

**PROPOSED RULE
MARKUP
AGENCY NO. 209.01**

Arkansas Livestock & Poultry Commission

GARBAGE FEEDING REGULATION RULE (SWINE)

Regulation No. 14

Section 1

For the purpose of this regulation rule:

(a) "Garbage", regardless of previous processing, means any animal or vegetable wastes resulting from handling, preparation, cooking and consumption of foods, including parts of animal carcasses, or contents of offal.

(b) "Person" shall means state, any municipality, political subdivision, institution, public or private corporation, individual, partnership or any other entity.

(c) A "gGarbage dump" is means a place where ordinary household garbage is disposed of from two or more families.

Section 2. Each garbage feeding establishment shall be required to obtain and display a feeding permit, which may be obtained free of charge from the supervising inspector or his representative. This permit shall remain in force during such time as satisfactory practices are maintained.

Section 3. Any person who shall sell, give away or otherwise dispose of garbage to any person shall be required to furnish the Arkansas Livestock and Poultry Commission the name and address of the party or parties who obtain garbage. This shall not apply to those persons whose garbage is collected by municipalities or persons who have a permit to collect garbage or persons who may sell, give away or otherwise dispose of his or her own ordinary household garbage.

Section 4. Upon determination that any person having a permit issued under this regulation, or who has applied for a permit hereunder, has violated or failed to comply with any of the provisions of this regulation, the Arkansas Livestock and Poultry Commission may revoke such permit or refuse to issue a permit to any applicant.

Section 5. All garbage, regardless of previous processing before it reaches the garbage feeding establishments or farm, shall be thoroughly heated to at least 212 degrees F. (boiling temperature) for at least 30 minutes before being fed to the swine. The premises on which garbage feeding is permitted under this regulation must be kept free of collection of unused garbage and waste material in order that proper sanitation, rat and fly control measures can be practiced as a further means of prevention and spread of disease in either animal or human health.

Section 6.

II I. GARBAGE FEEDING PROHIBITIONS

Feeding garbage to swine and allowing swine to have access to a garbage dump is prohibited.
It is prohibited to

A. Feed swine any of the following:

1. Animal carcasses or parts thereof;
2. Meat products or meat by-products;
3. Offal or contents thereof;

whether raw or resulting from the handling, preparation, cooking, or consumption of foods.

B. Allow swine access to a site where ordinary household garbage is disposed of from two or more families.

II. ENFORCEMENT AUTHORITY

~~A. Any authorized representative of the Arkansas Livestock and Poultry Commission Department of Agriculture (Department) shall have the power to enter at reasonable times upon any private property for the purpose of determining that proper cooking temperatures, as specified in Section 5, have been reached for the proper period of time and for inspecting and investigating any conditions relating to heating of garbage to be fed to swine as required by this regulation compliance with this rule.~~

~~Any authorized representative of the Arkansas Livestock and Poultry Commission may examine any records or memoranda pertaining to the feeding of garbage to swine. The Commission may require maintenance of records relating to the operation of equipment for and procedure of treating garbage to be fed to swine. Copies of such records shall be submitted to the Arkansas Livestock and Poultry Commission on request.~~

Section 7

~~(a) B. The Livestock and Poultry Commission State Veterinarian is authorized to quarantine for a period of thirty-forty-five (45) days any pigs that have been fed improperly cooked garbage or raw garbage, in violation of this rule. Hogs Swine may not be sold or removed from these the premises until the quarantine has been officially removed by a representative of the Arkansas Livestock and Poultry Commission (Department).~~

~~(b) No person, firm, or corporation shall permit hogs on any garbage dump.~~

~~Section 8 C. This regulation rule shall not apply to any person who feeds only his own household garbage to the swine~~

~~It is not a violation of this rule to feed swine as otherwise prohibited by Section I of this rule that are~~

1. considered pets; or
2. for consumption only by the immediate family of the owner of the swine.

~~Swine described in this Section (II.C.) and under no circumstances shall the swine be sold to a market or through private treaty until the swine have been must be fed on grain or traditional swine feed for forty-five (45) days prior to being sold or removed from the premises.~~

III. PENALTIES AND AUTHORITY

A. Failure to comply with any of the provisions of this rule may result in administrative penalties as provided by law.

1. First offense will result in a Warning letter.

2. Second or subsequent offense will result in a Notice to Appear before the Arkansas Livestock and Poultry Commission for a determination of proper administrative penalties.

B. Authority. A.C.A. §§ 2-32-501 et seq.; 2-33-107(a); 2-40-103.



Asa Hutchinson
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

1 Natural Resources Drive, Little Rock, AR 72205
agriculture.arkansas.gov
(501) 225-1598



Wes Ward
Secretary of Agriculture

Proposed Amendments to the Garbage Feeding (Swine) Rule

June 21, 2021

Purpose:

The Arkansas Department of Agriculture (Department) is seeking Governor Hutchinson's review of proposed amendments to the Garbage Feeding rule of the Arkansas Livestock and Poultry Commission (Commission).

Background:

The Commission's current rule authorizes the Commission to issue a permit for the feeding of garbage to swine. On December 12, 2019, the Commission proposed amendments to the rule to ban the feeding of garbage, including any animal or vegetable wastes resulting from handling, preparation, cooking, and consumption of foods, and parts of animal carcasses, to swine. The Administrative Procedure Act process for promulgation for those amendments then began.

At the ALC Administrative Rules Review subcommittee meeting June 17, 2020, committee members had concerns about the proposed changes, specifically the prohibition against feeding vegetable wastes and the broad discretion the Commission has in penalty assessment. The Department agreed to pull the rule back and address the subcommittee's concerns. At its July 22, 2020 meeting, the Commission approved a new version to address those issues.

Subsequent to that approval, it was determined that a potential conflict existed between the proposed rule and the then existing law regarding fowl carcass disposal. During the 2021 session of the Arkansas General Assembly, the legislature passed Act 716 which amended the fowl carcass disposal law, Ark. Code Ann. § 2-40-403, and resolved the conflict by eliminating cooking for swine food as an acceptable method of fowl carcass disposal. On April 16, 2021, the Commission eliminated the feeding of meat and meat by-products from the proposed rule and voted to move forward with the new rule.

Key Points:

- prohibits feeding of meat and meat by-products to swine and allowing swine to have access to garbage and garbage dumps
- allows feeding of vegetable wastes to swine
- authorizes the State Veterinarian to quarantine swine that have been fed meat or meat by-products
- provides for a warning letter for first offenses

Discussion:

Feeding garbage to swine is a direct path for introducing diseases to swine. The spread of African Swine Fever (ASFV) has been directly linked to garbage feeding. ASFV is a serious, highly contagious, viral disease of pigs that can spread very rapidly in swine populations by direct or indirect contact. It can persist for long periods in uncooked swine products, facilitating its introduction into new areas. This virus can also become endemic in feral hogs, and transmission cycles between these animals and ticks can complicate or even prevent eradication. ASFV isolates vary in virulence from highly pathogenic strains that cause near 100% mortality to low-virulence isolates that can be difficult to diagnose. There is currently no vaccine or treatment.

Industry has prohibited garbage feeding in commercial operations. Twenty-two (22) states have banned the practice of private owners feeding garbage to swine. No garbage feeding permits have been issued by the Commission to swine operations in several years.

Recommendation:

Staff recommends that the proposed amendments to the Garbage Feeding rule be approved as most recently proposed by the Commission.



Asa Hutchinson
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

1 Natural Resources Drive, Little Rock, AR 72205
agriculture.arkansas.gov
(501) 225-1598



Wes Ward
Secretary of Agriculture

June 23, 2021

TO: Editor Arkansas Democrat-Gazette

FROM: Wade Hodge, Chief Counsel
Arkansas Department of Agriculture

SUBJECT: Legal Notice

Please publish the enclosed legal notice in the June 26 – 28, 2021 issues of the Arkansas Democrat-Gazette. Please bill us in the usual manner.

WH:ll

Enclosure

CC: Caleb Stanton, Governor's Office
Arkansas State Library
U of A Library, Fayetteville

Legal Notice

Arkansas Livestock and Poultry Commission

The Arkansas Livestock and Poultry Commission is proposing amendments to its rules as follows:

1. **Garbage Feeding Rule (Swine)**: A proposed rule amendment which will prohibit feeding meat or meat by-products to swine.
2. **Disposal of Large Animal and Poultry Carcasses**: A proposed rule to clarify proper methods of animal carcass disposal and combine two separate rules for disposal of large animal and poultry carcasses.
3. **Carcass Disposal – Poultry**: The Commission is proposing to repeal this rule if the combined new rule is approved.
4. **Regulation for the Disposal of Large Animal Carcasses, Excluding Dogs and Cats**: The Commission is proposing to repeal this rule if the combined new rule is approved.
5. **Disbursement of State Funds for Fairs and Livestock Status**: The Commission is proposing to repeal this rule to comply with Act 700 of 2021 which repealed existing law regarding funding of fairs and livestock shows and created a fair-funding program within the Department of Agriculture.

Comments may be mailed to Arkansas Livestock and Poultry Division, ATTN: Patrick Fisk, PO Box 8505, Little Rock, AR 72203, or emailed to patrick.fisk@agriculture.arkansas.gov

Comments will be accepted beginning June 26, 2021, until the close of business July 25, 2021.

The proposed rule change may be viewed on the web page at www.agriculture.arkansas.gov



Wade Hodge, Chief Counsel
Arkansas Department of Agriculture

GARBAGE FEEDING RULE (SWINE)

I. GARBAGE FEEDING PROHIBITIONS

It is prohibited to

A. Feed swine any of the following:

1. animal carcasses or parts thereof;
2. meat products or meat by-products;
3. offal or contents thereof;

whether raw or resulting from the handling, preparation, cooking, or consumption of foods.

B. Allow swine access to a site where ordinary household garbage is disposed of from two or more families.

II. ENFORCEMENT AUTHORITY

A. Any authorized representative of the Arkansas Department of Agriculture (Department) shall have the power to enter at reasonable times upon any private property for the purpose of determining compliance with this rule.

B. The State Veterinarian is authorized to quarantine for a period of forty-five (45) days any swine that have been fed in violation of this rule. Swine may not be sold or removed from the premises until the quarantine has been officially removed by a representative of the Department.

C. It is not a violation of this rule to feed swine as otherwise prohibited by Section I of this rule that are:

1. considered pets; or
2. for consumption only by the immediate family of the owner of the swine.

Swine described in this Section (II.C) must be fed on grain or traditional swine feed for forty-five (45) days prior to being sold or removed from the premises.

III. PENALTIES AND AUTHORITY

A. Failure to comply with any of the provision of this rule may result in administrative penalties as provided by law.

1. First offense will result in a warning letter.
2. Second or subsequent offense will result in a Notice to Appear before the Arkansas Livestock and Poultry Commission for a determination for proper administrative penalties.

B. Authority. A.C.A §§ 2-32-501 et seq.; 2-33-107(a); 2-40-103.

QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Department of Agriculture/Livestock & Poultry Commission
DIVISION Livestock & Poultry
DIVISION DIRECTOR Patrick Fisk
CONTACT PERSON Wade Hodge
ADDRESS #1 Natural Resources Drive, Little Rock AR 72205
PHONE NO. 501-219-6361 FAX NO. _____
E-MAIL wade.hodge@agriculture.arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Patrick Fisk
PRESENTER E-MAIL Patrick.fisk@agriculture.arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

- 1. What is the short title of this rule? Garbage Feeding
- 2. What is the subject of the proposed rule? Prohibit feeding meat or meat by-products to swine
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes _____ No x _____
If yes, please provide the federal rule, regulation, and/or statute citation.
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes _____ No x _____
If yes, what is the effective date of the emergency rule? _____
When does the emergency rule expire? _____
Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes _____ No _____

5. Is this a new rule? Yes _____ No x _____ If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes _____ No x _____ If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes x _____ No _____ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."** See the attached summary for further explanation.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A. § 2-33-107(c); 2-40-403.
7. What is the purpose of this proposed rule? Why is it necessary? See attached summary
8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). www.aad.arkansas.gov
9. Will a public hearing be held on this proposed rule? Yes _____ No _____
If yes, please complete the following: Hearing will be held if requested
Date: September 17, 2021
Time: 10:00am
Place: 1 Natural Resources Drive, Little Rock, AR
10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
November 2, 2020
11. What is the proposed effective date of this proposed rule? (Must provide a date.)
TBD
12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. attached
13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). attached
14. Please give the names of persons, groups, or organizations that you expect to comment on these

rules? Please provide their position (for or against) if known.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Agriculture/Livestock & Poultry Commission
DIVISION Livestock & Poultry
PERSON COMPLETING THIS STATEMENT Wade Hodge
TELEPHONE NO. 501-219-6361 **FAX NO.** _____
EMAIL: wade.hodge@agriculture.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Garbage Feeding

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No x
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes xx No _____
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes x No _____

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;
 - (b) The reason for adoption of the more costly rule;
 - (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
 - (d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.
4. If the purpose of this rule is to implement a federal rule or regulation, please state the following: N/A
 - (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____

Next Fiscal Year

General Revenue _____
Federal Funds _____

Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____ N/A _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____ N/A _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected. N/A

Current Fiscal Year

\$ _____ N/A _____

Next Fiscal Year

\$ _____ N/A _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____ N/A _____

Next Fiscal Year

\$ _____ N/A _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes _____ No x

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously

with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.