

ARKANSAS STATE PLANT BOARD

Minutes

September 5, 2024

9:30 a.m.

Chair Matthew Marsh called the quarterly board meeting to order.

Members present: Bruce Alford, Sammy Angel, Kyle Baltz, George Dunklin, Dr. Ken Korth, Matthew Marsh, Robin Ralston, Nathan Reed, Sam Stuckey

Members present via Zoom: Jon Bierbaum, Garrett Frost, Reynold Meyer, Matthew Miles, Travis Senter, Dr. Nathan Slaton, Robert Thorne, David Wallace, Jr.

Members absent: David Gammill

Scott Bray, Director, Plant Industries Division, and other Arkansas Department of Agriculture staff were in attendance.

1. Opening comments and introductions

Chair Marsh welcomed all who were in attendance and asked each member to introduce themselves and state who they represent.

2. Consider minutes of the June 6, 2024, Plant Board meeting

Moved by Stuckey, seconded by Angel, to approve the Plant Board meeting minutes as presented.

Motion carried.

Corey Seats, General Council, reviewed the rule promulgation timeline process with the board members. **Attachment 2**

3. Pest Control Program

Committee Chair Dr. Korth summarized the minutes of the August 21, 2024, Pest Control Committee meeting.

Dr. Korth stated the committee reviewed proposed Pest Control rule changes. The proposed changes are a result of the Department's updated Certification and Training agreement with EPA. The updated plan requires rule updates to align with federal rule changes that have occurred over the last several years. The proposed changes consist of:

- Clarifying the roles of the Plant Board and the Department. Plant Board role is unchanged and remains rulemaking, enforcement decisions and oversight. The Department role is administrative support and program conduction.
- Expanded opportunities for applicator license examinations.
- Restricted use pesticide application records requirements are more clearly stated.
- Recertification/ongoing education requirements are outlined.
- The role of the U of A Extension overseeing certification and training material development and updates is more clearly stated.

The committee voted to recommend to the Plant Board to initiate rulemaking on adopting the proposed changes as presented. **Attachment 3A**

**Moved by Angel, seconded by Alford to approve the committee's recommendation to begin the promulgation rule making process on the rule as presented.**

**Motion carried.**

Informal Resolution Agreement of Pest Control Incidents were presented by staff, shown as **Attachment 3B**.

- Green Thumb Lawn & Tree Care - major level violation of two applicator's (a licensee and a technician trainee) making a pesticide application with lack of Personal Protective Equipment (PPE) agreed to an informal resolution of \$600.00.

**Moved by Baltz, seconded by Stuckey to approve the Resolution Agreement as presented.**

**Motion carried.**

Consider minutes of the August 21, 2024, Pest Control Committee meeting shown as **Attachment 3C**.

**Moved by Alford, seconded by Angel to approve the minutes of the Pest Control Committee meeting as presented.**

**Motion carried.**

Dr. Korth presented the pest control examination results for the months of June – August 2024. **Attachment 3D**

**Moved by Angel, seconded by Alford to approve the pest control exam results as presented.**

**Motion carried.**

#### **4. Pesticide Program**

Committee Chair Dunklin summarized the minutes of the August 23, 2024, Pesticide Committee meeting.

The committee reviewed proposed pesticide rule changes. The proposed changes are a result of the updated Certification and Training agreement with EPA. The updated plan requires rule updates in order to align with federal rule changes that have occurred over the last several years. The proposed changes consist of the following and shown as **Attachment 4A**.

- Establish additional applicator categories for certification.
- Clarifying the roles of the Plant Board and the Department. Plant Board role is unchanged and remains rulemaking, enforcement decisions and oversight. The Department role is administrative support and program conduction.
- Commercial Applicator Technician training requirements are more clearly outlined.
- Commercial and Noncommercial application records requirements are more clearly outlined.
- Restricted use pesticide application records requirements are more clearly outlined.
- Recertification/ongoing education requirements are more clearly outlined.
- The role of the U of A Extension overseeing training material development clarified.

- Pesticide Dealer's license records of sale requirements are more clearly outlined.

The committee voted to recommend to the Plant Board to initiate rulemaking on adopting the proposed changes.

**Moved by Baltz, seconded by Dunklin to approve the committee's recommendation to begin the promulgation rule making process on the proposed rule as presented.**

**Motion carried.**

Consider the minutes of the August 23, 2024, Pesticide Committee meeting shown as **Attachment 4B**.

**Moved by Dunklin, seconded by Angel to approve the minutes of the Pesticide Committee meeting as presented.**

**Motion carried.**

#### **5. Bureau of Standards Program**

Committee Chair Robin Ralston summarized the minutes of the Bureau of Standards Committee meeting held August 20, 2024.

Staff presented 35 civil penalties to the committee for review and recommendation to the board, shown as **Attachment 5A**.

Twenty-three expired or no decal – Table 1

- 17 first offense
- 6 second offense

Eleven for water contamination in fuel – Table 2

- 11 first offense

One for flashpoint failure – Table 3

- 1 first offense

**Moved by Ralston, seconded by Dunklin to approve the committee's recommendations as presented.**

**Motion carried.**

Two warning letters – Table 4

Service company failed to properly affix approved security seals on the calibration mechanism. No civil penalty assessed.

The committee voted to present the 2 warning letters to the Plant Board for final approval.

**Moved by Ralston, seconded by Alford to approve the committee's recommendation as presented.**

**Motion carried.**

A request to waive civil penalty of \$800.00 in Case BS 24-0194, Weatherly Exxon, Hamburg, AR.

The committee voted to present the waiver request to the Plant Board for final approval.

**Moved by Ralston, seconded by Alford to approve the committee's recommendation to accept the request for civil penalty waiver in Case BS 24-0194, as presented.**

**Motion carried.**

A request to waive civil penalty of \$350 in Case 24-0239 and \$800 in Case 24-0240, Countryside Supermarket, Lepanto, AR.

The committee voted to present the waiver requests to the Plant Board for final approval.

**Moved by Ralston, seconded by Dunklin to approve the committee's recommendation to accept the waiver request in Case BS 24-0239, as presented.**

**Motion carried.**

**Moved by Ralston, seconded by Baltz to approve the committee's recommendation to reject the waiver request in Case BS 24-0240, as presented.**

**Motion carried.**

The percentage of collections complete on civil penalties was discussed. Bray stated we are not 100% collected. The Department has a collection agency that pursues uncollected past due civil penalties. Nikhil Soman, Director, Bureau of Standards, stated from FY 16 – FY 24, the total amount not collected is \$85,000. A complete report will be compiled for the next board meeting for the board's review.

Consider the minutes of the August 20, 2024, Bureau of Standards Committee meeting shown as Attachment 5B.

**Moved by Ralston, seconded by Dunklin to approve the minutes of the Bureau of Standards Committee meeting, as presented.**

**Motion carried.**

Ralston noted that she did a ride along with Bureau of Standards Inspector Amber Tate. Ralston stated the ride along was very informative and educational. She also commended Tate on her professionalism and the great job she is doing.

**6. Simmons bank account and CD signers' update**

Bray informed the board that Cynthia Edwards, Deputy Secretary, retired last week. Her replacement is Alex Johnston. Johnston introduced herself to the board.

Bray informed the board the Department has several accounts associated with the Plant Board. Some of the personnel authorized to sign on these accounts are no longer with the Department, and he would like the board to vote on updating personnel authorized to sign.

There are 6 CD accounts. Bray would like the authorized signers to be Alex Johnston, Linda Luebke, and Inoussa Zaki.

There are 7 other accounts. Bray would like the authorized signers to be Alex Johnston, Linda Luebke, and Inoussa Zaki.

Bray stated he would like to add Lisa Washington, Fiscal Department, as a secretary on the accounts

**Moved by Reed, seconded by Angel to update the authorized account signers as presented.**

**Motion carried.**

**7. Other business**

Committee member Sam Stuckey summarized the minutes of the Boll Weevil Sub-Committee meeting held July 9, 2024. **Attachment 7**

Stuckey stated a review of previous meeting minutes were presented by Vice Chairman Pace Hindsley. A motion to approve minutes went unopposed.

An update of The Arkansas Boll Weevil Eradication Program was given by Regina Coleman as follows:

- Updated projected cashflow was presented and approved.
- Discussed increase of 2024 cotton acres to 611,500 acres. 484,720 acres were reported in 2023.
- Discussed assessment payments collected was 23% with online payments increasing from previous years.
- Rebate checks for 2023 acres had been processed and mailed in April.

The 2023 audit report was presented by Hogan Taylor LLP.

The June financial statements were presented by Melissa Cary with Landmark PLLC.

A motion to approve the audit and financial statements went unopposed.

The next Boll Weevil Sub-Committee meeting is set for November 12, 2024, 10:00 a.m., and a Personnel Committee meeting at 9:00 a.m., at the Arkansas Department of Agriculture.

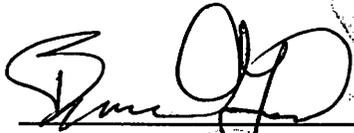
**Moved by Stuckey, seconded by Alford to approve the minutes of the Boll Weevil Sub-Committee meeting as presented.**

**Motion carried.**

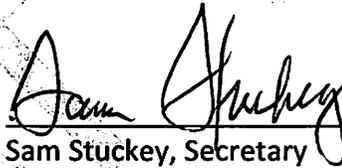
Regina Coleman, Director, Arkansas Boll Weevil Eradication Foundation, reported, to date, they have collected \$1.8 million with \$63,000 left to be collected.

Baltz wanted to recognize those that are involved in the peanut industry work and the great job they are doing. He stated he appreciated the positive influence this organization has in the state. Chair Marsh echoed Baltz's appreciation for all the good work of staff involved in Plant Board business.

8. **Date for the next quarterly Board meeting.** The next quarterly Board meeting is scheduled for December 10, 2024, at 9:30 a.m.
9. Meeting adjourned.



Bruce Alford, Acting Chairman and  
And Vice-Chairman



Sam Stuckey, Secretary

**PEST CONTROL RULES AND REGULATIONS OF THE STATE PLANT BOARD**

The following Rules ~~and Regulations~~ have been promulgated and adopted by the State Plant Board under ~~the~~ authority of the Arkansas Pest Control Law, Act 488 of 1975 as amended, (~~Ark. Code~~ §§17-37-101 ~~et seq.~~), and are administered by the Arkansas Department of Agriculture (~~Department~~).

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**Classifications:**

The following classifications have been established for applicator licensing and certification purposes.

**I. Commercial Applicator License (Licensed Operator):**

- A. Structural Pest Control
  - 1. Termite and Other (Wood Destroying) Structural Pest Control
  - 2. Household Pest and Rodent Control
  - 3. General Fumigation
- B. Ornamental Pest Control
  - 4. Tree and Turf Pest Control
  - 5. Weed Control
  - 6. Golf Course Pest Control

**II. ~~Non-Commercial~~Noncommercial Applicator Certificate (see restrictions in Section VIII):**

- A. Structural Pest Control
  - 7. ~~Non-Commercial~~Noncommercial Pest Control
  - 8. ~~Non-Commercial~~Noncommercial Fumigation
- B. Ornamental Pest Control
  - 9. ~~Non-Commercial~~Noncommercial Tree & Turf Pest Control
  - 10. ~~Non-Commercial~~Noncommercial Golf Course Pest Control

**SECTION I  
REGULATIONS-RULES APPLYING TO ALL LICENSEES AND APPLICATORS**

- LICENSE HOLDERS (business owner, firm, corporation, etc.)
- COMMERCIAL APPLICATORS (Licensed Operator)
- ~~NON-COMMERCIAL~~NONCOMMERCIAL APPLICATORS
- REGISTERED AGENTS

**1. Applying for Examinations (Commercial Applicators and ~~Non-Commercial~~Noncommercial Applicators):**

All applicants must submit an application to the ~~Plant Board, Department~~ on forms furnished by the ~~Plant Board, Department~~ at least 5 working days prior to the examinations. Processing of each application must be completed before the examinations are given. All applicants must be a minimum age of eighteen (18).

**2. Examination Dates:**

The written examinations in classifications 1, 2, and 3 will be given the second Monday of January, March, May, July, September, and November. Examinations in classifications 4, 5, 6, 7, 8, 9, and 10 will be given the second Monday of February, April, June, August, October and December at a time and place designated by the State Plant Board. In the event of technological advances that allow for changes in the administration of the exams, circumstances beyond the control of the State Plant Board occur, or any of the designated dates occur on a day when State offices are closed, the Director of the State Plant Board may designate alternate dates for the examinations. The examinations will be graded by an examiner designated by the Plant Board.

Online exam registration in classifications 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 is available after completion of application and payment of proctoring fees.

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Written examinations in classifications 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 will be given onsite at the request of the applicant after submitting an exam application provided by the Department and the required exam fee. Upon receipt of the exam application and required fee, the applicant will be scheduled to take the exam within 10 business days.

**3. Applying for License or certificate:**

(a) License Holder (Commercial Classifications 1, 2, 3, 4, 5, or 6):

Applicants must be a minimum age of eighteen (18). Applicants must submit an application to the Plant Board Department on forms provided by the Commercial Pest Control Section Program. The license holder must themselves be or shall employ and maintain at least one commercial applicator licensed for each classification of pest control service work provided by the license holder. The commercial applicators shall maintain direct supervision over all pest control services provided by the license holders business. No more than 30 registered agents shall be supervised by ~~any~~ one (1) commercial applicator. The license holder's license shall be issued in the name of the Pest Control firm. Prior to the issuance of the license for Classifications 1, 2, or 3 the license holder shall provide the Plant Board Department with copies of all required surety bond and/or insurance policies. The surety bond and insurance shall be issued to the license holder and the license holder shall guarantee that the insurance and bond policies cover all pest control service work performed by the license holder's commercial applicators and/or registered agents.

(b) Commercial Applicator (Licensed Operator):

Applicants must be a minimum age of eighteen (18). After passing the appropriate examinations (1, 2, 3, 4, 5, or 6), all commercial applicators must submit an application and the required fees to the Plant Board Department on forms provided by the Pest Control Section Program. Commercial applicator applicants must themselves be or must be employed by a license holder prior to the issuance of an applicator's license. A commercial applicator's license shall become invalid in the event they cease to be themselves a license holder or employed by a license holder. The applicators license shall remain invalid until such time the applicator re-establishes employment with a license holder or acquires a license holder's license.

(c) ~~Non-Commercial~~ Noncommercial Applicator:

Applicants must be a minimum age of eighteen (18). After passing the appropriate examinations (7, 8, 9 or 10), all ~~non-commercial~~ noncommercial applicators must submit an application and the required fees to the Plant Board Department on forms provided by the Pest Control Section Program.

**4. Fees:**

The following fees have been established to carry out the provisions of Arkansas Pest Control Law.

License Holder License (Must be renewed prior to June 30 annually):

- 0 – 30 Registered agents.....\$100.00
- 31 – 60 Registered agents.....\$250.00
- 61 or more Registered agents .....\$500.00

Commercial Applicator License (Must be renewed prior to June 30 annually):

- Applicators First Classification ..... \$150.00
- Each Additional Classification.....\$100.00
- Maximum per Applicator.....\$300.00

Agent Registration (Must be renewed prior to June 30 annually):

- Initial registration.....Exam Fee
- Annual renewal.....\$30.00

~~Non-Commercial~~Noncommercial Applicator Certificate (Must be renewed prior to June 30 annually):

- Per Applicator .....\$70.00

Commercial and ~~Non-Commercial~~Noncommercial Applicator Examination:

- Each classification.....\$100.00

Registered Agent Examination:

- Per Exam.....\$30.00

Reporting:

- Each building on which a Class 1 structural pest contract is issued .....\$5.00
- Late fee (30 or more days after due date) .....\$10.00
- Each first 5 building treated by new Class 1 licensee.....\$20.00

Inspection (Each building treated for Class 1 structural pest found not in compliance):

- First Notice .....\$50.00
- Second Notice .....\$100.00
- Third Notice .....\$500.00

**5. Agent Training, Examination, and Registration:**

Registered agents must be a minimum age of eighteen (18). License holders of classifications 1, 2, 3, 4, 5 or 6 shall register with the ~~Plant Board~~Department all individuals employed by them for the purpose of performing pest control services, including those employed for solicitation as their agent. Clerical staff are excluded. Each agent shall be registered only in the classification of pest control for which the license holder is licensed to perform. Agent trainees must be on-the-job trained by the license holder within 20 working days of their employment. In accordance with 40 CFR 171.201(e)(2), license holders should verify safety training requirements before RUPs are applied by the agent trainee. Within 45 working days of their employment and after the completion of the on-the-job training the agent trainee must take an exam administered by the ~~Plant Board~~Department, or a representative appointed by the ~~Plant Board~~Department. Registered agent exams will be given on Wednesday of each week at a time and location designated by the ~~State Plant Board~~Department. In the event of technological advances that allow for changes in the administration of the exams, circumstances beyond the control of the ~~State Plant Board~~Department occur, or any of the designated dates occur on a day, when State offices are closed, the Director of the State Plant Board may designate alternate dates for the examinations. Until registered, and only during the initial 45 day on the job training and examination period, the agent trainee may apply pesticides only in the physical presence of a commercial applicator or registered agent. Agent applicants failing to pass the exam are prohibited from performing pest control service work until such time the agent applicant passes the exam. If at any time an employee, other than a commercial applicator, registered agent, or agent trainee undergoing the initial 45 days of on the job training and examination preparation, is found

handling pesticides or performing pesticide applications the license holder and/or the licensed operator/s will be subject to enforcement action as per the Arkansas State Plant Board Pest Control Enforcement Response [Regulations-Rules](#)– Penalty Matrix – Violation #9 – beginning at the 3rd level of enforcement.

#### Training:

Forty hours of verifiable on-the-job training, performed under the direct supervision, direction and control of a qualified trainer. A qualified trainer shall be a commercial applicator or agent with at least one year of experience in the pest control industry or other individual approved by the [Plant Board Department](#). During the application of pesticides a qualified trainer must be physically present on the job site. On-the-job training must be documented by the license holder on an agent training verification form provided by the [State Plant Board Department](#). The information shall include the names of the trainee and trainer, the dates of training, and the total hours worked for each date of the training.

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#### Examination and Registration:

The [Arkansas State Plant Board Department](#) shall provide an agent examination and registration application form. The license holder shall complete the form and submit it to the Pest Control [Section Program](#) with a copy of the agent trainee's on-the-job training verification form and the examination fee. Examination and registration forms submitted without the on-the-job verification and/or the examination fee will be considered incomplete and the trainee will not be eligible to take the examination. Complete agent exam and registration applications must be submitted to the [Plant Board Department](#) at least 5 working days prior to the examination. Upon passing the exam agents will be considered registered. Official agent registration identification cards will be provided to the license holder within 30 days of the exam date.

Registered agents who cease to be employed by a license holder must receive ~~the~~ 40 hours of on-the-job training before being eligible for re-registration. Agents not registered for more than 24 months will lose eligibility for re-registration and must complete the initial training and examination requirements to be re-registered. Registered agents under the minimum age of 18 are restricted from performing pesticide applications or being in sole possession of pesticides. License holders and commercial applicators found in violation of allowing employees of their pest control firm under the age of 18 perform pesticide applications or being in sole possession of pesticides will be subject to enforcement action as per the Arkansas State Plant Board Pest Control Enforcement Response [Regulations-Rules](#) – Penalty Matrix – Violation # 2 (C).

#### Continuing Education:

To maintain registration, agents shall be kept abreast of pest control technology and receive a minimum of 6 hours of continuing education each year. Continuing education may be achieved by completing a license holder's in-house training program or attendance of [Plant Board Department](#) approved seminars sponsored by the various associations, manufacturers or suppliers affiliated with the pest control industry or the cooperative extension service. Agent annual continuing education training shall consist of:

- Applicator safety (PPE, label instructions, human and/or non-target species exposure, safe storage and transportation of pesticides, etc.) – 2 hours
- Integrated Pest Management (IPM) – 1 hour
- Application equipment maintenance and methods of application – 1 hour
- Environmental concerns (container disposal, spill clean-up, drift, etc.) – 1 hour
- Laws and [Regulations-Rules](#) – 1 hour

License holders shall document in-house training on forms provided by the [Plant Board Department](#). Ongoing education provided to agents by attending approved seminars, ~~training, or schools, etc.~~ shall be documented with appropriate forms issued by the training's sponsors to the attendees. Records of training must be kept by the license holder, for as long as the agent is employed. Such

records shall be available for review by the ~~State Plant Board-Department~~ during normal business hours. At any time, should the ~~Board-Department~~ determine that training requirements have not been met, the license holder may be subject to enforcement action as per in accordance with the Arkansas State Plant Board Pest Control Enforcement Response Regulations-Rules – Penalty Matrix – Violation # 7.

#### 6. Hearings - Invalidation of Licenses, Certificates, and/or Agent Registrations:

Any person or firm who is refused a license, certificate, or agent registration or whose license, certificate, or agent registration is being considered for invalidation, may secure a hearing before the Pest Control Committee before the final State Plant Board action is taken. This Committee shall consist of the State Plant Board member who represents the Head of the Department of Entomology and Plant Pathology, University of Arkansas, who shall act as the Chairman, and the State Plant Board member who represents the Arkansas Pest Management ~~Association-Industry~~. Remaining committee members shall be appointed by the Chairman of the State Plant Board. This Committee may hold hearings regarding licenses, certificates, and agent registrations to take testimony and gather evidence regarding the same. ~~Such~~ Testimony, evidence and the committee's recommendation shall be made available to the State Plant Board for consideration and final action.

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#### 7. Keeping Abreast of Technology:

Each commercial applicator and ~~non-commercial~~noncommercial applicator shall keep himself / herself abreast of changing pest control technology to assure a continuing level of competence and ability to use pesticides safely and properly. The completion of a Cooperative Extension Service approved pest control training, conference, seminar, etc. every third year shall be considered adequate to satisfy this requirement. An appropriate form shall be filed with the ~~Plant Board-Department~~ as proof of attendance. Any applicator failing to meet this provision shall be reexamined or lose the license or certificate.

#### Recertification:

##### A. Maintenance of continued competency

1. 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.

a. Each commercial applicator and ~~non-commercial~~noncommercial certification shall expire three years after issuance, unless the applicator is recertified in accordance with this section.

##### B. Process for recertification

1. Continuing education programs. Commercial and ~~non-commercial~~noncommercial applicators may be found eligible for recertification upon attending a University of Arkansas Cooperative Extension Service approved pest control program.

a. 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 and noncommercial applicators. This may include a pest control training, conference, seminar, etc.

~~a. 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 and non-commercial/noncommercial applicators. This may include a pest control training, conference, seminar, etc.~~

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i. To count towards recertification, programs and agendas must include all of the following:

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(1) Safety – labeling, protective gear, pesticide handling, first aid, toxicity, symptoms of

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poisoning, etc.

(2) Integrated Pest Management (IPM) – pest identification, biology, scouting/inspecting, alternative methods of control (non-pesticide, baits, etc.)

(3) Application equipment and/or methods of application – types of equipment, different methods of application, calibration, and equipment precautions, etc.

(4) Environmental concerns – waste/container disposal, clean-up, ground/surface water protection, drift (if applicable), and wildlife protection (if applicable).

(5) Laws and rules – updates on pertinent laws and rules certification/recertification requirements, etc., as appropriate.

b. Approval by the certifying authority. The University of Arkansas Cooperative Extension Service must approve of a program's content before it may count towards applicator recertification. The program agenda or syllabus for any programs offered outside of the University of Arkansas Cooperative Extension Service must be submitted for review before credit for attending will count towards recertification by the Arkansas Department of Agriculture.

c. Verification of applicator course completion. In order to qualify for recertification, an appropriate form shall be filed with the Plant Board as proof of attendance.

C. Any applicator failing to meet this provision shall be reexamined or lose the license or certificate.

#### **8. Standards for Licensing Pesticide Applicators:**

State Plant Board standards for the licensing and certification of commercial applicators and ~~non-commercial~~ noncommercial applicators shall be the same as the standards set forth in Section 171.4 thru 171.6 of the Code of Federal Regulations 40 CFR part 171 written pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended. Said sections are as follows: Section 171.4, Standards for Certification of Commercial Applicators; Section 171.5 Standards for Certification of Private Applicators, and Section 171.6 Standards for Supervision of Non-Certified Applicators by Certified Private and Commercial Applicators.

#### **9. Office Operations:**

On forms provided by the Plant Board ~~Department~~, license holders in classifications 1, 2, 3, 4, 5 or 6 shall register the physical address of each office from which they will engage in the practice of pest control service. An office is ~~considered to be~~ any building or similar structure where normal business activity might occur including any and all locations (excluding service vehicles) where pesticide products are stored and/or distributed.

In addition, the license holder shall keep ~~records of pesticides~~ pesticide records shall be kept by for two years. The records must include the following:

- ~~Listing of~~ The name and address of the person for whom the restricted use pesticide was applied.
- The location of the restricted use pesticide application.
- The size of the area treated.
- The crop, commodity, stored product, or site to which the restricted use pesticide was applied.
- The time and date of the restricted use pesticide application.
- The brand or product name of the restricted use pesticide applied. The EPA registration number of the restricted use pesticide applied.
- The total amount of the restricted use pesticide applied per location per application.

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.

- Records required under § 171.201(e).

#### 10. Clarification:

The following ~~regulations~~ rules are promulgated to clarify the State Plant Board's intent relative to certain sections of the Pest Control law.

Ark. Code A. § 17-37-102. Definitions:

(1) Agent - An agent is an individual employed by a license holder. Agent's registration will be issued upon the written request by a license holder on forms prescribed by the Plant Board Department only in the name of the person who is an employee of the license holder making the application. Individuals for whom an agent's registration is requested shall not be an employee, owner operator, franchise holder or independent contractor of any pest control service other than that of the license holder. An agent may be terminated by the license holder at any time. All contractual agreements for pest control services executed between agents and customers are the property of the license holder.

(9) License Holder - A commercial applicators license shall not be required of License Holders who employ licensed commercial applicators (Licensed Operators) and who do not themselves use or supervise the use of restricted use pesticides.

(10) Licensed operator (Commercial applicator) - a person who has fully qualified and has passed the board's written examination and has in force a valid license from the board to engage in the work indicated in the license. The person shall also have met the requirements of and be eligible for certification under the Federal Insecticide, Fungicide, and Rodenticide Act and state law as a commercial applicator;

Ark. Code A.C.A. § 17-37-206 License Application:

(f) Persons holding valid licenses issued under the authority of the Pest Control Law whose licenses become subject to renewal, shall be examined and found to meet the Standards for Licensing and Certification of Pesticide Applicators set forth in Sections 171.4 thru 171.6 of the Code of Federal Regulations, 40 CFR Part 171, pursuant to FIFRA, as amended.

Ark. Code A.C.A. § 17-37-216 & 17-37-217:

Refusal to issue a license, certificate, or agent registration. Grounds for invalidation or non-renewal of a license, certificate, or agent registration.

In addition to invalidation and denial, this section shall also be considered as providing for the suspension of a license, certificate, or agent registration. Items (1) thru (11) shall be considered as grounds for suspension as well as denial or invalidation of a license, certificate, or agent registration. In addition, the use of a pesticide inconsistent with its labeling shall also be considered grounds for denial, suspension or invalidation of a license, certificate, or agent registration.

Ark. Code A.C.A. § 17-37-202 (b) Exemption:

Shall provide for the use of general use pesticides only, during the period of time a pest control company may operate without a commercial applicator (licensed operator).

Ark. Code A.C.A. § 17-37-203 Exemptions:

The exemptions stated in 17-37-203 shall apply only to persons who use general use pesticides.

Ark. Code A.C.A. § 17-37-103 Penalties:

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Items (1) thru (11) of ~~A.C.A. Ark. Code~~ §17-37-217 shall be considered violations of the Pest Control Law and its ~~regulations-rules~~ and shall be subject to the penalties stated in ~~A.C.A. Ark. Code~~ § 17-37-103 and the Pest Control Enforcement Response ~~Regulations-Rules~~ as stated in Section IX.

~~Ark. Code A.C.A.~~ § 17-37-106 Prior Rules and Regulations:

This section does not repeal Act 389 of 1975, ~~Ark. Code A.C.A. §§~~ 20-20-202 *et. seq.*, or act 410 of 1975 ~~A.C.A. Ark. Code -§§~~ 2-16-402 *et. seq.*, or any part of either act.

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## SECTION II RULES AND REGULATIONS FOR HOLDERS AND APPLICATORS OF A TERMITE AND OTHER STRUCTURAL PESTS LICENSE (CLASSIFICATION ONE)

### 1. Contracts:

All license holders in Classification One shall issue a signed contract, along with a complete plot or diagram showing the location of visible damage, active or previous infestation and an outline of the work to be carried out on each job performed for the prevention, control or eradication of termites and other structural pests, including soil pre-treatments and letters of clearance. Effective July 1, 2013 all plots or diagrams (graphs) shall have imprinted, on the face, a legend or key containing symbols (of the license holders choice) clearly identifying, at a minimum, the following conditions:

- Termite activity
- Termite damage
- Powder Post Beetles
- Powder Post Beetle damage

Said contracts must guarantee the performance of work for a period of not less than one year and clearly state, on the face of the contract, the name and EPA Registration number of the chemical used, if repairs of damage are included or if the license holder's liability is limited to re-treatment only for the control of termites under the guarantee. License holders must submit a legible copy of all contracts to the ~~Plant Board-Department~~ for review prior to their issuance. When issuing a letter of clearance on a building that is already under a current contract by the license holder writing the letter of clearance, for a real estate transaction, a new contract, including diagram, shall be issued in the name of the new buyer, guaranteeing the performance of work for one year from the date the letter of clearance is issued. The new contract requirement shall not apply in cases where the letter of clearance is issued on buildings already under contract ~~and~~ that are being refinanced, provided the license holder holding the contract issues the letter of clearance. Letters of clearance, written on buildings under contract by the license holder, must show the original date of treatment.

The number of contracts, providing a re-treatment only guarantee, for the control of termites that a license holder may issue per fiscal year (-July 1 to June 30) shall not exceed 20% of the number of buildings for which the license holder reported and paid reporting fees during the previous fiscal year (July 1 to June 30).

### Renewals:

Each time a contract is renewed the license holder shall assume responsibility for bringing substandard conditions in the building under contract up to standards, except on prior approved substandard buildings. **This shall also apply to all new additions to the building unless the license holder shows in bold print, on the renewal notice, that the renewal does not cover new additions to the building.** When a license holder elects not to renew a viable contract, the owner

must be notified by return receipt requested certified mail, at least 30 days prior to the contract expiration date, of the intent not to renew the contract. Notification by the license holder of non-renewal does not apply when the contract is terminated for non-payment of the renewal fee or canceled by the consumer; **provided the consumer was notified a renewal fee was due.**

## 2. Reporting – Responsibility:

License holders shall give complete information required by Ark. Code § 17-37-221 of the Pest Control –Law by filing monthly reports. This information shall be filed with the Board even though it is understood that payment for the service will be made at a later date. In all cases where there is a question as to whether a job is completed, the criterion for a completed job shall be payment in part or in full. Each license holder shall be responsible for, or shall guarantee for at least one year, all representations, provisions, declarations, work, or services called for by the contract, ~~and~~ the diagram of the property, or by Letters of Clearance.

## 3. Meeting Minimum Standards:

~~A.~~ Each building on which a contract is issued for the prevention, control or eradication of termites shall meet the Minimum Standards outlined in Section III A, III B, III D or III E of these ~~regulations~~rules, unless unusual structural or physical conditions render the correction of certain conditions to portions of the building impractical.

1. In such cases, an exclusion of certain minimum treating standards shall be made on forms supplied by the ~~Plant Board~~Department. Provided the remainder of the structure is treated to meet all remaining Minimum Standards, ~~R~~requests for exclusion of certain minimum treating standards shall be made on forms supplied by the ~~Plant Board~~Department.

2. Each request for exclusion of certain minimum treating standards shall contain all property owner and pest control operator information and all information must be provided or the request will be considered incomplete and may not be processed.

3. Each request for exclusion ~~shall also~~must clearly state which treatment standard is to be excluded.

4. An inspection fee of \$50.00 shall be assessed for each application submitted.

5. ~~Plant Board~~Department staff may contact property owners and discuss exclusion application as staff feels situation warrants. Should ~~Plant Board~~Department staff determine, through direct communication, that the property owner is not fully informed and in agreement with the type and quality of work to be performed under the exclusion agreement, approval to exclude the requested treatment standard will be denied.

6. The approval/denial decision will be made within two (2) working days from the date of receipt of the request. If a request for exclusion of certain minimum treating standards is approved, a form with a notification of approval will be returned to the Pest Control Operator. The Pest Control Operator shall sign the form, secure the signature of the Property Owner, and date of signing. The signed and dated form shall be considered an attachment of the Contract for Control of Termites issued on the subject property and shall be submitted with a copy of the contract and graph to the property owner and ~~also~~ reported in the copies sent to the ~~Plant Board~~Department.

7. The contract, issued on the building for which the Exclusion of Certain Minimum Treating Standards has been approved, shall clearly state that minimum requirements for Structural Pest Control Work have not been fulfilled and reference the form as being a part of the contract. Contracts for which an Exclusion has been approved but that do not clearly reference the exclusion form as a part of the contract, the exclusion approval shall be considered invalid and the operator shall be issued a Report of Sub-Standard Termite Treatment (Pink Slip) for the specific substandard conditions.

8. The use of any document or agreement, for the purpose of issuing a substandard termite treatment contract, other than a pre-approved Exclusion of Certain Minimum Treating Standards form, issued by the ~~Plant Board~~Department, is strictly prohibited. Enforcement action shall be taken against all license holders and licensed operators found attempting to use such documents and the violation shall be considered Misrepresentation for the Purpose of Deceiving or Defrauding and subject to the fourth (4th) level of enforcement as per Arkansas State Plant Board Pest Control Enforcement Response Regulations-Rules and Appendix A of Circular 6.

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B. The maximum number of Exclusions of Certain Minimum Treating Standards approvals available to any license holder in any license year (currently July 1 to June 30) shall be limited to a number equal to twenty percent (20%) of the number of buildings covered with a termite protection plan for which the license holder reported and paid reporting fees during the previous license year.

#### **4. Letters of Clearance / Wood Destroying Insect and Organisms Report:**

Any statements as to the condition of a building pertaining to termites, or other wood destroying insects or decay fungi (Rot), other than a bid or proposal for treatment, shall be considered a Letter of Clearance. Letters of Clearance shall not be issued by any person, business, or entity without first acquiring a commercial license to perform Classification 1 (Termite and Other Structural Pest Control) work. Letters of Clearance issued in connection with a real estate transaction shall be made on a form officially adopted by the State ~~Plant Board~~Department. This form shall be the current Wood Destroying Insect Infestation Inspection Report form prescribed by HUD. Letters of clearance must be accompanied by a signed contract providing a guarantee of at least one year and a graph or diagram showing, if present, the location of active or inactive wood destroying insect infestations and visible damage. Structures upon which letters of clearance are written must meet all conditions stated in the letter as well as all the minimum requirements for structural pest work in Sections IIIA, IIIB, and IIID or III E. For additional responsibility on Letters of Clearance see Section II, Item I, Contracts.

Areas which are inaccessible for inspection must be clearly described in the letter. Inaccessible areas in crawl spaces must be made accessible as per minimum treating standards or excluded by an Exclusion of Minimum Treating Standards attachment to the contract.

When a Letter of clearance is issued on a building for which previous substandard prior approval, waiver of the minimum treating requirements, or exclusion of certain minimum treating standards has been given, the license holder shall notify the new owner on the Clearance Letter and Contract that specified prior approved substandard conditions exist in the structure. When this is done the license holder shall not be issued a Report of Substandard Termite Treatment on the specified substandard conditions.

#### **5. Reporting and Re-inspection Fees - Correcting Substandard Work:**

A. Each license holder shall remit to the ~~Plant Board~~Department, by the 15th day of each month, an inspection fee of \$5.00 for each building on which a contract has been issued during the previous calendar month, excluding new contracts issued with letters of clearance on buildings under current contracts. The \$5.00 reporting fee shall be paid on each building treated regardless of how many buildings are covered by a single contract. If for any reason the payment of this fee is delayed more than 30 days the fee shall be doubled. The ~~Plant Board~~Department, through its authorized representatives, reserves the right to inspect any or all buildings on which a contract has been issued, to determine compliance with the Pest Control Law and Rules ~~and Regulations~~ Rules made thereunder.

B. ~~The Department will send the license holder a notice~~ ~~Should-after Department~~ inspections, by ~~the Plant Board's~~Department representatives, of buildings covered by a contract, including a renewal of a contract and/or Letter of Clearance, if:

1. ~~be~~ ~~The building is~~ found infested with termites or other structural pests for which prevention, control or eradication has been contracted, or

2. ~~if~~ the Plant Board's minimum standards (Sections IIIA, IIIB, IIID and IIIE-), other than those excepted in the contract and given prior approval, a waiver of certain minimum treating standards, or an exclusion of certain minimum treating standards by the ~~Plant Board~~Department, have not been met or fulfilled, or

3. ~~misrepresentations~~ have been made to the owner; ~~the Plant Board~~Department will send ~~the license holder a notice~~ to that effect.

B. The license holder shall, within 15 days, retreat the building when necessary and otherwise bring the building into compliance with the law and these ~~regulations-rules~~ and shall submit to the ~~Plant Board~~Department along with the report of correction an appropriate re-inspection fee. If the

necessary corrections cannot be made in 15 days due to circumstances beyond the license holder's control, additional time may be requested from the Plant Board office Department.  
C. When a notice has not been returned by the due date and the license holder has not contacted the Plant Board office Department concerning the notice, a re-inspection of the building will be made. ~~A and~~ another notice will be issued; if the building has not been brought up to standard at the time of the re-inspection. Should subsequent re-inspections reveal the building still not in compliance, a third and final notice will be issued following the same procedure outlined above. Should re-inspections of the third and final notice reveal the building is still not in compliance the license holder will be subject to enforcement action according to Arkansas State Plant Board Pest Control Enforcement Response Regulations Rules. These fees for each notice are to pay for the cost of inspections and payment does not preclude invalidation of a license by the State Plant Board should this be warranted.

#### **6. Inspection of First Five Properties Treated:**

Within 90 days of issuance of a first termite and other structural pest license to a commercial applicator, the new commercial applicator shall submit a report on their first five termite treatments including all required forms and information. The report shall be accompanied by an inspection fee of \$20.00 for each job and the regular \$5.00 reporting fee will be waived on these first five jobs. The new commercial applicator must be present and directly perform and/or supervise the first five termite treatments. Plant Board Department representatives will inspect the jobs to assess the applicator's performance and compliance with the law and regulations rules. New construction (pre-treat) applications must be monitored by Plant Board Department representatives. The new commercial applicator must notify the Commercial Pest Control Section-Program 48 hours prior to all first five pre-treat applications.

An extension of the 90-day due date may be granted upon written request submitted to the Plant Board Department. If a commercial applicator does not complete and report their first five jobs in 90 days or upon the extended due date, or if inspection shows that the applicator is apparently not qualified, a notification that no more work is to be performed will be issued and the Plant Board Department will consider revoking the applicator's license. A hearing before the State Plant Board's Pest Control Committee may be requested by filing a certified letter with the Board Department within 20 days of receipt of the notice.

#### **7. Supervision:**

A commercial applicator (licensed operator) shall be considered in charge of all pest control work and/or services performed. Commercial applicators shall be readily available and shall maintain a supervisory position over all pest control agents performing work in the classification or classifications for which the commercial applicator is licensed. No more than 30 registered agents shall be supervised by any one commercial applicator. The license holder shall assign supervisory charge of commercial applicators over registered technicians. If evidence shows a registered technician commits a violation of Arkansas Pest Control Law or Rules, ~~and Regulations~~ the license holder shall be required to identify the technicians supervising commercial applicator. If evidence shows a commercial applicator and/or applicators are no longer in charge of the license holder's pest control operation, the commercial applicator (and/or applicators) and license holder's licenses shall be deemed invalid in accordance with the provisions of the Pest Control Law.

#### **8. Notice that all Jobs are to be inspected:**

Any time that an unreasonably high (15% or more) number of jobs of a license holder upon inspection are found not in compliance with the law and these regulations rules, the Pest Control Committee, after reviewing the record of the licensee in question, may instruct Plant Board Department inspectors to inspect all jobs reported during the previous year. In such a case the license holder will be notified by registered or certified letter (return receipt requested) that their work has not been satisfactory. The Plant Board Department will withhold any further inspections for 60 days following the receipt of this notice. After the 60-day delay, all jobs reported the previous year, not including those previously checked and in compliance, will be inspected. The time period covered will be the year previous to the date that the above notice is received by the

license holder.

**9. Training manuals for examinations:**

The University of Arkansas Cooperative Extension Service has developed a training manual for Classification 1: Termite and Other Structural Pest Control. The materials within this manual will be updated as needed to meet or exceed the competency requirements of 40 C.F.R. § 171.103(d)(7) [Industrial, institutional, and structural pest control], to meet the requirements of changing technology, and ensure a continuing level of competence and ability to use pesticides safely and properly, pursuant to A.C.A. Ark. Code § 17-37-206(g).

In addition, applicants must also pass the basic core examination as per the federal competency standard 40 C.F.R. § 171.103(d)(7). The training materials and examinations will be updated as the federal standards are updated.

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**SECTION III A  
MINIMUM REQUIREMENTS FOR STRUCTURAL PEST WORK ON  
EXISTING STRUCTURES**

**1. Access opening:**

An opening, at least 14 inches high and 16 inches wide, shall be provided to permit inspection under all parts of the building.

**2. Chemicals:**

The term chemical, when used hereafter, shall apply to pesticides used for the control or prevention of termites, powder-post beetles, wood destroying fungi, and other wood destroying organisms. The name of the chemical used, and the product's EPA Registration number shall be clearly stated on the face of each contract and clearly identified on ~~any and~~ all re-treatment records. This requirement shall also apply to Reports of Substandard Termite Treatment when additional chemical applications are required or performed. The pesticides are described in Section III C-materials.

**3. Debris and Form Boards:**

(a) All wood including stumps, roots, and other cellulose debris which can be caught by a rake, on the surface of the ground, must be removed from underneath the building. Large stumps, that are impractical to remove, may be trenched, drilled, or rodded and treated provided they are not in contact with or within 5 inches of the building's substructure timbers.

(b) All unnecessary form boards and grade stakes must be removed from underneath and around the outside of the building. Grade stakes embedded in the foundation footing which are impractical to remove should be cut off flush with the concrete and treated as per label directions with chemical.

**4. Clearance Under Buildings:**

All soil, ~~which is~~ within 12 inches of bottom edge of floor joists or within 5 inches of sub-sills, must be removed.

Note: Scuttle holes, 14 inches high and 16 inches wide, must be provided under drop sills, plumbing, air ducts, or any other similar obstructions. All areas under the building must be made accessible for complete inspection.

**5. Shelter Tubes:**

Brush all termite shelter tubes from piers, walls, sills, joists, sub-floors, pipes, and other parts of the building.

#### 6. Piers and Stiff-legs:

Stiff-legs, wood piers, or other wood supports must have concrete or metal-capped bases extending at least 3 inches above the ground.

#### 7. Wood on Concrete Floors:

Where wood parts such as posts, door frames, partitions, stair-carriages, stiff-legs, posts, or other wood supports that:

- (a)—have been attacked by termites working up thru concrete, or
- (b)—are set down into concrete;

Said wood parts may be cut off and placed on concrete or metal bases and/or treated as per label directions around such supports.

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#### 8. Wood Steps:

Wood steps must be treated with approved chemicals according to the label directions.

#### 9. Pipes:

Pipes must be treated with approved chemicals according to the label directions.

#### 10. Replacements / Exclusion of Existing Damage:

A. Wood substantially weakened by termites, powder-post beetles or decay fungi (rot) should be replaced. Replacements may be made by the license holder or the property owner, or both. Replacements made by the license holder exceeding two thousand dollars (\$2,000.00) must be performed by a licensed contractor. Replacement of damage caused by termites or powder-post beetles for which the operator is not responsible must be specifically excluded in writing by:

- (1)—Describing the excluded replacements in the contract and stating therein that they are not to be made by the license holder;
- (2)—Showing their location on the diagram of the structure and;
- (3)—Noting that the replacement of un-infested hidden damage (that which cannot be seen by thorough visible inspection without defacing the property), which is not covered by (1) and (2) and which was caused by an infestation occurring prior to the operator's first treatment of the property or the issuance of a letter of clearance, shall not be the responsibility of the license holder.

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B. The license holder shall be required to replace substantially weakened wood which has been damaged by termites, on buildings covered by a contract, providing a guarantee for retreatment and replacement of termite damage, when inspectors find active termites associated with the damaged wood and/or visible damage not excluded as required in paragraph A.

C. Replacement of wood weakened by decay fungi (rot) shall not be the license holder's responsibility, unless they have entered into an agreement to control this pest.

#### 11. Outside Grade: (See Figure 1)

##### A. Wood Construction.

Top of foundation wall and all exterior wood, such as siding and framing, must be at least 3 inches above outside grade. To lower grade, soil next to wall must be removed to necessary depth and treated with approved chemicals according to the label directions.

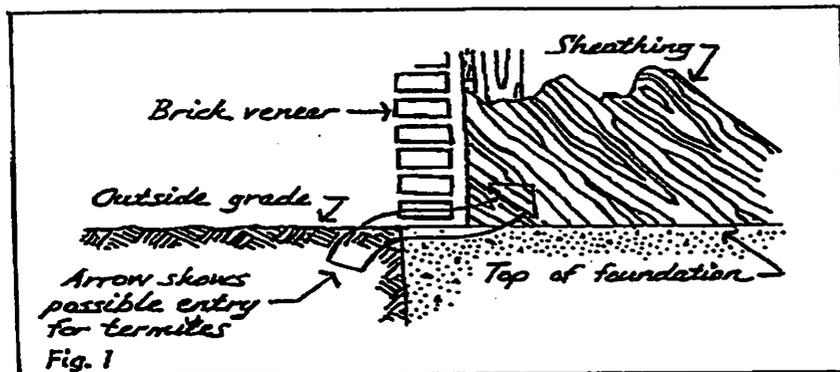
### B. Masonry Veneer Construction.

Soil against masonry veneer must be treated with approved chemicals according to the label directions.

#### FIGURE 1 EXPLAINS 11.

In this drawing, the top of the foundation is level with the outside grade. This is a hazardous condition for two reasons:

- (1) Wood at or near ground level is often damp, a condition favorable to termites;
- (2) Termites can easily enter from the outside, unseen, by going thru cracks in the first mortar joint and then into the sheathing. Unless the outside grade is at least 3 inches below the wood parts of the house (including the siding on a frame house), it must be treated as described in Section 11.



### 12. Skirting and Lattice Work:

Skirting and Lattice Work should rest on solid concrete or cemented brick extending at least 3 inches above the outside grade, unless suspended, in which case there should be at least 3 inches clearance above grade. Contact must be broken between the building and any lattice which may rest on or in the soil.

Exception: Skirting and lattice work outside the perimeter of a buildings foundation, attached to a wood porch or deck, need not be serviced to provide 3 inches of clearance above the outside grade. These items must be treated with approved chemicals according to the label directions.

### 13. Steps, Porches, Ground Slabs and Similar Structures:

#### A. Structures which are even with, or above the sill line, must be:

Drilled and treated at intervals specified by label directions at the juncture of the structure and foundation or wall. If the label directions are not specific, the intervals at which the operator drills to achieve adequate barriers shall be stated on the graph. In such cases if the maximum intervals are not stated on the graph the operator will be required to drill and treat the structures at a maximum of 18 inch intervals. If the structure is long-rodged, the route must be shown on the diagram of the building;

#### B. Structures below the sill line:

1. Veneer construction, must be treated with approved chemicals according to the label directions.

2. Frame construction, in which the structure is within 3 inches of the wood, must be treated with approved chemicals according to the label directions. If the structure is more than 3 inches below the wood no treatment is required unless an infestation is associated with the structure, or otherwise specified by the label directions.

**14. Stucco:**

(a) Wood supports for stucco must be at least 6 inches above outside ground level, or 4 inches above the level of ground under an adjacent slab.

(b) Where stucco extends to or below grade, the soil must be treated with approved chemicals according to the label directions. This is in addition to ground treatment under building (see 15).

**15. Ground Treatment Under the Building:**

The inside of foundation wall and around all pipes, chimneys, and piers must be treated with approved chemical according to the label directions.

**16. Ground Treatment Outside Buildings:**

The outside of foundation walls must be treated with approved chemicals according to the label directions.

**17. Chemical Treatment of Masonry:**

Treatment with approved chemicals shall be in accordance with label directions as follows to foundation walls, piers, and chimneys.

(a) To all cracks in concrete.

(b) To mortar joints, cracks, and voids in the horizontal layer of masonry (stone, brick, concrete blocks, and tiles) which is adjacent to the treated ground at the bottom of the trench.

(c) To voids between walls, as in brick veneer and stucco construction.

NOTE 1: When the foundation wall is of hollow masonry blocks and the blocks are not capped with metal or solid concrete, each void should be drilled and injected with chemical unless specified otherwise by the label directions. This should be done even though there is no visible sign of infestation.

NOTE 2: When footing is of solid concrete, with no cracks, and trenches on both sides of wall extend down to it, drilling and injection of mortar joints in wall is ordinarily not necessary.

NOTE 3: Items 15, 16, and 17 do not permit spot treatment of dwellings. The license holder is held responsible for the entire structure on one family dwelling units. Commercial, industrial and institutional buildings may, however, be spot treated at the license holder's option. The license holder's responsibility in such cases shall be limited to retreatment and repair of the area spot treated, provided the area is shown on the graph, described in the contract and understood by the property owner before the contract is signed.

**18. Powder-Post Beetles:**

If powder-post beetles are not to be treated or covered by the contract, the owner must be so informed in writing on the initial contract. Treatment, if made, should be applied to all wood

showing signs of infestation. This can be done by spraying, brushing, or mopping as per label directions onto wood surfaces any pesticide approved for use in powder-post beetle control as described in Section IIIC-Materials. Two or more applications must usually be made at intervals to achieve control. Special formulations are required for treating flooring or furniture to avoid damage to the finish.

#### **19. Slab Construction:**

Slab construction shall meet all of the foregoing minimum requirements except, as outlined in paragraphs 1, 3(a), 4, 9, and 15. Treatments should be made when swarms occur or damage is found, or as a preventive measure. Treatment under the slab is accomplished by drilling holes in the slab or foundation through which chemical can be applied in accordance with label directions to establish a barrier in the soil. Long-rodging can sometimes be accomplished without drilling. Brick and stone veneer on slab construction is treated by drilling through the veneer and injecting the void between the veneer and the slab with chemical. Brick and stone veneer shall be treated with approved chemicals according to the label directions. If the label directions require drilling and treating and the maximum interval requirements are not specific, the intervals at which the operator drills to achieve adequate barriers shall be stated on the graph. In such cases if the maximum intervals are not stated on the graph the operator will be required to drill and treat at a maximum of 18 inch intervals.

NOTE: On structures which are part slab and part crawl space, appropriate minimum requirements shall be met on each part.

#### **20. Foam Treatment for Concrete Slab and Masonry Veneer:**

Treatment is accomplished by applying the chemical according to the label directions.

#### **21. Foam Treatment for Crawl Space:**

Treatment is accomplished by applying the chemical according to the label directions.

NOTE: All contracts and graphs must specify when foam treatment is used and clearly state the name and the EPA Registration number of the product used.

### **SECTION IIIB MINIMUM REQUIREMENTS FOR STRUCTURAL PEST WORK ON NEW CONSTRUCTION (PRE-TREAT)**

Pre-treat: New buildings which are treated for the control of termites before, during and/or at the conclusion of construction. Pretreatments shall be made as directed by one or a combination of the following treatment methods

#### **1. Chemical soil barrier treatments:**

Crawl space construction: approved chemical at concentration rate and volume must be applied according to label directions to establish a vertical barrier in the soil adjacent to both sides of the foundation, around piers, pipes and other construction elements that would permit termites to infest the building from the ground. Horizontal chemical barriers must be established by applying chemical at the concentration rate and volume specified by the label directions to all soil surfaces to be covered by steps, porches, garage floors, carport slabs, patios or other structures adjoining the building. In addition to the establishment of both vertical and horizontal chemical barriers in the soil the building must meet items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11a of the minimum requirements

given for existing structures in Section IIIA.

Slab Construction: approved chemical at concentration rate and volume must be applied according to label directions to establish a horizontal chemical barrier in the soil under all parts of the building, adjoining steps, carports, garage floors, patios, porches, or other structures adjoining the building. Chemical must be applied at concentration rate and volume according to the label directions in the soil adjacent to the foundation wall around the outside of the building to establish a vertical barrier in the soil. In addition to the establishment of horizontal and vertical chemical barriers in the soil, the building must meet items 3b, 5, 7, 8, 10, and 11a of the minimum requirements given for existing structures in Section III A.

Foam Treatments: Treatment is accomplished by applying the chemical as specified by the label directions.

NOTE: Contracts and graphs must specify when foam treatment is used and clearly state the name and the EPA Registration number of the product used.

NOTE: Buildings which are part slab and part crawl space must meet appropriate minimum requirements ~~shall be met~~ on each part.

## 2. Above ground wood treatment methods:

Approved chemical must be applied to the wood according to the label directions, concentration rates and volumes. In addition crawl space buildings must meet items 1, 3, 4, 5, 6, 10, and 11a of the minimum requirements for existing structures in Section III A.

### Bait treatment methods:

When baits are used for pre-treatment of a new building, all requirements in Section III E must be met.

Note: Contracts and graphs for all pre-treats must state the name and the EPA Registration number of the material used. All materials used must comply with the requirements for materials given in Section III C.

## SECTION III C MATERIALS

Any pesticide or combination of pesticides approved by the United States Environmental Protection Agency, registered with the ~~Arkansas State Plant Board~~ Department, and labeled for the prevention or control of termites, powder-post beetles, wood-rotting fungi, or other wood destroying organisms may be used to treat structural pests provided that the pesticides are used ~~according to~~ in accordance with the label directions.

## SECTION III D MINIMUM REQUIREMENTS FOR STRUCTURAL PEST WORK ON WOOD DECKS AND WOOD PATIOS ON EXISTING AND NEW CONSTRUCTION

1. Chemical Treatment to wood decks and wood patios (an open platform adjoining a building, not covered by a roof and/or supported by and enclosed masonry foundation):

Approved chemicals shall be applied or reapplied according to label directions around and under wood decks and wood patios to control subterranean termites.

**2. New contracts, Contract Transfers, Clearance Letters and Soil Treatment Certificate Responsibility:**

Wood decks and/or wood patios are INCLUDED as part of the contract, contract transfer or clearance letter issued on an attached structure UNLESS the contract, contract transfer or clearance letter shows in BOLD PRINT that existing termite damage, or damage that occurs in the future, is NOT to be replaced on wood decks and/or wood patios.

**3. Replacements:**

- A. License holders shall not be required to replace damaged wood caused by termites on wood decks or wood patios treated, even if infested with live subterranean termites, provided, that Section III D, subsection 2 above has been complied with.
- B. License holders shall not be required to replace damaged wood caused by weather related rot or other rots on wood decks or wood patios.
- C. License holders shall be required to replace damage caused by termites in the treated structure adjacent to the wood deck or wood patio even though the infestation causing such damage originates in the wood deck or patio after the initial treatment to the property.

**CLARIFICATION:**

- A. License holders electing to issue contracts for future termite damage replacement on wood decks and wood patios, shall be held equally responsible as for any other part of a building.
- B. License holders failing to comply with Section III D, subsection 2 above shall be required to make replacements as needed on wood decks and wood patios.
- C. Wood decks and wood patios NOT connected to a treated building are excluded from treatment or repair requirements, unless they are specifically covered by a contract for treatment and damage replacement.

**SECTION III E  
MINIMUM REQUIREMENTS FOR TERMITE WORK WHEN USING  
BAITS AS THE METHOD OF CONTROL**

**1. Contracts:**

In addition to requirements specified in SECTION II item 1, contracts must specifically state the initial number of bait stations that are to be installed and the frequency upon which an inspection of the bait placements or monitoring stations are to be performed. The diagram must show the location of each bait station.

**2. Treatment:**

The materials, baits, monitoring stations, and matrixes shall be applied and maintained according to label directions and schedule specified in the contract.

**3. Replacements / Exclusion of Existing Damage:**

A. Wood substantially weakened by termites, powder-post beetles or decay fungi (rot) should be replaced. Replacements may be made by the license holder or the property owner, or both. Replacements made by the license holder exceeding two thousand dollars (\$2,000.00) shall be performed by a licensed contractor. Replacements of damage caused by termites or powder-post beetles for which the license holder is not responsible must be specifically excluded in writing by:

- (1) Describing the excluded replacements in the contract and stating therein that they are not to be made by the operator.
- (2) Showing their location on the diagram of the structure and;
- (3) Noting that the replacement of un-infested hidden damage (that which cannot be seen by thorough visible inspection without defacing the property), which is not covered by (1) and (2) which was caused by an infestation occurring prior to the operator's first treatment of the property or the issuance of a letter of clearance, shall not be the responsibility of the operator.

B. The license holder shall be required to replace substantially weakened wood, ~~which has been~~ damaged by termites, on buildings covered by a contract providing a guarantee for retreatment and replacement of termite damage, when inspectors find active termites associated with the damaged wood and / or visible damage not excluded as required in paragraph A.

C. Replacement of wood weakened by decay fungi (rot) shall not be the license holder's responsibility, unless they have entered into an agreement to control this pest.

#### SECTION IV HOUSEHOLD PEST AND RODENT CONTROL (CLASSIFICATION 2)

Household Pest and Rodent Control shall consist of the control of any mammal, bird, arthropod, reptile or other organism that may infest or invade a home or other buildings or the immediate area around or under these homes or buildings or other areas, other than wood-damaging or destroying insects, fungi or organisms. Holders of a license in this classification shall not be restricted in performing Household Pest and Rodent Control services.

The ~~Plant Board~~ Department will investigate complaints against license holders, and monitor each operator's work from time to time, and may invalidate a license for fraud, misrepresentation, failure to carry out contracts, use of improper methods or materials, or other reasons specified in the law.

**Training manuals for examinations:**

The University of Arkansas Cooperative Extension Service has developed a training manual for Classification 2: Household Pest and Rodent Control. The materials within this manual will be updated as needed to meet or exceed the competency requirements of 40 C.F.R. § 171.103(d)(7) [Industrial, institutional, and structural pest control], to meet the requirements of changing technology, and ensure a continuing level of competence and ability to use pesticides safely and properly, pursuant to A.C.A. Ark. Code § 17-37-206(g).

In addition, applicants must also pass the basic core examination as per the federal competency standard 40 C.F.R. § 171.103(d)(7). The training materials and examinations will be updated as the federal standards are updated.

**Supervision:**

A commercial applicator (licensed operator) shall be considered in charge of all pest control work and/or services performed. Commercial applicators shall be readily available and shall maintain a

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supervisory position over all pest control agents performing work in the classification or classifications for which the commercial applicator is licensed. No more than 30 registered agents shall be supervised by any one commercial applicator. The license holder shall assign supervisory charge of commercial applicators over registered technicians. If evidence shows a registered technician commits a violation of Arkansas Pest Control Law or Rules ~~and Regulations~~ the license holder shall be required to identify the technicians supervising commercial applicator. If evidence shows a commercial applicator and/or applicators are no longer in charge of the license holder's pest control operation, the commercial applicator (and/or applicators) and license holder's licenses shall be deemed invalid in accordance with the provisions of the Pest Control Law.

**SECTION V**  
**TREE AND TURF PEST CONTROL (CLASSIFICATION 4)**  
**WEED CONTROL (CLASSIFICATION 5)**  
**GOLF COURSE PEST CONTROL (CLASSIFICATION 6)**

The ~~Plant Board~~ Department will investigate complaints against license holders and may cancel license for fraud, misrepresentation, failure to carry out promises, use of improper methods or materials, or other reasons specified in the law.

**Training manuals for examinations:**

The University of Arkansas Cooperative Extension Service has developed a training manual for Classification 4: Ornamental, Tree, and Turf Pest Control, Classification 5: Weed Control, and Classification 6: Golf Course Pest Control. The materials within these manuals will be updated as needed to meet or exceed the competency requirements of 40 C.F.R. § 171.103(d)(3) [Ornamental and turf pest control], to meet the requirements of changing technology, and ensure a continuing level of competence and ability to use pesticides safely and properly, pursuant to Ark. Code § A.C.A. 17-37-206(g).

In addition, applicants must also pass the basic core examination as per the federal competency standard 40 C.F.R. § 171.103(d)(7). The training materials and examinations will be updated as the federal standards are updated.

**Supervision:**

A commercial applicator (licensed operator) shall be considered in charge of all pest control work and/or services performed. Commercial applicators shall be readily available and shall maintain a supervisory position over all pest control agents performing work in the classification or classifications for which the commercial applicator is licensed. No more than 30 registered agents shall be supervised by any one commercial applicator. The license holder shall assign supervisory charge of commercial applicators over registered technicians. If evidence shows a registered technician commits a violation of Arkansas Pest Control Law or Rules ~~and Regulations~~ the license holder shall be required to identify the technicians supervising commercial applicator. If evidence shows a commercial applicator and/or applicators are no longer in charge of the license holder's pest control operation, the commercial applicator (and/or applicators) and license holder's licenses shall be deemed invalid in accordance with the provisions of the Pest Control Law.

**SECTION VI**  
**GENERAL FUMIGATION (CLASSIFICATION 3)**

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Holders of a license in this category shall not be restricted in performing fumigation services.

**Training manuals for examinations:**

The University of Arkansas Cooperative Extension Service has developed a training manual for Classification 3: General Fumigation. The materials within this manual will be updated as needed to meet or exceed the competency requirements of 40 C.F.R. § 171.103(d)(14) [Non-soil fumigation], to meet the requirements of changing technology, and ensure a continuing level of competence and ability to use pesticides safely and properly, pursuant to Ark. Code § ~~A-C-A-17-37-206~~(g). Specifically, this manual will be updated to address: Problems and mistakes resulting in direct exposure to fumigants (40 C.F.R. § 171.103(d)(14)(ii)(B)); Steps if applicator experiences sensory irritation(40 C.F.R. § 171.103(d)(14)(ii)(E)); Buffer zones, buffer zone monitoring, and who may be in a buffer zone (40 C.F.R. § 171.103(d)(14)(ii)(G)); How fumigants disperse in the application zone (40 C.F.R. § 171.103(d)(14)(iii)(D)); Factors that influence gaseous movement through the area being fumigated and into the air (40 C.F.R. § 171.103(d)(14)(v)(B)); Importance of proper application rate and timing (40 C.F.R. § 171.103(d)(14)(v)(E)); Labeling requirements and other laws applicable to medical evaluation for respirator use, fit tests, training, and recordkeeping (40 C.F.R. § 171.103(d)(14)(vi)(D)), and; Fumigant management plans and post-application summaries (40 C.F.R. § 171.103(d)(14)(vii)).

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In addition, applicants must also pass the basic core examination as per the federal competency standard 40 C.F.R. § 171.103(d)(7). The training materials and examinations will be updated as the federal standards are updated.

**Supervision:**

A commercial applicator (licensed operator) shall be considered in charge of all pest control work and/or services performed. Commercial applicators shall be readily available and shall maintain a supervisory position over all pest control agents performing work in the classification or classifications for which the commercial applicator is licensed. No more than 30 registered agents shall be supervised by any one commercial applicator. The license holder shall assign supervisory charge of commercial applicators over registered technicians. If evidence shows a registered technician commits a violation of Arkansas Pest Control Law or Rules ~~and Regulations~~ the license holder shall be required to identify the technicians supervising commercial applicator. If evidence shows a commercial applicator and/or applicators are no longer in charge of the license holder's pest control operation, the commercial applicator (and/or applicators) and license holder's licenses shall be deemed invalid in accordance with the provisions of the Pest Control Law.

**SECTION VII**  
**~~NON-COMMERCIAL~~NONCOMMERCIAL STRUCTURAL PEST CONTROL (CLASSIFICATION 7)**  
**~~NON-COMMERCIAL~~NONCOMMERCIAL FUMIGATION (CLASSIFICATION 8)**

**~~Non-Commercial~~Noncommercial Structural Pest Control (Classification 7):**

A ~~Non-Commercial~~Noncommercial Applicator Certificate (not a license) shall be issued in this classification to owners or employees of government, institutions, businesses, companies, or corporations for the purpose of performing pest control work (including wood destroying insects and organisms) on the premises of property owned or managed by themselves or their employer. ~~Non-commercial~~Noncommercial applicators shall be restricted to pest control work at addresses owned or under the direct management of their employer as stated on the ~~Non-Commercial~~Noncommercial Applicator Certificate. ~~Non-commercial~~Noncommercial applicators shall be restricted from issuing Letters of Clearance, wood destroying insect inspection reports, or

termite contracts. Any person issuing any type of termite inspection related reports or contracts or performing pest control work for more than one government agency, institution, business, company, or corporation shall qualify and be licensed, bonded, and insured under Classification 1 (Termite and Other Structural Pest) and/or Classification 2 (Household Pest and Rodent Control) rather than in this classification. The business, companies, or corporations and the ~~non-commercial~~noncommercial applicator shall be jointly and severally responsible for the proper use of pesticides by the employee. ~~Non-commercial~~Noncommercial applicators must take special precautions when performing pesticide applications in areas such as for food preparation, areas occupied by tenants, pets, workers, etc. All pesticide product label directions must be strictly followed. The ~~Non-Commercial~~Noncommercial Applicator Certificate shall be subject to denial, suspension or invalidation for any or all grounds stated in AR Code Annotated §17-37-101 as amended or these regulationsrules.

**Training manuals for examinations:**

The University of Arkansas Cooperative Extension Service has developed a training manual for Classification 7: Food Manufacturing, Processing and Storage Pest Control. The materials within this manual will be updated as needed to meet or exceed the competency requirements of 40 C.F.R. § 171.103(d)(7) [Industrial, institutional, and structural pest control], to meet the requirements of changing technology, and ensure a continuing level of competence and ability to use pesticides safely and properly, pursuant to Ark. Code § ~~A.C.A.~~17-37-206(g). The title of the manual will be updated to reflect the current category name for Classification 7.

In addition, applicants must also pass the basic core examination as per the federal competency standard 40 C.F.R. § 171.103(d)(7). The training materials and examinations will be updated as the federal standards are updated.

**Non-CommercialNoncommercial Fumigation (Classification 8):**

A ~~Non-Commercial~~Noncommercial Applicator Certificate (not a license) shall be issued in this classification to owners or employees of, primarily wholesale food manufacturing, processing and storing businesses, companies, or corporations for the purpose of performing fumigation pest control work on the premises of property owned or managed by themselves or their employer. Said ~~non-commercial~~noncommercial applicators shall be restricted to fumigation at addresses owned or under the direct management of their employer as stated on the ~~Non-Commercial~~Noncommercial Applicators Certificate. Any person performing fumigation for more than one business, company, or corporation shall qualify and be licensed under Classification 3 (General Fumigation) rather than in this classification. The business, company, or corporation and the ~~non-commercial~~noncommercial applicator shall be jointly and severally responsible for the proper use of fumigants. The ~~Non-Commercial~~Noncommercial Applicator certificate shall be subject to denial, suspension or invalidation for any or all grounds stated in AR Code Annotated §17-37-101 as amended or these regulationsrules.

The University of Arkansas Cooperative Extension Service has developed a training manual for Classification 8: Food Related Fumigation. The materials within this manual will be updated as needed to meet or exceed the competency requirements of 40 C.F.R. § 171.103(d)(14) [Non-soil fumigation], to meet the requirements of changing technology, and ensure a continuing level of competence and ability to use pesticides safely and properly, pursuant to Ark. Code § ~~A.C.A.~~17-37-206(g). Specifically, this manual will be updated to address: Problems and mistakes resulting in direct exposure to fumigants (40 C.F.R. § 171.103(d)(14)(ii)(B)); Steps if applicator experiences sensory irritation(171.103(d)(14)(ii)(E)); Buffer zones, buffer zone monitoring, and who may be in a buffer zone (40 C.F.R. § 171.103(d)(14)(ii)(G)); How fumigants disperse in the application zone (40 C.F.R. § 171.103(d)(14)(iii)(D)); Basic techniques for calibrating application equipment (40 C.F.R. § 171.103(d)(14)(iv)(G)); Factors that influence gaseous movement through the area being fumigated and into the air (40 C.F.R. § 171.103(d)(14)(v)(B)); Importance of proper application rate and timing (171.103(d)(14)(v)(E)); Labeling requirements and other laws applicable to medical

evaluation for respirator use, fit tests, training, and recordkeeping (40 C.F.R. § 171.103(d)(14)(vi)(D)), and; Fumigant management plans and post-application summaries (40 C.F.R. § 171.103(d)(14)(vii)). The title of the manual will be updated to reflect the current category name for Classification 8.

In addition, applicants must also pass the basic core examination as per the federal competency standard 40 C.F.R. § 171.103(d)(7). The training materials and examinations will be updated as the federal standards are updated.

Training manuals for examinations:

The University of Arkansas has developed a training manual for Classification 8: Food Related Fumigation. The materials within this manual will be updated as needed to meet or exceed the competency requirements of 171.103(d)(14) [Non-soil fumigation], to meet the requirements of changing technology, and ensure a continuing level of competence and ability to use pesticides safely and properly, pursuant to A.C.A. 17-37-206(e). Specifically, this manual will be updated to address: Problems and mistakes resulting in direct exposure to fumigants (171.103(d)(14)(ii)(B)); Steps if applicator experiences sensory irritation (171.103(d)(14)(ii)(E)); Buffer zones, buffer zone monitoring, and who may be in a buffer zone (171.103(d)(14)(ii)(G)); How fumigants disperse in the application zone (171.103(d)(14)(iii)(D)); Basic techniques for

calibrating application equipment (171.103(d)(14)(iv)(G)); Factors that influence gaseous movement through the area being fumigated and into the air (171.103(d)(14)(v)(B)); Importance of proper application rate and timing (171.103(d)(14)(v)(E)); Labeling requirements and other laws applicable to medical evaluation for respirator use, fit tests, training, and recordkeeping (171.103(d)(14)(vi)(D)); and; Fumigant management plans and post-application summaries (171.103(d)(14)(vii)). The title of the manual will be updated to reflect the current category name for Classification 8.

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In addition, applicants must also pass the basic core examination as per the federal competency standard 171.103(d)(7). The training materials and examinations will be updated as the federal standards are updated.

## SECTION VIII

### ~~NON-COMMERCIAL~~NONCOMMERCIAL TREE AND TURF PEST CONTROL (CLASSIFICATION 9)

### ~~NON-COMMERCIAL~~NONCOMMERCIAL GOLF COURSE PEST CONTROL (CLASSIFICATION 10)

#### ~~Non-Commercial~~Noncommercial Tree and Turf Pest Control (Classification 9):

A ~~Non-Commercial~~Noncommercial Applicator Certificate (not a license) shall be issued to owners or employees of government, institutions, businesses, companies, or corporations for the purpose of performing tree and turf pest control work on the premises of property owned by themselves or their employer. Said ~~non-commercial~~noncommercial applicators shall be restricted to pest control work at the address or addresses stated on the ~~Non-Commercial~~Noncommercial Applicator Certificate. A ~~Non-Commercial~~Noncommercial Applicator shall not perform pest control services for more than one governmental agency, institution, business, company, or corporation without having fully qualified and become licensed as a Commercial Applicator under Classifications 4 (Tree and Turf Pest Control) or Classification 5 (Weed Control). The agency, institution, business, company, or corporation and the ~~non-commercial~~noncommercial applicator shall be jointly and severally responsible for the proper use of pesticides by the employee. The ~~Non-Commercial~~Noncommercial Applicator Certificate shall be subject to denial, suspension, or invalidation for any or all grounds stated in AR code Annotated §17-37-101 et seq. as amended or these ~~regulations~~rules.

**Training manuals for examinations:**

The University of Arkansas Cooperative Extension Service has developed a training manual for Classification 9: Ornamental, Tree, and Turf Pest Control – Noncommercial Applicator. The materials within this manual will be updated as needed to meet or exceed the competency requirements of 40 C.F.R. § 171.103(d)(3) [Ornamental and turf pest control], to meet the requirements of changing technology, and ensure a continuing level of competence and ability to use pesticides safely and properly, pursuant to Ark. Code § ~~A.C.A.~~17-37-206(g). The title of the manual will be updated to reflect the current category name for Classification 9.

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In addition, applicants must also pass the basic core examination as per the federal competency standard 40 C.F.R. § 171.103(d)(7). The training materials and examinations will be updated as the federal standards are updated.

**~~Non-Commercial~~Noncommercial Golf Course Pest Control (Classification 10):**

A ~~Non-Commercial~~Noncommercial Applicator Certificate (not a license) shall be issued in this classification to employees of the owner or owners of specific golf courses. Said employees shall be restricted to pest control work on courses owned or under control of said golf course owner or owners. The golf course owner or owners and the employee shall be jointly and severally responsible for the proper use of pesticides. A ~~Non-Commercial~~Noncommercial Applicator shall not perform pest control service for more than one golf course without having fully qualified and become licensed as a Commercial Applicator under Classification 6 (Golf Course Pest Control). The ~~Non-Commercial~~Noncommercial Applicator Certificate shall be subject to denial, suspension or invalidation for any or all grounds stated in AR code Annotated § 17-37-101 et seq. as amended or these ~~regulations.rules~~rules.

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**Training manuals for examinations:**

The University of Arkansas Cooperative Extension Service has developed a training manual for Classification 10: Golf Course Pest Control – Noncommercial Applicator. The materials within this manual will be updated as needed to meet or exceed the competency requirements of 40 C.F.R. § 171.103(d)(3) [Ornamental and turf pest control], to meet the requirements of changing technology, and ensure a continuing level of competence and ability to use pesticides safely and properly, pursuant to Ark. Code § ~~A.C.A.~~17-37-206(g).

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In addition, applicants must also pass the basic core examination as per the federal competency standard 40 C.F.R. § 171.103(d)(7). The training materials and examinations will be updated as the federal standards are updated.

**SECTION IX  
ARKANSAS STATE PLANT BOARD PEST CONTROL  
ENFORCEMENT RESPONSE ~~REGULATIONS~~ RULES**

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## X. STATEMENT OF PURPOSE

Pesticides are valuable to Arkansas' agricultural production and the protection of man and his possessions from insects, rodents, weeds, plant diseases, and other pests. It is essential to the public health and welfare that pesticides be used properly to prevent adverse effects on man and the environment.

The purpose of the ~~regulation-rules~~ is to provide a fair and consistent mechanism by which compliance with the Arkansas Pest Control Law, as amended, and the ~~regulations-rules~~ written pursuant thereto can be achieved.

## XI. DEFINITIONS

(As used in this policy)

- A. **Base Civil Penalty:** The midpoint of a civil penalty range. [Example: The civil penalty range for failure to report structural pest control work (1st level of enforcement) is \$200.00 to \$400.00. The base penalty is \$300.00]
- B. **Case Development Review Panel:** An internal committee of staff including: 1. The ~~Plant Industry Division Director~~Regulatory Services Section Manager or his/her designee, 2. The ~~Agency Assistant Plant Industries Division Director~~ or his/her designee, and—3. The ~~Agency Director~~Secretary of the Department of Agriculture or his/ her designee. The Case Development Review Panel will carefully review all case documentation to insure completeness and to insure that the recommended enforcement action is appropriate.
- C. **Level of Enforcement:** The category by which a violative incident is considered a first, second, third, or fourth offense.  
  
For a violation to be considered as a second or subsequent offense, it must be a repeat of a violation for which a previous enforcement action has been taken by the State Plant Board. The previous violation/violations must have occurred within the past 3 years.
- D. **Minor Violation:** A violative incident which does not involve human health, safety, or endanger the environment; or other incidents of non-compliance which do not create a competitive disadvantage for licensees in full compliance.

- E. **Major Violation:** A violative incident which affects human health, safety, or the environment; or other incidents of non-compliance which create a competitive advantage over licensees in full compliance; or a history of repetitive violative incidents. Any violation consisting of a label violation that involves potential human exposure may result in elevation of the violation to the fourth level of enforcement.

\*In no case shall the failure to meet minimum requirements for structural pest work (Sections III A, III B, III C, and III D) adopted under the authority of Ar. Code 17-37-105, except those which require a termiticide application, be considered a violation and subject to a civil penalty.

- F. **Respondent:** A person charged with a violation of the Arkansas Pest Control Law as amended, and the regulations-rules written pursuant thereto.

## XII. LEGAL AUTHORITY

A. "Arkansas Pest Control Law" A.C.A. Ark. Code §§ 17-37-101 et. seq. and RegulationsRules.

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B. "The Arkansas Plant Act" A.C.A. Ark. Code §§ 2-16-203 et. seq. and RegulationsRules.

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## XIII. ENFORCEMENT ACTIONS

Under the preceding Arkansas Codes, the State Plant Board has several options for enforcement action. These are:

- A. **Warning Letter:** For minor, 1st level of enforcement violations, the Board or Board Staff will issue a warning letter. The letter will cite the specific violation. The letter will also identify any corrective action that may be needed and notify the respondent that further violations will result in more severe enforcement action.
- B. **Informal Agreement:** When a violation has been alleged, the respondent has the option of an informal hearing or a board/committee hearing. The purpose of the informal hearing is to resolve a complaint or incident. A hearing officer will meet jointly with the respondent and Plant Board/Department Staff. The group will seek consensus on an appropriate enforcement action for recommendation to the State Plant Board. Enforcement action based on the Penalty Matrix (Appendix A) will include Civil Penalty and/or license suspension, revocation, non-renewal, or registration cancellation. The Full State Plant Board acts on all recommendations resulting from the informal hearing.
- C. **Board/Committee Hearing:** If the respondent chooses to bypass the informal agreement process, or if an agreement cannot be reached during the informal hearing, a hearing will be held by the Pest Control Committee of the State Plant Board. Enforcement action will include Civil Penalty and/or license suspension, revocation, non-renewal, or registration cancellation. Following the Committee hearing, a written Finding of Fact, Conclusion of Law, and recommendation will be submitted to the State Plant Board. The Full State Plant Board will act on all recommendations of the Committee.
- D. **Suspension / revocation / non-renewal of a license or registration:**  
The suspension, revocation, or non-renewal of a license by the State Plant Board may be in addition to, or in conjunction with, a civil penalty fine.
- E. **Injunction:** The State Plant Board may apply for an injunction to any court of competent jurisdiction for violations of the Arkansas Pest Control Law. The court, upon hearing and for cause, has the option of temporary or permanent injunction restraining any person from

violating any provisions of The Arkansas Pest Control Law and ~~regulations~~rules.

- F. **Referral to Prosecuting Attorney:** The State Plant Board has the option of referring violations of the Arkansas Pest Control Law to the prosecuting attorney.
- G. **Referral to EPA:** ~~The Plant Board~~On behalf of the State Plant Board, the Department will negotiate cases of referral with EPA to determine the appropriate action.

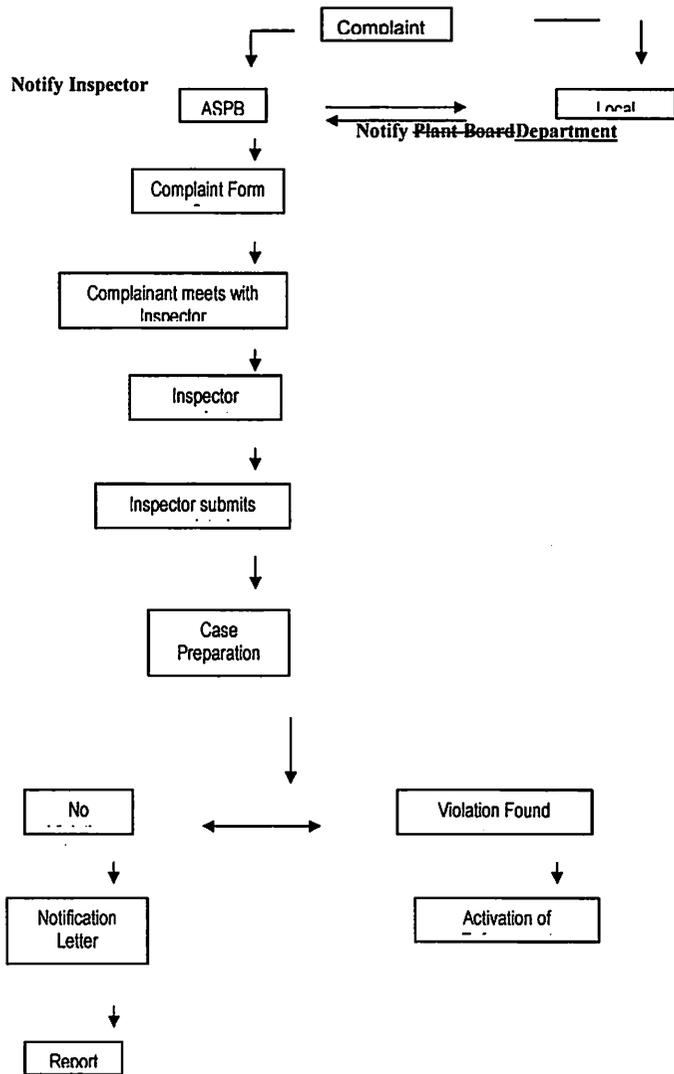
#### **XIV. INCIDENT INVESTIGATION**

**An incident investigation will be initiated when:**

- A. Routine compliance monitoring indicates a violation has occurred.
- B. A formal complaint that an alleged violative incident has occurred (Filing of a written form by a complainant). In cases of apparent immediate endangerment to health or the environment, the written notification may be waived, and the investigation of the alleged incident will begin immediately).
- C. Possible human exposure to pesticides is assigned priority status.

The processing sequence for an incident investigation is outlined in Figure I.

**FIGURE I**  
Processing Sequence



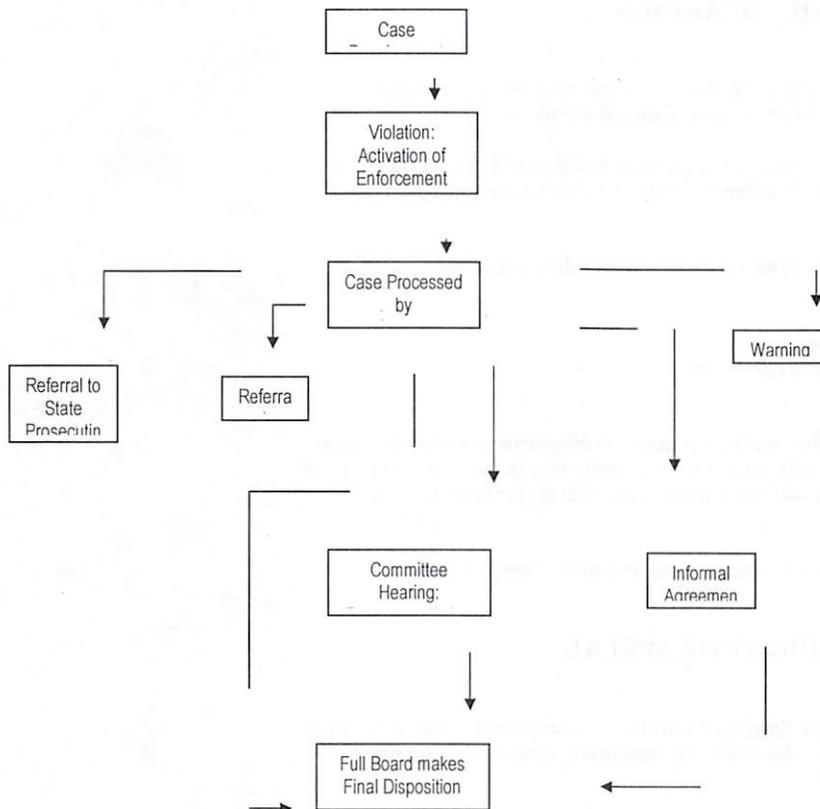
## XV. ACTIVATION OF ENFORCEMENT RESPONSE POLICY

An apparent violation of law and/or regulation-rules must be documented to initiate an enforcement action.

Documentation must conform to the requirements of the Plant Industry Division Department.

The sequence of events within the enforcement response policy is as follows:

### FIGURE II



## **XVI. INTERNAL REVIEW**

The Case Development Panel will carefully review all documentation and records to determine:

- A. That apparent violation / violations have occurred.
- B. Whether the apparent violation or violations are **Minor** and/or **Major** violations.
- C. The correct level of enforcement based on the penalty matrix and the documented history of the respondent.

Concurrence with the Division's finding by the Panel must be unanimous before further action can be taken on the case.

## **XVII. HEARINGS**

The informal hearing officer and/or the appropriate Committee and/or the Full State Plant Board will carefully review the documentation and hear cases of alleged violations.

Should it be determined a violation(s) has occurred, the severity and level of enforcement of each violation will be determined by the three (3) factors in Section VII; as they are applied to the Penalty Matrix (Appendix A).

If a violation is determined in this sequence; the following factors will be considered:

- A. Cooperation of the respondent.
- B. Other extenuating/mitigating circumstances.

The Hearing Officer/Committee/Board may use these factors to accelerate or mitigate enforcement action. When a civil penalty is the preferred action, the base penalty may be increased or decreased based on these factors. The civil penalty will not be more or less than the range for the specific violation listed in Appendix A.

The Full State Plant Board will take action to determine the final disposition of the case.

## **XVIII. RIGHT OF APPEAL**

Any person aggrieved by any action of the State Plant Board may obtain a review thereof, by filing in circuit court within 30 days of notice of the action, a written petition praying that the action of the State Plant Board be set aside.



Sarah Huckabee Sanders  
Governor

# ARKANSAS DEPARTMENT OF AGRICULTURE

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

JUL 26 2024



Wes Ward  
Secretary of Agriculture

Attachment 3B

## IN THE MATTER OF:

Green Thumb Lawn & Tree Care, John Ross, Jr., and Jason Ross

### *RESOLUTION OF PEST CONTROL INCIDENT*

This resolution of a pest control incident is entered into by the Arkansas Department of Agriculture (Department) and Green Thumb Lawn & Tree Care, John Ross, Jr., and Jason Ross (Respondents) pursuant to the authority of the Arkansas Pest Control Law, Act 488 of 1975, as amended, codified at Ark. Code Ann. § 17-37-101 et. seq. and the rules promulgated thereunder by the Arkansas State Plant Board (Plant Board).

In lieu of a formal hearing on this complaint, and in the interest of prompt and speedy settlement of the alleged violations specifically addressed herein, consistent with the public interest, statutory requirements, and the responsibilities of the Plant Board, the undersigned parties enter into this Consent Agreement as a final disposition of this matter. This agreement shall settle and resolve only those alleged violations specifically addressed herein. It is agreed and stipulated by the parties as follows:

#### FINDINGS OF FACT

1. Respondent Green Thumb Lawn & Tree Care employs Respondents John Ross, Jr. and Jason Ross.
2. Respondent Green Thumb Lawn & Tree Care is represented by John Ross, Jr.
3. Respondent John Ross, Jr. holds a Classification 5 Weed Control license; and is the immediate supervisor for Respondent Jason Ross.
4. Respondent Jason Ross is not a Registered Agent for Respondent Green Thumb Lawn & Tree Care; but was under the direct supervision of a licensed operator John Ross, Jr. who was in the process of training him as required before taking the agent registration exam.
5. On June 27, 2024, the Department's Pest Control Program staff observed Respondent Green Thumb Lawn & Tree Care's employees making applications from backpack sprayers in Jonesboro, wearing a short-sleeved shirt and no gloves. It was determined that Respondents John Ross, Jr. and Jason Ross were making an application of Vessel (EPA Reg #2217-656-72112) and Credit 41 Extra (EPA Reg. #71368-20) while not wearing long-sleeved shirts or gloves.
6. The product label for Vessel (EPA Reg #2217-656-72112) states in part the following:



8/1/2024 8:34:00 AM

PB Cashier 101

Number entry: 6977

PEST CIV PEN

\$600.00

**TOTAL**

**\$600.00**

Check

\$600.00

Item count: 1

Trans:200730

Terminal:050017009-001001

***“Personal Protective Equipment (PPE)***

*Some materials that are chemical-resistant to this product are natural rubber. If you want more options, follow the instructions for category A on an EPA chemical-resistance category selection chart.*

*All mixers, loaders, applicators and other handlers must wear:*

- protective eyewear,*
- long-sleeved shirt and long pants,*
- shoes and socks,*
- chemical-resistant gloves and*
- chemical-resistant apron when mixing or loading, cleaning up spills or equipment, or otherwise exposed to the concentrate.”*

7. The product label for Credit 41 Extra (EPA Reg. #71368-20) states in part the following:

***“PERSONAL PROTECTIVE EQUIPMENT (PPE):***

*Applicators and other handlers must wear: Long-sleeved shirt and long pants and shoes plus socks. Discard clothing and other absorbent materials that have been drenched or heavily contaminated with this product's concentrate. Do not reuse them. Follow manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables exist, use detergent and hot water. Keep and wash PPE separately from other laundry.”*

## **SETTLEMENT AGREEMENT**

For the purpose of settlement, as a resolution to the alleged violation and without an evidentiary hearing, Respondents agree and stipulate to the following:

1. Pursuant to the provisions of the ASPB Pest Control Enforcement Response Regulations, Penalty Matrix Violation # 2. Major (“Pesticide recommendations or applications which are inconsistent with any/or all the following: A. Labeling”) Respondents shall pay a civil penalty of \$600.00, which Respondents shall be jointly and severally liable for payment.
2. Respondents acknowledge and agree that subsequent like violations of the Pest Control Law within three years of June 27, 2024, will be enforced at the next level of the ASPB Enforcement Response Policy Penalty Matrix and will be subject to penalties as allowed for in Ark. Code Ann. § 17-37-103.
3. Respondents shall remit payment to the Department of Agriculture the above amount no later than forty-five (45) days after the acceptance and approval of this agreement by the Plant Board.

4. This agreement shall not become a valid and enforceable order of the Plant Board unless and until accepted and approved by the Plant Board at an official meeting and executed by the Chair of the Board or designee.

Scott Bray, Director  
Arkansas Department of Agriculture  
Plant Industries Division

John Ross, Jr., License Holder Representative  
Green Thumb Lawn and Tree Care

Scott Bray  
Signature  
8-2-24  
Date

John W. Ross, Jr.  
Signature  
07-22-24  
Date

PO Box 9098  
72403

AR. Dept. of Agriculture  
1 Natural Resources Div.  
Little Rock, AR 72205

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**Minutes for Pest Control Committee Meeting  
August 21, 2024  
Little Rock, Arkansas**

**Present via Zoom were:**

Committee Chair, Dr. Ken Korth  
David Gammill  
Jon Bierbaum  
Kyle Baltz  
Travis Senter  
Bruce Alford

**Others Present via Zoom:**

Scott Bray, Arkansas Department of Agriculture  
Mark Stoll, Arkansas Department of Agriculture  
Brandi Reynolds, Arkansas Department of Agriculture  
Lexie Felton, Arkansas Department of Agriculture

Meeting is called to order at 9:00 a.m. by the Committee Chair, Dr. Ken Korth. Introductions are made. Dr. Ken Korth asks Scott Bray to discuss the changes to the Pest Control Rules. The following is discussed:

- Overview of EPA agreement and compliance with FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act
- EPA has requested that the state update the rules to ensure compliance with FIFRA
- Language has been clarified regarding duties assigned to the board and administrative staff
- Examinations will be held online; written tests will be scheduled by 10 days after written request submission
- Fees remain the same
- License holders will document training for restricted applications by trainees under supervision
- Dr. Ken Korth recommends correction in document referring to the Department of Entomology and Plant Pathology after their merger several years ago
- Licenses will be valid 3 years
- If license is not renewed in 3 years, licensees must retest
- Safety, IPM (Integrated Pest Management), application or equipment methods, environmental concern, and laws and rule updates must be covered in recertification programs
- Restricted Use Pesticide record keeping requirements are detailed
- Training manuals for examination language updated for each classification

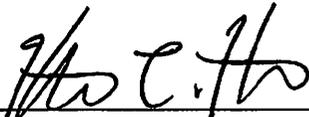
Kyle Baltz motions to recommend approval of changes, Travis Senter seconds the motion. The committee votes and the motion passes unanimously.

Scott Bray discusses meeting with the Pest Control Industry:

- Industry representatives requested research into licensee reciprocity with surrounding states
- The reciprocity issue is statutory and would necessitate a Legislative change
- Arkansas has termite issues that may conflict with regulations in surrounding states
- Other categories have more similar regulations
- Industry representatives are asking for the option to take online recertification credits instead of the limited number of in person opportunities
- The Plant Board has agreed to investigate options to provide always available online testing and continuing education

Scott Bray discusses the Resolution of Pest Control Incident. Jason Ross and John Ross Jr. as trainer and trainee were applying a lawn treatment without proper PPE. The settlement amounted to a midlevel civil penalty of \$300 each for a total of \$600. A motion is made by Bruce Alford and Jon Bierbaum seconds. The committee unanimously agrees to recommend the settlement agreement to the full board.

No other business, meeting adjourned at 9:46 a.m.

  
\_\_\_\_\_  
Dr. Ken Korth  
Committee Chair



FIRST NAME	LAST NAME	Email	Course_id	Date They Took Exam	Score
Month of June 2024					
Aaron	Jones	mstjones1919@yahoo.com	CORE	6/1/2024	78
Nancy	Smith	nsmith5@nwacc.edu	CORE	6/6/2024	89
Nancy	Smith	nsmith5@nwacc.edu	CLASS4TURF	6/6/2024	68
Garren	Deese	garrendeese3@gmail.com	CLASS4TURF	6/8/2024	54
Garret	Cook	garretc@proturfpropest.com	CLASS1TERM	6/10/2024	72
Christopher	Taylor	chrisdttaylor95@live.com	CLASS4TURF	6/10/2024	84
David	Beasley	nathan.beasley@rentokil-terminix.com	CLASS1TERM	6/12/2024	63
David	Beasley	nathan.beasley@rentokil-terminix.com	CLASS2HOUSE	6/12/2024	66
Clayton	Kannada	ckannada@producersrice.com	CLASS7FOODM	6/12/2024	74
Haley	Lenderman	jbwhitley@riceland.com	CLASS7FOODM	6/10/2024	92
Haley	Lenderman	jbwhitley@riceland.com	CLASS8FOODF	6/10/2024	90
David	Beasley	nathan.beasley@rentokil-terminix.com	CORE	6/12/2024	82
Haley	Lenderman	jbwhitley@riceland.com	CORE	6/10/2024	91
Jared	Gable	jbgable@gmail.com	CORE	6/12/2024	92
Dustin	Zimmer	dustin.zimmer@commandpest.com	CLASS1TERM	6/14/2024	75
Aaron	Jones	mstjones1919@yahoo.com	CLASS5WEED	6/18/2024	54
Chris	Nall	chris@aceofbladesnwa.com	CORE	6/19/2024	74
Travis	Berry	Mtzionlawncarellc@gmail.com	CORE	6/23/2024	84
Travis	Berry	Mtzionlawncarellc@gmail.com	CLASS4TURF	6/23/2024	76
Benjamin	Maddox	ben@arkturf.com	CORE	6/28/2024	98
Benjamin	Maddox	ben@arkturf.com	CLASS4TURF	6/28/2024	78
Cameron	Pugh	cameronpugh69@yahoo.com	CORE	6/29/2024	76
Thomas	Walton	thomas@hardscrabblecc.com	CORE	6/29/2024	88
Thomas	Walton	thomas@hardscrabblecc.com	CLASS6GOLF	6/29/2024	60
Christian	Cook	Christianjcook2018@gmail.com	CLASS2HOUSE	6/30/2024	74



FIRST NAME	LAST NAME	Email	Course_id	Date They Took Exam	Score
<b>Month of July 2024</b>					
Nicole	King	nicole@olivebranchar.com	CORE	7/3/2024	97 pass
Airel	Baggett	baggettlawns@gmail.com	CLASS5WEED	7/5/2024	72 pass
AARON	POWELL	scottpowell73@icloud.com	CLASS4TURF	7/7/2024	70 fail
Jared	Gable	jbgable@gmail.com	CLASS2HOUSE	7/12/2024	82 pass
Dalton	Staley	dalton_staley@hotmail.com	CLASS2HOUSE	7/13/2024	82 pass
Clayton	McDermott	phoenixlawn16@gmail.com	CORE	7/15/2024	70 pass
Daniel	Pruit	dpruit@nwacc.edu	CLASS4TURF	7/15/2024	58 fail
Clayton	McDermott	phoenixlawn16@gmail.com	CLASS4TURF	7/15/2024	52 fail
Matthew	Honnoll	matt_honnoll@hotmail.com	CLASS5WEED	7/15/2024	68 fail
Brian	Rusher	brianrusher4@gmail.com	CLASS2HOUSE	7/17/2024	77 pass
Adam	Fuller	info@aalnwa.com	CORE	7/18/2024	78 pass
Adam	Fuller	info@aalnwa.com	CLASS4TURF	7/19/2024	68 fail
Alana	Abshure	alanaabshure@gmail.com	CORE	7/31/2024	91 pass
Alana	Abshure	alanaabshure@gmail.com	CLASS4TURF	7/31/2024	60 fail

EXAM DATE:	8/12/2024									
		B								
LAST NAME	FIRST NAME	A	Class		COMPANY NAME	COMPANY ADDRESS	CITY	ST	ZIP	
		S								
		I								
		C	Basic Score	Class Scores						
Bius	Casey	N	4.9	78% pass	TruGreen	6101 Forbing Rd	Litte Rock	AR	72209	
Wewers	Aaron	N	5	70% pass	N/A	3064 CR 905	Jonesboro	AR	72401	
Hourigan	Nicholas	Y	96% pass 4.9	82% pass	N/A	3 Sandridge Dr.	Bella Vista	AR	72715	
Stovall	Joey	Y	75% pass 7	60% fail	McKee Foods Corporation	555 McKee Dr.	Gentry	AR	72761	
Penate	Shannon	Y	90% pass 7	74% pass	McKee Foods Corporation	555 McKee Dr.	Gentry	AR	72761	
Rush	Alec	Y	88% pass 4.9	58% fail	Rush Lawn Care & Design	5463 Hwy 13	Searcy	AR	72143	

FIRST NAME	LAST NAME	Email	Course_id	Date They Took Exam	Score
<b>Month of August 2024</b>					
Zane	Leonard	<a href="mailto:zamleonard1417@gmail.com">zamleonard1417@gmail.com</a>	CLASS3GENFUM	8/2/2024	58 fail
Karen	Powell	<a href="mailto:karenpowell08@yahoo.com">karenpowell08@yahoo.com</a>	CORE	8/3/2024	86 pass
Jack	Pace	<a href="mailto:jackpace9193@gmail.com">jackpace9193@gmail.com</a>	CORE	8/8/2024	98 pass
Dallas	McCool	<a href="mailto:dallasjmccool@gmail.com">dallasjmccool@gmail.com</a>	CLASS4TURF	8/9/2024	82 pass
John	Schulgen	<a href="mailto:jschulgen13@gmail.com">jschulgen13@gmail.com</a>	CLASS2HOUSE	8/15/2024	75 pass
Brian	Rusher	<a href="mailto:brianrusher4@gmail.com">brianrusher4@gmail.com</a>	CLASS1TERM	8/15/2024	82 pass
Ragan	Robinson	<a href="mailto:raganrobinsonchs@gmail.com">raganrobinsonchs@gmail.com</a>	CLASS4TURF	8/15/2024	82 pass
Karen	Powell	<a href="mailto:karenpowell08@yahoo.com">karenpowell08@yahoo.com</a>	CLASS4TURF	8/17/2024	84 pass
Javier	Verdin	<a href="mailto:genesis.realtors@sbcglobal.net">genesis.realtors@sbcglobal.net</a>	CLASS2HOUSE	8/18/2024	57 fail
Justin	Hawkins	<a href="mailto:hawkinsjustin123@gmail.com">hawkinsjustin123@gmail.com</a>	CORE	8/18/2024	89 pass
Justin	Hawkins	<a href="mailto:hawkinsjustin123@gmail.com">hawkinsjustin123@gmail.com</a>	CLASS5WEED	8/18/2024	71 pass
Clarence	Spencer	<a href="mailto:cspencer@diamondpestar.com">cspencer@diamondpestar.com</a>	CLASS2HOUSE	8/20/2024	73 fail

## 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

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### 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



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.

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- (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 31<sup>st</sup> 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 |
| <u>1. Plus for each aircraft or article of ground equipment</u> | \$20  |

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(B) Individual Commercial Applicator license, per category \$35

(C) RUP Seed treatment license \_\_\_\_\_  
\$35400

~~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 ~~B~~ bank guaranteeing financial responsibility; (2) a surety bond; (3) an escrow account with an Arkansas ~~B~~ 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.

~~V.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.

~~V.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-Commercial~~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 ~~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-Commercial~~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**

L. 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.~~

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- (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.

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**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

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**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.~~

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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 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.

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.

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

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.)
- iii. Application equipment and/or methods of application – types of equipment, different methods of application, calibration, and equipment

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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 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.

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**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.

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.

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**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    ·Arroso 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 <math><105\mu\text{m}</math>) 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.

**MINUTES OF  
ARKANSAS STATE PLANT BOARD  
PESTICIDE COMMITTEE MEETING**

**August 23, 2024**

Committee Members Present: Chairman George Dunklin,  
Committee Member via Zoom: Sam Angel, Matthew Marsh, Matthew Miles, Dr. Nathan Slaton  
Committee Member Absent: Garrett Frost, Nathan Reed

Scott Bray, Plant Industries Division Director, Susie Nichols, Pesticide Section Agri Section Manager, Sherry Seiffert, Managing Attorney, and other Arkansas Department of Agriculture staff members and guests were present.

Chairman George Dunklin called the meeting to order at 09:30 A.M. and asked Pesticide Committee Members and all others attending to introduce themselves.

Chairman Dunklin introduced the first item on the agenda, which was the review of proposed rules and turned the floor over to Susie Nichols, Pesticide Section Agri Division Manager.

Nichols presented the proposed rules (Attachment 1).

Committee Member Dr. Nathan Slate requested the following corrections to the proposed rules:

- Change "University of Arkansas" anywhere referenced in the proposed rules to "University of Arkansas Division of Ag"
- Change "Cooperative Extension Office" anywhere referenced in the proposed rules to "Cooperative Extension Service"

Scott Bray, Plant Industries Division Director, and Sherry Seiffert, Managing Attorney, stated their approval to Dr. Slaton's requested corrections to the proposed rules.

Chairman Dunklin asked if there were any other corrections needed to the proposed rules. There were none. He then asked for a motion.

Committee Member Sam Angels made a motion to accept the proposed rules as presented with stated changes, seconded by Committee Member Matthew Miles. Motion carried.

Chairman Dunklin state the proposed rules will be presented for approval at the next Plant Board meeting.

Chairman Dunklin asked if there was any other business to come before the Pesticide Committee. There was none. He then asked for a motion to adjourn.

Committee Member Sam Angel made the motion with a second by Committee Member Mathew Miles to adjourn. Motion Carried.

Meeting was adjourned.

Signed   
George Dunklin, Chairman  
Pesticide Committee

## 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-~~Co~~mmercial Applicator Categories Same as Commercial Applicator

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### 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.

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- (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 31<sup>st</sup> 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.

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(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

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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.

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VI-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.

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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.

VII-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-Commercial 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 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-Commercial 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 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.

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- (G) The EPA registration number of the restricted use 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

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.

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 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.

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.

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).

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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. 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 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.

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iv. Environmental concerns – waste/container disposal, clean-up, ground/surface water protection, drift (if applicable), and wildlife protection (if applicable)

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v. Laws and regulations – updates on pertinent laws and regulations, certification/recertification requirements, etc., as appropriate

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

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a. Continuing education programs conducted by the University of Arkansas Extension 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.

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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 Office Agriculture Program Specialist for review.

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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.

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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.

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~~ ~~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:

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(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.

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(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.

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(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.

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

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(E) The date of the transaction.

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**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).

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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.

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**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  $<105\mu\text{m}$ ) 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.

## **Attachment 5A**

### **Total of 35 Civil Penalties were issued in period May 2024 to July 2024:**

#### **Attachment 1 - Violations**

##### **Twenty-Three for No Decal or Expired Annual Decal Table 1**

Seventeen First Offense

Six Second Offense

##### **Eleven for Water Contamination In Fuel Table 2**

Eleven First Offense

##### **One for Flash Point Failure Table 3**

One First Offense

##### **Attachment 2 – Warning Letters Table 4**

Two for failing to properly affix approved security seals on the calibration mechanism. No Civil Penalties assessed.

#### **OTHER BUSINESS**

Email request to waive Civil Penalty of \$800 in Case BS 24-0194, Weatherly Exxon, Hamburg, AR.

Email request to waive Civil Penalty of \$350 and \$800 in Case BS 24-0239 and BS 24-0240 respectively. Countryside Supermarket, Lepanto, AR.

Table 1

TABLE 1 - Violation of A.C.A § 4-18-344 NO ANNUAL OR EXPIRED INSPECTION DECAL - TWENTY THREE VIOLATIONS							
Case File	Business Name	Address	City	Inspection Date	Device	Violation	Civil Penalty
BS 25-0001	Fresh Market	11525 Cantrell Rd	Little Rock	June 19, 2024	Scale(s)	First	\$350
BS 25-0002	Airport Bears Den	3300 Bankhead Dr	Little Rock	May 22, 2024	Pump(s)	First	\$350
BS 25-0003	Corning Gas & Deli	1010 W Main St	Corning	June 4, 2024	Pump(s)	First	\$350
BS 25-0004	Gunns Supermarket	30 Cortez Kennedy	Wilson	May 14, 2024	Pump(s)	First	\$350
BS 25-0005	Vimy Food Mart	12024 Vimy Ridge Rd	Little Rock	May 8, 2024	Pump(s)	First	\$350
BS 25-0006	County Line Express	203 N Elm	Emerson	April 29, 2024	Pump(s)	First	\$350
BS 25-0008	Emerson Quick Stop	402 N Elm	Emerson	April 29, 2024	Pump(s)	First	\$350
BS 25-0010	Village Mountain	4401 Hwy 7N	Hot Springs Village	April 24, 2024	Pump(s)	First	\$350
BS 25-0015	Geyer Springs Food & Gas	7520 Geyer Springs	Little Rock	May 7, 2024	Pump(s)	First	\$350
BS 25-0016	Aldi	2309 Fayetteville Rd	Van Buren	May 30, 2024	Scale(s)	First	\$350
BS 25-0017	Tortilleria Morelos	503 Union St	Dardanelle	June 25, 2024	Scale(s)	First	\$350
BS 25-0030	White Oak	1940 Crossover Rd	Fayetteville	April 16, 2024	Pump(s)	First	\$350
BS 25-0031	Masterbaiters (Amerigas)	3200 Hwy 7N	Hot Springs Village	May 14, 2024	LPG Meter(s)	First	\$350
BS 25-0033	Natures Wonders	910 Hwy 62	Harrison	June 27, 2024	Scale(s)	First	\$350
BS 25-0035	El Ranchito Super Mercado	1900 W Huntsville Av	Springdale	July 03, 2024	Scale(s)	First	\$350
BS 25-0036	Exit 44 Quick Mart	1673 Hwy 371	Prescott	July 15, 2024	Pump(s)	First	\$350
BS 25-0038	Circle K	14000 Kanis Rd	Little Rock	July 23, 2024	Pump(s)	First	\$350
BS 25-0007	County Line Express	203 N Elm	Emerson	May 21, 2024	Pump(s)	Second	\$800
BS 25-0009	Emerson Quick Stop	402 N Elm	Emerson	May 21, 2024	Pump(s)	Second	\$800
BS 25-0011	Village Mountain LLC	4401 Hwy 7N	Hot Springs Village	May 8, 2024	Pump(s)	Second	\$800
BS 25-0012	Haskell Grove C Store	2905 Hwy 229 S	Haskell	April 23, 2024	Pump(s)	Second	\$800
BS 25-0013	Geyer Springs Food & Gas	7520 Geyer Springs	Little Rock	June 17, 2024	Pump(s)	Second	\$800
BS 25-0034	White Oak	1940 Crossover Rd	Fayetteville	July 02, 2024	Pump(s)	Second	\$800

TABLE 2- Violation of A.C.A § 4-108-204 (b)(1)(A) and 4-108-207 WATER CONTAMINATION LIMITS NON ETHANOL (1 inch) DIESEL (1 inch) ETHANOL Fuel (1/4 inch) - ELEVEN VIOLATIONS									
Case File	Business Name	Address	City	Date of Inspection	Fuel Type	Location	Water inch(s)	Violation	Civil Penalty
BS 25-0018	White Oak Station 14	2584 N Gregg St	Fayetteville	April 17, 2024	Hwy Diesel	Storage Tank	2.25	First	\$200
BS 25-0019	Cedarville One Stop	9541 Hwy 59N	Cedarville	April 23, 2024	Off Road Diesel	Storage Tank	1.63	First	\$200
BS 25-0020	Murphy USA 7732	2210 Fayetteville Rd	Van Buren	April 30, 2024	Hwy Diesel	Storage Tank	2.25	First	\$200
BS 25-0021	I 24/7 Truck Stop	452 Hwy 38N	Widener	June 10, 2024	Premium Unleaded	Nozzle	Turbid	First	\$200
BS 25-0022	Flash Market	1114 Hwy 77S	Marion	June 03, 2024	Premium Unleaded	Storage Tank	3.00	First	\$200
BS 25-0023	Lets Stop N Go	2223 N College Av	El Dorado	June 06, 2024	Premium Unleaded	Storage Tank	1.50	First	\$200
BS 25-0024	Mt View Exxon Mobil	611 E Main St & Hwy 66W	Mt View	June 11, 2024	Hwy Diesel	Storage Tank	6.00	First	\$200
BS 25-0025	Mt View Exxon Mobil	611 E Main St & Hwy 66W	Mt View	June 11, 2024	Regular Unleaded	Storage Tank	5.00	First	\$200
BS 25-0026	Flash Market 35	1621 N Missouri	West Memphis	June 17, 2024	Hwy Diesel	Storage Tank	2.00	First	\$200
BS 25-0027	Jordans Kwik Stop 9	900 E Jackson	Harrisburg	June 18, 2024	Premium Unleaded	Storage Tank	3.00	First	\$200
BS 25-0028	Flash Market	2074 Evening Shade Dr	Evening Shade	June 19, 2024	Hwy Diesel	Storage Tank	1.75	First	\$200

**TABLE 3 - Violation of A.C.A. § 4-108-204 (b) (1) (A) and 4-108-207 FLASHPOINT FAILURE (< 125 °F) - ONE VIOLATION**

<b>Case File</b>	<b>Business Name</b>	<b>Address</b>	<b>City</b>	<b>Sampling Date</b>	<b>Product</b>	<b>FP</b>	<b>Violation</b>	<b>Civil Penalty</b>
BS 25-0029	Super Mart	600 N Illinois	Harrisburg	June 20, 2024	Hwy Diesel	112 °F	First	\$200

TABLE 4 - WARNING LETTER - Violation of A.C.A. § 4-18-344 (d)(5) (2005) Failed to properly affix approved security seal on the calibration mechanism						
Case File	Business Name	Address	City	Date of Violation	Violation Location	Civil Penalty
NA	Akin Environmental Services	1927 Daly Dr	Lowell	May 17, 2024	Hickory Creek Marina, 12737 Hickory Creek Rd, Lowell	NA
NA	Akin Environmental Services	1927 Daly Dr	Lowell	June 10, 2024	White Oak, 408 S Main, Berryville	NA



# ARKANSAS DEPARTMENT OF AGRICULTURE



Sarah Huckabee Sanders  
Governor

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

Wes Ward  
Secretary of Agriculture

## WARNING LETTER

CERTIFIED MAIL: 7022 3330 0000 1081 8282

June 12, 2024

Akin Environmental Services, LLC  
1927 Daly Drive  
Harrison, AR 72601

To Whom It May Concern,

On May 17, 2024, Agriculture Inspector Kristin Walter, on a routine follow up, inspected Hickory Creek Marina, 12737 Hickory Creek Rd, Lowell, AR 72745. The location was last serviced by Akin Environmental Services LLC (Reg No M167) as determined from the annual inspection decal(s) affixed to the Retail Fuel Meter Dispenser(s).

The inspection revealed unapproved lead seal(s) affixed to the calibration mechanism of the Retail Motor Fuel Dispenser(s). A Notice of Violation was issued at the location. This is in violation of Arkansas Annotated Code:

4-18-322. Prohibited acts.

(a) No person shall:

(6) Sell or offer for sale any weight or measure for use in commerce, unless it bears an Arkansas Bureau of Standards approved seal or decal, if the seal or decal is applicable to the weight or measure.

4-18-344. Testing bulk meters or liquefied petroleum gas metering devices, pumps, and scales used for commercial transactions.

(d) (3) A registered technician shall place an approved security seal on the device to prevent any unauthorized access to the adjusting mechanism unless otherwise authorized by the bureau.

This letter constitutes a warning for the violation(s) alleged above. No civil penalty is being imposed by this letter. However, any future violation(s) of a similar nature may result in civil penalties. You may contact our office if you have any questions.

Arkansas Bureau of Standards  
4608 W.61st Street, Little Rock, AR 72209  
501-570-1159  
[bureau@agriculture.arkansas.gov](mailto:bureau@agriculture.arkansas.gov)

Thank you for your attention to this matter.

Nikhil Soman



Sarah Huckabee Sanders  
Governor

# ARKANSAS DEPARTMENT OF AGRICULTURE

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



Wes Ward  
Secretary of Agriculture

## WARNING LETTER

CERTIFIED MAIL: 7022 3330 0000 1081 8282

June 12, 2024

Akin Environmental Services, LLC  
1927 Daly Drive  
Harrison, AR 72601

To Whom It May Concern,

On June 10, 2024, Agriculture Inspector Kristin Walter, on a routine follow up, inspected White Oak Station, 408 S Main, Berryville, AR 72616. The location was last serviced by Akin Environmental Services LLC (Reg No M167) as determined from the annual inspection decal(s) affixed to the Retail Fuel Meter Dispenser(s).

The inspection revealed unapproved lead seal(s) affixed to the calibration mechanism of the Retail Motor Fuel Dispenser(s). A Notice of Violation was issued at the location. This is in violation of Arkansas Annotated Code:

**4-18-322. Prohibited acts.**

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Arkansas Bureau of Standards  
4608 W 61st Street, Little Rock, AR 72209  
501-570-1159  
[bureau@agriculture.arkansas.gov](mailto:bureau@agriculture.arkansas.gov)

Thank you for your attention to this matter.

Nikhil Somani

## Nikhil Soman

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**From:** clinton weatherly <clint@weaoffice.com>  
**Sent:** Tuesday, July 9, 2024, 10:48 AM  
**To:** Nikhil Soman  
**Subject:** Weatherly Exxon BS-24-0194  
**Attachments:** 20240709\_103734.pdf

 You don't often get email from clint@weaoffice.com. [Learn why this is important](#)  
Arkansas Department of Agriculture:

Good morning,

I have attached a pdf with my notes showing when I called Jim at arkansas testing and the result of our conversation. Please excuse the sloppiness in the notes.

Thank you for considering our case. Our family owns and operates a convenience store in Hamburg and has long relied on Arkansas Testing to oversee our fuel compliance. I believe around the first of February, after a discussion with Mr. Phillips, I informed Mr. Jim Chevers at Arkansas Testing about the absence of a current annual inspection decal on our dispensers, and that we had only 10 days to get them put on. Jim assured me that he would address it. However, to my surprise, we received a \$350 penalty on June 21st. When I shared the notice with Mr. Jim, he said that it was our responsibility to settle the fine, which we did, and thought all was taken care of. After a couple of weeks, we received another fine of \$800. Despite reaching out to Mr. Jim, he again denied any responsibility and insisted it was on us to pay.

This has never been a problem before, and we have made sure the decal is in place. In the future, we will do our diligence to be sure our store is in compliance and ensure any Department of Agriculture notices are passed to us by our staff. Our mistake was to depend on Arkansas Testing for compliance, as done previously, and our staff's not forwarding notices from the Department of Agriculture to us. We ask for the second penalty of \$800 please to be waived, as it is a substantial financial strain on our small business. Again, even though this is the first time this has happened we are deeply sorry, and it will not happen again.

Thank you,  
Clinton Weatherly





# ARKANSAS DEPARTMENT OF AGRICULTURE



Sarah Huckabee Sanders  
Governor

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

Wes Ward  
Secretary of Agriculture

## NOTICE OF SECOND VIOLATION

Case No. BS 24-0194

CERTIFIED MAIL: 7022 3330 0000 1081 7841

March 5, 2024

Weatherly Exxon  
600 N. Main  
Hamburg, AR. 71646

To Whom It May Concern,

On February 8, 2024, Tim Webb, with the Arkansas Bureau of Standards inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas. Inspections are authorized under Arkansas Code Annotated §4-18-312 (i) "The State Plant Board shall . . . have the authority to inspect and test commercial weights and measures kept, offered, or exposed for sale."

The inspection of the Pump(s) revealed no annual inspection decal, in violation of:

A.C.A. § 4-18-322.

*(a) (6) Sell or offer for sale any weight or measure for use in commerce, unless it bears an Arkansas Bureau of Standards approved seal or decal, if the seal or decal is applicable to the weight or measure;*

The requirements of relevant Arkansas law are stated below:

*(a) (1) Any person who by himself or herself, by his or her servant or agent, or as the servant or agent of another person, commits any of the acts enumerated in § 4-18-322 may be assessed by the State Plant Board a civil penalty of:*

*(A) Not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600) for a first violation;*

*(B) Not less than four hundred dollars (\$400) nor more than one thousand two hundred dollars (\$1,200) for a second violation within three (3) years after the date of the first violation; and*

*(C) Not less than seven hundred dollars (\$700) nor more than two thousand dollars (\$2,000) for a third violation within three (3) years after the date of the first violation.*

*(2) For a violation to be considered as a second or subsequent offense, it must be a repeat of a violation as enumerated in § 4-18-322.*

This violation is a second violation and within the penalty matrix resulting in a civil penalty of \$800.00. Per regulations A.C.A. § 4-18-323 (b) (1), if you wish to contest the civil penalty, you have ten (10) calendar days from receipt of this notice to file a request for an administrative conference. That 'informal conference' will be scheduled, and you may appear at the State Plant Board in Little Rock to engage in informal discussions aimed at resolving the matter. Or you may request a 'formal conference' before the Bureau of Standards Committee of the Plant Board and appear with legal counsel to plead your case.

If you agree to the proposed civil penalty, please sign the enclosed Settlement Agreement and return it to this office but do not send any funds at this time. The case will be presented to the Plant Board for approval at the next scheduled Board meeting in TBA.

You will be notified of the Board action and given final instructions on submitting the civil penalty if the proposed settlement is approved.



Nikhil Soman, Director  
Arkansas Bureau of Standards  
4608 W 61<sup>st</sup> Street, Little Rock, AR 72209  
501-570-1159  
bureau@agriculture.arkansas.gov  
[www.aad.arkansas.gov/bureau-of-standards](http://www.aad.arkansas.gov/bureau-of-standards)

IN THE MATTER OF: Weatherly Exxon  
Pine Bluff, Arkansas

Case No. BS 24-0194  
CERTIFIED MAIL: 7022 3330 0000 1081 7841

**RESOLUTION OF VIOLATIONS OF WEIGHTS AND MEASURES LAW**

This resolution of a Weights and Measures Law violation is issued under the authority of the Arkansas Weights and Measures Law, specifically ACT 914 of 2005, as amended, codified at A.C.A. ' 4-18-322 et.seq. and the regulations promulgated pursuant thereto.

The issues herein, as they pertain inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, have been settled by the Arkansas State Plant Board (ASPB). It is agreed and stipulated by the parties that the Findings of Fact and Order and Agreement be executed as follows:

**FINDINGS OF FACT**

On February 8, 2024, Tim Webb, with the Arkansas Bureau of Standards inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas. During the inspection it was determined; pump(s) was without an annual inspection decal. A rejection was issued notifying them of the violation.

**ORDER AND AGREEMENT**

Without admitting wrongdoing, liability, violation of law, rule or, regulation of any kind and for the purpose of settlement, inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, agrees to the following:

- a) Pursuant to the provisions of the ASPB's Weights and Measures Law Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, agrees to a civil penalty in the amount of Eight Hundred Dollars (\$800.00) for settlement in this matter.
- b) The ASPB's Weights and Measures Penalty Matrix defines this alleged violation as a major violation. Any subsequent like violation of the Weights and Measures Law, as amended, or the Regulations written pursuant thereto, within three years involving inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, alleged violations of this nature will be considered a subsequent offense of Weights and Measures Law.
- c) In the event the ASPB's Board accepts this agreement, inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, shall remit to the ASPB the above amount within 45 days of the Board's action.
- d) In the event that the Board does not accept this proposal, the Board and Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, may request a formal administrative conference regarding this matter.



Nikhil Somani, Director

Signature

Printed Name

Date

Date

3/29/24

(Please return signed Settlement Agreement)

Please  
Sign  
Here

**Nikhil Soman**

---

**From:** countryside super market <countrysidesuperm@gmail.com>  
**Sent:** Thursday, June 13, 2024 11:40 AM  
**To:** Nikhil Soman  
**Cc:** AAD Bureau  
**Subject:** Request to waive penalty Case # BS-24-0240 and BS 24-0239  
**Attachments:** 20240611124127834.pdf

Dear Nikhil,

I hope this email finds you well. I am writing on behalf of Countryside Supermarket llc, a small town grocery store that recently incurred a penalty from your Department. We are reaching out to request your consideration in waiving this penalty due to some unforeseen circumstances.

Unfortunately, due to owner's not being present the day inspection happened, I inadvertently neglected to fulfill certain regulatory requirements outlined by your department. We fully acknowledge and take responsibility for this oversight, and we sincerely apologize for any inconvenience or violation it may have caused.

However, we would like to bring to your attention that American Scale company visited our store on March 15 2023, and calibrated one scale, but we are not sure why he didn't calibrate all of the scales. Despite our best efforts to comply with all regulations, this led to the error in question.

As a responsible grocery store, we value our compliance with governmental regulations and strive to maintain a positive relationship with your department. We assure you that we have taken the necessary steps to rectify the situation promptly and prevent similar occurrences in the future.

In light of this circumstance and our commitment to compliance, we kindly request your understanding and consideration in waiving the penalty imposed on our small business. Doing so would greatly alleviate the financial burden on our operations and allow us to continue contributing positively to our community.

We are willing to provide evidence of 2024 compliance report to support our request. Please do not hesitate to contact us at 870-475-2319 or email us at countrysidesuperm@gmail.com if you have any questions regarding this matter.

Thank you very much for your attention to this request. We sincerely appreciate your time and understanding.

Warm Regards,

Ali nawaz

Owner Countryside Supermarket llc

Contact: 786-253-1767, 870 475-2319

> On Jun 11, 2024, at 12:44 PM, Nikhil Soman <nikhil.soman@agriculture.arkansas.gov> wrote:  
>  
> Ali



# ARKANSAS DEPARTMENT OF AGRICULTURE



Sarah Huckabee Sanders  
Governor

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

Wes Ward  
Secretary of Agriculture

## NOTICE OF VIOLATION

Case No. BS 24-0239

CERTIFIED MAIL: 7022 3330 0000 1081 7858

March 21, 2024

Countryside Supermarket #1  
210 N. Greenwood Ave.  
Lepanto, AR. 72354

To Whom It May Concern,

On February 8, 2024, Tim Ritter, with the Arkansas Bureau of Standards inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas. Inspections are authorized under Arkansas Code Annotated §4-18-312 (i) "The State Plant Board shall . . . have the authority to inspect and test commercial weights and measures kept, offered, or exposed for sale."

The inspection of the Pump(s) revealed no annual inspection decal, in violation of:

**A.C.A. § 4-18-322.**

**(a) (6) Sell or offer for sale any weight or measure for use in commerce, unless it bears an Arkansas Bureau of Standards approved seal or decal, if the seal or decal is applicable to the weight or measure;**

The requirements of relevant Arkansas law are stated below:

**(a) (1) Any person who by himself or herself, by his or her servant or agent, or as the servant or agent of another person, commits any of the acts enumerated in § 4-18-322 may be assessed by the State Plant Board a civil penalty of:**

**(A) Not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600) for a first violation;**

**(B) Not less than four hundred dollars (\$400) nor more than one thousand two hundred dollars (\$1,200) for a second violation within three (3) years after the date of the first violation; and**

**(C) Not less than seven hundred dollars (\$700) nor more than two thousand dollars (\$2,000) for a third violation within three (3) years after the date of the first violation.**

**(2) For a violation to be considered as a second or subsequent offense, it must be a repeat of a violation as enumerated in § 4-18-322.**

This violation is within the penalty matrix resulting in a civil penalty of \$350.00. Per regulations A.C.A. § 4-18-323 (b) (1), if you wish to contest the civil penalty, you have ten (10) calendar days from receipt of this notice to file a request for an administrative conference. That 'informal conference' will be scheduled, and you may appear at the State Plant Board in Little Rock to engage in informal discussions aimed at resolving the matter. Or you may request a 'formal conference' before the Bureau of Standards Committee of the Plant Board and appear with legal counsel to plead your case.

If you agree to the proposed civil penalty, please sign the enclosed Settlement Agreement and return it to this office but do not send any funds at this time. The case will be presented to the Plant Board for approval at the next scheduled Board meeting in TBA.

You will be notified of the Board action and given final instructions on submitting the civil penalty if the proposed settlement is approved.

A handwritten signature in black ink, appearing to read "N. Soman", with a long horizontal line extending to the right from the end of the signature.

Nikhil Soman, Director  
Arkansas Bureau of Standards  
4608 W 61<sup>st</sup> Street, Little Rock, AR 72209  
501-570-1159  
[bureau@agriculture.arkansas.gov](mailto:bureau@agriculture.arkansas.gov)  
[www.aad.arkansas.gov/bureau-of-standards](http://www.aad.arkansas.gov/bureau-of-standards)

**IN THE MATTER OF: Countryside Supermarket #1  
Lepanto, Arkansas**

**Case No. BS 24-0239**

**CERTIFIED MAIL: 7022 3330 0000 1081 7858**

**RESOLUTION OF VIOLATIONS OF WEIGHTS AND MEASURES LAW**

This resolution of a Weights and Measures Law violation is issued under the authority of the Arkansas Weights and Measures Law, specifically ACT 914 of 2005, as amended, codified at A.C.A. 4-18-322 et seq. and the regulations promulgated pursuant thereto.

The issues herein, as they pertain inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, have been settled by the Arkansas State Plant Board (ASPB). It is agreed and stipulated by the parties that the Findings of Fact and Order and Agreement be executed as follows:

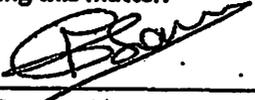
**FINDINGS OF FACT**

On February 8, 2024, Tim Ritter, with the Arkansas Bureau of Standards inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas. During the inspection it was determined; pump(s) was without an annual inspection decal. A rejection was issued notifying them of the violation.

**ORDER AND AGREEMENT**

Without admitting wrongdoing, liability, violation of law, rule or, regulation of any kind and for the purpose of settlement, inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, agrees to the following:

- a) Pursuant to the provisions of the ASPB's Weights and Measures Law Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, agrees to a civil penalty in the amount of Three Hundred Fifty Dollars (\$350.00) for settlement in this matter.
- b) The ASPB's Weights and Measures Penalty Matrix defines this alleged violation as a major violation. Any subsequent like violation of the Weights and Measures Law, as amended, or the Regulations written pursuant thereto, within three years involving inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, alleged violations of this nature will be considered a subsequent offense of Weights and Measures Law.
- c) In the event the ASPB's Board accepts this agreement, inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, shall remit to the ASPB the above amount within 45 days of the Board's action.
- d) In the event that the Board does not accept this proposal, the Board and Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, may request a formal administrative conference regarding this matter.

  
\_\_\_\_\_  
Nikhil Soman, Director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

3/29/24  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Please  
Sign  
Here

**(Please return signed Settlement Agreement)**



# ARKANSAS DEPARTMENT OF AGRICULTURE



Sarah Huckabee Sanders  
Governor

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

Wes Ward  
Secretary of Agriculture

## NOTICE OF SECOND VIOLATION

Case No. BS 24-0240

CERTIFIED MAIL: 7022 3330 0000 1081 8046

March 21, 2024

Countryside Supermarket #1  
210 N. Greenwood Ave.  
Lepanto, AR: 72354

To Whom It May Concern,

On February 8, 2024, Tim Ritter, with the Arkansas Bureau of Standards Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas. Inspections are authorized under Arkansas Code Annotated §4-18-312 (I) "The State Plant Board shall . . . have the authority to inspect and test commercial weights and measures kept, offered, or exposed for sale."

The inspection of the Scale(s) revealed no annual inspection decal, in violation of:

A.C.A. § 4-18-322.

*(a) (6) Sell or offer for sale any weight or measure for use in commerce, unless it bears an Arkansas Bureau of Standards approved seal or decal, if the seal or decal is applicable to the weight or measure;*

The requirements of relevant Arkansas law are stated below:

*(a) (1) Any person who by himself or herself, by his or her servant or agent, or as the servant or agent of another person, commits any of the acts enumerated in § 4-18-322 may be assessed by the State Plant Board a civil penalty of:*

*(A) Not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600) for a first violation;*

*(B) Not less than four hundred dollars (\$400) nor more than one thousand two hundred dollars (\$1,200) for a second violation within three (3) years after the date of the first violation; and*

*(C) Not less than seven hundred dollars (\$700) nor more than two thousand dollars (\$2,000) for a third violation within three (3) years after the date of the first violation.*

*(2) For a violation to be considered as a second or subsequent offense, it must be a repeat of a violation as enumerated in § 4-18-322.*

This violation is a second violation and within the penalty matrix resulting in a civil penalty of \$800.00. Per regulations A.C.A. § 4-18-323 (b) (1), if you wish to contest the civil penalty, you have ten (10) calendar days from receipt of this notice to file a request for an administrative conference. That 'informal conference' will be scheduled, and you may appear at the State Plant Board in Little Rock to engage in informal discussions aimed at resolving the matter. Or you may request a 'formal conference' before the Bureau of Standards Committee of the Plant Board and appear with legal counsel to plead your case.

**if you agree to the proposed civil penalty, please sign the enclosed Settlement Agreement and return it to this office but do not send any funds at this time. The case will be presented to the Plant Board for approval at the next scheduled Board meeting in TBA.**

**You will be notified of the Board action and given final instructions on submitting the civil penalty if the proposed settlement is approved.**



**Nikhil Soman, Director  
Arkansas Bureau of Standards  
4608 W 51<sup>st</sup> Street, Little Rock, AR 72209  
501-570-1159  
bureau@agriculture.arkansas.gov  
www.aad.arkansas.gov/bureau-of-standards**

IN THE MATTER OF: Countryside Supermarket #1  
Lepanto, Arkansas

Case No. BS 24-0240  
CERTIFIED MAIL: 7022 3330 0000 1081 8046

**RESOLUTION OF VIOLATIONS OF WEIGHTS AND MEASURES LAW**

This resolution of a Weights and Measures Law violation is issued under the authority of the Arkansas Weights and Measures Law, specifically ACT 914 of 2005, as amended, codified at A.C.A. § 4-18-322 et seq. and the regulations promulgated pursuant thereto.

The issues herein, as they pertain to Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, have been settled by the Arkansas State Plant Board (ASPB). It is agreed and stipulated by the parties that the Findings of Fact and Order and Agreement be executed as follows:

**FINDINGS OF FACT**

On February 8, 2024, Tim Ritter, with the Arkansas Bureau of Standards inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas. During the inspection it was determined; scale(s) was without an annual inspection decal. A rejection was issued notifying them of the violation.

**ORDER AND AGREEMENT**

Without admitting wrongdoing, liability, violation of law, rule or, regulation of any kind and for the purpose of settlement, Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, agrees to the following:

- a) Pursuant to the provisions of the ASPB's Weights and Measures Law, Super 1 Foods #628, 5805 Dollarway Road, Pine Bluff, Arkansas, agrees to a civil penalty in the amount of Eight Hundred Dollars (\$800.00) for settlement in this matter.
- b) The ASPB's Weights and Measures Penalty Matrix defines this alleged violation as a major violation. Any subsequent like violation of the Weights and Measures Law, as amended, or the Regulations written pursuant thereto, within three years involving Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, alleged violations of this nature will be considered a subsequent offense of Weights and Measures Law.
- c) In the event the ASPB's Board accepts this agreement Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, shall remit to the ASPB the above amount within 45 days of the Board's action.
- d) In the event that the Board does not accept this proposal, the Board and Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, may request a formal administrative conference regarding this matter.

  
\_\_\_\_\_  
Nikhil Soman, Director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Please  
Sign  
Here

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

(Please return signed Settlement Agreement)

3/29/24

## Attachment 5B

Minutes of  
Arkansas State Plant Board  
Bureau of Standards Committee Meeting  
August 20, 2024  
9:30 a.m.

### Committee Members Present

Via Zoom: Robin Ralston, Bruce Alford, Sam Stuckey, Reynold Meyer, Travis Senter, Robert Thorne, Wilford Jones, Kristin Walter, Scott Bray

Staff Present: Nikhil Soman, Sheila Carter, Tim Chesser, Mike Jones

Guest Present:

---

Chairman Robin Ralston called the meeting to order at 9:30 a.m. Those in attendance stated their name and affiliation.

Chairman Robin Ralston stated the purpose of the meeting was to review first, second and third offense violations and penalties. Chairman Ralston turned the floor over to Bureau of Standards Director, Nikhil Soman.

Nikhil Soman presented the committee for review and approval are the following cases from April 2024 to July 2024:

- In Attachment 1 – Table 1 cases for Expired and or No Decal(s) there are 17 (Seventeen) First Offenses and 6 (Six) Second Offenses on Pump(s), Scale(s) or Meter(s). These are First Offenses with a \$350 penalty each, Second Offenses with a \$800 penalty each.

A motion was made by Reynold Meyers seconded by Robert Thorne to approve the proposed penalties against the alleged violators. Committee voted motion passed unanimously.

- In Attachment 1 – Table 2 – cases for Water Contamination Limits there are 11 (Eleven) First Offenses. These are First Offenses with a \$200 penalty each.

A motion was made by Reynold Meyers seconded by Robert Thorne to approve the proposed penalties against the alleged violators. Committee voted motion passed unanimously.

- In Attachment 1 – Table 3 – case for Flashpoint Stop Sales there are 1 (one) First Offense. These are First Offenses with a \$200 penalty each.

A motion was made by Reynold Meyers seconded by Robert Thorne to approve the proposed penalties against the alleged violators. Committee voted motion passed unanimously.

- In Attachment 1 – Table 4 – case for Warning Letter there are 2 (two) Warning Failed to Properly affix, approved security seal on the calibration mechanism. These are First Warnings with a \$0.00 penalty each.

A motion was made by Robert Thorne seconded by Travis Senter to approve the proposed penalties against the alleged violators. Committee voted motion passed unanimously.

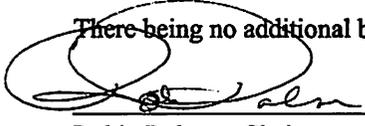
- Request to waive Civil Penalty of \$800 in Case BS 24-0194, Weatherly Exxon, Hamburg, AR.

A motion was made by Robert Thorne seconded by Bruce Alford to approve the proposed penalties against the alleged violators. Committee voted motion passed unanimously.

- Request to waive Civil Penalty of \$350 and \$800 in Case BS 24-0239 and BS 24-0240, Countryside Supermarket, Lepanto, AR.

A motion was made by Robert Thorne seconded by Bruce Alford to approve waiving BS 24-0239 and keeping BS 24-0240 on the proposed penalties against the alleged violators. Committee voted motion passed unanimously.

There being no additional business, a motion was made by Bruce Alford and seconded by Travis Senter to adjourn.



Robin Ralston, Chairman

08/20/2024

**Total of 35 Civil Penalties were issued in period May 2024 to July 2024:**

**Attachment 1 - Violations**

**Twenty-Three for No Decal or Expired Annual Decal Table 1**

Seventeen First Offense

Six Second Offense

**Eleven for Water Contamination in Fuel Table 2**

Eleven First Offense

**One for Flash Point Failure Table 3**

One First Offense

**Attachment 2 – Warning Letters Table 4**

Two for failing to properly affix approved security seals on the calibration mechanism. No Civil Penalties assessed.

**OTHER BUSINESS**

Email request to waive Civil Penalty of \$800 in Case BS 24-0194, Weatherly Exxon, Hamburg, AR.

Email request to waive Civil Penalty of \$350 and \$800 in Case BS 24-0239 and BS 24-0240 respectively. Countryside Supermarket, Lepanto, AR.

Table 1

TABLE 1 - Violation of A.C.A § 4-18-344 NO ANNUAL OR EXPIRED INSPECTION DECAL - TWENTY THREE VIOLATIONS							
Case File	Business Name	Address	City	Inspection Date	Device	Violation	Civil Penalty
BS 25-0001	Fresh Market	11525 Cantrell Rd	Little Rock	June 19, 2024	Scale(s)	First	\$350
BS 25-0002	Airport Bears Den	3300 Bankhead Dr	Little Rock	May 22, 2024	Pump(s)	First	\$350
BS 25-0003	Corning Gas & Deli	1010 W Main St	Corning	June 4, 2024	Pump(s)	First	\$350
BS 25-0004	Gunns Supermarket	30 Cortez Kennedy	Wilson	May 14, 2024	Pump(s)	First	\$350
BS 25-0005	Vimy Food Mart	12024 Vimy Ridge Rd	Little Rock	May 8, 2024	Pump(s)	First	\$350
BS 25-0006	County Line Express	203 N Elm	Emerson	April 29, 2024	Pump(s)	First	\$350
BS 25-0008	Emerson Quick Stop	402 N Elm	Emerson	April 29, 2024	Pump(s)	First	\$350
BS 25-0010	Village Mountain	4401 Hwy 7N	Hot Springs Village	April 24, 2024	Pump(s)	First	\$350
BS 25-0015	Geyer Springs Food & Gas	7520 Geyer Springs	Little Rock	May 7, 2024	Pump(s)	First	\$350
BS 25-0016	Aldi	2309 Fayetteville Rd	Van Buren	May 30, 2024	Scale(s)	First	\$350
BS 25-0017	Tortilleria Morelos	503 Union St	Dardanelle	June 25, 2024	Scale(s)	First	\$350
BS 25-0030	White Oak	1940 Crossover Rd	Fayetteville	April 16, 2024	Pump(s)	First	\$350
BS 25-0031	Masterbaiters (Amerigas)	3200 Hwy 7N	Hot Springs Village	May 14, 2024	LPG Meter(s)	First	\$350
BS 25-0033	Natures Wonders	910 Hwy 62	Harrison	June 27, 2024	Scale(s)	First	\$350
BS 25-0035	El Ranchito Super Mercado	1900 W Huntsville Av	Springdale	July 03, 2024	Scale(s)	First	\$350
BS 25-0036	Exit 44 Quick Mart	1673 Hwy 371	Prescott	July 15, 2024	Pump(s)	First	\$350
BS 25-0038	Circle K	14000 Kanis Rd	Little Rock	July 23, 2024	Pump(s)	First	\$350
BS 25-0007	County Line Express	203 N Elm	Emerson	May 21, 2024	Pump(s)	Second	\$800
BS 25-0009	Emerson Quick Stop	402 N Elm	Emerson	May 21, 2024	Pump(s)	Second	\$800
BS 25-0011	Village Mountain LLC	4401 Hwy 7N	Hot Springs Village	May 8, 2024	Pump(s)	Second	\$800
BS 25-0012	Haskell Grove C Store	2905 Hwy 229 S	Haskell	April 23, 2024	Pump(s)	Second	\$800
BS 25-0013	Geyer Springs Food & Gas	7520 Geyer Springs	Little Rock	June 17, 2024	Pump(s)	Second	\$800
BS 25-0034	White Oak	1940 Crossover Rd	Fayetteville	July 02, 2024	Pump(s)	Second	\$800

TABLE 2 - Violation of A.C.A § 4-108-204 (b)(1)(A) and 4-108-207 WATER CONTAMINATION LIMITS NON ETHANOL (1 inch) DIESEL (1 inch) ETHANOL Fuel (1/4 inch) - ELEVEN VIOLATIONS									
Case File	Business Name	Address	City	Date of Inspection	Fuel Type	Location	Water inch(s)	Violation	Civil Penalty
BS 25-0018	White Oak Station 14	2584 N Gregg St	Fayetteville	April 17, 2024	Hwy Diesel	Storage Tank	2.25	First	\$200
BS 25-0019	Cedarville One Stop	9541 Hwy 59N	Cedarville	April 23, 2024	Off Road Diesel	Storage Tank	1.63	First	\$200
BS 25-0020	Murphy USA 7732	2210 Fayetteville Rd	Van Buren	April 30, 2024	Hwy Diesel	Storage Tank	2.25	First	\$200
BS 25-0021	I 24/7 Truck Stop	452 Hwy 38N	Widener	June 10, 2024	Premium Unleaded	Nozzle	Turbid	First	\$200
BS 25-0022	Flash Market	1114 Hwy 77S	Marion	June 03, 2024	Premium Unleaded	Storage Tank	3.00	First	\$200
BS 25-0023	Lets Stop N Go	2223 N College Av	El Dorado	June 06, 2024	Premium Unleaded	Storage Tank	1.50	First	\$200
BS 25-0024	Mt View Exxon Mobil	611 E Main St & Hwy 66W	Mt View	June 11, 2024	Hwy Diesel	Storage Tank	6.00	First	\$200
BS 25-0025	Mt View Exxon Mobil	611 E Main St & Hwy 66W	Mt View	June 11, 2024	Regular Unleaded	Storage Tank	5.00	First	\$200
BS 25-0026	Flash Market 35	1621 N Missouri	West Memphis	June 17, 2024	Hwy Diesel	Storage Tank	2.00	First	\$200
BS 25-0027	Jordans Kwik Stop 9	900 E Jackson	Harrisburg	June 18, 2024	Premium Unleaded	Storage Tank	3.00	First	\$200
BS 25-0028	Flash Market	2074 Evening Shade Dr	Evening Shade	June 19, 2024	Hwy Diesel	Storage Tank	1.75	First	\$200

**TABLE 3 - Violation of A.C.A § 4-108-204 (b) (1) (A) and 4-108-207 FLASHPOINT FAILURE (< 125 °F) - ONE VIOLATION**

Case File	Business Name	Address	City	Sampling Date	Product	FP	Violation	Civil Penalty
BS 25-0029	Super Mart	600 N Illinois	Harrisburg	June 20, 2024	Hwy Diesel	112 °F	First	\$200

TABLE 4 - WARNING LETTER - Violation of A.C.A. § 4-18-344 (d)(3) (2005) Failed to properly affix approved security seal on the calibration mechanism						
Case File	Business Name	Address	City	Date of Violation	Violation Location	Civil Penalty
NA	Akin Environmental Services	1927 Daly Dr	Lowell	May 17, 2024	Hickory Creek Marina, 12737 Hickory Creek Rd, Lowell	NA
NA	Akin Environmental Services	1927 Daly Dr	Lowell	June 10, 2024	White Oak, 408 S Main, Berryville	NA



Sarah Huckabee Sanders  
Governor

# ARKANSAS DEPARTMENT OF AGRICULTURE

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



Wes Ward  
Secretary of Agriculture

## WARNING LETTER

CERTIFIED MAIL: 7022 3330 0000 1081 8282

June 12, 2024

Akin Environmental Services, LLC  
1927 Daly Drive  
Harrison, AR 72601

To Whom It May Concern,

On May 17, 2024, Agriculture Inspector Kristin Walter, on a routine follow up, inspected Hickory Creek Marina, 12737 Hickory Creek Rd, Lowell, AR 72745. The location was last serviced by Akin Environmental Services LLC (Reg No M167) as determined from the annual inspection decal(s) affixed to the Retail Fuel Meter Dispenser(s).

The inspection revealed unapproved lead seal(s) affixed to the calibration mechanism of the Retail Motor Fuel Dispenser(s). A Notice of Violation was issued at the location. This is in violation of Arkansas Annotated Code:

**4-18-322. Prohibited acts.**

**(a) No person shall:**

**(6) Sell or offer for sale any weight or measure for use in commerce, unless it bears an Arkansas Bureau of Standards approved seal or decal, if the seal or decal is applicable to the weight or measure.**

**4-18-344. Testing bulk meters or liquefied petroleum gas metering devices, pumps, and scales used for commercial transactions.**

**(d) (3) A registered technician shall place an approved security seal on the device to prevent any unauthorized access to the adjusting mechanism unless otherwise authorized by the bureau.**

This letter constitutes a warning for the violation(s) alleged above. No civil penalty is being imposed by this letter. However, any future violation(s) of a similar nature may result in civil penalties. You may contact our office if you have any questions.

Arkansas Bureau of Standards  
4608 W. 61st Street, Little Rock, AR 72209  
501-570-1159  
[bureau@agriculture.arkansas.gov](mailto:bureau@agriculture.arkansas.gov)

Thank you for your attention to this matter.

Nikhil Soman



Sarah Huckabee Sanders  
Governor

# ARKANSAS DEPARTMENT OF AGRICULTURE

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



Wes Ward  
Secretary of Agriculture

## WARNING LETTER

CERTIFIED MAIL: 7022 3330 0000 1081 8282

June 12, 2024

Akin Environmental Services, LLC  
1927 Daly Drive  
Harrison, AR 72601

To Whom It May Concern,

On June 10, 2024, Agriculture Inspector Kristin Walter, on a routine follow up, inspected White Oak Station, 408 S Main, Berryville, AR 72616. The location was last serviced by Akin Environmental Services LLC (Reg No M167) as determined from the annual inspection decal(s) affixed to the Retail Fuel Meter Dispenser(s).

The inspection revealed unapproved lead seal(s) affixed to the calibration mechanism of the Retail Motor Fuel Dispenser(s). A Notice of Violation was issued at the location. This is in violation of Arkansas Annotated Code:

4-18-322. Prohibited acts.

*(a) No person shall:*

*(6) Sell or offer for sale any weight or measure for use in commerce, unless it bears an Arkansas Bureau of Standards approved seal or decal, if the seal or decal is applicable to the weight or measure.*

4-18-344. Testing bulk meters or liquefied petroleum gas metering devices, pumps, and scales used for commercial transactions.

*(d) (3) A registered technician shall place an approved security seal on the device to prevent any unauthorized access to the adjusting mechanism unless otherwise authorized by the bureau.*

This letter constitutes a warning for the violation(s) alleged above. No civil penalty is being imposed by this letter. However, any future violation(s) of a similar nature may result in civil penalties. You may contact our office if you have any questions.

Arkansas Bureau of Standards  
4608 W 61st Street, Little Rock, AR 72209  
501-570-1159  
[bureau@agriculture.arkansas.gov](mailto:bureau@agriculture.arkansas.gov)

Thank you for your attention to this matter.

Nikhil Soman

## Nikhil Soman

---

**From:** clinton weatherly <clint@weaoffice.com>  
**Sent:** Tuesday, July 9, 2024, 10:48 AM  
**To:** Nikhil Soman  
**Subject:** Weatherly Exxon BS-24-0194  
**Attachments:** 20240709\_103734.pdf

 You don't often get email from clint@weaoffice.com. [Learn why this is important](#)

Arkansas Department of Agriculture:

Good morning,

I have attached a pdf with my notes showing when I called Jim at arkansas testing and the result of our conversation. Please excuse the sloppiness in the notes.

Thank you for considering our case. Our family owns and operates a convenience store in Hamburg and has long relied on Arkansas Testing to oversee our fuel compliance. I believe around the first of February, after a discussion with Mr. Phillips, I informed Mr. Jim Chevers at Arkansas Testing about the absence of a current annual inspection decal on our dispensers, and that we had only 10 days to get them put on. Jim assured me that he would address it. However, to my surprise, we received a \$350 penalty on June 21st. When I shared the notice with Mr. Jim, he said that it was our responsibility to settle the fine, which we did, and thought all was taken care of. After a couple of weeks, we received another fine of \$800. Despite reaching out to Mr. Jim, he again denied any responsibility and insisted it was on us to pay.

This has never been a problem before, and we have made sure the decal is in place. In the future, we will do our diligence to be sure our store is in compliance and ensure any Department of Agriculture notices are passed to us by our staff. Our mistake was to depend on Arkansas Testing for compliance, as done previously, and our staff's not forwarding notices from the Department of Agriculture to us. We ask for the second penalty of \$800 please to be waived, as it is a substantial financial strain on our small business. Again, even though this is the first time this has happened we are deeply sorry, and it will not happen again.

Thank you,  
Clinton Weatherly





# ARKANSAS DEPARTMENT OF AGRICULTURE



Sarah Huckabee Sanders  
Governor

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

Wes Ward  
Secretary of Agriculture

## NOTICE OF SECOND VIOLATION

Case No. BS 24-0194

CERTIFIED MAIL: 7022 3330 0000 1081 7841

March 5, 2024

Weatherly Exxon  
600 N. Main  
Hamburg, AR. 71646

To Whom It May Concern,

On February 8, 2024, Tim Webb, with the Arkansas Bureau of Standards inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas. Inspections are authorized under Arkansas Code Annotated §4-18-312 (i) "The State Plant Board shall . . . have the authority to inspect and test commercial weights and measures kept, offered, or exposed for sale."

The inspection of the Pump(s) revealed no annual inspection decal, in violation of:

A.C.A. § 4-18-322.

*(a) (6) Sell or offer for sale any weight or measure for use in commerce, unless it bears an Arkansas Bureau of Standards approved seal or decal, if the seal or decal is applicable to the weight or measure;*

The requirements of relevant Arkansas law are stated below:

*(a) (1) Any person who by himself or herself, by his or her servant or agent, or as the servant or agent of another person, commits any of the acts enumerated in § 4-18-322 may be assessed by the State Plant Board a civil penalty of:*

*(A) Not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600) for a first violation;*

*(B) Not less than four hundred dollars (\$400) nor more than one thousand two hundred dollars (\$1,200) for a second violation within three (3) years after the date of the first violation; and*

*(C) Not less than seven hundred dollars (\$700) nor more than two thousand dollars (\$2,000) for a third violation within three (3) years after the date of the first violation.*

*(2) For a violation to be considered as a second or subsequent offense, it must be a repeat of a violation as enumerated in § 4-18-322.*

This violation is a second violation and within the penalty matrix resulting in a civil penalty of \$800.00. Per regulations A.C.A. § 4-18-323 (b) (1), if you wish to contest the civil penalty, you have ten (10) calendar days from receipt of this notice to file a request for an administrative conference. That 'informal conference' will be scheduled, and you may appear at the State Plant Board in Little Rock to engage in informal discussions aimed at resolving the matter. Or you may request a 'formal conference' before the Bureau of Standards Committee of the Plant Board and appear with legal counsel to plead your case.

If you agree to the proposed civil penalty, please sign the enclosed Settlement Agreement and return it to this office but do not send any funds at this time. The case will be presented to the Plant Board for approval at the next scheduled Board meeting in TBA.

You will be notified of the Board action and given final instructions on submitting the civil penalty if the proposed settlement is approved.



Nikhil Soman, Director  
Arkansas Bureau of Standards  
4608 W 61<sup>st</sup> Street, Little Rock, AR 72209  
501-570-1159  
bureau@agriculture.arkansas.gov  
[www.aad.arkansas.gov/bureau-of-standards](http://www.aad.arkansas.gov/bureau-of-standards)

IN THE MATTER OF: Weatherly Exxon  
Pine Bluff, Arkansas

Case No. BS 24-0194  
CERTIFIED MAIL: 7022 3330 0000 1081 7841

**RESOLUTION OF VIOLATIONS OF WEIGHTS AND MEASURES LAW**

This resolution of a Weights and Measures Law violation is issued under the authority of the Arkansas Weights and Measures Law, specifically ACT 914 of 2005, as amended, codified at A.C.A. ' 4-18-322 et.seq. and the regulations promulgated pursuant thereto.

The issues herein, as they pertain inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, have been settled by the Arkansas State Plant Board (ASPB). It is agreed and stipulated by the parties that the Findings of Fact and Order and Agreement be executed as follows:

**FINDINGS OF FACT**

On February 8, 2024, Tim Webb, with the Arkansas Bureau of Standards inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas. During the inspection it was determined; pump(s) was without an annual inspection decal. A rejection was issued notifying them of the violation.

**ORDER AND AGREEMENT**

Without admitting wrongdoing, liability, violation of law, rule or, regulation of any kind and for the purpose of settlement, inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, agrees to the following:

- a) Pursuant to the provisions of the ASPB's Weights and Measures Law Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, agrees to a civil penalty in the amount of Eight Hundred Dollars (\$800.00) for settlement in this matter.
- b) The ASPB's Weights and Measures Penalty Matrix defines this alleged violation as a major violation. Any subsequent like violation of the Weights and Measures Law, as amended, or the Regulations written pursuant thereto, within three years involving inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, alleged violations of this nature will be considered a subsequent offense of Weights and Measures Law.
- c) In the event the ASPB's Board accepts this agreement, inspected Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, shall remit to the ASPB the above amount within 45 days of the Board's action.
- d) In the event that the Board does not accept this proposal, the Board and Weatherly Exxon, 600 N. Main, Hamburg, Arkansas, may request a formal administrative conference regarding this matter.



Nikhil Somán, Director

Signature

Printed Name

Date

Date

3/29/24

(Please return signed Settlement Agreement).

Please  
Sign  
Here

## Nikhil Soman

---

**From:** countryside super market <countrysidesuperm@gmail.com>  
**Sent:** Thursday, June 13, 2024 11:40 AM  
**To:** Nikhil Soman  
**Cc:** AAD Bureau  
**Subject:** Request to waive penalty Case # BS-24-0240 and BS 24-0239  
**Attachments:** 20240611124127834.pdf

Dear Nikhil,

I hope this email finds you well. I am writing on behalf of Countryside Supermarket llc, a small town grocery store that recently incurred a penalty from your Department. We are reaching out to request your consideration in waiving this penalty due to some unforeseen circumstances.

Unfortunately, due to owner's not being present the day inspection happened, I inadvertently neglected to fulfill certain regulatory requirements outlined by your department. We fully acknowledge and take responsibility for this oversight, and we sincerely apologize for any inconvenience or violation it may have caused.

However, we would like to bring to your attention that American Scale company visited our store on March 15 2023, and calibrated one scale, but we are not sure why he didn't calibrate all of the scales. Despite our best efforts to comply with all regulations, this led to the error in question.

As a responsible grocery store, we value our compliance with governmental regulations and strive to maintain a positive relationship with your department. We assure you that we have taken the necessary steps to rectify the situation promptly and prevent similar occurrences in the future.

In light of this circumstance and our commitment to compliance, we kindly request your understanding and consideration in waiving the penalty imposed on our small business. Doing so would greatly alleviate the financial burden on our operations and allow us to continue contributing positively to our community.

We are willing to provide evidence of 2024 compliance report to support our request. Please do not hesitate to contact us at 870-475-2319 or email us at countrysidesuperm@gmail.com if you have any questions regarding this matter.

Thank you very much for your attention to this request. We sincerely appreciate your time and understanding.

Warm Regards,

Ali nawaz

Owner Countryside Supermarket llc

Contact: 786-253-1767, 870 475-2319

> On Jun 11, 2024, at 12:44 PM, Nikhil Soman <nikhil.soman@agriculture.arkansas.gov> wrote:  
>  
> Ali



# ARKANSAS DEPARTMENT OF AGRICULTURE



Sarah Huckabee Sanders  
Governor

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

Wes Ward  
Secretary of Agriculture

## NOTICE OF VIOLATION

Case No. BS 24-0239

CERTIFIED MAIL: 7022 3330 0000 1081 7858

March 21, 2024

Countryside Supermarket #1  
210 N. Greenwood Ave.  
Lepanto, AR. 72354

To Whom It May Concern,

On February 8, 2024, Tim Ritter, with the Arkansas Bureau of Standards inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas. Inspections are authorized under Arkansas Code Annotated §4-18-312 (i) "The State Plant Board shall . . . have the authority to inspect and test commercial weights and measures kept, offered, or exposed for sale."

The inspection of the Pump(s) revealed no annual inspection decal, in violation of:

A.C.A. § 4-18-322.

*(a) (6) Sell or offer for sale any weight or measure for use in commerce, unless it bears an Arkansas Bureau of Standards approved seal or decal, if the seal or decal is applicable to the weight or measure;*

The requirements of relevant Arkansas law are stated below:

*(a) (1) Any person who by himself or herself, by his or her servant or agent, or as the servant or agent of another person, commits any of the acts enumerated in § 4-18-322 may be assessed by the State Plant Board a civil penalty of:*

*(A) Not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600) for a first violation;*

*(B) Not less than four hundred dollars (\$400) nor more than one thousand two hundred dollars (\$1,200) for a second violation within three (3) years after the date of the first violation; and*

*(C) Not less than seven hundred dollars (\$700) nor more than two thousand dollars (\$2,000) for a third violation within three (3) years after the date of the first violation.*

*(2) For a violation to be considered as a second or subsequent offense, it must be a repeat of a violation as enumerated in § 4-18-322.*

This violation is within the penalty matrix resulting in a civil penalty of \$350.00. Per regulations A.C.A. § 4-18-323 (b) (1), if you wish to contest the civil penalty, you have ten (10) calendar days from receipt of this notice to file a request for an administrative conference. That 'informal conference' will be scheduled, and you may appear at the State Plant Board in Little Rock to engage in informal discussions aimed at resolving the matter. Or you may request a 'formal conference' before the Bureau of Standards Committee of the Plant Board and appear with legal counsel to plead your case.

If you agree to the proposed civil penalty, please sign the enclosed Settlement Agreement and return it to this office but do not send any funds at this time. The case will be presented to the Plant Board for approval at the next scheduled Board meeting in TBA.

You will be notified of the Board action and given final instructions on submitting the civil penalty if the proposed settlement is approved.

A handwritten signature in black ink, appearing to read "N. Soman", is written over a horizontal line.

Nikhil Soman, Director  
Arkansas Bureau of Standards  
4608 W 61<sup>st</sup> Street, Little Rock, AR 72209  
501-570-1159  
bureau@agriculture.arkansas.gov  
www.aad.arkansas.gov/bureau-of-standards

IN THE MATTER OF: Countryside Supermarket #1  
Lepanto, Arkansas

Case No. BS 24-0239  
CERTIFIED MAIL: 7022 3330 0000 1081 7858

**RESOLUTION OF VIOLATIONS OF WEIGHTS AND MEASURES LAW**

This resolution of a Weights and Measures Law violation is issued under the authority of the Arkansas Weights and Measures Law, specifically ACT 914 of 2005, as amended, codified at A.C.A. ' 4-18-322 et.seq. and the regulations promulgated pursuant thereto.

The issues herein, as they pertain inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, have been settled by the Arkansas State Plant Board (ASPB). It is agreed and stipulated by the parties that the Findings of Fact and Order and Agreement be executed as follows:

**FINDINGS OF FACT**

On February 8, 2024, Tim Ritter, with the Arkansas Bureau of Standards inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas. During the inspection it was determined; pump(s) was without an annual inspection decal. A rejection was issued notifying them of the violation.

**ORDER AND AGREEMENT**

Without admitting wrongdoing, liability, violation of law, rule or, regulation of any kind and for the purpose of settlement, inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, agrees to the following:

- a) Pursuant to the provisions of the ASPB's Weights and Measures Law Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, agrees to a civil penalty in the amount of Three Hundred Fifty Dollars (\$350.00) for settlement in this matter.
- b) The ASPB's Weights and Measures Penalty Matrix defines this alleged violation as a major violation. Any subsequent like violation of the Weights and Measures Law, as amended, or the Regulations written pursuant thereto, within three years involving inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, alleged violations of this nature will be considered a subsequent offense of Weights and Measures Law.
- c) In the event the ASPB's Board accepts this agreement, inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, shall remit to the ASPB the above amount within 45 days of the Board's action.
- d) In the event that the Board does not accept this proposal, the Board and Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, may request a formal administrative conference regarding this matter.

  
\_\_\_\_\_  
Nikhil Soman, Director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

(Please return signed Settlement Agreement)

Please  
Sign  
Here

3/29/24



# ARKANSAS DEPARTMENT OF AGRICULTURE



Sarah Huckabee Sanders  
Governor

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

Wes Ward  
Secretary of Agriculture

## NOTICE OF SECOND VIOLATION

Case No. BS 24-0240

CERTIFIED MAIL: 7022 3330 0000 1081 8046

March 21, 2024

Countryside Supermarket #1  
210 N. Greenwood Ave.  
Lepanto, AR: 72354

To Whom It May Concern,

On February 8, 2024, Tim Ritter, with the Arkansas Bureau of Standards Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas. Inspections are authorized under Arkansas Code Annotated §4-18-312 (i) "The State Plant Board shall . . . have the authority to inspect and test commercial weights and measures kept, offered, or exposed for sale."

The inspection of the Scale(s) revealed no annual inspection decal, in violation of:

A.C.A. § 4-18-322

*(a) (6) Sell or offer for sale any weight or measure for use in commerce, unless it bears an Arkansas Bureau of Standards approved seal or decal, if the seal or decal is applicable to the weight or measure;*

The requirements of relevant Arkansas law are stated below:

*(a) (1) Any person who by himself or herself, by his or her servant or agent, or as the servant or agent of another person, commits any of the acts enumerated in § 4-18-322 may be assessed by the State Plant Board a civil penalty of:*

*(A) Not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600) for a first violation;*

*(B) Not less than four hundred dollars (\$400) nor more than one thousand two hundred dollars (\$1,200) for a second violation within three (3) years after the date of the first violation; and*

*(C) Not less than seven hundred dollars (\$700) nor more than two thousand dollars (\$2,000) for a third violation within three (3) years after the date of the first violation.*

*(2) For a violation to be considered as a second or subsequent offense, it must be a repeat of a violation as enumerated in § 4-18-322.*

This violation is a **second violation** and within the penalty matrix resulting in a **civil penalty of \$800.00**. Per regulations A.C.A. § 4-18-323 (b) (1), if you wish to contest the civil penalty, you have ten (10) calendar days from receipt of this notice to file a request for an administrative conference. That 'informal conference' will be scheduled, and you may appear at the State Plant Board in Little Rock to engage in informal discussions aimed at resolving the matter. Or you may request a 'formal conference' before the Bureau of Standards Committee of the Plant Board and appear with legal counsel to plead your case.

If you agree to the proposed civil penalty, please sign the enclosed Settlement Agreement and return it to this office but do not send any funds at this time. The case will be presented to the Plant Board for approval at the next scheduled Board meeting in TBA.

You will be notified of the Board action and given final instructions on submitting the civil penalty if the proposed settlement is approved.



Nikhil Soman, Director  
Arkansas Bureau of Standards  
4608 W 61<sup>st</sup> Street, Little Rock, AR 72209  
501-570-1159  
bureau@agriculture.arkansas.gov  
www.aad.arkansas.gov/bureau-of-standards

IN THE MATTER OF: Countryside Supermarket #1  
Lepanto, Arkansas

Case No. BS 24-0240

CERTIFIED MAIL: 7022 3330 0000 1081 8046

**RESOLUTION OF VIOLATIONS OF WEIGHTS AND MEASURES LAW**

This resolution of a Weights and Measures Law violation is issued under the authority of the Arkansas Weights and Measures Law, specifically ACT 914 of 2005, as amended, codified at A.C.A. § 4-18-322 et seq. and the regulations promulgated pursuant thereto.

The issues herein, as they pertain to Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, have been settled by the Arkansas State Plant Board (ASPB). It is agreed and stipulated by the parties that the Findings of Fact and Order and Agreement be executed as follows:

**FINDINGS OF FACT**

On February 8, 2024, Tim Ritter, with the Arkansas Bureau of Standards inspected Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas. During the inspection it was determined; scale(s) was without an annual inspection decal. A rejection was issued notifying them of the violation.

**ORDER AND AGREEMENT**

Without admitting wrongdoing, liability, violation of law, rule or, regulation of any kind and for the purpose of settlement, Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, agrees to the following:

- a) Pursuant to the provisions of the ASPB's Weights and Measures Law, Super 1 Foods #628, 5805 Dollarway Road, Pine Bluff, Arkansas, agrees to a civil penalty in the amount of Eight Hundred Dollars (\$800.00) for settlement in this matter.
- b) The ASPB's Weights and Measures Penalty Matrix defines this alleged violation as a major violation. Any subsequent like violation of the Weights and Measures Law, as amended, or the Regulations written pursuant thereto, within three years involving Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, alleged violations of this nature will be considered a subsequent offense of Weights and Measures Law.
- c) In the event the ASPB's Board accepts this agreement Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, shall remit to the ASPB the above amount within 45 days of the Board's action.
- d) In the event that the Board does not accept this proposal, the Board and Countryside Supermarket #1, 210 N. Greenwood Ave., Lepanto, Arkansas, may request a formal administrative conference regarding this matter.



Nikhil Soman, Director

Signature

Printed Name

Please  
Sign  
Here

3/29/24

Date

Date

(Please return signed Settlement Agreement)



**July 9, 2024**

**10:00 a.m.**

**Arkansas Department of Agriculture  
Little Rock, AR**

- **Welcome, Introduction by Chairman Joe Mencer**
- **Approval of the previous Meeting Minutes**
- **Audit Presentation presented by Barrett Belew, CPA  
Assurance Partner with Hogan Taylor LLP**
- **Financial Report presented by Melissa Cary, Landmark  
PLC**
- **Legal Matters update presented by Cal McCastlain with  
Wright, Lindsey & Jennings LLP**
- **Program update presented by Regina Coleman, ABWEF  
Executive Director**
- **Other Business**
- **Set next meeting date**
- **Adjourn**

**ARKANSAS COTTON GROWER'S**

**February 7, 2024**

**ARKANSAS STATE PLANT BOARD**

**LITTLE ROCK, AR.**

Members present were Chairman Joe Mencer, Vice Chairman Pace Hindsley, Secretary Gregg Garner, Benton Felts, Ramey Stiles, and Sam Stuckey. Travis Senter was not present.

Also present were Regina Coleman, Executive Director for ABWEF; Katie Watts, Administrative Assistant for ABWEF; Cal McCastlain, Legal Counsel for ABWEF; Melissa Cary, Landmark PLC; Zac Wellman, Arkansas Department of Agriculture; and Brandy Carroll, Arkansas Farm Bureau.

Chairman Joe Mencer called the meeting to order at 10:03 a.m.

Mr. Felts moved to approve the minutes from the November 16th, 2023, meeting. Mr. Stuckey seconded. Motion carried.

Ms. Cary gave December 2023 financial update. Cash on hand was \$3,697,440. The Statement of Activities showed operating expenses were \$94,000 under budget at the year's end. Ms. Cary pointed out the interest income of \$77,037 was a huge improvement from the previous year. Outstanding balances of grower receivables were discussed. Mr. McCastlain will look into options for collections of outstanding assessments.

Mr. Stuckey asked for clarification on the grower penalties and rebates to those who still owe assessments. Mrs. Coleman explained the penalties are automatically generated at midnight on the due date of August 15<sup>th</sup> for all assessments not paid. The first penalty starts August 16 of \$1/acre on late fees. The second penalty of \$1/acre is generated on September 16, and the third penalty of \$1/acre is generated on October 16. Rebates are not issued to growers who have outstanding assessments but are issued to those who paid late. Mr. Hindsley made a motion to approve the financial report. Mr. Stiles seconded. Motion carried.

The board discussed the sweep account, interest and schedule of Certificates of Deposit. Mr. Hindsley moved to reduce the Sweep account balance by moving funds into CDs for \$250,000 with Mrs. Coleman handling the bank negotiations for each CD. Mr. Stiles Seconded. Motion carried.

Mr. Garner moved to set the 2024 assessment at \$3/acre. Mr. Hindsley seconded. Motion carried. Mr. Garner also moved to give the growers a \$1/acre rebate on assessments paid for 2023 acres. Mr. Stiles seconded. Motion carried. Mrs. Coleman stated that the rebate checks will be ready by the end of April.

Mrs. Coleman gave the program update, Mrs. Coleman presented the 2024 budget with an increase in acres to approximately 500,000 acres but the Projected Cash Flow was based on 490,000 acres generating \$1.4 million in assessments. The grower rebates for 2023 will be approximately \$485,730. The budget will be discussed at the next meeting after acre verification has been completed and acres are finalized.

The Delta Invoice was presented by Ms. Cary. The Delta Direct Expenses were \$70,629.28. The Delta Overhead Expenses were \$171,552.26. The total for both Delta expenses was \$242,182.54. Mr. Stuckey moved to approve the Delta Invoice. Mr. Hindsley seconded. Motion carried.

The next meeting is scheduled for July 9th, 2023, beginning at 10:00 a.m. The Finance Committee meeting will be held at 9:00 a.m.

With no further business, the meeting adjourned at 11:28 a.m.

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Joe Mencer, Chairman

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Pace Hindsley, Vice-Chairman

# Arkansas Cotton Grower's Organization Inc.

Virtual Meeting  
March 26, 2024

Members participating for the virtual meeting were Chairman Joe Mencer, Vice Chairman Pace Hindsley, Secretary Gregg Garner, Benton Felts, Ramey Stiles, and Travis Senter. Sam Stuckey was not present.

Also present were Regina Coleman, Executive Director for ABWEF; Katie Watts, Administrative Assistant for ABWEF; Cal McCastlain, Legal Counsel for ABWEF; Melissa Cary, Landmark PLC; Zac Wellman, Arkansas Department of Agriculture; Scott Bray, Arkansas Department of Agriculture; Andrew Grobmyer, AG Council and John Paul Robson, Open Cloud Provider LLC.

Chairman Mencer called the zoom meeting to order at 10:07 a.m.

Mrs. Coleman gave a brief description of the IT services the Foundation needs. She discussed Edafio's growth and how the expansion has changed in relation to the Foundation's business needs. She suggested that the Foundation's IT needs could be met with a smaller IT group and introduced John Paul Robson, Open Cloud Provider LLC. Mr. Robson began working with ABWEF in 2008. He developed the computer software for the Boll Weevil program and the BW application for the iPads. He also provides support for the ABWEF website.

After discussion of IT needs for the Foundation Mr. Garner moved to contract with Open Cloud Providers, LLC, to provide IT services. Mr. Stiles seconded. Motion carried. Mrs. Coleman will give a 60-day notice of termination for services to Edafio and Mr. Robson will move our cloud servers to his company.

Mrs. Coleman reported that the yearly lure analysis done by Dr. Charles Suh showed the lure to be still effective. Dr. Suh does the lure analysis for all Boll Weevil programs to ensure the efficacy of the pheromones.

The Certificate of Deposits were also discussed with the possibility of securing additional CDs. Mr. Felts made a motion to invest in another CD with funds from the Sweep Account. Mr. Stiles seconded.

With no further business the meeting was adjourned at 10:57 a.m.

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Joe Mencer, Chairman

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Pace Hindsley, Vice-Chairman



**ARKANSAS COTTON GROWER'S ORGANIZATION, INC.  
D/B/A ARKANSAS BOLL WEEVIL ERADICATION FOUNDATION**

**REPORT TO THE BOARD OF DIRECTORS**

**DATE**

PRELIMINARY DRAFT SUBJECT TO CHANGE

**DATE**

**Mr. Joe Mencer, Board of Directors  
Arkansas Boll Weevil  
Eradication Foundation  
Post Office Box 2838  
West Helena, Arkansas 72390**

**We are pleased to present this report related to our audit of the financial statements of Arkansas Cotton Grower's Organization, Inc. d/b/a Arkansas Boll Weevil Eradication Foundation as of and for the year ended December 31, 2023. This report summarizes certain matters required by professional standards to be communicated to you in your oversight responsibility for the Arkansas Cotton Grower's Organization, Inc. d/b/a Arkansas Boll Weevil Eradication Foundation's financial reporting process.**

**This report is intended solely for the information and use of the finance committee, board of directors, and management, and is not intended to be, and should not be used by anyone other than these specified parties. It will be our pleasure to respond to any questions you have about this report. We appreciate the opportunity to continue to be of service to Arkansas Cotton Grower's Organization, Inc. d/b/a Arkansas Boll Weevil Eradication Foundation.**

**FIRM SIGNATURE**

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**Summary of Uncorrected Misstatements..... 5**

**Exhibit A – Significant Written Communications between Management and Our Firm**

**Representation Letter**

**REQUIRED COMMUNICATIONS**

Generally accepted auditing standards (AU-C 260, *The Auditor's Communication With Those Charged With Governance*) require the auditor to promote effective two-way communication between the auditor and those charged with governance. Consistent with this requirement, the following summarizes our responsibilities regarding the financial statement audit as well as observations arising from our audit that are significant and relevant to your responsibility to oversee the financial reporting process.

<u>Area</u>	<u>Comments</u>
<b>Our Responsibilities With Regard to the Financial Statement Audit</b>	Our responsibilities under auditing standards generally accepted in the United States of America and <i>Government Auditing Standards</i> issued by the Comptroller General of the United States have been described to you in our arrangement letter dated April 3, 2024. Our audit of the financial statements does not relieve management or those charged with governance of their responsibilities, which are also described in that letter.
<b>Overview of the Planned Scope and Timing of the Financial Statement Audit</b>	We have issued a separate communication dated April 3, 2024, regarding the planned scope and timing of our audit and identified significant risks.
<b>Accounting Policies and Practices</b>	<p><b>Preferability of Accounting Policies and Practices</b> Under generally accepted accounting principles, in certain circumstances, management may select among alternative accounting practices. In our view, in such circumstances, management has selected the preferable accounting practice.</p> <p><b>Adoption of, or Change in, Accounting Policies</b> Management has the ultimate responsibility for the appropriateness of the accounting policies used by Arkansas Cotton Grower's Organization, Inc. d/b/a Arkansas Boll Weevil Eradication Foundation (the Foundation). The Foundation did not adopt any significant new accounting policies, nor have there been any changes in existing significant accounting policies during the current period.</p> <p><b>Significant or Unusual Transactions</b> We did not identify any significant or unusual transactions or significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.</p> <p><b>Management's Judgments and Accounting Estimates</b> Summary information about the process used by management in formulating particularly sensitive accounting estimates and about our conclusions regarding the reasonableness of those estimates is in the attached Summary of Significant Accounting Estimates.</p>



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<b>Area</b>	<b>Comments</b>
<b>Basis of Accounting</b>	The financial statements were prepared on the assumption that the Foundation will continue as a going concern.
<b>Audit Adjustments</b>	Audit adjustments, other than those that are clearly trivial, proposed by us and recorded by the Foundation are shown in the attached Summary of Recorded Audit Adjustments.
<b>Uncorrected Misstatements</b>	Uncorrected misstatements are summarized in the attached list of Summary of Unrecorded Audit Adjustments. Uncorrected misstatements or matters underlying these uncorrected misstatements could potentially cause future period financial statements to be material misstated, even if we have concluded that the uncorrected misstatements are immaterial to the financial statements under audit.
<b>Disagreements With Management</b>	We encountered no disagreements with management over the application of significant accounting principles, the basis for management's judgments on any significant matters, the scope of the audit, or significant disclosures to be included in the financial statements.
<b>Consultations With Other Accountants</b>	Management informed us that, and to our knowledge, other than the arrangement with Landmark, PLC to serve as the outsourced controller for the Foundation, there were no consultations with other accountants regarding auditing and accounting matters.
<b>Significant Issues Discussed With Management</b>	No significant issues arising from the audit were discussed or were the subject of correspondence with management.
<b>Significant Difficulties Encountered in Performing the Audit</b>	We did not encounter any significant difficulties in dealing with management during the audit.
<b>Significant Written Communications Between Management and Our Firm</b>	Copies of significant written communications between our firm and the management of the Foundation, including the representation letter provided to us by management, are attached as Exhibit A.

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**ARKANSAS COTTON GROWER'S ORGANIZATION, INC.  
D/B/A ARKANSAS BOLL WEEVIL ERADICATION FOUNDATION**

**SUMMARY OF SIGNIFICANT ACCOUNTING ESTIMATES**

Year ended December 31, 2023

Accounting estimates are an integral part of the preparation of financial statements and are based upon management's current judgment. The process used by management encompasses their knowledge and experience about past and current events, and certain assumptions about future events. You may wish to monitor throughout the year the process used to determine and record this accounting estimate. The following describes the significant accounting estimate reflected in the Foundation's December 31, 2023 financial statements.

<b>Estimate</b>	<b>Functional Expense Allocation</b>
<b>Accounting Policy</b>	Functional expenses are recorded between program services and management and administrative expense categories.
<b>Management's Estimation Process</b>	Personnel related expenses are allocated based on actual time utilized for the related activities. Other expenses are allocated based on other meaningful measures for the particular type of expenditure.
<b>Basis for Our Conclusion on Reasonableness of Estimate</b>	We evaluated the key factors and assumptions used to develop these estimates and determined that they are reasonable in relation to the basic financial statements taken as a whole.



**ARKANSAS COTTON GROWER'S ORGANIZATION, INC.  
D/B/A ARKANSAS BOLL WEEVIL ERADICATION FOUNDATION**

**SUMMARY OF RECORDED ADJUSTMENTS**

Year ended December 31, 2023

Name	Account No	Debit	Credit
Unrestricted net assets	3010-0	\$ 596,958	
Assessments	4100-0	1,368	
Rebate checks to Growers: Rebate to Growers - Delta	5434-1		\$ (154,741)
Rebate checks to Growers	5435-0		(443,585)

To account for prior year entry that was not recorded by the Company associated with rebates.

Unrestricted Net Assets	3010-0		(91,951)
Other Income	4900-0	91,951	

To true up revenue and equity for the ERC amount recognized as of December 31, 2022 that was recorded in 2023.

Grower assessment rebate	2160-0		(485,683)
Assessments	4100-0	332,827	
Assessments - Delta	4100-5	152,856	

Client provided entry to accrue for \$1/acre on all 2023 assessments.

Right-of-use Asset	HT5	59,626	
Operating lease liability - current	HT6		(8,553)
Operating lease liability - noncurrent	HT7		(51,073)
Rent	5600-0		

To record the Foundation's operating lease right-of-use asset and lease liabilities for adoption of ASC 842.



**ARKANSAS COTTON GROWER'S ORGANIZATION, INC.  
D/B/A ARKANSAS BOLL WEEVIL ERADICATION FOUNDATION**

**SUMMARY OF UNCORRECTED MISSTATEMENTS**

Year ended December 31, 2023

<u>Description</u>	<u>Proposed Adjustment - Increase (Decrease)</u>				
	<u>Assets</u>	<u>Liabilities</u>	<u>Equity</u>	<u>Revenue</u>	<u>Expense</u>
To record factual and projected misstatement for unaccrued liabilities	\$ -	\$ 13,797	\$ -	\$ -	\$ 13,797
Effect on change in net assets resulting from operations				\$ -	\$ (13,797)
Effect on Statement of Assets, Liabilities, and Partners' Capital	\$ -	\$ 13,797	\$ -		

**EXHIBIT A – SIGNIFICANT WRITTEN COMMUNICATIONS BETWEEN  
MANAGEMENT AND OUR FIRM**

**ARKANSAS COTTON GROWER'S ORGANIZATION, INC.  
d/b/a ARKANSAS BOLL WEEVIL ERADICATION FOUNDATION**

**FINANCIAL STATEMENTS**

**DECEMBER 31, 2023 and 2022**

**WITH**

**INDEPENDENT AUDITOR'S REPORTS**

PRELIMINARY DRAFT SUBJECT TO CHANGE

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## INDEPENDENT AUDITOR'S REPORT

To the Board of Directors  
Arkansas Cotton Grower's Organization, Inc.  
d/b/a Arkansas Boll Weevil Eradication Foundation

### Opinion

We have audited the financial statements of Arkansas Cotton Grower's Organization, Inc. d/b/a Arkansas Boll Weevil Eradication Foundation (the Foundation), which comprise the statements of financial position as of December 31, 2023 and 2022, the related statements of activities, functional expenses and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Foundation as of December 31, 2023 and 2022, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards* (GAS), issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Foundation and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Foundation's ability to continue as a going concern within one year after the date that the financial statements are issued or available to be issued.

### Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and GAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is

higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and GAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Foundation's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Foundation's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

#### **Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated **DATE**, 2024, on our consideration of the Foundation's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Foundation's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Foundation's internal control over financial reporting and compliance.

#### **FIRM SIGNATURE**

Little Rock, Arkansas  
**DATE**, 2024

**ARKANSAS COTTON GROWER'S ORGANIZATION, INC.**  
**d/b/a ARKANSAS BOLL WEEVIL ERADICATION FOUNDATION**

**STATEMENTS OF FINANCIAL POSITION**

**December 31, 2023 and 2022**

	2023	2022
<b>Assets</b>		
<b>Current assets:</b>		
Cash	\$ 1,894,459	\$ 3,617,637
Certificates of deposit	1,802,981	255,408
Grower assessments receivable	8,569	12,140
Employee Retention Credit receivable	91,951	91,951
Operating lease right-of-use assets	59,626	-
Other current assets	22,379	17,691
<b>Total current assets</b>	<b>3,879,965</b>	<b>3,994,827</b>
Property and equipment, net	193,759	112,406
<b>Total assets</b>	<b>\$ 4,073,724</b>	<b>\$ 4,107,233</b>
<b>Liabilities and Net Assets</b>		
<b>Current liabilities:</b>		
Accounts payable and accrued expenses	\$ 34,085	\$ 179,915
Grower assessments rebate	485,683	596,958
Operating lease liability - current	8,553	-
<b>Total current liabilities</b>	<b>528,321</b>	<b>776,873</b>
Operating lease liability - noncurrent	51,073	-
<b>Total liabilities</b>	<b>579,394</b>	<b>776,873</b>
Net assets without donor restrictions	3,494,330	3,330,360
<b>Total liabilities and net assets</b>	<b>\$ 4,073,724</b>	<b>\$ 4,107,233</b>

**ARKANSAS COTTON GROWER'S ORGANIZATION, INC.**  
**d/b/a ARKANSAS BOLL WEEVIL ERADICATION FOUNDATION**

**STATEMENTS OF ACTIVITIES AND NET ASSETS**

**Years ended December 31, 2023 and 2022**

	2023	2022
<b>Revenue and Other Support</b>		
Grower assessments	\$ 1,490,204	\$ 1,852,821
Grower assessments rebate	(485,683)	(596,958)
Net grower assessments	1,004,521	1,255,863
Employee Retention Credit income	-	91,951
Other income	138,267	23,572
Total revenue and other support	1,142,788	1,371,386
<b>Operating Expenses</b>		
Program activities	666,647	689,211
Management and general	312,171	357,405
Total operating expenses	978,818	1,046,616
Change in net assets without donor restrictions	163,970	324,770
Net assets, beginning of year	3,330,360	3,005,590
Net assets, end of year	\$ 3,494,330	\$ 3,330,360

**ARKANSAS COTTON GROWER'S ORGANIZATION, INC.  
d/b/a ARKANSAS BOLL WEEVIL ERADICATION FOUNDATION**

**STATEMENT OF FUNCTIONAL EXPENSES**

**Year ended December 31, 2023**

	Program Activities	Management and General	Total Operating Expenses
Salaries, benefits, and payroll taxes	\$ 370,078	\$ 154,808	\$ 524,886
Vehicle maintenance and gasoline	54,572		54,572
Insurance	35,442	6,254	41,696
Utilities and telephone	2,300	6,900	9,200
Depreciation and amortization	50,782	469	51,251
Data management	-	12,820	12,820
Professional fees	-	108,560	108,560
Travel and meals	1,498	8,492	9,990
Office supplies	9,859	1,740	11,599
Rent	2,400	7,200	9,600
Other operating expenses	18,284	4,928	23,212
National Boll Weevil Protection Fund	121,432	-	121,432
<b>Total operating expenses</b>	<b>\$ 666,647</b>	<b>\$ 312,171</b>	<b>\$ 978,818</b>

**ARKANSAS COTTON GROWER'S ORGANIZATION, INC.  
d/b/a ARKANSAS BOLL WEEVIL ERADICATION FOUNDATION**

**STATEMENT OF FUNCTIONAL EXPENSES**

**Year ended December 31, 2022**

	Program Activities	Management and General	Total Operating Expenses
Salaries, benefits, and payroll taxes	\$ 382,805	\$ 165,158	\$ 547,963
Vehicle maintenance and gasoline	63,643		63,643
Insurance	34,473	6,083	40,556
Utilities and telephone	3,870	11,611	15,481
Depreciation and amortization	33,914	856	34,770
Data management	-	12,320	12,320
Professional fees		144,285	144,285
Travel and meals	1,201	6,806	8,007
Office supplies	8,353	1,474	9,827
Rent	2,400	7,200	9,600
Other operating expenses	8,241	1,612	9,853
National Boll Weevil Protection Fund	150,311	-	150,311
<b>Total operating expenses</b>	<b>\$ 689,211</b>	<b>\$ 357,405</b>	<b>\$ 1,046,616</b>

**ARKANSAS COTTON GROWER'S ORGANIZATION, INC.**  
**d/b/a ARKANSAS BOLL WEEVIL ERADICATION FOUNDATION**

**STATEMENTS OF CASH FLOWS**

**Years ended December 31, 2023 and 2022**

	2023	2022
<b>Cash Flows from Operating Activities</b>		
Change in net assets	\$ 163,970	\$ 824,770
Adjustments to reconcile change in unrestricted net assets to net cash (used in) provided by operating activities:		
Depreciation and amortization	51,251	34,770
Gain on disposal of property and equipment	(54,613)	(12,627)
Change in operating assets and liabilities:		
Grower assessments receivable	3,571	(6,765)
Employee Retention Credit receivable	-	(91,951)
Other current assets	(4,688)	1,091
Accounts payable and accrued expenses	(145,830)	143,727
Grower assessments rebate	(111,275)	253,678
	(97,614)	646,693
<b>Net cash (used in) provided by operating activities</b>		
<b>Cash Flows from Investing Activities</b>		
Purchase of certificates of deposit	(1,802,981)	(255,408)
Maturity of certificates of deposit	255,408	254,740
Proceeds from disposal of property and equipment	72,000	13,000
Purchase of property and equipment	(149,991)	(73,486)
	(1,625,564)	(61,154)
<b>Net cash used in investing activities</b>		
<b>Change in cash and cash equivalents</b>	(1,723,178)	585,539
<b>Cash and cash equivalents, beginning of year</b>	3,617,637	3,032,098
<b>Cash and cash equivalents, end of year</b>	\$ 1,894,459	\$ 3,617,637

See notes to financial statements.

**ARKANSAS COTTON GROWER'S ORGANIZATION, INC.**  
**d/b/a ARKANSAS BOLL WEEVIL ERADICATION FOUNDATION**

**NOTES TO FINANCIAL STATEMENTS**

**December 31, 2023 and 2022**

**Note 1 – Business and Organization**

Arkansas Cotton Grower's Organization, Inc. d/b/a Arkansas Boll Weevil Eradication Foundation (the Foundation) is a nonprofit corporation organized in 1993 to carry out programs of boll weevil eradication. Eradication was performed over a five-year period in each of the five eradication zones in the state of Arkansas. Year one of eradication consisted of the fall diapause phase in which the fields were mapped and up to ten applications of insecticide were made. Years two through five involved mapping, trapping, and reduced applications of insecticide, based on trap captures and crop stage. The maintenance phase of the program began in year six for each zone and continues today.

The Foundation is funded primarily by grower assessments levied on cotton producers based on acres planted, and in prior years by state and federal grant funds. Grower assessments on acres of cotton planted are collected from cotton in the year levied. All funds received by the Foundation must be used in the eradication program. None of these funds can be used for any other purpose.

The Foundation's eradication program was front-end loaded relative to operational cost and eradication activity. Annual grower assessments were developed from the long-term budget, included in the referendum, and passed by the cotton growers. The grower assessments were developed so as not to place the burden of the front-end cost on the growers in the first three years of the program, but to equitably spread the cost over the entire five years of eradication operations in each eradication zone and the maintenance phase thereafter. State and federal funds were budgeted for support of the program. In order to pay for these initial high program costs, the Foundation used loan proceeds from the United States Department of Agriculture Farm Service Agency (FSA) to provide cash flow to cover anticipated budget deficits in each eradication zone.

All five eradication zones, which include the Southwest Zone, Southeast Zone, Central Zone, Northeast Ridge Zone, and Northeast Delta Zone, have reached the maintenance phase of the program. The original assumptions when developing the long-term budgets were that, while income would significantly decrease at this point in the program, the field activities would decrease as well, so that the Foundation would be able to generate more income than expenses.

The Foundation has met its goal of eradication of boll weevil populations across the state of Arkansas. The Foundation believes the state is completely free of the boll weevil. During the years ended December 31, 2023 and 2022, the Foundation contributed \$0.25 per acre assessed to the National Boll Weevil Protection Fund, an organization established by the National Cotton Council as a multi-state initiative to support efforts to completely eradicate the boll weevil throughout the nation.

**Note 2 – Summary of Significant Accounting Policies**

**Basis of accounting**

The Foundation uses the accrual basis of accounting for financial reporting purposes in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP).

### Cash and cash equivalents

For purposes of the statements of cash flows, the Foundation considers all highly liquid debt instruments purchased with an original maturity of three months or less to be cash equivalents.

The Foundation maintains cash balances in bank accounts at levels in excess of the Federal Deposit Insurance Corporation insured limit. Management believes that its policies are adequate to minimize potential credit risks.

### Revenue recognition

The Foundation accounts for revenue in accordance with Accounting Standards Codification 606, *Revenue from Contracts with Customers*. In determining the appropriate amount of revenue to recognize, the Foundation applies the following five-step model: (i) identify contracts with customers; (ii) identify performance obligations in the contracts; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations per the contracts; and (v) recognize revenue when (or as) the Foundation satisfies a performance obligation. The Foundation's revenue is derived from assessments paid by cotton farmers which are based on the total cotton acreage monitored by the Foundation. The Foundation has no other revenue streams.

### Grower assessments revenue, receivables and rebates

Grower assessments are recognized as revenue when monitored within the same period. Grower assessments receivable are grower assessments that have not yet been collected from growers.

Receivables are charged off when they are past due based on contractual maturities and when management believes the likelihood of nonpayment is probable. The allowance for expected credit losses is based on management's estimate of total receivables that will not be collected. Collectability is assessed by reviewing accounts receivable on a collective basis where similar characteristics exist and on an individual basis when specific customers are identified with known disputes or collectability issues. In determining the amount of the allowance for credit losses, the Foundation considers historical collectability based on past due status, customer-specific information, market conditions, and reasonable and supportable forecasts of future economic conditions to estimate adjustments to historical loss data. While management believes the Company's processes effectively estimate the amount of possible credit losses in the Foundation's account receivable, changes in circumstances may result in a requirement for additional provisions in the future. No allowance for expected credit losses was deemed necessary as of December 31, 2023 and 2022.

The Board of Directors approved a rebate of the 2023 and 2022 grower assessments in the amount of \$1.00 per acre assessed. The approved rebates are recognized in the accompanying statements of financial position and statements of activities and net assets as a grower assessment rebate and a reduction to grower assessments revenue.

### Property, equipment and website development costs

Property, equipment, and website development costs are recorded at cost for purchased assets and estimated fair value as of the date of the contribution for contributed assets. The Foundation capitalizes all expenditures for property and equipment in excess of \$2,500. Expenditures for maintenance and repairs are charged to expense as incurred, where major improvements are capitalized. Depreciation of property and equipment and amortization of website development costs are computed on a straight-line basis over the estimated useful lives of the related assets. Useful lives range from 3 to 15 years.

### Net assets classification

The Foundation classifies net assets as follows:

*Net assets without donor restrictions* – Net assets without donor restrictions are undesignated net assets free from donor-imposed restrictions. These funds are maintained and distributed at the discretion of the Board of Directors of the Foundation.

*Net assets with donor restrictions* – Net assets with donor restrictions are designated net assets whose use by the Foundation has been designated by donors to a specified time period or purpose.

All of the Foundation's net assets were without donor restrictions as of December 31, 2023 and 2022.

### Functional expenses

Functional expenses have been allocated between program services and management and general expenses. Personnel related expenses are allocated based on actual time utilized for the related activities. Other expenses are allocated based on other meaningful measures for the particular type of expenditure.

### Income taxes

The Foundation is a publicly supported organization exempt from income taxation under Section 501(c)(5) of the Internal Revenue Code and is classified as other than a private foundation. Accordingly, no provision for income taxes is included in the accompanying financial statements.

### Leases

The Foundation determines if an arrangement contains an operating or finance lease at its inception and recognizes right-of-use assets and lease liabilities at the commencement date based on the present value of the lease payments over the lease terms.

The Foundation does not combine lease and nonlease components to determine lease payments for any of its leases.

The Foundation does not record leases with terms of 12 months or less on the balance sheet but instead recognizes the lease payments as an expense on a straight-line basis over the term of the lease.

For finance leases, lease expenses are the sum of interest on the lease obligations and amortization of the right-of-use assets. Finance lease right-of-use assets are amortized based on the lesser of the lease term and the useful life of the lease assets according to the capital asset accounting policy. If ownership of the right-of-use assets transfers to the Foundation at the end of the lease term or if the Foundation is reasonably certain to exercise a purchase option, amortization is calculated using the estimated useful life of the leased asset.

For operating leases, the expenses are generally recognized on a straight-line basis over the lease term.

The Foundation recognizes variable lease payments as expenses when incurred.

### Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect certain amounts and disclosures. Accordingly, actual results could differ from those estimates.

### Reclassification

Certain amounts as of December 31, 2022, have been reclassified for consistency with the current year presentation, including certificates of deposit.

### Subsequent events

The Foundation has evaluated subsequent events for recognition and disclosure through DATE, 2024, the date the financial statements were issued.

### **Note 3 – Property and Equipment**

Property and equipment consisted of the following at December 31:

	2023	2022
Vehicles	\$ 333,623	\$ 324,725
Program equipment	41,508	41,508
Computer equipment	50,715	50,715
Office furniture and equipment	11,141	11,141
Website development costs	48,874	48,874
	485,861	476,963
Less accumulated depreciation and amortization	(292,102)	(364,557)
Property and equipment, net	<u>\$ 193,759</u>	<u>\$ 112,406</u>

Website development costs are subject to amortization recorded using the straight-line method over the useful life of the asset. The useful life has been set to three years in accordance with the Foundation policy. The amortization expense was \$12,327 and \$15,760 for the years ended December 31, 2023 and 2022, respectively. Estimated future amortization expense related to this asset is \$2,895 for 2024, \$638 for 2025, and \$217 for 2026.

### **Note 4 – Leases**

The Foundation maintains a location in West Helena, Arkansas, under an operating lease agreement. The lease, as renewed and with its options exercised, extended through March 2023. The lease continued on a month to month basis through December 31, 2023. Monthly operating lease payments for the year-ending December 31, 2023, totaled \$9,600. A new lease was signed with the location in December 2023 with payments set to begin in January 2024.

The following table summarizes lease information under ASC 842 for the year ended December 31, 2023:

Other information:	
Weighted average remaining lease term (years)	5.00
Weighted average discount rate	8.50%

The following represents the future minimum lease payments for the year ending December 31:

<u>Year</u>	<u>Amount</u>
2024	\$ 13,200
2025	15,000
2026	15,000
2027	15,000
2028	15,000
Total undiscounted operating lease payments	73,200
Less: imputed interest	<u>(13,574)</u>
Total operating lease liabilities	<u>\$ 59,626</u>

#### **Note 5 – Retirement Plan**

The Foundation sponsors a 401(k) Profit Sharing Plan and Trust. All employees who are 18 or older and have reached three months of service are eligible to participate. The Foundation makes a matching contribution of 100% up to 5% of each employee's compensation. The amount contributed for the years ended December 31, 2023 and 2022, was approximately \$13,000 and \$18,700, respectively.

#### **Note 6 – Commitments**

The Foundation entered into a contractual agreement for information technology services. The agreement expired on June 30, 2019, then automatically renewed for a one-year term and continued to automatically renew for successive one-year terms. Estimated minimum payments under this contract for 2023 to be paid in 2024 are approximately \$8,600. The contract was subsequently terminated in March 2024. In April 2024, the Foundation entered into a new contractual agreement for information technology services. The contract is at-will and as a result can be terminated at any point by either party as long as the party provides 90-day notice of its intent to terminate. Estimated minimum payments under this contract to be paid in 2024 are approximately \$1,650.

#### **Note 7 – Employee Retention Credit**

The CARES Act also provides an Employee Retention Credit (ERC) which is a refundable tax credit against certain employment taxes equal to 50% of qualified wages paid (up to \$10,000 per employee annually for wages paid between March 13 and December 31, 2020), up to \$5,000 in refundable tax credits for each employee on their payroll in 2020. Additional relief provisions were passed by the United States government, which extended and expanded the qualified wage caps on these credits to 70% of qualified wages paid (up to \$10,000 per employee per quarter through September 30, 2021), up to \$7,000 in refundable tax credits per quarter per employee (excluding fourth quarter) for each employee in 2021.

The Foundation recognizes ERCs as contributions when it is entitled to receive the credits upon meeting the eligibility requirements and incurring qualified expenses. As of December 31, 2022, management believed the Foundation had met the eligibility and certain other criteria related to use of the funds. Accordingly, the Foundation recognized the full amount of ERC expected to be received for employment

taxes in 2022 as income by analogy to International Accounting Standard (IAS) 20, *Accounting for Government Grants and Disclosure of Government Assistance* during the year ended December 31, 2022.

The Company recognized \$91,951 related to the ERC in the accompanying statements of activities and net assets for the year ended December 31, 2022. On December 31, 2023 and 2022, the Company has a \$91,951 receivable balance related to the ERC. In September 2023, the IRS announced an immediate moratorium on processing new ERC claims. This restriction is still in effect. Despite this, management maintains their belief that the Foundation has met the eligibility requirements and the funds will be received. As of the date of the audit report, the Internal Revenue Service is continuing to process claims.

**Note 8 – Liquidity and Availability of Resources**

The Foundation's financial assets available for general expenditure within one year of the December 31, 2023, statement of financial position are as follows:

	2023	2022
Cash	\$ 1,894,459	\$ 3,617,637
Certificates of deposit	1,802,981	255,408
Employee Retention Credit receivable	91,951	91,951
Plant board receivable (included in Other current assets)	6,002	-
Grower assessments receivable	8,569	12,140
<b>Total financial assets available to management for general expenditure within one year</b>	<b>\$ 3,803,962</b>	<b>\$ 3,977,136</b>

The Foundation has sufficient cash and cash equivalents to meet current obligations as they come due.

PRELIMINARY DRAFT - SUBJECT TO CHANGE

**OTHER REPORT**

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON  
COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL  
STATEMENTS PERFORMED IN ACCORDANCE WITH  
GOVERNMENT AUDITING STANDARDS**

**INDEPENDENT AUDITOR'S REPORT**

To the Board of Directors  
Arkansas Cotton Grower's Organization, Inc.  
d/b/a Arkansas Boll Weevil Eradication Foundation

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the financial statements of Arkansas Cotton Grower's Organization, Inc. d/b/a Arkansas Boll Weevil Eradication Foundation (the Foundation), which comprise the statements of financial position as of December 31, 2023 and 2022, and the related statements of activities and net assets, functional expenses and cash flows for the years then ended, and the related notes to the financial statements, and have issued our report thereon dated **DATE**, 2024.

**Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the Foundation's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Foundation's internal control. Accordingly, we do not express an opinion on the effectiveness of the Foundation's internal control.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

**Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the Foundation's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those

provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

**Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Foundation's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Foundation's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

**FIRM SIGNATURE**

Little Rock, Arkansas  
DATE, 2024

PRELIMINARY DRAFT - SUBJECT TO CHANGE

**Arkansas Boll Weevil Eradication Foundation  
(a d/b/a of Arkansas Cotton Grower's Organization, Inc.)**

**FINANCIAL STATEMENTS**

**June 30, 2024**





The Board of Directors  
Arkansas Cotton Grower's Organization, Inc.  
d/b/a Arkansas Boll Weevil Eradication Foundation

Management is responsible for the accompanying financial statements of Arkansas Boll Weevil Eradication Foundation (the Foundation), a d/b/a of Arkansas Cotton Grower's Organization, Inc., which comprise the statement of financial position as of June 30, 2024, and the related statement of activities and functional activities for the six months then ended in accordance with accounting principles generally accepted in the United States of America. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any form of assurance on these financial statements.

Management has elected to omit substantially all of the disclosures and the statement of cash flows required by accounting principles generally accepted in the United States of America. If the omitted disclosures and statement of cash flows were included in the financial statements, they might influence the user's conclusions about the Foundation's financial position, changes in net assets, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to Arkansas Cotton Grower's Organization, Inc. d/b/a Arkansas Boll Weevil Eradication Foundation.

*Landmark PLC*

July 5, 2024  
Little Rock, Arkansas

**Arkansas Boll Weevil Eradication Foundation**  
**(a d/b/a of Arkansas Cotton Grower's Organization, Inc.)**

Financial Statements

# Arkansas Boll Weevil Eradication Foundation

## STATEMENT OF FINANCIAL POSITION

June 30, 2024

### ASSETS

<b>Current Assets</b>	
Cash and cash equivalents	\$ 3,148,564
Prepaid insurance	42,181
Accounts receivable - ERC	91,951
Grower assessment receivable	1,459,176
Operating lease right-of-use assets	<u>55,440</u>
<b>Total Current Assets</b>	<u>4,797,312</u>
<b>Property and Equipment</b>	
Vehicles	333,623
Equipment	6,595
Computer hardware & software	85,628
Office furniture and equipment	11,141
Website development	48,874
Less: Accumulated depreciation	<u>(317,783)</u>
<b>Total Property and Equipment, Net</b>	<u>168,078</u>
<b>TOTAL ASSETS</b>	<u>\$ 4,965,390</u>

### LIABILITIES AND NET ASSETS

<b>Current Liabilities</b>	
Operating lease liability-current	\$ 9,846
Retirement contribution payable	1,242
Direct deposit liabilities	3,431
State withholding payable	937
SUTA payable	<u>82</u>
<b>Total Current Liabilities</b>	<u>15,539</u>
<b>Long Term Liabilities</b>	
Operating lease liability-noncurrent	<u>45,594</u>
<b>Total Long Term Liabilities</b>	<u>45,594</u>
<b>Total Net Assets - Without Donor Restrictions</b>	<u>4,904,257</u>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<u>\$ 4,965,390</u>

## Arkansas Boll Weevil Eradication Foundation

### STATEMENT OF ACTIVITIES For the Six Months Ended June 30, 2024

	Actual	Budget	Variance
<b>REVENUE, GAINS AND OTHER SUPPORT</b>			
Assessments	\$ 1,833,551	\$ 1,470,000	\$ 363,551
Assessment adjustments	(2,102)	-	(2,102)
Interest income	8,620	20,000	(11,380)
Other income	2,084	-	2,084
<b>Total revenue, gains and other support</b>	1,842,152	1,490,000	352,152
 <b>EXPENSES</b>			
Salaries and benefits	229,346	253,500	(24,154)
Building and facility	5,514	4,000	1,514
Depreciation	25,681	26,042	(361)
Insurance expense	21,235	22,500	(1,265)
Vehicle expense	27,741	32,500	(4,759)
Utilities	3,169	3,500	(331)
Data/Telephone	13,144	14,850	(1,706)
Office supplies and expense	6,792	11,000	(4,208)
Rent	7,700	6,600	1,100
Professional fees	82,310	73,136	9,174
Travel	3,373	7,750	(4,377)
Rebate checks to Growers	485,683	485,721	(38)
Meals	2,188	1,680	508
Bank charges	2,734	2,500	234
Other operating expenses	1,296	1,550	(254)
<b>Total expenses</b>	917,909	946,830	(28,920)
<b>CHANGE IN NET ASSETS - WITHOUT DONOR RESTRICTIONS</b>	924,243	543,170	381,073
<b>NET ASSETS - BEGINNING OF PERIOD</b>	3,980,014		
<b>NET ASSETS - END OF PERIOD</b>	\$ 4,904,257		

## Arkansas Boll Weevil Eradication Foundation

### STATEMENT OF FUNCTIONAL EXPENSES For the Six Months Ended June 30, 2024

	<u>Program</u>	<u>Management and General</u>	<u>Total</u>
Salaries, benefits & payroll taxes	\$ 160,542	\$ 68,804	\$ 229,346
Vehicle maintenance & gasoline	27,741	-	27,741
Insurance	18,050	3,185	21,235
Utilities & telephone	4,078	12,235	16,314
Depreciaton	22,599	3,082	25,681
Professional fees	-	82,310	82,310
Travel & meals	506	2,867	3,373
Office supplies	5,773	1,019	6,792
Rent	1,925	5,775	7,700
Rebate to Grower's	485,683	-	485,683
Meals	1,827	361	2,188
Bank Charges	-	2,734	2,734
Other operating expenses	5,687	1,124	6,811
<b>Total</b>	<u>\$ 734,413</u>	<u>\$ 183,496</u>	<u>\$ 917,909</u>

**ARKANSAS BOLL WEEVIL ERADICATION PROGRAM**  
**Projected Cash Flow**  
**2020 - 2024**

	2020	2021	2022	2023	2024
<b>Acres</b>	499,022	454,507	601,245	485,500	611,500
<b>Assessments/Acre</b>	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00
<b>Cash Inflows</b>					
Assessments	\$ 1,497,066	1,369,858	\$ 1,851,809	\$ 1,457,189	\$ 1,834,500
Rebate to Growers	(582,733)	(499,899)	(342,268)	(598,326)	(485,730)
Interest Income	10,330	6,324	5,097	77,037	40,000
Other Income	85,625	264,153	18,475	187,562	-
<b>Total Cash Inflows</b>	<b>1,010,289</b>	<b>1,140,436</b>	<b>1,533,113</b>	<b>1,123,463</b>	<b>1,388,770</b>
<b>Cash Outflows</b>					
Capital Equipment	64,640	62,491	34,770	51,251	55,000
Data Management	14,145	14,496	12,318	13,891	18,000
Insurance Expense	37,466	39,605	40,556	41,696	45,000
Office Supplies	5,893	8,802	9,827	11,600	20,000
Professional Fees	125,241	125,150	144,285	108,560	125,000
Rent	9,600	9,600	9,600	9,600	13,200
Building & Facility	2,044	5,420	6,879	7,626	8,000
Salaries and Benefits	553,615	566,120	547,963	524,887	545,000
National Boll Weevil Protection Fund	124,756	113,627	150,311	121,432	152,875
Travel	2,490	3,075	6,039	9,789	15,000
Utilities - electricity/water/sewer	4,089	4,288	4,591	5,281	7,000
Telephone	7,639	9,069	8,260	6,010	9,000
Vehicle Expense	37,169	51,498	63,642	54,572	65,000
Other Operating Expenses	6,925	5,773	7,575	12,621	10,500
<b>Subtotal Cash Outflows</b>	<b>995,712</b>	<b>1,019,013</b>	<b>1,046,616</b>	<b>978,816</b>	<b>1,088,575</b>
<b>Cost per Acre</b>	<b>\$ 2.00</b>	<b>\$ 2.24</b>	<b>\$ 1.74</b>	<b>\$ 2.02</b>	<b>\$ 1.78</b>
Operating Surplus (Deficit)	14,577	121,423	486,497	144,647	300,195
Assessments/Accounts Receivable	(22,690)	(5,375)	(6,765)	(94,382)	
Insurance adjustment - paid vs accrued		(1,676)	(2,329)	1,314	
Accounts Payable	134,214	(32,607)	147,148	(145,831)	
Change in Fixed Assets	104,082	(67,712)	(84,707)	(81,353)	
Available Cash	3,088,966	3,319,150	3,333,203	3,873,048	3,697,442
<b>Cash Available</b>	<b>3,319,150</b>	<b>3,333,203</b>	<b>3,873,048</b>	<b>3,697,442</b>	<b>3,997,638</b>
Scheduled Principal payment	-	-			
<b>Cash at End of Year</b>	<b>3,319,150</b>	<b>3,333,203</b>	<b>3,873,048</b>	<b>3,697,442</b>	<b>3,997,638</b>