

Title 2. Agriculture

Chapter II. State Plant Board, Department of Agriculture

Subchapter C. Pesticides

Part 72. Rules Under Acts 1975, No. 389, as Amended

Subpart 1. Generally

2 CAR § 72-101. Categories of applicators.

The following categories have been established for licensing and applicator certification purposes:

(1) Commercial applicator categories:

(A) Agricultural pest control:

(i)(a) Plants.

(b) Agricultural produce and lands pest control; and

(ii) Animals;

(B)(i) Forest pest control.

(ii) 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; and

(H) Regulatory pest control; and

(2) Noncommercial applicator categories same as commercial applicator.

Authority. Arkansas Code §§ 20-20-206, 20-20-207.

2 CAR § 72-102. Commercial applicator.

(a) 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:

(1)(A) When applying a herbicide, an aircraft may not exceed one hundred forty-five miles per hour (145 m.p.h.).

(B)(i) 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 subdivision (a)(9) of this section.

(ii) Such compliance must be verified by a person or entity that:

(a) Is independent of the applicator/firm;

(b) Has specific education and training and experience in the application of herbicides to field crops; and

(c) Whose curriculum vitae is acceptable to the board.

(iii) Documentation of such verification must be recorded on a form provided by the board.

(iv) Upon the effective date of this part, said documentation must be provided to the board by June 2, 2002.

(v) All subsequent verification documentation must be provided to the board prior to use of the setup;

(2)(A) The spray boom height at the time of product release shall not exceed fifteen feet (15') above the crop canopy.

(B) Where obstructions in, or adjacent to, the field of application will not safely allow application at the fifteen-foot level, a higher elevation may be used in the vicinity of such obstructions.

(C) However, where the product label imposes more restrictive application elevations, those elevations must be complied with;

(3)(A) Herbicide applications may not be made under conditions where the spray may possibly be entrained in an inversion layer.

(B) As an indicator that an inversion is unlikely to exist, the applicator shall record the ambient temperature measured at the airstrip from which he or she is working for each application.

(C) Inversions are much less likely to exist if the temperature has:

(i) Increased three degrees Fahrenheit (°3) F) from the morning low

at the time of application for applications made before noon; or

(ii) Not decreased more than three degrees Fahrenheit ($^{\circ}3$ F) from the afternoon high for applications made after noon.

(D) The applicator should also use other legal means available to him or her to verify that an inversion does not exist;

(4) All spray nozzle discharges must be pointed toward the rear of the aircraft and a minimum of ten inches (10") below the trailing edge of the wing;

(5) The spray boom length divided by the wingspan shall not be greater than seven-tenths (0.7) for fixed-wing aircraft and eight tenths (0.8) for rotary-wing aircraft;

(6)(A) The wind shear angle of the spray nozzle discharge may not exceed thirty degrees ($^{\circ}30$)

(B) However, the spray classification category requirements of subdivision (a)(9) of this section must be met;

(7)(A) Drift reduction nozzles such as Reglo Jet, CP drift reduction tips, narrow angle (sixty-five degrees ($^{\circ}56$) or less) flat fans, straight stream, or other nozzle/configurations that are able to meet the spray classification category requirements set out in subdivision (a)(9) of this section must be used.

(B) Documentation verifying the latter's compliance must be made available to the board upon request;

(8) Application rate must be greater than two gallons (2 gals.) per acre, unless otherwise required by the label;

(9) Spray classification category must be in the medium or larger category in accordance with the August 1999 issue of ASABE S572 report entitled Spray Nozzle Classification by Droplet Spectra; and

(10) Where the product label is more restrictive than this part, the label must take precedence.

(b) 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 board:

(1)(A) Vehicle speed while making an application shall be as follows:

(i) Medium droplet size, ten miles per hour (10 m.p.h.) or less;
(ii) Coarse droplet size, fifteen miles per hour (15 m.p.h.) or less; and
(iii) Very coarse droplet, may be greater than fifteen miles per hour
(15 m.p.h.).

(B) The above spray classification categories are as defined in the August 1999 issue of ASABE S572 report entitled Spray Nozzle Classification by Droplet Spectra;

(2)(A) Spray boom height shall not exceed thirty inches (30") above the crop canopy with a medium droplet size but may go to sixty inches (60") above the canopy with a coarse or larger droplet size.

(B) If the product label or other restrictions imposed by the board requires a lower level, then that elevation must be used;

(3)(A) Herbicide applications may not be made under conditions where the spray may possibly be entrained in an inversion layer.

(B) 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.

(C) Inversions are much less likely to exist if the temperature has:

(i) Increased three degrees Fahrenheit (°3) F) from the morning low at the time of application for applications made before noon; or

(ii) Not decreased more than three degrees Fahrenheit (°3) F) from the afternoon high for applications made after noon.

(D) The applicator should also use other legal means available to him or her to verify that an inversion does not exist;

(4)(A) Applications are restricted to hydraulic-style nozzles that initiate droplet movement in the direction of the plant canopy.

(B) 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 subdivision (a)(9) of this section.

(C) Such compliance must be verified by a person or entity:

(i) That is independent of the applicator/firm;

(ii) Has specific education and training and experience in the application of herbicides to field crops; and

(iii) Whose curriculum vitae is acceptable to the board.

(D) Upon the effective date of this part, said documentation must be provided to the board by June 2, 2002.

(E) All subsequent verification documentation must be provided to the board prior to use of the setup;

(5) The application rate must be a minimum of two gallons (2 gals.) per acre unless otherwise required by the label;

(6) Drift reduction nozzles that produce medium or greater spray classifications must be used; and

(7) Where the product label is more restrictive than this part, the label must take precedence.

(c)(1) All commercial pesticide applications made by ground must be done under the supervision (as defined in Arkansas Code § 20-20-203) of a certified, licensed commercial applicator.

(2)(A) The driver/operator of the vehicle must be either a:

(i) Certified, licensed commercial applicator licensed by the board; or

(ii) Licensed commercial applicator technician licensed by the board.

(B) A commercial applicator technician works under the supervision of a certified commercial applicator.

(C)(i) A commercial applicator technician must be licensed by the board.

(ii) Said license shall expire on December 31 of each year.

(D) To obtain a commercial applicator technician (CAT) license, the applicant must:

(i) Provide proof of completion of the CAT ground application training course established by the board within four (4) months of application; and

(ii) Have paid the application review fee as specified by the board.

(E) A commercial applicator technician must be at least eighteen (18) years old as required by 40 C.F.R. § 171.303(a)(2)(iii) and Arkansas Code § 20-20-207(c).

(d)(1) License application review fees shall be as follows:

License to apply seed, fertilizer, and pesticides	\$100
Plus for each aircraft or article of ground equipment	\$20
Individual commercial applicator license, per category	\$35
Seed treatment license	\$100
If restricted use pesticides used – additional	\$35
Commercial applicator technician license	\$25

(2) A fee of five dollars (\$5.00) from each license issued to a CAT by the board shall be transferred to the University of Arkansas Cooperative Extension Service for the purpose of developing and providing CAT training subject to approval by the board.

(e) **Financial responsibility.**

(1)(A) Financial responsibility shall be established in one (1) of the four (4) following ways:

(i) A letter of credit from an Arkansas bank guaranteeing financial responsibility;

(ii) A surety bond;

(iii) An escrow account with an Arkansas bank; or

(iv) An insurance policy or certification thereof.

(B) The minimum financial responsibility shall be one hundred thousand dollars (\$100,000).

(C) The deductible clause shall not exceed five thousand dollars (\$5,000) for an insurance policy.

(2) **Exemption.** This requirement shall not apply to:

- (A) Seed treatment applicators; and
- (B) Regulatory pest control applicators.

(f) **Decals.**

(1) A decal shall be issued for each aircraft or article of ground equipment upon approval of application.

(2) 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.

(g) A commercial applicator must be at least eighteen (18) years old as required by 40 C.F.R. § 171.103(a)(1).

Authority. Arkansas Code §§ 20-20-206, 20-20-207, 20-20-209.

Codification Notes. "ASABE" means the American Society of Agricultural and Biological Engineers.

2 CAR § 72-103. Noncommercial applicator's license.

(a)(1) The review fee for a noncommercial applicator's license shall be thirty-five dollars (\$35.00) per category.

(2) At the discretion of the Director of the State Plant Board, this fee may be waived for University of Arkansas Cooperative Extension Service employees actively involved in supporting the State Plant Board regulatory programs.

(b) A noncommercial applicator must be at least eighteen (18) years old in order to apply a restricted use pesticide pursuant to 40 C.F.R. § 171.303(a)(2)(iii) and Arkansas Code § 20-20-207(c).

Authority. Arkansas Code §§ 20-20-206, 20-20-207, 20-20-210.

2 CAR § 72-104. Private applicator license.

(a) Initial certification.

(1)(A) All first-time applicants for a private applicator's license must have been "certified" within the twelve (12) months prior to license application.

(B) Certification for a first-time applicant can be obtained in one (1) of two (2) ways:

(i) Applicant may attend the pesticide applicator training offered by the county cooperative extension office each year; or

(ii)(a) Applicant may take an examination given by the State Plant Board.

(b) Applicant must achieve a minimum score of seventy percent (70%) of total possible points.

(2) This certification will be valid for one (1) five-year license or five (5) consecutive one-year licenses. In no case shall a certification make a person eligible for licensure in excess of five (5) years.

(b) Recertification.

(1) All applicants for a subsequent five-year private applicator license must have been "recertified" within the twelve (12) months prior to license application.

(2)(A) All applicants for a one-year license must have been "recertified" within the forty-eight (48) months prior to license application.

(B) Recertification can be obtained in one (1) of two (2) ways:

(i) Applicant may attend the pesticide applicator training offered by the county cooperative extension office each year; or

(ii) Applicant may take an examination given by the State Plant Board. Applicant must achieve a minimum score of seventy percent (70%) of total possible points.

(3)(A) 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 C.F.R. § 171.5.

(B) Each approved class will be assigned a point value by the board and at

least five (5) points must be accumulated during the thirty-six (36) months prior to license application.

(C) Course facilitators must provide the board with a list of all who attended the class who want the class points to be applied to private applicator recertification.

(D) 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.

(4)(A) Recertification will be valid for:

(i) One (1) five-year license; or

(ii) Five (5) consecutive one-year licenses.

(B) In no case shall recertification make a person eligible for licensure in excess of five (5) years.

(c) The fee for private applicator's license shall be as specified in the Arkansas Pesticide Use and Application Act, Arkansas Code § 20-20-201 et seq., as amended.

(d) 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.

(e)(1) A fee of two dollars (\$2.00) from each license issued to a private applicator by the board 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 40 C.F.R. § 171.5.

(2) The transfer of such funds shall be made quarterly by a cooperative agreement contract between the board and the service.

(f) Private applicators using aircraft to apply herbicides must comply with the criteria set out for commercial applicators in 2 CAR § 72-102(a).

(g) A private applicator must be at least eighteen (18) years old as required by 40 C.F.R. § 171.105(g).

Authority. Arkansas Code §§ 20-20-206, 20-20-207, 20-20-211.

Codification Notes. "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, which was enacted in Pub. L. No. 61-152 and is codified at 7 U.S.C. § 136 et seq.

2 CAR § 72-105. Pilot license.

The pilot license fee is thirty-five dollars (\$35.00).

Authority. Arkansas Code §§ 20-20-206, 20-20-207, 20-20-212.

2 CAR § 72-106. Pesticide dealer's license.

(a) **Fee.** The fee is sixty-five dollars (\$65.00) for dealers handling restricted use pesticides and state classified pesticides with the Class E or Class F designation.

(b) **Note.** If license-holding dealers have branches which sell or distribute restricted use or state-classified pesticides with the Class E or Class F designation, each branch must have a dealer's license.

Authority. Arkansas Code §§ 20-20-206, 20-20-207, 20-20-213.

2 CAR § 72-107. Container and containment rules.

(a) In accordance with Arkansas Code § 20-20-216, the State Plant Board hereby adopts 40 C.F.R. pt. 165, subpts. A – E, see Attachment I.

(b) The enactment of rules under Acts 1975, No. 389, is not intended nor shall they have the effect of repealing rules promulgated under the authority of Acts 1975, Nos. 410 and 488.

Authority. Arkansas Code §§ 20-20-206, 20-20-216.