

EXHIBIT F1

RULE SUMMARY

This rule will allow the Plant Board to request additional information/research before a pesticide is registered for use in the State of Arkansas. This rule will allow the introduction of new pesticide technologies while providing protection for farmers who choose not to use the technology.

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Agency 209.02

CHAPTER 16

PLANT DISEASE AND PEST CONTROL

SUBCHAPTER 4

PESTICIDE CONTROL

2-16-401. Title.

This subchapter shall be known as the "Arkansas Pesticide Control Act".

2-16-402. Purpose.

- (a) The purpose of this subchapter is to regulate in the public interest the labeling, distribution, storage, transportation, and disposal of pesticides as defined in this subchapter.
- (b) Pesticides are valuable to our 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.
- (c) New pesticides are continually being discovered, synthesized, or developed which are valuable for the control of pests and for use as defoliant, desiccant, plant regulators, spray adjuvants, and related purposes. However, such pesticides may be ineffective, may cause injury to man, or may cause unreasonable adverse effects on the environment.
- (d) Therefore, it is deemed necessary to provide for regulation of pesticides

2-16-403. Definitions.

As used in this subchapter, unless the context otherwise requires:

- (1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant;
- (2) "Adulterated" shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted;
- (3) "Animal" means all vertebrate and invertebrate species, including, but not limited to, man and other mammals, birds, fish, and shellfish;

- (4) "Beneficial insects" means those insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial;
- (5) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission;
- (6) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue;
- (7) "Device" means any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than man, and other than bacteria, virus, or other microorganism on or in living man or other living animals; but not including equipment used for the application of pesticides when sold separately from the sale of pesticides;
- (8) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and having so received, deliver or offer to deliver, pesticides in this state;
- (9) "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these;
- (10) "EPA" means the United States Environmental Protection Agency;
- (11) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended;
- (12) "Fungus" means any non-chlorophyll-bearing thallophytes, that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;
- (13) "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide under the authority of Section 25(c)(2) of the Federal Insecticide, [Fungicide] and Rodenticide Act or by the State Plant Board under § 2-16-406(a)(2);
- (14) "Imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceedings pursuant to § 2-16-408 would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior under P.L. 91-135;
- (15) "Inert ingredient" means an ingredient which is not an active ingredient;
- (16) "Ingredient statement" means:
 - (A) Statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide; and
 - (B) When the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic. In the case of a spray adjuvant, the ingredient statement need contain only the names of the functioning agents and the total percentage of the constituents ineffective as spray adjuvants;

- (17) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, for example, beetles, bugs, bees, flies, and other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, for example, spiders, mites, ticks, centipedes, and wood lice;
- (18) "Label" means the written, printed, or graphic matter on or attached to the pesticide or device or any of its containers or wrappers;
- (19) "Labeling" means the label and all other written, printed, or graphic matter:
- (A) Accompanying the pesticide or device at any time; or
 - (B) To which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the United States Environmental Protection Agency; the United States Departments of Agriculture, Interior, and Health and Human Services; state experiment stations; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides;
- (20) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle and inhabiting soil, water, plants, or plant parts; they may also be called nemas or eelworms;
- (21) "Person" means any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not;
- (22) "Pest" means:
- (A) Any insect, rodent, nematode, fungus, weed; or
 - (B) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism except viruses, bacteria, or other microorganisms on or in living man or other living animals which the United States Environmental Protection Agency declares to be a pest under Section 25(c)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, or which the State Plant Board declares to be a pest under § 2-16-406(a)(1);
- (23) "Pesticide" means:
- (A) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests;
 - (B) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and
 - (C) Any substance or mixture of substances intended to be used as spray adjuvant;

- (24) "Plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of plants or the produce thereof. The term shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments;
- (25) "Protect health and environment" means protection against any unreasonable adverse effects on the environment;
- (26) "Registrant" means a person who has registered any pesticide pursuant to the provisions of this subchapter;
- (27) "Restricted-use pesticide" means any pesticide or pesticide use classified for restricted use by the Administrator of the United States Environmental Protection Agency;
- (28) "State-restricted pesticide" means any pesticide or pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the State Plant Board determines, subsequent to a hearing, requires additional restrictions for that pesticide or use to prevent unreasonable adverse effects on the environment, including man, lands, beneficial insects, animals, crops, and wildlife, other than pests;
- (29) "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the pesticide with which it is to be used;
- (30) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide;
- (31) "Weed" means any plant which grows where not wanted; and
- (32) "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this subchapter, pests. "Wildlife" shall include, but not be limited to, mammals, birds, and aquatic life.

2-16-404. Penalties.

- (a) Any person who violates any provision of this subchapter or the regulations adopted hereunder shall be guilty of a misdemeanor and upon conviction shall be punishable for the first offense by a fine of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) and for the second and any additional offense a fine of not less than five hundred dollars (\$500) and not more than two thousand dollars (\$2,000).
- (b) Any offense committed more than three (3) years after a previous conviction shall be considered as a first offense.

2-16-405. Administration.

- (a) This subchapter shall be administered by the State Plant Board.
- (b) The functions vested in the board by this subchapter shall be considered to be delegated to the employees of the State Plant Board or its authorized representatives.

2-16-406. Powers of State Plant Board.

- (a) The State Plant Board is authorized, after due notice and an opportunity for a hearing, to:
 - (1) Declare as a pest any form of plant or animal life, other than man and other than bacteria, viruses, and other microorganisms on or in living man or other living animals, which is injurious to health or the environment;
 - (2) Determine whether pesticides registered under the authority of Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act are highly toxic to man. The definition of "highly toxic" in 40, C.F.R. § 162.8, as issued or hereafter amended, shall govern the board's determination;
 - (3) Determine pesticides, and quantities of substances contained in pesticides, which are injurious to the environment. The board shall be guided by the United States Environmental Protection Agency regulations in this determination; and
 - (4) Prescribe regulations requiring any pesticide registered for special local needs to be colored or discolored if it determines that the requirement is feasible and is necessary for the protection of health and the environment.
- (b) The board is authorized to inspect pesticides wherever found and may sample and analyze or cause to be analyzed samples thereof, to determine compliance with this subchapter and the regulations adopted hereunder.
- (c) The board is authorized, after due notice and a public hearing, to make appropriate regulations where the regulations are necessary for the enforcement and administration of this subchapter. These regulations shall include, but not be limited to, regulations providing for:
 - (1) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;
 - (2) Labeling requirements of all pesticides required to be registered under provisions of this subchapter. The regulations shall not impose any requirements for federally registered labels in addition to or different from those required pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act;
 - (3) Specifying those classes of devices which shall be subject to any provision of § 2-16-410.
- (d) For the purpose of uniformity and in order to enter into cooperative agreements, the board may:
 - (1) Adopt restricted-use pesticides classifications as determined by the United States Environmental Protection Agency. In addition, the board may declare certain pesticides or pesticide uses as state-restricted pesticides when, after investigation and public hearing, it finds and determines the pesticide to be injurious to persons, animals, or vegetation other than the pest or vegetation which it is intended to destroy, or otherwise requires additional restrictions under the conditions set forth in § 2-16-403(28). The sale or distribution of such pesticides in Arkansas or their use in pest control or other operation is

prohibited, except in accordance with such rules and regulations as may be made by the board after a public hearing. The rules and regulations may include rules and regulations prescribing the time when and the conditions under which the materials may be used in different areas in the state. The board, in its rules and regulations, may charge inspection and permit fees sufficient to cover the cost of enforcement of this subdivision (d)(1); and

- (2) Adopt regulations in conformity with the primary pesticide standards, particularly as to labeling and registration requirements, as established by the United States Environmental Protection Agency or other federal or state agencies.

2-16-407. Pesticide registration required.

- (a) Each pesticide must have been accepted for registration by the State Plant Board, and the registration must be in force at the time it is sold, offered for sale, or distributed in this state. Registration is not required if a pesticide is shipped from one (1) plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of this subchapter or if the pesticide is distributed under the provisions of an experimental use permit issued under § 2-16-409 or an experimental use permit issued by the United States Environmental Protection Agency.
- (b) The applicant for registration shall file a statement with the board which shall include:
 - (1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;
 - (2) The name of the pesticide;
 - (3) Other necessary information required for completion of the board's application for registration form; and
 - (4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in the Federal Insecticide, Fungicide, and Rodenticide Act.
- (c) The board, when it deems it necessary in the administration of this subchapter, may require the submission of the complete formula of any pesticide, including the active and inert ingredients.
- (d) The board may require a full description of the tests made and the results upon which the claims are based on any pesticide not registered pursuant to § 3 of the Federal Insecticide, Fungicide, and Rodenticide Act or on any pesticide on which restrictions are being considered. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered.
- (e) The board may prescribe other necessary information by regulation.
- (f) The applicant desiring to register a pesticide shall pay an annual registration fee as prescribed in the regulations of the board for each pesticide registered by the applicant. The annual registration fee shall be no less than sixty dollars (\$60.00) for each product registered. All registrations shall expire December 31 each year.

- (g) Any registration approved by the board and in effect on December 31 for which a renewal application has been made and the proper fee paid shall continue in full force and effect until such time as the board notifies the applicant that the registration has been approved or denied, in accordance with the provisions of § 2-16-408. Forms for reregistration shall be mailed to registrants at least thirty (30) days prior to the due date.
- (h) Provided the board is certified by the Administrator of the United States Environmental Protection Agency to register pesticides to meet special local needs pursuant to Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act, the board shall require information set forth under subsections (b)-(e) of this section and shall register a pesticide if it determines that:
 - (1) The pesticide's composition is such as to warrant the proposed claims for it;
 - (2) The pesticide's labeling and other material required to be submitted comply with the requirements of this subchapter;
 - (3) The pesticide will perform its intended function without unreasonable adverse effects on the environment;
 - (4) When used in accordance with widespread and commonly recognized practice, the pesticide will not generally cause unreasonable adverse effects on the environment; and
 - (5) The classification for general or restricted use is in conformity with Section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act.
- (i) The board shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two (2) pesticides meet the requirements of this section, one (1) should not be registered in preference to the other.

2-16-408. Registration of pesticides for local needs.

- (a) Provided the State Plant Board is certified by the Administrator of the United States Environmental Protection Agency to register pesticides for those pesticides formulated to meet special local needs, the board shall consider the following for refusal to register, for cancellation, for suspension, or for legal recourse:
 - (1) If it does not appear to the board that the pesticide is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of this subchapter or regulations adopted hereunder, it shall notify the applicant of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply with the provisions of this subchapter so as to afford the applicant an opportunity to make the necessary corrections.
 - (A) If, upon receipt of the notice, the applicant does not make the required changes, the board may refuse to register the pesticide.

- (B) The applicant may request a hearing as provided for in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;
- (2) When the board determines that a pesticide or its labeling does not comply with the provisions of this subchapter or the regulations adopted hereunder, it may cancel the registration of a pesticide after a hearing in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;
- (3) When the board determines that there is an imminent hazard, it may, on its own motion, suspend the registration of a pesticide in conformance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq. Hearings shall be held with the utmost possible expedition; and
- (4) Any person adversely affected by an order in this section may obtain judicial review of the order by filing in the circuit court, within sixty (60) days after the entry of the order, a petition praying that the order be set aside in whole or in part.
 - (A) A copy of the petition shall be forthwith transmitted by the clerk of the court to the board, and then the board shall file in the court the record of the proceedings on which it based its order.
 - (B) The court shall have jurisdiction to affirm or set aside the order complained of in whole or in part.
 - (C) The findings of the board with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole.
 - (D) Upon application, the court may remand the matter to the board to take further testimony if there are reasonable grounds for the failure to adduce such evidence in the prior hearing.
 - (E) The board may modify its findings and order by reason of the additional evidence so taken and shall file the additional record and any modification of the findings or order with the clerk of the court.
- (b) If the board determines that any federally registered pesticide, with respect to its use in this state, requires further restrictions pursuant to § 2-16-406(d)(1), it may refuse to register or cancel or suspend the current registration of the pesticide in order to comply with such rules and regulations as may be adopted under § 2-16-406.

2-16-409. Experimental-use permits.

- (a) Provided the State Plant Board is authorized by the Administrator of the United States Environmental Protection Agency to issue experimental-use permits, the board may:
 - (1) Issue an experimental-use permit to any person applying for an experimental-use permit if it determines that the applicant needs that permit in order to accumulate information necessary to register a pesticide under § 2-16-407;
 - (2) Refuse to issue an experimental-use permit if it determines that the pesticide applications to be made under the proposed terms and conditions may cause unreasonable adverse effects on the environment;

- (3) Prescribe terms, conditions, and a period of time for the experimental-use permit which shall be under the supervision of the board; and
 - (4) Revoke any experimental-use permit at any time if it finds that the permit's terms or conditions are being violated or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.
- (b) Regulations adopted under this subchapter as to experimental-use permits as authorized by the Federal Insecticide, Fungicide, and Rodenticide Act shall not be inconsistent with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act and regulations promulgated thereunder.

2-16-410. Misbranded pesticides.

A pesticide is misbranded:

- (1) If its labeling bears any statement, design, or graphic representation relative to the pesticide or to its ingredients which is false or misleading in any particular;
- (2) If it is an imitation of, or is distributed under the name of, another pesticide;
- (3) If any word, statement, or other information required to appear on the label or labeling is not prominently placed thereon with such conspicuousness, compared with other words, statements, designs, or graphic matter in the labeling, and in such terms, as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (4) If the labeling does not contain a statement of the federal use classification under which the product is registered;
- (5) If the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended, and the directions if complied with, together with any requirements imposed under section 3(3) [correction to original codification: section 3(d)] of the Federal Insecticide, Fungicide, and Rodenticide Act, are adequate to protect health and the environment;
- (6) If the label does not bear:
 - (A) The name, brand, or trademark under which the pesticide is distributed;
 - (B) An ingredient statement on that part of the immediate container and on the outside container and wrapper of the retail package, if there is one, through which the ingredient statement on the immediate container cannot be clearly read, which is presented or displayed under customary conditions of purchase. The ingredient statement may appear prominently on another part of the container as permitted pursuant to Section 2(q)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase;

- (C) A warning or caution statement which may be necessary and which, if complied with together with any requirements imposed under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act, would be adequate to protect the health and environment;
 - (D) The net weight or measure of the content;
 - (E) The name and address of the manufacturer, registrant, or person for whom manufactured; and
 - (F) The United States Environmental Protection Agency registration number assigned to each establishment in which it was produced and the United States Environmental Protection Agency registration number assigned to the pesticide, if required by regulations under the Federal Insecticide, Fungicide, and Rodenticide Act;
- (7) If that pesticide contains any substance in quantities highly toxic to man unless the label bears, in addition to other label requirements:
- (A) The skull and crossbones;
 - (B) The word "POISON" in red prominently displayed on a background of distinctly contrasting color; and
 - (C) A statement of a practical treatment, first aid or otherwise, to be used in case of poisoning by the pesticide;
- (8) If the pesticide container does not bear a registered label; and
- (9) If a spray adjuvant label fails to state the type or function of the functioning agents.

2-16-411. Unlawful actions - Exceptions.

- (a)(1) It is unlawful for any person to distribute in this state any of the following:
- (A) Any pesticide which has not been registered pursuant to:
 - (i) The provisions of this subchapter; or
 - (ii) The provisions of the Federal Insecticide, Fungicide, and Rodenticide Act;
 - (B) Any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration. A change in the labeling or formulation of a pesticide may be made within a registration period without requiring reregistration of the product if the registration is amended to reflect the change and if the change will not violate any provision of the Federal Insecticide, Fungicide, and Rodenticide Act or this subchapter;
 - (C) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to the container, and to the outside container or wrapper of the retail package if there is one through which the required information on the immediate container cannot be clearly read, a label

bearing the information required in this subchapter and the regulations adopted under this subchapter. The State Plant Board may designate that certain specified economic poisons may be sold by the manufacturers or dealers in bulk, in which case the label information required and any other statements required by this subchapter must be stated in or attached to the invoice. In addition, a copy of the invoice must be given to the purchaser at the time the economic poison is delivered;

- (D) Any pesticide which has not been colored or discolored pursuant to the provisions of § 2-16-406(a)(4) or of Section 25(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act;
 - (E) Any pesticide which is adulterated or misbranded or any device which is misbranded; and
 - (F) Any pesticide in containers which are unsafe due to damage.
- (2) However, this subsection shall not apply to:
- (A) Any carrier while lawfully engaged in transporting a pesticide within this state if the carrier shall, upon request, permit the board to copy all records showing the transactions in and movement of the pesticides or devices;
 - (B) Public officials of this state and the federal government while engaged in the performance of their official duties in administering state or federal pesticide laws or regulations or while engaged in pesticide research;
 - (C) The manufacturer or shipper of a pesticide for experimental use only by or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides if the manufacturer or shipper holds a valid experimental-use permit as provided for by § 2-16-409 or by the United States Environmental Protection Agency;
 - (D) Any person who ships a substance or mixture of substances being put through tests, in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties, from which the user does not expect to receive any benefit in pest control from its use.
- (b) It shall be unlawful for any person to:
- (1) Detach, alter, deface, or destroy, wholly or in part, any label or labeling provided for in this subchapter or in regulations adopted under this subchapter or to add any substance to or take any substance from a pesticide in a manner that may defeat the purpose of this subchapter or the regulations adopted hereunder;
 - (2) Use for his own advantage or to reveal, other than to the board, to properly designated state or federal officials, to employees of the state or federal executive agencies, to the courts of the state in response to a subpoena, to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of § 2-16-407 or any information judged by the board as containing or relating to trade secrets or commercial or financial information obtained by authority of this subchapter and marked as privileged or confidential by the registrant;

- (3) Handle, transport, store, display, or distribute pesticides in such a manner as to endanger man and his environment or to endanger food, feed, or any other products that may be transported, stored, displayed, or distributed with the pesticides;
 - (4) Dispose of, discard, or store any pesticides or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, or beneficial insects or to pollute any water supply or waterway;
 - (5) Refuse or otherwise fail to comply with the provisions of this subchapter, the regulations adopted hereunder, or of any lawful order of the board.
- (c) No person shall transport, store, or dispose of any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, or beneficial insects or to pollute any waterway in a way harmful to any wildlife therein. The board may promulgate rules and regulations governing the storing and disposal of pesticides or pesticide containers. In determining these standards, the board shall take into consideration any regulations issued by the United States Environmental Protection Agency.
- (d) No pesticide or device shall be deemed in violation of this subchapter when intended solely for export to a foreign country, and when prepared or packed according to the specification or directions of the purchaser. If not so exported, all the provisions of this subchapter shall apply.

2-16-412. Enforcement.

- (a) The sampling and examination of pesticides or devices shall be made by the State Plant Board for the purpose of determining whether they comply with the requirements of this subchapter.
- (1) The board is authorized to enter any distributor's premises, including any vehicle of transport, at all reasonable times, in order to have access to pesticides or devices packaged or labeled for distribution and to collect samples of the contents, containers, or labeling for the pesticides or devices.
 - (2) If an analysis is made of the samples, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge.
 - (3) If it appears from the examination that a pesticide or device fails to comply with the provisions of this subchapter or regulations adopted hereunder and the board contemplates instituting criminal proceedings against any person, the board shall cause appropriate notice to be given to that person.
 - (4) Any person so notified shall be given an opportunity within a reasonable time to present his views, either orally or in writing, with regard to the contemplated proceedings.
 - (5) If thereafter, in the opinion of the board, it appears that the provisions of this subchapter or regulations adopted hereunder have been violated by the person, the board shall refer a copy of the results of the analysis or the examination of the pesticide or device to the prosecuting attorney for the county in which the violation occurred
- (b)(1) For the purpose of carrying out the provisions of this subchapter, the board may enter upon any public or private premises at reasonable times in order to inspect storage or disposal areas or sample pesticides being applied or to be applied.

- (2) Should the board be denied access to any premises or other areas where access was sought for the purposes set forth in this subchapter, it may apply to any court of competent jurisdiction for a search warrant authorizing access to those premises or other areas for the purposes set forth in this subchapter. The court may, upon such application, issue the search warrant for the purposes requested.
- (c) The board, with or without the aid and advice of the prosecuting attorney, is charged with the duty of enforcing the requirements of this subchapter and any rules or regulations issued thereunder. In the event a prosecuting attorney refuses to act on behalf of the board, the Attorney General may so act.
- (d) The board is authorized to apply to any court of competent jurisdiction for, and the court upon hearing and for cause shown may grant, a temporary or permanent injunction. This injunction shall restrain any person from violating any provisions of this subchapter or of the rules and regulations made under authority of this subchapter and shall be without bond.
- (e) Nothing in this subchapter shall be construed as requiring the board to report minor violations of this subchapter for prosecution or for the institution of condemnation proceedings when it believes that the public interest will be served best by a suitable notice of warning in writing.

2-16-413. Issuance of stop-sale, etc., order.

- (a) When the State Plant Board has reasonable cause to believe a pesticide or device is being distributed, stored, transported, or used in violation of any of the provisions of this subchapter, or of any of the regulations prescribed under the authority of this subchapter, it may issue and serve a written stop-sale, use, or removal order upon the owner or custodian of the pesticide or device.
- (b) If the owner or custodian is not available for service of the order upon him, the board may attach the order or other suitable marking to the pesticide or device and notify the owner or custodian and the registrant.
- (c) The pesticide or device shall not be sold, used, or removed until the provisions of this subchapter have been complied with and until the pesticide or device has been released in writing under conditions specified by the board or the violation has been otherwise disposed of as provided in this subchapter by a court of competent jurisdiction.

2-16-414. Hearing on stop-sale, etc., order.

- (a) After service of a stop-sale, use, or removal order is made upon any person, either that person, the registrant, or the State Plant Board may file an action in a court of competent jurisdiction in the county in which a violation of this subchapter or regulations adopted hereunder is alleged to have occurred for an adjudication of the alleged violation.
 - (1) The court in the action may issue temporary or permanent injunctions, mandatory or restraining orders, and such intermediate orders as it deems necessary or advisable.

- (2) The court may order condemnation of any pesticide or device which does not meet the requirements of this subchapter or regulations adopted hereunder.
- (b) If the pesticide or device is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs.
- (1) If the pesticide or device is sold, the proceeds, less costs including legal costs, shall be paid to the State Treasury as provided in § 2-16419.
 - (2) The pesticide or device shall not be sold contrary to the provisions of this subchapter or regulations adopted thereunder.
 - (3) Upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be disposed of unlawfully, the court may direct that the pesticide or device be delivered to its owner for relabeling, reprocessing, removal from the state, or otherwise bringing the product into compliance.
- (c) When a decree of condemnation is entered against the pesticide or device, court costs, fees, storage, and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide.
- (d) No state court shall allow the recovery of damages from administrative action taken or for stop-sale, use, or removal if the court finds that there was probable cause for such action.

2-16-415. Subpoenas.

The State Plant Board may issue subpoenas to compel the attendance of witnesses or production of books, documents, and records in the state in any hearing affecting the authority or privilege granted by a registration issued under the provisions of this subchapter.

2-16-416. Intergovernmental cooperation.

The State Plant Board may cooperate, receive grants-in-aid, and enter into cooperative agreements or contracts with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, in order to:

- (1) Secure uniformity of regulations;
- (2) Enter into cooperative agreements with the United States Environmental Protection Agency to register pesticides under the authority of this subchapter and the Federal Insecticide, Fungicide, and Rodenticide Act; and
- (3) Cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and implement cooperative enforcement programs, including, but not limited to, the registration and inspection of establishments.

2-16-417. Publication of information.

The State Plant Board may publish, in such form as it may deem proper, results of analyses based on official samples as compared with the analyses guaranteed and information concerning the distribution of pesticides.

2-16-418. Protection of trade secrets and other information.

- (a) In submitting data required by this subchapter, the applicant may:
 - (1) Clearly mark any portions thereof which in his opinion are trade secrets or commercial or financial information; and
 - (2) Submit such marked material separately from other material required to be submitted under this subchapter.
- (b) Notwithstanding any other provision of this subchapter, the State Plant Board shall not make public any information which, in its judgment, contains or relates to trade secrets or commercial or financial information obtained from a person and is privileged or confidential, except that, when necessary to carry out the provisions of this subchapter, information relating to formulas of products acquired by authorization of this subchapter may be revealed to any state or federal agency consulted or in findings of fact issued by the board.
- (c) If the board proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (b) of this section, it shall notify the applicant or registrant, in writing, by certified mail.
 - (1) The board shall not, after mailing the notice as provided in this subsection, make available for inspection the data until thirty (30) days after receipt of the notice by the applicant or registrant.
 - (2) During this period, the applicant or registrant may institute an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under subsection (b) of this section.

2-16-419. Disposition of funds.

All moneys received by the State Plant Board under the provisions of this subchapter and the regulations adopted hereunder shall be deposited in the Plant Board Fund of the State Treasury and be used for carrying out the provisions of this subchapter.

REGULATIONS UNDER ACT 410

REGULATION NO. 1. Registration Fees; Expiration of Registration -

Through December 31, 2007 the registration fee for each pesticide product registered for calendar year 2007 by any manufacturer, registrant or distributor shall be \$150. For products registered for calendar year 2008, the registration fee shall be \$200. For products registered for calendar year 2009 and each additional year thereafter the fee shall be \$250. Registrations shall expire December 31 of the year for which registered. This fee does not include the Abandoned Agricultural Pesticide Disposal Fee as required by Act 1130 of 2001.

REGULATION NO. 2. Pests Declared -

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

- (1) Vertebrate animals (other than man), including but not limited to mammals, birds, fish, amphibians, and reptiles.
- (2) Invertebrate animals (other than internal parasites of living man or other living animals), including but not limited to insects and other arthropods, nematodes, and mollusks such as slugs and snails.
- (3) Plants growing where not wanted, including mosses, liverworts, and all plants of higher orders, and plant parts such as roots.
- (4) Microorganisms (other than those on or in living man or other living animals, and those on or in processed food, beverages, pharmaceuticals including cosmetics), including but not limited to algae, fungi, and bacteria.
- (5) Viruses (other than those on or in living man or other animals and those on or in food, beverages, and pharmaceuticals including cosmetics).

REGULATION NO. 3. Devices Specified; Provisions Applicable -

A device shall be construed to be any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, viruses, or other microorganisms on or in living man or other living animals), but not including equipment used for the application of pesticides when sold separately therefrom. Devices shall be subject to the misbranding provisions of Section 2-16-410 (1), (2) and (3) of this Act.

REGULATION NO. 4. Coloration and Discoloration -

The requirements for coloration and discoloration of pesticides shall be those as set forth in the regulations adopted by EPA pursuant to Section 25(c)(5) of FIFRA.

REGULATION NO.5. Labeling-

Labeling requirements for pesticides shall be those as set forth in Section 162.10 of the Regulations adopted under FIFRA.

REGULATION NO. 6. Pesticides Highly Toxic to Man -

The determination of pesticides highly toxic to man shall be those in accord with the regulations promulgated by EPA pursuant to Section 25(c)(2) of FIFRA.

REGULATION NO 7. Notice of Requirement for Additional Research and for Restricting Products Beyond EPA Approval.

The Plant Board will notify applicants for registration in writing if any additional research, evidence or information will be required, and specifically what information will be necessary in order to receive state approval. The notice may also inform the applicant that once the requested information is reviewed, further information or research may be requested based upon pertinent science.

The Board considers the environment in Arkansas to be unique, therefore there will be a higher consideration given to research that is specific to Arkansas. Research conducted by scientists from universities within the state will be the primary source of expertise to allow the Board to determine if the data is scientifically sound and relevant to growing and cropping conditions in the state of Arkansas. While this expertise shall be used as guidance when considering a product for registration or restricted use, the Board may consider other research sources and is not bound by the advice or findings of any one individual or entity, and any final determination regarding registration rests within the discretion of the Board.

Prior to issuing regulations that restrict the use of a product beyond what has been approved by the Environmental Protection Agency, the State Plant Board shall provide notice to the product registrant, in writing, of what pertinent research findings and recommendations of other agencies of this state, the federal government, or other reliable source that the board considered in reaching their decision in accordance with A.C.A. 20-20-206.

In the event the Board finds any research presented in connection with the restricted use of a product to be insufficient, the Board shall also state in writing why such a finding was made and also provide written justification behind the board's decision to further restrict the use of the product. The Board shall provide this notice to the product registrant at the first available opportunity but no later than 45 days after the initial review by registration staff of the written application for registration.

Within 14 days of receiving a notification of restricted use, the product registrant shall notify the Board, in writing, if they wish to dispute the decision of the Board and state the specific reasons for the dispute and as necessary submit additional research findings and recommendations for the board's consideration. Plant Board staff will then decide whether the registrant has provided sufficient additional information, evidence or research to change the proposed restricted use. As previously stated in this rule, the Board will present its findings in writing.

Further, for products that have received federal approval from the Environmental Protection Agency and are currently registered and being used in the state, the Plant Board must provide written notice to the product registrant before placing further restrictions on the product. The Plant Board must state in writing the reasoning and justification behind the board's decision to place additional restrictions on the use of the product and what actions the product registrant may take to prevent the additional use restrictions, if applicable.

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EXHIBIT F2

RULE SUMMARY

The rule to amend Arkansas Regulation on Pesticide Classification will restrict the use of dicamba for agricultural uses from April 16th through October 31st of all pesticides containing dicamba except for use on pastures, rangeland, turf, ornamental, direct injection for forestry activities and home use. The rule requires individuals who intend to apply dicamba by ground to complete online training provided by the University of Arkansas. This rule will protect farmers who have chosen not to use this pesticide technology and the general public.

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Agency No. 209.02

ARKANSAS REGULATIONS ON PESTICIDE USE

SECTION I. Title

The following regulations 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 Regulations On Pesticide Use". Promulgation of these regulations repeals all provisions of the Plant Board's current regulations entitled "Arkansas Regulations 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 regulations 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 regulations 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 regulations 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 regulations 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 regulations written pursuant thereto, the label registered with the State of Arkansas, regulations 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 regulations 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 regulations 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 regulations. 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 regulations.

SECTION IX. Class D

Products with this designation shall be used in accordance with all other applicable federal or state laws and the regulations 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 regulations, 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 regulations 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 regulations.
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 regulations 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 regulations 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 regulations 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 regulations and other applicable regulations promulgated by the Plant Board. Use of equipment for custom application that does not have a current decal will be a violation of these

regulations. 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 regulations or other applicable regulations 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 regulations. The applicator will also be considered in violation of the Plant Board's regulations 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 regulations 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 regulations 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 regulations 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 regulations 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 regulations 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 regulations 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 Duo Exemption

- a. Dow Agro-Sciences' product identified as 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 regulations 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 regulations 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 Regulations 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 regulations.

SECTION XIII. CLASS H

Products with this designation shall be used in accordance with all other applicable federal and state laws and regulations 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.

6. From April 16th through October 31st of each year, applications of products labeled for agricultural use that contain dicamba are prohibited.

Exemption: Applications of products containing made to pastures or rangeland are allowed provided the application site is no closer than 1 mile in all directions from sensitive areas and non-target susceptible crops as identified by the product label.

Exemption: Applications of products containing dicamba for turf, ornamental, direct injection for forestry activities and home use are allowed.

7. Ground applications of products with this classification 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.
8. 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.

B. Exemptions:

1. The licensing requirements of these regulations 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.

MARK-UP

Agency No. 209.02

ARKANSAS REGULATIONS ON PESTICIDE USE

SECTION I. Title

The following regulations 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 Regulations On Pesticide Use". Promulgation of these regulations repeals all provisions of the Plant Board's current regulations entitled "Arkansas Regulations 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 regulations 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 regulations 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 I

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 regulations 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 regulations 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 regulations written pursuant thereto, the label registered with the State of Arkansas, regulations 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 regulations 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 regulations 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 regulations. 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 regulations.

SECTION IX. Class D

Products with this designation shall be used in accordance with all other applicable federal or state laws and the regulations 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 regulations, 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 regulations 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 regulations.
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 regulations 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 regulations 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 regulations 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 regulations and other applicable regulations promulgated by the Plant Board. Use of equipment for custom application that does not have a current decal will be a violation of these

regulations. 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 regulations or other applicable regulations 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 regulations. The applicator will also be considered in violation of the Plant Board's regulations 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 regulations 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 regulations 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 regulations 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 regulations 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 15th 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 regulations 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 regulations 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 Duo Exemption

- a. Dow Agro-Sciences' product identified as 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 ~~or Xtend~~ 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 regulations 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 regulations 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 Regulations 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 regulations.

SECTION XIII. CLASS H

Products with this designation shall be used in accordance with all other applicable federal and state laws and regulations 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. Applications of products labeled for agriculture use that contain dimethylamine salt and acid formulations of dicamba are prohibited.~~

~~Exemption: Applications of dimethylamine salt and acid formulations of dicamba made to pastures or rangeland are allowed provided the application site is 1 mile in all directions from sensitive areas and non-target susceptible crops as identified by the product label.~~

- ~~2.6. From April 15th16th through September 15th **October 31st** of each year, applications of products labeled for agricultural use that contain dicamba diglycolamine salt and sodium salt of dicamba are prohibited.~~

~~Exemption: Applications of products containing diglycolamine salt and sodium salt of dicamba made to pastures or rangeland are allowed provided the application site is no closer than 1 mile in all directions from sensitive areas and non-target susceptible crops as identified by the product label.~~

~~**Exemption: Applications of products containing dicamba for turf, ornamental, direct injection for forestry activities and home use are allowed.**~~

- ~~3. Pesticides labeled for agriculture use that contain the active ingredient(s) N,N Bis (3-aminopropyl)methylamine salt of 3,6-dichloro-o-anisic (BAPMA Salt of Dicamba) may be used subject to the following conditions:~~

- ~~a. During application a 100 ft. buffer zone in every direction except ¼ mile downwind from the field of application to sensitive areas and non-target susceptible crops as identified by the product label must be maintained~~
- ~~b. The wind speed during the application may not exceed 10 mph.~~
- ~~c. The volume median diameter (VMD) of the spray droplets must be greater than 400 microns.~~

- d. ~~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.~~
- e. ~~Where the product label is more restrictive than the Plant Board's restrictions, then the label must be complied with.~~

4.7. Ground applications of products with this classification shall not be made to Enlist or Xtend 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.

5.8. 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. B. Exemptions:

1. The licensing requirements of these regulations 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.

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