

Agency No. 209.02

ARKANSAS PESTICIDE CONTROL REGULATIONS

REGULATION NO. 1. Registration Fees; Expiration of Registration -

Through December 31, 2007 the registration fee for each pesticide product registered for calendar year 2007 by any manufacturer, registrant or distributor shall be \$150. For products registered for calendar year 2008, the registration fee shall be \$200. For products registered for calendar year 2009 and each additional year thereafter the fee shall be \$250. Registrations shall expire December 31 of the year for which registered. This fee does not include the Abandoned Agricultural Pesticide Disposal Fee as required by Act 1130 of 2001.

REGULATION NO. 2. Pests Declared -

Each of the following forms of plant and animal life and viruses is declared to be a pest when it exists under circumstances that make it deleterious to man or the environment:

- (1) Vertebrate animals (other than man), including but not limited to mammals, birds, fish, amphibians, and reptiles.
- (2) Invertebrate animals (other than internal parasites of living man or other living animals), including but not limited to insects and other arthropods, nematodes, and mollusks such as slugs and snails.
- (3) Plants growing where not wanted, including mosses, liverworts, and all plants of higher orders, and plant parts such as roots.
- (4) Microorganisms (other than those on or in living man or other living animals, and those on or in processed food, beverages, pharmaceuticals including cosmetics), including but not limited to algae, fungi, and bacteria.
- (5) Viruses (other than those on or in living man or other animals and those on or in food, beverages, and pharmaceuticals including cosmetics).

REGULATION NO. 3. Devices Specified; Provisions Applicable -

A device shall be construed to be any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, viruses, or other microorganisms on or in living man or other living animals), but not including equipment used for the application of pesticides when sold separately therefrom. Devices shall be subject to the misbranding provisions of Section 2-16-410 (1),

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(2) and (3) of this Act.

REGULATION NO. 4. Coloration and Discoloration -

The requirements for coloration and discoloration of pesticides shall be those as set forth in the regulations adopted by EPA pursuant to Section 25(c)(5) of FIFRA.

REGULATION NO.5. Labeling-

Labeling requirements for pesticides shall be those as set forth in Section 162.10 of the Regulations adopted under FIFRA.

REGULATION NO. 6. Pesticides Highly Toxic to Man -

The determination of pesticides highly toxic to man shall be those in accord with the regulations promulgated by EPA pursuant to Section 25(c)(2) of FIFRA.

REGULATION NO 7. Registration of Pesticides

The Plant Board may request additional information, and stipulate the source of the information, such as knowledge as a result of but not limited to research findings, findings of other state and federal agencies or experience of the Arkansas State Plant Board before a pesticide is registered for use in the State. In such cases the Plant Board may deny registration until information is reviewed and approved by the Plant Board.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Arkansas State Plant Board
DIVISION Pesticide Division
DIVISION DIRECTOR Susie Nichols
CONTACT PERSON Susie Nichols or Brandi Reynolds
ADDRESS P.O. Box 1069, Little Rock, AR 72203
PHONE NO. 501-225-1598 **FAX NO.** 501-312-7053 **E-MAIL** Susie.Nichols@aspb.ar.gov
NAME OF PRESENTER AT COMMITTEE MEETING Susie Nichols
PRESENTER E-MAIL Susie.Nichols@aspb.ar.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Arkansas Pesticide Control Regulations

2. What is the subject of the proposed rule? Pesticide Registration

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒
If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☐ No ☒
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes ☐

No ☒

5. Is this a new rule? Yes ☐ No ☒

If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes ☐ No ☒

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule?

Yes ☒

No ☐

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. ACA 20-20-206

7. What is the purpose of this proposed rule? Why is it necessary? This rule will allow the Plant Board to request additional information/research before a pesticide is registered for use in the state. This rule will help ensure the introduction of new pesticide technologies while still providing a level of protection for the farmers with susceptible crops who do not choose to use these technologies.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). www.plantboard.arkansas.gov Hot Topics, Pesticide Registration

9. Will a public hearing be held on this proposed rule? Yes ☒ No ☐

If yes, please complete the following:

Date: November 21, 2016

Time: 1:30 p.m.

Arkansas State Plant Board, 1 Natural
Resource Drive, Little Rock, AR

Place: 72205

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

November 18, 2016

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

January 1, 2017

12. Do you expect this rule to be controversial? Yes ☒ No ☐

If yes, please This rule could delay the registration of some pesticides in the State of

explain.

Arkansas

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?

Please provide their position (for or against) if known.

Monsanto, BASF, Dow Agro Sciences, Farm Bureau, Farmers, Commercial Applicators, and Pesticide Dealers.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas State Plant Board
DIVISION Pesticide Division
PERSON COMPLETING THIS STATEMENT Susie Nichols
TELEPHONE NO. 501-225-1598 **FAX NO.** 501-312-7053 **EMAIL:** susie.nichols@aspb.ar.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Arkansas Pesticide Control Regulations

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>

Next Fiscal Year

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>

Total 0

Total 0

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>
 Total	 <u>0</u>

Next Fiscal Year

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>
 Total	 <u>0</u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

RULE SUMMARY

This rule will allow the Plant Board to request additional information/research before a pesticide is registered for use in the State of Arkansas. This rule will allow the introduction of new pesticide technologies while providing protection for farmers who choose not to use the technology.