An inactive qualifying party license expires on December 31 unless renewed. To renew an inactive license, the licensee shall comply with the renewal provisions at R4-29-207(C) and (D). There is no continuing education requirement to renew an inactive qualifying party license.
- C.** To activate an inactive qualifying party license and qualify a new business, the qualifying party licensee and the new business applicant shall:
1. Comply with R4-29-206,
 2. Submit both the fee required to activate a qualifying party license and apply for a business license, and
 3. Submit evidence described at R4-29-215(C) of the qualifying party completing six units of continuing education.
- D.** To activate an inactive qualifying party license and qualify an existing business, the qualifying party licensee and the business licensee shall:

1. Comply with R4-29-206,
 2. Submit the fee required to activate a qualifying party license, and
 3. Submit evidence described at R4-29-215(C) of the qualifying party completing six units of continuing education.
- E.** If the Commission determines there may be cause to deny activating a qualifying party license, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-212. Broadening an Applicator or Qualifying Party License

- A.** To broaden an applicator license, the licensed applicator shall:
1. Submit to the Commission the license application form described in R4-29-203 and indicate on the form the category in which broadening is sought,
 2. Submit the fee required under R4-29-105(A)(1)(b), and
 3. Take and pass the licensing examination described in R4-29-205 for the specific category in which broadening is sought.
- B.** A qualifying party is eligible to broaden the qualifying party license only if the qualifying party holds an applicator license in the category in which broadening is sought.
- C.** To broaden a qualifying party license, the licensed qualifying party shall:
1. Submit to the Commission the license application form described in R4-29-204 and indicate on the form the category in which broadening is sought,
 2. Submit the fee required under R4-29-105(A)(2)(b),
 3. Submit the evidence required under R4-29-204(C)(2) for the category in which broadening is sought,
 4. Appear at a Commission meeting for an evaluation of the qualifying party's practical experience for the category in which broadening is sought, and
 5. Take and pass the licensing examination described in R4-29-205 for the specific category in which broadening is sought.
- D.** If a qualifying party whose application for license broadening is closed under R4-29-107(B)(3) or (C) submits a new application under subsection (C) within one year after the prior application closed, the Commission shall not require the applicant to appear before the Commission as described in subsection (C)(4) unless the applicant was convicted of a felony or misdemeanor during the time between applications.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-213. Branch Office Registration

- A.** A business licensee that wishes to do business from a branch office shall register the branch office with the Commission before doing any business from the branch office.
- B.** To register a branch office, the business licensee shall complete a form, that is available on the Commission's web site, and provide the following information:
1. About the business:

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- a. Name;
 - b. License number;
 - c. Telephone and fax numbers;
 - d. Physical address;
 - e. Mailing address, if different from physical address; and
 - f. Electronic mail address, if any;
 - g. Chemical storage address;
2. About the branch office:
 - a. Name of manager;
 - b. Manager's applicator license number;
 - c. Telephone and fax numbers;
 - d. Physical address;
 - e. Mailing address, if different from physical address;
 - f. Electronic mail address, if any;
 - g. Chemical storage address; and
 - h. The pest management categories in which the branch office will do business;
 3. About the qualifying party:
 - a. Name;
 - b. Date of birth;
 - c. Mailing address;
 - d. Telephone number;
 - e. Electronic mail address, if any; and
 - f. Qualifying-party license number; and
 4. The dated signature of an authorized representative of the licensed business.
- C.** In addition to the form required under subsection (B), the business licensee shall submit the fee required under R4-29-105.
- D.** A branch office shall be owned by the business licensee. A branch office shall do business in the name of the licensed business.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-214. Change in a Business Licensee

- A.** If a sole proprietor business licensee dies or becomes disabled, the spouse of the sole proprietor business licensee may apply to the Commission to have the business license transferred to the spouse. The Commission shall transfer the business license to the spouse of the dead or disabled sole proprietor business licensee if the spouse agrees to fulfill all the responsibilities of a business licensee and to honor all customer warranties provided by the business.
- B.** Except as provided in subsection (A), a business licensee shall stop providing pest management services and apply for a new business license immediately after the owner of a sole proprietorship changes.
- C.** If a business licensee changes the name or form of the business, the licensee shall provide the following information on a Business Name or Entity Change Application submitted to the Commission within 30 days of the change:
 1. Business ownership status;
 2. Name of business entity;
 3. Physical address of business entity;
 4. Mailing address of business entity, if different from the physical address;
 5. Current business name;
 6. Business license number;
 7. Telephone number;
 8. Fax number;
 9. Physical address of business;

10. Mailing address of business, if different from the physical address;
11. Electronic mail address, if any;
12. Chemical storage address of business;
13. New name requested, if any;
14. Reason for name change, if applicable;
15. Copy of the Registered Trade Name Certificate showing the new name or amended Articles of Organization or Incorporation; and
16. Dated signature of the authorized representative of the business licensee affirming that the information provided is true and correct.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-215. Continuing Education Requirement for an Applicator or Qualifying Party

- A.** An applicator or qualifying party shall obtain six units of continuing education within the 13 months before a license renewal application is submitted under R4-29-207.
- B.** Continuing education units used to renew an applicator license may be used to renew the applicator's qualifying party license if the continuing education units were obtained within 13 months before the qualifying party license renewal application is submitted. Continuing education units used to renew a qualifying party license may be used to renew the qualifying party's applicator license if the continuing education units were obtained within 13 months before the applicator license renewal application is submitted.
- C.** To document attendance at a continuing education, an applicator or qualifying party shall obtain a verification of attendance from the continuing education provider that includes:
 1. The applicator's or qualifying party's name;
 2. The applicator's or qualifying party's license number;
 3. The name of the continuing education;
 4. The name of the continuing education provider;
 5. The date of the continuing education; and
 6. The number of continuing education units obtained.
- D.** An applicator and qualifying party shall maintain a verification of attendance for one year and make the verification of attendance at a continuing education available for review by the Commission upon request.
- E.** An applicator or qualifying party may earn one unit of continuing education each year for attending a regularly scheduled meeting of the Commission in its entirety. To ensure receipt of a verification of attendance, an applicator or qualifying party shall contact the Commission staff before attending a Commission meeting and sign the meeting sign-in sheet.
- F.** An applicator or qualifying party who teaches a continuing education may earn one unit of continuing education for each hour taught, not more than once during a calendar year.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-216. Requirements for Approval of Continuing Education

- A.** Only continuing education approved by the Commission may be used to satisfy the continuing education requirement in R4-29-215. The Commission shall approve a continuing education only if it addresses:
 1. Pesticide labels and labeling;
 2. Safety, environmental factors, and consequences;
 3. Pesticide use and disposal;

4. Laws and rules related to pest management and the business of pest management;
 5. Application techniques;
 6. Calibration and dilution;
 7. Equipment;
 8. Pest identification;
 9. Life cycles and habits;
 10. Calculation and measurements;
 11. New pest management technologies; or
 12. Licensee responsibilities.
- B.** An applicator, qualifying party, or continuing education provider may apply to the Commission for approval of continuing education.
- C.** A person applying for approval of continuing education shall submit the following to the Commission:
1. A continuing education approval application form, obtained from the Commission, that provides the following information:
 - a. Type of continuing education;
 - b. Name of continuing education provider;
 - c. Address and telephone number of continuing education provider;
 - d. Topic of continuing education;
 - e. Pest management category of continuing education;
 - f. Date, time, and location of the continuing education, if known at the time of the application. If this information is not known at the time of application, the person applying for approval of the continuing education shall submit this information when it is known;
 - g. Number of continuing education units;
 - h. Previous continuing education number, if any;
 - i. Level and type of instruction;
 - j. Description of learning activities;
 - k. Frequency at which the continuing education will be offered;
 - l. Method of proof of attendance in addition to online reporting; and
 - m. Dated signature of applicant;
 2. An instructor application or resumé that includes information about the instructor's education and experience relevant to pest management;
 3. An outline of the subject matter to be covered in the continuing education that demonstrates the continuing education will address at least one of the topics identified in subsection (A);
 4. A copy of any material that will be used or provided to those who attend;
 5. A copy of an examination, if any, used to measure learning; and
 6. A copy of promotional materials, if any.
- D.** The provider of an approved continuing education shall:
1. Provide a verification of attendance that meets the requirements of R4-29-215(C) to each individual who completes the continuing education;
 2. Enter attendance information using the Commission's online continuing education reporting tool within 10 days after the date of the continuing education; and
 3. Maintain a copy of the verification of attendance or original sign-in sheet that lists the attendees' names and license numbers for two years.
- E.** Unless otherwise indicated in the notice of approval, the Commission's approval of a continuing education is valid for two years.
- F.** Approval of continuing education is not renewable. To reapply for approval of a continuing education, a person shall comply with the requirements of subsection (C).
- G.** The provider of an approved continuing education shall provide notice and updated information to the Commission within 10 days after the subject matter or instructor of the approved continuing education changes.
- H.** To evaluate the effectiveness of a continuing education, the Commission may monitor an approved continuing education. Upon request by the Commission, a continuing education provider shall provide the Commission with the date and time that approved continuing education will be provided.
- I.** The Commission shall revoke its approval of continuing education if the Commission determines that the continuing education fails to meet the standards for approval listed in this Section, the continuing education provider provided false information on its application or false information pertaining to attendance, or the continuing education provider fails to comply with the Commission's statutes and this Chapter.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

ARTICLE 3. APPLICATOR DUTIES AND RESPONSIBILITIES

R4-29-301. Compliance with Commission Monitoring

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

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-302. Providing Notice to Customers

- A.** An applicator shall provide a written notice to a customer for whom the applicator provides a pest management service that:
1. Identifies the pesticide used;

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2. Provides all information required by the label or labeling;
 3. Provides all information required by local ordinance; and
 4. Includes the following statement printed in at least an eight-point font: "Warning—Pesticides can be harmful. Keep children and pets away from pesticide applications until dry, dissipated, or aerated. For more information, contact [business licensee's name and business license number issued by the Commission] at [business licensee's telephone number]."
- B.** An applicator who provides a pest management service at a school shall comply with the notification requirements in A.R.S. § 32-2307.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-303. Performing a Wood-destroying Insect Inspection

- A.** Only an applicator licensed in both categories B-2 and B-8 and who has received the training required under A.R.S. § 32-2324(A) may perform a wood-destroying insect inspection.
- B.** An applicator performing a wood-destroying insect inspection shall inspect all areas of a structure that are visible or accessible at the time of the inspection.
- C.** An applicator performing a wood-destroying insect inspection may exclude from inspection an area that is permanently covered by a floor covering, wall covering, or built-in appurtenance such as a bookcase, cabinet, appliance, equipment, or furniture or that would require removing or marring finish work or moving furniture, appliances, or equipment. The applicator shall note on the WDIIR all areas that are not inspected and the reason the areas are not inspected.
- D.** An applicator performing a wood-destroying insect inspection shall inspect all areas where there is evidence of current or previous infestation and where a condition conducive to infestation exists. A condition conducive to infestation includes:
1. Faulty grade level. If a structure contains a slab or floor that is on or near grade, the existing earth level is considered grade level;
 2. Inaccessible sub-area such as an area with less than 18 inches of clear space between the bottom of a floor joist and grade level;
 3. Excessive cellulose debris. Cellulose debris is excessive when:
 - a. The debris can be raked into a pile of at least one cubic foot,
 - b. A stump or wood imbedded in a footing of the structure is in contact with earth, or
 - c. Firewood or a lumber pile is within six inches of the structure;
 4. Earth-to-wood contact, which involves wood that is part of a structure or that is attached to or securely abuts the structure and is in contact with the ground;
 5. Excessive moisture or evidence of a moisture condition in or around a structure; or
 6. Insufficient ventilation. Ventilation is insufficient when there are fewer than two areas to permit cross ventilation and prevent excessive moisture.
- E.** To verify whether a corrective treatment was performed or a condition conducive to infestation was corrected, an applicator may conduct a supplemental inspection within 30 days after an original inspection. An inspection conducted more than 30 days after an original inspection is not a supplemental inspection.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-304. Using Pesticides and Devices

- A.** An applicator shall use only a pesticide that is currently registered for use by both the EPA and the Arizona Department of Agriculture.
- B.** An applicator shall not misuse a pesticide or device. It is misuse of a pesticide or device if an applicator:
1. Applies, handles, stores, or disposes of a pesticide or device in a manner that is inconsistent with the label or labeling;
 2. Provides a pest management service or handles a pesticide without wearing clothing and using the personal protective equipment required by the label or labeling to protect the applicator from pesticide exposure;
 3. Uses a pesticide in a manner that causes the pesticide to come into contact with a person, other than the applicator, animal, or property, other than the property receiving the pest management service, unless the contact results from an accident beyond the reasonable control of the applicator;
 4. Uses a pesticide in a food-handling establishment that the label or labeling recommends not be used in a food-handling establishment; and
 5. Uses a pesticide in a manner that contaminates food, feed, or drugs or equipment used to prepare or serve food, feed, or drugs.
- C.** While mixing a pesticide with water, an applicator shall protect the water supply from back-siphoning of the pesticide mixture. An applicator shall not add water to a tank in which a pesticide is mixed or from which a pesticide is dispensed by protruding a fill-pipe or hose connection into the tank. An applicator shall ensure that a fill-pipe or hose connection terminates at least two inches above the tank fill opening or is equipped with an effective anti-siphoning device.
- D.** An applicator shall ensure that all equipment, including auxiliary equipment such as a hose or metering device, used for mixing or applying a pesticide is in good repair and operating properly.
- E.** An applicator shall apply, store, or dispose of a pesticide designated by the EPA as restricted use only if the applicator is licensed, or working under the immediate supervision of a licensee licensed, in the category for which the restricted-use pesticide is applicable.
- F.** Unless consistent with the label and labeling, an applicator shall not apply a granulated pesticide that bears the statement "Keep out of the reach of children" in a manner that leaves exposed granules on a patio, step, porch, sidewalk, driveway, or floor.
- G.** An applicator shall clean a pesticide spill in accordance with the pesticide label and labeling and in a manner that minimizes exposure to humans and other non-target organisms. If a pesticide spill may endanger humans, an applicator shall clean the pesticide spill in accordance with recommendations by health and medical personnel and local authorities.
- H.** An applicator shall apply a pesticide at a rate provided by a Special Local Need registration issued by the Arizona Department of Agriculture and the pesticide labeling only if the applicator has both the Special Local Need registration and labeling in the applicator's possession at the time of application.

- I. If information regarding provision of a particular pest management service is not available on the pesticide label or labeling or addressed in the Commission's statutes or this Chapter, an applicator shall comply with the pesticide manufacturer's recommendation and the general industry practice prevailing in the community at the time the pest management service is provided.
- J. If there is a conflict between any provision in this Section and labeling instructions or a local ordinance, an applicator shall follow the more specific instruction.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-305. Performing Wood-destroying Insect Control

- A. An applicator shall not perform wood-destroying insect control or fumigation unless the applicator is licensed in Category B2 or B4, respectively, or working under the immediate supervision of an applicator or qualifying party who is licensed in Category B2 or B4, respectively.
- B. An applicator shall not perform wood-destroying insect control until the business licensee that employs the applicator ensures that:
1. A wood-destroying insect inspection is performed under R4-29-303 by a licensed applicator qualified under A.R.S. § 32-2323(E),
 2. A treatment proposal is prepared on a form approved by the Commission and contains the information required under A.R.S. § 32-2323(B) and (C), and
 3. The treatment proposal is delivered to the person requesting the proposal.
- C. An applicator shall apply a termiticide only in the quantity, strength, and dosage, and in the manner prescribed on the termiticide label unless otherwise specified by this Chapter or a Commission order.
- D. Pretreatment for commercial or residential construction.
1. Unless a contract between the business licensee and customer specifies additional requirements, an applicator shall:
 - a. Establish a horizontal barrier of termiticide before any concrete slab under roof is poured or in conjunction with establishing the footings and supports for a raised foundation; and
 - b. Establish a vertical barrier of termiticide in all critical areas visible during the time of pretreatment. An area is critical at the time of pretreatment if the area is identified as critical by the termiticide label or if there is soil in the immediate vicinity of:
 - i. A penetration or protrusion through the slab;
 - ii. An observable preset for crack or joint control;
 - iii. A formed-up change of grade level;
 - iv. Abutting slabs;
 - v. A bath trap or tear-out;
 - vi. The interior of a foundation or stem wall; or
 - vii. A pier, pillar, pipe, or other object that extends from the soil to the structure.
 2. Except as specified in subsection (D)(3) and unless the termiticide label requires more, an applicator shall treat all critical areas during a pretreatment, including the final-grade portion of a pretreatment, at a rate of four gallons of chemical preparation per 10 linear feet for each foot of depth from grade level to the footer. If there is no adjacent footer, the applicator shall treat to a depth of one foot.
 3. Unless the termiticide label requires more, an applicator is not required to treat a critical area during a pretreatment beyond a depth of four feet if:
 - a. Treating beyond a depth of four feet will, or reasonably may, cause an off-site application;
 - b. Access to the footer is not possible because of its distance below grade; or
 - c. Treating beyond a depth of four feet will, or reasonably may cause an environmental contamination.
 4. If an applicator does not treat a critical area during a pretreatment beyond a depth of four feet because the applicator determines that one of the exceptions in subsection (D)(3) is applicable, the applicator shall:
 - a. Apply the amount of termiticide possible without causing an off-site application or environmental contamination, and
 - b. Include evidence of the exception in the treatment record. Evidence of the exception may include:
 - i. A photograph of the interior grade and adjacent location that would or reasonably might be contaminated by treating beyond a depth of four feet,
 - ii. A photograph of the site after the pretreatment but before concrete placement,
 - iii. A written statement from the general contractor concerning the fill material and compaction rating,
 - iv. A written statement from the concrete subcontractor describing the depth of the footer as greater than four feet, or
 - v. A written compaction rating statement from the engineering subcontractor.
 5. If an applicator is advised before concrete is poured that a treated area is disturbed and the continuous horizontal or vertical chemical barrier established under subsection (D)(1) is broken, and if the applicator is provided an opportunity to re-treat the disturbed area, the applicator shall re-treat the disturbed area and re-establish a continuous horizontal and vertical chemical barrier.
 6. Immediately after completing a pretreatment, an applicator shall securely affix a tag to the pretreatment site. The applicator shall ensure that the tag is visible, readily available for inspection, and unlikely to be covered with concrete or soil. If there is a contractor's permit or inspection board at the pretreatment site, the applicator may affix the tag to the board. The applicator shall ensure that the tag contains the following information about the pretreatment:
 - a. Name of business licensee;
 - b. Address of business licensee;
 - c. Telephone number of business licensee;
 - d. License number of business licensee;
 - e. Location or address of project;
 - f. Date of pretreatment application;
 - g. Time that application was started (not time that applicator arrived at the site);
 - h. Time that application ended (not time that applicator left the site);
 - i. Trade name of pesticide used;
 - j. Percentage of active ingredient in the pesticide used;
 - k. Number of gallons of chemical preparation applied;
 - l. Square footage of area treated;
 - m. Linear footage of area treated;
 - n. Type of slab construction;

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- o. Name of applicator; and
 - p. License number of applicator or, if not licensed, the name and license number of the applicator or qualifying party providing immediate supervision.
7. If it is necessary for an applicator to abandon a pretreatment site before completing the treatment, the applicator shall complete and affix the tag described in subsection (D)(6), representing the work completed, and after marking the tag "TREATMENT INCOMPLETE."
 8. If a contractor requires a copy of the tag described in subsection (D)(6) for the customer's file, an applicator shall prepare and provide the contractor with a duplicate tag that is clearly marked "DUPLICATE."
 9. An applicator shall leave a record of the final-grade treatment in an unlocked electrical or circuit-breaker box, if available. Otherwise, the applicator shall conspicuously post or leave the record with the property agent. The applicator shall ensure that the record of the final-grade treatment contains the information listed in subsection (D)(6) except the information required under subsections (D)(6)(l) and (D)(6)(n) is not required.
- E. New-construction treatment for commercial or residential construction.**
1. Unless specifically precluded by the termiticide label, an applicator shall treat all critical areas visible at the time of a new-construction treatment. An area is critical at the time of a new-construction treatment if the area is identified as critical by the termiticide label or if there is soil in the immediate vicinity of:
 - a. A penetration or protrusion through the slab;
 - b. An observable crack or joint;
 - c. Abutting slabs;
 - d. A bath trap or tear-out;
 - e. The interior of a foundation or stem wall; or
 - f. A pier, pillar, pipe, or other object that extends from the soil to the structure.
 2. An applicator shall comply with subsections (D)(2) through (D)(4) when treating a critical area during a new-construction treatment except that the treatment shall be at the labeled rate rather than at a rate of four gallons of chemical preparation per 10 linear feet for each foot of depth.
 3. If an applicator is advised that a treated area is disturbed, the applicator shall re-treat the disturbed area.
 4. Immediately after completing a new-construction treatment, an applicator shall securely affix a tag to the new-construction site in the manner described in subsection (D)(6). The applicator shall ensure that the tag contains the information listed in subsection (D)(6).
 5. An applicator shall comply with subsections (D)(7) through (D)(9) when performing a new-construction treatment.
- F. Post-construction treatment for commercial or residential construction.**
1. If an applicator uses a drilling and injecting application method for a post-construction treatment, the applicator shall space the treatment holes in each treated area no more than 24 inches apart or in accordance with the termiticide label, whichever is more restrictive. If an applicator determines that a structural feature makes it necessary to space treatment holes more than 24 inches apart, the applicator may space the treatment holes more than 24 inches apart if the greater distance is within the limits on the termiticide label.
 2. If the critical areas of a structure received neither a pretreatment nor a new-construction treatment, an applicator shall treat all critical areas visible at the time of post-construction treatment before issuing a builder's warranty regarding subterranean termite treatment. An area is critical at the time of a post-construction treatment if it is an area listed in subsection (D)(1)(b), a change of grade, or a crack greater than 1/16th of an inch.
3. After completing a post-construction treatment using a drilling and injection application method, an applicator shall securely patch all treatment holes, including those in an unfinished basement, enclosed porch, garage, or workshop, with a material that is nonporous and non-cellulose.
- G. An applicator who performs a pretreatment or new-construction treatment shall ensure that a copy of the information recorded on a tag required under subsection (D) or (E) is provided to the business licensee for inclusion in the business licensee's service records.**

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-306. Storing and Disposing of Pesticides and Devices

- A.** An applicator shall store and dispose of a pesticide or device in a manner consistent with its label and labeling.
- B.** An applicator shall store a pesticide in a closed container that is free from corrosion, leakage, or pesticide contamination and properly labeled.
- C.** An applicator shall ensure that a service container bears a durable and legible label with the following information:
 1. The name, address, and telephone number of the business licensee;
 2. The common chemical or trade name of the principal active ingredients;
 3. The EPA registration number;
 4. The strength of the concentrate or dilution expressed as a percentage of active ingredients;
 5. Any signal word required on the label; and
 6. The phrase "KEEP OUT OF REACH OF CHILDREN."
- D.** An applicator shall not place words or markings on a service container or on the label affixed to the service container that are unrelated to the pesticide in the service container, except for markings related to a method of tracking the product.
- E.** If the label affixed to a pesticide container becomes lost or damaged, an applicator shall attach an approved specimen label to the pesticide container.
- F.** An applicator shall replace a damaged container, other than a fumigant container, with an identically labeled container or a properly labeled service container.
- G.** Application equipment from which a pesticide is directly discharged and in which the pesticide is not stored is not subject to the labeling requirements of this Section.
- H.** An applicator shall not store a pesticide in the same room or common air space where food, beverage, feed, drugs, cosmetics, eating utensils, or tobacco products are stored.
- I.** An applicator shall not store a pesticide in a container that was used for food, beverage, feed, drugs, or cosmetics, or which by size, shape, or marking could be confused as being a food, beverage, feed, drug, or cosmetic.
- J.** An applicator shall not store a fumigant within a residential structure.
- K.** An applicator shall ensure that a pesticide in an original or service container, an empty pesticide container that has not been prepared for disposal in accordance with its label, or a returnable or reusable pesticide container is kept in a locked storage

space when on an unattended service vehicle or is within view and under the supervision of the applicator responsible for the service vehicle.

- L. An applicator shall ensure that a pesticide in portable application equipment is kept locked when on an unattended service vehicle or is within view and under the supervision of the applicator responsible for the service vehicle.
- M. To prevent damage during transit, an applicator shall ensure that a pesticide container is in a locked storage space while the pesticide container is transported on a service vehicle.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-307. Applicator Recordkeeping

- A. An applicator shall timely make all records required by law and provide the records to the business licensee that employs the applicator. Under A.R.S. § 32-2321(B)(2), making a false or fraudulent record or report is grounds for disciplinary action.
- B. Service records. An applicator shall make a record of each pest management service provided. The applicator shall include the following information in the service record:
 1. Name and address of the customer;
 2. Specific site at which a pesticide was applied;
 3. Date of service;
 4. Target pest or purpose of service;
 5. Trade name or common name of pesticide applied;
 6. EPA registration number of any restricted-use pesticide applied;
 7. Percent active ingredient in the pesticide as applied;
 8. Amount of pesticide applied; and
 9. Name and license number of the applicator or if the applicator is unlicensed, name of the unlicensed applicator and the name and license number of the applicator providing supervision.
- C. Pesticide purchase records. An applicator shall make a record of each restricted-use pesticide purchased or otherwise acquired. The applicator shall include the following information in the pesticide purchase record:
 1. Date of purchase or acquisition;
 2. Trade name or common name of pesticide;
 3. EPA registration number of pesticide;
 4. Quantity of pesticide purchased or acquired; and
 5. Name and license number of the applicator making the pesticide purchase record or name of the business licensee.
- D. Pesticide disposal records. An applicator shall make a record of each restricted-use pesticide disposed, sold, lost, or otherwise relinquished. The applicator shall include the following information in the pesticide disposal record:
 1. Date of disposal;
 2. Trade name or common name of pesticide;
 3. EPA registration number of pesticide;
 4. Quantity of pesticide disposed;
 5. Name of the active ingredient in the pesticide disposed,
 6. Percent active ingredient in the pesticide disposed,
 7. Method of disposal,
 8. Location and type of disposal site or service; and
 9. Name and license number of the applicator making the pesticide disposal record or name of the business licensee.
- E. WDIIR. An applicator who completes a wood-destroying insect inspection shall:
 1. Complete a WDIIR, using a form approved by the Commission. A trademark or logo may be placed on the WDIIR if it does not alter the format or substance of the Commission-approved form;
 2. Submit an original WDIIR to the business licensee within seven days after completing the wood-destroying insect inspection;
 3. Submit a supplemental WDIIR to the business licensee within seven days after completing a supplemental wood-destroying insect inspection to verify that a corrective treatment was performed or a condition conducive was corrected. The applicator shall include the original inspection number on the supplemental WDIIR;
 4. If required by another state or federal agency, complete another WDIIR in addition to but not instead of the Commission-approved WDIIR; and
 5. Ensure that the following information is included on the WDIIR:
 - a. Name, address, telephone number, and license number of business licensee. This information may be pre-printed on the WDIIR;
 - b. Date of wood-destroying insect inspection, and the WDIIR number;
 - c. Purpose of the inspection report;
 - d. Whether the report is from an original or supplemental inspection;
 - e. Name of property owner or seller;
 - f. Address of inspected property;
 - g. Inspected and un-inspected structures at the site;
 - h. Areas of the structure not inspected because they were obstructed or inaccessible and the cause of the obstruction or inaccessibility;
 - i. Whether visible evidence of wood-destroying insects is observed;
 - j. Whether visible evidence of infestation from wood-destroying insects is observed and if so, the date on which a proper control measure is performed, if applicable;
 - k. Whether visible damage from wood-destroying insects is observed and if so, the insect causing the damage and the areas in which the damage is observed;
 - l. Whether visible evidence of previous treatment is observed and if so, the nature of the evidence;
 - m. If damage from wood-destroying insects is observed, whether or when the damage will be corrected and whether the damage will be corrected by the business licensee or another company;
 - n. Visible conditions conducive to infestation by wood-destroying insects;
 - o. Diagram or graph of the structure clearly indicating wood-destroying insects, damage, conducive conditions observed, and areas where further inspection is recommended, and a statement or indication on the diagram or graph clearly identifying inaccessible areas; and
 - p. Dated signature and license number of the individual making the inspection. The individual making the inspection shall sign the WDIIR by hand or electronically and shall not use a signature stamp or allow another individual to affix the signature.
- F. Wood-destroying insect treatment proposal. An applicator who is qualified under A.R.S. § 32-2323(B) and (E) shall complete a wood-destroying insect treatment proposal using a form

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approved by the Commission and provide a copy of the proposal to the person requesting the proposal and the business licensee.

- G.** Upon written request by the Commission, an applicator shall make the records required under this Section available for review by the Commission. The applicator from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The applicator shall make the records available at the Commission office by hand delivery, electronic mail, mail, or fax. The applicator shall be available to interpret the submitted records if requested by the Commission.
- H.** If an applicator cannot timely comply with a request made under subsection (G), the applicator shall immediately provide written notice to the Commission, indicate the reason for non-compliance, and request greater specificity regarding the information to be made available or additional time in which to comply.
- I.** The Commission shall:
1. Modify the request made under subsection (G) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or
 2. Provide additional time to respond to the request made under subsection (G) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.
- J.** Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-308. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-309. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-310. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-311. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-312. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-313. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-314. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-315. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-316. Expired**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

R4-29-317. Expired**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

R4-29-318. Expired**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

R4-29-319. Expired**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

R4-29-320. Expired**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

ARTICLE 4. REPEALED**R4-29-401. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-402. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-403. Expired**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483,

effective January 31, 2001 (Supp. 01-1).

R4-29-404. Expired**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

R4-29-405. Reserved**R4-29-406. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

R4-29-407. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-408. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-409. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-410. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-411. Expired**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

R4-29-412. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-413. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-414. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-415. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-416. Expired**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

R4-29-417. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

R4-29-418. Repealed**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

ARTICLE 5. QUALIFYING PARTY DUTIES AND RESPONSIBILITIES**R4-29-501. Compliance with Applicator Duties and Responsibilities**

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

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-502. Supervising an Applicator

- A. A qualifying party shall ensure that every applicator, whether licensed or unlicensed, is trained and equipped to comply with all of the duties and responsibilities required under the Commission's statutes, this Chapter, and label and labeling directions.
- B. A qualifying party shall provide the supervision necessary for an applicator, whether licensed or unlicensed, to comply with all of the duties and responsibilities required under the Commission's statutes, this Chapter, and label and labeling directions.
- C. A qualifying party shall ensure that the use, application, storage, or disposal of a pesticide is performed or supervised by an individual licensed in the category applicable to the pesticide being used, applied, stored, or disposed.
- D. A qualifying party shall ensure that immediate supervision, which requires supervision by a licensed applicator who is physically present, is provided when an unlicensed applicator applies a pesticide for wood-destroying insect control, provides a fumigation service, or applies a restricted-use pesticide. A qualifying party shall ensure that a licensed applicator provides immediate supervision to only one unlicensed applicator at a time.
- E. In circumstances other than those described in subsection (D), a qualifying party shall ensure that direct supervision, which does not require a supervising licensed applicator to be physically present, is provided. A qualifying party shall ensure that a licensed applicator providing direct supervision considers the potential danger to the public or environment if the unli-

censed applicator misuses a pesticide. A qualifying party shall ensure that a licensed applicator providing direct supervision instructs the unlicensed applicator in the following areas and has written evidence that the instruction was provided and understood:

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

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-503. Qualifying a Business License

A qualifying party shall qualify only one business license at a time. A qualifying party may qualify the one business license in each category of pest management in which the qualifying party has an active license.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-504. Qualifying Party Management

- A. A qualifying party shall ensure that an applicator employed by the business licensee, whether licensed or unlicensed, receives the supervision and training that the applicator requires to comply fully with the Commission's statutes and this Chapter and label and labeling directions.
- B. A qualifying party who supervises the use, application, storage, or disposal of a pesticide shall hold an applicator license in the category applicable to the pesticide being used, applied, stored, or disposed.
- C. A qualifying party shall not allow an unlicensed applicator to apply a pesticide for more than 90 days of employment. A qualifying party shall not allow a licensed applicator to apply a pesticide in a category for which the applicator is not licensed for more than 30 days.
- D. A qualifying party shall ensure that an applicator employed by the business licensee has the protective clothing, safety supplies, and equipment specified by the label or labeling of each product used by the applicator and by the Commission's statutes and this Chapter. The qualifying party shall ensure that the applicator is instructed regarding how to use, maintain, clean, and store the protective clothing, safety supplies, and equipment.
- E. A qualifying party shall be readily available to an applicator employed by the business licensee while the applicator provides pest management services.
- F. To be active in the management of the licensed business that the qualifying party is qualifying, a qualifying party shall be physically present at the primary business office at least once every 30 days and ensure that all of the following are done:
 1. Determine pesticide use by reviewing records of pesticide acquisitions, storage, disposal, and current inventory;
 2. Review the pesticide inventory, including pesticides stored on a service vehicle, to determine compliance with labels, labeling, and the Commission's statutes and rules;
 3. Review the training, supervision, and equipping of applicators employed by the business licensee to determine

whether the training, supervision, and equipping is sufficient to enable the applicators to comply with labels, labeling, and the Commission's statutes and rules;

4. Review personnel records to determine whether an applicator employed by the business licensee is licensed in all applicable categories within the time-frames specified by A.R.S. § 32-2312;
 5. Review office records and recordkeeping procedures to determine compliance with required recordkeeping and reporting; and
 6. Ensure that any deficiency noted when the responsibilities listed in subsections (F)(1) through (F)(5) are performed is corrected.
- G. A qualifying party shall develop a written plan that specifies how the duties and responsibilities of the qualifying party are to be fulfilled if the qualifying party is absent or unavailable for any reason. The qualifying party shall ensure that the plan is implemented when the qualifying party is absent or unavailable.
 - H. A qualifying party shall not delegate the responsibility to be physically present at least every 30 days at the primary business office of the licensed business the qualifying party is qualifying unless the qualifying party submits written documentation to the Commission from a licensed medical or mental health care professional that indicates the licensed medical or mental health care professional is treating the qualifying party and is of the opinion that the qualifying party is unable to fulfill the responsibility to be physically present at least every 30 days.
 - I. Notice to Commission of an incident. A qualifying party shall determine whether the business licensee qualified by the qualifying party complied with R4-29-605(C). If the qualifying party determines that the business licensee has yet to comply with R4-29-605(C), the qualifying party shall provide written notice to the Commission within one business day after one of the following incidents is confirmed by medical personnel or an applicable regulatory agency to be caused by a pesticide applied by the business licensee:
 1. Death or illness of an individual or animal;
 2. Contamination of food, feed, drugs, or water supply;
 3. Contamination of a structure that results in the hospitalization of an occupant or evacuation of the structure; or
 4. Contamination of the environment that results in evacuation of the area.

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-505. Qualifying Party Recordkeeping

- A. In addition to ensuring that the records required under R4-29-307 are made, a qualifying party shall ensure that records are made and maintained of the training, supervision, and equipping provided to an applicator. Under A.R.S. § 32-2321(B)(2), making a false or fraudulent record or report is grounds for disciplinary action.
- B. Upon written request by the Commission, a qualifying party shall make the records required under this Section available for review by the Commission. The qualifying party from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The qualifying party shall make the records available at the Commission office by hand delivery, electronic mail, mail, or fax. The qualifying party shall be

available to interpret the submitted records if requested by the Commission.

- C. If a qualifying party cannot timely comply with a request made under subsection (B), the qualifying party shall immediately provide written notice to the Commission, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.
- D. The Commission shall:
 1. Modify the request made under subsection (B) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or
 2. Provide additional time to respond to the request made under subsection (B) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.
- E. Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

Appendix A. Repealed

Historical Note

Adopted effective December 24, 1992 (Supp. 92-4).
Appendix A repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

ARTICLE 6. BUSINESS LICENSEE DUTIES AND RESPONSIBILITIES

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

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

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-602. Reserved

R4-29-603. Supervision of Qualifying Party

A business licensee shall ensure that a qualifying party of the business licensee receives the supervision and training that the qualifying party requires to comply fully with the Commission's statutes and rules and label and labeling directions.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-604. Qualifying Party Required

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

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-605. Business Management

- A. Financial responsibility.
 1. A business licensee shall maintain the financial responsibility required by A.R.S. § 32-2313 and this Chapter;
 2. A business licensee shall ensure that the required financial responsibility covers all pest management activities provided from the primary business office and each branch office; and
 3. If there is an interruption in the financial responsibility of a business licensee, the business licensee shall immediately stop providing pest management services.
- B. Use of business name and license number.
 1. A business licensee shall prominently display the license issued by the Commission at the primary business office and each branch office.
 2. A business licensee shall prominently display the business name and license number, as recorded on the license issued by the Commission, on:
 - a. Customer proposals or contracts for pest management services;
 - b. Service records;
 - c. Inspection reports;
 - d. Written materials provided to customers or potential customers;
 - e. Correspondence;
 - f. Advertisements; and
 - g. Service vehicles and trailers used in providing pest management services. The business licensee shall ensure that the business name and license number display on a service vehicle or trailer used in providing pest management services conforms to the following:
 - i. Is affixed to the service vehicle or trailer used in providing pest management services within 30 days after the Commission issues the license or issues a business license change under R4-29-214 or after the service vehicle or trailer is acquired, whichever is sooner;
 - ii. Is in a color that contrasts with the color of the service vehicle and trailer;
 - iii. Is on both sides of the service vehicle and trailer;
 - iv. Uses at least two-inch letters for the principal words in the business name and at least one and one-half inch letters for other words in the business name; and
 - v. Uses at least two-inch numbers for the license number.
 3. A business licensee that always uses a service vehicle and trailer together is required to mark only the service vehicle or trailer as described in subsection (B)(2)(g). A business licensee that uses a vehicle only for sales, solicitations, or solely for inspections and does not carry a pesticide, and does not otherwise use the vehicle to provide a pest management service, is not required to mark the vehicle as described in subsection (B)(2)(g).
 4. When complying with subsection (B)(2), a business licensee may use a slogan, trade name, or trade mark in addition to the business name and license number. When complying with subsection (B)(2), a business licensee may use a word or phrase to indicate its former licensed business name if it had a previously licensed business name.
- C. Notice to Commission of an incident. A business licensee shall determine whether a qualifying party that qualifies the business licensee complied with R4-29-504(I). If the business lic-

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ensee determines that the qualifying party has yet to comply with R4-29-504(I), the business licensee shall provide written notice to the Commission within one business day after one of the following incidents is confirmed by medical personnel or an applicable regulatory agency to be caused by a pesticide applied by the business licensee:

1. Death or illness of an individual or animal;
 2. Contamination of food, feed, drugs, or water supply;
 3. Contamination of a structure that results in the hospitalization of an occupant or evacuation of the structure; or
 4. Contamination of the environment that results in evacuation of the area.
- D.** A business licensee shall not allow an unlicensed applicator to apply a pesticide for more than 90 days of employment. A business licensee shall not allow a licensed applicator to apply a pesticide in a category for which the applicator is not licensed for more than 30 days.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-606. Storing Pesticides and Devices

- A.** A business licensee shall provide a pesticide and device storage area that complies with all federal, state, and local laws. The storage area may include an area on a service vehicle.
- B.** A business licensee shall secure the storage area required under subsection (A) from unauthorized entry by equipping its entrance or access with a lock.
- C.** Immediately after storing a pesticide, a business licensee shall conspicuously post a sign at the entrance or access to a non-vehicle storage area and on a vehicle storage area indicating there is a pesticide, chemical, or poison stored inside.
- D.** A business licensee shall provide sufficient ventilation to the outside of the storage area required under subsection (A) to prevent build-up of odors and preclude chemical injury to an individual or animal.
- E.** A business licensee shall provide the following in or immediately adjacent to the storage area required under subsection (A), including a storage area on a service vehicle:
1. Electric or battery-powered lighting that is sufficient to read a pesticide label;
 2. Fully charged and operational fire extinguisher or fire suppression system appropriate to each pesticide stored in the area;
 3. First-aid kit that includes the supplies listed in R4-29-607(6);
 4. Emergency medical information including the telephone number of the state or local poison control center;
 5. Material capable of absorbing a spill or leak of at least one gallon;
 6. Specimen label and MSDS for each pesticide stored in the area; and
 7. Washing facilities that include fresh water, soap, and towels.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-607. Equipping a Service Vehicle

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

1. All equipment and supplies required by the label and labeling to apply properly the pesticides on the service vehicle;
2. A measuring and pouring device compatible with the pesticides on the service vehicle;

3. Protective clothing and safety equipment suitable for use when handling, mixing, or applying the pesticides on the service vehicle;
4. Material capable of absorbing a spill or leak of at least one gallon;
5. A storage container large enough to hold material contaminated by absorbing a spill or leak of pesticides;
6. A first-aid kit that contains the following:
 - a. Antiseptic cleansing wipes, soap and water, or skin sanitizer;
 - b. Clean, uncontaminated, non-latex gloves;
 - c. Adhesive bandages, gauze, and tape;
 - d. Disposable towels;
 - e. First aid guide; and
 - f. Emergency telephone numbers including the telephone number of the state or local poison control center;
7. At least one gallon of clean, drinkable water for each individual using the service vehicle at one time;
8. Uncontaminated change of clothing;
9. Specimen label and MSDS for each pesticide on the service vehicle; and
10. A locking storage space designed to prevent a pesticide container from being damaged while in transit.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-608. Providing Termite Treatment

- A.** If a business licensee or an employee of a business licensee is advised before concrete is poured that a pretreatment area is disturbed and the continuous chemical barrier is broken and if an opportunity is provided to re-treat the disturbed area or is advised that a new-construction treatment area is disturbed, the business licensee shall ensure that the disturbed area is retreated.
- B.** A business licensee that performs a pretreatment or new-construction treatment shall establish vertical barriers at the exterior of foundation walls in stem-wall construction or the exterior of grade beam in monolithic construction after all grading and other construction-related soil disturbance is complete. This final-grade treatment, which may be completed after construction, is part of either the pretreatment or new-construction treatment.
- C.** A business licensee that provides a termite-treatment warranty shall ensure that the effective date of the warranty is the date on which treatment begins.
- D.** If subterranean termites occur in or on a residential or commercial structure within five years after a business licensee first performs a pretreatment or new-construction treatment of the structure, the business licensee shall re-treat the structure free of charge in accordance with the label specifications of a termiticide available for use. If subterranean termites occur in or on an addition that does not abut the slab of a residential or commercial structure within five years after a business licensee first performs a pretreatment or new-construction treatment of the non-abutting addition, the business licensee shall re-treat the non-abutting addition free of charge in accordance with the label specifications of a termiticide available for use. For the purpose of this subsection, the business licensee is the business licensee who performed the pretreatment or new-construction treatment or a successor that acquired the business assets pertaining to category B2 or B8.
- E.** If subterranean termites occur a third time on the exterior of a one or two unit residential structure within five years after a business licensee first performs a pretreatment or new-con-

struction treatment, the business licensee shall re-treat the entire exterior perimeter of the structure free of charge.

1. As used in this subsection, exterior means a portion of a residential structure where termite activity originates and that is not livable and not a garage;
 2. For the purpose of this subsection and subsection (F):
 - a. A first occurrence means the first time evidence of subterranean termites exists after a pretreatment or new-construction treatment;
 - b. A second occurrence means evidence of subterranean termites exists at least 25 feet away from the site of the first occurrence and at least 45 days after the date of re-treatment for the first occurrence; and
 - c. A third occurrence means evidence of subterranean termites exists at least 25 feet away from the sites of both the first and second occurrences and at least 45 days after the date of re-treatment for the second occurrence.
- F.** If subterranean termites occur a third time on the interior of a one or two unit residential structure within five years after a business licensee first performs a pretreatment or new-construction treatment, the business licensee shall perform a post-construction treatment of the entire structure free of charge. As used in this subsection, interior means a portion of a residential structure where termite activity originates and that is livable or a garage.
- G.** A business licensee that performs a re-treatment under subsection (D) or (E) or a post-construction treatment under subsection (F) shall not charge the consumer for any expense incurred in providing the re-treatment or post-construction treatment to which the consumer is entitled under this Chapter.
- H.** If a business licensee goes to a structure to perform a re-treatment under subsection (D) or (E) or a post-construction treatment under subsection (F) and determines there is no evidence of subterranean termites, the business licensee may charge the consumer a reasonable amount for the expenses incurred in making the trip.
- I.** If a business licensee determines that a re-treatment or post-construction treatment is necessary because the continuous chemical barrier is disturbed, the business licensee may charge the reasonable cost of reestablishing the barrier.
- J.** If a customer refuses a re-treatment or post-construction treatment as described in this Section, access to the customer's property, or to allow drilling in an area where drilling is necessary, the business licensee shall obtain the customer's printed name and dated signature on a document evidencing that the business licensee:
1. Informed the customer of the right to a re-treatment or post-construction treatment at no charge,
 2. Provided the customer with a copy of this Section and the termiticide label requirements,
 3. Provided the customer with the Commission's telephone number, and
 4. Explained to the customer the benefits of having and the detriments of not having a re-treatment or post-construction treatment.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-609. Business Licensee Recordkeeping

- A.** In addition to ensuring that the records required under R4-29-307 and R4-29-505 are made and maintained, a business licensee shall make and maintain records of the following:

1. The specimen label and MSDS for each registered pesticide currently used by an applicator employed by the business licensee;
 2. The financial responsibility required under R4-29-605(A);
 3. Purchase records of each pesticide purchased or otherwise acquired that include the following information:
 - a. Date of purchase or acquisition;
 - b. Trade name or common name of pesticide;
 - c. Quantity of pesticide purchased or acquired; and
 - d. Name of the business licensee;
 4. Date on which a service vehicle or trailer is acquired;
 5. Incident reports submitted to the Commission as required under R4-29-504(I) or R4-29-605(C);
 6. A pest management service provided to a customer, including a service provided under a warranty;
 7. The evidence of customer refusal of a re-treatment or post-construction treatment required under R4-29-608(J);
 8. Written inspection reports;
 9. Customer contracts for pest management services; and
 10. Personnel records including for each employee of the business licensee:
 - a. Date of hire;
 - b. Date on which pest management services are first performed;
 - c. Copy of license issued by the Commission;
 - d. Training and continuing education received;
 - e. Supervision received;
 - f. Protective clothing, safety supplies, and equipment issued to employee;
 - g. Name of supervisor; and
 - h. Employment ending date.
- B.** A business licensee shall maintain the records as follows:
1. Records under subsection (A)(1), as long as the registered pesticide is used by the business licensee. The business licensee shall maintain the records required under subsection (A)(1) at the primary business office or branch office from which the registered pesticide is used or at which the registered pesticide is stored;
 2. Records under subsection (A)(2), current;
 3. Records under subsection (A)(3) or R4-29-307(C) and (D), three years from the date of purchase or disposal if the pesticide is not used in wood-destroying insect control and five years if the pesticide is used in wood-destroying insect control;
 4. Records under subsection (A)(4), as long as the service vehicle or trailer is owned by the business licensee;
 5. Records under subsection (A)(5), until the statute of limitation for possible legal action resulting from the incident is expired or until resulting legal action is completed;
 6. Records under subsection (A)(6), three years except five years for a pest management service involving wood-destroying insect control or wood-destroying insect or fungi inspection;
 7. Records under subsection (A)(7), five years;
 8. Records under subsections (A)(8) and (A)(9), three years from the date on the inspection report or customer contract;
 9. Records under subsection (A)(10), three years after the employment ending date;
 10. WDIIRs completed under subsection (C), five years. The business licensee shall consecutively number the WDIIRs and:
 - a. Maintain them in consecutive order; or
 - b. Maintain them in a different order and maintain a list of the WDIIRs in consecutive order that includes the

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- date of the inspection and the heading under which each WDIIR is filed; and
11. Records under subsections (A)(5) and (A)(6) that pertain to the use of a restricted-use pesticide shall be maintained separate from other records.
- C.** When an applicator employed by a business licensee submits a WDIIR, the business licensee shall record the following on the WDIIR:
1. TARF number,
 2. If the business licensee has the property under warranty:
 - a. Account number,
 - b. Target pest,
 - c. Date of initial treatment,
 - d. Date of warranty expiration, and
 3. The TARF number of each TARF completed regarding the property after the WDIIR is completed.
- D.** TARF. A business licensee shall:
1. Submit to the Commission a TARF, using a form approved by the Commission, within 30 days of completing a termite action specified under subsection (D)(3). For the purpose of reporting, a pretreatment or new-construction treatment is complete when no further preventative treatment is necessary until the final-grade treatment unless it is necessary to re-treat a disturbed continuous chemical barrier. In a multiple-unit project, a pretreatment or new-construction is complete when no further preventative treatment is necessary for the last unit at the project until the final-grade treatment unless it is necessary to re-treat a disturbed continuous chemical barrier;
 2. Include the fee specified under R4-29-105(D) with each TARF and, if applicable, the penalty required under R4-29-105(E);
 3. Unless exempt under subsection (D)(4), submit a TARF after completing each of the following:
 - a. Pretreatment, including pretreatment of an addition that does not abut the slab of a previously pretreated structure;
 - b. New-construction treatment, including new-construction treatment of an addition that does not abut the slab of a previously new-construction treated structure;
 - c. Final-grade treatment;
 - d. First corrective termite treatment at a site; and
 - e. Wood-destroying insect inspection.
 4. Not submit a TARF after completing the following:
 - a. First corrective termite treatment at a site if the business licensee:
 - i. Performed a pretreatment or new-construction treatment at the site,
 - ii. Filed a TARF regarding the pretreatment or new-construction treatment, and
 - iii. Performs the first corrective treatment under R4-29-608(D) or under a warranty; or
 - b. Pretreatment or new-construction treatment of an addition that abuts the slab of an originally treated structure if the business licensee:
 - i. Performed the pretreatment or new-construction treatment of the main structure,
 - ii. Filed a TARF regarding the pretreatment or new-construction treatment,
 - iii. Has the structure under warranty, and
 - iv. Treats the abutting addition under the terms of the site warranty.
 5. Include the information required under A.R.S. § 32-2304(A)(13) and the following on a TARF:
 - a. License number of the licensed business that performed the work;
 - b. License number of the qualifying party that qualifies the licensed business in category B2 or B8, as applicable;
 - c. For a wood-destroying insect inspection, indicate whether:
 - i. There was evidence of infestation, conditions conducive to infestation, or damage present;
 - ii. Treatment was performed for an infestation; and
 - iii. Corrective actions were taken for conditions conducive or damage present;
 - d. For a pretreatment, new-construction treatment, or post-construction preventative treatment to establish an exterior vertical barrier, indicate:
 - i. Chemical used and its EPA registration number,
 - ii. Amount of chemical used,
 - iii. Percentage of active ingredient in the chemical used, and
 - iv. Square and linear footage treated; and
 - e. For a post-construction corrective termite treatment, indicate:
 - i. Type of treatment,
 - ii. Target organism,
 - iii. Chemical used and its EPA registration number,
 - iv. Amount of chemical used, and
 - v. Percentage of active ingredient in the chemical used.
- E.** If the Commission requests a record from a business licensee as a result of the Commission determining there is an emergency endangering the health or safety of an individual, animal, or the environment, the business licensee shall provide the record to the Commission within one hour.
- F.** Upon written request by the Commission, a business licensee shall make the records required under this Section available for review by the Commission. The business licensee from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The business licensee shall make the records available at the Commission office by hand delivery, electronic mail or fax. The business licensee shall be available to interpret the submitted records if requested by the Commission.
- G.** If a business licensee cannot timely comply with a request made under subsection (F), the business licensee shall immediately provide written notice to the Commission, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.
- H.** The Commission shall:
1. Modify the request made under subsection (F) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or
 2. Provide additional time to respond to the request made under subsection (F) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.
- I.** Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

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

R4-29-701. General Provisions

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

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

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

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

- E. Testimony or evidence compelled under subsection (D) is not admissible or usable in any proceeding except one involving a charge of perjury, false swearing, tampering with evidence, or another offense committed in connection with the testimony or production of evidence.
- F. If the Commission provides notice that it has filed a complaint against an individual or entity, the individual or entity shall submit to the Commission a written response that addresses the allegations in the complaint within 20 days of the date of the notice.
- G. The license of a licensee who is provided written notice of a pending investigation or complaint does not expire even if the licensee fails to renew timely. The Commission shall place the license on non-disciplinary suspension until the investigation is complete or the complaint is adjudicated.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-703. Settlement Conferences

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

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-704. Consent Agreements

- A. After a settlement conference, the Commission may impose disciplinary action in a consent agreement and order. To determine the disciplinary action that is appropriate, the Commission shall consider the following:
 1. Prior violation resulting in discipline;
 2. Dishonest or self-serving motive;
 3. Amount of experience as a licensee;
 4. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the Commission;

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5. Submission of false evidence, false statement, or other deceptive practice during the investigative or disciplinary process;
 6. Refusal to acknowledge wrongful nature of violation;
 7. Likelihood that a similar violation will occur again;
 8. Degree of harm resulting from the violation; and
 9. Whether harm resulting from the violation was cured.
- B.** Although the Commission may use evidence of a prior violation resulting in discipline to determine disciplinary action in a current matter, the Commission shall not use evidence of a prior violation as evidence of a violation in a current matter.
- C.** The Commission shall ensure that a consent agreement includes the following:
1. General nature of complaint;
 2. Citation to statutes and rules alleged to be violated;
 3. Disciplinary action to be taken against the individual or entity complained about;
 4. Effective date of the disciplinary action if different from the date of the consent agreement;
 5. Corrective action to be taken by the individual or entity complained about; and
 6. Date by which the corrective action is to be complete.
- D.** For a consent agreement to be effective, the Commission chairperson or the chairperson's designee and the individual or entity complained about shall sign the consent agreement.
- E.** If an individual or entity complained about refuses to sign a consent agreement, the Commission shall:
1. Send the matter for formal hearing if the individual or entity is a licensee; or
 2. Issue a decision and order if the individual or entity is unlicensed.
- F.** By signing a consent agreement under subsection (D), an individual or entity waives the right to a formal hearing, rehearing, or judicial review of the findings of fact, conclusions of law, or order contained in the consent agreement.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-705. Hearing Procedures

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

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

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

- A.** The Commission shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- B.** Except as provided in subsection (J), a party is required to file a motion for rehearing or review of a decision of the Commission to exhaust the party's administrative remedies.
- C.** A party may amend a motion for rehearing or review at any time before the Commission rules on the motion.
- D.** The Commission may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings or an order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct by the Commission, its staff, an administrative law judge, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive penalty;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
 7. The Commission's decision is the result of passion or prejudice; or
 8. The findings of fact or decision is not justified by the evidence or is contrary to law.
- E.** The Commission may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). The Commission shall specify the particular grounds for any order modifying a decision or granting a rehearing.
- F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits.
- G.** Not later than 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Commission may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Commission may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- H.** If a rehearing is granted, the Commission shall hold the rehearing within 60 days after the date on the order granting the rehearing.
- I.** The Commission may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that an extension of time will:
1. Further administrative convenience, expedition, or economy; or

2. Not cause undue prejudice to any party.

- J. If the Commission makes a specific finding that a particular decision needs to be effective immediately to preserve the public peace, health, or safety and that a review or rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Commission shall issue the decision as a final decision without an opportunity for rehearing or review.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-707. Judicial Review of Commission Order

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

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

R4-29-708. Disciplinary Action

- A. Following entry of a final order that a licensed or unlicensed individual or entity violated the Commission's statutes or this

Chapter, the Commission shall impose discipline as allowed by A.R.S. §§ 32-2304, 32-2321, 32-2327, and 32-2329. In considering the discipline to impose, the Commission shall consider the factors identified in R4-29-704.

- B. The Commission shall place a licensee on probation, as allowed by A.R.S. § 32-2321, if the Commission determines that probation will benefit the licensee or protect the public or environment. The Commission shall define probation requirements that benefit the licensee or protect the public or environment, which may include:
 1. Reporting by or monitoring of the licensee, or
 2. Participating in educational activities other than those required by the Commission's statutes or this Chapter.
- C. The Commission shall impose a civil penalty on a licensee, as allowed by A.R.S. § 32-2321, for failure to file or late filing of a TARF if:
 1. The licensee has a prior violation of the same type; and
 2. The number of TARFs not filed or filed late equals or exceeds 10 percent of the TARFs that the licensee filed in the previous 12 months.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).