

Title 2. Agriculture

Chapter II. State Plant Board, Department of Agriculture

Subchapter C. Pesticides

Part 71. Rules Under the Arkansas Pesticide Control Act

Subpart 1. Generally

2 CAR § 71-101. Registration fees — Expiration of registration.

(a)(1) The registration fee for each pesticide product registered shall be two hundred fifty dollars (\$250).

(2) Registrations shall expire December 31 of the year for which registered.

(3) This fee does not include the Abandoned Pesticide Disposal Fee as established pursuant to Arkansas Code § 8-7-1206(a)(1).

(b) All registrants shall pay an Abandoned Pesticide Disposal Fee of seventy dollars (\$70.00) per year for each registered pesticide beginning July 1, 2022, and for each additional year thereafter.

Authority. Arkansas Code §§ 20-20-206, 2-16-406.

2 CAR § 71-102. Pests declared.

Each of the following forms of plant and animal life and viruses is declared to be a pest when it exists under circumstances that make it deleterious to humans or the environment:

(1) Vertebrate animals (other than humans), including but not limited to:

(A) Mammals;

(B) Birds;

(C) Fish;

(D) Amphibians; and

(E) Reptiles;

(2) Invertebrate animals (other than internal parasites of living humans or other living animals), including but not limited to insects and other:

- (A) Arthropods;
 - (B) Nematodes; and
 - (C) Mollusks such as slugs and snails;
- (3) Plants growing where not wanted, including:
- (A) Mosses;
 - (B) Liverworts;
 - (C) All plants of higher orders; and
 - (D) Plant parts such as roots;
- (4) Microorganisms (other than those on or in living humans or other living animals, and those on or in processed food, beverages, pharmaceuticals including cosmetics), including but not limited to:
- (A) Algae;
 - (B) Fungi; and
 - (C) Bacteria; and
- (5) Viruses (other than those on or in living humans or other animals and those on or in food, beverages, and pharmaceuticals including cosmetics).

Authority. Arkansas Code §§ 20-20-206, 2-16-406.

2 CAR § 71-103. Devices specified — Provisions applicable.

(a) A device shall be construed to be any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than humans and other than bacteria, viruses, or other microorganisms on or in living humans or other living animals), but not including equipment used for the application of pesticides when sold separately therefrom.

(b) Devices shall be subject to the misbranding provisions of Arkansas Code § 2-16-410(1) – (3).

Authority. Arkansas Code §§ 20-20-206, 2-16-406.

2 CAR § 71-104. Coloration and discoloration.

The requirements for coloration and discoloration of pesticides shall be those as set forth in the regulations adopted by the Environmental Protection Agency pursuant to Section 25(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act, Pub. L. No. 92-516.

Authority. Arkansas Code §§ 20-20-206, 2-16-406.

Codification Notes. Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is codified at 7 U.S.C. § 136w.

2 CAR § 71-105. Labeling.

Labeling requirements for pesticides shall be those as set forth in Section 162.10 of the regulations adopted under the Federal Insecticide, Fungicide, and Rodenticide Act, Pub. L. No. 92-516.

Authority. Arkansas Code §§ 20-20-206, 2-16-406.

Codification Notes. The Federal Insecticide, Fungicide, and Rodenticide Act is codified at 7 U.S.C. § 136 et seq.

2 CAR § 71-106. Pesticides highly toxic to humans.

The determination of pesticides highly toxic to humans shall be those in accord with the regulations promulgated by the Environmental Protection Agency pursuant to Section 25(c)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, Pub. L. No. 92-516.

Authority. Arkansas Code §§ 20-20-206, 2-16-406.

Codification Notes. Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is codified at 7 U.S.C. § 136w.

2 CAR § 71-107. Notice of requirement for additional research and for restricting products beyond EPA approval.

(a)(1) The State Plant Board will notify applicants for registration in writing if any additional research, evidence, or information will be required, and specifically what information will be necessary in order to receive state approval.

(2) The notice may also inform the applicant that once the requested information is reviewed, further information or research may be requested based upon pertinent science.

(b)(1) The board considers the environment in Arkansas to be unique, therefore there will be a higher consideration given to research that is specific to Arkansas.

(2) Research conducted by scientists from universities within the state will be the primary source of expertise to allow the board to determine if the data is scientifically sound and relevant to growing and cropping conditions in the State of Arkansas.

(3) While this expertise shall be used as guidance when considering a product for registration or restricted use, the board may consider other research sources and is not bound by the advice or findings of any one (1) individual or entity, and any final determination regarding registration rests within the discretion of the board.

(c) Prior to issuing rules that restrict the use of a product beyond what has been approved by the Environmental Protection Agency, the board shall provide notice to the product registrant, in writing, of what pertinent research findings and recommendations of other agencies of this state, the federal government, or other reliable source that the board considered in reaching its decision in accordance with Arkansas Code § 20-20-206.

(d)(1) In the event the board finds any research presented in connection with the restricted use of a product to be insufficient, the board shall also state in writing why such a finding was made and also provide written justification behind the board's

decision to further restrict the use of the product.

(2) The board shall provide this notice to the product registrant at the first available opportunity but no later than forty-five (45) days after the initial review by registration staff of the written application for registration.

(e)(1) Within fourteen (14) days of receiving a notification of restricted use, the product registrant shall notify the board in writing, if they wish to dispute the decision of the board and state the specific reasons for the dispute and as necessary submit additional research findings and recommendations for the board's consideration.

(2) Board staff will then decide whether the registrant has provided sufficient additional information, evidence, or research to change the proposed restricted use.

(3) As previously stated in this section, the board will present its findings in writing.

(f)(1) Further, for products that have received federal approval from the Environmental Protection Agency and are currently registered and being used in the state, the board must provide written notice to the product registrant before placing further restrictions on the product.

(2) The board must state in writing the reasoning and justification behind the board's decision to place additional restrictions on the use of the product and what actions the product registrant may take to prevent the additional use restrictions, if applicable.

Authority. Arkansas Code §§ 20-20-206, 2-16-406.