

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

**John Thurston**

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas Department of Agriculture

Department Livestock and Poultry Division

Contact Wade Hodge E-mail wade.hodge@agriculture.arkansas.gov Phone 501-225-1598

Statutory Authority for Promulgating Rules A.C.A. 2-38-501, 504: 2-33-107

Rule Title: Arkansas Swine Rule

Intended Effective Date  
(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Legal Notice Published .....

Final Date for Public Comment .....

Reviewed by Legislative Council .....

Adopted by State Agency .....

Date

August 13 - 15, 2021

September 11, 2021

November 19, 2021

July 15, 2021

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Linda Luebke

linda.luebke@agriculture.arkansas.gov

November 23, 2021

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501-225-1598

Phone Number

wade.hodge@agriculture.arkansas.gov

E-mail Address

Chief Counsel

Title

November 23, 2021

Date

**ARKANSAS SWINE RULE**

**DEFINITIONS**

Commercial Production Swine: Swine for which a management plan has been approved by the Arkansas Department of Agriculture (Department).

Transitional Production Swine: Those swine that are captive or swine that have reasonable opportunities to be exposed to feral swine.

Commercial Commuter Agreement: Authorization from the Department to import hogs into Arkansas.

**I. COMMERCIAL PRODUCTION SWINE MANAGEMENT PLANS**

A. Commercial production swine management plans must adequately address biosecurity measures necessary to protect the herd from diseases and contact with other swine. The plan must include the following at a minimum:

1. Identification of the individual or individuals designated as biosecurity manager;
2. The frequency and types of training required for the biosecurity manager and essential personnel;
3. The plan for protection of the swine herd, including:
  - a) Site entry details, such as restrictions on entry points, entry point security measures, and signage;
  - b) Information about the location and any other details regarding designated parking areas;
  - c) The details and size of the Perimeter Buffer Area (PBA);
  - d) The rules for entry and access to PBA access point(s);
  - e) Information regarding the available cleaning and disinfection (C&D) station or stations;
  - f) The details and plans for lines of separation (LOS) to prevent the spread of virus to susceptible animals; and
  - g) The rules for entry and access to LOS access points.
4. The rules and plans for vehicles and equipment, including but not limited to:
  - a) Vehicles and equipment used for animal transport; and
  - b) Vehicles and equipment not used for animal transport.
5. Personnel rules, including but not limited to:
  - a) Rules for personnel prior to arriving at the site, including limitations on access, disinfection, and any other rules required of personnel prior to entry;
  - b) The plan for use of an entry logbook, including which individuals are required to log entry; and
  - c) Rules and details regarding the procedure for biosecure entry and exit of PBA or LOS.
6. Rules and biosecurity protocol for animal and semen movement;
7. Rules and biosecurity protocol for carcass disposal;

8. Rules and biosecurity protocol for control of rodent, fly, wildlife, and other animals; and

9. Rules and biosecurity protocol for management of feed.

B. More information on development of commercial production swine management plans may be provided on the Department's website.

C. Amendments to plans as a result of operational changes, etc. must be submitted to the Department for approval as they occur.

D. The Department will forward written approvals or disapprovals to plans within ten (10) working days after receipt.

E. Plan approvals will remain in effect as long as swine herd(s) continue to meet the requirements of commercial production operations.

## II. IMPORT REQUIREMENTS

A. All commercial or Transitional production swine transported into Arkansas shall have an official premise identification, be individually identified, and accompanied by a certificate of veterinary inspection and permit number unless:

1. moved directly to slaughter and individually identified with an official ear tag; or
2. under a commercial commuter agreement approved by the Livestock and Poultry Division.

### B. Breeding Swine

All breeding swine imported into Arkansas not under the authority of a commuter swine agreement must have an official premise identification, be individually identified, and accompanied by a certificate of veterinary inspection and permit number. Pseudorabies vaccinates may not enter. Testing requirements of all breeding swine not under the authority of a commuter swine agreement are as follows:

1. Brucellosis - All animals over six months of age must be tested negative within thirty (30) days prior to shipment; or originate directly from the farm of origin of a validated free herd;
2. Pseudorabies – All ages must be tested negative within thirty (30) days prior to shipment; or originate directly from the farm of origin of a pseudorabies qualified herd;
3. Retest. Retesting shall be performed as required under USDA laws and regulations.

### C. Feeder Pigs

All feeder pigs not under the authority of a commuter swine agreement being imported into the state must have an official premise identification, be individually identified, be accompanied by a certificate of veterinary inspection, and have a permit number. Pseudorabies vaccinates may not enter. Testing requirements and allowable movements of all feeder pigs not under the authority of a commuter swine agreement are as follows:

1. All animals over six months of age must be tested negative for brucellosis - within thirty (30) days prior to shipment;

2. All ages must be tested negative for pseudorabies within thirty (30) days prior to shipment;
3. That the swine enter on permit directly to a designated feedlot and not through an all-class market;
4. That the swine originate from an approved feeder-pig market or direct from a qualified-negative (QN) herd, or feeder-pig monitored (FPM) herd;
5. That the swine be quarantined to slaughter only;
6. That the designated feedlot has no breeding swine on the premises and no breeding herds within two (2) miles;

C. Entry for sale in Arkansas:

1. All swine entering Arkansas for sale shall be identified by an official premise identification and either:
  - a. be tested negative for pseudorabies and brucellosis within thirty (30) days prior to sale;
  - b. originate directly from a qualified-validated commercial production swine herd;
  - c. originate directly from a feeder-pig-monitored commercial production swine herd; or
  - d. meet the requirements for an Arkansas Surveyed Herd.
2. Any swine entering Arkansas for sale that do not meet these requirements shall be:
  - a. individually identified;
  - b. isolated from all tested swine;
  - c. tested at the market at the owner's (seller's) expense; and
  - d. sold for slaughter only.

III. IN-STATE REQUIREMENTS

A. All swine undergoing a change of ownership or lease must be identified with an official premise identification by official eartag, tattoo, or other approved device prior to change of ownership or lease. Ear notches are not an official identification.

B. All breeding swine sold within the state must be tested negative for pseudorabies and brucellosis within thirty (30) days of sale or originate from a qualified validated commercial production swine herd. Breeding swine purchased and sampled at Arkansas markets will be quarantined to purchaser's premise until results of tests are known, or they may be quarantined to a feeding floor until slaughter. It is recommended that all swine purchased for breeding purposes be retested thirty to sixty (30-60) days after movement.

C. General requirements for change of ownership:

1. All swine forty (40) pounds or over entering a market must be identified with a premise identification on an official eartag or other approved device prior to unloading.
2. Eartags or other approved devices which contain a premise identification may be removed only at slaughter.

3. An Arkansas Surveyed Herd shall, based on an epidemiological risk assessment, be tested negative a maximum of once quarterly and a minimum of at least once yearly for pseudorabies and brucellosis at a rate of:

a. If less than thirty (30) pigs, test all;

b. If more than thirty (30) pigs, test a minimum of thirty (30) head.

4. All swine sold or leased within the state shall be tested negative for pseudorabies and brucellosis within thirty (30) days prior to sale, or originate directly from a qualified-validated herd, or originate directly from a feederpig-monitored herd, or have met the requirements for an Arkansas Surveyed Herd.

5. Any swine originating from an Arkansas farm entering a market for sale that do not meet these requirements shall be individually identified and quarantined to the farm of origin until the requirements for an Arkansas Surveyed Herd are met.

6. The State Veterinarian or designated epidemiologist may modify any testing rates based on epidemiological, safety, or disease status factors.

7. All testing for change of ownership, including Arkansas Surveyed Herds, may be done at the owner's expense by a private veterinary practitioner or by an agent of the State Veterinarian. It is the responsibility of both the seller and purchaser to see that the test is done.

8. The auction market or dealer shall maintain identification of all animals in each consignment sufficient to determine the herd of origin and the buyer(s) for all swine within the consignment. The market or dealer shall ensure that each consignment meets the testing requirements prior to release of any portion of the consignment from the premises of the market. Auction markets shall maintain records of all movements of swine going back to the farm to include identification numbers, number and kind, buyer and seller and their complete addresses.

9. Feeding swine sold directly to slaughter from the farm of origin shall be exempt from testing requirements if under the authority of a slaughter sale agreement approved by the State Veterinarian and shall be individually identified with an official ear tag.

#### IV. Testing and Handling of Quarantined and Other Epidemiologically Exposed Herds

The herd of origin of any pseudorabies or brucellosis reactors shall be immediately quarantined by handing the quarantine directly to the owner or by registered return receipt mail and shall be required to test within twenty-one (21) days of being quarantined. All swine in herds adjacent to the herd of origin that are within a two-(2) mile radius of the herd shall be quarantined. All trace forward recipient herds and all source herds shall also be quarantined based on epidemiological potential of infection. Each quarantined herd shall remain under quarantine until depopulated, or until negative test results are confirmed on all remaining animals in each herd. Release tests for all adjacent herds shall be performed at least thirty days after the reactors are removed from the herd of origin. All pseudorabies reactor herds shall be required to castrate all boars remaining in the herd and shall have a maximum of one-hundred-eighty (180) days to sell out for slaughter or undergo a mandatory depopulation. All swine brucellosis reactor herds shall be immediately depopulated. Any farm of origin of any depopulated herd or sell-out as the result of these diseases shall be disinfected and must remain free of swine for a

minimum of thirty (30) days or up to a maximum of six months based on an epidemiological risk assessment before repopulating.

#### V. Feral Swine

The Commission may impose administrative penalties under Arkansas Code Annotated § 2-38-505 for the violation of any Arkansas law or Commission rule regarding feral hogs, as follows:

A. For an initial violation, the Commission may issue a warning letter and an administrative penalty not to exceed \$500.00.

B. For any additional violations, the Commission may impose an administrative penalty not to exceed \$5,000.00.

**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, 5<sup>th</sup> Floor  
Little Rock, AR 72201

\*\*\*\*\*

- 1. What is the short title of this rule? Arkansas Swine Rule
- 2. What is the subject of the proposed rule? Control of swine disease
- 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.**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A. 2-38-501, 504; 2-33-107
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.agriculture.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** Arkansas Swine Rule

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes \_\_\_\_\_ No \_\_\_\_\_  
The only financial impact will be the administrative penalties. The impact is expected to be minimal.
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 \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_

### **Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_

Other (Identify)\_\_\_\_\_

Other (Identify)\_\_\_\_\_

Total\_\_\_\_\_

Total\_\_\_\_\_

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

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue\_\_\_\_\_

General Revenue\_\_\_\_\_

Federal Funds\_\_\_\_\_

Federal Funds\_\_\_\_\_

Cash Funds\_\_\_\_\_

Cash Funds\_\_\_\_\_

Special Revenue\_\_\_\_\_

Special Revenue\_\_\_\_\_

Other (Identify)\_\_\_\_\_

Other (Identify)\_\_\_\_\_

Total\_\_\_\_\_N/A\_\_\_\_\_

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.



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

August 10, 2021

## Proposed Amendment to Arkansas Swine Rule

### **PURPOSE**

The Arkansas Department of Agriculture (Department) is seeking review of proposed amendments to the Arkansas Livestock and Poultry Commission's (Commission) Swine Rule.

### **BACKGROUND**

Under Ark. Code Ann. § 2-33-107, the Commission has the authority to promulgate rules to control, suppress, and eradicate livestock and poultry diseases. The Commission's Swine Rule outlines procedures to prevent and control the spread of diseases in Arkansas swine populations. The rule regulates commercial production swine management plans, imported swine, in-state domestic swine, and feral swine. Earlier this year, the Arkansas General Assembly passed Act 692 of 2021, which amends the law regarding feral swine, and authorized the Commission to administer civil penalties for violation of that law. On July 15, 2021, the Commission voted to adopt amendments to the rule.

### **KEY POINTS**

The proposed amendment

- Eliminates exceptions to certain diagnostic testing for swine imported into Arkansas which allowed imported swine to be treated more leniently than in-state swine and increased the potential for importing disease into Arkansas.
- Provides greater guidance on commercial production management plans and commercial commuter agreements
- Authorizes the Commission to administer civil penalties for violation of applicable law and rules.
- Eliminates provisions in the rule pertaining to terminal facilities which are no longer provided for in the law

### **Discussion:**

The current rule provides that Arkansas swine were subject to certain testing requirements for which imported swine could be exempt. For example, swine imported into Arkansas from a Brucellosis-free state are exempt from testing for Brucellosis. However, because all states are currently considered Brucellosis-free states, all imported swine are exempt from testing for Brucellosis whereas in-state swine must test negative prior to sale. The proposed amendment removes that inequity and requires the same testing for imported and in-state swine.

The current rule provided that commercial production swine must follow a management plan that has "adequate facilities and practices to prevent exposure to either traditional production of feral swine," but did not provide any details on what might be considered "adequate" and what might "prevent exposure" to other swine. The proposed amendments outline the requirements in detail. The requirements are not new; they are the same details that have always been required, they are just now placed in the rule in order to give proper notice to those subject to the rule.

The proposed amendments also provide for the imposition of administrative penalties as provided for in Act 692. These administrative penalties may be imposed in lieu of or in addition to criminal charges for

transportation of feral swine. Additionally, provisions in the law dealing with terminal facilities for feral swine have been repealed, so the proposed amendments repeal a large portion of the rule dealing with terminal facilities.