REPEAL RULE - AGENCY NO. 209.01

FINAL RULE AGENCY NO. 209.01 EFFECTIVE JANUARY 2, 2020

DISBURSEMENT OF STATE FUNDS FOR FAIRS AND LIVESTOCK SHOWS

I. DEFINITIONS

- A. Commission means the Arkansas Livestock and Poultry Commission.
- B. Premiums means funds appropriated by the General Assembly and administered by the Commission to be disbursed to county and district livestock shows and fair associations in the manner and for the purposes provided in this rule.
- C. Clothes line art means sheets of paper crafted by school children for the purpose of displaying their art work on a line or string hung in an exhibit.
- D. Exhibitor means a person who enters a display, product or animal.
- E. Pureblood means an animal with one purebred parent.
- F. Purebred-means an animal of known ancestry within a recognized breed that is eligible for registry in the official herd book of that breed.

II. APPLICATION FOR FUNDS

A. Application forms prescribed by the Commission should be completed in full and postmarked no later than June 30. Applications postmarked by March I will receive a one hundred (100) points. Applications postmarked after June 30 will forfeit all premiums for that year.

B. Fair audit forms received by the Livestock and Poultry Commission will be reviewed by an advisory committee for approval or disapproval of any classification.

III. MINIMUM STANDARDS FOR RECEIVING PREMIUM AND CONSTRUCTION FUNDS

To be eligible for consideration for funds, each fair must:

- A. Have a lease of at least 2 years with a rollover clause or own fairgrounds and file a copy of lease or proof of ownership with the Commission;
- B. Takeplace during the months of July-October of each year unless it is a Junior District Fair. All county fairs must be held prior to their district fair. A county fair board may appeal to the Commission and request an exemption to have its fair at a later date if the fair can show that it has had a loss of attendance due to pest infestation during the time period required by the rule:
- C. Have a duration of at least 3 days;
- D. Publish and circulate a catalog or tabloid either online or in print;

E. Have a fair board of no less than eight members, elected on a countywide basis as calledand presided over by fair board election procedures, with officers consisting of president orchair, vice-president or vice-chair, secretary and treasurer. District fairs must have a votingboard member from each county in their district, elected by that county. Fair board electionprocedures must be included in the association's by-laws and a copy of by-laws of each board must be filed with the Commission:

- F. Bear the name of the county, district, or state fair;
- G. Offer at least 10 approved classifications of exhibits. One must be livestock, as offered in catalog or tabloid or online;
- H. Be able to document through point system that the fair is continually improving and making progress or at least maintaining the status quo;
- I. File as a non-profit organization as recorded by the by-laws of the association or other documents furnished to the Commission; and
- J. Establish and maintain proper internal controls to assure that all funds of the fair are properly receipted, recorded and disbursed with appropriated accounting records, reconciliations and source documents in support of transactions. Must adhere to the following procedures:
 - 1. Maintain reconciled bank statements containing all canceled checks;
 - 2. Maintain supportive invoices and contracts for all construction expenditures to be attached to canceled checks;
 - 3. Maintain transaction ledger that is reconcilable to bank statements, i.e., deposits and expenditures;
 - 4. Maintain separate bank accounts for local operating funds, state premiums and state construction;
 - 5. Separate accounting duties so that no one individual has complete control or authority over financial transactions;
 - 6. Require two signatures on construction fund checks over \$100;
 - 7. Use numbered tickets to account for gate admission receipts and submission of fourand one-half percent surcharge to the Commission. Admission receipts must bedocumented—through bank deposits reflecting such purpose;
 - 8. Officials handling financial matters must be covered by fidelity bond;
 - 9. File annual itemized listings of all premium and construction expendituresreflecting check numbers in sequence, payee, amount and premium classificationor construction purpose; and
 - 10. Maintain all records for a period of five (5) years.

IV. SPECIFIC REQUIREMENTS FOR PREMIUM FUNDS

A. Premium funds must be used only for the purpose of paying awards on approved entry classifications.

- 8. Except as provided in Paragraph I, below, exhibitors must be residents of Arkansas. Each unit is not considered an exhibitor, but a person may be counted as an exhibitor in each classification in which he/she has an entry. Exhibitors may not receive funds from more than one (1) county association during any fiscal year.
- C. Funds will not be disbursed to county, district, state, and 4-States fairs until an officer of the respective association has furnished a bond to the Commission for the amount of funds due.
- D. Each fair must complete a check register form and submit the completed form to the Commission no later than 90 days after the conclusion of the fair each year.
- E. Premium funds are not approved for such classifications as beauty contests, baby shows, antique shows, skills contests, purchased machinery (such as cars and farm equipment), or other noncreative categories in which a human is judged in preference to a product or animal. This does not preclude fair associations from using their local funds for these purposes.
- F. Premium funds must not be used for
 - 1. paying expenses for judges such as fees, travel, meals, etc.;
 - 2. construction expenses of any type;
 - 3. purchase of land
- G. Premium funds may be used in purchasing awards such as trophies and ribbons.
- H. Any unspent funds remaining each fiscal year must be refunded to the Commission.
- I. Out-of-state junior exhibitors shall not be qualified to receive Arkansas state premium funds. If counties allow exhibitors from other counties or districts, they will only be able to pay-premiums from that association's local funds or by approval of the Fair Administrator, unless that county does not have a fair. When out-of-state junior exhibitors are allowed to show with Arkansas junior exhibitors, the Arkansas junior exhibitors shall be placed in an Arkansas class-regardless of how they place in overall competition. Arkansas junior exhibitors shall have priority over out-of-state junior exhibitors in entry or by barn space set aside for Arkansas exhibitors.

V. SPECIFIC REQUIREMENTS FOR CONSTRUCTION FUNDS

- A. Construction funds must be used on lands owned by the association or under a lease as outlined in Section III.A. for construction and repair of buildings and facilities. See attached listing of allowable expenditures.
- 8. Fair associations must file a bond with the Commission covering the amount of state funds due.

C. Construction funds must not be used for paying premiums at or for acquiring sites for county or district fairs.

D. Any unspent balances remaining at the end of each biennium must be refunded to the Commission.

E. In the event the Arkansas Department of Agriculture (Department) has any construction-funds remaining after the disbursement of those funds as provided in this rule, fairs may submit specific proposals for the use of said funds and any further granting of funds will be decided by a committee selected by the Department.

VI. POINTS CRITERIA:

A. Duration of fair: (Three days is minimum)

1. Three daysThirty (30) points2. Four daysForty (40) points3. Five daysFifty (50) points4. Six or more daysSixty (60) points

B. One (1) point for each exhibitor from that county who, during the same fiscal year, enters an exhibit in both their county and district fair. Two (2) points if entered in their county, district and Arkansas State Fair.

C. One (1) point for each one hundred dollars (\$100.00) or greater part thereof that the county or district association provided for paying premiums in addition to state funds appropriated for that purpose during a fiscal year. State premiums must not be used to compute these points. This claim must be supported by canceled checks at the time of application. Fairs must furnish a list of all animals sold in the premium sale, indicating weight and market value. \$25,000.00 maximum allowable for points.

D. Ten (10) points for publication of a fair catalog or tabloid, either in print or online.

E. One hundred (100) points for verified attendance of each representative (up to six members) of the county or district fair association at the Arkansas State Fair Managers Association annual seminar.

F. Three (3) points for each voting member of the local applicant county or district fair managers association attending at least four meetings during the year. Twenty-seven (27) points maximum.

G. Twenty (20) points if an admission fee (any amount) is charged or accepted for attendance to the fair. Other objective methods of attendance verification may be acceptable—subjective estimates are not acceptable.

- H. Five (5) points if a statement appears in the published catalog that only purebred or pureblood livestock or animals equal to Breed Association Herd Book quality are admitted. (poultry and rabbits are exempt from this requirement.)
- I. Five (5) points if numbered gate tickets with stubs are sold.
- J. Ten (10) points for an exhibit never used at the applicant's fair before. The exhibit must be actually new to the applicant fair and not just a change in title or new description of an already existing exhibit. (Points awarded one time only.) (Limit of 5)
- K. Ten {10) points for each percentage increment of county population attending the fair up to 50%;

Fifteen {15) points for 50% to 75% of county population attendance; and Twenty {20) points for 75% to 100% of county population attendance.

- L. One (1) point for each exhibitor, and one (1) point for each of the allowable classes entered in your fair. Three hundred (300) maximum allowable for clothes line art exhibitors. (See attached list of allowable classes of exhibits.)
- M. Deduction of one hundred (100) points if fair does not publish the Commission's Livestock Exhibition Rules in print or online and assist in the enforcement thereof. Deduction of 200 points if any livestock are allowed to be exhibited without examination of health papers by a designated person and made available to Commission personnel for approval.
- N. One hundred (100) points for filing premium application along with canceled checks and listing by March 1 of each year. If the application is not postmarked by June 30, the fair will not receive any state premium funds.
- 0. Each county fair will receive four points for each first and second place winners in the food-preservation division that show at their district fair. Each district fair will receive 2 points for each 25 jars of food preservation entered at that level. District fairs will receive 5 points for each blue ribbon winner entered at the state fair.
- P. County fairs will receive 10 points for entering rabbits at their district fair. District fairs will receive 5 points for each county entering rabbits at the district fair.
- Q. County fairs that enter chickens at their district fair will receive 10 points.
- R. County fairs will receive 3 points for each head of livestock up to 25 head and 2 points for every group of 25 head entering the district fair. Each district fair will receive one point for each head of livestock up to 100 head and one point for each group of 25 head thereafter entered at the district fair. Each district fair will receive 5 points for each of its respective counties that show junior livestock at the district fair.

S. County and/or district fairs **will** receive one hundred and fifty (150) points if they appointed a delegate who attended the Arkansas Fair Managers Convention in January. An additional one hundred fifty (150) points will be awarded to that county and/or district if its delegate attended the meeting with the Board of the Arkansas Fair Managers and the General Session.

VII. EXEMPTIONS AND AUTHORITY

A. Any exemptions from this rule must be approved in writing by the Commission. B. Authority: ACA §§ 2-33-107 and 2-36-201

ALLOWABLE EXHIBIT CATEGORIES

Beef Cattle-Senior
Beef Cattle-Junior
Dairy Cattle-Senior

Dairy Cattle-Junior

Swine-Senior

Swine Junior Goats-Senior

Goats-Junior

Sheep-Senior-Sheep-Junior-

Poultry-Senior-Poultry-Junior-

Rabbits-Senior

Rabbits-Junior
Horses-Senior

Horses-Junior

Food Preservation-Senior

Food Preservation-Junior

Clothing-Senior

Clothing-Junior

Household Arts-Senior

Household Arts-Junior

Field Crops-Senior

Field Crops-Junior

Food Preparation-Senior

Food Preparation-Junior

Handicraft or Crafts-Senior
Handicraft or Crafts-Junior

Home Furnishings-Senior

Home Furnishings-Junior Art-Senior

Art-Junior (300 points maximum for

clothes line art) Flowers-Senior

Flowers-Junior

Floral Arrangements-Senior
Floral Arrangements-Junior

Educational Booths-Senior

Educational Booths-Junior

Hobbies-Senior

Hobbies-Junior-Apiary-Senior

Apiary-Junior

Aquaculture-Senior

Aquaculture-Junior

ALLOWABLE CONSTRUCTION EXPENDITURES

- · Constructing new buildings
- Renovating existing buildings
- Repairing existing buildings
- Site clearing, grubbing, excavation, drainage and sewer
- Repair of streets, electrical distribution, streets and flood lighting facilities, fencing and paying existing indebtedness for such purposes
- All improvements to grounds that remain on the fairgrounds under the control of the fairassociation
- · Labor used for the purposes listed
- Painting facilities
- Building materials
- Parking lots
- Arenas
- Bleachers
- Stalls
- Water systems
- Concession Stands
- Ticket Booths
- Pens
- Bathrooms
- Stages
- Ground Maintenance

Contact Livestock and Poultry Commission auditors or Commission office if unsure about expenditures.

QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE ARKANSAS LEGISLATIVE COUNCIL

	ARTMENT/AGENCY_Arkansas Department of Agriculture/Livestock & Poultry Commission					
	SION Livestock & Poultry					
	SION DIRECTOR Patrick Fisk					
	TACT PERSON Wade Hodge					
	RESS #1 Natural Resources Drive, Little Rock AR 72205					
	NE NO. <u>501-219-6361</u> FAX NO.					
	AIL wade.hodge@agriculture.arkansas.gov					
	TE OF PRESENTER AT COMMITTEE MEETING Patrick Fisk					
PKE	SENTER E-MAIL Patrick.fisk@agriculture.arkansas.gov_					
	INSTRUCTIONS					
A. B.						
C.						
D.						
	Jessica C. Whittaker 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? <u>Disbursement of State Funds for Fairs and Livestock Shows</u>					
2.	What is the subject of the proposed rule? The rule outlines the mechanism for funding of fairs that was provided by law prior to Act 700 of 2021. It is now necessary to repeal the rule because Act 700 changed the funding mechanism.					
3.	Is this rule required to comply with a federal statute, rule, or regulation? YesNox					
	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? YesNox					
	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_xNoIf 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. See the attached summary for further explanation.						
	Is this an amendment to an existing rule? Yes No x 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.						
6.	Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A. § 2-36-101.						
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 Interne as required by Arkansas Code § 25-19-108(b). www.agriculture.arkansas.gov						
9.	Will a public hearing be held on this proposed rule? YesNo If yes, please complete the following: Hearing will be held if requested						
	Date:Sept. 17, 2021						
	Time:10:00am						
	Place: 1 Natural Resources Drive						
10.	When does the public comment period expire for permanent promulgation? (Must provide a date.) _TBD						
11.	What is the proposed effective date of this proposed rule? (Must provide a date.) _November 1, 2021						
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.						
13.	Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e).						

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

	ARTMENT Arkansas Department of Agricul	ture/Livestock & Poultry Commission					
	ISION Livestock & Poultry						
	SON COMPLETING THIS STATEMENT_						
	EPHONE NO. <u>501-219-6361</u> FAX NO	· · · · · · · · · · · · · · · · · · ·					
EMA	AIL:wade.hodge@agriculture.arkansas.gov						
To co State	omply with Ark. Code Ann. § 25-15-204(e), pleament and file two copies with the questionnaire	ase complete the following Financial Impact and proposed rules.					
SHO	RT TITLE OF THIS RULE_Disbursement of	State Funds for Fairs and Livestock Shows					
1.	Does this proposed, amended, or repealed rule have a financial impact? Yes Nox						
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? Yesxx No						
3.	In consideration of the alternatives to this rule least costly rule considered? Yes_x 1	natives to this rule, was this rule determined by the agency to be the 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	y 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	Next Fiscal Year					
	General RevenueFederal Funds	General Revenue Federal Funds					

Special Revenue Other (Identify) Total Next Fiscal Year General Revenue Federal Funds Cash Funds Special Revenue Other (Identify)		
Next Fiscal Year General Revenue Federal Funds Cash Funds		
Next Fiscal Year General Revenue Federal Funds Cash Funds		
General Revenue Federal Funds Cash Funds		
Federal Funds Cash Funds		
Federal Funds Cash Funds		
Cash Funds		
Special RevenueOther (Identify)		
Other (Identify)		
Total N/A		
\$N/A		
to state, county, and municipal government or grant? Please explain how the government to the government of the governme		
Next Fiscal Year		

Yes	No	X	
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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.



ARKANSAS DEPARTMENT OF AGRICULTURE

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



June 21, 2021

Memorandum Analyzing Proposal to Repeal the Arkansas Livestock and Poultry Commission's Rule for Disbursement of State Funds for Fairs and Livestock Shows

Purpose:

The Arkansas Department of Agriculture (Department) is seeking Governor Hutchinson's review of the Department's proposal to repeal the Arkansas Livestock and Poultry Commission's (Commission) existing rules for Disbursement of State Funds for Fairs and Livestock Shows.

Background:

State law previously required the Commission to grade fairs based on a point system developed by Commission rule. The Commission's rule awarded points based on many specific but far-ranging criteria including, but not limited to, the duration of the fair, the population attendance, whether numbered gate tickets with stubs are sold, whether fairs appointed delegates to attend the Arkansas Fair Managers Convention, and the types and numbers of exhibits at the fair, etc. The fairs were then funded based on the fair's total points in relation to the total points of all counties with qualifying associations.

During the 2021 session of the Arkansas General Assembly, the legislature passed Act 700 which repealed the current fair funding point system. Instead of a point system, Act 700 provides funds based on a historical average of total fair-funding provided by the State. The Act requires funding recipients to keep financial records and submit annual financial reports to the Department and Arkansas Legislative Audit. The Act is self-executing and does not require the Department to promulgate rules to implement the law.

Discussion:

Prior to Act 700, the Commission was required to promulgate rules to develop the point system and grade fairs for funding based on the criteria it developed. Now that Act 700 has repealed the point system in favor of providing funding based on historical funding averages, the Commission's rules no longer are necessary, and further, they conflict with the new funding system in Act 700. It is therefore necessary to repeal the current fair funding rule, and because Act 700 is self-executing, it is not necessary to promulgate any further rules in response to the Act.

Recommendation:

Staff recommends that the Commission's current fair funding rule be repealed.



ARKANSAS DEPARTMENT OF AGRICULTURE

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



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:II

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. <u>Disposal of Large Animal and Poultry Carcasses</u>: 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. <u>Carcass Disposal Poultry</u>: 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. <u>Disbursement of State Funds for Fairs and Livestock Status</u>: 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