

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for FINAL and EMERGENCY RULES



Secretary of State

**John Thurston**

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas Department of Agriculture

Department State Plant Board

Contact Scott Bray E-mail scott.bray@agriculture.arkansas.gov Phone 501-225-1598

Statutory Authority for Promulgating Rules Arkansas Code Ann. § 17-1-108(c); 2-16-207(c)(1)

Rule Title: State Plant Board Rules on Reciprocal, Temporary, and Provisional Licensure

### Intended Effective Date

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☐ Emergency (ACA 25-15-204)

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☐ Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

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Adopted by State Agency .....

### Date

March 27 - 29, 2020

April 25, 2020

June 19, 2020

March 13, 2019

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Linda Luebke linda.luebke@agriculture.arkansas.gov

June 23, 2020

Contact Person

E-mail Address

Date

## CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Scott Bray  
Signature

501-225-1598

scott.bray@agriculture.arkansas.gov

Phone Number

E-mail Address

Director, Arkansas State Plant Board

Title

June 23, 2020

Date



Asa Hutchinson  
Governor

# ARKANSAS DEPARTMENT OF AGRICULTURE

1 Natural Resources Drive, Little Rock, AR 72205  
agriculture.arkansas.gov  
(501) 225-1598



Wes Ward  
Secretary of Agriculture

June 23, 2020

Honorable John Thurston  
Secretary of State  
State Capitol Rm. 01  
Little Rock, Arkansas 72201-1094

Enclosed are Transmittal Sheets and copies of **Final Rules** as listed below.

The **Produce Safety Rule and Produce Safety Enforcement and Response Rules** was approved by the Arkansas State Plant Board at a meeting held December 3, 2019. The rules were reviewed and approved by the Senate and House Ag Committee on May 12, 2020, the Arkansas Legislative Council Administrative Rules Subcommittee on June 17, 2020 and the Arkansas Legislative Council on June 19, 2020. Final Rules enclosed.

The **State Plant Board Rules on Reciprocal, Temporary, and Provisional Licensure** was approved by the Arkansas State Plant Board at a meeting held December 3, 2019. The rules were reviewed and approved by the Arkansas Legislative Council Administrative Rules Subcommittee on June 17, 2020 and the Arkansas Legislative Council on June 19, 2020. Final Rule enclosed.

If more information is needed, please contact me.

Sincerely,

 Scott Bray, Director  
Arkansas State Plant Board

SB:ll

Enclosures

**FINAL RULE**  
**AGENCY NO. 209.02**

**STATE PLANT BOARD RULES ON RECIPROCAL,  
TEMPORARY, AND PROVISIONAL LICENSURE**

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## **I. GENERAL PROVISIONS**

- A. Governing Law. These rules are promulgated pursuant to Act 1011 of 2019, Ark Code Ann. §17-1-108.
- B. Conflict of Rules. These rules shall supersede any State Plant Board rules governing reciprocal, temporary, and provisional licensing of the occupational licenses enumerated herein.
- C. Incorporation of Definitions. These rules hereby incorporate by reference the definitions of each rule governing the licenses addressed herein unless the context clearly indicates otherwise.

## **II. AGRICULTURAL CONSULTANTS**

### Reciprocity

- A. Required Qualifications. An applicant applying for reciprocal licensure in agriculture consultancy shall meet the following requirements:
  - 1. The applicant shall hold a substantially similar license in another United States jurisdiction.
    - a. A license from another jurisdiction is substantially similar to an Arkansas agricultural consultant license if the other jurisdiction's licensure qualifications require:
      - i. A bachelor's degree in board-approved crop related field; or
      - ii. Has seven (7) years of continuous experience working for a licensed agricultural consultant.
    - b. The applicant shall hold his or her occupational licensure in good standing;
    - c. The applicant shall not have had a license revoked for:
      - i. An act of bad faith; or
      - ii. A violation of law, rule, or ethics;
    - d. The applicant shall not hold a suspended or probationary license in a United States jurisdiction; and
  - 2. The applicant shall be sufficiently competent in the field of agricultural consultancy.
- B. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
  - 1. As evidence that the applicant's license from another United States jurisdiction is substantially similar to Arkansas's, the applicant shall submit the following information:
    - a. Evidence of current and active licensure in that United State jurisdiction. The Department may verify this information online if the jurisdiction at issue provides

- primary source verification on its website or by telephone to the other jurisdiction's licensing board; and
- b. Evidence that the other United States jurisdiction's licensure requirements match those listed in A.1.a.i and ii. The Department may verify this information online or by telephone to the other jurisdiction's licensing board.
2. To demonstrate that the applicant meets the requirement in A.1.b. through d., the applicant shall provide the Department with:
- a. The names of all United States jurisdictions in which the applicant is currently licensed or has been previously licensed;
- b. Letters of good standing or other information from each United States jurisdiction in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in A.1.c. and does not hold a license on suspended or probationary status as described in A.1.d. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other jurisdiction's licensing board.
3. As evidence that the applicant is sufficiently competent in the field of agricultural consultancy, an applicant shall pass a written examination administered by the Board or Certified Crop Advisors.

Temporary and Provisional License

- C. The Department shall issue a temporary and provisional license immediately upon receipt of the application, the required fee, and the documentation required under B.1.a. and b.
- D. The temporary and provisional license shall be effective for ninety (90) days, unless the Department determines that the applicant does not meet the requirements in A.1. and A.2., in which case the temporary and provisional license shall be immediately revoked.
- E. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license.

License for person from a jurisdiction that does not license occupation.

- F. Required Qualifications. An applicant from a United States jurisdiction that does not license agricultural consultants shall meet the following requirements:
1. The applicant shall be sufficiently competent in the agricultural consultancy; and

2. Possess a bachelor's degree in a board-approved crop related field.
- G. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
  1. As evidence that the applicant is sufficiently competent in the field of agricultural consultancy, an applicant shall pass a written examination administered by the Board or Certified Crop Advisors.
  2. Provide official transcripts of a bachelor's degree in a board-approved crop related field.

### **III. CATFISH PROCESSORS**

#### Reciprocity

- A. Required Qualifications. An applicant applying for reciprocal licensure as a catfish processor shall meet the following requirements:
  1. The applicant shall hold a substantially similar license in another United States jurisdiction.
    - a. The applicant shall hold his or her occupational licensure in good standing;
    - b. The applicant shall not have had a license revoked for:
      - i. An act of bad faith; or
      - ii. A violation of law, rule, or ethics;
    - c. The applicant shall not hold a suspended or probationary license in a United States jurisdiction;
  2. The applicant shall be sufficiently competent in catfish processing; and
  3. Satisfy the bonding and financial reporting requirements listed in Sections III and IV of the State Plant Board Regulations on Catfish Processors.
- B. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
  1. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit evidence of current and active licensure in another United States jurisdiction. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other United States jurisdiction's licensing board; and
  2. To demonstrate that the applicant meets the requirement in A.1.a. through c., the applicant shall provide the Department with:

- a. The names of all United States jurisdictions in which the applicant is currently licensed or has been previously licensed;
  - b. Letters of good standing or other information from each United States jurisdiction in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in A.1.b. and does not hold a license on suspended or probationary status as described in A.1.c. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other United States jurisdiction's licensing board.
3. The applicant shall submit the bonding and financial reporting documentation required in Sections III and IV of the State Plant Board Regulations on Catfish Processors.

Temporary and Provisional License

- C. The Department shall issue a temporary and provisional license immediately upon receipt of the application, the required fee, and the documentation required under B.1 and B.3.
- D. The temporary and provisional license shall be effective for ninety (90) days, unless the Department determines that the applicant does not meet the requirements in Reciprocity sections A.1 through A.3, in which case the temporary and provisional license shall be immediately revoked.
- E. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license.

License for person from a jurisdiction that does not license occupation.

- F. Required Qualifications. An applicant from a United States jurisdiction that does not license catfish processors shall meet the following requirements:
  1. The applicant shall be sufficiently competent in the catfish processing; and
  2. The applicant shall meet the bonding and financial reporting requirements listed in Sections III and IV of the State Plant Board Regulations on Catfish Processors.
- G. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the bonding and financial reporting documentation required in Section III and IV of the State Plant Board Regulations on Catfish Processors.

#### **IV. COMMERCIAL APPLICATORS (INDIVIDUALS)**

##### Reciprocity

- A. Required Qualifications. An applicant applying for reciprocal licensure as a commercial applicator as defined in Ark. Code Ann. § 20-20-203(5) shall meet the following requirements:
1. The applicant shall hold a substantially similar license in another United States jurisdiction.
    - a. A commercial applicator license from another United States jurisdiction is substantially similar to an Arkansas commercial applicator license if the other jurisdiction's licensure is issued pursuant to a certification plan approved by the Environmental Protection Agency under 40 CFR § 171.301 et seq.
    - b. The applicant shall hold his or her occupational licensure in good standing;
    - c. The applicant shall not have had a license revoked for:
      - i. An act of bad faith; or
      - ii. A violation of law, rule, or ethics;
    - d. The applicant shall not hold a suspended or probationary license in a United States jurisdiction;
  2. The applicant shall be sufficiently competent in the commercial applicator occupation as defined in Ark. Code Ann. § 20-20-203(5);
  3. The applicant shall be employed by a licensed commercial applicator firm.
- B. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
1. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit the following information:
    - a. Evidence of current and active licensure in that jurisdiction. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other jurisdiction's licensing board; and
    - b. Evidence that the other jurisdiction's licensure requirements match those listed in A.1.a. The Department may verify this information online or by telephone to the other jurisdiction's licensing board.
  2. To demonstrate that the applicant meets the requirement in A.1.b. through d., the applicant shall provide the Department with:

- a. The names of all jurisdictions in which the applicant is currently licensed or has been previously licensed;
  - b. Letters of good standing or other information from each jurisdiction in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in A.1.c. and does not hold a license on suspended or probationary status as described in A.1.d. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other jurisdiction's licensing board.
- 3. As evidence that the applicant is sufficiently competent in the application of restricted use pesticides, an applicant shall pass a licensure exam approved by the Department for each licensing category in which the applicant seeks reciprocity.
  - 4. The applicant shall provide proof of employment with a licensed commercial applicator firm.

#### Temporary and Provisional License

- C. The Department shall issue a temporary and provisional license immediately upon receipt of the application, the required fee, and the documentation required under B.1 and B.4.
- D. The temporary and provisional license shall be effective for ninety (90) days, unless the Department determines that the applicant does not meet the requirements in Reciprocity sections A.1. through A.3, in which case the temporary and provisional license shall be immediately revoked.
- E. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license.

#### License for person from a jurisdiction that does not license occupation.

- F. Required Qualifications. An applicant from a state that does not license commercial applicators shall meet the following requirements:
  - 1. The applicant shall be sufficiently competent in the commercial applicator occupation as defined in Ark. Code Ann. § 20-20-203(5);
  - 1. The applicant shall be employed by a licensed commercial applicator firm.
- G. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.

1. As evidence that the applicant is sufficiently competent in the application of restricted use pesticides, an applicant shall pass a licensure exam approved by the Department for each licensing category in which the applicant seeks reciprocity.
2. The applicant shall provide proof of employment with a licensed commercial applicator firm.

**V. PEST CONTROL COMMERCIAL APPLICATOR LICENSE (LICENSED OPERATOR)**

Reciprocity

- A. Required Qualifications. An applicant applying for reciprocal licensure as a licensed operator as defined in Ark. Code Ann. § 17-37-102(5) shall meet the following requirements:
1. The applicant shall hold a substantially similar license in another United States jurisdiction.
    - a. A commercial applicator license from another United States jurisdiction is substantially similar to an Arkansas commercial pest control operator license if the other jurisdiction's licensure is issued pursuant to a certification plan approved by the Environmental Protection Agency under 40 CFR § 171.301 et seq.
    - b. The applicant shall hold his or her occupational licensure in good standing;
    - c. The applicant shall not have had a license revoked for:
      - i. An act of bad faith; or
      - ii. A violation of law, rule, or ethics;
    - d. The applicant shall not hold a suspended or probationary license in a United States jurisdiction;
  2. The applicant shall be sufficiently competent in the commercial applicator occupation as defined in Ark. Code Ann. § 20-20-203(5); and
  3. The applicant shall be employed by a licensed commercial applicator firm.
- B. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
1. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit the following information:
    - a. Evidence of current and active licensure in that jurisdiction. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other jurisdiction's licensing board; and

- b. Evidence that the other jurisdiction's licensure requirements match those listed in A.1.a. The Department may verify this information online or by telephone to the other jurisdiction's licensing board.
- 2. To demonstrate that the applicant meets the requirement in A.1.b. through d., the applicant shall provide the Department with:
  - a. The names of all jurisdictions in which the applicant is currently licensed or has been previously licensed;
  - b. Letters of good standing or other information from each jurisdiction in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in A.1.c. and does not hold a license on suspended or probationary status as described in A.1.d. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other jurisdiction's licensing board.
- 3. As evidence that the applicant is sufficiently competent in the application of restricted use pesticides, an applicant shall pass a licensure exam approved by the Department for each licensing category in which the applicant seeks reciprocity.
- 4. The applicant shall provide proof of employment with a licensed commercial applicator firm.

#### Temporary and Provisional License

- C. The Department shall issue a temporary and provisional license immediately upon receipt of the application, the required fee, and the documentation required under B.1 and B.4.
- D. The temporary and provisional license shall be effective for 90 days, unless the Department determines that the applicant does not meet the requirements in Reciprocity sections A.1. through A.4, in which case the temporary and provisional license shall be immediately revoked.
- E. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license.

#### License for person from a jurisdiction that does not license occupation.

- F. Required Qualifications. An applicant from a state that does not license commercial applicators shall meet the following requirements:

1. The applicant shall be sufficiently competent in the commercial applicator occupation as defined in Ark. Code Ann. § 20-20-203(5);
  2. The applicant shall be employed by a licensed commercial applicator firm.
- G. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
1. As evidence that the applicant is sufficiently competent in the application of restricted use pesticides, an applicant shall pass a licensure exam approved by the Department for each licensing category in which the applicant seeks licensure.
  2. The applicant shall provide proof of employment with a licensed commercial applicator firm.

## **VI. PEST CONTROL AGENTS**

### Reciprocity

- A. Required Qualifications. An applicant applying for reciprocal licensure as a pest control agent shall meet the following requirements:
1. The applicant shall hold a substantially similar license in another United States jurisdiction.
    - a. The applicant shall hold his or her occupational licensure in good standing;
    - b. The applicant shall not have had a license revoked for:
      - i. An act of bad faith; or
      - ii. A violation of law, rule, or ethics;
    - c. The applicant shall not hold a suspended or probationary license in a United States jurisdiction; and
  2. The applicant shall be sufficiently competent as a pest control agent as defined in Ark. Code Ann. § 17-37-102(1); and
  3. The applicant shall be employed by a licensed commercial applicator firm or individual.
- B. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
1. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit evidence of current and active licensure in another United States jurisdiction for the categories in which the applicant seeks reciprocity. The Department may verify this information online if the jurisdiction at issue

provides primary source verification on its website or by telephone to the other jurisdiction's licensing board; and

2. To demonstrate that the applicant meets the requirement in A.1.a. through c., the applicant shall provide the Department with:
  - a. The names of all United States jurisdictions in which the applicant is currently licensed or has been previously licensed;
  - b. Letters of good standing or other information from each United States jurisdiction in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in A.1.b. and does not hold a license on suspended or probationary status as described in A.1.c. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other United States jurisdiction's licensing board.
3. As evidence that the applicant is sufficiently competent as an agent, an applicant shall pass a licensure exam approved by the Department for each licensing category in which the applicant seeks reciprocity.
4. The applicant shall provide proof of employment with a licensed commercial applicator firm.

## **VII. GRAIN DEALERS**

### Reciprocity

- A. Required Qualifications. An applicant applying for reciprocal licensure as a grain dealer shall meet the following requirements:
  1. The applicant shall hold a substantially similar license in another United States jurisdiction.
    - a. The applicant shall hold his or her occupational licensure in good standing;
    - b. The applicant shall not have had a license revoked for:
      - i. An act of bad faith; or
      - ii. A violation of law, rule, or ethics;
    - c. The applicant shall not hold a suspended or probationary license in a United States jurisdiction;
  2. The applicant shall be sufficiently competent in grain dealership; and

3. Satisfy the bonding and financial reporting requirements listed in Section III of the State Plant Board Regulations on Grain Dealers.
- B. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
1. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit evidence of current and active licensure in another United States jurisdiction. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other jurisdiction's licensing board; and
  2. To demonstrate that the applicant meets the requirement in A.1.a. through c., the applicant shall provide the Department with:
    - a. The names of all United States jurisdictions in which the applicant is currently licensed or has been previously licensed;
    - b. Letters of good standing or other information from each United States jurisdiction in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in A.1.b. and does not hold a license on suspended or probationary status as described in A.1.c. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other United States jurisdiction's licensing board.
  3. The applicant shall submit the bonding and financial reporting documentation required in Section III of the State Plant Board Regulations on Grain Dealers.

Temporary and Provisional License

- C. The Department shall issue a temporary and provisional license immediately upon receipt of the application, the required fee, and the documentation required under B.1 and B.3.
- D. The temporary and provisional license shall be effective for ninety (90) days, unless the Department determines that the applicant does not meet the requirements in Reciprocity sections A.1. through A.3, in which case the temporary and provisional license shall be immediately revoked.
- E. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license.

License for person from a jurisdiction that does not license occupation.

- F. Required Qualifications. An applicant from a United States jurisdiction that does not license grain dealers shall meet the following requirements:
1. The applicant shall be sufficiently competent in the grain dealership; and
  2. The applicant shall meet the bonding and financial reporting requirements listed in Section III of the State Plant Board Regulations on Grain Dealers.
- G. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the bonding and financial reporting documentation required in Section III of the State Plant Board Regulations on Grain Dealers.

**VIII. GRAIN WAREHOUSE LICENSE**

Reciprocity

- A. Required Qualifications. An applicant applying for reciprocal licensure as a grain warehouse shall meet the following requirements:
1. The applicant shall hold a substantially similar license in another United States jurisdiction.
    - a. The applicant shall hold his or her occupational licensure in good standing;
    - b. The applicant shall not have had a license revoked for:
      - i. An act of bad faith; or
      - ii. A violation of law, rule, or ethics;
    - c. The applicant shall not hold a suspended or probationary license in a United States jurisdiction;
  2. The applicant shall be sufficiently competent in grain warehousing; and
  3. Satisfy the bonding and financial reporting requirements listed in Section III of the State Plant Board Regulations on Public Grain Warehouses in Arkansas and Ark. Code Ann. § 2-7-201 *et seq.*
- B. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
1. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit evidence of current and active licensure in another United States jurisdiction. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other jurisdiction's licensing board; and

2. To demonstrate that the applicant meets the requirement in A.1.a. through c., the applicant shall provide the Department with:
  - a. The names of all United States jurisdictions in which the applicant is currently licensed or has been previously licensed;
  - b. Letters of good standing or other information from each United States jurisdiction in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in A.1.b. and does not hold a license on suspended or probationary status as described in A.1.c. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other United States jurisdiction's licensing board.
3. The applicant shall submit the bonding and financial reporting documentation required in Section III of the State Plant Board Regulations on Public Grain Warehouses in Arkansas and Ark. Code Ann. § 2-7-201 *et seq.*

#### Temporary and Provisional License

- C. The Department shall issue a temporary and provisional license immediately upon receipt of the application, the required fee, and the documentation required under B.1 and B.3.
- D. The temporary and provisional license shall be effective for ninety (90) days, unless the Department determines that the applicant does not meet the requirements in Reciprocity sections A.1. through A.3, in which case the temporary and provisional license shall be immediately revoked.
- E. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license.

#### License for person from a jurisdiction that does not license occupation.

- F. Required Qualifications. An applicant from a United States jurisdiction that does not license grain warehousemen shall meet the following requirements:
  1. The applicant shall be sufficiently competent in the grain warehousing; and
  2. The applicant shall meet the bonding and financial reporting requirements listed in Section III of the State Plant Board Regulations on Grain Dealers.

- G. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the bonding and financial reporting documentation required in Section III of the State Plant Board Regulations on Public Grain Warehouses in Arkansas and Ark. Code Ann. § 2-7-201 *et seq.*

## **IX. PESTICIDE DEALERS**

### Reciprocity

- A. Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:
1. The applicant shall hold a substantially similar license in another United States jurisdiction.
    - a. A license from another United States jurisdiction is substantially similar to an Arkansas pesticide dealer license if the other jurisdiction's licensure authorizes the applicant to engage in the sale of restricted-use pesticides.
    - b. The applicant shall hold his or her occupational licensure in good standing;
    - c. The applicant shall not have had a license revoked for:
      - i. An act of bad faith; or
      - ii. A violation of law, rule, or ethics;
    - d. The applicant shall not hold a suspended or probationary license in a United States jurisdiction;
  2. The applicant shall be sufficiently competent in pesticide dealership; and
  3. Has designated a representative with power of attorney within the state of Arkansas.
- B. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
1. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit the following information:
    - a. Evidence of current and active licensure in that state. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other jurisdiction's licensing board; and
    - b. Evidence that the other United States jurisdiction's licensure requirements match those listed in A.1.a. The Department may verify this information online or by telephone to the other jurisdiction's licensing board.

2. To demonstrate that the applicant meets the requirement in A.1.b. through d., the applicant shall provide the Department with:
  - a. The names of all states in which the applicant is currently licensed or has been previously licensed;
  - b. Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in A.1.c. and does not hold a license on suspended or probationary status as described in A.1.d. The Department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other jurisdiction's licensing board.
3. As evidence that the applicant has appointed an in-state representative with power of attorney, the applicant shall submit documentation demonstrating the appointment.

Temporary and Provisional License

- C. The Department shall issue a temporary and provisional license immediately upon receipt of the application, the required fee, and the documentation required under B.1.a. and b.
- D. The temporary and provisional license shall be effective for ninety (90) days, unless the Department determines that the applicant does not meet the requirements in Reciprocity sections A.1. through A.3, in which case the temporary and provisional license shall be immediately revoked.
- E. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license.

License for person from a jurisdiction that does not license occupation.

- F. Required Qualifications. An applicant from a United States jurisdiction that does not license pesticide dealers shall meet the following requirements:
  1. The applicant shall be sufficiently competent in pesticide dealership; and
  2. The applicant has appointed a representative with power of attorney within the state of Arkansas.
- G. Required documentation. An applicant shall submit a fully-executed application, the required fee, and documentation demonstrating that the applicant has appointed a representative with power of attorney within the state of Arkansas.

## **X. MISCELLANEOUS**

### Reciprocity

- A. Required Qualifications. An applicant applying for reciprocal licensure as a nurseryman, nurse, dealer, landscape contractor, plant breeder, or lime vendor shall meet the following requirements:
1. The applicant shall hold a substantially similar license in another United States jurisdiction.
    - a. A license from another jurisdiction is substantially similar to an Arkansas license if it authorizes engaging in the same activities as the particular license for which reciprocity is sought;
    - b. The applicant shall hold his or her occupational licensure in good standing;
    - c. The applicant shall not have had a license revoked for:
      - i. An act of bad faith; or
      - ii. A violation of law, rule, or ethics;
    - d. The applicant shall not hold a suspended or probationary license in a United States jurisdiction; and
  2. The applicant shall be sufficiently competent in the field related to the license for which the applicant is seeking reciprocity.
- B. Required documentation. An applicant shall submit a fully-executed application and the required fee for each license in which reciprocity is sought.

### Temporary and Provisional License

- C. The Department shall issue a temporary and provisional license immediately upon receipt of the application and required fee.
- D. The temporary and provisional license shall be effective for ninety (90) days, unless the Department determines that the applicant does not meet the requirements in A.1. and A.2., in which case the temporary and provisional license shall be immediately revoked.

### License for person from a jurisdiction that does not license occupation.

- E. Required Qualifications. An applicant from a United States jurisdiction that does not license the occupations covered under this section shall meet the following requirements:
1. The applicant shall be sufficiently competent in the occupation for which the applicant is seeking a license; and
  2. An applicant shall submit a fully-executed application and the required fee.

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE**  
**ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT/AGENCY Arkansas Department of Agriculture  
DIVISION State Plant Board/ Plant Industries  
DIVISION DIRECTOR Scott Bray, State Plant Board Director  
CONTACT PERSON Wade Hodge  
ADDRESS #1 Natural Resources Drive, Little Rock, AR 72205  
PHONE NO. 501-225-1598 FAX NO. \_\_\_\_\_  
E-MAIL scott.bray@agriculture.arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Wade Hodge  
PRESENTER E-MAIL  
wade.hodge@agriculture.arkansas.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:

Jessica C. Sutton  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

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- 1. What is the short title of this rule? Reciprocity and Temporary Licensure rule
- 2. What is the subject of the proposed rule? To provide for Reciprocity, Temporary and provisional licensure for applicants from other states
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes \_\_\_\_\_ No x \_\_\_\_\_  
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 x \_\_\_\_\_  
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 x No    If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes\_\_\_\_\_ No x\_\_\_\_\_ 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 x 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.”** (See attachment)

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. § 17-1-108(c); 2-16-207(c)(1)
7. What is the purpose of this proposed rule? Why is it necessary?  
Act 1011 of 2019 requires agencies issuing occupational licenses to adopt a rule providing for reciprocity, temporary and provisional licenses for out-of-state applicants. See attached summary for further details.
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.aad.arkansas.gov
9. Will a public hearing be held on this proposed rule? If requested. Yes\_\_\_\_\_ No\_\_\_\_\_  
If yes, please complete the following:  
Date:\_\_\_\_\_
- Time:\_\_\_\_\_
- Place:\_\_\_\_\_
10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
\_\_TBD\_\_
11. What is the proposed effective date of this proposed rule? (Must provide a date.)  
Ten days after filing with Secretary of State
12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.
13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark.

14. 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. Unknown.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

DEPARTMENT Arkansas Department of Agriculture  
DIVISION State Plant Board  
PERSON COMPLETING THIS STATEMENT Wade Hodge  
TELEPHONE NO. 501-219-6361 FAX NO. \_\_\_\_\_  
EMAIL: wade.hodge@agriculture.arkansas.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** Reciprocity and temporary licensure

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes \_\_\_ No X
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 x 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 x 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: N/A
- (a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_ 0 \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_ 0 \_\_\_\_\_

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

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_ 0 \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_ 0 \_\_\_\_\_

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**

\$ \_none \_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

**Next Fiscal Year**

\$ \_none \_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

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 x \_\_\_\_\_

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.



Asa Hutchinson  
Governor

# ARKANSAS DEPARTMENT OF AGRICULTURE

1 Natural Resources Drive, Little Rock, AR 72205  
agriculture.arkansas.gov  
(501) 225-1598



Wes Ward  
Secretary of Agriculture

## Summary of proposed Arkansas State Plant Board rule for Reciprocity and Temporary Licensure

### **Purpose:**

The purpose of this rule is to comply with laws passed during the 2019 legislative session.

### **Background:**

The Arkansas State Plant Board (Board) met on December 3, 2019 to consider this new rule in response to laws passed during the 2019 session which require rules for reciprocity and temporary licensure.

### **Key Points:**

- Act 1011 of 2019 requires occupational licensing entities to promulgate rules providing for reciprocity and temporary licensure
- One rule is being proposed to cover multiple occupational licenses issued by the Board.

### **Discussion:**

The new rule is based on a model rule drafted by the Attorney General's office. The reciprocity and temporary licensure provisions allow individuals holding similar licenses in other states to practice in this state while their credentials are being vetted to see if they hold a substantially equivalent occupational license in good standing in another state, territory, or district of the United States. The Board issues multiple occupational licenses. Proposing multiple rules, one for each of the occupational licenses issued by the Board, could be cumbersome, time-consuming, and inefficient. Instead, the Board is proposing a rule which will contain the reciprocity and temporary licensure provisions in one document for each occupational license it issues.

Act 820 of 2019 provides for occupational licensing entities to promulgate a rule regarding portability of licenses for military members and spouses. However, the Act also states that if no rule is adopted under this Act, automatic licensure will be provided for military members and spouses covered by the Act. The Board will proceed under the automatic licensure provisions of Act 820. Therefore, the proposed rule does not specifically address military members and spouses.