

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

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Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____



Sarah Huckabee Sanders
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

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Wes Ward
Secretary of Agriculture

ARKANSAS DEPARTMENT OF AGRICULTURE PESTICIDE RULES SUMMARY

The Arkansas Department of Agriculture is proposing an amendment to the Department's Pesticide Rules under the authority of Ark. Code Ann. § 20-20-206.

The purpose of the proposed rule amendment is to align with federal rule changes that have recently occurred, in accordance with the Department's updated Certification and Training agreement with the EPA.

Agency No.209.02

Rules Under Act 389 of 1975 as Amended

Rule No. 1. Categories of Applicators

The Arkansas Department of Agriculture (Department) adopts by federal reference (40 CFR §171.103(c)) the core standards of competency for all of the below noted categories of certified commercial and noncommercial applicators. The following categories have been established for licensing and applicator certification purposes:

- I. Commercial Applicator Categories
 - A. Agricultural Pest Control
 - (1). ~~Plants~~ Crop
 - 1. ~~Agricultural Produce and Lands Pest Control~~
 - (2). ~~Animals~~ Livestock
 - B. Forest Pest Control
 - (1). ~~Wood Treatment~~
 - (1) Wood Treatment
 - C. Right-of-Way Pest Control
 - D. Aquatic Pest Control
 - E. Demonstration and Research Pest Control
 - F. Public Health Pest Control
 - G. Seed Treatment
 - ~~H.~~ Regulatory Pest Control
 - ~~H.I.~~ Aerial Pest Control
- II. Non-~~C~~ommercial Applicator Categories Same as Commercial Applicator

Rule No. 2. Commercial Applicator

- I. All herbicide spray applications made by air to field crops (does not include forestry) shall be done in accordance with the following requirements unless otherwise required by the State Plant Board:
 - (A) When applying a herbicide, an aircraft may not exceed 145 miles per hour. Higher airspeeds may be utilized if the operator can document that the setup combination and airspeed selected will allow compliance with the spray classification as identified in paragraph (1)(i) below. Such compliance must be verified by a person or entity that is independent of the applicator/firm, has specific education and training and experience in the application of herbicides to field crops, and whose curriculum vitae is acceptable to the State Plant Board. Documentation of such verification must be recorded on a form provided by the Plant Board Department. Upon the effective date of these rules, said documentation must be provided to the Plant Board Department by June 2, 2002. All subsequent verification documentation must be provided to the Plant Board Department prior to use of the setup.
 - (B) The spray boom height at the time of product release shall not exceed 15 feet above the crop canopy. Where obstructions in or adjacent to the field of application will not safely allow application at the 15 foot level, a higher elevation may be used in the vicinity of such obstructions. However, where the product label imposes more restrictive application elevations, those elevations must be complied with.
 - (C) Herbicide applications may not be made under conditions where the spray may possibly be entrained in an inversion layer. As an indicator that an inversion is unlikely to exist, the applicator shall record

the ambient temperature measured at the airstrip from which he/she is working for each application. Inversions are much less likely to exist if the temperature has increased at least three (3) degrees Fahrenheit from the morning low at the time of application for applications made before noon or has not decreased more than three (3) degrees Fahrenheit from the afternoon high for applications made after noon. The applicator should also use other legal means available to him/her to verify that an inversion does not exist.

- (D) All spray nozzle discharges must be pointed toward the rear of the aircraft and a minimum of ten (10) inches below the trailing edge of the wing.
 - (E) The spray boom length divided by the wing-span/wingspan shall not be greater than 0.7 for fixed wing aircraft and 0.8 for rotary wing aircraft.
 - (F) The wind shear angle of the spray nozzle discharge may not exceed thirty (30) degrees. However, the spray classification category requirements of paragraph (1)(i) below must be met.
 - (G) Drift reduction nozzles such as Reglo Jet, CP drift reduction tips, narrow angle (65 degrees or less) flat fans, straight stream or other nozzle/configurations that are able to meet the spray classification category requirements set out in paragraph (1)(i) below must be used. Documentation verifying the latter's compliance must be made available to the Plant Board- Department upon request.
 - (H) Application rate must be greater than two (2) gallons per acre, unless otherwise required by the label.
 - (I) Spray classification category must be in the Medium or larger category in accordance with the August 1999 issue of ASAE S572 report entitled Spray Nozzle Classification by Droplet Spectra.
 - (J) Where the product label is more restrictive than these rules, the label must take precedence.
- II. All herbicide spray applications made by ground to field crops (does not include forestry) shall be done in accordance with the following requirements unless otherwise required by the State Plant Board:
- (A) Vehicle speed while making an application shall be as follows:
 - a. Medium Droplet Size 10 mph or less
 - b. Coarse Droplet Size 15 mph or less
 - c. Very Coarse Droplet Size May be Greater Than 15 mph

The above spray classification categories are as defined in the August 1999 issue of ASAE S572 report by the February 2020 ANSI/ASAE S572.3 standard entitled Spray Nozzle Classification by Droplet Spectra.

- (B) Spray boom height shall not exceed 30 inches above the crop canopy with a medium droplet size but may go to 60 inches above the canopy with a coarse or larger droplet size. If the product label or other restrictions imposed by the State Plant Board requires a lower level, then that elevation must be used.
- (C) Herbicide applications may not be made under conditions where the spray may possibly be entrained in an inversion layer. As an indicator that an inversion is unlikely to exist, the applicator shall record the ambient temperature measured at the field of application for each application. Inversions are much less likely to exist if the temperature has increased at least three (3) degrees Fahrenheit from the morning low at the time of application for applications made before noon or has not decreased more than three (3) degrees Fahrenheit from the afternoon high for applications made after noon. The applicator should also use other legal means available to him/her to verify that an inversion does not exist.

- (D) Applications are restricted to hydraulic style nozzles that initiate droplet movement in the direction of the plant canopy. Rotary or Control Droplet Application equipment that emits droplets in a horizontal fashion may be used only if the spray classification meets the medium or greater spray classification categories set out in the document referenced in paragraph (1)(i) above. Such compliance must be verified by a person or entity that is independent of the applicator/firm, has specific education and training and experience in the application of herbicides to field crops, and whose curriculum vitae is acceptable to the State Plant Board. Upon the effective date of these rules, said documentation must be provided to the Plant Board- Department by June 2, 2002. All subsequent verification documentation must be provided to the Plant Board- Department prior to use of the setup.
 - (E) The application rate must be a minimum of two (2) gallons per acre unless otherwise required by the label.
 - (F) Drift reduction nozzles that produce medium or greater spray classifications must be used.
 - (G) Where the product label is more restrictive than these rules, the label must take precedence.
- III. All commercial pesticide applications made by ground must be done under the supervision (as defined in ACA § 20-20-203(27)) of a certified, licensed commercial applicator. The driver/operator of the vehicle must be either a certified, licensed commercial applicator licensed by the Plant Board- Department or a licensed Commercial Applicator Technician licensed by the Plant Board Department.
- (A) A Commercial Applicator Technician works under the supervision of a certified, commercial applicator.
 - (B) A Commercial Applicator Technician must be licensed by the Plant Board Department. Said license shall expire on December 31st of each year.
 - ~~(C) To obtain a Commercial Applicator Technician (CAT) license the applicant must provide proof of completion of the CAT ground application training course established by the Plant Board within four (4) months of application and have paid the application review fee as specified by the Plant Board.~~
 - ~~(C) In order to obtain a license from the Department, all Commercial Applicator Technicians must complete the Commercial Applicator Technician training program, which consists of the following criteria.~~
 - ~~1. Commercial Applicator Technician training must be presented to Commercial Applicator Technicians either orally from written materials or in audio visual format. The information must be presented in a manner that the Commercial Applicator Technician understands, such as through a translator. The person conducting the training will be present during the entire training program and must respond to the Commercial Applicator Technicians' questions.~~
 - ~~2. The person who conducts the training is required to meet one of the following criteria:~~
 - ~~a. Currently holds a license issued by the Department as an applicator of restricted use pesticides~~
 - ~~b. Is currently designated as a trainer of certified applicators or pesticide handlers by the Department~~
 - ~~c. Has completed and EPA-approved pesticide safety train-the-trainer program for trainers of handlers under 40 CFR § 170~~
 - ~~3. The Commercial Applicator Technician training materials includes the following information:~~
 - ~~a. Potential hazards from toxicity and exposure that pesticides present to noncertified~~

applicators and their families, including acute and chronic effects, delayed effects, and sensitization.

- b. Routes through which pesticides can enter the body.
- c. Signs and symptoms of common types of pesticide poisoning.
- d. Emergency first aid for pesticide injuries and poisonings.
- e. Routine and emergency decontamination procedures, including emergency eye flushing techniques. Noncertified applicators must be instructed that if pesticides are spilled or sprayed on the body, to immediately wash or to rinse off in the nearest clean water. Noncertified applicators must also be instructed to wash or shower with soap and water, shampoo, hair, and change into clean clothes as soon as possible.
- f. How and when to obtain emergency medical care.
- g. After working with pesticides, wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.
- h. Wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working with pesticides.
- i. Potential hazards from pesticide residues on clothing.
- j. Wash work clothes before wearing them again and wash them separately from other clothes.
- k. Do not take pesticides or pesticide containers used at work to your home.
- l. Potential hazards to children and pregnant women from pesticide exposure.
- m. After working with pesticides, remove work boots or shoes before entering your home and remove work clothes and wash or shower before physical contact with children or family members.
- n. How to report suspected pesticide use violations to the appropriate State or Tribal agency responsible for pesticide enforcement.
- o. Format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide, including the location and meaning of the restricted use product statement, how to identify when the labeling requires the certified applicator to be physically present during the use of the pesticide, and information on personal protective equipment.
- p. Need for, and appropriate use and removal of, personal protective equipment.
- q. How to recognize, prevent, and provide first aid treatment for heat-related illness.
- r. Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.
- s. Environmental concerns such as drift, runoff, and wildlife hazards.

- t. Restricted use pesticides may be used only by a certified applicator or by a noncertified applicator working under the direct supervision of a certified applicator.
- u. The certified applicator's responsibility to provide to each noncertified applicator instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site (e.g., surface and ground water, endangered species, local population, and risks) and the conditions of application (e.g., equipment, method of application, formulation, and risks) might increase or decrease the risk of adverse effects. The certified applicator must provide these instructions in a manner the noncertified applicator can understand.
- v. The certified applicator's responsibility to ensure that each noncertified applicator has access to the applicable product labeling at all times during its use.
- w. The certified applicator's responsibility to ensure that where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, each noncertified applicator has clean, labeling-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose.
- x. The certified applicator's responsibility to ensure that before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the environment.
- y. The certified applicator's responsibility to ensure that a means to immediately communicate with the certified applicator is available to each noncertified applicator using restricted use pesticides under his or her direct supervision.

(D) A Commercial Applicator Technician must be at least eighteen (18) years old as required by 40 CFR § 171.303(a)(2)(iii) and Ark. Code Ann. § 20-20-207(c).

IV. Licensed commercial applicators supervising any Commercial Applicator Technician must have access to records documenting the below required information at the commercial applicator's principal place of business for two years from the date the Commercial Applicator Technician applied the restricted use pesticide. Prior to allowing a Commercial Applicator Technician to use restricted use pesticides under his or her supervision, a licensed commercial applicator will create or verify the existence of a record containing the following information:

- (A) The Commercial Applicator Technician's printed name and signature
- (B) The date the Commercial Applicator Technician training requirements describe in Section IV were met
- (C) The name of the person who provided the Commercial Applicator Technician training
- (D) The title or description of the training provided

~~IV-V.~~ License application review fees shall be as follows:

- (A) License to apply seed, fertilizer, and pesticides \$100

1. Plus for each aircraft or article of ground equipment \$20
- (B) Individual Commercial Applicator license, per category \$35
- (C) RUP Seed treatment license _____
\$35+00
If restricted use pesticides used – additional \$35
- (D) Commercial Applicator Technician license _____ \$25

A fee of \$5 from each license issued to a CAT Commercial Applicator Technician by the Plant Board Department shall be transferred to the University of Arkansas Cooperative Extension Service for the purpose of developing and providing CAT Commercial Applicator Technician -training subject to approval by the Plant Board Department.

V.VI. Financial Responsibility - Financial responsibility shall be established in one of the four following ways: (1) a letter of credit from an Arkansas Bbank guaranteeing financial responsibility; (2) a surety bond; (3) an escrow account with an Arkansas Bbank; or (4) an insurance policy or certification thereof. The minimum financial responsibility shall be \$100,000. The deductible clause shall not exceed \$5,000 for an insurance policy. Exemption: This requirement shall not apply to Seed Treatment Applicators and Regulatory Pest Control Applicators.

VI.VII. Decals - A decal shall be issued for each aircraft or article of ground equipment upon approval of application. Such decal shall be attached to or displayed on the aircraft and/or article of ground equipment prior to its use under the license granted.

VI.VIII. A Commercial Applicator must be at least eighteen (18) years old as required by 40 CFR § 171.103(a)(1).

Rule No. 3. Non-CommercialNoncommercial Applicator's License.

- I. The review fee for a Non-Commercial Applicator's license shall be \$35 per category. At the discretion of the ASPB- Plant Industries Division Director this fee may be waived for Cooperative Extension employees actively involved in supporting the ASPB's -Department's regulatory programs.
- II. A Non-CommercialNoncommercial applicator must be at least eighteen (18) years old in order to apply a restricted use pesticide pursuant to 40 CFR 171.303(a)(2)(iii) and Ark. Code Ann. § 20-20-207(c).

Rule No. 4. Commercial and Noncommercial Applicator Record Keeping

I. Commercial and noncommercial applicator licensees shall keep and maintain for a period of at least 2 years and maintain routine operational records containing information on the kinds, amounts, uses, dates, and places of application of pesticides with the following:

- (A) The name and address of the person for whom the restricted use pesticide was applied
- (B) The location of the restricted use pesticide application.
- (C) The size of the area treated.
- (D) The crop, commodity, stored product, or site to which the restricted use pesticide was applied.
- (E) The time and date of the restricted use pesticide application.

- (F) The brand or product name of the restricted use pesticide applied.
- (G) The EPA registration number of the restricted used pesticide applied.
- (H) The total amount of the restricted use pesticide applied per location per application.
- (I) The name and certification number of the certified applicator that made or supervised the application, and, if applicable, the name of any noncertified applicator(s) that made the application under the direct supervision of the certified applicator.

Rule No. 4.5 Private Applicator License.

- I. The Arkansas Department of Agriculture adopts by federal reference (40 CFR §171.105(c)-(e)) the core standards of competency for all of the below noted private applicator categories. The following categories have been established for private applicator licensing and certification purposes.

- (A) General Private Applicator
- (B) Fumigation
- (C) Aerial Pest Control

I.II. Initial Certification

All first time applicants for a Private Applicator's license must have been "certified" within the 12 months prior to license application. This certification will be valid for one five-year license or five consecutive one-year licenses. In no case shall a certification make a person eligible for a licensure in excess of five years. Certification for a first time applicant can be obtained in one of two ways:

- (A) Applicant may attend the Pesticide Applicator Training offered by the County Cooperative Extension Office each year.
- (B) Applicant may take an examination given by the ~~State Plant Board Department~~. Applicant must achieve a minimum score of 70% of total possible points.

~~This certification will be valid for one five-year license or five consecutive one-year licenses. In no case shall a certification make a person eligible for licensure in excess of five years.~~

- II.III. The fee for private applicator's license shall be as specified in the Arkansas Pesticide Use and Application Act of 1975, as amended.

- III.IV. The license will permit the certified applicator to purchase and use restricted use pesticides in any category under the amended FIFRA or state rules on pesticide classification.

- IV.V. A fee of \$2.00 from each license issued to a private applicator by the ~~Plant Board Department~~ for each year of the license period shall be transferred to the University of Arkansas Cooperative Extension Service for the purpose of developing and providing training for certification and recertification of private pesticide applicators in accordance with the requirements of 40CFR, ~~Part §~~ 171.5.

- V.VI. The transfer of such funds shall be made quarterly by a cooperative agreement contract between the ~~State Plant Board Department~~ and the University of Arkansas Cooperative Extension Service.

- VI.VII. Private applicators using aircraft to apply herbicides must comply with the criteria set out for commercial applicators in Rule 2, Paragraph ~~4~~ 1 of these rules.

- VII.VIII. A Private Applicator must be at least eighteen (18) years old as required by 40 CFR § 171.105(g).

VIII.—Rule No. 6 Commercial and Private Recertification/

I. Maintenance of continued competency

- (A) Certification expiration. In order for a certified applicator's certification to continue without interruption, the certified applicator must be recertified under this section before the expiration of their current certification
1. Each commercial applicator certification shall expire three years after issuance, unless the applicator is recertified in accordance with this section.
 2. Each private applicator certification shall expire five years after issuance, or annually for up to five consecutive years after issuance, unless the applicator is recertified in accordance with this section.

II. Process for recertification

(A) **Written examination.** Commercial and private applicators may recertify through a written examination given by the Department. Test questions are obtained from the National Association of State Departments of Agriculture Research Foundation's test bank by the University of Arkansas Cooperative Extension Service. These questions are provided to Pesticide Section staff for final approval to ensure the applicator demonstrates the level of competency required by 40 CFR § 171.103 for commercial or 40 CFR § 171.105 for private applicators. The examinations shall conform to the applicable standards for examinations set forth in 40 CFR § 171.103(a)(2) or 40 CFR § 171.105(h). An applicant must receive a 70% or higher grade for recertification. Separate exams are provided to commercial and private applicators.

(B) **Continuing education programs.** Commercial and private applicators may be found eligible for recertification upon attending a continuing education program or training approved by the University of Arkansas Cooperative Extension Service and Arkansas Department of Agriculture.

1. **Quantity, content, and quality.** In order for a continuing education program to count towards recertification, the content must be sufficient to ensure the applicator continues to demonstrate the level of competency required by 40 CFR § 171.103 for commercial applicators or 40 CFR § 171.105 for private applicators.
 - a. An applicant may attend the annual Pesticide Applicator Training offered by the County Cooperative Extension Office for recertification.
 - b. An applicant may attend a pesticide training provided by a third party so long as the provisions of (2)(b) below are met. The content of this training must include core and/or category specific competency standards as described in 40 CFR § 171.103 or 40 CFR § 171.105 for commercial or private applicators, respectively.
 - c. To count towards recertification, programs and agendas must include all of the following:
 - i. Safety – labeling, protective gear, pesticide handling, first aid, toxicity, symptoms of poisoning, etc.
 - ii. Integrated Pest Management (IPM) – pest identification, biology, scouting/inspecting, alternative methods of control (non- pesticide, baits, etc.)

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- iii. Application equipment and/or methods of application – types of equipment, different methods of application, calibration, and equipment precautions, etc.
- iv. Environmental concerns – waste/container disposal, clean-up, ground/surface water protection, drift (if applicable), and wildlife protection (if applicable)
- v. Laws and regulations – updates on pertinent laws and regulations, certification/recertification requirements, etc., as appropriate

2. **Approval by the certifying authority.** The Arkansas Department of Agriculture works in coordination with the University of Arkansas Cooperative Extension ~~Service Office~~ Agriculture Program Specialist to develop training and testing for recertification.

- a. Continuing education programs conducted by the University of Arkansas ~~Extension~~ ~~Extension Service -Office~~ are coordinated with Arkansas Department of Agriculture to meet the requirements of 40 CFR § 171.103 for commercial and 40 CFR § 171.105 for private applicator. ADA staff monitor continuing education classes to ensure that required content is covered.
- b. For an outside training program to be approved, the agenda or syllabus must be submitted to the Arkansas Department of Agriculture Pesticides staff and the University of Arkansas Cooperative Extension ~~Service Office~~ Agriculture Program Specialist for review.

3. **Verification of applicator course completion.** In order to qualify for recertification, an attendance list or certification form with verifying information and/or signature, is required to be submitted to the Arkansas Department of Agriculture. For online recertifications, a completion certificate is required to be submitted to the Arkansas Department of Agriculture.

All applicants for a subsequent five-year Private Applicator license must have been “recertified” within the 12-months prior to license application. All applicants for a one-year license must have been “recertified” within the 48 months prior to license application. Recertification can be obtained in one of two ways:

- (A) —Applicant may attend the Pesticide Applicator Training offered by the County Cooperative Extension Office each year.
- (B) —Applicant may take an examination given by the State Plant Board. Applicant must achieve a minimum score of 70% of total possible points.

IX. —One other option available for recertification is that the applicant may attend other approved training classes that address the certification requirements for private applicator certification cited in 40 CFR, Part 171.5. Each approved class will be assigned a point value by the Plant Board and at least five (5) points must be accumulated during the 36 months prior to license application. Course facilitators must provide the Plant Board with a list of all who attended the class that want the class points to be applied to private applicator recertification. The applicant will be required to fill out a course verification form for each class and submit it with their private applicator license application form.

Recertification will be valid for one five-year license or five consecutive one-year licenses. In no case shall recertification make a person eligible for licensure in excess of five years.

Rule No. ~~5~~ 7. ~~Pilot License Aerial Pest Control License~~

Fee - \$35.00

Rule No. ~~6~~ 8. Pesticide Dealer's License

I. Fee - \$65.00 for dealers handling restricted use pesticides and/or ~~state- Arkansas~~ classified ~~restricted use~~ pesticides (Reference: ARKANSAS RULES ON PESTICIDE CLASSIFICATION as adopted under Acts 389 and 410 of 1975) ~~with the E or F designation~~. Note: If license-holding dealers have branches which sell or distribute restricted use ~~and/or or~~ ~~Arkansas classified restricted use pesticides~~ ~~state classified pesticides with the E or F designation~~, each branch ~~must~~ have a dealer's license.

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II. Each licensed dealer outlet shall maintain a record of restricted-use pesticides distributed. **Records must be maintained for the period of at least two years.** Records of each such transaction must include the following information:

(A) Name and address of the residence or principal place of business of each certified applicator to whom the restricted use pesticide was distributed or sold, or if applicable, the name and address of the residence or principal place of business of each noncertified person to whom the restricted use pesticide was distributed or sold for application by a certified applicator.

(B) The certification number on the certification document presented to the seller evidencing the valid certification of the certified applicator authorized to purchase the restricted use pesticide, the State, Tribe or Federal agency that issued the certification document, the expiration date of the certified applicator's certification, and the category(ies) in which the applicator is certified relevant to the pesticide(s) sold.

(C) The product name and EPA registration number of the restricted use pesticide(s) distributed or sold in the transaction, including any applicable emergency exemption or State special local need registration number.

(D) The quantity of the restricted use pesticide(s) distributed or sold in the transaction.

(E) The date of the transaction.

Rule No. ~~7~~ 9. Container and Containment Rules

In accordance with ACA § 20-20-216, the Arkansas State Plant Board hereby adopts 40 CFR § ~~Part~~-165, Subparts A through E (see Attachment I).

The enactment of rules under this Act is not intended nor shall they have the effect of repealing rules promulgated under the authority of Acts 410 or 488 of 1975.

Quinclorac Use Restrictions

1. The buffer zones in the table below shall apply to Quinclorac herbicide applications:

Herbicide Treatment Options	Application Equipment	Buffer Zones	
		When winds are blowing in the direction of incorporated towns or commercial plantings of the solanaceae family.	When winds are NOT blowing in the direction of incorporated towns or commercial plantings of the solanaceae family.
a. Water diluted spray of Quinclorac herbicide tank-mixed with emulsifiable concentrate (EC) formulation herbicides such as: ·Stam M-4 EC ·Arrosolo 3+3 EC ·Propanil EC ·Ordram 8E ·Abolish 8E ·Bolero EC	Aircraft Spray Wind Speed 3 to 8 mph	4 miles	1 mile
	Ground Spray Wind Speed 3 to 8 mph	1 mile	1/2 mile
b. Water diluted spray of Quinclorac herbicide applied in water alone or tank-mixed with emulsifiable concentrate formulation free herbicides such as: ·Stam 80EDF ·Basagran ·Terra Propanil 80DF ·Blazer ·Wham EZ, Super Wham ·Storm ·Pentagon 60 WDG ·Londax	Aircraft Spray Wind Speed 3 to 8 mph	1 mile	1 mile
	Ground Spray Wind Speed 3 to 8 mph	1/2 mile	1/2 mile

1. Exemption: In areas where cities have annexed blocks of agricultural land, water diluted sprays of Quinclorac may be used within or adjacent to the city limits, provided the application site is no closer than 1/2 mile to subdivisions when using ground equipment or 1 mile to subdivisions when using aircraft and no closer than 1/4 mile to established plants of the solanaceae family or established/emerged cotton.
2. No water diluted spray of Quinclorac herbicide shall be applied closer than 1/4 mile by any means to established/emerged cotton, noncommercial plantings of the solanaceae family, or closer than 1/2 mile by aircraft if the wind is blowing in the direction of such plants.
3. No water diluted spray of Quinclorac herbicide shall be applied closer than 1 mile by aircraft or 1/2 mile by ground equipment to established, certified commercial plantings of the solanaceae family (>1,000 plants each kind) statewide.
4. In addition to the above statewide requirements, the following additional restrictions shall apply to Poinsett County.
 - a. No water diluted spray of Quinclorac herbicide shall be applied in an area from one mile west of Highway #1 to one mile east of Highway #163 from the Craighead-Poinsett County line to the Cross-Poinsett County line.
 - b. Water diluted spray of Quinclorac herbicide shall be applied only by ground equipment in the area of Poinsett County from one mile west of Highway #1 to two miles west of Highway #1 and only by ground equipment in the area of Poinsett County from one mile east of Highway #163 to Ditch #10, from the Craighead-Poinsett County line to the Cross-Poinsett County line.
 - c. No water diluted spray of Quinclorac herbicide shall be applied within 1/2 mile with ground equipment or 1 mile by aircraft of commercial plantings of the solanaceae family and towns. This buffer is extended to one mile for ground application and two miles for aerial application when Quinclorac herbicide is mixed with emulsifiable concentrate formulation herbicides.

5. The buffer zones defined in paragraph one (1) (b) shall apply to tank mixes of water diluted sprays of Quinclorac and EC products for which the EC manufacturer has provided the ~~Plant Board Department~~ with atomization study data from a research entity acceptable to the State Plant Board that shows that the product does not produce more “fines” (percent of total spray volume in droplets <105µm) than water.
6. All applications of Quinclorac shall be made in accordance with the applicable drift minimization recommendations of the Spray Drift Task Force.
7. Both air and ground application equipment shall be set up for application of Quinclorac in such a way that generation of spray droplets less than 105 microns in size is less than 5% of the total volume. The spray nozzle size classification must be designated as “coarse” by the British Crop Protection Council.
8. Quinclorac may not be sold to persons that do not possess a current Private, Commercial or Non-Commercial Applicator’s License.

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Rules Under Act 389 of 1975 as Amended

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 - A. Agricultural Pest Control
 - (1). Crop
 - 1. (2). Livestock
 - B. Forest Pest Control
 - (1) Wood Treatment
 - C. Right-of-Way Pest Control
 - D. Aquatic Pest Control
 - E. Demonstration and Research Pest Control
 - F. Public Health Pest Control
 - G. Seed Treatment
 - H. Regulatory Pest Control
 - I. Aerial Pest Control
- II. Noncommercial Applicator Categories Same as Commercial Applicator

Rule No. 2. Commercial Applicator

- I. All herbicide spray applications made by air to field crops (does not include forestry) shall be done in accordance with the following requirements unless otherwise required by the State Plant Board:
 - (A) When applying a herbicide, an aircraft may not exceed 145 miles per hour. Higher airspeeds may be utilized if the operator can document that the setup combination and airspeed selected will allow compliance with the spray classification as identified in paragraph (1)(i) below. Such compliance must be verified by a person or entity that is independent of the applicator/firm, has specific education and training and experience in the application of herbicides to field crops, and whose curriculum vitae is acceptable to the State Plant Board. Documentation of such verification must be recorded on a form provided by the Department. All verification documentation must be provided to the Department prior to use of the setup.
 - (B) The spray boom height at the time of product release shall not exceed 15 feet above the crop canopy. Where obstructions in or adjacent to the field of application will not safely allow application at the 15 foot level, a higher elevation may be used in the vicinity of such obstructions. However, where the product label imposes more restrictive application elevations, those elevations must be complied with.
 - (C) Herbicide applications may not be made under conditions where the spray may possibly be entrained in an inversion layer. As an indicator that an inversion is unlikely to exist, the applicator shall record the ambient temperature measured at the airstrip from which he/she is working for each application. Inversions are much less likely to exist if the temperature has increased at least three (3) degrees Fahrenheit from the morning low at the time of application for applications made before noon or has not decreased more than three (3) degrees Fahrenheit from the afternoon high for applications made after noon. The applicator should also use other legal means available to him/her to verify that an inversion

does not exist.

- (D) All spray nozzle discharges must be pointed toward the rear of the aircraft and a minimum of ten (10) inches below the trailing edge of the wing.
 - (E) The spray boom length divided by the wingspan shall not be greater than 0.7 for fixed wing aircraft and 0.8 for rotary wing aircraft.
 - (F) The wind shear angle of the spray nozzle discharge may not exceed thirty (30) degrees. However, the spray classification category requirements of paragraph (1)(i) below must be met.
 - (G) Drift reduction nozzles such as Reglo Jet, CP drift reduction tips, narrow angle (65 degrees or less) flat fans, straight stream or other nozzle/configurations that are able to meet the spray classification category requirements set out in paragraph (1)(i) below must be used. Documentation verifying the latter's compliance must be made available to the Department upon request.
 - (H) Application rate must be greater than two (2) gallons per acre, unless otherwise required by the label.
 - (I) Spray classification category must be in the Medium or larger category in accordance with the August 1999 issue of ASAE S572 report entitled Spray Nozzle Classification by Droplet Spectra.
 - (J) Where the product label is more restrictive than these rules, the label must take precedence.
- II. All herbicide spray applications made by ground to field crops (does not include forestry) shall be done in accordance with the following requirements unless otherwise required by the State Plant Board:
- (A) Vehicle speed while making an application shall be as follows:
 - a. Medium Droplet Size 10 mph or less
 - b. Coarse Droplet Size 15 mph or less
 - c. Very Coarse Droplet Size May be Greater Than 15 mph
- The above spray classification categories are as defined by the February 2020 ANSI/ASAE S572.3 standard entitled Spray Nozzle Classification by Droplet Spectra.
- (B) Spray boom height shall not exceed 30 inches above the crop canopy with a medium droplet size but may go to 60 inches above the canopy with a coarse or larger droplet size. If the product label or other restrictions imposed by the State Plant Board requires a lower level, then that elevation must be used.
 - (C) Herbicide applications may not be made under conditions where the spray may possibly be entrained in an inversion layer. As an indicator that an inversion is unlikely to exist, the applicator shall record the ambient temperature measured at the field of application for each application. Inversions are much less likely to exist if the temperature has increased at least three (3) degrees Fahrenheit from the morning low at the time of application for applications made before noon or has not decreased more than three (3) degrees Fahrenheit from the afternoon high for applications made after noon. The applicator should also use other legal means available to him/her to verify that an inversion does not exist.
 - (D) Applications are restricted to hydraulic style nozzles that initiate droplet movement in the direction of the plant canopy. Rotary or Control Droplet Application equipment that emits droplets in a horizontal fashion may be used only if the spray classification meets the medium or greater spray classification categories set out in the document referenced in paragraph (1)(i) above. Such compliance must be verified by a person or entity that is independent of the applicator/firm, has specific education and

training and experience in the application of herbicides to field crops, and whose curriculum vitae is acceptable to the State Plant Board. Upon the effective date of these rules, said documentation must be provided to the Department by June 2, 2002. All subsequent verification documentation must be provided to the Department prior to use of the setup.

- (E) The application rate must be a minimum of two (2) gallons per acre unless otherwise required by the label.
- (F) Drift reduction nozzles that produce medium or greater spray classifications must be used.
- (G) Where the product label is more restrictive than these rules, the label must take precedence.

III. All commercial pesticide applications made by ground must be done under the supervision (as defined in ACA § 20-20-203(27)) of a certified, licensed commercial applicator. The driver/operator of the vehicle must be either a certified, licensed commercial applicator licensed by the Department or a licensed Commercial Applicator Technician licensed by the Department.

- (A) A Commercial Applicator Technician works under the supervision of a certified, commercial applicator.
- (B) A Commercial Applicator Technician must be licensed by the Department. Said license shall expire on December 31st of each year.
- (C) In order to obtain a license from the Department, all Commercial Applicator Technicians must complete the Commercial Applicator Technician training program, which consists of the following criteria:
 - 1. Commercial Applicator Technician training must be presented to Commercial Applicator Technicians either orally from written materials or in audio visual format. The information must be presented in a manner that the Commercial Applicator Technician understands, such as through a translator. The person conducting the training will be present during the entire training program and must respond to the Commercial Applicator Technicians' questions.
 - 2. The person who conducts the training is required to meet one of the following criteria:
 - a. Currently holds a license issued by the Department as an applicator of restricted use pesticides
 - b. Is currently designated as a trainer of certified applicators or pesticide handlers by the Department
 - c. Has completed and EPA-approved pesticide safety train-the-trainer program for trainers of handlers under 40 CFR § 170
 - 3. The Commercial Applicator Technician training materials includes the following information:
 - a. Potential hazards from toxicity and exposure that pesticides present to noncertified applicators and their families, including acute and chronic effects, delayed effects, and sensitization.
 - b. Routes through which pesticides can enter the body.
 - c. Signs and symptoms of common types of pesticide poisoning.

- d. Emergency first aid for pesticide injuries and poisonings.
- e. Routine and emergency decontamination procedures, including emergency eye flushing techniques. Noncertified applicators must be instructed that if pesticides are spilled or sprayed on the body, to immediately wash or to rinse off in the nearest clean water. Noncertified applicators must also be instructed to wash or shower with soap and water, shampoo, hair, and change into clean clothes as soon as possible.
- f. How and when to obtain emergency medical care.
- g. After working with pesticides, wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.
- h. Wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working with pesticides.
- i. Potential hazards from pesticide residues on clothing.
- j. Wash work clothes before wearing them again and wash them separately from other clothes.
- k. Do not take pesticides or pesticide containers used at work to your home.
- l. Potential hazards to children and pregnant women from pesticide exposure.
- m. After working with pesticides, remove work boots or shoes before entering your home and remove work clothes and wash or shower before physical contact with children or family members.
- n. How to report suspected pesticide use violations to the appropriate State or Tribal agency responsible for pesticide enforcement.
- o. Format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide, including the location and meaning of the restricted use product statement, how to identify when the labeling requires the certified applicator to be physically present during the use of the pesticide, and information on personal protective equipment.
- p. Need for, and appropriate use and removal of, personal protective equipment.
- q. How to recognize, prevent, and provide first aid treatment for heat-related illness.
- r. Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.
- s. Environmental concerns such as drift, runoff, and wildlife hazards.
- t. Restricted use pesticides may be used only by a certified applicator or by a noncertified applicator working under the direct supervision of a certified applicator.
- u. The certified applicator's responsibility to provide to each noncertified applicator instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site (e.g., surface and ground water, endangered species, local

population, and risks) and the conditions of application (e.g., equipment, method of application, formulation, and risks) might increase or decrease the risk of adverse effects. The certified applicator must provide these instructions in a manner the noncertified applicator can understand.

- v. The certified applicator's responsibility to ensure that each noncertified applicator has access to the applicable product labeling at all times during its use.
 - w. The certified applicator's responsibility to ensure that where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, each noncertified applicator has clean, labeling-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose.
 - x. The certified applicator's responsibility to ensure that before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the environment.
 - y. The certified applicator's responsibility to ensure that a means to immediately communicate with the certified applicator is available to each noncertified applicator using restricted use pesticides under his or her direct supervision.
- (D) A Commercial Applicator Technician must be at least eighteen (18) years old as required by 40 CFR § 171.303(a)(2)(iii) and Ark. Code Ann. § 20-20-207(c).

IV. Licensed commercial applicators supervising any Commercial Applicator Technician must have access to records documenting the below required information at the commercial applicator's principal place of business for two years from the date the Commercial Applicator Technician applied the restricted use pesticide. Prior to allowing a Commercial Applicator Technician to use restricted use pesticides under his or her supervision, a licensed commercial applicator will create or verify the existence of a record containing the following information:

- (A) The Commercial Applicator Technician's printed name and signature
- (B) The date the Commercial Applicator Technician training requirements describe in Section IV were met
- (C) The name of the person who provided the Commercial Applicator Technician training
- (D) The title or description of the training provided

V. License application review fees shall be as follows:

- | | |
|--|-------|
| (A) License to apply seed, fertilizer, and pesticides | \$100 |
| 1. Plus for each aircraft or article of ground equipment | \$20 |
| (B) Individual Commercial Applicator license, per category | \$35 |
| (C) RUP Seed treatment license | \$35 |
| (D) Commercial Applicator Technician license | \$25 |

A fee of \$5 from each license issued to a Commercial Applicator Technician by the Department shall be transferred to the University of Arkansas Cooperative Extension Service for the purpose of

developing and providing Commercial Applicator Technician training subject to approval by the Department.

- VI. Financial Responsibility - Financial responsibility shall be established in one of the four following ways: (1) a letter of credit from an Arkansas bank guaranteeing financial responsibility; (2) a surety bond; (3) an escrow account with an Arkansas bank; or (4) an insurance policy or certification thereof. The minimum financial responsibility shall be \$100,000. The deductible clause shall not exceed \$5,000 for an insurance policy. Exemption: This requirement shall not apply to Seed Treatment Applicators and Regulatory Pest Control Applicators.
- VII. Decals - A decal shall be issued for each aircraft or article of ground equipment upon approval of application. Such decal shall be attached to or displayed on the aircraft and/or article of ground equipment prior to its use under the license granted.
- VIII. A Commercial Applicator must be at least eighteen (18) years old as required by 40 CFR § 171.103(a)(1).

Rule No. 3. Noncommercial Applicator's License.

- I. The review fee for a Non-Commercial Applicator's license shall be \$35 per category. At the discretion of the Plant Industries Division Director this fee may be waived for Cooperative Extension employees actively involved in supporting the Department's regulatory programs.
- II. A Noncommercial applicator must be at least eighteen (18) years old in order to apply a restricted use pesticide pursuant to 40 CFR 171.303(a)(2)(iii) and Ark. Code Ann. § 20-20-207(c).

Rule No. 4. Commercial and Noncommercial Applicator Record Keeping

I. Commercial and noncommercial applicator licensees shall **keep and maintain for a period of at least 2 years** routine operational records containing information on the kinds, amounts, uses, dates, and places of application of pesticides with the following:

- (A) The name and address of the person for whom the restricted use pesticide was applied
- (B) The location of the restricted use pesticide application.
- (C) The size of the area treated.
- (D) The crop, commodity, stored product, or site to which the restricted use pesticide was applied.
- (E) The time and date of the restricted use pesticide application.
- (F) The brand or product name of the restricted use pesticide applied.
- (G) The EPA registration number of the restricted used pesticide applied.
- (H) The total amount of the restricted use pesticide applied per location per application.
- (I) The name and certification number of the certified applicator that made or supervised the application, and, if applicable, the name of any noncertified applicator(s) that made the application under the direct supervision of the certified applicator.

Rule No. . 5 Private Applicator License.

- I. The Arkansas Department of Agriculture adopts by federal reference (40 CFR § 171.105(c)-(e)) the core standards of competency for all of the below noted private applicator categories. The following categories have been established for private applicator licensing and certification purposes.

- (A) General Private Applicator
- (B) Fumigation
- (C) Aerial Pest Control

II. Initial Certification

All first time applicants for a Private Applicator's license must have been "certified" within the 12 months prior to license application. This certification will be valid for one five-year license or five consecutive one-year licenses. In no case shall a certification make a person eligible for a licensure in excess of five years. Certification for a first time applicant can be obtained in one of two ways:

- (A) Applicant may attend the Pesticide Applicator Training offered by the County Cooperative Extension Office each year.
- (B) Applicant may take an examination given by the Department. Applicant must achieve a minimum score of 70% of total possible points.

- III. The fee for private applicator's license shall be as specified in the Arkansas Pesticide Use and Application Act of 1975, as amended.
- IV. The license will permit the certified applicator to purchase and use restricted use pesticides in any category under the amended FIFRA or state rules on pesticide classification.
- V. A fee of \$2.00 from each license issued to a private applicator by the Department for each year of the license period shall be transferred to the University of Arkansas Cooperative Extension Service for the purpose of developing and providing training for certification and recertification of private pesticide applicators in accordance with the requirements of 40CFR t § 171.5.
- VI. The transfer of such funds shall be made quarterly by a cooperative agreement contract between the Department and the University of Arkansas Cooperative Extension Service.
- VII. Private applicators using aircraft to apply herbicides must comply with the criteria set out for commercial applicators in Rule 2, Paragraph I of these rules.
- VIII. A Private Applicator must be at least eighteen (18) years old as required by 40 CFR § 171.105(g).

I. Rule No. 6 Commercial and Private Recertification/ Maintenance of continued competency

- (A) Certification expiration. In order for a certified applicator's certification to continue without interruption, the certified applicator must be recertified under this section before the expiration of their current certification
- 1. Each commercial applicator certification shall expire three years after issuance, unless the applicator is recertified in accordance with this section.
 - 2. Each private applicator certification shall expire five years after issuance, or annually for up to five consecutive years after issuance, unless the applicator is recertified in accordance with this section.

II. Process for recertification

Commented [SN(1)]: Or annually for up to five consecutive years after issuance needs to be removed, this is not correct.

(A) **Written examination.** Commercial and private applicators may recertify through a written examination given by the Department. Test questions are obtained from the National Association of State Departments of Agriculture Research Foundation's test bank by the University of Arkansas Cooperative Extension Service. These questions are provided to Pesticide Section staff for final approval to ensure the applicator demonstrates the level of competency required by 40 CFR § 171.103 for commercial or 40 CFR § 171.105 for private applicators. The examinations shall conform to the applicable standards for examinations set forth in 40 CFR § 171.103(a)(2) or 40 CFR § 171.105(h). An applicant must receive a 70% or higher grade for recertification. Separate exams are provided to commercial and private applicators.

(B) **Continuing education programs.** Commercial and private applicators may be found eligible for recertification upon attending a continuing education program or training approved by the University of Arkansas Cooperative Extension Service and Arkansas Department of Agriculture.

1. **Quantity, content, and quality.** In order for a continuing education program to count towards recertification, the content must be sufficient to ensure the applicator continues to demonstrate the level of competency required by 40 CFR § 171.103 for commercial applicators or 40 CFR § 171.105 for private applicators.

- a. An applicant may attend the annual Pesticide Applicator Training offered by the County Cooperative Extension Office for recertification.
- b. An applicant may attend a pesticide training provided by a third party so long as the provisions of (2)(b) below are met. The content of this training must include core and/or category specific competency standards as described in 40 CFR § 171.103 or 40 CFR § 171.105 for commercial or private applicators, respectively.
- c. To count towards recertification, programs and agendas must include all of the following:
 - i. Safety – labeling, protective gear, pesticide handling, first aid, toxicity, symptoms of poisoning, etc.
 - ii. Integrated Pest Management (IPM) – pest identification, biology, scouting/inspecting, alternative methods of control (non- pesticide, baits, etc.)
 - iii. Application equipment and/or methods of application – types of equipment, different methods of application, calibration, and equipment precautions, etc.
 - iv. Environmental concerns – waste/container disposal, clean-up, ground/surface water protection, drift (if applicable), and wildlife protection (if applicable)
 - v. Laws and regulations – updates on pertinent laws and regulations, certification/recertification requirements, etc., as appropriate

2. **Approval by the certifying authority.** The Arkansas Department of Agriculture works in coordination with the University of Arkansas Cooperative Extension Service Agriculture Program Specialist to develop training and testing for recertification.

- a. Continuing education programs conducted by the University of Arkansas Extension Service are coordinated with Arkansas Department of Agriculture to meet the

requirements of 40 CFR § 171.103 for commercial and 40 CFR § 171.105 for private applicator. ADA staff monitor continuing education classes to ensure that required content is covered.

- b. For an outside training program to be approved, the agenda or syllabus must be submitted to the Arkansas Department of Agriculture Pesticides staff and the University of Arkansas Cooperative Extension Service Agriculture Program Specialist for review.
3. **Verification of applicator course completion.** In order to qualify for recertification, an attendance list or certification form with verifying information and/or signature, is required to be submitted to the Arkansas Department of Agriculture. For online recertifications, a completion certificate is required to be submitted to the Arkansas Department of Agriculture.

Rule No. 7. Aerial Pest Control License

Fee - \$35.00

Rule No. 8. Pesticide Dealer's License

- I. Fee - \$65.00 for dealers handling restricted use pesticides and/or Arkansas classified restricted use pesticides (Reference: ARKANSAS RULES ON PESTICIDE CLASSIFICATION as adopted under Acts 389 and 410 of 1975). Note: If license-holding dealers have branches which sell or distribute restricted use and/or Arkansas classified restricted use pesticides, each branch **must** have a dealer's license
- II. Each licensed dealer outlet shall maintain a record of restricted-use pesticides distributed. **Records must be maintained for the period of at least two years.** Records of each such transaction must include the following information:
 - (A) Name and address of the residence or principal place of business of each certified applicator to whom the restricted use pesticide was distributed or sold, or if applicable, the name and address of the residence or principal place of business of each noncertified person to whom the restricted use pesticide was distributed or sold for application by a certified applicator.
 - (B) The certification number on the certification document presented to the seller evidencing the valid certification of the certified applicator authorized to purchase the restricted use pesticide, the State, Tribe or Federal agency that issued the certification document, the expiration date of the certified applicator's certification, and the category(ies) in which the applicator is certified relevant to the pesticide(s) sold.
 - (C) The product name and EPA registration number of the restricted use pesticide(s) distributed or sold in the transaction, including any applicable emergency exemption or State special local need registration number.
 - (D) The quantity of the restricted use pesticide(s) distributed or sold in the transaction.
 - (E) The date of the transaction.

Commented [SN(2)]: We separated fee requirement and record keeping into separate sections so it reads better.

Rule No. 9. Container and Containment Rules

In accordance with ACA § 20-20-216, the Arkansas State Plant Board hereby adopts 40 CFR § 165, Subparts A through E (see Attachment I).

The enactment of rules under this Act is not intended nor shall they have the effect of repealing rules promulgated under the authority of Acts 410 or 488 of 1975.

Quinclorac Use Restrictions

1. The buffer zones in the table below shall apply to Quinclorac herbicide applications:

Herbicide Treatment Options	Application Equipment	Buffer Zones	
		When winds are blowing in the direction of incorporated towns or commercial plantings of the solanaceae family.	When winds are NOT blowing in the direction of incorporated towns or commercial plantings of the solanaceae family.
a. Water diluted spray of Quinclorac herbicide tank-mixed with emulsifiable concentrate (EC) formulation herbicides such as: ·Stam M-4 EC ·Arrosolo 3+3 EC ·Propanil EC ·Ordram 8E ·Abolish 8E ·Bolero EC	Aircraft Spray Wind Speed 3 to 8 mph	4 miles	1 mile
	Ground Spray Wind Speed 3 to 8 mph	1 mile	1/2 mile
b. Water diluted spray of Quinclorac herbicide applied in water alone or tank-mixed with emulsifiable concentrate formulation free herbicides such as: ·Stam 80EDF ·Basagran ·Terra Propanil 80DF ·Blazer ·Wham EZ, Super Wham ·Storm ·Pentagon 60 WDG ·Londax	Aircraft Spray Wind Speed 3 to 8 mph	1 mile	1 mile
	Ground Spray Wind Speed 3 to 8 mph	1/2 mile	1/2 mile

1. Exemption: In areas where cities have annexed blocks of agricultural land, water diluted sprays of Quinclorac may be used within or adjacent to the city limits, provided the application site is no closer than 1/2 mile to subdivisions when using ground equipment or 1 mile to subdivisions when using aircraft and no closer than 1/4 mile to established plants of the solanaceae family or established/emerged cotton.
2. No water diluted spray of Quinclorac herbicide shall be applied closer than 1/4 mile by any means to established/emerged cotton, noncommercial plantings of the solanaceae family, or closer than 1/2 mile by aircraft if the wind is blowing in the direction of such plants.
3. No water diluted spray of Quinclorac herbicide shall be applied closer than 1 mile by aircraft or 1/2 mile by ground equipment to established, certified commercial plantings of the solanaceae family (>1,000 plants each kind) statewide.
4. In addition to the above statewide requirements, the following additional restrictions shall apply to Poinsett County.
 - a. No water diluted spray of Quinclorac herbicide shall be applied in an area from one mile west of Highway #1 to one mile east of Highway #163 from the Craighead-Poinsett County line to the Cross-Poinsett County line.
 - b. Water diluted spray of Quinclorac herbicide shall be applied only by ground equipment in the area of Poinsett County from one mile west of Highway #1 to two miles west of Highway #1 and only by ground equipment in the area of Poinsett County from one mile east of Highway #163 to Ditch #10, from the Craighead-Poinsett County line to the Cross-Poinsett County line.
 - c. No water diluted spray of Quinclorac herbicide shall be applied within 1/2 mile with ground equipment or 1 mile by aircraft of commercial plantings of the solanaceae family and towns. This buffer is extended to one mile for ground application and two miles for aerial application when Quinclorac herbicide is mixed with emulsifiable concentrate formulation herbicides.

5. The buffer zones defined in paragraph one (1) (b) shall apply to tank mixes of water diluted sprays of Quinclorac and EC products for which the EC manufacturer has provided the Department with atomization study data from a research entity acceptable to the State Plant Board that shows that the product does not produce more “fines” (percent of total spray volume in droplets $<105\mu\text{m}$) than water.
6. All applications of Quinclorac shall be made in accordance with the applicable drift minimization recommendations of the Spray Drift Task Force.
7. Both air and ground application equipment shall be set up for application of Quinclorac in such a way that generation of spray droplets less than 105 microns in size is less than 5% of the total volume. The spray nozzle size classification must be designated as “coarse” by the British Crop Protection Council.
8. Quinclorac may not be sold to persons that do not possess a current Private, Commercial or Non-Commercial Applicator’s License.

Legal Notice

Arkansas Department of Agriculture

The Arkansas Department of Agriculture is proposing an amendment to the Department's Pesticide Rules under the authority of Ark. Code Ann. § 20-20-206.

The purpose of the proposed rule amendment is to align with federal rule changes that have recently occurred, in accordance with the Department's updated Certification and Training agreement with the EPA.

Written comments will be accepted from November 23, 2024 until December 23, 2024. Comments can be mailed to: Arkansas Department of Agriculture – Attn: Corey Seats, 1 Natural Resources Drive, Little Rock, AR 72205, or emailed to rule.comments@agriculture.arkansas.gov.

The proposed rule can be viewed on the website at www.agriculture.arkansas.gov

Corey Seats
General Counsel
Arkansas Department of Agriculture

Linda Luebke

From: Legal Ads <legalads@arkansasonline.com>
Sent: Wednesday, November 20, 2024 4:43 PM
To: Linda Luebke
Subject: Re: Legal Notice - Arkansas State Plant Board - Pesticide Rule

This notice will run Saturday, November 23, Sunday, November 24, and Monday, November 25. Sunday's run will cover 63 of the 75 counties of Arkansas; northwest will be excluded. Mon & Tues will cover Pulaski County.

Thank you,
Cate Hubbard, filling in for
Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Linda Luebke" <linda.luebke@agriculture.arkansas.gov>
To: "legalads@arkansasonline.com" <legalads@arkansasonline.com>
Cc: "Corey Seats" <corey.seats@agriculture.arkansas.gov>, "Tanner Thomas" <tanner.thomas@agriculture.arkansas.gov>, "Sherry Seiffert" <Sherry.Seiffert@agriculture.arkansas.gov>, "Kara Maack (AGRI)" <kara.m.maack@agriculture.arkansas.gov>, "Scott Bray" <scott.bray@agriculture.arkansas.gov>, "Wes Ward" <wes.ward@agriculture.arkansas.gov>, "Alex Johnston" <alex.johnston@agriculture.arkansas.gov>, "Autumn Causey" <Autumn.causey@agriculture.arkansas.gov>
Sent: Monday, November 18, 2024 1:17:34 PM
Subject: Legal Notice - Arkansas State Plant Board - Pesticide Rule

Please run the attached legal notice Saturday, November 23 through Monday, November 25, 2024.

Thank you!

Linda Luebke
Administrative Analyst
Arkansas Department of Agriculture
1 Natural Resources Drive, Little Rock, AR 72205
(501) 225-1598
linda.luebke@agriculture.arkansas.gov
agriculture.arkansas.gov



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

DEPARTMENT _____
BOARD/COMMISSION _____
BOARD/COMMISSION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ EMAIL _____
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

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 no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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 _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

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

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

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

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or 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

\$ _____

Next Fiscal Year

\$ _____

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.