

ARKANSAS STATE PLANT BOARD

Minutes

March 3, 2022
9:30 a.m.

Chairman Matthew Marsh called the quarterly Board meeting to order.

Members present: Bruce Alford, Marty Eaton, Mark Hartz, Darrell Hess, Matthew Marsh, Reynold Meyer, Matthew Miles, Mark Morgan, Lester Scott, Travis Senter, Dr. Nathan Slaton, Sam Stuckey

Members presents via Zoom: David Gammill, Mark Hopper, Dr. Ken Korth

Member(s) absent: Nathan Reed, Richards Watts

Scott Bray, Plant Industries Division Director, Wade Hodge, Chief Counsel, Michael Bynum, Managing Attorney, and other staff members were present.

1. **Opening Comments and Introductions.** Chairman Marsh welcomed all who were in attendance and asked the Board to introduce themselves and state who they represent. Staff introduced themselves.
2. **Minutes.** **Moved by Stuckey, seconded by Eaton to approve the minutes of the November 5, 2021, quarterly Board meeting.**

Motion carried.

3. **Pest Control Examination Results.** Mark Hopper presented the October 11, November 8, December 12, 2021, January 10, and February 14, 2022, pest control examination results for Board approval. **Attachment 1**

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

Motion carried.

4. **Standing Committee Reports:**

Bureau of Standards Committee – January 25, 2022

Committee Chairman Reynold Meyer summarized the minutes of the January 25, 2022, Bureau of Standards Committee meeting. **Attachment 2**

Committee Chairman Meyer stated staff presented 145 civil penalties to the committee for review and recommendation for approval to the Board:

Ninety-four for Expired or No Decal

- Eighty-eight First Offense
- Five Second Offense
- One Third Offense

Twenty-nine for Water/Sediment Contamination

- Twenty-seven First Offense
- Two Second Offense

Committee Chairman Meyer stated before proceeding with Flashpoint violations, Senator Charles Beckham asked to speak to the Committee on behalf of his constituent, Mr. Patel, regarding case file BS 21-0090. This was a second offense for Illegal Flashpoint with a civil penalty of \$500. Mr. Patel believes that the product was contaminated before it was delivered to his station, and the violation should go to the transport company. Senator Beckham asked why sampling was not performed during the transport or when the product is offloaded at the retail station. After much discussion, the Committee approved the violation and the applicable civil penalty as presented.

Twenty for Flashpoint

- Sixteen First Offense
- Four Second Offense

One for Distillation

- One First Offense

One for Expired Registration

- One First Offense

The Bureau of Standards Committee recommends that the Board accept all 145 proposed civil penalty actions.

Committee Chairman Meyer noted that past due civil penalties from 2016 to 2021 amounting to \$22,7000 have been referred to the collection agency through the legal division.

Moved by Meyer, seconded by Morgan to approve the minutes and report as presented.

Motion carried.

Pesticide Committee – January 26, 2022

Committee Chairman Lester Scott summarized the minutes of the January 26, 2022, Pesticide Committee meeting. **ATTACHMENT 3**

The Committee was provided an update from Corteva Agriscience indicating they had received EPA extension for 7 years on Enlist One and Enlist Duo product labels for 2022. The Committee reviewed 69 enforcement actions presented by Susie Nichols, Pesticide Section Manager. Of the 69 enforcements action, 35 were at Level 1, minor with warning letters, 24 at Level 1 – 4, with agreed civil penalties, and 10 were assessed a penalty yet to be finalized. Nichols provided the Committee with an update on the State FIFRA research and evaluation group meeting from December. The Committee was also presented EPA's Status of Over-the-Top Dicamba Summary of 2021. The Committee reviewed Arkansas dicamba case status from 2021 vs. previous years. Scott stated current dicamba use dates did cause an increase of cases associated with dicamba in 2021 but based on the pesticide supply situation and EPA's current position of no changes for 2022, the Committee recommends maintaining the current dicamba rule for 2022.

Moved by Scott, seconded by Hartz to approve the minutes and report as presented.

Motion carried.

Marsh stated the Committee discussed the dicamba situation in Arkansas and reiterated the Board's changes in 2021 did increase damage in the state to a level that approximately doubled alleged dicamba complaints. Marsh stated he thinks that, due to the supply situation and timing, maintaining the current dicamba rule for 2022 is appropriate. Marsh stated if there is a need or want to make a change, it is appropriate to start the process in the Fall.

Bray stated he and Secretary Ward attended Farm Bureau's winter commodity meetings this week. Bray stated Farm Bureau voted on a resolution basically requesting that the Plant Board, before entering any rulemaking, consider seasonal timelines and planting timelines.

Pesticide Committee – February 18, 2022

Committee Chairman Lester Scott summarized the minutes of the February 18, 2022, Pesticide Committee meeting. **Attachment 4**

Committee Chairman Scott stated the Committee reviewed an Aerial Deposition Droplet Study for Sharda LLC on quinclorac products to bring to the market in 2022. Nichols provided the Committee with a brief update of the significance of both the studies in relation to quinclorac and clomazone drift issues in the past. The studies were put in place to help mitigate future concerns with drift. All studies passed the minimum requirements. The Committee voted to accept and approve the droplet study.

Moved by Scott, seconded by Stuckey to approve the minutes and report as presented.

Motion carried.

Industrial Hemp Committee – January 28, 2022

Committee Chairman Dr. Ken Korth summarized the minutes of the January 28, 2022, Industrial Hemp Committee meeting. **Attachment 5**

Committee Chairman Korth stated Caleb Allen, Program Manager, provided an overview of the Department's Industrial Hemp Program. Allen also explained that the Arkansas Hemp Production Act of 2021 transitions the program from a research program to a more commercialized program which aligns Arkansas with USDA rules and the 2018 Farm Bill.

The Hemp Program has submitted a transitional work plan that has received federal approval from USDA, however the Program's rules need to be updated to support the transition from research to commercial production.

The committee was presented with a draft of proposed rule changes that will align the Hemp Program with the state's new hemp law, as well as federal hemp laws and rules.

After much discussion the Committee unanimously approved a motion to recommend that the Board repeal the current hemp rules and initiate the rulemaking process for the draft proposed rules.

Moved by Korth, seconded by Morgan to approve the minutes and report as presented.

Motion carried.

Moved by Korth, seconded by Morgan, to appeal the current Industrial Hemp rules and initiate rulemaking on the proposed Arkansas Industrial Hemp Production Rule as presented.

Motion carried.

Hodge explained the rule promulgation procedures and timelines.

Pest Control Committee – February 17, 2022

Committee Chairman Mark Hopper summarized the minutes of the February 17, 2022, Pest Control Committee meeting. **Attachment 6**

Committee Chairman Hopper stated three Informal Resolution Agreements of Pest Control Incidents were presented by staff. The Committee approved all three resolution agreements as presented and voted to have them presented to the full Plant Board for final approval.

Committee Chairman Hopper stated the Committee was updated on a civil penalty amendment that resulted from an unresolved Resolution Agreement of a Pest Control incident. Garrett Shoup has agreed to pay a reduced civil penalty of \$6,650.00 within 30 days of approval of the agreement. If payment is not made, then the agreement will be void.

Moved by Hopper, seconded by Senter to approve the minutes, the resolution agreements, and the report as presented.

Motion carried.

Bray stated the licensing programs have traditionally administered testing in person. Bray stated there are plans to begin online testing.

Boll Weevil Committee – February 22, 2022

Committee Chairman Sam Stuckey summarized the minutes of the February 22, 2022, Boll Weevil Committee meeting. **Attachment 7**

Committee Chairman Stuckey stated the Committee reviewed the Arkansas Boll Weevil Program with an update from Regina Coleman. Acreage is expected to increase by 10 – 15 percent for 2022.

A review of the Boll Weevil Board of Directors report was presented by Bray as follows:

- 2022 season per acre assessment will remain at \$3.00
- A rebate of 75 cents per acre was approved to be implemented for the 2021 growing season. This is down 25 cents from the previous rebate due to rising costs and inflation
- The verification date for cotton acreage was also discussed and moved to June 30th instead of June 15th to help with late planting

The Committee reviewed the Northeast Delta Invoice for 2021, as presented by Melissa Cary of Landmark PLLC. A motion by the Committee to consider the invoice received carried unopposed.

Moved by Stuckey, seconded by Senter to approve the minutes and report as presented.

Motion carried.

5. **Expense Reimbursement.** Each year the Board needs to authorize expense reimbursement for each board member for performing official board duties, not to exceed the rate established for state employees by state travel regulations.

Moved by Morgan, seconded by Miles, to authorize expense reimbursement for each board member for performing official board duties for the current year.

Motion carried.

6. **H2A Inspections Update.** Bray reported on the migrant workers and the H2A process. Arkansas Department of Workforce Services have fell behind on completing H2A inspections. Bray stated farmers in the state that need immigrant labor must fill out an application. A part of getting approval for laborers to come to their farm is to provide adequate housing. To be approved, the housing must be inspected. The Arkansas Department of Agriculture, Plant Industries Division, has offered assistance in performing H2A inspections, utilizing Plant Industry Division Agricultural Specialists and Produce Safety Inspectors. Bray stated to date, 145 applications have been received from Arkansas Department of Workforce Services and the Division has completed 97 of those inspections. Bray expects these services to continue through this month and into next month. Bray stated there is discussion of a permanent role in H2A inspections. Bray recognized David Fort and Cole Vanaman, Plant Industry Division Field Supervisors, and their work in leading the filed staff through this process.

Bray stated Cogongrass was discovered last summer on the side of Highway 49 near Helena. Cogongrass is an invasive plant species that originated in Asia and spreads via seed and rhizomes and is very hard to eradicate. Staff has visited the site in conjunction with the Arkansas Department of Transportation (ARDOT) and APHIS, USDA. Staff administered 2 treatments last year and will follow up this year with monitoring and another treatment.

Bray reported that the accounting section has requested to abate an outstanding receivable. Bray stated a check was received for an Industrial Hemp license and was returned by the bank for insufficient funds. The license was not used.

Moved by Morgan, seconded by Miles to remove the outstanding receivable from the books.

Motion carried.

7. **Other Business.** No other business.

8. Date for the Next Quarterly Board Meeting.

The next quarterly Board meeting is scheduled for Wednesday, June 2, 2022, at 9:30 a.m.

Moved by Alford, seconded by Meyer to adjourn the meeting.

Motion carried.

Chairman Matthew Marsh

Secretary Sam Stuckey

DRAFT

ATTACHMENT 1

EXAM DATE:	10/11/2021									
		B								
LAST NAME	FIRST NAME	A		Class		COMPANY NAME	COMPANY ADDRESS	CITY	ST	ZIP
		S								
		I								
		C	Basic Score		Class Scores					
		Y								
Brown	Robert	Y	94% pass	4	82% pass	Robert Brown	12756 Breezy Trail	Arlington	TN	38002
Chambers	Ryan	Y	91% pass	4	72% fail	Agri-Lawns LLC	2268 Hickory Creek Cir	Alexander	AR	72002
Curtis	Keatan	Y	78% pass	4	66% fail	Keatan Curtis	15601 Cantrell Rd.	Little Rock	AR	72223
Faries	Matthew	Y	94% pass	4	78% pass	Matthew Faries	2504 Evie Ln	Jonesboro	AR	72404
Fitzgerald	Brantly	Y	90% pass	5	94% pass	Brantly Fitzgerald	101 Tradewinds	Hot Springs	AR	71901
Hire	Patrick	Y	96% pass	4	74% fail	The Grounds Guys	18001 Harmon Road	Fay	AR	72704
James	Marcus	Y	82% pass	4	52% fail	Marcus James	1 Saracen Resort Dr	Pine Bluff	AR	71601
Matthews	Grady	Y	80% pass	4	40% fail	Grady Matthews	1 Saracen Resort Dr	Pine Bluff	AR	71601
McPherson	Brett	N		8	62% fail	Riceland Foods	PO Box 927	Stuttgart	AR	72160
Ritter	Jeffery	Y	66% fail	8	56% fail	Riceland Foods	PO Box 927	Stuttgart	AR	72160
Scalingi	Samuel	N		5	60% fail	Samuel Scalingi	410 Gamble Rd	Little Rock	AR	72211
Smith	Johnathan	Y	80% pass	4	56% fail	Johnathan Smith	1 Saracen Resort Dr	Pine Bluff	AR	71601
Swanson	Roger	Y	87% pass	6	48% fail	Roger Allan Swanson	1808 N. Broadway St.	Blytheville	AR	72315
Swope	Collin	N		4	82% pass	Central AR Library System	100 Rock St	LR	AR	72201
Toots	Herman	Y	85% pass	4	46% fail	Herman Toots	1 Saracen Resort Dr	Pine Bluff	AR	71601
Wells	Tony	Y	79% pass	10	70% pass	The Ridge at Village Creek	201 Country Rd	Wynne	AR	72396
Wilson	Tazz	Y	65% fail	8	66% fail	Riceland Foods	PO Box 927	Stuttgart	AR	72160
Ziegler	Chris	Y	96% Pass	4	82% pass	Christopher Ziegler	2305 Jaybee Dr.	Jonesboro	AR	72404

EXAM DATE:	2/14/2022									
		B								
LAST NAME	FIRST NAME	A		Class		COMPANY NAME	COMPANY ADDRESS	CITY	ST	ZIP
		S								
		I								
		C	Basic Score		Class Scores					
Butler IV	Otto	Y	94% pass	5	84% pass	Otto Butler	9620 Lake Valley Cr	Mabelvale	AR	72103
Chambers	Ryan	N		4	76% pass	Agri-Lawns	PO Box 963	Cabot	AR	72023
Choate	Jeffery	Y	76% pass	5	68% fail	Jeffery Choate	PO Box 2606	Conway	AR	72033
Christley	Darrin	N		5	50% fail	Darrin Christley	724 South woods St	W Memphis	AR	72301
Collins	Benjamin	N		5	76% pass	Benjamin Collins	636 Honeysuckle Ln	Trumann	AR	72472
Cross	Kimbrell	Y	91% pass	4	62% fail	Cross Lawn Care, LLC	419 Crestmont Cir	Blytheville	AR	72315
Edge	Jacob	N	96% pass	4	90% pass	The Yard Hogs	6834 Cantrell Rd	LR	AR	72202
Ford	Paul	Y	71% pass	4	56% fail	Paul Ford	906 Oakland Dr	Jonesboro	AR	72404
Glasscock	Jason	Y	97% pass	4	90% pass	Jason Glasscock	126 Polk Rd 674	Mena	AR	71953
Gulley	Ryan	Y	95% pass	4	82% pass	Spring Green Lawn Care	P.O. Box 8873	Fay	AR	72703
Harvey	Grant	Y	85% pass	6	70% pass	Grant Harvey	106 N Platinum Dr	Fay	AR	72701
Hire	Patrick	N		4	88% pass	Patrick Hines	18001 Harmon Road	Fay	AR	72704
Howard	Charles	Y	78% pass	8	68% fail	Riceland Foods	PO Box 927	Stuttgart	AR	72160
Ireland	Sarah	Y		4	60% fail	Sarah Ireland	226 N Ninth St	Charleston	AR	72933
James	Marcus	N		4	50% fail	Marcus James	1 Saracen Resort Dr	Pine Bluff	AR	71601
Jones	Blaike	N		4	66% fail	Blaike Jones	103 Esther Cir	Trumann	AR	72472
Jones	Timothy	Y	94% pass	4	62% fail	Monster Tree	PO Box 1346	Bentonville	AR	72712
Matthew, Jr.	Grady	N		4	52% fail	Grady Matthew JR	1 Saracen Resort Dr	Pine Bluff	AR	71601
McKnight	Jason	Y	95% pass	6	66% fail	Jason McKnight	3 country Club Circle	Maumelle	AR	72113
Meredith	Samantha	N		4	66% fail	Terminix	2002 N Shiloh Dr	Fay	AR	72704
Neves	Tracy	Y	91% pass	4	68% fail	Tracy Neves	185 county Rd 133	Bono Cr	AR	72416
Padgett	Jason	Y	78% pass	4	62% fail	Jason Padgett	126 Martin Cir	Fort Smith	AR	72908
Palmer	Chantry	Y		4	74% fail	Nature Guard Pest	3700 S 20th Pl	Broken Arrow	OK	74011
Patrick	Justin	Y	78% pass	4	54% fail	Nature Guard Pest	701 S St	Mnt Home	AR	72653
Scalingi	Samuel	N		5	52% fail	Samuel Scalingi	410 Gamble	LR	AR	72211
Simonic	Evita	Y	93% pass	4	72% fail	Evita Simonic	1280 McKnight Ave	West Fork	AR	72772
Smith	Johnathan	N		4	64% fail	Johnathan Smith	1 Saracen Resort Dr	Pine Bluff	AR	71601
Smith	Mark	Y	88% pass	4	66% fail	Mark Smith	2430 S Kerr Rd	Lonoke	AR	72086
Sons	Anthony	Y	94% pass	4	82% pass	Anthony Sons	220 Mill Pond Rd	Conway	AR	72034
Sutton	Gilbert	Y	92% pass	4	58% fail	Gilbert Sutton	8720 I-30 Frontage Rd	LR	AR	72209
Thompson, Jr	Robert	N		5	92% pass	Robert Thompson	253 Hwy 89 N	Mayflower	AR	72106
Toots	Herman	N		4	58% fail	Herman Toots	1 Saracen Resort Dr	Pine Bluff	AR	71601
Walker	Brandi	Y	77% pass	4	66% fail	Brandi Walker	14090 Canal St	Rogers	AR	72758
Weston	Justin	Y	94% pass	4	70% fail	Justin Weston	918 Silverleaf Cir	Bono Cr	AR	72416
Widener	Jeffrey	Y	94% pass	4	76% pass	Monster Tree	PO Box 1346	Bentonville	AR	72712

Wilson	Tazz	Y	72% pass	8	60% fail	Riceland Foods	PO Box 927	Stuttgart	AR	72160
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Minutes of
Arkansas State Plant Board
Bureau of Standards Committee Meeting
January 25, 2022
9:30 a.m.

Committee Members Present Chairman Reynold Meyer, Bruce Alford, Marty Eaton, Darrell Hess, Mark Hopper, and Sam Stuckey

Via Zoom: Matthew Marsh, and Mark Morgan

Staff Present: Nikhil Soman, Sheila Carter, Tim Chesser, Wilford Jones, Michael Bynum, Scott Bray, West Ward, Susie Nichols, Amy Lyman and Sarah Cato

Guest Present: Senator Charles Beckham, Mr. Patel, Travis Center and Linda Alford

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

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

Nikhil Soman presented the committee for review and approval are the following cases:

- In Attachment 1 – Table 1 – cases for Expired and or No Decal(s) there are 88 (eighty-eight) First Offenses on Pump(s), Scale(s) or Meter(s). This is a First Offense with a \$350 penalty each.

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

- In Attachment 1 – Table 2 – cases for Expired and or No Decal(s) there are 5 (five) Second Offenses on Pump(s), Scale(s) or Meter(s). This is a Second Offense with a \$800 penalty each.

A motion was made by Mark Hopper and seconded by Darrell Hess to approve the proposed penalties against the alleged violators. Committee voted motion passed unanimously.

- In Attachment 1 – Table 3 – cases for Expired and or No Decal(s) there are 1 (one) Second Offense on Pump(s), Scale(s) or Meter(s). This is a Third Offense with a \$1,350 penalty each.

A motion was made by Sam Stuckey and seconded by Darrell Hess to approve the proposed penalties against the alleged violators. Committee voted motion passed unanimously.

- In Attachment 2 – Table 4 – cases for Water Contamination there are 27 (twenty-seven) First Offenses on Pump(s), Scale(s) or Meter(s). This is a First Offense with a \$200 penalty each.

A motion was made by Sam Stuckey and seconded by Mark Hopper to approve the proposed penalties against the alleged violators. Committee voted motion passed unanimously.

- In Attachment 2 – Table 5 – cases for Water Contamination there are 2 (two) Second Offenses on Pump(s), Scale(s) or Meter(s). This is a Second Offense with a \$500 penalty each.

A motion was made by Sam Stuckey and seconded by Mark Hopper to approve the proposed penalties against the alleged violators. Committee voted motion passed unanimously.

- Senator Charles Beckham ask to speak on behalf of one of his constituents (Mr. Patel) in case BS 21-0090 Flashpoint a Second Offense for Illegal Flashpoint to get the penalty waived in his case; ruling stands as is with the penalty still issued.
- In Attachment 3 – Table 6 – cases for Flashpoint there are 16 (sixteen) First Offenses for Illegal Flashpoint. This is a First Offense with a \$200 penalty each.

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

- In Attachment 3 – Table 7 – cases for Flashpoint there are 4 (four) Second Offenses for Illegal Flashpoint. This is a Second Offense with a \$500 penalty each.

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

- In Attachment 4 – Table 8 – cases for Distillation Endpoint there is 1 (one) First Offense for Distillation Endpoint. This is a First Offense with a \$200 penalty.

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

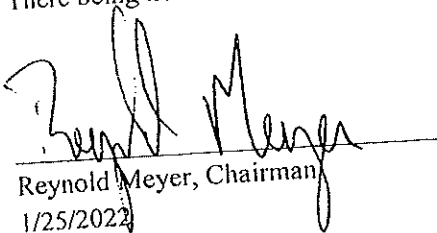
- In Attachment 5 – Table 9 – cases for Expired Registration Service Agency there is 1 (one) First Offense for Expired Registration for a Service Agency. This is a First Offense with a \$350 penalty.

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

Nikhil Soman presented the committee Attachment 7, Past Due Penalties submitted for collection.

Motion made by Bruce Alford and seconded by Sam Stuckey to accept the Past Due Penalties Report. Committee voted passed unanimously.

There being no additional business, motion made by Bruce Alford and seconded by Sam Stuckey to adjourn.


Reynold Meyer, Chairman

1/25/2022

For the current quarter, a total of 145 civil penalties were issued:

Ninety-four for Expired or No Decal – Attachment 1

Eighty-eight First Offense - Table 1

Five Second Offense - Table 2

One Third Offense - Table 3

Twenty-nine for Water/Sediment Contamination – Attachment 2

Twenty-seven First Offense - Table 4

Two Second Offense - Table 5

Twenty for Flashpoint – Attachment 3

Sixteen First Offense - Table 6

Four Second Offense - Table 7

One for Distillation – Attachment 4

One First Offense - Table 8

One for Expired Registration – Attachment 5

One First Offense - Table 9

TABLE 1 - Violation of A.C.A § 4-18-344 NO ANNUAL INSPECTION DECAL - 88 FIRST OFFENSE						
Case File	Business Name	Address	City	Date of Inspection	Device	Civil Penalty
BS 21-0063	Cherry Tree Food Mart	1044 Chickasawba St	Blytheville	February 9, 2021	Pump(s)	\$350
BS 21-0067	Shell Lake Travel Center	531 Hwy 149N	Earle	Januray 20, 2021	Pump(s)	\$350
BS 21-0071	Walmart Supercenter 4460	12001 Maumelle Blvd	Maumelle	February 10, 2021	Scale(s)	\$350
BS 21-0072	Mad Butcher 3636	416 Madison St	Clarendon	February 8, 2021	Scale(s)	\$350
BS 21-0074	Sandy Acres Grocery & Market	9225 Hwy 270	White Hall	Januray 12, 2021	Pump(s)	\$350
BS 21-0075	Exxon 4751	4751 Central Avenue	Hot Springs	March 5, 2021	Pump(s)	\$350
BS 21-0076	Cash Saver 5057	3639 E 9th St	Texarkana	March 5, 2021	Scale(s)	\$350
BS 21-0081	The Cove Store	22214 Hwy 51	Magnet Cove	March 1, 2021	Pump(s)	\$350
BS 21-0082	PJ's Country Store	9499 Hwy 70	Lehi	January 5, 2021	Pump(s)	\$350
BS 21-0083	Valero Circle K 1785	1686 Higdon Ferry Rd	Hot Springs	March 5, 2021	Pump(s)	\$350
BS 21-0084	Darrell's	1410 W 4th St	Fordyce	February 24, 2021	Pump(s)	\$350
BS 21-0085	Kingsland One Stop	16270 Hwy 79S	Kingsland	February 1, 2021	Pump(s)	\$350
BS 21-0086	Rison One Stop	102 Magnolia St Hwy 35	Rison	February 3, 2021	Pump(s)	\$350
BS 21-0094	Sevier County Farmers Coop	Hwy 41	DeQueen	Januray 21, 2021	Pump(s)	\$350
BS 21-0095	Exxon Food Mart	3097 Hwy 5	El Paso	February 10, 2021	Pump(s)	\$350
BS 21-0096	Chapel Creek Trading Post	144 Hwy 9	Sparkman	March 3, 2021	Pump(s)	\$350
BS 21-0098	The Corner Store	510 California Av Southwest	Camden	March 8, 2021	Pump(s)	\$350
BS 21-0099	Mountain Express Exxon	Hwy 283 & I30	Friendship	March 8, 2021	Pump(s)	\$350
BS 21-0100	Westgate First Stop	994 Washington St	Camden	March 8, 2021	Pump(s)	\$350
BS 21-0101	Bullocks Exxon 1	15536 I 30	Benton	March 8, 2021	Pump(s)	\$350

Attachement 1

BS 21-0102	Metro One	6868 Congo Rd	Benton	March 9, 2021	Pump(s)	\$350
BS 21-0104	Sunshine Express Food Mart	1005 W South St	Benton	March 9, 2021	Pump(s)	\$350
BS 21-0105	Macks Cash Saver 3717	205 S Frederick St	Magnolia	March 11, 2021	Scale(s)	\$350
BS 21-0107	Sha Food Mart	3115 Reynolds Rd	Bryant	March 16, 2021	Pump(s)	\$350
BS 21-0108	Friendship Station	490 Coney rd	Arkadelphia	March 16, 2021	Pump(s)	\$350
BS 21-0109	Winners Circle 10	3741 Malvern Av	Hot Springs	March 22, 2021	Pump(s)	\$350
BS 21-0110	Circle K 2741784	4198 Malvern Av	Hot Springs	March 22, 2021	Pump(s)	\$350
BS 21-0111	J Birds Express	2657 Hwy 278 W	Wilmar	March 29, 2021	Pump(s)	\$350
BS 21-0112	Fast Trax Exxon	282 Hwy 11N	Hazen	April 6, 2021	Pump(s)	\$350
BS 21-0113	Ward Mart	14014 Hwy 31N	Ward	April 6, 2021	Pump(s)	\$350
BS 21-0114	Ricks Express 7	3718 Hwy 65/82	Lake Village	April 19, 2021	Pump(s)	\$350
BS 21-0115	Dodge Store 6301	604 E Grand Av	Hot Springs	April 6, 2021	Pump(s)	\$350
BS 21-0116	Cabot Travel Plaza	3950 Hwy 5	Cabot	April 13, 2021	Pump(s)	\$350
BS 21-0117	Devine Gas	500 Hwy 49N	Paragould	April 26, 2021	Pump(s)	\$350
BS 21-0118	Quick Stop 53	115 Hwy 167N	Bald Knob	April 30, 2021	Pump(s)	\$350
BS 21-0119	Superstop	6317 W Markham	Little Rock	April 28, 2021	Pump(s)	\$350
BS 21-0120	Food Mart	1020 Hwy 367	Newport	May 3, 2021	Pump(s)	\$350
BS 21-0123	Austin Quick Mart	3268 Hwy 367	Austin	May 13, 2021	Pump(s)	\$350
BS 21-0126	V Mart 1	3052 S Second St	Cabot	May 28, 2021	Pump(s)	\$350
BS 21-0127	Citgo Marty Mart	3816 Hwy 367N	Bald Knob	June 2, 2021	Pump(s)	\$350
BS 21-0128	Flash Market 415	370 Main St	Pleasant Plains	June 2, 2021	Pump(s)	\$350
BS 21-0129	Kum & Go 414	E Robinson Av	Sprindale	June 9, 2021	Pump(s)	\$350

Attachement 1

BS 21-0130	Anglers White River Resort	23080 Hwy 5	Mountain View	June 23, 2021	Pump(s)	\$350
BS 22-0001	Snappy Mart (On the Run)	728 W Main St	Gassville	June 16, 2021	Scale(s)	\$350
BS 22-0002	JB's Pit Stop	7604 Greers Ferry Rd	Higden	June 22, 2021	Pump(s)	\$350
BS 22-0003	Pfeiffer One Stop	3705 N St Louis St	Batesville	July 7, 2021	Pump(s)	\$350
BS 22-0004	AJ's Exxon	1901 Linwood Dr	Paragould	July 7, 2021	Pump(s)	\$350
BS 22-0005	Exxon Super Station 2	901 Hwy 71N	Mena	July 9, 2021	Pump(s)	\$350
BS 22-0006	Caldwell Feed	504 Hwy 5	Rose Bud	July 12, 2021	Scale(s)	\$350
BS 22-0007	Walmart 2	161 N Walmart Dr	Harrison	July 12, 2021	Scale(s)	\$350
BS 22-0008	The Wealth of Time	1270 N Bryan Dr	Nixa, MO	July 13, 2021	Scale(s)	\$350
BS 22-0009	Cash Saver 2542	1012 AR 25	Heber Springs	July 15, 2021	Scale(s)	\$350
BS 22-0010	SDM Pawn & Gun	801 S 2nd Av	Paragould	July 16, 2021	Scale(s)	\$350
BS 22-0012	Victory Express 299	1801 Old Military Rd	Jacksonville	July 15, 2021	Pump(s)	\$350
BS 22-0013	AJ Mart	1521 Hwy 161	Jacksonville	July 15, 2021	Pump(s)	\$350
BS 22-0014	Tran's Quick Shop	1209 E Kingshighway	Paragould	July 16, 2021	Pump(s)	\$350
BS 22-0015	Red Mule Station	515 AR 69	Melbourne	July 16, 2021	Pump(s)	\$350
BS 22-0024	Flash Market 167	3440 I-55	Marion	February 23, 2021	Pump(s)	\$350
BS 22-0025	Oppelo Express	427 Hwy 9	Morrilton	March 23, 2021	Pump(s)	\$350
BS 22-0026	Nisha One Stop	900 W Broadway St	Morrilton	March 23, 2021	Pump(s)	\$350
BS 22-0027	Handy Mart	141 E Roller Av	Decatur	April 20, 2021	Pump(s)	\$350
BS 22-0028	Dollar General	154 E Roller Av	Decatur	April 20, 2021	Pump(s)	\$350
BS 22-0035	Jo Jo's Fuel Stop	815 S 2nd St	Cabot	June 9, 2021	Pump(s)	\$350
BS 22-0036	White Oak Station 5	14358 Hwy 412	Huntsville	July 6, 2021	Pump(s)	\$350

Attachement 1

BS 22-0041	Stop N Shop	2223 Hwy 65	Winchester	April 12, 2021	Pump(s)	\$350
BS 22-0042	Back Gate One Stop	1564 Hwy 165	Dumas	March 31, 2021	Pump(s)	\$350
BS 22-0051	Point of Sale USA	115 Hwy 167N	Bald Knob	April 7, 2021	Pump(s)	\$350
BS 22-0057	Max Taylor Oil Co	807 E 8th	Russellville	August 3, 2021	Meter(s)	\$350
BS 22-0058	Walmart 4654	2100 Hwy 77	Marion	July 26, 2021	Scale(s)	\$350
BS 22-0059	Gee Street Pawn	1101 S Gee St	Jonesboro	July 21, 2021	Scale(s)	\$350
BS 22-0060	United Pawnbrokers	701 Gee St	Jonesboro	July 21, 2021	Scale(s)	\$350
BS 22-0061	Big Steves Gold & Pawn	1972 US62 E	Mountain Home	July 29, 2021	Scale(s)	\$350
BS 22-0062	Harps 137	2507 Market trace	Fort Smith	July 20, 2021	Scale(s)	\$350
BS 22-0063	Zoya Mart 2	875 US 65N	Conway	June 22, 2021	Pump(s)	\$350
BS 22-0067	J&P Flash Market (Exxon)	9658 AR16	Shirley	July 26, 2021	Pump(s)	\$350
BS 22-0068	Gary's Food Mart	330 N Baltimore	Manila	August 9, 2021	Pump(s)	\$350
BS 22-0069	Quick Food Mart	5102 S University Av	Little Rock	August 4, 2021	Pump(s)	\$350
BS 22-0070	Doublebee's 142	7600 Cantrell Rd	Little Rock	August 3, 2021	Pump(s)	\$350
BS 22-0071	Pinnacle Valley Market	7808 Hwy 300	Roland	August 5, 2021	Pump(s)	\$350
BS 22-0072	Quick Mart 1	1221 N Washington St	Forrest City	August 11, 2021	Pump(s)	\$350
BS 22-0073	Broadway Stop	512 W broadway St	Forrest City	August 11, 2021	Pump(s)	\$350
BS 22-0074	Helena Quick Stop	702 Perry St	Helena	August 12, 2021	Pump(s)	\$350
BS 22-0075	Miraj Flash Market	665 Hwy 65N	Greenbrier	August 10, 2021	Pump(s)	\$350

BS 22-0080	Express Mart	1501 W Roosevelt	Little Rock	July 16, 2021	Pump(s)	\$350
BS 22-0081	Ligon Oil Co (North Side Superstop)	809 Hwy 71N	Mena	July 23, 2021	Pump(s)	\$350
BS 22-0082	Rusty's Mart	527 N Fourth St	West Helena	August 12, 2021	Pump(s)	\$350
BS 22-0083	Wills Corner	303 S Broadway	Hughes	August 13, 2021	Pump(s)	\$350
BS 22-0084	Gary's Food Mart	410 S Main	Leachville	August 20, 2021	Pump(s)	\$350

TABLE 2 - Violation of A.C.A § 4-18-344 NO ANNUAL INSPECTION DECAL - 5 SECOND OFFENSE

Case File	Business Name	Address	City	Date of Inspection	Device	Civil Penalty
BS 21-0103	Dermott Market Place	109 N Main St	Dermott	March 10, 2021	Scale(s)	\$800
				October 4, 2019		
BS 22-0065	Shannon Hills Food Mart	13622 Sardis Rd	Mabelvale	July 28, 2021	Scale(s)	\$800
				March 13, 2019		
BS 22-0066	Buffalo Store	14301 Arch St	Little Rock	July 15, 2021	Pump(s)	\$800
				January 24, 2020		
BS 22-0079	Gary's Food Mart	330 N Baltimore	Manila	August 20, 2021	Pump(s)	\$800
				August 9, 2020		
BS 22-0076	Miraj Flash Market	665 Hwy 65 N	Greenbrier	August 31, 2021	Pump(s)	\$800
				August 10, 2020		

TABLE 3 - Violation of A.C.A § 4-18-344 NO ANNUAL INSPECTION DECAL - 1 THIRD OFFENSE

Case File	Business Name	Address	City	Date of Inspection	Device	Civil Penalty
BS 22-0077	Miraj Flash Market	665 Hwy 65 N	Greenbrier	September 8, 2021	Pump(s)	\$1,350
				August 31, 2021		
				August 10, 2021		

TABLE 4 - 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) - 27 FIRST OFFENSE								
Case File	Business Name	Address	City	Date of Inspection	Fuel Type	Location	Water inch(s)	Civil Penalty
BS 21-0066	Hydration Station 2	3316 Wheeler Av	Fort Smith	January 20, 2021	Premium Unleaded E0	Storage Tank	2 3/4	\$200
BS 21-0068	Jordans 47	800 W Speedway St	Trumann	Januray 26, 2021	Regular Unleaded E10	Storage Tank	2 1/2	\$200
BS 21-0069	PJ's Country Store	9499 Hwy 70	Lehi	January 4, 2021	Regular Unleaded E10	Storage Tank	1	\$200
BS 21-0070	Jordans Kwik Stop 30	W DeWitt Henry Dr	Beebe	February 10, 2021	Hwy Diesel	Storage Tank	4	\$200
BS 21-0073	Sandy Acres Grocery & Market	9225 Hwy 270	White Hall	Januray 12, 2021	Super Unleaded E0	Storage Tank	4	\$200
BS 21-0077	Valero Imboden	5597 Hwy 63	Imboden	February 2, 2021	Super Unleaded E10	Storage Tank	4 1/4	\$200
BS 21-0078	Weatherly Exxon	600 N Main St	Hamburg	February 10, 2021	Supreme Unleaded E10	Storage Tank	1	\$200
BS 21-0079	Billys Market	2443 Thomasville St	Pocahontas	January 27, 2021	Super Unleaded E10	Storage Tank & Nozzle	3	\$200
BS 21-0092	Day & Nite 7	401 N Martin St	Warren	March 8, 2021	Super Unleaded E0	Storage Tank	25	\$200
BS 21-0093	Riverview Country Store	17939 Hwy 62 W	Eureka Springs	March 2, 2021	Premium Unleaded E0	Nozzle	NA	\$200
BS 22-0016	Gerry's Quik Shop	4651 Hwy 62 E	Mountain Home	March 30, 2021	Regular Unleaded E0	Storage Tank	1 1/2	\$200
BS 22-0017	Gerry's Quik Shop	4651 Hwy 62 E	Mountain Home	March 30, 2021	Premium Unleaded E0	Storage Tank	3	\$200
BS 22-0018	Speedy's	1200 N Lincoln St	Siloam Springs	March 30, 2021	Hwy Diesel	Storage Tank	3 1/4	\$200
BS 22-0021	Magness 5	167 Tucker Cemetery Rd	Gassville	March 17, 2021	Hwy Diesel	Storage Tank	2	\$200
BS 22-0022	Si Si Mart	2500 Hwy 161	North Little Rock	April 29, 2021	Premium Unleaded E10	Storage Tank	5	\$200
BS 22-0023	Fast Lane Expresss	2310 S Olive St	Pine Bluff	April 26, 2021	Premium Unleaded E10	Storage Tank & Nozzle	7 1/4	\$200
BS 22-0029	Murphy USA 7117	908 Unity Rd	Crossett	April 27, 2021	Premium Unleaded E0	Storage Tank	2 1/4	\$200
BS 22-0032	Dardanella Citgo	115 Union St	Dardanella	April 20, 2021	Premium Unleaded E10	Storage Tank & Nozzle	1 1/4	\$200
BS 22-0037	AZ Express	1500 W Keiser Av	Osceola	May 11, 2021	Hwy Diesel	Storage Tank	3 1/2	\$200
BS 22-0038	Lonoke First Stop	1021 N Center St	Lonoke	June 2, 2021	Hwy Diesel	Storage Tank	1 3/4	\$200
BS 22-0039	McDonalds Grocery	Hwy 167N	Junction City	May 21, 2021	Hwy Diesel	Storage Tank	4 1/4	\$200
BS 22-0040	Lee Creek Market	1931 Rena Rd	Van Buren	June 2, 2021	Hwy Diesel	Storage Tank	2 1/4	\$200
BS 22-0043	Corning Gas & Deli	1010 W Main St	Corning	May 26, 2021	Supreme Unleaded E10	Storage Tank	6	\$200
BS 22-0045	Sam's Fuel 1	2402 N Arkansas Av	Russellville	June 7, 2021	Hwy Diesel	Storage Tank	1 1/2	\$200
BS 22-0049	7 T Kwik Stop	109 Hwy 10 E	Ola	June 7, 2021	Hwy Diesel	Storage Tank	4 1/4	\$200
BS 22-0050	Point of Sale USA	115 Hwy 167N	Bald Knob	April 6, 2021	Hwy Diesel	Storage Tank	3	\$200
BS 22-0056	Geyer Springs Food & Gas	7520 Geyer Springs rd	Little Rock	June 21, 2021	Super Unleaded E10	Storage Tank	2 1/2	\$200

TABLE 5 - 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) - 2 SECOND OFFENSE								
Case File	Business Name	Address	City	Date of Inspection	Fuel Type	Location	Water inch(s)	Civil Penalty
BS 21-0080	Jones Food Mart	3701 N First St	Jacksonville	February 10, 2021	Hwy Diesel	Storage Tank	2	\$500
				December 11, 2019				
BS 21-0097	Miraj 3 Inc	665 Hwy 65 N	Greenbrier	February 10, 2021	Hwy Diesel	Storage Tank	2 1/2	\$500
				September 5, 2018				

TABLE 6 - Violation of A.C.A § 4-108-204 (b) (1) (A) and 4-108-207 FLASHPOINT VIOLATION (< 125 °F) - 16 FIRST OFFENSE

Case File	Business Name	Address	City	Date of Inspection	Product	FP	Civil Penalty
BS 21-0065	Super S Mart	8212 Landers Rd	Sherwood	February 3, 2021	Hwy Diesel	89 °F	\$200
BS 21-0087	Kroger Fuel Center 469	300 I40 service Rd	West Memphis	March 8, 2021	Hwy Diesel	82 °F	\$200
BS 21-0088	TJ's	815 Collin Raye drive	DeQueen	March 1, 2021	Hwy Diesel	92 °F	\$200
BS 21-0091	Racing Quick Mart	2015 W DeWitt Henry Dr	Beebe	March 1, 2021	Hwy Diesel	< 60 °F	\$200
BS 22-0019	S & L Mart	976 Hwy 9 S	Morrilton	March 23, 2021	Hwy Diesel	68 °F	\$200
BS 22-0030	Dardanelle Citgo	115 Union St	Dardanelle	April 20, 2021	Hwy Diesel	111.5 °F	\$200
BS 22-0033	Missile Mart Hampton	3001 N West Av	El Dorado	March 29, 2021	Hwy Diesel	116 °F	\$200
BS 22-0034	The Curve	301 W 4th St	Fordyce	April 2, 2021	Hwy Diesel	103 °F	\$200
BS 22-0044	Frost Oil Company	1430 S 28th	Van Buren	June 22, 2021	Kerosene	< 50 °F	\$200
BS 22-0046	56 Store	6661 Hwy 14	Fifty Six	June 8, 2021	Farm Diesel	113 °F	\$200
BS 22-0047	56 Store	6661 Hwy 14	Fifty Six	June 8, 2021	Hwy Diesel	113 °F	\$200
BS 22-0048	Westside Quick Stop	6690 Hwy 110	Heber Springs	July 8, 2021	Hwy Diesel	87 °F	\$200
BS 22-0052	Jackson Store	Hwy 14	Pleasant Grove	June 7, 2021	Farm Diesel	111 °F	\$200
BS 22-0053	Timbo Grocery	Hwy 62/263	Timbo	June 7, 2021	Farm Diesel	67 °F	\$200
BS 22-0054	Shop A Lot # 1	759 Heber Springs Rd	Batesville	July 13, 2021	Hwy Diesel	112 °F	\$200
BS 22-0055	Doug's Grocery	451 Shaker Town Rd	Gurdon	July 12, 2021	Hwy Diesel	101 °F	\$200

TABLE 7 - Violation of A.C.A § 4-108-204 (b) (1) (A) and 4-108-207 FLASHPOINT VIOLATION - 4 SECOND OFFENSE

Case File	Business Name	Address	City	Date of Inspection	Product	FP	Civil Penalty
BS 21-0064	Flash Market # 23	1728 Hwy 69	Trumann	January 15, 2021	Hwy Diesel	102 °F	\$500
				February 25, 2019		107 °F	
BS 21-0089	Ray's Grocery	Hwy 16	Nail	February 23, 2021	Farm Diesel	90 °F	\$500
				March 26, 2019		86 °F	
BS 21-0090	Gas Mart	2115 Hwy 79N	Camden	February 23, 2021	Hwy Diesel	91 °F	\$500
				March 5, 2019		109 °F	
BS 22-0020	Austin Store	6880 Hwy 9	Center Ridge	March 22, 2021	Hwy Diesel	79 °F	\$500
				July 10, 2019		57 °F	

TABLE 8 - Violation of A.C.A § 4-108-204 (b) (1) (A) and 4-108-207 DISTILLATION TEMPERATURE ENDPOINT VIOLATION (< 437 °F) - 1 FIRST OFFENSE							
Case File	Business Name	Address	City	Date of Inspection	Product	Endpoint Temp	Civil Penalty
BS 22-0031	Dardanelle Citgo	115 Union St	Dardanelle	April 5, 2021	Premium Unleaded E10	547 °F	\$200

TABLE 9 - Violation of A.C.A § 4-18-322 FAILURE TO REGISTER (EXPIRED REGISTRATION STATUS) - 1 FIRST OFFENSE					
Case File	Business Name	Address	City	Date of Inspection	Civil Penalty
BS 22-0064	The Southern Company	Ricks Express, 3718 Hwy 65&82	Lake Village	May 24, 2021	\$350

Quarterly Penalty Report

ATTACHMENT 6

Case File Number	Location	Violation Date	Violation Description	Offense	Penalty Range	Standards
BS 21-0065	Super S Mart 8212 Landers Road Sherwood, AR 72117	2/3/2021	Highway Diesel Flashpoint measured 89.°F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 21-0087	Kroger Fuel Center #469 300 I-40 Service Road West Memphis, AR 72301	3/8/2021	Highway Diesel Flashpoint measured 82°F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 21-0088	T.J.'s 815 Collin Raye Drive DeQueen, AR 71832	3/1/2021	Highway Diesel Flashpoint measured 92°F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint

BS 21-0091	Racing Quick Mart 2015 W DeWitt Henry Drive Beebe, AR 72012	3/1/2021	Highway Diesel Flashpoint measured <60° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 22-0019	S & L Mart 976 Hwy 9 South Morrilton, AR 72110	3/23/2021	Highway Diesel Flashpoint measured <68° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 22-0030	Dardanelle Citgo 115 Union Street Dardanelle, AR 72834	4/20/2021	Highway Diesel Flashpoint measured <111.5° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint

BS 22-0033	Missile Mart Hampton 3001 N. West Avenue El Dorado, AR 71730	3/29/2021	Highway Diesel Flashpoint measured <116° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 22-0034	The Curve 301 W. 4th Street Fordyce, AR 71742	4/2/2021	Highway Diesel Flashpoint measured <103° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 22-0044	Frost Oil Company P.O. Box 5632 Van Buren, AR 72956	6/22/2021	Kerosene Flashpoint measured <50° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint

BS 22-0046	56 Store 6661 Hwy 14 Fifty Six, AR 72533	6/8/2021	Farm Diesel Flashpoint measured <113° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 22-0047	56 Store 6661 Hwy 14 Fifty Six, AR 72533	6/8/2021	Highway Diesel Flashpoint measured <113° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 22-0048	Westside Quick Stop 6690 Hwy 110 Heber Springs, AR 72543	7/8/2021	Highway Diesel Flashpoint measured <87° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint

BS 22-0052	Jackson Store PO Box 62 Pleasant Grove, AR 72561	6/7/2021	Farm Diesel Flashpoint measured <111° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 22-0053	Timbo Grocery PO Box 32 Timbo, AR 72680	6/7/2021	Farm Diesel Flashpoint measured <67° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 22-0054	Shop A Lot #1 759 Heber Springs Road Batesville, AR 72501	7/13/2021	Highway Diesel Flashpoint measured <112° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint

BS 22-0055	Doug's Grocery 451 Shaker Town Road Gurdon, AR 71923	7/12/2021	Highway Diesel Flashpoint measured <101° F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 21-0064	Flash Market #23 1728 Hwy 69 Trumann, AR 72472	1/15/2021	Highway Diesel Flashpoint measured 102.°F	2nd	<u>\$500</u> <u>\$400-600</u>	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 21-0089	Ray's Grocery HC 62, Box 625 Deer, AR 72628	2/23/2021	Farm Diesel Flashpoint measured 90°F	2nd	<u>\$500</u> <u>\$400-600</u>	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint

BS 21-0090	Gas Mart 2115 Hwy 79 North Camden, AR 71701	2/23/2021	Highway Diesel Flashpoint measured 91°F	2nd	<u>\$500</u> <u>\$400-600</u>	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 22-0020	Austin Store 6880 Hwy 9 Center Ridge, AR 72027	3/22/2021	Highway Diesel Flashpoint measured 79°F	2nd	<u>\$500</u> <u>\$400-600</u>	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. 125° Minimum Allowable Flashpoint
BS 21-0066	Hydration Station #2 3316 Wheeler Avenue Fort Smith, AR 72901	1/20/2021	Water present in the Premium Unleaded E0 storage tank (2 3/4 inches)	1st	<u>\$200</u> <u>\$100-300</u>	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 21-0068	Jordan's #47 800 W Speedway Street Trumann, AR 72472	1/26/2021	Water present in the Regular E10 Unleaded storage tank (2 1/2 inches)	1st	<u>\$200</u> <u>\$100-300</u>	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.

BS 21-0069	PJ's Country Store 9499 Hwy 70 Lehi, AR 72364	1/4/2021	Water present in the Regular E10 Unleaded storage tank (1 inch)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 21-0070	Jordan's Kwik Stop #30 101 W. DeWitt Henry Drive Beebe, AR 72012	2/10/2021	Water present in the Highway Diesel storage tank (4 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 21-0073	Sandy Acres Grocery & Market 9225 Hwy 270 White Hall, AR 71602	1/12/2021	Water present in the Super Unleaded E0 storage tank (4 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 21-0077	Valero Imboden 5597 Hwy 63 Imboden, AR 72434	2/2/2021	Water present in the Super Unleaded E10 storage tank (4 1/4 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 21-0078	Weatherly Exxon 600 N. Main Street Hamburg, AR 71646	2/10/2021	Water present in the Supreme Unleaded E10 storage tank (1 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.

BS 21-0079	Billy's Market 2443 Thomasville Street Pocahontas, AR 72455	1/27/2021	Water present in the Super Unleaded E10 storage tank (3 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 21-0092	Day & Nite #7 401 N. Martin Street Warren, AR 71671	3/8/2021	Water present in the Super Unleaded E0 storage tank (25 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 21-0093	Riverview Country Store 17939 Hwy 62 West Eureka Springs, AR 72632	3/2/2021	Water present in the Premium Unleaded E0 sample	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0016	Gerry's Quik Stop 4651 Hwy 62 East Mountain Home, AR 72653	3/30/2021	Water present in the Regular E0 Unleaded storage tank (1 1/2 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0017	Gerry's Quik Stop 4651 Hwy 62 East Mountain Home, AR 72654	3/30/2021	Water present in the Premium Unleaded E0 storage tank (3 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0018	Speedy's 1200 N. Lincoln Street Siloam Springs, AR 72761	3/30/2021	Water present in the Highway Diesel storage tank (3 1/4 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.

BS 22-0021	Magness #5 167 Tucker Cemetery Road Gassville, AR 72635	3/17/2021	Water present in the Highway Diesel storage tank (2 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0022	Si Si Mart 2500 AR Hwy 161 North Little Rock, AR 72117	4/29/2021	Water present in the Premium Unleaded E10 storage tank (5 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0023	Fast Lane Xpress 2310 S. Olive Street Pine Bluff, AR 71601	4/26/2021	Water present in the Premium Unleaded E10 storage tank (7 1/4 inches) & Nozzle	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0029	Murphy USA #7117 908 Unity Road Crossett, AR 71635	4/27/2021	Water present in the Premium Unleaded E0 storage tank (2 1/4 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0032	Dardanelle Citgo 115 Union Street Dardanelle, AR 72834	4/20/2021	Water present in the Premium Unleaded E10 storage tank (1 1/4 inches) & Nozzle	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.

BS 22-0037	A-Z Express 1500 W. Keiser Avenue Osceola, AR 72370	5/11/2021	Water present in the Highway Diesel storage tank (3 1/2 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0038	Lonoke First Stop 1021 N. Center Street Lonoke, AR 72086	6/2/2021	Water present in the Highway Diesel storage tank (1 3/4 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0039	McDonald's Grocery PO Box 670 Junction City, AR 71749	5/21/2021	Water present in the Highway Diesel storage tank (4 1/4 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0040	Lee Creek Market 1931 Rena Road Van Buren, AR 72956	6/2/2021	Water present in the Highway Diesel storage tank (2 1/4 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0043	Corning Gas & Deli 1010 W. Main Street Corning, AR 72422	5/26/2021	Water present in the Supreme Unleaded E10 storage tank (6 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.

BS 22-0045	Sam's Fuel #1 2402 N. Arkansas Avenue Russellville, AR 72802	6/7/2021	Water present in the Highway Diesel storage tank (1 1/2 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0049	7T Kwik Stop 109 Hwy 10 E Ola, AR 72853	6/7/2021	Water present in the Highway Diesel storage tank (4 1/4 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0050	Point of Sale USA 115 Hwy 167 North Bald Knob, AR 72010	4/6/2021	Water present in the Highway Diesel storage tank (3 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 22-0056	Geyer Springs Food & Gas 7520 Geyer Springs Road Little Rock, AR 72209	6/21/2021	Water present in the Super Unleaded E10 storage tank (2 1/2 inches)	1st	<u>\$200</u> \$100-300	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 21-0080	Jones Food Mart 3701 N. First Street Jacksonville, AR 72076	2/10/2021	Water present in the Highway Diesel storage tank (2 inches)	2nd	<u>\$500</u> <u>\$400-600</u>	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.

BS 21-0097	Miraj 3 Inc. 665 Hwy 65 North Greenbrier, AR 72058	2/10/2021	Water present in the Highway Diesel storage tank (2 1/2 inches)	2nd	<u>\$500</u> <u>\$400-600</u>	NIST HB 130: Uniform Engine Fuels and Automotive Lubricants Regulation. Section 4.1 Allowable tolerance for Ethanol (E10) products is 1/4 inch.
BS 21-0063	Cherry Tree Food Mart 1044 Chickasawba Street Blytheville, AR 72315	2/9/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> <u>\$100-600</u>	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0067	Shell Lake Travel Center 531 Highway 149 N. Earle, AR. 72331	1/20/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> <u>\$100-600</u>	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0071	Walmart Supercenter #4460 12001 Maumelle Blvd. Maumelle, AR. 72113	2/10/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0072	Mad Butcher #3636 416 Madison Street Clarendon, AR. 72029	2/8/2021	Scales were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0074	Sandy Acres Grocery & Market 9225 Hwy 270 White Hall, AR 71602	1/12/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0075	Exxon #4751 4751 Central Avenue Hot Springs, AR. 71913	3/5/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0076	Cash Saver #5057 3639 East 9th Street Texarkana, AR. 71854	3/5/2021	Scales were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0081	The Cove Store 22214 Hwy 51 Magnet Cove, AR 72104	3/1/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0082	PJ's Country Store 9499 Hwy 70 Lehi, AR 72364	1/5/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0083	Valero Circle K #1785 1676 Higdon Ferry Rd. Hot Springs, AR. 71913	3/5/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0084	Darrell's P.O. Box 151 Fordyce, AR 71742	2/24/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0085	Kingsland One Stop ☐ 16270 Hwy 79 South Kingsland, AR 71652	2/1/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0086	Rison's One Stop ☐ P.O. Box 412 Rison, AR 71665	2/3/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0094	Sevier County Farmers Co-op P.O. Box 107 DeQueen, AR 71832	1/21/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0095	Exxon Food Mart ☐ 3097 Hwy 5 El Paso, AR 72045	2/10/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0096	Chapel Creek Trading Post 144 Hwy. 9 Sparkman, AR 71763	3/3/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0098	The Corner Store of Camden 510 California Avenue SW Camden, AR 71701	3/8/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0099	Mountain Express Exxon Store #678 ☐ 490 Caney Road Arkadelphia, AR 71923	3/8/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0100	Westgate First Stop☐ 994 Washington Street Camden, AR 71701	3/8/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0101	Bullocks Exxon #1 15536 I-30 Benton, AR. 72015	3/8/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0102	Metro One 6868 Congo Road Benton, AR. 72019	3/9/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0104	Sunshine Express Food Mart 1005 W. South Street Benton, AR. 72015	3/9/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0105	Mac's Cash Saver #3717 205 S. Frederick Street Magnolia, AR. 71753	3/11/2021	Scales were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0107	Sha Food Mart 311 S. Reynolds Road Bryant, AR. 72022	3/17/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0108	Friendship Station 490 Coney Road Arkadelphia, AR. 71923	3/19/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0109	Winner's Circle #10 3741 Malvern Avenue Hot Springs, AR. 71901	3/22/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0110	Circle K #2741784 4198 Malvern Avenue Hot Springs, AR. 71901	3/22/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0111	J-Birds Express 2657 Highway 278 W. Wilmar, AR 71675	3/29/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0112	Fast Trax Exxon Station P.O. Box 1145 Des Arc, AR 72040	4/6/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0113	Ward Mart 14014 Highway 31 N. Ward, AR 72176	4/6/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0114	Ricks Express 7 3718 Hwy 65/82 Lake Village, AR 71653	4/19/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0115	Dodge Store #6301 604 E. Grand Avenue Hot Springs, AR 71902	4/6/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0116	Cabot Travel Plaza 3950 Highway 5 Cabot, AR 72023	4/13/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0117	Devine Gas 500 Highway 49 North Paragould, AR 72450	4/26/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0118	Quick Stop #53 115 Highway 167 North Bald Knob, AR 72010	4/30/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0119	Superstop 6317 W. Markham Little Rock, AR 72205	4/28/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0120	Food Mart 1020 Highway 367 Newport, AR 72112	5/3/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0123	Austin Quick Mart 3268 Highway 367 Austin, AR 72007	5/13/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0126	V Mart #1 3052 S. Second Street Cabot, AR 72023	5/28/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0127	Citgo Marty Mart P.O. Box 407 Bald Knob, AR 72010	6/2/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0128	Flash Market #415 370 Main Street Pleasant Plains, AR 72568	6/2/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 21-0129	Kum & Go #414 1220 E. Robinson Avenue Springdale, AR 72764	6/9/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0130	Anglers White River Resort P.O. Box 1254 Mountain View, AR 72560	6/23/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0001	Snappy Mart (On the Run) P.O. Box 323 Gassville, AR 72635	6/16/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0002	JB's Pit Stop 7604 Greers Ferry Road Higden, AR 72067	6/22/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0003	Pfeiffer One Stop 3705 N. St. Louis Street Batesville, AR 72501	7/7/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0004	AJ's Exxon 1901 Linwood Drive Paragould, AR 72450	7/7/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0005	Exxon Super Station #2 2901 Arkansas Boulevard Texarkana, AR 71854	7/9/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0006	Caldwell Feed 504 Highway 5 Rose Bud, AR 72137	7/12/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0007	Walmart #2 161 N. Walmart Drive Harrison, AR 72601	7/12/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0008	The Wealth of Time 1270 N. Bryan Drive Nixa, MO 63714	7/13/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0009	Cash Saver #2542 1012 AR-25 Bypass Heber Springs, AR 72543	7/15/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0010	SDM Pawn & Gun 801 S. 2nd Avenue Paragould, AR 72450	7/16/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0012	Victory Express 299 1801 Old Military Road Jacksonville, AR 72076	7/15/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0013	AJ Mart 1521 Highway 161 Jacksonville, AR 72076	7/15/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0014	Tran's Quick Shop 1209 E. Kingshighway Paragould, AR 72450	7/16/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0015	Red Mule Station 515 AR-69 Melbourne, AR 72556	7/16/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0024	Flash Market #167 3440 I-55 Marion, AR 72364	2/21/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0025	Oppelo Express 427 Hwy 9 Morrilton, AR 72110	3/23/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0026	Nisha One Stop 900 W. Broadway Street Morrilton, AR 72110	3/23/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0027	Handy Mart 141 E. Roller Avenue Decatur, AR 72722	4/20/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0028	Dollar General #7978 154 E. Roller Avenue Decatur, AR 72722	4/20/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0035	Jo Jo's Fuel Stop 815 S 2nd Street Cabot, AR 72023	6/9/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0036	White Oak Station #5 14358 Hwy 412 Huntsville, AR 72740	7/6/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0041	Stop N Shop PO Box 8 Winchester, AR 71677	4/12/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0042	Back Gate One Stop 1564 Hwy 165 Dumas, AR 71639	3/31/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0051	Point of Sale USA 115 Hwy 167 North Bald Knob, AR 72010	4/7/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0057	Max Taylor Oil Company P.O. Box 1184 Russellville, AR 72802	8/3/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0058	Walmart Neighborhood Market #4654 2100 Highway 77 Marion, AR 72364	7/26/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0059	Gee Street Pawn 1101 S. Gee Street Jonesboro, AR 72401	7/21/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0060	United Pawnbrokers 701 Gee Street Jonesboro, AR 72401	7/21/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0061	Big Steve's Gold & Pawn Emporium 1972 US 62 E Mountain Home, AR 72653	7/29/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0062	Harps #137 2507 Market Trace Fort Smith, AR 72908	7/20/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0063	Zoya Mart #2 875 US Highway 65 N Conway, AR 72032	6/22/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0067	J & P Flash Market (Exxon) 9658 AR-16 Shirley, AR 72153	7/26/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0068	Gary's Food Mart 330 N. Baltimore Manila, AR 72442	8/9/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0069	Quick Food Mart 5102 S. University Avenue Little Rock, AR 72204	8/4/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0070	Doublebee's #142 7600 Cantrell Road Little Rock, AR 72227	8/3/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0071	Pinnacle Valley Market 7808 Highway 300 Roland, AR 72135	8/5/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0072	Quick Mart #1 1221 N. Washington Street Forrest City, AR 72335	8/11/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0073	Broadway Stop 512 W. Broadway Street Forrest City, AR 72335	8/11/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0074	Helena Quick Stop 702 Perry Street Helena, AR 72342	8/12/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0075	Miraj Flash Market 665 Highway 65 N Greenbrier, AR 72058	8/10/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0080	Express Mart 1501 W. Roosevelt Road Little Rock, AR 72206	7/16/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0081	Ligon Oil Company, Inc.☐ P.O. Box 67 Norman, AR 71960	7/23/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0082	Rusty's Mart 527 N. Fourth Street West Helena, AR 72390	8/12/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0083	Will's Corner 303 S. Broadway Hughes, AR 72348	8/13/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0084	Gary's Food Mart 410 S. Main Leachville, AR 72438	8/20/2021	Dispensers were without Annual Inspection for 2020	1st	<u>\$350</u> \$100-600	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 21-0103	Dermott Market Place 109 N. Main St. Dermott, AR. 71638	3/10/2021	Dispensers were without Annual Inspection for 2020	2nd	<u>\$800</u> \$400-1200	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0065	Shannon Hills Food Mart 13622 Sardis Road Mabelvale, AR 72103	7/28/2021	Dispensers were without Annual Inspection for 2020	2nd	<u>\$800</u> \$400-1200	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0066	Buffalo Store 14301 Arch Street Little Rock, AR 72206	7/15/2021	Dispensers were without Annual Inspection for 2020	2nd	<u>\$800</u> \$400-1200	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0079	Gary's Food Mart 330 N. Baltimore Manila, AR 72442	8/20/2021	Dispensers were without Annual Inspection for 2020		<u>\$800</u> \$400-1200	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.

BS 22-0076	Miraj Flash Market 665 Highway 65 N Greenbrier, AR 72058	8/31/2021	Dispensers were without Annual Inspection for 2020	2nd	<u>\$800</u> \$400-1200	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0077	Miraj Flash Market 665 Highway 65 N Greenbrier, AR 72059	9/8/2021	Dispensers were without Annual Inspection for 2020	3rd	<u>\$1,350</u> \$700-2,000	A.C.A. § 4-18-322 (a) (5) Violate any provisions of this subchapter or regulations promulgated under it A.C.A. § 4-18-344 (b) (2) (A) A person who owns a pump or scale for a commercial transaction must engage a registered service agent to annually inspect and test for the accuracy and correctness of the pump or scale.
BS 22-0031	Dardanelle Citgo 115 Union Street Dardanelle, AR 72834	4/5/2021	Premium Unleaded E10 Distillation measured 547°F	1st	<u>\$200</u> \$100-300	A.C.A §4-108-207. Prohibited acts. It shall be unlawful to: (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products. NIST Handbook 130 2017 Section 2. Standard Fuel Specifications 2.4.a. ASTM D910 "Standard Specification for Aviation Gasoline D910-07a Table #1 Distillation, 10 Volume % at Fahrenheit = 167 max

BS 22-0064	The Southern Company 3101 Carrie Street Memphis, TN. 38116	5/24/2021	Service Agency not Registered	1st	<u>\$350</u> \$100-600	<p>A.C.A. § 4-18-322. (a) No person shall</p> <p>(8) Perform an annual inspection, examination or test on a weight or measure if that person is not a weights and measures official or registered service agent;</p> <p>(9) Impersonate in any way the Director of the Arkansas Bureau of Standards, the deputy director, any one of the investigators or a registered agent of the Arkansas Bureau of Standards by the use of a seal or decal, or in any other manner; or</p> <p>(10) Violate any provision of this subchapter or rules promulgated under § 4-18-328.</p>
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Past Due Civil Penalties

ATTACHMENT 7

Case File	Location Name	Location Address	City	Violation Date	Penalty	Collection Letter Sent	Notes
BS 16-0001	RCP Express	1542 Hwy. 67 North	Pocahontas	26-Apr-16	\$500.00	12-Jun-17	**Signed Settlement Agreement on 5/24/16 **Final Collection Letter mailed on 7/10/18 and we received the receipt on 7/19/18.
BS 17-0014	Trumann Citgo	541 Hwy 463 South	Trumann	27-Dec-16	\$800.00	15-Jun-17	**Final Collection Letter mailed on 7/10/18 and they signed for it on 7/13/18
BS 17-0034	Pine Hill Grocery	2821 Hwy 133 N	Hamburg	15-Mar-17	\$100.00	15-Jun-17	**Final Collection Letter mailed on 7/10/18 and they signed for it on 7/19/18
BS 17-0035	Pine Hill Grocery	2821 Hwy 133 N	Hamburg	15-Mar-17	\$100.00	15-Jun-17	**Final Collection Letter mailed on 7/10/18 and they signed for it on 7/19/18

BS 17-0036	Dollarway One Stop	5203 Dollarway Road	Pine Bluff	16-Mar-17	\$100.00	15-Jun-17	**Final Collection Letter mailed on 7/10/18 and both came back one as "unclaimed" and the other as "undeliverable as addressed"
BS 17-0042	Crossett Road Mart	101 Fairview	Crossett	21-Mar-17	\$1,350.00	15-Jun-17	**Final Collection Letter mailed on 7/10/18 and both came back as "forward time expired"
BS 17-0045	Hughes Grocery	15634 Hwy 5 South	Norfolk	30-Mar-17	\$100.00	15-Jun-17	**Final Collection Letter mailed on 7/10/18 and there was no returned envelope, nor certified mail receipt
BS 17-0058	Red River Market	9658 Hwy 16 E	Shirley	20-Mar-17	\$100.00	15-Jun-17	**Paid BS 17-0065 for \$800 on 8/15/17 **Final Collection Letter mailed on 7/10/18 and there was no returned envelope, nor certified mail receipt
BS 17-0062	Exit 57 Auto & Truck Stop	1001 Interstate Drive	Clarksville	12-Apr-17	\$100.00	15-Jun-17	**Final Collection Letter mailed on 7/10/18 and they signed for it on 7/13/18

BS 17-0067	Valero Country Store	801 N Arkansas	Russellville	24-Feb-17	\$100.00	15-Jun-17	**Final Collection Letter mailed on 7/10/18 and they signed for it on 7/13/18
BS 17-0069	Sinco LLC Big Red Valero 12	2317 W 28th St	Pine Bluff	28-Apr-17	\$300.00	11-Oct-17	**Final Collection Letter mailed on 7/10/18 and they signed for it on 7/13/18
BS 17-0084	On The Run 7	PO Box 1592	Bald Knob	04-May-17	\$150.00	11-Oct-17	**Final Collection Letter mailed on 7/10/18 and there was no returned envelope, nor certified mail receipt
BS 17-0087	Alaumaise Market	670 N Sebastian	West Helena	30-May-17	\$150.00	11-Oct-17	**Final Collection Letter mailed on 7/10/18 and one came back "insufficient address" while the other was delivered
BS 18-0007	65/81 One Stop	4711 Hwy 65 S	Pine Bluff	6-Sep-17	\$800.00	15-Dec-17	**Final Collection Letter mailed on 7/10/18 and we received the receipt on 7/23/18
BS 18-0008	Lone's #8	3801 Central Ave Ste B	Hot Springs	23-Aug-17	\$800.00	15-Dec-17	**Final Collection Letter mailed on 7/10/18 and they signed for it on 7/13/18

BS 18-0026	Gas Plus	P O Box 185	Sheridan	17-Oct-17	\$350.00	15-Dec-17	**Final Collection Letter mailed on 7/10/18 and they signed for it on 7/13/18
BS 18-0032	Loves #607	5101 East Parker	Jonesboro	2-Nov-17	\$350.00	29-Mar-18	**Final Collection Letter mailed on 7/10/18 and they signed for it on 7/13/18
BS 18-0074	Zamam LLC	PO Box 448	Atkins	3-Mar-18	\$200.00	28-Jun-18	**Final Collection Letter mailed on 11/1/18 and there was no returned envelope, nor certified mail receipt
BS 18-0099	Superstop #161	1600 South Elmira Ave	Russellville	13-Mar-18	\$200.00	28-Jun-18	**Final Collection Letter mailed on 11/1/18 and we received the receipt on 11/5/18
BS 19-0039	Miraj 3 Inc.	665 Highway 65 North	Greenbriar	5-Sep-18	\$200.00	10-Dec-18	**Final Collection Letter mailed on 4/3/19 and they signed for it on 4/4/19
BS 19-0063	System Scale Corporation	2325 Jonesboro Road	West Monroe, LA	17-Oct-18	\$600.00	10-Dec-18	**Final Collection Letter mailed on 4/3/19 and the certified letter came back unclaimed

BS 19-0082	Kibler Quick Stop	7 West Kibler Highway	Van Buren	5-Dec-18	\$200.00	15-Mar-19	**Final Collection Letter mailed on 6/12/19 and they signed for it on 6/14/19
BS 19-0090	Murphy USA #7363	131 South Rock Street	Sheridan	18-Dec-18	\$200.00	15-Mar-19	**Final Collection Letter mailed on 6/12/19 and it was delivered on 6/14/19
BS 19-0095	Crossroads Family Mart	18600 Beaver Creek Road	Roland	11-Dec-18	\$200.00	15-Mar-19	**Final Collection Letter mailed on 6/12/19 and it was delivered on 6/13/19
BS 19-0102	Mapco Express #7328	3401 JFK Blvd	North Little Rock	15-Jan-19	\$200.00	12-Jun-19	**Final Collection Letter mailed on 9/18/19
BS 19-0105	Flash Market #9	910 Magnolia Road	Jonesboro	4-Feb-19	\$200.00	12-Jun-19	**Final Collection Letter mailed on 9/18/19
BS 19-0132	Hugs & Biscuits #3	109 North Broadway	Hartford	17-Apr-19	\$200.00	12-Jun-19	**Final Collection Letter mailed on 9/18/19
BS 19-0147	Victory Fuel	1521 North Missouri	West Memphis	6-May-19	\$350.00	19-Sep-19	**Final Collection Letter mailed on 8/27/20

BS 19-0165	Helena Food Mart	527 Columbia	Helena	6-Jun-19	\$200.00	19-Sep-19	**Final Collection Letter mailed on 8/27/20
BS 19-0166	RCP Express	1542 Highway 67 North	Pochontas	11-Jun-19	\$200.00	19-Sep-19	**Final Collection Letter mailed on 8/27/20
BS 20-0002	Helena Express Food Mart	702 Perry Street	Helena	1-Jul-19	\$350.00	19-Sep-19	**Final Collection Letter mailed on 8/27/20
BS 20-0003	Helena Food Mart	527 Columbia	Helena	1-Jul-19	\$350.00	19-Sep-19	**Final Collection Letter mailed on 8/27/20
BS 20-0008	J & P Flash Market #112	2443 Thomasville	Pocahontas	11-Jun-19	\$200.00	19-Sep-19	**Final Collection Letter mailed on 8/27/20
BS 20-0011	Portia Stop & Go	501 Front Street	Portia	9-Jul-19	\$200.00	19-Sep-19	**Final Collection Letter mailed on 8/27/20
BS 20-0017	Miraj 3 Inc.	665 Hwy 65 North	Greenbrier	31-Jul-19	\$200.00	27-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0019	J & J Convenience Store	14345 Hwy 62 East	Henderson	23-Jul-19	\$200.00	27-Dec-19	**Final Collection Letter mailed on 8/27/20

BS 20-0021	Magness Oil Company	167 Tucker Cemetary Road	Gassville	29-Jul-19	\$200.00	27-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0023	Sha Food Mart	311 S. Reynolds Road	Bryant	24-Jul-19	\$200.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0026	Exxon Food Mart	3097 Hwy 5	El Paso	5-Aug-19	\$200.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0029	T-Ricks	3408 Hwy 63 N	Hazen	24-Apr-19	\$350.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0031	Circle K 2741774	1133 Hwy 278 W	Monticello	3-Apr-19	\$350.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0042	Kroger 629	22820 I30 N	Benton	9-May-19	\$350.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0056	Sha Food Mart	311 S. Reynolds Road	Bryant	19-Sep-19	\$500.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20

BS 20-0058	Monticello Northside Deli	209 N Dillard St	Monticello	4-Oct-19	\$350.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0060	Town & Country Food & Fuel	625 E Main St	Blytheville	14-Oct-19	\$500.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0065	Quick Stop	Hwy 18	Blytheville	15-Oct-19	\$850.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0072	Food Express	732 Fayetteville Avenue	Alma	22-Oct-19	\$200.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0073	Express Mart	629 S Walnut	Osceola	13-Jan-19	\$350.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0084	Capones Auto Repair	103 E. Main St	Hardy	12-Nov-19	\$200.00	30-Dec-19	**Final Collection Letter mailed on 8/27/20
BS 20-0103	On The Run #16	550 Skyline Drive	Conway	17-Jan-20	\$200.00	5-Jun-20	**Final Collection Letter mailed on 8/27/20

BS 20-0105	White Oak #1966	1423 E. 9th Street	Mountain Home	24-Jan-20	\$200.00	5-Jun-20	**Final Collection Letter mailed on 8/27/20
BS 20-0132	Sweet Home Mart	6808 Highway 365 South	Little Rock	27-Jan-20	\$350.00	5-Jun-20	**Final Collection Letter mailed on 8/27/20 - New Owner old owner closed the store
BS 20-0136	Kwik Stop	1000 Albert Pike	Hot Springs	11-Feb-20	\$350.00	5-Jun-20	**Final Collection Letter mailed on 8/27/20
BS 20-0137	Kroger	855 Salem Road	Conway	29-Jan-20	\$350.00	5-Jun-20	**Final Collection Letter mailed on 8/27/20
BS 20-0149	Johnson Country Mart	2145 Main Drive	Johnson	25-Feb-20	\$350.00	5-Jun-20	**Final Collection Letter mailed on 8/27/20
BS 20-0163	Alzheimer Food Mart	13512 North Highway 79	Alzheimer	16-Jan-20	\$350.00	5-Jun-20	**Final Collection Letter mailed on 8/27/20
BS 20-0167	Three Star Food & Fuel	16205 South Main Street	Pine Bluff	21-Jan-20	\$350.00	5-Jun-20	**Final Collection Letter mailed on 8/27/20

BS 20-0170	Ray's Recycling	107 West Road	Texarkana	5-Feb-20	\$350.00	5-Jun-20	**Final Collection Letter mailed on 8/27/20
BS 20-0172	Colonel Glenn Gas & Deli	17500 Colonel Glenn Road	Little Rock	10-Feb-20	\$350.00	5-Jun-20	**Final Collection Letter mailed on 8/27/20
BS 20-0190	Haskell Grove C-Store	2905 Hwy 229 South	Haskell	2-Jun-20	\$350.00	4-Sep-20	**Final Collection Letter mailed on 2/4/21
BS 20-0192	Maumelle Food Mart	10920 Maumelle Blvd	North Little Rock	9-Jun-20	\$200.00	4-Sep-20	**Final Collection Letter mailed on 2/4/21
BS 21-0009	Circle K Truck Stop	8921 Fourche Dam Pike	Little Rock	20-Jul-20	\$350.00	4-Sep-20	**Final Collection Letter mailed on 2/4/21
BS 21-0010	Valero Corner Store (Circle K)	3508 Oliver Lancaster Blvd	Rockport	24-Jul-20	\$350.00	19-Sep-19	**Final Collection Letter mailed on 2/4/21
BS 21-0011	Blytheville Exxon	3701 S Division Street	Blytheville	15-Sep-20	\$350.00	19-Sep-19	**Final Collection Letter mailed on 2/4/21

BS 21-0015	Shell Superstop #150	866 Park Avenue	Hot Springs	4-Aug-20	\$200.00	19-Sep-19	**Final Collection Letter mailed on 2/4/21
BS 21-0020	E-Z Mart #4395	11724 Rainwood Rd	Little Rock	3-Sep-20	\$200.00	10-Dec-20	**Final Collection Letter mailed on 2/4/21
BS 21-0024	Kum & Go #386	200 Hwy 63B	Bono	17-Sep-20	\$200.00	10-Dec-20	**Final Collection Letter mailed on 2/4/21
BS 21-0032	Stop N By	900 W. Keiser Avenue	Osceola	1-Oct-20	\$200.00	10-Dec-20	**Final Collection Letter mailed on 2/4/21

\$21,100.00

Total Past Due Amount \$21,100.00

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

January 26, 2022

Committee Members Present: Chairman Lester Scott, Mark Hartz, Matthew Marsh, Matthew Miles, Travis Senter, Richard Watts

Committee Members Absent: Nathan Reed

Board Members Present: Mark Morgan

Board Members Present via Zoom: Sam Stuckey, Mark Hopper, Dr. Nathan Slaton

Scott Bray, Plant Industries Division Director, Wade Hodge, Arkansas Department of Agriculture Chief Counsel, Michael Bynum, Arkansas Department of Agriculture Attorney, and Susie Nichols, Pesticide Section Agri Division Manager, were present. Other Arkansas Department of Agriculture staff members and guests were attending in person or via Zoom.

Chairman Lester Scott called the meeting to order at 09:30 A.M. and asked Mr. Scott Bray to present the opening remarks.

Chairman Scott welcomed all who were in attendance and recognized Mr. Matthew Marsh, Chairman of the Arkansas State Plant Board and ex officio member of the Pesticide Committee. He then asked Pesticide Committee Members and all others attending to introduce themselves.

At this time Chairman Scott announced a change to the agenda, which was a presentation by Corteva Agriscience regarding amendments to their product labels Enlist One (Attachment 1) and Enlist Duo (Attachment 2).

Ms. Elisha Kemp and Mr. Eric Scherder with Corteva Agriscience gave a PowerPoint presentation regarding Corteva Agriscience's amended Enlist One and Enlist Duo product labels via zoom.

Chairman Scott opened the floor for discussion. Discussion followed.

Chairman Scott introduced the next item on the agenda, which was the review of enforcement actions and turned the floor over to Ms. Susie Nichols, Pesticide Section Agri Division Manager.

Ms. Nichols presented the enforcement actions (Attachment 3). The following enforcement actions were presented as uncontested warning letters:

- Enforcement actions # 1) through 34)

Committee Member Mark Hartz made a motion to accept department staff's recommendation on enforcement actions # 1) through 34), seconded by Committee Member Travis Senter. Motion Carried.

- Enforcement action # 35)

Committee Member Mark Hartz recused himself from any discussion and vote.

Mr. Douglas Hartz, owner of Hartz Farm Management, Inc., addressed the committee regarding enforcement action # 35) (see Attachment 4) and requested, on behalf of their client Hartz Farm Management, Inc. and their tenant Mr. C. J. Parker, the committee increase the staff's recommendation of a Warning Letter to the maximum penalty of \$1,000.

Discussion followed, in parts as follows:

- Ms. Nichols stated the Department's attorneys are present for assistance and provided the committee with a brief summary of options regarding Mr. Hartz's request, during which she referenced Section XII of the Arkansas Rules on Pesticide Classification rule book (Attachment 5).
- The committee inquired if any restitutions were made in the case and Mr. C. J. Parker, farmer, received permission to address the committee regarding the question.
- Mr. Wade Hodge cautioned the committee on making determinations in enforcement cases based on whether or not there have been any restitution or reimbursement made because the Department does not assess economic damages.

Committee Member Travis Senter made a motion to accept department staff's recommendation of a warning letter on enforcement action # 35), seconded by Committee Member Richard Watts. Motion Carried.

The following enforcement actions were presented as signed consent agreements:

- Enforcement actions # 36) through 39)

Committee Member Richard Watts made a motion to accept department staff's recommendation on enforcement actions # 36) through #39), seconded by Committee Member Matthew Miles. Motion carried.

- Enforcement action # 40)

Board Chairman Matthew Marsh recused himself from any discussion and vote.

Committee Member Travis Senter made a motion to accept department staff's recommendation on enforcement action # 40), seconded by Committee Member Matthew Miles. Motion Carried.

- Enforcement actions # 41) through 55)

Committee Member Matthew Miles made a motion to accept department staff's recommendation on enforcement actions # 41) through #55), seconded by Committee Member Travis Senter. Motion carried.

- Enforcement actions # 56) through 57)

Committee Member Travis Senter recused himself from any discussion and vote.

Committee Member Mark Hartz made a motion to accept department staff's recommendation on enforcement actions # 56) through 57, seconded by Committee Member Richard Watts. Motion Carried.

- Enforcement actions # 58) through 59)

Committee Member Matthew Miles made a motion to accept department staff's recommendation on enforcement actions # 58) through 59), seconded by Committee Member Travis Senter. Motion Carried.

The following enforcement actions were presented as consent agreements with no response after 30 days:

- Enforcement actions # 60) through 69)

An inquiry was made regarding the process the Department has in place for consent agreements with no response and consequences of non-payment of penalties, discussion followed. During the discussion, Ms. Nichols referred the Committee to the Enforcement Response Rules (Attachment 6) as a reference.

Committee Member Travis Senter made a motion to accept department staff's recommendation on enforcement actions # 60) through 69), seconded by Committee Member Richard Watts. Motion carried.

Chairman Scott introduced the next item on the agenda, which was an update on the State FIFRA and Evaluation Group (SFIREG) and turned the floor over to Ms. Nichols.

Ms. Nichols provided a summary of the SFIREG responsibilities and the SFIREG December 2021 meeting notes (Attachment 7). She also presented a summary of EPA's Status of Over-the-Top Dicamba Summary of 2021 (Attachment 8).

Chairman Scott introduced the next item on the agenda, which was an update on dicamba in Arkansas and turned the floor over to Ms. Nichols.

Ms. Nichols provided a summary of the Pesticide Committee Dicamba Case Status Update Summary report (Attachment 9).

Discussion followed.

Chairman Scott stated that no specific actions were required by the committee regarding the dicamba rules and that EPA has not made any changes going into 2022 as of December 2021, but to let the Full Board know the committee's stance on the current dicamba rules in the upcoming March board meeting, he asked to committee for a motion to accept the dicamba rules that are currently in place from 2021 going into the 2022 in the state of Arkansas.

Committee Member Travis Senter made a motion to accept the current 2021 dicamba rules for the 2022 growing season, seconded by Committee Member Matthew Miles.

Discussion followed, during which Board Chairman Marsh want it to be acknowledged that moving the cutoff date to June 30th in 2021 increased the number of dicamba related case file complaints in 2021 almost to double of the amount from 2020. Ms. Nichols presented during the discussion an assessment of approximate acres affected by dicamba as of July 2021 provided by the University of Arkansas (Attachment 10).

Motion Carried.

Chairman Scott 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 Mark Hartz moved the motion with a second by Pesticide Committee Member Travis Senter to adjourn. Motion Carried.

Meeting was adjourned.

Signed 
Lester Scott, Chairman
Pesticide Committee

Supplemental Labeling



Corteva Agriscience LLC

9330 Zionsville Road

Indianapolis, IN 46268-1054 USA

2,4-D CHOLINE SALT

GROUP

4

HERBICIDE

Enlist One®

EPA Reg. No. 62719-695

**This Supplemental Labeling Expires on September 30, 2023
Do Not Use or Distribute After Expiration Date.**

ATTENTION

- This supplemental labeling supersedes the container labeling.
- Product users must follow the instructions of this labeling after January 11, 2022.
- It is a violation of Federal law to use this product in a manner inconsistent with its labeling.
- This labeling must be in the possession of the user at the time of application.

For control of emerged annual and perennial broadleaf weeds, use as a preplant, preemergence and postemergence herbicide on Enlist® corn, soybeans and cotton. Enlist herbicides with Colex-D® technology are the ONLY 2,4-D containing products authorized and specifically labeled for use with Enlist crops.

Use as a non-selective burndown; chemical fallow; use as a preplant and preemergence herbicide on non-Enlist corn, and use as a preplant herbicide on non-Enlist soybeans.

Do not allow contact of herbicide with foliage of desirable plants and trees because severe injury or destruction may result.

Approved for use only in certain geographical areas. Read and follow all label instructions.

Active Ingredient(s):

2,4-Dichlorophenoxyacetic acid, choline salt	55.7%
Other Ingredients	44.3%
Total	100.0%

2,4-dichlorophenoxyacetic acid equivalent – 38% - 3.8 lb/gal

Keep Out of Reach of Children

WARNING AVISO

Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle. (If you do not understand the label, find someone to explain it to you in detail.)

Agricultural Use Requirements

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. Refer to the label booklet under "Agricultural Use Requirements" in the Directions for Use section for information about this standard.

Precautionary Statements

Hazards to Humans and Domestic Animals

WARNING

May be fatal if swallowed. Causes substantial but temporary eye injury. Harmful if absorbed through skin. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals. Do not get in eyes or on clothing. Avoid contact with skin.

Personal Protective Equipment (PPE)

All mixers, loaders, applicators, flaggers, and handlers must wear:

- Long-sleeved shirt and long pants
- Shoes and socks, plus
- Waterproof gloves
- Protective eyewear (goggles, faceshield, or safety glasses)
- Chemical-resistant apron when mixing or loading, cleaning up spills or equipment, or otherwise exposed to the concentrate

See engineering controls for additional requirements.

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.

Engineering Controls

When handlers use closed systems or enclosed cabs in a manner that meets the requirements listed in Worker Protection Standard (WPS) for agricultural pesticides [40 CFR 170.607(d-e)], the handler PPE requirements may be reduced or modified as specified in the WPS.

User Safety Recommendations

Users should:

- Wash hands thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco, or using the toilet. Remove and wash contaminated clothing before reuse.
- Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing. If pesticide gets on skin, wash immediately with soap and water.
- Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

First Aid

If in eyes: Hold eye open and rinse slowly and gently with water for 15-20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. Call a poison control center or doctor for treatment advice.

If swallowed: Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control center or doctor. Do not give anything by mouth to an unconscious person.

If on skin: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.

Have the product container or label with you when calling poison control center (1-800-352-2222) or doctor, or going for treatment. You may also contact 1-800-992-5994, for emergency medical treatment information.

Environmental Hazards

This pesticide is toxic to fish and aquatic invertebrates. Do not apply directly to water, to areas where surface water is present, or to intertidal areas below the mean high-water mark. Do not contaminate water when disposing of equipment washwaters or rinsate. Drift or runoff may adversely affect aquatic invertebrates, sensitive wetland environments, and non-target plants. Drift and runoff may be hazardous to aquatic organisms in water adjacent to treated areas.

This product is toxic to plants and may adversely impact the forage and habitat of non-target organisms, including pollinators, in areas adjacent to the treated site. Protect the forage and habitat of non-target organisms by following label directions intended to minimize spray drift and runoff.

This product is moderately toxic to bees on an acute basis, and may cause chronic risk to pollinators or other terrestrial invertebrates. Do not apply this product to blooming vegetation or if bees or other pollinating insects are visiting the treatment area

This product may impact surface water quality due to runoff of rainwater. This is especially true for poorly draining soils and soils with shallow ground water. This product is classified as having high potential for reaching surface water via runoff for several days to weeks after application.

A level, well-maintained vegetative buffer strip between areas to which this product is applied and surface water features such as ponds, streams, and springs will reduce the potential loading of 2,4-D from runoff water and sediment. Runoff of this product will be reduced by avoiding applications when rainfall or irrigation is expected to occur within 48 hours.

2,4-D is known to leach through soil into groundwater under certain conditions as a result of label use. This chemical may leach into groundwater if used in areas where soils are permeable, particularly where the water table is shallow. Application around a cistern or well may result in contamination of drinking water or groundwater.

Physical and Chemical Hazards

Spray solutions of this product must be mixed, stored and applied using only stainless steel, aluminum, fiberglass, plastic or plastic lined containers.

Do not mix, store or apply this product or spray solutions of this product in galvanized steel or unlined steel containers or spray tanks.

Directions for Use

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. Read all Directions for Use carefully before applying.

Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your state or tribe, consult the agency responsible for pesticide regulation.

Endangered Species

It is a Federal offense to use any pesticide in a manner that results in an unauthorized "take" (e.g., kill or otherwise harm) of an endangered species and certain threatened species, under the Endangered Species Act section 9. When using this product, you must follow the measures contained in the Endangered Species Protection Bulletin for the area in which you are applying the product. You must

obtain a Bulletin no earlier than six months before using this product. To obtain Bulletins, consult <http://www.epa.gov/espp/>, call 1-844-447-3813, or email ESPP@epa.gov. You must use the Bulletin valid for the month in which you will apply the product.

Report ecological incidents: To report ecological incidents, including mortality, injury, or harm to non-target plants and animals, call 1-855-ENLIST-1 (1-855-365-4781).

Tank-Mixing Instructions:

Enlist One® may only be tank-mixed with products that have been tested and found not to adversely affect the spray drift properties of Enlist One. A list of those products may be found at Enlist.com/TankMix.

It is the pesticide user's responsibility to ensure that all products are registered for the intended use. Read and follow the applicable restrictions, limitations, and directions for use on all product labels involved in the tank mixture. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

DO NOT TANK-MIX ANY PRODUCT WITH Enlist One unless:

1. You check the list of tested products found not to adversely affect the spray drift properties of Enlist One at Enlist.com/TankMix no more than 7 days before applying Enlist One; and
2. The product you tank-mix with Enlist One is identified on that list of tested products.

Agricultural Use Requirements

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE), and restricted entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 48 hours.

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is:

- Long-sleeved shirt and long pants
- Waterproof gloves
- Shoes plus socks
- Protective eyewear (goggles, faceshield, or safety glasses)

Storage and Disposal

Do not contaminate water, food, feed or seed by storage or disposal.

Pesticide Storage: Store in a cool, dry place. Store in original container. In case of leak or spill, contain material and dispose as waste.

Pesticide Disposal: Wastes resulting from the use of this product must be disposed of on site or at an approved waste disposal facility.

Nonrefillable containers 5 gallons or less:

Container Handling: Nonrefillable container. Do not reuse or refill this container.

Triple rinse or pressure rinse container (or equivalent) promptly after emptying. **Triple rinse** as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. **Pressure rinse** as follows: Empty the remaining contents into application equipment or a mix tank and continue to drain for 10 seconds after the flow begins to drip. Hold container upside down over application equipment or mix tank or collect

rinsate for later use or disposal. Insert pressure rinsing nozzle in the side of the container, and rinse at about 40 psi for at least 30 seconds. Drain for 10 seconds after the flow begins to drip. Then offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures allowed by state and local authorities.

Refillable containers larger than 5 gallons:

Container Handling: Refillable container. Refill this container with pesticide only. Do not reuse this container for any other purpose.

Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller. To clean the container before final disposal, empty the remaining contents from this container into application equipment or a mix tank. Fill the container about 10% full with water and, if possible, spray all sides while adding water. If practical, agitate vigorously or recirculate water with the pump for two minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this rinsing procedure two more times. Then offer for recycling if available, or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures allowed by state and local authorities.

Nonrefillable containers 5 gallons or larger:

Container Handling: Nonrefillable container. Do not reuse or refill this container.

Triple rinse or pressure rinse container (or equivalent) promptly after emptying. **Triple rinse** as follows: Empty the remaining contents into application equipment or a mix tank. Fill the container 1/4 full with water. Replace and tighten closures. Tip container on its side and roll it back and forth, ensuring at least one complete revolution, for 30 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Repeat this procedure two more times. **Pressure rinse** as follows: Empty the remaining contents into application equipment or a mix tank and continue to drain for 10 seconds after the flow begins to drip. Hold container upside down over application equipment or mix tank or collect rinsate for later use or disposal. Insert pressure rinsing nozzle in the side of the container, and rinse at about 40 psi for at least 30 seconds. Drain for 10 seconds after the flow begins to drip. Then offer for recycling if available, or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures allowed by state and local authorities.

Product Information

Enlist One herbicide is a systemic herbicide that is intended for control of emerged annual and perennial broadleaf weeds. Enlist One is designed to be applied to crops containing Enlist™ traits. These are patented genes that provide tolerance to Enlist One. Certain other uses (e.g. use as a non-selective burndown; chemical fallow; use as a preplant herbicide on non-Enlist soybeans, and a preplant or preemergence herbicide on non-Enlist corn) are also permitted as specified on this label. Corn, soybeans, and cotton without the Enlist trait will be seriously damaged by foliar applications of Enlist One.

When this product is applied as directed and under the circumstances described, it controls annual and perennial broadleaf weeds listed in this label.

Time to Symptoms on Susceptible Plants: Initial symptoms include drooping leaves and epinasty, which typically occurs within 24 hours of foliar treatment. This is followed by chlorosis, necrosis, further leaf/stem malformation and growth inhibition. Complete death and desiccation of susceptible plants occurs within 3-5 weeks.

Stage of Broadleaf Weeds: Apply when weeds are less than 6 inches in height. Annual weeds are easiest to control when they are small. Best control of most perennial weeds is obtained when treatment is made at late growth stages approaching maturity. Refer to the annual and perennial tables for specific weeds. When treating weeds with disease or insect damage, weeds heavily covered with dust, or weeds under poor growing conditions, reduced weed control may result.

Rainfastness: Enlist One is rainfast within 4 hours following application. See Use Restrictions for application prior to rainfall and/or irrigation.

Spray Coverage: For best results, spray coverage should be uniform and complete. Do not spray weed foliage to the point of runoff.

Mode of Action: 2,4-D, the active ingredient in this product, mimics the naturally occurring plant auxins and overloads the plant's auxin balance affecting vital processes, such as cell division and elongation, resulting in abnormal growth and plant death.

Limited Soil Activity: Though some suppression of annual weeds emerging soon after application may occur, optimum control is achieved when the majority of weeds are emerged at the time of application.

Biological Degradation: Degradation of this product is primarily a biological process carried out by soil microbes.

Herbicide Resistance Management

2,4-D, the active ingredient in this product, is a Group 4 herbicide (synthetic auxin). Some naturally occurring weed biotypes that are tolerant (resistant) to 2,4-D may exist due to genetic variability in a weed population. Where resistant biotypes exist, the repeated use of herbicides with the same modes of action can lead to the selection for resistant weeds. Certain agronomic practices delay or reduce the likelihood that resistant weed populations will develop and can be utilized to manage weed resistance once it occurs.

Proactively implementing diversified weed control strategies to minimize selection for weed populations resistant to one or more herbicides is a best practice. A diversified weed management program may include the use of multiple herbicides with different modes of action and overlapping weed spectrum with or without tillage operations and/or other cultural practices. Research has demonstrated that using the labeled rate and directions for use is important to delay the selection for resistance.

The continued availability of this product depends on the successful management of the weed resistance program; therefore, it is very important to perform the following actions.

To aid in the prevention of developing weeds resistant to this product, the following steps must be followed:

- Scout fields before application to ensure herbicides and rates will be appropriate for the weed species and weed sizes present.
- Apply full rates of Enlist One in combination with another herbicide with a different mode of action and overlapping spectrum (See Tank Mix Instructions). Choose the rate for the most difficult to control weed in the field at the specified time (correct weed size) to minimize weed escapes.
- Scout fields after application to detect weed escapes or shifts in weed species.
- Report any incidence of non-performance of this product against a particular weed species to your Corteva retailer, representative or call 1-855-ENLIST-1(1-855-365-4781).
- Suspected Resistance: Indicators of suspected herbicide resistance include (1) failure to control a weed species normally controlled by the herbicide at the dose applied, especially if control is achieved on adjacent weeds; (2) a spreading patch of uncontrolled plants of a particular weed species; and (3) surviving plants mixed with controlled individuals of the same species. Likely resistant weeds are assumed to be present if any of these criteria are met.
- If resistance is suspected, treat weed escapes with an herbicide having a mode of action other than Group 4 and/or use non-chemical methods to remove escapes, as practicable, with the goal of preventing further seed production.

Additionally, users should follow as many of the following herbicide resistance management practices as practicable:

- Use a broad spectrum soil-applied herbicide with other modes of action as a foundation in a weed control program.
- Utilize sequential applications of herbicides with alternative modes of action.
- Rotate the use of this product with non-Group 4 herbicides.
- Incorporate non-chemical weed control practices, such as mechanical cultivation, crop rotation, cover crops and weed-free crop seeds, as part of an integrated weed control program.
- Thoroughly clean plant and soil residues from equipment before leaving fields suspected to contain resistant weeds.
- Avoid using more than two in-crop applications of Enlist One and any other Group 4 herbicide within a single growing season unless in conjunction with another mode of action herbicide with overlapping spectrum.
- Manage weeds in and around fields, during and after harvest to reduce weed seed production.

Contact the local agricultural extension service, Corteva representative, ag retailer or crop consultant for further guidance on weed control practices as needed.

Susceptible Plants

Do not apply under circumstances where spray drift may occur to food, forage, or other plantings that might be damaged or crops thereof rendered unfit for sale, use or consumption. Do not allow contact of herbicide with foliage, green stems, exposed non-woody roots of crops, desirable plants; including trees and cotton without the Enlist trait, because severe injury or destruction may result. Small amounts of spray drift that may not be visible may injure susceptible broadleaf plants. **Before making an application, please refer to your state's sensitive crop registry (if available) to identify any commercial specialty or certified organic crops that may be located nearby.**

At the time of application, the wind cannot be blowing toward adjacent commercially grown tomatoes and other fruiting vegetables (EPA crop group 8), cucurbits (EPA crop group 9, including pumpkins, melons, and cucumbers), grapes, tobacco and cotton.

Spray Drift Management

A variety of factors including weather conditions (e.g., wind direction, wind speed, temperature, and relative humidity) and method of application can influence pesticide drift. The applicator must evaluate all factors and make appropriate adjustments when applying this product.

Do not aerially apply this product.

Nozzle Selection

The listing of nozzles and pressures on Enlist.com/Nozzles specifies which nozzles are allowed for use when applying Enlist One herbicide. Do not use any nozzle and pressure combination not specifically allowed by the listing on Enlist.com/Nozzles.

Groundboom Application

Use the minimum boom height based upon the nozzle manufacturer's directions. Do not exceed 24 inches in height above the canopy. Spray drift potential increases as boom height increases. Spray drift can be minimized if nozzle height is not greater than the maximum height specified by the nozzle manufacturer for the nozzle selected.

Wind Speed

Do not apply at wind speeds greater than 15 mph. Wind speeds can vary during application. For best results apply when wind speeds are between 3 and 10 mph.

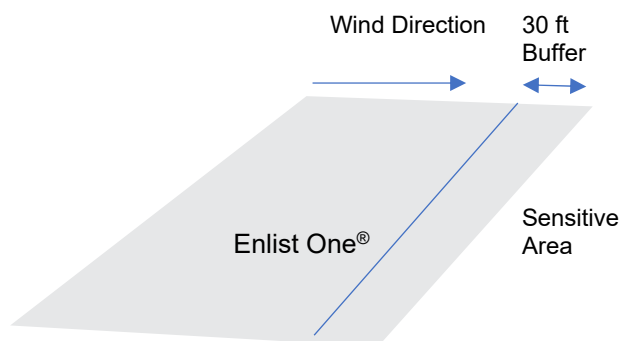
Temperature and Humidity

When making applications in low relative humidity, set up equipment to produce larger droplets to compensate for evaporation. Droplet evaporation is most severe when conditions are both hot and dry.

Temperature Inversions

Applications must not occur during a temperature inversion because drift potential is high. Temperature inversions restrict vertical air mixing, which causes small, suspended droplets to remain in a concentrated cloud. This cloud can move in unpredictable directions due to the light variable winds common during inversions. Temperature inversions are characterized by increasing temperatures with altitude and are common on nights with limited cloud cover and light to no wind. They begin to form as the sun sets and often continue into the morning. Their presence can be indicated by ground fog; however, if fog is not present, inversions can also be identified by the movement of the smoke from a ground source generator. Smoke that layers and moves laterally in a concentrated cloud (under low wind conditions) indicates an inversion, while smoke that moves upward and rapidly dissipates indicates good vertical air mixing.

Protection of Sensitive Areas



Applicator must maintain a 30 foot downwind buffer (in the direction in which the wind is blowing) from any area except:

1. Roads, paved or gravel surfaces.
2. Planted agricultural fields. (Except those crops listed in the “Susceptible Plants” section.)
3. Agricultural fields that have been prepared for planting.
4. Areas covered by the footprint of a building, shade house, silo, feed crib, or other man-made structure with walls and/or a roof.

To maintain the required downwind buffer zone:

- Measure wind direction prior to the start of any swath that is within 30 feet of a sensitive area.
- No application swath can be initiated in, or into an area that is within 30 feet of a sensitive area if the wind direction is towards the sensitive area.

State and Local Requirements

Applicators must follow all state and local pesticide drift requirements regarding application of 2,4-D herbicides. Where states have more stringent regulations, they must be observed.

Management of Runoff

A variety of factors including soil type, slope, and weather conditions (e.g., rainfall) can influence volume and intensity of water running off the treated field. The applicator must evaluate all factors and make

appropriate adjustments when applying this product. Land management, field condition and application practices that reduce, to the maximum extent practicable, runoff from treated fields, must be implemented by land managers/users of this product.

To reduce the potential for runoff and avoid off field impact from treated fields to maximum extent practicable, applicator must plan/schedule applications to maximize time between an application of this product and anticipated rainfall (or planned irrigation). Application must take place no less than 48 hours prior to irrigation or predicted rainfall (by NOAA/National Weather Service, or other similar forecasting service).

For land with **Hydrologic Soil Groups* A & B**: The land manager/applicator must effectively implement measures in the following tables to equal a **minimum of 4 credits**.

For land with **Hydrologic Soil Groups* C & D**: The land manager/applicator must effectively implement the measures in the following tables to equal a **minimum of 6 credits**.

Mitigation Measures		Credits	
Reduce number of applications - Reduced number of applications of Enlist products per year. Applications may be made at any time during crop development but must maintain a minimum 12-day retreatment interval.	3 applications	0	
	2 applications	2	
	1 application	4	
Residue Tillage Management: no-till, strip-till, ridge-till, and mulch-till		4	
Vegetative Filter Strips	30 ft off-field vegetative buffer on down slope	HSG A or B	2
		HSG C or D	0
	100 ft off-field vegetative buffer on down slope	HSG A or B	4
		HSG C or D	1
Field border: border with dense vegetative stands with a minimum width of 30 ft.		2	
Cover Crop		2	
Vegetative Barrier: Permanent strips of dense vegetation along the contours of the field with a minimum width of 3 ft.		2	
Contour Buffer Strips or Terrace		2	
Grassed Waterway		2	
Water and Sediment Basin		1	
Contour Farming or Contour Strip Cropping		1	

*Hydrologic Soil Group (HSG) definitions: A = Sand, loamy sand, or sandy loam; B = Sandy clay loam; C = Silt loam or loam; D = Clay loam, silty clay loam, sandy clay, silty clay or clay.

Applicators/Land Managers must meet minimum criteria described for each mitigation measure as outlined on Enlist.com/mitigationmeasures to receive credits.

Sprayer Clean-Out

To avoid injury to desirable plants, thoroughly clean equipment used to apply this product before re-use or using it to apply other chemicals.

1. Completely drain the spray system, including pump, lines and spray boom, for at least 5 minutes.
2. Fill the spray tank with clean water to at least 10% of the total tank volume and circulate the solution through the entire system so that all internal surfaces are contacted for at least 15 minutes to complete the first rinse of the application equipment. Spray the solution out of the spray tank through the boom.
3. Completely drain the spray system, including lines and spray boom, for at least 5 minutes; remove and clean filters and strainers.

4. During the second rinse, fill the container with clean water to at least 10% of the total tank volume. The addition of tank cleaning agents may be used at the manufacturer's specified rates. Circulate the solution through the entire system for at least 15 to 20 minutes. Let the solution stand for several hours, preferably overnight. Spray the solution out of the spray tank through the boom.
5. Completely drain the spray system, including lines and spray boom, for at least 5 minutes.
6. Fill the container with clean water to at least 10% of the total tank volume and circulate the solution through the entire system so that all internal surfaces are contacted for at least 15 minutes to complete the third rinse of the application equipment. Spray the solution out of the spray tank through the boom.
7. Completely drain the spray system, remove nozzle tips and strainers and clean them separately.

Tank Mix Sequence Procedures

Find the list of qualified tank mix partners at [Enlist.com/TankMix](https://www.enlist.com/TankMix).

- Start with a clean sprayer before mixing a load with Enlist One herbicide.
- Recommended water carrier volume with Enlist One is 10-15 gallons per acre.
- Do not use less than 10 gallons.
- Consult [Enlist.com/Nozzles](https://www.enlist.com/Nozzles) or Enlist Product Use Guide for qualified nozzles and corresponding pressure ranges.
- For more tips on sprayer set up, visit [Enlist.com](https://www.enlist.com).

Mixing Steps

Begin with half-tank full of water carrier. Begin agitation and continue throughout mixing process. Add products in order, one at a time allowing time for thorough mixing before adding the next product:

1. AMS / water conditioning agents.
2. Pre-slurry water-soluble packets.
3. Wettable powders/dry flowables.
4. Compatibility agents
5. Liquid flowables.
6. Capsule suspension (CS) or suspension emulsion (SE).
7. Emulsifiable concentrate (EC).
8. Soluble liquids (SL)
9. Crop Oil Concentrate (COC), NIS, or other adjuvants
10. Top off with water carrier.

Application Equipment and Application Methods

Chemigation: Do not apply this product through any type of irrigation system.

Aerial Application: Do not aerially apply this product.

Apply Enlist One with the following application equipment: Apply spray solutions in properly maintained and calibrated equipment capable of delivering desired volumes.

Ground Broadcast Spray

Boom, pull-type sprayer, floaters, pick-up sprayers, spray coupes and other ground broadcast equipment. Use the minimum boom height based upon the nozzle manufacturer's specifications. Spray drift potential is increased as boom height increases. Spray drift can be minimized if nozzle height is not greater than maximum height recommended by nozzle manufacturer for the nozzle selected. Do not apply greater than 24" above the crop canopy. Find the listing of nozzles and pressures on [Enlist.com/Nozzles](https://www.enlist.com/Nozzles). This website specifies which nozzles are allowed for use when applying Enlist herbicides.

Use the specified rates of this product as a broadcast spray. As the density of weeds increases, increase spray volume within the specified range to ensure complete coverage. Check for even distribution of spray droplets.

Uses

Applications may be made to control any weeds listed in the annual and perennial tables.

Precautions:

- The use directions are based upon a clean start at planting by using a burndown application or tillage to control existing weeds before crop emergence.
- In no-till and stale seedbed systems, a preplant burndown application is recommended to control existing weeds prior to crop emergence.
- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions

- Do not apply this product when soil is saturated or at field capacity, or when a storm event likely to produce runoff from the treated area is forecasted (by NOAA/National Weather Service, or other similar forecasting service) to occur within 48 hours following application.
- Do not irrigate treated fields within 48 hours of application.
- Do not apply more than 6 pints of Enlist One per acre per year (a combined total of 3 lbs 2,4-D a.e. per acre per year).
- Do not apply less than 12 days between applications.
- Enlist One is approved for use in the following states: Alabama, Arkansas, Arizona, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia and Wisconsin. Do not use in any other state.
- **Endangered Species Advisory/Protection Requirements:** This product may have effects on federally listed threatened or endangered species or their critical habitat in some locations. When using this product, you must follow the measures controlling the product use relevant to your location for the protection of Endangered Species. You must obtain a Bulletin no earlier than six months before using this product. To obtain Bulletins, consult <http://www.epa.gov/espp/>, call 1-844-447-3813, or email ESPP@epa.gov. You must use the Bulletin valid for the month in which you will apply the product.
- **Do not use** Enlist One in the following counties:

State	County Restrictions
Arizona	Yuma, Pinal or Pima counties in areas south of Interstate Highway 8 and west of US Highway 85. In Yuma, Pinal, Maricopa, Pima, La Paz, and Santa Cruz counties, do not use GF3335 on land administered by the US Fish and Wildlife Service or National Park Service
Arkansas	Crawford, Franklin, Johnson, Little River, Logan, Montgomery, Polk, Scott, Sebastian, Sevier and Yell
Colorado	Weld
Florida	Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lee, Manatee, Martin, Miami-Dade, Okeechobee, Orange, Osceola, Palm Beach, Polk, Sarasota, and St. Lucie
Kansas	Chautauqua, Cherokee, Cowley, Elk, Greenwood, Labette, Montgomery, Neosho, Wilson, and Woodson;
Massachusetts	Nantucket
Missouri	Barton, Bates, Cedar, St. Clair and Vernon
Nebraska	Antelope, Blaine, Boone, Boyd, Brown, Cherry, Custer, Dawson, Frontier, Furnas, Garfield, Gosper, Greeley, Hayes, Holt, Hooker, Howard, Keya Paha, Knox, Lincoln, Logan, Loup, McPherson, Merrick, Nance, Phelps, Red Willow, Rock, Sherman, Thomas, Valley and Wheeler

State	County Restrictions
Ohio	Athens, Butler, Fairfield, Guernsey, Hamilton, Hocking, Morgan, Muskingum, Noble, Perry, Vinton and Washington
Oklahoma	Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Cleveland, Coal, Craig, Creek, Delaware, Garvin, Haskell, Hughes, Johnston, Kay, Latimer, Le Flore, Lincoln, Love, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Rogers, Seminole, Sequoyah, Tulsa, Wagoner and Washington
Rhode Island	Washington
South Dakota	Bennett, Charles Mix, Gregory, Lyman, Mellette, Todd and Tripp
Tennessee	Wilson
Texas	Bell, Bowie, Cameron, Cooke, Fannin, Grayson, Hidalgo, Hill, Lamar, McLennan, Nueces, Red River, San Patricio, Willacy, and Williamson

Enlist Corn

These directions are for use on ENLIST Corn. Information on crop varieties containing these traits may be obtained from your seed supplier.

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen or other fertilizer solutions as carrier.

Preplant (Burndown) Through Preemergence

Make a single application of 1.5 to 2.0 pints of Enlist One per acre. Use the upper end of the rate range for less susceptible weeds, more mature weeds, or weeds under stress. Apply any time before or after planting, but before corn emerges, to control weed seedlings or existing cover crops.

Postemergence

Apply 2.0 pints of Enlist One per acre. Apply when weeds are no larger than 6 inches and corn is no larger than V8 growth stage or 30 inches (free standing) tall, whichever occurs first. For corn heights 30 to 48 inches (free standing), apply only using ground application equipment using drop nozzles aligned to avoid spraying into the whorl of corn plants. Make one to two applications with a minimum of 12 days between applications.

Precautions:

- Application may result in temporary, cosmetic injury in the form of spotting or temporary plant leaning. This crop response will not affect long-term crop development or yield.
- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions:

- These use directions are only for field corn identified as containing the Enlist trait.
- **Preharvest Interval:** Do not apply within 30 days of forage harvest.
- Do not make more than 3 applications of this product per acre per year.
- Do not apply more than one preemergence application and no more than two postemergence applications per year. Using fewer applications will result in credits to satisfy the mitigation requirements (see Management of Runoff section).
- Do not apply more than 3 lbs 2,4-D a.e. per acre per year.
- Do not apply more than 2.0 pints (1 lb 2,4-D a.e.) of Enlist One per acre per application.
- Do not apply more than 6.0 pints (3 lbs a.e. 2,4-D) of Enlist One per acre per year.

- Do not apply Enlist One as a preharvest application or as an application to corn later than the V8 stage of corn that is more than 48 inches (free standing).
- Do not aerially apply this product.

Corn – Not Containing the Enlist Trait

Labeled Crops: Field corn, seed corn, sweet corn, popcorn

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen or other fertilizer solutions as carrier.

Preplant (Burndown) Through Preemergence

Make a single application of 1.5 to 2.0 pints of Enlist One per acre. Use the upper end of the rate range for less susceptible weeds, more mature weeds, or weeds under stress. Apply any time before or after planting, but before corn emerges, to control weed seedlings or existing cover crops.

Postharvest

Allow weeds to regrow after any damage incurred during harvest and recover from environmental stress before applying this product. Apply 2 pints of Enlist One per acre. Apply prior to heading of grass weeds and, if possible, before broadleaf weeds are more than 24 inches tall.

Precautions:

- For best results, do not apply to light sandy soils as a preplant or preemergence application. Using fewer applications will result in credits to satisfy the mitigation requirements (see Management of Runoff section).
- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions:

- Do not aerially apply this product.
- Do not apply more than 2.0 pints (1 lb 2,4-D a.e.) of Enlist One per acre per application.
- Do not apply more than 4.0 pints (2 lbs 2,4-D a.e.) of Enlist One per acre per year.

Enlist Soybeans

These directions are for use with soybean containing the Enlist trait. Information on crop varieties containing these traits may be obtained from your seed supplier.

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen or other fertilizer solutions as carrier.

Preplant (Burndown) Through Preemergence

Make a single application of 1.5 to 2.0 pints of Enlist One per acre. Use the upper end of the rate range for less susceptible weeds, more mature weeds, or weeds under stress. Apply any time before or after planting, but before soybean emerges, to control weed seedlings or existing cover crops.

Postemergence

Apply 2.0 pints of Enlist One per acre. Apply when weeds are no larger than 6 inches and any time after soybean emergence through the R1 growth stage. Make one to two applications with a minimum of 12 days between applications.

Precaution:

- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions:

- These use directions are only for soybean identified as containing the Enlist trait.
- **Preharvest Interval:** Do not apply within 50 days of harvest.
- Do not graze treated soybean.
- Do not harvest for forage or hay.
- Do not apply more than one preemergence application and no more than two postemergence applications per year. Using fewer applications will result in credits to satisfy the mitigation requirements (see Management of Runoff section).
- Do not apply after R1 growth stage.
- Do not apply more than 3 lb 2,4-D a.e. per acre per year.
- Do not apply more than 2.0 pints (1 lb a.e. 2,4-D) of Enlist One per acre per application.
- Do not apply more than 6.0 pints (3 lbs a.e. 2,4-D) of Enlist One per acre per year.
- Do not aerially apply this product.

Soybean - Not Containing the Enlist Trait

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen or other fertilizer solutions as carrier

Preplant (Burndown)

Apply up to 1.0 pints of Enlist One per acre no less than 7 days or up to 2.0 pints per acre, not less than 14 days prior to planting soybeans. See Precautions and Restrictions in this section.

Precautions:

- **Note:** Unacceptable injury to soybeans planted in treated fields may occur. Whether soybean injury occurs and the extent of such injury depends upon weather (temperature and rainfall) from herbicide application until soybean emergence, and agronomic factors, such as the amount of weed vegetation and previous crop residue present at the time of application. Injury is more likely under cool rainy conditions and where there is less weed vegetation and crop residue present.
- Do not disturb treated soil through tillage between application and planting of soybeans.
- Do not apply Enlist One as a preplant application in soybeans unless soybean injury is acceptable, including possible stand loss and/or yield reductions.
- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions:

- Do not use on sandy soils with less than 1% organic matter.
- In treated fields, plant soybean seed as deep as practicable, but not less than 1 inch deep. Adjust the planter, if necessary, to ensure that planted seed is adequately covered.
- Do not make more than one application per season regardless of the amount of product applied.
- During the growing season following application, do not replant treated fields with crops other than those labeled for use with 2,4-D.
- Do not apply more than 2.0 pints (1 lb a.e. 2,4-D) of Enlist One per acre.
- Do not aerially apply this product.

Enlist Cotton

These directions are for use on Enlist Cotton. Information on crop varieties containing these traits may be obtained from your seed supplier.

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen or other fertilizer solutions as carrier.

Preplant (Burndown) Through Preemergence

Make a single application of 1.5 to 2.0 pints of Enlist One per acre. Use the upper end of the rate range for less susceptible weeds, more mature weeds, or weeds under stress. Refer to Annual and Perennial Weeds sections for specific weed height information. Apply any time after planting, but before cotton emerges, to control weed seedlings or existing cover crops.

Postemergence

Apply 2.0 pints of Enlist One per acre. Apply when weeds are no larger than 6 inches and any time after cotton emergence up to first white bloom. Refer to Annual and Perennial Weeds sections for specific weed height information. Make one to two postemergence applications with a minimum of 12 days between applications.

Precaution:

- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions:

- These use directions are only for cotton identified as containing the Enlist trait.
- **Preharvest Interval:** Do not apply within 30 days of harvest.
- Do not graze treated cotton.
- Do not harvest for forage or hay.
- Do not apply more than one preemergence application and no more than two postemergence applications per year. Using fewer applications will result in credits to satisfy the mitigation requirements (see Management of Runoff section).
- Do not apply after first white bloom.
- Do not apply more than 2 pts Enlist One per acre per application (1 lb a.e. 2,4-D per acre).
- Do not apply more than 6 pts of Enlist One per acre per year (3 lbs a.e. 2,4-D per acre per year).
- Do not apply more than 3 lbs 2,4-D a.e. per acre per year
- Do not aerially apply this product.

Fallow Systems to be Planted to Corn, Soybeans or Cotton

Fallow

This product may be applied during the fallow period prior to planting or emergence of any crop listed on this label. This product may be used as a substitute for tillage to control annual weeds in fallow fields. Broadcast treatments will control or suppress many perennial weeds in fallow fields. Apply 2 pints of Enlist One per acre. Do not apply more than 6 pints of Enlist One per acre within the calendar year. Refer to Annual and Perennial Weeds sections for weeds controlled. Plant only labeled crops within 30 days following application.

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen or other fertilizer solutions as carrier.

Precaution:

- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions

- Do not aerially apply this product.
- Do not apply more than 2 pts per acre per application (1 lb a.e.2,4-D per acre).
- Do not apply more than 6 pts per acre per year (a combined total of 3 lbs 2,4-D a.e. per acre per year).
- Do not apply more than 3 lbs 2,4-D a.e. per acre per year.

Weed Control

Apply this product to actively growing weeds. Apply 2.0 pints of this product per acre for all postemergence uses with Enlist crops. Apply when weeds are no larger than 6 inches. Water carrier volumes of 10 to 15 gallons per acre are recommended for best results. Do not apply less than 10 gallons total spray volume per acre. Best control will be achieved when this product is applied in combination with another broad spectrum herbicide having a different mode of action (see Tank Mix Instructions).

Hard to control weeds, such as Palmer amaranth, may require a total program approach including soil applied residual herbicide(s) followed by a single or sequential post herbicide application.

Below-ground portions of perennial weeds may not be completely controlled with single applications and follow-up applications may be required if regrowth occurs.

Controlled Weeds Table:

Annual Weeds:

anoda, spurred bittercress bitterweed broomweed, common burdock buttercup carpetweed cinquefoil, common cinquefoil, rough cocklebur copperleaf, hophornbeam copperleaf, Virginia croton, Texas croton, woolly dayflower, Benghal devilsclaw (unicorn plant) dwarfdandelion eclipta eveningprimrose, common falsedandelion falseflax, smallseed fiddleneckfield pennycress filareefleabane, annual	fleabane, hairy (<i>Conyza bonariensis</i>) ¹ fleabane, rough ¹ geranium, Carolina groundcherryhemp sesbania horseweed/marestail (<i>Conyza canadensis</i>) ¹ jewelweed jimsonweed lambsquarters London rocket mallow, venice morningglory (<i>Ipomoea</i> spp.) mustard, tansy mustard, tumble mustard, wild nightshade, black nightshade, hairy Palmer amaranth ¹ pepperweed pigweed, redroot pigweed, smooth prickly lettuce puncturevine purslane pusley, Florida radish, wild	ragweed, common ragweed, giant Russian thistle salsify, common salsify, western shepherd's-purse sicklepod smartweed, ladysthumb smartweed, Pennsylvania sowthistle, annual Spanishneedles sunflower sweetclover teaweed/prickly sida thistle, bull thistle, musk velvetleaf vervain vetch waterhemp ¹
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¹Hard to control weeds, such as Palmer amaranth or waterhemp, may require a total program approach including soil-applied residual herbicide(s) followed by a single or sequential post herbicide application.

Perennial Weeds:

alfalfa artichoke, Jerusalem aster, many flowered bindweed, field bindweed, hedge blueweed, Texas catnip chicory cress, hoary dandelion	dock dogbane garlic, wild hawkweed, orange healall ironweed ivy, ground loco, bigbend nettles onion, wild	pokeweed, common pennywort plantains ragwort, tansy sowthistle, perennial thistle, Canada waterplantain wormwood
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Terms and Conditions of Use

If terms of the following Warranty Disclaimer, Inherent Risks of Use and Limitation of Remedies are not acceptable, return unopened package at once to the seller for a full refund of purchase price paid. To the extent permitted by law, use by the buyer or any other user constitutes acceptance of the terms under Warranty Disclaimer, Inherent Risks of Use and Limitation of Remedies.

Warranty Disclaimer

Corteva Agriscience warrants that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated on the label when used in strict accordance with the directions, subject to the inherent risks set forth below. To the extent permitted by law, Corteva Agriscience MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER EXPRESS OR IMPLIED WARRANTY.

Inherent Risks of Use

It is impossible to eliminate all risks associated with use of this product. Crop injury, lack of performance, or other unintended consequences may result because of such factors as use of the product contrary to label instructions (including conditions noted on the label, such as unfavorable temperatures, soil conditions, etc.), abnormal conditions (such as excessive rainfall, drought, tornadoes, hurricanes), presence of other materials, the manner of application, or other factors, all of which are beyond the control of Corteva Agriscience or the seller. Corteva Agriscience will not be responsible for losses or damages resulting from the use of this product in any manner not specifically directed by Corteva Agriscience. To the extent permitted by law, all such risks associated with non-directed use shall be assumed by buyer and/or user.

Limitation of Remedies

To the extent permitted by law, the exclusive remedy for losses or damages resulting from this product (including claims based on contract, negligence, tort, strict liability, or other legal theories), shall be limited to, at Corteva Agriscience's election, one of the following:

1. Refund of purchase price paid by buyer or user for product bought, or
2. Replacement of amount of product used.

To the extent permitted by law, Corteva Agriscience shall not be liable for losses or damages resulting from handling or use of this product unless Corteva Agriscience is promptly notified of such loss or damage in writing. To the extent permitted by law, in no case shall Corteva Agriscience be liable for consequential, incidental or special damages or losses.

The terms of the Warranty Disclaimer, Inherent Risks of Use and this Limitation of Remedies cannot be varied by any written or verbal statements or agreements. No employee or sales agent of Corteva Agriscience or the seller is authorized to vary or exceed the terms of the Warranty Disclaimer or this Limitation of Remedies in any manner.

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R427-019
Accepted: 01/11/22
Initial printing.

Supplemental Labeling



Corteva Agriscience LLC

9330 Zionsville Road

Indianapolis, IN 46268-1054 USA

2,4-D CHOLINE SALT	GROUP	4	HERBICIDE
GLYPHOSATE DMA SALT	GROUP	9	HERBICIDE

Enlist Duo®

EPA Reg. No. 62719-649

**This Supplemental Labeling Expires on September 30, 2023
Do Not Use or Distribute After Expiration Date.**

ATTENTION

- This supplemental labeling supersedes the container labeling.
- Product users must follow the instructions of this labeling after January 11, 2022.
- It is a violation of Federal law to use this product in a manner inconsistent with its labeling.
- This labeling must be in the possession of the user at the time of application.

For control of emerged annual and perennial broadleaf weeds, use as a preplant, preemergence and postemergence herbicide on Enlist® corn, soybeans and cotton. Enlist herbicides with Colex-D® technology are the ONLY 2,4-D containing products authorized and specifically labeled for use with Enlist crops.

Use as a non-selective burndown; chemical fallow; use as a preplant and preemergence herbicide on non-Enlist corn, and use as a preplant herbicide on non-Enlist soybeans.

Do not allow contact of herbicide with foliage, green stems, exposed non-woody roots or fruit of crops, desirable plants and trees because severe injury or destruction may result.

Approved for use only in certain geographical areas. Read and follow all label instructions.

Active Ingredient(s):

glyphosate: N-(phosphonomethyl)glycine, dimethylammonium salt	22.1%
2,4-Dichlorophenoxyacetic acid, choline salt	24.4%
Other Ingredients	53.5%
Total	100.0%

2,4-dichlorophenoxyacetic acid equivalent – 16.62% - 1.6 lb/gal
glyphosate acid equivalent – 17.48% - 1.7 lb/gal

Keep Out of Reach of Children

WARNING AVISO

Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle. (If you do not understand the label, find someone to explain it to you in detail.)

Agricultural Use Requirements

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. Refer to the label booklet under "Agricultural Use Requirements" in the Directions for Use section for information about this standard.

Precautionary Statements

Hazards to Humans and Domestic Animals

WARNING

Causes Substantial But Temporary Eye Injury • Harmful If Swallowed • Prolonged Or Frequently Repeated Skin Contact May Cause Allergic Reactions In Some Individuals

Do not get in eyes or on clothing.

Personal Protective Equipment (PPE)

All mixers, loaders, applicators, flaggers, and handlers must wear:

- Long-sleeved shirt and long pants
- Shoes and socks, plus
- Waterproof gloves
- Protective eyewear (goggles, faceshield, or safety glasses)
- Chemical-resistant apron when mixing or loading, cleaning up spills or equipment, or otherwise exposed to the concentrate

See engineering controls for additional requirements

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.

Engineering Controls

When handlers use closed systems or enclosed cabs in a manner that meets the requirements listed in Worker Protection Standard (WPS) for agricultural pesticides [40 CFR 170.607(d-e)], the handler PPE requirements may be reduced or modified as specified in the WPS.

User Safety Recommendations

Users should:

- Wash hands thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco, or using the toilet. Remove and wash contaminated clothing before reuse.
- Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing. If pesticide gets on skin, wash immediately with soap and water.
- Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

First Aid

If in eyes: Hold eye open and rinse slowly and gently with water for 15-20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. Call a poison control center or doctor for treatment advice.

If swallowed: Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control center or doctor. Do not give anything by mouth to an unconscious person.

Have the product container or label with you when calling poison control center (1-800-222-1222) or doctor, or going for treatment. You may also contact 1-800-992-5994, for emergency medical treatment information.

Environmental Hazards

This pesticide is toxic to fish and aquatic invertebrates. Do not apply directly to water, to areas where surface water is present, or to intertidal areas below the mean high-water mark. Do not contaminate water when disposing of equipment washwaters or rinsate. Drift or runoff may adversely affect aquatic invertebrates, sensitive wetland environments, and non-target plants. Drift and runoff may be hazardous to aquatic organisms in water adjacent to treated areas.

This product is toxic to plants and may adversely impact the forage and habitat of non-target organisms, including pollinators, in areas adjacent to the treated site. Protect the forage and habitat of non-target organisms by following label directions intended to minimize spray drift and runoff.

This product is moderately toxic to bees on an acute basis, and may cause chronic risk to pollinators or other terrestrial invertebrates. Do not apply this product to blooming vegetation or if bees or other pollinating insects are visiting the treatment area

This product may impact surface water quality due to runoff of rainwater. This is especially true for poorly draining soils and soils with shallow ground water. This product is classified as having high potential for reaching surface water via runoff for several days to months after application.

A level, well-maintained vegetative buffer strip between areas to which this product is applied and surface water features such as ponds, streams, and springs will reduce the potential loading of 2,4-D from runoff water and sediment. Runoff of this product will be reduced by avoiding applications when rainfall or irrigation is expected to occur within 48 hours. Sound erosion control practices will reduce this product's potential to reach aquatic sediment via runoff.

2,4-D and glyphosate are known to leach through soil into groundwater under certain conditions as a result of label use. This chemical may leach into groundwater if used in areas where soils are permeable, particularly where the water table is shallow. Application around a cistern or well may result in contamination of drinking water or ground water.

Physical and Chemical Hazards

Spray solutions of this product must be mixed, stored and applied using only stainless steel, aluminum, fiberglass, plastic or plastic lined containers.

Do not mix, store or apply this product or spray solutions of this product in galvanized steel or unlined steel (except stainless steel) containers or spray tanks. This product, or spray solutions of this product, reacts with such containers and tanks to produce hydrogen gas that may form a highly combustible gas mixture. This gas mixture could flash or explode, causing serious personal injury, if ignited by open flame, spark, welder's torch, lighted cigarette or other ignition source.

Directions for Use

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

Read all Directions for Use carefully before applying.

Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your state or tribe, consult the agency responsible for pesticide regulation.

Endangered Species

It is a Federal offense to use any pesticide in a manner that results in an unauthorized “take” (e.g., kill or otherwise harm) of an endangered species and certain threatened species, under the Endangered Species Act section 9. When using this product, you must follow the measures contained in the Endangered Species Protection Bulletin for the area in which you are applying the product. You must obtain a Bulletin no earlier than six months before using this product. To obtain Bulletins, consult <http://www.epa.gov/espp/>, call 1-844-447-3813, or email ESPP@epa.gov. You must use the Bulletin valid for the month in which you will apply the product.

Report ecological incidents: To report ecological incidents, including mortality, injury, or harm to non-target plants and animals call 1-855-ENLIST-1 (1-855-365-4781).

Tank-Mixing Instructions:

Enlist Duo® may only be tank-mixed with products that have been tested and found not to adversely affect the spray drift properties of Enlist Duo. A list of those products may be found at Enlist.com/TankMix

It is the pesticide user’s responsibility to ensure that all products are registered for the intended use. Read and follow the applicable restrictions, limitations, and directions for use on all product labels involved in the tank mixture. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

DO NOT TANK-MIX ANY PRODUCT WITH Enlist Duo unless:

1. You check the list of tested products found not to adversely affect the spray drift properties of Enlist Duo at Enlist.com/TankMix no more than 7 days before applying Enlist Duo; and
2. The product you tank-mix with Enlist Duo is identified on that list of tested products.

Agricultural Use Requirements

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE), and restricted entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 48 hours.

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is:

- Long-sleeved shirt and long pants
- Waterproof gloves
- Shoes plus socks
- Protective eyewear (goggles, faceshield, or safety glasses)

Storage and Disposal

Do not contaminate water, food, feed or seed by storage or disposal.

Pesticide Storage: Store in a cool, dry place. Store in original container. In case of leak or spill, contain material and dispose as waste.

Pesticide Disposal: Wastes resulting from the use of this product must be disposed of on site or at an approved waste disposal facility.

Nonrefillable containers 5 gallons or less:

Container Handling: Nonrefillable container. Do not reuse or refill this container.

Triple rinse or pressure rinse container (or equivalent) promptly after emptying. **Triple rinse** as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. **Pressure rinse** as follows: Empty the remaining contents into application equipment or a mix tank and continue to drain for 10 seconds after the flow begins to drip. Hold container upside down over application equipment or mix tank or collect rinsate for later use or disposal. Insert pressure rinsing nozzle in the side of the container, and rinse at about 40 psi for at least 30 seconds. Drain for 10 seconds after the flow begins to drip. Then offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures allowed by state and local authorities.

Refillable containers larger than 5 gallons:

Container Handling: Refillable container. Refill this container with pesticide only. Do not reuse this container for any other purpose.

Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller. To clean the container before final disposal, empty the remaining contents from this container into application equipment or a mix tank. Fill the container about 10% full with water and, if possible, spray all sides while adding water. If practical, agitate vigorously or recirculate water with the pump for two minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this rinsing procedure two more times. Then offer for recycling if available, or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures allowed by state and local authorities.

Nonrefillable containers 5 gallons or larger:

Container Handling: Nonrefillable container. Do not reuse or refill this container.

Triple rinse or pressure rinse container (or equivalent) promptly after emptying. **Triple rinse** as follows: Empty the remaining contents into application equipment or a mix tank. Fill the container 1/4 full with water. Replace and tighten closures. Tip container on its side and roll it back and forth, ensuring at least one complete revolution, for 30 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Repeat this procedure two more times. **Pressure rinse** as follows: Empty the remaining contents into application equipment or a mix tank and continue to drain for 10 seconds after the flow begins to drip. Hold container upside down over application equipment or mix tank or collect rinsate for later use or disposal. Insert pressure rinsing nozzle in the side of the container, and rinse at about 40 psi for at least 30 seconds. Drain for 10 seconds after the flow begins to drip. Then offer for recycling if available, or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures allowed by state and local authorities.

Product Information

Enlist Duo® herbicide is a systemic herbicide that is intended for control of emerged annual and perennial weeds. Glyphosate works by targeting an enzyme that is essential for plant growth. Enlist Duo is designed to be applied to corn, soybean, and cotton crops containing Enlist™ traits. These are patented genes that provide tolerance to Enlist Duo. Corn, soybeans, cotton or any other crop without the Enlist trait will be seriously damaged by foliar applications of Enlist Duo.

When this product is applied as directed and under the circumstances described, it controls annual and perennial weeds listed in this label.

Time to Symptoms: This product moves through the plant from the point of foliage contact to and into the root system. Visible effects include twisting of leaves and curvature of stems followed by a gradual wilting and yellowing of the plant that advances to complete browning of above-ground growth and deterioration of underground plant parts. Visible effects on most annual weeds occur within 2 to 4 days depending upon weed species.

Stage of Weeds: Apply when weeds are less than 6 inches in height. Annual weeds are easiest to control when they are small. Best control of most perennial weeds is obtained when treatment is made at late growth stages approaching maturity. Refer to the annual and perennial rate tables for specific weeds. When treating weeds with disease or insect damage, weeds heavily covered with dust, or weeds under poor growing conditions, reduced weed control may result.

Rainfastness: Enlist Duo is rainfast within 4 hours following application. See Use Restrictions for application prior to rainfall and/or mitigation.

Spray Coverage: For best results, spray coverage should be uniform and complete. Do not spray weed foliage to the point of runoff.

Mode of Action: 2,4-D, one of the active ingredients in this product, mimics the naturally occurring plant auxins and overloads the plant's auxin balance affecting vital processes, such as cell division and elongation, resulting in abnormal growth and plant death. Glyphosate works by targeting an enzyme that is essential for plant growth.

Limited Soil Activity: Though some suppression of annual weeds emerging soon after application may occur optimum control is achieved when the majority of weeds are emerged at the time of application.

Biological Degradation: Degradation of this product is primarily a biological process carried out by soil microbes.

Herbicide Resistance Management

2,4-D, one of the active ingredients in this product, is a Group 4 herbicide (synthetic auxin). Glyphosate, the other active ingredient in this product, is a group 9 herbicide (inhibitor of EPSP synthase). Some naturally occurring weed biotypes that are tolerant (resistant) to 2,4-D or glyphosate may exist due to genetic variability in a weed population. Where resistant biotypes exist, the repeated use of herbicides with the same modes of action can lead to the selection for resistant weeds. Certain agronomic practices delay or reduce the likelihood that resistant weed populations will develop and can be utilized to manage weed resistance once it occurs.

Proactively implementing diversified weed control strategies to minimize selection for weed populations resistant to one or more herbicides is a best practice. A diversified weed management program may include the use of multiple herbicides with different modes of action and overlapping weed spectrum with or without tillage operations and/or other cultural practices. Research has demonstrated that using the labeled rate and directions for use is important to delay the selection for resistance.

The continued availability of this product depends on the successful management of the weed resistance program; therefore, it is very important to perform the following actions.

To aid in the prevention of developing weeds resistant to this product, the following steps must be followed:

- Scout fields before application to ensure herbicides and rates will be appropriate for the weed species and weed sizes present.
- Apply full rates of Enlist Duo for the most difficult to control weed in the field at the specified time (correct weed size) to minimize weed escapes.
- Scout fields after application to detect weed escapes or shifts in weed species.

- Report any incidence of non-performance of this product against a particular weed species to your Corteva retailer, representative or call 1-855-ENLIST-1(1-855-365-4781).
- Suspected Resistance: Indicators of suspected herbicide resistance include (1) failure to control a weed species normally controlled by the herbicide at the dose applied, especially if control is achieved on adjacent weeds; (2) a spreading patch of uncontrolled plants of a particular weed species; and (3) surviving plants mixed with controlled individuals of the same species. Likely resistant weeds are assumed to be present if any of these criteria are met.
- If resistance is suspected, treat weed escapes with an herbicide having a mode of action other than Group 4 or 9 and/or use non-chemical methods to remove escapes, as practicable, with the goal of preventing further seed production.

Additionally, users should follow as many of the following herbicide resistance management practices as practicable:

- Use a broad spectrum soil-applied herbicide with other modes of action as a foundation in a weed control program.
- Utilize sequential applications of herbicides with alternative modes of action.
- Rotate the use of this product with non-Group 4 and non-Group 9 herbicides.
- Incorporate non-chemical weed control practices, such as mechanical cultivation, crop rotation, cover crops and weed-free crop seeds, as part of an integrated weed control program.
- Thoroughly clean plant and soil residues from equipment before leaving fields suspected to contain resistant weeds.
- Avoid using more than two in-crop applications of Enlist Duo and any other Group 4 or Group 9 herbicide within a single growing season unless in conjunction with another mode of action herbicide with overlapping spectrum.
- Manage weeds in and around fields, during and after harvest to reduce weed seed production.

Contact the local agricultural extension service, Corteva representative, ag retailer or crop consultant for further guidance on weed control practices as needed.

Susceptible Plants

Do not apply under circumstances where spray drift may occur to food, forage, or other plantings that might be damaged or crops thereof rendered unfit for sale, use or consumption. Do not allow contact of herbicide with foliage, green stems, exposed non-woody roots of crops, desirable plants; including trees and cotton without the Enlist trait, because severe injury or destruction may result. Small amounts of spray drift that may not be visible may injure susceptible broadleaf plants. **Before making an application, please refer to your state's sensitive crop registry (if available) to identify any commercial specialty or certified organic crops that may be located nearby.**

At the time of application, the wind cannot be blowing toward adjacent commercially grown tomatoes and other fruiting vegetables (EPA crop group 8), cucurbits (EPA crop group 9 including pumpkins, melons and cucumbers), grapes, tobacco, and cotton.

Spray Drift Management

A variety of factors including weather conditions (e.g., wind direction, wind speed, temperature, relative humidity) and method of application can influence pesticide drift. The applicator must evaluate all factors and make appropriate adjustments when applying this product. The applicator is responsible for avoiding off-site drift. Be aware of nearby non-target sites and environmental conditions.

Do not aerially apply this product.

Nozzle Selection

The listing of nozzles and pressures on Enlist.com/nozzles specifies which nozzles are allowable for use when applying Enlist Duo herbicide. Do not use any nozzle and pressure combination not specifically allowed by the listing on Enlist.com/nozzles.

The Importance of Droplet Size

An effective way to reduce spray drift is to apply large droplets. Use the largest droplets that provide target pest control. While applying larger droplets will reduce spray drift, the potential for drift will be greater if applications are made improperly or under unfavorable environmental conditions.

Groundboom Application

Use the minimum boom height based upon the nozzle manufacturer's directions. Do not exceed 24 inches in height above the canopy. Spray drift potential increases as boom height increases. Spray drift can be minimized if nozzle height is not greater than the maximum height specified by the nozzle manufacturer for the nozzle selected.

Wind Speed

Do not apply at wind speeds greater than 15 mph. Wind speeds can vary during application. For best results apply when wind speeds are between 3 and 10 mph.

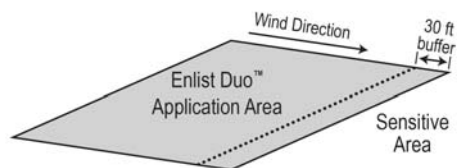
Temperature and Humidity

When making applications in low relative humidity, set up equipment to produce larger droplets to compensate for evaporation. Droplet evaporation is most severe when conditions are both hot and dry.

Temperature Inversions

Applications must not occur during temperature inversion because drift potential is high. Temperature inversions restrict vertical air mixing, which causes small, suspended droplets to remain in a concentrated cloud. This cloud can move in unpredictable directions due to the light variable winds common during inversions. Temperature inversions are characterized by increasing temperatures with altitude and are common on nights with limited cloud cover and light to no wind. They begin to form as the sun sets and often continue into the morning. Their presence can be indicated by ground fog; however, if fog is not present, inversions can also be identified by the movement of the smoke from a ground source generator. Smoke that layers and moves laterally in a concentrated cloud (under low wind conditions) indicates an inversion, while smoke that moves upward and rapidly dissipates indicates good vertical air mixing.

Protection of Sensitive Areas



Applicator must maintain a 30 foot downwind in field buffer (in the direction in which the wind is blowing) from any area except:

1. Roads, paved or gravel surfaces.
2. Planted agricultural fields. (Except those crops listed in the "Susceptible Plants" section).
3. Agricultural fields that that have been prepared for planting.
4. Areas covered by the footprint of a building, shade house, silo, feed crib, or other man-made structure with walls and/or a roof.

To maintain the required downwind buffer zone:

- Measure wind direction prior to the start of any swath that is within 30 feet of a sensitive area.
- No application swath can be initiated in, or into an area that is within 30 feet of a sensitive area if the wind direction is towards the sensitive area.

State and Local Requirements

Applicators must follow all state and local pesticide drift requirements regarding application of 2,4-D herbicides. Where states have more stringent regulations, they must be observed.

Management of Runoff

A variety of factors including soil type, slope, and weather conditions (e.g., rainfall) can influence volume and intensity of water running off the treated field. The applicator must evaluate all factors and make appropriate adjustments when applying this product. Land management, field condition and application practices that reduce, to the maximum extent practicable, runoff from treated fields, must be implemented by land managers/users of this product.

To reduce the potential for runoff and avoid off field impact from treated fields to maximum extent practicable, applicator must plan/schedule applications to maximize time between an application of this product and anticipated rainfall (or planned irrigation). Application must take place no less than 48 hours prior to irrigation or predicted rainfall (by NOAA/National Weather Service, or other similar forecasting service).

For land with **Hydrologic Soil Groups* A & B**: The land manager/applicator must effectively implement measures in the following tables to equal a **minimum of 4 credits**.

For land with **Hydrologic Soil Groups* C & D**: The land manager/applicator must effectively implement the measures in the following tables to equal a **minimum of 6 credits**.

Mitigation Measures		Credits	
Reduce number of applications - Reduced number of applications of Enlist products per year. Applications may be made at any time during crop development but must maintain a minimum 12-day retreatment interval.	3 applications		0
	2 applications		2
	1 application		4
Residue Tillage Management: no till, strip-till, ridge-till and mulch-till			4
Vegetative Filter Strips	30 ft off-field vegetative buffer on down slope	HSG A or B	2
		HSG C or D	0
	100 ft off-field vegetative buffer on down slope	HSG A or B	4
		HSG C or D	1
Field border: border with dense vegetative stands with a minimum width of 30 ft.			2
Cover Crop			2
Vegetative Barrier: Permanent strips of dense vegetation along the contours of the field with a minimum width of 3 ft.			2
Contour Buffer Strips or Terrace			2
Grassed Waterway			2
Water and Sediment Basin			1
Contour Farming or Contour Strip Cropping			1

*Hydrologic Soil Group (HSG) definitions: A = Sand, loamy sand, or sandy loam; B = Sandy clay loam; C = Silt loam or loam; D = Clay loam, silty clay loam, sandy clay, silty clay or clay.

Applicators/Land Managers must meet minimum criteria described for each mitigation measure as outlined on Enlist.com/mitigationmeasures to receive credits.

Sprayer Clean-Out

To avoid injury to desirable plants, thoroughly clean equipment used to apply this product before using it to apply other chemicals.

For glyphosate-tolerant corn:

If the crop following the application of Enlist Duo is an application to glyphosate-tolerant corn, rinse the spray equipment with clean water at least 10% of the total tank volume.

For all other crops:

1. Completely drain the spray system, including pump, lines and spray boom, for at least 5 minutes.
2. Fill the spray tank with clean water to at least 10% of the total tank volume and circulate the solution through the entire system so that all internal surfaces are contacted for at least 15 minutes to complete the first rinse of the application equipment. Spray the solution out of the spray tank through the boom.
3. Completely drain the spray system, including lines and spray boom, for at least 5 minutes; remove and clean filters and strainers.
4. During the second rinse, fill the container to at least 10% of the total tank volume with clean water. The addition of tank cleaning agents may be used at the manufacturer's recommended rates. Circulate the solution through the entire system for at least 15 to 20 minutes. Let the solution stand for several hours, preferably overnight. Spray the solution out of the spray tank through the boom.
5. Completely drain the spray system, including lines and spray boom, for at least 5 minutes.
6. Fill the container with clean water to at least 10% of the total tank volume and circulate the solution through the entire system so that all internal surfaces are contacted for at least 15 minutes to complete the third rinse of the application equipment. Spray the solution out of the spray tank through the boom.
7. Completely drain the spray system, remove nozzle tips and strainers and clean them separately.

Enlist Duo – Alone

This product mixes readily with water. Mix spray solutions of this product as follows:

1. Fill the mixing or spray tank with the required amount of clean water.
2. Add the specified amount of this product near the end of the filling process and mix well. During mixing and application, foaming of the spray solution may occur. To prevent or minimize foaming, avoid the use of mechanical agitators, and terminate by-pass and return lines at the bottom of the tank.

Note:

- Use approved anti-back siphoning devices where required by state or local regulations to avoid siphoning back into the carrier source.
- Reduced results may occur if water containing soil is used, such as visibly muddy water or water from ponds and ditches that is not clear.

Tank-Mix Sequence Procedures

Find the list of qualified tank mix partners at Enlist.com/TankMix.

- Start with a clean sprayer before mixing a load with Enlist Duo herbicide.
- Recommended water carrier volume with Enlist herbicides is 10-15 gallons per acre.
- Do not use less than 10 gallons of water.
- Consult Enlist.com/TankMix or Enlist Product Use Guide for qualified nozzles and corresponding pressure ranges.
- For more tips on sprayer set up, visit Enlist.com.

Mixing Steps

Begin with half-tank full of water carrier. Begin agitation and continue throughout mixing process. Add products in order, one at a time, allowing time for thorough mixing before adding the next product:

1. AMS / water conditioning agents
2. Pre-slurry water-soluble packets.

3. Wettable powders/dry flowables.
4. Compatibility agents
5. Liquid flowables.
6. Capsule suspension (CS) or suspension emulsion (SE).
7. Emulsifiable concentrate (EC).
8. Soluble liquids (SL)
9. Crop Oil Concentrate (COC), NIS, or other adjuvants
10. Top off with water carrier.

Application Equipment and Application Methods

Chemigation: Do not apply this product through any type of irrigation system.

Aerial Application: Do not aerially apply this product.

Apply Enlist Duo with the following application equipment: Apply spray solutions in properly maintained and calibrated equipment capable of delivering desired volumes.

Ground Broadcast Spray

Boom, pull-type sprayer, floaters, pick-up sprayers, spray coupes and other ground broadcast equipment. Use the minimum boom height based upon the nozzle manufacturer's specifications. Spray drift potential is increased as boom height increases. Spray drift can be minimized if nozzle height is not greater than maximum height recommended by nozzle manufacturer for the nozzle selected. Do not apply greater than 24" above the crop canopy. Find the listing of nozzles and pressures on Enlist.com/TankMix. This website specifies which nozzles are allowed for use when applying Enlist herbicides.

Use the specified rates of this product as a broadcast spray. As the density of weeds increases, increase spray volume within the specified range to ensure complete coverage. Check for even distribution of spray droplets.

Uses

Applications may be made to control any weeds listed in the annual and perennial tables.

This product may be applied during fallow intervals preceding planting, prior to planting or transplanting, at-planting, or preemergence to annual and perennial crops listed on this label, except where specifically limited. For any crop **not** listed on this label, applications must be made a minimum of 30 days prior to planting.

Precautions:

- The use directions are based upon a clean start at planting by using a burndown application or tillage to control existing weeds before crop emergence.
- In no-till and stale seedbed systems, a preplant burndown application is required to control existing weeds prior to crop emergence. No till will result in credits to satisfy mitigation requirements (See Management of Runoff section).
- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions:

- Do not harvest or feed treated vegetation for 8 weeks following application unless otherwise specified.
- **Crop Rotation/Plant-back Interval:** For any crop not listed in this section, do not apply less than 30 days prior to planting.
- Do not apply this product when soil is saturated or at field capacity, or when a storm event likely to produce runoff from the treated area is forecasted (by NOAA/National Weather Service, or other similar forecasting service) to occur within 48 hours following application.
- Do not irrigate treated fields within 48 hours of application.

- Do not apply less than 12 days between applications.
- Do not aerially apply this product.
- Enlist Duo is approved for use in the following states: Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, , West Virginia, and Wisconsin. Do not use in any other state.
- **Endangered Species Advisory/Protection Requirements:** This product may have effects on federally listed threatened or endangered species or their critical habitat in some locations. When using this product, you must follow the measures controlling the product use relevant to your location for the protection of Endangered Species. You must obtain a Bulletin no earlier than six months before using this product. To obtain Bulletins, consult <http://www.epa.gov/espp/>, call 1-844-447-3813, or email ESPP@epa.gov. You must use the Bulletin valid for the month in which you will apply the product.
- **Do not use** Enlist Duo in the following counties:

State	County
Alabama	Covington
Arizona	Yuma, Pinal or Pima counties in areas south of Interstate Highway 8 and west of US Highway 85. In Yuma, Pinal, Maricopa, Pima, La Paz, and Santa Cruz counties, do not use GF3335 on land administered by the US Fish and Wildlife Service or National Park Service
Arkansas	Crawford, Franklin, Johnson, Little River, Logan, Montgomery, Polk, Scott, Sebastian, Sevier and Yell
Colorado	Weld
Florida	Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Jackson, Lee, Manatee, Martin, Miami-Dade, Okeechobee, Orange, Osceola, Palm Beach, Polk, Santa Rosa, Sarasota, and St. Lucie
Georgia	Baker, Berrien, Brooks, Burke, Calhoun, Early, Irwin, Lee, Miller, Screven, Worth
Kansas	Chautauqua, Cherokee, Cowley, Elk, Greenwood, Labette, Montgomery, Neosho, Wilson, and Woodson
Louisiana	Natchitoches
Massachusetts	Nantucket
Minnesota	Clay, Marshall, Polk, Redwood, Renville, Stearns
Missouri	Barton, Bates, Cedar, St. Clair and Vernon
Nebraska	Antelope, Blaine, Boone, Boyd, Brown, Cherry, Custer, Dawson, Frontier, Furnas, Garfield, Gosper, Greeley, Hayes, Holt, Hooker, Howard, Keya Paha, Knox, Lincoln, Logan, Loup, McPherson, Merrick, Nance, Phelps, Red Willow, Rock, Sherman, Thomas, Valley and Wheeler
New York	Genesee, Seneca, Wayne;
Ohio	Athens, Butler, Fairfield, Guernsey, Hamilton, Hocking, Morgan, Muskingum, Noble, Perry, Vinton and Washington
Oklahoma	Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Cleveland, Coal, Craig, Creek, Delaware, Garvin, Haskell, Hughes, Johnston, Kay, Latimer, Le Flore, Lincoln, Love, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Rogers, Seminole, Sequoyah, Tulsa, Wagoner and Washington
Pennsylvania	Adams, Berks, Chester, Cumberland, Lancaster, Lebanon, and York

State	County
Rhode Island	Washington
South Carolina	Orangeburg
South Dakota	Bennett, Charles Mix, Gregory, Lyman, Mellette, Todd and Tripp
Tennessee	Wilson
Texas	Bastrop, Bell, Bowie, Burleson, Cameron, Colorado, Cooke, Fannin, Grayson, Hidalgo, Hill, Lamar, McLennan, Milam, Nueces, Red River, Refugio, Robertson, San Patricio, Victoria, Willacy, and Williamson

Enlist Corn

These directions are for use on ENLIST Corn. Information on crop varieties containing these traits may be obtained from your seed supplier.

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen solutions or other fertilizer as carrier.

Preplant (Burndown) Through Preemergence

Make a single application of 3.5 to 4.75 pints of Enlist Duo per acre. Use the upper end of the rate range for less susceptible weeds, more mature weeds, or weeds under stress. Refer to Annual and Perennial Weeds sections for specific weed height and use rate information. Apply any time before or after planting, to control weed seedlings or existing cover crops.

Postemergence

Apply 4.75 pints of Enlist Duo per acre. Apply when weeds are small and corn is no larger than V8 growth stage or 30 inches (free standing) tall, whichever occurs first. For corn heights 30 to 48 inches (free standing), apply only using ground application equipment using drop nozzles aligned to avoid spraying into the whorl of corn plants. Make one to two applications with a minimum of 12 days between applications.

Precautions:

- Application may result in temporary, cosmetic injury in the form of spotting or temporary plant leaning. This crop response will not affect long-term crop development or yield.
- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions:

- These use directions are only for field corn identified as containing the Enlist trait.
- **Preharvest Interval:** Do not apply within 50 days of forage harvest.
- Do not apply more than one preemergence application and no more than two postemergence applications per year. Using fewer applications will result in credits to satisfy the mitigation requirements (see Management of Runoff section).
- Do not apply more than 4.75 pints (1.0 lb 2,4-D a.e. and 1.0 lb glyphosate a.e.) of Enlist Duo per acre per application.
- Do not apply more than 14.25 pints (3.0 lbs 2,4-D a.e. and 3.0 lbs glyphosate a.e.) of Enlist Duo per acre per year.
- Do not apply more than 3.0 lbs 2,4-D a.e. per acre per year.
- Do not apply Enlist Duo as a preharvest application or as an application to corn later than the V8 stage of corn that is more than 48 inches (free standing).
- Do not aerially apply this product.

Corn – Not Containing the Enlist Trait

Labeled Crops: Field corn, seed corn, sweet corn, popcorn

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen or other fertilizer solutions as carrier.

Preplant (Burndown)

Apply 3.5 to 4.75 pints of Enlist Duo per acre 7 to 14 days before planting corn to control emerged grass and broadleaf weeds. Use the upper end of the rate range for less susceptible weeds, more mature weeds, or weeds under stress. Refer to Annual and Perennial Weeds sections for specific weed height and use rate information.

Preemergence

Apply 3.5 to 4.75 pints of Enlist Duo per acre 3 to 5 days after planting, but before corn emerges, to control grass and broadleaf weed seedlings or existing cover crops. Use the upper end of the rate range for less susceptible weeds, more mature weeds, or weeds under stress. Refer to Annual and Perennial Weeds sections for specific weed height and use rate information.

Postharvest

Allow weeds to regrow after any damage incurred during harvest and recover from environmental stress before applying this product. Apply 4.75 pints of Enlist Duo per acre. Apply prior to heading of grass weeds and, if possible, before broadleaf weeds are more than 24 inches tall.

Precautions:

- For best results, do not apply to light sandy soils as a preplant or preemergence application.
- Using fewer applications will result in credits to satisfy the mitigation requirements (see Management of Runoff section).
- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions:

- Do not aerially apply this product.
- Do not apply more than 9.50 pints (2.0 lbs 2,4-D a.e. and 2.0 lbs glyphosate a.e.) of Enlist Duo per acre per year.
- Do not apply more than 4.75 pints (1.0 lb 2,4-D a.e. and 1.0 lb glyphosate a.e.) of Enlist Duo per acre per application.

ENLIST Soybeans

These directions are for use with soybeans containing the Enlist trait. Information on crop varieties containing these traits may be obtained from your seed supplier.

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen or other fertilizer solutions as carrier.

Preplant (Burndown) Through Preemergence

Make a single application of 3.5 to 4.75 pints of Enlist Duo per acre. Use the upper end of the rate range for less susceptible weeds, more mature weeds, or weeds under stress. Refer to Annual and Perennial Weeds sections for specific weed height and use rate information. Apply any time before or after planting, but before soybean emerges, to control weed seedlings or existing cover crops.

Postemergence

Apply 4.75 pints of Enlist Duo per acre. Apply when weeds are no larger than 6 inches and any time after soybean emergence through the R1 growth stage. Refer to Annual and Perennial Weeds sections for specific weed height and use rate information. Make one to two applications with a minimum of 12 days between applications.

Precaution:

- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions:

- **Preharvest Interval:** Do not apply within 50 days of harvest.
- Do not graze treated soybean.
- Do not harvest for forage or hay.
- Do not apply more than one preemergence application and no more than two postemergence applications per year. Using fewer applications will result in credits to satisfy the mitigation requirements (see Management of Runoff section).
- Do not apply after R1 growth stage.
- Do not apply more than 4.75 pints (1.0 lb 2,4-D a.e. and 1.0 lb glyphosate a.e.) of Enlist Duo per acre per application.
- Do not apply more than 14.25 pints (3.0 lbs 2,4-D a.e. and 3.0 lbs glyphosate a.e.) of Enlist Duo per acre per year.
- Do not apply more than 3.0 lbs 2,4-D a.e. per acre per year.
- Do not aerially apply this product.

Soybean – Not Containing the Enlist Trait

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen or other fertilizer solutions as carrier.

Preplant (Burndown)

Apply up to 4.75 pints per acre not less than 14 days prior to planting soybeans. Refer to Annual and Perennial Weeds sections for specific weed height and use rate information. See Precautions and Restrictions in this section.

Precautions:

- **Note:** Unacceptable injury to soybeans planted in treated fields may occur. Whether soybean injury occurs and the extent of such injury depends upon weather (temperature and rainfall) from herbicide application until soybean emergence, and agronomic factors, such as the amount of weed vegetation and previous crop residue present at the time of application. Injury is more likely under cool rainy conditions and where there is less weed vegetation and crop residue present.
- In treated fields, plant soybean seed as deep as practical, but not less than 1 inch deep. Adjust the planter, if necessary, to ensure that planted seed is adequately covered.
- Do not apply Enlist Duo as a preplant application in soybeans unless soybean injury is acceptable, including possible stand loss and/or yield reductions.
- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions:

- Do not disturb treated soil through tillage between application and planting of soybeans.
- Do not use on sandy soils with less than 1% organic matter.
- Do not make more than one application per season regardless of the amount of product applied.

- During the growing season following application, do not replant treated fields with crops other than those labeled for use with 2,4-D and glyphosate.
- Do not apply more than 4.75 pints (1.0 lb 2,4-D and 1.0 lb glyphosate a.e.) of Enlist Duo per acre per year.
- Do not aerially apply this product.

Enlist Cotton

These directions are for use on Enlist Cotton. Information on crop varieties containing these traits may be obtained from your seed supplier.

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen or other fertilizer solutions as carrier.

Preplant (Burndown) Through Preemergence

Make a single application of 3.5 to 4.75 pints of Enlist Duo per acre. Use the upper end of the rate range for less susceptible weeds, more mature weeds, or weeds under stress. Refer to Annual and Perennial Weeds sections for specific weed height information. Apply any time after planting, to control weed seedlings or existing cover crops.

Postemergence

Apply 4.75 pints of Enlist Duo per acre. Apply when weeds are no larger than 6 inches and any time after cotton emergence up to first white bloom. Refer to Annual and Perennial Weeds sections for specific weed height information. Make one to two postemergence applications with a minimum of 12 days between applications.

Precaution:

- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions:

- These use directions are only for cotton identified as containing the Enlist trait.
- There are no feeding or grazing restrictions when applying Enlist Duo to cotton.
- Do not apply more than one preemergence application and no more than two postemergence applications per year. Using fewer applications will result in credits to satisfy the mitigation requirements (see Management of Runoff section).
- Do not apply after first white bloom.
- Do not apply more than 4.75 pints (1.0 lb 2,4-D a.e. and 1.0 lb glyphosate a.e.) of Enlist Duo per acre per application
- Do not apply more than 14.25 pints (3.0 lbs 2,4-D a.e. and 3.0 lbs glyphosate a.e.) of Enlist Duo per acre per year.
- Do not apply more than 3.0 lbs 2,4-D a.e. per acre per year.
- Do not aerially apply this product.

Fallow Systems to be Planted to Corn, Soybeans or Cotton

Fallow

This product may be applied during the fallow period prior to planting or emergence of any crop listed on this label. This product may be used as a substitute for tillage to control annual weeds in fallow fields. Broadcast treatments will control or suppress many perennial weeds in fallow fields. Apply 4.75 pints of Enlist Duo per acre. Do not apply more than 14.25 pints of Enlist Duo per acre within the calendar year. Refer to Annual and Perennial Weeds sections for weeds controlled. Plant only labeled crops within 30 days following application.

Carriers and Spray Volumes

Apply in a broadcast spray volume of water ranging from 10 to 15 gallons per acre for best results. Do not apply less than 10 gallons total spray volume per acre. Do not substitute water with nitrogen or other fertilizer solutions as carrier.

Precaution:

- Prior to application, follow all directions in Spray Drift Management and Management of Runoff sections for all applications.

Restrictions

- Do not aerially apply this product.
- Do not apply more than 4.75 pints (1.0 lb 2,4-D a.e. and 1.0 lb glyphosate a.e.) of Enlist Duo per acre per application
- Do not apply more than 14.25 pints (3.0 lbs 2,4-D a.e. and 3.0 lbs glyphosate a.e.) of Enlist Duo per acre per year.
- Do not apply more than 3.0 lbs 2,4-D a.e. per acre per year.

Weed Control

Apply this product to actively growing weeds. Apply 4.75 pints of this product per acre for all postemergence uses with Enlist crops. Apply when weeds are 6 inches tall or less. Water carrier volumes of 10 to 15 gallons per acre are required for best results. Do not apply less than 10 gallons total spray volume per acre.

This product will not control grass weed biotypes that are glyphosate resistant. Always apply 3.5 to 4.75 pints per acre.

Hard to control weeds, such as Palmer amaranth, may require a total program approach including soil applied residual herbicide(s) followed by a single or sequential post herbicide application. Glyphosate resistant Palmer amaranth may require application at smaller growth stages and may require additional herbicide application(s) with alternative modes of action.

Below-ground portions of perennial weeds may not be completely controlled with single applications and follow-up applications may be required if regrowth occurs.

Controlled Weeds Table:

Annual Weeds:

ammannia, purple ⁴	fleabane, hairy (<i>Conyza bonariensis</i>)	rye, volunteer/cereal ^{1, 4}
annoda, spurred ⁴	fleabane, rough	ryegrass ⁴
barley ⁴	Florida pusley	sandbur, field ⁴
barnyardgrass ⁴	foxtail (giant, bristly, yellow) ⁴	sandbur, longspine ⁴
bassia, fivehook ⁴	foxtail, green ⁴	shattercane ⁴
beggarweed, Florida ⁴	goatgrass, jointed ⁴	shepherd's-purse
bittercress	goosegrass ⁴	sicklepod
bluegrass, annual ⁴	grain sorghum (milo) ⁴	signalgrass, broadleaf
bluegrass, bulbous ⁴	groundsel, common ⁴	smartweed, ladythumb
brome, downy ^{1, 4}	groundcherry ⁴	smartweed, Pennsylvania
brome, Japanese ⁴	hemp sesbania	sowthistle, annual
browntop panicum ⁴	henbit ⁴	Spanishneedles
buckwheat, wild ⁴	horseweed/marestail (<i>Conyza canadensis</i>)	speedwell, purslane ⁴
burcucumber ⁴	itchgrass ⁴	sprangletop ⁴
buttercup	jimsonweed	spurge, prostrate ⁴
Carolina foxtail ⁴	johnsongrass, seedling ⁴	spurge, spotted ⁴
Carolina geranium		spurry, umbrella ⁴
carpetweed		stinkgrass ⁴

cheat ^{1,4} chervil ⁴ chickweed ⁴ cocklebur copperleaf, hophornbeam copperleaf, Virginia corn, volunteer (glyphosate susceptible) corn speedwell ⁴ crabgrass ⁴ crowfootgrass ⁴ cutleaf evening primrose devilsclaw (unicorn plant) ⁴ dwarfdandelion eastern mannagrass ⁴ eclipta fall panicum ⁴ falsedandelion falseflax, smallseed fiddleneck ⁴ field pennycress filaree ⁴ fleabane, annual	junglerice ⁴ knotweed kochia ^{2,4} lambsquarters little barley ⁴ London rocket ⁴ mayweed morningglory (<i>Ipomoea</i> spp.) mustard, blue ⁴ mustard, tansy mustard, tumble mustard, wild nightshade, black nightshade, hairy oats Palmer amaranth ³ pigweed, redroot pigweed, smooth prickly lettuce purslane ragweed, common ragweed, giant red rice ⁴ Russian thistle	sunflower teaweed/prickly sida ⁴ Texas panicum ⁴ velvetleaf Virginia pepperweed Waterhemp ³ wheat ^{1,4} wheat (over-wintered) ⁴ wild oats ⁴ wild proso millet ⁴ witchgrass ⁴ woolly cupgrass ⁴ yellow rocket
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¹Performance is better if application is made before this weed reaches the boot stage of growth.

²Do not treat kochia in the button stage.

³Hard to control weeds, such as Palmer amaranth or waterhemp, may require a total program approach including soil-applied residual herbicide(s) followed by a single or sequential post herbicide application. Glyphosate-resistant Palmer amaranth may require application at smaller growth stage.

⁴Glyphosate-resistant biotypes of weeds with low sensitivity to 2,4-D will not be controlled.

Perennial Weeds:

- Alfalfa: Make applications after the last hay cutting in the fall. Allow alfalfa to regrow to a height of 6 to 8 inches or more prior to treatment. Follow applications with deep tillage at least 7 days after treatment, but before soil freeze-up.
- Bindweed, field: Do not treat when weeds are under drought stress as good soil moisture is necessary for active growth. For suppression on irrigated agricultural land, apply 4.75 pints of this product in 10 to 15 gallons of water per acre for ground applications only. Apply when the bindweed is actively growing and the majority of runners are 12 inches or more in length. The use of at least one irrigation will promote active bindweed growth.
- Dandelion: Best results achieved when most plants have reached the early bud stage of growth.
- Dock, curly: Apply when most plants have reached the early bud stage of growth.
- Dogbane, hemp: For suppression, delay applications until maximum emergence of dogbane has occurred. Best results are achieved when most plants have reached the late bud to flower stage of growth, but application must be made before corn is 48 inches tall.
- Jerusalem artichoke: For suppression, apply when most plants are in the early bud stage.
- Milkweed, common: For suppression, apply when most plants have reached the late bud to flower stage of growth.
- Pokeweed, common: Apply to actively growing plants up to 24 inches tall.
- Smartweed, swamp: For suppression, apply when most plants have reached the early bud stage of growth.
- Sowthistle, perennial: For suppression, apply when most plants are at or beyond the bud stage of growth.
- Thistle, Canada: Apply when most plants are at or beyond the bud stage of growth. Allow

rosette regrowth to a minimum of 6 inches in diameter before treating. Make applications as long as leaves are still green and plants are actively growing at the time of application.

Terms and Conditions of Use

If terms of the following Warranty Disclaimer, Inherent Risks of Use and Limitation of Remedies are not acceptable, return unopened package at once to the seller for a full refund of purchase price paid. To the extent permitted by law, use by the buyer or any other user constitutes acceptance of the terms under Warranty Disclaimer, Inherent Risks of Use and Limitation of Remedies..

Warranty Disclaimer

Corteva Agriscience warrants that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated on the label when used in strict accordance with the directions, subject to the inherent risks set forth below. To the extent permitted by law, Corteva Agriscience **MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER EXPRESS OR IMPLIED WARRANTY.**

Inherent Risks of Use

It is impossible to eliminate all risks associated with use of this product. Crop injury, lack of performance, or other unintended consequences may result because of such factors as use of the product contrary to label instructions (including conditions noted on the label, such as unfavorable temperatures, soil conditions, etc.), abnormal conditions (such as excessive rainfall, drought, tornadoes, hurricanes), presence of other materials, the manner of application, or other factors, all of which are beyond the control of Corteva Agriscience or the seller. Corteva Agriscience will not be responsible for losses or damages resulting from the use of this product in any manner not specifically directed by Corteva Agriscience. To the extent permitted by law, all such risks associated with non-directed use shall be assumed by buyer and/or user.

Limitation of Remedies

To the extent permitted by law, the exclusive remedy for losses or damages resulting from this product (including claims based on contract, negligence, tort, strict liability, or other legal theories), shall be limited to, at Corteva Agriscience's election, one of the following:

1. Refund of purchase price paid by buyer or user for product bought, or
2. Replacement of amount of product used.

To the extent permitted by law, Corteva Agriscience shall not be liable for losses or damages resulting from handling or use of this product unless Corteva Agriscience is promptly notified of such loss or damage in writing. To the extent permitted by law, in no case shall Corteva Agriscience be liable for consequential, incidental or special damages or losses.

The terms of the Warranty Disclaimer, Inherent Risks of Use and this Limitation of Remedies cannot be varied by any written or verbal statements or agreements. No employee or sales agent of Corteva Agriscience or the seller is authorized to vary or exceed the terms of the Warranty Disclaimer or this Limitation of Remedies in any manner.

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R407-021

Accepted: 01/11/22

Initial printing.

Pesticide Committee Meeting - January 26, 2022 at 9:30 a.m.

WARNING LETTERS

Item	Case #	Name/Company Name	Date of Violation	Violation	Penalty Level	Action Taken
1	17-0012	Jack Jackson, II	February 22, 2017	Drift - Class F Producer Warning	Level I Minor	Warning Letter
2	17-0107	Zachary James Burns	April 2, 2017	Drift	Level I Minor	Warning Letter
3	17-0107	Chris Propst	April 1, 2017	Drift	Level I Minor	Warning Letter
4	17-0107	Chris Propst	April 1, 2017	Buffer Zone	Level I Minor	Warning Letter
5	17-0438	William McMasters	June 2, 2017	Record Keeping - Class H	Level I Minor	Warning Letter
6	17-0688	Sam Anthony Pirani	June 10, 2017	Drift - Class H	Level I Minor	Warning Letter
7	17-0894	Sam Anthony Pirani	June 20, 2017	Drift - Class H	Level II Minor	Warning Letter
8	17-0915	Byron Edwin Orewiler	July 7, 2017	Off Label Rate - Class H	Level I Minor	Warning Letter
9	17-1118	Michael Schluterman	July 24, 2017	Drift	Level I Minor	Warning Letter
10	18-0182	John D. Langston, Jr.	Unknown	Record Keeping - Class H	Level I Major	Warning Letter
11	19-0433	Ledwin Perez	July 17, 2019	Drift	Level I Minor	Warning Letter
12	20-0007	Jiles Rebon Wright, III	March 10, 2020	Human Exposure	Level I Minor	Warning Letter
13	20-0019	David Melvin Hill	March 27, 2020	Buffer Zone	Level I Minor	Warning Letter
14	20-0033	Richard Lewis Reppond	April 4, 2020	Drift - Class H	Level II Minor	Warning Letter
15	20-0045	Tracey Scott Stokes	April 3, 2020	Buffer Zone	Level I Minor	Warning Letter
16	20-0099	Jason Alan Bullard	April 21, 2020	Buffer Zone	Level I Minor	Warning Letter
17	20-0112	Joe Hall	Unknown	Record Keeping - Class F	Level I Minor	Warning Letter
18	20-0115	Matthew Martin Rial	April 11, 2020	Drift	Level I Minor	Warning Letter
19	20-0179	David Keith Bell	May 15, 2020	Drift	Level I Minor	Warning Letter
20	20-0182	Paul Gil Dreher	June 4, 2020	Drift	Level I Minor	Warning Letter
21	20-0191	Shane V. Mikel	May 25, 2020	Drift	Level I Minor	Warning Letter
22	20-0225	Jace Jetton	June 12, 2020	No License	Level I Major	Warning Letter
23	20-0225	Shawn Wayne Mann	May 20, 2020	Drift	Level I Minor	Warning Letter
24	20-0388	Leonard Jay Nightingale	Unknown	Drift - Class H & F	Level I Minor	Warning Letter
25	20-0388	Leonard Jay Nightingale	Unknown	Record Keeping - Class H & F	Level I Minor	Warning Letter
26	21-0015	John Wesley Clement, Jr.	March 20, 2021	Drift	Level I Minor	Warning Letter
27	21-0026	Mark Webb	April 9, 2021	Drift	Level I Minor	Warning Letter
28	21-0026	Mark Webb	April 9, 2021	Buffer Zone	Level I Minor	Warning Letter

Class F = all 2,4-D and 2,4-D containing pesticides Class H = all pesticides containing dicamba

WARNING LETTERS (Continued)

Item	Case #	Name/Company Name	Date of Violation	Violation	Penalty Level	Action Taken
29	21-0051	Mark Ellis	May 5, 2021	Drift	Level I Minor	Warning Letter
30	21-0051	Mark Ellis	May 5, 2021	Buffer Zone	Level I Minor	Warning Letter
31	21-0081	Carter Garrett	April 12, 2021	No Training Certificate - Class H	Level I Minor	Warning Letter
32	21-0091	Jared Long	May 24, 2021	Drift	Level I Minor	Warning Letter
33	21-0091	Jared Long	May 24, 2021	Buffer Zone	Level I Minor	Warning Letter
34	21-0291	Greg D. Womack	June 29, 2021	Record Keeping - Class H	Level I Minor	Warning Letter
35	19-0059	Michael Wayne Persons	May 7, 2019	Drift	Level I Minor	Warning Letter

Class F = all 2,4-D and 2,4-D containing pesticides Class H = all pesticides containing dicamba

SIGNED CONSENT AGREEMENTS

Item	Case #	Name/Company Name	Date of Violation	Violation	Penalty Level	Agreed Amount*
36	18-0182	John D. Langston, Jr.	Unknown	Use During the Prohibited Period-Class H	Level I	\$400
37	19-0427	Barry Nathen Winford	Unknown	Use During the Prohibited Period-Class H	Level I	\$3,125
38	20-0018	Lindsay Paul Chandler	March 30, 2020	Drift - Class H	Level II	\$600
39	20-0022	Jimmy David Moss, Jr.	April 2, 2020	Drift - Class H & Class F	Level II	\$600
40	20-0040	Jacob Pruitt	April 6, 2020	No Custom Authorization - Class F	Level I	\$600
41	20-0045	Tracey Scott Stokes	April 3, 2020	Drift	Level II	\$600
42	20-0048	Anthony Glenn Alls	April 3, 2020	Drift	Level II	\$600
43	20-0079	Tracey Scott Stokes	April 6, 2020	Drift - Class H	Level III	\$800
44	20-0099	Jason Alan Bullard	April 21, 2020	Drift - Class F	Level III	\$800
45	20-0111	Helena Agri-Enterprises, LLC (Marvell)	April 3, 2020	No Custom Permit - Class F	Level I	\$600
46	20-0111	Helena Agri-Enterprises, LLC (Marvell)	April 3, 2020	No Operator-In-Charge - Class F	Level I	\$600
47	20-0112	Joe Hall	Unknown	No License - Class F	Level I	\$250
48	20-0135	Jerrad Douglas	May 20, 2020	Human Exposure	Level I	\$400
49	20-0160	Robert Stan Furguson	May 29, 2020	Drift - Class F	Level II	\$600
50	20-0191	Shane V. Mikel	May 25, 2020	Drift	Level II	\$600
51	20-0303	Mike McMahan	June 29, 2020	Use During the Prohibited Period - Class H	Level I	\$3,125
52	20-0358	Mark Edward Singleton	July 13, 2020	Use During the Prohibited Period - Class H	Level I	\$3,125
53	20-0501	Charles Steven Bright	September 17, 2020	Drift	Level IV	\$900

* Amount agreed to by the individual when signing the Consent Agreement

Class F = all 2,4-D and 2,4-D containing pesticides Class H = all pesticides containing dicamba

SIGNED CONSENT AGREEMENTS (Continued)

Item	Case #	Name/Company Name	Date of Violation	Violation	Penalty Level	Agreed Amount*
54	21-0002	Aaron Aukes	March 4, 2021	Human Exposure	Level I	\$400
55	21-0011	Rodney Shelley	March 29, 2021	Human Exposure	Level I	\$400
56	21-0031	Christopher J. Parker	April 6, 2021	Drift	Level II	\$600
57	21-0031	Christopher J. Parker	April 18, 2021	Drift	Level III	\$800
58	21-0033	Anthony Glenn Alls	April 19, 2021	Drift	Level III	\$800
59	21-0033	Anthony Glenn Alls	April 19, 2021	Buffer Zone	Level II	\$600

* Amount agreed to by the individual when signing the Consent Agreement

Class F = all 2,4-D and 2,4-D containing pesticides Class H = all pesticides containing dicamba

CONSENT AGREEMENTS

DELIVERY RECEIPT OR SENT CERTIFIED & REGULAR MAIL - NO RESPONSE AFTER 30 DAYS

Item	Case #	Name/Company Name	Date of Violation	Violation	Penalty Level	Staff Recommendation
60	17-0107	Chris Propst	March 28, 2017	Off Label Tank Mix - Class H	Level I	\$400
61	17-0915	Byron Edwin Orewiler	July 8, 2017	Off Label Rate - Class H	Level II	\$600
62	19-0433	Ledwin Perez	July 17, 2019	No License	Level I	\$600
63	20-0004	Jay H. Harmon	March 3, 2020	Drift - Class H	Level IV	\$900
64	20-0019	David Melvin Hill	March 27, 2020	Drift - Class H & F	Level II	\$600
65	20-0350	Marcus K. Felker	June 30, 2020	Use During the Prohibited Period - Class H	Level I	\$1,562.50
66	20-0350	Marcus K. Felker	July 5, 2020	Use During the Prohibited Period - Class H	Level II	\$1,562.50
67	21-0019	Hog Air Aviation (Garland City)	March 20, 2021	No License	Level I	\$600
68	21-0019	Hog Air Aviation (Garland City)	March 20, 2021	No Custom Permit - Class F	Level I	\$600
69	21-0021	Jason White	April 13, 2021	Human Exposure	Level I	\$400

Class F = all 2,4-D and 2,4-D containing pesticides Class H = all pesticides containing dicamba

Pesticide Committee Meeting
January 26, 2022
9:30 A.M.

WARNING LETTERS

CF17-0012 Jack Jackson, II (Drift – Class F Producer Warning)

The Plant Board alleged Mr. Jason Sessions, Commercial Applicator, made an aerial application of Roundup Powermax II, Sharpen, and Barrage (active ingredient: 2,4-D) to 120 acres on February 22, 2017, for Mr. Jack Jackson, II. The evidence shows this application drifted off target onto Mr. Marvin Patterson's property. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF17-0107 Zachary James Burns (Drift)

The Plant Board alleged Mr. Zachary James Burns, Private Applicator, made a ground application of FirstShot SG (.5 ounces/ acre), Roundup Powermax (24.72 ounces/acre), and Strut (9.27 ounces/acre) to 7.85 acres for burndown on April 02, 2017. The evidence shows this application drifted off target onto Mr. Jerry Milligan's property. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF17-0107 Chris Propst (Drift)

The Plant Board alleged Mr. Chris Propst, Commercial Applicator, made an aerial application of Roundup (GlyStar Plus) and Engenia to 412 acres for burndown on April 01, 2017. The evidence shows this application drifted off target onto Mr. Jerry Milligan's property. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF17-0107 Chris Propst (Buffer Zone)

The Plant Board alleged Mr. Chris Propst, Commercial Applicator, made an aerial application of Roundup (GlyStar Plus) and Engenia to 412 acres for burndown on April 01, 2017, within 20 feet of Mr. Milligan's property. The evidence shows the application was made within 20 feet of Mr. Jerry Milligan's property which would be inside the 100 foot buffer zone requirement for both Glystar Plus and Engenia; thus, this is a buffer zone violation. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF17-0438 William McMasters (Record Keeping – Class H)

The Plant Board alleged Mr. William McMasters, Private Applicator, made a ground application of Engenia, Makaze, and Compadre to 110 acres of cotton on June 02, 2017. The evidence shows Mr. William McMasters failed to keep the proper records by not recording the application start time and the application ending time. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF17-0688 Sam Anthony Pirani (Drift – Class H)

The Plant Board alleged Mr. Cornelius Du Toit, operating under Mr. Sam Pirani's Private Applicator License, made a ground application of Engenia to 33 acres of soybeans on June 10, 2017. The evidence shows this application drifted off target onto Mr. Mike Slabaugh's soybeans. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF17-0894 Sam Anthony Pirani (Drift – Class H)

The Plant Board alleged Mr. Cor Du Toit, operating under Mr. Sam Anthony Pirani's Private Applicator License, made a ground application of Engenia, Roundup Powermax II, and Zidua to 347 acres of soybeans on June 20, 2017. The evidence shows this application drifted off target onto New Hope Plantation's soybeans. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level II Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF17-0915 Byron Edwin Orewiler (Off Label Rate – Class H)

The Plant Board alleged Mr. Byron Edwin Orewiler, Private Applicator, made a ground application of Warrant (2 pints/acre), Makaze (11 ounces/acre), and Engenia (2 pints/acre) to 102 acres for soybeans on July 07, 2017. The evidence shows the application rate of Engenia to be 2 pints/acre (32 ounces/acre) which is above the labeled rate of 12.8 ounces/acre for Engenia; thus, the 2 pints/acre is an off label rate violation. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF17-1118 Michael Schluterman (Drift)

The Plant Board alleged Mr. Michael Schluterman, Private Applicator, made a ground application of Helmquat 3SL to 20 acres of soybeans on July 24, 2017. The evidence shows this application drifted off target onto Mr. David Willems' soybeans. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF18-0182 John D. Langston, Jr. (Record Keeping – Class H)

The Plant Board alleged Mr. John D. Langston, Jr., Private Applicator, made a postemergence ground application of an unknown product containing dicamba to cotton in Goldbug Farms' Wunderlich Field on an unknown date. The evidence shows Mr. John D. Langston, Jr. failed to keep the proper records by not recording the application. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. The proposed enforcement action for this violation is a Warning Letter.

CF19-0433 Ledwin Perez (Drift)

The Plant Board alleged Mr. Ledwin Perez, Commercial Applicator, made a burndown ground application of Roundup Pro Concentrate, Milestone, Escort XP, and Arsenal spot sprayed to a right of way on July 17, 2019. The evidence shows this application drifted off target onto Mr. Montgomery's property. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0007 Jiles Rebon Wright, III (Human Exposure)

The Plant Board alleged Mr. Jiles Rebon Wright, III, Commercial Applicator, made an aerial application of Roundup PowerMax and Elevore to 76 acres in C-1 field for burndown on March 10, 2020, for Mr. Larry Wiedeman. The evidence shows this application drifted off target onto Mr. Jonathan Burkheart's property resulting in a human exposure to a pesticide. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0019 David Melvin Hill (Buffer Zone)

The Plant Board alleged Mr. David Melvin Hill, Commercial Applicator, made an aerial application of Roundup, 2,4-D LV6, Diablo, and to 37.14 acres for burndown on March 27, 2020, for Brown Brothers Farms. The evidence shows the application was made within approximately 50 feet of Ms. Stokes' lawn and ornamentals which would be inside the 100 foot aerial buffer zone requirement for Roundup PowerMax; thus, this is considered a buffer zone violation. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0033 Richard Lewis Reppond (Drift – Class H)

The Plant Board alleged Mr. Richard Lewis Reppond, Commercial Applicator, made an aerial application of Glyphosate 4 Plus, Detonate, and Valor to 70 acres in the Meadows field for burndown on April 04, 2020, for Mr. Jeff Finch. The evidence shows this application drifted off target onto Mr. Murphy's grape vines and fruit trees. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level II Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0045 Tracey Scott Stokes (Buffer Zone)

The Plant Board alleged Mr. Tracey Scott Stokes, Commercial Applicator, made an aerial application of Roundup Powermax II, Strikelock, and Verdict made to 500 acres in the Williford Rd. field for burndown on April 03, 2020, for Wiley Williams. The evidence shows the application was made within approximately 10 feet of Mr. Dunlap's property which would be inside the 100 foot aerial buffer zone requirement for Roundup PowerMax II; thus, this is considered a buffer zone violation. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0099 Jason Alan Bullard (Buffer Zone)

The Plant Board alleged Mr. Jason Alan Bullard, Commercial Applicator, made an aerial application of Buccaneer Plus and 2,4-D Amine made to 121.59 acres in field 7 & 8 for burndown on April 21, 2020, for Mr. Cliff Collins. The evidence shows the application was made within approximately 5 feet of Mr. Brunson's property which would be inside the 100 foot aerial buffer zone requirement for Buccaneer Plus; thus, this is considered a buffer zone violation. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0112 Joe Hall (Record Keeping – Class F)

The Plant Board alleged Mr. Joe Hall, Private Applicator, made a ground application of GrazonNext HL to pasture on an unknown date. The evidence shows Mr. Joe Hall failed to keep the proper records by not recording the name and address of person in control of crops, location of crop, date of application, start and ending times, wind speed and direction at the start and ending time of the application, complete brand name and EPA registration number of the material used, number of acres and type of crop to which material was applied, type of equipment used, distance from and any direction to susceptible crops, and name of application vehicle operator as required for Class F Products. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0115 Matthew Martin Rial (Drift)

The Plant Board alleged Mr. Matthew Martin Rial, Commercial Applicator, made an aerial application of Metolachlor 8E, Flumioxazin 51% WDG, and Parashot 3.0 to 47, 18, and The 65 fields for burndown on April 11, 2020, for Mr. Tony Wells. The evidence shows this application drifted off target onto Mr. Singleton's trees. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0179 David Keith Bell (Drift)

The Plant Board alleged Mr. David Keith Bell, Private Applicator, made a preemergence ground application of Trivence to 102 acres of soybeans in #9 field on May 15, 2020. The evidence shows this application drifted off target onto Mr. Gasaway's cotton. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0182 Paul Gil Dreher (Drift)

The Plant Board alleged Mr. Paul Gil Dreher, Private Applicator, made a postemergence ground application of Liberty and Buccaneer Plus to cotton in the Post Office 60 field on June 04, 2020. The evidence shows this application drifted off target onto Mr. Chaney's lawn and garden. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0191 Shane V. Mikel (Drift)

The Plant Board alleged Mr. Shane V. Mikel, Private Applicator, made a ground application of Roundup PowerMax II to 32 acres in Jones Swimming Hole field for burndown on May 25, 2020. The evidence shows this application drifted off target onto Mr. Schug's rice field #1. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0225 Jace Jetton (No License)

The Plant Board alleged Mr. Jace Jetton, Commercial Applicator, made a postemergence ground application of Liberty, Avatar, and Zidua to 315 acres of soybeans on June 12, 2020, for Mr. Sam Carlisle. The evidence shows Mr. Jetton was not duly licensed as a commercial applicator or commercial applicator technician at the time of the June 12, 2020, application. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0225 Shawn Wayne Mann (Drift)

The Plant Board alleged Mr. Shawn Wayne Mann, Commercial Applicator, made a ground application of Glyphosate 41% Plus to 412 acres in the Mallard Farm field for burndown on May 20, 2020, for Mr. Crabtree. The evidence shows this application drifted off target onto Mr. Marr's rice. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0388 Leonard Jay Nightingale (Drift – Class H & F)

The Plant Board alleged Mr. Leonard Jay Nightingale, Private Applicator, made an application of Roundup, Strike 3, and Sterling Blue to his pasture fence row on an unknown date. The evidence shows this application drifted off target onto Mr. Gairhan's soybeans. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF20-0388 Leonard Jay Nightingale (Record Keeping – Class H & F)

The Plant Board alleged Mr. Leonard Jay Nightingale, Private Applicator, made an application of Roundup, Strike 3, and Sterling Blue to his pasture fence row on an unknown date. The evidence shows Mr. Leonard Jay Nightingale failed to keep the proper records by not recording the application. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF21-0015 John Wesley Clement, Jr. (Drift)

The Plant Board alleged Mr. John Wesley Clement, Jr., Private Applicator, made a preemergence ground application of Gramoxone 2.0 and Charger Max to 40.8 acres of corn in the 53 field on March 20, 2021. The evidence shows this application drifted off target onto Mr. Ashley's wheat. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF21-0026 Mark Webb (Drift)

The Plant Board alleged Mr. Mark Webb, Commercial Applicator, made an aerial application of GlyStar Plus, Command 3ME, and Sharpen to 157 acres in field 14 & 15 for burndown on April 09, 2021, for Waterfowl Farms (Mr. Chance Hildebrand). The evidence shows this application drifted off target onto Mr. Rutledge's trees. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF21-0026 Mark Webb (Buffer Zone)

The Plant Board alleged Mr. Mark Webb, Commercial Applicator, made an aerial application of GlyStar Plus, Command 3ME, and Sharpen to 157 acres in field 14 & 15 for burndown on April 09, 2021, for Waterfowl Farms (Mr. Chance Hildebrand). The evidence shows the application was made within approximately 150 feet of Mr. Rutledge's trees which would be inside the 300 foot buffer zone requirement for Command 3ME and the 500 foot aerial buffer zone requirement for GlyStar Plus; thus, this is considered a buffer zone violation. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF21-0051 Mark Ellis (Drift)

The Plant Board alleged Mr. Mark Ellis, Commercial Applicator, made a postemergence aerial application of Willowood Clomazone 3ME and Clincher SF to 60 acres of rice in the North Raspberry Lane E field on May 05, 2021, for Mr. Levi Carlton. The evidence shows this application drifted off target onto Mr. Bryant's lawn, trees, and garden. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF21-0051 Mark Ellis (Buffer Zone)

The Plant Board alleged Mr. Mark Ellis, Commercial Applicator, made a postemergence aerial application of Willowood Clomazone 3ME and Clincher SF to 60 acres of rice in the North Raspberry Lane E field on May 05, 2021, for Mr. Levi Carlton. The evidence shows the application was made within approximately 20 feet of Mr. Bryant's lawn, trees, and garden which would be inside the 300 foot aerial buffer zone requirement for Willowood Clomazone 3ME; thus, this is considered a buffer zone violation. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF21-0081 Carter Garrett (No Training Certificate – Class H)

The Plant Board alleged Mr. Carter Garrett, Commercial Applicator, made an aerial application of Buccaneer Plus, Detonate, and Pilot's Choice Anti Drift to 148 acres in the Masner Pivot field for burndown on April 12, 2021, for Mr. Brandon Crump. Mr. Carter Garrett could not produce a 2021 Arkansas Training and Certification Program for Dicamba Herbicide Certificate required for the application. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF21-0091 Jared Long (Drift)

The Plant Board alleged Mr. Jared Long, Commercial Applicator, made a postemergence aerial application of Preface, Facet L, Permit Plus, and Prowl H20 to 200 acres of rice in the North Coca-Cola Woods field on May 24, 2021, for J.A. Wampler Enterprise. The evidence shows this application drifted off target onto Mr. Hall's garden. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF21-0091 Jared Long (Buffer Zone)

The Plant Board alleged Mr. Jared Long, Commercial Applicator, made a postemergence aerial application of Preface, Facet L, Permit Plus, and Prowl H20 to 200 acres of rice in the North Coca-Cola Woods field on May 24, 2021, for J.A. Wampler Enterprise. The evidence shows the application was made within approximately 0.23 miles of Mr. Hall's tomato plants which would be inside the ¼ mile buffer zone requirement for Quinclorac; thus, this is considered a buffer zone violation. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF21-0291 Greg D. Womack (Record Keeping – Class H)

The Plant Board alleged Mr. Greg D. Womack, Private Applicator, made a postemergence ground application of Xtendimax to 155 acres of cotton in Leveled & Mounds field on June 29, 2021. The evidence shows Mr. Greg D. Womack failed to keep the proper records by not recording the proof of training completion, the receipts of purchase, the product label, the sensitive crop registry consulted, the survey of adjacent areas, the buffer requirement, and the number of days after planting the application occurred. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CF19-0059 Michael Wayne Persons (Drift)

The Plant Board alleged Mr. Michael Wayne Persons, Commercial Applicator, made an aerial application of Roundup Powermax II, Command 3ME, and Fire Zone Oil to 142 acres (East #4, #5, #6, #7) and 220 acres (Way #3, #4, #5) of rice for Zero Grade Farms on May 07, 2019. The evidence shows this application drifted off target onto Mr. Hillman's corn (CF19-059), Mr. C. J. Parker's corn and rice (CF19-060), Mr. Kyle Moery's corn (CF19-070), Mr. Jeff Daniels' rice (CF19-071), and Mr. Garrett Loftis' rice (CF19-076). The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Minor violation. The proposed enforcement action for this violation is a Warning Letter.

CONSENT AGREEMENTS

Signed Agreements:

CF18-0182 John D. Langston, Jr. (Use During the Prohibited Period - Class H)

The Plant Board alleged Mr. John D. Langston, Jr., Private Applicator, made a postemergence ground application of an unknown product containing dicamba to cotton in Goldbug Farms' Wunderlich Field on an unknown date. The evidence shows the application of dicamba was made during the prohibited period of April 16th through October 31st. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Mr. Langston agrees to a Civil Penalty of \$400 for settlement of the allegation.

CF19-0427 Barry Nathen Winford (Use During the Prohibited Period - Class H)

The Plant Board alleged Mr. Barry Nathen Winford, Private Applicator, made an application of an unknown dicamba product to soybeans on an unknown date. The evidence shows the application was made during the prohibited period of May 26th through October 31st. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Egregious Eligible violation. Mr. Winford agrees to a Civil Penalty of \$3,125 for settlement of the allegation.

CF20-0018 Lindsay Paul Chandler (Drift – Class H)

The Plant Board alleged Mr. Lindsay Paul Chandler, Commercial Applicator, made an aerial application of Glyphosate, Diablo, Rapport, and Gravity to 1,381.19 acres for burndown on March 30, 2020, for Mr. Tim Griggs. The evidence shows this application drifted off target onto Mr. Knight's alfalfa. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level II Major violation. Mr. Chandler agrees to a Civil Penalty of \$600 for settlement of the allegation.

CF20-0022 Jimmy David Moss, Jr. (Drift – Class H & Class F)

The Plant Board alleged Mr. Jimmy David Moss, Jr., Commercial Applicator, made an aerial application of Gramoxone 3.0 and Latigo to 310 acres in fields 31, 38, 39, 40, N54, S42, and 55 for burndown on April 02, 2020, for Mr. Don Smith. The evidence shows this application drifted off target onto Ms. Beatty's lawn and trees. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level II Major violation. Mr. Moss agrees to a Civil Penalty of \$600 for settlement of the allegation.

CF20-0040 Jacob Pruitt (No Custom Authorization – Class F)

The Plant Board alleged Mr. Jacob Pruitt, Commercial Applicator, made an aerial application of Roundup Powermax II, Latigo, and Valor to 931 acres for burndown on April 06, 2020, for Mr. Levi Carlton. The evidence shows this application was made without Mr. Jacob Pruitt having an Individual Commercial Applicator Pilot License with Authorization to apply Class E or F product (Latigo). The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Mr. Pruitt agrees to a Civil Penalty of \$600 for settlement of the allegation.

CF20-0045 Tracey Scott Stokes (Drift)

The Plant Board alleged Mr. Tracey Scott Stokes, Commercial Applicator, made an aerial application of Roundup Powermax II, Strikelock, and Verdict made to 500 acres in the Williford Rd. field for burndown on April 03, 2020, for Wiley Williams. The evidence shows this application drifted off target onto Mr. Dunlap's oak trees. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level II Major violation. Mr. Stokes agrees to a Civil Penalty of \$600 for settlement of the allegation.

CF20-0048 Anthony Glenn Alls (Drift)

The Plant Board alleged Mr. Anthony Glenn Alls, Commercial Applicator, made an aerial application of Gly Star K Plus to 31 acres for burndown on April 03, 2020, for L&S Wall Farm. The evidence shows this application drifted off target onto Mr. Baker's property. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level II Major violation. Mr. Alls agrees to a Civil Penalty of \$600 for settlement of the allegation.

CF20-0079 Tracey Scott Stokes (Drift – Class H)

The Plant Board alleged Mr. Tracey Scott Stokes, Commercial Applicator, made an aerial application of Roundup Powermax II, Verdict, Sterling Blue, and Strikelock made to 360 acres in the Mallory Grass field for burndown on April 06, 2020, for Two Brothers/Bert Pouncey. The evidence shows this application drifted off target onto Mallory Farms' oak trees. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level III Major violation. Mr. Stokes agrees to a Civil Penalty of \$800 for settlement of the allegation.

CF20-0099 Jason Alan Bullard (Drift – Class F)

The Plant Board alleged Mr. Jason Alan Bullard, Commercial Applicator, made an aerial application of Buccaneer Plus and 2,4-D Amine made to 121.59 acres in field 7 & 8 for burndown on April 21, 2020, for Mr. Cliff Collins. The evidence shows this application drifted off target onto Mr. Brunson's property. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level III Major violation. Mr. Bullard agrees to a Civil Penalty of \$800 for settlement of the allegation.

CF20-0111 Helena Agri-Enterprises, LLC (Marvell) (No Custom Permit – Class F)

The Plant Board alleged Mr. Joshua W. Snowden of Helena Agri-Enterprises, LLC in Marvell made a ground application of Glystar Plus, Clethodim, and Barrage HF to 50 acres in Chucks field for burndown for Turner Planting – Thomas Turner on April 03, 2020. The evidence shows that Helena Agri-Enterprises, LLC in Marvell, AR did not obtain a Firm's Custom Application Permit. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Helena Agri-Enterprises, LLC agrees to a Civil Penalty of \$600 for settlement of the allegation.

CF20-0111 Helena Agri-Enterprises, LLC (Marvell) (No Operator-in-Charge – Class F)

The Plant Board alleged Mr. Joshua W. Snowden of Helena Agri-Enterprises, LLC in Marvell made a ground application of Glystar Plus, Clethodim, and Barrage HF to 50 acres in Chucks field for burndown for Turner Planting – Thomas Turner on April 03, 2020. The evidence shows that Helena Agri-Enterprises, LLC in Marvell, AR did not name a Commercial Applicator with Custom Authorization as an Operator-in-Charge; thus, Helena Agri-Enterprises, LLC in Marvell, AR does not have an Operator-in-Charge as required. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Helena Agri-Enterprises, LLC agrees to a Civil Penalty of \$600 for settlement of the allegation.

CF20-0112 Joe Hall (No License – Class F)

The Plant Board alleged Mr. Joe Hall made a ground application of GrazonNext HL on an unknown date. The evidence shows Mr. Joe Hall was not licensed as a Private Applicator by the Arkansas Department of Agriculture at the time of application. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Mr. Hall agrees to a Civil Penalty of \$250 for settlement of the allegation.

CF20-0135 Jerrad Douglas (Human Exposure)

The Plant Board alleged Mr. Jerrad Douglas, Commercial Applicator, made a postemergence aerial application of Command, Newpath, and Sharpen to 48 acres of rice on May 20, 2020, for Mr. Brad McKnight. The evidence shows this application drifted off target onto Mr. Elmer Callahan and his property resulting in a drift with human exposure to a pesticide. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Mr. Douglas agrees to a Civil Penalty of \$400 for settlement of the allegation.

CF20-0160 Robert Stan Ferguson (Drift – Class F)

The Plant Board alleged Mr. Robert Stan Ferguson, Commercial Applicator, made a postemergence aerial application of AgriStar 2,4-D Amine 4 to 235 acres of pasture in the #5 field on May 29, 2020, for Mr. Jerry Henry. The evidence shows this application drifted off target onto Mr. Sanders' property. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level II Major violation. Mr. Ferguson agrees to a Civil Penalty of \$600 for settlement of the allegation.

CF20-0191 Shane V. Mikel (Drift)

The Plant Board alleged Mr. Shane V. Mikel, Private Applicator, made a ground application of Roundup PowerMax II to 100 acres in Jones Dark Slough field for burndown on May 25, 2020. The evidence shows this application drifted off target onto Mr. Schug's rice fields #2 and #3. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level II Major violation. Mr. Mikel agrees to a Civil Penalty of \$600 for settlement of the allegation.

CF20-0303 Mike McMahan (Use During the Prohibited Period – Class H)

The Plant Board alleged Mr. Mike McMahan, Private Applicator, made a postemergence ground application of Xtendimax, On-Target, and Interlock to 125 acres of cotton in the Rohwer (Gin field) on June 29, 2020. The evidence shows the application was made during the prohibited period of May 26th through October 31st. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Egregious Eligible violation. Mr. McMahan agrees to a Civil Penalty of \$3,125 for settlement of the allegation.

CF20-0358 Mark Edward Singleton (Use During the Prohibited Period – Class H)

The Plant Board alleged Mr. Mark Edward Singleton, Private Applicator, made a postemergence ground application of Xtendimax to 68 acres of soybeans in the 31 field on July 13, 2020. The evidence shows the application was made during the prohibited period of May 26th through October 31st. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Egregious Eligible violation. Mr. Singleton agrees to a Civil Penalty of \$3,125 for settlement of the allegation.

CF20-0501 Charles Steven Bright (Drift)

The Plant Board alleged Mr. Charles Steven Bright, Commercial Applicator, made a postemergence aerial application of Gramoxone and Gravity to 486.34 acres of soybeans for defoliation in the Station 25 Rector field on September 17, 2020, for Mr. Brad Rose. The evidence shows this application drifted off target onto Mr. Knight's property. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level IV Major violation. Mr. Bright agrees to a Civil Penalty of \$900 for settlement of the allegation.

CF21-0002 Aaron Aukes (Human Exposure)

The Plant Board alleged Mr. Aaron Aukes, Commercial Applicator, made an aerial application of Cornerstone 5 Plus to 134 acres in the 30 field for burndown on March 04, 2021, for Mr. Neil Bennett. The evidence shows this application drifted off target onto Mr. Johnny Reed and his property resulting in a human exposure to a pesticide. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Mr. Aukes agrees to a Civil Penalty of \$400 for settlement of the allegation.

CF21-0011 Rodney Shelley (Human Exposure)

The Plant Board alleged Mr. Rodney Shelley of Whirlwind Aviation, Inc. made an aerial application of Roundup PowerMax 3 to 206 acres in the Brushy 3 field on March 29, 2021, for Lea Beal Farms. The evidence shows this application drifted off target onto Ms. Wendy Kemp's property resulting in a human exposure to a pesticide. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Mr. Shelley agrees to a Civil Penalty of \$400 for settlement of the allegation.

CF21-0031 Christopher J. Parker (Drift)

The Plant Board alleged Mr. Christopher J. Parker, Private Applicator, made a ground application of Command, MSO, and Sharpen to 55 acres of rice in the Homeplace SE field on April 06, 2021. The evidence shows these applications drifted off target onto Ms. Hudson's property. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level II Major violation. Mr. Parker agrees to a Civil Penalty of \$600 for settlement of the allegation.

CF21-0031 Christopher J. Parker (Drift)

The Plant Board alleged Mr. Christopher J. Parker, Private Applicator, made a ground application of Command, MSO, and Sharpen to 35 acres of rice in Ma's East field on April 18, 2021. The evidence shows these applications drifted off target onto Ms. Hudson's property. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level III Major violation. Mr. Parker agrees to a Civil Penalty of \$800 for settlement of the allegation.

CF21-0033 Anthony Glenn Alls (Drift)

The Plant Board alleged Mr. Anthony Glenn Alls, Commercial Applicator, made a pre-emergence aerial application of Roundup PowerMAX 3, Sharpen, and Prowl H20 to 80 acres of rice in the “10-0” field on April 19, 2021, for Mr. Charles Smith. The evidence shows this application drifted off target onto Ms. McGonigal’s property. The Arkansas State Plant Board’s Pesticide Enforcement Response Regulation’s Penalty Matrix defines this violation as a Level III Major violation. Mr. Alls agrees to a Civil Penalty of \$800 for settlement of the allegation.

CF21-0033 Anthony Glenn Alls (Buffer Zone)

The Plant Board alleged Mr. Anthony Glenn Alls, Commercial Applicator, made a pre-emergence aerial application of Roundup PowerMAX 3, Sharpen, and Prowl H20 to 80 acres of rice in the “10-0” field on April 19, 2021, for Mr. Charles Smith. The evidence shows the application was made within the 100 foot buffer zone requirement for Roundup PowerMAX 3; thus, this is considered a buffer zone violation. The Arkansas State Plant Board’s Pesticide Enforcement Response Regulation’s Penalty Matrix defines this violation as a Level II Major violation. Mr. Alls agrees to a Civil Penalty of \$600 for settlement of the allegation.

CONSENT AGREEMENTS

Delivery Receipt or Sent Certified & Regular Mail - No Response After 30 Days:

CF17-0107 Chris Propst (Off Label Tank Mix – Class H)

The Plant Board alleged Mr. Chris Propst, Commercial Applicator, made an aerial application of Buccaneer Plus, Engenia, and Firstshot to 335 acres on March 28, 2017. The evidence shows Firstshot is not specified on the Engenia Tank Mix Website as an approved tank mix product; thus, the Buccaneer Plus, Engenia, and Firstshot tank mix is an off label use (tank mix). The Arkansas State Plant Board’s Pesticide Enforcement Response Regulation’s Penalty Matrix defines this violation as a Level I Major violation. Mr. Propst was offered a Consent Agreement in the amount of \$400 and did not respond to this allegation.

CF17-0915 Byron Edwin Orewiler (Off Label Rate – Class H)

The Plant Board alleged Mr. Byron Edwin Orewiler, Private Applicator, made a ground application of Warrant (2 pints/acre), Makaze (11 ounces/acre), and Engenia (2 pints/acre) to 102 acres of soybeans on July 08, 2017. The evidence shows the application rate of Engenia to be 2 pints/acre (32 ounces/acre) which is above the labeled rate of 12.8 ounces/acre for Engenia; thus the 2 pints/acre is an off label rate violation. The Arkansas State Plant Board’s Pesticide Enforcement Response Regulation’s Penalty Matrix defines this violation as a Level II Major violation. Mr. Orewiler was offered a Consent Agreement in the amount of \$600 and did not respond to this allegation.

CF19-0433 Ledwin Perez (No License)

The Plant Board alleged Mr. Ledwin Perez made a ground application of Roundup Pro Concentrate, Milestone, Escort XP, and Arsenal spot sprayed to a right of way on July 17, 2019. The evidence shows Mr. Perez was not duly licensed as a commercial applicator or commercial applicator technician at the time of the July 17, 2019, application. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Mr. Perez was offered a Consent Agreement in the amount of \$600 and did not respond to this allegation.

CF20-0004 Jay H. Harmon (Drift – Class H)

The Plant Board alleged Mr. Jay H. Harmon, Commercial Applicator, made an aerial application of Roundup Powermax II and Veritas LV to 155 acres for burndown on March 03, 202 for Mr. Greg Womack. The evidence shows this application drifted off target onto the Bay High School property. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level IV Major violation. Mr. Harmon was offered a Consent Agreement in the amount of \$900 and did not respond to this allegation.

CF20-0019 David Melvin Hill (Drift – Class H & F)

The Plant Board alleged Mr. David Melvin Hill, Commercial Applicator, made an aerial application of Roundup, 2,4-D LV6, Diablo, and to 37.14 acres for burndown on March 27, 2020, for Brown Brothers Farms. The evidence shows this application drifted off target onto Ms. Stokes' lawn and ornamentals. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level II Major violation. Mr. Hill was offered a Consent Agreement in the amount of \$600 and did not respond to this allegation.

CF20-0350 Marcus K. Felker (Use During the Prohibited Period – Class H)

The Plant Board alleged Mr. Marcus K. Felker, Private Applicator, made a postemergence ground application of Engenia and Clasp to 68 acres of soybeans on June 30, 2020, in the Sumpters field. The evidence shows the application was made during the prohibited period of May 26th through October 31st. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Egregious Eligible violation. Mr. Felker was offered a Consent Agreement in the amount of \$1562.50 and did not respond to this allegation.

CF20-0350 Marcus K. Felker (Use During the Prohibited Period – Class H)

The Plant Board alleged Mr. Marcus K. Felker, Private Applicator, made a postemergence ground application of Engenia and Clasp to 100 acres of soybeans on July 05, 2020, in the Betty field. The evidence shows the application was made during the prohibited period of May 26th through October 31st. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level II Egregious Eligible violation. Mr. Felker was offered a Consent Agreement in the amount of \$1562.50 and did not respond to this allegation.

CF21-0019 Hog Air Aviation - Garland City (No License)

The Plant Board alleged Mr. Ronny Rogers, Commercial Applicator with Hog Air Aviation in Garland City, made an aerial application of Roundup PowerMax II, 2,4-D LV4, and Volunteer to 35 acres in the Richwood 4 field for burndown on March 20, 2021, for Mr. Ted Huneycutt. The evidence shows Hog Air Aviation in Garland City, AR was not duly licensed as a Commercial Firm at the time of the March 20, 2021, application. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Hog Air Aviation was offered a Consent Agreement in the amount of \$600 and did not respond to this allegation.

CF21-0019 Hog Air Aviation - Garland City (No Custom Permit – Class F)

The Plant Board alleged Mr. Ronny Rogers, Commercial Applicator with Hog Air Aviation in Garland City, made an aerial application of Roundup PowerMax II, 2,4-D LV4, and Volunteer to 35 acres in the Richwood 4 field for burndown on March 20, 2021, for Mr. Ted Huneycutt. The evidence shows that Hog Air Aviation in Garland City, AR did not obtain a Firm's Custom Application Permit. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Hog Air Aviation was offered a Consent Agreement in the amount of \$600 and did not respond to this allegation.

CF21-0021 Jason White (Human Exposure)

The Plant Board alleged Mr. Jason White, Commercial Applicator, made an aerial application of Sharpen to 132 acres of rice in the D Hall field on April 13, 2021, for Mr. Tyrone Nash. The evidence shows this application drifted off target onto Rice Ag Service's property and employee Jose Luis Perezsoto resulting in a human exposure to a pesticide. The Arkansas State Plant Board's Pesticide Enforcement Response Regulation's Penalty Matrix defines this violation as a Level I Major violation. Mr. White was offered a Consent Agreement in the amount of \$400 and did not respond to this allegation.

Comments

Mr. Douglas Hartz
Hartz Farm Management, Inc.
To
Arkansas State Plant Board
Pesticide Committee
January 26, 2022

Regarding CF 19-0060, etal

Chairman Scott, and other members of the pesticide committee, my name is Doug Hartz and I am the owner of Hartz Farm Management, Inc. located in Stuttgart. I have been in the farm management business for 40 years, am a Certified Crop Advisor, currently hold a Consultants License with the Arkansas State Plant Board and hold an Accredited Farm Manager designation with the American Society of Farm Managers and Rural Appraisers. Thank you for the opportunity to come before you today regarding the drift case which is on your agenda involving Mr. Michael Wayne Persons and Farmers Flying Service of Coy, Arkansas while on a job for Zero Grade Farms (owned by Isbell Family of Humnoke) that involved significant drift of Glyphosate, Clomazone and an additive on May 7th of 2019. This application drifted over several square miles of farm land, some of which negatively affected rice and other non-transgenic crops such as com. One of our client's properties, of which I am part owner, and our tenant Mr. C. J. Parker, were

negatively impacted by this occurrence as well as other properties farmed by Mr. Parker, all of which is documented in the case file. Several other farming operations, both tenants and landlords were negatively impacted as well. However, I can only speak for our client and Mr. Parker. Based on the information regarding the case that we've received from the Arkansas State Plant Board, Mr. Persons and Farmers Flying Service have been found at fault through a very thorough Plant Board investigation. They were subsequently issued a warning letter as the penalty, which Mr. Persons and Farmers Flying have elected not to formally contest. We appreciate the hard work done by the Plant Board Inspectors and staff involving this case. However, it is our opinion that an action that involves a drift incident of the magnitude such as this deserves consideration of a stiffer penalty than a warning letter. Mr. Parker and I refer to this as a slap on the hand. As an example, had this been an incident which involved drift simply onto an adjacent field only and the case followed the same process and procedures through the Plant Board, the resulting penalty would have likely been the same. The obvious negligence on the part of the applicator and what I expect to be a lack of concern on the part of the farmer who whose fields were being sprayed, created a drift incident that many experts consider to be one of the worst they have ever seen. These experts are well known in this industry and some have previously done work with your agency. Our landowner client, and Mr. Parker our tenant suffered yield

losses on both rice and non-transgenic corn that in the end contributed to tens of thousands dollars of lost revenue and additional expenses relating to this incident. Again, other farmers and landowners have suffered this same fate, but I can only speak to how it has affected our family farm and our operator. Therefore we respectfully request that the Pesticide Committee recommend the maximum penalty allowed in this case, which we understand is \$1,000. Perhaps a penalty such as this would cause Mr. Persons, his employer, their farmer customer and other applicators both commercial and private to think twice before making an application in conditions that result in hundreds of thousands of dollars in damage. Again I want to thank you for this opportunity to come before you to voice our concerns and trust that you will give every consideration possible in your deliberations regarding this case.

ARKANSAS RULES ON PESTICIDE CLASSIFICATION

As adopted under Acts 389 and 410 of 1975



Pesticides perform a valuable role in protecting man and the environment including agricultural production from insects, rodents, weeds, and other forms of life which may be pests; but it is essential to the public health and welfare that they be used properly to prevent unreasonable adverse effects on man and the environment.

Sec 20-20-202 (b) of Act 389

ARKANSAS STATE PLANT BOARD

(Rev. 06/03/2021)

ARKANSAS RULES ON PESTICIDE USE

SECTION I. Title

The following rules of the Arkansas State Plant Board, written pursuant to the Arkansas Pesticide Use and Application Act, Act 389 of 1975, as amended, and the Arkansas Pesticide Control Act, Act 410 of 1975, as amended, shall be known as “The Arkansas Rules On Pesticide Use”. Promulgation of these rules repeals all provisions of the Plant Board’s current rules entitled “Arkansas Rules On 2,4-D, 2,4-DB, MCPA, And Other State Restricted Use Herbicides” effective December 31, 2002.

SECTION II. Purpose

Pesticides are valuable to the State’s agricultural production and to the protection of man and the environment from insects, rodents, weeds and other forms of life which may be pests; but it is essential to the public health and welfare that they be regulated to prevent adverse effects on human life and the environment. However, at times certain pesticides present problems that were unanticipated by the manufacturer, the grower or the applicator. The purpose of these rules is to provide additional mechanisms, other than denying registration of a product in Arkansas, to minimize the adverse effects of certain pesticides to:

1. Plants, including forage plants, or adjacent or nearby lands;
2. Wildlife in the adjoining or nearby areas;
3. Fish and other aquatic life in waters in reasonable proximity to the area to be treated; and
4. Humans, animals, or beneficial insects

SECTION III. Definitions

- A. “Buffer Zone” means the distance an applicator must maintain between the field or area of application and a protected subject inside of which the subject pesticide may not be applied.
- B. “Desirable Vegetation” means any type of vegetation the pesticide label specifically identifies for protection, vegetation for which the product is not labeled, or vegetation for which the owner/manager desires protection from the deposition of pesticides.
- C. “Drift” means off target movement of a pesticide onto desirable vegetation, waterways, or where human health or the environment may be adversely impacted that occurs as a result of pesticide application.
- D. “Custom Applicator” means a commercial applicator that applies pesticides assigned the Class E or F designation.

SECTION IV. General

The effective date of these rules shall be January 1, 2003 and shall apply to all products registered for 2003. From that time forward, all pesticides registered for sale in the state of Arkansas shall be classified as Class A, B, C, D, E, F, G, H, or I. Such designation shall remain the same unless changed by the Arkansas State Plant Board by promulgation of a regulation so changing the designation. Whatever designation is assigned to a product by the Board, product dealers, users and applicators must comply with the restrictions for the assigned class. Such restrictions will apply to product uses allowed as a result of Section (18) or Section 24(c) actions under FIFRA except where the requirements on the label are clearly more restrictive than the Plant Board's requirements, in which case the more restrictive requirement must be followed.

The following designations apply to all pesticide products registered in the State of Arkansas. The use-restrictions itemized below are intended to be in addition to the product label. However, where the label is more restrictive than the applicable restrictions listed below, then the label shall be followed. Each successive Class designation below includes the restrictions defined in the designations that precede it.

SECTION V. PRODUCT CLASSIFICATION

The following represents the product classifications assigned to pesticides currently registered under Arkansas law.

Class A All registered pesticides not otherwise assigned below

Class B

Class C

Class D

Class E

Class F All 2,4-D and 2,4-D containing pesticides, MCPA

Class G Glyphosate containing products packaged in containers one (1) gallon or larger, labeled for agricultural use, and used in row crop and rice production and commercial right-of-way treatment.

Class H All pesticides containing dicamba

Class I Quinclorac: See Attachment 1

SECTION VI. Class A

All pesticides when registered in the state of Arkansas shall be classified as Class A unless research or experience has shown that certain potential problems may be inherent with the use of the product. Such knowledge may be as a result of but not limited to research findings, findings of

other state and federal agencies or experience of the Arkansas State Plant Board. In such cases the Plant Board may, by regulation, place the product in another Class.

Products with this classification must be used in accordance with the label restrictions and other restrictions, if any, imposed by Plant Board rules other than this document. Documentation of equipment set-up must be maintained by the commercial applicator on forms provided by the Plant Board and made available to the ASPB upon request. Insecticides that are intended to be applied in low volume, LV or Ultra Low Volume, ULV, and product label guidelines require droplet sizes designated as “fine” or smaller in accordance with the August 1999 issue of the ASAE S572 report entitled Spray Nozzle Classification by Droplet Spectra, shall not be required to comply with the Plant Board’s rules regarding spray droplet size. Said products must comply with the product label.

SECTION VII. Class B

Products with this designation shall be used in accordance with all other applicable federal or state laws and the rules written pursuant thereto, the label registered with the State of Arkansas, rules promulgated by the Board, the applicable restrictions identified for Class A and the following additional restrictions.

- A. If enforcement action is taken against a Commercial, Non-Commercial or Private Applicator regarding drift of a product with this designation or a buffer zone violation, a part of the enforcement action will require the applicator to attend a drift control training class administered by the Plant Board or other training that is acceptable to the Plant Board.

SECTION VIII. Class C

Products with this designation shall be used in accordance with all other applicable federal or state laws and the rules written pursuant thereto, the label registered with the State of Arkansas, the applicable restrictions identified for Class A and B above and the following additional restrictions.

- A. All commercial equipment used to apply pesticides with this designation must be in compliance with the application equipment set up requirements specified for herbicide applications contained in the rules written pursuant to the Pesticide Use and Application Act of 1975, as amended, (PUAA) prior to the initial application. Board to verify compliance with the set up that was originally authorized. If the application equipment is modified it must again be authorized to be in compliance with the requirements for herbicide application contained in the before referenced rules. The Plant Board will inspect all application equipment each year that is used to apply products with the Class C designation. A fee of \$25 shall be charged for each Plant Board inspection.

Applications of products with this designation with equipment that is not acceptable to or has not been inspected by the Plant Board will be a violation of these rules.

SECTION IX. Class D

Products with this designation shall be used in accordance with all other applicable federal or state laws and the rules written pursuant thereto, the label registered with the State of Arkansas, the applicable restrictions identified for Class A, B, and C above and the following additional restrictions.

- A. Applications may be made only when the wind is not blowing in the direction of desirable vegetation, waterways, or where human health or the environment may be adversely impacted. Where desirable vegetation, waterways, or human health and the environment cannot be protected by ensuring they are not downwind from the application site then, unless a greater distance is required by the label or other applicable State or Federal rules, a 300 foot minimum buffer zone must be maintained between the protected entity (desirable vegetation, waterway, etc.) and the sprayed area.

SECTION X. Class E

Products with this designation shall be used in accordance with all other applicable federal or state laws and the rules written pursuant thereto, the label registered with the State of Arkansas, the applicable restrictions identified for Class A, B, C, and D above and the following additional restrictions.

A. Dealers Requirements

1. Before selling, offering for sale, or distributing pesticides with this designation in packages of more than one quart, a dealer must be a licensed Restricted Use Pesticides dealer. A dealer may sell, offer for sale, or distribute only those pesticides that are registered in the State.
2. Each branch of a license holding dealer which also sells or distributes these products must have a dealer's license. Firms or distributors who take orders for these products must secure a dealer's license, even though the order is placed with a dealer or manufacturer who holds a license, and even though no profit is made.
3. Dealers must keep a record of each sale or distribution of products with this designation to custom or private applicators or dealers in containers of more than one (1) quart on forms available from or approved by the Plant Board. Entries in the record shall be made at the time of sale or distribution and shall include the date of the purchase, the name, address and license or permit number of the purchaser and the name and address of the delivery location. The complete brand name and quantity of the product shall also be recorded. These records shall be kept by the dealer for two years from the date of sale and be made available for inspection by the Plant Board or its representative upon request.
4. The sale or distribution of products with this classification in containers of more than one (1) quart to any firm or person other than a dealer, custom or private applicator holding a current and valid license or permit is prohibited. Dealer must have a copy of the custom applicator's license on file.

5. Non-residents of Arkansas shall designate and maintain a resident agent in this state for service of process.

B. Requirements For Custom Application

The application of products with the Class E or F designation shall be known as Custom Application. To be eligible to apply products with the Class E or Class F designation, a Commercial Application Firm must obtain a Firm's Custom Applicator Permit from the Plant Board prior to making any applications. Said permit must designate an Operator-in-Charge whose responsibility is to supervise all custom applications made by the firm. Issuance of the permit shall be conditioned on the following:

1. Commercial Aerial Application Firms must have a Firm's Commercial Applicator License issued by the Plant Board to apply pesticides in Arkansas.
 - a. All pilots that apply pesticides for the Firm must have an Individual Commercial Applicator Pilot License (w/category) issued by the Plant Board.
 - i. The Firm must have a copy of all Individual Commercial Applicator Pilot Licenses held by pilots employed by the Firm.
 - b. Commercial Aerial Application Firms that wish to apply products with the Class E or F designation must obtain a Firm's Custom Applicator Permit from the Plant Board.
 - i. The Firm's Permit must designate at least one of its Licensed Individual Commercial Applicators that has passed the Custom Applicator test as an Operator-in-Charge.
 - ii. All Pilots making Custom Applications must have an Individual Commercial Applicator Pilot License with Authorization to apply Class E or F products. Said Authorization is obtained by passing a Custom Applicator written test administered by the Plant Board.
2. Commercial Ground Application Firms must have a Firm's Commercial Applicator License issued by the Plant Board.
 - a. At least one person working for the Firm must have an Individual Commercial Applicator License (w/category) issued by the Plant Board.
 - b. Commercial Ground Application Firms that wish to apply products with the Class E or F designation must obtain a Firm's Custom Application Permit.
 - i. The Firm's Permit must designate at least one of its Licensed Individual Commercial Applicators that has passed the Custom

Applicator test as an Operator-in-Charge.

3. The application vehicle must be covered by a current certificate of inspection as required in Section VIII of these rules.
4. Licensed Commercial Application Firms that do tree injection work only, do not need a Firm's Custom Applicator Permit to apply products with the Class E or F designation. For such firms, a Tree Injector's Permit is required. However, the Firm's Tree Injector Permit must designate at least one of the Firm's Licensed Individual Commercial Applicators that has passed the Tree Injector test administered by the Plant Board as an Operator-in-Charge.
5. A deposit of \$250.00 shall be made with the Plant Board by the Custom Application Firm, except that those persons doing tree injector work exclusively will deposit \$10.00 per tree injector, up to a maximum of \$250.00. Said deposit shall be returned at the expiration of the permit upon request unless the Custom Applicator is found in violation of the Plant Board's rules or suffers cancellation of his/her Custom Applicator's permit. In which case the deposit will be retained by the Plant Board to supplement cost recovery of inspection and administration incidental to such finding.
6. A deposit of funds as described in Section (X)(B)(5) and proof of financial responsibility, as described below is required. Non-residents of Arkansas shall designate and maintain a resident agent in this state for service of process. Custom Application Permits, Custom Application Authorizations, and Tree Injector Permits shall expire December 31st of each year.

Financial responsibility in the minimum of \$100,000 shall be maintained by the Custom Application Firm or Tree Injection Firm during the term of his/her permit, with proof of such financial responsibility submitted to the Plant Board.

Proof of financial responsibility shall consist of one of the following:

- a. The deposit of a certificate of insurance or insurance policy not to exceed \$5,000 deductible from an insurer or surplus line broker authorized to do business in Arkansas insuring the Custom Application Firm and any of its agents against liability for injury resulting from the application of products with this designation.

If a claim is made on this type of policy, then the policy must not expire for at least six (6) months after the expiration of the permit;

- b. A letter of credit from a bank located in Arkansas guaranteeing financial responsibility;
- c. A surety bond; or

- d. An escrow account with a bank located in Arkansas.
7. Application for a permit must be made on forms furnished by the Plant Board accompanied by the following fees:
- a. Aerial Custom Application Firms must pay an annual application processing fee of \$150.00 plus \$50.00 for each Operator-in-Charge. Pilots making Custom Applications must pay an annual application processing fee of \$35.00 for Authorization to apply products in Classes E and F.
 - b. Ground Custom Application Firms must pay an annual application processing fee of \$150.00 plus \$50.00 for each Operator-in-Charge.
 - c. Applicants for a Tree Injector's Permit must pay an annual application processing fee of \$50.00 plus \$50.00 for each Operator-in-Charge.

Should, at any time, a Custom Application Firm be left without an Operator-in-Charge or a pilot with an Individual Commercial Applicator Pilot License with Authorization to apply products with the Class E or F designation, either because of invalidation of the permit or for any other reason, such shall automatically invalidate the custom applicator's firm permit. It shall be a violation of these rules for an individual or firm to act as a Custom Applicator that is not licensed to do so by the Plant Board.

8. The Plant Board or its authorized representative(s) may refuse issuance, after a hearing, of a custom applicator's permit to any applicant when such applicant has been found in violation of these rules four times in a three year period. Such applicant may appeal to the Board. All requests for an appeal must be made in accordance with the Plant Board's policy on appealing a decision.
9. All equipment used for custom application of the products with this designation must have a decal provided by the Plant Board affixed to the device in a location where it can be easily seen by a Plant Board representative and protected from removal or disfigurement by work activity. This decal may only be affixed to equipment that meets the requirements set out in these rules and other applicable rules promulgated by the Plant Board. Use of equipment for custom application that does not have a current decal will be a violation of these rules. Decals are not transferable between equipment. Each decal shall be issued at a cost of \$50.00 each. Subsequent to issuance of a decal, the equipment on which the decal is to be attached will be subject to inspection by the Plant Board. Equipment found not meeting the requirements set out by these rules or other applicable rules promulgated by the Plant Board will be issued a Stop Use Order that will be released by the Plant Board once the Plant Board is satisfied that the equipment meets the set up requirements of the applicable rules. The applicator will also be considered in violation of the Plant Board's rules on pesticide application and be subject to the required enforcement action. All decals and permits expire on December 31st of each year.

Equipment used to apply pesticides with this designation shall not be used for the application of other pesticides that do not carry this designation or the Class F designation unless the following has been done:

- a. The vehicle must be thoroughly decontaminated;
 - b. The tank must be thoroughly rinsed and the rinsate disposed of in accordance with the label. If the label does not address rinsate disposal, the rinsate should be collected and disposed of in accordance with applicable state and federal disposal laws; and
 - c. The entire spray or application system must be replaced or decontaminated using the best available technology such that a sample taken from the successive pesticide tank load would contain no detectable concentration of the previous product. Where research has established a concentration below which no adverse effects occur and that concentration level is not a violation of state or federal law or rules written pursuant to such laws, then that established concentration will be acceptable. Compliance with this provision in no way exempts the product user from compliance with any other responsibility imposed by state or federal law or regulation written pursuant thereto. Pesticide application equipment must have a leak free valve that is painted hunter orange from which a sample can be taken. Aircraft must have a sample valve located at the low point in the spray system. Ground application equipment must have a sample valve located in the pressure by-pass line.
10. All firms desiring to do custom application work must have a Custom Application Permit to do so. Said permit must designate an Operator-In-Charge. Eligibility as Operator-in-Charge will be conditioned on the following:
- a. Achieving a score of 70% or better on an examination administered by the Plant Board;
 - b. Pilots must hold a valid FAA pilot's Commercial Certificate;
 - c. Applicant may not have more than four (4) enforcement actions indicated on the Plant Board's records in the three years prior to the date of testing; and
 - d. The fee for each test shall be \$35.
- Pilots and Operator's-In-Charge shall be responsible for notifying the Plant Board of the name and location of employment prior to starting work.
11. The Custom Application Firm must maintain records of each application of products with this and the Class F designation. Said records must be retained at

the principal Arkansas office of the Custom Application Firm as indicated on the Firm license for a period of three (3) years and be available for inspection by a Plant Board representative. The records shall include at a minimum the following information:

- a. Name and address of the person(s) in control of the crops, plant, etc;
- b. Location of the crop, plants, etc. treated. Location description must include county, nearest town, physical address if available, and GPS or map coordinates of the primary entrance to the field;
- c. Date, start and ending time of the application;
- d. Wind speed and direction at the start and ending time of the application and the type of instrument used to measure wind speed and direction. The location of instrument at time of reading (preferably “field of application”) must also be recorded;
- e. Complete brand name and EPA registration number of the material used;
- f. Number of acres and type of crop to which the material was applied;
- g. Type of equipment used and the Firm’s Custom Application Equipment number assigned to it by the Plant Board;
- h. Distance from and direction to any susceptible crops within a one mile radius of the treated crop; and
- i. Name of the application vehicle operator.

C. Requirements For Non-Custom Application Of Products In This Class

1. Whether designated as “Restricted” by the EPA or not, products in containers of more than one (1) quart with this class designation and the Class F designation may not be purchased by or sold to persons who do not have a current Commercial, Non-Commercial, or Private Applicator’s license.
2. All applications of products with this designation by Private Applicators must be in accordance with the applicable application conditions required of the custom applicator.
3. The Private Applicator must maintain records of each application of products with this and the Class F designation. Said records must be retained for a period of three (3) years and be available for inspection by a Plant Board representative. The records shall include at a minimum the following information:
 - a. Name and address of the person(s) in control of the crops, plant, etc;

- b. Location of the crop, plants, etc. treated. Location description must include county, nearest town, physical address if available, and GPS reading or map coordinates of the primary entrance to the field;
- c. Date, start and ending time of the application;
- d. Wind speed and direction at the start and ending time of the application and type of instrument used to measure wind speed and direction. The location of instrument at time of reading (preferably “field of application”) must also be recorded;
- e. Complete brand name and EPA registration number of the material used;
- f. Number of acres and type of crop to which the material was applied;
- g. Type of equipment used. If the product was applied by a custom applicator, record the Firm’s Custom Application Equipment number assigned to the equipment used by the Plant Board;
- h. Distance from and direction to any susceptible crops within a one mile radius of the treated crop; and
- i. Name of the application vehicle operator.

D. Exemptions

1. The licensing requirements of these rules do not apply to the U. S. Department of Agriculture, the Arkansas Experiment Stations and other State or Federal Agencies, to ornamental and turf weed control, or to company demonstrations with ground equipment, or to sales of fertilizer, soil conditioners or similar products containing registered products with this designation and packaged for home use. Provided that nothing in this section shall be construed as exempting custom applicators from the provisions of these rules when making applications for the agencies listed herein, or exempting any such agency acting as a dealer from the dealer requirements.
2. Products with the Class E or F designation that are not designated as restricted use products by the Environmental Protection Agency may be purchased from an Arkansas pesticide dealer for use outside the state of Arkansas without the dealer having to have a dealer’s license or the purchaser having an applicator’s license.
3. Commercial Applicators and Private Applicators that can provide proof of current certification and licensing from another State may purchase restricted use pesticides from a restricted use pesticide dealer licensed in Arkansas if the product is to be used outside of Arkansas.

Section XI. Class F

Products with this designation shall be used in accordance with all other applicable federal or state laws and the rules written pursuant thereto, the label registered with the State of Arkansas, the applicable requirements identified for Class A, B, C, D, and E above, and the following additional restrictions.

- A. Dealers may not store or transport products with this designation in the same room or vehicle with seeds, other pesticides that do not have this designation, or fertilizers except in leak-proof containers not to be opened while in storage and must observe all other precautions necessary to prevent contamination of these products.
- B. The use of esters of the products with this designation, except low-volatile esters, is prohibited.
- C. No product with this designation may be applied within the 1/4 mile of susceptible crops at any time except as otherwise indicated by this regulation.
- D. From April 16th through September 15th of each year, the following conditions shall apply:
 - 1. Pesticides labeled for agricultural use that contain the active ingredient(s) assigned to this Class, may not be applied by ground or air in Clay, Greene, Craighead, Poinsett, Cross, Crittenden, St. Francis, Lee, Phillips, and Mississippi Counties.
 - 2. Where no viable alternative is believed to exist, an annual permit may be obtained from the Plant Board to allow an exemption to these restrictions. Said permit must be obtained prior to application and will require a permit application fee in the amount of \$100. The application for the permit must be on forms authorized by the Plant Board. This exemption is conditioned on the producer complying with the following requirements:
 - a. The permittee must have the permit in his/her possession prior to making the application and it must be made available to the Plant Board or its designee upon request.
 - b. For each application the following information must be recorded:
 - i. A physical description of the location of the field;
 - ii. Date of the application;
 - iii. Start and stop time for each load applied to the field;
 - iv. Wind speed (may not be less than 2 mph), wind direction, ambient temperature, and precipitation condition at ten minute intervals during the application of each load. Said measurements must be made at the field of application; and

- v. The producer must be present during the application and sign the document containing the information.
 - c. The above information must be filed with the Plant Board's Pesticide Division along with a GPS map of the application to the field within 10 days of the date of application.
 - d. Applications made within four (4) miles of susceptible crops (defined as cotton when applying 2,4-D) must be done when the wind is blowing at least two (2) mph away from the susceptible crop.
 - e. Rice levee spraying shall not require a permit in Cross, Poinsett, Clay, Greene, Craighead, Crittenden, St. Francis, Lee, Phillips, and Mississippi counties west of the approximate north-south center line of Crowley's Ridge. However, paragraphs b(i) through b(v) and paragraph d above must be complied with. The records for each application must be maintained by the producer for a period of three years and be made available to the Plant Board upon request by a Plant Board representative. The application device must 1) generate a spray with a droplet spectrum such that no more than 10 % of the spray droplets are smaller than 300 microns, 2) the boom width may not exceed 10 feet, 3) during application the spray nozzle height may not exceed 30 inches above the top of the levee, and 4) the spray vehicle may not exceed 8 miles per hour. No 2,4-D Esters may be used.
3. In the remainder of the State the following conditions shall apply:
- a. A buffer zone between the field to be treated and susceptible crops (susceptible crops is cotton when applying 2,4-D containing products) of four (4) miles for aerial application and one (1) mile for ground application shall be maintained.
 - b. Applications made within four (4) miles of susceptible crops must be done when the wind is blowing at least two (2) miles per hour away from the susceptible crop.
 - c. Applications may be made within the applicable buffer zones if the owner or supervisor of the sprayed or treated field has obtained a waiver from the producers of all susceptible crops within the buffer zone. The waiver shall be developed by the Plant Board and provided to said producers by the owner or supervisor of the sprayed or treated field. A copy of the waiver must be provided to the applicator who sprays or treats the field. The applicator shall retain the record for a period of three (3) years. When making an application within the applicable buffer zone, at the time of application, the wind must be blowing away from susceptible crops.
4. Failure to comply with the requirements for a Class F product when using a Class

F product will result in enforcement action being taken against the producer and the applicator in accordance with the Plant Board's Penalty Matrix. Any penalty mandated by the Penalty Matrix may have additional civil penalty added to it to bring the amount of the assessment up to the maximum amount allowed by law.

- E. Any custom applicator who violates the buffer zones defined in Section (XI)(D) shall be subject to a civil penalty as prescribed by the penalty matrix for the violation plus \$1000. However, the total civil penalty for one violation may not exceed \$2000. Failure to comply with the decontamination requirements of Section (X)(B)(9) of these rules before making an application of a product with a Class A, B, C or D designation inside a designated buffer zone for Class E and F products will be considered a buffer zone violation.
- F. Products with this designation shall be applied in accordance with the application equipment set up required for herbicide applications to field crops itemized in the rules written pursuant the Pesticide Use and Application Act of 1975, as amended. Except that these conditions will apply, in addition to field crops, to pastures, rights-of-way, drainage ditches, brush and forest land.
- G. The wind velocity during the application shall not exceed eight (8) mph and the temperature may not exceed 90 degrees F.
- H. Applications of products with this classification shall not be made unless the following condition exists:
 - 1. For applications made before noon, the air temperature at the field of application at the beginning of the application must be a minimum of three (3) degrees Fahrenheit above the morning low measured at the applicator's air strip or mixing/loading facility. If the applicator has knowledge that the temperature measurement at his/her air strip or mixing/loading facility would not be the same as a reading taken at the same time at the field of application, then all temperature readings must be taken at the field of application.
 - 2. For applications made after noon, the temperature at the field of application must not have decreased more than five (5) degrees Fahrenheit from the afternoon high measured at the applicator's air strip or mixing/loading facility. If the applicator has knowledge that the temperature measurement at his/her air strip or mixing/loading facility would not be the same as a reading taken at the same time at the field of application, then all temperature readings must be taken at the field of application.

All temperature measurements referenced above must be maintained by the grower as well as the applicator and be made available to the Plant Board upon request.

- I. Enlist Exemption

- a. Dow Agro-Sciences' products identified as Enlist One and Enlist Duo - premix of glyphosate and 2,4-D Choline may be used on Enlist Weed Control System soybeans, cotton, and corn. All Plant Board restrictions on 2,4-D containing products will apply except the following:

Section XI(C), and

Section XI(D)(1), and

Section XI(D)(2), and

Section XI(D)(3), and

Section XI(G), and

The application window in Section XI(D) shall not apply.

- b. In addition to all product label requirements, the following conditions apply:
- i. At the time of application, the wind must be blowing away from adjacent sensitive areas and non-target susceptible crops as identified by the product label.
 - ii. The wind speed during the application may not exceed 10 mph.
 - iii. The volume median diameter (VMD) of the spray droplets must be greater than 300 microns.
 - iv. Tank mixes will not be permitted unless research data, from a source acceptable to the Plant Board, is provided. This data must prove that the mix, when applied according to the product label and state restrictions, does not increase the driftable fines (those less than 200 microns) by more than 10% over that of the product alone. However, there will be a limit of no more than 10% of the total mix's droplets to be smaller than 200 Microns. This tank mix requirement may be waived in part or in whole by the Plant Board if no entity can be identified as an acceptable source for development of the data.
 - v. Where the product label is more restrictive than the Plant Board's restrictions, then the label must be complied with.
- c. Ground applications of products with this classification shall not be made to Enlist seed technologies without Commercial, Non-Commercial, and Private Applicators first completing New Technology Certification training. New Technology Certification training must be obtained through the

Cooperative Extension Service. Upon request proof of training must be provided to the Plant Board.

SECTION XII. CLASS G

Products with this designation shall be used in accordance with all other applicable federal and state laws and rules written pursuant thereto, the label registered with the State of Arkansas, the applicable restrictions identified for Class A, B, C, and D above and the following additional restrictions. Products assigned to this class include only those products packaged in containers one (1) gallon or larger, labeled for agricultural use, and used in row crop and rice production and commercial right-of-way treatment.

- A. Class G products may not be applied in winds greater than 10 miles per hour, 15 miles per hour if using a commercially available hooded sprayer. However, if the product label indicates a lesser wind speed should be used, then that wind speed must be used.
- B. Civil penalties assessed for each violation of the product label, applicable State or Federal law or the rules promulgated pursuant to these laws that involve a product with this classification shall be assessed at the level indicated by the Plant Board's Enforcement Response Rules for a restricted-use product plus, where not otherwise forbidden by state or federal law, additional civil penalty may be added to bring the amount of the assessment up to the maximum amount allowed by law.
- C. For purposes of civil penalty assessment, products named to this classification shall be considered the same as Federally Restricted Use products if not already designated as such.
- D. Failure to comply with these requirements will be a violation of these rules.

SECTION XIII. CLASS H

Products with this designation shall be used in accordance with all other applicable federal and state laws and rules written pursuant thereto, the label registered with the State of Arkansas, the applicable restrictions identified for Class A above and the following additional restrictions. Products assigned to this class include only those products packaged in containers of more than one quart, labeled for agricultural use.

- A. Dealer Requirements:
 - 1. Before selling, offering for sale, or distributing pesticides with this designation in packages of more than one quart, a dealer must be a licensed Restricted Use Pesticides dealer. A dealer may sell, offer for sale, or distribute only those pesticides that are registered in the State.
 - 2. Each branch of a license holding dealer which also sells or distributes these products must have a dealer's license. Firms or distributors who take orders for these products must secure a dealer's license, even though the order is placed with a dealer or manufacturer who holds a license, and even though no profit is made.

3. Dealers must keep a record of each sale or distribution of products with this designation to commercial, non-commercial, private applicators or dealers in containers of more than one (1) quart on forms available from or approved by the Plant Board. Entries in the record shall be made at the time of sale or distribution and shall include the date of the purchase, the name, address and license or permit number of the purchaser and the name and address of the delivery location. The complete brand name and quantity of the product shall also be recorded. These records shall be kept by the dealer for two years from the date of sale and be made available for inspection by the Plant Board or its representative upon request.
4. The sale or distribution of products with this classification in containers of more than one (1) quart to any firm or person other than a dealer or applicator holding a current and valid license or permit is prohibited. Dealer must have a copy of the applicator's license on file.
5. Non-residents of Arkansas shall designate and maintain a resident agent in this state for service of process.

B. Requirements For Commercial, Non-Commercial, and Private Application of Dicamba Containing Pesticides:

1. From July 1st through October 31st of each year, applications of products labeled for agriculture use that contain dicamba are prohibited except applications made:
 - a. for turf, ornamental, direct injection for forestry activities and home use are allowed year round;
 - b. for pasture and rangeland are allowed year round. However, such applications must maintain buffers required in Section 2.
2. From April 16th through June 30th, all applications for in crop agricultural use:
 - a. Must maintain a one (1) mile buffer, in all directions, from University and USDA research stations.
 - b. Are prohibited from using tank mixes of products containing the active ingredient Glyphosate mixed with pesticides containing the active ingredient dicamba labeled for in crop use.
 - c. During application a ¼ mile buffer zone in all directions from non dicamba-tolerant crops must be maintained and ½ mile for all certified organic crops, and commercially grown specialty crops (defined as a minimum of 1,000 plants or the average annual crop sales for the previous three-years exceeding \$25,000).

3. From April 16th through October 31st, applications of pesticides labeled for agricultural use that contain the active ingredient dicamba are prohibited for pre-plant (burndown) applications except for:

From April 16th through June 30, pesticides labeled for in crop agricultural use, by ground that contain the active ingredient dicamba and allow for the pre-plant (burndown) applications may be applied. However, such applications must maintain the requirements of buffers required in Section B.2.

4. Training Requirements:

- a. Applications of products with this classification to dicamba-tolerant crops shall not be made without Commercial, Non-Commercial, and Private Applicator, first completing dicamba specific training provided by a registrant of a dicamba product for use on dicamba tolerant crops. Upon request proof of training must be provided to the Plant Board.
- b. Applications of products with this classification to non-dicamba crops or pasture and rangeland shall not be made without Commercial, Non-Commercial, and Private Applicators first completing New Technology Certification training. New Technology Certification training must be obtained through the Cooperative Extension Service. Upon request proof of training must be provided to the Plant Board.
- c. Applicators must provide the proof of training required by paragraph 4 to Pesticide Dealers prior to purchase.

5. Record Keeping Requirements:

Applicators must maintain records of each application of products with this designation. Said records must be retained for a period of three (3) years and be available for inspection by a Plant Board representative. The records shall include at a minimum the following information:

- a. Name and address of the person(s) in control of the crops, plant, etc;
- b. Location of the crop, plants, etc. treated. Location description must include county, nearest town, physical address if available, and GPS reading or map coordinates of the primary entrance to the field;
- c. Date, start and ending time of the application;
- d. Wind speed and direction at the start and ending time of the application and type of instrument used to measure wind speed and direction. The location of instrument at time of reading (preferably “field of application”) must also be recorded;

- e. Complete brand name and EPA registration number of the material used;
- f. Number of acres and type of crop to which the material was applied;
- g. Type of equipment used. If the product was applied by a commercial applicator, record the Firm's Application Equipment number assigned to the equipment used by the Plant Board; and
- h. Name of the application vehicle operator.

C. Exemptions:

- 1. The licensing requirements of these rules do not apply to the U. S. Department of Agriculture, the Arkansas Experiment Stations and other State or Federal Agencies, to ornamental and turf weed control, or to company demonstrations with ground equipment, or to sales of fertilizer, soil conditioners or similar products containing registered products with this designation and packaged for home use.
- 2. Products with the designation that are not designated as restricted use products by the Environmental Protection Agency may be purchased from an Arkansas pesticide dealer for use outside the state of Arkansas without the dealer having to have a dealer's license or the purchaser having an applicator's license.
- 3. Commercial, Non-Commercial, and Private Applicators that can provide proof of current certification and licensing from another State may purchase restricted use pesticides from a restricted use pesticide dealer licensed in Arkansas if the product is to be used outside of Arkansas.

SECTION XIV. CLASS I

Products with this designation are those for which none of the aforementioned classification or any combination thereof will resolve to an acceptable level the problems associated with the use of such product.

ATTACHMENT 1

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 ¹ 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 with atomization study data from a research entity acceptable to the Plant Board that shows that the product does not produce more “fines” (percent of total spray volume in droplets <105µm) 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.

ENFORCEMENT RESPONSE RULES

PESTICIDE DIVISION



ARKANSAS STATE PLANT BOARD

ARKANSAS STATE PLANT BOARD
PESTICIDE ENFORCEMENT RESPONSE RULES

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
I. Statement of Purpose	2
II. Definitions	2
III. Legal Authority	3
IV. Enforcement Actions	3
V. Incident Investigation	5
VI. Activation of Enforcement Response Policy	7
VII. Internal Review	8
VIII. Hearings	8
IX. Right of Appeal	8

APPENDIX A - Penalty Matrix

I. 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 rule is to provide a fair and consistent mechanism by which compliance with the Pesticide Use and Application Act, as amended, and the Pesticide Control Act, as amended, and the rules written pursuant thereto can be achieved.

II. DEFINITIONS

As used in this policy:

- A. Base Fine: The midpoint of a civil penalty range. [Example: The civil penalty range for refusal to keep proper records (1st level of enforcement) is \$100.00 to \$500.00. The base fine is \$300.00]
- B. Case Development Review Panel: An internal committee of staff including: 1. The appropriate Division Director, or the appropriate Section Manager, 2. The Agency Asst. Director, and 3. The Agency Director or the director's 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 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.
 - In no case shall a single application or drift incident by a pesticide applicator be considered multiple violations based on the number of complaints.

- F. Auxin Pesticides: Group 4 herbicides as categorized by the Weed Science Society of America (WSSA).
- G. Egregious Violation: For violations occurring after August 1, 2017 and prior to March 11, 2019, a violation that causes significant off target crop damage occurring as a result of an application of:
1. Dicamba; or
 2. An Auxin containing herbicide; or
 3. Any new herbicide technology released after August 01, 2017.

For violations occurring on or after March 11, 2019, a violation where application of one (1) of the following herbicides is used intentionally in violation of the federal label requirements or a state law or rule regarding its application:

1. Dicamba; or
 2. An auxin-containing herbicide; or
 3. A new herbicide technology released after August 1, 2017.
- H. Off-target: Any area outside the target area (or within or across any buffer zone if rules require one) where an application, included as part of production practices, was made.
- I. Off Target Crop Damage: Any symptomology from an off label application.
- J. Damage: The presence of symptomology, commonly associated with exposure to a herbicide, on a plant. For purposes of determining a regulatory response, damage does not indicate any level of economic impact but rather exposure to a chemical that results in expression of a physical change in the exposed plant, including but not limited to necrotic spots, cupping of leaves, epinasty, chlorotic spots or necrotic plants.
- K. Respondent: A dealer, manufacturer, firm, applicator, or individual charged with a violation of the Pesticide Use and Application Act as amended, the Arkansas Pesticide Control Act, as amended, and the rules written pursuant thereto.
- L. The firm shall be named as the responsible party for a violative incident. Except that for a violative application incident, the enforcement level for an aerial application firm shall be determined by the past record of violations of the pilot making the application. If license suspension is the indicated level of enforcement, the license of the pilot making the application is the license to be suspended. However, in no case shall the pilot making the application be responsible for violative actions for which the firm is responsible.

III.

LEGAL AUTHORITY

- A. “Arkansas Pesticide Use and Application Act” A.C.A. 20-20-201 et. Seq. And Rules.
- B. “Arkansas Pesticide Control Act” A.C.A. 2-16-401 et. Seq. And Rules.

IV.

ENFORCEMENT ACTIONS

Under the preceding Arkansas Codes, The 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. Stop Use/Stop Sale: The use or sale of unregistered, deficient, or adulterated pesticides; the use of faulty equipment; or an invalid applicator’s registration, etc., will remain in effect until violation is corrected.
- C. Informal Agreement: When a violation has been alleged, the respondent has the option of accepting the prepared settlement agreement prepared in accordance with the requirements of this rule, 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 Staff. The group will seek consensus on an appropriate enforcement action for recommendation to the 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 Board acts on all recommendations resulting from the informal hearing.
- D. 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 Pesticide Committee of the 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 Board. The Full Board will act on all recommendations of the Committee.
- E. Immediate Suspension of License: (Arkansas Pesticide Use and Application Act Only) The Board may suspend, pending inquiry, for not more than 10 days, any license or permit issued by the Board for violation of A.C.A. 20-20-201 et.seq.

- F. Referral to Prosecuting Attorney: The Plant Board has the option of referring violations of the Pesticide Use and Application Act, and the Pesticide Control Act to the prosecuting attorney.
- G. Referral to EPA: The Plant Board will negotiate cases of referral with EPA to determine the appropriate action.

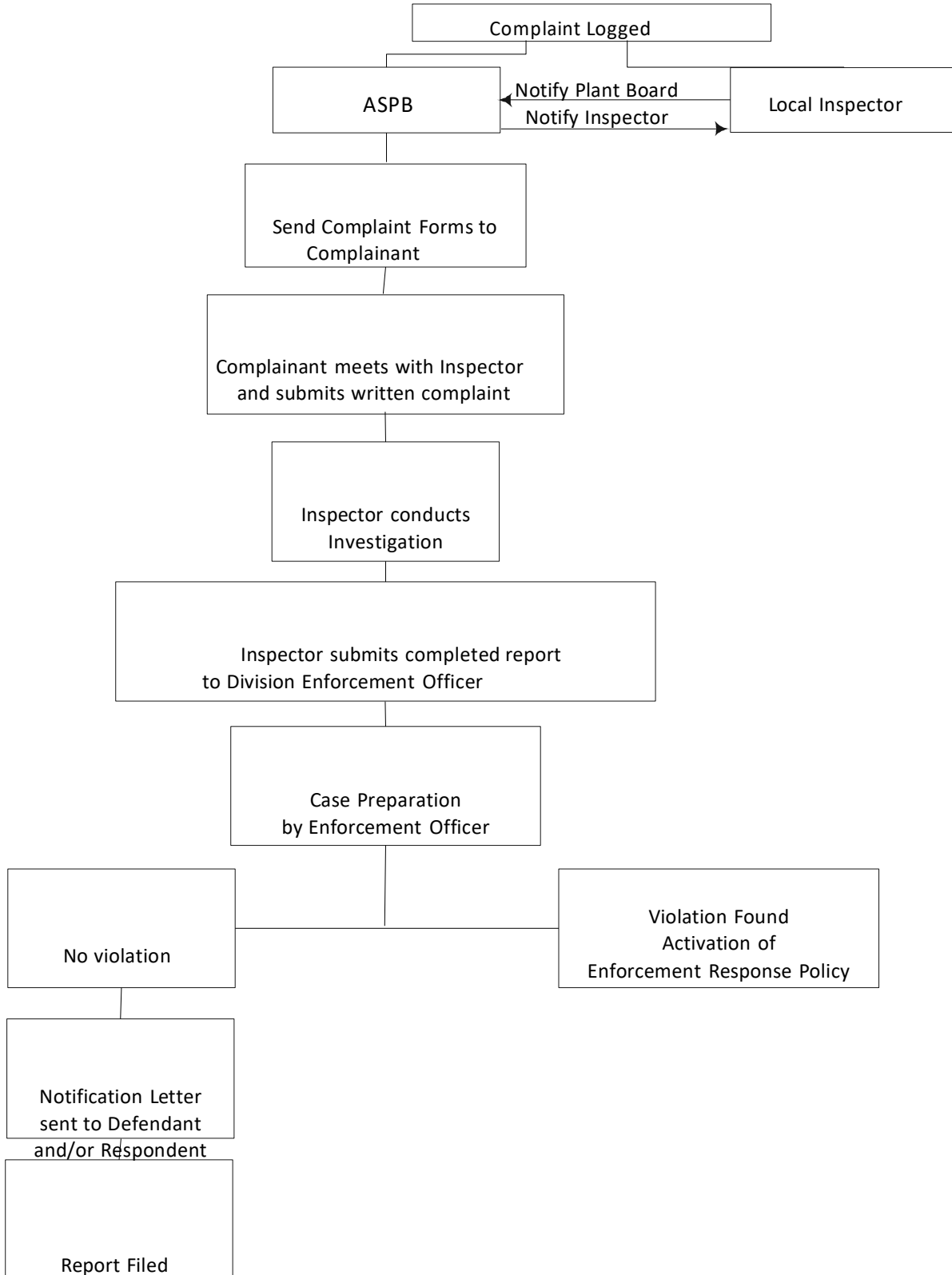
V. **INCIDENT INVESTIGATION**

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 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.

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

FIGURE I
Processing Sequence

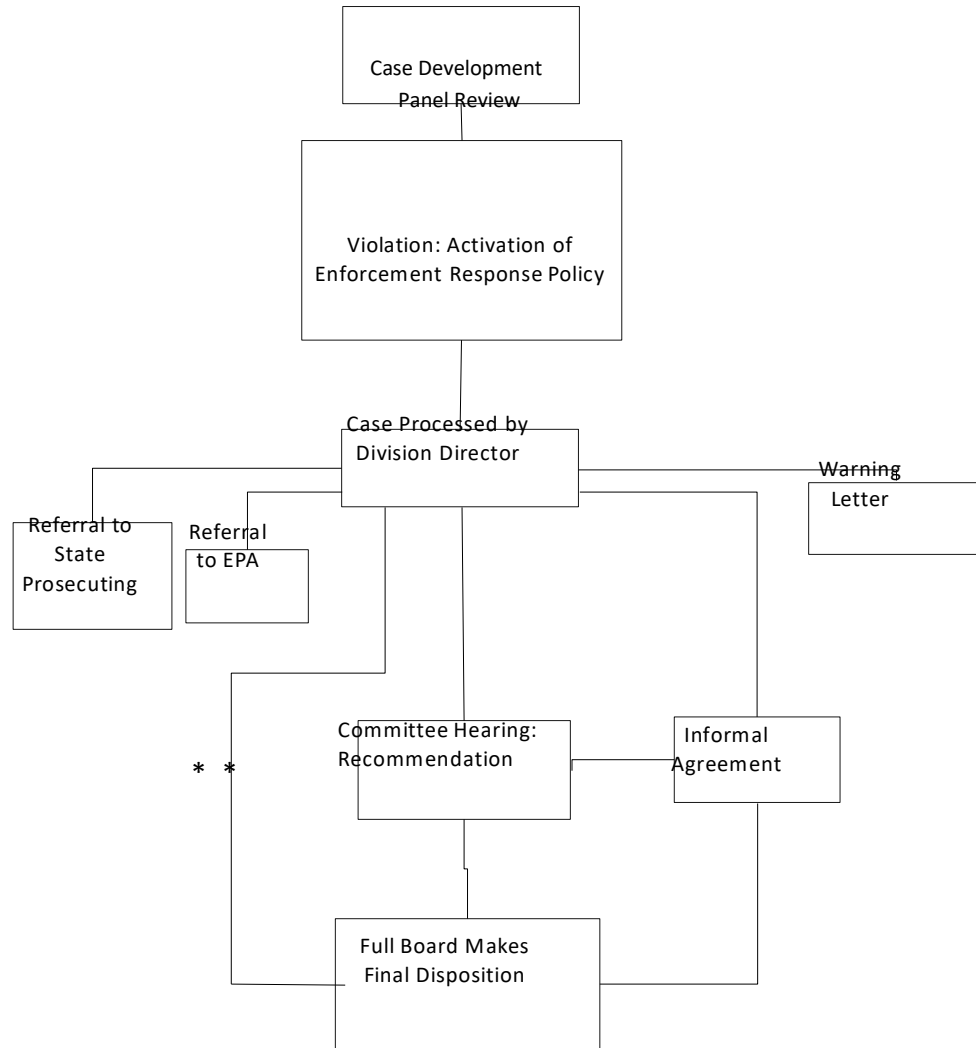


VI. ACTIVATION OF ENFORCEMENT RESPONSE POLICY

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

Documentation must conform to the requirements of the Pesticide Division. The sequence of events within the enforcement response policy is as follows:

FIGURE II



** Immediate Suspension of License or Injunction: (See item E in Section IV)

VII. 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 violations are Minor and/or Major violations.
- C. The correct level of enforcement based on the penalty matrix and the documented history of the applicator and/or company is proposed.

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

VIII. HEARINGS

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

A violation will be determined by documentation of criteria as specified in Appendix A. The severity and level of enforcement of a 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 fine 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 Board will take action to determine the final disposition of the case.

IX. RIGHT OF APPEAL

Any person aggrieved by any action of the 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 Plant Board be set aside.

PENALTY MATRIX

Appendix A

VIOLATION	Violation Level	1 st Level of Enforcement		2 nd Level of Enforcement		3 rd Level of Enforcement		4 th Level of Enforcement	
		Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine
1 - Commercial Applicators. Failure to secure applicator license.	Minor								
	Major	C, D	200-1000	C, D	400-1000	C, D, E	600-1000	C, D, E	800-1000
2-Failure to Maintain responsibility.	Minor								
	Major	C, D	200-600	C, D	400-800	C, D, E	600-1000	C, D, E	800-1000
3-Failure to place decal on aircraft and/or ground equipment.	Minor	A			200-500				
	Major			C, D	400-800	C, D	600-1000	C, D, E	800-1000
4-Non-Commercial Applicators. Failure to secure applicator license.	Minor	A							
	Major	C, D	200-600	C, D	400-800	C, D, E	600-1000	C, D, E	800-1000
5-Records-Commercial/ Non-Commercial. Failure to keep and maintain required records.	Minor	A		C, D	200-500				
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D, E	800-1000
6-Private Applicators. Failure to secure applicator license.	Minor	A							
	Major	C, D	100-400	B, C, D	200-600	B, C, D	400-800	B, C, D	800-1000
7-Pilots. Failure to secure applicator license.	Minor								
	Major	B, C, D	200-1000	B, C, D	400-1000	B, C, D	600-1000	B, C, D	800-1000
8-Pesticide Dealers. Failure to secure restricted use pesticide dealers license.	Minor	A, B							
	Major	B, C, D	200-1000	B, C, D	400-1000	B, C, D	600-1000	B, C, D	800-1000

ENFORCEMENT ACTION OPTIONS

A - Warning letter

B - Stop Use/Stop Sale

C - Informal Agreement

D - Board/Committee Hearing

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G - Referral to Prosecuting Attorney

H - Referral to EPA

PENALTY MATRIX

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		Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine
9-Failure of dealer to keep and maintain records related to restricted use pesticide sales.	Minor	A							
	Major	B, C, D	200-600	C, D	200-800	C, D	600-1000	C, D	800-1000
10-Unlawful Acts. Make false or fraudulent claims through any media misrepresenting the effectiveness of pesticides or methods utilized.	Minor	A							
	Major	C, D	100-500	C, D	400-800	C, D	600-1000	C, D, E	800-1000
11-Recommendation(s) of use or use of a pesticide in a manner inconsistent with the registered label, or other mandated restrictions.	Minor	A							
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D, E	800-1000
12-Application of known ineffective or improper pesticides.	Minor								
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D, E	800-1000
13-Operation of faulty or unsafe equipment,	Minor	A, B							
	Major	B, C, D	200-600	B, C, D	400-800	B, C, D	600-1000	B, C, D, E	800-1000
14-Operation of equipment, in a careless or negligent manner,	Minor	A, B							
	Major	B, C, D	200-1000	B, C, D	400-1000	B, C, D	600-1000	B, C, D, E	800-1000
15-Failure to comply with provisions of Act 389, after notice, and rules thereof, or any lawful order from the Arkansas State Plant Board	Minor	A							
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D, E	800-1000
16-Failure to keep proper records and make timely filing of reports.	Minor	A							
	Major	C, D	100-500	C, D	400-800	C, D	600-1000	C, D, E	800-1000

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		Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine
17-Issuance of false or fraudulent records, invoices, or reports.	Minor	A							
	Major	C, D	100-500	C, D	400-800	C, D	600-1000	C, D, E	800-1000
18-Application of pesticides on others property without the benefit of a commercial applicator's license.	Minor								
	Major	C, D	200-1000	C, D	400-1000	C, D, E	600-1000	C, D, E	800-1000
19-Operation of un-licensed equipment	Minor	A, B							
	Major	B, C, D	200-1000	B, C, D	400-1000	B, C, D, E	600-1000	B, C, D, E	800-1000
20-Use of fraud or misrepresentation in making application for, or renewal of, a license, permit, or certification.	Minor								
	Major	B, C, D	200-600	B, C, D	400-800	B, C, D, E	600-1000	B, C, D, E	800-1000
21-Failure to comply with any limitations or restrictions of a duly issued license, permit, or certification.	Minor	A							
	Major	C, D	200-600	C, D	400-800	C, D, E	600-1000	C, D, E	800-1000
22-Aid, or abet, any person to evade the provisions of Act 389; conspire with any person to evade the provisions of Act 389, or allow use of a license, permit, or certification by another person.	Minor	A							
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D	800-1000
23-False or misleading statements made during or after an inspection concerning an infestation or infection of pests found on one's property.	Minor	A							
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D	800-1000
24-Impersonation of any federal, state, county	Minor								
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D	800-1000

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		Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine
25-Distribution of pesticide labeled for restricted use to any person or his agency who does not have a valid license to use, supervise the use, or distribute restricted use pesticides.	Minor	A							
	Major	C, D	200-1000	C, D	400-1000	C, D	600-1000	C, D	800-1000
26-Application of any pesticide by aircraft without a pilot's license to apply pesticides.	Minor								
	Major	B, C, D	200-1000	B, C, D	400-1000	B, C, D, E	600-1000	B, C, D, E	800-1000
27-Employment of a pilot to apply pesticides by air that does not have a license to do so.	Minor	A							
	Major	C, D	200-1000	C, D	400-1000	C, D, E	600-1000	C, D, E	800-1000
28-Misbranded Selling misbranded pesticides.	Minor	A, B							
	Major	B, C, D	200-600	B, C, D	400-800	B, C, D, E	600-1000	B, C, D, E, H	80-1000
29-Registration Failure to register a pesticide with the Arkansas State Plant Board.	Minor	A, B							
	Major			B, C, D	400-800	B, C, D	600-1000	B, C, D	800-1000
30-Unlawful Acts Distribution of any pesticide not registered in Arkansas under the provisions of Act 410 or FIFRA	Minor	A, B							
	Major			B, C, D	400-800	B, C, D	600-1000	B, C, D	800-1000
31-Distribution of pesticide with different label claims, us directions, or composition not consistent with the registration process.	Minor	A, B							
	Major	B, C, D	200-1000	B, C, D	400-1000	B, C, D	600-1000	B, C, D, H	800-1000
32-Distribution of pesticides in containers other than manufacturer's unbroken immediate container.	Minor	A, B							
	Major	B, C, D	200-1000	B, C, D	400-1000	B, C, D	600-1000	B, C, D, H	800-1000

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		Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine
33-Distribution of pesticides that have not been colored/discolored pursuant of Section 9(1) (d) of 410 or of Section 25 (c) (5) or FIFRA	Minor	A, B							
	Major	B, C,D	200-600	B, C, D	400-800	B, C, D	600-1000	B, C, D, H	800-1000
34-Distribution of adulterated and/or misbranded pesticides.	Minor	A, B							
	Major	B, C, D	200-600	B, C, D	400-800	B, C, D	600-1000	B, C, D, H	800-1000
35-Distribution of pesticides in containers which are unsafe due to damage.	Minor								
	Major	B, C, D	200-600	B, C, D	400-800	B, C, D	600-1000	B, C, D, H	800-1000
36-Detach, alter, deface, or destroy any label or labeling, or add any substance, or take away, that ay act to defeat the purpose of Act 410.	Minor	A, B							
	Major	B, C, D	200-600	B, C, D	400-800	B, C, D	600-1000	B, C, D, H	800-1000
37-Use for personal advantage of any information relative to formulas of products obtained by Section 6, or other trade secrets.	Minor								
	Major	C, D	200-600	C, D	400-800	C, D	700-1000	C, D	800-1000
38-Handle, display, store, transport, or make distribution of pesticides in such a manner to endanger man or the environment, or other products.	Minor								
	Major	C, D	200-600	C,D	400-800	C, D	600-1000	C, D, H	800-1000
39-Dispose discard, or store any pesticide or pesticide containers in a manner to cause injury to humans, vegetation, crops, livestock, wildlife beneficial insects, or to pollute water and soil	Minor								
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D, H	800-1000

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		Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine
40-Failure to comply with the provisions of Act 410, its rules or the lawful order from the Arkansas State Plant Board.	Minor	A							
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D	800-1000
41-Failure to comply with the Worker Protection Standards and/or requirements of 40 CFR Parts 156 and 170, state law or applicable rules promulgated by the State Plant Board.	Minor	A							
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D	800-1000
42-Failure to comply with the applicable requirements of the Container and Containment Rule, 40 CFR Part 165, Subpart A through E, or applicable State law or rule.	Minor	A							
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D	800-1000
43- Application of a dicamba or auxin-containing herbicide or any new herbicide technology released after the effective date of Act 778 (August 01, 2017) that results in a violation.	Minor	A							
	Major	C, D	200-600	C, D	400-800	C, D	600-1000	C, D	800-1000
	Egregious	C, D	Up to 25,000	C, D	Up to 25,000	C, D	Up to 25,000	C, D	Up to 25,000

ENFORCEMENT ACTION OPTIONS

- | | |
|-----------------------------|--------------------------------------|
| A - Warning letter | E - Immediate Suspension of License |
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Effective: 02/2020

SFIREG Meeting

December 6, 2021

Ed Messina (EPA OPP): Pesticide Program Updates

Supply Chain – COVID has caused some supply chain relief, working with registrants to help with supply chain issues

2022-2026 EPA Strategic Plan Framework - Got some feedback, working towards goals set forth in the plan

Questions

Leo Reed (IN) – Are we going to know what is happening with dicamba in the next growing season? Ed: Don't know and is hesitant to give an answer

Tim Drake (SC) - Will the deadline for C&T be extended? Ed: Confident that OPP is doing everything they can to work towards the deadline; not sure when or if they will extend the deadline

Pat Jones (NC) - Request for 6a2 reporting > discussion about unreasonable adverse effect, cupping of a soybean was not unreasonable; Ed – Look at the court decision about dicamba and the societal impact to growers; Pat - we will start our training sessions in January, so need updates soon; Ed – ESA overlay; states will have to show that the applications are not a threat to endangered species as well

Brett Alan (AL) - Application of chlorpyrifos to food crops like sugar beets? Ed: Any food product that had a tolerance, that tolerance is going to go away in Feb. 2022; some labeled uses apart from food crops those positions of the label will still be valid

Liza Fleeson Trossbach (VA) – Some states in R2 haven't received comments back from EPA, how is EPA going to meet these deadlines? Ed: Have a tiger team working on comments and feedback nationally to get information back

Kristen - Has it been brought to your attention that there are issues with drift language on mosquito products? Ed: Hasn't hit his radar yet; some products are designed to drift and take that into account with human health risk assessment

Pat Jones (NC) - Scott brought it up at EQI last quarter; Ed: Emily will set up meeting with EPA (Ed) and R4

Megan Patterson (Maine) - But the issue is with individual residents contracting for services and drift from mist blowers impacting neighbors. It's also an issue in Maine.

David Flakne (Syngenta) – Would seed production be a non-food use on chlorpyrifos; Ed: Would need to know more about the type of seed (some studies have been shown that seed treatment can make it's way into the fruit) to give an answer about this, tolerances need to be set

David: Seed production may be two to three generations prior to the planting of the final hybrid or crop planted for food production. So not to the seed being planted, just in research etc.

Gretchen Pollack (R7) – When would you expect more info on existing stocks policy for chlorpyrifos? Ed: There will not be an existing stocks policy (right now you can still use it, issued notice of intent to cancel for Feb. 2022)

-What about stockpiles of chlorpyrifos? Ed: There are uses that are allowed on the label; EPA trying to be respectful of the court's decision

James Burnette (NC) - with respect to PFAs, we are especially concerned about what EPA might decide as far as disposition of containers--we recycle approximately 700K pounds of plastic pesticide containers every year here in NC. If suddenly a third of those could no longer be recycled but must be otherwise disposed of, it would quickly overwhelm our pesticide Disposal assistance program's resources.

Faye Golden - Could Ed address PPE requirements (gloves) on labels for new products? I have noticed the glove requirement of > or = to 14 mils for products with low risks of exposure. Examples include Nibor D Insecticide Foam and IGR (EPA Reg # 64405-37) and ExciteR 55 (EPA Reg # 89459-109). Is there a guidance document available?

Yvette Hopkins (EPA) – Reviewed OPP Updates (Available online)

Issue Papers Update

-Lauren Lapointe from Yvette's dept. is working on Pollinator Paper

-Device Paper – Meeting with antimicrobials; no resources to work on that issue paper, nothing on tap on FY22

-Bear Spray Paper – Looking into the issue from R8; Working with agencies to give updates as they are available

Kelly Engle (EPA) – OECA Report

-If any state is interested in hosting a virtual or in person PIRT email Kelly; Tribal PIRT is tentatively scheduled for May 2022; Basic PIRT for July Aug 2022; Enforcement PIRT October 2022; Updates on the PIRT webpage

-Inspection Flexibility Letter – two prev. versions released, most recent version of the paper shared Sept. 2022; info on how to meet inspection commitments during COVID (extended); Inspections can be counted for 2022; Off-site (virtual) can be included in EOY forms (considered off site compliance), but don't count as inspections, should be added to narratives attached, etc.

Debra Forman - The whole 24C process was quite complex and at times the states were concerned about protecting unique resources because of this process; C&T issue in R3, some states haven't gotten back comments from headquarters (concerned about the timeline); Stockpile of chlorpyrifos (Ed addressed this); PFAs issue should be addressed from a multifaceted perspective ; Regulation of neonic treated seeds; Limited availability of adapters for paraquat containers (Syngenta should supply applicators with every sale of paraquat)

Carroll Mosley (Syngenta) - Would like to know where issues with adapter availability are located so they can address this and provide adapters (R10, R4, some reporting to EPA); Gary: Will get you some info

Amy Brown - (POM) Update

<https://aapco.org/wp-content/uploads/2021/12/POM-Report-to-SFIREG-of-Activities-of-the-Committee-Dec-2021.pdf>

-Many states having issues with the dicamba label; some states having more issues with dicamba in 2021 than in 2017

-PFAs discussion

-Pet Collars & Products – EPA provided a detailed report; letter was sent to registrants from EPA providing information about the issues; petition to cancel Seresto collar registration is ongoing; EPA created a new website about protecting pets from fleas and ticks; over 5,000 public comments were received; many recordings are available related to this topic

-Addressed all questions about Chlorpyrifos in meeting

-Looked at the guidance about multipacks and had a meeting with EPA

-Not aware of any POM items that require action from SFIREG currently

BREAK

Hotze Wijnja – EQI Update

-Relative to the joint session > Amy Brown went over dicamba; Megan Patterson gave a presentation about PFAs, including updates like fluorinated adjuvants will be regulated; EPA staff went over a list of questions submitted during the April meeting (answers posted on EPA FAQs website)

-PFAs Issues – Would like to discuss the definition of PFAs, would also like to investigate laboratories available to test for PFAs

-Breakout Sessions – One discussed issue paper on cover crops, EPA made a working group and sent response in Nov. 21 (addresses definition of cover crop, label language, bioassays, coordination with USDA and RCS, use as food/ forage)

-PFAs discussion with Megan Provost (RISE) to get information about education and outreach efforts

-Neonic treated seeds – Water quality and residue are both focus topics associated with this issue, meeting with EPA where EPA pointed out some regulation limitations for treated articles

-Water Quality reporting system is new and guidance is needed

-Mosquito control mist blower was brought up by Dave Scott (IN), discuss and presentation highlighted the needs to evaluate off target drift issues related to use of these blowers (White paper to be developed)

-Larry Steckel (WSSA) presented on dicamba, will continue to follow dicamba updates

-Aquatic life benchmarks – EQI considering developing guidance document on how to interpret these benchmarks on a state level

Pat Jones – AAPCO Update

Member Updates

-C&T Training Plans & Reviews > concerns with the timeline; some changes implemented after the C&T work course; there was an inconsistency issue with the type of comments states were receiving (i.e. specific language, differences in the regions); jurisdictional statement in the plan has risen a lot of questions; is it for use or purchase (ex. In VA and NC we will recognize certification across state lines); many RUPs are purchased online (ex. Delaware doesn't have a RUP dealer in their state); Concerns with adding FIFRA 14 a & b to laws in many states (several states have been doing certification for 30+ years without this); Many concerns about regional review and the amount of time its taking to get comments back

-Devices > AAPCO sent a letter about devices that produce pesticide substances; tons of concerns about public health issues (devices are only devices used in hospital); chlorine gas is not being used in swimming pools like previous though, but now devices are used for swimming pools; AAPCO, ASCPRO, NPMA collaborative effort

-AAPCO Workgroups > 25(b) work group new chair Sarah Caffrey; Technology work group new chair Dwight Seal and looking for members; Pollinator Protection work group Rose & Pat are co-chairs and are looking for members

-Other Committees > SFIREG: Gary will serve another year as chair; POM: Amy Brown; EQI: Hotze

-Other Issues > AAPCO is not sending another letter to cancel dicamba; states ability to issue a 24(c) is currently in question, had a call with EPA about 24a and states feel that it is not a solution unless the change made would be permanent and with dicamba being an ever changing issue it is not feasible; pollinator white paper changes will be on the horizon, beekeepers may be regulated in the future

-AAPCO 75th Annual Conference 2022 March 6-10 in Alexandria at the Hilton > will not have all the virtual capabilities previously available (Liza Fleeson Trossbach - Program Chair/ New President Elect)

Ryan Okey (ASPCRO President) – ASPCRO Report

...

Jim Mossett & Mark Daniels - Tribal Pesticide Program Council Report

Update on Four Working Groups

-Risk assessment > Develop risk assessment based off tribal culture and practices which can differ from normal practices, would like to develop document assessing issues faced in tribal life; one issue with hemp and cannabis inspections not being completed because federal inspectors will not complete inspections

-Communication > Issues with this because of the difference in types of tribes/ tribal land; would like to strengthen communication about implementation of FIFRA; lack of EPA funding to meet direct implementation of FIFRA; lack of structure when it comes to environmental framework for tribes (lack of

employees, no organization); EPA initiatives aren't always hitting the mark, tribes aren't organized enough to challenge EPA initiatives; some issues with new tribal training (ex. Structural applicator certified through EPA but will not be certified on reservations); 574 tribes only 22 are involved; EPA needs to recognize and hear the voice of the tribes

-Hemp & Cannabis > Politically not wise for tribes to establish cannabis; hemp has been used a long time but see that there are many large corporations in opposition to hemp production

-Pollinator Protection > Focus on native pollinators; the most active group (would like to get summary from this group for the next meeting)

Jolene Hendrix – AAPSE Report

-Members of the board hold positions for 1 year

-Broken up in four regions: western, north central, southern, north eastern (members include SLAs, PSEPs, and industry)

-Committees > Communications Committee (focusing on outreach); New Membership Committee (new member training, onboarding new AAPSO members); Strategic Plan Committee; Issues and Evaluations Committee (responded to EPA's sulfuric fluoride proposed changes, requirements for training and enforcement)

-Journal of Pesticide Safety Education – New study of removal of pesticides from clothing available on the JPSE website

-Professional Development workshops > Work/ Life balance and Designing and Conducting Economic Impact Analysis of PSEPs

-Met with PACT in Denver in 2021 and it was very successful

-Upcoming events: State of Association Meeting (Dec. 9 virtual); Board of Directors Retreat (Jan 2022 Atlanta GA); Annual Meeting is being planned and confident that it will be in person

Linda – CTAG Update

-Doing monthly virtual meetings throughout the year, 2-day meeting in august (discussed collaboration teams, priorities, CTAG groups); Open house to discuss joining CTAG and Collab Groups

-Label mandated training (collaboration team) created a scoping document to develop a white paper; how label mandated training affects SLAs, applicators, and PSEPs; questions covered include who does training, who approves the content; would like to urge EPA to interact with SLAs/ PSEPs before decisions are issued; there are open spots to join label mandated training group; would like to develop directive for EPA about how training is working

-White papers are so positive for new employees or employees looking for direction

Eric Petty – Lab Directors Report

-Good open communication with all the labs > no new issues have arisen

-PFAs – Somethings to consider about outsourcing PFAs testing; it might not be a cost affective investment to have labs do this testing (foreseeing multiple year testing, might be better for EPA to do testing)

-Some issues with supply chain with getting lab materials

-COVID has really affected testing due to availability of employees for testing

-Liza Fleeson Trossbach (VA): Noticing many uses of non-conventional pesticides, especially in mosquito applications; many labs don't do testing for non-conventional products and regulatory still needs to do enforcement, has this been addressed? Eric: It has not come up as a major topic of concern with the lab directors, but there is some work being done to develop methods in labs for non-conventional products

BREAK FOR LUNCH

-technical difficulties-

Chlorine Gas Recap

Pat Jones (NC): 85,000 plants including drinking and wastewater are still using chlorine gas; gas is cheaper than the liquid (not typically used in higher populations, rural areas); slowly moving from gas to liquid

Tim Creger (NE): Nebraska just removed chlorine gas from the revised certification plan, wouldn't be easy to add it back in

State Updates/ Topics of Concern

...

Region Updates

...

-Bayer Announcement > Creation of the Unmanned Aerial Pesticide Application System Task Force, viewing risk assessment, drift, international discussion, etc.

-Prep came out with a new PREP combo > just announced via email

BREAK

Continued Region Updates

...

Tim Creger (IN) - There was an ancient provision in FIFRA that allowed EPA authority to pay for recall of national recall items like DDT, and the last ones they did this on were dinoseb and Silvex.

Amy Sullivan (AAPCO): has it been taken out of FIFRA?

Tim Creger (IN): Amy Sullivan and anyone else interested in dusting off some old FIFRA cobwebs, check 7USC 163m, Indemnities for cancellation.

Rose Kachadoorian (OR): Are you talking about PRN 96-8?

Jim Brunette (NC): It was the 1988 Amendments to FIFRA. Until then, EPA was required under FIFRA to accept certain suspended and cancelled pesticides for disposal at government expense. In addition, an indemnification provision required EPA to reimburse holders of such suspended and cancelled pesticides for financial losses suffered, up to the cost of the pesticide. The 1988 amendments eliminated those provisions and authorized EPA to require registrants and distributors to recall suspended and cancelled products. The Agency was authorized to require registrants to give evidence of their financial capacity to carry out such recall....etc.

Dave Scott (IN): It is not an EPA rule, it was a policy that died.

Kelle Davis (WA) - We were getting hits for diuron at cannabis grows. Common denominator was the white paint used in the interior walls. Kilz.

Dave Scott (IN) - Is SLITS still in use?

Rose Kachadoorian (OR): I hope not Dave, SLAs really wanted to have this mechanism. It is still being responded to, just not as readily as in the past. But if it is dead, there should be a discussion. Thank you for bringing this up.

Matthew Bucy (OR): When I have emailed Product Managers questions, they have told me they'd prefer to receive the questions from SLITS.

Amy Sullivan (AAPCO) - If EPA does not respond about an issue the committee will turn the problem in an Issue Paper

ADJOURN

December 7, 2021

PFAs & Pesticides

...

Meg Hathaway - Dicamba Registration Decision Discussion

-In October 2020, 3 products were approved by EPA for use on soybeans and cotton, the 2021 growing season was the first time the labels were used and despite the control measures there was still damage reported to EPA

-Dicamba related damage still occurred in 2021 and even in counties with extra endangered species precautions

-EPA had a meeting on Aug. 30, 2021, with reps from WSSA > EPA is finalizing these notes/ comments into a final draft

-Sept. 2, 2021, meeting with AAPCO > all comments have been received but if more comments need to be sent out to EPA they should be received within two business days of today (by 12/9/21)

-Registration review process has started for Dicamba, considers all dicamba products not just those in the 2020 decision

-Dicamba OTT > EPA has not yet made a decision to alter the 2020 decision, would like to evaluate the control measures, EPA is no longer certain if the products can be used near endangered species/ protected habitats, if control measures are determined to be insufficient they might need to be reevaluated and could be challenged in court

-6a2 letters were given to registrants, copies of letters are available on the dicamba docket, EPA is reviewing responses to those letters

-24c policy > reiterate that for the dicamba 24c applications EPA took them seriously, they must meet FIFRA requirements (data, information, analysis), should not result in adverse effects, should consult with EPA about this process

Questions

Amy Sullivan (AAPCO): Is there anything in particular EPA is looking at? Meg: No, EPA sent out the current draft of the summary document

Pat Jones (NC): Our training sessions for 2022 are starting in January/ February 2022, to prepare for the training we need to know if there will be changes to the label, we need to know now so we can prepare resources for growers; Meg: Will take back to the team and the current labels are still the 'law of the land' and should be sufficient for 2022 growing season

Dave Scott (IN): Regarding your comments on ESA considerations, is that an entire county by county evaluation or some other scope? Part of a county? Entire state? Meg: Don't always receive the same data across the board, looking at the locations and evaluating on a county and state level; cross referencing the information with the regulations and still calculating but that is the approach being taken

Brad Beaver (IL): Would like to know as soon as possible about changes to the label and concerned about 24a label, consider how any changes will affect states and the timing for states

Amy Sullivan (AAPCO): Would like to know how the meeting minutes were used from the Sept. meeting; Meg: Once we know something the info is shared in the office, registration will share info and info will go in the 2020 docket; we don't publish everything we have in the docket but are trying to be transparent

Dicamba 2020 docket link: <https://www.regulations.gov/search?filter=EPA-HQ-OPP-2020-0492>

Pat Jones (NC): If state submits a 24c, you talked about needing to show no adverse effect, states in the southeast are put in a hard place because of the cut off dates; growers are

surveyed during the training and information is provided but EPA says it is all 'self-reported data', what are you wanting us to submit? Meg: Might need more time to consider that question, take a look back at the ecological risk assessment that supported the 2020 risk decision, changes that would be related to ecological risk would need to take a look at what the agency looked at in that document ** appendices and body of the doc** if there are areas that are not seeing incidents in the cut of date period please report those they would apply, but if they are outside of the date range they would not

Meg: Thank you all! One clarification I neglected to make while speaking on dicamba: the August 30th meeting I mentioned that was organized by WSSA included discussion of academic and extension weed scientists sharing their experiences and research. It was not an occasion where WSSA was speaking as an organization.

Eric Bohnenblust - 24C Discussion

-Tawanda took another position, looking to back fill that position > in mean time submit 24c/ sect. 18 to the mailbox and cc Eric

-About 3 weeks ago, all acknowledged 24c are in PPLS, mostly new ones on there and their status (hope this will be helpful to SLAs and gen. public)

-Highlight that registrants need to coordinate with SLAs prior to submitting SLNs to EPA

-24c is only for registering additional uses for a pesticide currently, to add restrictions you need to use 24a route

-Letter from AAPCO to EPA was received and EPA will provide a written response; had meeting with the AAPCO board and heard several concerns about policy shift with 24c's

-Potential options include working with the registrant directly to seek restrictions on the federal label, EPA would need to review the revised label to make sure that those standards meet FIFRA

-Data needed for 24c > Have pre-consult meeting if SLA is going to submit a 24c so that guidance can be provided

Questions

Dave Scott (IN): Normally it takes some time to submit a 24c/ sect 18, how will EPA respond in a timely manner? Eric: Non-PRIA amendment (90 days) or PRIA amendment could be used here and time varies

Shannon Whitlock: Timeline for registration can be quite long, sometimes even longer than the expiration dates on SLNs themselves? How to manage?; Eric: If the label expires the registration review, should work with the state

Unknown: Is EPA requesting a 5 year label? Why 5 years?; Eric: 5 years is most comment, but not specifically requesting the 5 year, there are some that are shorter but 5 years is generally the max, case by case

Jim Mossett (TPCC): Is there a mechanism in place to get these notices to the tribes? Eric: Can add tribal reps to the notices; TPCC is going to try to engage more tribes in the pesticide world

Christopher Wade (DE): Should the state always receive "approval" for a 24c. I have submitted SLN's and never heard back from EPA during the review time outlined on the submittal. Eric: considered registered when the state registers the product; if you don't hear from EPA then that means the 24c has gone through and if its after the 90 days then they don't typically send a response letter only a note is added to the file

Raj: Is additional data needed? Certain restrictions might require data and review, but its on a case by case basis, go online and look at the PRIA code R tables

Julie: Registrants are required to notify SLA about the SLN, how does this process work considering registration review? Looking to avoid that states don't know that a SLN label is coming to EPA since it is a state registration; Amy Sullivan: This is a situation between the state and the registrant, registrants need to communicate with the state, SLNs should have a different SLN number; Amy Brown: Any update to the SLN should be coming from the state

Matthew Bucy (OR): We've had SLN labels updated through reg review that don't need a new number. We require the Environmental Hazards on SLN labels. If reg review modifies that, the SLN would be amended, but would be the same SLN number.

Shannon Whitlock: From our recent experience the changes to the SLN labels are minimal, like adding a MOA bar, no significant changes for uses.

Rose Kachadoorian (OR): Many SLAs and some EPA staff participated in the development of the Draft AAPCO Section 24C Guidance, <https://aapco.org/wp-content/uploads/2019/06/aapco-sfireg-pom-section-24c-draft-may-2019.pdf> When can the SLAs expect an official response from EPA regarding this document?; Eric will get back to Rose about this

Unknown: Several states including Montana, have already created documents about how to submit SLNs

Ray McAllister (CropLife America): Over the past year or more, registrant companies have received requests from EPA reviewers to add significant amounts of repetitive language to 24(c) labels, primarily in the context of label mitigations required during registration review. CropLife America is concerned that 24(c) labels should be kept simple; focused on geographically limited, single crop uses; and referencing the corresponding Section 3 labels for statements, instructions, and language details common to other registered uses. Furthermore, state regulators should have the lead in amendments and updates to 24(c) labels. We have understood from EPA managers that such large scale additions of text to 24(c) labels are not in order, and that the mistaken requests to registrants had been corrected. However our members are still seeing some of these requests. We would like to come to a common understanding, involving RD, PRD, and state regulators, regarding the language requirements for 24(c) labels.

BREAK

Chlorpyrifos Discussion (Skipped)

Matt Lloyd - Revised State Certification Plans and EPA Approval Process

...

Questions

Pat Jones (NC): Would sale be legal if an applicator buys online or in another state? Does the jurisdictional statement apply? Matt Lloyd: The jurisdictional statement only applies to use not purchase

Clayton Myers - USDA OPMP pesticide programs, policy, work with EPA, other Federal Agencies such as FDA, and States

-Office was set up to facilitate risk assessment and advocacy

-Huge part of job is to connection stakeholders nationally and internationally

-Challenges for the future > growers have continuing needs for a larger toolbox and yield will need to increase, chemical crop protection tools are 20th century technology but they aren't going away, crop protection will still be an important part of agriculture, large amount of public mistrust of agricultural technology (communication is key)

-EPA handles most risk assessment, there are many strengths to this process; our role in this process to provide context and help EPA assess label impacts, practical use of pesticides, worst case scenarios, etc.

-When EPA posts new interim decision, risk assessment etc., this triggers public process including public comment period and consideration, transparency is important

-Use regulations.gov to receive public comments > comments must be actional and substantive

-Providing feedback on many relevant topics like fumigants, herbicides, protectant fungicides, etc.

Amy Cross - National Pesticide Information Center (NPIC) Services and Noteworthy Incident Cases

...

Neonicotinoid Treated Seed Issues

Anthony Lamanno (NY): NY regulates treated seeds, R2 noticed that the paper referred to specific concerns but there are not any specific complaints just general concerns

Liza Fleeson Trossbach (VA): R3 doesn't have any specific complaints, would support more clarity and discussion

Tim Drake (SC): No issues with treated seeds in R4

Gretchen Paulch (IA): R7 had an issue in Nebraska; Tim: EPA deems these treated articles; USDA will not enforce language seed tag label, puts all the emphasis on the user

R1: No issues, would support

R6: Haven't had issue in region six, but no problem supporting

Brad Beaver (DE): R5 had several states with legislation proposed regarding disposal, would support moving forward

R10: No issue

-Will become an issue paper

Consideration of Issue Papers

Pat Jones (NC): Have had many discussions about how to move forward with pollinator protection issue paper, have talked about enforcement, talked with video production team used by PSEP about coming to NC and creating a video for the issue

Amy Sullivan (AAPCO): Lunch and learn proposed from EPA about certification, lots of new employees with many questions about

REDACTED OF PROPRIETARY INFORMATION AND CONFIDENTIAL BUSINESS INFORMATION



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C., 20460

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

December 15, 2021

MEMORANDUM

SUBJECT: Status of Over-the-Top Dicamba: Summary of 2021 Usage, Incidents and Consequences of Off-Target Movement, and Impacts of Stakeholder-Suggested Mitigations (DP # 464173: PC Code 128931)

FROM: Kelly Tindall, Ph.D., Senior Biologist *Kelly Tindall*
Jonathan Becker, Ph.D., Senior Science Advisor *Monisha Kaul for*
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THRU: Monisha Kaul, M.S., Chief *Monisha Kaul*
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T J Wyatt, Acting Chief *T J Wyatt*
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Biological and Economic Analysis Division (7503P)

TO: Lindsay Roe, Acting Chief
Margaret Hathaway, Senior Regulatory Specialist
Herbicide Branch
Registration Division (7504P)

Product Review Panel Date: November 23, 2021

Table of Contents

1. Summary	4
2. Introduction	6
3. Summary of 2020 Assessment for OTT Dicamba Product Registration	8
3.1 2020 Benefits Assessments.....	8
3.2 2020 Incidents and Impacts Assessment.....	9
4. Current Situation	10
4.1 Cotton and Soybean Acreage and Dicamba Usage.....	10
Table 1. Summary of Cotton Acreages and Dicamba Usage.....	11
Table 2. Summary of Soybean Acreages and Dicamba Usage.....	12
4.2 Development of Dicamba Resistant Weeds.....	12
4.3 Public Letters Received	14
5. Incidents Reported to the Agency	16
Table 3. Summary of Incidents Reported by State, Not Crop Specific*, to the Agency through the States, general public, non-governmental organizations, and FIFRA Section 6(a)(2) Reporting for 2021, as of 17 Nov 2021.	18
5.1 Non-Soybean Crops.....	19
5.1.1 Reported by States	19
5.1.2 Non-Soybean Crops from Academics	19
Table 4. States Reporting Dicamba Damage to Non-Soybean Crops in 2021.	20
5.1.3 Non-Soybean Crops from Registrants and 6(a)(2) Letters	20
5.1.4 Conclusion of Incidents from Non-Soybean Crops.....	20
5.2 Non-DT Soybeans.....	20
5.2.1 Conclusions of non-DT soybean.....	21
5.3 Research/Breeding/Seed Production Plots.....	21
5.4 Non-Cropland	22
5.4.1 Landscape, gardens, etc.	22
Table 5. States Reporting Dicamba Damage to Various Types of Vegetation in Residential Settings in 2021.....	23
5.4.2 Public Lands (Wildlife Refuges, Parks, etc.).....	23
Table 6. Results from Audubon Arkansas Community Science Project (Audubon Arkansas, 2021).	24
5.4.3 Conclusions of Non-Crop Incidents.....	24
5.5 Incidents Occurring in Counties with Endangered Species or Critical Habitat.....	24

Figure 1. Map and associated cotton and soybean acres (in thousands) harvested in ESA counties (red) and surrounding counties (black) in Southeast Missouri in 2017. (USDA, 2017). 26

5.6 Impacts to Growers of Non-DT Crops..... 26

 5.6.1 Specialty Crops 26

 5.6.2 Grapes/Vineyards..... 27

 5.6.3 Sweet Potato..... 27

 5.6.4 Tree Nurseries 27

 5.6.5 Research/Breeding/Seed Production Plots..... 27

 5.6.6 Conclusions of Impacts to Growers of Non-DT Crops 28

5.7 Impacts to Non-Cropland..... 28

5.8 Social Impacts..... 28

5.9 Impacts to State Agencies..... 28

 5.9.1 Enforcement..... 29

 5.9.2 State Authority to Regulate Dicamba Products 29

 5.9.3 Conclusions on Impacts to State Agencies 30

5.10 Underreporting of Incidents..... 30

 5.10.1 Conclusions on Underreporting 31

5.11 Conclusions of Incidents Reported to the Agency..... 31

6. Factors influencing Incidents 32

 6.1 Crop Acreage and OTT Dicamba Usage 33

 Table 7. 2021 State Level Rankings of Incidents, OTT Dicamba Product Sales and Crop Acreages..... 33

 6.2 Label Complexity Concerns 33

 6.3 Product Usability Concerns 33

 6.4 Use of Non-OTT Formulations of Dicamba..... 34

 6.5 Non-Compliance with Application Cutoff Dates 34

 6.6 Non-Compliance with Other Label Parameters..... 35

 6.7 Potential Other Causes of Symptomology Consistent with Dicamba Exposure 35

 6.7.1 Non-OTT Dicamba Usage on Corn 36

 6.7.2 Other Potential Causes..... 36

 6.8 Conclusion of Potential Causes of Incidents 37

7. Stakeholder-Suggested Mitigation Options to Reduce Incidents..... 38

7.1 Near Term Mitigation Options.....	38
7.2 New Longer-Term Mitigations.....	39
7.3 Restriction of Some or All OTT Dicamba.....	40
7.3.1 Alternatives to OTT Dicamba.....	40
7.3.2 Impact of Restriction on OTT Dicamba in Soybean	40
7.3.3 Impact of State-Specific Restrictions on OTT Dicamba	41
8. Conclusions	43
Acreage, Usage, and Sales.....	43
Incidents Reported to the Agency.....	43
Weed Resistance to Dicamba.....	44
Mitigation Measures Suggested by Stakeholders	44
9. References	45
Attachment A.....	57
Attachment B. Confidential and Proprietary Data.....	59
Attachment C. Confidential and Proprietary Data.....	69

1. SUMMARY

This document summarizes incident reports and other information provided to the Agency related to off-target movement of dicamba during the 2021 growing season. This document does not contain any regulatory or policy decisions related to dicamba.

For cotton and soybean growers facing multiple-herbicide-resistant broadleaf weed populations, like Palmer amaranth and waterhemp, only three herbicides belonging to two modes of action classes are available to provide weed control after crops emerge from the ground (post-emergence). Over-the-top dicamba (OTT dicamba) is one of only two synthetic auxins available for over-the-top (OTT) use with herbicide tolerant crops. Since the original registration in 2016, cotton and soybean growers have rapidly adopted dicamba-tolerant (DT) seed and OTT dicamba products for the post-emergence control of problematic multiple-herbicide resistant weeds. Simultaneously, there have been reports of off-field movement of dicamba, leading to damage in various crops and residential and natural landscapes.

Nationally, about three-quarters of the cotton acreage and about two-thirds of the soybean acreage are planted with DT seed. Based on market research data and aggregated sales data, about half of DT cotton and DT soybean were treated one or more times with an OTT dicamba product in 2020 (2021 data are not yet available). The significant adoption of dicamba tolerant technology is demonstrative of the need to control herbicide resistant weeds that can reduce yields and hamper production in these crops. The acres of DT cotton and soybean planted but not treated with OTT dicamba products may indicate that growers selected the seed variety not for

the herbicide trait, but instead based on genetics/yield potential, or as a defense against off-target movement of OTT dicamba used on neighboring fields.

Based on pesticide usage survey data from 2020, misuse of dicamba products not registered for OTT use may have occurred on a small percent of DT soybean and cotton acres. Non-OTT dicamba usage on cotton and soybean have increased significantly since the registration of the OTT dicamba products. This may be due to misuse or to increased use of dicamba preemergence application.

Weed scientists have confirmed dicamba resistance in Palmer amaranth and waterhemp, and that resistance is spreading. As resistance to dicamba increases, benefits of the DT crop systems will decrease.

In 2021, EPA continued to receive reports of off-target movement of dicamba. EPA received nearly 3,500 reports alleging effects from off-target movement of dicamba onto various non-target vegetation, including cotton and soybean varieties that are not dicamba-tolerant, ornamental plants, other crops (sugarbeet, rice, sweet potato, peanut, grapes, cucurbits, vegetables, fruit trees, caneberries) and natural areas. Incidents in food crops reportedly occurred in Arkansas, Illinois, Kansas, Missouri, North Dakota, Nebraska, Ohio, South Dakota, Tennessee, and Texas. Incidents were also reported for non-crop areas in Arkansas such as state parks and wildlife refuges.

Generally, pesticide incidents are underreported. Based on conclusions from previous BEAD assessments and current feedback from stakeholders and 6(a)(2) reports in 2021, EPA expects that OTT dicamba related incidents continue to be under-observed and underreported. The number of reported incidents vary depending on the state. EPA received few incident reports from states such as Georgia, Louisiana, and Mississippi, where OTT dicamba is widely used. In other states, such as Arkansas, Illinois, and Minnesota, reported incidents are numerous and widespread. Reported effects vary in severity and include landscape level damage and reductions in crop quality and yield. Additionally, the reports indicate some growers' crops (or non-croplands) have experienced multiple years of exposure to dicamba and subsequent damage.

There have also been more than 290 incidents reported in counties where additional restrictions were implemented to prevent off-field exposures to endangered species and critical habitat. The Agency is not aware of any "take" where an endangered species or critical habitat has been harmed. However, these incidents suggest the possibility that a "take" could occur.

The impact of incidents associated with the use of OTT dicamba extend beyond damage to sensitive vegetation. Damage resulting from off-target movement of dicamba has caused social conflicts in agricultural communities since DT seed was first commercialized, including strained relationships with neighbors, vandalism, and violent altercations, as well as a fatal shooting. In 2021, EPA has continued to receive reports of social conflicts caused by dicamba.

The exact circumstances of various off-target incidents are not always known and often difficult to determine. Off-target movement of dicamba may occur when there is unintentional noncompliance with label parameters due to product usability, intentional noncompliance with label parameters (e.g., applying after a cutoff date), unlawful use of non-OTT dicamba that is not

registered for OTT use on dicamba-tolerant crops, legal applications of non-OTT dicamba on other crops such as corn, and/or volatility. According to some stakeholders, off-target movement can occur even when there is complete compliance with label parameters of OTT dicamba products. Officials from numerous states posit that secondary movement, or volatility, is the cause of the majority of off-target incidents. In addition, while some small number of reported dicamba-like incidents may be the result of environmental stress or exposure to other pesticides, the Agency considers the preponderance of incidents to be the result of dicamba exposure.

Stakeholder-suggested mitigations to decrease dicamba misuse and incidents may reduce off-target movement, but EPA has not, at this time, conducted a full assessment of further potential mitigations. Furthermore, the stakeholder suggested mitigations may severely restrict a user's ability to use dicamba for OTT weed control, effectively resulting in cancellation. Other suggested mitigations are not feasible to be implemented in the near term.

Stakeholders also suggested cancellation scenarios of some or all OTT dicamba products. If the use of OTT dicamba was no longer permitted the Agency expects that growers currently using an OTT dicamba system in cotton and soybean would switch to using the OTT 2,4-D system. Like dicamba, 2,4-D is a synthetic auxin and certain products are registered for use with herbicide-tolerant cotton and soybean. It is similarly effective against problematic weeds with a similar potential for resistance to develop. However, dicamba users and seed companies may not be able to quickly adjust to the loss of dicamba, given available supplies of alternative herbicides and tolerant seed, especially since growers make seed choices months in advance of the growing season.

If the Agency restricted use of OTT dicamba in soybean production but not cotton, states that have substantial acreage of both soybean and cotton may experience increased incidents as growers would be forced to plant highly sensitive non-DT soybean in close proximity to DT cotton. A state-level or geographic cancellation, instead of a crop-specific cancellation, would allow growers who plant both soybean and cotton to grow both crops with the same herbicide-tolerance traits, reducing incidents in soybean and cotton and limiting potential impacts for growers.

2. INTRODUCTION

This document has been prepared to provide transparency about incident reports and other information provided to the Agency pertaining to off-target movement of dicamba in the 2021 growing season and to inform growers, state legislatures, and state pesticide regulators as they make decisions about the 2022 growing season. This document reviews information received by the Agency on dicamba since the 2020 registration of four Over-the-Top (OTT) dicamba products. Changes in cotton and soybean acreage, adoption of the DT trait, and dicamba usage are described. Incidents reported to the Agency are summarized and impacts to non-DT cotton and soybean growers, and others, are described. Mitigation measures proposed in letters to the Agency are summarized and the impacts of these measures are qualitatively assessed.

In 2020, the 9th Circuit court vacated the 2018 registrations of three OTT dicamba products¹ (9th Cir. 2020), and shortly after, the EPA issued a cancellation order. After review of new information, on October 27, 2020, EPA approved new five-year registrations/extended registrations for OTT dicamba products². The 2020 OTT registrations include more restrictive use requirements than the vacated 2018 registrations³ (USEPA, 2020a). Additional requirements were also placed on use in counties with endangered species that might be at risk from exposure to dicamba. The growing season of 2021 is the first year OTT dicamba products were used with the new more restrictive measures. Additional background on the regulatory history of OTT dicamba is available at: <https://www.epa.gov/ingredients-used-pesticide-products/registration-dicamba-use-dicamba-tolerant-crops>.

Despite these 2020 changes to the label, in early July 2021 the Agency began receiving reports via email, calls, and popular press articles describing dicamba damage to plants off the treated field. As a result, on September 9, 2021, the Agency issued letters to the registrants reminding them of their obligations to report adverse effects data under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Section 6(a)(2), and to identify specific information EPA expected to receive (USEPA, 2021a). The Office of Pesticide Programs staff also had several meetings with various stakeholders including the following, during which the 2021 field season was discussed:

- Association of American Pesticide Control Officials (AAPCO), September 2, 2021
- BASF, September 30, 2021
- Bayer, September 22, 2021.
- North and South Dakota (Dakotas), August 4, 2021
- EPA Region 7, September 9, 2021
- Arkansas State Plant Board (and EPA personnel from Region 6), July 30, 2021
- Illinois Department of Agriculture (and EPA personnel from Region 5), August 19, 2021
- Weed science researchers and extension specialists, scheduled through Weed Science Society of America (WSSA), August 30, 2021. This meeting is referenced throughout as Academics (2021) or meeting with Academics (2021).

To provide context for the situation in which the 2021 incidents occurred, EPA first provides summaries of the most recent assessments of the benefits of dicamba and assessment of off-

¹ M1768 Herbicide (Alternate Brand Name: XtendiMax With VaporGrip Technology; EPA Reg. 524-617), Engenia Herbicide (EPA Reg. 7969-345, and DuPont FeXapan Herbicide (EPA Reg. 352-91]). Note that in April of 2019, EPA registered another OTT product, a premixed product of dicamba plus s-metolachlor, A21472 Plus VaporGrip Technology (Alternate Brand Name: Tavium Plus VaporGrip Technology; EPA Reg. 100-1623). The registration of Tavium was not vacated/cancelled.

² The Agency approved registrations for XtendiMax with VaporGrip Technology (EPA Reg. 264-1210) and Engenia Herbicide (EPA Reg. 7969-472) and extended the registration of Tavium (EPA Reg. 100-1623). Note: The Agency registered FeXapan Plus VaporGrip Technology (EPA Reg. 352-938) on Feb 24, 2021; however, Corteva did not commercially market this registration (Corteva, 2021b).

³ Restrictions for these OTT dicamba products include: requiring volatility-reducing agents, larger buffer distances, and application cutoff dates to address off-target movement. For applications to dicamba-tolerant soybean, the cutoff date is June 30th and for applications to dicamba-tolerant cotton the cutoff date is July 30th. Additionally, all non-DT crop uses were removed from the label.

target dicamba incidents, both conducted in 2020. EPA then summarizes relevant information about the 2021 growing season, including cotton and soybean production information, dicamba usage and dicamba sales, and new information about dicamba resistance.

In order to understand the frequency and distribution of off-target movement of dicamba in 2021, EPA summarizes incident reports and other reports of off-target movement received by the Agency by November 17, 2021. EPA also summarizes information shared about whether reported incidents may underestimate the actual number of incidents. EPA describes the consequences of off-target movement to growers, researchers, landowners, and agricultural communities, as well as to state agencies.

Off-target movement of dicamba can occur due to accidental or intentional failure to follow the use directions. Because the regulatory response to alleged OTT dicamba-related incidents depends on the circumstances that influence off-target movement, EPA evaluates conditions identified in incident reports.

Along with the incident reports and other reports, the Agency also received comments and feedback on different regulatory options the Agency could consider, including options to improve the label. In this memo, EPA provides some initial considerations of the impacts from these “stakeholder suggestions”. Stakeholder suggestions include cancellation of dicamba, regional and crop restrictions on dicamba, and label changes.

The following abbreviations are used throughout this document.

AAPCO	Association of American Pesticide Control Officials
BEAD	Biological and Economic Analysis Division
DT	Dicamba tolerant
ESA	Endangered Species Act
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
Non-OTT	Dicamba products that are not registered for dicamba tolerant crops
OPP	Office of Pesticide Programs
OTT	Over-the-Top application or Over-the-Top dicamba products
USDA	United States Department of Agriculture
WSSA	Weed Science Society of America

3. SUMMARY OF 2020 ASSESSMENT FOR OTT DICAMBA PRODUCT REGISTRATION

3.1 2020 Benefits Assessments

In 2020, BEAD reviewed the benefits of dicamba in cotton and in soybean (Orlowski and Kells, 2020a and 2020b). Between 2017 and 2018, dicamba products for use in dicamba tolerant (DT) crops were used on 43% of all U.S. cotton acres and on 21% of all U.S. soybean acres; the majority of usage was after crop emergence. Postemergence dicamba in cotton production was primarily used to target herbicide-resistant Palmer amaranth and redroot pigweed. In soybean,

postemergence dicamba was primarily used to target herbicide-resistant Palmer amaranth, waterhemp, kochia, ragweed, and marehail.

BEAD found that for growers facing weed populations with resistance to glyphosate (Weed Science Society of America [WSSA] Group 9 herbicide), ALS acetolactate synthase (ALS) inhibitor herbicides (WSSA Group 2,) and protoporphyrinogen oxidase (PPO) inhibitor herbicides (WSSA Group 14), the registration of dicamba in DT cotton or soybean would give growers an effective herbicide to control these weeds. For areas that do not yet have resistance to one or more of these herbicides, OTT dicamba provides additional flexibility in rotating and/or mixing herbicides for managing weed populations, thereby reducing selection pressure on individual herbicides and prolonging the effectiveness of currently available control options for herbicide-resistant weed species.

However, the development of localized dicamba-resistant weed populations has the possibility to reduce the benefits growers obtain from this technology in some areas. In fields with dicamba-resistant weeds the benefits are lower because of reduced efficacy in controlling those problematic weed biotypes.

BEAD concluded that the registration of dicamba for postemergence use in DT crops gives many growers increased flexibility in their choice of herbicide resistance and integrated weed management programs. It allows growers the ability to apply an additional effective mode of action for control of problematic weed species, like Palmer amaranth, as the WSSA recommends applying at least two effective modes of action to control a weed species. Growers using DT seed have the option to use dicamba as a cost-effective way to control problematic herbicide-resistant broadleaf weed species, and as an additional tool to delay the further development of herbicide resistance. BEAD found that growers have alternative herbicides available to provide postemergence control of problematic multiple-herbicide-resistant broadleaf weeds, including OTT 2,4-D and glufosinate.

For more information, see *Assessment of the Benefits of Dicamba Use in Genetically Modified, Dicamba Tolerant Cotton Production* and *Assessment of the Benefits of Dicamba Use in Genetically Modified, Dicamba Tolerant Soybean Production* (Orlowski and Kells, 2020a and 2020b) in the docket.

3.2 2020 Incidents and Impacts Assessment

In 2020, BEAD reviewed information on dicamba incidents. Concomitant with the registration and grower adoption of the OTT dicamba products, large numbers of incidents of damage from offsite movement have been reported. Based on incidents reported to the EPA and on data from USDA's Agricultural Resource Management Survey (ARMS), BEAD concluded that incidents were being underreported to the EPA by approximately 25-fold. Based on the ARMS survey, BEAD also concluded that dicamba products not intended for use on DT crops were being illegally used on DT crops after planting. BEAD found that, relative to not registering OTT dicamba, the registration of OTT dicamba might reduce misuse of dicamba products not intended for DT crops.

BEAD concluded that offsite movement of OTT dicamba could have substantial impacts to non-users. These impacts include crop yield and quality losses, loss of organic certifications, damage to research and crop breeding programs, residential and landscape damage, increased costs to state lead agencies, and conflicts between neighbors.

BEAD considered a number of control measures and restrictions intended to reduce drift. BEAD found that these control measures may increase applicator or grower control costs and could make use of OTT dicamba products more difficult. BEAD concluded that the control measures should benefit non-users by addressing offsite movement but would not completely eliminate impacts to non-users if misuse occurs.

For more information, see *Dicamba Use on Genetically Modified Dicamba-Tolerant (DT) Cotton and Soybean: Incidents and Impacts to Users and Non-Users from Proposed Registrations* (Chism et al., 2020) in the docket.

4. CURRENT SITUATION

4.1 Cotton and Soybean Acreage and Dicamba Usage

The national planted acreage of cotton declined in both 2020 and 2021 (Table A-1). From 2019 to 2021, cotton acreage declined from 13.7 million acres to 11.2 million acres (-18 percent). State-level declines were especially notable in states like Louisiana where the number of acres planted was more than halved from 2019 to 2021 (USDA/NASS 2021).

Conversely, the national total planted soybean acreage has increased in both 2020 and 2021, resulting in a two-year increase of 13 percent (Table A-2). States with the greatest percent increases between 2019 and 2021 include South Dakota, Georgia, New York, Texas and Mississippi (USDA, 2021).

Multiple other data sources are used in this document as no one source includes all information about acreage, adoption of DT seed, and dicamba usage. Table B-1 in Appendix B compares acreage estimates across different data sources. Overall, there is high agreement between the sources (greater than 92%) on number of acres planted/grown. The discrepancies between sources may be due to slightly different survey methodologies.

Pesticide usage data for cotton and soybean for 2020 are available by seed trait (DT or Non-DT), by type of dicamba products (OTT or non-OTT) and by application timing (Kynetec, 2021). Data for 2021 are not yet available from the data provider. These data are proprietary and are contractually non-releasable to the public. Detailed usage data are provided in a confidential attachment (Attachment B, Tables B-2 to B-9). Summary data for cotton (Table 1) and for soybean (Table 2) are included below, but these tables must be redacted prior to release outside of the Agency.

After accounting for the yearly acreage variability, the percent of cotton and soybean acreage planted with DT seed was relatively stable between 2019 and 2020. In 2020 about three-quarters percent of the cotton acreage used DT seed (Table B-2) and about two-thirds percent of the

soybean acreage used DT seed (Table B-3). Data for the 2021 growing season are not yet available.

About two-thirds of DT cotton was treated one or more times with a dicamba product. Less than 20 percent of the acres were treated with non-OTT dicamba products and roughly 60 percent were treated with OTT dicamba products (Table B-4), with some acres treated with both types of products.

About 60 percent of DT soybean was treated one or more times with a dicamba product. Ten to 15 percent of the DT soybean acreage was treated with non-OTT dicamba products and around half were treated with OTT dicamba products (Table B-5); less than ten percent of DT soybeans were treated with both types of products.

The permitted timing of dicamba applications differs between the four OTT products and all other dicamba products. Only the four OTT dicamba products are permitted to be used after the crop has been planted. Recent usage data (2021 data not yet available) indicate that less than one percent of DT cotton acres planted were treated post-emergence with a non-OTT dicamba product (Table B-6).

For soybean, the most recent pesticide usage survey data indicate that non-OTT dicamba products may have been misused on about five percent of DT soybean acreage (Table B-7). The Agency also observed similar misuse of dicamba products from a 2018 survey on DT soybean based on a survey conducted by USDA (USDA/ERS, 2020; Chism et al., 2020).

Table 1. Summary of Cotton Acreages and Dicamba Usage. **THIS TABLE CONTAINS PROPRIETARY USAGE DATA AND MUST BE REDACTED PRIOR TO PUBLIC RELEASE.**

2020 Cotton*	Acres	Percent of DT Acres Grown	Percent of US Cotton Crop
Acres Surveyed for Herbicide Usage			
DT Acres Surveyed			
DT Acres Treated One or More Times with <u>any</u> Dicamba Product			
DT Acres Treated One or More Times with <u>an OTT</u> Dicamba Product			
DT Acres Treated Post with a <u>non-OTT</u> Product			

* Pesticide usage survey data are available about one year after collection. 2020 is the most recent data available

The usage of non-OTT dicamba products has greatly increased over time (Kynetec, 2021). Table B-8 reports the number of cotton acres treated with non-OTT dicamba products by year and, between 2015 and 2020, usage more than doubled. Table B-9 reports the use of non-OTT dicamba on soybean acres over time. Between 2015 and 2020 usage of non-OTT dicamba has increased five-fold. Several potential explanations for the large increases may include misuse or increased use of dicamba as a preemergent treatment.

Table 2. Summary of Soybean Acreages and Dicamba Usage. **THIS TABLE CONTAINS PROPRIETARY USAGE DATA AND MUST BE REDACTED PRIOR TO PUBLIC RELEASE.**

2020 Soybean*	Acres	Percent of DT Acres Grown	Percent of US Soybean Crop
Acres Surveyed for Herbicide Usage			
DT Acres Surveyed			
DT Acres Treated One or More Times with <u>any</u> Dicamba Product			
DT Acres Treated One or More Times with <u>an OTT</u> Dicamba Product			
DT Acres Treated Postemergence with <u>a non-OTT</u> Product			

* Pesticide usage survey data are available about one year after collection. 2020 is the most recent data available

The Agency reviewed the annual sales data for OTT dicamba products that each registrant submitted as part of the 6(a)(2) letters. These data are not crop specific but crops in some states may be inferred based on the location of crop production. Table B-10 shows the total amount of dicamba from the four OTT products sold by state and the percent of sales attributable to each of the four registrants. Notably, OTT dicamba sales leaders changed in about 70 percent of the States between 2020 and 2021. Because each registrant typically only investigates incidents related their own products, and the sales leader changes in most states, claims by any single registrant of incident reduction is not likely to be meaningful.

The registrant submitted sales data, measured in pounds of dicamba sold, may be used to estimate the number of acres treated in each state. The label rate of 0.5 pounds of dicamba acid equivalent (a.e.) per acre is presumed. Table B-11 compares DT cotton and soybean acres with the acres potentially treated once or twice with an OTT dicamba product. Nationally, about 61 percent of the DT cotton and soybean acres could be treated with the amount of OTT dicamba sold, assuming one application. That is more DT acres are planted than can be treated with OTT dicamba sold may be due to defensive planting to protect against off-target movement, selection of the variety based on genetics/yield potential and not for the herbicide trait, or illegal use of dicamba products not registered for use on DT crops (non-OTT dicamba products).

4.2 Development of Dicamba Resistant Weeds

In the 2020 impact assessment (Chism et al., 2020), the Agency concluded that as resistance to dicamba spreads, the DT/OTT dicamba technology will become less useful to growers with herbicide-resistant weeds.

As has been observed for other herbicides, including glyphosate (Group 9) and the ALS inhibitor herbicides (WSSA Group 2), widespread and repeated use of dicamba has led to dicamba-resistance in problematic broadleaf weed species, like Palmer amaranth and waterhemp, and this resistance appears to be spreading. The first incidents of dicamba resistance in Palmer amaranth

were reported (Steckel and Perkins, 2020) and subsequently confirmed during the 2020 growing season in Tennessee by University of Tennessee Extension Weed Scientists (Steckel, 2020). The Tennessee scientists confirmed that the labeled rate only provided 40 to 60% control of Palmer amaranth and that follow-up applications only marginally improved control in some replicated trials. The Tennessee scientists also reported that resistance to dicamba in the populations of Palmer amaranth that they evaluated also conferred resistance to 2,4-D, a similar synthetic auxin herbicide (WSSA Group 4 like dicamba) used for over-the-top control of broadleaf weeds in soybean and cotton. State Extension weed scientists in Arkansas reported Palmer amaranth populations in Arkansas displaying decreased sensitivity to dicamba, as well as other key herbicides including 2,4-D and glufosinate (Barber, 2020) and state Extension weed scientists in Georgia also reported decreased sensitivity of Palmer amaranth to dicamba in 2020 (Culpepper, 2020). While cross-resistance between 2,4-D and dicamba is not guaranteed, it occurs with enough frequency that the reduced effectiveness of 2,4-D should also be considered as a potential impact of resistance to dicamba.

While the initial reports of reduced sensitivity or resistance to dicamba occurred in 2020, the 2021 growing season provided confirmation that resistance to dicamba is becoming much more widespread. Dicamba resistant Palmer amaranth is common across Tennessee where state Extension weed scientists no longer consider dicamba an effective herbicide control option for Palmer amaranth in many parts of the state (Arkansas, 2021; Unglesbee, 2021f; Steckel et al., 2021). Dicamba-resistant Palmer amaranth has also been confirmed in Arkansas (Arkansas, 2021; McGeeney, 2021) and a screening effort is being conducted to confirm resistance to dicamba in waterhemp populations exhibiting decreased sensitivity to dicamba across seven states including Missouri, Illinois, Indiana, Louisiana, Nebraska, Ohio, and Tennessee (Winans et al., 2021). In two of these states, Illinois and Tennessee, state Extension weed scientists have confirmed resistance in multiple populations of waterhemp resistant to dicamba (Unglesbee, 2021d). Given the widespread use of over-the-top dicamba herbicide products on soybean and cotton in the U.S., the Agency expects more instances of dicamba resistance to be confirmed and resistance to dicamba in problematic broadleaf weeds like Palmer amaranth and waterhemp to continue to spread.

Two registrants submitted records for “suspected resistance” as part of the 6(a)(2) reporting requirements, and there have been a substantial number of cases reported as suspected resistance (see Attachment C-1). There have only been a limited number of cases that have required additional testing by registrants, and only one company has confirmed resistance that has also been confirmed by state agricultural extension agencies (Steckel and Foster, 2021; Unglesbee, 2021d). While registrants identified only one confirmed case of resistance, this does not demonstrate a low frequency of resistance. The number of suspected cases tested was low, which prevents determining the frequency of resistance. Registrants claim that most of the efficacy “failures” were attributed to environmental factors or misapplication (e.g., weeds emerged after application, weed not labeled for control, weeds too big, mis-spray / mechanical failure, inadequate spray coverage). Efforts to control weeds that were not killed following a dicamba application included respraying with OTT dicamba products or applying other herbicide products or cultivation. However, extension weed scientists are reporting and confirming resistance

beyond what the registrants have reported. As resistance increases, benefits of the DT technology will decrease (Chism et al., 2020).

Given that some registrants report that growers are making a second application of dicamba to remediate the initial failure (see Attachment C-1), the Agency is concerned that growers are not implementing robust herbicide resistance management plans, specifically using two effective modes of action. Therefore, the agency questions whether or not registrants are implementing effective herbicide resistance management plans (e.g., providing sufficient recommendations that encourage the use of a different mode of action or other method of control following a failure of dicamba) as required under the terms and conditions.

In 2019, Dr. Johnson, a weed scientist in Indiana, indicated there were several fields where waterhemp survived dicamba application and stated that the situation resembled the way fields looked when the first glyphosate-resistant waterhemp populations were found (Unglesbee, 2019). Dr. Steckel (2020), a weed scientist in Tennessee, echoed similar sentiments regarding Palmer amaranth escapes following dicamba applications. Given that two extension weed scientists compared the early onset of glyphosate-resistance with two different weed species with recent dicamba escapes, the Agency looked at the trajectory of glyphosate resistance.⁴ The Agency is concerned that dicamba resistance is increasing and is not being effectively managed by current resistance management training materials provided as part of the terms and conditions of registration. If weed resistance to dicamba were to follow the same trajectory as glyphosate, the value of dicamba for OTT uses and for other registered dicamba uses would be effectively lost, severely jeopardizing the ability of soybean and cotton producers to control problematic broadleaf weeds.

4.3 Public Letters Received

In September of 2021, the Deputy Press Secretary of EPA told DTN that the Agency was concerned with incidents and assessing the new information to determine if any new regulatory action would be needed (Unglesbee, 2021h). After that announcement, the Agency received dozens of letters concerning the pending dicamba registrations for use with DT cotton and soybean. Information from the submitted letters is incorporated, as appropriate, in this memorandum. While this memorandum takes into consideration all comments known to have been received, because there was not a formal comment period, it is possible that comments received close to the date of this memorandum are not included.

Several letters indicated that growers need as many tools as possible and that OTT dicamba for use in DT cotton and soybean is important to combat troublesome weeds (Palmer amaranth) and allows farmers to continue using no till and conservation tillage practices. Letters provided information indicating that the high adoption rate of this technology is a sign of importance to

⁴ Before 1998, there were no reports of glyphosate-resistant weeds (Heap, 2021). Between 1998 and 2003 in the United States, there were only 14 reports of two weeds resistant to glyphosate in nine states. In 2004, there was a cumulative total of 18 reports involving 5 species 14 states; in 2005, was a cumulative total of 29 reports involving 7 species in 18 states, and between 2006 and 2016 there was reporting in the double digits of new cases of glyphosate-resistant weed populations. As of 2020, there are 172 reports involving 17 weed species in 40 states.

growers; urging EPA to extend the soybean cutoff date (currently June 30) to be equal to that of cotton (currently July 30); seeking greater flexibility with Section 24(c) so states can extend applications beyond the federal cutoff date to accommodate weather or double cropped soybean systems; explaining that further regulation could prevent farmers from having the ability to control weeds which in turn could reduce yields; requesting a timely decision to help inform seed purchases for the 2021 growing season; and/or indicating that incidents are down or not occurring in their state. Alabama Soybean and Corn Association et al. (2021) informed the Agency of potential impacts to farmers if changes were made due to the supply chain issues with agricultural pesticides. As of November 17, 2021, examples of letters received include those from *agricultural coalitions* from the states of: Kansas Coalition of Agriculture (2021), Nebraska Agri-Business Association (2021); *farm bureaus*: Tennessee Farm Bureau Federation (2021), Arizona Farm Bureau (2021), Louisiana Farm Bureau Federation (2021), Georgia Farm Bureau (2021), New Mexico Farm and Livestock Bureau (2021), Ohio Farm Bureau (2021); *seed dealers/Co-Ops*: Minnesota Crop Production Retailers (2021); *commodity groups*: American Soybean Association (ASA, 2021), Illinois Soybean Growers (2021), Delta Council (2021), North Carolina Producers Association (2021), North Dakota Soybean Growers Association (2021), Ohio Soybean Association (2021), South Dakota Soybean Association (2021), Tennessee Corn Growers Association (2021), Tennessee Corn Growers Association (2021), Nebraska Soybean Association; Iowa Soybean Association (2021); *academics*: Li, 2021; Nolte, 2021; *individual growers*: Meyer (2021), Maurath (2021), Rezac (2021), Robbins (2021); *governmental entities*: Alabama Department of Agriculture and Industries (2021), Kansas Department of Agriculture (2021), Louisiana Department of Agriculture (2021), Texas Department of Agriculture (2021), Missouri Department of Agriculture (2021), Nebraska Department of Agriculture (2021), New Mexico Department of Agriculture (2021), Oklahoma Department of Agriculture (2021).

Another set of letters from stakeholders provided varying levels of details describing incidents and views on underreporting of incidents. These letters describe damage to non-DT soybean, and numerous species of trees and other broadleaf herbaceous plants. These incidents were documented on farms, research/breeding plots of seed companies, residential areas, public lands (e.g., parks, natural areas, wildlife refuges), industrial landscapes (e.g., cemeteries, business store fronts) and roadsides. Some letters offer suggestions on potential label changes (e.g., earlier application cutoff dates, increased enforcement, cancellation). Additionally, the Environmental Protection Network (2021) suggested that the Agency should pursue non-label options by convening a Scientific Advisory Panel (SAP) to develop an understanding of dicamba volatility, working with states to take vigorous enforcement actions, requiring registrants to establish a compensation fund through terms and conditions of registration, and/or working with USDA Animal and Plant Health Inspection Service's (APHIS's) Biotechnology Regulatory Service (BRS) to coordinate the deregulation of new herbicide-tolerant crops and the registration of herbicide for use on the crops. As of November 17, 2021, examples of letters received from *non-dicamba-tolerant soybean growers/private citizens* include: Nelms (2021), Chincoine (2021), Maginel (2021) Sowers (2021); *crop consultant*: Baldwin (2021); *non-governmental organizations*: Audubon Arkansas (2021), Environmental Protection Network (2021); *seed*

companies/independent seed dealers: Stine Seed (Stine, 2021), Merschman Seed (2021), Ball (2021) and lawyer representing farmers in Arkansas: Mays (2021).

5. INCIDENTS REPORTED TO THE AGENCY

A pesticide incident is any exposure or effect from a pesticide's use that is not expected or intended (USEPA, 2021b). Incident reports help EPA determine if the pesticide's application directions need to be changed, if the uses of the pesticide should be restricted, or if additional protective safety equipment should be required. EPA uses information related to pesticide incidents from a variety of sources such as required reporting information from pesticide manufacturers, information submitted directly to EPA, and voluntary reporting by the public through various methods. Observations of visual symptomology and/or plant damage consistent with exposure to dicamba form the majority of dicamba related incidents reported to EPA. In the case of dicamba, sensitive plant species exhibit characteristic visual injury in the form of deformed leaves/cupping (epinasty) after exposure to low concentrations of dicamba. While the Agency is concerned with the overall impacts of incidents, the severity in any particular case is dependent on many factors (e.g., the level of sensitivity of a species, the frequency in which a plant is exposed, the growth stage in which a plant is exposed, the dose received).

Dicamba-tolerant (DT) seed was deregulated by USDA in 2015 (Firko, 2015a and 2015b). DT cotton was first grown commercially in 2015, and DT soybean in 2016. Dicamba herbicide products for OTT use on DT crops were registered by EPA in the fall of 2016 for use in the 2017 growing season. Dicamba-related incidents have been reported to EPA since dicamba-tolerant seed (cotton seed) was released in 2015, two growing seasons prior to a registration of OTT dicamba herbicides (Carey, 2016; BASF, 2021d). Once the OTT dicamba herbicides were registered, the acres of cotton and soybeans in the United States treated with dicamba increased exponentially (USEPA, 2018; Unglesbee, 2021b), and applications of dicamba occur later in the season on these use sites, more frequently, and at higher rates than before the dicamba-tolerant technology was on the market (USEPA, 2018; Unglesbee, 2021b). Incidents have been reported every year since the deregulation of DT crop seeds and there were continued reports of incidents in 2021 despite the additional restrictions added in the 2020 registration decision.

Chism et al. (2020) summarized the history of dicamba related incidents catalogued in the Agency's Incident Data System (IDS) and found incidents went from zero reported in 2014 through 2016 to a total of approximately 1,400 in 2017, 3,000 in 2018, and 3,300 in 2019. A summary was not available for the 2020 season at that time.

The Agency compiled incidents reports for 2021 from the registrants (Corteva, 2021c-e; Syngenta, 2021b; Bayer, 2021b-e; BASF, 2021b and 2021c), the States (Dunbar, 2021a-b; AAPCO, 2021; Ende, 2021; King, 2021; Gere, 2021b; Creger, 2021; Verhougstraete, 2021; Beaver, 2021; Hubbard, 2021; Scott, 2021a; Region 7, 2021) and other sources that provided quantifiable information (Stine, 2021; Audubon Arkansas, 2021) (see Attachment C.2 for the breakout of data by source providing data). The Agency considers each report as a unique incident but acknowledges in some cases an incident may have been double counted as in most cases it is not possible to cross reference an incident from a registrant with those reported by

state or other sources. Additionally, it is worth noting that most reports only provide a total number of incidents reported; therefore, a cumulative timeline of incidents is not able to be determined. This memo attempts to take into consideration all incidents reported to the Agency as of 17 November 2021. Some States indicated that they were not finished with their investigations for the 2021 season, so this summary may change when all States finalize their cases and complete their reports.

In 2021 there were 3,461 incidents on varying species (information on species injured by dicamba will be described in the “Non-cropland” section below) (Table 3). This represents a slight increase from 2019. Incidents affected more than 1 million acres of non-DT soybean and at least 160,000-acre of vegetation in a wildlife refuge in 2021 (Table 3). In later sections, this memo will attempt to provide more context on what these numbers mean given the potential for underreporting and landscape level effects that were seen in many states during the 2021 growing season. There were 290 incidents that occurred in counties that have concerns with endangered species and/or critical habitat (see the section: *Incidents Occurring in Counties with Endangered Species or Critical Habitat* for more details).

Incidents were reported in 29 of the 34 states where use of dicamba on DT crops is authorized. There were nine states that had more than 100 incidents (Arkansas, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, and South Dakota); six states that had more than 10 but less than 100 incidents (Kentucky, North Dakota, Ohio, Tennessee, Texas, Wisconsin); 14 states that had less than 10 incidents (Delaware, Florida, Georgia, Louisiana, Maryland, Michigan, Mississippi, New Jersey, New York, North and South Carolina, Oklahoma, Pennsylvania, Virginia); and five states that either had no incidents or did not report to the Agency (Alabama, Arizona, West Virginia, New Mexico, and Colorado). There is disagreement among state regulators who see this technology causing widespread, landscape level damage compared to states that have low incidents and want to preserve, and potentially expand, use of OTT dicamba.

Table 3. Summary of Incidents Reported by State, Not Crop Specific*, to the Agency through the States, general public, non-governmental organizations, and FIFRA Section 6(a)(2) Reporting for 2021, as of 17 Nov 2021.

State	Total Number (No.) of Incidents ¹	Total Acreage Affected ¹	Total Number of Counties with Endangered Species Concerns [ESA Counties] within a State ²	No. of ESA Counties with Incidents (No. of Incidents within ESA Counties) ¹	Acres Planted ³	
					Cotton	Soybean
Arkansas	509	758,449 ⁴	3	1 (14)	475,000	3,050,000
Delaware ⁵	4	70	0	-	0	155,000
Georgia ⁵	1	-	9	-	1,170,000	140,000
Illinois	336	66,140	18	9 (43)	0	10,600,000
Indiana	134	9,495	6	1 (2)	0	5,700,000
Iowa	528	101,026	12	10 (69)	0	10,100,000
Kansas	244	11,448	0	-	110,000	4,850,000
Kentucky	35	2,400	12	2 (8)	0	1,800,000
Louisiana ⁵	4	27	2	-	110,000	1,080,000
Maryland	1	30	0	-	0	490,000
Michigan	2	-	18	-	0	2,150,000
Minnesota	711	36,593	10	9 (34)	0	7,700,000
Mississippi ⁵	3	2,000	4	-	445,000	2,230,000
Missouri	111	19,729	10	2 (22)	315,000	5,700,000
Nebraska	323	20,211	7	6 (44)	0	5,600,000
New Jersey ⁵	1	5	1	1 (1)	0	100,000
New York ⁵	1	58	3	-	0	325,000
North Carolina	4	474	45	1 (2)	370,000	1,650,000
North Dakota	45	30,735	7	3 (6)	0	7,300,000
Ohio	34	2,207	3	2 (3)	0	4,850,000
Oklahoma	9	364	1	-	485,000	575,000
Pennsylvania ⁵	2	17	0	-	0	580,000
South Dakota	290	30,437	10	7 (30)	0	5,500,000
Tennessee	30	1,092	15	2 (2)	275,000	1,500,000
Texas	76	-	18	1 (2) ⁶	6,367,000	110,000
Virginia ⁵	5	460	2	-	74,000	600,000
Wisconsin	15	683	26	7 (8)	0	2,100,000
Not Reported	3	-	-	-	-	-
Total	3,461	1,094,150⁴	242	63 (290)⁶	10,196,000	86,535,000

* Aside from non-dicamba-tolerant soybean, there were six large acreage crops (cotton, peanut, potato, rice, sugarbeet, sweet potato) and at least 10 specialty crops (cucumber, vineyards, melon, peas, peppers, pumpkin, squash, tomatoes, tree and shrub nurseries, and timber) mentioned in incident reports.

¹ Corteva, 2021c-e; Syngenta, 2021b; Bayer, 2021b; Stine, 2021; Bayer, 2021c; 2021d; 2021e; BASF, 2021b-c; AAPCO, 2021; Ende, 2021; King, 2021; Gere, 2021b; Creger, 2021; Verhougstraete, 2021; Dunbar, 2021a-b; Audubon Arkansas, 2021; Hubbard, 2021; Scott, 2021a; Beaver, 2021; Region 7, 2021. Incidents have primarily been reported on soybean, but there have been more than 80 plants that have been reported as being injured by dicamba.

² USEPA, 2020b

³ Acres of cotton and soybean grown nationally, regardless of herbicide tolerance technology (USDA-NASS, 2021).

⁴ Dunbar (2021b) provided reports, does not include 160,000 A wildlife refuge with dicamba injury.

⁵ Indicates a state for which the Agency previously had no reported incidents or very few reports of dicamba symptomology

⁶ BASF (2021c) reports damage in Harris County, which is the Houston area. It is uncertain if the business is incorporated in the county or if there are grapevines in the county that were injured. The 2017 USDA Census of Agriculture reports 9 acres of grapes were grown in Harris County.

5.1 Non-Soybean Crops

5.1.1 Reported by States

While the majority of incidents have centered around non-DT soybean, there have been several reports of other crops that have been injured by dicamba. There were six large acreage crops and more than 10 specialty crops mentioned in reports by states to EPA (Table 4). Many of the reports from states were without quantification of the number of calls received or acres damaged. However, occasionally more details were provided. Arkansas (Dunbar, 2021a), Tennessee (AAPCO, 2021), and Nebraska (Creger, 2022) reported damage to tree/shrub nurseries; the nursery in Nebraska was 50 acres. North Dakota reported damage to four or five potato fields (Academics, 2021) and a “couple” sugarbeet fields (AAPCO, 2021). Nebraska reported five incidents associated with vineyards (Creger, 2021), and Arkansas reported three incidents to peas (Dunbar, 2021a). Minnesota reported approximately 31,000 acres of sugarbeet had been injured and believes that may be an underestimate (AAPCO, 2021). Campbell (2021) indicated that approximately 1,050 acres of sweet potatoes were damaged in Arkansas and that sweet potato growers have been experiencing crop damage for four years. Ohio reported that some growers of pepper, pumpkin, squash and tomato have received herbicide damage and some of these growers have had damage since 2017 (Academics, 2021).

5.1.2 Non-Soybean Crops from Academics

Wasacz et al. (2021) determined that snap beans were approximately 1.5 – 3.2 times more sensitive than soybean when looking at the ID₅₀ which represents the dose of dicamba that causes a 50% leaf deformation. This study looks solely at leaf deformation and not yield losses. The Agency is currently evaluating this information to determine if this study would impact the endpoints for risk assessments given that the Agency currently considers soybeans as the most sensitive species in its risk assessment.

Table 4. States Reporting Dicamba Damage to Non-Soybean Crops in 2021.

Non-Soybean Crops with Reported Damage	State Reporting Incidents	References
<i>Large Acreage Crops</i>		
Cotton	AR, MO	Dunbar, 2021a; AAPCO, 2021
Peanut	AR	Arkansas, 2022
Potato	ND	Academics, 2021
Rice	AR	Dunbar, 2021a
Sugarbeet	MN, ND	AAPCO, 2021
Sweet potato	AR	Arkansas, 2021; Campbell, 2021
<i>Specialty Crops</i>		
Cucumber	AR	Dunbar, 2021a
Grape/vineyards	OH, NE, TN, MN, TX, MO	Academics, 2021; Creger, 2021, AAPCO
Large scale commercial vegetables	TN	AAPCO, 2021
Melon	AR	Dunbar, 2021a
Peas	AR	Dunbar, 2021a
Pepper	OH	Academics, 2021
Pumpkin	OH	Academics, 2021
Squash	OH	Academics, 2021
Tomato	OH, AR	Academics, 2021; Dunbar, 2021a
Tree/Shrub Nurseries	TN, AR, NE	Academics, 2021; Dunbar, 2021a; Creger, 2021
Timber	AR	Dunbar, 2021a

5.1.3 Non-Soybean Crops from Registrants and 6(a)(2) Letters

Additionally, registrants submitted new incident information to the Agency pertaining to ongoing/pending litigation. Many of these cases pertain to specialty crops and a description of this information is in Attachment C-3.

5.1.4 Conclusion of Incidents from Non-Soybean Crops

The majority of incidents were to non-DT soybean. However, many states reported damage to crops other than non-DT soybean. This indicates there are various other crops and plants within the landscapes, where OTT dicamba is being used, that are being injured by dicamba. Additionally, the Agency became aware of a species that may be more sensitive to dicamba than soybean.

5.2 Non-DT Soybeans

Some states reported that damage was regional within their state, meaning that some areas of a state had little to no damage or isolated damage and other areas in the state had widespread

damage (Illinois, 2021; Region 7, 2021). Other states reported fewer incidents than in previous years (e.g., North Dakota, South Dakota; Illinois); however, in some cases, state officials suggested that incidents may be underreported (e.g., North Dakota, South Dakota, Minnesota, Illinois) (Dakotas, 2021; AAPCO, 2021). Other states report similar levels of injury as in previous years (e.g., New York, Florida, North and South Carolina, Virginia, Delaware, Texas, Oklahoma), and these states had relatively low numbers of reports compared to other states (AAPCO, 2021). Consequently, these low reporting states do not consider dicamba to be a problem (AAPCO, 2021; Li, 2021). Conversely, Arkansas, Minnesota and Nebraska, have reported a similar or greater number of incidents compared to previous years, (Arkansas, 2021; AAPCO, 2021). States absent/not providing feedback at the AAPCO meeting include: New Jersey, Alabama, Georgia, Mississippi, Maryland, Pennsylvania, West Virginia, Louisiana, New Mexico, and Colorado.

State agents in Arkansas reported that in previous years, when individuals reported incidents, callers were reporting one or two fields being damaged. This year, a caller reported seven to 15 fields with damage, and these incidents occurred despite the additional state restrictions in place (Arkansas, 2021). Some states, such as South Dakota, have documented, though investigations, that incidents have been reported in locations 1-2 miles from the nearest dicamba applications (Gere, 2021a) to 20 miles from the nearest dicamba applications (Arkansas, 2021). Several states reported landscape level/ “fence row to fence row” damage (e.g., Arkansas, North Dakota) (Arkansas, 2021; Dakotas, 2021; AAPCO, 2021; Steed, 2021a) despite applicators doing their best to follow the labels.

An academic from Texas indicated that the few incidents that have occurred with dicamba have been the result of drift (Academics, 2021). However, the majority of states report that while some incidents may be due to spray drift (e.g., Nebraska), the majority are likely due to volatility (e.g., Nebraska, North Dakota, Missouri, Arkansas) (AAPCO, 2021; Hardy, 2021). States say that many of the incident reports coming in were from people who have made reports in previous growing seasons since the registration of OTT dicamba (AAPCO, 2021; Nelms, 2021; Unglesbee, 2021c; Maginel, 2021; Green, 2021b).

5.2.1 Conclusions of non-DT soybean

Some states indicate they have significant problems with dicamba incidents and other states have limited reported incidents (potential reasons for this discrepancy are discussed in a later section, see section *Factors Influencing Incidents*). While states indicate that incidents may occur due to drift, several states reported landscape level injury, which indicates dicamba volatility, was widespread. In the process of investigating potential dicamba incidents some states reported that the nearest known source of dicamba was more than a mile away from the injured crop. Additionally, state agents in states with many incidents suggest people are being impacted for multiple years.

5.3 Research/Breeding/Seed Production Plots

BEAD’s 2020 impacts memo (Chism et al., 2020) described the significance of research breeding programs throughout the country and suggested that the continual loss of university

soybean breeding research could jeopardize the long-term viability of a university's breeding program.

The 2021 season yielded more damage to university research plots. An academic from North Dakota indicated that there was dicamba damage symptomology present on all breeding plots in the eastern third of North Dakota as well as some research plots (Academics, 2021). Iowa had 44 research trials (in 10% of state counties) affected by off-target movement of dicamba in the past two years (Academics, 2021). Despite the State of Arkansas adding more restrictive buffers for dicamba applications near research fields (i.e., 1-mile buffer from research) (Arkansas, 2021; Unglesbee, 2021a), academics still had damage at all research stations in Eastern Arkansas.

In addition to damage to university research plots, Gullickson (2021a) suggested that almost all companies with soybean research programs have had plots damaged by dicamba. Stine Seed Company sent the Agency data indicating at least 36 research locations were damaged out of an undisclosed number of locations in nine states (Stine, 2021). Stine (2021) indicated the company plants more than a million research plots a year and they had damage to hundreds of thousands of plots. Furthermore, Stine Seed Company has experienced this type of damage for five years.

Information provided by registrants in response to the 6(a)(2) letters suggest they too had damage to research, breeding and/or seed production plots. Three of the four registrants provided data about damage to their companies' research, breeding and/or seed production plots (See Attachment C-4).

5.4 Non-Cropland

There were also reports of incidents involving vegetation around homes and natural areas including: ornamental plants, home gardens, non-fruit trees, and native plant species (Arkansas, 2021; Audubon Arkansas 2021; Nelms, 2021; Steed, 2021b; Brantley, 2021; Brian, 2021) in both residential and public areas (e.g., parks, wildlife refuges).

5.4.1 Landscape, gardens, etc.

There were more than 25 plants/trees species specifically mentioned in reports to states (Table 5). Many of the reports from states were a list of plants without quantification of the number of calls received or number of plants/trees damaged. Nebraska reported 14 incidents involving dicamba damage to vegetation around residential settings (Creger, 2021), and Arkansas had 41 reports of residential incidents (Dunbar, 2021a). In Arkansas (Dunbar, 2021a), there may have been one to three plant species mentioned in the report. Academics from Illinois indicated they have heard 30 or more species have been damaged (Academics, 2021).

Table 5. States Reporting Dicamba Damage to Various Types of Vegetation in Residential Settings in 2021.

Vegetation Damaged in Residential Settings	State Reporting Incidents	References
Gardens (<i>tomatoes, potatoes, peas, herbs, peppers, okra, blackberry, spinach, squash, pole beans, garden beans</i>)	SD, TN, TX, KS, IL, AR, NE	Dakotas, 2021; AAPCO, 2021; Sowers, 2021; Dunbar, 2021a; Creger, 2021; Nelms, 2021; Brantley, 2021
Native vegetation (<i>prairie forbs, black-eyed susan</i>)	IL	Academics, 2021; Illinois, 2021; Nelms, 2021
Ornamentals (<i>azalea, vinca, roses, hibiscus, salvia</i>)	TX, SD, AR, NE	Dakotas, 2021; AAPCO, 2021; Sowers, 2021; Dunbar, 2021a; Creger, 2021
Trees (<i>ornamentals, sycamore, fruit trees, pecan, oak, elm, maple, hackberry</i>)	IL, KS, MO, IA, AR, NE	Academics, 2021; Illinois, 2021; AAPCO, 2021; Hartzler, 2021; Dunbar, 2021a; Creger, 2021; Nelms, 2021; Brian, 2021; Brantley, 2021

5.4.2 Public Lands (Wildlife Refuges, Parks, etc.)

In 2020, the Agency (Chism et al., 2020) summarized many incidents of dicamba symptomology at the landscape level. Newly available data indicate that these incidents are more extensive than had been described and are continuing into 2021.

Audubon Arkansas (2021) hypothesized that in a landscape full of genetically modified organism (GMO) crops, the atmospheric loading of volatile dicamba could be enough to cause landscape scale damage. To test this hypothesis and to document the geographic extent of the effects, Audubon Arkansas led a community science monitoring project during the growing seasons of 2019, 2020, and 2021.

Audubon Arkansas developed a web-based reporting application and trained volunteers to search for signs of dicamba symptoms on native and ornamental plants and document these signs with reports and photographs. Volunteers were trained to identify symptoms associated with a plant growth regulator (PGR) herbicide, such as leaf cupping, epinasty, and chlorosis. Further the volunteers were trained to look for more than one symptom on a plant, uniform symptomology across a plant, and to identify areas where multiple plants and species displayed symptoms.

Table 6. Results from Audubon Arkansas Community Science Project (Audubon Arkansas, 2021).

Year	Records / Photos Submitted	Records / Photos consistent with Damage from PGR Herbicide
2019	243 records, 728 photos	178 probable; 65 possible
2020	123 records, 737 photos	116 probable; 4 possible
2021	21 records, 191 photos	21 probable

Table 6 summarizes results from this three-year project. Participants and resources varied from year to year, so these data cannot be used to document trends. However, eleven 2019 sites with documented symptoms were revisited in 2020 and once again showed symptoms. These sites and others revisited in 2021 showed symptoms. Audubon Arkansas (2021) also included results of plant tissue samples that tested positive for dicamba from the Arkansas Plant Board (all 2020 and 2021 samples not yet analyzed).

Species displaying probable or possible symptoms include over 20 species of trees and shrubs (e.g., elms, magnolias, maples, oaks, sweetgum, sycamore) and many other annual and perennial plant species (e.g., peppervine, pokeweed, sunflowers, grapes, Virginia creeper) (Audubon Arkansas, 2021). Sycamore was the most frequently reported species showing probable symptoms and was documented at 96 locations.

Observations were made across 20 Arkansas counties and symptoms were documented on diverse properties including university research farms (4), cemeteries (37), churchyards (22), Arkansas Game & Fish Commission properties (8), state natural areas (6), city parks (4), national wildlife refuges (2), state parks (2), several public spaces, and many county and state roads.

Steed (2021b) describes dicamba symptomology on several tree species, most notably sycamore, throughout the Dale Bumpers White River National Wildlife Refuge, Arkansas. This refuge ranges from a quarter mile to 10 miles wide and stretches for about 60 miles along the White River until it empties into the Mississippi River. Brantley (2021) also described widespread reports of damage to trees and shrubs (sycamore, cypress, pines, white oak) and state parks and wildlife refuges in Arkansas.

5.4.3 Conclusions of Non-Crop Incidents

Numerous plant species were reported to have dicamba symptomology. These reports demonstrate that off-field movement of dicamba is occurring in non-crop areas leading to widespread damage to additional plant species. Several reports indicated that vegetation around natural areas and residential landscapes have had multiple years of exposure to dicamba.

5.5 Incidents Occurring in Counties with Endangered Species or Critical Habitat

In 2021, incidents have occurred in counties with endangered species or critical habitat (referred to as “ESA counties”) (Table 3). While incidents have been reported in ESA counties, the

Agency is not aware of any “take” where an endangered species or critical habitat has been harmed. However, these incidents suggest the possibility that a “take” could occur.

As mentioned above, because the sources of reports were from multiple entities, the Agency was not able to ensure that an individual incident was not counted more than once but made sure not to double-count a county that was reported by more than one source. Table 3 provides a summary of incidents in ESA counties. For example, in Iowa, 10 of 12 ESA counties had at least one reported incident and there were 67 different incidents within ESA counties in Iowa (Table 3). Overall, there were 63 ESA counties with at least one reported dicamba incident and total of 290 reported incidents in ESA counties during 2021 (Table 3).

A large portion of incidents in ESA counties occur in states where the only DT crop is soybean. However, cotton is also cultivated in five of the states with incidents in ESA counties (Arkansas, Texas, Missouri, Tennessee, and North Carolina) (Table 3). Because the majority of incidents were in states that only produce soybean, the Agency wanted to explore the possible role that use in cotton may contribute to incidents in ESA counties. To do this, the Agency used Southeast Missouri, which has two ESA counties, as an example. The Agency looked at the cotton and soybean acres (based on acres harvested [USDA, 2017]) in and around the ESA counties in Missouri (Figure 1). Both Dunklin and Cape Girardeau are the ESA counties. Only soybean is grown in Cape Girardeau, but it has two adjacent counties that grow cotton. Both cotton and soybean are grown in Dunklin County, and the acreage is split with ~45% cotton and ~55% soybean.

In Cape Girardeau, where cotton is not grown, use in cotton may not be likely to contribute incidents. However, some stakeholders suggest that volatilized dicamba can move more than a mile (Arkansas, 2021; Gere, 2021), so an application to cotton in one county could affect non-target vegetation in an adjacent county. In Dunklin County, acreage in the two crops is similar; therefore, it is not possible to exclude applications to cotton as a possible source for incidents in an ESA county. Further, the Agency does not have data indicating that applications made to cotton would be less likely to result in off-target movement and/or incidents than an application to soybean under the same conditions. However, since applications to cotton are often made later in the season, when temperatures are warmer, volatilization may be more likely with use in cotton.

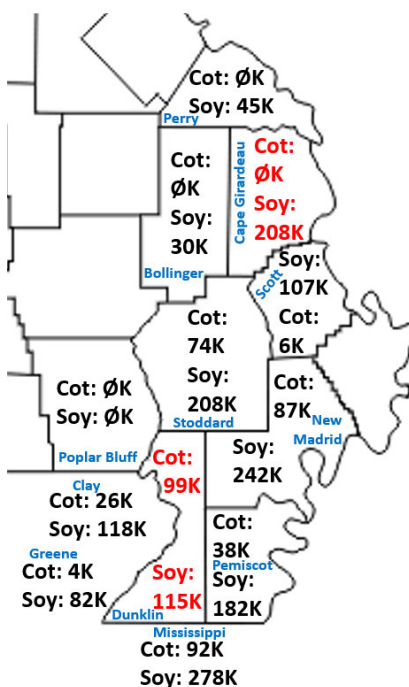


Figure 1. Map and associated cotton and soybean acres (in thousands) harvested in ESA counties (red) and surrounding counties (black) in Southeast Missouri in 2017. (USDA, 2017).

5.6 Impacts to Growers of Non-DT Crops

The impacts to non-DT growers from offsite movement of dicamba from OTT applications can be substantial (Chism et al., 2020). High value crops may suffer yield and quality losses, organic growers could lose organic certification, and research and crop breeding programs could be disrupted. Losses may be more pronounced when a plant had multiple exposures to dicamba versus a single exposure or if exposure occurs when the plant is in a reproductive growth stage versus a vegetative growth stage.

5.6.1 Specialty Crops

Doohan (2021) provided survey data of financial losses of specialty crop growers who experienced losses from herbicide drift. As indicated earlier, respondents considered dicamba, 2,4-D or glyphosate as the most likely herbicides causing damage. Therefore, the findings associated with losses from specialty crop growers (described below) are attributed to the aforementioned herbicides and not dicamba specifically. Approximately 35% of respondents said they had no financial losses in 2019-2020 and about 50% had losses less than \$10,000 per grower, not per acre (Doohan, 2021). This is likely due to growers having a small acreage (<5 acres) and either having direct sales to people or contracts with local restaurants (Academics, 2021). In addition, approximately 15% of the reporting specialty crop growers in the mid-west

had financial losses of \$10,000 or greater and 1% had losses greater than \$500,000 (Doohan, 2021).

5.6.2 Grapes/Vineyards

Timmons et al. (2021) is a recent court case where plaintiffs claim multi-year exposure effects on grape plants, causing losses every year since 2015 through 2021. While the Agency's information on this case is limited, the Agency recognizes long-term effects of multiple exposures events per year to perennial species, especially when they occur in sequential years. The Agency is not aware of research that examines the impacts of multi-year exposure of dicamba to a perennial species, but the Agency assumes that a single-year exposure would be less impactful than multiple years of exposure and that the more years a plant is exposed to dicamba the greater the impact.

5.6.3 Sweet Potato

Campbell (2021) reported that sweet potato farmers have received injury for four to five years and never know what the yield penalties are until harvest. Batts et al. (2020) conducted research on dicamba injury by applying OTT dicamba products at reduced rates modeling spray drift and found that dicamba exposure 30 days after transplant of sweet potato slips tended to have greater yield losses than exposure 10 days after transplant, and that losses may differ between the two salts of the OTT formulations (i.e., BAPMA [sodium methyl amine] salt vs. DGA [diglycolamine] salt). Batts et al. (2020) found a quadratic decrease in yield, of all grades of sweet potatoes, as the rate of dicamba increased when exposure occurred 30 days after transplant. Depending on the grade of sweet potato, yield losses ranged from 53% to 92% with the highest rate of BAPMA salt (1/10X rate). However, applications with the DGA salt had yield losses at rates $\geq 1/500X$ or higher leading to yield losses ranging from 7% to 42%.

5.6.4 Tree Nurseries

Creger (2021), Dunbar (2021a), and Academics (2021) reported incidents to tree and shrub nurseries. Impacts to tree nurseries can be considered substantial given that aesthetics, not yield, is the indicator of financial loss. Trees that are too severely damaged by dicamba cannot be sold and are therefore considered a total loss. Depending on the size of the tree, it may be able to be held for another year in hopes that the tree grows out of the injury and is not damaged the following year.

5.6.5 Research/Breeding/Seed Production Plots

EPA's 2020 impacts memo (Chism et al., 2020) described the significance of research breeding programs throughout the country and suggested that the continual loss of university soybean breeding research could jeopardize the long-term viability of a university's breeding program. Additionally, there were many instances of dicamba damage to seed companies and registrants who produce non-DT seed for sale. The Agency assumes similar impacts as a university breeding program but possibly at a larger scale given that a university program is contained within a state, but industry plots are nationwide.

5.6.6 Conclusions of Impacts to Growers of Non-DT Crops

Growers of specialty crops, grapes/vineyards, research/breeding/seed production plots and sweet potatoes report damage multiple years, some since DT cotton was commercialized. Losses may be more pronounced when a plant had multiple exposures to dicamba versus a single exposure or if exposure occurs when the plant is in a particular growth stage.

5.7 Impacts to Non-Cropland

Newly available data indicate that dicamba related incidents on public lands (e.g., parks, wildlife refuges) are more extensive than had been described previously (Chism et al., 2020). In 2021, the Agency received many reports (Arkansas, 2021; AAPCO, 2021; Audubon Arkansas 2021; Brantley, 2021; Brian, 2021; Creger, 2021; Dunbar, 2021a; Hartzler, 2021; Illinois, 2021; Nelms, 2021; Steed, 2021b; Academics, 2021). These reports demonstrate that off-field movement of dicamba is occurring and causing widespread damage to plants on public lands and natural areas across the Midwest and the South. Dozens of different plant species have been damaged. Of particular concern are the long-term effects of multiple exposures events per year to perennial species, especially when they occur in sequential years.

5.8 Social Impacts

Because use of OTT dicamba can result in off-target damage to non-DT crops and landscapes, the use of OTT dicamba can result in conflicts between growers using dicamba and community members with crops and vegetation sensitive to dicamba. In an extreme case, in 2016, a man was murdered in a dispute over dicamba drift (McCune, 2017; Capital Journal, 2017). Though dicamba use requirements have changed since 2016, the tension in rural areas around dicamba drift and volatility has remained. Stakeholders have expressed frustration, impatience, and even made references of violence in conversation with Extension specialists and state regulators (Charles, 2021; AAPCO, 2021; Illinois, 2021). State regulators recounted physical harm and retribution threatened against applicators, neighbors, and even family members and spoke of farmers having lost friends due to differences in decisions about using dicamba (Region 7, 2021). Some retailers are choosing to not sell OTT dicamba products because they do not want to deal with complaints related to dicamba (Illinois, 2021). The Agency has received multiple emails from growers and neighbors impacted by dicamba drift and volatility; the authors of these emails express frustration about a lack of recourse for dicamba damage and write that the use of dicamba is damaging the social fabric of rural communities (Ball, 2021; Peterson, 2021; Brian, 2021).

5.9 Impacts to State Agencies

State agencies have been impacted by the 2020 decision to register OTT dicamba. State agencies manage certification and licensing for pesticide applicators, investigations of pesticide incidents, and pesticide product registrations within the state, including provisions under FIFRA subsections 24(a) and 24(c).

5.9.1 Enforcement

State lead agencies, through AAPCO, have reported budget shortfalls and other resource constraints due to the number of dicamba-related incidents requiring them to divert or reallocate resources to investigate dicamba complaints (Chism et al., 2020). In states that have been heavily impacted with dicamba incidents, state officials feel as if farmers have given up on them because they are not able to enforce the label and incidents have not improved over time (Region 7, 2021).

Some states (e.g., Minnesota and Iowa) have changed their reporting process to accommodate the handling of incidents by creating different categories of incidents (Unglesbee 2021c). One category initiates a formal investigation that may result in a determination of the cause of damage. The second category is akin to a notification to let the authorities know that damage occurred without a request for a formal investigation.

Arkansas (2021) reported that they have 30 investigators, and all have undergone herbicide symptomology training. The state indicated it was challenging to conduct an incident report on a 160,000-acre incident and they are still closing out cases from 2017 through 2019. State officials also spend time working on litigation.

5.9.2 State Authority to Regulate Dicamba Products

The 2020 decision memo (USEPA, 2020) included a clarification regarding state authority to regulate dicamba products under FIFRA Sections 24(a) and 24(c). Previously, some States issued registrations that were more restrictive than the federally-issued registration using Section 24(c). In a 2020 re-evaluation of the regulations and statutory language, EPA concluded that FIFRA Section 24(c) does not provide the authority to impose additional restrictions on a federal registration. If a state desires to impose an additional restriction to a federally registered product, state may exercise their authority under FIFRA Section 24(a) to regulate the sale or use of any federal registered pesticide in the state.

Many states have indicated that the shift to using Section 24(a) to add state level restrictions for dicamba has been a challenge (Illinois, 2021; Region 7, 2021; Petersen, 2021). Illinois indicated that this change will require two public comment periods and may take 120 days to complete state restrictions (Illinois, 2021). Iowa indicated that specific rulemaking would be a large undertaking for the state, and Nebraska indicated that they do not have the capacity to do rulemaking (Region 7, 2021).

In contrast, States with few reported incidents expressed frustration that they were not able to make labels less restrictive (e.g., extending the application cutoff dates) in their states using Section 24(c) in the 2021 growing season. The Agency disapproved Section 24(c) Special Local Needs registrations for Georgia, North Carolina, and Tennessee because these requesting states did not submit information that demonstrated how the use of the product would not cause unreasonable adverse effects. Texas withdrew their request after the Agency sent a notice of intent to disapprove.

5.9.3 Conclusions on Impacts to State Agencies

Some state agencies have adjusted the way they handle incidents to keep up with the volume of complaints. Some states struggle with budget and/or resources issues to cover both incidents and other programs. Several states officials feel as if growers have lost faith in the state's ability to enforce the label. States have also expressed frustration because they do not have the flexibility to make federal labels more or less restrictive depending on the state's needs.

5.10 Underreporting of Incidents

Generally, pesticide incidents are underreported.⁵ In the 2020 impact memo, Chism et al. (2020) found that the number of offsite incidents reported to EPA compared with the incidents reported in USDA's 2018 Soybean Agricultural Resource Management Surveys (ARMS) showed incidents were underreported to EPA. Based on this information, the magnitude of underreporting was approximately 25-fold (i.e., one incident is reported to the Agency for 25 incidents reported to USDA). The Agency does not have an update to the ARMS survey, but based on stakeholder meetings, similar underreporting likely occurred in 2021. The EPA (1999) has previously estimated that incidents associated with rodenticides were underreported by a factor of 4.

The number of reported incidents may not reflect the damage that is occurring at the landscape level, including home gardens and natural areas (Unglesbee 2021c, Rook and Pates 2021, Dakotas, 2021). Stakeholders put forward various hypothesis to explain the dicamba damage including:

- Growers have lost hope that States can enforce the label (Region 7 2021). In many cases, no action is taken even when an incident is reported (Academics, 2021; Region 7, 2021; Ball, 2021). This could be because investigators were not able to identify the source of the damage (Unglesbee, 2021c; Rook and Pates, 2021), and dicamba is known to move more than a mile (Gere, 2021a; Arkansas, 2021), which further complicates finding the source.
- Similarly, if an investigation determined that there was no violation associated with the application (Illinois, 2021; Dakotas, 2021), no action was taken because the application was made within the parameters of the label. However, this is not a case of lack of enforcement, as the application was made within label parameters, but an incident may still have occurred.
- Herbicide drift may be considered as a "pollution exclusion" and may not be included under crop insurance (Kirk Hall, 2021). Given that several states reported severe drought in 2021 (Academics, 2021; Dakotas, 2021; Unglesbee, 2021c; Rook and Pates, 2021), it is likely that growers were concerned that if they filed a dicamba off-target movement complaint, their insurance company may not pay out on a drought claim. Therefore, there may be a financial incentive for a grower to not report incidents in states that could negatively impact insurance claims for other reasons, such as drought.

⁵ Underreporting of pesticide incidents is the result of a number of factors including, but not limited to: the lack of a universal, mandatory legal duty to report; no central reporting point for all incidents; no requirement for active monitoring for incidents; symptoms associated with pesticide effects are often vague or mimic other causes leading to incorrect diagnoses; incidents are often not investigated adequately enough to identify the pesticide that caused the observed effects; and reluctance or inability to report. For further detail about underreporting of alleged dicamba incidents, see Chism et al. 2020.

- Growers were concerned that they could lose organic certifications if they report dicamba damage (Academics, 2021).
- Growers resolved the issue themselves and did not involve the state (AAPCO, 2021).
- Growers did not want to report in attempt to preserve relationships with neighbors (Academics, 2021; Unglesbee, 2021c; Stine, 2021).

As follow-up to the meeting with Academics (2021), Dr. Doohan (2021) shared additional information from the herbicide drift survey of Midwestern specialty crop growers which he discussed at the meeting. About 45% of the nearly 300 growers who responded to the survey indicated that in 2020, they had some level of herbicide drift impact their specialty crops. These growers named the herbicides responsible for the injury as: dicamba (47%); 2,4-D (44%); glyphosate (20%); or “unknown” (27%). However, Doohan (2021) reported that only an average of 6% of growers reported incidents anytime herbicide damage was detected in 2019 and 2020 (i.e., people do not report that they have an incident every time they have herbicide damage). Reasons included: self-inflicted drift (3%), required too much time/paperwork (10%), saw no benefit in reporting (40%), consequences to the offender were not meaningful (32%), damage was minor (23%), unable to identify the source of drift (26%), concerned with creating bad neighbor relations (51%), concerns over the ability to market the crop (4%), resolved the problem without the help of the state (9%), someone else filed (1%), or “other” (4%).

Registrants have indicated that any report called into their incident hotlines is reported to EPA. However, after review of information submitted in response the 6(a)(2) letters, EPA has some concern that registrants potentially are not capturing all incidents when they report to ESA. The missing reports may be attributable to a registrant’s procedures that require a grower to report an incident through the incident hotline even if the grower contacts an employee of the registrant to report the incident (see Attachment C-5). In those situations, the grower may not have followed up by reporting to the incident hotline.

In response to the 6(a)(2) letters, a registrant produced additional incident reports that were not included in their official tally to the Agency. The additional incident reports represent a possible underreporting rate of 20% or more (see Attachment C-5).

5.10.1 Conclusions on Underreporting

A recent survey investigating reporting of herbicide incidents by specialty crop growers in the mid-western United States indicated that only 6% of growers reported incidents every time damage was detected in 2019 and 2020. The most common reasons for not reporting (>25% response rate, in order of most common) included: concerned with creating bad neighbor relations, saw no benefit in reporting, consequences to the offender were not meaningful, and unable to identify the source of drift. Additionally, information submitted in response to 6(a)(2) letters suggest that registrants may also be underreporting in their reports to the Agency.

5.11 Conclusions of Incidents Reported to the Agency

Some states indicate they have significant problems with dicamba incidents on non-DT soybean, while other states have relatively few reported incidents. States that have a relatively large

number of incidents on non-DT soybean report landscape level injury. In some instances, investigations suggest that the nearest known source of dicamba was more than a mile away from damaged field. Some homeowners and growers reporting incidents in 2021 have reported incidents in multiple years.

There have been approximately 290 incidents in counties with endangered species or critical habitat. The Agency is not aware of any “take” where an endangered species or critical habitat has been harmed. However, these incidents suggest the possibility that “take” could occur.

In addition to non-DT soybean, many states reported damage to large acre crops other than non-DT soybean (including several specialty crops) and vegetation around natural areas and residential landscapes. There were several reports that indicated other large acre crops, specialty crops, and other vegetation around natural areas and residential landscapes have received dicamba injury for multiple years. These reports demonstrate that off-field movement of dicamba is occurring in non-crop areas leading to widespread damage to plant species other than non-DT soybean. The severity of impact depends on several factors including, but not limited to, the frequency, duration, and dose of exposure; growth stage at the time of exposure; and species sensitivity. These findings indicate there are several crops and natural vegetation in the landscape that are being injured by dicamba. Additionally, the Agency became aware of a species (i.e., snap beans) that may be more sensitive to dicamba than soybean.

In addition to impacts to vegetation, social impacts (e.g., fractured relationships with neighbors, threats of physical harm) have existed and continue to exist since 2016, one year prior to registration of OTT dicamba, as a result of off-target dicamba damage. In some states, state officials have felt the burden of a high volume of incident reports that may result in a high number of investigations, which may distract from other state projects. Furthermore, several states have voiced frustration over losing the common practices of making federal labels either more or less restrictive depending on the state’s needs prior to the 2020 decision.

Underreporting is likely occurring for several reasons including: no meaningful consequences to the offender, concerns over crop insurance claims, preserving neighbor relations, fear of having a non-marketable crop, and/or growers have worked out incidents amongst themselves.

6. FACTORS INFLUENCING INCIDENTS

In 2020, the Agency assessed the practicality of, and likely compliance with, individual control measures of the 2020 label (Chism et al., 2020). Chism et al. (2020) found compliance with the application cutoff dates is likely improved by the recordkeeping requirements of applicators as part of the Restricted Use Products (RUP) classification; however, they noted that compliance could be influenced by crop progress, weed pressure, and weather. At the time of the 2020 decision, the Agency did not have information about the current availability of the required buffering agents and was not able to estimate compliance with requirements to add buffering agents. Chism et al. (2020) found that the complexity of determining the appropriate buffer (varying distances dependent on county, wind direction, adjacent sensitive crops or other plants) suggested noncompliance was likely. This section summarizes what the Agency heard from the States and academics in regard to product usability of the 2020 label after OTT products were

used for the first time in 2021 and describes other factors that can contribute to symptomology consistent with dicamba injury.

6.1 Crop Acreage and OTT Dicamba Usage

Table 7 compares the rank order of 2021 incidents, OTT dicamba sales, and cotton and soybean acreage by state. Considering that incidents are likely underreported (Chism, et al. 2020) and that simple counts are imperfect measures of the actual number of incidents occurring, there is general agreement among incident reports, OTT dicamba sales, and soybean acres in many states.

Table 7. 2021 State Level Rankings of Incidents, OTT Dicamba Product Sales and Crop Acreages.

States	Rank by Number of Reported Incidents	Rank by OTT Dicamba Sales	Rank by Soybean Acreage	Rank by Cotton Acreage
Minnesota	1	10	3	
Iowa	2	1	2	
Arkansas	3	3	11	4
Illinois	4	2	1	
Nebraska	5	5	7	
South Dakota	6	12	8	
Kansas	7	8	9	9
Indiana	8	14	6	
Missouri	9	4	5	7
Texas	10	9	26	1
North Dakota	11	7	4	

Sources: Aggregated registrant sales data; USDA/NASS (2021)

6.2 Label Complexity Concerns

Prior to the addition of label restrictions on the 2020 label, there were concerns that the labels were complex. In 2020, the Agency removed all non-DT crops (and corresponding directions and precautions) from the labels and moved from crop growth-stage cutoffs to calendar date cutoffs. The Agency received feedback that growers understand that cotton and soybean have different cutoff dates, but do not understand why these cutoff dates are different. To many growers, it was unclear why they would be able to treat a cotton field with dicamba a month longer than an adjacent soybean field that was planted on the same day (in areas that produce both soybean and cotton). Based on the feedback received, the Agency considers the label complexity to be more of a problem with product usability concerns than a lack of comprehension of label requirements (see below).

6.3 Product Usability Concerns

Prior to the addition of label restrictions on the 2020 label, there were concerns that growers had difficulty complying with labels because there were too many application parameters that needed

to be met. Label changes made as part of the 2020 registration decision, including the change in application cutoff from a growth stage cutoff to a calendar date cutoff, may have further increased difficulty in compliance by reducing the amount of time a grower could lawfully apply OTT dicamba. Rook and Pates (2021) quoted a university extension weed scientist who noted that there are not enough hours in the day to spray the acres at the correct growth stage and follow label restrictions when considering weather and label parameters.

6.4 Use of Non-OTT Formulations of Dicamba

USDA's 2018 Soybean and 2019 Cotton Agricultural Resource Management Surveys (ARMS) also examined the timing of applications of different dicamba products to cotton and soybean. The results revealed that more than half of the acres of DT crops were treated with non-OTT products at planting or later in the season. These applications would be considered misuse because non-OTT dicamba products are not registered for applications to cotton or soybean at planting or later in the season (Chism et al., 2020). Two years prior to the first OTT-product being becoming available for use in 2017, incidents were reported due to illegal applications of old formulations of dicamba to DT cotton (Carey, 2016; BASF, 2021d) and to DT soybean in 2016 (USEPA, 2016).

In a previous section of this memo (see section *Cotton and Soybean Acreage and Dicamba Usage*), we mention that misuse involving non-OTT dicamba was estimated on small amount of soybean and cotton acres in 2020 (Kynetec, 2021). Similar data for 2021 are not yet available for 2021; however, there were anecdotal reports that non-OTT dicamba products were being used over-the-top in 2021 (Sowers, 2021; Dakotas, 2021; Unglesbee, 2021c). While this may occur, it is difficult to detect such misuse because an applicator generally would have to be caught in the act (Dakotas, 2021).

Indiana presents a unique case because Indiana has enacted state restriction making non-OTT dicamba formulations restricted use and has an earlier cutoff date for application to soybeans than the federal label (June 20 vs June 30, respectively). However, the state of Indiana had more than 130 incidents. Given the additional state restrictions, Scott (2021b) indicated that he does not think that there is usage of non-OTT products on DT crops in Indiana, which would suggest, if Scott (2021b) is correct, that the incidents would be attributed to use of the OTT dicamba products, not non-OTT products.

EPA recently imposed fines in Kansas for alleged violations with applications of OTT-dicamba products that had been cancelled as a result of the court vacatur in 2020 (USEPA, 2021c; Unglesbee, 2021e). Shortly after, the EPA ordered a pesticide distributor in Minnesota to stop selling a product that was cancelled as a result of the vacatur in June of 2020 (USEPA, 2021d).

6.5 Non-Compliance with Application Cutoff Dates

Several states reported some applications were made after the cutoff date (e.g., ND, IL, IA, AR) (Academics, 2021; Arkansas, 2021; Dakotas, 2021) based upon the date of the incident.

As mentioned earlier, in most cases, incidents reported to EPA do not specify the date; however, it was mentioned that some of the areas with the highest incident rates overlaps with areas where

soybeans are double cropped (Academics, 2021). While a representative from Illinois (a state that enacted an earlier cutoff [June 20] than the federal label [June 30]) had no direct knowledge of individuals applying after the cutoff date, they indicated that it was likely the cutoff date was not being followed based on planting dates of double cropped soybeans, and number of incidents (Academics, 2021). Additionally, Arkansas (2021) reported people spraying soybean fields with dicamba products approximately 4 weeks after the cutoff date.

A related, but different, topic around application cutoff dates that was voiced by many states that grow both cotton and soybean is the perceived inequities of having a longer application window for cotton than soybean. Several states that grow both cotton and soybean reported that soybean growers were frustrated and confused that the application window was longer for cotton than soybean (AAPCO, 2021).

6.6 Non-Compliance with Other Label Parameters

Gere (2021b) provided details on label violations for the investigations for dicamba incidents reported in South Dakota. Of the 23 incident investigations, 8 were found to have no label violations. In the other 15 cases, violations, accounting for multiple violations per incident, include: recordkeeping (11), dicamba training (7), dicamba rate (4), water rate (3), volatility reduction agent (1), operating pressure (1), unapproved tank mix (1), applications made 2 hours before sunset (1). Additionally, one company provided information about compliance with following the label during 37 investigations (BASF, 2021i). Some suspected causes of incidents were: wind was blowing towards a sensitive crops (2), incorrect nozzles (4), and tank contamination (4).

During the AAPCO (2021) dicamba meeting, the lack of or poor reporting was frequently mentioned as a violation discovered during an investigation. Recent media pieces have indicated that wind restrictions may not be followed (Rook and Pates, 2021; Unglesbee, 2021e). State agents and academics question whether farmers adhere to buffer requirements (Arkansas, 2021; Dakotas, 2021; AAPCO, 2021). However, no one had any direct knowledge that they were not being followed, and one academic indicated that even if farmers were adhering to buffer requirements, incidents would still occur (i.e., treating buffers is not the cause of the numbers of incidents reported). It was also mentioned that commercial applicators seem to be in better compliance than private applicators (Illinois, 2021; Dakotas, 2021).

6.7 Potential Other Causes of Symptomology Consistent with Dicamba Exposure

Registrants asserted that some incidents attributed to dicamba are the result of other reasons. Bayer provided information in their 6(a)(2) submission on other reasons that dicamba incidents or dicamba-like incidents were occurring (Bayer, 2021b; 2021c; 2021g). Alternative explanations for symptoms similar to those of dicamba were discussed in the media as well (Rook and Pates, 2021) and the Agency received inquiries about the other causes (Perreault, 2021). This section reviews the validity of these claims.

6.7.1 Non-OTT Dicamba Usage on Corn

The registrants claim that growers are making applications of non-OTT dicamba to corn later in the season and at higher rates than before 2017 when the OTT products were registered (Bayer, 2021o; 2021p; BASF, 2021q). Additionally, some academics and states also noted that corn use is a confounding factor of dicamba incidents, especially because these products do not have the same restrictions as OTT formulations, and the use in corn makes it much harder to track the source of damage (Academics, 2021; Illinois, 2021; Scott, 2021b).

The Agency looked at the national level of dicamba usage data on corn between 2014 and 2020 to assess this claim. Overall, there is a trend that each year farmers are applying more dicamba to corn than they did the previous year (Kynetec, 2021, Attachment C-6). Since 2014, there has been a 30% increase in corn acres treated with dicamba, and the application rate which farmers are applying dicamba to corn has nearly doubled. However, the average application rate in which farmers are applying to corn is less than half of the labeled rate for OTT dicamba in soybean and cotton.

The Agency also reviewed the registrant-submitted confidential sales data (Syngenta, 2021a; Corteva, 2021a; Bayer, 2021a; BASF, 2021a). OTT products are the most used dicamba products in some states (e.g., Arkansas). However, in some states, premixed products that include dicamba plus an active ingredient that would injure cotton or soybean are the predominant products in a state (e.g., Nebraska). Since these products would injure DT crops, the agency assumes that these applications are likely to be applications to corn but recognizes these products can lawfully be applied to other sites like, sorghum, pasture, or rights-of way. These data suggest that lawful applications of non-OTT dicamba applications to corn may play a role in some states, but not all states.

While this registrant-submitted sales data may indicate that use in corn could be a confounding source of incidents, it is only a partial picture of all dicamba sales. To have a more complete picture, the Agency would need access to dicamba sales data for all dicamba products, which it does not presently have. However, data suggest that, in some areas, corn could be a contributing source, but dicamba use in corn is not the primary reason incidents occur.

6.7.2 Other Potential Causes

Information submitted by registrants in response to 6(a)(2) letters suggested that there were other potential causes of damage that look similar to dicamba symptomology. Popular press also discussed claims that drought conditions and/or high temperatures (Rook and Pates, 2021), “poor genetics” of certain non-DT varieties (e.g., trait expression, ability to tolerate environmental conditions) (Gullickson, 2021a; 2021b), non-dicamba herbicide injury (Legleiter, 2021) or a combination of maladies contributed to the “dicamba-like” symptomology (Charles, 2021).

Drought and high temperatures were mentioned in meetings with states and academics, but most stakeholders who discussed drought indicated that the drought exacerbated dicamba injury, not that drought caused dicamba-like symptomology (AAPCO, 2021; Academics, 2021). However, Dr. Ikley, a weed specialist from North Dakota, indicated that there was “a lot of drought stress

across the state, and...in a lot of cases look like they might have dicamba problems...but we've also got a lot of plants out there that actually do have dicamba problems" (Rook and Pates, 2021). Dr. Ikley also indicated that dry conditions likely exacerbated dicamba injury (Rook and Pates, 2021).

In response to claims of *poor genetics*, Corteva and Stine Seed indicated that the symptomology was not linked to poor genetics but rather the lack of a dicamba-tolerance trait as the symptomology was seen on many different varieties and herbicide tolerant trait packages that were not tolerant to dicamba (Gullickson, 2021a and 2021b). No state or academic mentioned poor genetics as a concern related to incidents (AAPCO, 2021; Academics, 2021)

Non-dicamba herbicides usually produce a characteristic symptomology or pattern that is distinguishable from dicamba (Legleiter, 2021; Rook and Pates, 2021). Legleiter (2021) reported there were social media posts suggesting that WSSA Group 15 herbicides (e.g., s-metolachlor) was the cause of dicamba-like symptomology. While this group of herbicides can cause leaf distortion, it has symptomology resulting in a heart-shaped leaves with a crinkled appearance, not cupping (Sarangi et al., 2021). Rook and Pates (2021) reported that clopyralid, another Group 4 herbicide, was responsible for some early season damage to emerging/seedling soybean due to the residual herbicide from applications the previous growing season, likely the result of a compounding effect the drought in some regions. Sarangi et al. (2021) indicate that clopyralid damage looks similar to dicamba damage, but leaves have a strapping appearance and that problems are more common in areas of coarse soil texture. Moreover, once soybeans reached a certain growth point, clopyralid would not be the cause of injury.

While registrants suggested that these other reasons are contributing to incident reports, registrants have not provided substantive support for claims that a substantial portion of incidents could be attributed to factors other than exposure to dicamba.

6.8 Conclusion of Potential Causes of Incidents

The Agency concludes that there are many factors that could contribute to incidents. Some states indicated that growers think that they are implementing label requirements correctly and are able to adhere to the label restrictions. If most applicators are applying the product according to the label, then OTT dicamba does not stay on the field as intended after an application has been made following label requirements. Some states question the ability of the buffering agents to sufficiently reduce volatility.

However, state agents suggest that some applicators struggle with implementing the label requirements despite extensive training, and that some blatantly ignore the restrictions (AAPCO, 2021). EPA is not always capable of distinguishing incidents resulting from misuse (of non-OTT dicamba or illegal applications of OTT-formulations) from incidents occurring after lawful use of OTT products.

Legal applications to corn also complicate the issue and the deregulation/commercialization of DT corn would further complicate investigations and enforcement. Each one of the factors reported likely contributes to dicamba related incidents, but the Agency is not able to quantify the proportion of incidents that can be attributed to any one variable.

7. STAKEHOLDER-SUGGESTED MITIGATION OPTIONS TO REDUCE INCIDENTS

State pesticide regulatory agencies and state agricultural Extension specialists from areas where dicamba incidents were common suggested mitigations that EPA may implement to reduce incidents resulting from the use of OTT dicamba and misuse of non-DT dicamba products on DT crops (AAPCO, 2021; Academics, 2021). These suggested mitigations could be generally grouped into near-term revisions of current label requirements and new longer-term mitigations. The Agency assesses these potential additional label restrictions or revisions, including: an earlier application cutoff date (AAPCO, 2021), a temperature-based cutoff (AAPCO, 2021), increased enforcement (Environmental Protection Network, 2021), requiring a tracer be added to OTT dicamba (Region 7, 2021), requiring non-OTT dicamba products to be sold as a premix with a contaminant that would injure DT cotton and soybean (Arkansas, 2021), making non-OTT dicamba restricted use products (RUP) (AAPCO, 2021; Region 7, 2021), and cancellation of some or all OTT uses (Environmental Protection Network, 2021). Suggested mitigations considered here only pertain to options within the Agency's mandates. For example, removing the DT trait from cotton and soybean seed is not within the Agency's mandates and is, therefore, not discussed in this memo.

7.1 Near Term Mitigation Options

Earlier Cutoff Date

Temperature Based Cutoff

Increased Enforcement

The cutoff dates for the currently registered OTT dicamba herbicides are June 30th for soybean and July 30th for cotton. Requiring earlier cutoff dates would preclude applications later in the season when air temperatures during and after application are likely to be high, which increases the likelihood of dicamba volatilization and off-target movement. However, requiring earlier cutoff dates would reduce the amount of time that growers have to apply OTT dicamba products and may render OTT dicamba products unusable for postemergence weed control in areas of the country with later planting dates, especially with soybean, resulting in reliance on limited other postemergence herbicide options (i.e., glufosinate) or decreased control of problematic broadleaf weeds. Furthermore, unseasonably warm temperatures may still occur before the earlier cutoff date (USEPA, 2020b).

Dicamba volatilization greatly increases with temperature and increases at a greater rate at temperatures above 80-85 degrees (USEPA, 2020b). Implementing a temperature-based application cutoff could reduce dicamba volatilization and off-target movement but would reduce the number of hours or days available to users to apply dicamba and is much less predictable than a calendar-based cutoff. The impact to users would vary by the cutoff temperature, with lower cutoff temperatures leading to a greater reduction in available application hours. Temperature-based cutoff may be less enforceable than a calendar-based

cutoff date and air temperatures days after application may influence dicamba volatility (USEPA, 2020b).

Increased enforcement would potentially deter illegal use of both OTT dicamba and non-OTT dicamba. However, state lead agencies have reported budget shortfalls and other resource constraints due to the number of dicamba-related incidents requiring them to divert or reallocate resources to investigate (Chism et al., 2020). Therefore, state lead agencies likely have limited resources to increase enforcement of dicamba related incidents.

7.2 New Longer-Term Mitigations

Requiring a Tracer

Premix non-OTT Dicamba with Contaminant That Would Injure Cotton or Soybean Making non-OTT Dicamba Restricted Use Products

To help identify misuse of non-OTT dicamba products on DT crops, some stakeholders have suggested adding a chemical tracer premixed in OTT dicamba products that would identify particular products in the event of an incident. A chemical tracer may help an enforcement agent determine whether an OTT formulation was applied but not necessarily if a violation occurred. A chemical tracer would be effective only where dicamba drift was the cause of the incident as the tracer may not move with the dicamba during volatilization, unless specifically formulated to do so. In this case, enforcement would only be able to confirm that a farmer had used an OTT dicamba product and initiate an inspection to ensure that label parameters were followed. Additionally, the addition of a tracer would require reformulation of OTT dicamba products to include a tracer and is likely not feasible for the 2022 growing season. Growers may also face increased herbicide costs as a result of this measure.

In order to curtail misuse of non-OTT dicamba products on DT crops, as part of its registration review decision on dicamba the Agency could require that non-DT dicamba formulations be premixed with another herbicide (e.g., clopyralid, 2,4-D) that would damage the DT cotton or soybean if the non-OTT dicamba product were used. While this may discourage misuse of non-OTT dicamba on DT crops it would likely negatively affect or functionally eliminate the use of dicamba in the various other crops and use-sites where non-OTT dicamba is currently registered because the contaminant herbicide is not registered in these crops and use sites. This measure may also increase grower control costs. Furthermore, this requirement would result in changes to the formulation and labeling of the dozens of non-OTT dicamba products currently registered and is likely not logistically feasible as a mitigation.

Stakeholders suggested making non-OTT dicamba products restricted use products to reduce misuse of these products. If the Agency made non-OTT dicamba products restricted use products, this could increase production costs for growers wishing to use the products. For growers who are already certified applicators, this restriction would have limited impacts. Growers who are not certified applicators would need to become certified applicators, hire custom applicators to apply dicamba for them, or use other herbicides that are not restricted use. Hiring a custom applicator could increase application costs and growers seeking non-restricted use herbicides may face higher costs or reduced control of target weeds. Making OTT dicamba

restricted use would only reduce off-target movement due to misuse; it would not decrease any off-target movement that results from legal use of OTT dicamba.

7.3 Restriction of Some or All OTT Dicamba

7.3.1 Alternatives to OTT Dicamba

Growers currently using an OTT dicamba system in cotton and soybean could switch to using the OTT 2,4-D system. OTT 2,4-D is also a synthetic auxin that can be used over-the-top of 2,4-D-tolerant soybean and cotton and is capable of filling the role of OTT dicamba for control of glyphosate, ALS-inhibitor, and PPO-inhibitor resistant weeds like Palmer amaranth and waterhemp. Like OTT dicamba, OTT 2,4-D can be used in a tank mix with glyphosate or applied sequentially with glufosinate. EPA expects that alternative herbicides currently available would allow growers the ability to control troublesome weeds. While BEAD identified other alternative herbicide programs in the 2020 benefits assessments (Orlowski and Kells, 2020a and 2020b), increasingly widespread resistance to PPO-inhibitor herbicides means that only the OTT 2,4-D program (using glufosinate in a tank mix or sequential application) is capable of providing two efficacious modes of action to control problematic weeds like Palmer amaranth and waterhemp (Heap, 2021; Mansfield, 2021; University of Arkansas, 2021).

In the short term, growers may be unable to acquire 2,4-D tolerant seed and OTT 2,4-D herbicide as an alternative to the dicamba system. Seed manufacturers may not have time to plant, grow, and distribute 2,4-D tolerant seed for the 2022 cotton and soybean growing seasons, and chemical manufacturers may not have time to produce and distribute sufficient OTT 2,4-D herbicide. In the short term, growers who are unable to acquire OTT 2,4-D due to supply constraints will likely face increased control costs and may suffer yield losses due to worse control of problematic broadleaf weeds. These short-term impacts could be substantial if increased restrictions on OTT dicamba uses are adopted after growers have made their seed selections, which typically occurs months before planting.

7.3.2 Impact of Restriction on OTT Dicamba in Soybean

Registrants of OTT dicamba products, state pesticide regulatory agencies, and state Extension weed control specialists have suggested cancellation or significant curtailment of OTT dicamba use in soybean but not cotton, as cotton growing states have reported limited dicamba incidents. Based on BEAD's assessments (Orlowski and Kells, 2020a & 2020b), the per-acre benefits of OTT dicamba are similar in both cotton and soybean, if the 2,4-D-based system is available. The per-acre benefits of OTT dicamba are also similar across states. The Agency assessed how the restriction of OTT dicamba use in soybean while retaining OTT use in cotton may affect incidents in states that grow only/predominantly soybean (Soybean States), states that grow primarily cotton (Cotton States), and states that have significant acreage of both cotton and soybean (Soybean/Cotton States).

7.3.2.1 Impact of Soybean Restriction in Soybean States

Of the nine states with the highest numbers of dicamba incidents in 2021 (Minnesota, Iowa, Arkansas, Illinois, Nebraska, South Dakota, Kansas, Indiana, Missouri), only Arkansas, Kansas,

and Missouri have significant cotton acres indicating that predominantly soybean producing states had the highest levels of reported dicamba damage. Therefore, restriction against OTT dicamba use in soybean would likely result in reduced dicamba incidents in states with high soybean production in the future. However, incidents may still occur, if dicamba applied to other crops (e.g., corn) moves to soybean fields, or if soybean growers continue cultivating DT soybean varieties and illegally use dicamba products despite the restriction.

7.3.2.2 Impact of Soybean Restriction in Cotton States

In many cotton producing states, like Texas and Georgia, the acreage of cotton far exceeds the acreage of soybean. For example, in 2020 Texas produced 3.2 million acres of cotton but only 110,000 acres of soybean. As very few soybean are produced in these states, state restriction against OTT dicamba in soybean is expected to have limited impact on producers. Furthermore, as these states have historically reported limited dicamba incidents, The Agency expects reported incidents to remain limited in these states, but still potentially occur at the current levels.

7.3.2.3 Impact of Soybean Restriction in Soybean/Cotton States

There are states that have significant acreage of both soybean and cotton with crop producers in these states growing both crops side by side. These states include mid-South states like Tennessee, Arkansas, Mississippi, and Louisiana as well as southeastern states like North Carolina and Alabama.

In these states, the restriction of OTT dicamba on soybean but not cotton could have substantial negative impacts to soybean producers. As noted above, the primary alternative to OTT dicamba tolerant (DT) soybean is the 2,4-D tolerant system. If OTT dicamba use on soybean is restricted or substantially curtailed, soybean growers would be forced to switch to the 2,4-D tolerant soybean in order to utilize an OTT synthetic auxin herbicide (WSSA Group 4) to control problematic broadleaf weeds, like Palmer amaranth. However, as the majority of the cotton market is dicamba-tolerant (Kynetec, 2021), growers would likely continue to plant DT cotton and apply OTT dicamba. Research has shown that non-DT soybean are highly sensitive to dicamba. Therefore, restriction against OTT dicamba in soybean, but not in cotton could force growers to plant highly susceptible soybean next to DT cotton receiving multiple postemergence dicamba applications. This scenario could greatly increase the risk of off-target damage to soybean. To avoid this risk, soybean growers may continue to plant DT soybean, which could present a temptation to misuse dicamba products.

7.3.3 Impact of State-Specific Restrictions on OTT Dicamba

Stakeholders also suggested cancellation or substantial curtailment of OTT dicamba use in states reporting high numbers of dicamba incidents irrelevant of crop grown in the state. Based on BEAD's assessments (Orlowski and Kells, 2020a & 2020b) and new information on PPO-resistance, in the absence of dicamba, the Agency expects that growers of both cotton and soybean will switch to using OTT-2,4-D, regardless of their geographic location. State-specific restrictions could reduce incidents in states imposing the restrictions. Incidents may occur in

areas with restrictions if growers continue cultivating DT crops and illegally use dicamba in them despite the restriction.

8. CONCLUSIONS

Acreage, Usage, and Sales

- Nationally, about three-quarters of the cotton acreage and about two-thirds of the soybean acreage are planted with DT seed.
- About half of DT cotton and soybean were treated one or more times with a dicamba product in 2020 (2021 data not yet available). This may be due to defensive planting to protect against off-target movement, selection of the variety based on genetics/yield potential and not for the herbicide trait, or illegal use of dicamba products not registered for use on DT crops (non-OTT dicamba products).
- In a pesticide usage survey, misuse of non-OTT dicamba products was reported to occur on a small amount of DT soybean and cotton acres.
- Usage of non-OTT dicamba products on cotton and soybean has increased significantly since the registration of the OTT dicamba products. This may be due to misuse or to increased use of dicamba preemergence application.

Incidents Reported to the Agency

- Dicamba incidents continue at high numbers relative to recent past. They occur over a large geographic range and damage occurs on a wide range of plant species. There is no change from previous years in the number, severity, or geographic extent of incidents. In 2020, EPA estimated that dicamba incidents were underreported by a factor of 25; no evidence suggest that underreporting has changed.
 - The 2021 summary of incidents showed 3,461 incidents and more than 1 million acres of soybean affected as of November 17, 2021. In 2019, the most recent summary of incidents, there were 3,300 incidents; there was no reports of acres damaged.
 - 9 States reported a high number of incidents (more than 100): Arkansas, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota.
 - 14 States reported a relatively low number of incidents (less than 10): Delaware, Florida, Georgia, Louisiana, Maryland, Michigan, Mississippi, New Jersey, New York, North and South Carolina, Oklahoma, Pennsylvania, Virginia. None of these states rank high in terms of cotton or soybean acres or sale of OTT dicamba.
 - 6 States reported an intermediate number of incidents (more than 10, less than 100): Kentucky, North Dakota, Ohio, Tennessee, Texas, Wisconsin.
 - 5 States were absent from the AAPCO meeting and/or did not have incident reports from registrants: Alabama, Arizona, West Virginia, New Mexico, and Colorado.
 - There were 63 counties that have endangered species or critical habitat with at least one reported dicamba incident and total of 290 incidents across those counties.
 - Most incidents are to non-DT soybean, but there were also reports to other crops and vegetation. Most notable: 160,000A wildlife refuge in AR.
 - Non-soybean crops with reported incidents include: sugarbeet, rice, sweet potato, peanut, grapes/vineyards, cucurbits, vegetables, fruit trees, caneberries, cotton, tree nurseries, and timber.
 - Additional incident reports of vegetation around homes and natural areas include: landscape plants, home gardens, non-fruit trees, and native plant species.

- Academics, registrants, and seed producers have indicated damage to research/breeding/seed production plots and in some cases, damage has occurred for multiple years.
- Damage has been documented on diverse properties including university research farms, cemeteries, churchyards, state fish and game properties, state natural areas, city parks, state and national wildlife refuges, state parks, several public spaces, and many county and state roads. Plant species damaged in these public/natural areas include over 20 species of trees and shrubs and many annual and perennial plant species. Sycamore was the most frequently reported type of tree showing damage.
- State agencies have had a substantial burden to field incident calls and follow up with site inspections to impacted members of the public. States view the label as overly complicated.
- Social impacts continue and range from fractured relationships amongst neighbors and threats of violence.

Weed Resistance to Dicamba

- State Extension weed control specialists have confirmed resistance to dicamba in both Palmer amaranth and waterhemp populations, and that resistance is spreading. As dicamba resistance spreads, the benefits of the DT-crop system declines.

Mitigation Measures Suggested by Stakeholders

- Stakeholders suggested mitigations intended to reduce off-target movement or misuse of OTT dicamba. Some suggestions may reduce off-target movement or misuse but EPA has not conducted a full assessment. Suggested mitigations may severely restrict user's ability to use dicamba for OTT weed control or are not feasible to be implemented in the near term.
- If restriction or significant curtailment of OTT dicamba is determined to be needed, state-level restriction may be more effective at reducing incidents than restriction of OTT dicamba in soybean but not cotton.

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ATTACHMENT A.

Table A-1. 2019, 2020, and 2021 Cotton Acreage by State (USDA/NASS, 2021) and Year-over-Year Changes.

State	2019 Acres Planted	2020 Acres Planted	2021 Acres Planted	2019-2020 Year-Over-Year Change	2020-2021 Year-Over-Year Change
Alabama	540,000	450,000	405,000	-20%	-11%
Arizona	167,500	131,500	129,000	-27%	-2%
Arkansas	620,000	525,000	475,000	-18%	-11%
California	258,000	181,000	111,000	-43%	-63%
Florida	112,000	98,000	91,000	-14%	-8%
Georgia	1,400,000	1,190,000	1,170,000	-18%	-2%
Kansas	175,000	195,000	110,000	10%	-77%
Louisiana	280,000	170,000	110,000	-65%	-55%
Mississippi	710,000	530,000	445,000	-34%	-19%
Missouri	380,000	295,000	315,000	-29%	6%
New Mexico	68,200	53,500	48,500	-27%	-10%
North Carolina	510,000	360,000	370,000	-42%	3%
Oklahoma	640,000	525,000	485,000	-22%	-8%
South Carolina	300,000	190,000	210,000	-58%	10%
Tennessee	410,000	280,000	275,000	-46%	-2%
Texas	7,062,000	6,838,000	6,367,000	-3%	-7%
Virginia	103,000	80,000	74,000	-29%	-8%
US Total*	13,735,700	12,092,000	11,190,500	-14%	-8%

* Change in national acreage between 2019 and 2021 is -23 percent.

Table A-2. 2019, 2020, and 2021 Soybean Acreage by State (USDA/NASS, 2021) and Year-over-Year Changes.

State	2019 Acres Planted	2020 Acres Planted	2021 Acres Planted	2019-2020 Year-Over-Year Change	2020-2021 Year-Over-Year Change
Alabama	265,000	280,000	310,000	5%	10%
Arkansas	2,650,000	2,820,000	3,050,000	6%	8%
Delaware	155,000	150,000	155,000	-3%	3%
Georgia	100,000	100,000	140,000	0%	29%
Illinois	9,950,000	10,300,000	10,600,000	3%	3%
Indiana	5,400,000	5,750,000	5,700,000	6%	-1%
Iowa	9,200,000	9,450,000	10,100,000	3%	6%
Kansas	4,550,000	4,800,000	4,850,000	5%	1%
Kentucky	1,700,000	1,850,000	1,800,000	8%	-3%
Louisiana	890,000	1,050,000	1,080,000	15%	3%
Maryland	480,000	485,000	490,000	1%	1%
Michigan	1,760,000	2,200,000	2,150,000	20%	-2%
Minnesota	6,850,000	7,450,000	7,700,000	8%	3%
Mississippi	1,660,000	2,090,000	2,230,000	21%	6%
Missouri	5,100,000	5,850,000	5,700,000	13%	-3%
Nebraska	4,900,000	5,200,000	5,600,000	6%	7%
New Jersey	95,000	94,000	100,000	-1%	6%
New York	235,000	315,000	325,000	25%	3%
North Carolina	1,540,000	1,600,000	1,650,000	4%	3%
North Dakota	5,600,000	5,750,000	7,300,000	3%	21%
Ohio	4,300,000	4,950,000	4,850,000	13%	-2%
Oklahoma	465,000	560,000	575,000	17%	3%
Pennsylvania	620,000	640,000	580,000	3%	-10%
South Carolina	335,000	310,000	390,000	-8%	21%
South Dakota	3,500,000	4,950,000	5,500,000	29%	10%
Tennessee	1,400,000	1,650,000	1,500,000	15%	-10%
Texas	80,000	120,000	110,000	33%	-9%
Virginia	570,000	570,000	600,000	0%	5%
Wisconsin	1,750,000	2,020,000	2,100,000	13%	4%
US Total*	76,100,000	83,354,000	87,235,000	9%	4%

* Change in national acreage between 2019 and 2021 is +13 percent.

ATTACHMENT B. CONFIDENTIAL AND PROPRIETARY DATA

This attachment contains confidential business data and estimates based on proprietary pesticide usage survey. These data are protected and must not be released outside the Office of Pesticide Programs.

Table B-1. Comparison of Cotton and Soybean Acreage based on Data Source.

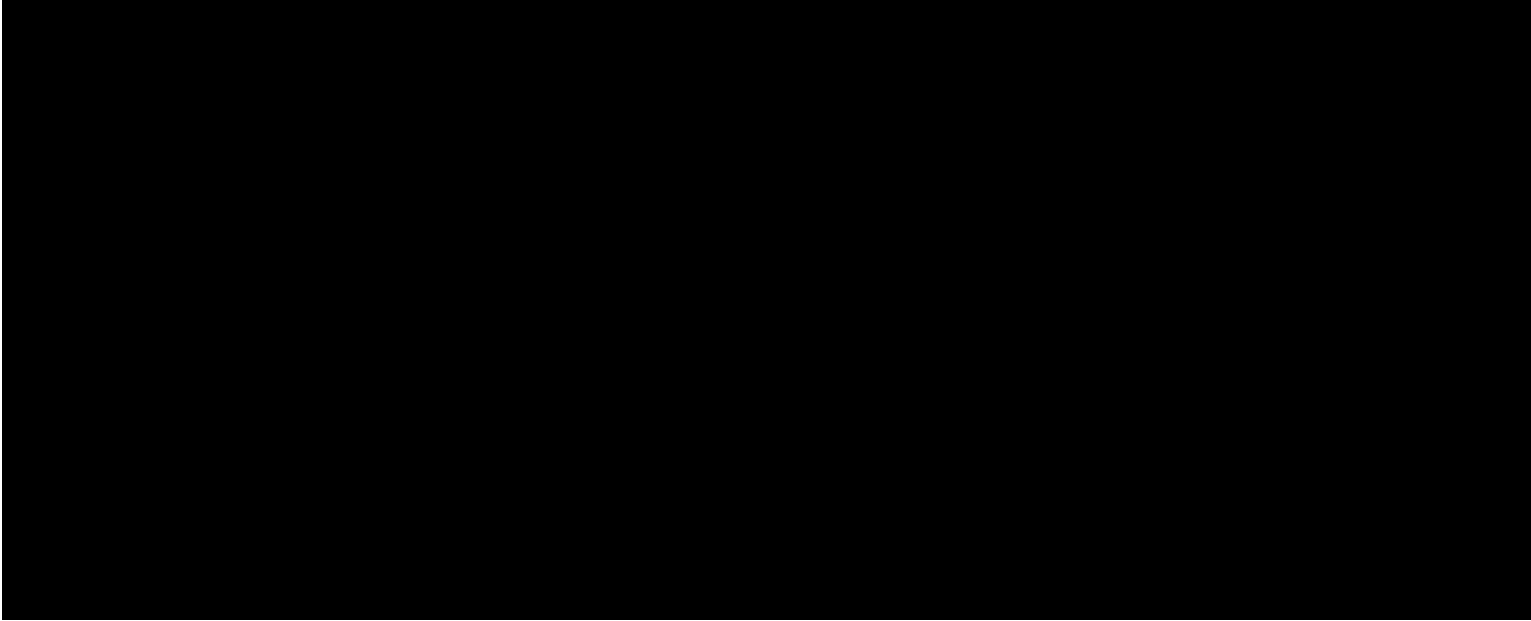
A large black rectangular redaction box covering the entire content of Table B-1.

Table B-2. Cotton Acreage Surveyed by Trait and Percent DT Adoption (Kynetec, 2021).

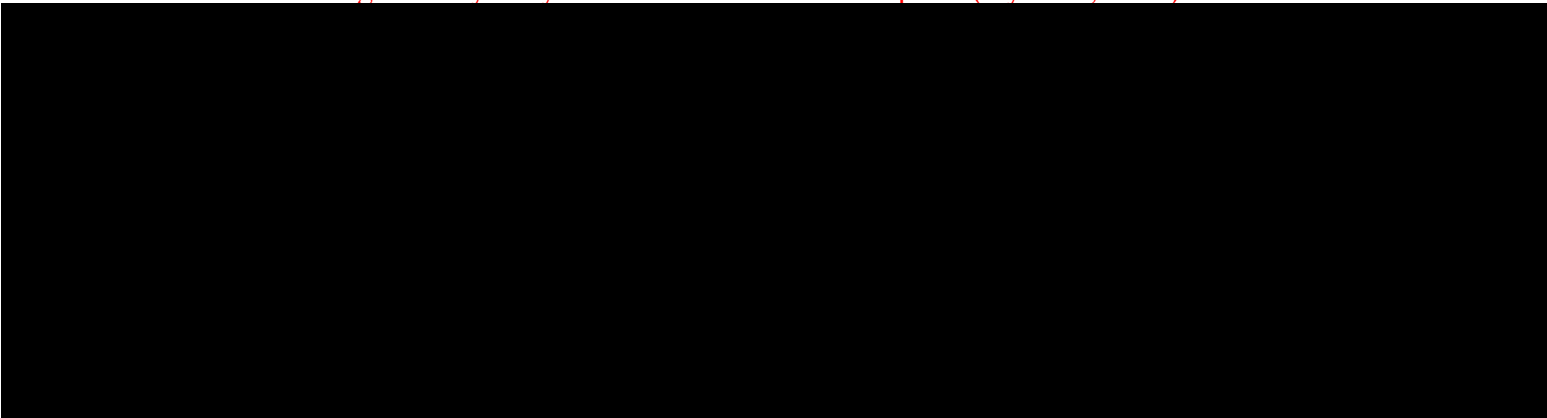
A large black rectangular redaction box covering the entire content of Table B-2.

Table B-3. Soybean Acreage Surveyed by Trait and Percent DT Adoption (Kynetec 2021).

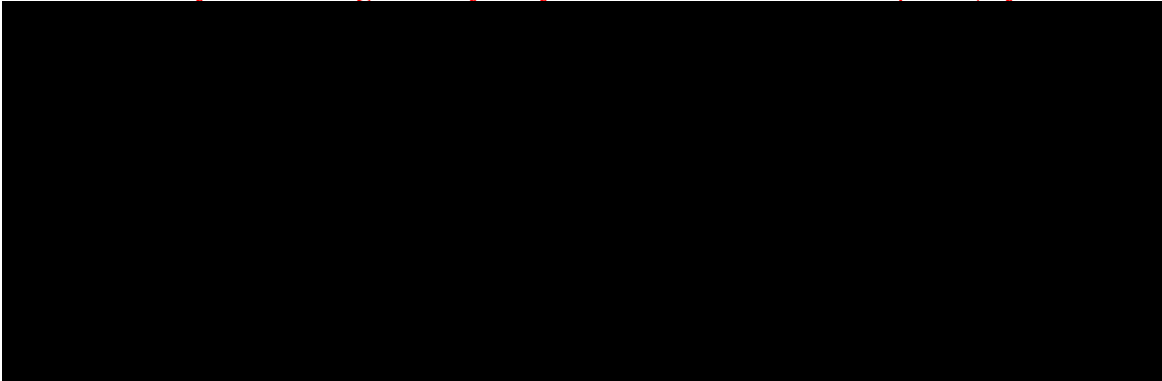
A large black rectangular redaction box covering the entire content of Table B-3.

Table B-4. Use of Dicamba Product Type on DT and Non-DT Trained Cotton (Kynetec 2021).

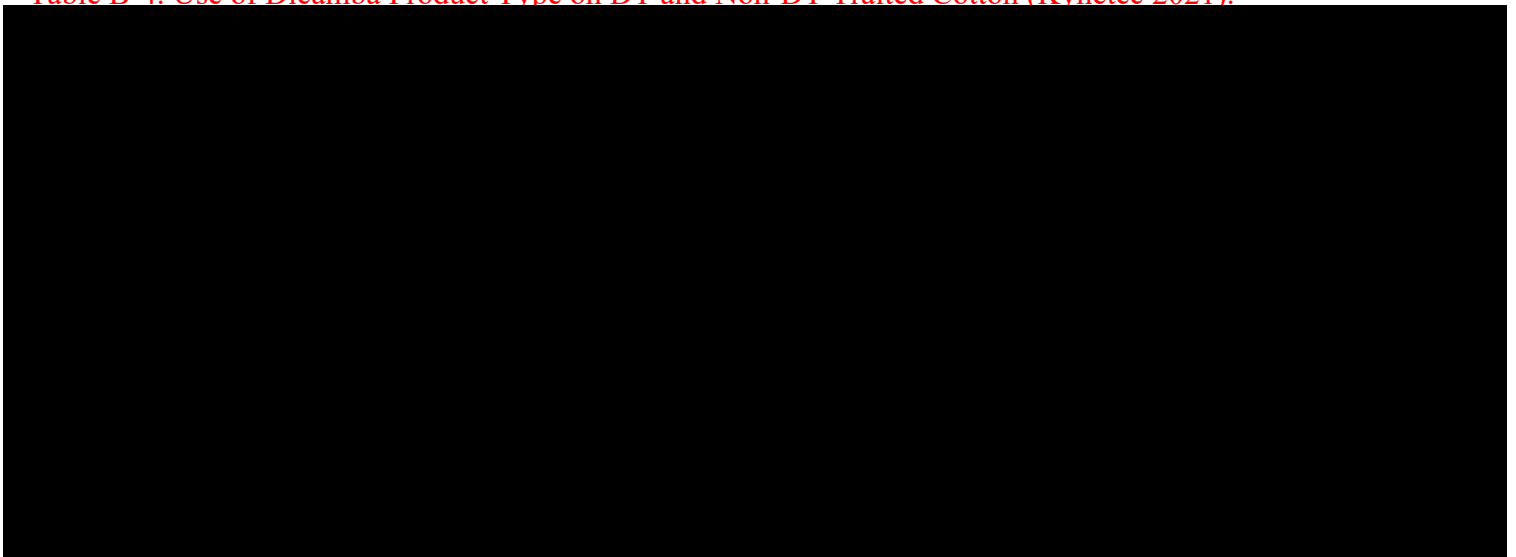
A large black rectangular redaction box covering the entire content of Table B-4.

Table B-5. Use of Dicamba Product Types on DT and Non-DT Trained Soybean (Kynetec 2021).

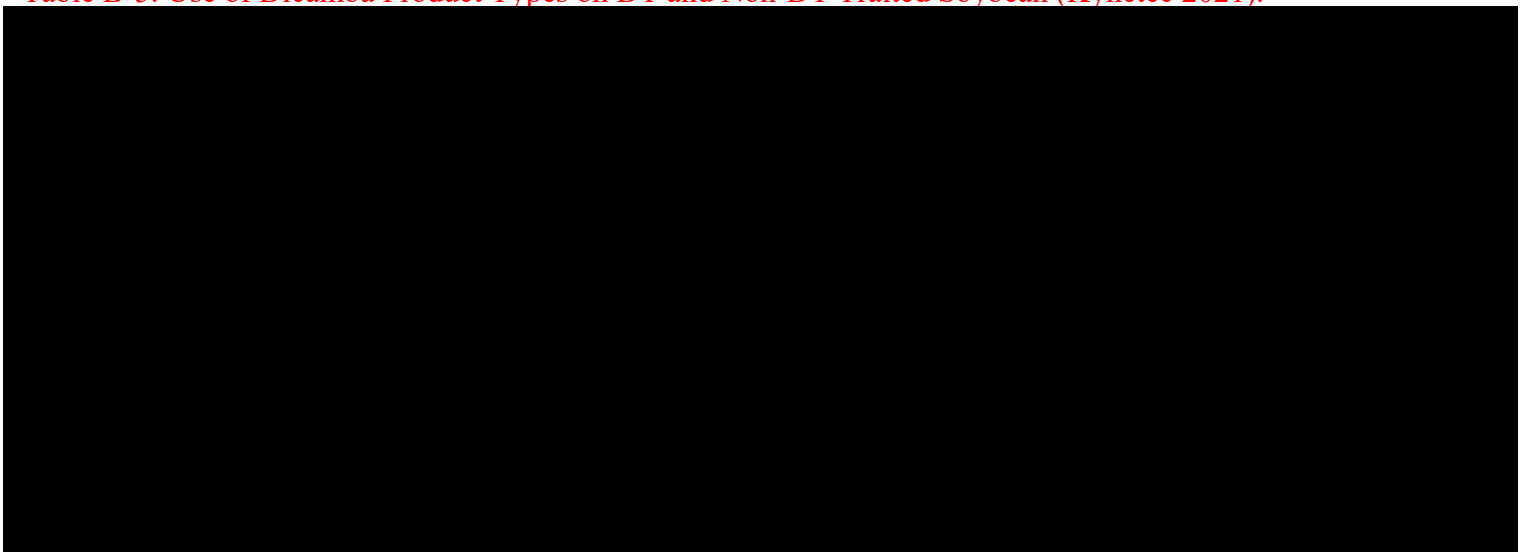
A large black rectangular redaction box covering the entire content of Table B-5.

Table B-6. Cotton Acres Treated with Dicamba Products by Seed Trait and Application Timing (Kynetec, 2021). The postemergence use of non-OTT dicamba products on DT cotton is prohibited (**Bolded**).

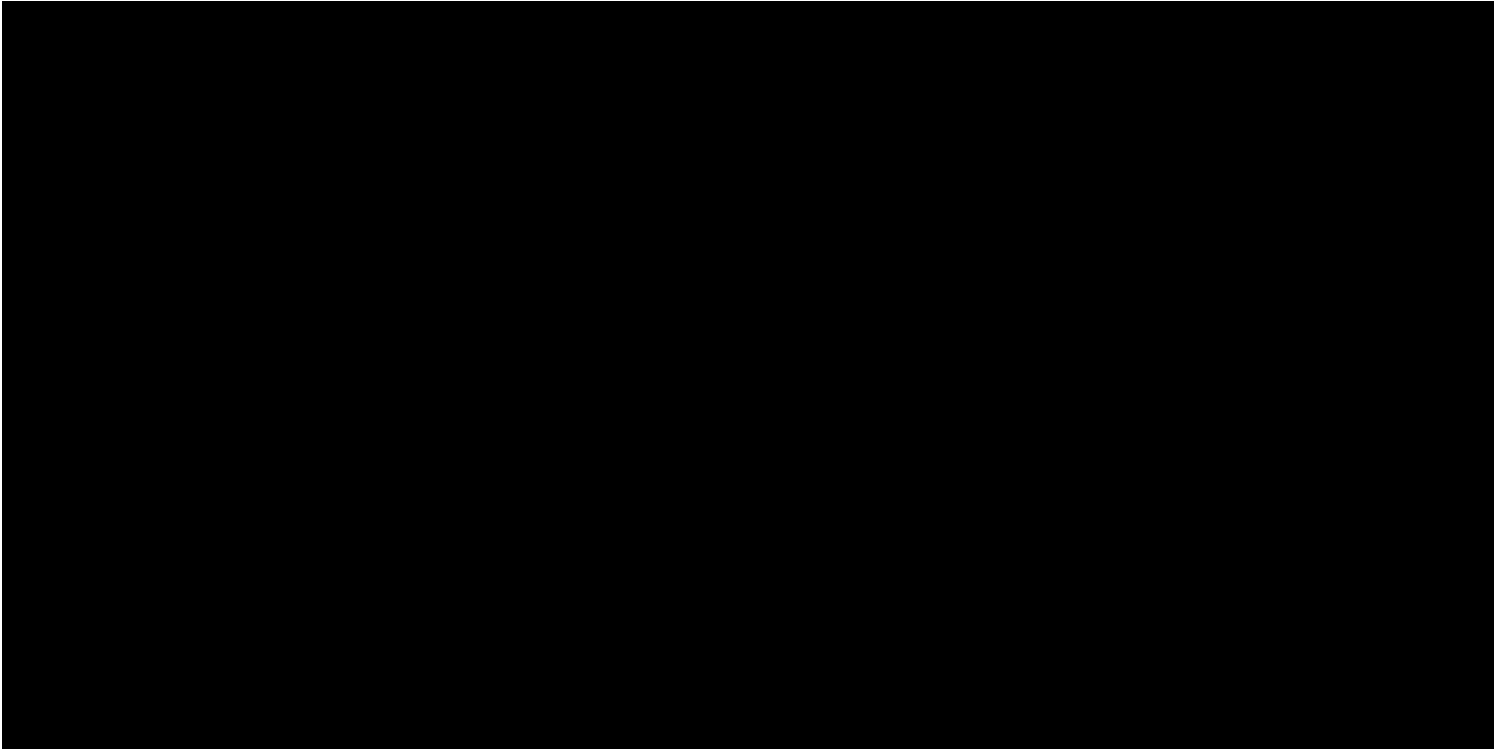


Table B-7. Soybean Acres Treated with Dicamba Products by Seed Trait and Application Timing (Kynetec, 2021). The postemergence use of non-OTT dicamba products on DT soybean is prohibited (**Bolded**).

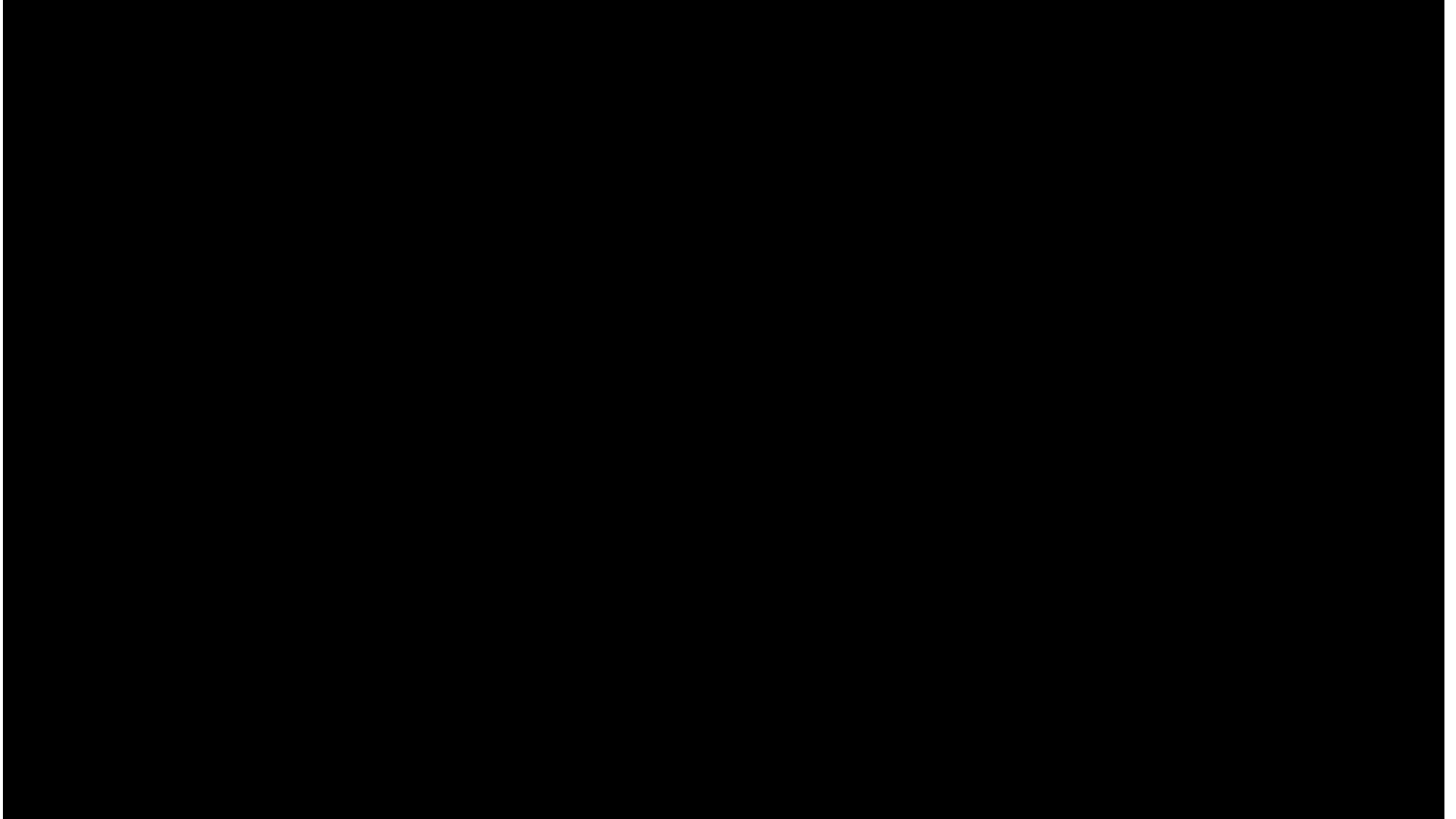


Table B-8. Cotton Acres Treated with Non-OTT Dicamba Products* Over Time (Kynetec 2021).

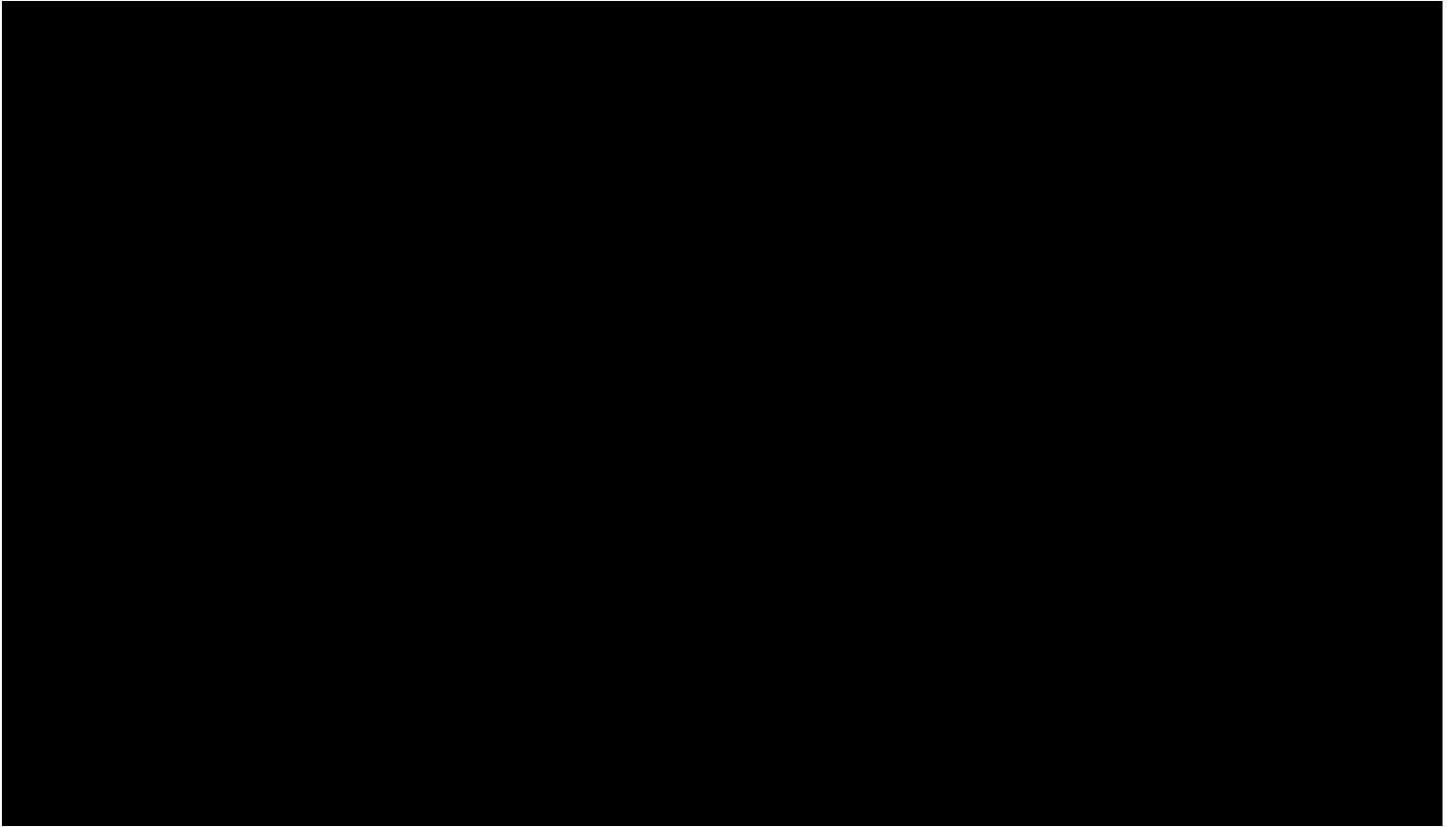


Table B-9. Soybean Acres Treated with Non-OTT Dicamba Products Over Time (Kynetec 2021).

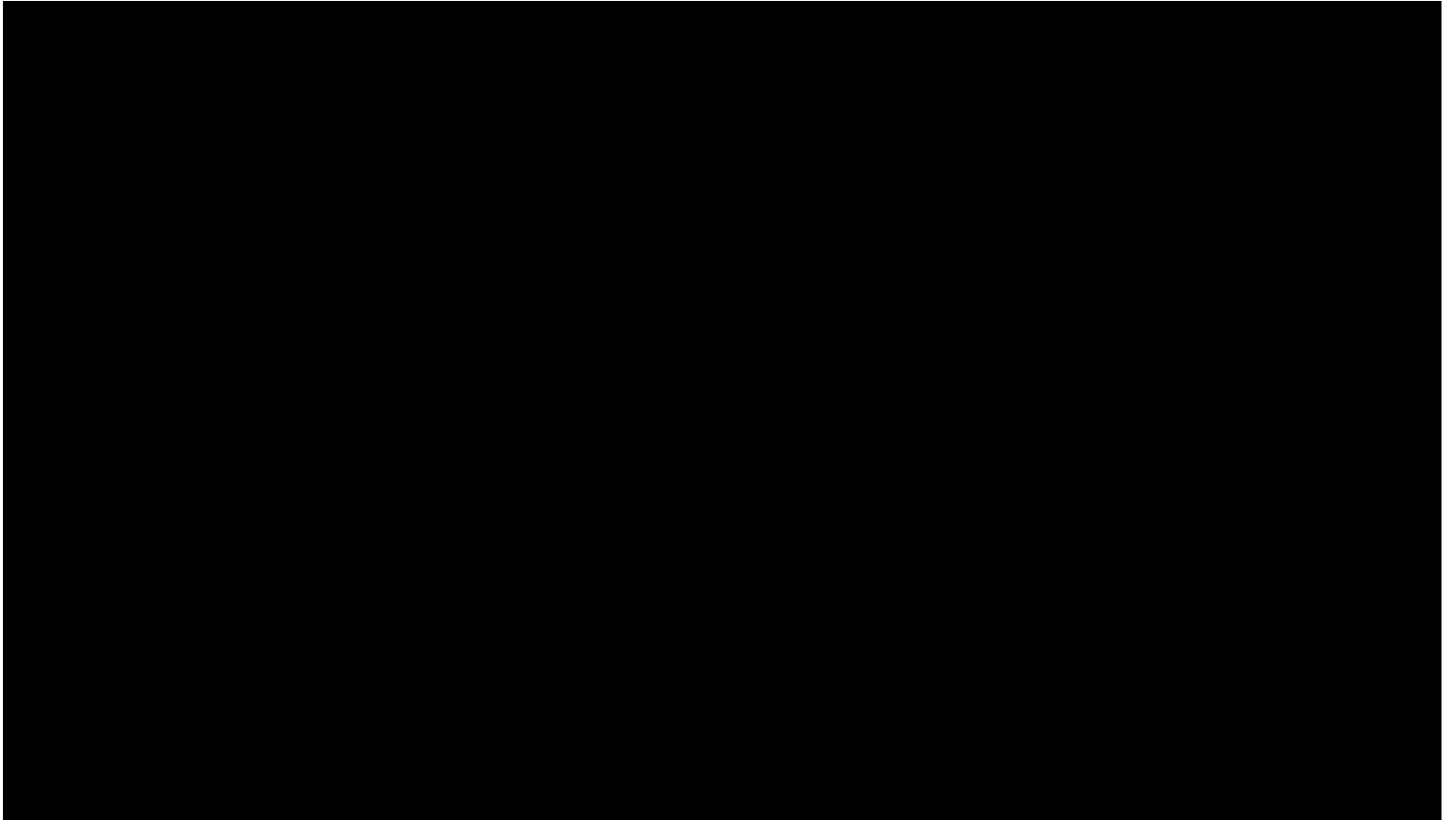
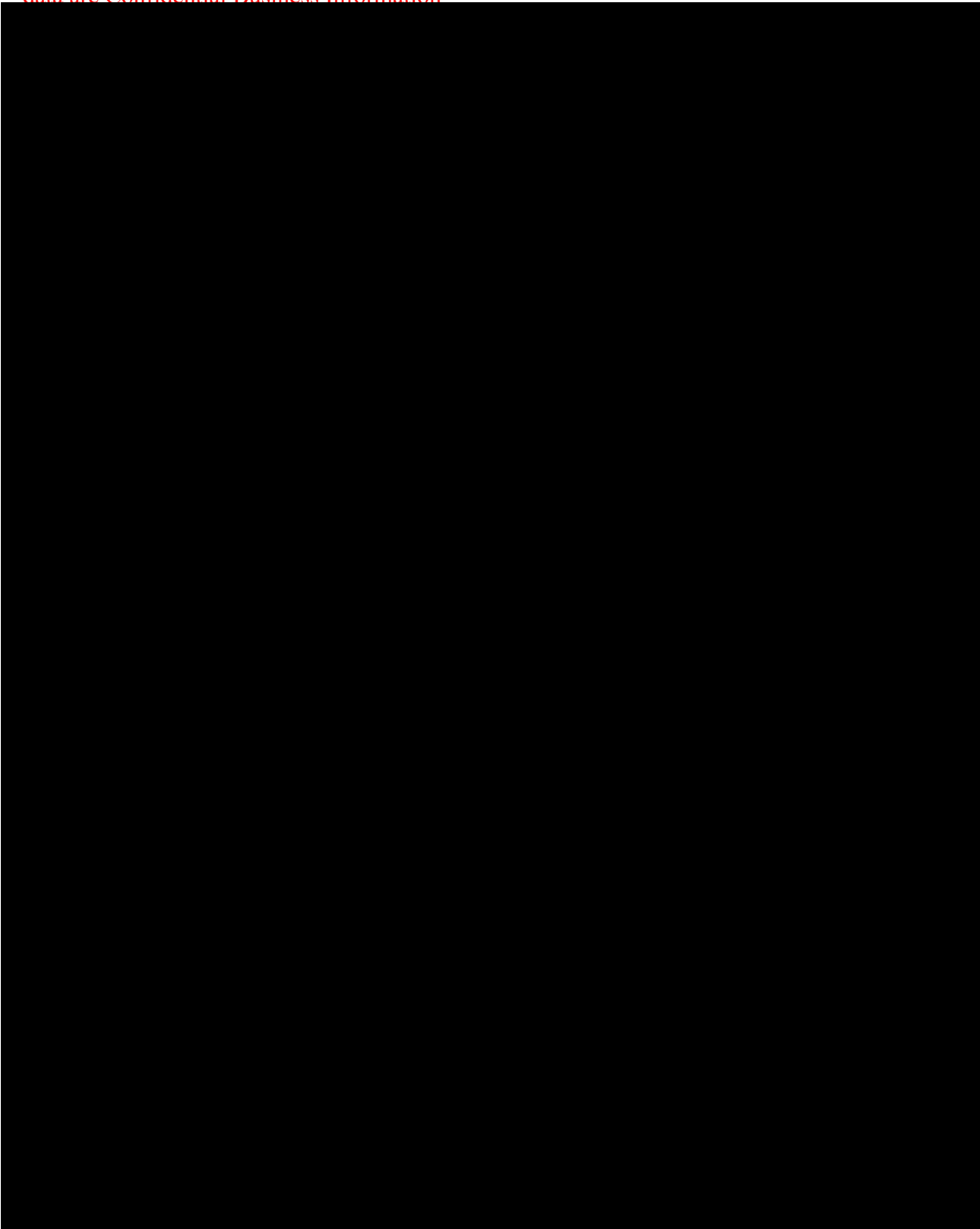


Table B-10. Percent of 2020 and 2021 Registrant Sales of OTT Dicamba Products* (lbs. a. e.) by State**. Based on sales data provided by each registrant. **Bolded** values indicate the market leader in each state. These data are Confidential Business Information



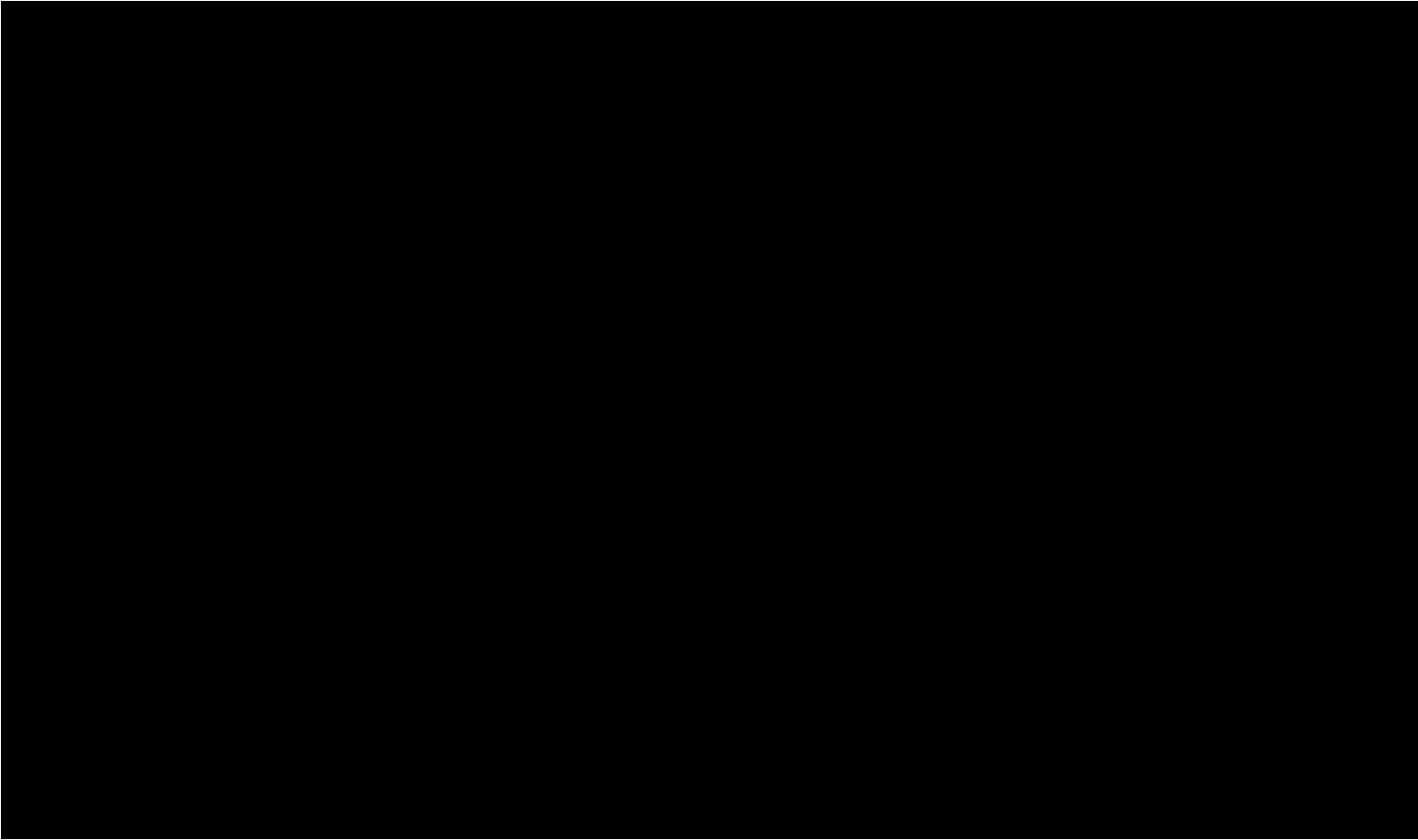
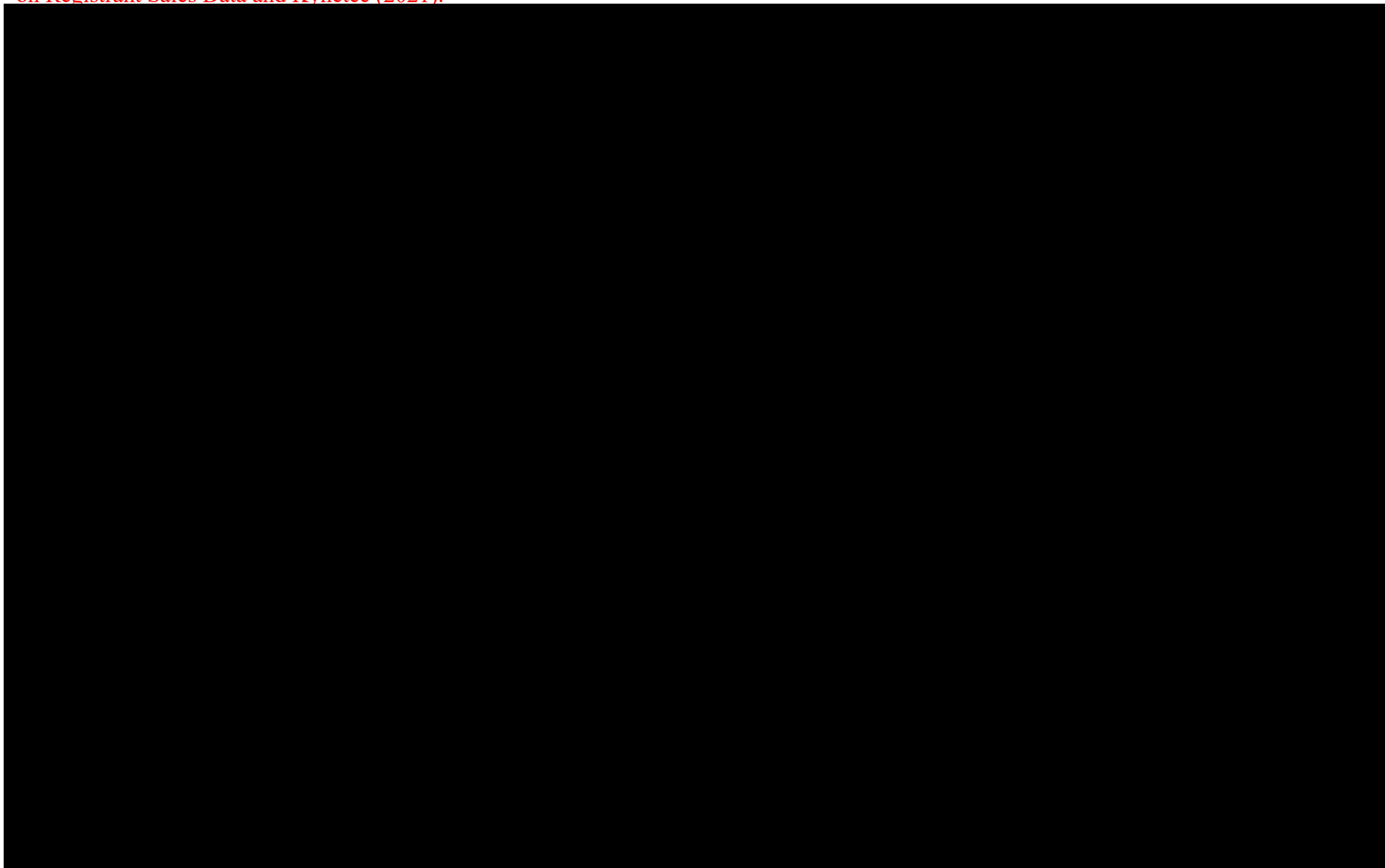
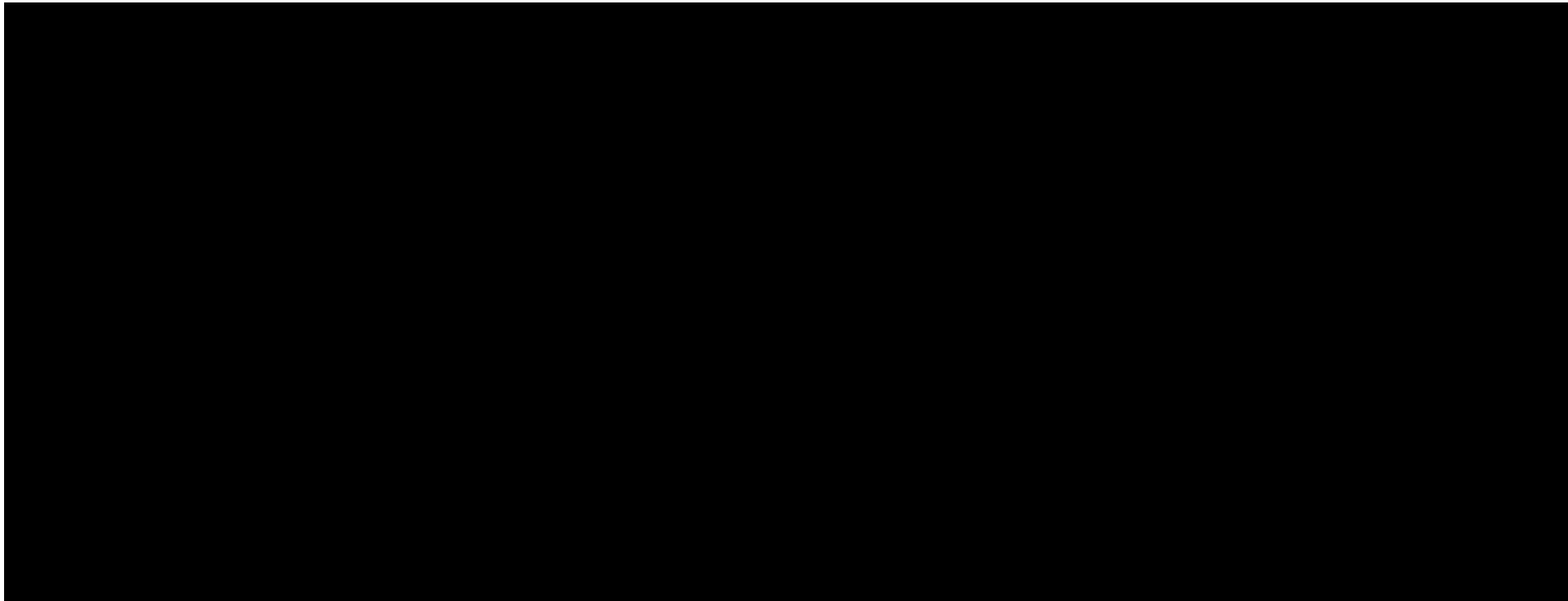


Table B-11. Comparison of Dicamba Tolerant Cotton and Soybean Acres and Acres Potentially Treated with an OTT Product. Based on Registrant Sales Data and Kynetec (2021).

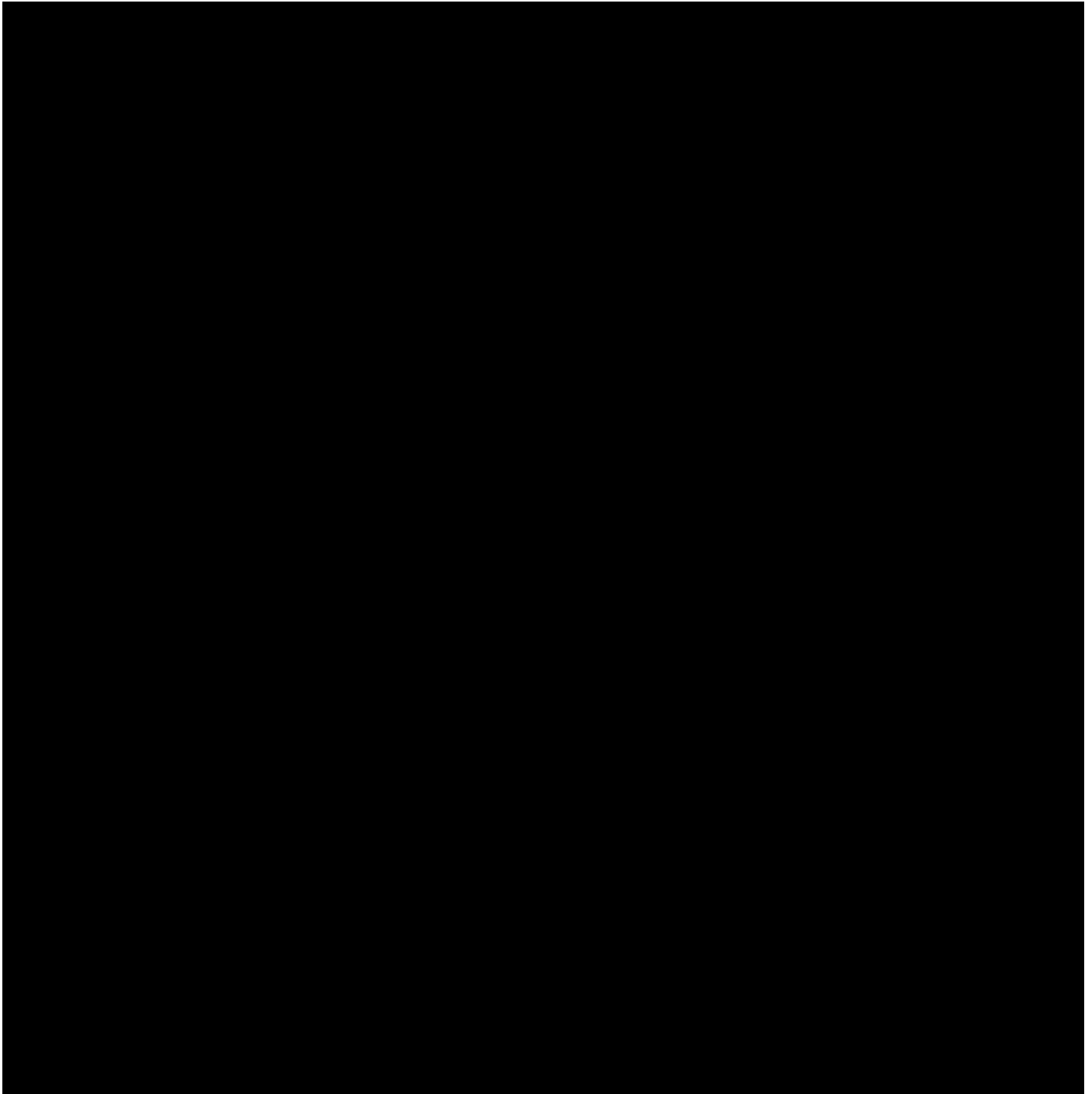




ATTACHMENT C. CONFIDENTIAL AND PROPRIETARY DATA

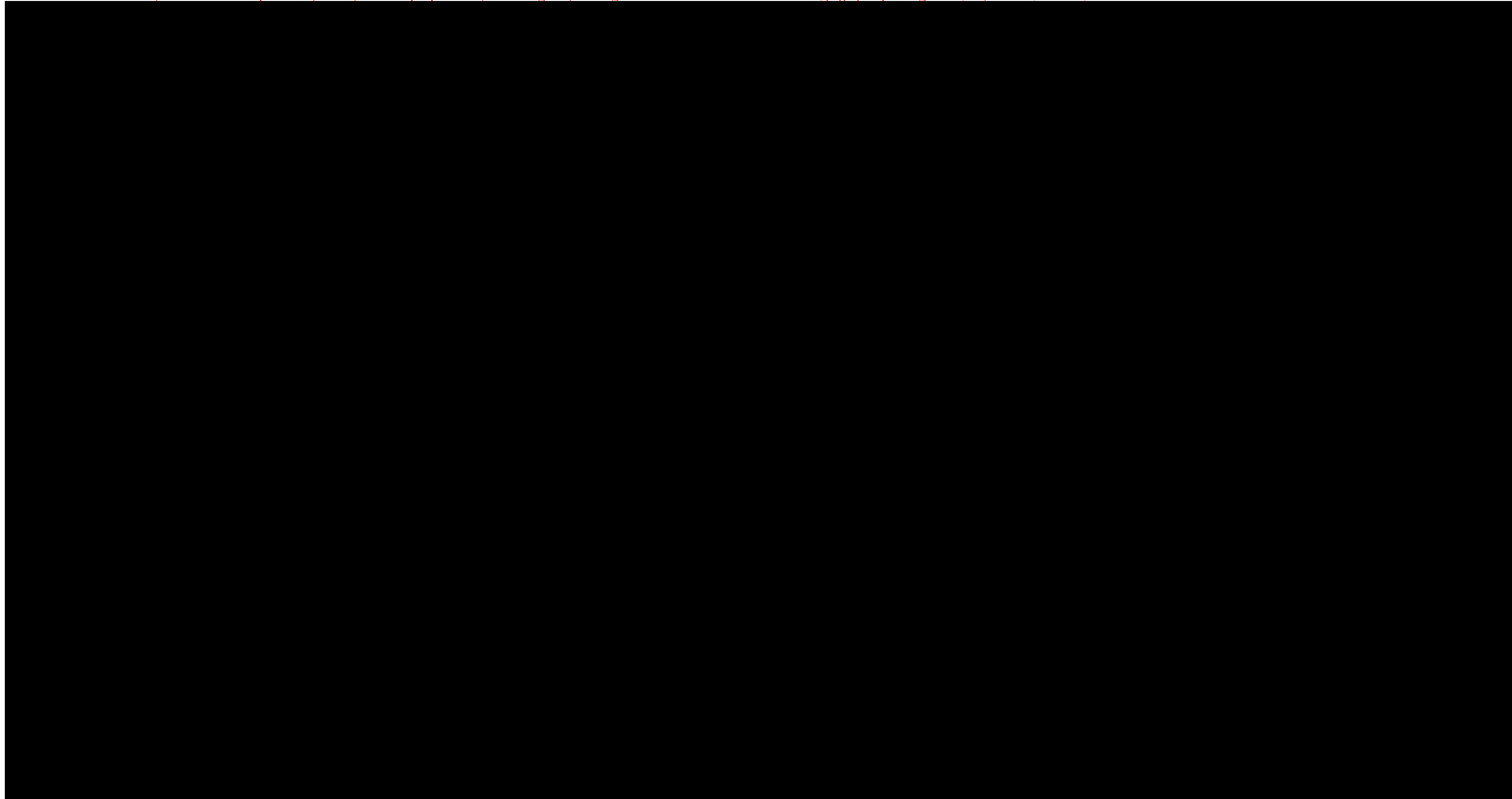
This attachment contains confidential business data and proprietary pesticide usage survey data. These data are protected and should not be released outside the Office of Pesticide Programs.

C-1. New Information on the Status of Dicamba-Resistant Weeds

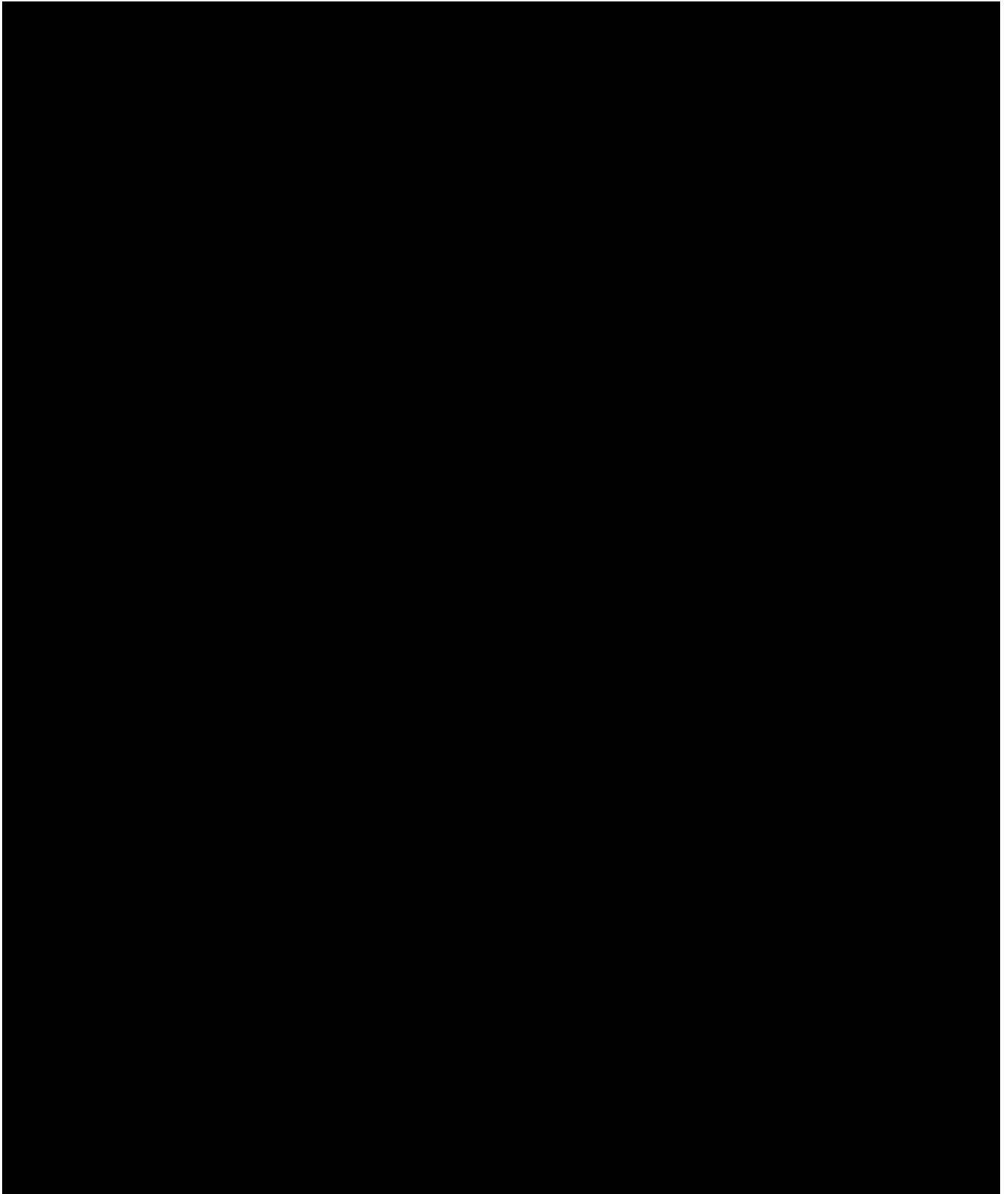


C.2 Description of Incidents

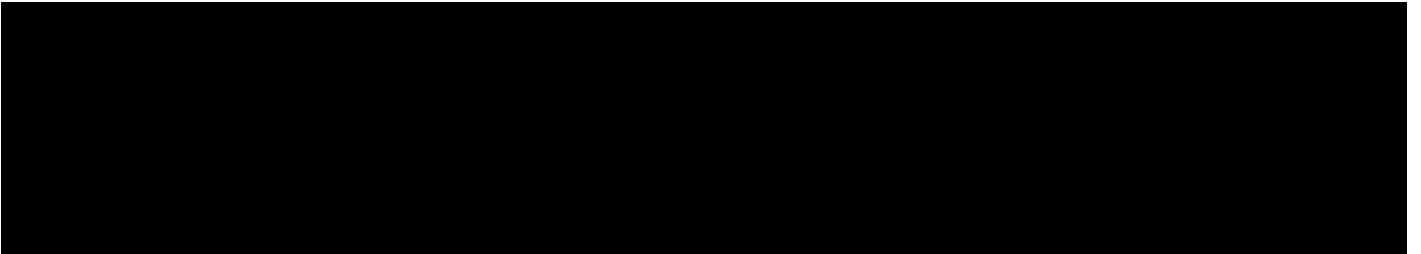
Table C-1. Summary of Incidents Reported by State, Not Crop Specific*, to the Agency through the States and FIFRA Section 6(a)(2) Reporting for 2021, as of 17 Nov 2021.



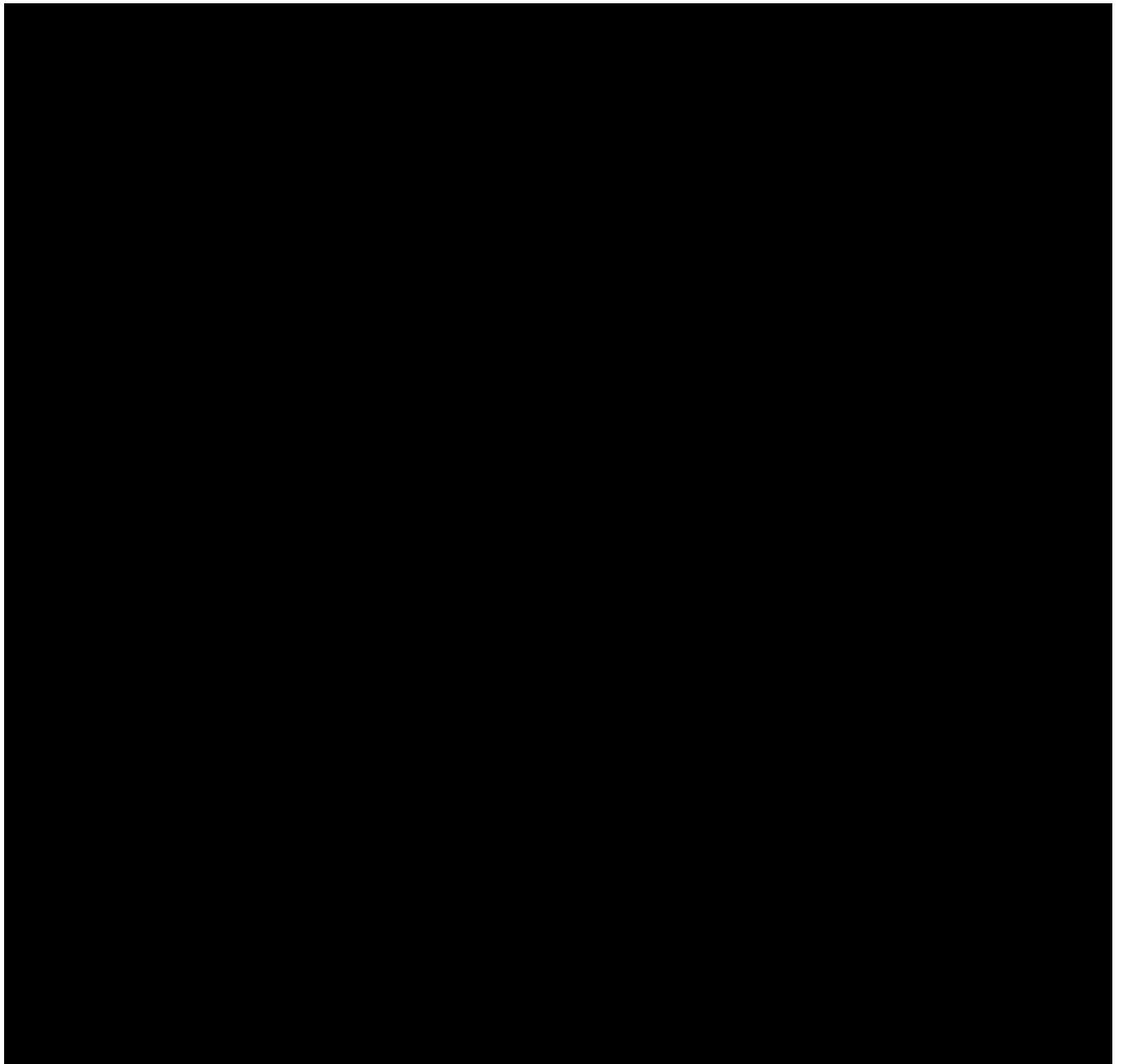
C-3. Non-Soybean Crops from Registrants and 6(a)(2) Letters



C.4. Research/Breeding/Seed Production Plots

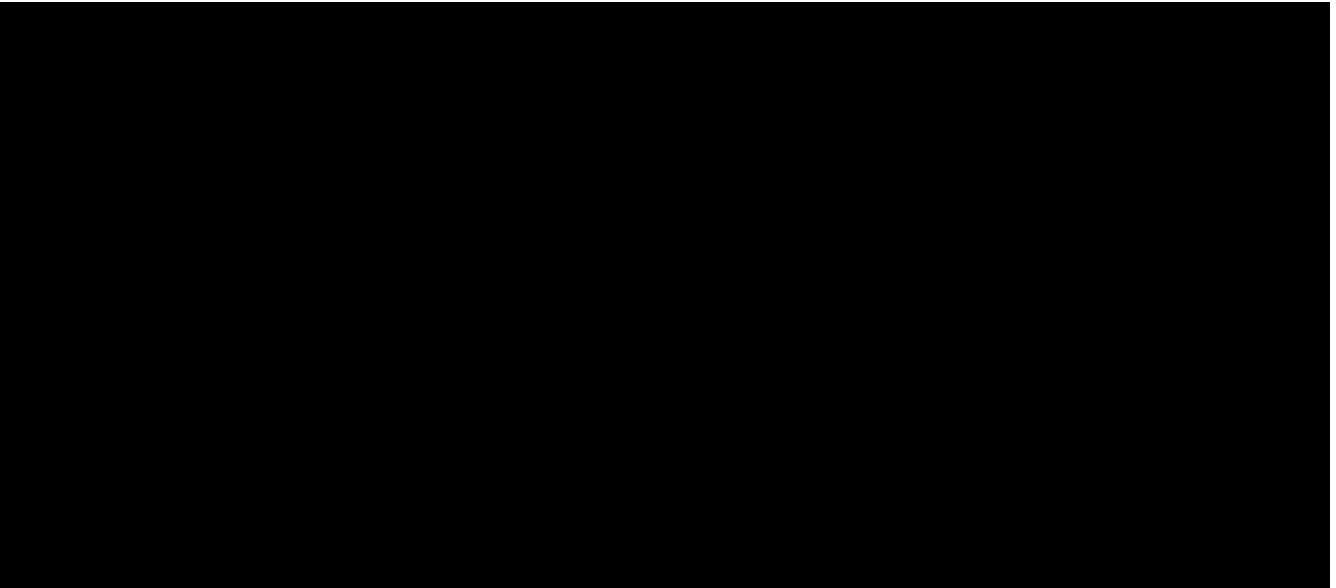


C.5. Underreporting





C-6. Non-OTT Dicamba Use on Corn





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Pesticide Committee Dicamba Case Status Update Summary Information Regarding Dicamba Case Files as of January 20, 2022

2021 Case Files

Total Case Files

565 Total Cases Files
517 Received in Office from Field Staff
380 Total Case Files Closed by Staff
 356 Case Files Closed by Staff with No Violation(s) Identified
 24 Case Files Closed by Staff with Violation(s) Identified

Alleged Dicamba Case Files

360 Total Alleged Dicamba Case Files
321 Received in Office from Field Staff
286 Total Alleged Dicamba Closed by Staff
 282 Case Files Closed by Staff with No Violation(s) Identified
 4 Case Files Closed by Staff with Violation(s) Identified

Case Files Closed by Staff with No Violation(s) Identified is defined as staff having reviewed all the evidence contained within the Case File and no violations were identified. These case files require no further action by the Pesticide Committee or the Full Board.

Case Files Closed by Staff with Violation(s) Identified is defined as staff having reviewed all the evidence contained within the Case File and alleged violation(s) issued to the alleged violator(s). These Case Files may contain one or more individual alleged violations for one or more alleged violators.

A notice of each alleged individual violation(s) is issued to the alleged violator(s) when staff closes the Case File. After the Case File is closed, the violation(s) contained in those files are considered as individual alleged violation(s). The alleged violator(s) have the opportunity to contest the findings before the individual violation(s) are presented the Pesticide Committee and the Full Board. The individual violation(s) are considered pending until presented to the Pesticide Committee and Full Board.

Dicamba was identified as the pesticide causing symptoms in 266 of the Total Case Files.

Issued Violations (Individual Violations)

41 Total Issued Violations
9 Issued Violations associated with Dicamba

Issued Violations are defined as Violation(s) sent via certified mail to the alleged violator(s). The alleged violators have the opportunity to contest the findings before the violations are presented to the Pesticide Committee or the Full Board.



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Completed Alleged Dicamba Violations (Individual Violations)

The following violations associated have been identified and approved by the **Full Board**:

1. 0 Use During Prohibited Period (June 30th – October 31st)
2. 0 Drift
3. 0 Record Keeping Requirements (some required elements were not recorded) *
4. 0 License/Training Certificates

A total of \$0 in Civil Penalties has been approved by the **Full Board** along with 0 Warning Letters.

Alleged Dicamba Case Files by County:

Arkansas	80
Clay	9
Craighead	17
Crittenden	5
Cross	29
Desha	4
Greene	4
Jackson	16
Jefferson	11
Lawrence	5
Lee	13
Lincoln	3
Lonoke	10
Miller	1
Mississippi	2
Monroe	25
Phillips	16
Poinsett	31
Prairie	20
Randolph	5
St. Francis	23
White	6
Woodruff	25



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2020 Case Files

Total Case Files

514 Total Cases Files
514 Received in Office from Field Staff
459 Total Case Files Closed by Staff
 361 Case Files Closed by Staff with No Violation(s) Identified
 98 Case Files Closed by Staff with Violation(s) Identified

Alleged Dicamba Case Files

218 Total Alleged Dicamba Case Files
218 Received in Office from Field Staff
173 Total Alleged Dicamba Closed by Staff
 142 Case Files Closed by Staff with No Violation(s) Identified
 31 Case Files Closed by Staff with Violation(s) Identified

Dicamba was identified as the pesticide causing symptoms in 137 of the Total Case Files.

Issued Violations (Individual Violations)

159 Total Issued Violations
74 Issued Violations associated with Dicamba

Completed Alleged Dicamba Violations (Individual Violations)

The following violations associated have been identified and approved by the **Full Board**:

5. 0 Use During Prohibited Period (May 26th – October 31st)
6. 4 Drift
7. 1 Record Keeping Requirements (some required elements were not recorded) *
8. 0 License/Training Certificates

A total of \$600 in Civil Penalties has been approved by the **Full Board** along with 4 Warning Letters.



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Alleged Dicamba Case Files by County:

Chicot	1
Clay	25
Craighead	18
Crittenden	9
Cross	14
Desha	5
Franklin	1
Greene	7
Jackson	1
Jefferson	1
Lawrence	1
Lee	17
Lincoln	2
Little River	1
Lonoke	1
Mississippi	32
Monroe	5
Phillips	44
Poinsett	19
Prairie	1
Pulaski	1
St. Francis	4
Woodruff	8



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2019 Case Files

Total Case Files

462 Total Cases Filed
462 Received in Office from Field Staff
459 Total Case Files Closed by Staff
 318 Case Files Closed by Staff with No Violation(s) Identified
 141 Case Files Closed by Staff with Violation(s) Identified

Alleged Dicamba Case Files

210 Total Alleged Dicamba Case Files
210 Received in Office from Field Staff
208 Total Alleged Dicamba Closed by Staff
 136 Case Files Closed by Staff with No Violation(s) Identified
 72 Case Files Closed by Staff with Violation(s) Identified

Dicamba was identified as the pesticide causing symptoms in 160 of the Total Case Files.

Issued Violations (Individual Violations)

253 Total Issued Violations
164 Issued Violations associated with Dicamba

Completed Alleged Dicamba Violations (Individual Violations)

The following violations associated have been identified and approved by the **Full Board**:

1. 6 Use During Prohibited Period (May 26th – October 31st)
2. 1 Drift
3. 2 Record Keeping Requirements (some required elements were not recorded) *
4. 0 License/Training Certificates
5. 1 Off Label Rate
6. 1 Buffer Zone

A total of \$19,187 in Civil Penalties has been approved by the **Full Board** along with 3 Warning Letters.



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Alleged Dicamba Case Files by County:

Chicot	4
Clay	4
Craighead	4
Crittenden	30
Cross	9
Greene	4
Jefferson	6
Lee	9
Lincoln	1
Lonoke	2
Mississippi	63
Phillips	46
Poinsett	7
Pulaski	7
Randolph	1
St. Francis	3
White	2
Woodruff	8



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2018 Case Files

Total Case Files

456 Total Cases Filed
456 Received in Office from Field Staff
455 Total Case Files Closed by Staff
 313 Case Files Closed by Staff with No Violation(s) Identified
 142 Case Files Closed by Staff with Violation(s) Identified

Alleged Dicamba Case Files

200 Total Alleged Dicamba Case Files
200 Received in Office from Field Staff
199 Total Alleged Dicamba Closed by Staff
 136 Case Files Closed by Staff with No Violation(s) Identified
 63 Case Files Closed by Staff with Violation(s) Identified

Dicamba was identified as the pesticide causing symptoms in 166 of the Total Case Files.

Issued Violations (Individual Violations)

557 Total Issued Violations
354 Issued Violations associated with Dicamba

Completed Alleged Dicamba Violations (Individual Violations)

The following violations associated have been identified and approved by the **Full Board**:

1. 25 Use During Prohibited Period (April 16th – October 31st) (2 Egregious)
2. 9 Drift (2 Egregious)
3. 1 Failure to Provide Records
4. 23 Record Keeping Requirements (some required elements were not recorded) *
5. 20 License/Training Certificates

A total of \$165,700 in Civil Penalties has been approved by the **Full Board** along with 6 Warning Letters.



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Alleged Dicamba Case Files by County:

Arkansas	2
Chicot	4
Clay	9
Craighead	10
Crittenden	48
Cross	11
Desha	1
Greene	3
Jackson	2
Jefferson	2
Lee	7
Mississippi	54
Monroe	1
Phillips	26
Poinsett	6
Pulaski	1
St. Francis	4
White	6
Woodruff	3



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2017 Case Files

Total Case Files

1312 Total Case Files
1312 Received in Office from Field Staff
1312 Case Files Closed by Staff *

Alleged Dicamba Case Files

1014 Total Alleged Dicamba Case Files
1014 Received in Office from Field Inspectors
1014 Case Files Closed by Staff *

*Case Files Closed by Staff is defined as staff having reviewed all the evidence contained within the Case File and alleged violation(s) issued to the alleged violator(s) or no violations were identified. Case Files with no violations identified require no further action by the Pesticide Committee or the Full Board.

Dicamba was identified as the pesticide causing symptoms in 900 of the Total Case Files.

Completed Alleged Dicamba Violations (Individual Violations)

The following violations have been identified and presented to the **Full Board**:

1. 78 Record Keeping Requirements (some required elements were not recorded) *
2. 121 Drift
3. 86 Buffer Zone
4. 52 License/Training Certificates
5. 1 Off Label Rate (so far all of the off label rates are associated with burndown applications not In-Crop applications of dicamba products)
6. 11 Off Label Tank Mix
7. 1 Improper Tank Clean out
8. 3 Sale of a Class H to an Unlicensed Individual
9. 3 Failure to provide records
10. 2 Wind Speed

A total of \$70,400 in Civil Penalties has been approved by the **Full Board** along with 256 Warning Letters.



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Alleged Dicamba Case Files by County:

Arkansas	2
Ashley	5
Chicot	7
Clay	15
Craighead	109
Crittenden	184
Cross	46
Desha	10
Greene	10
Jackson	2
Jefferson	4
Lawrence	2
Lee	69
Lincoln	2
Little River	1
Lonoke	9
Miller	2
Mississippi	261
Monroe	22
Phillips	50
Poinsett	98
Pulaski	3
Randolph	1
St. Francis	91
White	2
Woodruff	7

From: [Thomas R. Butts](#)
To: [Susie Nichols \(ASPB\)](#)
Subject: FW: estimates
Date: Tuesday, January 18, 2022 9:16:57 AM
Attachments: [image001.jpg](#)
[image002.png](#)

Hey Susie,

This was an email from Tom back in July. The total number was derived from a quick survey of county agents. Any questions, please let me know. Thanks!

Thomas (Tommy) R. Butts, Ph.D.
Assistant Professor, Extension Weed Scientist
University of Arkansas System Division of Agriculture
2001 Hwy 70 E
Lonoke, AR 72086
tbutts@uada.edu
(501) 804-7314
[@weedsARwild](#)



From: Jeremy Ross <jross@uada.edu>
Sent: Tuesday, January 18, 2022 9:00 AM
To: Thomas R. Butts <tbutts@uada.edu>
Subject: FW: estimates

MY EMAIL ADDRESS HAS CHANGED TO jross@uada.edu. PLEASE UPDATE MY CONTACT INFORMATION IN YOUR RECORDS.

Jeremy Ross, PhD
Extension Agronomist – Soybean/Professor
Crop, Soil, and Environmental Sciences Department
University of Arkansas System Division of Agriculture
Cooperative Extension Service
2301 S. University Ave.
Little Rock, AR 72204
jross@uada.edu
Voice: 501-671-2148

Cell: 501-944-0621



From: Tom Barber <tbarber@uada.edu>

Sent: Monday, July 12, 2021 10:19 PM

To: Mark Cochran <mjcochran@uasys.edu>; Bob Scott <bscott@uada.edu>; Vic Ford <vford@uada.edu>; Nathan A. Slaton <nslaton@uark.edu>

Cc: Jason Keith Norsworthy <jnorswor@uada.edu>; Jeremy Ross <jross@uada.edu>; Thomas R. Butts <tbutts@uada.edu>; Jerry Clemons <jclemons@uada.edu>

Subject: estimates

Dr. Cochran et al.

I asked the delta region county agents to provide me an update of the estimated acreage in their county that was showing dicamba symptomology. As of tonight, I have estimates from all but Lonoke and Independence counties. According to this survey, estimated acreage with dicamba symptoms are a little over 618,000 or approximately 19.8% of total soybean acreage. I expect this number to increase as there are numerous fields showing symptoms in Lonoke county. I plan to add those additional acreage estimates tomorrow. Will likely be around or slightly higher than 650,000.

Thanks and please let me know if you have any questions

Tom

Tom Barber, PhD
Professor and Extension Weed Scientist
University of Arkansas System Division of Agriculture
2001 Hwy 70 East
Lonoke, AR 72086
501-944-0549

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

February 18, 2022

Committee Members Present via Zoom: Chairman Lester Scott, Mark Hartz, Matthew Marsh, Matthew Miles, Nathan Reed, Travis Senter, Richard Watts

Board Members Present via Zoom: Mark Hopper, Dr. Ken Korth, Reynold Meyer, Mark Morgan

Scott Bray, Plant Industries Division Director, Wade Hodge, Arkansas Department of Agriculture Chief Counsel, Michael Bynum, Arkansas Department of Agriculture Attorney, and Susie Nichols, Pesticide Section Agri Division Manager, were present via Zoom. Other Arkansas Department of Agriculture staff members and guests were attending via Zoom.

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

Chairman Scott then introduced the next item on the agenda, which was the review of the droplet studies of the four (4) new Quinclorac products by Sharda USA (Attachment 1) and turned the floor over to Ms. Susie Nichols.

Ms. Nichols provided a brief history and summary of the required droplet studies for new Quinclorac and Clomazone products. She stated the VMD_01 values for all treatments with the new product were well above 200 microns, which has been recognized as the minimum droplet size guideline to avoid drift and referred to page 4 of the droplet study (Attachment 1). She stated Austin Fitts, Representatives for Sharda USA, and Dr. Ronnie Helms, one of the individuals conducting the studies, were available for questions.

Chairman Scott asked if there were any questions, discussion followed. He then asked for a motion to accept the studies and advance them for final approval to the Full Board on March 3, 2022.

Committee Member Travis Senter made a motion to accept the droplet studies, second by Committee Member Richard Watts. Motion carried.

Ms. Nichols then asked if it was acceptable for the committee that staff perform the review and approval of droplet studies of new Quinclorac and Clomazone products if droplet requirements are met without presenting them to the committee. She stated staff would notify the committee and board if a product failed the droplet studies.

Discussion followed.

Chairman Scott and the committee requested staff continue presenting all droplet studies for new Quinlorac and Clomazone products to the committee and board.

Chairman Scott 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 Matthew Miles made the motion with a second by Committee Member Mark Hartz to adjourn. Motion Carried.

Meeting was adjourned.

Signed

A handwritten signature in cursive script, appearing to read "Lester Scott", written over a horizontal line.

Lester Scott, Chairman
Pesticide Committee

Aerial Deposition Droplet Spectrum Study

Sharda

(Prize, Thrice, Caprice, Mazequin)

Field Evaluations November 12-14, 2021



Report Compiled by

Dennis R. Gardisser, Ph.D., P.E.
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Laboratory Analyses by

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Wednesday, January 27, 2022

Abstract

- 1.1. Tank mix compounds in aerial applications were evaluated in several typical production size fields. Care was taken to implement as much scientific knowledge as available to set up the aircraft for application efficiency and drift reduction. The aircraft configurations were set up to comply with current Arkansas application regulations. This limited study indicates that most of the tank mix applications included in this study can be made safely by air.
- 1.2. Practical Weed Consultants, LLC, conducted quality assurance, QA, for these field tests. Mixing procedures for each treatment by Dr. Tomilea Baldwin and field collections by Dr. Ford Baldwin. Summary reports for each will be sent *and/or* attached under separate copy.

2. Introduction

- 2.1. Drift is a major concern worldwide. Drift may occur from any type of application and is always on the mind of agricultural aviators. Aircraft and dispersal system design can influence drift potential dramatically. The major areas of an airframe that are a concern for drift reduction are those that contribute to the wingtip vortices and an area of disturbance near the center of the fuselage – commonly referred to as a *rooster tail* effect. The disturbance in the center area is affected by several factors. These include: propeller wash, fuselage design, aerodynamic obstructions, aircraft loading, airflow direction and intensity, and others. Aerodynamic obstructions include a lot of things such as: wheels, gear, spray pump and pumping components, operator steps, air intakes, hopper/sump projections, and others.
- 2.2. One theoretical way to avoid many of the potential drift problems that arise from spray being influenced by the aerodynamics around the aircraft is to position the nozzle well below the trailing edge of the wing. Greater deposition control should be possible if the nozzles are placed well below these high-speed air currents and the spray is directed parallel to the air stream. It may also be desirable to have the spray stream directed slightly downward to provide an initial downward direction of all droplets. This initial direction may also help keep sprays from being trapped in the turbulent air layers which are generated a short distance above.
- 2.3. Operators have used a number of innovative designs in years past to try to get the spray away from the most turbulent areas. One of the most common has been a drop nozzle. With this concept tubes of varying length are used to position the nozzle outlet farther below the wing, boom, and fuselage. Typically, this has been done for only the center section and sometimes the very outside section of the boom. There are several disadvantages to dropped nozzles. They are easily broken, plugged, and may provide a source for dribbling after the boom is shut off if the check valve is positioned at the top of the drop. A more reliable nozzle shut off and less aerodynamic drag may result if the complete boom system is lowered as a unit. This is referred to as the drop boom system.
- 2.4. Drift potential is significantly affected by the droplet spectrum. Reduction of the number of fine droplets will significantly reduce drift potential. There is a fine balance between drift minimization and application efficiency. If droplet size is too large or if there is no aerodynamic effect, the effective swath width may also be reduced.

3. Objectives

- 3.1. To evaluate the droplet spectrum of aerial applications of several tank mixes under typical field conditions.

3.2. Determine if an unreasonable amount of drift potential exists when these tank mixes are applied aerially.

4. Procedures

4.1. These test procedures follow the same protocol as those presented for previous similar evaluations.

4.2. The aircraft used was an Air Tractor AT802 – N665U. This size and style aircraft are very popular in the rice growing regions of the Delta.

4.3. Aircraft specifics: Also see aircraft setup in appendix.

4.3.1. 90 nozzles

4.3.2. CP09

4.3.3. 0.125 orifice

4.3.4. 0-degree deflection

4.3.5. 40-45 psi

4.3.6. 140-145 mph

4.3.7. 72 ft programmed swath width

4.3.8. 12-15 ft application release height

4.4. The AT802 had the drop boom system, now standard on Air Tractors, with the boom being approximately 20 inches below the trailing edge of the wing.

4.5. Tests were conducted with CP09 nozzle tips. This tip has a built-in angles of 0, 5, & 30 degrees deflection. The 0-degree deflector was utilized in all these tests. This configuration places the outlet at about a 0-degree angle with the prevailing air along the nozzle body. CP nozzles are utilized by ~ 70+% of the Delta fleet. CP09s have very low drift potential and low RS (relative span) in the CP group, see www.translandllc.com for additional information.

4.6. Many applicators also utilize the CP11TT style nozzle body with a variety of flat fans with 40xx degree being the most common. Research data and field evaluations indicate the droplet spectrums from the CP09 and CP11TT styles are almost identical.

4.7. The nozzle configuration and operating parameters were set to minimize drift potential. The result is a relatively large droplet spectrum.

4.8. The formulations used are summarized in the following Tables. Water was used as the primary diluent in each case. The total application rate was ~ 10 GPA.

4.9. Garrco® Vision Pink dye was mixed with each load at a dilution rate of 1 qt/100 gallons of total spray volume.

4.10. Crop oil was included in several treatments as noted in the treatment lists.

4.11. Four separate collections were made to keep sample numbers lower. This was done to be sure that a particular set could be completed during an optimum weather window. Data for each of the four sets is included in this report.

Droplet Data averages by primary material

Prize Materials	Rep	VMD_01	VMD_09	VMD	Coverage	Deposition (gpa)	RS
Command/Crop oil	8	287	653	452	8.89	3.57	0.81
Prize/Crop oil	1	278	676	469	13.12	5.12	0.85
Facet L/Crop oil	2	273	658	452	12.04	4.80	0.85
Prize/Stam M4	3	275	677	493	11.65	4.47	0.81
Prize/Sharpen	4	250	712	499	11.83	4.30	0.92
Prize/Super Wham/Crop oil	5	284	728	520	11.67	4.13	0.85
Prize/Permit/Crop oil	6	286	710	517	11.13	4.15	0.82
Prize/Command/Crop oil	7	293	709	516	11.80	4.37	0.80
Thrice Materials	Rep	VMD_01	VMD_09	VMD	Coverage	Deposition (gpa)	RS
Command/Crop oil	1	277	621	449	8.36	3.41	0.77
Command/Thrice/Crop oil	2	258	676	467	13.28	5.09	0.90
Command/Thrice/Prize/Crop oil	3	282	645	455	9.94	4.00	0.80
Command/Thrice/Permit/Crop oil	4	293	640	465	10.52	4.17	0.75
Command/Thrice/Gambit/Crop oil	5	277	624	451	11.39	4.59	0.77
Command/Thrice/Caprice/Crop oil	6	299	659	484	11.12	4.37	0.74
Command/Thrice/Caprice/Prize/Permit/Crop oil	7	292	651	465	10.79	4.31	0.77
Command/Thrice/Caprice/Gambit/Crop oil	8	293	637	465	9.93	3.96	0.74
Caprice Materials	Rep	VMD_01	VMD_09	VMD	Coverage	Deposition (gpa)	RS
Command/Crop oil	1	278	621	450	8.35	3.41	0.76
Command/Caprice/Crop oil	2	266	642	443	8.31	3.36	0.85
Command/Caprice/Prize/Crop oil	3	265	643	422	9.01	3.61	0.89
Command/Prize/Sharpen	4	277	662	463	9.85	9.85	0.83
Command/Caprice/Super Wham/Crop oil	5	299	703	503	12.52	4.76	0.80
Command/Caprice/Super Wham/Crop oil/Gambit	6	303	707	500	12.03	4.51	0.81
Command/Caprice/Permit/Crop oil	7	287	663	476	10.23	3.96	0.79
Command/Caprice/Roundup Power Max	8	267	655	451	10.37	4.09	0.86
Command/Caprice/SuperWham/Permit/Crop oil	9	293	666	466	12.70	5.01	0.80
Command/Caprice/Stam M4	10	269	631	457	9.45	3.83	0.79
Command/Caprice/Prize/RiceBeaux	11	212	625	439	6.19	2.50	0.94
Command/Caprice/Prize/SuperWham/Crop oil	12	254	639	446	9.55	3.82	0.86
Command/Caprice/Prize/Stam M4	13	250	629	433	7.73	3.10	0.88
Command/Caprice/Prize/Prowl H20/Crop oil	14	267	621	439	8.21	3.34	0.81
Mazequin - Materials	Rep	VMD_01	VMD_09	VMD	Coverage	Deposition (gpa)	RS
Command/Crop oil	1	234	664	457	8.33	3.29	0.94
Command/Mazequin/Crop oil	2	285	651	470	10.25	4.05	0.78
Command/Mazequin/Quart Storm/Crop oil	3	231	650	464	7.07	2.82	0.90
Command/Mazequin/SuperWham/Permit/Crop oil	4	299	700	506	10.47	3.97	0.79
Command/Mazequin/SuperWham/Crop oil	5	292	669	478	10.29	3.98	0.79
Command/Mazequin/Stam M4	6	260	636	453	8.72	3.49	0.83
Command/Mazequin/RiceBeaux	7	216	618	422	6.98	2.77	0.95
Command/Mazequin/RoundUp Power Max	8	226	651	452	8.23	3.24	0.94
Command/Mazequin/RiceStar HT/Crop oil	9	280	654	488	11.24	4.40	0.77

Command/Mazequin/Permit/Crop oil	10	266	686	463	9.87	3.75	0.91
Command/Mazequin/Stam M4/Permit	11	248	633	464	7.42	2.97	0.83
Command/Mazequin/Permit/RiceBeaux	12	272	671	485	10.18	4.00	0.82
Command/Mazequin/Thrice/Crop oil	13	257	645	444	10.08	4.03	0.87
Command/Mazequin/First Shot/Crop oil	14	261	691	503	9.67	3.73	0.85
Command/Mazequin/Gambit/Crop oil	15	288	663	474	10.34	4.04	0.79

Two types of collectors were utilized: WSP – Water Sensitive Paper & KC – Kromecote® white paper

Tests were conducted on unused area at the municipal airport near Stuttgart, Arkansas on November 12, 13, & 14, 2021 – see field notes in Appendix. Field notes also reflect exact tank mix volumes, dates, and times.

4.12. Replications were done with flights East/West, labeled A in the data sets, and flights North/South, labeled B in the data sets.

4.13. After each field was sprayed, the aircraft was thoroughly rinsed prior to loading the next field application/treatment – see QA reports by Dr. Tomilea Baldwin.

5. Field Application Evaluations

5.1. All drift depositions were evaluated using the WRK DropletScan™ system. DropletScan™ is an image analyzing software package being utilized worldwide as a tool for evaluating deposition droplet spectrum analyses.

5.2. This technique uses a high-resolution color scanner to digitize the images on the water sensitive papers. The software then analyzes the images statistically to determine average size (VMD), amount at the 10 and 90% volume levels (Vd.1 and Vd.9) and does a histogram for all the cards combined and for each individual card. An estimate of volume is determined for each card – based on the image sizes and the spread factor for water on this collection media. A vertical plot depicts the amount of material collected at each height.

5.3. Weather data was collected using a Kestrel 3000 and wind direction was determined utilizing a weather vane, fashioned from a long strip of VCR tape, and a Sunuto KB-14/360R compass. The VCR tape was attached to the top of a long rod, placed vertically in the soil. Direction was determined by standing downwind, approximately 10 feet, and sighted along the tape with the compass. A complete summary of that data is included in the appendix under weather. Weather data includes a time stamp, temperature, humidity, average wind speed, maximum wind speed, wind direction and relative humidity for each test.

5.4. Samples and field data sheet(s) were exchanged from Dr. Ford Baldwin to WRK of Arkansas LLC's office, 153 92nd W, Lonoke, AR shortly after each day's treatments. Samples were individually marked and sealed in an appropriately marked plastic Ziploc bag.

5.5. The laborious and detailed card analyses utilizing DropletScan™ were completed in the WRK lab within the next 8 working days.

5.6. Droplet spectrum evaluations

Photo 1. Air Tractor 802 passing over card blocks with cards attached.

Photo 2. Spray Collector Layout - short sections of 2x4 block, with paper clips attached to the top, were used to hold 2 cards, 1 WSP (2"x3") and 1 Kromecote® (2"x3"). Sixteen blocks were spaced approximately 10 feet apart, perpendicular to the aircraft travel path. The placement was far enough out in the field so that the aircraft could be in level and stable flight when crossing. Cards were collected as soon as dry after the application.

Photo 1: Aircraft passing over blocks with cards attached.



Photo 2: Card holder with both types of cards.



5.7. Photo 2. Spray Collector Layout - short sections of 2x4 block, with paper clips attached to the top, were used to hold 2 cards, 1 WSP (2"x3") and 1 Kromecote® (2"x3"). Fifteen blocks were spaced approximately 10 feet apart, perpendicular to the aircraft travel path. The placement was far enough out in the field so that the aircraft could be in level and stable flight when crossing. Cards were collected as soon as dry after the application

5.8. Photos 1&2 illustrate the basic layout used for the collector cards. Ciba Geigy 2 inch by 3 inch water sensitive papers, WSP, (Spraying Systems Company part numbers (20301-2N) and 2x3 Kromekote® papers were used as the collection media. This setup was used to evaluate drift potential. Utilizing two types of cards increases the number of evaluations and ensures that background moisture issues will not hinder the accuracy of analyses. WSP is used to back up the Kromekote® papers but have limited accuracy with high humidity.

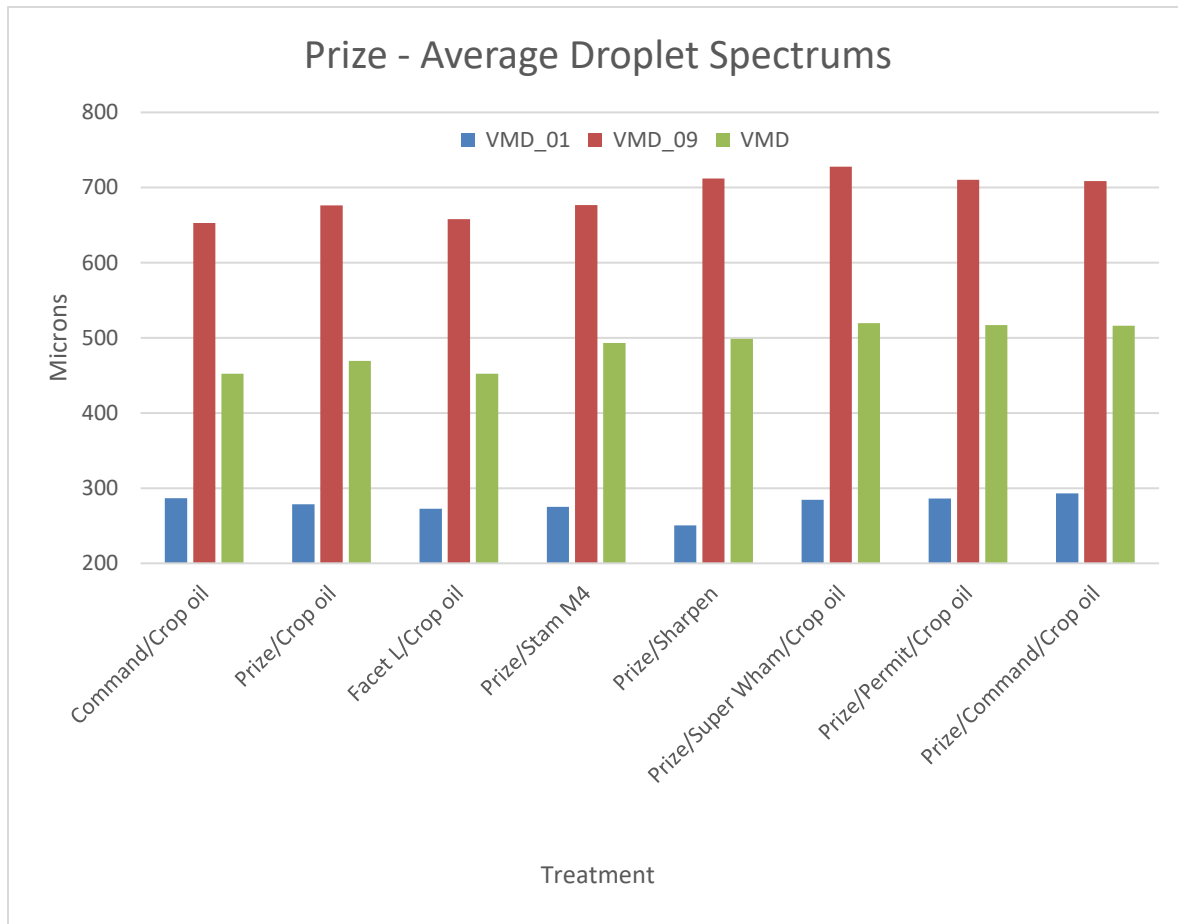
5.9. Each card type had 16 individual analyses. (16 x 2 card types x 2 directions) resulted in 64 droplet spectrum evaluations for each treatment.

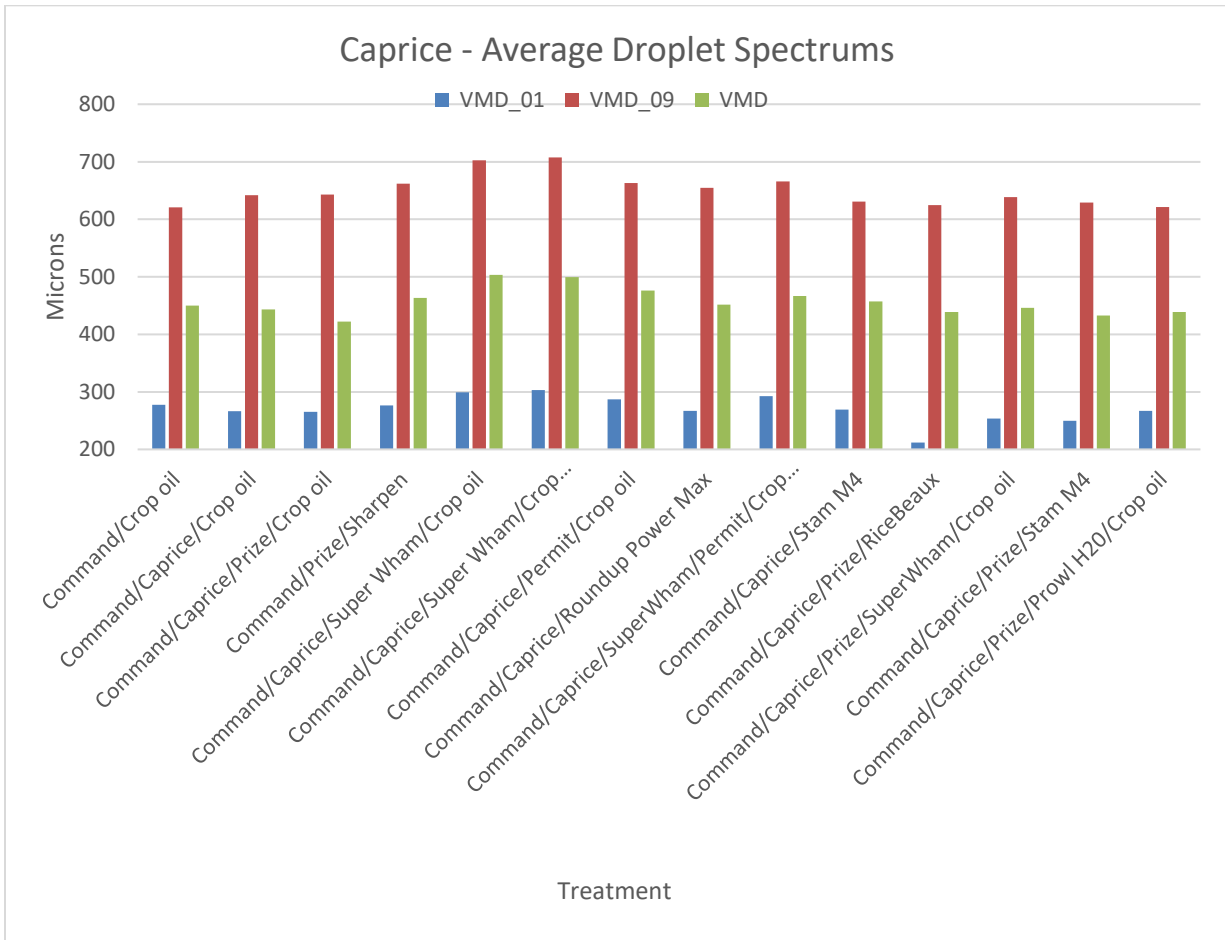
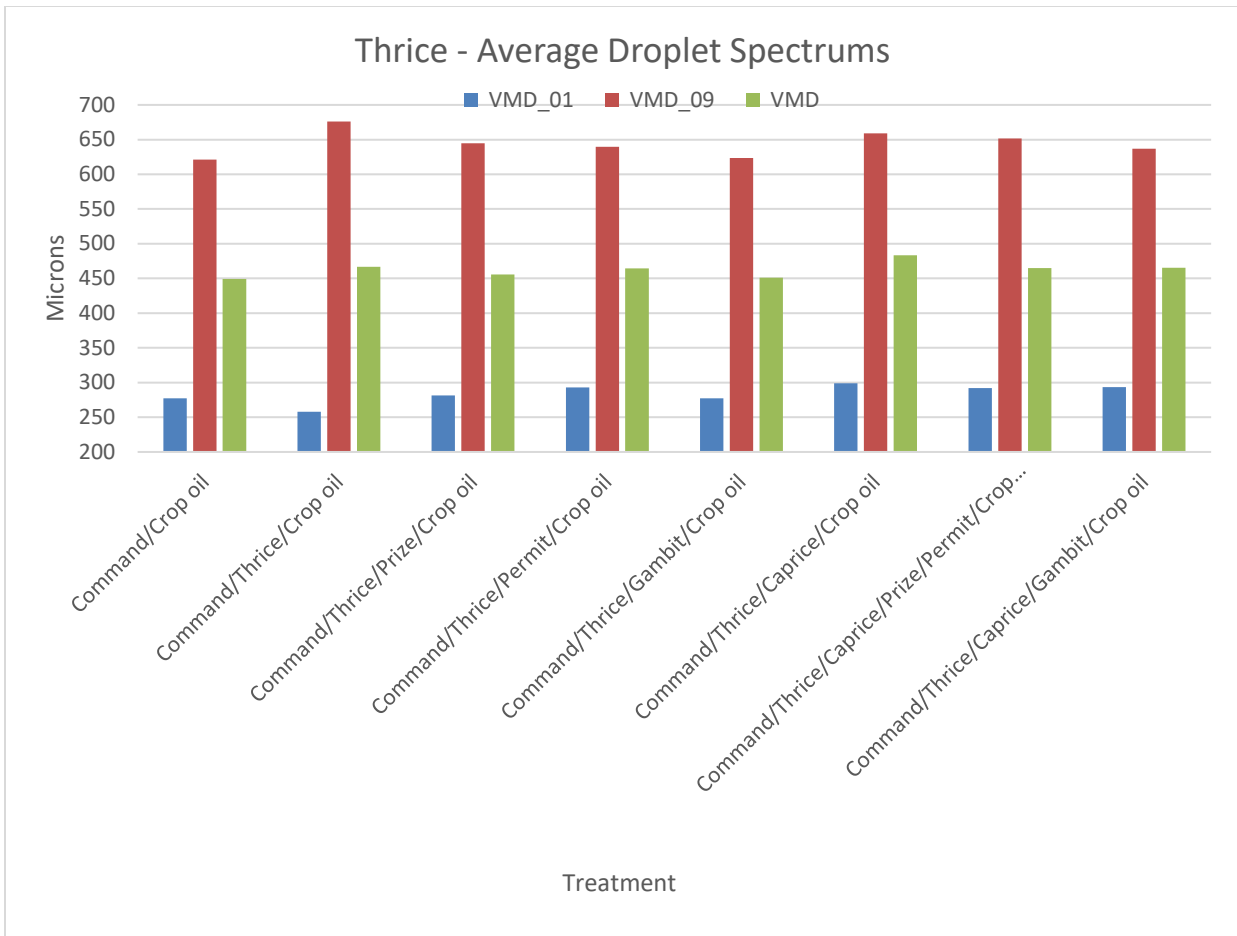
5.10. Weather data was recorded continuously during these application/drift tests. Winds, temperatures, and relative humidity were recorded for each sample in the field notes. Wind speeds and directions were averaged for the short duration of each test. Wind speeds varied from 2 to 10 mph with most tests in the 4 to 7 mph range. Temperature was 46-60 degrees F and the relative humidity was 45 to 59%. Winds directions were stable and varied slightly for the different days as noted on the attached data sheets.

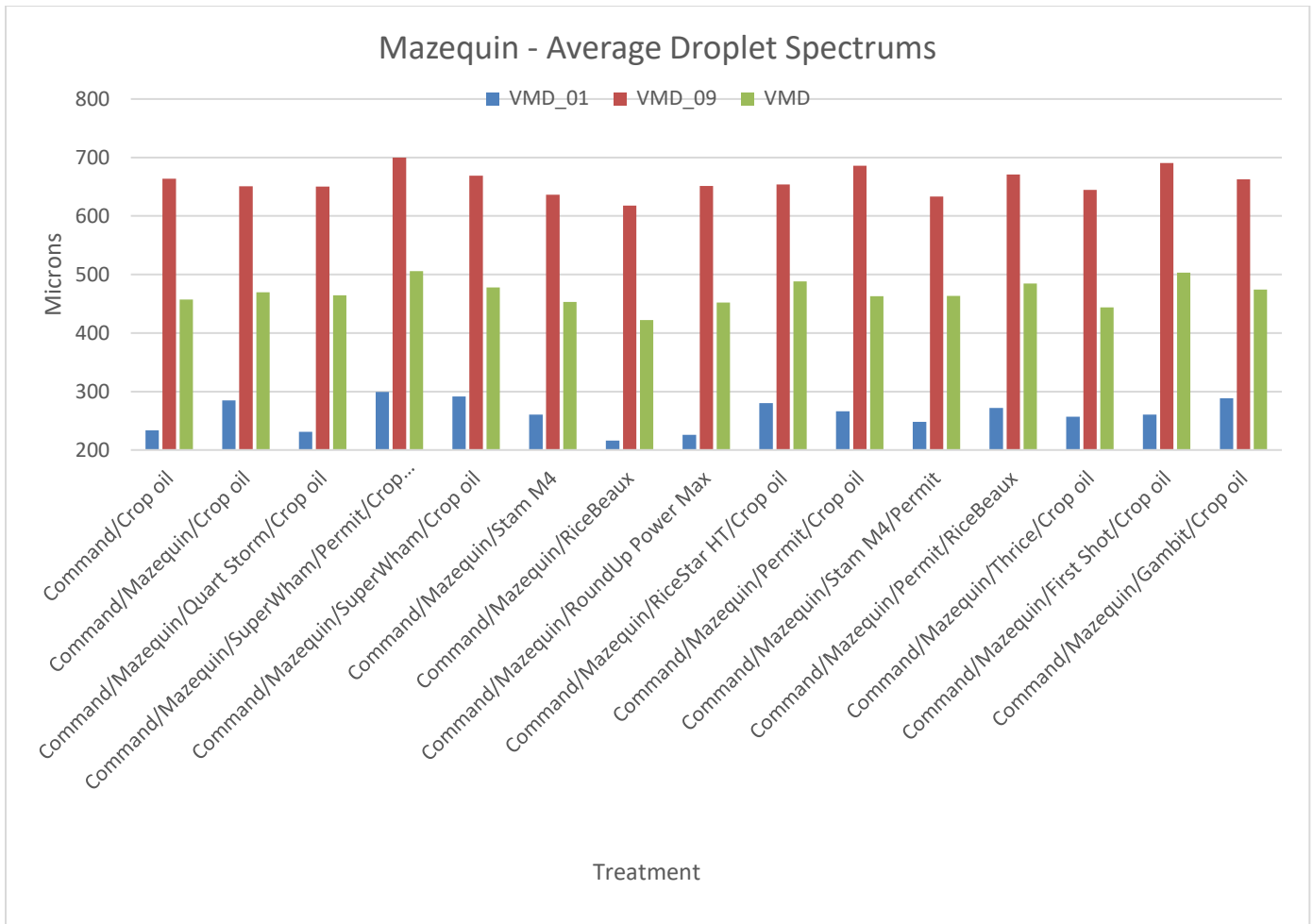
5.11. The spread factor for each tank mix is unknown. The spread factor for water was used for each droplet spectrum evaluation. The primary interest is with the small droplets and spread factors do not change much in the smaller droplet categories. Also, since this is relative comparison test and the key interest for drift mitigation is on the smaller droplet portions (Vd.1), spread factors are not a significant issue.

5.12. The data is also plotted in the bar graphs in the attached Excel files and graphs below.

5.13. All the treatments have 32 samples with 2 replications – 1 East/West and 1 North/South. These are the average values for both WSP and Kromecote® in this report. The individual values are shown in the tables above and under “Average Droplet Spectrum” tab of the attached Excel files.







5.14. Bars are represented in groups of 3 for the average $V_{d.1}$ (Volumetric 10%), $V_{d.9}$ (Volumetric 90%), and VMD (Volumetric Median Diameter) values.

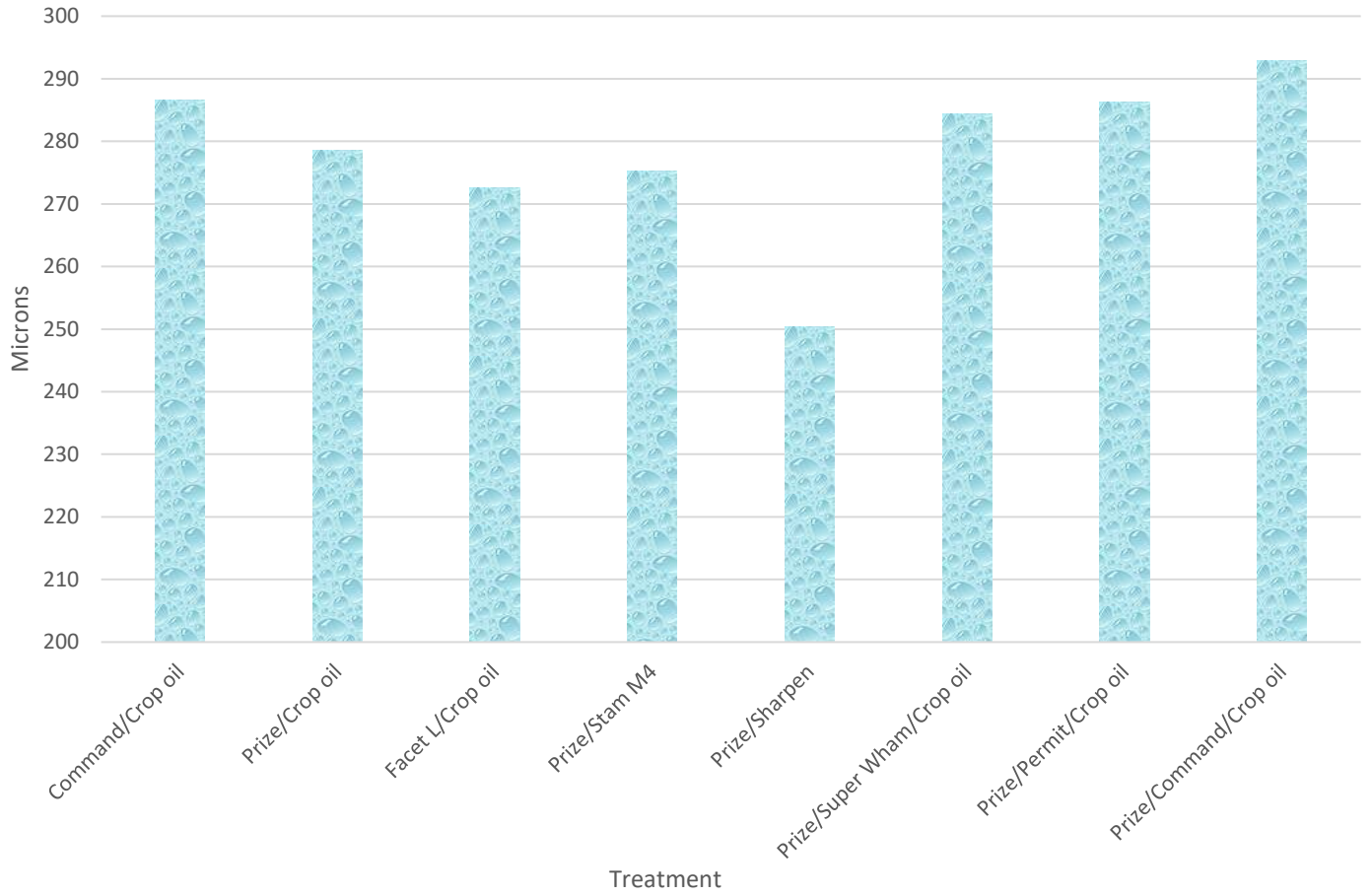
5.15. $V_{d.1}$, shown on the blue bars in the tables above, has been utilized as the trigger to determine expected drift potential. This is an estimate of the smallest droplet category with any significant volume from an application. $V_{d.1}$ values of ~200 microns or greater should provide excellent drift mitigation potential.

5.16. The VMD and $V_{d.9}$ values are always larger and should have no significant impact on drift potential if the $V_{d.1}$ value is large enough. There is variability in the data, but that is very typical for field evaluations.

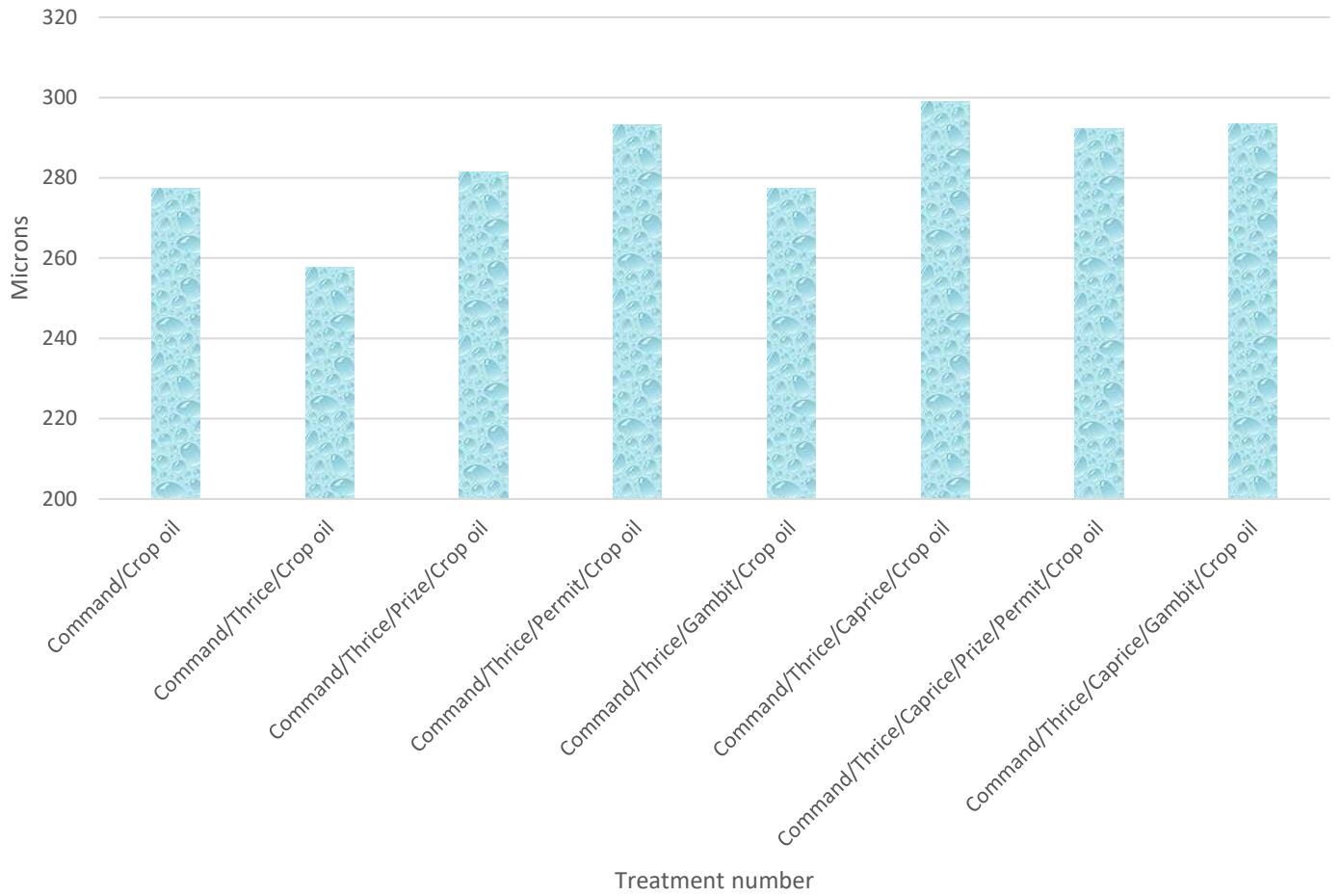
5.17. Excellent droplet spectra with average VMD values greater than 400 provide an excellent balance between efficacy and drift control. All of the tests in this set had VMDs greater than 400.

5.18. 200 Microns has been recognized as a minimum droplet size guideline to avoid drift potential. The $V_{d.1}$ term is used as an estimate for the smaller droplet size(s).

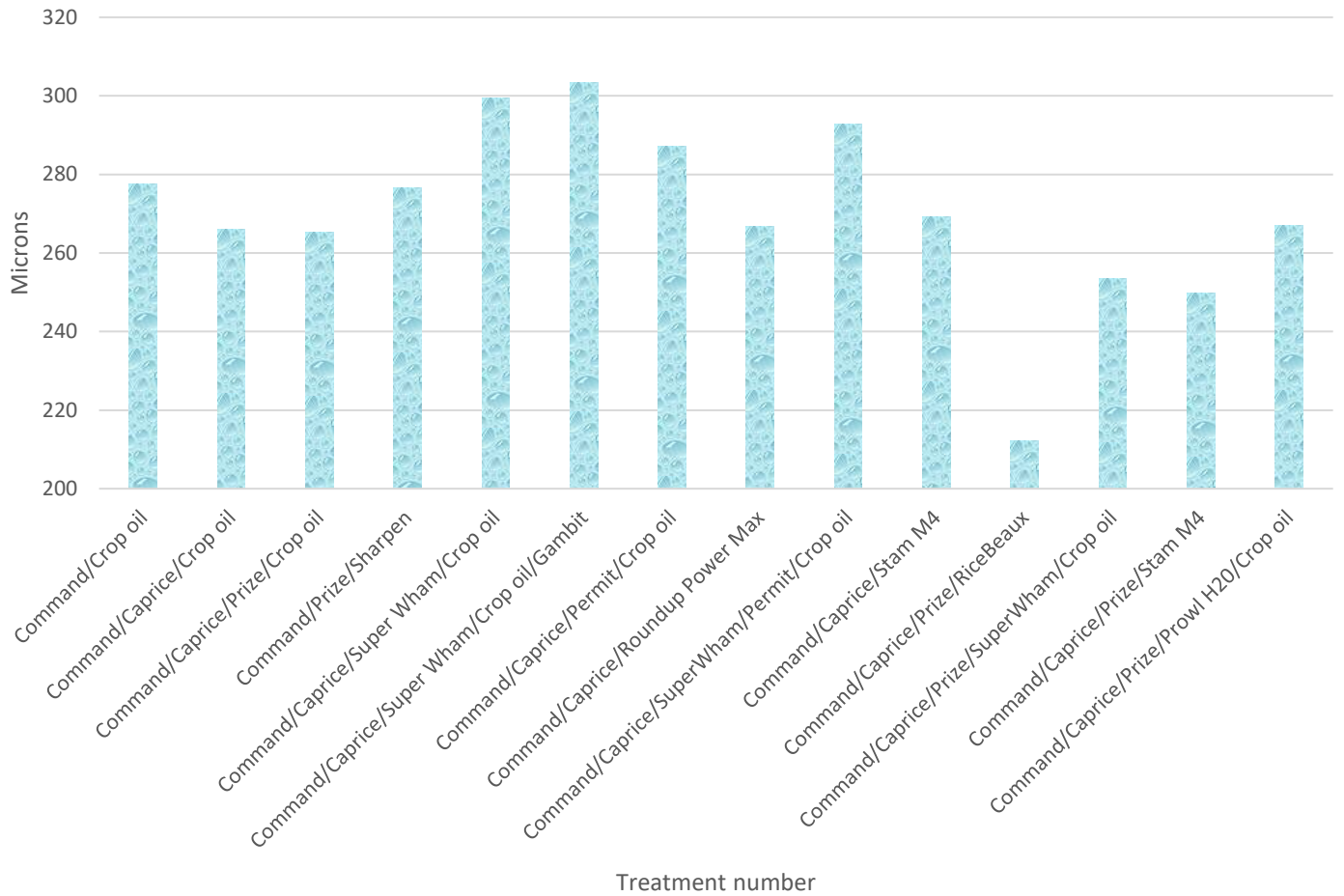
Prize - Vd.1

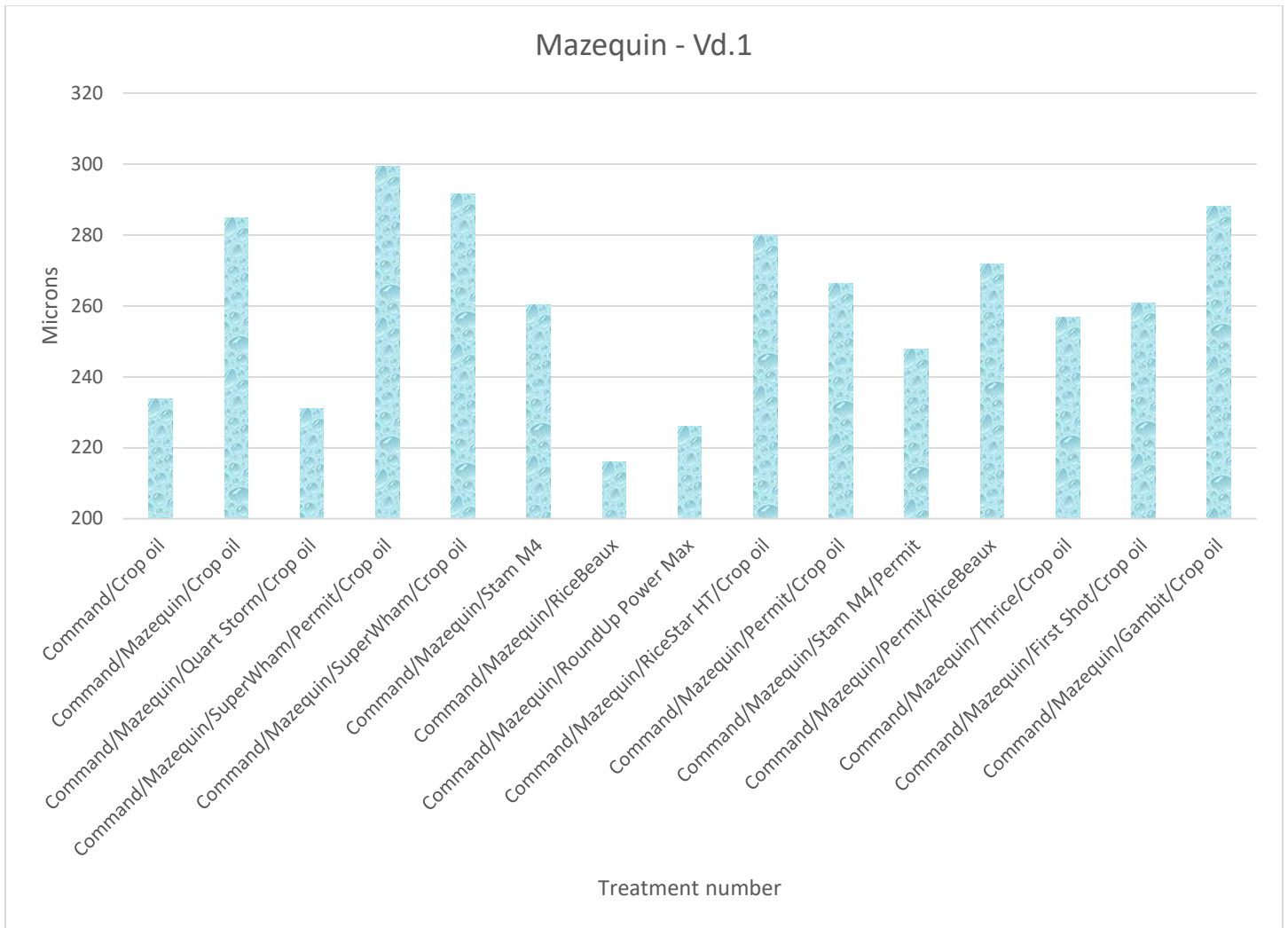


Thrice - Vd.1



Caprice - Vd.1

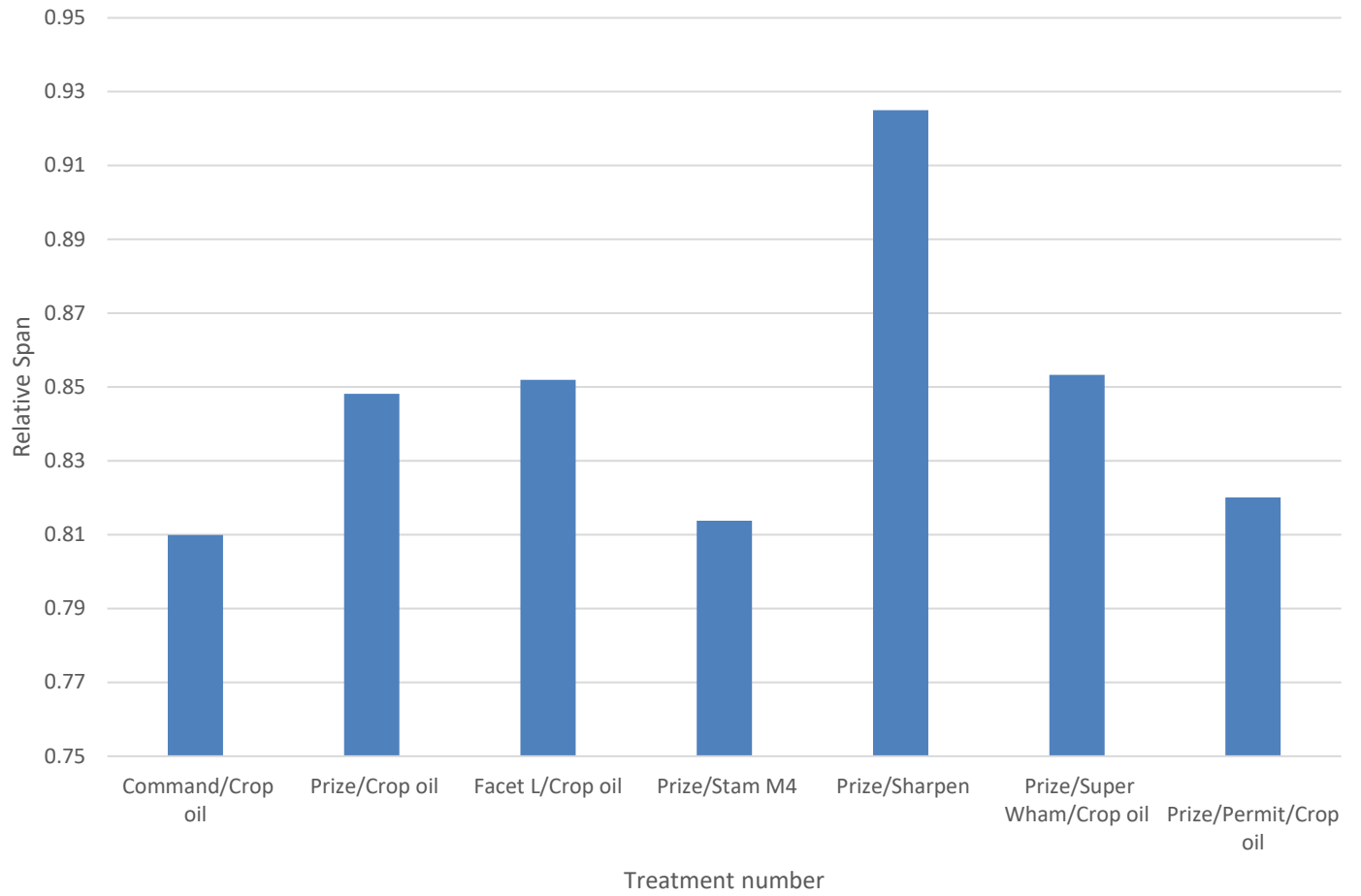




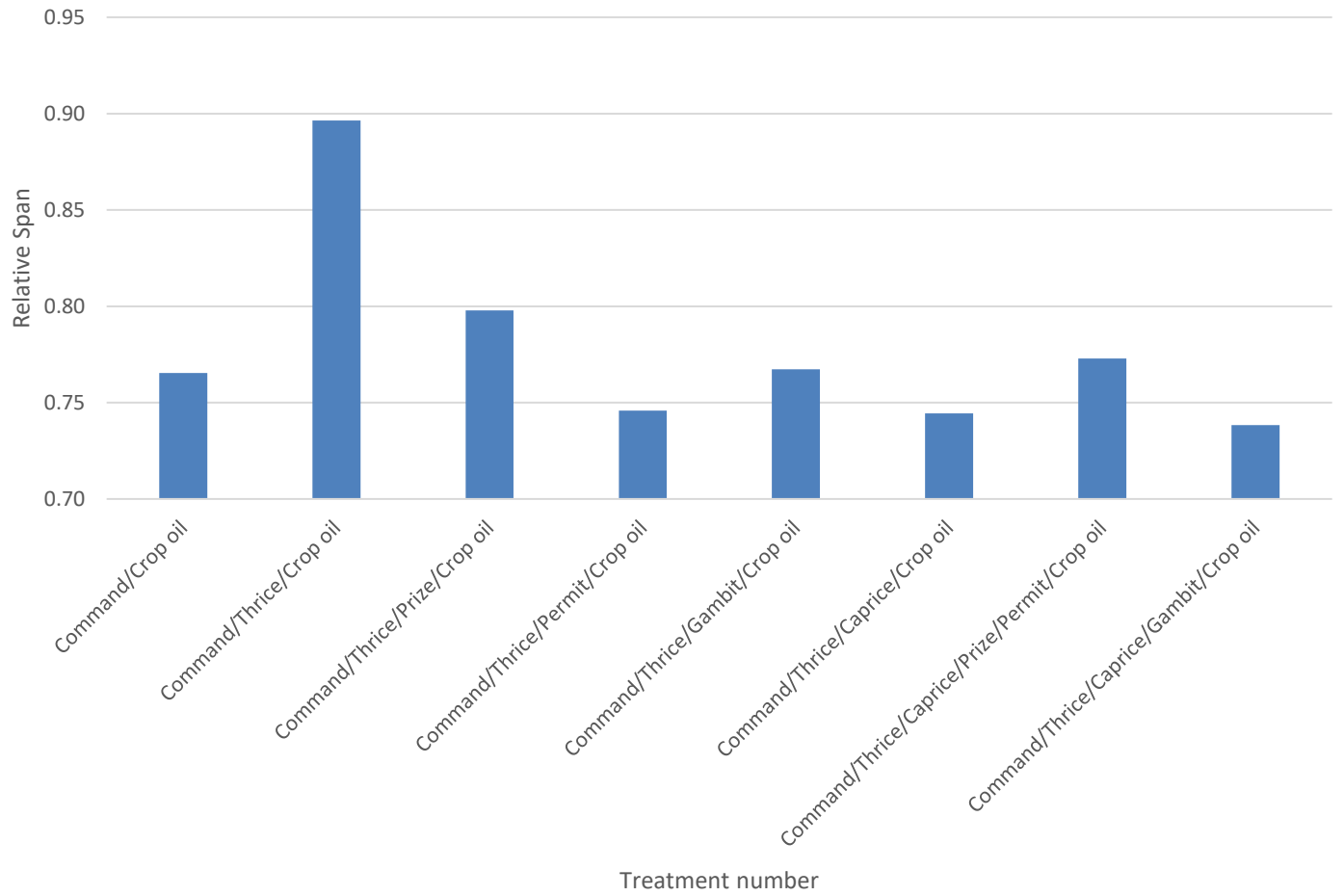
5.19. Larger relative spans, (RS) indicate that the spread from smallest to largest is farther apart. Larger spans indicate less droplet size control - with more fines and/or large droplets in the mix. Ideal values for hydraulic nozzles should range from ~ 1.1 or less for optimum drift mitigation. All the RS values in this data set were excellent at 0.95 or less. The lower values indicate there are few droplets that are too small or too large – being more centered on the VMD value for each treatment and should be less drift prone.

5.20. The smaller blue bars on the following graphics represent the smallest Relative Spans. If the VMD is at an acceptable value, i.e. 400 microns, smaller RS values provide better drift mitigation potential.

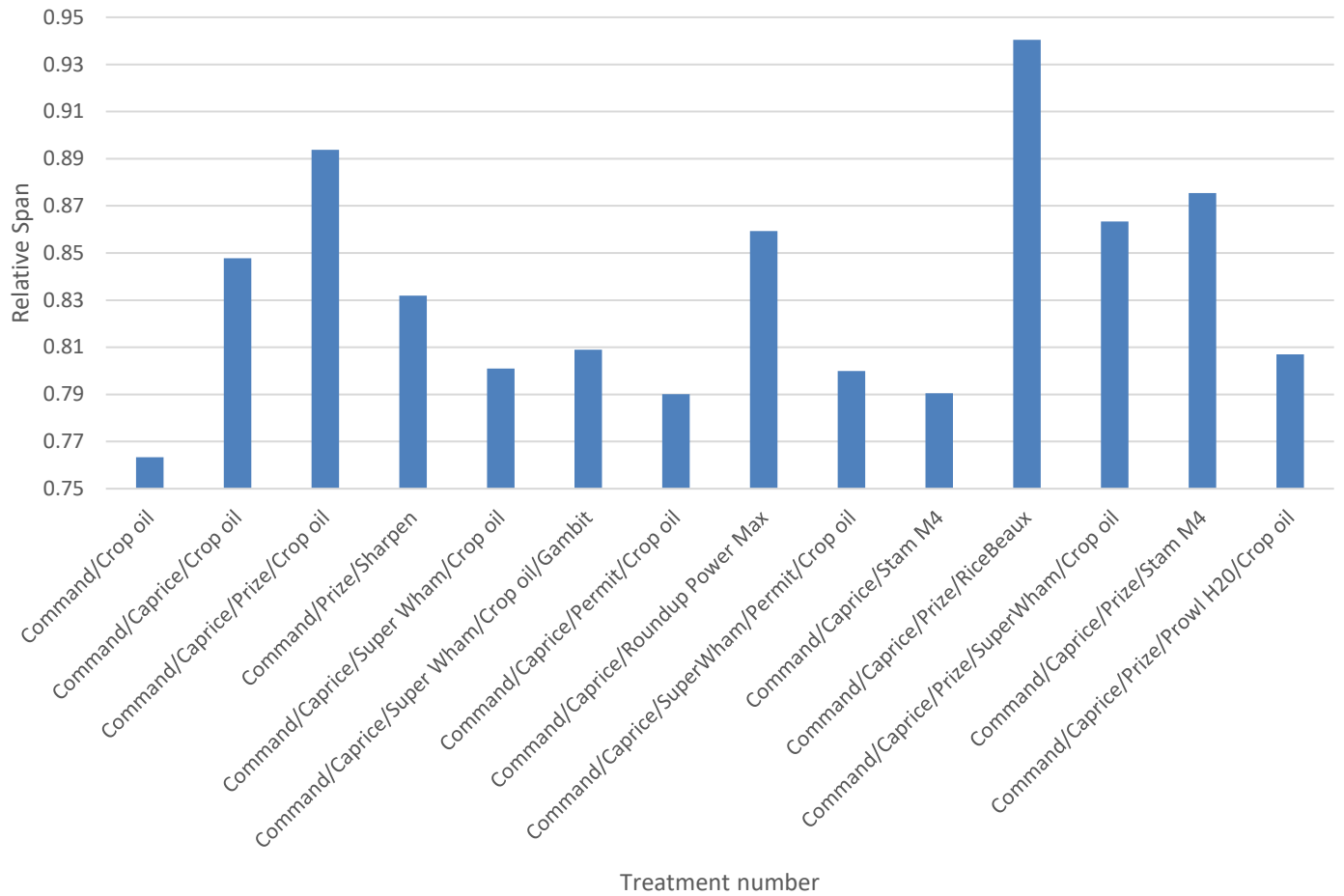
Prize - Relative Span

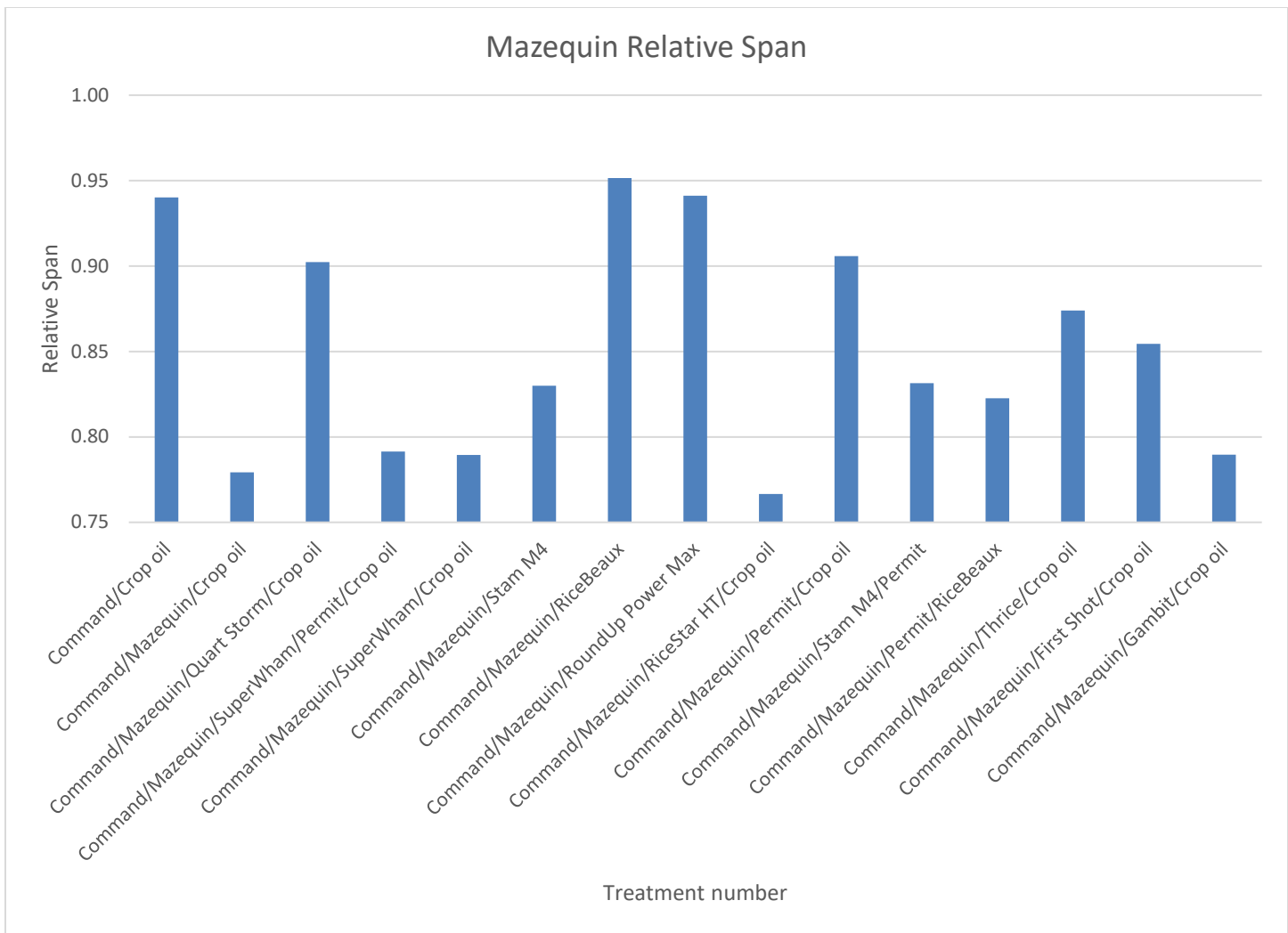


Thrice - Relative Span



Caprice - Relative Span





6. Summary

- 6.1. This is a limited set of data. Repetitive testing and a broader base of tests would be needed to have a true statistical representation of the amount of drift potential, however this data set follows the expected trends when utilizing proper aircraft setup and operation. This data does follow the trends seen in hundreds of previous similar evaluations.
- 6.2. The basic procedures utilized during these tests are *identical* to those summarized in previous evaluations of other tank mix scenarios.
- 6.3. This data is backed up by years of data taken with water and evaluations of spray droplet spectrums in laboratory situations.
- 6.4. This data was taken under the aircraft flight path. Changing winds and topographies make it very difficult to set up drift collection towers to measure any flux of material that might move offsite. This may be accomplished under more controlled fields when active ingredients are not being used. These were production fields and active were utilized. There simply was not time to set up drift collections for each field. The focus here was to measure any changes in droplet spectrum - then predict any potential drift from that.
- 6.5. Droplet size is a major factor. Droplet spectrums that have a Vd.1 of approximately 200µm or larger provide a very good margin of safety.

7. Conclusions

- 7.1. All these tests had droplet spectrums of Medium or larger, as specified in ASABE S572.3 This minimum droplet size is a requirement for herbicide applications in Arkansas.
- 7.2. "Spray quality is a major factor in spray deposition and spray drift". Kirk, I.W., *Spray Quality Options with Aerial Straight Stream Nozzles*, ASABE-AA99-006, Dec 1999.
- 7.3. "Percentage of spray volume in droplets smaller than 100 microns is one of the primary parameters indicative of spray drift propensity or aerially applied agricultural materials. Percentage of spray volume in droplets smaller than 200 microns also provides a measure of potential spray drift from aerial sprays". Kirk, I.W., *Spray Quality for Helicopter Spray Nozzles*, ASABE-AA00-006, Dec 2000.
- 7.4. This field application evaluation was done with the CP09 nozzles. The droplet spectrum is larger with fewer fines with the CP09 nozzles when set at the 0-deflection angle.
- 7.5. This is a relative comparison with almost no variance noted when the tank mixes are compared to the solitary products alone.
- 7.6. This study would indicate very small or no variations in drift potential should be expected from formulations aircraft are properly configured. The droplet spectrums were relatively close for all these tests.
- 7.7. Data reporting from the SDTF (Spray Drift Task Force) studies indicate one would not expect big changes in drift potential from formulation changes. It appears this is true in most cases, but as noted here in at least two tank mixes here there can be potential issues with certain combinations.
- 7.8. All of these tank mix applications can be made safely by aircraft, but operators will need to utilize excellent equipment setup, monitor weather carefully, and use judicious application precision.
- 7.9. This data was generated utilizing equipment with proper setups. It will be important for applicators to utilize caution when setting up aircraft to ensure similar results.
- 7.10. There is a need for extra care by applicators as the overall droplet spectrum size decreases. Common sense on weather parameters, wind direction and buffer distances should allow for safe use.
- 7.11. Every treatment deserves professional care to be safe. It would be nice if this sort of data could be made available to applicators so they might select the safest options.
- 7.12. Applicators should be able to apply most of these materials with an excellent degree of safety – provided they utilize proper setups and apply under favorable weather conditions.
- 7.13. This data set was collected during a time when temperature and relative humidity were close enough to what one would expect during the use season. No significant differences in droplet development during actual use patterns would be expected as a function of weather.
- 7.14. All the data fits within a droplet spectrum that should provide excellent drift mitigation when used properly.

Appendix

1. Each of the tables and DropletScan™ data summaries are included in the attached Excel files:

Sharda1_Final.xlsx for Prize

Sharda2_Final.xlsx for Thrice

Sharda3_Final.xlsx for Caprice

Sharda4_Final.xlsx for Mazequin

2. Ronnie Helms' Field notes as: (highlights added by WRK lab tech – to facilitate analysis data entry)

SHARDA1001.pdf

SHARDA2001.pdf

SHARDA3001.pdf

SHARDA4001.pdf

3. QA files and notes from Ford and Tomilea Baldwin attached as:

Tomilea_Prize.pdf

Ford Prize.docx

Ford Thrice.docx

Ford Caprice.docx

Tomilea_Caprice.pdf

Ford Mazequin.docx

Tomilea_Mazequin.pdf

**MINUTES OF
ARKANSAS STATE PLANT BOARD
INDUSTRIAL HEMP COMMITTEE MEETING**

January 26th, 2022

Members Present: Chairman Dr. Ken Korth, Lester Scott, Darrell Hess

Members Present via Zoom: Mark Hopper, Mark Morgan, Matthew Miles

Board Members Present via Zoom: Matthew Marsh, Dr. Nathan Slaton, Reynold Meyer, Travis Senter

Scott Bray, Plant Industries Director, Michael Bynum, Arkansas Department of Agriculture Attorney, Mike Stage, Agriculture Division Manager, Caleb Allen, Hemp Program Manager, were present. Other Arkansas Department of Agriculture staff members and guests were attending in person or via Zoom.

Chairman Dr. Ken Korth called the meeting to order at 09:30 A.M. and asked Mr. Scott Bray to present opening remarks. Introductions for those attending in person and via Zoom were made.

Chairman Korth welcomed everyone in attendance and recognized Mr. Caleb Allen to present the Orientation for Industrial Hemp Committee Members via PowerPoint (Attachment 1).

During the Orientation PowerPoint presentation, both Committee Members and Board Member Matthew Marsh asked Mr. Allen hemp program-related questions, followed by discussion.

- Committee Member Darrell Hess asked Mr. Allen if the hemp lot tested above the 0.3% THC limit, what would have to be done with the lot. Mr. Allen replied that the material must be destroyed with Department or law enforcement representatives present to witness the destruction take place.
- Chairman Korth asked Mr. Allen when the remediation program started with the hemp program. Mr. Allen replied that remediation is new for the 2022 season, prompted by federal rule guidelines. Mr. Allen also explained the two acceptable methods on how to remediate noncompliant cannabis material, referring to the PowerPoint. Chairman Korth also asked Mr. Allen for the percentage of noncompliant tests during the 2021 season, to which Mr. Allen replied that 64% of pre-harvests tests were compliant in 2021.
- Committee Member Darrell Hess asked Mr. Allen for an example on how to remediate noncompliant cannabis. Mr. Allen explained both of the acceptable remediation processes, prompted by federal USDA rule guidelines; 1) removal and destruction of all floral and leaf material from the lot, or 2) complete homogenization of the noncompliant lot.
- Board Member Matthew Marsh asked Mr. Allen when homogenizing the cannabis material if the product is still marketable. Mr. Allen explained that if after remediation and post-harvest resampling/retesting procedures are completed, and the material is tested to be compliant, then the material is marketable to other license holders.

Mr. Allen then referenced a summary slide in his presentation, mentioning that the Proposed Rules (Attachment 2) do not drastically change the Current Rules (Attachment 3) for the Department's Hemp Program.

Mr. Allen also mentioned that the Proposed Rules would change the hemp harvest window from 15-days to 30-days, which is permitted by federal hemp rules. Discussion followed.

- Committee Member Lester Scott asked Mr. Allen for some clarification on licensing dates, mentioning a comment he read in the Growers Comments (Attachment 4). Mr. Allen clarified that instead of licensing for the program being conducted on the financial fiscal year, under the Proposed Rules, licensing would be conducted on the normal calendar year, since hemp production is seasonal.
- Board Member Matthew Marsh questioned when you get licensed under the Proposed Rules if you could pick and choose more than one licensing endorsement, such as to grow or process hemp. Mr. Allen answered yes, an applicant can apply for one or more licensing endorsement on a Hemp License under the Proposed Rules.
- Chairman Korth asked about the new 30-day harvest window rule and if it would affect the THC% as the crop matured. Mr. Allen replied that we do not have that kind of laboratory data quite yet to know for certain.
- Board Member Matthew Marsh questioned if the Proposed Rules were more restrictive than the federal hemp rules. Mr. Bynum replied that the Proposed Rules are fairly in-line with federal hemp rules, but that federal rules are silent on processing hemp.
- Mr. Stage questioned Mr. Allen on what hemp products were able to be sold or transferred to the public. Mr. Allen replied that with a few examples such as stripped hemp stalks free of leaf, seed, or floral material, post-processed hemp seed oil, CBD oil, etc. Mr. Allen also mentioned that any viable hemp seed, live plants, leaf or floral material can only be in the possession of a Department Hemp Licensee, per state law. Mr. Allen also explained that once the material is processed and no longer in raw crop material form, the material is out of the Hemp Program's purview.

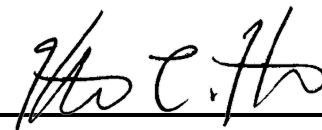
Committee Member Darrell Hess made a motion to repeal the Current Rules and adopt the drafted Proposed Rules, seconded by Committee Member Lester Scott. A voice vote was prompted. Motion carried unanimously by Committee Members.

Chairman Korth then asked for a motion to adjourn.

Committee Member Lester Scott moved the motion with a second by Committee Member Darrell Hess to adjourn. Motion carried.

Meeting was adjourned at 10:18 A.M.

Signed



Dr. Ken Korth, Committee Chairman
Industrial Hemp Committee



Asa Hutchinson
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

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



Wes Ward
Secretary of Agriculture

Industrial Hemp Committee Meeting

January 28, 2022

9:30 a.m.

Meeting Agenda

1. Opening Remarks
 - Scott Bray, Plant Industries Division Director

2. Hemp Committee and Staff Introductions
 - Dr. Ken Korth, Hemp Committee Chairman

3. Orientation for Industrial Hemp Committee members
 - Caleb Allen, Hemp Program Manager

4. Review of proposed Industrial Hemp Rules for 2022
 - Caleb Allen, Hemp Program Manager and Michael Bynum, ADA Managing Attorney

5. Other Business

Arkansas Hemp Program: Hemp Committee Meeting



2022 Growing Season
January 28, 2022

Quality Control & Compliance Section
Plant Industries Division
AR Industrial Hemp Program

Arkansas Hemp Program: PowerPoint Overview

- Program Overview & Updates
- Crop Production
- Sampling & THC Testing of Hemp
- Restrictions on Sale and Transfer
- Summary of Proposed Hemp Rules for Hemp Committee's Consideration



Program Overview & Updates



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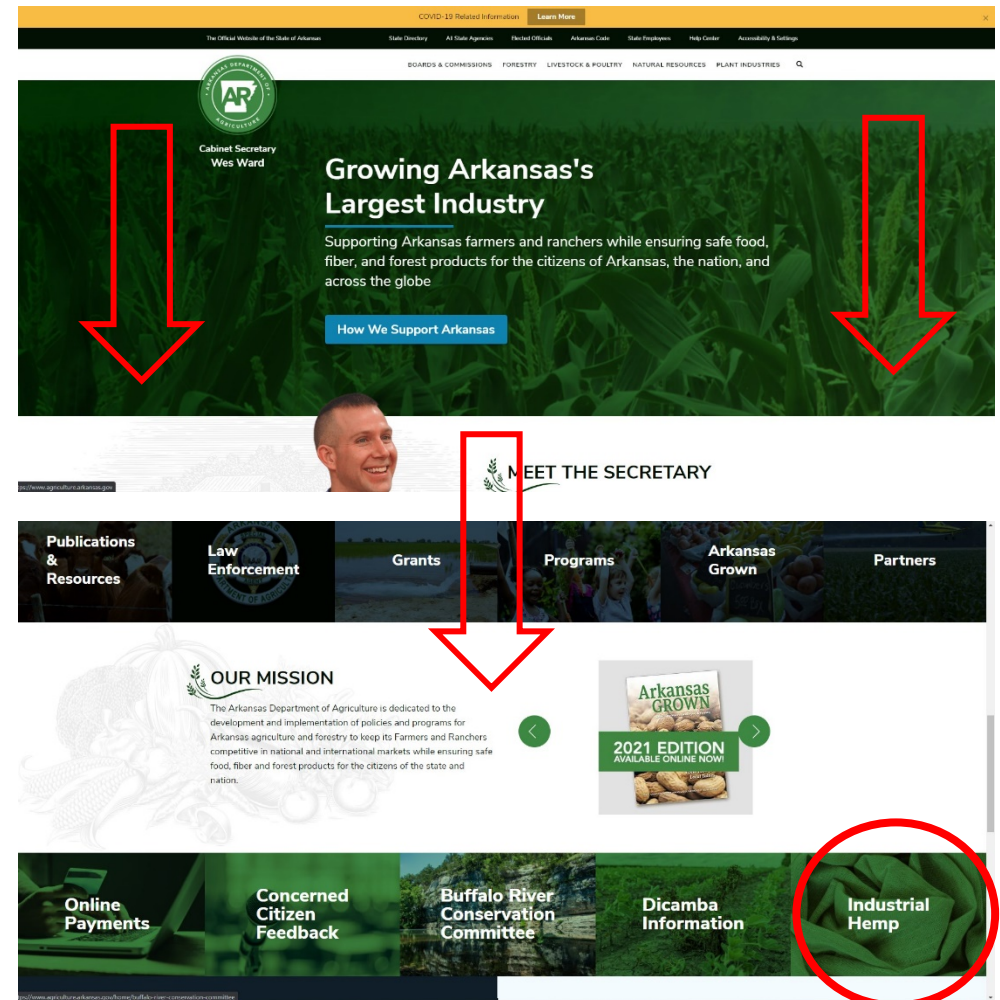


“Hemp Home” webpage:

<https://www.agriculture.arkansas.gov/hemp-home>

You can also find the “Industrial Hemp” button on the Arkansas Department of Agriculture’s main home page:
[agriculture.arkansas.gov](https://www.agriculture.arkansas.gov)

Scroll down until you find the “Industrial Hemp” button on the right-hand side of the screen.



Arkansas Hemp Program Staff

Caleb Allen

Hemp Program Manager

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caleb.allen@agriculture.arkansas.gov

Mike Stage

Agriculture QQC Division Manager

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Department Main Phone Line: (501) 225-1598

Program E-mail: industrialhemp@agriculture.arkansas.gov



Federal Law: Definition of Hemp in 2018 Farm Bill

“The term ‘**hemp**’ means the plant *Cannabis sativa L.* and any part of that plant, **including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers**, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”

Note: Federal hemp rules require all state hemp production plans to have a testing protocol to measure delta-9-THC post-decarboxylation – **That’s Total THC**. Arkansas’s Hemp Program has analyzed compliance samples using Total THC% since the first year of the research program in 2019.



Arkansas Hemp Program:

What does each hemp license permit me to do?

Processor/Handler License

- **NO Live Plants**
- Process Harvested Crop into Publicly Marketable Products
- Extract Hemp for CBD
- Process, Handle, Store, Market
- Brokers, Labs, Seed Cleaners
- Dry, Chop, Grind other person's harvest
- Handle other person's harvest

Grower License

- Live Plants
- Grow in Fields
- Grow in Greenhouses
- Produce Transplants
- Store your hemp
- Dry, Chop, Grind (your own hemp)
- Market your own Crop



2022 Program Fees

- Licensees will be issued the following Program Invoices via e-mail for the 2022 Season:
 1. Licensing Invoice
 2. Site Modification Invoice
 3. Sampling Invoice
- All Program Invoices will be e-mailed to the e-mail address(es) on-file.
- All invoices are due by the due date listed on the invoice, usually within 30-days.
- A detailed fee schedule can be found in Section 14: Fees and Services of the Program Rules.
- **All Program Invoices MUST be paid via post-mail to the Department, with invoice accompanying payment.**

FEE DESCRIPTION	FEE AMOUNT	LICENSE TYPE	PROGRAM INVOICING TYPE
APPLICATION FEE	\$50.00	BOTH	N/A
LICENSE FEE	\$200.00	BOTH	LICENSING INVOICE
SITE MODIFICATION FEE	\$200.00	BOTH	SITE MODIFICATION INVOICE
APPLIED ACREAGE FEE	\$50.00 - \$1,000.00	GROWER LICENSE ONLY	LICENSING INVOICE <u>OR</u> SITE MODIFICATION INVOICE
APPLIED GREENHOUSE FEE	\$100.00 / EACH	GROWER LICENSE ONLY	LICENSING INVOICE <u>OR</u> SITE MODIFICATION INVOICE
GPS VERIFICATION FEE (EACH STORAGE LOCATION ID)	\$100.00 / EACH	BOTH	LICENSING INVOICE <u>OR</u> SITE MODIFICATION INVOICE
APPLIED PROCESSOR/HANDLER (PRODUCER) FEE	\$500.00 - \$1,500.00	PROCESSOR/HANDLER LICENSE ONLY	LICENSING INVOICE <u>OR</u> SITE MODIFICATION INVOICE
HARVEST/COMPLIANCE SAMPLING FEE	\$100.00 / EACH	GROWER LICENSE ONLY	HARVEST/COMPLIANCE SAMPLING INVOICE



Program Background:

AR Hemp Research Licensing Program & the 2014 Farm Bill

- The 2014 Farm Bill allowed states to implement ‘research pilot programs’ to study the feasibility of introducing hemp as an agricultural crop
- In August 2017, House Bill 1778 became Act 981 to create the Arkansas Industrial Hemp Act of 2017
- In June 2018, the Arkansas State Plant Board approved rules to implement the “Arkansas Industrial Hemp Research Pilot Program”
- In August 2018, the first hemp program rules were officially approved and implemented in Arkansas
- In October 2018, the Department received the first application to grow industrial hemp in Arkansas
- 2019 was the first-year hemp was legally planted and harvested in Arkansas in over eight (8) decades
- On January 1st, 2022, the AR Hemp Research Licensing Program became known as the Arkansas Hemp Program



AR Hemp Program Updates for 2022 Season:

- In March 2021 during the 2021 Regular Session, the AR 93rd General Assembly passed HB1640 to become Act 565, known as the “Arkansas Hemp Production Act of 2021” (A.C.A. § 2-15-501 *et seq.*)
- Arkansas’s Hemp Production Plan was approved by the USDA on December 9th, 2021.
- This means that the AR Department of Agriculture is permitted to continue regulating hemp production in Arkansas under the 2018 Farm Bill federal authority.
- As of January 1, 2022, program is now known as the “Arkansas Hemp Program”
- ***Research Program Rules are still in effect until the Department has had the opportunity to propose new Hemp Rules before the Arkansas State Plant Board.***



AR Hemp Program Changes for 2022 Season:

Other Program changes include:

- No longer requiring mandatory research plans for license applications
- No longer requiring Letters of Intent from a licensed grower or processor
- Licensee information now reported to the USDA-AMS U.S. Hemp Program
- Licensee **MUST** report certified crop acreage to local county FSA office. **The Program will NOT sample or test any hemp lots that have not been assigned an FSA lot number.**
- No longer permitting the resampling and retesting of intact or hanging plants via Post-Harvest procedures (*See 2022 Sampling, Testing, Remediation & Disposal Guidelines*)
- To request the resampling/retesting of a noncompliant lot via Post-Harvest procedures, **the noncompliant lot must be properly remediated by one of two acceptable plant remediation methods** (*See 2022 Sampling, Testing, Remediation & Disposal Guidelines*)
- Department has authority to collect more plant cuttings at the time of the Department's sample collection. Number of plant cuttings is dependent on lot representative size (*See 2022 Sampling, Testing, Remediation & Disposal Guidelines*)
- Department may issue Corrective Action Plans (CAP) for negligent violations of associated hemp rules/laws





USDA-AMS: U.S. Domestic Hemp Production Program

- The 2018 Farm Bill directed USDA to establish a national regulatory framework for hemp production in the U.S.
- USDA-AMS Hemp Program published an Interim Final Rule for hemp production on October 31, 2019
- The USDA-AMS Hemp Program built on the Interim Final Rule by incorporating public comments and lessons-learned during the 2020 growing season to create a Final Rule
- The [Final Rule](#) became effective on March 22, 2021
- AR Hemp Program will begin reporting licensee information to USDA-AMS on January 1st, 2022

<https://www.ams.usda.gov/rules-regulations/hemp>



FDA and Cannabis-derived Products: Waiting for FDA Guidance



- The FDA is in the process of developing potential regulatory pathways for products containing cannabis and cannabis-derived compounds.
- We are still awaiting FDA guidance on how cannabis products will be federally regulated.
- The FDA and the Arkansas Department of Health maintain that CBD and any other cannabinoids are **not** permitted to be an additive to food or drink products.
- The FDA has issued several warning letters to CBD companies making health/medical claims on products.



Licensed Hemp Licensee Lists: Growers & Processor/Handlers

- The Department maintains a public list of Licensed Hemp Growers & Hemp Processor/Handlers available on the Program's website.
- This list is intended to help with marketing efforts.
- This list includes Business/Company Names, mailing city, contact person, phone and email.

If any of this information needs to be updated/corrected, please email a request to industrialhemp@agriculture.arkansas.gov



Crop Production



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Industrial Hemp Production: 3 Main Types

- Floral/Cannabinoid Production
- Grain/Seed Production
- Fiber Production



~95% of all Hemp grown in Arkansas is for Floral/Cannabinoid Production.



General Planting Material Information

- **ALL high CBD strains of hemp will exceed 0.3% THC if allowed to fully mature—they must be harvested early to remain legal.**
- When buying planting materials, always demand a Certificate of Analysis (COA) on the parent plant floral material and check your THC/CBD levels and ratios.
- ***It is nearly impossible to get 10% CBD content without going over the legal limit of THC!***



Proceed with Caution!

- There are no guarantees in this program!
- Most growers experience financial loss.
- This is a new industry, new companies, new production techniques, etc. There is a learning curve for all parties involved!
- The price model is not well developed, and some companies have had trouble making payments or following through on contracts.
- **“Do not plant more than you can afford to lose!”**

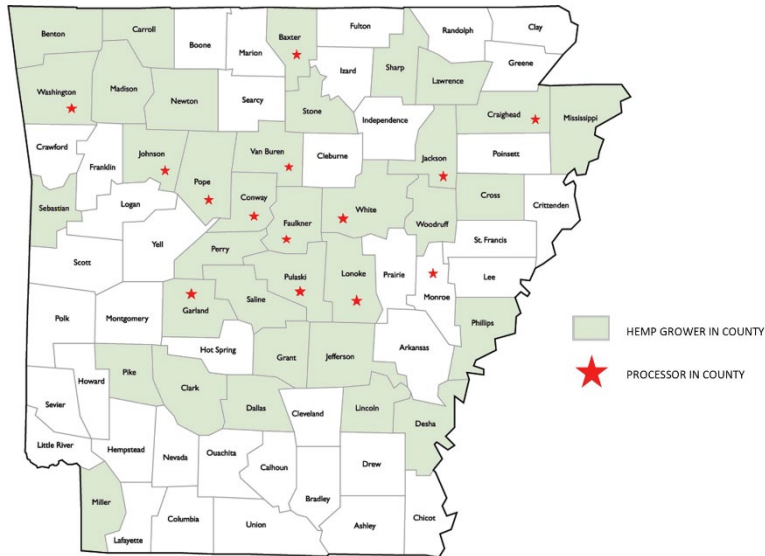




2021 Hemp Research Licensing Program

As of: 1/20/2022

HEMP RESEARCH LICENSE TYPE:	APPROVED:
GROWERS:	49 ↓
PROCESSOR/HANDLERS:	22 ↓
TOTAL FY22 HEMP LICENSES:	71 ↓



2021 HEMP HARVEST SEASON STATS:	
% GROWERS THAT PLANTED IN 2021:	55%
% GROWERS HARVESTED:	98%
% GROWERS COMPLETED FOR SEASON:	99%
% GROWER PRODUCTION REPORTS RECEIVED:	91%
% PROCESSOR/HANDLER PRODUCTION REPORTS RECEIVED:	95%

2021 GENERAL PROGRAM STATS:	
APPROVED FIELD ACRES:	585.91 ACRES
APPROVED # OF FIELDS:	62 FIELDS
APPROVED GREENHOUSE SQ FT:	114,424.00 SQ FT
APPROVED # OF GREENHOUSES:	44 GREENHOUSES
TOTAL ACRES PLANTED:	277 ACRES
# OF FIELD LOTS PLANTED:	67 LOTS
TOTAL HARVESTED ACRES:	286.3 ACRES
TOTAL # OF LOTS HARVESTED:	83 LOTS
TOTAL ACRES FOR DISPOSAL:	236.18 ACRES
# OF LOTS FOR DISPOSAL:	61 LOTS
HEMP IN ARKANSAS COUNTIES:	36/75 COUNTIES



Sampling & THC Testing of Hemp



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Federal Law: Definition of Hemp in 2018 Farm Bill

“The term ‘**hemp**’ means the plant *Cannabis sativa L.* and any part of that plant, **including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers**, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”

Note: Federal hemp rules require all state hemp production plans to have a testing protocol to measure delta-9-THC post-decarboxylation – **That’s Total THC**. Arkansas’s Hemp Program has analyzed compliance samples using Total THC% since the first year of the research program in 2019.



Sampling & THC Testing of Hemp

- 100% of plots intended for harvest are inspected and sampled prior to harvest by the Department.
- The Department conducts compliance sampling and testing by location **AND** variety grown (lot). **\$100/each pre- or post-harvest sample**.
- The Department recommends regularly conducting cannabinoid (THC%) testing with licensed third-party laboratories to monitor THC levels up until harvest.
- **Federal law requires all delta-9-THC concentrations be measured using post-decarboxylation (result is commonly referred to as Total THC).**
- The Department is currently the only entity able to conduct the official regulatory THC compliance sampling & testing for hemp in Arkansas.



Sampling & THC Testing of Hemp:

- Pre-harvest results from lots testing at or above 1.0% are required to be mandatorily destroyed for Program compliance with no chance of a remediated post-harvest resample/retest. This is also considered a negligent violation under USDA hemp rules.
- Growers that produce a crop with pre-harvest results below 1.0% but test above 0.3% are permitted to have a resample and retest of the noncompliant cannabis material, but only once the grower has remediated the noncompliant material.
- There are two types of acceptable methods of noncompliant crop remediation:
 1. Destruction of all leaf/floral material from the noncompliant crop; or
 2. Homogenize the noncompliant biomass into a ground/chopped/milled or otherwise homogenized form



Sampling & THC Testing of Hemp










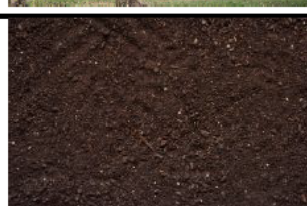
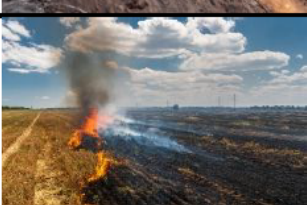

New for 2022:

- Department may collect more representative sample clippings at the time of harvest/sample collection, dependent on lot size (acres or square feet); was previously only five random (5) cuttings
- Department can only retest and resample properly *remediated* noncompliant crops; no longer able to resampling/retesting intact plants via post-harvest procedures



Approved Disposal Methods for Noncompliant Crops

(from 2022 Sampling, Testing, Remediation & Disposal Guidelines Document)

Photo Example	Ag Production Activity	Compliant Outcome	Photo Example
	Plowing Under: Curved plow blades rotate subsoil to surface and bury crop below	Plowing Under: - "Green Manure" - Amends soil directly from crop	
	Mulching / Composting: Fields crops cut and blended with manure or other biomass material	Mulching / Composting: - "Green Manure" - Mulch mixed with manure or other biomass	
	Disking: Leveling of field using tow-behind disk implement	Disking: - "Green Manure" - Amends soil directly from crop while leveling field	
	Bush Mower / Chopper: Commercial lawn mower used to shred and mix thick vegetation	Bush Mower / Chopper: - "Green Manure" - Shredded biomass decomposes into soil	
	Deep Burial: Fields are trenched, surface soil is buried at depth of at least 12"	Deep Burial: - Field biomass buried in trenches and covered with soil	
	Burning: Setting fire to specific production fields or biomatter piled on the field	Burning: - Fields are cleared of all plant material	





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Restrictions on Sale or Transfer



Program Rules & Restrictions on Sale or Transfer

- The growth, storage, handling, processing, and marketing of hemp is administered by the Arkansas Department of Agriculture as authorized by the Arkansas Hemp Production Act (A.C.A. § 2-15-501 *et seq.*) and the Agricultural Improvement Act of 2018 (2018 Farm Bill).
- The restrictions on the manufacture, sale, and transfer of hemp materials in Arkansas is in Section 12 of the Department's Hemp Program Rules.

AR Hemp Program Rules & the Law: [CLICK HERE](#)

AR Hemp Program Restrictions on Sale or Transfer: [CLICK HERE](#)



Non-Publicly Marketable Hemp Products (*Hemp License-Holders Only*)

At this time, state law and the Department’s Hemp Program Rules indicate that industrial hemp material (viable seed, live plants, leaf and/or floral material) should only be in the possession of an industrial hemp license holder, licensed under a duly authorized hemp program, such as a state’s department of agriculture or approved USDA hemp program.

It is against AR Hemp Program Rules and the Arkansas Hemp Production Act to sell, transfer, or market any raw hemp materials, otherwise known as **“in-program materials,”** to the general public.



Non-Publicly Marketable Hemp Materials (*Hemp License-Holders Only*)

The following industrial hemp materials are considered “in-program materials” and *should only be in the possession of an industrial hemp program licensee in Arkansas:*

- **Fiber**– in the form of whole stalks, including leaf and seed materials, and bales of stalks
- **Roots**– including raw roots
- **Leaves or Floral Material**– including fresh, unprocessed, dried, and/or ground biomass
- **Grain (food product)**– in the form of a raw, unprocessed seed
- **Seed (for replication)**– including whole seed, clean or uncleaned
- **Transplants**– including rooted plants, cuttings, seedlings, immature plants

Section 12(A), (B), & (H), & Section 17(A)(15)





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DIVISION

Summary of Proposed Hemp Rules for Hemp Committee's Consideration



Summary of Proposed Hemp Rules:

CURRENT RESEARCH PROGRAM RULES:

- 2014 Farm Bill authority & AR Hemp Act of 2017
- Created to determine and research the feasibility of hemp crop production in Arkansas
- Licensed Hemp Growers & Hemp Processor/Handlers
- Required research & marketing plans
- Required Letters of Intent from another licensee
- Required state-level criminal history background checks
- \$200/license + additional fees
- 15-day harvest window

- 0.3% is still the legal limit for hemp
- No person shall sell/transfer leaf/floral material to unlicensed entities
- Most rules seen in research program are incorporated into proposed rule; research program already met federal rule requirements
- Establish a sampling/testing program

PROPOSED PRODUCTION PROGRAM RULES:

- 2018 Farm Bill authority & AR Hemp Production Act of 2021
- Will issue Hemp Licenses with specific licensing endorsements related to growing, processing, handling, etc.
- No longer requiring research or marketing plans for licensees
- Requiring FBI criminal history background checks for applicants/licensees
- \$300/license + additional fees
- Every hemp lot must be assigned an FSA lot number
- **30-day harvest window**
- Enforcement actions, such as Corrective Action Plans for Negligent Violations
- Civil penalties up to \$5,000/violation





**PLANT INDUSTRIES
DIVISION**

Questions?





Arkansas Department of Agriculture

ATTN: Hemp Program

1 Natural Resources Drive

Little Rock, AR 72205

Mainline: (501) 225-1598

E-MAIL: industrialhemp@agriculture.arkansas.gov

ARKANSAS INDUSTRIAL HEMP PRODUCTION RULE

SECTION 1. AUTHORITY

These rules are promulgated by the Arkansas State Plant Board pursuant to the Arkansas Industrial Hemp Production Act, Ark. Code Ann. § 2-15-501 et seq.

SECTION 2. SCOPE

These rules govern the oversight of industrial hemp production in Arkansas, including but not limited to the growing, processing, handling, storage, sale, transfer, importation, and distribution of industrial hemp.

SECTION 3. DEFINITIONS

As used in these rules:

- (1) “Acceptable hemp THC level” means the application of the Measurement of Uncertainty to the reported (decarboxylated) delta-9-THC concentration level on a dry-weight basis produces a distribution range that includes 0.3 percent or less.
- (2) “Act” means the Arkansas Industrial Hemp Production Act, A.C.A. § 2-15-501 *et seq.*
- (3) “Approved variety” means any variety (‘variety’ may also be referred to as ‘cultivar’) of industrial hemp approved by the Department in a published “Summary of Varieties List” that may be amended from time to time.
- (4) “Board” means the Arkansas State Plant Board.
- (5) “Cannabis” means the plant that, depending on its THC concentration level, is defined as either “hemp” or “marijuana.” Cannabis is a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis ruderalis* are subspecies thereof. Cannabis includes all parts of the cannabis plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts.
- (6) “Corrective Action Plan” is a document set forth by the Department for a licensee to correct a negligent violation of, or noncompliance with, A.C.A. § 2-15-501 *et seq.* or any rule promulgated under the authority of this statute.
- (7) “Decarboxylated” means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.
- (8) “delta-9-THC” means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis). For compliance purposes, all delta-9-THC concentrations must be measured post-decarboxylation (otherwise known as “Total THC”).
- (9) “Department” means the Arkansas Department of Agriculture.
- (10) “Endorsement” means the authorization to engage in a certain activity under a hemp license. Hemp licensing endorsements are specifically denoted on the hemp license, relating to one or more of the following types of authorized hemp operations: (1) growth and production, (2) processing, (3) handling, (4) storage only, or (5) research only.
- (11) “GPS” means Global Positioning System.

- (12) “Handling” means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. Handling also includes possessing or storing industrial hemp in a vehicle for any period of time, other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person.
- (13) “Harvesting” means the process of cutting or collecting industrial hemp crop or crop parts grown in a plot, field, greenhouse, or indoor growing structure.
- (14) “Hemp” or “industrial hemp” is defined by A.C.A. § 2-15-503(5).
- (15) “Hemp License” means a license issued pursuant to the Act and these rules, including all endorsements issued thereunder.
- (16) “Key participant” means any person who has direct or indirect financial interest in the entity producing hemp, such as an owner or partner in a partnership. “Key participants” include, without limitation, an entity’s chief executive officer, chief operating officer, and chief financial officer. “Key participants” does not include farm managers, field managers, or shift managers.
- (17) “Licensed grower” means person licensed to grow, handle, store and market hemp under the terms established in a hemp license, A.C.A. § 2-15-501 et seq., and these rules.
- (18) “Licensed processor” means an individual or business entity possessing a hemp license issued by the Department that is authorized in Arkansas to process, handle, store and market hemp under the terms established in a hemp license, A.C.A. § 2-15-501 et seq., and these rules.
- (19) “Location ID” means the unique identifier established by the applicant for each unique set of GPS coordinates where hemp will be grown, handled, stored, or processed, which can include a field name or building name.
- (20) “Negligence” means the failure to exercise the level of care that a reasonably prudent person would exercise in complying with the requirements set forth in this rule, A.C.A. § 2-15-501 et seq.
- (21) “Nonviable seed” means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.
- (22) “Post-harvest sample” means a sample taken from the harvest hemp from a particular lot’s harvest in accordance with the sampling procedures established annually by the Department under the authority of A.C.A. § 2-15-509(e). The entire lot’s harvest is in the same form (for example, flowers, ground materials, etc.), homogenous, and not mixed with non-hemp materials or hemp from another lot.
- (23) “Pre-harvest sample” means a composite, representative portion from living plants in a hemp lot collected in accordance with the sampling procedures established annually by the Department under the authority of A.C.A. § 2-15-509(e).
- (24) “Processing” means converting hemp into a hemp product.
- (25) “Prohibited variety” means a variety or strain of cannabis not authorized for use in Arkansas.
- (26) “Propagule” means a plant or plant part that can be utilized to grow a new plant.
- (27) “Signing authority” means an officer or agent of the organization with the written power to commit the legal entity to a binding contract.

- (28) “Strain” means a group of hemp with presumed common ancestry and identified physiological distinctions. A strain does not meet the uniformity, stability, or distinction requirements to be considered a variety.
- (29) “Tetrahydrocannabinol” means the natural or synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of *Cannabis sativa*, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.
- (30) “Variety” means a subdivision of a species that is:
 - (A) Uniform, in the sense that the variations in essential and distinctive characteristics are describable;
 - (B) Stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties; and
 - (C) Distinct, in the sense that the variety can be differentiated by one (1) or more identifiable morphological, physiological, other characteristics from all other publicly known varieties, or other characteristics from all other publicly known varieties.
- (31) “Variety of Concern” means any variety of hemp or cannabis that tests above 0.300% in one (1) or more pre-harvest samples. A hemp variety designated as a ‘variety of concern’ could be subject to restrictions and additional testing.
- (32) “Volunteer cannabis plant” means any cannabis plant that:
 - (A) Grows of its own accord from seeds or roots in the years following an intentionally planted cannabis crop; and
 - (B) Is not planted intentionally.

SECTION 4. LICENSING

- (a) No person shall grow, produce, process, handle, sell or transfer, permit the sale or transfer, or store hemp without a license issued under these rules and containing the appropriate endorsements.
- (b) Any person who wishes to obtain or renew a hemp license shall submit a completed application to the Department.
- (c) An applicant shall indicate the license endorsements sought in the new license or renewal application.
- (d) All hemp licenses shall expire on December 31 unless renewed.
- (e) All renewal applications and any other renewal requirements established by Department policy must be submitted to the Department by December 1 of each year.
- (f) No person under the age of eighteen (18) years of age shall apply for or be granted a hemp license.
- (g) The Department shall not review any application that is incomplete or is not accompanied by the required fees.
- (h) An applicant may apply for one or more endorsements, which upon approval of the application will be clearly marked on the issued license and shall authorize the person to engage in the specified activity.
- (i) The applicant’s principal place of business shall be located in Arkansas or within fifty (50) miles of at least one of the applicant’s Arkansas growing sites.

- (j) The applicant shall affirm that the applicant or his or her representative shall be present at any licensed site within twenty-four (24) hours' notice at the request of the Department or any law enforcement agency.
- (k) No person who has been convicted of a felony related to a controlled substance in the previous ten (10) years from the date of the conviction shall be eligible to obtain a license unless otherwise provided by federal or state law.
- (l) The applicant shall not be delinquent in making any required reports or payments to the Department in connection with the applicant's participation in the Hemp Licensing Program or other programs within the Department.
- (m) The applicant shall not have any unpaid fees, fines, or civil penalties owed to the Department.

SECTION 5. APPLICATION CONTENTS

Hemp license and renewal applications shall contain at a minimum:

- (1) For individuals: the individual's full name, residential address, telephone number, and e-mail address;
- (2) For persons other than individuals: the entity's name, Employer Identification Number (EIN), business location address in Arkansas, principal business location, and entity's key participants, including his or her full name, title within the entity, business address, telephone number, and e-mail address; and
- (3) For each signing authority: his or her full name, business title, business address, telephone number, and e-mail address;
- (4) The proposed acreage or greenhouse or indoor square footage to be planted;
- (5) Street address; Location ID; legal land description, and GPS Coordinates for each field, greenhouse, building, or site where hemp will be grown, processed, handled, or stored;
- (6) Aerial maps depicting each site where hemp will be grown, processed, handled or stored, with appropriate designations for field boundaries, and Location IDs corresponding to the GPS coordinates; and
- (7) Applicant's consent to entry onto, and inspection of, all premises where hemp or other cannabis plants or materials are located, or licensed to be located, by representatives of the Department and law enforcement agencies, with or without cause, with or without advance notice;
- (8) Applicant's consent to forfeiture and destruction, without compensation, of:
 - (A) Material found to have a measured delta-9-THC content in excess of zero and three tenths (0.3) percent on a dry weight basis;
 - (B) Plants located in an area that is not licensed by the Department; and
 - (C) Plants not accounted for in required reporting to the Department.

SECTION 6. NATIONAL CRIMINAL HISTORY BACKGROUND CHECK

- (a) All licensees, applicants, and key participants shall complete and pay for fingerprinting and an annual national criminal history background check as required by A.C.A. § 2-15-513.
- (b) All licensees, applicants, and key participants shall, following the completion of the fingerprinting and criminal history background check, ensure delivery of the report to the Department with each completed application.

- (c) The Department shall not accept a report from a criminal history background check that occurred more than sixty (60) days prior to the date of application or renewal.
- (d) Failure to submit a criminal history background check with the application or renewal shall be grounds for denial of a licensure or renewal application.
- (e) Substitution of a signing authority shall require approval from the Department and completion of a national criminal history background check on the new signing authority.
- (f) The applicant shall sign a release that allows the department to disclose:
 - (1) An Arkansas noncriminal-justice background check to the State Plant Board as evidence in an administrative hearing conducted under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and
 - (2) A fingerprint card of the applicant to the Federal Bureau of Investigation to allow a federal fingerprint-based background check to be performed.

SECTION 7. LAND USE RESTRICTIONS FOR HEMP LICENSEES

A licensee shall not:

- (a) Plant or grow cannabis other than hemp in a hemp lot or Location ID listed in a license.
- (b) Plant or grow any hemp or other cannabis purported to be hemp at a site or facility not approved by the Department.
- (c) Grow, process, or store hemp or other cannabis in or within 100 feet of any structure that is used for residential purposes without first obtaining written permission from the Department.
- (d) Handle or store leaf or floral material from hemp or other cannabis in or adjacent to any structure that is used for residential purposes.
- (e) Grow, process, handle, or store hemp or other cannabis at any site that is located within 1,000 feet of a public area frequented by children.
- (f) Include any property on an application or Site Modification Request to grow, cultivate or store hemp that is not owned or completely controlled by the applicant or licensee, as evidenced by a written lease or other document that shall be provided to the Department upon request.
- (g) Allow unsupervised public access to any site where hemp is grown, processed, handled, or stored.
- (h) Grow hemp or other cannabis in any outdoor field that is located within 1,000 feet of a school or public recreational area.
- (i) Grow, handle, process, or store hemp or other cannabis on property owned by, or leased from a person that:
 - (1) Was denied a license within the last five (5) years;
 - (2) Possesses a hemp license in suspended or revoked status;
 - (3) Fails to obtain a criminal history background check or is ineligible to grow industrial hemp due to a previous criminal conviction; or
 - (4) Fails to comply with a valid order from a representative of the Department or law enforcement.

A licensee shall:

- (a) Physically segregate hemp from other crops unless prior approval is obtained in writing from the Department.
- (b) Plant a minimum of 100 plants in each growing site unless prior approval is received in writing from the Department.

- (c) Plant a minimum of one quarter (0.25) acre in each outdoor growing site unless prior approval is received in writing from the Department.
- (d) Post signage at all outdoor plot locations. The signage shall include the following information:
 - (1) The statement, “Arkansas Department of Agriculture Hemp Licensing Program”;
 - (2) License holder’s name;
 - (3) License holder’s license number;
 - (4) The Location ID name of the plot; and
 - (5) Telephone number for the licensee point of contact and the Department.
- (e) (1) Ensure the monitoring and destruction of volunteer plants for three years following cultivation regardless of land lease or ownership status during that period.
 - (2) It shall be the responsibility of the licensee to monitor and destroy volunteers, however, such responsibility may be transferred or assigned to another entity by written mutual agreement.

SECTION 8. FEES

- (a) Nonrefundable Annual Application Fees
 - (1) \$100 for new applicants
 - (2) No application fee shall be charged to renewing applicants if all Production Reports are submitted to the Department and FSA by December 1 annually.
 - (3) \$100 for renewing applicants, if Production Report not received by the Department by December 1st annually
- (b) Annual Hemp Licensing Fees -- \$300 per License
 - (1) Annual Grower Fees:
 - (A) \$10 per acre requested for licensure
 - (B) \$100 per Greenhouse/Indoor and Storage Location ID
 - (2) Annual Processor/Handler Fees:
 - (A) \$1,500 for floral processing
 - (B) \$500 for fiber or grain/seed processing
 - (C) \$500 for handling hemp material
 - (3) Site Modification Fee -- \$200 per modification request
- (c) Sampling/Testing Fees – \$100 per compliance sample
- (d) Institutions of higher education conducting hemp production research operations are not subject to any fees under these rules.

SECTION 9. SITE MODIFICATION

- (a) A hemp licensee who elects for a new growing, processing, handling, or storage location at a site other than the sites specified by the GPS coordinates listed on the hemp license, shall submit a Site Modification Request, and obtain written approval from a representative of the Department, prior to the planting, growing, processing, or storing at the proposed location.
- (b) Any request for a new growing location shall comply with this rule.
- (c) The Department shall charge a site modification fee for each new Location ID. Site modifications shall not be approved before payment of the site modification fee.

- (d) Storage-only locations and institutions of higher education are not subject to site modification fees.

SECTION 10. SEED AND SEEDLING/PROPAGULE ACQUISITION

- (a) A licensee intending to acquire seeds or propagules first shall determine whether or not the variety or strain intended for purchase is listed on the Department's current Summary of Varieties List.
 - (1) If the variety or strain is listed on the Summary of Varieties List, no pre-approval from the Department is necessary.
 - (2) The Department's Summary of Varieties List may also designate whether a variety is considered to be a Variety of Concern or Prohibited Variety.
 - (3) If the variety or strain is not listed on the Summary of Varieties List, the licensee shall submit a New Hemp Variety Form or Strain Request Form along with a certificate of analysis for that strain or variety, showing that mature plants grown from that seed variety or strain have a floral delta-9-THC (must be measured post-decarboxylation, also referred to as Total THC) content of not more than the acceptable hemp THC level on a dry weight basis from an independent third-party laboratory.
- (b) A licensee who develops a new hemp variety or strain shall submit the New Hemp Variety or Strain Request Form, prior to its use in crop production.
- (c) The Department shall not approve a New Hemp Variety or Strain Request unless the licensed grower affirms in writing that the requested seed acquisition plan does not infringe on the intellectual property rights of any person and that the seed or propagule source is a current legal hemp operation.
- (d) The Department shall not approve a New Hemp Variety or Strain Request if a representative of the Department has information supporting a belief that the variety or strain will produce plants with delta-9-THC (must be measured post-decarboxylation, also referred to as Total THC) content of more than the acceptable hemp THC level on a dry weight basis.
- (e) A licensee shall not buy, sell, possess, or transfer seeds or propagules of any variety or strain designated as a Prohibited Variety on the Department's published Summary of Varieties List.
- (f) Upon request from a representative of the Department, a licensee shall provide a distribution list showing locations where and to whom hemp seeds or propagules were distributed.
- (g) Any person engaging in the distribution of viable hemp seeds shall adhere to applicable Arkansas Seed Laws and any rules promulgated thereunder.
- (h) Any person who intends to move transplants or other living plants to a location outside of Arkansas must obtain either:
 - (1) A Nurseryman's License issued by the Department; or
 - (2) A phytosanitary certificate issued by the Department.

SECTION 11. SEEDS OF WILD, LANDRACE, OR UNKNOWN ORIGIN

- (a) No person shall acquire or grow hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the Department.
- (b) The Department shall not permit hemp or cannabis seeds or propagules of wild, landrace, or unknown origin to be planted, cultivated, or replicated by any person without the Department

first arranging for replication and THC testing of mature plants grown from the seeds or propagules by the Department or its designee.

- (c) Any licensee found to have saved seed, propagules or cuttings, or cultivated seeds, propagules or cuttings from a cannabis plant of wild, landrace, or unknown origin without advanced written permission from the Department shall be subject to suspension or revocation of his or her license and forfeiture without compensation of his or her materials.

SECTION 12. CROP ACREAGE REPORTS TO FARM SERVICE AGENCY (FSA)

- (a) Within fifteen days of each lot planting and prior to the submission of Department planting reports, a licensed grower shall report hemp crop acreage to FSA, including at a minimum the following information:
 - (1) Street address and, to the extent practicable, GPS coordinates for each field or greenhouse where hemp will be produced;
 - (2) Acreage (or square footage, in the case of a greenhouse or other indoor growing facility production) dedicated to the growing of each planted lot of hemp, including each lot's full variety name; and
 - (3) The grower's name and license number.
- (b) Licensees shall provide copies of FSA reports to the Department upon request.
- (c) Licensees shall provide the Department upon request with any additional planting or growing information that is reasonably related to monitoring licensee hemp operations or for statistical purposes.
- (d) Licensees shall provide the Department with FSA Lot Numbers for each planted lot of hemp to be included on the Department's associated planting report forms.

SECTION 13. PLANTING REPORTS FOR OUTDOOR PLANTINGS

- (a) A licensed grower shall submit to the Department a complete and current Field Planting Report within fifteen (15) days after every planting, including replanted lots of seeds or propagules in an outdoor location, after first obtaining FSA Lot Numbers for each planted lot.
- (b) Each Field Planting Report shall identify the:
 - (1) Correct variety or strain's full name;
 - (2) Address and Field Location ID as listed on the hemp license;
 - (3) Lot number provided by the FSA office; and
 - (4) Amount planted and the primary intended use of the harvest.
- (c) A licensed grower who does not plant hemp in an approved outdoor site listed in the hemp license shall submit a Field Planting Report on or before July 31st of each calendar year, stating that hemp has not been planted and will not be planted at that site.

SECTION 14. PLANTING REPORTS FOR INDOOR/GREENHOUSE PLANTINGS

- (a) A licensed grower shall submit to the Department a complete and current Greenhouse/Indoor Planting Report Form within fifteen (15) days after establishing plants at an indoor location.
- (b) Each Greenhouse/Indoor Planting Report Form shall identify the:
 - (1) Correct variety or strain name's full name;
 - (2) Address and Greenhouse or indoor growing location ID as listed in the hemp license;

- (3) Lot number provided by the FSA Office, if applicable; and
- (4) Amount planted and the primary intended use of the harvest or of the hemp plants.
- (c) In addition to the initial Greenhouse/Indoor Planting Report, a licensed grower with an approved greenhouse or indoor growing site shall submit quarterly reports for each location ID to the Department. Greenhouse/Indoor Planting Reports shall be due no later than March 31, June 30, September 30, and December 31.

SECTION 15. SITE ACCESS

- (a) Licensees shall permit a representative of the Department or law enforcement agency to enter the premises where hemp or other cannabis seeds, plants, or material are located, and any premises listed in the hemp license, for any lawful purpose and with or without advance notice.
- (b) An applicant or hemp licensee shall obtain in writing from the owner of any leased or rented field or structure the owner's acknowledgement that both licensee and owner will abide by these rules and the Act using.

SECTION 16. HARVESTING

- (a) The Department may inspect a hemp licensee's premises or collect samples of any hemp or other cannabis material at any time.
- (b) The grower shall not harvest hemp plants from a lot without the Department first collecting samples from that lot.
- (c) Fifteen (15) days prior to the anticipated harvest of hemp plants, the grower shall submit to the Department a completed harvest request form identifying the intended date of harvest (or date of destruction in the case of a failed crop).
- (d) During the Department's scheduled sample collection, the grower or an authorized representative of the grower shall be present at the growing site.
- (e) Representatives of the Department shall be provided with complete and unrestricted access to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants; and all locations listed in the hemp license.
- (f) The hemp licensee shall harvest the crop not more than thirty (30) days following the date of sample collection by the Department, unless specifically authorized in writing by the Department.
- (g) If the hemp licensee fails to complete a harvest within thirty (30) days following the date of sample collection, grower shall submit a new harvest request and additional pre-harvest sample fee prior to harvesting.
- (h) Hemp floral material shall not be moved outside Arkansas, nor out of the possession of a licensee, nor commingled or extracted, until the Department certifies that the subject hemp is compliant.
- (i) Harvested materials from one lot shall not be commingled with other harvested lots unless all harvested lots are certified as compliant by the Department.

SECTION 17. IMPORTATION OF HEMP MATERIAL INTO ARKANSAS

- (a) No person shall import hemp into the state of Arkansas without a hemp license issued pursuant to these rules.
- (b) All imported hemp shall comply with this rule, the Act, and all applicable state and federal laws.
- (c) Nothing in this rule shall be construed as to prohibit the transportation or shipment of hemp lawfully produced under a federal, state, or tribal plan approved by the United States Department of Agriculture, through the state of Arkansas and where the state of Arkansas is not the final destination for the transported hemp.

SECTION 18. PROHIBITED ACTIVITIES

- (a) No person shall violate any provision of this rule, the Act, or any other federal or state law, rule, or order while engaging in the activities governed by this rule or the Act.
- (b) A hemp licensee shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf materials, or floral materials to any unlicensed person in Arkansas.
- (c) A licensee shall not grow, process, sell or transfer, or permit the sale or transfer of substances listed or described in the schedules of controlled substances in the Arkansas Uniform Controlled Substances Act or the United States Controlled Substances Act.
- (d) No person shall knowingly, intentionally, recklessly, or negligently sell, offer to sell, allow the sale, or otherwise distribute industrial hemp to a person or persons engaged in the illegal manufacture of substances listed or described in the schedules of controlled substances in the Arkansas Uniform Controlled Substances Act, Ark. Code Ann. § 5-64-101 et seq., or the United States Controlled Substances Act, 21 U.S.C. § 812 et seq.
- (e) A hemp licensee shall not provide false, misleading, or incorrect information to the Department pertaining to the licensee's cultivation, processing, or transportation of hemp, including without limitation any information provided within any application, report, record, or inspection required or maintained in accordance with these rules and the Act.
- (f) A hemp licensee selling or transferring, or permitting the sale or transfer, of floral or plant extracts (including cannabidiol), shall retain testing data or results for at least three (3) years demonstrating that the extract's delta-9-THC level is not more than zero and three-tenths (0.3) percent.
- (g) A hemp licensee shall not sell or transfer floral extracts containing a decarboxylated delta-9-THC concentration greater than zero and three-tenths (0.3) percent.
- (h) Hemp licensees shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all other applicable local, state, and federal laws and regulations relating to product development, product manufacturing, consumer safety, and public health.
- (i) A person shall not ship or transport, or allow to be shipped or transported, any hemp product with a decarboxylated delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.
- (j) A hemp licensee shall not allow another person, other than an agent of the licensed grower, to grow, handle, process, or store hemp under their license in lieu of obtaining a separate hemp license.
- (k) A hemp licensee shall not detach, alter, deface or destroy any labeling or other required documentation specified in these rules, or alter or substitute seed or transplants in a manner that may defeat the purpose of these rules.
- (l) A hemp licensee shall not hinder or obstruct in any way any authorized representatives of the Department or any law enforcement agency in the performance of his or her duties.

- (m) A hemp licensee shall not commingle harvested hemp or other cannabis material from one lot with harvested material from another lot unless all lots have been certified compliant by the Department.
- (n) A licensee shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person in Arkansas who does not hold a hemp license.

SECTION 19. ENFORCEMENT ACTIONS

- (a) Any person that violates the Act or these rules shall be subject to one or more of the following:
 - (1) Civil penalties up to \$5,000 per violation;
 - (2) Corrective Action Plan;
 - (3) Issuance of a stop order;
 - (4) License suspension; or
 - (5) License revocation.
- (b) Any licensee that commits three (3) negligent violations within a 5-year period shall have his or her license revoked and be ineligible to obtain a license for a period of five (5) years beginning on the date of the third violation. A violation that occurred prior to the effective date of the Act shall not be counted.
- (c) In instances where a licensee commits a violation with a culpable mental state greater than negligence, the board may initiate revocation or suspension proceedings against the licensee and shall immediately report the licensee to the Arkansas Office of the Attorney General and all appropriate law enforcement agencies.

SECTION 20. HEARINGS AND APPEALS

- (a) All hearings and appeals shall be conducted in accordance with the Arkansas Administrative Procedure Act, Ark. Code Ann. §25-15-201 et seq., except that:
 - (1) Before revocation of a grower's license, the board shall provide the grower notice and an informal hearing to show cause why the license should not be revoked and the grower's right to grow forfeited.
 - (2) If a license is revoked and a grower's right to grow is forfeited as the result of an informal hearing under subdivision (b)(1) of this section, the grower may request a formal administrative hearing before the board or a committee of the board, as provided in board rules.
- (b) A person wishing to appeal a final action of the Board shall submit a written request for a hearing to the Department within thirty (30) days of notice.

SECTION 21. RECORDKEEPING

- (a) For at least three (3) years, hemp licensees shall keep and make available for inspection by the Department the following records:
 - (1) Records regarding acquisition of hemp plants;
 - (2) Records regarding production, processing, and handling of hemp plants;
 - (3) Records regarding storage of hemp plants;
 - (4) Records regarding disposal of all hemp plants; and

- (5) Records regarding the disposal of all cannabis plants that do not meet the definition of hemp.
- (b) The Department and any law enforcement agency shall have access to any premises where industrial hemp, or cannabis plants purported to be industrial hemp, may be held during normal business hours.

SECTION 22. CORRECTIVE ACTION PLANS FOR NEGLIGENT VIOLATIONS

- (a) If the Department determines that a licensee committed a negligent violation of any provision within A.C.A. § 2-15-501 *et seq.*, or any rule promulgated under the authority of the Arkansas Hemp Production Act, then the Department may issue a corrective action plan for the grower.
- (b) Corrective action plans will remain in place for at least two (2) years and include, at a minimum, the following:
 - (1) The date by which the grower shall correct each negligent violation;
 - (2) Steps to correct each negligent violation; and
 - (3) A description of the procedures to demonstrate compliance.

Arkansas Industrial Hemp Research Program Rules

APPROVED AND ISSUED BY:

**ARKANSAS STATE PLANT
BOARD**

**UNDER AUTHORITY of A. C. A. 2-15-401 et seq.
Arkansas Industrial Hemp Act**

Approved and effective August 31, 2018

CONTENTS		Page
SECTION 1, Definitions		2
SECTION 2, Licensing		6
SECTION 3, Land Use Restrictions		10
SECTION 4, Administrative Appeal		10
SECTION 5, Approved Seed/Seedlings for Planting		11
SECTION 6, Seed Acquisition		12
SECTION 7, Planting Reports		14
SECTION 8, Site Access		15
SECTION 9, Pesticide Use		15
SECTION 10, Licensed Growers Responsibility Prior to Harvest		16
SECTION 11, Sampling and Analyzing Industrial Hemp		17
SECTION 12, Restrictions on Sale or Transfer		18
SECTION 13, Reporting		19
SECTION 14, Fees and Services		20
SECTION 15, License Suspension or Revocation		21
SECTION 16, Grant Funds		22
SECTION 17, Prohibitions Summarized		22
APPENDIX - Arkansas Industrial Hemp Act		26-31

Arkansas Industrial Hemp Research Program Rules

As approved and effective August 31, 2018. Address communications to Arkansas Department of Agriculture, Industrial Hemp Program. 1 Natural Resources Drive, Little Rock, Arkansas 72205.

THE RULES

The Industrial Hemp research program rules were made by the Arkansas State Plant Board under authority of SECTION 1. Arkansas Code Title 2, Chapter 15, Subchapter — Arkansas Industrial Hemp Act 2-15-401 through 2-15-412, given in the Appendix.

SECTION 1. DEFINITIONS. When used in these rules

(A).

- (1) "**Act**" means Arkansas Industrial Hemp Act (A.C.A. 2-15-401 et seq)
- (2) "**Applicant**" means a person, or a person who is authorized to sign for a business entity, who submits an application.
- (3) "**Approved cultivar**" means any variety of industrial hemp designated by the Arkansas State Plant Board in a published list and may be amended from time to time.
- (4) **Association of Official Seed Certifying Agencies (AOSCA) "AOSCA Certified seed", "AOSCA Registered seed", and "AOSCA Foundation seed"** mean seed that has been produced and labeled in accordance with the procedures and in compliance with the rules of an AOSCA seed certifying agency or by the Organization for Economic Co-operation and Development (OECD) Seed Schemes. AOSCA Certified Seed programs provide standards and procedures approved by the United States Secretary of Agriculture to maintain and make available to the public high quality seed and propagating materials of superior crop plant varieties grown & distributed to insure genetic identity and purity.
- (5) "**Board**" means the Arkansas State Plant Board.
- (6) "**Cannabis**" means all parts of the cannabis plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts. Cannabis does not include publicly marketable hemp products, as defined in this rule.
- (7) "**CBD**" means cannabidiol.
- (8) "**DEA**" means the United States Drug Enforcement Administration.
- (9) "**Delta-9-THC**" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis).
- (10) "**Department**" means the Arkansas Department of Agriculture.
- (11) "**GPS**" means Global Positioning System.
- (12) "**Grower Licensing Agreement**" means a document executed by a person and the department authorizing the person to grow, handle and store hemp at one or more specified locations in Arkansas under the terms set forth in the document, Arkansas Industrial Hemp Act 2-15-401- 2-15-412, and this rule.
- (13) "**Handling**" means possessing or storing industrial hemp for any period of time

on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. "Handling" also includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person.

- (14) "**Industrial hemp**" shall be used interchangeably with "Hemp" and have the same meaning. Hemp means *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis, as defined in the Agriculture Improvement Act of 2018, 21 U.S.C. & 801 et seq. as it currently exists or as it may be subsequently amended.
- (15) "**Industrial hemp products**" or "hemp products" means products derived from, or made by, processing industrial hemp plants or plant parts, including without limitation:
- (A) Certified seed for cultivation if the seeds originate from industrial hemp varieties; (B) Cloth; (C) Cordage; (D) Fiber; (E) Food; (F) Fuel; (G) Paint; (H) Paper; (I) Particleboard; (J) Plastics; and (K) Seed, seed meal, and seed oil for consumption.
- (16) "**Law enforcement agency**" means the Arkansas State Police, DEA, or other federal, state, or local law enforcement agency or drug suppression unit.
- (17) "**Licensed Grower**" means an individual or business entity possessing a license issued by the department under the authority of this chapter to grow, handle, cultivate, process, or market industrial hemp or industrial hemp products.
- (18) "**Licensed Processor**" means a person in the state authorized by the department to process, handle, store, and market industrial hemp under the terms set forth in a Processor Licensing Agreement, as set forth in the policies developed under these rules.
- (19) "**Location ID**" means the unique identifier established by the applicant for each unique set of GPS coordinates where industrial hemp will be grown, handled, stored, or processed, which may include a field name or building name.
- (20) "**Marketing**" means promoting or selling a product within Arkansas, in another state, or outside of the United States. "Marketing" includes efforts to advertise and gather information about the needs or preferences of potential consumers or suppliers;
- (21) "**Nonviable seed**" means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.
- (22) "**Person**" includes any individual, partnership, corporation, company, society, or association.
- (23) "**Pesticide**" means any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest; intended to be used as a plant regulator, defoliant, or desiccant; or intended to be used as a spray adjuvant, once they have been mixed with a U.S. Environmental Protection Agency registered product.
- (24) "**Phytocannabinoids**" are cannabinoids that occur naturally in the cannabis plant. The classical cannabinoids are formed through decarboxylation of their respective 2-carboxylic acids (2-COOH), a process which is catalyzed by heat,

light or alkaline conditions.

- (25) **"Plot"** means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.
- (26) **"Post-Harvest Sample"** means a sample taken from the harvested industrial hemp material from a particular plot's harvest in accordance with the procedures as defined in the policies developed under these rules; the entire plot's harvest must be in the same form (intact-plant, flowers, ground materials, etc.), homogenous, and not mixed with non-hemp materials or industrial hemp materials from another plot.
- (27) **"ppm"** means parts per million.
- (28) **"Pre-Harvest Sample"** means a composite, representative portion from plants in an industrial hemp plot collected prior to harvest in accordance with the procedures as defined in the policies developed under these rules.
- (29) **"Processing"** means converting an agricultural commodity into a marketable form.
- (30) **"Processor Licensing Agreement"** means a document executed by a person and the department authorizing the person to process, handle, and store industrial hemp at one or more specified locations in Arkansas under the terms set forth in the document, Arkansas Industrial Hemp Act 2-15-401- 2-15-412, and these rules.
- (31) **"Program"** means the Arkansas Industrial Hemp Research Program as established by the Arkansas Industrial Hemp Act, A.C.A. 2-15-401 et seq. and these rules.
- (32) **"Prohibited Variety"** means a variety or strain of cannabis excluded from the department's Industrial Hemp Research Program.
- (33) **"Propagule"** means a plant or plant part that can be utilized to grow a new plant.
- (34) **"Publicly marketable hemp product"** means a hemp product that meets one or more of the following descriptions:
- (a) the product does not include any living hemp plants, viable seeds, leaf materials, floral materials, or decarboxylated delta-9-THC content above 0.3 percent; and does include, without limitation, the following products: bare stalks, bast fiber, hurd fiber, nonviable roots, nonviable seeds, seed oils, and plant extracts (excluding products containing decarboxylated delta-9-THC above 0.3 percent).
 - (b) the product is CBD that was derived from industrial hemp, as defined in these rules; or
 - (c) the product is CBD that is approved as a prescription medication by the United States Food and Drug Administration.
- (35) **"Secondary Post-Harvest Sample"** means a post-harvest sample that is taken in a given plot or processing, handling or storage location after the first post-harvest sample is taken. A Secondary Post-Harvest Sample is taken on a different day than the initial post-harvest sample.
- (36) **"Secondary Pre-Harvest Sample"** means a pre-harvest sample that is taken in a given plot after the first pre-harvest sample is taken. A Secondary Pre-Harvest Sample is taken on a different day than the initial pre-harvest sample.
- (37) **"Seed source"** means the origin of the seed or propagules as determined by

the department.

- (38) **"Signing authority"** means an officer or agent of the organization with the written power to commit the legal entity to a binding agreement.
- (39) **"Street address"** means any postal address used for official purposes, specifically closest to industrial hemp plots/fields/greenhouses, storage buildings, or processing operations, for means of identifying different locations under the same hemp license.
- (40) **"Total THC"** means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value may also be calculated using a conversion formula that sums delta-9-THC and THC-acid.
- (41) **"University"** means an accredited institution of higher education located in Arkansas.
- (42) **"Variety"** means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics by which it can be differentiated from other plants of the same kind. A variety also is "uniform" & "stable" – uniform in the sense that variations in essential and distinctive characteristics are describable; and "stable" in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.
- (43) **"Variety of Concern"** means any variety of hemp in the program that tests above 0.3% total delta-9-THC in one (1) or more pre-harvest samples from diverse locations and production conditions. A hemp variety designated as a "Variety of Concern" may be subject to restrictions and additional testing. Materials testing at a total delta-9-THC concentration above 0.3 percent may be subject to law enforcement action.
- (44) **"Volunteer hemp plant"** means an industrial hemp plant that was not intentionally planted, but results from a previous crop, growing on its own accord from seeds or roots in the years following an intentionally planted industrial hemp crop.

(B) Definitions specific to industrial hemp seed production.

Industrial Hemp (*Cannabis sativa* L.) includes varieties of these kinds:

- (1) **"Dioecious type"** means a type of industrial hemp that has male and female flowers on separate plants.
- (2) **"Industrial hemp seed production"** means an industrial hemp seed production field established with an appropriate generation of AOSCA certified seed intended to produce a subsequent generation of AOSCA certified seed.
- (3) **"Licensed Plant Breeder"** means an individual who has met the requirements listed in the Official Standards for Seed Certification in Arkansas (Circular 15) Under Act 73 of 1931; A.C.A. 1987 Sections 2-18-101 through 2-18-108.
- (4) **"Monoecious type"** means a type of industrial hemp that has male and female flowers on the same plant.
- (5) **"Too male"** means an intersexual plant that exceeds the ratio of male and female flowers as described in the variety description.
- (6) **"Unisexual female"** means a monoecious type of industrial hemp plant that has sterile male and fertile female flowers.

- (7) "**Unisexual female hybrid**" means a hybrid where the A line is a unisexual female type and the B line produces male fertile flowers.

SECTION 2. LICENSING

(A) Who must apply:

- (1) Growers and Processor/Handlers:

A license to grow shall allow the license holder to obtain seed pursuant to these Rules for planting, possess seed for planting, cultivate the crop, harvest plant parts, possess and store harvested plant parts, and transport plant parts to a market for sale. The license holder must abide by the terms set forth in the Grower Licensing Agreement with the department.

A license to engage in the processing or handling of industrial hemp that does not fall within the definition of a "publicly marketable hemp product" shall allow the license holder to process, handle, and store industrial hemp at one or more specified locations in the state. The license holder must abide by the terms set forth in the Processor/Handler Licensing Agreement with the department.

- (a) No person who does not hold a Hemp Grower or Processor/Handler license from the department shall grow, cultivate, handle, store, or process industrial hemp at any location within Arkansas.

- (b) No person under the age of eighteen (18) years of age shall apply for or hold a Grower or Processor/Handler License.

- (2) Two types of licenses can be issued by the department for cultivation or processing of industrial hemp in Arkansas:

- (a) Research Only

- (b) Research with Intent to Market

These types of licenses may include seed research projects through a university, private entity working with a university, or private entity working with a licensed plant breeder to develop industrial hemp seed varieties that would meet the requirements listed in in these rules in Section 5. Approved Seed For Planting.

- (3) Applications for cultivation or processing of industrial hemp in Arkansas may be made at any time during the year, but the effective date of the license will be July 1st through June 30th annually. Renewal applications will be due June 15th.

- (4) Applications shall be handled and processed by the department and reviewed for approval or denial. The department review process may require 60 days to complete. Acceptance of applications may be suspended for a period of time to allow the department staff adequate time to process applications and/or handle additional hemp related duties. Any delays or additional requirements for submitting applications may be set as policy and published on the department's industrial hemp webpage. After review and acceptance, the applicant will be notified to send the required application fees, and upon receipt, the license certificate will be issued.

- (5) A person interested in holding a Grower License or Processor/Handler License shall complete the department's Industrial Hemp Application Form annually, or follow an established protocol or renewal process as notified. A person interested in both a grower license and a processor/handler license must complete both license applications.

- (6) Failure to comply with any of these Rules or the provisions of the act, shall result in an automatic revocation of the license for the full remaining period of the license.
- (7) An analytical testing of THC levels greater than 0.3% shall not result in revocation of a license so long as the crop is destroyed in accordance with these rules.
- (8) Applicants shall disclose the date and location of any conviction of any criminal offense (other than misdemeanor traffic offenses) committed in any jurisdiction. Failure to comply with this requirement in a complete and truthful manner shall be grounds for denial, suspension, or revocation of a permit, as may be determined by the Industrial Hemp Committee and approved by the full board.
- (9) The following applicants shall not be granted a permit:
 - (a) Any applicants with any felony conviction in the prior 10 years
- (10) Industrial hemp business licenses. Licensees must maintain all proper state, county and local business licenses and permits and comply with all applicable zoning rules.

(B) Application for Licenses

- (1) **Growers License:** Growers in Arkansas who wish to cultivate industrial hemp shall submit to the department an application for a license to do so. The application shall include the following information for consideration:
 - (a) Type of License as set forth in Section 2. A(2);
 - (b) Full name, Arkansas residential address, telephone number and email address.
 - (c) Street address, location ID, and GPS coordinates for each field, greenhouse, building or site where industrial hemp will be grown, handled, or stored, updated annually, or as needed; If the applicant represents a business entity, the full name of the business, the principal Arkansas business location address, the full name of the applicant who will have signing authority on behalf of the entity, title, and email address of the person;
 - (d) Maps depicting each site where hemp will be grown, handled, or stored, with appropriate designations for entrances, field boundaries, and specific locations corresponding to the GPS coordinates;
 - (e) Research plan, including the proposed acreage or greenhouse/ indoor square footage to be planted;
 - (f) Intended variety name, origin, and seed or plant certifying agency for each planting. This information must conform to Section 3 of these rules;
 - (g) Intended marketable portion of the plant (seed, fiber, hurd, cannabinoids, not including THC, or certified planting seed or propagule as set forth in A.C.A. 2-15-401 et seq.); The department may limit the scope and acreage of research projects. Initial acreage may be limited to one acre or less.
 - (h) Intended market, and intended purchaser's name and address if license is of the type "Research with Intent to Market";
 - (i) Written statement of the research objective and data or observations to be collected and reported to the department. The research objective must conform to the authorized research purposes set forth in A.C.A. 2-15-401 et seq. The written statement in this section constitutes a written agreement between the license holder and the department.

- (j) Evidence of income from a farming operation and/or agricultural or research experience. Examples may include tax returns (IRS 1040 schedule F), Farm serial number, or education in agriculture, research or related field. These will be listed on the license application form & instructions published annually when the current year application forms become available.
 - (k) Intended storage location (expressed in GPS coordinates) for harvested plant parts;
 - (l) Agreement to provide access to the department and law enforcement agencies at any time for sampling or inspection in the field or storage;
 - (m) Agreement to ensure the monitoring and destruction of volunteers for three years following cultivation regardless of land lease or ownership status during that period;
 - i. It shall be the responsibility of the license holder to monitor and destroy volunteers.
 - ii. The responsibilities of the license holder in this provision may be transferred to another entity by mutual agreement in writing with both parties' signatures.
 - (n) Agreement to maintain all records, including but not limited to those for agronomics, contracts, sampling, storage, expenses, transportation and delivery, as stated in Section Seventeen (17) of these rules.
 - i. All records shall be kept within the state of Arkansas and made available for inspection on request.
 - ii. An in-state agent shall be maintained for receipt of records or receipt of services.
 - (o) Agreement to notify the department within one month if there are any changes or deviations; and
 - (p) Agreement to notify the department if there are any changes to the license holder's address within one month of a change for the duration of the license.
 - (q) Policies may be established and reviewed annually for necessary updates to address unforeseen needs. These will be published annually when the current year application forms become available.
 - (r) An applicant shall not be a participant in the Program until the conditionally approved applicant and the department have executed a Grower Licensing Agreement, which shall be signed within the industrial hemp grower application. The Grower Licensing Agreement shall set forth the terms and conditions governing participation in the Program. The terms and conditions set forth in the Agreement shall include, at a minimum, the requirements listed in the Act and in these rules for Licensed Growers and may include other requirements set as policy and published annually.
- (2) **Processor/Handler License:** The Processor/Handler License Application form shall require applicants to submit, at a minimum, the following information and documents:
- (a) Full name, Arkansas residential address, telephone number, and email address, if an email address is available;

- (b) If the applicant represents a business entity, the full name of the business, the principal Arkansas business street address, the full name of the applicant who will have signing authority on behalf of the entity, title, and email address if an email address is available, of the person;
- (c) Research plan;
- (d) Planned source of industrial hemp; and
- (e) Maps and street address, location ID, and GPS coordinates for each building or site where hemp will be processed, handled, or stored.
- (f) Agreement to maintain all records, including but not limited to those for agronomics, contracts, sampling, storage, expenses, transportation and delivery, as stated in Section Seventeen (17) of these rules.
 - i. All records shall be kept within the state of Arkansas and made available for inspection on request.
 - ii. An in-state agent shall be maintained for receipt of records or receipt of services.
- (g) Policies may be established and reviewed annually for necessary updates to address unforeseen needs. These will be published annually when the current year application forms become available.
- (h) An applicant shall not be a participant in the Program until the conditionally approved applicant and the department have executed a Processor/Handler Licensing Agreement, which shall be signed within the industrial hemp processor application. The Processor/Handler Licensing Agreement shall set forth the terms and conditions governing participation in the Program. The terms and conditions set forth in the Processor/Handler Licensing Agreement shall include, at a minimum, the requirements listed in the Act and in these rules for Licensed Processors/Handlers and may include other requirements set as policy and published annually.

(C) Criminal History Background Check

- (1) Each Licensed Grower, Processor/Handler or applicant shall undergo and pay for an annual criminal background check.
- (2) Each person who is required to undergo an annual criminal background check shall:
 - (a) Submit a criminal background check request to the Arkansas State Police or other law enforcement agency designated by the department;
 - (b) Submit payment for the background check fee directly to the Arkansas State Police or other law enforcement agency designated by the department;
 - (c) Following completion of the background check, ensure delivery of the report to the department not more than fourteen (14) days following the date the application was received by the department, directly from the Arkansas State Police or other law enforcement agency designated by the department.
 - (d) The department shall not accept a report from a criminal background check that occurred more than 60 days prior to submission of the application.
 - (e) Failure to submit the background check by the deadline stated in subsection

- (2) (c) shall be cause for denial of application.
- (f) Substitution of a signing authority shall require approval from the department and the submission of a current criminal background check (for the substitute).

SECTION 3. LAND USE RESTRICTIONS

(For Licensed Growers or Licensed Processors/handlers.)

- (A) A **Licensed Grower or Processor/Handler** shall not grow, process, or store industrial hemp in any structure that is used for residential purposes.
- (B) A **Licensed Grower or Processor/Handler** shall not grow, store or process industrial hemp in any field or site that is located within 1,000 feet of a school, daycare or similar public areas frequented by children as determined by policy on an individual case basis by the department.
- (C) An **applicant or licensed Grower or Processor/Handler** shall not include any property on their application or Site Modification Request to grow, cultivate or process industrial hemp that is not owned or completely controlled by the applicant or licensed grower.
- (D) A **Licensed Grower or Processor/Handler** shall not grow, handle, process or store industrial hemp on property owned by or leased from any person who is ineligible or was terminated, or denied admission to the program for one or both of the following reasons:
- (1) Failure to obtain an acceptable criminal background check
 - (2) Failure to comply with an order from a representative of the department.
- (E) A **Licensed Grower** shall not:
- (1) plant or grow any cannabis that is not industrial hemp.
 - (2) plant or grow industrial hemp on any site not listed in the Grower Licensing Agreement.
 - (3) handle or store leaf or floral material from industrial hemp within any structure that is used for residential purposes.
 - (4) plant industrial hemp in an outdoor growing location of less than one-quarter acre and 1,000 plants unless prior approval is received in writing from the department. Industrial Hemp shall be physically segregated from other crops unless prior approval is obtained in writing from the department.
- (F) A **Licensed Grower** is required to post signage at all field locations. The signage shall include the following information:
- (1) The Statement, "Arkansas Industrial Hemp Research Program"
 - (2) License Holder's Name and License Number;
 - (3) The department's telephone number.

SECTION 4. ADMINISTRATIVE APPEAL

(From denial of application)

- (A) An applicant wishing to appeal the department's denial or partial denial of an application shall submit a written request for a hearing postmarked within fifteen (15) days of the date of the department's notification letter or email.
- (B) An appealing applicant shall mail a hearing request letter to the Industrial Hemp

Research Program, 1 Natural Resources Drive, Little Rock, Arkansas 72205.

- (C) Appeals shall be heard by a three-person administrative panel whose members shall be designated by the Plant Board Director. The panel shall include at least one person who is a Program employee and at least one person who is not a Program employee and not involved or invested in any hemp research projects in Arkansas.
- (D) The members of the administrative panel shall not be required to accept or consider information or documents that were not compliant with application deadlines set forth in this rule.
- (E) Hearings on appeals shall be open to the public and occur at a time, date and location designated by the Plant Board Director.
- (F) An appealing applicant shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.
- (G) An appealing applicant shall be allowed up to fifteen (15) minutes to present arguments for reversing the department's denial of the application.
- (H) A representative of the department shall be allowed up to fifteen (15) minutes to present arguments for affirming the department's denial of the application.
- (I) The three members of the administrative panel shall rule on the appeal by a majority vote.

SECTION 5. APPROVED SEED FOR PLANTING

(A) (For Licensed Growers or Licensed Processors/handlers.)

- (1) Approved seed or transplants for cultivating industrial hemp in Arkansas shall be from one of the following:
 - (a) Seed or transplants produced from seed or living plant parts that meet the criteria for Breeder, Foundation, Registered, or Certified categories as defined by the Official Standards for Seed Certification in Arkansas, including certification by other AOSCA seed agencies recognized by the Arkansas Seed Certification Program. All such seed and transplants shall include a certifying tag of varietal purity issued by Arkansas Seed Certification Program or another official certifying agency as defined in these rules_ (Section 1 A. 3) or
 - (b) As allowed by the Industrial Hemp Research Program, seed or transplants produced lawfully under an industrial hemp research program within the United States provided that the seed or transplants have accompanying documentation of:
 - i. being produced by a licensed grower within the state of production, and
 - ii. have accompanying documentation that the crop from which the seed or transplants were harvested had a THC analysis of 0.3% or less by

dry weight, and

iii. the variety is listed as an approved variety published annually in the Industrial Hemp Research Program guidance policy.

iv. the variety owner's permission has been granted.

- (2) Growers or other organizations in Arkansas may produce seed or transplants for distribution or sale for cultivation, if the source is Subparagraph (a)(1) of this Rule, in subsequent years only if it is overseen and certified by the Arkansas Seed Certification Program to be true to type under Association of Official Seed Certifying Agencies' (AOSCA's) guidelines: Industrial Hemp (*Cannabis sativa* L. Subsp. *Sativa*) Certification Standards. No other seed or transplants may be produced in Arkansas for distribution or sale in Arkansas unless approved by the Industrial Hemp Research Program.
- (3) All seed or transplants produced in Arkansas for distribution or sale in Arkansas to be utilized for cultivation of industrial hemp shall include a certifying tag of varietal purity issued by the Arkansas Seed Certification Program or another official certifying agency as defined in the above Section 1: Definitions.
- (4) A business entity, including an agricultural co-operative enterprise ("co-op") or other farm aggregator ("aggregator") who contracts with one or more permitted growers, may, upon registering with the department, obtaining any required permitting from the United States Drug Enforcement Agency, and pursuant to Federal and State law, obtain bulk quantities of seed or transplants approved under this Rule for distribution to permitted growers. A permitted grower may own and plant seed or transplants obtained from such registered co-ops or aggregators, who must document quantities delivered to each named grower within 10 days of delivery.
- (B) All Industrial Hemp seed or transplants sold within or into Arkansas must be labeled as to variety or hybrid name. Labelers of seed or transplants must provide to the board breeder descriptions and variety release information including any subsequent updates/amendments to these descriptions.
- (1) For purposes of labeling, the number or other designations of hybrid industrial hemp shall be used as a variety name.
- (2) All Industrial Hemp seed for planting purposes sold within or into Arkansas is subject to the rules in the Board's Circular 10: Regulations on the Sale of Planting Seed in Arkansas.

SECTION 6. Seed/Propagule Acquisition

(A) Seed/Propagule acquisition from a source within Arkansas

- (1) No department pre-approval shall be required for a transfer of hemp seed or propagules of any variety listed on the department's published Summary of Varieties list, excluding Prohibited Varieties, between Arkansas Licensed Growers and/or Licensed Processors/Handlers within Arkansas.
- (2) A Licensed Grower or Licensed Processor/Handler shall not buy, sell, possess, or transfer hemp seeds or propagules to or from any person in Arkansas without first verifying that the person is licensed as required by these rules.

- (3) Upon request from a representative of the department, a Licensed Grower or Licensed Processor/Handler shall provide a distribution list showing locations where and to whom hemp seeds or propagules were distributed.

(B) Seed/propagule acquisition from a source in a U.S. territory, tribal land, or state other than Arkansas.

- (1) No person shall acquire seeds or propagules from a source in a U.S. territory, tribal land, or state other than Arkansas without first:
 - (a) Submitting a complete Domestic Seed/Propagule Request form and all required attachments, and
 - (b) Obtaining written approval of the Domestic Seed/Propagule Request from a representative of the department.
- (2) A Domestic Seed/Propagule Request shall not be approved unless the Licensed Grower or Processor/Handler affirms in writing that the requested seed acquisition plan will not infringe on the intellectual property rights of any person.
- (3) A person submitting a Domestic Seed/Propagule Request form shall submit to the department THC test results showing that floral material sampled from mature plants that produced the seed or propagule variety has a total_delta-9-THC content of not more than 0.3 percent on a dryweight basis from an independent third-party laboratory.
- (4) A person acquiring seeds or propagules from a source outside Arkansas shall arrange for the seeds or propagules to arrive at the department's facility at 1 Natural Resources Drive, Little Rock, Arkansas 72205 or at a location designated by the department, for inventory and distribution.
- (5) Upon request from a representative of the department, a Licensed Grower or Processor/Handler shall provide a distribution list showing locations where and to whom the hemp seeds were distributed following inventory at the department facility.

(C) Seed/propagule acquisition from a source outside the United States.

- (1) A person seeking to obtain seeds/propagules from an international source shall submit a complete International Seed Request form to the department.
 - (a) If approved, the department shall request the DEA Permit to Import under the department's DEA registration, if required.
 - (b) No person shall acquire seeds/propagules from a source outside the United States unless the department first obtains a Permit to Import from the DEA, if required.
- (2) No person shall acquire propagules or seeds from outside the United States, unless all federal and state requirements have been met and the acquisition is approved by the department.
- (3) The department shall not approve an International Seed Request form for any purpose other than seeds for planting in Arkansas. All Licensed Growers intending to plant the requested seed must be listed on the request form.
- (4) The department shall not approve an International Seed Request form unless the Licensed Grower or Processor affirms in writing that the planned activities will not

infringe on the intellectual property rights of any person.

- (5) A person submitting an International Seed Request form shall submit to the department documentation showing that mature plants that produced the seed variety have a floral material total THC content of not more than 0.3 percent on a dry weight basis.
- (6) A person acquiring seeds or propagules from a source outside the United States shall arrange for the seeds/propagules to arrive at the department's facility at 1 Natural Resources Drive, Little Rock, Arkansas 72205, or at a location designated by the department, for inventory and distribution.
- (7) Upon request from a representative of the department, a Licensed Grower or Processor/Handler shall provide a distribution list showing locations where and to whom the imported hemp seeds were distributed following inventory at the department's designated facility.

(D) Seed/Propagules of wild, landrace, or unknown origin.

- (1) No person shall acquire or grow hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the department.
- (2) Hemp or cannabis seeds or propagules of wild, landrace, or unknown origin shall not be permitted to be planted, cultivated, or replicated by any person without the department first arranging for replication and THC testing of mature plants grown from such seeds or propagules by the department or its designee.
- (3) Any Licensed Grower or Licensed Processor found to have saved seed, propagules, or cuttings, or cultivated seeds, propagules, or cuttings from a cannabis plant of wild, landrace, or unknown origin, without permission from the department may be subject to suspension or revocation of their license and forfeiture without compensation of their materials.

SECTION 7. PLANTING REPORTS

(A) Planting Reports for Outdoor Plantings.

- (1) A Licensed Grower shall submit to the department a complete and current Field Planting Report, within ten (10) days after every planting, including replanting, of seeds or propagules in an outdoor location.
- (2) Each Field Planting Report shall identify the correct variety name as designated upon approval of the acquisition request or as approved by the department, the field location ID as listed in the Grower Licensing Agreement, the planting date and the primary intended use of the harvest for each planting.
- (3) A Licensed Grower who does not plant hemp in an approved outdoor site listed in the Grower License Agreement shall submit a Field Planting Report, on or before July 31, stating that hemp has not and will not be planted at that site.

(B) Planting Reports for Indoor Plantings.

- (1) A Licensed Grower shall submit to the department a complete and current Greenhouse/Indoor Planting Report within ten (10) days after establishing plants at an indoor location.

- (2) Each Greenhouse/Indoor Planting Report shall identify the correct hemp variety name as designated in the Seed/Propagule Request form and approved by the department, the greenhouse or indoor growing location ID as listed in the Grower Licensing Agreement, the planting date and the primary intended use for the harvest of each planting.
- (3) In addition to the initial Greenhouse/Indoor Planting Report, a Licensed Grower with an approved greenhouse or indoor growing site shall submit quarterly reports for each location ID to the department. Greenhouse/Indoor Planting Reports are due no later than March 31, June 30, September 30, and December 31.

SECTION 8. SITE ACCESS

For Representatives of the department and Law Enforcement Agencies.

- (A) The department shall provide information about approved growing, handling, and storage site locations to representatives of the Arkansas State Police, DEA, and other law enforcement or cooperating agencies whose representatives request registered site information, including GPS coordinates.
- (B) Licensed Growers and Licensed Processors/Handlers shall have no reasonable expectation of privacy with respect to premises where industrial hemp seeds, plants, or materials are located, and any premises listed in the Grower or Processor/Handler Licensing Agreements.
- (C) A Licensed Grower or Licensed Processors/Handler, whether present or not, shall permit a representative of the department or a law enforcement agency to enter into premises where industrial hemp seeds, plants, or materials are located and any premises listed in the Grower or Processor/Handler Licensing Agreements with or without cause and with or without advanced notice.
- (D) A Licensed Grower or Licensed Processor/Handler shall obtain in writing from the owner of any leased or rented field or structure the owner's acknowledgement they will abide to the terms listed in Section 8. Site Access

SECTION 9. PESTICIDE USE

- (A) A Licensed Grower who uses a pesticide on hemp must be certified to apply pesticides pursuant to Federal and Arkansas laws and Board rules.
- (B) A Licensed Grower shall not use any pesticide in violation of the product label.
- (C) A Licensed Grower who uses a pesticide on a site where hemp will be planted shall comply with the longest of any planting restriction interval on the product label prior to planting the hemp.
- (D) The department shall have the authority to perform pesticide testing on a random basis or when representatives of the department have reason to believe that a

pesticide may have been applied to hemp in violation of the product label.

- (E) Hemp seeds, plants, and materials bearing pesticide residue in violation of the label shall be subject to forfeiture or destruction without compensation.

SECTION 10. LICENSED GROWER'S RESPONSIBILITY- Prior to Harvest

- (A) The department may collect samples of any industrial hemp (*Cannabis sativa* L.) material at any time.
- (B) A Licensed Grower shall submit a complete and current Harvest/Destruction Report form to the department at least 15 days (or the number of days established in the department's published guidance policy) prior to the intended harvest date or intended destruction of a failed crop.
- (C) The department's receipt of a Harvest/Destruction Report triggers a Pre-harvest sample collection by the department.
- (D) During the department's scheduled sample collection, the grower or an authorized representative shall be present at the growing site.
- (E) Representatives of the department shall be provided with complete and unrestricted access to all industrial hemp (*Cannabis sativa* L.) plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all industrial hemp (*Cannabis sativa* L.) plants; and all locations listed in the Grower Licensing Agreement.
- (F) The Licensed Grower shall harvest the crop not more than fifteen (15) days following the date of sample collection by the department, unless specifically authorized in writing by the department.
- (G) Should the Licensed Grower fail to complete harvest within fifteen (15) days, the department may order a Secondary pre-harvest sample of the plot, and the Licensed Grower shall be assessed a Secondary Pre-Harvest Sample Fee per plot in the amount specified in the section on fees prior to the department collecting the sample.
- (H) Harvested materials from Varieties of Concern shall not be commingled with other harvests without prior written permission from the department.
- (I) Floral materials harvested for phytocannabinoid extraction shall not be moved outside the state or beyond a processor, nor commingled, nor extracted, until the releases the material in writing.
- (J) A Licensed Grower who fails to submit a Harvest/Destruction Report or who does submit a Harvest/Destruction Report and proceeds to harvest a crop prior to a sample being collected by the department shall be subject to revocation of their license.

SECTION 11. SAMPLING AND ANALYSING HEMP

All plantings of industrial hemp listed in licensed Grower Applications/Agreements or products derived from industrial hemp or cannabis in possession of a Licensed Processor/Handler are subject to sampling for THC levels. The sampling method shall be per guidelines adopted by the department for collecting regulatory samples of industrial hemp. The license holder shall be responsible for the cost of all laboratory analytical services of the sample, billable to the license holder by the laboratory performing the analysis.

(A) Sample Collection:

- (1) Licensed Growers:** A number of days (determined by the department and published annually as policy) prior to harvesting or destroying any hemp plants, a participant must submit to the department a Harvest/Destruction Notification Form. The department will notify the participant of the date and approximate time when samples will be collected from the participant's plot(s) and/or greenhouse(s). The department will collect samples from each plot or greenhouse, in accordance with the department's sampling and testing procedures (published annually as guidelines/policy). The participant or a knowledgeable representative must be present for the sample collection. Samples must be collected prior to any harvest or destruction of plants within that plot or greenhouse. The department reserves the right to collect any number of samples at any time.
- (2) Licensed Processor/Handlers:** The department shall have the authority to collect and retain samples of industrial hemp and products derived from all industrial hemp in the possession of a Licensed Processor/Handler.
 - a)** If final products are any type of consumable, and are intended for human consumption the processor/handler is responsible for obtaining any required state and federal food safety permits.

- (B)** Representatives of the department collecting or transporting the samples shall have the legal right to possess industrial hemp in Arkansas for purposes of collecting the sample and transporting the sample to a laboratory for analysis. The laboratory performing the analysis shall have the legal right to possess industrial hemp, perform the analysis, and retain a portion of the sample. All samples collected by the department become the property of the department and are non-returnable. No compensation shall be owed by the department.

(C) Laboratory Testing:

The department will select samples for testing in accordance with its THC Testing Protocol (published annually as guidelines/policy). If harvesting floral material, the participant must wait for THC test results prior to co-mingling of the individual plot or variety with harvested materials from different plots or varieties, or undertaking any extraction activities.

- (1)** When possible, all testing will be conducted by the department. Other labs may be used if authorized by the department. As soon as it is available, the results of

the THC analysis shall be reported to the department and the holder of the license.

- (2) Samples with a total THC level equal to or below 0.3% THC shall require no further action and the area or harvested plant material from which the sample was obtained shall be released for marketing or further processing.
- (3) Samples with a total THC level greater than 0.3% THC shall be reported by the department to the licensee and to the board's Industrial Hemp Committee. The license holder may request a re-test of the sample. If no re-test is requested, or the re-tested sample is greater than 0.3% THC, the area represented by the sample, or any harvested plant parts from the area represented by the sample shall be subject to the following disposition:
 - (a) Industrial hemp stalks (denuded) may be harvested, processed and used for fiber and/or any other lawful purpose; or
 - (b) Industrial hemp seed may be harvested, processed, and rendered non-viable for food products, provided the source of the seed or transplants is seed or transplants produced from seed or a living plant part which meets the criteria for Breeder, Foundation, Registered, or Certified categories as defined by the Arkansas Seed Certification Program, including certification by other seed agencies recognized by AOSCA, and include a certifying tag of varietal purity issued by the department or another official certifying agency as defined in Section 1 of these rules.
- (4) If industrial hemp plant parts are harvested from a field, greenhouse, or a variety within a field or greenhouse, and are co-mingled with plant parts from another field, greenhouse, or variety within a field or greenhouse, prior to having knowledge of the results of the sample, the license holder does so at his or her own risk and with full knowledge that if an analysis of greater than 0.3% THC is returned, all co-mingled plant parts shall be destroyed.
- (5) No plants or plant parts harvested from a planting being tested shall be marketed until released by the department.
- (6) All samples become the property of the department and are non-returnable. No compensation shall be owed by the department.

SECTION 12. Restrictions on Sale or transfer

- (A) A Licensed Grower or Licensed Processor/Handler shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person in the state who does not hold a license issued by the department.
- (B) A Licensed Grower or Licensed Processor/Handler shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person outside the state of Arkansas (but within the United States) who is not authorized by a university or state department of agriculture under the authority of the Act and the laws of that state. The Licensed Grower or Licensed Processor/Handler is responsible for ensuring that such sale or transfer is lawful in other states.
- (C) The department shall permit the sale or transfer of stripped stalks, fiber, dried roots, seed oils, nonviable seeds including seed meal and seed oils for consumption as

human food or animal feed, floral and plant extracts and other marketable hemp products to members of the general public, both within and outside the state, provided that the marketable hemp product's total THC level is not more than 0.3 percent.

- (D) A Licensed Grower or Licensed Processor/Handler selling or transferring, or permitting the sale or transfer, of floral or plant extracts (including CBD), shall retain testing data or results for at least three (3) years demonstrating that the extract's total THC level is not more than 0.3 percent.
- (E) The department shall permit a Licensed Grower or Licensed Processor/Handler to transfer up to one (1) pound of hemp material per transfer to testing laboratories, both within and outside the state, for the purpose of measuring THC, CBD, or other phytocannabinoid profile levels. It is the responsibility of the Licensed Grower to ensure compliance with laws in other states.
- (F) Licensed Growers or Licensed Processor/Handlers shall comply with the federal Food Drug and Cosmetic Act and all other applicable local, state, and federal laws and rules relating to product development, product manufacturing, consumer safety, and public health.
- (G) A Licensed Grower or Licensed Processor/Handler shall not knowingly permit hemp to be sold to or used by any person involved in the manufacture of an item named on the Prohibited Products List set forth in A.C.A. 2-15-401 et seq.: Arkansas Industrial Hemp Act.
- (H) A Licensed Grower or Licensed Processor/Handler shall not:
 - (1) plant, grow, store or process hemp on any site not listed in the Grower Licensing Agreement or Processor/Handler License Agreement;
 - (2) transport live hemp plants, viable seeds, leaf materials or floral materials to unapproved locations including trade shows, county fairs, educational or other events, celebrations, ceremonies or any other address not listed in the grower or processor's current Grower Licensing Agreement or Processor/Handler License Agreement except by express written permission from the department;
 - (3) allow unsupervised public access to industrial hemp plots or plantings.

SECTION 13. REPORTING

Licensed Growers and Licensed Processor/Handlers are required to submit several reports listed in the Act and in these rules. Forms for these required reports will be provided by the department. These forms may include other requirements set as policy and published annually.

Production Reports:

- (A) Licensed participants shall report, annually by December 31st, to the department, the following information:
 - (1) Licensed Growers:
 - (a) Acreage, or greenhouse space planted, planting date, harvested date, and

varieties grown;

(b) Weight and type of plant part marketed, purchaser, and research information provided to the department or participating Arkansas Universities; and

(c) Current industrial hemp plant parts in storage and location of storage.

(2) Licensed Processors/Handlers shall report the source, total weight and type of raw industrial hemp processed, as well as the amount and composition/nature of final marketable hemp products made.

(B) Participants in the Industrial Hemp Program must submit a completed Production Report form. Grower & Processor/Handler License holders shall report annually to the department the research data or observations collected and reported in provided forms or templates from the cultivation or processing of industrial hemp as stated on the license application forms and in these rules. Failure to submit a fully complete and truthful Production Report form may result in denial to participate in future Industrial Hemp Research Programs.

SECTION 14. Fees and Services

(A) Each application shall be accompanied by a nonrefundable fee of fifty dollars (\$50.00).

(B) A license is issued for one year, for an annual fee of two hundred dollars (\$200.00).

(C) For a renewal license, the same fee schedule will apply as in Paragraph (C) of this Rule.

(D) Fees paid for a license are not refundable once the licensee takes possession of seed or transplants or if the license is revoked for any cause over the duration of the license.

(E) The initial and renewal license fees are due annually when the license applicant is notified of the acceptance of a license application and before the licensee takes possession of the seed or transplants, whichever is earlier.

(F) The license holder shall be responsible for the cost of all inspection and sampling services.

(G) The license holder shall be responsible for the cost of all laboratory analytical services.

(H) Any applicant or licensee participating in the Arkansas Seed Certification Program is responsible for all fees and rules associated with the program.

(I) The license holder shall be responsible for the cost of any other oversight required by the board. This may include site verification visits, seed/propagule verification visits,

pesticide residue testing, staff time, and program administration. A fee schedule will be established on an annual basis and published on the department's website or be available on request.

(J) Established Fees

(1) Grower Applications

- (a)** \$50 Application Fee (non-refundable)
- (b)** \$200 License Fee
- (c)** \$200 Modification Fee (per modification, max. of 3 allowed per license year)
- (d)** Applied Acreage Fee
 - i.** \$50 for less than 5 acres
 - ii.** \$100 for 5 to less than 50 acres
 - iii.** \$250 for 50 to less than 100 acres
 - iv.** \$500 for 100 to less than 200 acres
 - v.** \$1000 for greater than 200 acres
- (e)** \$100 applied Greenhouse fee (each greenhouse)
- (f)** \$100 Lab Sample Fee (per lab compliance sample)
- (g)** \$100 GPS Verification Fee for Each Location ID
- (h)** \$25 Hemp Transfer Fee (each transfer)

(2) Processor/Handler License

- (a)** \$50 Application Fee (non-refundable)
- (b)** \$200 License Fee
- (c)** \$200 Modification Fee (per modification, max. of 3 allowed per license year)
- (d)** \$100 Lab Sample Fee (per lab compliance sample)
- (e)** \$100 GPS Verification Fee, each Location ID
- (f)** \$25 Hemp Material Transfer Fee (each transfer)
- (g)** Applied Producer Fee
 - i.** \$1500 for Flower/Bud Material
 - ii.** \$500 for Fiber, Seed and Grain
 - iii.** \$500 Handler Fee

SECTION 15. License Suspension or Revocation

- (A)** The department shall notify a Licensed Grower or Processor in writing that the Licensing Agreement has been temporarily suspended if a representative of the department receives information supporting an allegation that a licensee has:
- (1)** Engaged in conduct violating a provision of this rule, the Act, or the Grower Licensing Agreement;
 - (2)** Made a false statement to a representative of the department or a law enforcement agency;
 - (3)** Been found to be growing or in possession of cannabis with a measured total THC concentration at or above 3 percent; or

- (4) Failed to comply with an order from a representative of the department or a law enforcement agency.
- (B) A person whose Licensing Agreement has been temporarily suspended shall not harvest, process, or remove cannabis from the premises where hemp or other cannabis was located at the time when the department issued its notice of temporary suspension, except as authorized in writing by a representative of the department.
- (C) As soon as possible after the notification of temporary suspension, a representative of the department shall inspect the Licensee's premises and perform an inventory of all industrial hemp, and hemp products that are in the Licensee's possession.
- (D) The department shall schedule a license revocation hearing for a date as soon as practicable after the notification of temporary suspension, but in any event not later than sixty (60) days following the notification of temporary suspension.

SECTION 16. GRANT FUNDS

- (A) If grant funds become available, an applicant must apply on forms supplied by the department. Applications will be evaluated on a competitive basis (if appropriate) by a department appointed review committee.
- (B) Records will be required to be kept, reported and made available for audits.
- (C) If it is determined any grant funds were spent inappropriately, refunds will be required.

SECTION 17. PROHIBITIONS SUMMARIZED:

The prohibitions listed below shall not invalidate any provisions of these rules through omission or repetition, but shall be a supplement thereto.

No person shall:

- (A) Sell, offer, expose, distribute or transport industrial hemp seed or transplants not produced or labeled in accordance with the provisions of the above rules or having a false or misleading labeling;
- (B) Sell, offer, expose, distribute or transport industrial hemp seed not labeled in accordance with the provisions listed in the Board's Circular 10, Regulations on the Sale of Planting Seed in Arkansas including selling seed containing prohibited noxious weeds or excessive numbers of noxious weeds;
- (C) Sell, offer, or expose for sale any industrial hemp seed labeled AOSCA "Certified Seed," "Registered Seed," or "Foundation Seed," unless it has been

produced and labeled in compliance with the rules of an officially recognized AOSCA seed-certifying agency or association;

- (D) Fail to comply with sample collection and testing requirements prior to harvesting or destroying any hemp plants, in accordance with these rules;
- (E) Detach, alter, deface, or destroy any labeling or other required documentation specified in these rules, or alter or substitute seed or transplants in a manner that may defeat the purpose of these rules;
- (F) Disseminate any false or misleading advertisement concerning industrial hemp seed or propagating material in any manner or by any means;
- (G) Hinder or obstruct in any way any authorized agent(s) of the department or law enforcement in the performance of their duties;
- (H) Fail to comply with all licensing and reporting requirements as outlined in these rules or in the Act;
- (I) Fail to keep required records including but not limited to those for agronomics, contracts, sampling, storage, expenses, transportation and delivery, and income, while the license is valid and for at least three years thereafter, or make available for inspection such records to the department or any authorized agent thereof;
- (J) Fail to keep the agreement ensuring the monitoring and destruction of hemp plant volunteers for three years following cultivation regardless of land lease or ownership status during that period.
- (K) Represent industrial hemp seeds which are indistinguishable by seed characteristics to be of a recognized variety, without having adequate information for such variety representation, such as that they were grown from AOSCA Certified seed on land free of volunteer plants that might affect the purity of the seed under consideration, and if a cross-pollinated crop, isolated so as to prevent cross-pollination, and handled in harvesting, storing and processing so that the varietal purity and quality of the seed is maintained;
- (L) Fail to comply, upon request of the department of any producer of industrial hemp seed (including hybrids), who wishes to offer their seed for sale in the state, to give the department a complete description of the characteristics of the variety or hybrid and become certified under the Arkansas Certified Seed Program.
- (M) Provide false, misleading, or incorrect information to the department pertaining to the licensee's cultivation or processing of industrial hemp by any means, including but not limited to information provided in any application form, report, record or inspection required or maintained for purposes of industrial hemp

research plots / production in these rules or in the Act;

- (N)** Plant, grow, store, transfer or process hemp on, from or to any site not listed in the Grower Licensing Agreement or Processor/Handler License Agreement;
- (O)** Sell or transfer, or permit the sale or transfer, of living plants, viable seeds, living or dried/ground leaf material, or floral material to any person in the state who does not hold a license issued by the department, or to any unauthorized person outside the state.

Attachment 4

2020 GROWING SEASON COMMENTS FROM GROWER PRODUCTION REPORTS

LICENSE #	MOST IMPORTANT THING LEARNED IN 2020:
68	WE NEED CHEMICAL WEED CONTROL AND BETTER SEED GENETICS FOR OUR CLIMATE
50	WE HAVE MADE GOOD PROGRESS IN HEMP BREEDING, OUR HEMP LINES ARE COMPETITIVE WITH IF NOT BETTER THAN COMMERCIAL CULTIVARS
209	EQUIPMENT IS VERY ESSENTIAL TO PLANTING AND HARVESTING. ROW ELEVATION IS ESSENTIAL TO CONTROLLING WATER LEVELS FOR THIS PLANT.
103	SEED TO SOIL WAS NOT AS SUCCESSFUL AS GERMINATING SEEDS TO STARTS.
254	DRAINAGE AND IRRIGATION IS VERY IMPORTANT.
55	DON'T PLANT NEXT TO OTHER CROPS THAT WILL BE TREATED WITH CHEMICALS.
91	THE IMPORTANCE OF HAVING PLANTS ON 10 INCH BEDS WITH PLASTIC. THIS PREVENTED THE LOSS OF MANY PLANTS.
251	THE DIFFICULTY IN STARTING PLANTS FOR THE FIELD.
249	WEATHER, AMOUNT OF LABOR REQUIRED AND ASSORTED PLANNED FEES MAKE IT IMPOSSIBLE FOR PROFIT IN SMALL FARMER OPERATION
98	TIMING IS EVERYTHING
225	KNOWLEDGE OF FARMING HEMP PRODUCTS, CLONE QUALITY, PARTNERSHIPS, NUTRIENTS FOR HEMP, DAILY SUPERVISION OF PLANTS AND UNCONTROLLABLE WEATHER ARE ALL KEY FACTORS IN GROWING HEMP.
239	GROWING FOR CANNABINOIDS IS VERY LABOR INTENSIVE, AND A PEST CONTROL PLAN IS A NECESSITY WHEN GROWING HEMP.
6	THE PLANT CAN BE DRIED IN OPEN AIR, JUST KEEP COVERED.
168	HAVE A GOAL AND A PLAN TO REACH THAT GOAL
3	TO MUCH MOISTURE IS NEVER GOOD
20	CANNABIS IS EXTREMELY SENSITIVE TO LIGHT & HOW TO FEMINIZE POLLEN
244	GROW IN FIELD NOT SURROUNDED BY CORN CROP
160	PLANT AFTER MAY 15, SEEDLINGS SHOULD BE 6-8" TALL BEFORE PLANTING.
205	GET A SIGNED CONTRACT PRIOR TO PLANTING AND THESE PLANT DONT LIKE STANDING WATER
193	LIGHTING GREATLY AFFECTED GROWTH AND FLOWERING OF HEMP PLANTS
188	CHOICE OF PLANTING DATE IS VERY IMPORTANT
191	I NEED A BIGGER LABOR BUDGET
27	HOW TO PLANT, CULTIVATE, HARVEST AND PROCESS CROP. ALSO IDENTIFICATION OF MALES AND FEMALES
261	SPEND THE MONEY UP FRONT, BECAUSE IT'S A LOT OF WORK TO START WITH BAD GENETICS.
240	HEMP APPEARS TO BE VERY SENSITIVE TO WEATHER CONDITIONS
267	A PERSON MUST BE DEDICATED TO THEIR CROP
16	GREENHOUSES WITHOUT SUITABLE CLIMATE CONTROLS ARE INADEQUATE TO PRODUCE CONNOISSEUR FLORAL MATERIAL.
257	ENSURING EARLY FIELD PLANTING IS KEY.
245	IT IS HARD WORK AND NO ONE KNOWS EXACTLY WHAT TO DO
201	HOW TO PROPERLY GROW HEMP
246	THE IMPORTANCE OF ADEQUATE DRYING AND STORAGE SPACE CANNOT BE STRESSED ENOUGH.

162	THE NEED TO FIND A SPRAY CHEMICAL TO CONTROL WEEDS
189	SOIL PREPARATION IS THE MOST IMPORTANT PART TO GROW HEALTHY PLANTS
105	CROP INSURANCE IS A MUST AND GROWERS NEED TO BE ABLE TO SELL FLOWER DIRECT.
233	THE IMPORTANCE OF GOOD GENETICS THAT PRODUCE A THC COMPLIANT PLANT
69	HARVESTING EARLIER IS KEY, AND IMPROVED OUR RESULTS TO PASS TESTING AND BE WITHIN THE LEGAL THRESHOLD
140	PREPARE FOR THE UNEXPECTED DURING CRITICAL MOMENTS, LIKE HARVEST, STORAGE, AND TRANSPORT.
13	PLANTS REQUIRE REGULAR IRRIGATION, SHOWN TO BE PRODUCTIVE TRANSPLANTED MID-LATE JUNE
182	THE MOST IMPORTANT THINGS I'VE LEARNED ARE TO START THE PROCESS EARLIER, TO IMPLEMENT AN INSECT CONTROL PLAN, AND TO DO MORE PRE-HARVEST PLANNING.
206	YOU WILL GET DIFFERENCES IN PRODUCTS EACH SEASON DUE TO DIFFERENT VARIABLES IN NATURE. EVEN WITH THE SAME CLONES AND PRACTICES
109	ITS NOT EASY
243	OUTSIDE ELEMENTS ARE HARD ON HEMP
157	HARVESTING A LARGE CROP IS NOT EASY.
185	HARVESTING A LARGE CROP IS NOT EASY. THEFT WAS A MAJOR PROBLEM!
186	TO MAKE IT IN THE HEMP INDUSTRY YOU MUST BE FULLY INTEGRATED, FROM SEED TO PROCESSING.
252	TAKE PROACTIVE MEASURES TO PREVENT CROP LOSS DUE TO PEST AND FLOODING
230	CONTROLLING PESTS, MAINLY CATEPILLARS, IS PROBABLY THE MOST IMPORTANT PART OF PREVENTING FLOWER MOLD.
226	HEMP IS LABOR INTENSIVE AND THERE IS MORE TO IT THAN GROWING A CROP AND JUST SELLING IT.
75	MAKE SURE PLANTS ARE ON A GOOD BED
237	USE PREVENTATIVES TO COMBAT PESTS
66	PRODUCED OUR OWN CLONES TO SAVE PRODUCTION COSTS
220	EVERYONE IN THE STATE WILL EXPERIENCE CATERPILLARS AND SIGNIFICANT CROP LOSS IF NOT PREPARED.
8	UNSTABLE INDUSTRY DUE TO LEGISLATION
242	IT'S ALOT OF WORK AND A LOT OF CATERPILLARS!
155	CLONES ARE NOT ADOPTED TO THE LOCAL CLIMATE
15	DO NOT PLANT ON JULY 2
30	TO MAKE SURE YOU GET GOOD SEEDS AND A PROCESSOR THAT WILL KEEP THE AGREEMENT.
45	I'M STILL TRIMMING, BUY A TRIMMER
82	PRICES ARE TERRIBLE FOR BIOMASS. ITS NOT WORTH FARMER'S TIME TO GROW FOR BIOMASS AT ALL. IT COSTS MORE TO PROCESS THAN WORTH.
238	NEED TO HARVEST A LITTLE SOONER
265	IT WAS A DIFFERENT PROCESS PLANTING AND HARVESTING
25	TIMING IS CRITICAL
234	I LEARNED THAT A HEMP CROP TAKES A LOT OF CARE AND SUPERVISION
70	Proper time, depth planted, and soil temperature are key. Proper planting time, seed depth, and weather are key factors for plant growth, along with necessary harvest and drying equipment.

54	THAT IT WAS NOT NEEDED BECAUSE OF LEFTOVER INVENTORY FROM 2019
34	PEST CONTROL
258	Need to invest in a good watering system and develop a smart (soil/ nutrient) plan.
247	WE NEED FASTER TESTING FROM THE STATE AND THE ABILITY TO SELL AL
170	ROME WAS NOT BUILT IN A DAY; NOT EVERYTHING IS AS IT APPEARS; A BALANCED HARMONIOUS BIOSPHERE TAKES FEW OTHER INPUTS; GROWING SKILL REPRESENTS ABOUT 25% OF THE OVER ALL ABILITY NEEDED TO SEE REMUNERIZATION; HARVESTING, DRYING, TRIMMING IS WHERE THE HOURS ARE SPENT.
89	PIGWEEED EASILY DOMINATES THE FIBER STRAIN AT GERMINATION. FIBER MAY BE IMPOSSIBLE FOR US.
149	ATTACK PESTS WITH PREVENTIVE METHODS SUCH AS GOOD BUGS & NEMATODES
196	IRRIGATION REQUIREMENT AND PROCESS
204	TOO MUCH WATER WILL STUNT PLANT.
23	DEVELOP A HEALTHY BIOME FOR STRONG, HEALTHY PLANTS
148	THE RULES AND LAWS ON SELLING FLOWER MATERIAL AFTER HARVEST MAKE IT HARD TO SELL IT IN ARKANSAS.
122	DRYING, CURING AND SALES ARE PROBLEMS
263	DON'T LET YOUR THC LEVEL GET TO HIGH
235	IT'S NOT YET PROFITABLE
241	THE DIRT HAS TO BE LOOSE! WE LOST PLANTS TO PACKED SOIL AND WORMS.
31	IT IS NOT FINANCIALLY FEASIBLE

2020 GROWING SEASON COMMENTS FROM GROWER PRODUCTION REPORTS

LICENSE #	COMMENTS/FEEDBACK FOR PROGRAM IMPROVEMENT IN 2020:
68	WITHOUT BETTER SEED, CHEMICALS, AND CROP INSURANCE, INDUSTRIAL HEMP DOESN'T WORK FOR US
50	IT WILL BE HELPFUL AND VALUABLE TO PROVIDE THE GROWERS MORE TECHNICAL SUPPORTS (SEED, CULTIVATION, MARKETING, ETC.)
209	GREAT PROGRAM. I JUST NEEDED MORE EXPERIENCE WITH FARMING THIS CROP. THE ATTENTION GIVEN TO THIS PLANT IS CONSUMING.
91	VERY GOOD COMMUNICATION FROM DEPT OF AG TO THE PROGRAM PARTICIPANTS DURING THE COVID PANDEMIC ISSUES.
251	GREATLY APPRECIATE THOSE WHO WORK WITH THE PROGRAM AND THEIR HELP.
249	SIMPLIFICATION OF RULES AND REGULATIONS
98	DESTRUCTION REPORTS SHOULD BE REPORTED AT THE END OF THE SEASON INSTEAD OF DAILY WASTE REPORTS.
225	THE COMMUNICATION FROM ADA HEMP DIVISOIN VIA TEXT AND PHONE WAS A GREAT BENEFIT AND STAYING CURRENT WITH PAPERWORK.
6	A BIGGER NUMBER FOR PERCENT THC, LIKE 1.0%
168	IT WOULD BE GREAT & PROVIDE PROFITS IF FARMERS COULD SELL RAW FLOWER TO LIC RETAIL OUTLETS
244	N/A
160	NO COMMENTS AT THIS TIME
205	RENEW LICENSE AT THE BEGINNING OF THE YEAR
188	EDUCATE LOCAL FSA OFFICE ON CORRECT QUESTIONS FOR INSURANCE. EDUCATE HEMP GROWERS ON DATES REQUIRED TO PURCHASE CROP INSURANCE.
191	SELL FLOWER IN STATE RETAIL
27	WE DO NEED THE LAWS & RULES CHANGED ASAP SO WE CAN ACTUALLY SELL OUR CROP IN STATE. (THIS IS WHY I STILL HAVE PRODUCT)
261	WE NEED THE IMPLEMENTS TO PLANT AND HARVEST, ALONG WITH A FIBER FACILITY. EVERYONE WAS GREAT TO WORK WITH AND EASY TO PROCESS. THANK YOU CALEB AND JASON ROBERTSON.
240	THE PROGRAM WAS USER FRIENDLY TO WORK WITHIN.
267	N/A
16	ALLOW SALE OF FLORAL MATERIAL TO PUBLIC AND INDOOR GROWING.
201	NONE AT THIS TIME, GREAT PROGRAM
246	A MORE EXPEDITIOUS TURNAROUND TIME ON LAB RESULTS FOR THC LEVELS WOULD BE NICE.
189	EXPEDITED TEST RESULTS NEAR HARVEST TIME IS CRUCIAL
105	I BELIEVE GROWERS NEED TO BE ABLE TO SELL DIRECT TO CONSUMER.
233	IN MY OPINION THE ADA HAS DONE A FANTASTIC JOB MANAGING SUCH A NEW PROGRAM
69	THIS YEAR SEEMED MORE STREAMLINED AND THE TESTING TURN AROUND WAS MORE EFFICIENT.
140	ASSESS OTHER STATE'S PROGRAMS AND BUILD SIMILAR TO THE SIMPLER ONES.
13	PLEASE PROVIDE ARKANSAS INFO ABOUT VARIETIES GROWN IN AR (YIELDS, THC RESULTS, CBD RESULTS)

206	OTHER THAN BEING ABLE TO SELL FLOWER EASIER IN THE STATE; NO. THE PEOPLE I HAVE WORKED WITH HAVE DONE A GREAT JOB.
109	OPEN ARKANSAS TO FLOWER SALES FROM LOCAL GROWERS
157	CALEB AND DANA DID A GREAT JOB WITH THE PROGRAM THIS YEAR!
185	CALEB AND DANA DID A GREAT JOB WITH THE PROGRAM THIS YEAR!
252	WE FOUND THE HEMP GROWER ORIENTATION POWERPOINT TO BE A VERY HELPFUL RESOURCE THROUGHOUT THE GROWING SEASON. ANY INFORMATIONAL RESOURCES WOULD BE HELPFUL AND APPRECIATED
230	ALLOWING ARKANSANS THE ABILITY TO SELL FLORAL PRODUCTS WITHIN THE STATE OR EVEN SELL ONLINE RETAIL FROM ARKANSAS WOULD HELP THE INDUSTRY.
226	FOR OUR FIRST YEAR OF GROWING WE LEARNED ALOT OF WHAT NOT TO DO AND WAS GLAD THE GUIDELINES WERE THERE FOR US TO WORK BY. THIS FORM WITH EXPLANATION AREA WOULD BE HELPFUL AFTER EACH YES OR NO QUESTION, BEING STILL IN PROGRESS OF MUCH OF THIS VERY HARD TO CHECK.
75	CAREFUL WITH FEES, CROP IS EXPENSIVE AND HAS NEGATIVE MARGINS.
237	A REALISTIC THC THRESHOLD WOULD BE BE NO LESS THAN 1% THC-A. RESTRICTIVE MEASURES LIMIT RESEARCH CAPACITY WITHIN STRAIN/REGION R & D
66	YOUR SLIDESHOW PROVIDES A GREAT GUIDE FOR US PRODUCERS. CUT AS MUCH REPORTING AS POSSIBLE. FARMERS NEED TO FOCUS PRODUCTING HEMP
220	THE ABILITY TO SELL FLOWER IN STATE WOULD BRING 100X MORE REVENUE TO THE STATE.
8	THE ABILITY TO MOVE "HOT" HEMP CROP MATERIAL OVER TO THE MEDICAL MARIJUANA INDUSTRY IS NEEDED. TOO MANY FARMERS ARE DESTROYING CROPS DUE TO HIGHER THAN ALLOWED THC LEVELS.
59	PLEASE ALLOW GROWERS TO SELL HEMP FLOWER TO PUBLIC
45	LET GROWERS BE ABLE TO PROCESS IF THEY CHOOSE.
238	ADA NEEDS TO UP THE THC TOLERANCE TO AT LEAST .5%
265	PLEASE PROVIDE MORE HELP AND INFORMATION
234	THAT I KNOW CERTAIN THINGS AHEAD OF TIME
70	1) Eliminate "Hemp" as a "licensed crop" since it is no longer a "schedule 1 drug". 2) Raise THC limit to at least 1% as other States are doing to help the Farmer 3) Allow for THC remediation, stopping the destruction of a "Hot" crop..
54	Remove the restrictions on selling dried flower, once tested to be within thc limits then it enters into commerce stream.
258	I think you all are doing a good job. Some rules & restrictions make it hard to be a success
170	ASK THE QUESTION, "HOW CAN WE AS CIVIL SERVANTS HELP YOU TO REACH YOUR GOALS."
89	WE ARE GRATEFUL FOR CALEB ALLEN, NEVER HAVE HAD ANY ISSUES WITH HELPFUL SERVICE FROM ASPB.
149	WAIT TIME FOR PLANT BOARD THC RESULTS WERE QUICKER THIS YEAR
23	WE ARE TOTALLY SATISFIED WITH THE PROGRAM AND PERSONNEL
148	NEED TO IMPROVE THE RULES ON SELLING AFTER HARVEST PRODUCT.
235	COST OUT WEIGHS PROFIT

2021 GROWING SEASON COMMENTS FROM GROWER PRODUCTION REPORTS

LICENSE #	MOST IMPORTANT THING LEARNED IN 2021:
H69	THE UNIVERSITY OF ARKANSAS IS ABLE TO PROVIDE SOIL AND PLANTS FREE OF CHARGE TO FARMERS, THAT THEN WILL BE DESTROYED
H241	OUTDOOR IS VERY CHALLENGING IN ARKANSAS. WORMS LATE SEASON WAS A KILLER FOR US
H246	PLANNING, PLANNING, AND MORE PLANNING. EXPECT THE UNEXPECTED AND MURPHY'S LAW IS ALWAYS IN EFFECT, WHAT CAN GO WRONG, WILL.
H253	DON'T GROW AGAIN
H277	SOIL PREPARATION IS KEY.
H4	PRAY FOR RAIN AFTER PLANTING, TIMING OF FIELD PREP
H211	WE PLANTED LATE AND SEASON TO MISS BUGS AND HEAT, WORKED GREAT.
H274	ARKANSAS LEGISLATORS REALLY DON'T WANT CANNABIS TO BE GROWN BY THE AVERAGE (PERSON)
H237	SOIL HEALTH
H168	FULLY RESEARCH YOUR GENTICS TO FIND THE BEST STRAIN FOR YOUR REGION
H149	THAT .02% IS ALL THAT STOOD BETWEEN OUR FAILURE AND SUCCESS
H225	CONSTANT DAILY ATTENTION ALONG WITH ADEQUATE WATER SUPPLIES A MUST TO PROMOTE HEMP PRODUCTION
H182	FIND A WAY TO REDUCE THE NEED FOR LABOR. THE LABOR FORCE IN OUR AREA IS NOT WILLING TO WORK.
H15	THC IS TOO STRINGENT
H280	START EARLY TO AVOID HEAT AND DECREASE PEST PRESSURES OR WATER LOSS SHOCK WHICH INCREASES THC
H258	YOU HAVE TO LOVE GROWING HEMP OR IT IS NOT WORTH THE INCREDIBLE MENTAL AND PHYSICAL STRESS
H50	A YEAR-END REPORT WILL BE PROVIDED TO ASPB SUMMARIZING RESEARCH RESULTS
H182	I WOULD BEGIN TESTING AND IMPLEMENTING PEST MANAGEMENT EARLIER
H238	TESTING BY PRIVATE VS GOVERNMENT DOESN'T MATCH, AND IT'S A LONG WINDING ROAD TO ANY PAYCHECK
H247	NEED TO FIND BETTER GENETICS AND CONSISTENT BUYERS
H6	MONITOR CANNABINOID LEVELS DURING GROWTH PERIOD.
H226	TESTING WITH LAB USING SAME PROCESS AS STATE LAB.
H3	MARKET HAS CRASHED UNTIL WE HAVE SOME HELP FROM THE FDA TO GET THIS INTO THE FOOD SOURCE, IT GOING TO BE A LONG ROAD
H286	WE LEARNED HOW TO SPEED UP PLANTING AND LOWER PLANTING COST
H13	QUALITY PRODUCTION REQUIRES CONSTANT ATTENTION, LOTS OF WATER, LATE SEASON FERTILITY AND GOOD GENETICS.
H122	EVERY YEAR IS DIFFERENT
H170	PRUNING/SELECTIVE HARVEST DOUBLED PRODUCTION YIELD
H23	SETTING OUT SMALL PLANTS AFTER SOIL WARMS IS BETTER

2021 GROWING SEASON COMMENTS FROM GROWER PRODUCTION REPORTS

LICENSE #	COMMENTS/FEEDBACK FOR PROGRAM IMPROVEMENT IN 2021:
H69	AS A FARMER IT IS A STRUGGLE TO SETUP INFRASTRUCTURE TO GROW, AND BETTER COMMUNICATION TO FARMERS AS TO AVAILABLE RESOURCES IN ARKANSAS TO BETTER SET US UP FOR SUCCESS IS INVALUABLE
H246	ALIGNMENT WITH THE FED FARM BILL WOULD DEFINETLY HELP, ALSO SOME KNOWLEDGE OF THE PLANT FROM THE INSPECTORS AND EMPLOYEES OF THE HEMP PROGRAM WOULD HELP FARMERS AS WELL, IF AN INSPECTOR OR ANY EMPLOYEE OF THE PLANT BOARD CANNOT ANSWER GENERIC QUESTIONS ABOUT GROWING OR HOW THE PLANT GROWS THEN THEY SHOULD BE IN A DIFFERENT DEPARTMENT AND NOT INVOLVED WITH THE HEMP PROGRAM, WE NEED EDUCATED EMPLOYESS THAT KNOW THE PLANT AS WELL OR BETTER THAN US FARMERS
H274	REALLY LOVE THIS PLANT, BUT WILL NOT BE PUTTING MUCH EFFORT UNTIL REGULATIONS CHANGE...I REALLY LIKE AG DEP. THOUGH VERY HELPFUL!
H237	ALLOWING DISTRIBUTION OF HEMP FROM FARM TO TABLE
H168	MAKE IT EASIER FOR THE GROWERS TO SELL THEIR PRODUCT.
H149	EXCELLENT JOB BY THE PLANT BOARD. STATE REGS NEED TO BE AMENDED SO WE CAN GROW THE PLANTS TO MATURITY & SELL IN AR.
H225	PROGRAM SHOULD HAVE A BUY BACK HEMP PROGRAMS IN PLACE TO PROMOTE CONTINUED INTEREST IN HEMP GROWING
H182	CALEB AND DANA DO A GREAT JOB. JUST NEED TO IMPLEMENT THE 30-DAY HARVEST WINDOW BEFORE NEXT SEASON.
H280	LICENSES SHOULD BE FROM JAN 1 TO DEC 31 FOR NEW GROWERS. STARTING IN JULY IS TOO LATE TO MAKE FEASIBLE
H258	NEED MORE CONSISTENT & FAIR RULES (FEES) TO FOCUS ON HELPING THE AR HEMP FARMERS THAT ARE LEFT HAVE LONGTERM FINANCIAL SUCCESS
H238	GROWERS SHOULD BE ABLE TO BLEND PRODUCTS THAT ARE HIGH IN THC UNTIL IT PASSES, NOT DESTROY
H6	HELP ESTABLISH A LEGITIMATE MARKET FOR GROWERS.
H226	CROP WILL BE DESTROYED -- ABOVE ACCEPTABLE THC LEVEL
H3	ARKANSAS PROGRAM IS 100% TOP NOTCH
H13	THANK YOU FOR THE EMAIL REMINDER ABOUT SUBMITTING PROGRAM FORMS
H170	PETITION LAW MAKERS TO ALLOW SALES TO ARKANSAS DISPENSARIES
H23	YOUR ADMINISTRATION IS FINE. I JUST NEED TO BE ABLE TO SELL FLOWER IN ARKANSAS.

Minutes for Pest Control Committee Meeting
February 17, 2022
Little Rock, Arkansas

Committee Members Present:

Mark Hopper, Arkansas Pest Management Association (Committee Chair)
Bruce Alford, Forage in Lafayette County
Darrell Hess, Fertilizer Association
Travis Senter, Farmers of Arkansas
Mark Hartz, Arkansas Agriculture Aviation Association
David Gammill, Gammill Farms
Matthew Marsh, Arkansas Rice Growers (Ex-Officio Committee Member)

Other Board Members Present by Zoom:

Dr. Ken Korth, University of Arkansas
Marty Eaton, Arkansas Seed Dealers Association
Dr. Nathan Slanton, University of Arkansas
Sam Stucky, Arkansas Cotton Growers

Others present in person:

Scott Bray, Arkansas Department of Agriculture Staff
Wade Hodge, Arkansas Department of Agriculture Staff
Mark Stoll, Arkansas Department of Agriculture Staff
Linda Luebke, Arkansas Department of Agriculture Staff
Seth Dunlap, Arkansas Department of Agriculture Staff
Michael Bynum, Arkansas Department of Agriculture Staff
Dwight Reynolds, Arkansas Pest Management Association
Sarah Cato, Arkansas Department of Agriculture Staff
Jeffery Powell, Arkansas Department of Agriculture Staff
Ashleigh Buono, Arkansas Department of Agriculture Staff

Meeting was called to order by Mr. Mark Hopper at 9:45 AM. Committee members and guests introduced themselves. Those present on call and in person are presented with the following:

1. Resolution of Pest Control Incident (**Attachment 1**)
2. Resolution of Pest Control Incident (**Attachment 2**)
3. Resolution of Pest Control Incident (**Attachment 3**)
4. Resolution of Pest Control Incident (**Attachment 4**)

Mr. Seth Dunlap gave a summary of the Resolution Agreement for Case File #21.091 (See **Attachment 1**). The incident occurred on March 8th, 2021.

Minutes for Pest Control Committee Meeting
February 17, 2022
Little Rock, Arkansas

Mr. Dunlap gave background on why the fines are broken up and given separately to the company (Ultra Green) and the license holder (Mr. Caleb Ault) and why the amount is set at Major Level fine. He states that it's based on the regulations we have from past history of having unregistered operators performing pest control work. It is automatically set at the third (Major) level violation.

Mr. Mark Hopper spoke next and questioned whether both parties have agreed to the informal resolutions or not. Mr. Dunlap confirms that they have both agreed and signed the Resolution (See **Attachment 1**) with their signatures on the bottom of the last page, signed by both Caleb Ault and Scott Bray. Mr. Hopper confirmed that the board needs to vote in order to make the Resolution official or not. Mr. Dunlap confirmed.

Mr. Darrell Hess brought up a question about Caleb Ault owning Ultra Green and if so, why is he being fined separately as the license holder. Mr. Dunlap explains that the license holder does not have to be a licensed operator. In this case, Mr. Ault is a licensed operator and responsible for the unlicensed agent, but he is also listed as the license holder for the company. The company and the operator are being fined separately due to shared responsibility.

Mr. Hopper asked the room for any other questions before motioning. Travis Senter raised a question about how many inspectors Pest Control has out in the field. Mr. Dunlap informed him of the five inspectors currently under The Pest Control Program. Mr. Hopper questioned whether this sort of incident is usually reported or if an inspector randomly drove by. Mr. Dunlap informs them that this was a routine inspection where the inspectors saw the agent(s) out possibly performing an inconsistent pest control service according to the label directions, prompting the inspector to stop and request information.

Mr. Hopper initiated the motion to approve this resolution and forward it to the plant board. Mr. Bruce Alford seconded the motion as do several others. Mr. Hopper asks if there is anything further to discuss. Nothing further discussed. Everyone is in favor of the motion, there are no opposed.

The committee moves on to the second incident.

Mr. Seth Dunlap gave a summary of the Resolution Agreement for Case File #22.015 (See **Attachment 2**). The incident occurred on August 2nd, 2021, at 11:10 AM.

Mr. Hopper asked for questions before motioning to agree to the resolution before forwarding it to the plant board. Mr. Alford seconded the motion. Everyone is in favor of the motion, there are not oppositions.

The committee moved on to the third incident.

Mr. Seth Dunlap gave a summary of the Resolution Agreement for Case File #22.056 (See attachment 3). The incident occurred on October 27th, 2021.

Minutes for Pest Control Committee Meeting
February 17, 2022
Little Rock, Arkansas

Mr. Bruce Alford questioned whether the respondent Mark Jones gets to keep his spraying license. Mr. Dunlap explained that the employee (Agent) that actively deceived the customer was acting on his own and the company (Terminix) was allegedly unaware of his activities. Once Terminix became aware of the issue, the respondent agent was fired immediately. Mr. Dunlap informed the committee that the supervisor (Operator) is still with the company and holds a valid license. Mr. Alford questioned whether the operator is still able to keep his license, since he was unaware of the agent's activities. Mr. Dunlap stated there wasn't any evidence to support the operator knew of the activities, so he is able to keep his license.

Mr. Michael Bynum asked for clarity on who was terminated and if he had to pay a portion of the fines or not. Mr. Dunlap confirmed that it was Mark Jones (Agent) and that the fines are jointly shared amongst the respondents since they are all responsible. Mr. Mark Hopper clarifies the responsibility shared by all the respondents. Mr. Bynum questioned if the Agent would be able to go work for a different company. Mr. Dunlap confirms that it would be possible for him to go work for a different company and gain a license under them.

Mr. Gammill asked if there are any precautions we put in place to prevent him from getting licensed again. Mr. Scott Bray jumped in and explained that the respondent was a registered agent technician, working under a licensed operator, which makes his license only valid under a company. Mr. Bray explained the process of him potentially getting another agent license under a different company. The new company would have to register him. Mr. Bray defers to Mr. Wade Hodge.

Mr. Hodge stated that they can present the denial to the board and that it would be similar to denying a license to an operator. Mr. Travis Senter questioned if there are records kept on agent and operators' offenses that need to be flagged for the possibility that Mark Jones may apply again and how we would know if it's the real one or not. Mr. Bray informed the committee that we keep information on all agents and operators for each company and that we test them in person.

Mr. Dwight Reynolds with Terminix International spoke up and explained that this situation was a one-time offense for person gain. He informed the committee that when they found out about the offense the agent was suspended immediately before an internal investigation commenced. He stated that he sends a list of inactive employees (Agent and Operators) every month to the ADA employee over Pest Control Licensing, Ashleigh Buono, with the respondent agent's name listed that month.

Mr. Senter asked Mr. Reynolds how many years the agent was employed. Mr. Reynolds estimated about four years in total.

Mr. Hopper motioned to accept the resolution as it's been presented. Mr. Bruce Alford seconded. Everyone is in favor of the motion, there are no opposed.

Mr. Hopper asked if there's any other business to be discussed.

Minutes for Pest Control Committee Meeting
February 17, 2022
Little Rock, Arkansas

Mr. Dunlap brought up Mr. Scott Bray's new business on Resolution of Pest Control Incident Case #18.197 (See **Attachment 4**).

Mr. Bray gave the summary and background on the unpaid fines for the case to determine whether this should be settled with the board for \$6,000 instead of the original \$26,600 fine. Mr. Wade Hodge added that the negotiated settlement will be \$6,650 through the same formula the board approved for pesticide cases in the past. Mr. Mark Hopper asked if the respondent held up his end of the deal and made sure the termite contracts he illegally acquired were given to legally licensed operators/companies. Mr. Hodge directs the questions to Mr. Dunlap and Mr. Bray who stated that he did not find operators/companies to take over those contracts.

Mr. Hopper asked for confirmation that Mr. Garrett Shoup no longer holds a valid pest control license. Mr. Dunlap confirmed this fact.

Mr. Bray questioned Mr. Dunlap about filing on his \$100,000 bond in order to pay out as much of the contracts as possible. Mr. Dunlap confirmed that he reached out to the contracts they could find and resolved them until the bond was used fully.

Mr. Hopper asked if the respondent could apply for another license in Arkansas and Mr. Hodge stated that he can, but it would be a board decision if he could gain licensing again.

Mr. Bruce Alford spoke up and asked if they knew how many people he was able to get under a false contract. Mr. Dunlap stated that they do not know the full extent of the contracts given, but that due to a domestic disagreement, they were able to obtain quite a lot of information on the contracts through Mr. Shoup's then girlfriend. Mr. Hodge stated that they knew of about 25 customers, but Mr. Dunlap stated that there is a possibility that there could be more, but no further complaints have been received.

Mr. Bray concluded the actions taken against the case and that it's been quiet, that possible contracts that haven't been found have moved on. Mr. Hodge explained that the board will need to approve or deny the settlement agreement and the payment arrangements, also when the paid in full date will be set.

Mr. Hopper initiated the motion to approve this resolution and forward it to the plant board. Mr. Bruce Alford 2nds the motion as do several others. Mr. Hopper asks if there is anything further to discuss. Nothing further discussed. Everyone is in favor of the motion, there are no opposed. The meeting is adjured.

_____ Date: _____
Mark Hopper, Pest Control Committee Chairman



Asa Hutchinson
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

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



Wes Ward
Secretary of Agriculture

IN THE MATTER OF:
Ultra Green and Mr. Caleb Ault

RESOLUTION OF PEST CONTROL INCIDENT

This resolution of a pest control incident is entered into by the Arkansas Department of Agriculture (Department) and Ultra Green and Caleb Ault (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 Ultra Green employs and is owned by Respondent Caleb Ault.
2. Respondent Caleb Ault is the only Licensed Operator for Respondent Ultra Green.
3. On March 8, 2021, Respondent Ultra Green was found to have an unregistered Agent performing a pest control service without being under the direct supervision of a qualified trainer. The Department inspector observed Respondent Ultra Green's employee Ruben Zendejas applying an herbicide to kill weeds in a yard of a residential property located in Bryant, Arkansas.
4. Arkansas Pest Control Law states in part the following,

"17-37-102. Definitions.

...(13) "Pest control service" means any person who, for compensation, gives advice or engages in work to prevent, control, or repel arthropods, mammals, birds, reptiles, or wood-damaging or wood-destroying organisms that may invade or infest homes, other buildings, or similar structures and shall include arthropods, mammals, birds, reptiles, weeds, and plant diseases that may invade, infest, or infect shade trees, shrubs, lawns, turf, and pecan groves. This term shall also include any person who issues letters of clearance, or who shall solicit such work in any manner, but the term shall not be construed to include agricultural crops from planting to harvest other than those mentioned above;

17-37-213. Agents and solicitors generally.

(a) Each licensed operator shall register with the board the name and address of each agent or solicitor and shall pay to the board a registration fee annually for each solicitor and agent, at the time of registration..."

5. Respondent Ultra Green's employee Rueben Zendejas was found to not be wearing the minimum personal protective equipment required by the pesticide product label while he was applying Specticle Flo (EPA Reg. No. 432-1608) and MSM Turf (EPA Reg. No. 53883-430) to a property located in Bryant, Arkansas on March 8, 2021, at the time of investigation by a Department inspector. Respondent Ultra Green's employee Ruben Zendejas was observed by the Department inspector making an application of Specticle Flo and in a short sleeve t-shirt to a property in Bryant. The clothing that he was wearing at the time of the application does not meet the minimum requirements of the product labels. This occurred at the same time and location as Item # 3 of the Findings of Fact.

6. The product label of Specticle Flo states in part the following:

“PRECAUTIONARY STATEMENTS PERSONAL PROTECTIVE EQUIPMENT (PPE) Applicators and other handlers must wear long-sleeved shirt and long pants, and shoes plus socks. 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

DIRECTIONS FOR USE It is a violation of Federal Law to use this product in a manner inconsistent with its labeling. Read entire label before using this product. Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.”

7. The product label for MSM Turf states in part the following:

“PERSONAL PROTECTIVE EQUIPMENT (PPE) Some materials that are chemical-resistant to this product are listed below. If you want more options, follow the instructions for category A on an EPA chemical-resistance category selection chart. Applicators and other handlers must wear: • Long-sleeved shirt and long pants • Shoes and socks • Chemical-resistant gloves category A such as butyl rubber, natural rubber, neoprene rubber, or nitrile rubber Follow manufacturer's instructions for cleaning/ maintaining PPE. If no such instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

DIRECTIONS FOR USE It is a violation of Federal law to use this product in a manner inconsistent with its labeling. READ ENTIRE LABEL BEFORE USING THIS PRODUCT. USE STRICTLY IN ACCORDANCE WITH LABEL PRECAUTIONARY STATEMENTS AND DIRECTIONS. Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application.”

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 # 9 Major (Failure of licensee to register agents or solicitors), Respondents shall pay a civil penalty in the amount of \$1,400.00 (\$700.00 for Respondent Ultra Green and \$700.00 for Respondent Caleb Ault) to which Respondents shall be jointly and severally liable for payment..
2. Pursuant to the provisions of the ASPB Pest Control Enforcement Response Regulations, Penalty Matrix Violation # 2. Major (Pesticide recommendations or applications inconsistent with labeling) Respondents shall pay a civil penalty of \$600.00 (\$300.00 for Respondent Ultra Green and \$300.00 for Respondent Caleb Ault), which Respondents shall be jointly and severally liable for payment.
3. Respondents acknowledge and agree that subsequent like violations of the Pest Control Law within three years of March 8, 2021 will be enforced at the next levels 2nd and 4th of the ASPB Enforcement Response Policy Penalty Matrix and will be subject to penalties as allowed for in Ark. Code Ann. § 17-37-103.
4. Respondents shall remit payment to the Department the above amount no later than forty-five (45) days after the acceptance and approval of this agreement by the Plant Board.
5. 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**

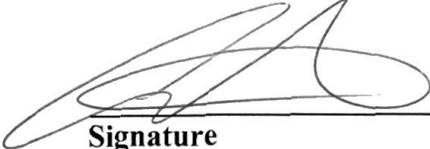
Scott Bray

Signature

4/2/21

Date

**Caleb Ault, Individually and as
Representative of Ultra Green**



Signature

4/1/2021

Date



Asa Hutchinson
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

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



Wes Ward
Secretary of Agriculture

IN THE MATTER OF:

Service Lawn & Shrub Care, Inc., and Brian Dodd

RESOLUTION OF PEST CONTROL INCIDENT

This resolution of a pest control incident is entered into by the Arkansas Department of Agriculture (Department) and Service Lawn & Shrub Care, Inc., and Mr. Brian Dodd (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 Service Lawn & Shrub Care, Inc., employs and is owned by Respondent Brian Dodd.
2. Respondent Brian Dodd is the only Licensed Operator for Respondent Service Lawn & Shrub Care, Inc.
3. On August 2, 2021, the Department's inspector observed a Service Lawn & Shrub Care, Inc. vehicle with an employee making what appeared to be a pesticide application to a residential property in Sherwood, Arkansas.
4. Respondent Service Lawn & Shrub Care Inc's employee Thomas Blackwell, a Registered Agent, was found to not be wearing the minimum personal protective equipment required by the pesticide product label while he was applying Dismiss NXT (EPA Reg. No. 279-3383) to a property located in Sherwood, Arkansas on August 2, 2021, at the time of investigation by the Department's inspector. Respondent Service Lawn & Shrub employee Thomas Blackwell was observed by the Department's inspector making an application of Dismiss NXT, in a short sleeve t-shirt and shorts, to a property in Sherwood. The clothing that he was wearing at the time of the application does not meet the minimum requirements of the product label.
5. The product label of Dismiss NXT states in part the following:

“Personal Protective Equipment (PPE)

Applicators and other handlers must wear long-sleeved shirt and long pants, waterproof gloves, and shoes plus socks.

DIRECTIONS FOR USE

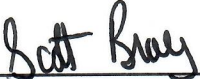
It is a violation of Federal Law to use this product in a manner inconsistent with its labeling. Do not apply this product through any type of irrigation system. Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your state or tribe, consult the agency responsible for pesticide regulation.”

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 inconsistent with labeling) Respondents shall pay a civil penalty of \$300.00, 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 August 2, 2021, will be enforced at the next level 2nd 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 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**



Signature 9-10-21

Date

**Brian Dodd, Individually and as
Representative of Service Lawn &
Shrub Care, Inc.**



Signature
September 10, 2021

Date



Asa Hutchinson
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

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



Wes Ward
Secretary of Agriculture

IN THE MATTER OF:

Terminix International, David Ackley and Mark Jones

RESOLUTION OF PEST CONTROL INCIDENT

This resolution of a pest control incident is entered into by the Arkansas Department of Agriculture (Department) and Terminix International, David Ackley and Mark Jones (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 Terminix International, employs Respondents David Ackley and previously employed Mark Jones.
2. Respondent Terminix International is represented by Dwight Reynolds a Licensed Operator and the License Holder Representative for Respondent Terminix International.
3. Respondent David Ackley holds a Classification 1 Termite and Other Structural Pest Control License and was the immediate supervisor for Respondent Mark Jones.
4. Respondent Mark Jones was a Registered Agent for Respondent Terminix International.
5. On October 27, 2021, the Department was contacted by Shantay Garrett who resides in Daisy, Arkansas, to report that Respondent Mark Jones had rubbed mud on a post and tried to convince her it was termite swarming season and that she had an active infestation that needed to be treated.
6. On October 28, 2021, Shantay Garrett sent multiple videos with audio recorded by her security system showing Respondent Mark Jones applying mud to a wood post that

supports her back porch before going back into the residence. Mark Jones then started telling the homeowner that the mud on the wooden post was from termites swarming and that it was termite swarming season. At which point, he attempts to sell Shantay Garrett a termite contract on her property. Shantay Garrett called Terminix International about a bed bug infestation and not a termite problem.


7. On October 29, 2021, Department inspector performed an inspection of Shantay Garrett's property located at 19 Lakeview Lane in Daisy, Arkansas. The Department inspector did not observe signs of termites or termite activity during the inspection.
8. Upon notification of the incident, Terminix immediately suspended Mark Jones and initiated an internal investigation. Upon the completion of the investigation, Mark Jones was terminated from employment with Terminix International.

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 # 4. Major (Misrepresentations for the purpose of deceiving for defrauding.) and Violation #5. Major (Knowingly making a false statement for the purpose of inducing others to act to their damage). Respondents shall pay a civil penalty of \$2,400.00, 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 October 27, 2021, 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 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**



Signature
1/14/2022

Date

**Dwight Reynolds, License Holder Representative
for Respondent Terminix International**

Dwight Reynolds

Signature
01/14/2022

Date

**IN THE MATTER OF ARKANSAS STATE PLANT BOARD, PLAINTIFF
v.
GARRETT SHOUP, DEFENDANT**

Case No. 18.197

GENERAL RELEASE AND SETTLEMENT AGREEMENT

WHEREAS, an action has been filed against Garrett Shoup (Defendant) in Pulaski County Circuit Court, Case No. 18.197 for collection of unpaid civil penalties related to violations of the Arkansas Pest Control Law, Ark. Code Ann. § 17-37-101 et seq., and the Rules of the Arkansas State Plant Board (Plaintiff or Plant Board).

WHEREAS on February 25, 2019, an evidentiary hearing was held before the Pest Control Committee of the Plant Board to determine whether Defendant violated Pest Control Law. The Plant Board determined that Defendant violated the Pest Control Law and assessed a civil penalty of \$26,600. The Plant Board entered an order requiring payment of the civil penalty within sixty (60) days.

WHEREAS Defendant failed to pay the civil penalty within the required sixty (60) days and failed to file a timely appeal in circuit court, making the Plant Board order final.

WHEREAS Plaintiff filed a collection action in Pulaski County Circuit Court, which is styled as Case No. 18.197, seeking collection of the civil penalty.

WHEREAS in lieu of further proceeding on this action, and in the interest of prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements, and the responsibilities of the Plant Board, the undersigned parties enter into this General Release and Settlement Agreement (Agreement) as a final disposition of this matter.

WHEREFORE, Defendant and the Plant Board agree to the following:

1. **Settlement Payment.** In full settlement of all civil penalties for which collection is sought in Case No. __18.197_____, Defendant agrees to pay six-thousand six- hundred and fifty dollars (\$6,650) (Settlement Payment) within thirty (30) days of approval of this Agreement by the Plant Board. Failure to pay the Settlement Payment within the timeframe set forth in this paragraph shall result in this Agreement being void. Payment shall be delivered to Stacy Law Group.
2. **Dismissal with Prejudice.** Within thirty (30) days of receipt of the Settlement Payment according to the terms of this Agreement, Plaintiff shall, through its authorized representatives within the Arkansas Department of Agriculture and legal counsel, dismiss the complaint in Case No. __18.197____ with prejudice.
3. **Entire Agreement.** Defendant, having read the proposed Agreement, acknowledges his right to consult with counsel, and enters into this Agreement on Defendant's own volition and without any reliance upon any representations by the Plant Board or any officer, employee, agent or other representative thereof, other than expressly set forth herein.
4. **Waiver.** Defendant hereby waives any further procedural steps including, without limitation, Defendant's right to a hearing and all rights to seek judicial review or to otherwise challenge or contest the validity of this Agreement.
5. **Waiver of Claims of Unfair Prejudice.** Defendant agrees that the Plant Board will review and determine whether to approve this Agreement. Furthermore, Defendant agrees that should this Agreement not be approved by the Plant Board, the presentation and consideration of this Agreement by the Plant Board shall not

unfairly or illegally prejudice the Plant Board or any of its members from further participation, consideration or resolution of the matters involved herein at any subsequent hearing or action.

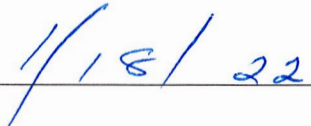
6. **Public Disclosure.** Defendant understands and acknowledges that this Agreement and the Plant Board's records concerning this matter are public records and available to the public pursuant to the Freedom of Information Act, Ark. Code Ann. § 25-19-101, *et seq.*
7. **Plant Board Approval Required.** This agreement shall not become valid and enforceable unless and until accepted and approved by the Plant Board at an official meeting and executed by the Chair of the Board or designee.
8. **Claims Not Addressed.** Nothing in this Agreement shall be construed as a waiver by the Plant Board or the Arkansas Department of Agriculture of its enforcement authority over alleged violations not specifically addressed herein. This Agreement does not exonerate or otherwise release Defendant for any past, present, or future conduct that is not expressly addressed herein.
9. **Severability.** If any court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable, the provision at issue shall be enforced to the maximum extent permitted by law, and all other provisions shall remain in full effect.
10. **Execution in Counterparts.** It is understood and agreed that this Agreement may be executed in identical counterparts and may be transmitted by email or facsimile, each of which shall be deemed an original for all purposes.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Plaintiff and Defendant have executed the foregoing General Release and Settlement Agreement.

AGREED this 3rd day of March 2022.



Name
Defendant



Date

Scott Bray
Director
Plant Industries Division
Arkansas Department of Agriculture

Date

ATTACHMENT 7

Minutes for Boll Weevil Committee
February 22, 2022
Little Rock, Arkansas

Committee Members Present Via Zoom:

Sam Stuckey, Chairman
Matthew Miles
Matthew Marsh
Mark Hartz
Nathan Reed

Other Plant Board Member Present via Zoom:

Mark Hopper
Mark Morgan

Others in Attendance via Zoom:

Regina Coleman, Arkansas Boll Weevil Eradication Foundation, Executive Director
Melissa Cary, Landmark PLLC
Wade Hodge, Arkansas Department of Agriculture
Scott Bray, Arkansas Department of Agriculture
Mark Stoll, Arkansas Department of Agriculture
Zac Wellman, Arkansas Department of Agriculture

Non-Participants via Zoom:

Jon Routin, Beekeeper
Sarah Cato, Arkansas Department of Agriculture
Robert Coats, Arkansas Department of Agriculture
Linda Luebke, Arkansas Department of Agriculture
Ashleigh Buono, Arkansas Department of Agriculture
ARCAN, AETN Live Stream

Meeting was called to order at 9:38 AM by Mr. Sam Stuckey. Introductions were made. Those present via Zoom were presented with the following:

1. Boll Weevil Committee Agenda (See attachment 1)
2. Invoice # Delta 2021 review (See attachment 2)

1. Review of The Boll Weevil Program and The Northeast Delta Invoice Presented by Regina Coleman:

- Projected acreage increase for 2022 by Regina Coleman: The potential increase in acres and where they will be projected to be. A rough estimate of 525,000 acres at an increase of 10-15%. The finalized increase will be available by the end of June.
- The board met and agreed to a \$.75 per acre rebate for 2021.
- The new website has been utilized and is in full function with predicted use for the next year with acre reporting, potential acre verification, and payment options for growers.
- Grower use has increased in the last year with the new payment options.
- An interactive grower map is in the works to be available on the website.

2. Review of Boll Weevil Board Report Presented by Scott Bray:

- Board of directors met on February 15th to approve minutes from previous meeting on November 16th, 2021. They reviewed the financial report presented by Melissa Cary that went over the Northeast Delta Invoice 2021.
- There were no legal updates provided during the board meeting.
- The present program update from Regina Coleman (See above) was presented.
- They voted to keep the assessment at \$3 per acre. The \$.75 per acre rebate was voted on and implemented for the 2021 growing season. This is down from the previous \$1 rebates due to rising costs and expenses. The verification date was discussed and moved to June 30th from the 15th due to late planting.
- Next meeting date is set for July 13th, 2022.

3. Review of the Northeast Delta Invoice 2021 (See attachment 2) Presented by Melissa Cary:

- Total Invoice: \$256,574.02
- Overhead Expenses: \$178,597.32
- Direct Expenses: \$77,976.70
- Assessment Collection for NE Delta: \$423,553
- Mark Hopper motions to approve NE Delta invoice. Matthew Marsh 2nds the motion. Motion passes without interjection.

Meeting adjourned. No other business.

Sam Stuckey, Committee Chairman



Asa Hutchinson
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

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



Wes Ward
Secretary of Agriculture

Arkansas State Plant Board Boll Weevil Committee

February 22, 2022
9:30 a.m.

Meeting Agenda

1. Opening remarks
 - Zac Wellman, Program Manager
2. Boll Weevil Committee and staff introductions
 - Sam Stuckey, Boll Weevil Committee Chairman
3. Program overview and update
 - Regina Coleman, Executive Director of Arkansas Boll Weevil Eradication Foundation
4. Boll Weevil Board report
 - Scott Bray, Plant Industries Division Director
5. Review Northeast Arkansas Delta invoice
 - Melissa Cary, Landmark PLLC
6. Other business
 - The Committee Chairman may wish to cover other business



**Arkansas Boll Weevil
Eradication Foundation, Inc.**
P.O. Box 2838
West Helena, Arkansas 72390

Invoice # **Delta 2021**

INVOICE

Customer

Name Arkansas State Plant Board
Address #1 Natural Resource Drive
City Little Rock State AR ZIP 72205
Phone 501-225-1598

Date 2/3/2022

Line Item Description		Cost
Overhead Expense	See Itemized List on Page 2	\$178,597.32
Direct Expense	See Itemized List on Page 3	\$77,976.70
Total		\$256,574.02

Total \$256,574.02



Arkansas Boll Weevil Eradication Foundation, Inc.

P.O. Box 2838
West Helena, Arkansas 72390

Invoice # **Delta 2021**

INVOICE

Customer

Name Arkansas State Plant Board
 Address #1 Natural Resource Drive
 City Little Rock State AR ZIP 72205
 Phone 501-225-1598

Date 2/3/2022

Line Item Description		Cost
Overhead Expense	Bank Charges	\$878.63
	Building & Facility	\$1,675.11
	Data Management/Computer Expense	\$4,380.70
	Gas/Vehicle Expense	\$3,727.41
	Insurance Expense	\$12,240.72
	Professional Fees Expense	\$38,896.58
	Meals	\$160.92
	National Boll Weevil Protection Fund	\$35,118.73
	Office Supplies Expense	\$2,752.59
	Postage & Shipping	\$359.56
	Salaries & Benefits	\$71,408.76
	Rent	\$2,967.08
	Dues & Registrations	\$247.26
	Telephone	\$1,459.47
	Travel	\$950.38
	Utilities	\$1,325.14
	Miscellaneous	\$48.28
SubTotal		\$178,597.32



**Arkansas Boll Weevil
Eradication Foundation, Inc.**

P.O. Box 2838
West Helena, Arkansas 72390

Invoice # **Delta 2021**

INVOICE

Customer

Name Arkansas State Plant Board
 Address #1 Natural Resource Drive
 City Little Rock State AR ZIP 72205
 Phone 501-225-1598

Date 2/3/2022

Line Item Description		Cost
Direct Expense	Data Management Expense	\$322.13
	Gas/Vehicle Expense	\$1,875.76
	Salaries & Benefits	\$74,977.29
	Telephone	\$615.01
	Office Supplies	\$186.51
SubTotal		\$77,976.70

TOTAL \$256,574.02

Arkansas Boll Weevil Eradication Foundation, Inc.
 Analysis of Delta Invoice
 2009-2021

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Delta Acres	160,669.50	176,854.70	202,474.20	210,071.00	116,149.80	110,993.00	65,301.40	122,990.30	131,636.00	142,672.10	160,833.90	141,126.10	140,474.90
Total Acres	491,392.00	522,107.80	631,371.00	577,497.40	318,129.10	316,589.20	201,375.20	365,858.70	424,351.00	463,542.90	588,064.20	499,022.10	454,506.50
	32.70%	33.87%	32.07%	36.38%	36.51%	35.06%	32.43%	33.62%	31.02%	30.78%	27.35%	28.28%	30.91%
Overhead Expenses	394,486.94	336,681.64	221,994.78	112,064.30	49,693.23	58,618.01	38,826.06	47,021.85	45,527.00	55,311.27	50,392.29	54,669.23	71,408.76
Salaries & Benefits	13,593.30	7,904.17	324.23	0.00	0.00	0.00	46.05	0.00	15.51	0.00	125.40	0.00	0.00
Repairs & Maintenance	14,963.39	18,007.93	18,659.20	21,939.59	2,089.64	2,452.16	1,065.30	1,084.59	1,091.87	741.43	577.68	3,742.10	3,727.41
Vehicle Expense	36,025.67	38,815.71	24,531.86	21,253.58	21,992.57	17,727.95	15,567.37	14,481.23	13,531.89	12,252.55	11,580.27	10,595.47	12,240.72
Insurance	21,352.74	16,895.35	780.69	1,756.13	1,667.72	1,810.62	1,043.76	978.77	966.35	927.53	936.92	1,156.44	1,325.14
Utilities/Telephone	0.00	0.00	10,673.49	4,467.98	1,972.42	1,536.49	1,498.49	2,127.06	1,545.51	925.19	598.31	1,361.59	1,459.47
Data Management	27,600.16	13,644.70	10,009.38	14,884.99	13,454.47	11,027.57	2,859.18	4,095.17	12,646.94	12,006.22	3,421.21	3,260.72	4,380.70
Professional Fees	43,694.97	33,347.81	47,396.01	64,430.96	13,515.49	19,594.50	17,185.23	15,926.60	17,463.74	17,304.73	21,064.41	35,418.83	38,896.58
Travel	8,870.45	4,321.94	1,387.64	4,238.94	2,793.16	1,492.86	913.19	1,239.27	2,004.91	2,737.08	1,853.85	704.18	950.38
Office Supplies	14,201.30	12,687.27	15,124.67	8,061.36	4,741.71	3,392.34	2,307.51	2,625.73	2,917.86	2,528.61	2,174.80	1,662.02	2,752.59
Rent	22,751.74	5,961.91	5,335.43	5,619.76	8,275.13	7,686.33	3,112.99	3,227.22	2,977.97	2,954.88	2,616.20	2,714.93	2,967.08
Capital Equipment	0.00	13,318.13	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Litigation Settlement	0.00	0.00	0.00	0.00	18,430.14	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Building & Facility	0.00	0.00	0.00	0.00	0.00	2,105.85	1,329.27	6,847.33	1,099.91	716.48	885.78	578.12	1,675.11
National Boll Weevil Protection Fund	0.00	0.00	0.00	0.00	0.00	55,563.82	16,325.35	30,747.58	32,909.02	14,267.85	24,039.00	35,281.53	35,118.73
Other Operating Expenses	8,631.44	5,581.70	2,119.57	5,250.29	1,907.62	2,675.72	2,478.77	1,930.17	1,516.73	2,212.68	1,785.49	1,958.46	1,694.65
	606,172.10	507,168.26	358,336.95	263,967.88	140,593.30	185,684.22	104,558.52	132,332.57	136,215.21	124,886.50	122,051.61	153,103.62	178,597.32

Note: prior to 2011, Utilities and Telephone were included on the same line item.
 Note: included in 2013 professional fees are insurance reimbursements for the lawsuit settlement.

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Direct Expenses	360.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Trapping Supplies	327,197.64	168,336.28	180,033.92	105,854.41	77,204.26	62,326.61	60,984.30	61,478.15	75,729.53	72,917.96	71,413.33	74,882.08	74,977.29
Salaries & Benefits	4,826.24	56.98	116.48	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Repairs & Maintenance	17,735.27	9,883.23	13,021.67	16,640.68	8,157.64	10,985.32	12,244.38	6,392.36	3,445.95	7,631.33	6,540.31	1,903.97	1,875.76
Vehicle Expense	12,077.94	3,174.61	354.95	1,751.15	142.33	142.33	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Utilities			4,955.52	1,690.56	1,293.63	842.59	222.15	413.25	698.34	643.59	755.35	646.71	615.01
Telephone	2,152.74	1,701.23	1,673.63	654.41	673.80	372.88	125.71	171.36	459.14	181.64	241.92	184.03	322.13
Data Management	4,493.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Professional Fees	879.47	882.40	86.43	0.00	0.00	1,403.16	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Travel	3,504.97	2,411.83	4,307.06	0.00	0.00	103.61	0.00	34.92	113.20	17.35	29.27	16.26	186.51
Office Supplies	18,120.00	14,360.00	13,620.00	5,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Rent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13.13	0.00	0.00
Meals	279.65	672.67	1,169.78	326.66	0.00	133.16	20.00	0.00	0.00	0.00	0.00	0.00	0.00
Other Operating Expenses	391,627.62	201,479.23	219,339.44	131,917.87	87,471.66	76,309.66	73,596.54	68,490.04	80,446.16	81,406.95	78,997.31	77,633.05	77,976.70
Total	997,799.72	708,647.49	577,676.39	395,885.75	228,004.96	261,993.88	178,155.06	200,822.61	216,661.37	206,293.45	201,048.92	230,736.67	256,574.02

Note: prior to 2011, Utilities and Telephone were included on the same line item.

ARKANSAS STATE PLANT BOARD

Minutes

April 14, 2022
9:30 a.m.

Chairman Matthew Marsh called the Arkansas State Plant Board meeting to order.

Member(s) Present: Marty Eaton, David Gammil, Mark Hartz, Darrell Hess, Mark Hopper, Dr. Ken Korth, Matthew Marsh, Matthew Miles, Travis Senter, Richard Watts

Members Present Via Zoom: Reynold Meyer, Mark Morgan, Nathan Reed, Dr. Nathan Slaton, Sam Stuckey

Members Absent: Bruce Alford, Lester Scott

Scott Bray, Plant Industries Director, Wade Hodge, Chief Counsel; Michael Bynum and Caitlin Bennett, Arkansas Department of Agriculture Attorneys, Secretary Wes Ward, and other staff members participated.

1. **Opening Comments and Introductions.** Chairman Marsh welcomed all who were participating in the meeting and asked Board members to introduce themselves and state who they represent.
2. **Committee Report:**

Industrial Hemp Committee – March 23, 2022

Committee Chairman Dr. Ken Korth summarized the minutes of the March 23, 2022, Industrial Hemp Committee meeting shown as **Attachment 1**.

Farmerblox has held a hemp grower license, hemp processor/handler license, and a seed handler license since 2019. On April 2, 2021, Farmerblox submitted renewal applications for its hemp grower and processor/handler licenses. The Arkansas Department of Agriculture (Department) denied its renewal.

An Administrative Hearing was scheduled concerning alleged violations committed by the licensee Farmerblox. Prior to the hearing date, a settlement proposal agreement was met between staff and Farmerblox. The Resolution Agreement is shown as Attachment 1 in the minutes of this meeting.

No civil penalties were assessed because all alleged violations occurred under the old hemp law, which did not provide for civil penalties.

Moved by Korth, seconded by Eaton to approve the resolution agreement as presented.

Motion carried.

Moved by Korth, seconded by Gammill to approve the minutes of the March 23, 2022, Industrial Hemp Committee meeting as presented.

Motion carried.

3. **Comments on Proposed Arkansas Industrial Hemp Production Rule.**

- Proposed Arkansas Industrial Hemp Production Rule - **Attachment 2**
- Proposed repealed Arkansas Industrial Hemp Research Program Rules - **Attachment 3.**
- Industrial Hemp Production Rule Comment Summary – **Attachment 4**

At this time, Chairman Marsh asked for any public comments. Being none, Chairman Marsh asked if there were any comments from the Board on the written comments and agency response as presented.

Bray stated all legal requirements have been met to hold this public hearing. Bray read all comments for the record.

Caleb Allen, Industrial Hemp Program Manager, gave a presentation to the Board, shown as **Attachment 5**

Moved by Hess, seconded by Eaton to approve the proposed rule as presented and the repeal of the old rule as presented.

Motion carried.

4. **Other Business.**

Chairman Marsh asked Bray to give an update on dicamba research with the University of Arkansas (U of A).

Bray stated the Department entered into an agreement with U of A and Dr. Jason Norsworthy for dicamba research for 4 projects to be conducted. A large field trial, small plot trials, another trial, and a drone project.

The Department purchased a drone for the research project. U of A Researcher, Jason Davis, has conducted a couple years' worth of research with the drone, and is currently in the process of assisting Department field staff in becoming licensed and certified to use the drone.

The research with Dr. Norsworthy lasted for approximately 2 years. The initial agreement was to provide \$118,000 for the research project to be conducted over a couple of years and U of A would invoice the Department for the remaining amount throughout that research period. The invoice totaled approximately \$498,000. Bray stated throughout the next couple of seasons, no invoices were received by the Department. The Department received an invoice after the project period ended in December. To pay the invoice, arrangements were to go back through procurement and legislative committee meetings to get appropriations and re-open the contract to get that invoice paid.

Chairman Marsh stated he is planning to invite Dr. Norsworthy to present a report to the Board possibly at the next quarterly Board meeting in June. Chairman Marsh stated, in 2018, the Board asked for \$640,000 to conduct the research project, which ended in December 2021.

Inoussa Zaki, Chief Fiscal Officer, presented the Board with a summary on the dicamba research project. The total projected cost of the entire project was \$498,920. In fiscal year 2020, the Department disbursed \$133,960. \$115,500 was for a start-up cost and \$18,460 for expenses associated with experiments. In fiscal year 2021, the Department disbursed \$18,460 for expenses associated with experiments. In March of the current fiscal year, a final invoice was received in the amount of \$241,347.72. This brings the total project cost to \$393,767.20 leaving \$105,152.80 unclaimed on this project.

No other business was discussed.

5. **Adjourn**

Moved by Eaton, seconded by Hopper to adjourn the meeting.

Motion carried.

Chairman, Matthew Marsh

Secretary, Sam Stuckey

DRAFT

**MINUTES OF
ARKANSAS STATE PLANT BOARD
INDUSTRIAL HEMP COMMITTEE MEETING**

March 23rd, 2022

Members Present: None

Members Present via Zoom: Darrell Hess, Dr. Ken Korth, Mark Morgan,
Mark Hopper

Board Members Present via Zoom: Matthew Marsh

Scott Bray, Plant Industries Director, Michael Bynum, Arkansas Department of Agriculture Attorney, Mike Stage, Agriculture Division Manager, Caleb Allen, Hemp Program Manager, were present. Other Arkansas Department of Agriculture staff members were attending in person or via Zoom.

Chairman Dr. Ken Korth called the meeting to order at 09:30 A.M. and asked Mr. Scott Bray to present opening remarks. Introductions for those attending in person and via Zoom were made.

Scott Bray welcomed everyone in attendance and recognized Mr. Michael Bynum to summarize the settlement agreement.

Michael Bynum gave a summary of the settlement agreement (Attachment 1).

Chairman Ken Korth asked for any questions and there were none.

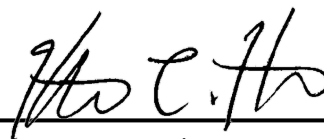
Committee Member Darrell Hess made a motion to recommend the full Board accept the settlement agreement at the next meeting, seconded by Committee Member Mark Morgan. A voice vote was prompted. Motion carried unanimously by Committee members.

Chairman Korth then asked for a motion to adjourn.

Committee Member Mark Hopper moved the motion with a second by Committee Member Darrell Hess to adjourn. Motion carried.

Meeting was adjourned at 9:53 A.M.

Signed _____



Dr. Ken Korth, Committee Chairman
Industrial Hemp Committee



Asa Hutchinson
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

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



Wes Ward
Secretary of Agriculture

Industrial Hemp Committee Meeting

March 23, 2022

9:30 a.m.

Meeting Agenda

1. Call to Order
2. Review of Proposed Resolution Agreement in the Matter of Farmerblox, LLC, David Owen, and Owen Brothers Properties, LLC
3. Adjourn



Asa Hutchinson
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

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



Wes Ward
Secretary of Agriculture

Attachment 1

IN THE MATTER OF:

Farmerblox, LLC

Hemp License No. 05_H25

Hemp License No. 05_H26

Seed Handler License No. R_515

RESOLUTION AGREEMENT

This Resolution Agreement (Agreement) is entered into by the Arkansas Department of Agriculture (Department), Farmerblox LLC (Respondent), David Owen (Owen) in his individual capacity and in his official capacity as authorized agent for Respondent and Owen Brothers Properties, LLC, d/b/a Ouachita Farms, pursuant to the authority of the Arkansas Industrial Hemp Production Act, Ark. Code Ann. § 2-15-401 et seq. (Act), the Arkansas Industrial Hemp Act, Act 981 of 2017, and the rules promulgated thereunder by the Arkansas State Plant Board (Plant Board).

In lieu of a formal hearing on this matter, and in the interest of prompt and speedy settlement of the issues specifically addressed herein, consistent with the public interest, statutory requirements, and the duties of the Department and the Plant Board, the undersigned parties enter into this Agreement as a final disposition of the issues contained herein. It is therefore agreed and stipulated by the parties as follows:

FINDINGS OF FACT

1. Respondent is a limited liability company incorporated under the laws of the State of Arkansas with a principal place of business in Hot Springs Village, Arkansas. Ouachita Farms is a limited liability company incorporated under the laws of the State of Arkansas with a principal place of business in Hot Springs Village, Arkansas.
2. Respondent possesses the following licenses issued by the Department: Hemp Grower License No. 05_H25 (grower License), Hemp Processor/Handler License No. 05_H26 (Processor License), and Seed Handler License No. R_515 (Seed License).
3. On April 2, 2021, Respondent submitted its application for renewal of the Grower License and Processor License.
4. On April 16, 2021, the Department notified Respondent that the renewal applications were denied, citing multiple alleged instances of noncompliance (Denial Decision).
5. On May 3, 2021, Respondent appealed the denial decision, which included a request for an informal hearing. Respondent supplemented its appeal with a request for a formal hearing on June 29, 2021.

ORDER AND AGREEMENT

For the purposes of settlement and resolution of the issues specifically contained herein and without an evidentiary hearing, Respondent, Owen, Ouachita Farms, and the Department agree and stipulate to the following:

1. Respondent withdraws its appeal of the Denial Decision and hereby waives any further procedural steps including, without limitation, Respondent's right to a hearing and all rights to seek judicial review or to otherwise challenge or contest the validity of this Agreement.
2. The Department agrees to dismiss with prejudice the Denial Decision and any alleged violations against Respondent that formed the basis of the license renewal denial.
3. Respondent voluntarily relinquishes the Grower License, Processor License, and Seed License, which shall become effective on April 30, 2022.
4. Respondent shall not apply for, acquire, or attempt to acquire, any hemp or seed license issued by the Department, or be a key participant of any such license, for a period of five (5) years from the effective date of this Agreement.
5. Owen agrees that he will not, whether in his individual capacity, as an officer or shareholder of any corporation, partnership, or other entity, apply for, acquire, or attempt to acquire any hemp or seed license issued by the Department, nor shall he act as a key participant pursuant to any such license, for a period of five (5) years from the effective date of this Agreement.
6. Respondent agrees to discontinue operations at all locations under the ownership or control of Respondent in Arkansas, without regard to the locations' licensing status. For the purposes of this Agreement, "discontinue operations" means that (a) all industrial hemp, hemp floral material, extracts, or byproducts of any kind located at a facility under the ownership or control of Respondent are destroyed or removed from the state of Arkansas and (2) any equipment used or that could be used for the growing or processing of industrial hemp are removed from the premises or deactivated. The Department shall retain regulatory jurisdiction over Respondent, including the authority to inspect any premises, for the purposes of ensuring that operations are discontinued, and for any other purpose authorized under the Act. Nothing in this paragraph shall be construed to prohibit Respondent from possessing or selling hemp products as provided by the Arkansas Industrial Hemp Production Act, Ark. Code Ann. § 2-15-501 et seq., and the Plant Board rules promulgated thereunder.
7. Ouachita Farms agrees to place a legible notice on the "Disclaimer" page of its website that states, "STATE OF ARKANSAS DISCLOSURE: Additional legal restrictions may apply to certain products in the state of Arkansas." Such notice shall remain on the website

until such time as Arkansas law may be changed or clarified by a final order of a court of competent jurisdiction.

8. All parties to this Agreement understand and acknowledge that this Agreement and Department records concerning this matter are public records and available to the public pursuant to the Freedom of Information Act, Ark. Code Ann. § 25-19-101, et seq.
9. 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.
10. Nothing in this Agreement shall be construed as a waiver by the Plant Board or the Department of its enforcement authority over alleged violations not specifically addressed herein. This Agreement does not exonerate or otherwise release Respondent for any past, present, or future conduct that is not expressly addressed herein, nor does it exonerate any other signatory from liability from any conduct.
11. Nothing in this Agreement shall be construed as an admission of liability by Respondent, Owen, or Ouachita Farms, nor shall this Agreement be construed as a disciplinary action against these parties by the Department.
12. Nothing in this Agreement shall be construed as a grant of authority to the Department or jurisdiction over Owen Brothers Properties, LLC, d/b/a Ouachita Farms by the Department beyond the obligation set forth in paragraph 7 of this Agreement.
13. This Agreement shall bind the parties and their successors, heirs, and assigns.

WHEREFORE, the parties hereby execute this Agreement, intending to be bound to its terms.

Scott Bray, Director
Arkansas Department of Agriculture
Plant Industries Division

David Owen
Individually and as an Authorized
Agent of Respondent and
Owen Brothers Properties, LLC, d/b/a
Ouachita Farms

Scott Bray

Signature

David Owen

Signature

3/21/2022

Date

3/16/2022

Date

MARK-UP

ARKANSAS INDUSTRIAL HEMP PRODUCTION RULE

SECTION 1. AUTHORITY

These rules are promulgated by the Arkansas State Plant Board pursuant to the Arkansas Industrial Hemp Production Act, Ark. Code Ann. § 2-15-501 et seq.

SECTION 2. SCOPE

These rules govern the oversight of industrial hemp production in Arkansas, including but not limited to the growing, processing, handling, storage, sale, transfer, importation, and distribution of industrial hemp.

SECTION 3. DEFINITIONS

As used in these rules:

- (1) “Acceptable hemp THC level” means the application of the Measurement of Uncertainty to the reported (decarboxylated) delta-9-THC concentration level on a dry-weight basis produces a distribution range that includes 0.3 percent or less.
- (2) “Act” means the Arkansas Industrial Hemp Production Act, A.C.A. § 2-15-501 et seq.
- (3) “Approved variety” means any variety (‘variety’ may also be referred to as ‘cultivar’) of industrial hemp approved by the Department in a published “Summary of Varieties List” that may be amended from time to time.
- (4) “Board” means the Arkansas State Plant Board.
- (5) “Cannabis” means the plant that, depending on its THC concentration level, is defined as either “hemp” or “marijuana.” Cannabis is a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis ruderalis* are subspecies thereof. Cannabis includes all parts of the cannabis plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts.
- (6) “Corrective Action Plan” is a document set forth by the Department for a licensee to correct a negligent violation of, or noncompliance with, A.C.A. § 2-15-501 et seq. or any rule promulgated under the authority of this statute.
- (7) “Decarboxylated” means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.
- (8) “delta-9-THC” means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis). For compliance purposes, all delta-9-THC concentrations must be measured post-decarboxylation (otherwise known as “Total THC”).
- (9) “Department” means the Arkansas Department of Agriculture.
- (10) “Endorsement” means the authorization to engage in a certain activity under a hemp license. Hemp licensing endorsements are specifically denoted on the hemp license,

relating to one or more of the following types of authorized hemp operations: (1) growth and production, (2) processing, (3) handling, (4) storage only, or (5) research only.

- (11) “GPS” means Global Positioning System.
- (12) “Handling” means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. Handling also includes possessing or storing industrial hemp in a vehicle for any period of time, other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person.
- (13) “Harvesting” means the process of cutting or collecting industrial hemp crop or crop parts grown in a plot, field, greenhouse, or indoor growing structure.
- (14) “Hemp” or “industrial hemp” is defined by A.C.A. § 2-15-503(5).
- (15) “Hemp License” means a license issued pursuant to the Act and these rules, including all endorsements issued thereunder.
- (16) “Key participant” means any person who has direct or indirect financial interest in the entity producing hemp, such as an owner or partner in a partnership. “Key participants” include, without limitation, an entity’s chief executive officer, chief operating officer, and chief financial officer. “Key participants” does not include farm managers, field managers, or shift managers.
- (17) “Licensed grower” means person licensed to grow, handle, store and market hemp under the terms established in a hemp license, A.C.A. § 2-15-501 et seq., and these rules.
- (18) “Licensed processor” means an individual or business entity possessing a hemp license issued by the Department that is authorized in Arkansas to process, handle, store and market hemp under the terms established in a hemp license, A.C.A. § 2-15-501 et seq., and these rules.
- (19) “Location ID” means the unique identifier established by the applicant for each unique set of GPS coordinates where hemp will be grown, handled, stored, or processed, which can include a field name or building name.
- (20) “Negligence” means the failure to exercise the level of care that a reasonably prudent person would exercise in complying with the requirements set forth in this rule, A.C.A. § 2-15-501 et seq.
- (21) “Nonviable seed” means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.
- (22) “Post-harvest sample” means a sample taken from the harvest hemp from a particular lot’s harvest in accordance with the sampling procedures established annually by the Department under the authority of A.C.A. § 2-15-509(e). The entire lot’s harvest is in the same form (for example, flowers, ground materials, etc.), homogenous, and not mixed with non-hemp materials or hemp from another lot.
- (23) “Pre-harvest sample” means a composite, representative portion from living plants in a hemp lot collected in accordance with the sampling procedures established annually by the Department under the authority of A.C.A. § 2-15-509(e).
- (24) “Processing” means converting hemp into a hemp product.
- (25) “Prohibited variety” means a variety or strain of cannabis not authorized for use in Arkansas.
- (26) “Propagule” means a plant or plant part that can be utilized to grow a new plant.

- (27) “Signing authority” means an officer or agent of the organization with the written power to commit the legal entity to a binding contract.
- (28) “Strain” means a group of hemp with presumed common ancestry and identified physiological distinctions. A strain does not meet the uniformity, stability, or distinction requirements to be considered a variety.
- (29) “Tetrahydrocannabinol” means the natural or synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of *Cannabis sativa*, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.
- (30) “Variety” means a subdivision of a species that is:
 - (A) Uniform, in the sense that the variations in essential and distinctive characteristics are describable;
 - (B) Stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties; and
 - (C) Distinct, in the sense that the variety can be differentiated by one (1) or more identifiable morphological, physiological, other characteristics from all other publicly known varieties, or other characteristics from all other publicly known varieties.
- (31) “Variety of Concern” means any variety of hemp or cannabis that tests above 0.300% in one (1) or more pre-harvest samples. A hemp variety designated as a ‘variety of concern’ could be subject to restrictions and additional testing.
- (32) “Volunteer cannabis plant” means any cannabis plant that:
 - (A) Grows of its own accord from seeds or roots in the years following an intentionally planted cannabis crop; and
 - (B) Is not planted intentionally.

SECTION 4. LICENSING

- (a) No person shall grow, produce, process, handle, sell or transfer, permit the sale or transfer, or store hemp without a license issued under these rules and containing the appropriate endorsements.
- (b) Any person who wishes to obtain or renew a hemp license shall submit a completed application to the Department.
- (c) An applicant shall indicate the license endorsements sought in the new license or renewal application.
- (d) All hemp licenses shall expire on December 31 unless renewed.
- (e) All renewal applications and any other renewal requirements established by Department policy must be submitted to the Department by December 1 of each year.
- (f) No person under the age of eighteen (18) years of age shall apply for or be granted a hemp license.
- (g) The Department shall not review any application that is incomplete or is not accompanied by the required fees.
- (h) An applicant may apply for one or more endorsements, which upon approval of the application will be clearly marked on the issued license and shall authorize the person to engage in the specified activity.

- (i) The applicant's principal place of business shall be located in Arkansas or within fifty (50) miles of at least one of the applicant's Arkansas growing sites.
- (j) The applicant shall affirm that the applicant or his or her representative shall be present at any licensed site within twenty-four (24) hours' notice at the request of the Department or any law enforcement agency.
- (k) No person who has been convicted of a felony related to a controlled substance in the previous ten (10) years from the date of the conviction shall be eligible to obtain a license unless otherwise provided by federal or state law.
- (l) The applicant shall not be delinquent in making any required reports or payments to the Department in connection with the applicant's participation in the Hemp Licensing Program or other programs within the Department.
- (m) The applicant shall not have any unpaid fees, fines, or civil penalties owed to the Department.

SECTION 5. APPLICATION CONTENTS

Hemp license and renewal applications shall contain at a minimum:

- (1) For individuals: the individual's full name, residential address, telephone number, and e-mail address;
- (2) For persons other than individuals: the entity's name, Employer Identification Number (EIN), business location address in Arkansas, principal business location, and entity's key participants, including his or her full name, title within the entity, business address, telephone number, and e-mail address; and
- (3) For each signing authority: his or her full name, business title, business address, telephone number, and e-mail address;
- (4) The proposed acreage or greenhouse or indoor square footage to be planted;
- (5) Street address; Location ID; legal land description, and GPS Coordinates for each field, greenhouse, building, or site where hemp will be grown, processed, handled, or stored;
- (6) Aerial maps depicting each site where hemp will be grown, processed, handled or stored, with appropriate designations for field boundaries, and Location IDs corresponding to the GPS coordinates; and
- (7) Applicant's consent to entry onto, and inspection of, all premises where hemp or other cannabis plants or materials are located, or licensed to be located, by representatives of the Department and law enforcement agencies, with or without cause, with or without advance notice;
- (8) Applicant's consent to forfeiture and destruction, without compensation, of:
 - (A) Material found to have a measured delta-9-THC content in excess of zero and three tenths (0.3) percent on a dry weight basis;
 - (B) Plants located in an area that is not licensed by the Department; and
 - (C) Plants not accounted for in required reporting to the Department.

SECTION 6. NATIONAL CRIMINAL HISTORY BACKGROUND CHECK

- (a) All licensees, applicants, and key participants shall complete and pay for fingerprinting and an annual national criminal history background check as required by A.C.A. § 2-15-513.

- (b) All licensees, applicants, and key participants shall, following the completion of the fingerprinting and criminal history background check, ensure delivery of the report to the Department with each completed application.
- (c) The Department shall not accept a report from a criminal history background check that occurred more than sixty (60) days prior to the date of application or renewal.
- (d) Failure to submit a criminal history background check with the application or renewal shall be grounds for denial of a licensure or renewal application.
- (e) Substitution of a signing authority shall require approval from the Department and completion of a national criminal history background check on the new signing authority.
- (f) The applicant shall sign a release that allows the department to disclose:
 - (1) An Arkansas noncriminal-justice background check to the State Plant Board as evidence in an administrative hearing conducted under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and
 - (2) A fingerprint card of the applicant to the Federal Bureau of Investigation to allow a federal fingerprint-based background check to be performed.

SECTION 7. LAND USE RESTRICTIONS FOR HEMP LICENSEES

A licensee shall not:

- (a) Plant or grow cannabis other than hemp in a hemp lot or Location ID listed in a license.
- (b) Plant or grow any hemp or other cannabis purported to be hemp at a site or facility not approved by the Department.
- (c) Grow, process, or store hemp or other cannabis in or within 100 feet of any structure that is used for residential purposes without first obtaining written permission from the Department.
- (d) Handle or store leaf or floral material from hemp or other cannabis in or adjacent to any structure that is used for residential purposes.
- (e) Grow, process, handle, or store hemp or other cannabis at any site that is located within 1,000 feet of a public area frequented by children.
- (f) Include any property on an application or Site Modification Request to grow, cultivate or store hemp that is not owned or completely controlled by the applicant or licensee, as evidenced by a written lease or other document that shall be provided to the Department upon request.
- (g) Allow unsupervised public access to any site where hemp is grown, processed, handled, or stored.
- (h) Grow hemp or other cannabis in any outdoor field that is located within 1,000 feet of a school or public recreational area.
- (i) Grow, handle, process, or store hemp or other cannabis on property owned by, or leased from a person that:
 - (1) Was denied a license within the last five (5) years;
 - (2) Possesses a hemp license in suspended or revoked status;
 - (3) Fails to obtain a criminal history background check or is ineligible to grow industrial hemp due to a previous criminal conviction; or
 - (4) Fails to comply with a valid order from a representative of the Department or law enforcement.

A licensee shall:

- (a) Physically segregate hemp from other crops unless prior approval is obtained in writing from the Department.
- (b) Plant a minimum of 100 plants in each growing site unless prior approval is received in writing from the Department.
- (c) Plant a minimum of one quarter (0.25) acre in each outdoor growing site unless prior approval is received in writing from the Department.
- (d) Post signage at all outdoor plot locations. The signage shall include the following information:
 - (1) The statement, “Arkansas Department of Agriculture Hemp Licensing Program”;
 - (2) License holder’s name;
 - (3) License holder’s license number;
 - (4) The Location ID name of the plot; and
 - (5) Telephone number for the licensee point of contact and the Department.
- (e) (1) Ensure the monitoring and destruction of volunteer plants for three years following cultivation regardless of land lease or ownership status during that period.
(2) It shall be the responsibility of the licensee to monitor and destroy volunteers, however, such responsibility may be transferred or assigned to another entity by written mutual agreement.

SECTION 8. FEES

- (a) Nonrefundable Annual Application Fees
 - (1) \$100 for new applicants
 - (2) No application fee shall be charged to renewing applicants if all Production Reports are submitted to the Department and FSA by December 1 annually.
 - (3) \$100 for renewing applicants, if Production Report not received by the Department by December 1st annually
- (b) Annual Hemp Licensing Fees -- \$300 per License
 - (1) Annual Grower Fees:
 - (A) \$10 per acre requested for licensure
 - (B) \$100 per Greenhouse/Indoor and Storage Location ID
 - (2) Annual Processor/Handler Fees:
 - (A) \$1,500 for floral processing
 - (B) \$500 for fiber or grain/seed processing
 - (C) \$500 for handling hemp material
 - (3) Site Modification Fee -- \$200 per modification request
- (c) Sampling/Testing Fees – \$100 per compliance sample
- (d) Institutions of higher education conducting hemp production research operations are not subject to any fees under these rules.

SECTION 9. SITE MODIFICATION

- (a) A hemp licensee who elects for a new growing, processing, handling, or storage location at a site other than the sites specified by the GPS coordinates listed on the hemp license, shall submit

- a Site Modification Request, and obtain written approval from a representative of the Department, prior to the planting, growing, processing, or storing at the proposed location.
- (b) Any request for a new growing location shall comply with this rule.
- (c) The Department shall charge a site modification fee for each new Location ID. Site modifications shall not be approved before payment of the site modification fee.
- (d) Storage-only locations and institutions of higher education are not subject to site modification fees.

SECTION 10. SEED AND SEEDLING/PROPAGULE ACQUISITION

- (a) A licensee intending to acquire seeds or propagules first shall determine whether or not the variety or strain intended for purchase is listed on the Department's current Summary of Varieties List.
 - (1) If the variety or strain is listed on the Summary of Varieties List, no pre-approval from the Department is necessary.
 - (2) The Department's Summary of Varieties List may also designate whether a variety is considered to be a Variety of Concern or Prohibited Variety.
 - (3) If the variety or strain is not listed on the Summary of Varieties List, the licensee shall submit a New Hemp Variety Form or Strain Request Form along with a certificate of analysis for that strain or variety, showing that mature plants grown from that seed variety or strain have a floral delta-9-THC (must be measured post-decarboxylation, also referred to as Total THC) content of not more than the acceptable hemp THC level on a dry weight basis from an independent third-party laboratory.
- (b) A licensee who develops a new hemp variety or strain shall submit the New Hemp Variety or Strain Request Form, prior to its use in crop production.
- (c) The Department shall not approve a New Hemp Variety or Strain Request unless the licensed grower affirms in writing that the requested seed acquisition plan does not infringe on the intellectual property rights of any person and that the seed or propagule source is a current legal hemp operation.
- (d) The Department shall not approve a New Hemp Variety or Strain Request if a representative of the Department has information supporting a belief that the variety or strain will produce plants with delta-9-THC (must be measured post-decarboxylation, also referred to as Total THC) content of more than the acceptable hemp THC level on a dry weight basis.
- (e) A licensee shall not buy, sell, possess, or transfer seeds or propagules of any variety or strain designated as a Prohibited Variety on the Department's published Summary of Varieties List.
- (f) Upon request from a representative of the Department, a licensee shall provide a distribution list showing locations where and to whom hemp seeds or propagules were distributed.
- (g) Any person engaging in the distribution of viable hemp seeds shall adhere to applicable Arkansas Seed Laws and any rules promulgated thereunder.
- (h) Any person who intends to move transplants or other living plants to a location outside of Arkansas must obtain either:
 - (1) A Nurseryman's License issued by the Department; or
 - (2) A phytosanitary certificate issued by the Department.

SECTION 11. SEEDS OF WILD, LANDRACE, OR UNKNOWN ORIGIN

- (a) No person shall acquire or grow hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the Department.
- (b) The Department shall not permit hemp or cannabis seeds or propagules of wild, landrace, or unknown origin to be planted, cultivated, or replicated by any person without the Department first arranging for replication and THC testing of mature plants grown from the seeds or propagules by the Department or its designee.
- (c) Any licensee found to have saved seed, propagules or cuttings, or cultivated seeds, propagules or cuttings from a cannabis plant of wild, landrace, or unknown origin without advanced written permission from the Department shall be subject to suspension or revocation of his or her license and forfeiture without compensation of his or her materials.

SECTION 12. CROP ACREAGE REPORTS TO FARM SERVICE AGENCY (FSA)

- (a) Within fifteen days of each lot planting and prior to the submission of Department planting reports, a licensed grower shall report hemp crop acreage to FSA, including at a minimum the following information:
 - (1) Street address and, to the extent practicable, GPS coordinates for each field or greenhouse where hemp will be produced;
 - (2) Acreage (or square footage, in the case of a greenhouse or other indoor growing facility production) dedicated to the growing of each planted lot of hemp, including each lot's full variety name; and
 - (3) The grower's name and license number.
- (b) Licensees shall provide copies of FSA reports to the Department upon request.
- (c) Licensees shall provide the Department upon request with any additional planting or growing information that is reasonably related to monitoring licensee hemp operations or for statistical purposes.
- (d) Licensees shall provide the Department with FSA Lot Numbers for each planted lot of hemp to be included on the Department's associated planting report forms.

SECTION 13. PLANTING REPORTS FOR OUTDOOR PLANTINGS

- (a) A licensed grower shall submit to the Department a complete and current Field Planting Report within fifteen (15) days after every planting, including replanted lots of seeds or propagules in an outdoor location, after first obtaining FSA Lot Numbers for each planted lot.
- (b) Each Field Planting Report shall identify the:
 - (1) Correct variety or strain's full name;
 - (2) Address and Field Location ID as listed on the hemp license;
 - (3) Lot number provided by the FSA office; and
 - (4) Amount planted and the primary intended use of the harvest.
- (c) A licensed grower who does not plant hemp in an approved outdoor site listed in the hemp license shall submit a Field Planting Report on or before July 31st of each calendar year, stating that hemp has not been planted and will not be planted at that site.

SECTION 14. PLANTING REPORTS FOR INDOOR/GREENHOUSE PLANTINGS

- (a) A licensed grower shall submit to the Department a complete and current Greenhouse/Indoor Planting Report Form within fifteen (15) days after establishing plants at an indoor location.
- (b) Each Greenhouse/Indoor Planting Report Form shall identify the:
 - (1) Correct variety or strain name's full name;
 - (2) Address and Greenhouse or indoor growing location ID as listed in the hemp license;
 - (3) Lot number provided by the FSA Office, if applicable; and
 - (4) Amount planted and the primary intended use of the harvest or of the hemp plants.
- (c) In addition to the initial Greenhouse/Indoor Planting Report, a licensed grower with an approved greenhouse or indoor growing site shall submit quarterly reports for each location ID to the Department. Greenhouse/Indoor Planting Reports shall be due no later than March 31, June 30, September 30, and December 31.

SECTION 15. SITE ACCESS

- (a) Licensees shall permit a representative of the Department or law enforcement agency to enter the premises where hemp or other cannabis seeds, plants, or material are located, and any premises listed in the hemp license, for any lawful purpose and with or without advance notice.
- (b) An applicant or hemp licensee shall obtain in writing from the owner of any leased or rented field or structure the owner's acknowledgement that both licensee and owner will abide by these rules and the Act using.

SECTION 16. HARVESTING

- (a) The Department may inspect a hemp licensee's premises or collect samples of any hemp or other cannabis material at any time.
- (b) The grower shall not harvest hemp plants from a lot without the Department first collecting samples from that lot.
- (c) Fifteen (15) days prior to the anticipated harvest of hemp plants, the grower shall submit to the Department a completed harvest request form identifying the intended date of harvest (or date of destruction in the case of a failed crop).
- (d) During the Department's scheduled sample collection, the grower or an authorized representative of the grower shall be present at the growing site.
- (e) Representatives of the Department shall be provided with complete and unrestricted access to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants; and all locations listed in the hemp license.
- (f) The hemp licensee shall harvest the crop not more than thirty (30) days following the date of sample collection by the Department, unless specifically authorized in writing by the Department.
- (g) If the hemp licensee fails to complete a harvest within thirty (30) days following the date of sample collection, grower shall submit a new harvest request and additional pre-harvest sample fee prior to harvesting.
- (h) Hemp floral material shall not be moved outside Arkansas, nor out of the possession of a licensee, nor commingled or extracted, until the Department certifies that the subject hemp is compliant.

- (i) Harvested materials from one lot shall not be commingled with other harvested lots unless all harvested lots are certified as compliant by the Department.

SECTION 17. IMPORTATION OF HEMP MATERIAL INTO ARKANSAS

- (a) No person shall import hemp into the state of Arkansas without a hemp license issued pursuant to these rules.
- (b) All imported hemp shall comply with this rule, the Act, and all applicable state and federal laws.
- (c) Nothing in this rule shall be construed as to prohibit the transportation or shipment of hemp lawfully produced under a federal, state, or tribal plan approved by the United States Department of Agriculture, through the state of Arkansas and where the state of Arkansas is not the final destination for the transported hemp.

SECTION 18. PROHIBITED ACTIVITIES

- (a) No person shall violate any provision of this rule, the Act, or any other federal or state law, rule, or order while engaging in the activities governed by this rule or the Act.
- (b) A hemp licensee shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf materials, or floral materials to any unlicensed person in Arkansas.
- (c) A licensee shall not grow, process, sell or transfer, or permit the sale or transfer of substances listed or described in the schedules of controlled substances in the Arkansas Uniform Controlled Substances Act or the United States Controlled Substances Act.
- (d) No person shall knowingly, intentionally, recklessly, or negligently sell, offer to sell, allow the sale, or otherwise distribute industrial hemp to a person or persons engaged in the illegal manufacture of substances listed or described in the schedules of controlled substances in the Arkansas Uniform Controlled Substances Act, Ark. Code Ann. § 5-64-101 et seq., or the United States Controlled Substances Act, 21 U.S.C. § 812 et seq.
- (e) A hemp licensee shall not provide false, misleading, or incorrect information to the Department pertaining to the licensee's cultivation, processing, or transportation of hemp, including without limitation any information provided within any application, report, record, or inspection required or maintained in accordance with these rules and the Act.
- (f) A hemp licensee selling or transferring, or permitting the sale or transfer, of floral or plant extracts (including cannabidiol), shall retain testing data or results for at least three (3) years demonstrating that the extract's delta-9-THC level is not more than zero and three-tenths (0.3) percent.
- (g) A hemp licensee shall not sell or transfer floral extracts containing a decarboxylated delta-9-THC concentration greater than zero and three-tenths (0.3) percent.
- (h) Hemp licensees shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all other applicable local, state, and federal laws and regulations relating to product development, product manufacturing, consumer safety, and public health.
- (i) A person shall not ship or transport, or allow to be shipped or transported, any hemp product with a decarboxylated delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.
- (j) A hemp licensee shall not allow another person, other than an agent of the licensed grower, to grow, handle, process, or store hemp under their license in lieu of obtaining a separate hemp license.

- (k) A hemp licensee shall not detach, alter, deface or destroy any labeling or other required documentation specified in these rules, or alter or substitute seed or transplants in a manner that may defeat the purpose of these rules.
- (l) A hemp licensee shall not hinder or obstruct in any way any authorized representatives of the Department or any law enforcement agency in the performance of his or her duties.
- (m) A hemp licensee shall not commingle harvested hemp or other cannabis material from one lot with harvested material from another lot unless all lots have been certified compliant by the Department.
- (n) A licensee shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person in Arkansas who does not hold a hemp license.

SECTION 19. ENFORCEMENT ACTIONS

- (a) Any person that violates the Act or these rules shall be subject to one or more of the following:
 - (1) Civil penalties up to \$5,000 per violation;
 - (2) Corrective Action Plan;
 - (3) Issuance of a stop order;
 - (4) License suspension; or
 - (5) License revocation.
- (b) Any licensee that commits three (3) negligent violations within a 5-year period shall have his or her license revoked and be ineligible to obtain a license for a period of five (5) years beginning on the date of the third violation. A violation that occurred prior to the effective date of the Act shall not be counted.
- (c) In instances where a licensee commits a violation with a culpable mental state greater than negligence, the board may initiate revocation or suspension proceedings against the licensee and shall immediately report the licensee to the Arkansas Office of the Attorney General and all appropriate law enforcement agencies.

SECTION 20. HEARINGS AND APPEALS

- (a) All hearings and appeals shall be conducted in accordance with the Arkansas Administrative Procedure Act, Ark. Code Ann. §25-15-201 et seq., except that:
 - (1) Before revocation of a grower's license, the board shall provide the grower notice and an informal hearing to show cause why the license should not be revoked and the grower's right to grow forfeited.
 - (2) If a license is revoked and a grower's right to grow is forfeited as the result of an informal hearing under subdivision (b)(1) of this section, the grower may request a formal administrative hearing before the board or a committee of the board, as provided in board rules.
- (b) A person wishing to appeal a final action of the Board shall submit a written request for a hearing to the Department within thirty (30) days of notice.

SECTION 21. RECORDKEEPING

- (a) For at least three (3) years, hemp licensees shall keep and make available for inspection by the Department the following records:
 - (1) Records regarding acquisition of hemp plants;
 - (2) Records regarding production, processing, and handling of hemp plants;
 - (3) Records regarding storage of hemp plants;
 - (4) Records regarding disposal of all hemp plants; and
 - (5) Records regarding the disposal of all cannabis plants that do not meet the definition of hemp.
- (b) The Department and any law enforcement agency shall have access to any premises where industrial hemp, or cannabis plants purported to be industrial hemp, may be held during normal business hours.

SECTION 22. CORRECTIVE ACTION PLANS FOR NEGLIGENT VIOLATIONS

- (a) If the Department determines that a licensee committed a negligent violation of any provision within A.C.A. § 2-15-501 *et seq.*, or any rule promulgated under the authority of the Arkansas Hemp Production Act, then the Department may issue a corrective action plan for the grower.
- (b) Corrective action plans will remain in place for at least two (2) years and include, at a minimum, the following:
 - (1) The date by which the grower shall correct each negligent violation;
 - (2) Steps to correct each negligent violation; and
 - (3) A description of the procedures to demonstrate compliance.

REPEALED RULE

~~**Arkansas Industrial Hemp
Research Program Rules**~~

~~**APPROVED AND ISSUED BY:**~~

~~**ARKANSAS STATE PLANT
BOARD**~~

~~**UNDER AUTHORITY of A. C. A. 2-15-401 et seq.
Arkansas Industrial Hemp Act**~~

~~Approved and effective August 31, 2018~~

CONTENTS		Page
SECTION 1, Definitions		2
SECTION 2, Licensing		6
SECTION 3, Land Use Restrictions		40
SECTION 4, Administrative Appeal		40
SECTION 5, Approved Seed/Seedlings for Planting		41
SECTION 6, Seed Acquisition		42
SECTION 7, Planting Reports		44
SECTION 8, Site Access		45
SECTION 9, Pesticide Use		45
SECTION 10, Licensed Growers Responsibility Prior to Harvest		46
SECTION 11, Sampling and Analyzing Industrial Hemp		47
SECTION 12, Restrictions on Sale or Transfer		48
SECTION 13, Reporting		49
SECTION 14, Fees and Services		20
SECTION 15, License Suspension or Revocation		21
SECTION 16, Grant Funds		22
SECTION 17, Prohibitions Summarized		22
APPENDIX - Arkansas Industrial Hemp Act		26-31

~~Arkansas Industrial Hemp Research Program Rules~~

~~As approved and effective August 31, 2018. Address communications to Arkansas Department of Agriculture, Industrial Hemp Program, 1 Natural Resources Drive, Little Rock, Arkansas 72205.~~

~~THE RULES~~

~~The Industrial Hemp research program rules were made by the Arkansas State Plant Board under authority of SECTION 1, Arkansas Code Title 2, Chapter 15, Subchapter — Arkansas Industrial Hemp Act 2-15-401 through 2-15-412, given in the Appendix.~~

~~SECTION 1. DEFINITIONS.~~ When used in these rules

~~(A).~~

- ~~(1) "Act" means Arkansas Industrial Hemp Act (A.C.A. 2-15-401 et seq)~~
- ~~(2) "Applicant" means a person, or a person who is authorized to sign for a business entity, who submits an application.~~
- ~~(3) "Approved cultivar" means any variety of industrial hemp designated by the Arkansas State Plant Board in a published list and may be amended from time to time.~~
- ~~(4) Association of Official Seed Certifying Agencies (AOSCA) "AOSCA Certified seed", "AOSCA Registered seed", and "AOSCA Foundation seed" mean seed that has been produced and labeled in accordance with the procedures and in compliance with the rules of an AOSCA seed certifying agency or by the Organization for Economic Co-operation and Development (OECD) Seed Schemes. AOSCA Certified Seed programs provide standards and procedures approved by the United States Secretary of Agriculture to maintain and make available to the public high quality seed and propagating materials of superior crop plant varieties grown & distributed to insure genetic identity and purity.~~
- ~~(5) "Board" means the Arkansas State Plant Board.~~
- ~~(6) "Cannabis" means all parts of the cannabis plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts. Cannabis does not include publicly marketable hemp products, as defined in this rule.~~
- ~~(7) "CBD" means cannabidiol.~~
- ~~(8) "DEA" means the United States Drug Enforcement Administration.~~
- ~~(9) "Delta-9-THC" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis).~~
- ~~(10) "Department" means the Arkansas Department of Agriculture.~~
- ~~(11) "GPS" means Global Positioning System.~~
- ~~(12) "Grower Licensing Agreement" means a document executed by a person and the department authorizing the person to grow, handle and store hemp at one or more specified locations in Arkansas under the terms set forth in the document, Arkansas Industrial Hemp Act 2-15-401- 2-15-412, and this rule.~~
- ~~(13) "Handling" means possessing or storing industrial hemp for any period of time~~

~~on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. "Handling" also includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person.~~

- (14) **"Industrial hemp"** shall be used interchangeably with "Hemp" and have the same meaning. ~~Hemp means *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis, as defined in the Agriculture Improvement Act of 2018, 21 U.S.C. & 801 et seq. as it currently exists or as it may be subsequently amended.~~
- (15) **"Industrial hemp products"** or "hemp products" means products ~~derived from, or made by, processing industrial hemp plants or plant parts, including without limitation:~~
- (A) ~~Certified seed for cultivation if the seeds originate from industrial hemp varieties;~~ (B) ~~Cloth;~~ (C) ~~Cordage;~~ (D) ~~Fiber;~~ (E) ~~Food;~~ (F) ~~Fuel;~~ (G) ~~Paint;~~ (H) ~~Paper;~~ (I) ~~Particleboard;~~ (J) ~~Plastics;~~ and (K) ~~Seed, seed meal, and seed oil for consumption.~~
- (16) **"Law enforcement agency"** means the Arkansas State Police, DEA, or other federal, state, or local law enforcement agency or drug suppression unit.
- (17) **"Licensed Grower"** means an individual or business entity possessing a license issued by the department under the authority of this chapter to grow, handle, cultivate, process, or market industrial hemp or industrial hemp products.
- (18) **"Licensed Processor"** means a person in the state authorized by the department to process, handle, store, and market industrial hemp under the terms set forth in a Processor Licensing Agreement, as set forth in the policies developed under these rules.
- (19) **"Location ID"** means the unique identifier established by the applicant for each unique set of GPS coordinates where industrial hemp will be grown, handled, stored, or processed, which may include a field name or building name.
- (20) **"Marketing"** means promoting or selling a product within Arkansas, in another state, or outside of the United States. "Marketing" includes efforts to advertise and gather information about the needs or preferences of potential consumers or suppliers;
- (21) **"Nonviable seed"** means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.
- (22) **"Person"** includes any individual, partnership, corporation, company, society, or association.
- (23) **"Pesticide"** means any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest; intended to be used as a plant regulator, defoliant, or desiccant; or intended to be used as a spray adjuvant, once they have been mixed with a U.S. Environmental Protection Agency registered product.
- (24) **"Phytocannabinoids"** are cannabinoids that occur naturally in the cannabis plant. The classical cannabinoids are formed through decarboxylation of their respective 2-carboxylic acids (2-COOH), a process which is catalyzed by heat,

light or alkaline conditions.

- (25) **"Plot"** means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.
- (26) **"Post-Harvest Sample"** means a sample taken from the harvested industrial hemp material from a particular plot's harvest in accordance with the procedures as defined in the policies developed under these rules; the entire plot's harvest must be in the same form (intact plant, flowers, ground materials, etc.), homogenous, and not mixed with non-hemp materials or industrial hemp materials from another plot.
- (27) **"ppm"** means parts per million.
- (28) **"Pre-Harvest Sample"** means a composite, representative portion from plants in an industrial hemp plot collected prior to harvest in accordance with the procedures as defined in the policies developed under these rules.
- (29) **"Processing"** means converting an agricultural commodity into a marketable form.
- (30) **"Processor Licensing Agreement"** means a document executed by a person and the department authorizing the person to process, handle, and store industrial hemp at one or more specified locations in Arkansas under the terms set forth in the document, Arkansas Industrial Hemp Act 2-15-401-2-15-412, and these rules.
- (31) **"Program"** means the Arkansas Industrial Hemp Research Program as established by the Arkansas Industrial Hemp Act, A.C.A. 2-15-401 et seq. and these rules.
- (32) **"Prohibited Variety"** means a variety or strain of cannabis excluded from the department's Industrial Hemp Research Program.
- (33) **"Propagule"** means a plant or plant part that can be utilized to grow a new plant.
- (34) **"Publicly marketable hemp product"** means a hemp product that meets one or more of the following descriptions:
- (a) the product does not include any living hemp plants, viable seeds, leaf materials, floral materials, or decarboxylated delta-9-THC content above 0.3 percent; and does include, without limitation, the following products: bare stalks, bast fiber, hurd fiber, nonviable roots, nonviable seeds, seed oils, and plant extracts (excluding products containing decarboxylated delta-9-THC above 0.3 percent).
 - (b) the product is CBD that was derived from industrial hemp, as defined in these rules; or
 - (c) the product is CBD that is approved as a prescription medication by the United States Food and Drug Administration.
- (35) **"Secondary Post-Harvest Sample"** means a post-harvest sample that is taken in a given plot or processing, handling or storage location after the first post-harvest sample is taken. A Secondary Post-Harvest Sample is taken on a different day than the initial post-harvest sample.
- (36) **"Secondary Pre-Harvest Sample"** means a pre-harvest sample that is taken in a given plot after the first pre-harvest sample is taken. A Secondary Pre-Harvest Sample is taken on a different day than the initial pre-harvest sample.
- (37) **"Seed source"** means the origin of the seed or propagules as determined by

~~the department.~~

- (38) ~~“Signing authority” means an officer or agent of the organization with the written power to commit the legal entity to a binding agreement.~~
- (39) ~~“Street address” means any postal address used for official purposes, specifically closest to industrial hemp plots/fields/greenhouses, storage buildings, or processing operations, for means of identifying different locations under the same hemp license.~~
- (40) ~~“Total THC” means the completion of the chemical reaction that converts THC acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value may also be calculated using a conversion formula that sums delta-9-THC and THC acid.~~
- (41) ~~“University” means an accredited institution of higher education located in Arkansas.~~
- (42) ~~“Variety” means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics by which it can be differentiated from other plants of the same kind. A variety also is “uniform” & “stable”—uniform in the sense that variations in essential and distinctive characteristics are describable; and “stable” in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.~~
- (43) ~~“Variety of Concern” means any variety of hemp in the program that tests above 0.3% total delta-9-THC in one (1) or more pre-harvest samples from diverse locations and production conditions. A hemp variety designated as a “Variety of Concern” may be subject to restrictions and additional testing. Materials testing at a total delta-9-THC concentration above 0.3 percent may be subject to law enforcement action.~~
- (44) ~~“Volunteer hemp plant” means an industrial hemp plant that was not intentionally planted, but results from a previous crop, growing on its own accord from seeds or roots in the years following an intentionally planted industrial hemp crop.~~

(B) — Definitions specific to industrial hemp seed production.

Industrial Hemp (*Cannabis sativa* L.) includes varieties of these kinds:

- (1) ~~“Dioecious type” means a type of industrial hemp that has male and female flowers on separate plants.~~
- (2) ~~“Industrial hemp seed production” means an industrial hemp seed production field established with an appropriate generation of AOSCA certified seed intended to produce a subsequent generation of AOSCA certified seed.~~
- (3) ~~“Licensed Plant Breeder” means an individual who has met the requirements listed in the Official Standards for Seed Certification in Arkansas (Circular 15) Under Act 73 of 1931; A.C.A. 1987 Sections 2-18-101 through 2-18-108.~~
- (4) ~~“Monoecious type” means a type of industrial hemp that has male and female flowers on the same plant.~~
- (5) ~~“Too male” means an intersexual plant that exceeds the ratio of male and female flowers as described in the variety description.~~
- (6) ~~“Unisexual female” means a monoecious type of industrial hemp plant that has sterile male and fertile female flowers.~~

- ~~(7) "Unisexual female hybrid" means a hybrid where the A line is a unisexual female type and the B line produces male fertile flowers.~~

SECTION 2. LICENSING

~~(A) Who must apply:~~

~~(1) Growers and Processor/Handlers:~~

~~A license to grow shall allow the license holder to obtain seed pursuant to these Rules for planting, possess seed for planting, cultivate the crop, harvest plant parts, possess and store harvested plant parts, and transport plant parts to a market for sale. The license holder must abide by the terms set forth in the Grower Licensing Agreement with the department.~~

~~A license to engage in the processing or handling of industrial hemp that does not fall within the definition of a "publicly marketable hemp product" shall allow the license holder to process, handle, and store industrial hemp at one or more specified locations in the state. The license holder must abide by the terms set forth in the Processor/Handler Licensing Agreement with the department.~~

~~(a) No person who does not hold a Hemp Grower or Processor/Handler license from the department shall grow, cultivate, handle, store, or process industrial hemp at any location within Arkansas.~~

~~(b) No person under the age of eighteen (18) years of age shall apply for or hold a Grower or Processor/Handler License.~~

~~(2) Two types of licenses can be issued by the department for cultivation or processing of industrial hemp in Arkansas:~~

~~(a) Research Only~~

~~(b) Research with Intent to Market~~

~~These types of licenses may include seed research projects through a university, private entity working with a university, or private entity working with a licensed plant breeder to develop industrial hemp seed varieties that would meet the requirements listed in in these rules in Section 5. Approved Seed For Planting.~~

~~(3) Applications for cultivation or processing of industrial hemp in Arkansas may be made at any time during the year, but the effective date of the license will be July 1st through June 30th annually. Renewal applications will be due June 15th.~~

~~(4) Applications shall be handled and processed by the department and reviewed for approval or denial. The department review process may require 60 days to complete. Acceptance of applications may be suspended for a period of time to allow the department staff adequate time to process applications and/or handle additional hemp related duties. Any delays or additional requirements for submitting applications may be set as policy and published on the department's industrial hemp webpage. After review and acceptance, the applicant will be notified to send the required application fees, and upon receipt, the license certificate will be issued.~~

~~(5) A person interested in holding a Grower License or Processor/Handler License shall complete the department's Industrial Hemp Application Form annually, or follow an established protocol or renewal process as notified. A person interested in both a grower license and a processor/handler license must complete both license applications.~~

- ~~(6) Failure to comply with any of these Rules or the provisions of the act, shall result in an automatic revocation of the license for the full remaining period of the license.~~
- ~~(7) An analytical testing of THC levels greater than 0.3% shall not result in revocation of a license so long as the crop is destroyed in accordance with these rules.~~
- ~~(8) Applicants shall disclose the date and location of any conviction of any criminal offense (other than misdemeanor traffic offenses) committed in any jurisdiction. Failure to comply with this requirement in a complete and truthful manner shall be grounds for denial, suspension, or revocation of a permit, as may be determined by the Industrial Hemp Committee and approved by the full board.~~
- ~~(9) The following applicants shall not be granted a permit:~~
 - ~~(a) Any applicants with any felony conviction in the prior 10 years~~
- ~~(10) Industrial hemp business licenses. Licensees must maintain all proper state, county and local business licenses and permits and comply with all applicable zoning rules.~~

~~(B) Application for Licenses~~

- ~~(1) **Growers License:** Growers in Arkansas who wish to cultivate industrial hemp shall submit to the department an application for a license to do so. The application shall include the following information for consideration:~~
 - ~~(a) Type of License as set forth in Section 2. A (2);~~
 - ~~(b) Full name, Arkansas residential address, telephone number and email address.~~
 - ~~(c) Street address, location ID, and GPS coordinates for each field, greenhouse, building or site where industrial hemp will be grown, handled, or stored, updated annually, or as needed; If the applicant represents a business entity, the full name of the business, the principal Arkansas business location address, the full name of the applicant who will have signing authority on behalf of the entity, title, and email address of the person;~~
 - ~~(d) Maps depicting each site where hemp will be grown, handled, or stored, with appropriate designations for entrances, field boundaries, and specific locations corresponding to the GPS coordinates;~~
 - ~~(e) Research plan, including the proposed acreage or greenhouse/ indoor square footage to be planted;~~
 - ~~(f) Intended variety name, origin, and seed or plant certifying agency for each planting. This information must conform to Section 3 of these rules;~~
 - ~~(g) Intended marketable portion of the plant (seed, fiber, hurd, cannabinoids, not including THC, or certified planting seed or propagule as set forth in A.C.A. 2-15-401 et seq.); The department may limit the scope and acreage of research projects. Initial acreage may be limited to one acre or less.~~
 - ~~(h) Intended market, and intended purchaser's name and address if license is of the type "Research with Intent to Market";~~
 - ~~(i) Written statement of the research objective and data or observations to be collected and reported to the department. The research objective must conform to the authorized research purposes set forth in A.C.A. 2-15-401 et seq. The written statement in this section constitutes a written agreement between the license holder and the department.~~

- ~~(j) Evidence of income from a farming operation and/or agricultural or research experience. Examples may include tax returns (IRS 1040-schedule F), Farm serial number, or education in agriculture, research or related field. These will be listed on the license application form & instructions published annually when the current year application forms become available.~~
 - ~~(k) Intended storage location (expressed in GPS coordinates) for harvested plant parts;~~
 - ~~(l) Agreement to provide access to the department and law enforcement agencies at any time for sampling or inspection in the field or storage;~~
 - ~~(m) Agreement to ensure the monitoring and destruction of volunteers for three years following cultivation regardless of land lease or ownership status during that period;

 - ~~i. It shall be the responsibility of the license holder to monitor and destroy volunteers.~~
 - ~~ii. The responsibilities of the license holder in this provision may be transferred to another entity by mutual agreement in writing with both parties' signatures.~~~~
 - ~~(n) Agreement to maintain all records, including but not limited to those for agronomics, contracts, sampling, storage, expenses, transportation and delivery, as stated in Section Seventeen (17) of these rules.

 - ~~i. All records shall be kept within the state of Arkansas and made available for inspection on request.~~
 - ~~ii. An in-state agent shall be maintained for receipt of records or receipt of services.~~~~
 - ~~(o) Agreement to notify the department within one month if there are any changes or deviations; and~~
 - ~~(p) Agreement to notify the department if there are any changes to the license holder's address within one month of a change for the duration of the license.~~
 - ~~(q) Policies may be established and reviewed annually for necessary updates to address unforeseen needs. These will be published annually when the current year application forms become available.~~
 - ~~(r) An applicant shall not be a participant in the Program until the conditionally-approved applicant and the department have executed a Grower Licensing Agreement, which shall be signed within the industrial hemp grower application. The Grower Licensing Agreement shall set forth the terms and conditions governing participation in the Program. The terms and conditions set forth in the Agreement shall include, at a minimum, the requirements listed in the Act and in these rules for Licensed Growers and may include other requirements set as policy and published annually.~~
- ~~(2) **Processor/Handler License:** The Processor/Handler License Application form shall require applicants to submit, at a minimum, the following information and documents:~~
- ~~(a) Full name, Arkansas residential address, telephone number, and email address, if an email address is available;~~

- ~~(b) If the applicant represents a business entity, the full name of the business, the principal Arkansas business street address, the full name of the applicant who will have signing authority on behalf of the entity, title, and email address if an email address is available, of the person;~~
- ~~(c) Research plan;~~
- ~~(d) Planned source of industrial hemp; and~~
- ~~(e) Maps and street address, location ID, and GPS coordinates for each building or site where hemp will be processed, handled, or stored.~~
- ~~(f) Agreement to maintain all records, including but not limited to those for agronomics, contracts, sampling, storage, expenses, transportation and delivery, as stated in Section Seventeen (17) of these rules.

 - ~~i. All records shall be kept within the state of Arkansas and made available for inspection on request.~~
 - ~~ii. An in-state agent shall be maintained for receipt of records or receipt of services.~~~~
- ~~(g) Policies may be established and reviewed annually for necessary updates to address unforeseen needs. These will be published annually when the current year application forms become available.~~
- ~~(h) An applicant shall not be a participant in the Program until the conditionally approved applicant and the department have executed a Processor/Handler Licensing Agreement, which shall be signed within the industrial hemp processor application. The Processor/Handler Licensing Agreement shall set forth the terms and conditions governing participation in the Program. The terms and conditions set forth in the Processor/Handler Licensing Agreement shall include, at a minimum, the requirements listed in the Act and in these rules for Licensed Processors/Handlers and may include other requirements set as policy and published annually.~~

(C) Criminal History Background Check

- ~~(1) Each Licensed Grower, Processor/Handler or applicant shall undergo and pay for an annual criminal background check.~~
- ~~(2) Each person who is required to undergo an annual criminal background check shall:

 - ~~(a) Submit a criminal background check request to the Arkansas State Police or other law enforcement agency designated by the department;~~
 - ~~(b) Submit payment for the background check fee directly to the Arkansas State Police or other law enforcement agency designated by the department;~~
 - ~~(c) Following completion of the background check, ensure delivery of the report to the department not more than fourteen (14) days following the date the application was received by the department, directly from the Arkansas State Police or other law enforcement agency designated by the department.~~
 - ~~(d) The department shall not accept a report from a criminal background check that occurred more than 60 days prior to submission of the application.~~
 - ~~(e) Failure to submit the background check by the deadline stated in subsection-~~~~

- ~~(2) (c) shall be cause for denial of application.~~
- ~~(f) Substitution of a signing authority shall require approval from the department and the submission of a current criminal background check (for the substitute).~~

~~SECTION 3. LAND USE RESTRICTIONS~~

~~(For Licensed Growers or Licensed Processors/handlers.)~~

- ~~(A) A **Licensed Grower or Processor/Handler** shall not grow, process, or store industrial hemp in any structure that is used for residential purposes.~~
- ~~(B) A **Licensed Grower or Processor/Handler** shall not grow, store or process industrial hemp in any field or site that is located within 1,000 feet of a school, daycare or similar public areas frequented by children as determined by policy on an individual case basis by the department.~~
- ~~(C) An **applicant or licensed Grower or Processor/Handler** shall not include any property on their application or Site Modification Request to grow, cultivate or process industrial hemp that is not owned or completely controlled by the applicant or licensed grower.~~
- ~~(D) A **Licensed Grower or Processor/Handler** shall not grow, handle, process or store industrial hemp on property owned by or leased from any person who is ineligible or was terminated, or denied admission to the program for one or both of the following reasons:~~
- ~~(1) Failure to obtain an acceptable criminal background check~~
 - ~~(2) Failure to comply with an order from a representative of the department.~~
- ~~(E) A **Licensed Grower** shall not:~~
- ~~(1) plant or grow any cannabis that is not industrial hemp.~~
 - ~~(2) plant or grow industrial hemp on any site not listed in the Grower-Licensing Agreement.~~
 - ~~(3) handle or store leaf or floral material from industrial hemp within any structure that is used for residential purposes.~~
 - ~~(4) plant industrial hemp in an outdoor growing location of less than one-quarter acre and 1,000 plants unless prior approval is received in writing from the department. Industrial Hemp shall be physically segregated from other crops unless prior approval is obtained in writing from the department.~~
- ~~(F) A **Licensed Grower** is required to post signage at all field locations. The signage shall include the following information:~~
- ~~(1) The Statement, "Arkansas Industrial Hemp Research Program"~~
 - ~~(2) License Holder's Name and License Number;~~
 - ~~(3) The department's telephone number.~~

~~SECTION 4. ADMINISTRATIVE APPEAL~~

~~(From denial of application)~~

- ~~(A) An applicant wishing to appeal the department's denial or partial denial of an application shall submit a written request for a hearing postmarked within fifteen (15) days of the date of the department's notification letter or email.~~
- ~~(B) An appealing applicant shall mail a hearing request letter to the Industrial Hemp~~

Research Program, 1 Natural Resources Drive, Little Rock, Arkansas 72205.

- ~~(C) Appeals shall be heard by a three-person administrative panel whose members shall be designated by the Plant Board Director. The panel shall include at least one person who is a Program employee and at least one person who is not a Program employee and not involved or invested in any hemp research projects in Arkansas.~~
- ~~(D) The members of the administrative panel shall not be required to accept or consider information or documents that were not compliant with application deadlines set forth in this rule.~~
- ~~(E) Hearings on appeals shall be open to the public and occur at a time, date and location designated by the Plant Board Director.~~
- ~~(F) An appealing applicant shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.~~
- ~~(G) An appealing applicant shall be allowed up to fifteen (15) minutes to present arguments for reversing the department's denial of the application.~~
- ~~(H) A representative of the department shall be allowed up to fifteen (15) minutes to present arguments for affirming the department's denial of the application.~~
- ~~(I) The three members of the administrative panel shall rule on the appeal by a majority vote.~~

SECTION 5. APPROVED SEED FOR PLANTING

(A) (For Licensed Growers or Licensed Processors/handlers.)

- ~~(1) Approved seed or transplants for cultivating industrial hemp in Arkansas shall be from one of the following:
 - ~~(a) Seed or transplants produced from seed or living plant parts that meet the criteria for Breeder, Foundation, Registered, or Certified categories as defined by the Official Standards for Seed Certification in Arkansas, including certification by other AOSCA seed agencies recognized by the Arkansas Seed Certification Program. All such seed and transplants shall include a certifying tag of varietal purity issued by Arkansas Seed Certification Program or another official certifying agency as defined in these rules (Section 1 A. 3) or~~
 - ~~(b) As allowed by the Industrial Hemp Research Program, seed or transplants produced lawfully under an industrial hemp research program within the United States provided that the seed or transplants have accompanying documentation of:
 - ~~i. being produced by a licensed grower within the state of production, and~~
 - ~~ii. have accompanying documentation that the crop from which the seed or transplants were harvested had a THC analysis of 0.3% or less by~~~~~~

dry weight, and

~~iii. the variety is listed as an approved variety published annually in the Industrial Hemp Research Program guidance policy.~~

~~iv. the variety owner's permission has been granted.~~

~~(2) Growers or other organizations in Arkansas may produce seed or transplants for distribution or sale for cultivation, if the source is Subparagraph (a)(1) of this Rule, in subsequent years only if it is overseen and certified by the Arkansas Seed Certification Program to be true to type under Association of Official Seed-Certifying Agencies' (AOSCA's) guidelines: Industrial Hemp (Cannabis sativa L. Subsp. Sativa) Certification Standards. No other seed or transplants may be produced in Arkansas for distribution or sale in Arkansas unless approved by the Industrial Hemp Research Program.~~

~~(3) All seed or transplants produced in Arkansas for distribution or sale in Arkansas to be utilized for cultivation of industrial hemp shall include a certifying tag of varietal purity issued by the Arkansas Seed Certification Program or another official certifying agency as defined in the above Section 1: Definitions.~~

~~(4) A business entity, including an agricultural co-operative enterprise ("co-op") or other farm aggregator ("aggregator") who contracts with one or more permitted growers, may, upon registering with the department, obtaining any required permitting from the United States Drug Enforcement Agency, and pursuant to Federal and State law, obtain bulk quantities of seed or transplants approved under this Rule for distribution to permitted growers. A permitted grower may own and plant seed or transplants obtained from such registered co-ops or aggregators, who must document quantities delivered to each named grower within 10 days of delivery.~~

~~(B) All Industrial Hemp seed or transplants sold within or into Arkansas must be labeled as to variety or hybrid name. Labelers of seed or transplants must provide to the board breeder descriptions and variety release information including any subsequent updates/amendments to these descriptions.~~

~~(1) For purposes of labeling, the number or other designations of hybrid industrial hemp shall be used as a variety name.~~

~~(2) All Industrial Hemp seed for planting purposes sold within or into Arkansas is subject to the rules in the Board's Circular 10: Regulations on the Sale of Planting Seed in Arkansas.~~

~~SECTION 6. Seed/Propagule Acquisition~~

~~(A) Seed/Propagule acquisition from a source within Arkansas~~

~~(1) No department pre-approval shall be required for a transfer of hemp seed or propagules of any variety listed on the department's published Summary of Varieties list, excluding Prohibited Varieties, between Arkansas Licensed Growers and/or Licensed Processors/Handlers within Arkansas.~~

~~(2) A Licensed Grower or Licensed Processor/Handler shall not buy, sell, possess, or transfer hemp seeds or propagules to or from any person in Arkansas without first verifying that the person is licensed as required by these rules.~~

- ~~(3) Upon request from a representative of the department, a Licensed Grower or Licensed Processor/Handler shall provide a distribution list showing locations where and to whom hemp seeds or propagules were distributed.~~

~~**(B) Seed/propagule acquisition from a source in a U.S. territory, tribal land, or state other than Arkansas.**~~

- ~~(1) No person shall acquire seeds or propagules from a source in a U.S. territory, tribal land, or state other than Arkansas without first:~~
- ~~(a) Submitting a complete Domestic Seed/Propagule Request form and all required attachments, and~~
 - ~~(b) Obtaining written approval of the Domestic Seed/Propagule Request from a representative of the department.~~
- ~~(2) A Domestic Seed/Propagule Request shall not be approved unless the Licensed Grower or Processor/Handler affirms in writing that the requested seed acquisition plan will not infringe on the intellectual property rights of any person.~~
- ~~(3) A person submitting a Domestic Seed/Propagule Request form shall submit to the department THC test results showing that floral material sampled from mature plants that produced the seed or propagule variety has a total_delta-9-THC content of not more than 0.3 percent on a dry weight basis from an independent third-party laboratory.~~
- ~~(4) A person acquiring seeds or propagules from a source outside Arkansas shall arrange for the seeds or propagules to arrive at the department's facility at 1 Natural Resources Drive, Little Rock, Arkansas 72205 or at a location designated by the department, for inventory and distribution.~~
- ~~(5) Upon request from a representative of the department, a Licensed Grower or Processor/Handler shall provide a distribution list showing locations where and to whom the hemp seeds were distributed following inventory at the department facility.~~

~~**(C) Seed/propagule acquisition from a source outside the United States.**~~

- ~~(1) A person seeking to obtain seeds/propagules from an international source shall submit a complete International Seed Request form to the department.~~
- ~~(a) If approved, the department shall request the DEA Permit to Import under the department's DEA registration, if required.~~
 - ~~(b) No person shall acquire seeds/propagules from a source outside the United States unless the department first obtains a Permit to Import from the DEA, if required.~~
- ~~(2) No person shall acquire propagules or seeds from outside the United States, unless all federal and state requirements have been met and the acquisition is approved by the department.~~
- ~~(3) The department shall not approve an International Seed Request form for any purpose other than seeds for planting in Arkansas. All Licensed Growers intending to plant the requested seed must be listed on the request form.~~
- ~~(4) The department shall not approve an International Seed Request form unless the Licensed Grower or Processor affirms in writing that the planned activities will not~~

~~infringe on the intellectual property rights of any person.~~

- ~~(5) A person submitting an International Seed Request form shall submit to the department documentation showing that mature plants that produced the seed variety have a floral material total THC content of not more than 0.3 percent on a dry weight basis.~~
- ~~(6) A person acquiring seeds or propagules from a source outside the United States shall arrange for the seeds/propagules to arrive at the department's facility at 1 Natural Resources Drive, Little Rock, Arkansas 72205, or at a location designated by the department, for inventory and distribution.~~
- ~~(7) Upon request from a representative of the department, a Licensed Grower or Processor/Handler shall provide a distribution list showing locations where and to whom the imported hemp seeds were distributed following inventory at the department's designated facility.~~

~~(D) **Seed/Propagules of wild, landrace, or unknown origin.**~~

- ~~(1) No person shall acquire or grow hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the department.~~
- ~~(2) Hemp or cannabis seeds or propagules of wild, landrace, or unknown origin shall not be permitted to be planted, cultivated, or replicated by any person without the department first arranging for replication and THC testing of mature plants grown from such seeds or propagules by the department or its designee.~~
- ~~(3) Any Licensed Grower or Licensed Processor found to have saved seed, propagules, or cuttings, or cultivated seeds, propagules, or cuttings from a cannabis plant of wild, landrace, or unknown origin, without permission from the department may be subject to suspension or revocation of their license and forfeiture without compensation of their materials.~~

SECTION 7. PLANTING REPORTS

~~(A) **Planting Reports for Outdoor Plantings.**~~

- ~~(1) A Licensed Grower shall submit to the department a complete and current Field Planting Report, within ten (10) days after every planting, including replanting, of seeds or propagules in an outdoor location.~~
- ~~(2) Each Field Planting Report shall identify the correct variety name as designated upon approval of the acquisition request or as approved by the department, the field location ID as listed in the Grower Licensing Agreement, the planting date and the primary intended use of the harvest for each planting.~~
- ~~(3) A Licensed Grower who does not plant hemp in an approved outdoor site listed in the Grower License Agreement shall submit a Field Planting Report, on or before July 31, stating that hemp has not and will not be planted at that site.~~

~~(B) **Planting Reports for Indoor Plantings.**~~

- ~~(1) A Licensed Grower shall submit to the department a complete and current Greenhouse/Indoor Planting Report within ten (10) days after establishing plants at an indoor location.~~

- ~~(2) Each Greenhouse/Indoor Planting Report shall identify the correct hemp variety name as designated in the Seed/Propagule Request form and approved by the department, the greenhouse or indoor growing location ID as listed in the Grower Licensing Agreement, the planting date and the primary intended use for the harvest of each planting.~~
- ~~(3) In addition to the initial Greenhouse/Indoor Planting Report, a Licensed Grower with an approved greenhouse or indoor growing site shall submit quarterly reports for each location ID to the department. Greenhouse/Indoor Planting Reports are due no later than March 31, June 30, September 30, and December 31.~~

~~SECTION 8. SITE ACCESS~~

~~For Representatives of the department and Law Enforcement Agencies.~~

- ~~(A) The department shall provide information about approved growing, handling, and storage site locations to representatives of the Arkansas State Police, DEA, and other law enforcement or cooperating agencies whose representatives request registered site information, including GPS coordinates.~~
- ~~(B) Licensed Growers and Licensed Processors/Handlers shall have no reasonable expectation of privacy with respect to premises where industrial hemp seeds, plants, or materials are located, and any premises listed in the Grower or Processor/Handler Licensing Agreements.~~
- ~~(C) A Licensed Grower or Licensed Processors/Handler, whether present or not, shall permit a representative of the department or a law enforcement agency to enter into premises where industrial hemp seeds, plants, or materials are located and any premises listed in the Grower or Processor/Handler Licensing Agreements with or without cause and with or without advanced notice.~~
- ~~(D) A Licensed Grower or Licensed Processor/Handler shall obtain in writing from the owner of any leased or rented field or structure the owner's acknowledgement they will abide to the terms listed in Section 8. Site Access~~

~~SECTION 9. PESTICIDE USE~~

- ~~(A) A Licensed Grower who uses a pesticide on hemp must be certified to apply pesticides pursuant to Federal and Arkansas laws and Board rules.~~
- ~~(B) A Licensed Grower shall not use any pesticide in violation of the product label.~~
- ~~(C) A Licensed Grower who uses a pesticide on a site where hemp will be planted shall comply with the longest of any planting restriction interval on the product label prior to planting the hemp.~~
- ~~(D) The department shall have the authority to perform pesticide testing on a random basis or when representatives of the department have reason to believe that a~~

~~pesticide may have been applied to hemp in violation of the product label.~~

- ~~(E) Hemp seeds, plants, and materials bearing pesticide residue in violation of the label shall be subject to forfeiture or destruction without compensation.~~

SECTION 10. LICENSED GROWER'S RESPONSIBILITY- Prior to Harvest

- ~~(A) The department may collect samples of any industrial hemp (Cannabis sativa L.) material at any time.~~
- ~~(B) A Licensed Grower shall submit a complete and current Harvest/Destruction Report form to the department at least 15 days (or the number of days established in the department's published guidance policy) prior to the intended harvest date or intended destruction of a failed crop.~~
- ~~(C) The department's receipt of a Harvest/Destruction Report triggers a Pre-harvest sample collection by the department.~~
- ~~(D) During the department's scheduled sample collection, the grower or an authorized representative shall be present at the growing site.~~
- ~~(E) Representatives of the department shall be provided with complete and unrestricted access to all industrial hemp (Cannabis sativa L.) plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all industrial hemp (Cannabis sativa L.) plants; and all locations listed in the Grower Licensing Agreement.~~
- ~~(F) The Licensed Grower shall harvest the crop not more than fifteen (15) days following the date of sample collection by the department, unless specifically authorized in writing by the department.~~
- ~~(G) Should the Licensed Grower fail to complete harvest within fifteen (15) days, the department may order a Secondary pre-harvest sample of the plot, and the Licensed Grower shall be assessed a Secondary Pre-Harvest Sample Fee per plot in the amount specified in the section on fees prior to the department collecting the sample.~~
- ~~(H) Harvested materials from Varieties of Concern shall not be commingled with other harvests without prior written permission from the department.~~
- ~~(I) Floral materials harvested for phytocannabinoid extraction shall not be moved outside the state or beyond a processor, nor commingled, nor extracted, until the releases the material in writing.~~
- ~~(J) A Licensed Grower who fails to submit a Harvest/Destruction Report or who does submit a Harvest/Destruction Report and proceeds to harvest a crop prior to a sample being collected by the department shall be subject to revocation of their license.~~

~~SECTION 11. SAMPLING AND ANALYSING HEMP~~

~~All plantings of industrial hemp listed in licensed Grower Applications/Agreements or products derived from industrial hemp or cannabis in possession of a Licensed Processor/Handler are subject to sampling for THC levels. The sampling method shall be per guidelines adopted by the department for collecting regulatory samples of industrial hemp. The license holder shall be responsible for the cost of all laboratory analytical services of the sample, billable to the license holder by the laboratory performing the analysis.~~

~~(A) Sample Collection:~~

~~(1) **Licensed Growers:** A number of days (determined by the department and published annually as policy) prior to harvesting or destroying any hemp plants, a participant must submit to the department a Harvest/Destruction Notification Form. The department will notify the participant of the date and approximate time when samples will be collected from the participant's plot(s) and/or greenhouse(s). The department will collect samples from each plot or greenhouse, in accordance with the department's sampling and testing procedures (published annually as guidelines/policy). The participant or a knowledgeable representative must be present for the sample collection. Samples must be collected prior to any harvest or destruction of plants within that plot or greenhouse. The department reserves the right to collect any number of samples at any time.~~

~~(2) **Licensed Processor/Handlers:** The department shall have the authority to collect and retain samples of industrial hemp and products derived from all industrial hemp in the possession of a Licensed Processor/Handler.~~

~~a) If final products are any type of consumable, and are intended for human consumption the processor/handler is responsible for obtaining any required state and federal food safety permits.~~

~~(B) Representatives of the department collecting or transporting the samples shall have the legal right to possess industrial hemp in Arkansas for purposes of collecting the sample and transporting the sample to a laboratory for analysis. The laboratory performing the analysis shall have the legal right to possess industrial hemp, perform the analysis, and retain a portion of the sample. All samples collected by the department become the property of the department and are non-returnable. No compensation shall be owed by the department.~~

~~(C) Laboratory Testing:~~

~~The department will select samples for testing in accordance with its THC Testing Protocol (published annually as guidelines/policy). If harvesting floral material, the participant must wait for THC test results prior to co-mingling of the individual plot or variety with harvested materials from different plots or varieties, or undertaking any extraction activities.~~

~~(1) When possible, all testing will be conducted by the department. Other labs may be used if authorized by the department. As soon as it is available, the results of~~

~~the THC analysis shall be reported to the department and the holder of the license.~~

- ~~(2) Samples with a total THC level equal to or below 0.3% THC shall require no further action and the area or harvested plant material from which the sample was obtained shall be released for marketing or further processing.~~
- ~~(3) Samples with a total THC level greater than 0.3% THC shall be reported by the department to the licensee and to the board's Industrial Hemp Committee. The license holder may request a re-test of the sample. If no re-test is requested, or the re-tested sample is greater than 0.3% THC, the area represented by the sample, or any harvested plant parts from the area represented by the sample shall be subject to the following disposition:
 - ~~(a) Industrial hemp stalks (denuded) may be harvested, processed and used for fiber and/or any other lawful purpose; or~~
 - ~~(b) Industrial hemp seed may be harvested, processed, and rendered non-viable for food products, provided the source of the seed or transplants is seed or transplants produced from seed or a living plant part which meets the criteria for Breeder, Foundation, Registered, or Certified categories as defined by the Arkansas Seed Certification Program, including certification by other seed agencies recognized by AOSCA, and include a certifying tag of varietal purity issued by the department or another official certifying agency as defined in Section 1 of these rules.~~~~
- ~~(4) If industrial hemp plant parts are harvested from a field, greenhouse, or a variety within a field or greenhouse, and are co-mingled with plant parts from another field, greenhouse, or variety within a field or greenhouse, prior to having knowledge of the results of the sample, the license holder does so at his or her own risk and with full knowledge that if an analysis of greater than 0.3% THC is returned, all co-mingled plant parts shall be destroyed.~~
- ~~(5) No plants or plant parts harvested from a planting being tested shall be marketed until released by the department.~~
- ~~(6) All samples become the property of the department and are non-returnable. No compensation shall be owed by the department.~~

SECTION 12. Restrictions on Sale or transfer

- ~~(A) A Licensed Grower or Licensed Processor/Handler shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person in the state who does not hold a license issued by the department.~~
- ~~(B) A Licensed Grower or Licensed Processor/Handler shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person outside the state of Arkansas (but within the United States) who is not authorized by a university or state department of agriculture under the authority of the Act and the laws of that state. The Licensed Grower or Licensed Processor/Handler is responsible for ensuring that such sale or transfer is lawful in other states.~~
- ~~(C) The department shall permit the sale or transfer of stripped stalks, fiber, dried roots, seed oils, nonviable seeds including seed meal and seed oils for consumption as~~

~~human food or animal feed, floral and plant extracts and other marketable hemp products to members of the general public, both within and outside the state, provided that the marketable hemp product's total THC level is not more than 0.3 percent.~~

- ~~(D) A Licensed Grower or Licensed Processor/Handler selling or transferring, or permitting the sale or transfer, of floral or plant extracts (including CBD), shall retain testing data or results for at least three (3) years demonstrating that the extract's total THC level is not more than 0.3 percent.~~
- ~~(E) The department shall permit a Licensed Grower or Licensed Processor/Handler to transfer up to one (1) pound of hemp material per transfer to testing laboratories, both within and outside the state, for the purpose of measuring THC, CBD, or other phytocannabinoid profile levels. It is the responsibility of the Licensed Grower to ensure compliance with laws in other states.~~
- ~~(F) Licensed Growers or Licensed Processor/Handlers shall comply with the federal Food Drug and Cosmetic Act and all other applicable local, state, and federal laws and rules relating to product development, product manufacturing, consumer safety, and public health.~~
- ~~(G) A Licensed Grower or Licensed Processor/Handler shall not knowingly permit hemp to be sold to or used by any person involved in the manufacture of an item named on the Prohibited Products List set forth in A.C.A. 2-15-401 et seq.: Arkansas Industrial Hemp Act.~~
- ~~(H) A Licensed Grower or Licensed Processor/Handler shall not:~~
- ~~(1) plant, grow, store or process hemp on any site not listed in the Grower Licensing Agreement or Processor/Handler License Agreement;~~
 - ~~(2) transport live hemp plants, viable seeds, leaf materials or floral materials to unapproved locations including trade shows, county fairs, educational or other events, celebrations, ceremonies or any other address not listed in the grower or processor's current Grower Licensing Agreement or Processor/Handler License Agreement except by express written permission from the department;~~
 - ~~(3) allow unsupervised public access to industrial hemp plots or plantings.~~

SECTION 13. REPORTING

~~Licensed Growers and Licensed Processor/Handlers are required to submit several reports listed in the Act and in these rules. Forms for these required reports will be provided by the department. These forms may include other requirements set as policy and published annually.~~

Production Reports:

- ~~(A) Licensed participants shall report, annually by December 31st, to the department, the following information:~~
- ~~(1) Licensed Growers:

 - ~~(a) Acreage, or greenhouse space planted, planting date, harvested date, and~~~~

~~varieties grown;~~

~~(b) Weight and type of plant part marketed, purchaser, and research information provided to the department or participating Arkansas Universities; and~~

~~(c) Current industrial hemp plant parts in storage and location of storage.~~

~~(2) Licensed Processors/Handlers shall report the source, total weight and type of raw industrial hemp processed, as well as the amount and composition/nature of final marketable hemp products made.~~

~~(B) Participants in the Industrial Hemp Program must submit a completed Production Report form. Grower & Processor/Handler License holders shall report annually to the department the research data or observations collected and reported in provided forms or templates from the cultivation or processing of industrial hemp as stated on the license application forms and in these rules. Failure to submit a fully complete and truthful Production Report form may result in denial to participate in future Industrial Hemp Research Programs.~~

SECTION 14. Fees and Services

~~(A) Each application shall be accompanied by a nonrefundable fee of fifty dollars (\$50.00).~~

~~(B) A license is issued for one year, for an annual fee of two hundred dollars (\$200.00).~~

~~(C) For a renewal license, the same fee schedule will apply as in Paragraph (C) of this Rule.~~

~~(D) Fees paid for a license are not refundable once the licensee takes possession of seed or transplants or if the license is revoked for any cause over the duration of the license.~~

~~(E) The initial and renewal license fees are due annually when the license applicant is notified of the acceptance of a license application and before the licensee takes possession of the seed or transplants, whichever is earlier.~~

~~(F) The license holder shall be responsible for the cost of all inspection and sampling services.~~

~~(G) The license holder shall be responsible for the cost of all laboratory analytical services.~~

~~(H) Any applicant or licensee participating in the Arkansas Seed Certification Program is responsible for all fees and rules associated with the program.~~

~~(I) The license holder shall be responsible for the cost of any other oversight required by the board. This may include site verification visits, seed/propagule verification visits,~~

~~pesticide residue testing, staff time, and program administration. A fee schedule will be established on an annual basis and published on the department's website or be available on request.~~

~~(J) Established Fees~~

~~(1) Grower Applications~~

- ~~(a) \$50 Application Fee (non-refundable)~~
- ~~(b) \$200 License Fee~~
- ~~(c) \$200 Modification Fee (per modification, max. of 3 allowed per license year)~~
- ~~(d) Applied Acreage Fee~~
 - ~~i. \$50 for less than 5 acres~~
 - ~~ii. \$100 for 5 to less than 50 acres~~
 - ~~iii. \$250 for 50 to less than 100 acres~~
 - ~~iv. \$500 for 100 to less than 200 acres~~
 - ~~v. \$1000 for greater than 200 acres~~
- ~~(e) \$100 applied Greenhouse fee (each greenhouse)~~
- ~~(f) \$100 Lab Sample Fee (per lab compliance sample)~~
- ~~(g) \$100 GPS Verification Fee for Each Location ID~~
- ~~(h) \$25 Hemp Transfer Fee (each transfer)~~

~~(2) Processor/Handler License~~

- ~~(a) \$50 Application Fee (non-refundable)~~
- ~~(b) \$200 License Fee~~
- ~~(c) \$200 Modification Fee (per modification, max. of 3 allowed per license year)~~
- ~~(d) \$100 Lab Sample Fee (per lab compliance sample)~~
- ~~(e) \$100 GPS Verification Fee, each Location ID~~
- ~~(f) \$25 Hemp Material Transfer Fee (each transfer)~~
- ~~(g) Applied Producer Fee~~
 - ~~i. \$1500 for Flower/Bud Material~~
 - ~~ii. \$500 for Fiber, Seed and Grain~~
 - ~~iii. \$500 Handler Fee~~

SECTION 15. License Suspension or Revocation

- ~~(A) The department shall notify a Licensed Grower or Processor in writing that the Licensing Agreement has been temporarily suspended if a representative of the department receives information supporting an allegation that a licensee has:~~
- ~~(1) Engaged in conduct violating a provision of this rule, the Act, or the Grower Licensing Agreement;~~
 - ~~(2) Made a false statement to a representative of the department or a law enforcement agency;~~
 - ~~(3) Been found to be growing or in possession of cannabis with a measured total THC concentration at or above 3 percent; or~~

- ~~(4) Failed to comply with an order from a representative of the department or a law enforcement agency.~~
- ~~(B) A person whose Licensing Agreement has been temporarily suspended shall not harvest, process, or remove cannabis from the premises where hemp or other cannabis was located at the time when the department issued its notice of temporary suspension, except as authorized in writing by a representative of the department.~~
- ~~(C) As soon as possible after the notification of temporary suspension, a representative of the department shall inspect the Licensee's premises and perform an inventory of all industrial hemp, and hemp products that are in the Licensee's possession.~~
- ~~(D) The department shall schedule a license revocation hearing for a date as soon as practicable after the notification of temporary suspension, but in any event not later than sixty (60) days following the notification of temporary suspension.~~

SECTION 16. GRANT FUNDS

- ~~(A) If grant funds become available, an applicant must apply on forms supplied by the department. Applications will be evaluated on a competitive basis (if appropriate) by a department appointed review committee.~~
- ~~(B) Records will be required to be kept, reported and made available for audits.~~
- ~~(C) If it is determined any grant funds were spent inappropriately, refunds will be required.~~

SECTION 17. PROHIBITIONS SUMMARIZED:

The prohibitions listed below shall not invalidate any provisions of these rules through omission or repetition, but shall be a supplement thereto.

No person shall:

- ~~(A) — Sell, offer, expose, distribute or transport industrial hemp seed or transplants not produced or labeled in accordance with the provisions of the above rules or having a false or misleading labeling;~~
- ~~(B) — Sell, offer, expose, distribute or transport industrial hemp seed not labeled in accordance with the provisions listed in the Board's Circular 10, Regulations on the Sale of Planting Seed in Arkansas including selling seed containing prohibited noxious weeds or excessive numbers of noxious weeds;~~
- ~~(C) — Sell, offer, or expose for sale any industrial hemp seed labeled AOSCA "Certified Seed," "Registered Seed," or "Foundation Seed," unless it has been~~

~~produced and labeled in compliance with the rules of an officially recognized AOSCA seed-certifying agency or association;~~

- ~~(D) — Fail to comply with sample collection and testing requirements prior to harvesting or destroying any hemp plants, in accordance with these rules;~~
- ~~(E) — Detach, alter, deface, or destroy any labeling or other required documentation specified in these rules, or alter or substitute seed or transplants in a manner that may defeat the purpose of these rules;~~
- ~~(F) — Disseminate any false or misleading advertisement concerning industrial hemp seed or propagating material in any manner or by any means;~~
- ~~(G) — Hinder or obstruct in any way any authorized agent(s) of the department or law enforcement in the performance of their duties;~~
- ~~(H) — Fail to comply with all licensing and reporting requirements as outlined in these rules or in the Act;~~
- ~~(I) — Fail to keep required records including but not limited to those for agronomics, contracts, sampling, storage, expenses, transportation and delivery, and income, while the license is valid and for at least three years thereafter, or make available for inspection such records to the department or any authorized agent thereof;~~
- ~~(J) — Fail to keep the agreement ensuring the monitoring and destruction of hemp plant volunteers for three years following cultivation regardless of land lease or ownership status during that period.~~
- ~~(K) — Represent industrial hemp seeds which are indistinguishable by seed characteristics to be of a recognized variety, without having adequate information for such variety representation, such as that they were grown from AOSCA Certified seed on land free of volunteer plants that might affect the purity of the seed under consideration, and if a cross-pollinated crop, isolated so as to prevent cross-pollination, and handled in harvesting, storing and processing so that the varietal purity and quality of the seed is maintained;~~
- ~~(L) — Fail to comply, upon request of the department of any producer of industrial hemp seed (including hybrids), who wishes to offer their seed for sale in the state, to give the department a complete description of the characteristics of the variety or hybrid and become certified under the Arkansas Certified Seed Program.~~
- ~~(M) — Provide false, misleading, or incorrect information to the department pertaining to the licensee's cultivation or processing of industrial hemp by any means, including but not limited to information provided in any application form, report, record or inspection required or maintained for purposes of industrial hemp~~

~~research plots / production in these rules or in the Act;~~

- ~~(N) Plant, grow, store, transfer or process hemp on, from or to any site not listed in the Grower Licensing Agreement or Processor/Handler License Agreement;~~
- ~~(O) Sell or transfer, or permit the sale or transfer, of living plants, viable seeds, living or dried/ground leaf material, or floral material to any person in the state who does not hold a license issued by the department, or to any unauthorized person outside the state.~~

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APPENDIX

~~For An Act To Be Entitled~~

~~AN ACT TO CREATE THE ARKANSAS INDUSTRIAL HEMP ACT; TO CREATE A RESEARCH PROGRAM TO ASSESS THE AGRICULTURAL AND ECONOMIC POTENTIAL OF INDUSTRIAL HEMP PRODUCTION IN ARKANSAS; AND FOR OTHER PURPOSES.~~

Subtitle

~~TO CREATE THE ARKANSAS INDUSTRIAL HEMP ACT; AND TO CREATE A RESEARCH PROGRAM TO ASSESS THE AGRICULTURAL AND ECONOMIC POTENTIAL OF INDUSTRIAL HEMP PRODUCTION IN ARKANSAS.~~

~~BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:~~

~~**SECTION 1.** Arkansas Code Title 2, Chapter 15, is amended to add an additional subchapter to read as follows:~~

~~Subchapter — Arkansas Industrial Hemp Act
2-15-401. Title.~~

~~This act shall be known and may be cited as the "Arkansas Industrial Hemp Act".~~

~~2-15-402. Legislative intent.~~

~~This subchapter is intended to assist the state in moving to the forefront of industrial hemp production, development, and commercialization of hemp products in agribusiness, alternative fuel production, and other business sectors, both nationally and globally, and to the greatest extent possible.~~

~~2-15-403. Definitions.~~

~~As used in this subchapter:~~

- ~~(1) "Agribusiness" means the processing of raw agricultural products, including without limitation timber and industrial hemp, or the performance of value-added functions with regard to raw agricultural products;~~
- ~~(2) "Certified seed" means industrial hemp seed that has been certified as having no more tetrahydrocannabinol concentration than that adopted by federal law under the Controlled Substances Act, 21 U.S.C. § 801.11 et seq.;~~
- ~~(3) "Grower" means a person licensed to grow industrial hemp by the State Plant Board;~~
- ~~(4) "Hemp product" means a product made from industrial hemp, including without limitation:

 - ~~(A) Certified seed for cultivation if the seeds originate from industrial hemp varieties;~~
 - ~~(B) Cloth;~~
 - ~~(C) Cordage;~~
 - ~~(D) Fiber;~~
 - ~~(E) Food;~~
 - ~~(F) Fuel;~~
 - ~~(G) Paint;~~
 - ~~(H) Paper;~~
 - ~~(I) Particleboard;~~
 - ~~(J) Plastics; and~~
 - ~~(K) Seed, seed meal, and seed oil for consumption;~~~~
- ~~(5) "Industrial hemp" means all parts and varieties of the plant Cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of no more than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. 32 § 801 et seq.;~~
- ~~(6) "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production; and~~

~~(7) "Tetrahydrocannabinol" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, Cannabis sativa, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.~~

~~2-15-404. State Plant Board — Research program.~~

- ~~(a) (1) The State Plant Board may adopt rules to administer the industrial hemp research program and to license persons to grow industrial hemp under this subchapter.~~
- ~~(2) The board may include as part of its rules the establishment of industrial hemp testing criteria and Protocols.~~
- ~~(b) (1) The board shall promote research and development concerning industrial hemp and commercial markets for Arkansas industrial hemp and hemp products.~~
- ~~(2) The board may work in conjunction with the Division of Agriculture of the University of Arkansas and the Cooperative Extension Service of the University of Arkansas regarding industrial hemp research programs.~~
- ~~(3) (A) The board may undertake research concerning industrial hemp production through the establishment and oversight of a ten-year industrial hemp research program.~~
- ~~(P) In conjunction with the Division of Agriculture of the University of Arkansas, the board may create a program consisting primarily of demonstration plots planted and cultivated in this state by growers licensed under this subchapter.~~
- ~~(Q) The board may determine the location, and the total number and acreage, of each demonstration plot.~~
- ~~(D)(i) In conducting research under this subchapter, higher tetrahydrocannabinol concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of industrial hemp.~~
- ~~(ii) However, tetrahydrocannabinol levels shall not exceed three-tenths of one percent (0.3%).~~
- ~~(4) The board may seek permits or waivers from the United States Drug Enforcement Administration or appropriate federal agency that are necessary for the advancement of the industrial hemp research program.~~
- ~~(5) In conjunction with the Division of Agriculture of the University of Arkansas, the board may:~~
- ~~(A) Oversee and analyze the growth of industrial hemp by selected and licensed growers for agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of industrial hemp that may be suitable for various commercial hemp products, including without limitation industrial hemp seed, paper, clothing, and oils;~~
- ~~(B) Conduct seed research on various types of industrial hemp that are best suited to be grown in Arkansas, including without limitation:~~
- ~~(i) Creation of Arkansas hybrid types of industrial hemp;~~
- ~~(ii) Industrial hemp seed availability; and~~
- ~~(iii) In-the-ground variety trials and seed production;~~
- ~~(C) Establish a program to recognize certain industrial hemp seed as being Arkansas heritage hemp seed;~~
- ~~(D) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the state;~~
- ~~(E) Report on the estimated value-added benefits, including environmental benefits, that Arkansas businesses could reap by having an industrial hemp market of Arkansas-grown industrial hemp varieties in the state;~~
- ~~(F) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;~~
- ~~(G) Research and promote Arkansas industrial hemp and hemp seed on the world market that can be grown on farms in the state; and~~
- ~~(H) Study the feasibility of attracting federal and private funding for the Arkansas industrial hemp research program.~~
- ~~(6) The board may:~~
- ~~(A) Coordinate with the Arkansas Energy Office to study the use of industrial hemp in new energy technologies, including without limitation:~~

- (i) ~~Evaluation of the use of industrial hemp to generate electricity, and to produce biofuels and other forms of energy resources;~~
- (ii) ~~Growth of industrial hemp on reclaimed mine sites;~~
- (iii) ~~Use of hemp seed oil in the production of fuels; and~~
- (iv) ~~Assessment of the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy; and~~
- (B) ~~Promote awareness of the financial incentives that may be available to agribusiness and manufacturing companies that manufacture industrial hemp into hemp products to:~~
 - (i) ~~Attract new businesses to the state;~~
 - (ii) ~~Create a commercial market for industrial hemp;~~
 - (iii) ~~Create new job opportunities for Arkansas residents; and~~
 - (iv) ~~Diversify the agricultural economy of the state.~~
- (7) ~~The research activities under this subchapter shall not:~~
 - (A)(i) ~~Subject the industrial hemp research program to criminal liability under the controlled substances laws of the state.~~
 - (ii) ~~The exemption from criminal liability under subdivision (b)(7)(A)(i) of this section is a limited exemption that shall be strictly construed and that shall not apply to an activity of the industrial hemp research program that is not expressly permitted under this subchapter; or~~
 - (B) ~~Amend or repeal by implication a provision of the Uniform Controlled Substances Act, § 5-64-101 et seq.~~
- (8) ~~The board shall notify the Department of Arkansas State Police and each local law enforcement agency with jurisdiction of the duration, size, and location of all industrial hemp demonstration plots.~~
- (9) ~~The board may cooperatively seek funds from both public and private sources to implement the industrial hemp research program created in this subchapter.~~
- (10) ~~By December 31, 2018, and annually thereafter, the board shall report on the status and progress of the industrial hemp research program to the Governor and to the Arkansas Agriculture Department.~~
- (11) ~~The board may establish and collect fees to administer the industrial hemp research program.~~

~~2-15-405. Interagency cooperation.~~

- (a) ~~The Division of Agriculture of the University of Arkansas may provide research and development related services under this subchapter for the State Plant Board, including without limitation:~~
 - (1) ~~Testing of industrial hemp;~~
 - (2) ~~Processing of documents relating to the program of licensure;~~
 - (3) ~~Financial accounting and recordkeeping, and other budgetary functions; and~~
 - (4) ~~Meeting coordination and staffing.~~
- (b)(1) ~~The Arkansas Economic Development Commission may work in conjunction with the State Plant Board to promote:~~
 - (A) ~~The development of industrial hemp production in the state; and~~
 - (B) ~~The commercialization of hemp products in agribusiness, alternative fuel production, and other business sectors, to the greatest extent possible.~~
- (2) ~~The commission may promote the availability of financial incentives offered by state government for the processing and manufacture of industrial hemp into hemp products in the state, including without limitation incentives offered to interested parties both within and without this state.~~
- (c) ~~Administrative expenses under this section shall be paid from the Arkansas Industrial Hemp Program Fund.~~

~~2-15-406. State Plant Board — Reports.~~

- ~~The State Plant Board may report to the Governor and to the Arkansas Agriculture Department concerning industrial hemp policies and practices that may result in the proper legal growing, management, use, and marketing of the state's potential industrial hemp industry, including without limitation:~~
- (1) ~~Federal laws and regulatory constraints;~~
 - (2) ~~The economic and financial feasibility of an industrial hemp market in Arkansas;~~
 - (3) ~~Arkansas businesses that might use industrial hemp;~~
 - (4) ~~Examination of research on industrial hemp production and use;~~
 - (5) ~~The potential for globally marketing Arkansas industrial hemp;~~

- (6) A feasibility study of private funding for the Arkansas industrial hemp research program;
- (7) Enforcement concerns;
- (8) Statutory and regulatory schemes for growing of industrial hemp by private producers; and
- (9) Technical support and education about industrial hemp.

~~2-15-407. Federal regulations regarding industrial hemp.~~

- (a) ~~The State Plant Board shall adopt the federal rules and regulations that are currently enacted regarding industrial hemp as in effect on January 1, 2017.~~
- (b) ~~This subchapter does not authorize a person to violate any federal rules or regulations.~~
- (c) ~~If any part of this subchapter conflicts with a provision of federal law relating to industrial hemp, the federal provision shall control to the extent of the conflict.~~

~~2-15-408. Industrial hemp licenses.~~

- (a) ~~The State Plant Board may establish a program of annual licensure to allow persons to grow industrial hemp in the state.~~
- (b)(1) ~~The industrial hemp licensure program shall include the following forms of license:~~
 - (A)(i) ~~An industrial hemp research program grower license, to allow a person to grow industrial hemp in this state in a controlled fashion solely and exclusively as part of the industrial hemp research program overseen by the board.~~
 - (ii) ~~A license under subdivision (b)(1)(A)(i) of this section is subject to the receipt of necessary permissions, waivers, or other forms of authentication by the United States Drug Enforcement Administration or another appropriate federal agency pursuant to applicable federal laws relating to industrial hemp; and~~
 - (B)(i) ~~An industrial hemp grower license to allow a person to grow industrial hemp in this state.~~
 - (ii) ~~A license under subdivision (b)(1)(B)(i) of this section is subject to the authorization of legal industrial hemp growth and production in the United States under applicable federal laws relating to industrial hemp.~~
- (2) ~~A license issued under this section shall authorize industrial hemp propagation only on the land areas specified in the license.~~
- (c)(1) ~~A person seeking an application to grow industrial hemp, whether as part of the industrial hemp research program or otherwise, shall apply to the board for the appropriate license on a form provided by the board.~~
- (2) ~~The board shall require the applicant to include on the form provided by the board under subdivision (c)(10) of this section the following information, including without limitation:~~
 - (A)(i) ~~The name and mailing address of the applicant;~~
 - (ii) ~~The legal description and global positioning coordinates of the production fields to be used to grow industrial hemp; and~~
 - (B)(i) ~~Written consent allowing the board, if a license is ultimately issued to the applicant, to enter onto the premises on which the industrial hemp is grown to conduct physical inspections of industrial hemp planted and grown by the applicant to ensure compliance with this subchapter and rules adopted under this subchapter.~~
 - (ii) ~~Unless a deficiency is found, the board shall make no more than two (2) physical inspections of the production fields of an industrial hemp licensee; and~~
 - (iii) ~~Tetrahydrocannabinol levels shall be tested as provided in this subchapter; and~~
- (e) ~~Each application shall be accompanied by a nonrefundable fee of fifty dollars (\$50.00).~~
- (f) ~~The board shall establish a fee not to exceed two hundred (\$200) for an:~~
 - (1) ~~Initial license; and~~
 - (2) ~~Annual renewal license.~~
- (g)(1) ~~For an industrial hemp research program grower licensee, the board may approve licenses for only those growers whose demonstration plots that the board determines will advance the goals of the industrial hemp research program.~~
- (2) ~~The board shall base a determination under subdivision (g)(1) of this section on:~~
 - (A) ~~Growing conditions;~~
 - (B) ~~Location;~~
 - (C) ~~Soil type;~~
 - (D) ~~Various varieties of industrial hemp that may be suitable for various hemp products; and~~

~~(E) Other relevant factors.~~

- ~~(h) The board shall determine the number of acres to be planted under each license.~~
- ~~(i) A copy of or an electronic record of a license issued by the board under this section shall be forwarded immediately to the sheriff of the county in which the industrial hemp location is licensed.~~
- ~~(j) Records, data, and information filed in support of a license application is proprietary and subject to inspection only upon the order of a court of competent jurisdiction.~~
- ~~(k) At the expense of the license holder, the board shall:

 - ~~(1) Monitor the industrial hemp grown by each license holder;~~
 - ~~(2) Provide for random testing of the industrial hemp for compliance with tetrahydrocannabinol levels; and~~
 - ~~(3) Provide for other oversight required by the board.~~~~

~~2-15-409. License required—Records.~~

- ~~(a)(1) A person shall obtain an industrial hemp grower license under this subchapter before planting or growing industrial hemp in this state.

 - ~~(2) An industrial hemp grower license holder who has planted and grown industrial hemp in this state may sell the industrial hemp to a person engaged in agribusiness or other manufacturing for the purpose of research, processing, or manufacturing that industrial hemp into hemp products.~~~~
- ~~(b) An industrial hemp grower shall:

 - ~~(1) Maintain records that reflect compliance with this subchapter and all other state laws regulating the planting and cultivation of industrial hemp;~~
 - ~~(2) Retain all industrial hemp production records for at least three (3) years;~~
 - ~~(3) Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be inspected by and at the discretion of the board or its agents;~~
 - ~~(4) File with the board documentation indicating that the industrial hemp seeds planted were of a type and variety certified to have no more tetrahydrocannabinol concentration than that adopted in the federal Controlled Substances Act, 21 U.S.C. § 801 et seq.;~~
 - ~~(5) Notify the board of the sale of industrial hemp grown under the license and the names and addresses of the persons to whom the industrial hemp was sold; and~~
 - ~~(6) Provide the board with copies of each contract between the licensee and a person to whom industrial hemp was sold.~~~~
- ~~(c) A person licensed to grow industrial hemp under this subchapter may import and resell industrial hemp seed that has been certified as having no more tetrahydrocannabinol concentration than that adopted in the federal Controlled Substances Act, 21 U.S.C. § 801 et seq.~~

~~2-15-410. Transportation of industrial hemp.~~

- ~~(a)(1) Only an industrial hemp grower licensee or their designees or agents may transport industrial hemp off the premises of the licensee.

 - ~~(2) When transporting industrial hemp off the premises of an industrial hemp grower licensee, the licensee or a designee or agent of the licensee shall carry the licensing documents from the State Plant Board, evidencing that the industrial hemp:

 - ~~(A) Was grown by a licensee; and~~
 - ~~(B) Is from certified seed.~~~~~~
- ~~(b) Industrial hemp that is found in this state at any location off the premises of an industrial hemp grower licensee is contraband and subject to seizure by any law enforcement officer, unless the person in possession of the industrial hemp has in his or her possession either:

 - ~~(1) The proper licensing documents under this subchapter; or~~
 - ~~(2) A bill of lading, or other proper documentation, demonstrating that the industrial hemp was legally imported or is otherwise legally present in this state under applicable state and federal laws relating to industrial hemp.~~~~

~~2-15-411. License revocation.~~

- ~~(a)(1) The State Plant Board shall revoke the license of an industrial hemp grower licensee who fails to comply with this subchapter or the rules adopted under this subchapter.

 - ~~(2) An industrial hemp grower licensee whose license is revoked under subdivision (a)(1) of this section is ineligible for licensure under this subchapter for up to five (5) years after the revocation.~~~~

~~(b)(1) Before revocation of an industrial hemp grower license, the board shall provide the industrial hemp grower licensee notice and an informal hearing before the board to show cause why the license should not be revoked and the licensee's right to grow forfeited.~~

~~(2) If a license is revoked and a licensee's right to grow is forfeited as the result of an informal hearing under subdivision (b)(1) of 12 this section, the industrial hemp grower licensee may request a formal administrative hearing before the board.~~

~~(c) An industrial hemp grower licensee whose license is revoked may appeal the final order of the board by filing an appeal in the circuit court of the district in which the licensee resides.~~

~~2-15-412. Grant funds.~~

~~(a) An industrial hemp grower licensed under this subchapter may receive funds received by the state under the Arkansas Industrial Hemp Fund.~~

~~(b) The State Plant Board shall adopt rules for applications for grants under this section.~~

~~SECTION 2. Arkansas Code § 19-6-301, concerning special revenues enumerated, is amended to add an additional subdivision to read as follows:~~

~~(255) Permit fees paid under the Arkansas Industrial Hemp Act, § 2-15-401 et seq.~~

~~SECTION 3. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended to add an additional section to read as follows:~~

~~19-6-833. Arkansas Industrial Hemp Program Fund.~~

~~(a) There is established on the books of the Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous fund to be known as the "Arkansas Industrial Hemp Program Fund".~~

~~(b) The fund shall consist of:~~

~~(1) Fees collected under the Arkansas Industrial Hemp Act, § 2-15-401 et seq.;~~

~~(2) Gifts, grants, and other funds both public and private; and~~

~~(3) Other revenues as may be authorized by law.~~

~~(c) Any unallocated or unencumbered balances in the fund shall be invested in the fund and any interest or other income earned from the investments, along with the unallotted or unencumbered balances in the fund, shall not lapse but shall be carried forward for purposes of the fund, and made available solely for the purposes and benefits of the industrial hemp research program under the Arkansas Industrial Hemp Act, § 2-15-401 et seq.~~

State Plant Board
Industrial Hemp Production Rule Comment Summary

1	For
<u>2</u>	Undecided
3	Total

FOR:

William Morgan, BioGen, LLC

The rules appear to be in line with current guidelines but would like to see more assistance offered to growers/researchers and less fees. Hemp industry in Arkansas faces two main obstacles: 1) "Lack of education of the market", and 2) burdensome fees. Commentor states he had to shut down a genetics research program because a \$100 compliance fee "is ridiculous." States that locally produced genetics need to be supported. Would like to see the Department of Agriculture offer more assistance and less rules.

RESPONSE:

The Board appreciates your comments and also believes the rules reflect current USDA and Arkansas legislative requirements. The Department of Agriculture receives no funding for the program or for assistance to hemp growers or researchers.

UNDECIDED:

Brian Madan, Tree of Life Seeds

The Department is doing a great job administering the program but there should be additional funding to the Department so the program would not have to be supported by fees. Commentor states that he will not apply for a license this year due to the "cost of entry and poor commodity prices."

RESPONSE:

The Board appreciate your comments. The Department receives no funding for the program other than that authorized by Ark. Code Ann. §§ 2-25-505(d) and 507(h), which specifically states that the Plant Board may establish and collect fees to administer the program.

Ray Benton

"I'm out of the hemp business. Not growing this year or any other. I'm done with having to deal with all of it."

RESPONSE:

The Board appreciate your comments.

CURRENT RESEARCH PROGRAM RULES:

- 2014 Farm Bill authority & AR Hemp Act of 2017
- Created to determine and research the feasibility of hemp crop production in Arkansas
- Licensed Hemp Growers & Hemp Processor/Handlers
- Required research & marketing plans
- Required Letters of Intent from another licensee
- Required state-level criminal history background checks
- \$200/license + additional fees
- 15-day harvest window

- 0.3% is still the legal limit for hemp
- No person shall sell/transfer leaf/floral material to unlicensed entities
- Most rules seen in research program are incorporated into proposed rule; research program already met federal rule requirements
- Establish a sampling/testing program

PROPOSED PRODUCTION PROGRAM RULES:

- 2018 Farm Bill authority & AR Hemp Production Act of 2021
- Will issue Hemp Licenses with specific licensing endorsements related to growing, processing, handling, etc.
- No longer requiring research or marketing plans for licensees
- Requiring FBI criminal history background checks for applicants/licensees
- \$300/license + additional fees
- Every hemp lot must be assigned an FSA lot number
- **30-day harvest window**
- Enforcement actions, such as Corrective Action Plans for Negligent Violations
- Civil penalties up to \$5,000/violation
- Licenses on normal calendar year

