ARIZONA DEPARTMENT OF AGRICULTURE OFFICE OF PEST MANAGEMENT **SUBSTANTIVE POLICY STATEMENT** Political Subdivision Applicator 90 Day Exemption A.R.S. § 32-2311.01(D)(1)	SP 13-02 POLICY NO. SIGNATURE Sept. 13, 2013 DATE

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under section 41-1033, Arizona Revised Statutes, for a review of the statement.

1. BACKGROUND

Laws 2011, ch. 20, § 6 required the Director of the Arizona Department of Agriculture to appoint a nine member task force to study the regulation of structural pest management in Arizona, specifically as it related to the following four items: (1) a review of all laws and regulations governing structural pest management in this state, (2) a review of possible organizational configurations within ADA for structural pest management regulation, (3) a review of personnel and funding issues relating to the administration of structural pest management regulation within ADA and (4) statutory changes necessary to accomplish the future structural pest management program. The task force and its subcommittees met 18 times between August 2011 and October 2012. In November 2012, the task force's final recommendations for changing OPM's statutes and rules were submitted to the Governor, the President of the Senate, and the Speaker of the House. These recommendations were adopted by the Legislature in substantial part and signed into law in 2013. *See* Laws 2013, ch. 125.

In the process of taking the task force's recommendations and converting them to law, the Legislature made some formatting changes, which OPM believes were not intended to differ in meaning from the changes recommended by the task force, that leave the meaning of the revised statute unclear or ambiguous. The purpose of this substantive policy statement is to inform the general public of OPM's approach to or opinion of one of these potentially confusing statutes. See A.R.S. § 41-1001(21).

2. POLICY

A.R.S. § 32-2311.01(D)(1) reads: "The following individuals are exempt from the certification requirements of this chapter: 1. An employee of a political subdivision who applied pesticides for the political subdivision for the first time no more than ninety days before certification. This exemption does not apply to an employee who applies pesticides at a school or child care facility." The purpose of this subsection is to provide applicators working for a political subdivision the same 90 day window to get licensed that applicators working for a business licensee have benefitted from. *See* former A.R.S. § 32-2312(E); current A.A.C. R4-29-201(C)(2).

This subsection, if interpreted incorrectly, would allow an applicator of a political subdivision to work indefinitely without certification. Such an interpretation would run counter to the specific requirement for certification in A.R.S. § 32-2311.01(C) and render moot the other exemptions under A.R.S. § 32-2311.01(D).

Accordingly, OPM will administer and enforce A.R.S. § 32-2311.01(D)(1) as providing an exemption from certification for political subdivision applicators for a 90 day period beginning on the first day the applicator applies pesticides for the political subdivision.

3. EFFECTIVE DATE

This policy is effective September 13, 2013 and shall continue in effect until repealed, modified, or superseded.