

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

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Date of Publishing _____

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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

August 10, 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 August 13 – 15, 2021 issues of the Arkansas Democrat-Gazette. Please bill us in the usual manner.

WH:ll

Enclosure

CC: Wade Hodge, Chief Counsel, Arkansas Agriculture Department
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 the Feral Hog Airborne Eradication Rule. The proposed amendments will allow the collection of a permit fee to help defray the costs of administration of the program and shift the burden of producing information and obtaining a permit from the individual landowners to the commercial owners and operators of aircraft used in eradication.

The Arkansas Livestock and Poultry Commission is proposing amendments to the Arkansas Swine Rule. The proposed amendments will eliminate 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; provide greater guidance on commercial production management plans and commercial commuter agreements; authorize the Commission to administer civil penalties for violation of applicable law and rules; and eliminate provisions in the rule pertaining to terminal facilities which are no longer provided for in the law.

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 August 13, 2021, until the close of business September 11, 2021.

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



Wade Hodge, Chief Counsel
Arkansas Department of Agriculture



Asa Hutchinson
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

1 Natural Resources Drive, Little Rock, AR 72205
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(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.

DEFINITIONS

~~Commercial Production Swine: Those swine that are continuously managed and have adequate facilities and practices to prevent exposure to either transitional production or feral swine. Swine for which a management plan has been approved by the Arkansas Department of Agriculture (Department).~~

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

~~Feral or Wild Swine: Those swine that are free roaming, or released on a private game preserve or hunting area. Also, a hog that is not conspicuously identified.~~

~~Terminal Facility: A facility for the containment of domestic and feral hogs that requires that hog be killed before leaving the facility.~~

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

1. I. COMMERCIAL PRODUCTION SWINE MANAGEMENT PLANS

~~All swine herds are transitional production swine herds unless a management plan has been submitted and approved by the Arkansas Livestock and Poultry Commission. The management plan must adequately address the separation and control of the potential interface of feral and transitional production swine with the commercial production swine.~~

Plan Requirements:

~~A. Submit management plans to the Arkansas Livestock and Poultry Commission within 90 days after the effective date of regulation, requesting the date you wish to be designated as a commercial swine producer.~~

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.

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

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

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

~~2.~~ 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.

~~A.~~ 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; ~~or originate directly from the farm of origin of a brucellosis free state.~~

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; ~~or originate directly from the farm of origin of a Stage IV or V state.~~

~~Retest Provisions—All breeding swine will be quarantined for a thirty to sixty (30–60) day retest for brucellosis and pseudorabies at owner's expense. Exceptions to the retest provisions are as follows:~~

~~1) Swine intended to be added to a qualified pseudorabies negative herd coming directly from another qualified pseudorabies negative herd may be added without isolation or testing, provided they are included as part of the herd during the next regular herd test to maintain qualified pseudorabies negative status.~~

~~2) b. Swine intended to be added to a qualified pseudorabies negative herd from another qualified pseudorabies negative herd, but with interim contact with swine other than those from a single qualified pseudorabies negative herd, shall:~~

~~be isolated until the swine have been found negative to an official pseudorabies serologic test, conducted not less than thirty (30) days, nor more than sixty (60) days after arrival; or~~

~~develop a written agreement for a random sampling approved by the Livestock and Poultry Commission, utilizing official pseudorabies serologic tests which provide a ninety-five percent (95%) probability of detecting infection in a herd in which at least ten percent (10%) of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premise or those originating from segregated individual sources must be considered a separate herd and individually sampled as follows:~~

~~Less than 100 head—test 25~~

~~100–200 head—test 27~~

~~201–999 head—test 28~~

~~1,000 and over—test 29~~

3. Retest. Retesting shall be performed as required under USDA laws and regulations.

B. 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) 1. Direct shipment from a farm of origin or a market in a Stage IV or V state/area;~~

~~2) 1. Direct shipment from a qualified pseudorabies negative herd; or~~

~~3). Into Stage IV states from Stage III states/areas or from feeder pig monitored herds in Stage II states when the following conditions are met:~~

~~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;~~

~~a. 3. That the swine enter on permit directly to a designated feedlot and not through an all-class market;~~

~~b. 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;~~

~~c. 5. That the swine be quarantined to slaughter only;~~

~~d. 6. That the designated feedlot has no breeding swine on the premises and no breeding herds within two (2) miles;~~

~~e. that the feeding herd must be a part of the feeder-pig surveillance system required for Stage IV with testing of a sample of pigs from the feedlot, using the official random sample test (95/10), and that the test be conducted in each such feedlot at least every six (6) months, and at owner expense. Sampling rate for 95/10 is:~~

~~Less than 100 head — test 25~~

~~100-200 head — test 27~~

~~201-999 head — test 28~~

~~1,000 and over — test 29~~

~~C. Feral Swine~~

~~Feral swine may not enter into Arkansas.~~

~~D C. Entry for sale at in Arkansas Market:~~

~~1). All swine entering Arkansas for sale at an Arkansas market 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. or originate directly from a qualified-validated commercial production swine herd;~~

~~c. or originate directly from a feeder-pig-monitored commercial production swine herd; or~~

~~d. or meet the requirements for an Arkansas Surveyed Herd.~~

~~2). Any swine entering Arkansas for sale at an Arkansas market 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 at the end of the sale.

~~3.~~ 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 feeder-pig-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.

4 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.

5 V. Feral Swine

~~1) Arkansas Livestock and Poultry Commission will comply with Act 1104 of 2013, effective August 11, 2013. Act 1104 of 2013 is an act concerning feral hogs. The Act defines "Feral Hogs" and regulates Arkansas Code Annotated § 2-38-501 et. seq., regarding the capturing, killing, and transporting of feral hogs. The Commission has the following regulations on feral hogs:~~

~~a) The Commission will license and inspect the terminal facilities that were in operation at the effective date of the Act that meet the standards put forth in these regulations for the terminal facility. Within fifteen (15) days of the effective date of these regulations, the terminal facilities that intend to continue operating under the Act must make application to the Commission notifying of this intent and requesting an inspection of their facility. Any deficiencies noted during this initial inspection must be corrected to the satisfaction of the assigned Livestock & Poultry Commission inspectors in order for the facility to operate upon the effective date of Act. The application for license must have the owner's (operator) name, address, county, and a day time phone number. In addition, the application must state the number of acres under fence in the facility and dates of at least two hunts in the terminal facility prior to the effective date of the Act and the contact information of those hunters. The application must list the names of the hog trappers/transporters that will supply feral hogs to the terminal facility.~~

~~i.) The terminal facility will be completely fenced with hog proof fencing. Any boundary of the facility that abuts to a commercial swine facility will be required to have double hog proof fencing with a four-~~

foot space between the fences. Hog proof fencing must be able to contain any size hog from going over, under, or through the fence. The Commission requires:

1. 12 ½ gauge web wire minimum wire size
2. 6 sq. inch pull-out maximum wire opening size
3. 60" minimum above ground height
4. 18" minimum below ground burial depth or two strand hotwire that is 6 inches above ground and 24 inches above ground with a minimum 6 inches away from fence to the inside.
5. 8' maximum center to center post placement (outside of fencing)
6. Fencing should overlap a minimum of 12" and secured with a t-post or Western Union wire spliced method
7. The operator of the terminal facility shall notify ALPC within 24 hours of any known or possible escapes of feral swine that were caused by damages to the permitted facility and or fencing caused by acts of nature, vandalism or unknown causes. The facility operator shall attempt to recover and euthanize the escaped feral swine.

ii.) No live feral hogs can leave or escape from the terminal facility. Only tagged hogs (Commission approved tags) that were caught by Commission approved trappers/transporters can enter the terminal facility. The approved terminal facilities will supply the Commission with a list of trappers/transporters that were supplying hogs to that facility at the effective date of the Act. Those trappers/transporters will be licensed and issued Commission approved tags. Those tags must be applied in the field to the hogs when caught by the trappers/transporters and then carried to the terminal facility in an approved conveyance. The hog transporters will only transport hogs to a terminal facility during daylight hours which is defined as thirty minutes before sunrise to thirty minutes after sunset. Licensed trappers can transport hogs to a temporary holding facility during nighttime hours.

iii.) The terminal facilities that were in operation at the effective date of the Act will be inspected by the Commission. When a facility is found to be in compliance, the Commission will issue a license to that facility. The Commission will inspect the facility annually to make sure that the facility stays in compliance. The terminal facility must keep records of hogs received, their tag number, and the disposition of the tagged hogs. Any violation of these regulations by a terminal facility will result in the revocation of their license.

1. Inspection fee: \$150.00

2. Terminal facility annual license fee: \$300.00

iv.) The hog trappers/transporters who were identified by the terminal facility will be licensed. A maximum of fifteen (15) hog trappers/transporters per terminal facility will be licensed at the start of the program. The number of hog trappers/transporters may be determined by the Executive Director of the Arkansas Livestock and Poultry Commission, and may increase at any given time, but will not decrease below the 15 per terminal facility. When licensed, these individuals must purchase Commission approved tags. The hog trappers/transporters must keep record of the number of hogs caught, the tag identification number applied to each hog, and to which terminal facility the hog was delivered. Any

violation of these regulations by the trappers/transporter will result in the revocation of their license. License must be carried at all times by trappers/transporter.

1. Tags: \$3.00 each or fair market value

2. Annual license fee: \$25.00

v.) Hog trappers/transporters will be provided an official record book from the commission. Each book will consist of triplicate form(s) that will be used to record all captures and transfers of feral hogs along with description of the animal and the identification number of the tag used to tag each animal. Upon capture of each animal a record of the animal must be made. Upon transfer of animal from trapper/transporter to terminal facility the trapper/transporter will give 2 copies of each form to the terminal operator while retaining one copy for their records. Terminal operator will then keep one copy for their records and submit the additional copy to the ALPC within 15 business days. Once each tagged animal has been terminated, notice shall be made by terminal operator to ALPC.

2) Except for the activities outlined in section 1) it is a violation of the Act to possess or transport a live feral hog. Also, it will be a violation of Commission regulations to import a feral hog into the State of Arkansas. The Commission will train specific Livestock Inspectors to deal with feral hog terminal facilities and licensed hog trappers/transporters. The appropriate fines for violation of the act are outlined in the Act. Commission employees will not be involved in the enforcement of Act 1104 of 2013 violations.

All of the Commission's prior regulations on feral hogs are null and void.

3) Feral swine temporary holding facility—pen or pens approved by the Commission to hold feral swine from the time they are trapped until they are transported to a permitted terminal facility. Permitting of the facility may be given after an inspection by Commission personnel that finds it meets the following criteria:

a) There are no commercial or transitional production swine within two (2) miles of the proposed facility;

b) Each terminal facility may designate up to two (2) temporary holding facilities that will temporarily hold ALPC tagged/identified feral swine for delivery for a period of time not to exceed thirty (30) days;

c) The facility is constructed with livestock panels or stronger fencing material to prevent the escape of any size hog over, under, or through the pen. The pen or pens shall not exceed 1,000 square feet in combined area. Only tagged feral hogs are allowed within the enclosed pens. No free-ranging or other domestic livestock and pets are allowed within 50 feet of the pen at any time. Only ALPC permitted trappers/transporters and the temporary facility owner are allowed on the premises;

d) Only individually identified and ear-tagged feral swine caught by ALPC permitted trappers/transporters being temporarily held for transport to a terminal facility slaughter will be placed in the facility;

e) Swine will be moved from the facility only to go directly to a terminal facility;

f) Records will be maintained to include the number of swine placed in and removed from the facility, dates they were placed or removed, locations where they were trapped, permitted trapper/transporter delivering the feral swine to the temporary facility and the terminal facility to which they were hauled;

~~g) The permitting of a feral swine temporary holding facility will continue until a request to cancel it is received from the owner~~

~~(1) No person shall import a feral hog into the State of Arkansas;~~

~~(2) Although a landowner or lessee is not required to immediately kill a feral hog captured on and not moved from the private property on which the feral hog is taken, any person who releases or attempts to release a live hog upon public or private land violates Arkansas law and Commission rules and may be subjected to criminal prosecution and administrative penalty under Arkansas Code Annotated § 2-38-505; and~~

~~(3) 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.~~

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, 5th 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 Disbursement of State Funds for Fairs and Livestock Shows

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)_____

Total_____

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 ☒ _____

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.