

## **Title 2. Agriculture**

### **Chapter II. State Plant Board, Department of Agriculture**

#### **Subchapter A. Generally**

#### **Part 32. Rules on Soil Amendment and Enforcement**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Approved and Issued by:

ARKANSAS STATE PLANT BOARD

Under Authority of:

The Soil Amendment Act (A.C.A." 2-19-401 through 414)"

#### **Subpart 1. Soil Amendment**

##### **2 CAR § 32-101. Purpose.**

Pursuant to Arkansas Code § 2-19-404, the Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq., shall be administered by the State Plant Board.

**Authority.** Arkansas Code § 2-19-406.

##### **2 CAR § 32-102. Definitions.**

For the purpose of this part, the following definitions shall apply:

(1) "Active ingredient" means the ingredient or ingredients which are claimed to have beneficial effects on soil or crops growing on soils;

(2) "Adulterated" means and shall apply to any soil amendment if:

(A) It contains any deleterious or harmful agent in sufficient amount to render it injurious to beneficial plants, animals, or aquatic life when applied in accordance with the directions for use shown on the label;

(B) Adequate warning statements and directions for use, which may be necessary to protect plants, animals, or aquatic life are not shown on the label;

(C) Its composition falls below that which it is purported to possess by its labeling; or

(D) It contains:

(i) Noxious weed seed;

(ii) Harmful insects; or

(iii) Harmful disease organisms;

(3) "Board" means the State Plant Board;

(4) "Bulk" means in nonpackaged form;

(5) "Distribute" means to import, consign, offer for sale, sell, barter, or to otherwise supply soil amendments to any person in this state;

(6) "Distributor" means and includes any person who imports, consigns, sells, offers for sale, barter, or otherwise supplies soil amendments in this state;

(7) "Inert ingredient" means the ingredients which do not have any beneficial or harmful effects on soil or crops but are present in the product;

(8) "Label" means the display of written, printed, or graphic matter upon the immediate container of a soil amendment;

(9) "Labeling" means all written, printed, or graphic matter upon, or accompanying, any soil amendment and all advertisements, brochures, posters, or television or radio announcements used in promoting the sale of such soil amendment;

(10) "Manufacturer" means any person who produces, compounds, mixes, or blends soil amendments;

(11) "Misbranded" means and shall apply if:

(A) Any soil amendment bears a label that is false or misleading in any particular;

(B) Any soil amendment is distributed under the name of another soil amendment;

(C) Any material is represented as a soil amendment or is represented as containing a soil amendment, unless the soil amendment conforms to the definition of identity, if any, prescribed by regulation;

(D) The percentage of active ingredient in any soil amendment is not shown in the approved ingredient form; and

(E) The labeling on any soil amendment is false or misleading in any particular;

(12) "Name" means the specific designation under which the individual product is offered for sale;

(13) "Person" means:

(A) Individuals;

(B) Partnerships;

(C) Associations; and

(D) Corporations;

(14) "Percent or percentage" means by weight; and

(15) "Registrant" means any person who registers a soil amendment under the provisions of the Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq.

**Authority.** Arkansas Code § 2-19-406.

## **2 CAR § 32-103. Labeling requirements and approval of ingredients.**

(a) Each container of a soil amendment shall be labeled on the face or display side in a readable and conspicuous form to show the following information:

(1) The net weight of the contents;

(2) The name of the product;

(3) The guaranteed analysis, including the name and the percentage of each active ingredient and the percentage of inert ingredients;

(4) A statement as to the purpose of the product;

(5) Adequate directions for use such as:

(A) Application rates;

- (B) Cultural practices; and
- (C) Plants to be benefitted; and
- (6) The name and address of the registrant.

(b) Bulk lots shall be labeled by attaching a copy of the label to the invoice which shall be furnished to the purchaser.

(c)(1)(A) The State Plant Board may require proof of claims made for any soil amendment.

(B)(i) If no claims are made, the board may require proof of the usefulness and value of the soil amendment.

(ii) For evidence of proof, the board will rely on experimental data, evaluations, or advice supplied from such sources as:

(a) The University of Arkansas Agricultural Experiment Station;  
and

(b) The University of Arkansas Cooperative Extension Service.

(iii) All experimental results shall be related to Arkansas conditions for which the product is intended.

(C) The board may accept or reject other sources of proof as additional evidence in evaluating soil amendments.

(2) Documentation required:

(A) Material safety data sheet;

(B) Product label that includes all of the following:

(i) Directions for product use;

(ii) The concentration of active and inert ingredients;

(iii) Mixing instructions;

(iv) Application rate;

(v) When and how often to apply (e.g., crop growth stage);

(vi) How to apply (nozzle restrictions, gallons per acre, environmental conditions, etc.); and

(vii) Product expiration date (if products contain living organisms);

(C)(i) Statement of product benefit.

(ii) Explain the beneficial effects of the product on soil characteristics and plant growth;

(D) Explanation of the mode of action by which the product benefits or enhances:

(i) Soil productivity;

(ii) Fertilizer performance;

(iii) Microbial activity;

(iv) Plant growth;

(v) Yield; or

(vi) Any other claimed benefit; and

(E)(i) Methods of determination.

(ii) Provide the name of two (2) laboratories and the published method or methods for determination of active and inert ingredient concentrations.

(3) Research requirements:

(A) Results from replicated, randomized trials following scientific methods and statistically analyzed using accepted methods;

(B)(i) Results from research methods, statistical analysis, and results credible and rigorous enough to stand up to a scientific peer review.

(ii) For example, testimonials or demonstrations without adequate replication and statistical interpretation are not acceptable proof of product efficacy;

(C)(i) A detailed description of research materials and methods used to conduct each field trial, so that the exact experiment could be repeated.

(ii) Soil property and crop management details are required;

(D)(i) Studies repeated across space and time to examine crop/soil response across multiple soils, climatic conditions, and production practices that are common to Arkansas and the field environments for which that the product will be marketed.

(ii) For example:

(a) Greenhouse or growth chamber trials are not sufficient evidence of benefit for products that are targeted for field-grown crops;

(b) Studies conducted with hydroponic systems and potting media are also not sufficient as evidence for benefits to field-grown crops; and

(c) Data from studies conducted in climates and/or geographies that are dissimilar to Arkansas are not suitable surrogates for data that are pertinent to Arkansas:

(1) Soils;

(2) Conditions; and

(3) Crops; and

(E)(i) Studies conducted in Arkansas, on Arkansas soils and climatic conditions, are preferred.

(ii) Trials conducted in states surrounding Arkansas that have similar soils, production practices, and climatic conditions may be sufficient, provided the experiments are scientifically rigorous.

(iii) The use of out-of-state information will be evaluated on a case-by-case basis.

(4) Result interpretation:

(A) The results must be concisely presented, and provide the reader/reviewer with a means of unbiased statistical comparison;

(B)(i) The results must directly support the product use information and claim of product benefit printed on the label or other company advertisement.

(ii) This means that product application rates, frequencies, method of application and placement (e.g. soil, seed, plant, etc...), and timing or timings must be supported by sufficient evidence supporting the use recommendations; and

(C) The results must provide for statistically defensible results regarding the:

(i) Frequency of positive (statistically significant) agronomic responses;

(ii) Range of responses; and

(iii) Average or median response.

(5) Research sources:

(A)(i) The source of research and their research credentials must be clearly listed along with contact information (name, address, phone number, and email).

(ii) Scientists conducting the research must have expertise in soil science and plant/crop production;

(B)(i) The board is required by law to consider pertinent research from "other agencies of the state".

(ii) Therefore, studies conducted by Arkansas university researchers are preferred;

(C) Studies conducted by scientists outside the state may be considered, provided the research requirements explained above are met;

(D) Studies conducted by private research entities will be closely scrutinized as private research entities often obtain personal monetary gain from conducting these studies, and their resulting monetary gain may be predicated on whether positive results are obtained from the use of the product; and

(E) Results published in reputable, scientific, peer-reviewed journals are preferred for all the above cases.

(6)(A)(i) No soil-amending ingredient may be listed or guaranteed on the labels or labeling of soil amendments without board approval.

(ii) The board may allow a soil-amending ingredient to be listed or guaranteed on the label or labeling if satisfactory supportive data is provided to the board to substantiate the value and usefulness of the soil-amending ingredient.

(B) When a soil-amending ingredient is permitted to be listed or guaranteed, it must be determinable by laboratory methods and is subject to inspection and analysis.

(C) The board may prescribe methods and procedures of inspection and analysis of the soil-amending ingredient.

(D) The board may stipulate, by rule, the quantities of the soil-amending ingredient or ingredients required in soil amendments.

**Authority.** Arkansas Code § 2-19-406.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules included the following catchline, "(2-19-407) Labeling Requirements and Approval of Ingredients".

**2 CAR § 32-104. Registration of products.**

(a)(1) Each soil amendment product shall be registered with the State Plant Board before it is distributed in this state.

(2) Applications for registration shall be submitted to the board on a form prepared for that purpose, showing the information required on the label as provided in the Soil Amendment Act of 1977, Arkansas Code § 2-19-407, except for the net weight of the product.

(b) The registration fee shall be set by the board for each product.

(c) The applicant shall submit with the application for registration a copy of the label and a copy of all advertisements, brochures, posters, and television and radio announcements to be used in promoting the sale of the soil amendment.

(d) **Registration fees.**

(1) Registration fees shall be twenty-five dollars (\$25.00) for each soil amendment product registered by any:

(A) Manufacturer;

(B) Registrant; or

(C) Distributor.

(2) Registrations shall expire on June 30 of the year for which such soil amendment product is registered.

**Authority.** Arkansas Code §§ 2-19-406, 2-19-408.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules included the following catchline, "(2-19-408) Registration of Products".

**2 CAR § 32-105. Inspection fee and sales report.**

(a)(1) The registrant shall pay to the State Plant Board an inspection fee of thirty-seven and one-half cents (\$0.375) per ton on all products registered and sold in this state.

(2) Each registrant shall keep adequate records of his or her sales and shall file with the board, on a monthly basis, a signed report of the tonnage distributed by county during the preceding month.

(3) The report and payment of the inspection fee shall be due on or before the twentieth of the month.

(4) The board, after a public hearing, may change the inspection fee schedule.

(b)(1) If the report is not filed or the report is false in any respect or the inspection fee is not paid within the thirty-day period, the board may revoke the registration.

(2) A penalty of one dollar (\$1.00) per day is assessed for each day the payment is overdue until paid.

(3) The inspection fee and the penalty shall constitute a debt and become the basis for a judgment against the registrant which may be collected by the board in any court of competent jurisdiction without prior demand.

**Authority.** Arkansas Code §§ 2-19-406, 2-19-410.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules included the following catchline, "(2-19-410) Inspection Fee and Sales Report".

**2 CAR § 32-106. Stop sales, use, or removal orders.**

(a) The State Plant Board may issue and enforce a written or printed stop sale, use, or removal order to the owner or custodian of any lot of soil amendment, and to hold at a designated place when the board finds said soil amendment is being offered or exposed for sale which is not registered, is not labeled, is misbranded, or is

adulterated, until such time as the product or labeling complies with the Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq.

(b) The soil amendment may then be released in writing by the board.

**Authority.** Arkansas Code § 2-19-406.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules included the following catchline, "(2-19-412) Stop Sales, Use or Removal Orders".

### **2 CAR § 32-107. Prohibited acts.**

It shall be a violation of the Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq., for any person to:

- (1) Distribute a soil amendment that is not registered with the State Plant Board;
- (2) Distribute a soil amendment that is not labeled;
- (3) Distribute a soil amendment that is misbranded;
- (4) Distribute a soil amendment that is adulterated;
- (5) Fail to comply with a stop sale, use, or removal order; or
- (6) Fail to pay the inspection fee.

**Authority.** Arkansas Code § 2-19-406.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules included the following catchline, "(2-19-411) Prohibited Acts".

### **2 CAR § 32-108. Inspection authorized.**

(a) The authorized agents of the State Plant Board may inspect, sample, analyze, and test soil amendments distributed in this state at any time and place, and to such

extent as may be deemed necessary, to determine whether such soil amendments are in compliance with the Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq.

(b) The board and its employees or agents are authorized to enter upon public or private property during regular working hours in order to have access to soil amendments for the purpose of administering the Soil Amendment Act of 1977.

**Authority.** Arkansas Code § 2-19-406.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules included the following catchline, "(2-19-405) Inspection Authorized".

### **2 CAR § 32-109. Rules.**

The State Plant Board is authorized to adopt such rules as may be necessary to administer the Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq., including methods of sampling, methods of analysis, designation of ingredient forms, and to promulgate definitions of identity of products.

**Authority.** Arkansas Code § 2-19-406.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules included the following catchline, "(2-19-06) Rules".

### **2 CAR § 32-110. Denial or revocation of registration.**

(a) The State Plant Board shall refuse to register any product that does not comply with the Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq., and the rules promulgated under the Soil Amendment Act of 1977.

(b) The board is also authorized and empowered to revoke any registration upon satisfactory evidence that the registrant or any of his or her agents has used fraudulent or deceptive practices except that registration shall not be revoked until the registrant

has been given an opportunity for a hearing before the board or its duly authorized agent.

**Authority.** Arkansas Code § 2-19-406.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules included the following catchline, "(2-19-409) Denial or Revocation of Registration".

**2 CAR § 32-111. Penalty and injunctions.**

(a) Any person convicted of a violation of any provision of the Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq., or the rules promulgated under the Soil Amendment Act of 1977, shall be guilty of a misdemeanor.

(b)(1) The State Plant Board is hereby authorized to apply for, and the court is authorized to grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of the Soil Amendment Act of 1977 or any rule promulgated under the Soil Amendment Act of 1977, notwithstanding the existence of other remedies at law.

(2) Said injunction shall be issued without bond.

**Authority.** Arkansas Code §§ 2-19-403, 2-19-406.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules of 2024 included the following catchline, "(2-19-403) Penalty & (2-19-413) Injunctions".

**2 CAR § 32-112. Deposit of monies.**

(a) The State Plant Board shall remit all monies received by or for it under the Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq., to the Treasurer of State.

(b) Upon receipt of any such remittance, the Treasurer of State shall deposit the entire amount thereof in the State Treasury and handle in the same manner as required in Section 4 of Acts 1951, No. 106, as amended by Acts 1953, Nos. 221 and 301, and Acts 1957, No. 356.

**Authority.** Arkansas Code § 2-19-406.

**Codification Notes.** This section as promulgated prior to codification into the Code of Arkansas Rules of 2024 included the following catchline, "(2-19-414) Deposit of Monies".

**2 CAR § 32-113. Severability.**

The provisions of this part are severable, and if any part or provision hereof shall be held void, the decision of the court so holding shall not affect or impair any of the remaining provisions of this part.

**Authority.** Arkansas Code § 2-19-406.

**2 CAR § 32-114. Declaration of emergency.**

(a) It is hereby found and determined by the General Assembly that the introduction of certain substances into the soil of this state endangers the soil of Arkansas and poses a severe threat to the health, safety, and welfare of the people of Arkansas.

(b) Therefore, an emergency is declared to exist, and this part being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force from the date of its approval.

**Authority.** Arkansas Code § 2-19-406.

**Subpart 2. Enforcement**

**Codification Notes.** This subpart as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

LEGAL AUTHORITY

"Arkansas Soil Amendment Law" A.C.A. 2-19-401 through 414 et. seq. and rules.

**2 CAR § 32-201. Statement of purpose.**

(a)(1) Soil amendments are valuable to Arkansas's agriculture production once scientific research has proven them to be of benefit by approved scientific research.

(2) Any product proven to increase production is vital to Arkansas farmers.

(b) The purpose of this subpart is to provide a fair and consistent mechanism by which compliance with the Arkansas Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq., and the rules written pursuant thereto can be achieved.

**Authority.** Arkansas Code § 2-19-406.

**2 CAR § 32-202. Definitions.**

As used in this subpart:

(1) "Base civil penalty" means the midpoint of a civil penalty range;

**Example:**

The civil penalty range for failure to report tonnage reports is two hundred dollars (\$200) to four hundred dollars (\$400).

The base penalty is three hundred dollars (\$300).

(2)(A) "Case Development Review Panel" means an internal committee of staff including:

(i) The Feed/Fertilizer Division Director or his or her designee; and

(ii) The Secretary of the Department of Agriculture or his or her designee.

(B) The Case Development Review Panel will carefully review all case documentation to ensure completeness and to ensure that the recommended enforcement action is appropriate;

(3)(A) "Level of enforcement" means the category by which a violative incident is considered a first, second, third or fourth offense.

(B) 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.

(C) The previous violation or violations must have occurred within the past three (3) years.

(4) "Minor violation" means:

(A) A violative incident which does not involve human health, safety, or endangerment of the environment; or

(B) Other incidents of noncompliance which do not create a competitive disadvantage for licensees in full compliance;

(5) "Major violation" means:

(A) A violative incident which affects human health, safety, or the environment;

(B) Other incidents of noncompliance which create a competitive advantage over licensees in full compliance; or

(C) A history of repetitive violative incidents.

(6) "Respondent" means a person charged with a violation of the Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq., and the rules written pursuant thereto.

**Authority.** Arkansas Code § 2-19-406.

## **2 CAR § 32-203. Enforcement actions.**

(a) Under the Arkansas Code, the State Plant Board has several options for enforcement action.

(b) These are:

(1)(A) Warning letter.

(B) For minor, first level of enforcement violations, the board may issue a warning letter.

(C) The letter will cite the specific violation.

(D) 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;

(2)(A) Informal agreement.

(B) When a violation has been alleged, the respondent has the option of an informal hearing or a board/committee hearing.

(C) The purpose of the informal hearing is to resolve a complaint or incident.

(D) The group, staff, and respondent will seek consensus on an appropriate enforcement action for recommendation to the board.

(E) Enforcement action based on the Penalty Matrix, see Appendix A, may include a civil penalty and/or:

(i) License:

(a) Suspension;

(b) Revocation; or

(c) Nonrenewal; or

(ii) Registration cancellation.

(F) The full board acts on all recommendations resulting from the informal hearing;

(3)(A) Board/committee hearing.

(B) If the respondent chooses to bypass the informal agreement process, or if an agreement cannot be reached during the informal hearing, a hearing may be requested before the Fertilizer and Lime Committee of the board.

(C) Enforcement action may include civil penalty and/or:

(i) License:

(a) Suspension;

(b) Revocation;

(c) Nonrenewal; or

(ii) Registration cancellation.

(D) Following the committee hearing, a written finding of fact, conclusion of law, and recommendation will be submitted to the board.

(E) The full board will act on all recommendations of the committee and may accept the recommendation or may alter the settlement;

(4)(A) Suspension, revocation, or nonrenewal of registration.

(B) The suspension, revocation, or nonrenewal of a license by the board may be in addition to, or in conjunction with, a civil penalty fine;

(5)(A) Injunction.

(B) The board may apply for an injunction to any court of competent jurisdiction for violations of the Soil Amendment Act of 1977, Arkansas Code § 2-19-401 et seq.

(C) The court, upon hearing and for cause, has the option of a temporary or permanent injunction restraining any person from violating any provisions of the Soil Amendment Act of 1977 and rules; and

(6)(A) Referral to prosecuting attorney.

(B) The board has the option of referring violations of the Soil Amendment Act of 1977 to the prosecuting attorney.

**Authority.** Arkansas Code § 2-19-406.

## **2 CAR § 32-204. Incident investigation.**

(a) An incident investigation will be initiated when:

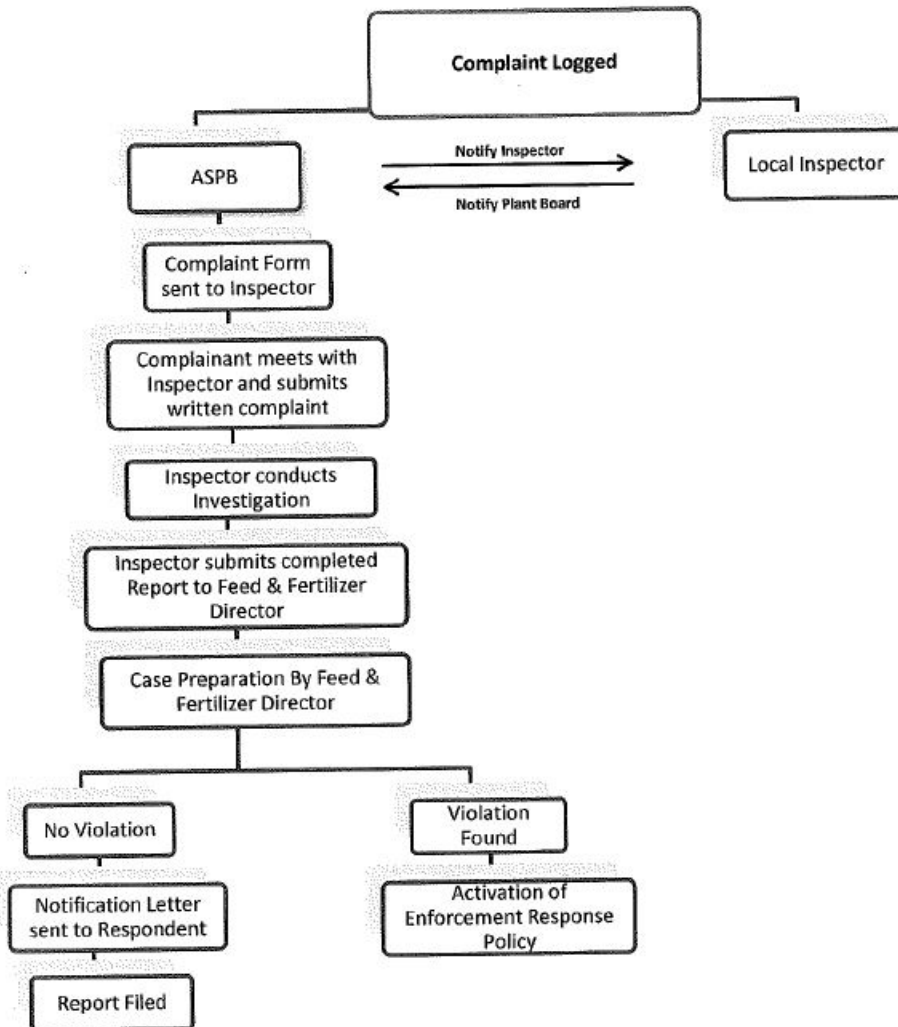
(1) Routine compliance monitoring indicates a violation has occurred; or

(2)(A) A formal complaint is made that an alleged violative incident has occurred (filing of a written form by a complainant).

(B) 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.

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

**FIGURE I**  
**Processing Sequence**



**Authority.** Arkansas Code § 2-19-406.

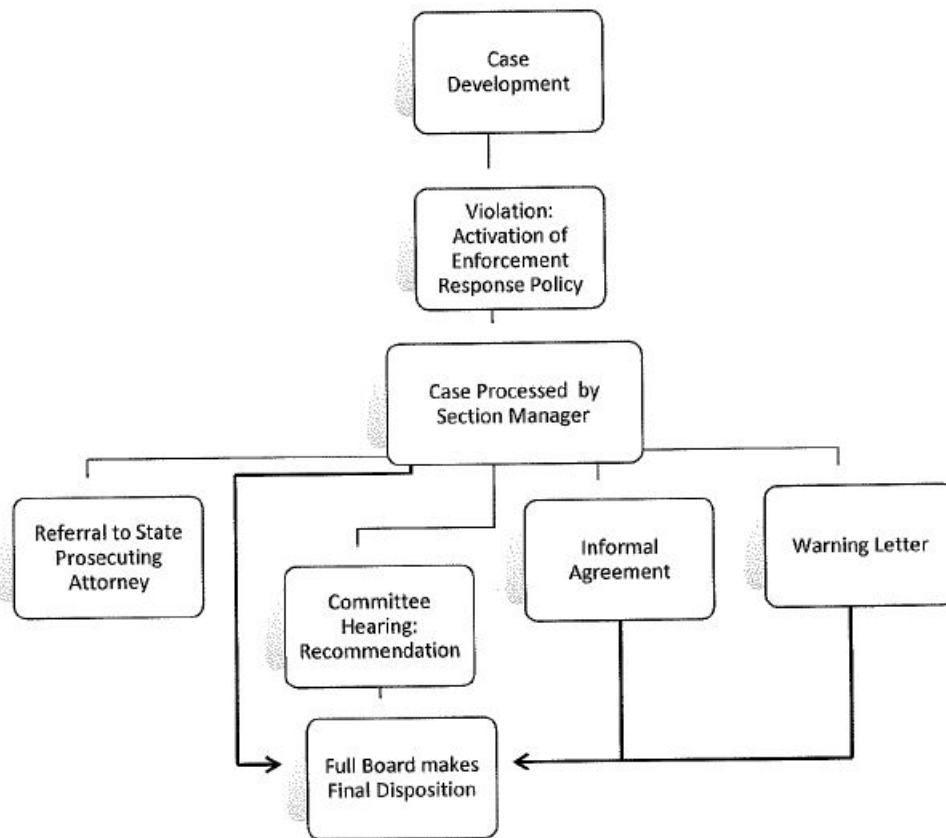
**2 CAR § 32-205. Activation of enforcement response policy.**

(a) An apparent violation of law and/or rule must be documented to initiate an enforcement action.

(b) Documentation must conform to the requirements of the Feed and Fertilizer Division.

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

**FIGURE II**



**Authority.** Arkansas Code § 2-19-406.

**2 CAR § 32-206. Internal review.**

(a) The Case Development Review Panel will carefully review all documentation and records to determine:

- (1) That apparent violation or violations have occurred;
- (2) Whether the apparent violation or violations are minor and/or major violations; and
- (3) The correct level of enforcement based on the penalty matrix and the documented history of the respondent.

(b) Concurrence with the Feed and Fertilizer Division’s finding by the panel must be unanimous before further action can be taken on the case.

**Authority.** Arkansas Code § 2-19-406.

**2 CAR § 32-207. Hearings.**

(a)(1) The informal hearing panel and/or the appropriate committee and the full State Plant Board will carefully review the documentation and hear cases of alleged violations.

(2) Should a violation be determined in this sequence, the following factors will be considered:

- (A) Cooperation of the respondent; and
- (B) Other extenuating/mitigating circumstances.

(3) The committee/board may use these factors to accelerate or mitigate enforcement action.

(4)(A) When a civil penalty is the preferred action, the base penalty may be increased or decreased based on these factors.

(B) The civil penalty will not be more or less than the range for the specific violation listed in Appendix A unless determined by committee or board action.

(b) The full board will take action to determine the final disposition of the case.

**Authority.** Arkansas Code § 2-19-406.

**2 CAR § 32-208. 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 thirty (30) days of notice of the action, a written petition praying that the action of the board be set aside.

**Authority.** Arkansas Code § 2-19-406.

**Appendix A. Penalty Matrix**

**Link:**

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/388/2CARpt.32AppendixA.PenaltyMatrix.pdf>