

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2449

AN ACT

AMENDING TITLE 3, ARIZONA REVISED STATUTES BY ADDING CHAPTER 19; TRANSFERRING AND RENUMBERING SECTIONS 32-2301, 32-2304, 32-2305 AND 32-2307, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 3, CHAPTER 19, ARTICLE 1, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, AS SECTIONS 3-3501, 3-3502, 3-3504 AND 3-3505, RESPECTIVELY; TRANSFERRING AND RENUMBERING SECTIONS 32-2311, 32-2312, 32-2313, 32-2314, 32-2317 AND 32-2319, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 3, CHAPTER 19, ARTICLE 2, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, AS SECTIONS 3-3531, 3-3532, 3-3533, 3-3534, 3-3535 AND 3-3536, RESPECTIVELY; TRANSFERRING AND RENUMBERING SECTIONS 32-2321, 32-2323, 32-2324, 32-2325 AND 32-2327, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 3, CHAPTER 19, ARTICLE 3, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, AS SECTIONS 3-3561, 3-3562, 3-3563, 3-3564 AND 3-3565, RESPECTIVELY; REPEALING SECTIONS 32-2302, 32-2306, 32-2308, 32-2324.01 AND 32-2329, ARIZONA REVISED STATUTES; REPEALING THE CHAPTER HEADING OF TITLE 32, CHAPTER 22, ARIZONA REVISED STATUTES; REPEALING THE ARTICLE HEADINGS OF TITLE 32, CHAPTER 22, ARTICLES 1, 2 AND 3, ARIZONA REVISED STATUTES; AMENDING SECTIONS 3-102 AND 3-363, ARIZONA REVISED STATUTES; AMENDING SECTIONS 3-3501 AND 3-3502, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING TITLE 3, CHAPTER 19, ARTICLE 1, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, BY ADDING SECTION 3-3503; AMENDING SECTIONS 3-3504 AND 3-3505, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING TITLE 3, CHAPTER 19, ARTICLE 1, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, BY ADDING SECTION 3-3506; AMENDING SECTIONS 3-3531, 3-3532, 3-3533, 3-3534, 3-3535, 3-3561, 3-3562, 3-3563, 3-3564, 3-3565 AND 3-3566, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING SECTIONS 32-1121, 36-898 AND 41-1092, ARIZONA REVISED STATUTES; REPEALING LAWS 2008, CHAPTER 309, SECTIONS 23, 24, 25 AND 26; RELATING TO PEST MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 3, Arizona Revised Statutes, is amended by adding
3 chapter 19, to read:
4
5 CHAPTER 19
6 STRUCTURAL PEST MANAGEMENT
7 ARTICLE 1. STRUCTURAL PEST ADMINISTRATION
8 ARTICLE 2. STRUCTURAL PEST CERTIFICATION, REGISTRATION AND LICENSURE
9 ARTICLE 3. STRUCTURAL PEST REGULATION
10 Sec. 2. Transfer and renumber
11 A. Sections 32-2301, 32-2304, 32-2305 and 32-2307, Arizona Revised
12 Statutes, are transferred and renumbered for placement in title 3, chapter
13 19, article 1, Arizona Revised Statutes, as added by this act, as sections
14 3-3501, 3-3502, 3-3504 and 3-3505, respectively.
15 B. Sections 32-2311, 32-2312, 32-2313, 32-2314, 32-2317 and 32-2319,
16 Arizona Revised Statutes, are transferred and renumbered for placement in
17 title 3, chapter 19, article 2, Arizona Revised Statutes, as added by this
18 act, as sections 3-3531, 3-3532, 3-3533, 3-3534, 3-3535 and 3-3536,
19 respectively.
20 C. Sections 32-2321, 32-2323, 32-2324, 32-2325 and 32-2327, Arizona
21 Revised Statutes, are transferred and renumbered for placement in title 3,
22 chapter 19, article 3, Arizona Revised Statutes, as added by this act, as
23 sections 3-3561, 3-3562, 3-3563, 3-3564 and 3-3565, respectively.
24 Sec. 3. Repeal
25 A. Sections 32-2302, 32-2306, 32-2308, 32-2324.01 and 32-2329, Arizona
26 Revised Statutes, are repealed.
27 B. The chapter heading of title 32, chapter 22, Arizona Revised
28 Statutes, is repealed.
29 C. The article headings of title 32, chapter 22, articles 1, 2 and 3,
30 Arizona Revised Statutes, are repealed.
31 Sec. 4. Section 3-102, Arizona Revised Statutes, is amended to read:
32 3-102. Department organization
33 A. The Arizona department of agriculture is established consisting of
34 the following divisions:
35 1. The animal services division, which is responsible for milk, dairy,
36 livestock and aquaculture regulation, the state veterinarian, meat, poultry
37 and egg inspection and performing the administrative functions authorized or
38 contracted pursuant to law for the Arizona beef council.
39 2. The plant services division, which is responsible for the fruit and
40 vegetable standardization program and entomological services.
41 3. The environmental services division, which is responsible for
42 regulating seed, feed, ~~and agricultural chemicals, including~~ pesticides, ~~and~~
43 fertilizers, **THE BUSINESS OF STRUCTURAL PEST MANAGEMENT** and for native plant
protection.

1 B. The following are established in addition to and separate from the
2 divisions of the department:

- 3 1. A state agricultural laboratory.
- 4 2. An office of agriculture safety.
- 5 3. An office of inspections.
- 6 4. An office of commodity development and promotion.

7 C. The department shall have a central administrative service office
8 providing:

- 9 1. Data processing, accounting and budgeting, records management,
10 publications, property control and personnel services and training.
- 11 2. A program to cross-train appropriate personnel to enable them to
12 perform similar functions or comparable work for different administrative
13 units in the department.

14 Sec. 5. Section 3-363, Arizona Revised Statutes, is amended to read:
15 3-363. Rules

16 The director shall adopt rules to regulate pesticides which shall
17 include provisions to:

- 18 1. Administer and implement this article.
- 19 2. Prescribe measures to control, monitor, inspect and govern
20 pesticide use.
- 21 3. Prohibit or restrict pesticide use.
- 22 4. Restrict the areas in which pesticide use may occur.
- 23 5. Prescribe minimum qualifications for all persons who engage in
24 pesticide use, including, as appropriate, requirements that the persons have
25 valid licenses, permits or certificates, have adequate training, including
26 continuing education requirements and meet financial responsibility
27 standards.
- 28 6. Prescribe appropriate record keeping and reporting requirements
29 regarding pesticide use, except that the record keeping and reporting
30 requirements for growers and certified private applicators who apply
31 pesticides shall be equivalent to, but not more stringent than, the
32 requirements prescribed under the federal insecticide, fungicide and
33 rodenticide act (61 Stat. 163) and the food, agriculture, conservation and
34 trade act of 1990 (P.L. 101-624; 104 Stat. 3359).
- 35 7. Prohibit pesticide use ~~which~~ THAT is inconsistent with the
36 pesticide label as required under the federal insecticide, fungicide and
37 rodenticide act (61 Stat. 163).
- 38 8. Exempt from regulation under this article pesticide use that is
39 regulated in ~~title 32,~~ chapter 22 19 OF THIS TITLE.
- 40 9. Issue licenses, permits and certificates for pesticide use, as
41 appropriate, having terms of one or more years.
- 42 10. Charge and collect the following fees for each permit, license and
43 certification under this article:
 - 44 (a) Not to exceed twenty dollars per year for a grower permit.
 - 45 (b) Not to exceed one hundred dollars per year for a seller permit.

1 (c) Not to exceed one hundred dollars per year for a custom applicator
2 license.
3 (d) Not to exceed fifty dollars per year for a pilot license.
4 (e) Not to exceed fifty dollars per year for a pest control advisor
5 license.
6 (f) Not to exceed twenty-five dollars per year for a piece of
7 equipment used to apply pesticides by a custom applicator.
8 (g) Not to exceed fifty dollars per year for restricted use
9 certification.
10 11. Establish a nonexclusive list of acts and omissions that constitute
11 serious, nonserious and de minimis violations of this article.
12 12. Establish a system of administrative penalties and fines for
13 violations of this article and any rules adopted under this article. Under
14 this system:
15 (a) Violators shall be assessed a number of points for each violation,
16 depending ~~upon~~ ON such factors as:
17 (i) Potential and actual consequences of the violation on public and
18 worker health and safety and the environment.
19 (ii) Wrongfulness of the conduct.
20 (iii) Degree of culpability of the violator.
21 (iv) Duration of the violation.
22 (v) Prior violations or citations.
23 (b) Penalties shall be assessed depending ~~upon~~ ON the number of points
24 accrued by the violator.
25 Sec. 6. Section 3-3501, Arizona Revised Statutes, as transferred and
26 renumbered by this act, is amended to read:
27 3-3501. Definitions
28 In this chapter, unless the context otherwise requires:
29 ~~1. "Acting director" means the person appointed pursuant to section~~
30 ~~32-2302 to serve as the acting director of the office.~~
31 ~~2.~~ 1. "Branch office" means any fixed place of business, other than
32 the primary office, where records are kept, PESTICIDES ARE STORED, mail is
33 received, statements are rendered, money is collected, requests for service
34 or bids are received or information pertaining to the business of structural
35 pest ~~contro~~ MANAGEMENT is given and from which the use of pesticides and
36 devices is supervised by a licensed applicator or qualifying party.
37 ~~3.~~ 2. "Business license" means a license that is issued pursuant to
38 this chapter to a person and that entitles that person and the person's
39 employees to engage in the business of structural pest ~~contro~~ MANAGEMENT.
40 ~~4.~~ 3. "Business of structural pest ~~contro~~ MANAGEMENT" means engaging
41 in, offering to engage in, advertising for, soliciting or performing
42 structural pest ~~contro~~ MANAGEMENT, including any of the following:
43 (a) Identifying infestations or making inspections for the purpose of
44 identifying or attempting to identify infestations of households or other
45 structures and the surrounding area by any of the following:

- 1 (i) Public health pests.
2 (ii) Aquatic pests.
3 (iii) Household pests.
4 (iv) Wood-destroying insects.
5 (v) Pests, including weeds, existing around structures, in ornamental
6 shrubs and trees, on golf courses, along rights-of-way or in lawns and
7 cemeteries.
8 ~~(vi) Fungi.~~
9 (b) Making written or oral inspection reports, recommendations,
10 estimates or bids with respect to infestations.
11 (c) The application of pesticides or the making of contracts or
12 submitting of bids for the application of pesticides or the use of devices
13 for the purpose of eliminating, exterminating, controlling or preventing
14 infestations.
15 BUSINESS OF STRUCTURAL PEST MANAGEMENT DOES NOT INCLUDE PESTICIDE
16 APPLICATIONS USED DIRECTLY IN THE COMMERCIAL PRODUCTION OF CROPS AND ANIMALS
17 PURSUANT TO CHAPTER 2, ARTICLE 6 OR 6.1 OF THIS TITLE.
18 ~~5-~~ 4. "De minimis violation" means a violation that, although
19 undesirable, has no direct or immediate relationship to safety, health or
20 property damage. REPEATED DE MINIMIS VIOLATIONS CONSTITUTE A NONSERIOUS
21 VIOLATION.
22 ~~6-~~ 5. "Department" means the Arizona department of ~~administration~~
23 AGRICULTURE.
24 ~~7-~~ 6. "Device" means any mechanical, pesticide or electrical
25 apparatus used in conjunction with, in place of or to supplement, disperse or
26 dispense pesticides.
27 ~~8-~~ 7. "Direct supervision" means use of a pesticide under the
28 instructions, control and responsibility of a licensed applicator OR
29 QUALIFYING PARTY who is available if needed for consultation or assistance
30 even though the licensed applicator OR QUALIFYING PARTY is not physically
31 present at the time and place the pesticide is used.
32 ~~9-~~ 8. "Director" means the director of the Arizona department of
33 ~~administration~~ AGRICULTURE.
34 ~~10-~~ 9. "Final grade treatment" means establishment of vertical
35 barriers at the exterior of foundation walls in stem wall construction or at
36 the exterior of grade beams in monolithic construction.
37 ~~11. "Fungi inspection report" means a written inspection report on a~~
38 ~~form approved by the office.~~
39 ~~12-~~ 10. "Household pests" means pests, other than wood-destroying
40 insects, that invade households or other structures, including rodents,
41 vermin and insects.
42 ~~13-~~ 11. "Immediate supervision" means use of a pesticide by an
43 employee acting under the instructions, control and responsibility of a
44 licensed applicator OR QUALIFYING PARTY who is within the direct line of

1 sight or within hearing distance of the employee and who is available for
2 consultation or assistance at the time and place the pesticide is used.

3 ~~14.~~ 12. "Initial ~~termite~~ WOOD-DESTROYING INSECT corrective treatment"
4 means the first treatment of any kind performed by a licensee after a
5 treatment made prior to or during construction, excluding a treatment
6 performed under warranty by a licensee who has performed the treatment prior
7 to or during construction.

8 ~~15.~~ 13. "Inquiry" means information from the public or ~~agency~~
9 DEPARTMENT staff of possible violations of this chapter, or rules adopted
10 pursuant to this chapter.

11 ~~16.~~ 14. "Integrated pest management" means a sustainable approach to
12 managing pests that combines biological, cultural, physical and pesticide
13 tools in a way that minimizes economic, health and environmental risks.

14 ~~17.~~ 15. "License" means an approval granted by the ~~office~~ DEPARTMENT
15 to act as an applicator or qualifying party or to operate a business of
16 structural pest ~~control~~ MANAGEMENT in this state.

17 ~~18.~~ 16. "Licensed applicator" means a person who is licensed by the
18 ~~office DEPARTMENT to apply pesticides in accordance with this chapter.~~

19 ~~19. "Office" means the office of pest management established by section~~
20 ~~32-2302.~~

21 17. "NONSERIOUS VIOLATION" MEANS A VIOLATION THAT MAY HAVE HAD A DIRECT
22 OR IMMEDIATE RELATIONSHIP TO SAFETY, HEALTH OR PROPERTY DAMAGE, BUT DOES NOT
23 CONSTITUTE A DE MINIMIS VIOLATION OR A SERIOUS VIOLATION, UNLESS THE VIOLATOR
24 DID NOT, AND COULD NOT WITH THE EXERCISE OF REASONABLE DILIGENCE, KNOW OF THE
25 SAFETY, HEALTH OR PROPERTY DAMAGE RISK IN WHICH CASE THE VIOLATION IS DE
26 MINIMIS.

27 ~~20. "Other structures" includes railroad cars, boats, docks, motor~~
28 ~~vehicles or airplanes and their contents.~~

29 18. "PEST" MEANS:

30 (a) ANY WEED, INSECT OR VERTEBRATE PEST.

31 (b) ANY OTHER FORM OF TERRESTRIAL OR AQUATIC PLANT OR ANIMAL LIFE,
32 EXCEPT VIRUS, BACTERIUM OR OTHER MICROORGANISM ON OR IN LIVING HUMANS OR
33 OTHER LIVING ANIMALS, THAT THE DIRECTOR DECLARES TO BE A PEST FOR THE PURPOSE
34 OF ENFORCEMENT OF THIS CHAPTER.

35 ~~21.~~ 19. "Pest management" means the management of public health pests,
36 aquatic pests, household pests, wood-destroying insects, ~~fungi~~ or other
37 pests, including weeds, that exist near or around structures, in ornamental
38 shrubs and trees, on golf courses, along rights-of-way or in lawns or
39 cemeteries and all pesticide application that could be harmful to public
40 health or the environment. Pest management does not include pesticide
41 applications used directly in the commercial production of crops and animals
42 if those applications are governed by the ~~Arizona~~ department of ~~agriculture~~
43 pursuant to ~~title 3,~~ chapter 2, articles 6 and 6.1 OF THIS TITLE.

44 ~~22.~~ 20. "Pesticide" means any substance or mixture of substances
45 intended to be used for defoliating plants or for preventing, destroying,

1 repelling or mitigating insects, ~~fungi, bacteria, microbes,~~ weeds, rodents,
2 predatory animals or any form of plant or animal life that is a pest and may
3 infest or be detrimental to vegetation, humans, animals or households or be
4 present in any environment.

5 ~~23.~~ 21. "Prior violation" means any violation for which disciplinary
6 action was taken within a ~~five-year~~ THREE-YEAR period prior to the date of
7 the violation for which current disciplinary action is sought.

8 ~~24.~~ 22. "Qualifying party" means an individual who is licensed by the
9 ~~office~~ DEPARTMENT to ensure the supervision and training of all employees of
10 a business licensee in the business of structural pest ~~control~~ MANAGEMENT.

11 23. "SERIOUS VIOLATION" MEANS A VIOLATION OF THIS ARTICLE OR A RULE
12 ADOPTED UNDER THIS CHAPTER THAT PRODUCES A SUBSTANTIAL PROBABILITY THAT DEATH
13 OR SERIOUS PHYSICAL HARM COULD RESULT, UNLESS THE VIOLATOR DID NOT, AND COULD
14 NOT WITH THE EXERCISE OF REASONABLE DILIGENCE, KNOW OF THE SAFETY OR HUMAN
15 HEALTH RISK, IN WHICH CASE THE VIOLATION IS NONSERIOUS.

16 ~~25.~~ 24. "Weed" means any plant that grows where it is not wanted.

17 ~~26.~~ 25. "Wood-destroying insect inspection report" means a written
18 inspection report FOR THE EXISTENCE OR ABSENCE OF WOOD-DESTROYING INSECTS on
19 a form approved by the ~~acting~~ director that is prepared in connection with
20 the sale or refinancing of real property ~~whether or not the report is used as~~
21 ~~part of the transaction.~~

22 ~~27.~~ 26. "Wood-destroying insects" means insects that attack, damage or
23 destroy wood or wood-derivative products.

24 Sec. 7. Section 3-3502, Arizona Revised Statutes, as transferred and
25 renumbered by this act, is amended to read:

26 3-3502. Powers and duties

27 A. The ~~acting~~ director is responsible for administering this chapter
28 and shall:

29 ~~1. Adopt rules that are necessary or proper for the administration of~~
30 ~~this chapter, including administrative provisions, education requirements,~~
31 ~~health and safety provisions and provisions for the use, storage and~~
32 ~~application of pesticides and devices used in structural pest control.~~

33 ~~2.~~ 1. Administer and enforce this chapter and rules adopted pursuant
34 to this chapter.

35 2. INVESTIGATE ALLEGED VIOLATIONS OF THIS CHAPTER AND RULES ADOPTED OR
36 ORDERS ISSUED PURSUANT TO THIS CHAPTER.

37 3. Notify the business licensee, applicator and qualifying party in
38 writing of any complaint against the business licensee, qualifying party or
39 employee of the business licensee by the close of business on the tenth
40 business day after the day on which the ~~acting~~ director initiated the
41 complaint.

42 4. Issue subpoenas for the taking of depositions, the production of
43 documents and things and the entry on land for inspection and measuring,
44 surveying, photographing, testing or sampling the property or any designated
45 object or operation on the property relevant to the complaint.

1 5. Conduct or contract to conduct applicator license and qualifying
2 party license tests at locations throughout this state. If the ~~acting~~
3 director contracts for these tests, the contracts may provide for specific
4 examination fees or a reasonable range of fees determined by the ~~acting~~
5 director to be paid directly to the contractor by the applicant. The ~~acting~~
6 director shall make all efforts to contract with private parties to
7 electronically administer the applicator and qualifying party license tests.

8 6. Maintain a computer system for the benefit and protection of the
9 public that includes the following information on ~~termite~~ WOOD-DESTROYING
10 INSECT treatments that are done before or during construction, initial
11 termite corrective projects, preventative termite treatments and
12 wood-destroying insect inspection reports:

- 13 (a) The name of the individual who performed the work.
- 14 (b) The address or location of the work or project.
- 15 (c) The name of the pest management company.
- 16 (d) The name of the qualifying party.
- 17 (e) The applicator license numbers.
- 18 (f) The nature and date of the work performed.
- 19 (g) Any other information that is required by rule.

20 ~~7. Establish offices it deems necessary to carry out the purposes of~~
21 ~~this chapter.~~

22 ~~8. Employ permanent or temporary personnel it deems necessary to carry~~
23 ~~out the purposes of this chapter and designate their duties.~~

24 ~~9. Investigate violations of this chapter and rules adopted pursuant~~
25 ~~to this chapter.~~

26 ~~10.~~ 7. Oversee the approval, content and method of delivery of
27 continuing education ~~courses~~ CLASSES.

28 8. LICENSE APPLICATORS, QUALIFYING PARTIES AND BUSINESSES PURSUANT TO
29 THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER.

30 ~~11.~~ 9. Deny a license to any person who has had a license revoked for
31 a period of ~~five~~ THREE years from the time of revocation.

32 ~~12. License applicators, qualifying parties and businesses in~~
33 ~~accordance with this chapter and rules adopted pursuant to this chapter.~~

34 ~~13.~~ 10. Require the payment of a penalty for any late license renewal.

35 ~~14.~~ 11. Require either completion of the continuing education
36 requirement or successful completion of the license examination for failure
37 to renew a license on time.

38 ~~15.~~ 12. Suspend a license if a licensee fails to renew the license
39 within thirty calendar days after the renewal date.

40 ~~16.~~ 13. Refuse to issue a business license in a name that is not
41 registered with the secretary of state or filed with the Arizona corporation
42 commission.

43 ~~17.~~ 14. Adopt a wood-destroying insect inspection report form for use
44 by business licensees.

1 B. The ~~acting~~ director may charge to the holder of a business license
2 the actual cost of providing mailed copies of rules, forms or policies that
3 are proposed for adoption and for educational materials.

4 ~~C. The acting director shall administer and enforce this chapter and~~
5 ~~the rules adopted pursuant to this chapter.~~

6 ~~D.~~ C. The ~~acting~~ director may:

7 1. Compel attendance of witnesses, administer oaths or affirmations
8 and take testimony concerning all matters coming within the ~~acting~~ director's
9 jurisdiction.

10 2. Require a person who seeks a license pursuant to this chapter to
11 submit to the ~~office~~ DEPARTMENT a full set of fingerprints and the fees
12 required by section 41-1750. The ~~acting~~ director shall submit the
13 fingerprints and fees to the department of public safety for the purpose of
14 obtaining a state and federal criminal records check pursuant to section
15 41-1750 and Public Law 92-544. The department of public safety may exchange
16 this fingerprint data with the federal bureau of investigation.

17 ~~3. Enter into intergovernmental agreements.~~

18 ~~4.~~ 3. With at least twenty-four hours' notice, request specific
19 records from a business licensee, qualifying party or applicator at the
20 person's place of business during normal business hours. ON A SHOWING OF
21 GOOD CAUSE BY THE LICENSEE, THE DIRECTOR MAY EXCUSE A FAILURE TO TIMELY
22 COMPLY WITH A RECORDS REQUEST.

23 ~~5.~~ 4. Deny or revoke a license based on the information in the
24 application or information that the ~~acting~~ director receives from the
25 criminal background check.

26 ~~6. On a showing of good cause by the business licensee, excuse a~~
27 ~~failure to timely comply with a records request.~~

28 ~~7.~~ 5. Issue advisory notices for de minimis violations.

29 ~~8.~~ 6. Require inspectors to be licensed applicators in all categories
30 within their scope of work ~~during their probationary period~~. Inspectors
31 shall attend and complete an investigative training class that is prescribed
32 by the ~~acting~~ director.

33 ~~9.~~ 7. Investigate alleged violations of all applicable federal and
34 state statutes, rules or orders or alleged violations of any condition
35 imposed in connection with a license.

36 ~~10.~~ 8. Pursuant to section ~~32-2329~~ 41-1092.11, summarily suspend a
37 license issued under this chapter ~~to protect the health, safety and welfare~~
38 ~~of the public~~.

39 ~~11.~~ 9. Issue a corrective work order requiring a licensee to remedy
40 deficiencies in treatment or to comply with this chapter or any rules adopted
41 pursuant to this chapter before or after a formal hearing.

42 ~~12.~~ 10. Do at least one of the following in relation to unlicensed
43 pest management business operations:

44 (a) Issue a cease and desist order requiring an unlicensed pest
45 management business to immediately cease operations.

1 (b) Except as provided in section ~~32-2311~~ 3-3531, subsection D, impose
2 on an unlicensed pest management business a civil penalty of not more than
3 one thousand dollars for the first occurrence and not more than two thousand
4 dollars for the second or subsequent occurrence.

5 ~~13. Refer all cases for formal hearing to the office of administrative~~
6 ~~hearings.~~

7 ~~14.~~ 11. Refuse to issue a business license in a name that is likely to
8 be misleading or to imply any distorted representation about the business.

9 ~~15.~~ 12. Issue a renewable and revocable temporary qualifying party
10 license to a licensed applicator who is a representative of a business
11 licensee if the qualifying party becomes disassociated with the business
12 licensee. THE TEMPORARY LICENSE MAY NOT BE RENEWED MORE THAN TWICE.

13 ~~16.~~ 13. Provide and conduct classes to train applicators in
14 preparation for license tests. The acting director may assess a fee for each
15 class. The acting director may contract with a commercial enterprise or an
16 accredited institution to conduct the class.

17 ~~17.~~ 14. Provide and conduct continuing education classes quarterly.
18 The acting director may assess a fee for each credit hour. The acting
19 director may contract with a commercial enterprise or an accredited
20 institution to conduct the class under the supervision of office DEPARTMENT
21 staff.

22 ~~18. Appoint an employee of the office to conduct an informal settlement~~
23 ~~conference with a licensee against whom an inquiry is received or a complaint~~
24 ~~is filed.~~

25 ~~19. Prepare a consent order only after either an informal settlement~~
26 ~~conference is conducted pursuant to section 32-2321 or a formal hearing is~~
27 ~~conducted pursuant to title 41, chapter 6, article 10.~~

28 ~~20. Apply to the appropriate court, through the attorney general or~~
29 ~~county attorney, for an order enjoining any act or practice that constitutes~~
30 ~~a violation of this chapter or any rule adopted pursuant to this chapter.~~

31 ~~21.~~ 15. Approve proposed PREPARE consent orders.

32 ~~E.~~ D. Each completed form for a termite treatment that is done before
33 or during construction, initial termite corrective treatment project or
34 wood-destroying insect inspection report shall MAY be REQUIRED TO BE
35 accompanied by a fee. ~~The initial fee is eight dollars.~~ The acting director
36 may:

37 1. Adjust the fee upward or downward to a level that is calculated to
38 produce sufficient revenue to carry out the functions prescribed under this
39 section.

40 2. Establish tiered fees according to the means of submission to
41 encourage electronic submission of the termite action registration form.

42 3. Assess a penalty of not to exceed one hundred dollars per form for
43 failing to submit the required form or fee, or both, within thirty calendar
44 days.

1 ~~F. Subject to the limitations of section 41-2544, the acting director~~
2 ~~may enter into agreements for the purpose of enabling the office to accept~~
3 ~~payment for fees imposed under this chapter by alternative payment methods,~~
4 ~~including credit cards, charge cards, debit cards and electronic funds~~
5 ~~transfers. Before the monies are transferred to the acting director pursuant~~
6 ~~to section 32-2305, the person collecting the fees shall deduct any amount~~
7 ~~charged or withheld by a company providing the alternative payment method~~
8 ~~under an agreement with the office.~~

9 ~~G. In the enforcement of this article, the acting director or any duly~~
10 ~~authorized agents may enter with the authority of a warrant issued by a court~~
11 ~~of competent jurisdiction at reasonable times on any private or public~~
12 ~~property on which pesticides are located or are reasonably believed to be~~
13 ~~located to be used for purposes related to pest management. The owner,~~
14 ~~managing agent or occupant of the property shall permit entry for the purpose~~
15 ~~of inspecting and investigating conditions relating to the use, storage,~~
16 ~~application and disposal of pesticides.~~

17 E. THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED REPRESENTATIVE MAY ENTER
18 AT A REASONABLE TIME INTO OR ON OR THROUGH ANY PUBLIC OR PRIVATE PROPERTY TO
19 ASCERTAIN COMPLIANCE OR NONCOMPLIANCE WITH ANY RULES OR ORDERS ADOPTED OR
20 ISSUED UNDER THIS CHAPTER. IF PRACTICABLE, AND IF NOTICE WILL NOT INHIBIT
21 THE DIRECTOR'S ABILITY TO ENFORCE THIS CHAPTER, THE DIRECTOR OR THE
22 DIRECTOR'S AGENT SHALL NOTIFY THE OWNER, OPERATOR OR LESSEE OF THE PROPERTY
23 WHEN ENTERING THE PROPERTY. IF ENTRY IS DENIED, THE DIRECTOR MAY APPLY FOR
24 AND OBTAIN A WARRANT FROM A COURT OF COMPETENT JURISDICTION.

25 Sec. 8. Title 3, chapter 19, article 1, Arizona Revised Statutes, is
26 amended by adding section 3-3503, to read:

27 3-3503. Rules

28 THE DIRECTOR SHALL ADOPT RULES TO REGULATE STRUCTURAL PEST MANAGEMENT
29 THAT INCLUDES PROVISIONS TO:

30 1. ADMINISTER AND IMPLEMENT THIS CHAPTER.

31 2. PRESCRIBE MEASURES TO CONTROL, MONITOR, INSPECT AND GOVERN
32 STRUCTURAL PEST MANAGEMENT, INCLUDING HEALTH AND SAFETY PROVISIONS AND
33 PROVISIONS FOR THE USE, STORAGE AND APPLICATION OF PESTICIDES AND DEVICES
34 USED IN STRUCTURAL PEST MANAGEMENT.

35 3. ESTABLISH LICENSING REQUIREMENTS AND OTHER MINIMUM QUALIFICATIONS
36 FOR LICENSED APPLICATORS, QUALIFYING PARTIES AND BUSINESS LICENSEES,
37 INCLUDING EXAMINATION, EDUCATION, EXPERIENCE AND MINIMUM FINANCIAL
38 RESPONSIBILITY REQUIREMENTS, AND THE TERMS OF THE LICENSES. EDUCATION AND
39 EXPERIENCE REQUIREMENTS MAY VARY BY APPLICATOR CATEGORY.

40 4. PRESCRIBE CONTINUING EDUCATION REQUIREMENTS REQUIRED FOR LICENSED
41 APPLICATORS AND QUALIFYING PARTIES TO RENEW LICENSES.

42 5. PRESCRIBE SUPERVISORY REQUIREMENTS, INCLUDING THE SUPERVISION OF
43 UNLICENSED EMPLOYEES AND TIME FRAMES IN WHICH AN EMPLOYEE MUST BE LICENSED.

44 6. PRESCRIBE APPROPRIATE RECORD KEEPING REQUIREMENTS.

1 7. PROHIBIT PESTICIDE USE THAT IS INCONSISTENT WITH THE PESTICIDE
2 LABEL AS REQUIRED UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE
3 ACT (61 STAT. 163).

4 8. ESTABLISH A NONEXCLUSIVE LIST OF ACTS AND OMISSIONS THAT CONSTITUTE
5 SERIOUS, NONSERIOUS AND DE MINIMIS VIOLATIONS OF THIS CHAPTER.

6 9. ESTABLISH A SYSTEM OF ADMINISTRATIVE PENALTIES AND FINES FOR
7 VIOLATIONS OF THIS CHAPTER AND RULES ADOPTED UNDER THIS CHAPTER. UNDER THIS
8 SYSTEM:

9 (a) VIOLATORS SHALL BE ASSESSED A NUMBER OF POINTS FOR EACH VIOLATION,
10 DEPENDING ON SUCH FACTORS AS:

11 (i) POTENTIAL AND ACTUAL CONSEQUENCES OF THE VIOLATION ON PUBLIC AND
12 WORKER HEALTH AND SAFETY AND THE ENVIRONMENT.

13 (ii) WRONGFULNESS OF THE CONDUCT.

14 (iii) DEGREE OF CULPABILITY OF THE VIOLATOR.

15 (iv) DURATION OF THE VIOLATION.

16 (v) PRIOR VIOLATIONS OR CITATIONS.

17 (b) PENALTIES SHALL BE ASSESSED ACCORDING TO THE NUMBER OF POINTS
18 ACCRUED BY THE VIOLATOR.

19 Sec. 9. Section 3-3504, Arizona Revised Statutes, as transferred and
20 renumbered by this act, is amended to read:

21 3-3504. Pest management fund; exemption

22 A. A pest management fund is established.

23 B. Pursuant to sections 35-146 and 35-147, the ~~acting~~ director shall
24 deposit ten per cent of all fees COLLECTED UNDER THIS CHAPTER in the state
25 general fund and deposit the remaining ninety per cent in the pest management
26 fund. All monies collected from civil penalties shall be deposited, pursuant
27 to sections 35-146 and 35-147, in the state general fund.

28 C. THE MONIES IN THE FUND SHALL BE USED SOLELY FOR THE PURPOSE OF
29 ADMINISTERING THIS CHAPTER ON THE ORDER OF THE DIRECTOR.

30 ~~D.~~ D. Monies deposited in the pest management fund are exempt from
31 the provisions of section 35-190 relating to lapsing of appropriations.

32 Sec. 10. Section 3-3505, Arizona Revised Statutes, as transferred and
33 renumbered by this act, is amended to read:

34 3-3505. Notification of pesticide applications to schools and
35 child care facilities; exemptions; definitions

36 A. A business licensee, QUALIFYING PARTY or licensed applicator shall
37 notify a school or a child care facility at least seventy-two hours in
38 advance of any pesticide application in order to permit the school to comply
39 with section 15-152 and the child care facility to comply with section
40 36-898. The seventy-two hour advance notice shall include the date and
41 APPROXIMATE time the application is to occur. The seventy-two hour advance
42 notice shall also include the brand name, concentration, rate of application,
43 ~~pesticide label and material safety data sheet~~ and any use restrictions
44 required by the pesticide label. Only ~~an individual holding an~~ A LICENSED

1 applicator ~~license~~ OR QUALIFYING PARTY may make pesticide applications at
2 schools and child care facilities.

3 B. Immediately prior to application of a pesticide a business
4 licensee, QUALIFYING PARTY or licensed applicator shall provide the school or
5 child care facility with a written preapplication notification containing the
6 following information:

7 1. The brand name, concentration and rate of application and any use
8 restrictions required by the label of the ~~herbicide or specific~~ pesticide.

9 2. The area or areas where the pesticide is to be applied.

10 3. The date and time the application is to occur.

11 ~~4. The pesticide label and the material safety data sheet.~~

12 C. The pesticide label and material safety data sheet may be used in
13 place of the information required pursuant to subsections A and B of this
14 section if all of the information required by those subsections is already
15 contained on the label or material safety data sheet.

16 D. The following pesticide applications are exempt from the
17 notification requirement prescribed in subsections A and B of this section:

18 1. Nonresidual pesticide applications performed or contracted by
19 public health agencies for adult vector control, provided that oral
20 notification is attempted at least seventy-two hours before the application,
21 when possible, to the school office or child care facility office with a
22 statement of the pest problem, treatment procedure, area to be treated and
23 approximate time of the application.

24 2. Emergency applications of a pesticide that has a toxicity category
25 of III or IV pursuant to 40 Code of Federal Regulations section 156.62 to
26 control harmful pests that pose an immediate threat to the public health.
27 Under the circumstances described in this paragraph or paragraph 1 of this
28 subsection, the business licensee, QUALIFYING PARTY or licensed applicator
29 shall do all of the following:

30 (a) Notify the school office or child care facility office before the
31 application with a statement of the pest problem, treatment procedure, area
32 to be treated and approximate time of application.

33 (b) Immediately after the application has been completed, notify the
34 school office or the child care facility office of the name of the pesticide
35 applied, the formulation, the strength and dosage and the date and time of
36 application and provide the pesticide label.

37 (c) Post the treated area immediately after the application. The
38 posting shall be at least eight and one-half inches by eleven inches and
39 shall include the name of the pesticide, the registration number issued by
40 the United States environmental protection agency, the date and time of
41 application and the name and telephone number of the business licensee,
42 QUALIFYING PARTY and licensed applicator. A copy of the posting shall also
43 be placed at the main entrance to the school or child care facility. The
44 posting and the copy of the posting shall remain in place for at least forty-
45 eight hours after the application.

1 3. Disinfectants or swimming pool chemicals.
2 4. Block, gel or paste-type bait that is a toxicity category III or IV
3 formulation of insecticide pursuant to 40 Code of Federal Regulations section
4 156.62 and that is either of the following:
5 (a) Secured in an enclosed, tamper-resistant bait station and placed
6 in an area that is inaccessible to children.
7 (b) Applied to a crack or crevice inaccessible to children.
8 5. Block-type bait that is a toxicity level III or IV formulation of
9 rodenticide pursuant to 40 Code of Federal Regulations section 156.62 and
10 that is secured in an enclosed, tamper-resistant bait station placed in an
11 area inaccessible to children.
12 6. Personal repellants.
13 7. Any pesticide exempt from regulation by the United States
14 environmental protection agency pursuant to the federal insecticide,
15 fungicide and rodenticide act (7 United States Code section 136w).
16 E. The provisions of this ~~chapter~~ ARTICLE shall regulate and determine
17 all requirements regarding licenses, fees, testing, education, and all other
18 requirements regarding the business of STRUCTURAL pest ~~control~~ MANAGEMENT for
19 persons licensed pursuant to this chapter.
20 F. For the purposes of this section:
21 1. "Child care facility" means a facility regulated pursuant to title
22 36, chapter 7.1.
23 2. "Pesticides" does not include nonrestricted use disinfectants,
24 sanitizers or deodorizers.
25 3. "School" means an educational institution that provides instruction
26 in prekindergarten programs, kindergarten programs or any of grades one
27 through twelve.
28 Sec. 11. Title 3, chapter 19, article 1, Arizona Revised Statutes, is
29 amended by adding section 3-3506, to read:
30 3-3506. Joint responsibility for supervised persons
31 A. A BUSINESS LICENSEE, QUALIFYING PARTY OR APPLICATOR MAY BE HELD
32 JOINTLY RESPONSIBLE FOR THE ACTS OR OMISSIONS OF ANOTHER PERSON WHO IS UNDER
33 THE SUPERVISION OF THE BUSINESS LICENSEE, QUALIFYING PARTY OR APPLICATOR IF
34 THE SUPERVISING LICENSEE FAILS TO PROPERLY TRAIN, EQUIP OR SUPERVISE THE
35 OTHER PERSON OR FAILS TO MAINTAIN RECORDS OF PROPER TRAINING, EQUIPPING OR
36 SUPERVISING.
37 B. A FAILURE TO TIMELY AND FULLY RESPOND TO REQUESTS BY THE DIRECTOR
38 FOR INFORMATION RELATING TO TRAINING, EQUIPPING AND SUPERVISING IS A PRIMA
39 FACIE SHOWING OF A FAILURE TO PROPERLY TRAIN, EQUIP OR SUPERVISE. THE
40 SUPERVISING LICENSEE, QUALIFYING PARTY OR APPLICATOR HAS THE BURDEN OF PROOF
41 BY A PREPONDERANCE OF THE EVIDENCE THAT THE LICENSEE, QUALIFYING PARTY OR
42 APPLICATOR HAS FULFILLED THE REQUIRED DUTIES AS PRESCRIBED BY THIS CHAPTER
43 AND RULES ADOPTED PURSUANT TO THIS CHAPTER OR A WRITTEN ORDER OF THE
44 DIRECTOR.

1 Sec. 12. Section 3-3531, Arizona Revised Statutes, as transferred and
2 renumbered by this act, is amended to read:

3 3-3531. Persons not required to be licensed; civil penalties

4 A. This chapter does not apply to:

5 1. Persons licensed or certified pursuant to title 3, chapter 2,
6 article 6.

7 2. Persons applying pesticides on RESIDENTIAL property that they own
8 and occupy.

9 3. Authorized representatives of any educational institution engaged
10 in research in the study of pest management or a state agency engaged in
11 research or the study of pest management.

12 4. Employees of political subdivisions or their designated agents
13 while performing emergency response or rescue services.

14 5. Persons using a nonrestricted, ready to use disinfectant, sanitizer
15 or deodorizer.

16 6. Except as provided in section ~~32-2307~~ 3-3505, persons who are
17 conducting lawn, garden, shrub or tree maintenance and who apply herbicides
18 for the purpose of weed management. This exemption does not apply to:

19 (a) The use of herbicides that are labeled with the words "restricted
20 use" or "danger" and that are not commercially available to the general
21 public.

22 (b) The use of sterilants.

23 (c) Persons who offer weed management as their primary service.

24 (d) Persons who use application equipment that holds more than eight
25 gallons of total mixed liquid herbicide.

26 (e) Persons who use more than twenty-five pounds of a nonliquid
27 herbicide.

28 (f) Persons who do not follow label and labeling directions.

29 7. A utility and the utility's employees if pest management services
30 are needed for an employee's health and safety in order for the employee to
31 continue performing work tasks.

32 B. An employee of a political subdivision who engages in pest
33 management:

34 1. Is not required to be licensed under section ~~32-2313~~ 3-3533 or
35 ~~32-2314~~ 3-3534.

36 2. Must be licensed as an applicator under section ~~32-2312~~ 3-3532,
37 except as provided by subsection A, paragraph 4 of this section.

38 C. A person who is exempt pursuant to subsection A, paragraph 6 of
39 this section shall provide treatment records to each customer on application
40 of herbicides for the purpose of weed management and shall retain records
41 containing the same information provided to customers. For the purposes of
42 this subsection, treatment records shall include all of the following:

43 1. The address of the location of the herbicide application.

44 2. The date of the herbicide application.

45 3. The trade name or common name of the herbicide applied.

1 D. If a person is exempt pursuant to subsection A, paragraph 6 of this
2 section but does not comply with subsection C of this ~~section or if a person~~
3 ~~is not licensed under this chapter and the person is not exempt pursuant to~~
4 ~~subsection A, paragraph 6 of this section as a result of doing something~~
5 ~~prescribed in subsection A, paragraph 6, subdivisions (a) through (f) of this~~
6 section, the ~~acting~~ director shall:

7 1. On a first violation, issue a written notice of correction that
8 contains a warning and a copy of this section and that provides full notice
9 of the exemption requirements.

10 2. On a second violation, impose a civil penalty of not more than two
11 hundred fifty dollars.

12 3. On a third or any subsequent violation, impose a civil penalty of
13 not more than five hundred dollars.

14 E. IF A PERSON IS NOT LICENSED UNDER THIS CHAPTER AND THE PERSON IS
15 NOT EXEMPT PURSUANT TO SUBSECTION A, PARAGRAPH 6 OF THIS SECTION AS A RESULT
16 OF SUBSECTION A, PARAGRAPH 6, SUBDIVISIONS (A) THROUGH (F) OF THIS SECTION,
17 THE PERSON IS SUBJECT TO SECTION 3-3502, SUBSECTION C, PARAGRAPH 10.

18 Sec. 13. Section 3-3532, Arizona Revised Statutes, as transferred and
19 renumbered by this act, is amended to read:

20 3-3532. Licensed applicator; application; categories; renewal;
21 inactive licenses

22 A. An application for an applicator license shall be in a form
23 prescribed by the ~~acting~~ director and accompanied by the prescribed fee. The
24 application shall set forth whether the applicant has ever been convicted of
25 a felony OR MISDEMEANOR INVOLVING MORAL TURPITUDE and, if so, the nature of
26 the felony OR MISDEMEANOR, when and where it was committed and the
27 disposition of the conviction.

28 B. An applicant may apply for a license in any one or a combination of
29 the following categories:

30 1. General and public health pest management, excluding management of
31 wood-destroying insects, wood-destroying insect inspection, ~~antimicrobial~~
32 ~~pest management, fungi inspection,~~ right-of-way and weed management,
33 fumigation, aquatic pest management and turf and ornamental horticulture pest
34 management.

35 2. Management of wood-destroying insects.

36 3. Right-of-way and weed management.

37 4. Fumigation.

38 5. Turf and ornamental horticulture pest management.

39 ~~6. Antimicrobial pest management.~~

40 ~~7. Fungi inspection.~~

41 ~~8.~~ 6. Wood-destroying insect inspection.

42 ~~9.~~ 7. Aquatic pest management.

43 ~~10.~~ 8. Other categories or subcategories based on practice in the
44 industry and established by rule.

1 C. An ~~applicator~~ APPLICANT shall pass an examination, given under the
2 direction of the ~~acting~~ director, with a score of at least seventy-five per
3 cent for each category in which the applicator is seeking licensure.

4 D. An applicator shall be of good moral character. A CONVICTION OF A
5 felony ~~conviction~~ OR MISDEMEANOR INVOLVING MORAL TURPITUDE may demonstrate a
6 lack of good moral character.

7 E. Except as provided in ~~subsection~~ SUBSECTIONS F AND G of this
8 section, each employee of a business licensee applying pesticides shall be
9 licensed in all applicable categories within ~~ninety~~ ONE HUNDRED TWENTY
10 calendar days after employment.

11 F. An unlicensed employee of a business licensee applying pesticides,
12 other than for the treatment of termites, shall work under the direct
13 supervision of a licensed applicator at all times.

14 G. An unlicensed employee of a business licensee applying pesticides
15 for the treatment of termites shall work under the immediate supervision of a
16 licensed applicator at all times. Only one unlicensed employee at a time may
17 be immediately supervised by a licensed applicator.

18 H. A licensed applicator desiring to work in a category for which the
19 applicator is not licensed shall become licensed in the category within
20 ~~thirty~~ ONE HUNDRED TWENTY calendar days after beginning work.

21 I. Except as provided in section 32-4301, each applicator license
22 shall be renewed by submitting a form prescribed by the ~~acting~~ director and
23 paying the prescribed fee.

24 ~~J. An applicator may apply to the acting director for inactive license
25 status. To reactivate an inactive license that has been inactive for one
26 year or less, an applicator shall apply to the acting director. To
27 reactivate an inactive license that has been inactive for more than one year,
28 an applicator shall apply to the acting director and shall either
29 successfully complete the applicator license examination or, within twelve
30 months preceding application for reactivation, complete continuing education
31 as required pursuant to section 32-2319.~~

32 Sec. 14. Section 3-3533, Arizona Revised Statutes, as transferred and
33 renumbered by this act, is amended to read:

34 3-3533. Business license; renewal; financial security; definition

35 A. A person who wishes to engage in the business of STRUCTURAL pest
36 management shall first obtain a business license from the ~~office~~ DEPARTMENT
37 as provided in this article. A person who is not exempt under this article
38 and who advertises for, solicits or holds himself out as willing to engage in
39 the business of STRUCTURAL pest management is presumed to be in the business
40 of STRUCTURAL pest management.

41 B. An application for a business license shall:

- 42 1. Be in a form prescribed by the ~~acting~~ director.
- 43 2. Be accompanied by the prescribed fee.

1 3. Include the name and address of the qualifying party ~~and written~~
2 ~~documentation of how the qualifying party will be active in the day to day~~
3 ~~management of the business licensee.~~

4 4. List all owners with more than a ten per cent ownership interest in
5 the company, all corporate officers and members of the board of directors.

6 C. A business licensee shall register each primary and branch office
7 with the ~~acting~~ director before it opens for business.

8 D. An applicant shall furnish the following to the ~~acting~~ director:

9 1. Proof of financial responsibility consisting of either a deposit of
10 money, liability insurance, self-insured retention, a surety bond or a
11 certified check protecting persons who may suffer legal damages as a result
12 of the operations of the applicant. The ~~acting~~ director shall not accept a
13 bond or a liability insurance policy unless issued by an insurer that holds a
14 valid certificate of authority or that is permitted to transact surplus lines
15 insurance in this state. The amount of the deposit, insurance, self-insured
16 retention or bond shall be at least five hundred thousand dollars and shall
17 be maintained at not less than that amount at all times during the licensing
18 period. The license of a business licensee whose financial security falls
19 below the minimum five hundred thousand dollars shall be suspended by the
20 ~~acting~~ director and shall remain suspended until the security meets the
21 minimum financial security requirement. The financial security need only
22 cover those particular operations in which the licensee is engaged at any
23 time. If the financial security is in the form of liability insurance or a
24 surety bond, the licensee shall furnish the ~~acting~~ director with a
25 certificate of coverage **ON A FORM ACCEPTED OR PRESCRIBED BY THE DIRECTOR** that
26 indicates the coverages and endorsements required by this subsection ~~on a~~
27 ~~form prescribed by the acting director.~~

28 2. ~~Either of the following~~ If the business licensee performs ~~termite~~
29 **WOOD-DESTROYING INSECT** treatments:

30 (a) Proof of a surety bond in the amount of one hundred thousand
31 dollars per business license for actual damages, including reasonable costs
32 of collection suffered by persons as a result of ~~termite~~ **WOOD-DESTROYING**
33 **INSECT** damage due to negligent treatment.

34 (b) Proof of a liability insurance policy rider in the amount of one
35 hundred thousand dollars per business license that covers termite damage due
36 to negligent treatment.

37 ~~3.~~ E. If the business licensee provides wood-destroying insect
38 inspection reports ~~or fungi inspection reports~~, **THE APPLICANT SHALL FURNISH**
39 **TO THE DIRECTOR** proof of a surety bond or a liability insurance policy rider
40 in the amount of one hundred thousand dollars per business license for actual
41 damages plus reasonable costs of collection suffered by persons as a result
42 of errors and omissions contained in the reports.

43 ~~4.~~ F. If an insurance policy provides for a deductible, the
44 deductible amount shall not exceed one per cent of the total financial
45 security for each occurrence. If the deductible amount is in excess of one

1 per cent of the total financial security for each occurrence, the business
2 licensee shall provide other security as provided in this subsection or other
3 evidence of financial security for the excess deductible amount.

4 ~~5-~~ G. If the financial security is in the form of liability
5 insurance, a licensee shall maintain a coverage endorsement for pesticides
6 and herbicides, fumigation, care, custody and control, rights-of-way,
7 wood-destroying insect inspection report errors and omissions, ~~fungi~~
8 ~~inspection report errors and omissions~~ and pollution transit for its
9 applicable license categories.

10 ~~E-~~ H. If the proof of financial security on file with the ~~office~~
11 DEPARTMENT expires, the business license is automatically suspended until a
12 current certificate of insurance or proof of financial responsibility is
13 furnished to the ~~acting~~ director.

14 ~~F-~~ I. Except as provided in section 32-4301, each business licensee
15 shall renew the business license and each office registration on or before
16 the expiration date of the license by filing renewal forms prescribed by the
17 ~~acting~~ director and paying the prescribed renewal fees. If a business
18 licensee fails to renew the business license as required by this subsection,
19 the licensee shall not engage in the business of pest management.

20 ~~G-~~ J. Each branch office of a business licensee shall be supervised
21 by a licensed applicator or qualifying party who is licensed in all
22 categories in which the branch office operates.

23 ~~H-~~ K. For the purposes of this section, "financial security" means
24 liability insurance, a deposit of cash or certified monies, a surety bond or
25 other equivalent item.

26 L. A BUSINESS LICENSEE SHALL NOTIFY THE DIRECTOR IN WRITING ON A FORM
27 APPROVED BY THE DIRECTOR OR ELECTRONICALLY OF:

28 1. ALL QUALIFYING PARTY AND LICENSED OR PRELICENSE APPLICATORS IN
29 THEIR EMPLOY THAT ENGAGE IN THE BUSINESS OF STRUCTURAL PEST MANAGEMENT WITHIN
30 TEN CALENDAR DAYS.

31 2. THE TERMINATION OF A QUALIFYING PARTY OR LICENSED OR PRELICENSE
32 APPLICATOR WITHIN THIRTY CALENDAR DAYS AFTER THE TERMINATION.

33 Sec. 15. Section 3-3534, Arizona Revised Statutes, as transferred and
34 renumbered by this act, is amended to read:

35 3-3534. Qualifying party; license; examination; inactive
36 status; temporary license

37 A. An application for a qualifying party license shall be in a form
38 prescribed by the ~~acting~~ director and accompanied by the prescribed fee. The
39 application shall set forth whether the applicant has ever been convicted of
40 a felony OR MISDEMEANOR INVOLVING MORAL TURPITUDE and, if so, the nature of
41 the felony OR MISDEMEANOR, when and where it was committed and the
42 disposition of the conviction.

43 B. A qualifying party may apply for a license in any one or a
44 combination of the following categories:

- 1 1. General and public health pest management, excluding management of
2 wood-destroying insects, wood-destroying insect inspection, ~~antimicrobial~~
3 ~~pest management, fungi inspection,~~ right-of-way and weed management,
4 fumigation, aquatic pest management and turf and ornamental horticulture pest
5 management.
- 6 2. Management of wood-destroying insects.
7 3. Right-of-way and weed management.
8 4. Fumigation.
9 5. Turf and ornamental horticulture pest management.
10 ~~6. Antimicrobial pest management.~~
11 ~~7. Fungi inspection.~~
12 ~~8.~~ 6. Wood-destroying insect inspection.
13 ~~9.~~ 7. Aquatic pest management.
14 ~~10.~~ 8. Other categories or subcategories based on practice in the
15 industry and established by rule.
- 16 C. An applicant for qualifying party licensure shall:
17 1. Pass an examination, given under the direction of the ~~acting~~
18 director, with a score of seventy-five per cent or more.
19 2. ~~Present~~ PROVIDE evidence satisfactory to the ~~acting~~ director that
20 the person has sufficient education or experience in the use of or
21 supervising the use of a pesticide covered by each category for which the
22 person is applying as demonstrated by having had within five years
23 immediately preceding application either:
24 (a) ~~Three~~ TWO thousand verifiable hours of practical experience in the
25 business of pest management.
26 (b) ~~Two~~ ONE thousand verifiable hours of practical field experience in
27 the business of pest management and have successfully completed at least
28 twelve semester hours or its equivalent in entomology, the eradication or
29 management of weeds, general horticulture, plant pathology or any combination
30 of these subjects directly related to each category for which the person is
31 applying.
32 (c) THREE YEARS OF VERIFIABLE EMPLOYMENT WITH A PEST MANAGEMENT
33 RELATED ENTITY.
34 (d) A BACHELOR OF SCIENCE DEGREE IN ENTOMOLOGY, WEED MANAGEMENT,
35 HORTICULTURE, PLANT PATHOLOGY OR ANY COMBINATION OF THESE SUBJECTS AND FIVE
36 HUNDRED HOURS OF PRACTICAL EXPERIENCE DIRECTLY RELATED TO EACH CATEGORY FOR
37 WHICH THE PERSON IS APPLYING.
- 38 3. Be of good moral character. A felony conviction may demonstrate a
39 lack of good moral character.
- 40 D. The examination shall test the qualifying party's knowledge of
41 pests and the use, storage and application of pesticides and other devices
42 used in the eradication of pests within the category for which the person is
43 applying.
- 44 E. A qualifying party shall have an inactive qualifying party license
45 status if the qualifying party is not currently acting as a qualifying party

1 for a business licensee. To reactivate an inactive license ~~that has been~~
2 ~~inactive for one year or less~~, a qualifying party shall apply to the acting
3 director to qualify a business license. ~~To reactivate an inactive license~~
4 ~~that has been inactive for more than one year, a qualifying party shall apply~~
5 ~~to the acting director to qualify a business license and shall either~~
6 ~~successfully complete the license examination or, within twelve months~~
7 ~~preceding application for reactivation, complete continuing education as~~
8 ~~required pursuant to section 32-2319.~~

9 F. If the acting director issues a renewable and revocable temporary
10 qualifying party license pursuant to section ~~32-2304~~ 3-3502, the temporary
11 qualifying party license is valid for sixty calendar days and may be renewed
12 only on approval of the acting director if good cause is established for
13 delay in the procurement of a qualifying party license. Under the temporary
14 qualifying party license, a business licensee shall otherwise fully comply
15 with the requirements of this chapter and rules adopted pursuant to this
16 chapter.

17 G. A person acting as a qualifying party shall:

18 1. Be active in the management of the business licensee by being
19 present at the business office location each month to review pesticide use,
20 storage and disposal and by ensuring the supervision and training of the
21 employees of the business.

22 2. During normal business hours, be readily available to the licensed
23 applicators and employees of the business licensee.

24 H. A qualifying party shall renew a qualifying party license by
25 submitting a form prescribed by the acting director and a fee prescribed by
26 section ~~32-2317~~ 3-3535. A qualifying party shall furnish to the acting
27 director proof of completion of continuing education as prescribed by section
28 ~~32-2319~~ 3-3536. Successful completion of the qualifying party license
29 examination for each category may be substituted for the continuing education
30 requirement. Continuing education hours used for renewal of a qualifying
31 party's applicator license may be used for the qualifying party's license
32 renewal.

33 Sec. 16. Section 3-3535, Arizona Revised Statutes, as transferred and
34 renumbered by this act, is amended to read:

35 3-3535. Fees

36 A. The acting director shall establish and collect fees ~~that~~ AS
37 PRESCRIBED BY THIS SECTION OR AS PROVIDED BY RULE. FEES may include service
38 charges allowed pursuant to section ~~32-2304~~ 3-3502 for persons who pay with
39 alternative payment methods, including credit cards, charge cards, debit
40 cards and electronic transfers, but ~~that~~ may not exceed the following
41 amounts:

42 1. Qualifying party license application fee, one hundred ~~fifty~~
43 SEVENTY-FIVE dollars.

44 2. Qualifying party license renewal fee, one hundred fifty dollars.

- 1 3. Qualifying party license renewal fee, inactive status, ~~twenty-five~~
2 SEVENTY-FIVE dollars.
- 3 4. QUALIFYING PARTY LICENSE BROADENING APPLICATION FEE, ONE HUNDRED
4 FIFTY DOLLARS.
- 5 ~~4-~~ 5. Temporary qualifying party license application fee, ~~twenty-five~~
6 SEVENTY-FIVE dollars.
- 7 6. TEMPORARY QUALIFYING PARTY LICENSE RENEWAL APPLICATION FEE,
8 SEVENTY-FIVE DOLLARS.
- 9 ~~5. Business license application fee, one hundred dollars.~~
- 10 ~~6. Business license renewal fee, one hundred dollars.~~
- 11 7. Branch office registration application fee, ~~fifty~~ SEVENTY-FIVE
12 dollars.
- 13 8. Branch office registration renewal fee, ~~fifty~~ SEVENTY-FIVE dollars.
- 14 9. Late renewal penalty fee, double the prescribed renewal fee.
- 15 10. Qualifying party license status change, inactive to active, one
16 hundred twenty-five dollars.
- 17 11. Applicator license application, ~~thirty~~ SEVENTY-FIVE dollars.
- 18 12. APPLICATOR LICENSE BROADENING APPLICATION FEE, THIRTY DOLLARS.
- 19 ~~12-~~ 13. Applicator license annual renewal, ~~twenty-five~~ FIFTY dollars.
- 20 ~~13-~~ 14. Duplicate license identification card, ten dollars.
- 21 15. EXAMINATION FEE, FIFTY DOLLARS.
- 22 B. The ~~office~~ DEPARTMENT may charge and collect additional fees for
23 services that the ~~acting~~ director considers to be appropriate to carry out
24 the intent and purpose of this chapter. These additional fees shall not
25 exceed the costs of rendering the services.
- 26 C. IN CONSULTATION WITH THE STRUCTURAL PEST MANAGEMENT ADVISORY
27 COUNCIL, THE DIRECTOR MAY ANNUALLY SET FEES INCLUDING A BUSINESS LICENSE
28 APPLICATION FEE AND BUSINESS LICENSE RENEWAL FEE BASED ON THE NUMBER OF
29 APPLICATORS EMPLOYED BY THE PROSPECTIVE BUSINESS LICENSEE IN AN AMOUNT
30 NECESSARY TO PROVIDE REVENUES TO DEFRAY ALL THE PROPER EXPENSES OF THIS
31 CHAPTER. THE DIRECTOR SHALL PROVIDE FIFTEEN DAYS' ADVANCE NOTICE OF THE
32 HEARING AT WHICH THE FEES WILL BE INCREASED AND THE AMOUNT OF THE PROPOSED
33 FEE. TITLE 41, CHAPTER 6 DOES NOT APPLY TO SETTING OR COLLECTING FEES UNDER
34 THIS SUBSECTION.
- 35 Sec. 17. Section 3-3561, Arizona Revised Statutes, as transferred and
36 renumbered by this act, is amended to read:
- 37 3-3561. Disciplinary action; grounds; procedure; judicial
38 review
- 39 A. ~~After an opportunity for a formal hearing or pursuant to a consent~~
40 ~~order,~~ The ~~acting~~ director may take any of the following disciplinary
41 actions, in combination or alternatively:
- 42 1. Revoke a license.
- 43 2. Suspend a license.
- 44 3. Refuse to renew a license.

1 4. Impose probation requirements that require a business licensee,
2 licensed applicator or qualifying party to comply with one or more specific
3 provisions of this chapter or rules adopted pursuant to this chapter and that
4 require reporting by or monitoring of the business licensee, licensed
5 applicator or qualifying party.

6 5. Impose a civil penalty in an amount of not more than one thousand
7 dollars for each NONSERIOUS violation AND FIVE THOUSAND DOLLARS FOR EACH
8 SERIOUS VIOLATION except for grounds prescribed in subsection B, paragraphs 8
9 and 9 of this section.

10 ~~6. Require a qualifying party to report to the acting director the~~
11 ~~qualifying party's role in the management of a business license.~~

12 ~~7.~~ 6. Issue an administrative warning.

13 B. The following acts are grounds for disciplinary action:

14 1. Violating this chapter, rules adopted pursuant to this chapter or a
15 written order of the ~~acting~~ director.

16 2. Making false or fraudulent STATEMENTS, records or reports.

17 3. Misrepresenting a material fact in obtaining a license.

18 4. Applying pesticides in a manner that is inconsistent with the label
19 requirements of the pesticide or that may cause undue harm to the public.

20 ~~5. Misuse of a pesticide if the misuse is due to training received or~~
21 ~~not received or lack of appropriate supervision. Proper training includes~~
22 ~~training to read and understand the label and labeling and to understand the~~
23 ~~proper use of application equipment. Proper supervision includes oversight~~
24 ~~of applicators to ensure general compliance with the label, labeling and all~~
25 ~~applicable laws.~~

26 ~~6.~~ 5. Authorizing, directing or abetting the publication,
27 advertisement, distribution or circulation of any false statement or material
28 misrepresentation concerning a business of pest management.

29 ~~7. Conviction of a felony or misdemeanor arising from or in connection~~
30 ~~with a license issued pursuant to this chapter after issuance of the license.~~

31 ~~8.~~ 6. Conviction of a felony OR A MISDEMEANOR INVOLVING MORAL
32 TURPITUDE.

33 ~~9.~~ 7. Having had a license, or the equivalent, to apply pesticides or
34 engage in the business of pest management suspended or revoked in another
35 jurisdiction for cause DURING THE PREVIOUS THREE YEARS.

36 ~~10. Making a fraudulent statement or an intentional material~~
37 ~~misrepresentation in connection with a wood treatment proposal or a~~
38 ~~wood-destroying insect inspection report.~~

39 ~~11. Three or more de minimis violations of this chapter or rules~~
40 ~~adopted under this chapter.~~

41 ~~12.~~ 8. Failure to provide the ~~acting~~ director with a current
42 ~~certificate of insurance or~~ proof of financial ~~responsibility~~ SECURITY.

43 ~~13.~~ 9. Failure to establish a complete vertical barrier at the
44 exterior of foundation walls in stem wall construction or exterior of grade

1 beams in monolithic construction within twelve months of the original
2 treatment made before or during construction.

3 ~~14.~~ 10. Immediately supervising more than ~~one~~ THREE unlicensed
4 applicator at a time.

5 ~~15.~~ 11. Failure to make and maintain true and accurate records of
6 treatments performed, including those performed under warranty or guarantee,
7 for at least ~~three~~ TWO years from date of treatment. ~~except any record of a~~
8 ~~termite treatment,~~ A wood-destroying insect inspection report ~~or a fungi~~
9 ~~inspection report, which~~ shall be made and maintained for at least ~~five~~ TWO
10 years from the date of treatment or inspection.

11 ~~16.~~ 12. Failure to make treatment records available within three
12 business days on request of the property owner, the property owner's
13 authorized agent or a representative of the ~~office~~ DEPARTMENT.

14 C. Except as provided in section ~~32-2329~~ 3-3566, the ~~acting~~ director
15 may proceed against a business licensee pursuant to subsection A, paragraphs
16 1 through 5 of this section only if, after an opportunity for a hearing, it
17 has been shown that any of the following applies:

18 1. The business licensee has committed a prior violation of the same
19 type, including any violation by any employee of the business licensee.

20 2. The business licensee failed to follow a written order of the
21 ~~acting~~ director directing it to correct a deficiency or problem within the
22 time specified.

23 3. The business licensee has knowingly assumed operations for a
24 business licensee whose license has been revoked and during the first three
25 years after revocation allows the former licensee to play an active role in
26 company policy, decisions, sales or supervision of employees.

27 4. The business licensee is convicted of a felony ~~OR A MISDEMEANOR~~
28 ~~INVOLVING MORAL TURPITUDE.~~

29 5. The business licensee is determined by the ~~acting~~ director to have
30 committed a violation in connection with a treatment before or during
31 construction.

32 6. The business licensee changes its name or majority ownership of the
33 business and fails to:

34 (a) Report to the ~~acting~~ director within thirty calendar days the
35 status of all warranties issued by the licensee.

36 (b) Notify within thirty calendar days all persons who hold warranties
37 issued by the licensee regarding the change.

38 7. The business licensee ~~OR LICENSED APPLICATOR FOR A POLITICAL~~
39 ~~SUBDIVISION~~ fails to provide written notice immediately following a pest
40 management treatment in or around residential structures of four or fewer
41 units to the person requesting the treatment or to the person's designated
42 agent. The notice shall include the specific pesticide by trade name used in
43 the treatment.

44 8. The business licensee ~~OR LICENSED APPLICATOR FOR A POLITICAL~~
45 ~~SUBDIVISION~~ performing pest management treatments on an ongoing basis to

1 locations other than residential structures of four or fewer units fails to
2 provide written notice to the person who requested the treatments or the
3 person's designated agent. Notice shall be given before the first
4 application of the pesticide and when new or additional pesticides are used
5 or immediately after each treatment.

6 9. If the treatments are performed in the interior of residential
7 units, the licensee fails to leave a notice in the interior of each treated
8 unit immediately after each treatment. The notice shall include the
9 pesticide by trade name and any other information as required by the
10 pesticide label or local ordinance.

11 10. A statement of precaution does not accompany each notification of
12 treatment required in paragraphs 7, 8 and 9 of this subsection. Each
13 statement of precaution shall be printed conspicuously, in not less than
14 eight point type, and shall include the words:

15 Warning--pesticides can be harmful. Keep children and
16 pets away from pesticide applications until dry, dissipated or
17 aerated. For more information contact [business license name
18 and business license number OR POLITICAL SUBDIVISION AND
19 DEPARTMENT NAME] at [telephone number].

20 11. The business licensee fails within thirty calendar days after
21 completion of a ~~termite~~ WOOD-DESTROYING INSECT treatment that is done before
22 or during construction, an initial ~~termite~~ WOOD-DESTROYING INSECT corrective
23 treatment project or a wood-destroying insect inspection report to file with
24 the ~~office~~ DIRECTOR, in a form approved by the ~~acting~~ director, all data
25 required by the ~~acting~~ director. The data shall include:

- 26 (a) The name of the individual who performed the work.
- 27 (b) The address or location of the work or project.
- 28 (c) The type and the date of the work.
- 29 (d) The name of the business licensee.
- 30 (e) The name of the qualifying party.
- 31 (f) The applicator's license number.
- 32 (g) Any other information required by rule.

33 12. The business licensee, within twelve months after completion of a
34 termite treatment that is done before or during construction, fails either to
35 file a supplemental termite action report in a form provided by the ~~acting~~
36 director that indicates the completion of the final grade treatment or to
37 report in writing why the treatment has not been completed and when it will
38 be completed.

39 ~~D. Nothing in subsection C, paragraph 3 of this section shall be
40 deemed to prohibit a business licensee from directly purchasing accounts from
41 a licensee whose license has been revoked if the purchase is made within such
42 time after the revocation as the acting director by rule may establish.~~

43 ~~E.~~ D. Before taking any action pursuant to this section, the ~~acting~~
44 director shall notify in writing interested persons and the licensee before
45 the date of the hearing pursuant to title 41, chapter 6, article 10 either

1 personally or by certified mail at the last address known to the ~~office~~
2 ~~DEPARTMENT~~. The written notice shall contain the nature of the charge or
3 charges against the licensee and the time and place of the hearing on the
4 charges.

5 ~~F.~~ E. A license may be suspended without a hearing as prescribed in
6 section ~~32-2329~~ 3-3566 or if its holder fails within thirty calendar days to:

- 7 1. Pay renewal fees.
- 8 2. Pay civil penalties.
- 9 3. Demonstrate the completion of required continuing education.

10 ~~G.~~ F. The holder of a license suspended under subsection ~~F~~ E of this
11 section must apply to the ~~acting~~ director for reinstatement.

12 ~~H.~~ G. Licenses suspended under subsection ~~F~~ E of this section are
13 automatically revoked without a hearing after one year of suspension.
14 Licenses revoked under this section are not subject to section ~~32-2304~~
15 3-3502, subsection A, paragraph ~~11~~ 9.

16 ~~I.~~ H. All ~~complaints~~ ALLEGATIONS OF PESTICIDE MISUSE OR PEST
17 MANAGEMENT MISCONDUCT FROM THE PUBLIC ABOUT A BUSINESS LICENSEE, QUALIFYING
18 PARTY OR LICENSED APPLICATOR shall be in writing EXCEPT AS OTHERWISE PROVIDED
19 BY LAW.

20 ~~J.~~ I. ~~If the acting director appoints an employee of the office to~~
21 ~~conduct an informal settlement conference with the complaining party pursuant~~
22 ~~to section 32-2304,~~ The purpose of the informal settlement conference is to
23 reach agreement as to the disposition of all or a portion of the complaint,
24 including any agreement providing for repairing or rectifying the conditions
25 specified in the complaint. The settlement conference shall be conducted
26 informally and the rules of evidence do not apply. The settlement conference
27 shall not be recorded. Participants in the settlement conference may ask
28 questions of the complainant and may review any materials or reports compiled
29 by the ~~office~~ DEPARTMENT with respect to the complaint.

30 ~~K.~~ J. If the ~~office~~ DEPARTMENT prepares ISSUES a consent order
31 pursuant to section 32-2304, after either an informal settlement conference
32 conducted pursuant to subsection J of this section or a formal hearing by the
33 office conducted pursuant to title 41, chapter 6, article 10, the consent
34 order shall only set forth the general nature of the inquiry or complaint,
35 the specific action to be taken by the licensee or business licensee, the
36 penalty, if any, and the time for compliance, if any, for any corrective
37 action to be taken.

38 ~~L.~~ ~~Except as provided in section 41-1092.08, subsection H, final~~
39 ~~decisions of the acting director are subject to judicial review pursuant to~~
40 ~~title 12, chapter 7, article 6.~~

41 ~~M.~~ K. The ~~acting~~ director shall consider only an inquiry ALLEGATIONS
42 OF PESTICIDE MISUSE OR PEST MANAGEMENT MISCONDUCT received or complaint filed
43 within five years after the date of the alleged act or omission.

44 ~~N.~~ L. The ~~acting~~ director may issue an advisory notice stating de
45 minimis violations of statutes or rules that carry no penalty, unless the

1 person subject to this chapter wilfully and repeatedly violates the statute
2 or rule. For wilful and repeated violations, the acting director may take
3 disciplinary action against the person for a violation.

4 ~~0.~~ M. If the ~~office~~ DEPARTMENT finds a violation or ~~the office~~ enters
5 into a consent agreement, the ~~office~~ DEPARTMENT:—

6 ~~1.~~ shall not delete the record of the complaint for at least five
7 years following the filing of the complaint.

8 ~~2.~~ ~~Shall include information from the inquiry in the record of~~
9 ~~complaint. If no violation is found, the information from the inquiry shall~~
10 ~~be deleted.~~

11 ~~P.~~ N. Only this chapter applies to, regulates and determines all
12 requirements regarding licensure, licensure fees, testing and education
13 related to pest management in this state. Only this chapter applies to,
14 regulates and determines all requirements regarding the business of pest
15 management, including the application or notification of use or disposal of
16 pesticides for pest management in this state.

17 ~~Q.~~ O. For THE purposes of filing or submitting all documents or fees
18 required under this chapter, service is considered complete if postmarked on
19 the proper date and delivered by first class mail or a higher class.

20 Sec. 18. Section 3-3562, Arizona Revised Statutes, as transferred and
21 renumbered by this act, is amended to read:

22 3-3562. Wood-destroying insects; treatment proposal; fee

23 A. A business licensee shall not commence work on a contract or sign,
24 issue or deliver any documents expressing an opinion or making a statement
25 relating to the presence or absence of wood-destroying insects in a structure
26 until an inspection is made.

27 B. Only an applicator or qualifying party licensed in the categories
28 of wood-destroying insect management and wood-destroying insect inspection
29 shall prepare a treatment proposal on a form approved by the ~~acting~~ director
30 and shall deliver a copy of the treatment proposal to the person requesting
31 the proposal, or the person's designated agent, before beginning treatment.
32 The treatment proposal shall include the following information:

33 1. The address of the property to be treated.

34 2. A statement describing that the work is preventative or corrective.

35 3. A statement describing the evidence of infestation or damage.

36 4. A diagrammatic description showing the nature and location of
37 evidence of infestation or damage, or both, if applicable.

38 5. A statement describing the treatment or repair method, including
39 the name of the pesticide, agent or device to be used and a diagrammatic
40 description showing where the treatment or repair will be rendered.

41 6. The price for the work.

42 7. The terms for the service agreement provided by the business
43 licensee.

44 8. The signature and license number of the person who made the
45 inspection of the structure to be treated.

1 C. A licensee shall also give to the person requesting a proposal a
2 written recommendation that verifies a particular problem and, in addition to
3 the licensee's recommendation for treatment, shall advise the person of
4 alternative treatments and methods, including integrated pest management
5 methods ~~to alleviate the problem.~~

6 D. A treatment proposal shall not be in the same form or be construed
7 as a wood-destroying insect inspection report. A treatment proposal that
8 does not identify infestation by wood-destroying insects is not a binding
9 statement as to the presence or absence of wood-destroying insects.

10 E. A treatment proposal shall be prepared by a licensed applicator or
11 qualifying party who has received at least five hours of instruction from the
12 ~~office~~ DEPARTMENT or an in-house education program of a business licensee on
13 the subject of wood-destroying insect inspections. An examination on the
14 instruction is not required. The business licensee shall keep a record of
15 completion of the training and shall make the record available on the ~~acting~~
16 director's request.

17 F. If a business licensee performs a treatment pursuant to a treatment
18 proposal, the business licensee shall maintain for five years a record of the
19 treatment and the name and quantity of the pesticide used.

20 G. Within thirty calendar days after completion of a termite treatment
21 or on the next business day after the thirty calendar days, a business
22 licensee shall file with the ~~office~~ DEPARTMENT in a form or format approved
23 by the ~~acting~~ director a complete and accurate termite action registration
24 form ~~and a fee as prescribed by the acting director.~~ The termite action
25 registration form shall include information prescribed in section ~~32-2321~~
26 ~~3-3561~~, subsection C, paragraph 11 and this section. This subsection only
27 applies to the following:

28 1. Any treatments done before or during construction, including final
29 grade treatments.

30 2. The first preventative or corrective termite treatment by a
31 business licensee to a site. If the business licensee who performed this
32 termite treatment performed the before or during construction treatment at
33 the same site and filed a termite action report form with the ~~office~~
34 DEPARTMENT documenting the before or during construction treatment, the
35 business licensee is exempt from this paragraph.

36 3. A wood-destroying insect inspection report.

37 Sec. 19. Section 3-3563, Arizona Revised Statutes, as transferred and
38 renumbered by this act, is amended to read:

39 3-3563. Wood-destroying insect inspection reports

40 A. Wood-destroying insect inspection reports may only be completed by
41 an applicator or qualifying party who is licensed in the ~~categories~~ CATEGORY
42 of ~~management of wood-destroying insects and~~ wood-destroying insect
43 inspection and who has received at least five hours of instruction from THE
44 DEPARTMENT ~~the office or the former structural pest control commission~~ or an
45 in-house education program of a business licensee on the subject of

1 wood-destroying insect inspection reports. An examination on the instruction
2 is not required. The business licensee shall keep a record of completion of
3 the training and shall make the record available on the ~~acting~~ director's
4 request.

5 B. Wood-destroying insect inspection reports shall be on file in the
6 office of the business licensee within seven calendar days after the
7 completion of an inspection. The business licensee shall retain a copy of
8 all completed wood-destroying insect inspection reports for ~~five~~ TWO years
9 and make the reports available on the ~~acting~~ director's request.

10 C. Wood-destroying insect inspection reports are evidence of the
11 existence or absence of wood-destroying insects that were visible and
12 accessible to an inspector on the date the inspection was made. A business
13 licensee remains responsible for the accuracy of the inspection and the
14 report as evidence of the presence or absence of infestation on the date of
15 inspection, except that a wood-destroying insect inspection report shall not
16 be construed as a guarantee as to the presence or absence of wood-destroying
17 insects in a structure after the date of inspection.

18 Sec. 20. Section 3-3564, Arizona Revised Statutes, as transferred and
19 renumbered by this act, is amended to read:

20 3-3564. Unlawful acts; violation; classification

21 A. A person shall not:

22 1. Engage in the business of pest management without holding a
23 business license issued pursuant to this chapter.

24 2. Engage in the business of pest management in any category without a
25 qualifying party licensed in that category.

26 3. Operate a branch office without employing a licensed applicator or
27 qualifying party under whose direct supervision pesticide applications are
28 made out of that office.

29 4. Apply pesticides in any category other than the control of
30 wood-destroying insects unless the person is an applicator or qualifying
31 party licensed in that category pursuant to this chapter or applies the
32 pesticides under the direct supervision of an applicator or qualifying party
33 licensed in that category pursuant to this chapter.

34 5. Apply pesticides for the management of wood-destroying insects
35 unless both of the following apply:

36 (a) The person is an applicator or qualifying party licensed in that
37 category pursuant to this chapter or the person applies the pesticides under
38 the immediate supervision of a licensed applicator.

39 (b) The person has received at least five hours of instruction from
40 ~~THE DEPARTMENT the office or the former structural pest control commission~~ or
41 an in-house education program of a business licensee on the subject of
42 management of wood-destroying insects that is appropriate for the specific
43 type of application performed. An examination on the instruction is not
44 required. A business licensee shall keep a record of completion of the
45 training and shall make it available on the ~~acting~~ director's request.

1 6. Make recommendations regarding pest management unless the person is
2 a licensed applicator or qualifying party.

3 7. Deny to an authorized inspector the right to be present on a
4 jobsite in connection with a contemporaneous pest management treatment for
5 the purpose of taking samples, including pesticide samples and soil samples.

6 B. EXCEPT AS PROVIDED BY SECTION 3-3531, A PERSON WHO KNOWINGLY
7 ENGAGES IN THE BUSINESS OF PEST MANAGEMENT WITHOUT A LICENSE THAT MAY
8 POTENTIALLY CAUSE BODILY INJURY, PROPERTY DAMAGE OR ENVIRONMENTAL HARM IS
9 GUILTY OF A CLASS 6 FELONY.

10 Sec. 21. Section 3-3565, Arizona Revised Statutes, as transferred and
11 renumbered by this act, is amended to read:

12 3-3565. Injunctive relief

13 In addition to all other remedies, the ~~acting~~ director, either through
14 the attorney general or the county attorney, may apply to the appropriate
15 court for an order enjoining any act or practice that appears to constitute a
16 violation of this chapter or rules adopted pursuant to this chapter. On a
17 proper showing, a temporary restraining order, a preliminary injunction or a
18 permanent injunction shall be granted without bond.

19 Sec. 22. Section 3-3566, Arizona Revised Statutes, as transferred and
20 renumbered by this act, is amended to read:

21 3-3566. Summary suspension

22 The ~~acting~~ director may summarily suspend, without a formal hearing,
23 any license issued pursuant to this chapter if the ~~acting~~ director considers
24 it to be necessary to protect the health, safety and welfare of the public.

25 Sec. 23. Section 32-1121, Arizona Revised Statutes, is amended to
26 read:

27 32-1121. Persons not required to be licensed; penalties

28 A. This chapter shall not be construed to apply to:

29 1. An authorized representative of the United States government, this
30 state or any county, incorporated city or town, reclamation district,
31 irrigation district or other municipality or political subdivision of this
32 state.

33 2. Trustees of an express trust that is not formed for the purpose of
34 conducting business as a contractor or officers of a court, if they are
35 acting within the terms of their trust or office.

36 3. Public utilities operating under regulation of the corporation
37 commission or construction, repair or operation incidental to discovering or
38 producing petroleum or gas, or the drilling, testing, abandoning or other
39 operation of a petroleum or gas well, if performed by an owner or lessee.

40 4. Any materialman, manufacturer or retailer who furnishes finished
41 products, materials or articles of merchandise and who does not install or
42 attach such items or installs or attaches such items if the total value of
43 the sales contract or transaction involving such items and the cost of the
44 installation or attachment of such items to a structure does not exceed one
45 thousand dollars, including labor, materials and all other items, but

1 excluding any electrical fixture or appliance that was designed by the
2 manufacturer, that is unaltered, unchanged or unmodified by any person, that
3 can be plugged into a common household electrical outlet utilizing a two
4 pronged or three pronged electrical connector and that does not use any other
5 form of energy, including natural gas, propane or other petroleum or gaseous
6 fuel, to operate or is attached by a nail, screw or other fastening device to
7 the frame or foundation of any residential structure. The materialman,
8 manufacturer or retailer shall inform the purchaser that the installation may
9 also be performed by a licensed contractor whose name and address the
10 purchaser may request.

11 5. Owners of property who improve such property or who build or
12 improve structures or appurtenances on such property and who do the work
13 themselves, with their own employees or with duly licensed contractors, if
14 the structure, group of structures or appurtenances, including the
15 improvements thereto, are intended for occupancy solely by the owner and are
16 not intended for occupancy by members of the public as the owner's employees
17 or business visitors and the structures or appurtenances are not intended for
18 sale or for rent. In all actions brought under this chapter, except an
19 action against an owner-occupant as defined in section 33-1002, proof of the
20 sale or rent or the offering for sale or rent of any such structure by the
21 owner-builder within one year after completion or issuance of a certificate
22 of occupancy is prima facie evidence that such project was undertaken for the
23 purpose of sale or rent. For the purposes of this paragraph, "sale" or
24 "rent" includes any arrangement by which the owner receives compensation in
25 money, provisions, chattels or labor from the occupancy or the transfer of
26 the property or the structures on the property.

27 6. Owners of property who are acting as developers and who build
28 structures or appurtenances to structures on their property for the purpose
29 of sale or rent and who contract for such a project with a general contractor
30 licensed pursuant to this chapter and owners of property who are acting as
31 developers, who improve structures or appurtenances to structures on their
32 property for the purpose of sale or rent and who contract for such a project
33 with a general contractor or specialty contractors licensed pursuant to this
34 chapter. To qualify for the exemption under this paragraph, the licensed
35 contractors' names and license numbers shall be included in all sales
36 documents.

37 7. Architects or engineers who are engaging in their professional
38 practice as defined in chapter 1 of this title and who hire or offer to hire
39 the services of a contractor for preconstruction activities relating to
40 investigation and discovery including:

- 41 (a) Subsurface utility location and designation services.
- 42 (b) Potholing.
- 43 (c) Drilling for any of the following:
 - 44 (i) Soil samples.
 - 45 (ii) Rock samples.

1 (iii) Pavement samples.

2 (d) Locating existing features of a building or structure including
3 existing electrical, mechanical, plumbing and structural members.

4 8. A person licensed, certified or registered pursuant to ~~chapter 22~~
5 ~~of this~~ title 3, CHAPTER 19 or a person working under the direct supervision
6 of a person certified or qualified pursuant to ~~chapter 22 of this~~ title 3,
7 CHAPTER 19 to the extent the person is engaged in structural pest ~~control~~
8 MANAGEMENT.

9 9. The sale or installation of finished products, materials or
10 articles of merchandise which are not fabricated into and do not become a
11 permanent fixed part of the structure. This exemption does not apply if a
12 local building permit is required, if the total price of the finished
13 product, material or article of merchandise, including labor but excluding
14 any electrical fixture or appliance that was designed by the manufacturer,
15 that is unaltered, unchanged or unmodified by any person, that can be plugged
16 into a common household electrical outlet utilizing a two pronged or three
17 pronged electrical connector and that does not use any other form of energy,
18 including natural gas, propane or other petroleum or gaseous fuel, to operate
19 or is attached by a nail, screw or other fastening device to the frame or
20 foundation of any residential structure, is more than one thousand dollars or
21 if the removal of the finished product, material or article of merchandise
22 causes damage to the structure or renders the structure unfit for its
23 intended use.

24 10. Employees of the owners of condominiums, townhouses, cooperative
25 units or apartment complexes of four units or less or the owners' management
26 agent or employees of the management agent repairing or maintaining
27 structures owned by them.

28 11. Any person who engages in the activities regulated by this chapter,
29 as an employee of an exempt property owner or as an employee with wages as
30 the person's sole compensation.

31 12. A surety company or companies which are authorized to transact
32 business in this state and which undertake to complete a contract on which
33 they issued a performance or completion bond, provided all construction work
34 is performed by duly licensed contractors.

35 13. Insurance companies which are authorized to transact business in
36 this state and which undertake to perform repairs resulting from casualty
37 losses pursuant to the provisions of a policy, provided all construction work
38 is performed by duly licensed contractors.

39 14. Any person other than a licensed contractor engaging in any work or
40 operation on one undertaking or project by one or more contracts, for which
41 the aggregate contract price, including labor, materials and all other items,
42 but excluding any electrical fixture or appliance that was designed by the
43 manufacturer, that is unaltered, unchanged or unmodified by any person, that
44 can be plugged into a common household electrical outlet utilizing a two
45 pronged or three pronged electrical connector and that does not use any other

1 form of energy, including natural gas, propane or other petroleum or gaseous
2 fuel, to operate or is attached by a nail, screw or other fastening device to
3 the frame or foundation of any residential structure, is less than one
4 thousand dollars. The work or operations which are exempt under this
5 paragraph shall be of a casual or minor nature. This exemption does not
6 apply:

7 (a) In any case in which the performance of the work requires a local
8 building permit.

9 (b) In any case in which the work or construction is only a part of a
10 larger or major operation, whether undertaken by the same or a different
11 contractor, or in which a division of the operation is made in contracts of
12 amounts less than one thousand dollars, excluding any electrical fixture or
13 appliance that was designed by the manufacturer, that is unaltered, unchanged
14 or unmodified by any person, that can be plugged into a common household
15 electrical outlet utilizing a two pronged or three pronged electrical
16 connector and that does not use any other form of energy, including natural
17 gas, propane or other petroleum or gaseous fuel, to operate or is attached by
18 a nail, screw or other fastening device to the frame or foundation of any
19 residential structure, for the purpose of evasion of this chapter or
20 otherwise.

21 (c) To a person who utilizes any form of advertising to the public in
22 which the person's unlicensed status is not disclosed by including the words
23 "not a licensed contractor" in the advertisement.

24 15. A person who is licensed, certified or registered pursuant to
25 title 41, chapter 16 and who is not otherwise required to be licensed under
26 this chapter or an employee of such person.

27 16. A person who functions as a gardener by performing lawn, garden,
28 shrub and tree maintenance.

29 B. A person who is licensed to perform work in a particular trade
30 pursuant to this chapter shall not be required to obtain and maintain a
31 separate license for mechanical or structural service work performed within
32 the scope of such trade by such person.

33 C. Any person who does not have an exemption from licensure pursuant
34 to subsection A, paragraph 14, subdivision (c) of this section is subject to
35 prosecution for a violation of section 44-1522. The attorney general may
36 investigate the act or practice and take appropriate action pursuant to title
37 44, chapter 10, article 7.

38 Sec. 24. Section 36-898, Arizona Revised Statutes, is amended to read:
39 36-898. Licensees; pesticide application; notice; definitions

40 A. The director, in consultation with licensees, personnel of
41 licensees, parents, guardians, administrators, members of the public, a
42 qualifying party and at least one health professional, shall develop and
43 adopt a policy to provide parents, guardians, children and personnel with at
44 least forty-eight hours' notice before pesticides are applied on licensee
45 property.

- 1 B. The policy shall include at least the following:
- 2 1. Procedures for providing the notification including:
- 3 (a) Procedures for written notification to parents, guardians or an
- 4 individual authorized by a parent or guardian during a regular child care
- 5 session.
- 6 (b) Procedures for requiring the licensee to post signs to identify
- 7 pesticide application areas.
- 8 2. Procedures for requiring any contracted pest control applicator to
- 9 provide detailed and sufficient information to licensees for the purpose of
- 10 completing the posting materials.
- 11 C. The policy shall include exemptions for the following pesticide
- 12 applications:
- 13 1. Nonresidual pesticide applications performed or contracted by
- 14 public health agencies for adult vector control.
- 15 2. Emergency pesticide applications of a pesticide that has a toxicity
- 16 category of III or IV pursuant to 40 Code of Federal Regulations section
- 17 156.62 to control harmful pests that pose an immediate threat to the public
- 18 health.
- 19 3. Disinfectants or swimming pool chemicals.
- 20 4. Block, gel or paste-type bait that is a toxicity category III or IV
- 21 formulation of insecticide pursuant to 40 Code of Federal Regulations section
- 22 156.62 and that is either of the following:
- 23 (a) Secured in an enclosed, tamper-resistant bait station and placed
- 24 in an area that is inaccessible to children.
- 25 (b) Applied to a crack or crevice inaccessible to children.
- 26 5. Block-type bait that is a toxicity level III or IV formulation of
- 27 rodenticide pursuant to 40 Code of Federal Regulations section 156.62 and
- 28 that is secured in an enclosed, tamper-resistant bait station placed in an
- 29 area inaccessible to children.
- 30 6. Personal repellants.
- 31 7. Any pesticide exempt from regulation by the United States
- 32 environmental protection agency pursuant to the federal insecticide,
- 33 fungicide and rodenticide act (7 United States Code section 136w).
- 34 D. Each licensee shall maintain written records of pesticide
- 35 application notifications for a period of at least three years after the
- 36 application. The licensee may delegate to the pest control applicator the
- 37 duty to fill out and post notices required by department policy. A licensee
- 38 is not required to maintain records of pesticides that are exempt pursuant to
- 39 subsection C of this section.
- 40 E. For the purposes of this section:
- 41 1. "Child care" has the same meaning prescribed in section 36-881.
- 42 2. "Department" means the department of health services.
- 43 3. "Licensee" means a person who is regulated pursuant to this
- 44 chapter.

1 4. "Pesticides" includes pesticides regulated under the federal
2 insecticide, fungicide and rodenticide act (P.L. 100-532; 102 Stat. 2654;
3 7 United States Code section 136) except for nonrestricted use disinfectants,
4 sanitizers or deodorizers regulated by the federal insecticide, fungicide and
5 rodenticide act.

6 5. "Qualifying party" has the same meaning prescribed in section
7 ~~32-2301~~ 3-3501.

8 Sec. 25. Section 41-1092, Arizona Revised Statutes, is amended to
9 read:

10 41-1092. Definitions

11 In this article, unless the context otherwise requires:

12 1. "Administrative law judge" means an individual or an agency head,
13 board or commission that sits as an administrative law judge, that conducts
14 administrative hearings in a contested case or an appealable agency action
15 and that makes decisions regarding the contested case or appealable agency
16 action.

17 2. "Administrative law judge decision" means the findings of fact,
18 conclusions of law and recommendations or decisions issued by an
19 administrative law judge.

20 3. "Appealable agency action" means an action that determines the
21 legal rights, duties or privileges of a party and that is not a contested
22 case. Appealable agency actions do not include interim orders by
23 self-supporting regulatory boards or rules, orders, standards or statements
24 of policy of general application issued by an administrative agency to
25 implement, interpret or make specific the legislation enforced or
26 administered by it, nor does it mean or include rules concerning the internal
27 management of the agency that do not affect private rights or interests. For
28 the purposes of this paragraph, administrative hearing does not include a
29 public hearing held for the purpose of receiving public comment on a proposed
30 agency action.

31 4. "Director" means the director of the office of administrative
32 hearings.

33 5. "Final administrative decision" means a decision by an agency that
34 is subject to judicial review pursuant to title 12, chapter 7, article 6.

35 6. "Office" means the office of administrative hearings.

36 7. "Self-supporting regulatory board" means any one of the following:

37 (a) The Arizona state board of accountancy.

38 (b) The state board of appraisal.

39 (c) The board of barbers.

40 (d) The board of behavioral health examiners.

41 (e) The Arizona state boxing commission.

42 (f) The state board of chiropractic examiners.

43 (g) The board of cosmetology.

44 (h) The state board of dental examiners.

45 (i) The state board of funeral directors and embalmers.

- 1 (j) The Arizona game and fish commission.
- 2 (k) The board of homeopathic and integrated medicine examiners.
- 3 (l) The Arizona medical board.
- 4 (m) The naturopathic physicians medical board.
- 5 (n) The state board of nursing.
- 6 (o) The board of examiners of nursing care institution administrators
- 7 and adult care home managers.
- 8 (p) The board of occupational therapy examiners.
- 9 (q) The state board of dispensing opticians.
- 10 (r) The state board of optometry.
- 11 (s) The Arizona board of osteopathic examiners in medicine and
- 12 surgery.
- 13 (t) The Arizona peace officer standards and training board.
- 14 (u) The Arizona state board of pharmacy.
- 15 (v) The board of physical therapy examiners.
- 16 (w) The state board of podiatry examiners.
- 17 (x) The state board for private postsecondary education.
- 18 (y) The state board of psychologist examiners.
- 19 (z) The board of respiratory care examiners.
- 20 ~~(aa) The office of pest management.~~
- 21 ~~(bb)~~ (aa) The state board of technical registration.
- 22 ~~(cc)~~ (bb) The Arizona state veterinary medical examining board.
- 23 ~~(dd)~~ (cc) The acupuncture board of examiners.
- 24 ~~(ee)~~ (dd) The Arizona regulatory board of physician assistants.
- 25 ~~(ff)~~ (ee) The board of athletic training.
- 26 ~~(gg)~~ (ff) The board of massage therapy.
- 27 Sec. 26. Repeal
- 28 Laws 2008, chapter 309, sections 23, 24, 25 and 26 are repealed.
- 29 Sec. 27. Termite reporting system; expiration; evaluation
- 30 A. The authority for the termite reporting system established in
- 31 section 3-3502, subsection A, paragraph 5, Arizona Revised Statutes, as
- 32 transferred and renumbered and amended by this act, and referenced in section
- 33 3-3561, subsection C, paragraphs 11 and 12, Arizona Revised Statutes, as
- 34 transferred and renumbered and amended by this act, and section 3-3562,
- 35 subsection G, Arizona Revised Statutes, as transferred and renumbered and
- 36 amended by this act, expires on July 1, 2012.
- 37 B. Not later than January 1, 2012, the associate director of the
- 38 Arizona department of agriculture, environmental services division shall
- 39 prepare and submit a report to the president of the senate and the speaker of
- 40 the house of representatives evaluating the value of the termite reporting
- 41 system to the public relative to the resources necessary to operate and
- 42 maintain the system.

1 Sec. 28. Succession

2 A. As provided by this act, the Arizona department of agriculture
3 succeeds to the authority, powers, duties and responsibilities of the office
4 of pest management.

5 B. This act does not alter the effect of any action or impair the
6 valid obligations of the office of pest management taken before the effective
7 date of this act.

8 C. Administrative rules and orders adopted by the office of pest
9 management continue in effect until superseded by administrative action by
10 the Arizona department of agriculture.

11 D. All administrative matters, contracts and judicial and
12 quasi-judicial actions, whether completed, pending or in process, of the
13 office of pest management on the effective date of the act are transferred to
14 and retain the same status with the Arizona department of agriculture.

15 E. All certificates, licenses, registrations, permits, continuing
16 education credits, and other indicia of qualification and authority that were
17 issued by the office of pest management retain their validity for the
18 duration of their terms of validity as provided by law.

19 F. All equipment, records, furnishings and other property, all data
20 and investigative findings and all appropriated monies that remain unexpended
21 and unencumbered on the effective date of this act of the office of pest
22 management are transferred to the Arizona department of agriculture.

23 G. All personnel who are under the state personnel system and employed
24 by the office of pest management are transferred to comparable positions and
25 pay classification in the Arizona department of agriculture on the effective
26 date of this act.

27 Sec. 29. Structural pest management advisory council; delayed
28 repeal

29 A. The structural pest management advisory council is established
30 consisting of seven industry members who hold active qualifying party
31 licenses issued by the Arizona department of agriculture, who are appointed
32 by the director of the Arizona department of agriculture.

33 B. Members of the council are not eligible to receive compensation but
34 are eligible for reimbursement of expenses pursuant to title 38, chapter 4,
35 article 2, Arizona Revised Statutes, from the pest management fund
36 established by section 3-3504, Arizona Revised Statutes, as transferred,
37 renumbered and amended by this act.

38 C. The council shall:

39 1. Annually elect a chairperson and vice-chairperson from among its
40 members.

41 2. Meet at least once each calendar quarter and at other times as
42 called by the chairperson or if requested by four or more members of the
43 council.

44 3. Keep a permanent record of its proceedings, which shall be
45 available for public inspection for lawful purposes.

1 D. The council shall advise the director on all matters pertaining to
2 the regulation of structural pest management and title 3, chapter 19, Arizona
3 Revised Statutes, as added by this act, including:

4 1. Review all statutes and rules relating to title 3, chapter 19,
5 Arizona Revised Statutes, as added by this act.

6 2. Make recommendations concerning inspection procedures and training
7 concerning title 3, chapter 19, Arizona Revised Statutes, as added by this
8 act.

9 3. Make recommendations for changes to existing statutes and other
10 legislative proposals related to structural pest management.

11 4. Review all changes proposed by the Arizona department of
12 agriculture to statutes relating to structural pest management.

13 5. Make recommendations concerning additions, modification or repeals
14 of rules relating to structural pest management, including suggesting the
15 initiation of rule making.

16 6. Review education, curricula and other requirements for applicants
17 for licensure and certification.

18 7. Review and make recommendations about the content of examinations
19 under title 3, chapter 19, Arizona Revised Statutes, as added by this act.

20 8. Make recommendations on other issues relating to the practice of
21 structural pest management that council members consider to be relevant.

22 E. If the council makes any formal recommendations under this section,
23 the director shall provide a written statement of reasons to the advisory
24 council within fifteen business days if the director does not accept the
25 council's recommendations.

26 F. This section is repealed from and after July 1, 2014.