

Title 17. Professions, Occupations, and Businesses

Chapter VI. State Plant Board, Department of Agriculture

Subchapter A. Generally

Part 25. Prelicensure Criminal Background Check and Waiver Request

Subpart 1. Generally

17 CAR § 25-101. Prelicensure criminal background check.

(a) Individuals may petition for a prelicensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.

(b) The individual must obtain the prelicensure criminal background check petition form from the Department of Agriculture.

(c) The State Plant Board or its designee will respond with a written decision to a completed petition immediately following the board's next quarterly meeting and state the reasons for the decision.

(d) All decisions made in response to a prelicensure criminal background check petition will be determined by the information provided by the individual, and are not subject to appeal.

(e) A copy of the petition and response will be retained and reviewed as necessary during the formal application process.

Authority. Arkansas Code § 17-3-104.

17 CAR § 25-102. Waiver request.

(a) If an individual has been convicted of an offense listed in Arkansas Code § 17-3-102(a), except those permanently disqualifying offenses found in Arkansas Code § 17-3-102(e), the State Plant Board or a committee of the board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:

(1) An affected applicant for a license; or

(2) An individual holding a license subject to revocation.

(b) The board or committee may grant a waiver upon consideration of the following, without limitation:

(1) The age at which the offense was committed;

(2) The circumstances surrounding the offense;

(3) The length of time since the offense was committed;

(4) Subsequent work history since the offense was committed;

(5) Employment references since the offense was committed;

(6) Character references since the offense was committed;

(7) Relevance of the offense to the occupational license; and

(8) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

(c) A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.

(d) The board, committee, or designee will respond with a decision in writing and will state the reasons for the decision.

(e) All committee decisions are subject to approval by the board.

(f) An appeal of a determination under this section will be subject to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Authority. Arkansas Code § 17-3-104.