

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
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Little Rock, Arkansas 72201-1094
(501) 682-5070
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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____



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 21, 2021

Proposed Rule Regarding Disposal of Large Animal and Poultry Carcasses

PURPOSE

The Arkansas Department of Agriculture (Department) is seeking Governor Hutchinson's review of a proposed rule regarding Disposal of Large Animal and Poultry Carcasses and the repeal of two existing carcass disposal rules, promulgated by the Arkansas Livestock and Poultry Commission (Commission)

BACKGROUND

Disposal of animal carcasses needs to be done in a manner that is safe and does not cause issues for the surrounding community. The Commission currently has one rule for disposal of large animal carcasses and one rule for disposal of poultry carcasses dating back to the 1990's and early 2000's. In early 2020, Department staff held meetings with an advisory committee comprised of producers, veterinarians, and other industry representatives and was able to combine those two rules into one rule. On April 24, 2020, the Commission voted to repeal the two existing rules and go forward with promulgation of the combined rule.

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 extrusion and cooking for swine food as acceptable methods of disposal. On April 16, 2021, the Commission made adjustments to the previously proposed rule to be in compliance with Act 716 and voted to move forward with the new rule.

KEY POINTS

The proposed rule:

- Combines two separate rules
- Adds a "Definitions" section
- Removes or clarifies confusing or contradictory language
- Allows interested parties to find needed information in one document
- Clarifies proper disposal methods
- Repeals two existing rules

DIFFERENCES BETWEEN THIS PROPOSED RULE AND THE PROPOSED RULE APPROVED BY THE COMMISSION IN 2020

- Definition of large animal changed to mirror the definition contained in law
- Clarifies process for rendering as a method for poultry carcass disposal
- Clarifies that the rule does not apply to dogs, cats, or feral hogs
- Adds a section listing the Commission's authority to promulgate the rule

DISCUSSION

Extrusion is a method of carcass disposal using high heat and processing the carcass into animal feed. Extrusion and cooking carcasses to use as food for swine has been removed to make the proposed rule

compatible with recent changes to the law and the Commission's proposed amendments to its Garbage Feeding rule for swine. Elimination of these methods also reduces bio-security risks by reducing the transportation of poultry carcasses.

The information contained in the Commission's two current carcass disposal rules is in many instances duplicative. Both of the existing rules are 3 to 4 pages each, but by combining the two rules and eliminating duplicative language, the proposed rule is only four pages long. Combining these into one rule better serves the agricultural community by allowing those who are subject to the rules to more conveniently locate the information they need.

RECOMMENDATION

Staff recommends that the proposed Disposal of Large Animal and Poultry Carcasses rule be approved as proposed by the Commission, and that the two current carcass disposal rules be approved for repeal.

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. 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? Disposal of Large Animal & Poultry Carcasses
2. What is the subject of the proposed rule? To comply with Act 716 of 2021 and combine two separate rules for disposal of large animal and poultry carcasses.
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 x No _____ If yes, please provide a brief summary explaining the rule. Summary attached.

Does this repeal an existing rule? Yes x No _____ 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. 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. § 2-33-107(c); 2-40-103(a)(2); 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: 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

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 Disposal of Large Animal and Poultry Carcasses

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

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____ N/A _____

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

Next Fiscal Year

\$ _____ N/A _____

\$ _____ 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

Next Fiscal Year

\$ _____ N/A _____

\$ _____ 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.

**PROPOSED RULE
MARKUP
AGENCY NO. 209.01**

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Arkansas Livestock & Poultry Commission

Agency No. _____

Effective _____

DISPOSAL OF LARGE ANIMAL AND POULTRY CARCASSES

I. Definitions. As used in this rule:

"State Animal Health Official" means the State Veterinarian or designee.

"Incineration" means the destruction of animal carcass soft tissue and most of the hard tissue by means of controlled combustion.

"Composting" means the natural biological degradation of plant and animal matter in a controlled, well aerated system. Composting for disposal should contain carcasses, a carbon source and moisture in order to reach temperatures that will destroy pathogenic organisms.

"Rendering" means to process mortality by machinery, device or system designed and operated for the purpose of making an animal feed or feed supplement from animal carcasses or parts.

"Burial" means to dispose of mortality by covering carcasses with soil; either by placing carcasses in an excavated area or on the soil surface.

"On Farm freezing" means to dispose of poultry mortality by placing carcasses in a leak proof freezer unit capable of maintaining a subfreezing temperature for the duration of the flock or when the unit is full.

"Carbon Source" means a biodegradable material used to aid in the decomposition process of mortality which includes but not limited to wood shavings, sawdust, hay and rice hulls.

"Catastrophic mortality" means an event where a large number of animals die, other than from a reportable disease, and the normal method of disposal is inadequate.

"Large animal" means cattle, horses, domesticated swine, sheep, goats, cervidae, bison, llamas, alpacas, ostriches, emus, rheas, and other native or nonnative animals, excluding dogs, cats, and feral hogs.

"Poultry" means a class of domesticated fowl (birds) farmed for their meat or eggs which include but not limited chickens, turkeys and ducks.

II. DISPOSAL OF LARGE ANIMAL CARCASSES

A. Large animal carcasses must be disposed of in the following manner unless specified directly by the State Animal Health Official.

1. Rendering.

Large animal carcasses may be submitted to a rendering facility in a sealed vehicle that does not allow drainage while being moved.

2. Burial

Carcasses may be buried at a site at least 100 yards away from a well and in a place where a stream cannot be contaminated. Carcasses may be covered with lime, particularly when needed to control odors. All carcasses are to be covered with at least 2 feet of soil. Carcasses are not to be buried in a landfill, without prior approval of the State Animal Health Official or Director of the Livestock and Poultry Commission.

Anthrax carcasses should be sited as far as possible (at least 100 yards) from a well or water source and disposed of by incineration. The burn site should be acidified and then buried under 2 feet of soil.

3. Composting

Carcasses or portions of carcasses may be composted in compliance with the following guidelines.

a. General Requirements

- (1) The composting process must be managed at all times to be practically odorless, prevent fly larvae development, prevent animal depredation and stop leaching of waste material thereby becoming a source of water/soil contamination.
- (2) The carcass(es) must be reduced to brittle/easily broken bone.
- (3) A minimal temperature of 130 F and a minimal 110 F maintenance temperature must be achieved during the composting process to where the finished product is pathogen free.

b. Composting – Exposed to Weather

- (1) Compost material (carbon source such as sawdust, hay, etc.) may not contain manure if exposed to rain or water.
- (2) The carcass(es) must be placed on at least a 24-inch-thick pad of compost material that is large enough so that when the carcass(es) is placed there it will be at least 24 inches from the carcass(es) to the edge of the pad.
- (3) A layer of compost material that completely covers the carcass(es) and is at least 24 inches thick must be maintained throughout the composting process.

c. Composting – Protected from Weather

Compost material (carbon source such as saw dust, hay etc.) may contain manure.

d. Composting must be done in a bin(s) that has a concrete floor to provide an all-weather base, roof to exclude excess moisture and rot resistant bin construction to support the compost material and withstand stresses applied by tractor loader.

e. Carcass(es) must be placed in the compost bin on at least a 12 inch thick base pad of compost material and carcass(es) cannot be placed within 8 inches of the sides, front or rear of the compost bin.

f. A layer of compost material that completely covers the carcass(es) must be maintained throughout the composting process.

4. Incineration (burning)

Incineration or open burning may be used as long as carcass is reduced to ash.

B. Other disposal issues

1. This rule does not apply to any animal products meant for human consumption.

2. If carcasses or parts are handled or transported off-site the carcass or product must be in a sealed vehicle or leak-proof containers. Carcasses must be covered by a tarp or other materials when transported.

3. Large animal carcasses found on Public roadways where proof of ownership is unknown, shall be disposed of in the most practical manner to prevent a public health problem.

III. DISPOSAL OF POULTRY CARCASSES

A. Acceptable Methods

1. Incineration

When used for the purpose of carcass disposal, the carcass must be reduced to ash.

2. Composting

a. The composting process must be managed at all times to be practically odorless, prevent fly larvae development, prevent animal depredation and stop leaching of waste material thereby becoming a source of water/soil contamination.

b. The carcass(es) must be reduced to brittle/easily broken bone and feathers.

c. A temperature must be achieved during the composting process to reduce pathogen load.

3. On-Farm Freezing

a. Carcasses will be frozen to a solid state before being removed from the farm.

b. Frozen carcasses will be placed in a container that will not leak when thawing begins.

c. Frozen carcasses will be transported from the farm in a sealed, leak-proof vehicle.

4. Rendering

a. Carcasses may be submitted to a rendering facility in a sealed vehicle that does not allow drainage while being moved.

b. All requirements of Section III. B. 2 must be followed.

B. Other Poultry Carcass Disposal Issues

1. Catastrophic Event (not including when mortality is caused by a reportable disease.)

a. On-site burial may be used. The trench must be 2 to 4 feet deep and the carcasses covered by at least 2 feet of soil. Lime may be used to control odor if needed.

b. Permit required from the Arkansas Livestock and Poultry Division.

2. Transport of Carcasses from Farm

a. If carcasses or parts are handled or transported off-site, they must be in a sealed vehicle or leak-proof containers. Carcasses must be covered by a tarp or other materials when transported.

b. May be cancelled in cases of reportable disease incidents, or when the State Animal Health Official deems necessary to stop disease spread.

c. Permit required from Arkansas Livestock and Poultry Division.

IV. Any further exemptions from this rule must be approved in writing by the State Animal Health Official.

V. AUTHORITY

A.C.A. § 2-33-107 (c); A.C.A. § 2-40-403, 404; A.C.A. § 2-40-1302(a)(1)

**PROPOSED RULE
CLEAN COPY
AGENCY NO. 209.01**

Arkansas Livestock & Poultry Commission

Agency No. _____

Effective _____

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4. Rendering

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- b. All requirements of Section III. B. 2 must be followed.

B. Other Poultry Carcass Disposal Issues

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- b. Permit required from the Arkansas Livestock and Poultry Division.

2. Transport of Carcasses from Farm

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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