

DOUGLAS A. DUCEY  
Governor



MARK W. KILLIAN  
Director

# Arizona Department of Agriculture

1688 W. Adams Street, Phoenix, Arizona 85007  
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February 11, 2020

Nicole Sornsin  
Governor's Regulatory Review Council  
100 N. 15<sup>th</sup> Ave. #305  
Phoenix, AZ 85007

Dear Chairperson Sornsin,

Attached you will find a copy of the Arizona Department of Agriculture, Pest Management Division's Notice of Proposed Expedited Rulemaking and the proposed amendments. You are receiving this information as required by A.R.S. § 41-1027(B) so that the Department can conduct Expedited Rulemaking. This rulemaking is being conducted to provide a temporary fee reduction to the structural pest management industry. We have been working with our industry partners in this process and the rule has been supported by the Arizona Pest Professionals Organization and the Department's Pest Management Advisory Committee.

The Department is completing expedited rulemaking in an effort to prevent a temporary fee reduction from expiring on June 30, 2020.. This rulemaking is eligible for expedited status pursuant to A.R.S. § 41-1027 because it does not increase the cost of regulatory compliance, increase a fee, or reduce the procedural rights of any regulated person, yet does amend a rule that is currently outdated and as written is not currently necessary for the operation of the Pest Management Division.

The Department will be fielding public comments related to this rulemaking until March 13, 2020 at 12:00 p.m. An oral proceeding will be held in Room 206 at the Arizona Department of Agriculture on March 13, 2020 at 11:00 a.m.

If you have any questions, please don't hesitate to contact me at 602-542-5729.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Killian", written over a light blue horizontal line.

Mark Killian  
Director

MK; cwm



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**5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S. § 41-1027, to include an explanation about the rulemaking:**

In 2018, the Division has received significant feedback from its customers requesting that licensing fees be temporarily reduced. The Division agreed with this recommendation and implemented a temporary, two year fee reduction, of at least 25% on all license related fees. This reduction provided financial relief to industry members who desired to legally operate a pest control business. Because the fees collected from the industry annually exceed the operating expenses of the Division, the temporary fee reduction did not negatively impact the Division's operations.

After evaluating the success of the fee reduction, the Pest Management Division Advisory Committee proposed the idea of extending the fee reduction an additional two years. After evaluating the projected costs and revenue over the next two year, the Department agreed with the recommendation and is proposing to extend the temporary fee reduction through June 30, 2022.

This rulemaking is eligible for expedited status pursuant to A.R.S. § 41-1027 because it does not increase the cost of regulatory compliance, increase a fee, or reduce the procedural rights of any regulated person, yet does amend a rule that is currently outdated and as written is not currently necessary for the operation of the Pest Management Division.

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

None.

**7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state.**

Not applicable.

**8. The preliminary summary of the economic, small business, and consumer impact:**  
Under A.R.S. § 41-1055(D)(2), the Department is not required to provide an economic, small business, and consumer impact statement.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Not applicable.

**10. Where, when, and how persons may provide written comment to the agency on the proposed expedited rule under A.R.S. § 41-1027(C):**

Oral Proceeding: March 13, 2020, 11:00 a.m.  
Arizona Department of Agriculture, Room 206  
1688 W. Adams St.  
Phoenix, AZ 85326

Close of record: March 13, 2020, 12:00 p.m.

A person may submit written comments on the proposed expedited rules no later than the close of record to either of the individuals listed in item 4.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

This rule does not require a permit, it simply implements licensing fees as required by A.R.S. § 3-3618.

- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Federal laws do not apply to the rules in A.A.C. R3-8-103

- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No such analysis was submitted.

- 12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

- 13. The full text of the rule follows:**

**R3-8-103. Fees; Charges; Exemption**

- A. Beginning March 1, 2019 through June 30, ~~2020-2022~~, a person shall pay the following application and renewal fees for licensure, certification, and registration:
1. For an applicator:
    - a. Applicator certification, \$55.
    - b. Applicator certification broadening application, \$0.
    - c. QA certification, \$75.
    - d. QA certification broadening application, \$15.
  2. For a qualifying party:
    - a. Registration at same time as application for or renewal of the business license, \$0.
    - b. Registration at a different time than application for or renewal of the business license, \$35.
    - c. Registration broadening, \$15.
    - d. Temporary qualifying party registration, \$75.
  3. For a business:
    - a. Business license, \$185.
    - b. Business license for federal entity, \$0.
    - c. Applicator registration, \$0 per applicator.
  4. For a branch:
    - a. Branch office registration, \$35 per branch.
    - b. Branch supervisor registration at same time as branch office registration, \$0.
    - c. Branch supervisor registration at a different time than branch office registration, \$15.

- B.** Beginning July 1, ~~2020~~ 2022, A person shall pay the following application and renewal fees for licensure, certification, and registration:
1. For an applicator:
    - a. Applicator certification, \$75.
    - b. Applicator certification broadening application, \$0.
    - c. QA certification, \$100.
    - d. QA certification broadening application, \$25.
  2. For a qualifying party:
    - a. Registration at same time as application for or renewal of the business license, \$0.
    - b. Registration at a different time than application for or renewal of the business license, \$50.
    - c. Registration broadening, \$25.
    - d. Temporary qualifying party registration, \$100.
  3. For a business:
    - a. Business license, \$250.
    - b. Business license for federal entity, \$0.
    - c. Applicator registration, \$0 per applicator.
  4. For a branch:
    - a. Branch office registration, \$50 per branch.
    - b. Branch supervisor registration at same time as branch office registration, \$0.
    - c. Branch supervisor registration at a different time than branch office registration, \$25.
- C.** A person renewing an applicator certification, QA certification, business license, branch office registration, or branch supervisor registration shall receive a 10 percent reduction in the renewal fee for renewals submitted for a two year renewal period.
- D.** In addition to the fees listed in subsection (A), a person shall pay a \$10 handling fee for each application or renewal form not submitted electronically when PMD allows electronic submission.
- E.** A person shall pay a late fee equal to ten percent of the renewal fee for any license, certification, or registration that is not renewed timely.
1. If a business license remains expired for more than 30 days, to renew the license, a person shall also pay an additional late fee of \$15 per month that the license remains expired, not to exceed \$165. Late fees are in addition to the renewal fee.
  2. If a certification remains expired for more than 30 days, to renew the certification, a person shall also pay an additional late fee of \$10 per month the certification remains expired, not to exceed \$110. Late fees are in addition to the renewal fee.
- F.** A business licensee shall pay the following TARF fees:
1. Electronic submissions, \$2;
  2. Electronic final grade treatment TARF submissions, \$0;
  3. Electronic TARF submissions for a pretreatment or new-construction treatment of an addition that abuts the slab of an originally treated structure, \$0, if the business licensee:
    - a. Performed the pretreatment or new-construction treatment of the main structure,
    - b. Filed a TARF regarding the pretreatment or new-construction treatment,
    - c. Has the structure under warranty, and
    - d. Treats the abutting addition under the terms of the site warranty;
  4. All paper submissions, \$8; and

5. Late fee equal to the original TARF fee for any TARF submission more than 30 days after the due date, except that the late fee for an electronic final grade treatment TARF submission more than 30 days after the due date shall be \$2.
- G.** If the PMD administers a certification examination, an applicant shall pay \$50 to take the examination. If an examination service or testing vendor administers a certification examination, an applicant shall pay the examination service or testing vendor the examination cost established in the vendor's contract with the PMD.
  - H.** PMD employees are exempt from the applicator and examination fees listed in this Section.
  - I.** An applicant who makes a payment for a fee due under this Section that is rejected by a financial institution will be subject to all of the following:
    1. The PMD shall void any approval of the application or renewal.
    2. The applicant shall pay any financial institution fee incurred by the PMD.
    3. The PMD may require the applicant to pay all fees due using a method other than a personal or business check.
    4. An application for renewal will be considered untimely if the substitute payment is not received by the PMD by the original due date, and the applicant will be subject to a late fee based on the date of receipt of the substitute payment.
  - J.** The PMD may reject an application or request for service that is submitted with the incorrect fee and not process the application or provide the service. An application for renewal will be considered untimely if the substitute payment is not received by the PMD by the original due date, and the applicant will be subject to a late fee based on the date of receipt of the substitute payment.

**R3-8-103. Fees; Charges; Exemption**

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**B.** A person renewing an applicator certification, QA certification, business license, branch office registration, or branch supervisor registration shall receive a 10 percent reduction in the renewal fee for renewals submitted for a two year renewal period.

**C.** In addition to the fees listed in subsection (A), a person shall pay a \$10 handling fee for each application or renewal form not submitted electronically when BMD allows electronic submission.

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5. Late fee equal to the original TARF fee for any TARF submission more than 30 days after the due date, except that the late fee for an electronic final grade treatment TARF submission more than 30 days after the due date shall be \$2.



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  - 2. The applicant shall pay any financial institution fee incurred by the PMD.
  - 3. The PMD may require the applicant to pay all fees due using a method other than a personal or business check.
  - 4. An application for renewal will be considered untimely if the substitute payment is not received by the PMD by the original due date, and the applicant will be subject to a late fee based on the date of receipt of the substitute payment.
- I. The PMD may reject an application or request for service that is submitted with the incorrect fee and not process the application or provide the service. An application for renewal will be considered untimely if the substitute payment is not received by the PMD by the original due date, and the applicant will be subject to a late fee based on the date of receipt of the substitute payment.