



ARIZONA

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Governor

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Ellis M. Jones
Acting Director

**ADVISORY COMMITTEE MEETING
WEDNESDAY, March 10, 2010 10:00 A.M.**

Minutes

I. Call to order 10:00a.m. (Chairman Etheridge) Committee Member Roll Call

Committee Members present: *Kevin Etheridge, Ken Fredrick, Nate Tamialis, Carmella Ruggiero and Doug Seemann*

Committee Members absent: *Jack Latham*

Staff present: *Ellis Jones, Vince Craig, Robert Tolton and Nancy Holmes*

II. Approval of Minutes

a) January 20, 2009 Minutes

MOTION: To approve the minutes by Nate Tamialis
Seconded by Carmella Ruggiero

VOTE:5-0 Motion Carried

III. OPM Updates and Reports (Mr. Jones)

a) Agency Update (Mr. Jones)

1. Budget (Handouts)

Mr. Jones gave an update on the budget. According to what is being heard, the Legislature is reducing OPM's appropriation by \$363,200.00 and the budget cap for limiting the amount of new fees that can be generated is placed at \$525,000.00. All OPM employees will be required to take a furlough day between now and the end of the fiscal year; next fiscal year it could be six furlough days. Additionally, there will be a reduction in pay by 5%. There is no indication of a fund transfer; however, that could be subject to change. Mr. Jones said he will await further clarification on this matter.

2. Agency Snapshots (Handouts)

Mr. Jones reviewed January and February Agency Snapshot numbers (Attachment A) with those in attendance. Many numbers are expected to increase significantly with the Applicator License Renewals. At the bottom of the page for February the only new change is that companies that have keyed in eTARFS but not paid for them – the system will now show them as having to pay a late fee.

3. City of Phoenix IPM Program

Mr. Jones gave an update on the City of Phoenix/University of Arizona IPM & Green Program. The program is moving right along and funds are beginning to trickle in. If you are interested in becoming a part of this pilot project please let Mr. Jones know. It is currently an eight week course and upon completion a certificate will be issued. Those chosen cannot have a felony, misdemeanor or a DUI on their record. OPM will provide course material and some training in the field. This program is primarily for those unemployed technical workers in the Phoenix area and only 20 people will be chose to participate. The City of Phoenix is looking for companies interested in sponsoring the program; the salaries would be partially paid for by the City of Phoenix.

b) Compliance/Enforcement (Mr. Craig)

1. Adjudicated Complaint Summary (Handout)

Mr. Craig asked for any questions regarding the complaint process. Mr. Craig stressed that only adjudicated cases are on the web site and do not reflect all cases filed for the months of January and February (**Attachment B**). Most of the cases received pertain to unlicensed applicators (approximately 75%).

c) Licensing (Mr. Tolton)

1. Business Licenses issued during January 2010

Mr. Tolton asked if there were any questions regarding the list of business licenses granted for January and February. No questions were asked.

Business Name	Business Licensee	Qualifying Party
Be True Organic Pest Control, LLC	Be True Organic Pest Control, LLC. – Ann Marie Cole	James H. Bowyer
Bug-N-Out Pest Control, LLC	Bug-N-Out Pest Control, LLC – Keith A. Kronback	Richard T. Munoz
CK Pest Management, LLC	CK Pest Management, LLC. – Kevin & Randy Kaplan	Kevin Kaplan
Monarch Pest Control	Monarch Pest Control, LLC. – C. Jason Bennis	David Poplin
Perimeter Pest Management	Ryan J. Everson	Ryan J. Everson
Stealth Exterminating, LLC.	Stealth Exterminating, LLC. – Danette E. Naviaux	Danette E. Naviaux
Stillwater Landscape Management, LLC.	Stillwater Landscape Management, LLC. – Richard W. Robinson	Richard W. Robinson
T.L.C. Environmental Services, LLC.	T.L.C. Environmental Services, LLC. – David & Stephen Coyne and Stephanie Castillo	David Coyne

2. Business Licenses issued during February 2010

Business Name	Business Licensee	Qualifying Party
Barrier Pest Management, LLC.	Barrier Pest Management, LLC. – Joe Jackson, II	Joe E. Jackson, II
Beaver's Tree Service	Roy & Raye Enterprises, Inc. – Michaëlle & Dean Michaud	Edward F. Kuhnen
Full Metal Jacket Pest Control	Arturo R. Hernandez	Arturo R. Hernandez
G. Green Weed Control	Wilfred E. Green	Wilfred E. Green
Green Plus Pest Solutions	Green Plus Pest Solutions, LLC. – Peter Smith	Pierre D. Smith
Saddlebrook Homeowner's Association #1, Inc.	Saddlebrook Homeowner's Association #1, Inc. – John Jeffrey, Jack Bowers, John Paulak, & Kerry Wolfe	Darril A. Kilmer
Squish 'Em Pest Control, LLC.	Squish 'Em Pest Control, LLC. – Brian and Rachel Taylor	Brian M. Taylor

3. 2011 Applicator License Renewals

Mr. Tolton said that the 2011 Applicator License Renewals forms will be mailed out at the end of March. The fee for renewals has increased to \$50.00. Mr. Tolton also stated that Licensed Applicators that have previously provided evidence of citizenship will not need to resubmit the Arizona Statement of Citizenship and acceptable proof. Only those Licensed Applicators with a limited form of Alien Status will need to submit both documents.

IV. Review, Discussion, and Possible Action on:

a) Continuing Education Application Fee (Mr. Tolton)

Mr. Tolton apologized and explained that this item is a carryover from a previous agenda and there is currently no new information.

b) House Bill 2211 (Handouts) – (Mr. Jones)

Mr. Jones stated that Pima County asked for feedback regarding the proposed changes and received only one positive email. Everyone seems happy and it should be approved shortly ([Attachment C](#)).

c) House Bill 2449 (Handouts) – (Mr. Jones)

Mr. Jones advised those in attendance that the Bill has already passed through Committee and moves the responsibility of OPM to the Department of Agriculture. A copy of the House Bill 2449 ([Attachment D](#)) and the proposed Floor Amendment ([Attachment E](#)). The Floor Amendment was a collaboration of OPM, PMAC, AZ Legislature, Department of Agriculture as well as pest management industry members. Mr. Jones noted that the fees within the Floor Amendment are under the exempt rule making. If the Bill does not go through then the increases will go away; which means we will be back to square one and the requirement for a cross functional team will need to be implemented. Mr. Jones said he has heard rumors that if OPM becomes part of Department of Agriculture fees may be reduced. This is highly unlikely. Additionally, the 90-10 component will remain in place. The unknown is whether Department of Agriculture will utilize the 90% for Ag related purposes. If

the Bill is passed it will become effective 90 days after the session ends. A physical move is expected in January 2011.

Mr. Harvey Logan asked Mr. Jones if there were any hurdles OPM should be aware of since the Agency doesn't have a lobbyist. Mr. Ellis Jones said that Representative Russell Jones called the Department of Administration regarding the rent on the current facility and realizes that there will be no savings in the move to Department of Agriculture. OPM will be responsible for a portion of the rent at Department of Agriculture as well as the rent in the current facility until a tenant is found. Fees for the move will be paid up front but savings will not be realized for a number of years. Some in the pest management are opposed to the move while some are in favor of it. Option one of the Auditor General's Report calls for total integration, Option two calls for a unit within ESD and Option three calls for a division within Department of Agriculture. Discussion followed with some audience members saying the industry was initially for Option one while others felt that it should go back to a Commission. Ellis said the push is on for Option two. Ellis asked if we are doing the job based on the Statutes and the consumer expectations. The only complaints OPM gets today are on Civil Penalty fine amounts. So what is the benefit of moving to Department of Agriculture? None. There will be no savings in rent unless we can sublet our facility. Mr. Jones is opposed to the process of cross training the inspectors to do both OPM and Department of Agriculture inspections. Mr. Jones further stated that if there was a good deal of savings he would not be opposed to the move. It would make more sense to transfer the pest control personnel from Department of Agriculture to OPM. Right now OPM is a "One Stop Shopping" Agency. Harvey Logan of Western Exterminators asked if Ellis is planning to testify and Mr. Jones stated that if the Bill goes through he'll be gone and there will be no retaliation toward the OPM staff. Mr. Jones also said that the comparison between OPM and Department of Agriculture salaries are very close. The total difference in salaries between the two agencies is \$40,000.00 which Department of Agriculture considers "catastrophic". Mr. Craig said he would like to hear from industry members who are in favor of the move to Department of Agriculture. It seems the industry is lobbying folks outside of Arizona but it would be validated if OPM heard from industry members on their preference as well as PMAC members for their preference. Send us your comments, the more feedback the better for everyone. Lisa Gervase said she would like to know from the AZ business owners what they perceive the benefits to moving to Department of Agriculture would be. Ms. Gervase feels there's no savings in the move and would be interested in what industry members and business owners have told PMAC. Mr. Jones reiterated: "are we doing the job you expect from us" and "in your opinion what is the benefit to moving to Department of Agriculture." Mr. Craig suggested putting a short questionnaire on the web site asking members for their comments. Chairman Etheridge asked if any PMAC members wished to comment. Mr. Fredrick said he will talk with anyone about his feelings but not in a public forum. Carali Etheridge said it sounds as though a few want this move to Department of Agriculture so they can hide in the chaos. The PMAC made a recommendation that OPM - via the web site - ask industry members and business owners for their feedback regarding the advantages to moving to Department of Agriculture.

MOTION: To approve by Ken Fredrick
Seconded by Doug Seemann

VOTE:5-0

Chairman Etheridge said he feels the Bill is headed for derailment and that he thought it was a done deal but today it looks entirely different. Chairman Etheridge asked Mr. Jones to rethink appearing before the legislature because one of the burning questions is "What are the benefits to moving?" Ellis said that he will appear before the legislature. Nate Tamialis hears from the industry that going to the Department of Agriculture is going to be a cost savings to them. Chairman Etheridge said the Department of Agriculture building is a historic building downtown with anticipated repairs both normally and as a result of OPM's move. Chairman Etheridge further asked Mr. Jones if the train derails is OPM in favor of moving forward with the changes in Statute and Mr. Jones stated he was.

d) OPM relationship with Goodman · Schwartz Public Affairs (Chairperson)

Mr. Jones clarified that Stuart Goodman is not our lobbyist; Mr. Goodman reports to Mr. Jones (OPM's lobbyist) on those State Legislative issues that may potentially impact the pest control industry or the OPM's operations ([Attachment F](#)).

V. Call to the Public (Chairperson)

T J Hammer said it was a great meeting and she has seen quite an improvement through the years. If you know anyone who must sell their pest control business due to health issues, divorce or retirement please contact Ms. Hammer at 480/540-5005. All inquiries are kept confidential.

VI. Communication with Advisory Committee Members (Chairperson)

Ken Fredrick stated that he and Rick Rupkey (representing AzPPO) met with a representative of the Cotton Growers Association. Mr. Fredrick stated that the Cotton Growers are strongly opposed to the merger because they haven't seen a copy of the complete Bill. Additionally, Mr. Fredrick feels the Cotton Growers will remain opposed to OPM coming in to Department of Agriculture. Mr. Fredrick further stated that the Cotton Growers know the Bill will pass the House but when the Bill reaches the Senate it will meet opposition from the Cotton Growers Association.

VII. Scheduling of Future Meetings (Mr. Jones)

- a) May 12, 2010
- b) July 14, 2010
- c) September 8, 2010

VIII. Adjournment - Meeting adjourned at 11:05 A.M.

**Arizona Office of Pest Management
Snapshot Period 1 - 31 January 2010**

Compliance

Number of Inspectors: **5** Number of Inspections (Including Federal): **376** Number of Investigators: **5** Number of Investigations: **19**
 Number Consumer Generated Complaints: **0** Number OPM Generated Complaints: **5**

Enforcement

Number Consent Agreements: **3** Number Administrative Warnings: **3** Number Cease and Desist Orders: **4**
 Number Placed on Probation: **0** Number Licenses Suspended: **0** Number Conditional Probation: **0**
 Number for Hearings: **0** Number Licenses Revoked: **0** Other: **5(Cases Dismissed)**

Licensing

	Received	Approved	Issued	Denied
Applicator License	124	81	80	0
Qualifying Party License	59	74	15	0
Business License	68	72	6	0
Continuing Ed Applications	19	84	84	1
Number of Application Review Committee Hearings for Applicants with Convictions: 4		Number of Applicant undergoing in-house Fingerprinting: 61		Number Applicants Testing at OPM: 18
Number Applicator Licensees: 7053		Number Qualifying Party Licensees: 1410		Number Business Licensees: 1145

Finance and Administration

Revenues Total: **\$170,105.55** Expenditures: **\$145,823.34**
 OPM Fund: **\$150,019.71** General Fund: **\$20,085.84**

Information and Technology

Number Electronic TARF: **9,996** Number Paper TARF: **228** Number Companies Using Tarf: **258**

Handwritten initials "A" in the bottom right corner.

Arizona Office of Pest Management Snapshot Period 1 - 29 February 2010

Compliance

Number of Inspectors: **5** Number of Inspections (Including Federal): **356** Number of Investigators: **5** Number of Investigations: **13**
 Number Consumer Generated Complaints: **4** Number OPM Generated Complaints: **4**

Enforcement

Number Consent Agreements: **9** Number Administrative Warnings: **8** Number Cease and Desist Orders: **4**
 Number Placed on Probation: **0** Number Licenses Suspended: **0** Number Conditional Probation: **0**
 Number for Hearings: **0** Number Licenses Revoked: **0** Other: **0**

Civil Penalties Paid: **\$2,550**

Licensing

	Received	Approved	Issued	Denied
Applicator License	139	135	58	0
Qualifying Party License	21	14	28	0
Business License	10	4	8	0
Continuing Ed Applications	13	3	3	1

Number of Application Review Committee Hearings for Applicants with Convictions: **7** Number of Applicant undergoing in-house Fingerprinting: **63** Number Applicants Testing at OPM: **32**

Number Applicator Licensees: **7122** Number Qualifying Party Licensees: **1425** Number Business Licensees: **1095**

Finance and Administration

Revenues Total: **\$113,051.21** Expenditures: **\$122,253.20**
 OPM Fund: **\$99,471.09** General Fund: **\$13,580.12**

Information and Technology

Number Electronic Number Paper TARR: **153** Number Companies Using Tarr: **259**
 TARR: **11,161**

Adjudicated Complaint Summary

January 2010 Complaints

Complaint #	Generated by:	File Date:	Allegation:	Company / Respondent Name:	Disposition
100033	Consumer	10/27/2008	WDIIR	NU-TREAT PEST SERVICES	Discipline issued on QP
100036	Consumer	11/21/2008	Unl	Alfred Manuel Denogean	Dismissed w/o Prejudice
100073	Consumer	3/27/2009	Unl / WDIIR	Tamara Gormley	Cease and Desist & Civil Pnlty
100088	OPM	5/19/2009	Unl	Rogert Douglas	Cease and Desist & Civil Pnlty
100106	Consumer	6/24/2009	Misuse	Terminix	Discipline issued on APP
100116	Consumer	7/17/2009	Unl	John Beebe / Atomic Pest	Dismissed
100118	Consumer	7/20/2009	Unl	Jose Lopez dba Yamy Landscaping	Cease and Desist
100119	OPM	7/21/2009	Other	Budget Brothers	Dismissed
100122	OPM	7/23/2009	Unl	Doug White (Dougie's Home Maint)	C&D & Reimbursement
100127	Consumer	8/10/2009	Unl	Michael Sauter	Cease and Desist
100129	Consumer	8/13/2009	Unl	Jesus Evangelista	Cease and Desist & Civil Pnlty

LEGEND:

- Unl = Unlicensed Business
- Unl App = Unlicensed Applicator
- Weed = Violated Weed Control Exemption Requirements
- Misuse = Violated label requirements or non-target contamination
- WDIIR = Improper termite inspection
- Other = Every other violation of Rule or Statute not commonly committed

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Adjudicated Complaint Summary

February 2010 Complaints

Complaint #	Generated by:	File Date:	Allegation:	Company / Respondent Name:	Disposition
100092	Consumer	5/28/2009	Unl	Manuel Rogelio Lopez	Discipline & reimbursement
100109	Consumer	7/9/2009	Unl App	Northwest Exterminating	Discipline Issued
100115	Consumer	7/17/2009	Unl App	Sun City Pest Control	Discipline Issued
100120	Consumer	7/22/2009	Unl	David Wilson	Cease and Desist Order
100123	Consumer	7/29/2009	Unl	Donovan Durst dba Professional Pest	Cease and Desist Order
100133	Consumer	8/18/2009	Weed	Julian Morales dba AZ Greentop Landscp	Notice of Correction
100138	OPM	8/27/2009	Unl	Jose Lopez dba Yamy Landscaping	Cease and Desist Order
100141	OPM	8/28/2009	Unl App	Walter Kellner (Pinal County)	Cease and Desist Order
100142	Consumer	9/1/2009	Misuse	Daniel Preston Avilez (Applicator)	Advisory Notice Issued

LEGEND:

Unl = Unlicensed Business

Unl App = Unlicensed Applicator

Weed = Violated Weed Control Exemption Requirements

Misuse = Violated label requirements or non-target contamination

House Engrossed

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

HOUSE BILL 2211

AN ACT

AMENDING SECTION 32-2311, ARIZONA REVISED STATUTES; RELATING TO THE OFFICE OF PEST MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

"C"

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-2311, Arizona Revised Statutes, is amended to
3 read:

4 32-2311. Persons not required to be licensed; civil penalties;
5 definition

6 A. This chapter does not apply to:

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

9 2. Persons applying pesticides on property that they own and occupy.

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

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

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

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

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

23 (b) The use of sterilants.

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

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

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

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

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

33 8. EXCEPT AS PROVIDED IN SECTION 32-2307, VOLUNTEERS OF POLITICAL
34 SUBDIVISIONS WHO APPLY HERBICIDES FOR THE PURPOSE OF THE ERADICATION AND
35 CONTROL OF NOXIOUS WEEDS AS DEFINED IN SECTION 3-201 AND WHO ARE UNDER THE
36 IMMEDIATE SUPERVISION OF A LICENSED APPLICATOR. THIS EXEMPTION DOES NOT
37 APPLY TO:

38 (a) THE USE OF HERBICIDES THAT ARE LABELED WITH THE WORDS "RESTRICTED
39 USE" OR "DANGER" AND THAT ARE NOT COMMERCIALY AVAILABLE TO THE GENERAL
40 PUBLIC.

41 (b) THE USE OF STERILANTS.

42 (c) VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO USE APPLICATION EQUIPMENT
43 THAT HOLDS MORE THAN EIGHT GALLONS OF TOTAL MIXED LIQUID HERBICIDE.

44 (d) VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO USE MORE THAN TWENTY-FIVE
45 POUNDS OF A NONLIQUID HERBICIDE.

1 (e) VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO DO NOT FOLLOW LABEL AND
2 LABELING DIRECTIONS.

3 (f) VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO HAVE NOT COMPLETED AN
4 OFFICE OF PEST MANAGEMENT APPROVED HERBICIDE APPLICATION TRAINING PROGRAM
5 CONDUCTED BY THE POLITICAL SUBDIVISION.

6 B. An employee of a political subdivision who engages in pest
7 management:

8 1. Is not required to be licensed under section 32-2313 or 32-2314.

9 2. Must be licensed as an applicator under section 32-2312, except as
10 provided by subsection A, paragraph 4 of this section.

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

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

17 2. The date of the herbicide application.

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

19 D. If a person is exempt pursuant to subsection A, paragraph 6 of this
20 section but does not comply with subsection C of this section or if a person
21 is not licensed under this chapter and the person is not exempt pursuant to
22 subsection A, paragraph 6 of this section as a result of doing something
23 prescribed in subsection A, paragraph 6, subdivisions (a) through (f) of this
24 section, the acting director shall:

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

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

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

32 E. VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO ARE NOT WORKING UNDER THE
33 IMMEDIATE SUPERVISION OF A LICENSED APPLICATOR MAY BE SUBJECT TO SECTION
34 32-2304, SUBSECTION D, PARAGRAPH 12.

35 F. FOR THE PURPOSES OF THIS SECTION, "VOLUNTEERS OF POLITICAL
36 SUBDIVISIONS" MEANS PERSONS WHO WORK WITHOUT COMPENSATION OTHER THAN
37 REIMBURSEMENT OF ACTUAL EXPENSES INCURRED OR DISBURSEMENT OF MEALS OR OTHER
38 INCIDENTAL BENEFITS.

Forty-ninth Legislature
Second Regular Session

COMMITTEE ON NATURAL RESOURCES AND RURAL AFFAIRS
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2449
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 3, Arizona Revised Statutes, is amended by adding
3 chapter 19, to read:

4 CHAPTER 19

5 STRUCTURAL PEST MANAGEMENT

6 ARTICLE 1. STRUCTURAL PEST ADMINISTRATION

7 ARTICLE 2. STRUCTURAL PEST CERTIFICATION, REGISTRATION AND LICENSURE

8 ARTICLE 3. STRUCTURAL PEST REGULATION

9 Sec. 2. Transfer and renumber

10 A. Sections 32-2301, 32-2304, 32-2305 and 32-2307, Arizona Revised
11 Statutes, are transferred and renumbered for placement in title 3, chapter
12 19, article 1, Arizona Revised Statutes, as added by this act, as sections
13 3-3501, 3-3502, 3-3504 and 3-3505, respectively.

14 B. Sections 32-2311, 32-2312, 32-2313, 32-2314, 32-2317 and 32-2319,
15 Arizona Revised Statutes, are transferred and renumbered for placement in
16 title 3, chapter 19, article 2, Arizona Revised Statutes, as added by this
17 act, as sections 3-3531, 3-3532, 3-3533, 3-3534, 3-3535 and 3-3536,
18 respectively.

19 C. Sections 32-2321, 32-2323, 32-2324, 32-2325, 32-2327 and 32-2329,
20 Arizona Revised Statutes, are transferred and renumbered for placement in
21 title 3, chapter 19, article 3, Arizona Revised Statutes, as added by this
22 act, as sections 3-3561, 3-3562, 3-3563, 3-3564, 3-3565 and 3-3566,
23 respectively.

24 Sec. 3. Repeal

25 A. Sections 32-2302, 32-2306, 32-2308 and 32-2324.01, Arizona Revised
26 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.

"D"

1 Sec. 4. Section 3-102, Arizona Revised Statutes, is amended to read:

2 3-102. Department organization

3 A. The Arizona department of agriculture is established consisting of
4 the following divisions:

5 1. The animal services division, which is responsible for milk, dairy,
6 livestock and aquaculture regulation, the state veterinarian, meat, poultry
7 and egg inspection and performing the administrative functions authorized or
8 contracted pursuant to law for the Arizona beef council.

9 2. The plant services division, which is responsible for the fruit and
10 vegetable standardization program and entomological services.

11 3. The environmental services division, which is responsible for
12 regulating seed, feed, and ~~agricultural chemicals, including pesticides, and~~
13 fertilizers, THE BUSINESS OF STRUCTURAL PEST MANAGEMENT and for native plant
14 protection.

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

17 1. A state agricultural laboratory.

18 2. An office of agriculture safety.

19 3. An office of inspections.

20 4. An office of commodity development and promotion.

21 C. The department shall have a central administrative service office
22 providing:

23 1. Data processing, accounting and budgeting, records management,
24 publications, property control and personnel services and training.

25 2. A program to cross-train appropriate personnel to enable them to
26 perform similar functions or comparable work for different administrative
27 units in the department.

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

29 3-363. Rules

30 The director shall adopt rules to regulate pesticides which shall
31 include provisions to:

32 1. Administer and implement this article.

33 2. Prescribe measures to control, monitor, inspect and govern
34 pesticide use.

35 3. Prohibit or restrict pesticide use.

36 4. Restrict the areas in which pesticide use may occur.

1 5. Prescribe minimum qualifications for all persons who engage in
2 pesticide use, including, as appropriate, requirements that the persons have
3 valid licenses, permits or certificates, have adequate training, including
4 continuing education requirements and meet financial responsibility
5 standards.

6 6. Prescribe appropriate record keeping and reporting requirements
7 regarding pesticide use, except that the record keeping and reporting
8 requirements for growers and certified private applicators who apply
9 pesticides shall be equivalent to, but not more stringent than, the
10 requirements prescribed under the federal insecticide, fungicide and
11 rodenticide act (61 Stat. 163) and the food, agriculture, conservation and
12 trade act of 1990 (P.L. 101-624; 104 Stat. 3359).

13 7. Prohibit pesticide use ~~which~~ THAT is inconsistent with the
14 pesticide label as required under the federal insecticide, fungicide and
15 rodenticide act (61 Stat. 163).

16 8. Exempt from regulation under this article pesticide use that is
17 regulated in ~~title 32,~~ chapter 22 19 OF THIS TITLE.

18 9. Issue licenses, permits and certificates for pesticide use, as
19 appropriate, having terms of one or more years.

20 10. Charge and collect the following fees for each permit, license and
21 certification under this article:

22 (a) Not to exceed twenty dollars per year for a grower permit.

23 (b) Not to exceed one hundred dollars per year for a seller permit.

24 (c) Not to exceed one hundred dollars per year for a custom applicator
25 license.

26 (d) Not to exceed fifty dollars per year for a pilot license.

27 (e) Not to exceed fifty dollars per year for a pest control advisor
28 license.

29 (f) Not to exceed twenty-five dollars per year for a piece of
30 equipment used to apply pesticides by a custom applicator.

31 (g) Not to exceed fifty dollars per year for restricted use
32 certification.

33 11. Establish a nonexclusive list of acts and omissions that constitute
34 serious, nonserious and de minimis violations of this article.

35 12. Establish a system of administrative penalties and fines for
36 violations of this article and any rules adopted under this article. Under
37 this system:

1 (a) Violators shall be assessed a number of points for each violation,
2 depending upon ON such factors as:

3 (i) Potential and actual consequences of the violation on public and
4 worker health and safety and the environment.

5 (ii) Wrongfulness of the conduct.

6 (iii) Degree of culpability of the violator.

7 (iv) Duration of the violation.

8 (v) Prior violations or citations.

9 (b) Penalties shall be assessed depending upon ON the number of points
10 accrued by the violator.

11 Sec. 6. Section 3-3501, Arizona Revised Statutes, as transferred and
12 renumbered by this act, is amended to read:

13 3-3501. Definitions

14 In this chapter, unless the context otherwise requires:

15 ~~1. "Acting director" means the person appointed pursuant to section~~
16 ~~32-2302 to serve as the acting director of the office.~~

17 ~~2.~~ 1. "Branch office" means any fixed place of business, other than
18 the primary office, where records are kept, PESTICIDES ARE STORED, mail is
19 received, statements are rendered, money is collected, requests for service
20 or bids are received or information pertaining to the business of structural
21 pest ~~control~~ MANAGEMENT is given and from which the use of pesticides and
22 devices is supervised by a licensed applicator or qualifying party.

23 ~~3.~~ 2. "Business license" means a license that is issued pursuant to
24 this chapter to a person and that entitles that person and the person's
25 employees to engage in the business of structural pest ~~control~~ MANAGEMENT.

26 ~~4.~~ 3. "Business of structural pest ~~control~~ MANAGEMENT" means engaging
27 in, offering to engage in, advertising for, soliciting or performing
28 structural pest ~~control~~ MANAGEMENT, including any of the following:

29 (a) Identifying infestations or making inspections for the purpose of
30 identifying or attempting to identify infestations of households or other
31 structures and the surrounding area by any of the following:

32 (i) Public health pests.

33 (ii) Aquatic pests.

34 (iii) Household pests.

35 (iv) Wood-destroying insects.

1 (v) Pests, including weeds, existing around structures, in ornamental
2 shrubs and trees, on golf courses, along rights-of-way or in lawns and
3 cemeteries.

4 ~~(vi) Fungi.~~

5 (b) Making written or oral inspection reports, recommendations,
6 estimates or bids with respect to infestations.

7 (c) The application of pesticides or the making of contracts or
8 submitting of bids for the application of pesticides or the use of devices
9 for the purpose of eliminating, exterminating, controlling or preventing
10 infestations.

11 BUSINESS OF STRUCTURAL PEST MANAGEMENT DOES NOT INCLUDE PESTICIDE APPLICATIONS
12 USED DIRECTLY IN THE COMMERCIAL PRODUCTION OF CROPS AND ANIMALS IF THOSE
13 APPLICATIONS ARE REGULATED BY THE DEPARTMENT PURSUANT TO CHAPTER 2, ARTICLE 6
14 OR 6.1 OF THIS TITLE.

15 ~~5.~~ 4. "De minimis violation" means a violation that, although
16 undesirable, has no direct or immediate relationship to safety, health or
17 property damage. REPEATED DE MINIMIS VIOLATIONS CONSTITUTE A NONSERIOUS
18 VIOLATION.

19 ~~6.~~ 5. "Department" means the Arizona department of ~~administration~~
20 AGRICULTURE.

21 ~~7.~~ 6. "Device" means any mechanical, pesticide or electrical
22 apparatus used in conjunction with, in place of or to supplement, disperse or
23 dispense pesticides.

24 ~~8.~~ 7. "Direct supervision" means use of a pesticide under the
25 instructions, control and responsibility of a licensed applicator who is
26 available if needed for consultation or assistance even though the licensed
27 applicator is not physically present at the time and place the pesticide is
28 used.

29 ~~9.~~ 8. "Director" means the director of the Arizona department of
30 ~~administration~~ AGRICULTURE.

31 ~~10.~~ 9. "Final grade treatment" means establishment of vertical
32 barriers at the exterior of foundation walls in stem wall construction or at
33 the exterior of grade beams in monolithic construction.

34 ~~11.~~ "Fungi inspection report" means a written inspection report on a
35 form approved by the office.

1 ~~12.~~ 10. "Household pests" means pests, other than wood-destroying
2 insects, that invade households or other structures, including rodents,
3 vermin and insects.

4 ~~13.~~ 11. "Immediate supervision" means use of a pesticide by an
5 employee acting under the instructions, control and responsibility of a
6 licensed applicator who is within the direct line of sight or within hearing
7 distance of the employee and who is available for consultation or assistance
8 at the time and place the pesticide is used.

9 ~~14.~~ 12. "Initial termite corrective treatment" means the first
10 treatment of any kind performed by a licensee after a treatment made prior to
11 or during construction, excluding a treatment performed under warranty by a
12 licensee who has performed the treatment prior to or during construction.

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

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

19 ~~17.~~ 15. "License" means an approval granted by the ~~office~~ DEPARTMENT
20 to act as an applicator or qualifying party or to operate a business of
21 structural pest ~~control~~ MANAGEMENT in this state.

22 ~~18.~~ 16. "Licensed applicator" means a person who is licensed by the
23 ~~office~~ DEPARTMENT to apply pesticides in accordance with this chapter.

24 ~~19.~~ ~~"Office" means the office of pest management established by section~~
25 ~~32-2302.~~

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

32 ~~20.~~ 18. "Other structures" includes railroad cars, boats, docks, motor
33 vehicles or airplanes and their contents.

34 19. "PEST" MEANS:

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

36 (b) ANY OTHER FORM OF TERRESTRIAL OR AQUATIC PLANT OR ANIMAL LIFE,
37 EXCEPT VIRUS, BACTERIUM OR OTHER MICROORGANISM ON OR IN LIVING HUMANS OR

1 OTHER LIVING ANIMALS, THAT THE DIRECTOR DECLARES TO BE A PEST FOR THE PURPOSE
2 OF ENFORCEMENT OF THIS CHAPTER.

3 ~~21.~~ 20. "Pest management" means the management of public health pests,
4 aquatic pests, household pests, wood-destroying insects, ~~fungi~~ or other
5 pests, including weeds, that exist near or around structures, in ornamental
6 shrubs and trees, on golf courses, along rights-of-way or in lawns or
7 cemeteries and all pesticide application that could be harmful to public
8 health or the environment. Pest management does not include pesticide
9 applications used directly in the commercial production of crops and animals
10 if those applications are governed by the ~~Arizona~~ department of ~~agriculture~~
11 pursuant to ~~title 3,~~ chapter 2, articles 6 and 6.1 OF THIS TITLE.

12 ~~22.~~ 21. "Pesticide" means any substance or mixture of substances
13 intended to be used for defoliating plants or for preventing, destroying,
14 repelling or mitigating insects, ~~fungi,~~ bacteria, microbes, weeds, rodents,
15 predatory animals or any form of plant or animal life that is a pest and may
16 infest or be detrimental to vegetation, humans, animals or households or be
17 present in any environment.

18 ~~23.~~ 22. "Prior violation" means any violation for which disciplinary
19 action was taken within a ~~five-year~~ THREE-YEAR period prior to the date of
20 the violation for which current disciplinary action is sought.

21 ~~24.~~ 23. "Qualifying party" means an individual who is licensed by the
22 ~~office~~ DEPARTMENT to ensure the supervision and training of all employees of
23 a business licensee in the business of structural pest ~~control~~ MANAGEMENT.

24 24. "SERIOUS VIOLATION" MEANS A VIOLATION OF THIS ARTICLE OR A RULE
25 ADOPTED UNDER THIS ARTICLE THAT PRODUCES A SUBSTANTIAL PROBABILITY THAT DEATH
26 OR SERIOUS PHYSICAL HARM COULD RESULT, UNLESS THE VIOLATOR DID NOT, AND COULD
27 NOT WITH THE EXERCISE OF REASONABLE DILIGENCE, KNOW OF THE SAFETY OR HUMAN
28 HEALTH RISK, IN WHICH CASE THE VIOLATION IS NONSERIOUS.

29 25. "Weed" means any plant that grows where it is not wanted.

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

35 27. "Wood-destroying insects" means insects that attack, damage or
36 destroy wood or wood-derivative products.

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

3 3-3502. Powers and duties

4 A. The ~~acting~~ director is responsible for administering this chapter
5 and shall:

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

10 ~~2.~~ 1. Administer and enforce this chapter and rules adopted pursuant
11 to this chapter.

12 ~~3.~~ 2. Notify the business licensee, applicator and qualifying party
13 in writing of any complaint against the business licensee, qualifying party
14 or employee of the business licensee by the close of business on the tenth
15 business day after the day on which the ~~acting~~ director initiated the
16 complaint.

17 ~~4.~~ 3. Issue subpoenas for the taking of depositions, the production
18 of documents and things and the entry on land for inspection and measuring,
19 surveying, photographing, testing or sampling the property or any designated
20 object or operation on the property relevant to the complaint.

21 ~~5.~~ 4. Conduct or contract to conduct applicator license and
22 qualifying party license tests at locations throughout this state. If the
23 ~~acting~~ director contracts for these tests, the contracts may provide for
24 specific examination fees or a reasonable range of fees determined by the
25 ~~acting~~ director to be paid directly to the contractor by the applicant. The
26 ~~acting~~ director shall make all efforts to contract with private parties to
27 electronically administer the applicator and qualifying party license tests.

28 ~~6.~~ 5. Maintain a computer system for the benefit and protection of
29 the public that includes the following information on termite treatments that
30 are done before or during construction, initial termite corrective projects,
31 preventative termite treatments and wood-destroying insect inspection
32 reports:

- 33 (a) The name of the individual who performed the work.
34 (b) The address or location of the work or project.
35 (c) The name of the pest management company.
36 (d) The name of the qualifying party.
37 (e) The applicator license numbers.

1 (f) The nature and date of the work performed.

2 (g) Any other information that is required by rule.

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

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

7 ~~9.~~ 6. Investigate violations of this chapter and rules adopted
8 pursuant to this chapter.

9 ~~10.~~ 7. Oversee the approval, content and method of delivery of
10 continuing education courses.

11 ~~11.~~ 8. Deny a license to any person who has had a license revoked for
12 a period of five years from the time of revocation.

13 ~~12.~~ 9. License applicators, qualifying parties and businesses in
14 accordance with this chapter and rules adopted pursuant to this chapter.

15 ~~13.~~ 10. Require the payment of a penalty for any late license renewal.

16 ~~14.~~ 11. Require either completion of the continuing education
17 requirement or successful completion of the license examination for failure
18 to renew a license on time.

19 ~~15.~~ 12. Suspend a license if a licensee fails to renew the license
20 within thirty calendar days after the renewal date.

21 ~~16.~~ 13. Refuse to issue a business license in a name that is not
22 registered with the secretary of state or filed with the Arizona corporation
23 commission.

24 ~~17.~~ 14. Adopt a wood-destroying insect inspection report form for use
25 by business licensees.

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

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

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

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

35 2. Require a person who seeks a license pursuant to this chapter to
36 submit to the ~~office~~ DEPARTMENT a full set of fingerprints and the fees
37 required by section 41-1750. The ~~acting~~ director shall submit the

1 fingerprints and fees to the department of public safety for the purpose of
2 obtaining a state and federal criminal records check pursuant to section
3 41-1750 and Public Law 92-544. The department of public safety may exchange
4 this fingerprint data with the federal bureau of investigation.

5 3. Enter into intergovernmental agreements.

6 4. With at least twenty-four hours' notice, request specific records
7 from a business licensee, qualifying party or applicator at the person's
8 place of business during normal business hours.

9 5. Deny or revoke a license based on the information in the
10 application or information that the ~~acting~~ director receives from the
11 criminal background check.

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

14 7. Issue advisory notices for de minimis violations.

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

19 9. Investigate alleged violations of all applicable federal and state
20 statutes, rules or orders or alleged violations of any condition imposed in
21 connection with a license.

22 10. Pursuant to section ~~32-2329~~ 3-3566, summarily suspend a license
23 issued under this chapter to protect the health, safety and welfare of the
24 public.

25 11. Issue a corrective work order requiring a licensee to remedy
26 deficiencies in treatment or to comply with this chapter or any rules adopted
27 pursuant to this chapter before or after a formal hearing.

28 12. Do at least one of the following in relation to unlicensed pest
29 management business operations:

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

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

36 13. Refer all cases for formal hearing to the office of administrative
37 hearings.

1 14. Refuse to issue a business license in a name that is likely to be
2 misleading or to imply any distorted representation about the business.

3 15. Issue a renewable and revocable temporary qualifying party license
4 to a licensed applicator who is a representative of a business licensee if
5 the qualifying party becomes disassociated with the business licensee.

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

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

14 18. Appoint an employee of the ~~office~~ DEPARTMENT to conduct an informal
15 settlement conference with a licensee against whom an inquiry is received or
16 a complaint is filed.

17 19. Prepare a consent order only after either an informal settlement
18 conference is conducted pursuant to section ~~32-2321~~ 3-3561 or a formal
19 hearing is conducted pursuant to title 41, chapter 6, article 10.

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

23 21. Approve proposed consent orders.

24 ~~F~~ D. Each completed form for a termite treatment that is done before
25 or during construction, initial termite corrective treatment project or
26 wood-destroying insect inspection report shall be accompanied by a fee. The
27 initial fee is eight dollars. The ~~acting~~ director may:

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

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

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

36 ~~F~~ E. Subject to the limitations of section 41-2544, the ~~acting~~
37 director may enter into agreements for the purpose of enabling the ~~office~~

1 DEPARTMENT to accept payment for fees imposed under this chapter by
2 alternative payment methods, including credit cards, charge cards, debit
3 cards and electronic funds transfers. Before the monies are transferred to
4 the ~~acting~~ director pursuant to section ~~32-2305~~ 3-3504, the person collecting
5 the fees shall deduct any amount charged or withheld by a company providing
6 the alternative payment method under an agreement with the ~~office~~ DEPARTMENT.

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

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

17 3-3503. Rules

18 THE DIRECTOR SHALL ADOPT RULES TO REGULATE STRUCTURAL PEST MANAGEMENT
19 THAT INCLUDES PROVISIONS TO:

20 1. ADMINISTER AND IMPLEMENT THIS ARTICLE.

21 2. PRESCRIBE MEASURES TO CONTROL, MONITOR, INSPECT AND GOVERN
22 STRUCTURAL PEST MANAGEMENT, INCLUDING HEALTH AND SAFETY PROVISIONS AND
23 PROVISIONS FOR THE USE, STORAGE AND APPLICATION OF PESTICIDES AND DEVICES
24 USED IN STRUCTURAL PEST MANAGEMENT.

25 3. ESTABLISH LICENSING REQUIREMENTS AND OTHER MINIMUM QUALIFICATIONS
26 FOR LICENSED APPLICATORS AND BUSINESS LICENSEES, INCLUDING EXAMINATION,
27 EDUCATION, EXPERIENCE AND MINIMUM FINANCIAL RESPONSIBILITY REQUIREMENTS, AND
28 THE TERMS OF THE LICENSES. EDUCATION AND EXPERIENCE REQUIREMENTS MAY VARY BY
29 APPLICATOR CATEGORY.

30 4. PRESCRIBE CONTINUING EDUCATION REQUIREMENTS REQUIRED FOR LICENSED
31 APPLICATORS TO RENEW LICENSES.

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

34 6. PRESCRIBE APPROPRIATE RECORD KEEPING REQUIREMENTS.

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

1 8. ESTABLISH A NONEXCLUSIVE LIST OF ACTS AND OMISSIONS THAT CONSTITUTE
2 SERIOUS, NONSERIOUS AND DE MINIMIS VIOLATIONS OF THIS ARTICLE.

3 9. ESTABLISH A SYSTEM OF ADMINISTRATIVE PENALTIES AND FINES FOR
4 VIOLATIONS OF THIS CHAPTER AND RULES ADOPTED UNDER THIS CHAPTER. UNDER THIS
5 SYSTEM:

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

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

10 (ii) WRONGFULNESS OF THE CONDUCT.

11 (iii) DEGREE OF CULPABILITY OF THE VIOLATOR.

12 (iv) DURATION OF THE VIOLATION.

13 (v) PRIOR VIOLATIONS OR CITATIONS.

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

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

18 3-3504. Pest management fund; exemption

19 A. A pest management fund is established.

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

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

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

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

31 3-3505. Notification of pesticide applications to schools and
32 child care facilities; exemptions; definitions

33 A. A business licensee or licensed applicator shall notify a school or
34 a child care facility at least seventy-two hours in advance of any pesticide
35 application in order to permit the school to comply with section 15-152 and
36 the child care facility to comply with section 36-898. The seventy-two hour
37 advance notice shall include the date and time the application is to occur.

1 The seventy-two hour advance notice shall also include the brand name,
2 concentration, rate of application, pesticide label and material safety data
3 sheet and any use restrictions required by the pesticide label. Only an
4 individual holding an applicator license may make pesticide applications at
5 schools and child care facilities.

6 B. Immediately prior to application of a pesticide a business licensee
7 or licensed applicator shall provide the school or child care facility with a
8 written preapplication notification containing the following information:

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

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

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

13 4. The pesticide label and the material safety data sheet.

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

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

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

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

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

35 (b) Immediately after the application has been completed, notify the
36 school office or the child care facility office of the name of the pesticide

1 applied, the formulation, the strength and dosage and the date and time of
2 application and provide the pesticide label.

3 (c) Post the treated area immediately after the application. The
4 posting shall be at least eight and one-half inches by eleven inches and
5 shall include the name of the pesticide, the registration number issued by
6 the United States environmental protection agency, the date and time of
7 application and the name and telephone number of the business licensee and
8 licensed applicator. A copy of the posting shall also be placed at the main
9 entrance to the school or child care facility. The posting and the copy of
10 the posting shall remain in place for at least forty-eight hours after the
11 application.

12 3. Disinfectants or swimming pool chemicals.

13 4. Block, gel or paste-type bait that is a toxicity category III or IV
14 formulation of insecticide pursuant to 40 Code of Federal Regulations section
15 156.62 and that is either of the following:

16 (a) Secured in an enclosed, tamper-resistant bait station and placed
17 in an area that is inaccessible to children.

18 (b) Applied to a crack or crevice inaccessible to children.

19 5. Block-type bait that is a toxicity level III or IV formulation of
20 rodenticide pursuant to 40 Code of Federal Regulations section 156.62 and
21 that is secured in an enclosed, tamper-resistant bait station placed in an
22 area inaccessible to children.

23 6. Personal repellants.

24 7. Any pesticide exempt from regulation by the United States
25 environmental protection agency pursuant to the federal insecticide,
26 fungicide and rodenticide act (7 United States Code section 136w).

27 E. The provisions of this chapter shall regulate and determine all
28 requirements regarding licenses, fees, testing, education, and all other
29 requirements regarding the business of STRUCTURAL pest control MANAGEMENT for
30 persons licensed pursuant to this chapter.

31 F. For the purposes of this section:

32 1. "Child care facility" means a facility regulated pursuant to title
33 36, chapter 7.1.

34 2. "Pesticides" does not include nonrestricted use disinfectants,
35 sanitizers or deodorizers.

1 3. "School" means an educational institution that provides instruction
2 in prekindergarten programs, kindergarten programs or any of grades one
3 through twelve.

4 Sec. 11. Title 3, chapter 19, article 1, Arizona Revised Statutes, is
5 amended by adding section 3-3506, to read:

6 3-3506. Designated supervising certified structural pesticide
7 applicator joint responsibility for supervised
8 persons

9 A. A PERSON WHO IS A DESIGNATED SUPERVISING LICENSED APPLICATOR IS
10 RESPONSIBLE FOR THE TRAINING, SUPERVISION AND EQUIPPING OF OTHER LICENSED
11 APPLICATORS AND UNLICENSED EMPLOYEES.

12 B. LICENSED APPLICATORS MAY BE HELD JOINTLY RESPONSIBLE FOR ACTS OF
13 THOSE UNDER THEIR SUPERVISION IF THE DEPARTMENT PROVES THAT THE LICENSED
14 APPLICATOR FAILED TO ACT ACCORDING TO THE REQUIREMENTS OF THIS CHAPTER AND
15 ADOPTED RULES.

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

18 3-3531. Persons not required to be licensed; civil penalties

19 A. This chapter does not apply to:

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

22 2. Persons applying pesticides on RESIDENTIAL property that they own
23 and occupy.

24 3. Authorized representatives of any educational institution engaged
25 in research in the study of pest management or a state agency engaged in
26 research or the study of pest management.

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

29 5. Persons using a nonrestricted, ready to use disinfectant, sanitizer
30 or deodorizer.

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

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

37 (b) The use of sterilants.

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

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

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

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

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

10 B. An employee of a political subdivision who engages in pest
11 management:

12 1. Is not required to be licensed under section ~~32-2313~~ 3-3533 or
13 ~~32-2314~~ 3-3534.

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

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

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

22 2. The date of the herbicide application.

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

24 D. If a person is exempt pursuant to subsection A, paragraph 6 of this
25 section but does not comply with subsection C of this section or if a person
26 is not licensed under this chapter and the person is not exempt pursuant to
27 subsection A, paragraph 6 of this section as a result of doing something
28 prescribed in subsection A, paragraph 6, subdivisions (a) through (f) of this
29 section, the acting director shall:

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

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

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

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

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

5 A. An application for an applicator license shall be in a form
6 prescribed by the ~~acting~~ director and accompanied by the prescribed fee. The
7 application shall set forth whether the applicant has ever been convicted of
8 a felony and, if so, the nature of the felony, when and where it was
9 committed and the disposition of the conviction.

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

12 1. General and public health pest management, excluding management of
13 wood-destroying insects, wood-destroying insect inspection, ~~antimicrobial~~
14 ~~pest management, fungi inspection,~~ right-of-way and weed management,
15 fumigation, aquatic pest management and turf and ornamental horticulture pest
16 management.

17 2. Management of wood-destroying insects.

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

19 4. Fumigation.

20 5. Turf and ornamental horticulture pest management.

21 ~~6. Antimicrobial pest management.~~

22 ~~7. Fungi inspection.~~

23 ~~8.~~ 6. Wood-destroying insect inspection.

24 ~~9.~~ 7. Aquatic pest management.

25 ~~10.~~ 8. Other categories or subcategories based on practice in the
26 industry and established by rule.

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

30 D. An applicator shall be of good moral character. A felony
31 conviction may demonstrate a lack of good moral character.

32 E. Except as provided in subsection F of this section, each employee
33 of a business licensee applying pesticides shall be licensed in all
34 applicable categories within ninety calendar days after employment.

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

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

5 H. A licensed applicator desiring to work in a category for which the
6 applicator is not licensed shall become licensed in the category within
7 thirty calendar days after beginning work.

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

11 J. An applicator may apply to the ~~acting~~ director for inactive license
12 status. To reactivate an inactive license that has been inactive for one
13 year or less, an applicator shall apply to the ~~acting~~ director. To
14 reactivate an inactive license that has been inactive for more than one year,
15 an applicator shall apply to the ~~acting~~ director and shall either
16 successfully complete the applicator license examination or, within twelve
17 months preceding application for reactivation, complete continuing education
18 as required pursuant to section ~~32-2319~~ 3-3536.

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

21 3-3533. Business license; renewal; financial security; definition

22 A. A person who wishes to engage in the business of STRUCTURAL pest
23 management shall first obtain a business license from the ~~office~~ DEPARTMENT
24 as provided in this article. A person who is not exempt under this article
25 and who advertises for, solicits or holds himself out as willing to engage in
26 the business of STRUCTURAL pest management is presumed to be in the business
27 of STRUCTURAL pest management.

28 B. An application for a business license shall:

29 1. Be in a form prescribed by the ~~acting~~ director.

30 2. Be accompanied by the prescribed fee.

31 3. Include the name and address of the qualifying party and written
32 documentation of how the qualifying party will be active in the day-to-day
33 management of the business licensee.

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

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

1 D. THE DIRECTOR SHALL ADOPT RULES FOR ISSUING TEMPORARY BUSINESS
2 LICENSES.

3 ~~D.~~ E. An applicant shall furnish the following to the ~~acting~~
4 director:

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

24 2. Either of the following if the business licensee performs termite
25 treatments:

26 (a) Proof of a surety bond in the amount of one hundred thousand
27 dollars per business license for actual damages, including reasonable costs
28 of collection suffered by persons as a result of termite damage due to
29 negligent treatment.

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

33 3. If the business licensee provides wood-destroying insect inspection
34 reports ~~or fungi inspection reports~~, proof of a surety bond or a liability
35 insurance policy rider in the amount of one hundred thousand dollars per
36 business license for actual damages plus reasonable costs of collection

1 suffered by persons as a result of errors and omissions contained in the
2 reports.

3 4. If an insurance policy provides for a deductible, the deductible
4 amount shall not exceed one per cent of the total financial security for each
5 occurrence. If the deductible amount is in excess of one per cent of the
6 total financial security for each occurrence, the business licensee shall
7 provide other security as provided in this subsection or other evidence of
8 financial security for the excess deductible amount.

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

14 E. If the proof of financial security on file with the ~~office~~
15 DEPARTMENT expires, the business license is automatically suspended until a
16 current certificate of insurance or proof of financial responsibility is
17 furnished to the ~~acting~~ director.

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

24 G. Each branch office of a business licensee shall be supervised by a
25 licensed applicator or qualifying party who is licensed in all categories in
26 which the branch office operates.

27 H. For the purposes of this section, "financial security" means
28 liability insurance, a deposit of cash or certified monies, a surety bond or
29 other equivalent item.

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

32 3-3534. Qualifying party; license; examination; inactive
33 status; temporary license

34 A. An application for a qualifying party license shall be in a form
35 prescribed by the ~~acting~~ director and accompanied by the prescribed fee. The
36 application shall set forth whether the applicant has ever been convicted of

1 a felony and, if so, the nature of the felony, when and where it was
2 committed and the disposition of the conviction.

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

5 1. General and public health pest management, excluding management of
6 wood-destroying insects, wood-destroying insect inspection, antimicrobial
7 pest management, fungi inspection, right-of-way and weed management,
8 fumigation, aquatic pest management and turf and ornamental horticulture pest
9 management.

10 2. Management of wood-destroying insects.

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

12 4. Fumigation.

13 5. Turf and ornamental horticulture pest management.

14 ~~6. Antimicrobial pest management.~~

15 ~~7. Fungi inspection.~~

16 ~~8.~~ 6. Wood-destroying insect inspection.

17 ~~9.~~ 7. Aquatic pest management.

18 ~~10.~~ 8. Other categories or subcategories based on practice in the
19 industry and established by rule.

20 C. An applicant for qualifying party licensure shall:

21 1. Pass an examination, given under the direction of the ~~acting~~
22 director, with a score of seventy-five per cent or more.

23 2. Present evidence satisfactory to the ~~acting~~ director that the
24 person has sufficient education or experience in the use of or supervising
25 the use of a pesticide covered by each category for which the person is
26 applying as demonstrated by having had within five years immediately
27 preceding application either:

28 (a) Three thousand verifiable hours of practical experience in the
29 business of pest management.

30 (b) Two thousand verifiable hours of practical field experience in the
31 business of pest management and have successfully completed at least twelve
32 semester hours or its equivalent in entomology, the eradication or management
33 of weeds, general horticulture, plant pathology or any combination of these
34 subjects directly related to each category for which the person is applying.

35 3. Be of good moral character. A felony conviction may demonstrate a
36 lack of good moral character.

1 D. The examination shall test the qualifying party's knowledge of
2 pests and the use, storage and application of pesticides and other devices
3 used in the eradication of pests within the category for which the person is
4 applying.

5 E. A qualifying party shall have an inactive qualifying party license
6 status if the qualifying party is not currently acting as a qualifying party
7 for a business licensee. To reactivate an inactive license that has been
8 inactive for one year or less, a qualifying party shall apply to the ~~acting~~
9 director to qualify a business license. To reactivate an inactive license
10 that has been inactive for more than one year, a qualifying party shall apply
11 to the ~~acting~~ director to qualify a business license and shall either
12 successfully complete the license examination or, within twelve months
13 preceding application for reactivation, complete continuing education as
14 required pursuant to section ~~32-2319~~ 3-3536.

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

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

24 1. Be active in the management of the business licensee by being
25 present at the business office location each month to review pesticide use,
26 storage and disposal and by ensuring the supervision and training of the
27 employees of the business.

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

30 H. A qualifying party shall renew a qualifying party license by
31 submitting a form prescribed by the ~~acting~~ director and a fee prescribed by
32 section ~~32-2317~~ 3-3535. A qualifying party shall furnish to the ~~acting~~
33 director proof of completion of continuing education as prescribed by section
34 ~~32-2319~~ 3-3536. Successful completion of the qualifying party license
35 examination for each category may be substituted for the continuing education
36 requirement. Continuing education hours used for renewal of a qualifying

1 party's applicator license may be used for the qualifying party's license
2 renewal.

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

5 3-3535. Fees

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

12 1. Qualifying party license application fee, one hundred fifty
13 dollars.

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

15 3. Qualifying party license renewal fee, inactive status, twenty-five
16 dollars.

17 4. Temporary qualifying party license application fee, twenty-five
18 dollars.

19 ~~5. Business license application fee, one hundred dollars.~~

20 ~~6. Business license renewal fee, one hundred dollars.~~

21 ~~7.~~ 5. Branch office registration application fee, fifty dollars.

22 ~~8.~~ 6. Branch office registration renewal fee, fifty dollars.

23 ~~9.~~ 7. Late renewal penalty fee, double the prescribed renewal fee.

24 ~~10.~~ 8. Qualifying party license status change, inactive to active, one
25 hundred twenty-five dollars.

26 ~~11.~~ 9. Applicator license application, thirty dollars.

27 ~~12.~~ 10. Applicator license annual renewal, twenty-five dollars.

28 ~~13.~~ 11. Duplicate license identification card, ten dollars.

29 B. The ~~office~~ DEPARTMENT may charge and collect additional fees for
30 services that the ~~acting~~ director considers to be appropriate to carry out
31 the intent and purpose of this chapter. These additional fees shall not
32 exceed the costs of rendering the services.

33 Sec. 17. Section 3-3536, Arizona Revised Statutes, as transferred and
34 renumbered by this act, is amended to read:

35 3-3536. Continuing education

36 A. In order to satisfy continuing education requirements, a licensee
37 shall verify attendance at programs of instruction that are overseen and

1 approved by the ~~acting~~ director and that are designed to augment the
2 proficiency of the licensed applicator or qualifying party relating to pest
3 management.

4 B. If one individual holds both an applicator license and a qualifying
5 party license, the completion of a minimum of six hours of continuing
6 education in the preceding year for the applicator license satisfies the
7 continuing education requirements for both the applicator license and
8 qualifying party license.

9 Sec. 18. Section 3-3561, Arizona Revised Statutes, as transferred and
10 renumbered by this act, is amended to read:

11 3-3561. Disciplinary action; grounds; procedure; judicial
12 review

13 A. After an opportunity for a formal hearing or pursuant to a consent
14 order, the ~~acting~~ director may take any of the following disciplinary
15 actions, in combination or alternatively:

- 16 1. Revoke a license.
- 17 2. Suspend a license.
- 18 3. Refuse to renew a license.

19 4. Impose probation requirements that require a business licensee,
20 licensed applicator or qualifying party to comply with one or more specific
21 provisions of this chapter or rules adopted pursuant to this chapter and that
22 require reporting by or monitoring of the business licensee, licensed
23 applicator or qualifying party.

24 5. Impose a civil penalty in an amount of not more than one thousand
25 dollars for each violation except for grounds prescribed in subsection B,
26 paragraphs 8 and 9 of this section.

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

- 29 7. Issue an administrative warning.

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

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

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

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

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

1 5. Misuse of a pesticide if the misuse is due to training received or
2 not received or lack of appropriate supervision. Proper training includes
3 training to read and understand the label and labeling and to understand the
4 proper use of application equipment. Proper supervision includes oversight
5 of applicators to ensure general compliance with the label, labeling and all
6 applicable laws.

7 6. Authorizing, directing or abetting the publication, advertisement,
8 distribution or circulation of any false statement or material
9 misrepresentation concerning a business of pest management.

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

12 8. Conviction of a felony.

13 9. Having had a license, or the equivalent, to apply pesticides or
14 engage in the business of pest management suspended or revoked in another
15 jurisdiction for cause DURING THE PREVIOUS THREE YEARS.

16 10. Making a fraudulent statement or an intentional material
17 misrepresentation in connection with a wood treatment proposal or a
18 wood-destroying insect inspection report.

19 11. Three or more de minimis violations of this chapter or rules
20 adopted under this chapter.

21 12. Failure to provide the ~~acting~~ director with a current certificate
22 of insurance or proof of financial responsibility.

23 13. Failure to establish a complete vertical barrier at the exterior of
24 foundation walls in stem wall construction or exterior of grade beams in
25 monolithic construction within twelve months of the original treatment made
26 before or during construction.

27 14. Immediately supervising more than one unlicensed applicator at a
28 time.

29 15. Failure to make and maintain true and accurate records of
30 treatments performed, including those performed under warranty or guarantee,
31 for at least three years from date of treatment except any record of a
32 termite treatment, ~~OR a wood-destroying insect inspection report or a fungi~~
33 ~~inspection report~~, which shall be made and maintained for at least five years
34 from the date of treatment or inspection.

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

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

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

7 2. The business licensee failed to follow a written order of the
8 acting director directing it to correct a deficiency or problem within the
9 time specified.

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

14 4. The business licensee is convicted of a felony.

15 5. The business licensee is determined by the acting director to have
16 committed a violation in connection with a treatment before or during
17 construction.

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

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

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

24 7. The business licensee fails to provide written notice immediately
25 following a pest management treatment in or around residential structures of
26 four or fewer units to the person requesting the treatment or to the person's
27 designated agent. The notice shall include the specific pesticide by trade
28 name used in the treatment.

29 8. The business licensee performing pest management treatments on an
30 ongoing basis to locations other than residential structures of four or fewer
31 units fails to provide written notice to the person who requested the
32 treatments or the person's designated agent. Notice shall be given before
33 the first application of the pesticide and when new or additional pesticides
34 are used or immediately after each treatment.

35 9. If the treatments are performed in the interior of residential
36 units, the licensee fails to leave a notice in the interior of each treated
37 unit immediately after each treatment. The notice shall include the

1 pesticide by trade name and any other information as required by the
2 pesticide label or local ordinance.

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

7 Warning--pesticides can be harmful. Keep children and pets
8 away from pesticide applications until dry, dissipated or
9 aerated. For more information contact [business license name and
10 business license number] at [telephone number].

11 11. The business licensee fails within thirty calendar days after
12 completion of a termite treatment that is done before or during construction,
13 an initial termite corrective treatment project or a wood-destroying insect
14 inspection report to file with the ~~office~~ DIRECTOR, in a form approved by the
15 ~~acting~~ director, all data required by the ~~acting~~ director. The data shall
16 include:

- 17 (a) The name of the individual who performed the work.
18 (b) The address or location of the work or project.
19 (c) The type and the date of the work.
20 (d) The name of the business licensee.
21 (e) The name of the qualifying party.
22 (f) The applicator's license number.
23 (g) Any other information required by rule.

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

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

34 ~~E.~~ D. Before taking any action pursuant to this section, the ~~acting~~
35 director shall notify in writing interested persons and the licensee before
36 the date of the hearing pursuant to title 41, chapter 6, article 10 either
37 personally or by certified mail at the last address known to the ~~office~~

1 DEPARTMENT. The written notice shall contain the nature of the charge or
2 charges against the licensee and the time and place of the hearing on the
3 charges.

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

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

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

11 ~~H.~~ G. Licenses suspended under subsection ~~F.~~ E of this section are
12 automatically revoked without a hearing after one year of suspension.
13 Licenses revoked under this section are not subject to section ~~32-2304~~
14 3-3502, subsection A, paragraph ~~11~~ 8.

15 ~~I.~~ H. All complaints shall be in writing.

16 ~~J.~~ I. If the ~~acting~~ director appoints an employee of the ~~office~~
17 DEPARTMENT to conduct an informal settlement conference with the complaining
18 party pursuant to section ~~32-2304~~ 3-3502, the purpose of the informal
19 settlement conference is to reach agreement as to the disposition of all or a
20 portion of the complaint, including any agreement providing for repairing or
21 rectifying the conditions specified in the complaint. The settlement
22 conference shall be conducted informally and the rules of evidence do not
23 apply. The settlement conference shall not be recorded. Participants in the
24 settlement conference may ask questions of the complainant and may review any
25 materials or reports compiled by the ~~office~~ DEPARTMENT with respect to the
26 complaint.

27 ~~K.~~ J. If the ~~office~~ DEPARTMENT prepares a consent order pursuant to
28 section ~~32-2304~~ 3-3502, after either an informal settlement conference
29 conducted pursuant to subsection J of this section or a formal hearing by the
30 ~~office~~ DEPARTMENT conducted pursuant to title 41, chapter 6, article 10, the
31 consent order shall only set forth the general nature of the inquiry or
32 complaint, the specific action to be taken by the licensee or business
33 licensee, the penalty, if any, and the time for compliance, if any, for any
34 corrective action to be taken.

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

1 ~~M~~. L. The ~~acting~~ director shall consider only an inquiry received or
2 complaint filed within five years after the date of the alleged act or
3 omission.

4 ~~M~~. M. The acting director may issue an advisory notice stating de
5 minimis violations of statutes or rules that carry no penalty, unless the
6 person subject to this chapter wilfully and repeatedly violates the statute
7 or rule. For wilful and repeated violations, the acting director may take
8 disciplinary action against the person for a violation.

9 ~~O~~. N. If the ~~office~~ DEPARTMENT finds a violation or ~~the office~~ enters
10 into a consent agreement, the ~~office~~ DEPARTMENT:

11 1. Shall not delete the record of the complaint for at least five
12 years following the filing of the complaint.

13 2. Shall include information from the inquiry in the record of
14 complaint. If no violation is found, the information from the inquiry shall
15 be deleted.

16 ~~P~~. O. Only this chapter applies to, regulates and determines all
17 requirements regarding licensure, licensure fees, testing and education
18 related to pest management in this state. Only this chapter applies to,
19 regulates and determines all requirements regarding the business of pest
20 management, including the application or notification of use or disposal of
21 pesticides for pest management in this state.

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

25 Sec. 19. Section 3-3562, Arizona Revised Statutes, as transferred and
26 renumbered by this act, is amended to read:

27 3-3562. Wood-destroying insects; treatment proposal; fee

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

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

- 1 1. The address of the property to be treated.
- 2 2. A statement describing that the work is preventative or corrective.
- 3 3. A statement describing the evidence of infestation or damage.
- 4 4. A diagrammatic description showing the nature and location of
5 evidence of infestation or damage, or both, if applicable.
- 6 5. A statement describing the treatment or repair method, including
7 the name of the pesticide, agent or device to be used and a diagrammatic
8 description showing where the treatment or repair will be rendered.
- 9 6. The price for the work.
- 10 7. The terms for the service agreement provided by the business
11 licensee.
- 12 8. The signature and license number of the person who made the
13 inspection of the structure to be treated.
- 14 C. A licensee shall also give to the person requesting a proposal a
15 written recommendation that verifies a particular problem and, in addition to
16 the licensee's recommendation for treatment, shall advise the person of
17 alternative treatments and methods, including integrated pest management
18 methods to alleviate the problem.
- 19 D. A treatment proposal shall not be in the same form or be construed
20 as a wood-destroying insect inspection report. A treatment proposal that
21 does not identify infestation by wood-destroying insects is not a binding
22 statement as to the presence or absence of wood-destroying insects.
- 23 E. A treatment proposal shall be prepared by a licensed applicator or
24 qualifying party who has received at least five hours of instruction from the
25 ~~office~~ DEPARTMENT, THE FORMER OFFICE OF PEST MANAGEMENT or an in-house
26 education program of a business licensee on the subject of wood-destroying
27 insect inspections. An examination on the instruction is not required. The
28 business licensee shall keep a record of completion of the training and shall
29 make the record available on the ~~acting~~ director's request.
- 30 F. If a business licensee performs a treatment pursuant to a treatment
31 proposal, the business licensee shall maintain for five years a record of the
32 treatment and the name and quantity of the pesticide used.
- 33 G. Within thirty calendar days after completion of a termite treatment
34 or on the next business day after the thirty calendar days, a business
35 licensee shall file with the ~~office~~ DEPARTMENT in a form or format approved
36 by the ~~acting~~ director a complete and accurate termite action registration
37 form and a fee as prescribed by the ~~acting~~ director. The termite action

1 registration form shall include information prescribed in section ~~32-2321~~
2 3-3561, subsection C, paragraph 11 and this section. This subsection only
3 applies to the following:

4 1. Any treatments done before or during construction, including final
5 grade treatments.

6 2. The first preventative or corrective termite treatment by a
7 business licensee to a site. If the business licensee who performed this
8 termite treatment performed the before or during construction treatment at
9 the same site and filed a termite action report form with the ~~office~~
10 DEPARTMENT documenting the before or during construction treatment, the
11 business licensee is exempt from this paragraph.

12 3. A wood-destroying insect inspection report.

13 Sec. 20. Section 3-3563, Arizona Revised Statutes, as transferred and
14 renumbered by this act, is amended to read:

15 3-3563. Wood-destroying insect inspection reports

16 A. Wood-destroying insect inspection reports may only be completed by
17 an applicator or qualifying party who is licensed in the categories of
18 management of wood-destroying insects and wood-destroying insect inspection
19 and who has received at least five hours of instruction from THE DEPARTMENT,
20 the FORMER office OF PEST MANAGEMENT or the former structural pest control
21 commission or an in-house education program of a business licensee on the
22 subject of wood-destroying insect inspection reports. An examination on the
23 instruction is not required. The business licensee shall keep a record of
24 completion of the training and shall make the record available on the ~~acting~~
25 director's request.

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

31 C. Wood-destroying insect inspection reports are evidence of the
32 existence or absence of wood-destroying insects that were visible and
33 accessible to an inspector on the date the inspection was made. A business
34 licensee remains responsible for the accuracy of the inspection and the
35 report as evidence of the presence or absence of infestation on the date of
36 inspection, except that a wood-destroying insect inspection report shall not

1 be construed as a guarantee as to the presence or absence of wood-destroying
2 insects in a structure after the date of inspection.

3 Sec. 21. Section 3-3564, Arizona Revised Statutes, as transferred and
4 renumbered by this act, is amended to read:

5 3-3564. Unlawful acts

6 A person shall not:

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

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

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

14 4. Apply pesticides in any category other than the control of
15 wood-destroying insects unless the person is an applicator or qualifying
16 party licensed in that category pursuant to this chapter or applies the
17 pesticides under the direct supervision of an applicator or qualifying party
18 licensed in that category pursuant to this chapter.

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

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

24 (b) The person has received at least five hours of instruction from
25 THE DEPARTMENT, the FORMER office OF PEST MANAGEMENT or the former structural
26 pest control commission or an in-house education program of a business
27 licensee on the subject of management of wood-destroying insects that is
28 appropriate for the specific type of application performed. An examination
29 on the instruction is not required. A business licensee shall keep a record
30 of completion of the training and shall make it available on the ~~acting~~
31 director's request.

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

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

1 Sec. 22. Section 3-3565, Arizona Revised Statutes, as transferred and
2 renumbered by this act, is amended to read:

3 3-3565. Injunctive relief

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

10 Sec. 23. Section 3-3566, Arizona Revised Statutes, as transferred and
11 renumbered by this act, is amended to read:

12 3-3566. Summary suspension

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

16 Sec. 24. Section 32-1121, Arizona Revised Statutes, is amended to
17 read:

18 32-1121. Persons not required to be licensed; penalties

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

20 1. An authorized representative of the United States government, this
21 state or any county, incorporated city or town, reclamation district,
22 irrigation district or other municipality or political subdivision of this
23 state.

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

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

31 4. Any materialman, manufacturer or retailer who furnishes finished
32 products, materials or articles of merchandise and who does not install or
33 attach such items or installs or attaches such items if the total value of
34 the sales contract or transaction involving such items and the cost of the
35 installation or attachment of such items to a structure does not exceed one
36 thousand dollars, including labor, materials and all other items, but
37 excluding any electrical fixture or appliance that was designed by the

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

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

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

36 7. Architects or engineers who are engaging in their professional
37 practice as defined in chapter 1 of this title and who hire or offer to hire

1 the services of a contractor for preconstruction activities relating to
2 investigation and discovery including:

3 (a) Subsurface utility location and designation services.

4 (b) Potholing.

5 (c) Drilling for any of the following:

6 (i) Soil samples.

7 (ii) Rock samples.

8 (iii) Pavement samples.

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

11 8. A person licensed, certified or registered pursuant to ~~chapter 22~~
12 ~~of this title 3, CHAPTER 19~~ or a person working under the direct supervision
13 of a person certified or qualified pursuant to ~~chapter 22 of this title 3,~~
14 CHAPTER 19 to the extent the person is engaged in structural pest ~~control~~
15 MANAGEMENT.

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

31 10. Employees of the owners of condominiums, townhouses, cooperative
32 units or apartment complexes of four units or less or the owners' management
33 agent or employees of the management agent repairing or maintaining
34 structures owned by them.

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

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

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

9 14. Any person other than a licensed contractor engaging in any work or
10 operation on one undertaking or project by one or more contracts, for which
11 the aggregate contract price, including labor, materials and all other items,
12 but excluding any electrical fixture or appliance that was designed by the
13 manufacturer, that is unaltered, unchanged or unmodified by any person, that
14 can be plugged into a common household electrical outlet utilizing a two
15 pronged or three pronged electrical connector and that does not use any other
16 form of energy, including natural gas, propane or other petroleum or gaseous
17 fuel, to operate or is attached by a nail, screw or other fastening device to
18 the frame or foundation of any residential structure, is less than one
19 thousand dollars. The work or operations which are exempt under this
20 paragraph shall be of a casual or minor nature. This exemption does not
21 apply:

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

24 (b) In any case in which the work or construction is only a part of a
25 larger or major operation, whether undertaken by the same or a different
26 contractor, or in which a division of the operation is made in contracts of
27 amounts less than one thousand dollars, excluding any electrical fixture or
28 appliance that was designed by the manufacturer, that is unaltered, unchanged
29 or unmodified by any person, that can be plugged into a common household
30 electrical outlet utilizing a two pronged or three pronged electrical
31 connector and that does not use any other form of energy, including natural
32 gas, propane or other petroleum or gaseous fuel, to operate or is attached by
33 a nail, screw or other fastening device to the frame or foundation of any
34 residential structure, for the purpose of evasion of this chapter or
35 otherwise.

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

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

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

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

13 C. Any person who does not have an exemption from licensure pursuant
14 to subsection A, paragraph 14, subdivision (c) of this section is subject to
15 prosecution for a violation of section 44-1522. The attorney general may
16 investigate the act or practice and take appropriate action pursuant to title
17 44, chapter 10, article 7.

18 Sec. 25. Section 36-898, Arizona Revised Statutes, is amended to read:
19 36-898. Licensees; pesticide application; notice; definitions

20 A. The director, in consultation with licensees, personnel of
21 licensees, parents, guardians, administrators, members of the public, a
22 qualifying party and at least one health professional, shall develop and
23 adopt a policy to provide parents, guardians, children and personnel with at
24 least forty-eight hours' notice before pesticides are applied on licensee
25 property.

26 B. The policy shall include at least the following:

27 1. Procedures for providing the notification including:

28 (a) Procedures for written notification to parents, guardians or an
29 individual authorized by a parent or guardian during a regular child care
30 session.

31 (b) Procedures for requiring the licensee to post signs to identify
32 pesticide application areas.

33 2. Procedures for requiring any contracted pest control applicator to
34 provide detailed and sufficient information to licensees for the purpose of
35 completing the posting materials.

36 C. The policy shall include exemptions for the following pesticide
37 applications:

1 1. Nonresidual pesticide applications performed or contracted by
2 public health agencies for adult vector control.

3 2. Emergency pesticide applications of a pesticide that has a toxicity
4 category of III or IV pursuant to 40 Code of Federal Regulations section
5 156.62 to control harmful pests that pose an immediate threat to the public
6 health.

7 3. Disinfectants or swimming pool chemicals.

8 4. Block, gel or paste-type bait that is a toxicity category III or IV
9 formulation of insecticide pursuant to 40 Code of Federal Regulations section
10 156.62 and that is either of the following:

11 (a) Secured in an enclosed, tamper-resistant bait station and placed
12 in an area that is inaccessible to children.

13 (b) Applied to a crack or crevice inaccessible to children.

14 5. Block-type bait that is a toxicity level III or IV formulation of
15 rodenticide pursuant to 40 Code of Federal Regulations section 156.62 and
16 that is secured in an enclosed, tamper-resistant bait station placed in an
17 area inaccessible to children.

18 6. Personal repellants.

19 7. Any pesticide exempt from regulation by the United States
20 environmental protection agency pursuant to the federal insecticide,
21 fungicide and rodenticide act (7 United States Code section 136w).

22 D. Each licensee shall maintain written records of pesticide
23 application notifications for a period of at least three years after the
24 application. The licensee may delegate to the pest control applicator the
25 duty to fill out and post notices required by department policy. A licensee
26 is not required to maintain records of pesticides that are exempt pursuant to
27 subsection C of this section.

28 E. For the purposes of this section:

29 1. "Child care" has the same meaning prescribed in section 36-881.

30 2. "Department" means the department of health services.

31 3. "Licensee" means a person who is regulated pursuant to this
32 chapter.

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

1 5. "Qualifying party" has the same meaning prescribed in section
2 ~~32-2301~~ 3-3501.

3 Sec. 26. Section 41-1092, Arizona Revised Statutes, is amended to
4 read:

5 41-1092. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Administrative law judge" means an individual or an agency head,
8 board or commission that sits as an administrative law judge, that conducts
9 administrative hearings in a contested case or an appealable agency action
10 and that makes decisions regarding the contested case or appealable agency
11 action.

12 2. "Administrative law judge decision" means the findings of fact,
13 conclusions of law and recommendations or decisions issued by an
14 administrative law judge.

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

26 4. "Director" means the director of the office of administrative
27 hearings.

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

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

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

32 (a) The Arizona state board of accountancy.

33 (b) The state board of appraisal.

34 (c) The board of barbers.

35 (d) The board of behavioral health examiners.

36 (e) The Arizona state boxing commission.

37 (f) The state board of chiropractic examiners.

- 1 (g) The board of cosmetology.
2 (h) The state board of dental examiners.
3 (i) The state board of funeral directors and embalmers.
4 (j) The Arizona game and fish commission.
5 (k) The board of homeopathic and integrated medicine examiners.
6 (l) The Arizona medical board.
7 (m) The naturopathic physicians medical board.
8 (n) The state board of nursing.
9 (o) The board of examiners of nursing care institution administrators
10 and adult care home managers.
11 (p) The board of occupational therapy examiners.
12 (q) The state board of dispensing opticians.
13 (r) The state board of optometry.
14 (s) The Arizona board of osteopathic examiners in medicine and
15 surgery.
16 (t) The Arizona peace officer standards and training board.
17 (u) The Arizona state board of pharmacy.
18 (v) The board of physical therapy examiners.
19 (w) The state board of podiatry examiners.
20 (x) The state board for private postsecondary education.
21 (y) The state board of psychologist examiners.
22 (z) The board of respiratory care examiners.
23 (aa) The ~~office~~ of pest management RESPONSIBILITIES OF THE
24 ENVIRONMENTAL SERVICES DIVISION OF THE ARIZONA DEPARTMENT OF AGRICULTURE
25 PURSUANT TO TITLE 3, CHAPTER 19.
26 (bb) The state board of technical registration.
27 (cc) The Arizona state veterinary medical examining board.
28 (dd) The acupuncture board of examiners.
29 (ee) The Arizona regulatory board of physician assistants.
30 (ff) The board of athletic training.
31 (gg) The board of massage therapy.

32 Sec. 27. Repeal

33 Laws 2008, chapter 309, sections 23, 24, 25 and 26 are repealed.

34 Sec. 28. Termite reporting system; expiration; evaluation

35 A. The authority for the termite reporting system established in
36 section 3-3502, subsection A, paragraph 5, Arizona Revised Statutes, as
37 transferred and renumbered and amended by this act, and referenced in section

1 3-3561, subsection C, paragraphs 11 and 12, Arizona Revised Statutes, as
2 transferred and renumbered and amended by this act, and section 3-3562,
3 subsection G, Arizona Revised Statutes, as transferred and renumbered and
4 amended by this act, expires on July 1, 2012.

5 B. Not later than January 1, 2012, the associate director of the
6 Arizona department of agriculture, environmental services division shall
7 prepare and submit a report to the president of the senate and the speaker of
8 the house of representatives evaluating the value of the termite reporting
9 system to the public relative to the resources necessary to operate and
10 maintain the system.

11 Sec. 29. Succession

12 A. As provided by this act, the environmental services division of the
13 Arizona department of agriculture succeeds to the authority, powers, duties
14 and responsibilities of the office of pest management.

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

18 C. Administrative rules and orders adopted by the office of pest
19 management continue in effect until superseded by administrative action by
20 the environmental services division.

21 D. All administrative matters, contracts and judicial and
22 quasi-judicial actions, whether completed, pending or in process, of the
23 office of pest management on the effective date of the act are transferred to
24 and retain the same status with the environmental services division.

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

29 F. All equipment, records, furnishings and other property, all data
30 and investigative findings and all appropriated monies that remain unexpended
31 and unencumbered on the effective date of this act of the office of pest
32 management are transferred to the environmental services division.

33 G. All personnel who are under the state personnel system and employed
34 by the office of pest management are transferred to comparable positions and
35 pay classification in the environmental services division on the effective
36 date of this act.

1 Sec. 30. Structural pest management advisory council; delayed
2 repeal

3 A. The structural pest management advisory council is established
4 consisting of the following members who are appointed by the director of the
5 Arizona department of agriculture:

6 1. Six industry members who hold active business licenses issued by
7 the department or by the office of pest management.

8 2. One member who has at least a baccalaureate degree and is an
9 entomologist, plant pathologist, toxicologist or individual holding a degree
10 in public health or occupational health.

11 B. The director may consult with any recognized state organizations
12 representing the structural pest control and landscaping industries and golf
13 course superintendents in making appointments to the council.

14 C. Members of the council are not eligible to receive compensation but
15 are eligible for reimbursement of expenses pursuant to title 38, chapter 4,
16 article 2, Arizona Revised Statutes, from the pest management fund
17 established by section 3-3504, Arizona Revised Statutes, as transferred,
18 renumbered and amended by this act.

19 D. The council shall:

20 1. Annually elect a chairperson and vice-chairperson from among its
21 members.

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

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

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

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

32 2. Review all rules to ensure that they are authorized or permitted
33 by, and conform to the requirements of, title 3, chapter 19, Arizona Revised
34 Statutes, as added by this act.

35 3. Make recommendations concerning inspection procedures and training
36 concerning title 3, chapter 19, Arizona Revised Statutes, as added by this
37 act.

1 4. Make recommendations for changes to existing statutes and other
2 legislative proposals related to structural pest management.

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

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

8 7. Make general recommendations for procedures and levels for
9 enforcement actions to be followed under title 3, chapter 19, Arizona Revised
10 Statutes, as added by this act.

11 8. Review education, curricula and other requirements for applicants
12 for licensure and certification.

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

15 10. Make recommendations on other issues relating to the practice of
16 structural pest management that council members consider to be relevant.

17 F. If the council makes any recommendations under this section, the
18 director or associate director, as appropriate, shall accept the
19 recommendations if they are found to be practicable and in the best interests
20 of the public and the structural pest management industry. Recommendations
21 shall not include actions relating to individual inspection personnel. The
22 director shall provide a written statement of reasons to the advisory council
23 within twenty business days if the director does not accept the council's
24 recommendations.

25 G. This section is repealed from and after July 1, 2014.

26 Sec. 31. Emergency

27 This act is an emergency measure that is necessary to preserve the
28 public peace, health or safety and is operative immediately as provided by
29 law."

30 Amend title to conform

and, as so amended, it do pass

BILL KONOPNICKI
Chairman

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JONES FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2449

(Reference to the NATURAL RESOURCES AND RURAL AFFAIRS Committee amendment)

- 1 Page 1, line 19, after "32-2325" strike the comma insert "and"; strike "and
2 32-2329"
- 3 Line 22, after "3-3564" strike the comma insert "and"; strike "and 3-3566"
- 4 Line 25, strike "and" insert a comma; after "32-2324.01" insert "and 32-2329"
- 5 Page 5, lines 12 and 13, strike "IF THOSE APPLICATIONS ARE REGULATED BY THE
6 DEPARTMENT"
- 7 Lines 25 and 27, after "applicator" insert "OR QUALIFYING PARTY"
- 8 Page 6, line 6, after "applicator" insert "OR QUALIFYING PARTY"
- 9 Line 9, strike "termite" insert "WOOD-DESTROYING INSECT"
- 10 Line 23, strike "to apply pesticides in accordance with this chapter"
- 11 Strike lines 32 and 33
- 12 Renumber to conform
- 13 Page 7, line 14, strike "bacteria, microbes,"
- 14 Line 25, strike "ARTICLE" insert "CHAPTER"
- 15 Page 8, between lines 11 and 12, insert:
- 16 "2. INVESTIGATE ALLEGED VIOLATIONS OF THIS CHAPTER AND RULES ADOPTED
17 OR ORDERS ISSUED PURSUANT TO THIS CHAPTER."
- 18 Renumber to conform
- 19 Line 29, strike "termite" insert "WOOD-DESTROYING INSECT"
- 20 Page 9, strike lines 7 and 8
- 21 Renumber to conform
- 22 Line 10, strike "courses" insert "CLASSES"
- 23 Between lines 10 and 11, insert:
- 24 "8. LICENSE APPLICATORS, QUALIFYING PARTIES AND BUSINESSES PURSUANT TO
25 THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER."
- 26 Renumber to conform
- 27 Line 12, strike "five" insert "THREE"
- 28 Strike lines 13 and 14

u E ^

House Amendments to H.B. 2449

- 1 Renumber to conform
- 2 Page 10, strike line 5
- 3 Renumber to conform
- 4 Line 8, after the period insert "ON A SHOWING OF GOOD CAUSE BY THE LICENSEE, THE
- 5 DIRECTOR MAY EXCUSE A FAILURE TO TIMELY COMPLY WITH A RECORDS REQUEST."
- 6 Strike lines 12 and 13
- 7 Renumber to conform
- 8 Line 16, strike "during their probationary period"
- 9 Line 22, strike "3-3566" insert "41-1092.11"
- 10 Lines 23 and 24, strike "to protect the health, safety and welfare of the
- 11 public"
- 12 Strike lines 36 and 37
- 13 Renumber to conform
- 14 Page 11, line 5, after the period insert "THE TEMPORARY LICENSE MAY NOT BE RENEWED
- 15 MORE THAN TWICE."
- 16 Strike lines 14 through 22
- 17 Renumber to conform
- 18 Line 23, strike "Approve proposed" insert "PREPARE"
- 19 Line 26, strike "shall" insert "MAY"; after "be" insert "REQUIRED TO BE"; after
- 20 the period strike remainder of line
- 21 Line 27, strike "initial fee is eight dollars."
- 22 Strike lines 36 and 37
- 23 Page 12, strike lines 1 through 14, insert:
- 24 "E. THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED REPRESENTATIVE MAY ENTER
- 25 AT A REASONABLE TIME INTO OR ON OR THROUGH ANY PUBLIC OR PRIVATE PROPERTY TO
- 26 ASCERTAIN COMPLIANCE OR NONCOMPLIANCE WITH ANY RULES OR ORDERS ADOPTED OR
- 27 ISSUED UNDER THIS CHAPTER. IF PRACTICABLE, AND IF NOTICE WILL NOT INHIBIT
- 28 THE DIRECTOR'S ABILITY TO ENFORCE THIS CHAPTER, THE DIRECTOR OR THE
- 29 DIRECTOR'S AGENT SHALL NOTIFY THE OWNER, OPERATOR OR LESSEE OF THE PROPERTY
- 30 WHEN ENTERING THE PROPERTY. IF ENTRY IS DENIED, THE DIRECTOR MAY APPLY FOR
- 31 AND OBTAIN A WARRANT FROM A COURT OF COMPETENT JURISDICTION."
- 32 Line 20, strike "ARTICLE" insert "CHAPTER"

- 1 Page 12, line 26, after "APPLICATORS" insert ", QUALIFYING PARTIES"
2 Line 31, after "APPLICATORS" insert "AND QUALIFYING PARTIES"
3 Page 13, line 2, strike "ARTICLE" insert "CHAPTER"
4 Line 33, after "licensee" insert ", QUALIFYING PARTY"
5 Line 37, after "and" insert "APPROXIMATE"
6 Page 14, line 2, after "application" strike remainder of line
7 Line 3, strike "sheet"; after "Only" strike remainder of line
8 Line 4, strike "individual holding an" insert "A LICENSED"; strike "license"
9 insert "OR QUALIFYING PARTY"
10 Line 6, after "licensee" insert ", QUALIFYING PARTY"
11 Line 10, strike "herbicide or specific"
12 Strike line 13
13 Line 30, after "licensee" insert ", QUALIFYING PARTY"
14 Page 15, line 7, after "licensee" insert ", QUALIFYING PARTY"
15 Line 27, strike "chapter" insert "ARTICLE"
16 Page 16, strike lines 6 through 15, insert:
17 "3-3506. Joint responsibility for supervised persons
18 A. A BUSINESS LICENSEE, QUALIFYING PARTY OR APPLICATOR MAY BE HELD
19 JOINTLY RESPONSIBLE FOR THE ACTS OR OMISSIONS OF ANOTHER PERSON WHO IS UNDER
20 THE SUPERVISION OF THE BUSINESS LICENSEE, QUALIFYING PARTY OR APPLICATOR IF
21 THE SUPERVISING LICENSEE FAILS TO PROPERLY TRAIN, EQUIP OR SUPERVISE THE
22 OTHER PERSON OR FAILS TO MAINTAIN RECORDS OF PROPER TRAINING, EQUIPPING OR
23 SUPERVISING.
24 B. A FAILURE TO TIMELY AND FULLY RESPOND TO REQUESTS BY THE DIRECTOR
25 FOR INFORMATION RELATING TO TRAINING, EQUIPPING AND SUPERVISING IS A PRIMA
26 FACIE SHOWING OF A FAILURE TO PROPERLY TRAIN, EQUIP OR SUPERVISE. THE
27 SUPERVISING LICENSEE, QUALIFYING PARTY OR APPLICATOR HAS THE BURDEN OF PROOF
28 BY A PREPONDERANCE OF THE EVIDENCE THAT THE LICENSEE, QUALIFYING PARTY OR
29 APPLICATOR HAS FULFILLED THE REQUIRED DUTIES AS PRESCRIBED BY THIS CHAPTER
30 AND RULES ADOPTED PURSUANT TO THIS CHAPTER OR A WRITTEN ORDER OF THE
31 DIRECTOR."
32 Page 17, line 25, after "this" strike remainder of line

House Amendments to H.B. 2449

- 1 Page 17, strike lines 26, 27 and 28
2 After line 36, insert:
3 "E. IF A PERSON IS NOT LICENSED UNDER THIS CHAPTER AND THE PERSON IS
4 NOT EXEMPT PURSUANT TO SUBSECTION A, PARAGRAPH 6 OF THIS SECTION AS A RESULT
5 OF SUBSECTION A, PARAGRAPH 6, SUBDIVISIONS (a) THROUGH (f) OF THIS SECTION,
6 THE PERSON IS SUBJECT TO SECTION 3-3502, SUBSECTION C, PARAGRAPH 10."
7 Page 18, line 8, after the first "felony" insert "OR MISDEMEANOR INVOLVING MORAL
8 TURPITUDE"; after the second "felony" insert "OR MISDEMEANOR"
9 Line 27, strike "applicator" insert "APPLICANT"
10 Line 30, after "A" insert "CONVICTION OF A"
11 Line 31, strike "conviction" insert "OR MISDEMEANOR INVOLVING MORAL TURPITUDE"
12 Line 32, strike "subsection" insert "SUBSECTIONS"; after "F" insert "AND G"
13 Line 34, strike "ninety" insert "ONE HUNDRED TWENTY"
14 Page 19, line 7, strike "thirty" insert "ONE HUNDRED TWENTY"
15 Strike lines 11 through 18
16 Line 31, after "party" strike remainder of line
17 Strike line 32
18 Line 33, strike "management of the business licensee"
19 Page 20, strike lines 1 and 2
20 Reletter to conform
21 Line 21, strike "RECOGNIZED INSURANCE"; after "FORM" insert "ACCEPTED OR
22 PRESCRIBED BY THE DIRECTOR"
23 Line 24, strike "Either of the following"
24 Line 28, strike "termite" insert "WOOD-DESTROYING INSECT"
25 Line 33, strike "3." insert "E."
26 Line 34, after the comma insert "THE APPLICANT SHALL FURNISH TO THE DIRECTOR"
27 Page 21, line 3, strike "4." insert "F."
28 Line 9, strike "5." insert "G."
29 Reletter to conform
30 Between lines 29 and 30, insert:
31 "L. A BUSINESS LICENSEE SHALL NOTIFY THE DIRECTOR IN WRITING ON A FORM
32 APPROVED BY THE DIRECTOR OR ELECTRONICALLY OF:

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

4 2. THE TERMINATION OF A QUALIFYING PARTY OR LICENSED OR PRELICENSE
5 APPLICATOR WITHIN THIRTY CALENDAR DAYS AFTER THE TERMINATION."

6 Page 22, line 1, after the first "felony" insert "OR MISDEMEANOR INVOLVING MORAL
7 TURPITUDE"; after the second "felony" insert "OR MISDEMEANOR"

8 Line 23, strike "Present" insert "PROVIDE"

9 Line 28, strike "Three" insert "TWO"

10 Line 30, strike "Two" insert "ONE"

11 Between lines 34 and 35, insert:

12 "(c) THREE YEARS OF VERIFIABLE EMPLOYMENT WITH A PEST MANAGEMENT
13 RELATED ENTITY.

14 (d) A BACHELOR OF SCIENCE DEGREE IN ENTOMOLOGY, WEED MANAGEMENT,
15 HORTICULTURE, PLANT PATHOLOGY OR ANY COMBINATION OF THESE SUBJECTS AND FIVE
16 HUNDRED HOURS OF PRACTICAL EXPERIENCE DIRECTLY RELATED TO EACH CATEGORY FOR
17 WHICH THE PERSON IS APPLYING."

18 Page 23, lines 7 and 8, strike "that has been inactive for one year or less"

19 Line 9, after the period strike remainder of line

20 Strike lines 10 through 14

21 Page 24, line 12, strike "fifty" insert "SEVENTY-FIVE"

22 Line 15, strike "twenty-five" insert "SEVENTY-FIVE"

23 Between lines 16 and 17, insert:

24 "4. QUALIFYING PARTY LICENSE BROADENING APPLICATION FEE, ONE HUNDRED
25 FIFTY DOLLARS."

26 Re-number to conform

27 Line 17, strike "twenty-five" insert "SEVENTY-FIVE"

28 Between lines 18 and 19, insert:

29 "6. TEMPORARY QUALIFYING PARTY LICENSE RENEWAL APPLICATION FEE,
30 SEVENTY-FIVE DOLLARS."

31 Re-number to conform

32 Lines 21 and 22, strike "fifty" insert "SEVENTY-FIVE"

- 1 Page 24, line 26, strike "thirty" insert "SEVENTY-FIVE"
2 Between lines 26 and 27, insert:
3 "12. APPLICATOR LICENSE BROADENING APPLICATION FEE, THIRTY DOLLARS."
4 Renumber to conform
5 Line 27, strike "twenty-five" insert "FIFTY"
6 Between lines 28 and 29, insert:
7 "15. EXAMINATION FEE, FIFTY DOLLARS."
8 Strike lines 33 through 37, insert:
9 "C. IN CONSULTATION WITH THE STRUCTURAL PEST MANAGEMENT ADVISORY
10 COUNCIL, THE DIRECTOR MAY ANNUALLY SET FEES INCLUDING A BUSINESS LICENSE
11 APPLICATION FEE AND BUSINESS LICENSE RENEWAL FEE BASED ON THE NUMBER OF
12 APPLICATORS EMPLOYED BY THE PROSPECTIVE BUSINESS LICENSEE IN AN AMOUNT
13 NECESSARY TO PROVIDE REVENUES TO DEFRAY ALL THE PROPER EXPENSES OF THIS
14 CHAPTER. THE DIRECTOR SHALL PROVIDE FIFTEEN DAYS' ADVANCE NOTICE OF THE
15 HEARING AT WHICH THE FEES WILL BE INCREASED AND THE AMOUNT OF THE PROPOSED
16 FEE. TITLE 41, CHAPTER 6 DOES NOT APPLY TO SETTING OR COLLECTING FEES UNDER
17 THIS SUBSECTION."
18 Page 25, strike lines 1 through 8
19 Renumber to conform
20 Line 13, after "A." strike remainder of line
21 Line 14, strike "order,"
22 Line 25, after "each" insert "NONSERIOUS"; after "violation" insert "AND FIVE
23 THOUSAND DOLLARS FOR EACH SERIOUS VIOLATION"
24 Strike lines 27 and 28
25 Renumber to conform
26 Page 26, strike lines 1 through 6
27 Renumber to conform
28 Strike lines 10 and 11
29 Renumber to conform
30 Line 12, after "felony" insert "OR A MISDEMEANOR INVOLVING MORAL TURPITUDE"
31 Strike lines 16 through 20
32 Renumber to conform

House Amendments to H.B. 2449

- 1 Page 26, line 21, after "current" strike remainder of line
- 2 Line 22, strike "of insurance or"; strike "responsibility" insert "SECURITY"
- 3 Line 27, strike "one" insert "THREE"
- 4 Line 31, strike "three" insert "TWO"; after "treatment" insert a period strike
- 5 remainder of line
- 6 Line 32, strike "termite treatment, OR"
- 7 Line 33, strike ", which"; strike "five" insert "TWO"
- 8 Page 27, line 14, after "felony" insert "OR A MISDEMEANOR INVOLVING MORAL
- 9 TURPITUDE"
- 10 Lines 24 and 29, after "licensee" insert "OR LICENSED APPLICATOR FOR A POLITICAL
- 11 SUBDIVISION"
- 12 Page 28, line 10, after the first "number" insert "OR POLITICAL SUBDIVISION AND
- 13 DEPARTMENT NAME"
- 14 Lines 12 and 13, strike "termite" insert "WOOD-DESTROYING INSECT"
- 15 Page 29, line 14, strike "8" insert "9"
- 16 Line 15, strike "complaints" insert "ALLEGATIONS OF PESTICIDE MISUSE OR PEST
- 17 MANAGEMENT MISCONDUCT FROM THE PUBLIC ABOUT A BUSINESS LICENSEE, QUALIFYING
- 18 PARTY OR LICENSED APPLICATOR"; after "writing" insert "EXCEPT AS OTHERWISE
- 19 PROVIDED BY LAW"
- 20 Line 16, after "I." strike remainder of line
- 21 Strike line 17
- 22 Line 18, strike "party pursuant to section ~~32-2304~~ 3-3502,"
- 23 Line 27, strike "prepares" insert "ISSUES"; after "order" strike remainder of
- 24 line
- 25 Strike lines 28 and 29
- 26 Line 30, strike "DEPARTMENT conducted pursuant to title 41, chapter 6, article
- 27 10"
- 28 Strike lines 35, 36 and 37
- 29 Reletter to conform
- 30 Page 30, line 1, strike "an inquiry" insert "ALLEGATIONS OF PESTICIDE MISUSE OR
- 31 PEST MANAGEMENT MISCONDUCT"
- 32 Line 4, strike "acting"

House Amendments to H.B. 2449

- 1 Page 30, line 10, strike the colon
2 Line 11, strike "1."
3 Strike lines 13, 14 and 15
4 Page 31, line 18, strike "to alleviate the problem"
5 Line 25, strike ", THE FORMER OFFICE OF PEST MANAGEMENT"
6 Line 37, strike "and a fee as prescribed by the"; strike "director"
7 Page 32, line 17, strike "categories" insert "CATEGORY"
8 Line 18, strike "management of wood-destroying insects and"
9 Line 19, strike the comma
10 Strike line 20
11 Line 21, strike "commission"
12 Line 29, strike "five" insert "TWO"
13 Page 33, line 5, after "acts" insert "; violation; classification"
14 Line 6, before "A" insert "A."
15 Line 25, after "DEPARTMENT" strike remainder of line
16 Line 26, strike "pest control commission"
17 After line 36, insert:
18 "B. EXCEPT AS PROVIDED BY SECTION 3-3531, A PERSON WHO KNOWINGLY
19 ENGAGES IN THE BUSINESS OF PEST MANAGEMENT WITHOUT A LICENSE THAT MAY
20 POTENTIALLY CAUSE BODILY INJURY, PROPERTY DAMAGE OR ENVIRONMENTAL HARM IS
21 GUILTY OF A CLASS 6 FELONY."
22 Page 41, strike lines 23, 24 and 25
23 Reletter to conform
24 Page 42, line 12, after the first "the" strike remainder of line
25 Lines 20, 24, 32 and 35, strike "environmental services division" insert
26 "Arizona department of agriculture"
27 Page 43, line 4, strike "the following members" insert "seven industry members who
28 hold active qualifying party licenses issued by the Arizona department of
29 agriculture or by the office of pest management,"
30 Line 5, strike the colon insert a period
31 Strike lines 6 through 13
32 Reletter to conform

House Amendments to H.B. 2449

- 1 Page 43, strike lines 32, 33 and 34
- 2 Renumber to conform
- 3 Page 44, strike lines 8, 9 and 10
- 4 Renumber to conform
- 5 Line 17, after "any" insert "formal"
- 6 Strike lines 18 through 21
- 7 Line 23, strike "twenty" insert "fifteen"
- 8 Strike lines 26, 27 and 28
- 9 Line 29, strike "law."
- 10 Amend title to conform

RUSSELL L. JONES

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AMENDED SCOPE OF WORK
CONTRACT NO. GSPA 2009-10

1. General Requirements
 - 1.1 The contractor shall provide professional communication and public relations services for the Arizona Office of Pest Management (OPM).
2. Specific Requirements
 - 2.1 Monitor external communications from entities that impact or may potentially impact the pest control industry or the OPM's operations, as instructed by the OPM or its Acting Director.
 - 2.2 Provide timely information on issues that have been determined to have an impact or potential impact on the pest control industry or OPM's operations, as instructed by the OPM or its Acting Director.
 - 2.3 Provide the OPM and its Acting Director with a weekly status report on issues that impact or may potentially impact the pest control industry or OPM's operations.
 - 2.3 Assist the OPM or its Acting Director with constituent matters.
 - 2.4 Interacting with representatives of the regulated community in order to keep the OPM apprised of key issues of interest.
 - 2.5 Provide advice pertaining to responding to media inquiries.
 - 2.6 The contractor shall ensure confidentiality of communications between the contractor and OPM.
 - 2.7 The contractor shall provide the OPM with a summary report of activities performed on behalf of the OPM as requested, provide timely updates as issues warrant, and be available to provide verbal presentations to the OPM.

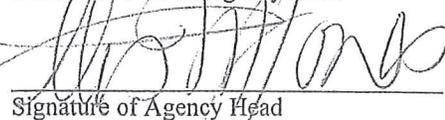
Stuart Goodman, Principal
Name and Title of Principal for Vendor



Signature of Principal for Vendor

September 18, 2009
Date

Ellis M. Jones Acting Director
Name and Title of Agency Head



Signature of Agency Head

22 Sep 09
Date

4F

August 11, 2009

Ms. Charmayne Skow
Director of Administration & Finance
Arizona Office of Pest Management
9535 East Doubletree Ranch Road
Scottsdale, Arizona 85258

RE: RFQ Number 2009-01

Dear Ms. Skow:

Pursuant to the referenced Request for Quotation, issued by the Arizona Office of Pest Management, I have enclosed one (1) original and one (1) copy of the proposal prepared for your review and consideration.

If I can answer any questions or provide any clarifications, please do not hesitate to contact me.

Thank you in advance for your consideration.

Sincerely,



Stuart Goodman

Enclosures

REQUEST FOR QUOTATION

Charmayne Skow, Director of Administration & Finance
Arizona Office Pest Management
9535 East Doubletree Ranch Road
Scottsdale, AZ 85258
(602) 255-3664 Phone; (480) 314-0504 Fax
cskow@sb.state.az.us Email

QUOTATION NO. 2009-01
DUE DATE: August 14, 2009

Page 2 of 4

OFFER

TO THE STATE OF ARIZONA: The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

Federal Employer Identification No: 86-0996929

For Clarification of this offer, contact:

Name: Goodman Schwartz Public Affairs
Address: 300 West Clarendon, Suite 245
Phoenix, Arizona 85013

Phone: (602) 277-0911
Fax: (602) 277-3506
Email: sgoodman@goodmanschwartz.com

Stuart Goodman, Principal		8/11/09
Name and Title of Principal for Vendor	Signature of Principal for Vendor	Date

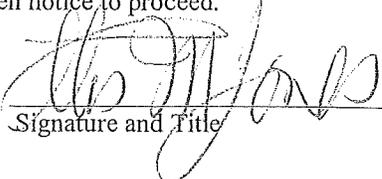
CERTIFICATION: By Signature in the Offer section above, the bidder certifies:

1. The submission of the offer did not involve collusion or other anti-competitive practices.
2. The bidder shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 99.4 or A.R.S. §§41-1461 through 1465.
3. The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The bidder certifies that the above referenced organization X is/ is not a small business with less than 100 employees or has gross revenue of \$4 million or less.

OFFER ACCEPTANCE

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State. This contract shall henceforth be referred to as Contract No. GSPA 2009-10. The Contractor has been cautioned no to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contract release document or written notice to proceed.

State of Arizona
Awarded this 21st day of August 2009



Signature and Title

10. Provide OPM or its acting director with advice on responding to media inquiries and issues.

Since 2001, Goodman Schwartz Public Affairs has represented the interests of several 90/10 regulatory agencies. Based on this experience, we recognize the tremendous importance of communication between the firm and OPM staff. The firm will provide OPM and its acting director with timely legislative intelligence in order to be able to provide an effective and proactive response to any legislative circumstance.

The firm's principals have served in several sensitive positions within state and local government, including senior policy positions with the Governor and the Mayors of Phoenix and Glendale. Accordingly, the firm fully recognizes its duty to ensure that communications remain confidential and has direct and extensive experience in meeting such obligations.

Examples of the Firm's Legislative Experience and Reliability

While the firm's principals have worked on numerous bills over the past 18 legislative sessions, the following is a broad representation of the various legislative efforts that the firm has been involved in since being established in 2000.

Board of Examiners Nursing Care Institution Administrators and Assisted Living Facility Managers (2009)

Between 2004 and 2008, the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers had unsuccessfully attempted to amend state statutes to obtain the authority to raise licensing fees in order for the agency to remain financially solvent.

In preparation for the 2009 legislative session, the agency retained Goodman Schwartz Public Affairs for the upcoming legislative session, as the board was scheduled to run out of funds in January 2010.

In developing a legislative solution, the firm quickly assessed that the traditional method of increasing the board's statutory fee caps would not be successful with the increasingly fiscally conservative Arizona Legislature. Accordingly, the firm proposed to amend state statute by allowing the board to adopt fees via administrative rulemaking, thereby avoiding the required two-thirds super-majority vote of the Legislature to directly raise fees.

The firm worked with stakeholders and developed legislative champions in both the House and the Senate. In recognition of candidates that took the "no tax" pledge during the 2008 election cycle, a joint letter was drafted on behalf of stakeholders to support the proposed fee increase legislation. While the legislation did not technically raise fees, demonstrating support for the measure was still a critical element.

The bill did experience a temporary set back late in the 2009 legislative session when the Chairman of the Senate Committee on Appropriations predictably refused to provide the legislation with a committee hearing. However, as broad support for the bill had already been fostered, a strike-everything amendment was successfully used in the House in order keep the legislation moving through the legislative process.

The bill was enacted by both the House and Senate and signed into law by the Governor.

Arizona Structural Pest Control Commission (2008)

Despite a routine sunset audit conducted by the Arizona Auditor General's Office in 2007, the House and Senate Commerce Committee of Reference recommended to sunset the Arizona Structural Pest Control Commission and transfer the regulation and licensure of the structural pest control industry to the Arizona Department of Agriculture.

The firm successfully worked with agency staff and members of the four professional associations that are regulated by the Board to develop a series of comprehensive compromises to address a broad spectrum of issues and concerns. The firm was also

required to address issues raised by legislators on the impacts of the fee increase on a profession that is not known for high compensation levels.

Recognizing that many legislators had taken a "no tax" pledge during the 2006 election cycle, the firm worked with the four professions to develop a joint letter of support for the fee increase, which was critical in removing the bill from the scorecard used by opponents of new taxes. Accordingly, this freed up several legislators with the ability to support the bill without violating the "no tax" pledge.

Despite numerous political and economic obstacles, the fee increase was successfully enacted with the required two-thirds vote, as the measure was a Prop. 108.

Arizona Medical Board (2007)

During the last three weeks of the 2007 legislative session, the staff of the Arizona Medical Board decided to request a supplemental appropriation to obtain outside legal counsel in order to address a backlog of pending revocation cases against physicians already determined by the Board to have their licenses revoked.

Under existing state statute, prior to the Arizona Medical Board officially revoking a physician's license, due process must occur through the Arizona Attorney General's Office. With the growing number of pending revocations and limited resources, physicians were practicing for several years prior to their respective license being formally revoked in Arizona.

Accordingly, by augmenting the Attorney General's existing resources with outside legal counsel, the goal was to decrease the backlog and reduce the number of physicians practicing in Arizona with a pending revocation.

Despite the late timing in legislative process, the firm successfully worked with key legislative staff and the Attorney General's Office to facilitate the supplemental appropriation. The firm was responsible for the logistics of the legislative budget process and obtaining approval from key legislators. Politically, the firm effectively eased the concerns of the Arizona Solicitor General that the issue was not about creating an embarrassing situation for the Arizona Attorney General's Office and that the appropriation could be accomplished without any embarrassing testimony.

As a result of the joint discussions with legislative staff, representatives from the Governor's Office of Strategic Planning and Budgeting and the Arizona Attorney General's Office, approximately \$300,000 was additionally appropriated to the Arizona Medical Board for outside legal counsel.

In the end, the legislation, despite the success in the Senate, did not receive a committee hearing in the House and the bill was defeated for the remainder of the legislative session.

The primary challenge in defeating this legislation was the late date in which the firm was retained to oppose the measure. The firm's understanding of legislative procedures combined with effective message development, proved to be the deciding factor in the bill being denied a hearing.

The message that was developed was not about whether the industry should or should not be regulated, but rather the flawed approach to the regulatory framework that was created in the legislation. At no time did the client appear to be supportive of an unregulated industry serving some of the most vulnerable populations. Rather, the client's position was that due to the nature of the industry and patients served by the industry, the exemption of independent providers did not create the protections the proponents of the bill claimed to exist.

Arizona Public Service (2006)

On behalf of APS, during the 2006 legislative session, the firm successfully enacted legislation establishing enhanced public notification requirements for the Emergency Planning Zone located within a 10-mile radius of the Palo Verde Nuclear Generating Station.

In order to reach consensus, the firm proactively worked with the Arizona Association of Realtors, Arizona Department of Real Estate, Maricopa County's Emergency Planning Division and the Homebuilders Association of Central Arizona to develop a comprehensive legislative package. As a result of the discussions that occurred prior to the start of the legislative session, the legislation was enacted without any opposition.

Exempt Well Legislation (2005)

On behalf of the Southern Arizona Water Users Association, over a three-year period, culminating in 2005, the firm successfully worked with stakeholders and legislators to develop and enact legislation that would restrict the ability of property owners to drill exempt wells (35 gallons per minute) within Active Management Areas (AMAs) in which municipal sources of water were otherwise available.

Historically, restrictions on exempt wells have been in direct conflict between prudent ground water management and the philosophical concerns of private property rights advocates. As part of the effective strategy, the firm developed and maintained a coalition of municipal water providers, private property rights organizations, state agencies and environmental groups to support the legislation.

Key Personnel

Recognizing the broad spectrum of legislative and budget related issues that may likely impact the Office Pest Management, the firm anticipates deploying all appropriate personnel to meet the goals and objectives of the agency. Accordingly, biographical information is provided below on the key personnel likely to be involved in the firm's execution of the scope of work identified in the RFQ.

Stuart Goodman

Stuart Goodman is a principal in the public affairs firm of Goodman Schwartz.

On behalf of the firm, Goodman manages the state administrative, executive and legislative relations practice. Goodman possesses significant experience in the practices of state government with a wide-ranging focus on state agencies, regulatory boards and gubernatorial and legislative process and operations.

Prior to establishing the firm, Goodman served as a senior policy advisor to Arizona Governor Jane Dee Hull. During his tenure in executive service, he provided policy and management advice for 47 cabinet level and regulatory agencies within state government.

Before joining the Hull Administration, Goodman directed the City of Glendale's Intergovernmental Relations program. He also served as the principal policy advisor to the Mayor and City Manager for state and regional issues.

In addition to serving the interests of elected officials, Goodman has also directed the legislative and media programs for the Arizona Department of Administration and was the associate director of government affairs for the Arizona Multihousing Association.

Goodman has contributed his talents to a number of civic causes and is a past president of Public Affairs Professionals of Arizona and the past chairman of the Arizona Board of Athletic Trainers. He currently serves as a member on the Public Affairs Committee of the Arizona Chamber of Commerce.

Continuing his commitment to public service, Goodman received his commission in the U.S. Navy Reserve in 1999. In 2003, during Operation Iraqi Freedom, Lieutenant Goodman served as a Division Officer in the Persian Gulf and Indian Ocean aboard the aircraft carrier USS CONSTELLATION (CV-64).

Goodman holds an undergraduate degree in Economics and a Master of Public Administration, both from Arizona State University. He also completed the Program for Senior Executives in State and Local Government at Harvard University's John F. Kennedy School of Government.

REFERENCES

Ms. Debra Rinaudo
Executive Director
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Ms. Lisa Wynn
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Arizona Medical Board
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(480) 551-2791

Ms. Suzanne Pfister
Vice President - External Affairs
Catholic Healthcare West
350 W. Thomas
Phoenix, Arizona 85013

(602) 406-1050