

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



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 Ark. Code Ann. §§ 2-33-107; 2-40-103; 2-40-109

Rule Title: Poultry Disease and Flock Condemnation Rule

Intended Effective Date
(Check One)

Date

- | | | |
|--|---------------------------------------|--------------------------|
| <input type="checkbox"/> Emergency (ACA 25-15-204) | Legal Notice Published | <u>12/30/22 - 1/3/23</u> |
| <input checked="" type="checkbox"/> 10 Days After Filing (ACA 25-15-204) | Final Date for Public Comment | <u>1/28/23</u> |
| <input type="checkbox"/> Other _____
(Must be more than 10 days after filing date.) | Reviewed by Legislative Council | <u>6/16/23</u> |
| | Adopted by State Agency | <u>11-14-22</u> |

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

<u>6-19-23</u>	<u>linda.luebke@agriculture.arkansas.gov</u>	<u>6-19-23</u>
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

501-25-1598 wade.hodge@agriculture.arkansas.gov
Phone Number E-mail Address

Chief Counsel

Title

6-19-23
Date



Sarah Huckabee Sanders
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 19, 2023

Honorable John Thurston
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

Enclosed is a Transmittal Sheet and a final rule. The **Poultry Disease and Flock Condemnation Rule** was approved by the Livestock and Poultry Commission at a meeting held November 14, 2022.

Three repealed rules are as follows:

- Arkansas Regulations to Prevent the Introduction of Avian Influenza
- Regulation Prescribing the Procedures for Condemning a Diseased Poultry Flock
- Regulations for Poultry Disease Identification, Monitoring & Eradication

The final rule and the repeal of three rules were reviewed and approved by the Administrative Rules Subcommittee of the Arkansas Legislative Council on June 15, 2023, and the Arkansas Legislative Council on June 16, 2023.

If more information is needed, please contact me.

Sincerely,

Wade Hodge
Chief Counsel

WH:ll

Enclosures

POULTRY DISEASE AND FLOCK CONDEMNATION RULE

I. DEFINITIONS. As used in this rule:

"Affected area" means an area determined by the Arkansas Department of Agriculture of approximately 25 miles surrounding a flock with a confirmed case of highly pathogenic avian influenza (HPAI).

"Bird" or "birds" means any of a class (Aves) of warm-blooded vertebrates distinguished by having the body more or less completely covered with feathers and the forelimbs modified as wings.

"Bird Dealer" means any person engaged in the business of dealing in, purchasing, breeding or offering for sale (whether at wholesale or retail) any exotic or pet birds.

"Person" means any individual, firm, partnership, corporation, estate, trust, fiduciary, or other group or combination acting as a unit.

"Exotic disease" means any foreign animal disease listed by the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) or the World Organization for Animal Health (WOAH).

"Untreatable disease" means a disease that does not respond to accepted medical chemotherapy or one whose treatment is uneconomical.

"Pet Bird" means a bird kept or intended for sale as a companion bird, not including domestic poultry.

"Premise" means land and buildings together considered as a property where animals are kept.

"Exotic Bird" means a bird not native or indigenous to the United States which is also not domestic poultry.

"Domestic Poultry" means poultry propagated and maintained under the control of a Person that have been selectively bred for meat, eggs, or exhibition purposes.

"Hatchery" means hatchery equipment on one premise operated or controlled by any person for the production of baby poultry.

"Swap meets or flea markets" means those places either so named or a place where there is a gathering of people to exchange goods and/or services whether it be for barter, sale, or loan.

"Inspector" means a person who is a designated and trained employee of the Arkansas Department of Agriculture.

"Domestic Waterfowl" means ducks and geese that have been selectively bred for meat, eggs, or exhibition purposes.

"Exhibit" means gathering or commingling for purposes of show, public display, or competition.

“Poultry Industry” means entities involved in the production of poultry and waterfowl, of any species, for the purpose of trade in meat and/or eggs.

“Poultry” means chickens, turkeys, guinea fowl, pigeons, ostrich, emus, pheasants, or other birds raised commercially or domestically for meat, eggs, and feathers.

II. CONDEMNING A DISEASED POULTRY FLOCK

A. Reportable diseases.

1. Scope. As used in this section, “reportable disease” means:

Exotic diseases as listed by APHIS or WOAHA;

Ornithosis;

Mycoplasma Gallisepticum (MG);

Mycoplasma Synoviae (MS);

Mycoplasma Meleagridis in turkeys (MM);

Infectious Laryngotracheitis (ILT);

Salmonella Pullorum;

Salmonella Typhimurium;

Pullorum Typhoid (PT);

Velogenic Newcastle Disease; and

Avian Influenza (AI) (for additional requirements regarding AI, see section IV).

2. Mandatory reporting.

Any person having knowledge that a poultry flock is infected with a reportable disease must immediately report such information to the State Veterinarian.

3. Quarantine order.

The State Veterinarian, after consultation with the Arkansas Department of Agriculture Livestock and Poultry Division Director, may quarantine any bird he suspects to be infected with a reportable disease.

4. Confirmation and identification of the disease.

The State Veterinarian may direct that employees of the department conduct further tests of the suspect flock to identify and/or confirm the existence of a reportable disease. The National Veterinary Services Laboratory results will provide the confirmation necessary for the provisions of this rule to be carried out.

5. Order for disposition.

(a) Upon confirmation that a poultry flock is infected with a reportable disease, the State Veterinarian, after consultation with the Division Director, will enter into an administrative agreement with the owner(s) to do one of the following:

(1) Develop a flock plan under the direction of an accredited veterinarian which includes, at a minimum:

(A) Quarantine and treat flock until disease is cleared;

(B) Implementation of biosecurity protocols according to USDA Defend the Flock program;

(C) Acquisition of NPIP certification through the department;

(D) Testing of flock in accordance with NPIP; and

(E) Maintaining records of any treatments or actions taken under the care of an accredited veterinarian.

If treatment is unsuccessful or disease is chronic, all birds will remain in quarantine for the remaining life of the flock;

(2) Quarantine all birds on the affected premises for the life of the flock; any new birds introduced to the premises shall also be under quarantine; or

(3) Depopulate all birds on the premises.

(b) In cases of PT, AI, or Newcastle Disease, depopulation is the only option as long as indemnity is available through USDA.

6. Method of depopulation.

The poultry flock shall be disposed of as provided for in the Arkansas Livestock and Poultry Commission's Disposal of Large Animal and Poultry Carcasses rule. Agents or employees of the department may assist, direct, or administer the destruction of the flock.

7. Proper cleaning and disinfecting – Rodenticides and insecticides.

The producer shall clean, disinfect, and use rodenticides and insecticides in compliance with USDA current polices and standards.

8. Repopulation of house.

A depopulated house will lay vacant after cleaning and disinfecting and after the use of rodenticide and insecticides for the length of time required by APHIS or the State Veterinarian. Source of birds may be approved by the State Veterinarian.

III. PET BIRDS, SWAP MEETS, FLEA MARKETS, EXHIBITIONS, AND HATCHERIES

The National Poultry Improvement Plan (NPIP) will be followed where applicable in this section.

A. Pet birds.

1. Registration.

(a) Any person desiring to operate as a bird dealer must register with the Arkansas Department of Agriculture.

(b) Registration shall be on an annual basis. All registrations shall be issued for a period of one (1) year beginning April 1, and expiring March 31 of the following year.

(c) The registration must be in the name used for all business transactions involving exotic and pet birds. Any change in the name of the registrant shall be promptly reported to the department in writing. Only one registration shall be allowed per premise.

(d) A separate registration is required for each business location and proof of registration must be displayed in a conspicuous location.

(e) Any corporation, partnership, or estate must declare at the time of registration and list such officers or owners on the registration form.

2. Records - Pet birds.

(a) Each bird dealer is required to keep records which adequately:

(1) Identify each exotic or pet bird in his possession or sold by him by species, description, or by leg band number. U. S. and non-U. S. birds will be identified with leg band.

(2) Verify the name, address, and telephone number of the person from whom each is acquired. If that person is a bird dealer, then the dealer's registration number shall also be recorded. If that person is not a bird dealer, then their driver's license number, social security number, or federal tax identification number shall be recorded.

(3) Verify the name, address, and telephone number of the person to whom each bird is transferred. If that person is a bird dealer, then the dealer's registration number shall also be recorded. If that person is

not a bird dealer, then their driver's license number, social security number, or federal tax identification number shall be recorded.

(4) Identify any bird which the bird dealer knows to be or to have been sick, diseased, or to have died.

(b) Periodic reports may be required of any or all of the required record. All required records shall be made available for inspection by department employees during business operating hours. Additional records may be required if deemed necessary by the department.

(c) All records required to be kept by the Act or these rules shall be kept for at least one year from the time of receipt or sale of exotic and pet birds.

(d) Failure to keep required records or to make such records available to department employees shall be grounds for quarantining or administrative penalty, or both.

(e) Birds unaccounted for by records will result in quarantine of all birds on premise until proper records are presented or birds are tested as indicated for diseases of concern.

3. Quarantine, seizure, and destruction of pet birds.

(a) The department or its designees may issue quarantine and may seize and destroy any birds which, in the opinion of the department, present a hazard of carrying exotic or untreatable diseases, or any disease posing hazard to birds.

(b) Birds quarantined by the department will be maintained at the bird dealer's or the owner's expense.

(c) The quarantine includes but is not limited to all birds on the premise.

4. Interstate shipment of pet birds.

(a) Each shipment of exotic and pet birds shipped into Arkansas requires a prior permit number obtained from the department website.

(b) All pet or exotic birds entering Arkansas for exhibition purposes must meet the requirements for interstate shipment.

(c) All exotic bird show or sale coordinators must give fourteen (14) days' notice of an event to the department.

5. Illegal importation of pet birds.

(a) Any pet bird imported into Arkansas coming directly or indirectly from outside the United States shall be designated as illegal unless the bird was brought into the United States in conformity with the quarantine regulations of the USDA and requirements of the State of Arkansas.

(b) The State Veterinarian, in consultation with the Arkansas Department of Agriculture Livestock and Poultry Division Director, may quarantine, seize, and destroy any birds imported illegally into this state and any birds exposed to an illegal bird.

B. Swap meets, flea markets, and exhibition of birds.

1. Birds showing any signs of illness will be quarantined back to the farm, place of origin, or as directed by the department.

2. All birds will be tested for pullorum-typhoid (PT) and Mycoplasma Gallisepticum (MG) and Mycoplasma Synoviae (MS) unless papers accompany them showing that they came from clean stock or have been tested within 90 days of the movement to the event area and must be accompanied by NPIP form Veterinary Services 9-3 (VS 9-3).

3. The event coordinator will be responsible for providing a certified NPIP blood tester for the event and upon request by a representative of the department, provide records of all entries, to include but not limited to:

- (a) Name;
- (b) Address;
- (c) Contact information; and
- (d) Where they are located at the event.

4. Reactor birds are subject to NPIP national guidelines that include:

- (a) Birds will be sent to the Arkansas State Diagnostic Laboratory in Little Rock.
- (b) Birds will be autopsied with appropriate organs or tissues, or both, being cultured.
- (c) At the time birds become positive, farm or place of origin becomes quarantined.

5. Quarantine may be released when:

- (a) Negative test results are provided;
- (b) The culture proves the birds are negative; or
- (c) When depopulation occurs with appropriate cleaning and disinfecting before restocking, as prescribed by the State Veterinarian.

6. Table eggs, if present, when offered for sale, must meet USDA and Arkansas Egg Law standards before selling.

7. Exhibition of birds, including fairs, swap meets, etc. will meet the above requirements.

C. Exhibition of Arkansas poultry.

An official representing the person sponsoring the exhibition shall notify the State Veterinarian no later than thirty (30) days prior to the exhibition, giving the names, place, inclusive dates and times of the event. The requirements for exhibition are as follows:

(a) PT, MG, and MS status.

(1) All poultry except domestic waterfowl present at exhibition in the state shall have originated from U. S. Pullorum-Typhoid Clean or equivalent flocks or have had a negative PT test within ninety (90) days of the movement to the exhibition.

(2) Poultry must also have been tested negative for MG and MS within 90 days of exhibition. This information will be documented on an NPIP form VS 9-3 (form 15), NPIP form 3B, or similar certificate which will accompany the poultry during the exhibition.

(b) Recordkeeping.

(1) The sponsor of the exhibition shall compile a list of all poultry present at the exhibition which shall contain the name and address of each owner, the number, species, breed, variety, type, sex, and PT status of all poultry present.

(2) A copy of this list shall be retained by the sponsor of the exhibition for at least twelve (12) months.

D. Hatchery inspections - Includes all commercial hatcheries, game birds, and poultry.

1. Hatchery inspections are required at least one time per year and hatcheries with prior violations will be identified and retested as needed.

2. Hatcheries are required to register with the department annually.

3. All hatcheries selling hatching eggs either interstate or intrastate or anyone selling chicks must be NPIP approved.

4. Inspection will be made by a trained inspector.

5. A PT positive hatchery will be quarantined immediately. Complete cleaning and disinfecting will be done as prescribed by the State Veterinarian along with industry input.

E. Requirements for entry of poultry into Arkansas.

No poultry infected with or exposed to any infectious or contagious disease can be imported into the state for any purpose.

(a) All eggs for hatching purposes and all chicks imported into the state must be accompanied by an official health certificate or NPIP form VS 9-3 (form 15) indicating that the flock from which the eggs or chicks originated have been tested for PT, MG, and MS and were free of reactors to these diseases.

(b) Any eggs or chicks produced under the supervision of the NPIP will be deemed to have met with the requirements of this rule; provided all of the requirements of NPIP are complied with and applicable NPIP forms accompany the shipment or are furnished in a manner set forth in the NPIP.

(c) Slaughter: Healthy poultry may be shipped into the state without an official health certificate when shipped direct to an approved slaughtering establishment.

(d) Diseased birds can be shipped into the state for slaughter upon approval by the State Veterinarian.

IV. AVIAN INFLUENZA

THE PROVISIONS OF THIS SECTION MAY BE IMPLEMENTED IN THE EVENT OF AN OUTBREAK OF AVIAN INFLUENZA WHICH IN THE DETERMINATION OF THE ARKANSAS DEPARTMENT OF AGRICULTURE THREATENS PRODUCTION OR SALES OF POULTRY AND POULTRY PRODUCTS.

A. It is prohibited to:

1. Exhibit poultry and domestic waterfowl within the affected area;

2. Move poultry or domestic waterfowl from or within an affected area.

- Poultry with premovement avian influenza testing by polymerase chain reaction (PCR) or antigen capture within five days of event are exempt from paragraph 2;

3. Sell barter, trade, auction, or give away, poultry or domestic waterfowl at fairs, swap meets, auctions, flea markets, and similar events and locations within an affected area.

- Chicks and ducklings three weeks of age or less originating from a NPIP certified flock are exempt from paragraph 3.

B. All free range and backyard poultry within an affected area, whether intended for commercial or noncommercial use, must be confined under cover or inside structures to prevent contamination from infected migratory birds.

C. Other conditions or requirements imposed by appropriate federal agencies may also apply.

D. All live poultry, hatching eggs, domestic waterfowl, waterfowl being transported into Arkansas, psittacines or passerines, or other avian species birds entering Arkansas must:

1. Be accompanied by:

(a) An official certificate of veterinary inspection signed by a licensed, accredited veterinarian stating that the poultry, waterfowl, psittacines, passerines, other avian species, or hens or parent stock producing the eggs have been examined and found to be free of any signs of avian influenza H5 or H7, and to the the signatory's knowledge, avian influenza H5 or H7 has not been diagnosed within a 10-kilometer radius of

the location where this flock originated and they did not originate from within an avian influenza quarantined area; or

(b) An official certificate of veterinary inspection signed by a licensed, accredited veterinarian certifying that a negative agar gel precipitin test or other authorized serological test for avian influenza was administered no longer than two (2) weeks prior to the time of the shipment; and

2. Have a negative pullorum test within the last ninety (90) days or be from an NPIP certified flock; and

3. Have an entry permit number.

E. Day-old baby chicks or poults and hatching eggs will also be allowed to enter Arkansas with an NPIP Form VS 9-3 in lieu of a certificate of veterinary inspection if item #10 of the NPIP form contains the following statement: *“These birds originate from breeder flocks located in an area where avian influenza H5 or H7 has not been diagnosed within a 10-kilometer radius of the location where this flock originated and they did not originate from within an avian influenza quarantined area.”*

F. Poultry being brought into Arkansas for slaughter are exempt from the above requirement if they are owned by the company and being transported into the state by Arkansas-based poultry operations using equipment and vehicles controlled solely by those operations. If these vehicles are not controlled solely by the Arkansas company, the poultry will be exempt from a certificate of veterinary inspection if documentation shows they are owned by the company, but the vehicle must have been cleaned and disinfected (see paragraph I., below).

G. 1. All table eggs, including graded eggs (cartoned and loose pack), nest-run, etc., along with all eggs to be processed by breakage must be accompanied by a certificate of origin signed by company management attesting to the origin of the eggs and a statement that they did not originate in an area where there is any known avian influenza H5 or H7 infection. Any reusable materials used in the shipping of eggs into this state must be either new or free of visual debris and contaminants. In the event contaminated materials are found the entire lot will be disposed of immediately at the expense of the shipper.

2. Non-exempt: Eggs direct from grading stations or eggs direct from producer grading stations, entering Arkansas on trucks owned by them or contracted by them, making direct deliveries to retail outlets, distributors, other egg producers or grading stations, breaking plants, etc., must follow the **rules** as outlined above.

3. Exempt: Egg distributors entering Arkansas are exempt from the certificate of origin and the certificate of cleaning and disinfecting provided they make direct sales to retail outlets such as stores, restaurants, etc. and eggs must be in new packaging materials and cannot originate in an area where there is any known avian influenza infection H5 or H7.

H. 1. All Vehicles used to transport birds, eggs, or inedible materials that enter the state must be cleaned and disinfected in such a way that avian influenza virus will be inactivated.

2. Vehicles are to be washed to remove all organic debris using a detergent and water rinse with final application of a disinfectant that is approved for use in the activation of avian influenza virus.

3. Live poultry and transportation equipment owned and controlled by poultry operations in Arkansas may be exempted from these restrictions.

4. Any person coming from an area known or suspected of having avian influenza must practice proper biosecurity procedures as prescribed by the company or USDA.

I. The sale, barter, exhibition, or giving away of all live poultry or domestic waterfowl in any farmer's market, flea market, roadside stand, feed store, fair, show, etc. outside the affected area may be allowed if proper biosecurity procedures as prescribed by the company or USDA are followed and the threat of avian influenza in that area is minimal.

J. All poultry identified or suspect of having avian influenza virus infection in the state will be quarantined immediately and the State Veterinarian notified for final disposition.

K. All avian influenza vaccination of any bird is prohibited, unless authorized by the State Veterinarian after consultation with the Poultry industry.

L. Any ratites entering the state will be accompanied by a certificate of veterinary inspection with entering the state will be accompanied by a certificate of veterinary inspection with an entry permit number stating that: *"The ratite(s) have been examined and found to be free of any signs of avian influenza, and to the best of my knowledge, avian influenza H5 or H7 has not been diagnosed within a 10-kilometer radius of the location where the ratites originated and they did not originate from within an avian influenza quarantined area. Furthermore, these ratites were diagnosed as being avian influenza negative on the basis of a negative avian influenza agar gel precipitin test administered no longer than two weeks prior to shipment."*

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:**

Rebecca Miller Rice
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? Poultry Disease and Flock Condemnation Rule

- 2. What is the subject of the proposed rule? The Department’s methods to prevent and control poultry diseases and the response to poultry disease outbreaks.

- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes _____ No ✓ _____
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 ✓ _____
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 If yes, please provide a brief summary explaining the rule.
The new rule combines three existing rules and updates the provisions of those rules, regarding the Department's methods to prevent and control poultry diseases and the response to poultry disease outbreaks
- Does this repeal an existing rule? Yes 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.
The new rule combines three existing rules and updates the provisions of those rules, regarding the Department's methods to prevent and control poultry diseases and the response to poultry disease outbreaks
- Is this an amendment to an existing rule? Yes 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. 2-33-107; 2-40-103; 2-40-109
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:
Date: January 12, 2023
Time: 1:00 p.m.
Place: Hot Springs Convention Center, 134 Convention Blvd., Hot Springs, AR
10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
January 28, 2023
11. What is the proposed effective date of this proposed rule? (Must provide a date.)
April 1, 2023
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. N/A
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. N/A

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: Poultry Disease and Flock Condemnation Rule

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No ✓ _____
While the proposed rule imposes no change in financial impact over the existing rules, there will be an impact on any poultry producers who would be required to depopulate their flocks.
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 ✓ _____ 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 ✓ _____ 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.



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

December 20, 2022

MEMORANDUM REGARDING THE ARKANSAS LIVESTOCK AND POULTRY COMMISSION'S POULTRY DISEASE AND FLOCK CONDEMNATION RULE

Purpose

This memorandum analyses the Arkansas Livestock and Poultry Commission's (Commission) proposal to repeal three current poultry rules and adopt one rule to replace those being repealed.

Background

There are currently existing rules pertaining to poultry disease:

- Regulation Prescribing the Procedures for Condemning a Diseased Poultry Flock;
- Regulations for Poultry Disease Identification, Monitoring and Eradication; and
- Arkansas Regulations to Prevent the Introduction of Avian Influenza.

Having three separate rules can lead to confusion regarding the applicability of each rule. Additionally, two of the rules being repealed were adopted in the late 1980's and the Avian Influenza rule was adopted in 2000. Disease outbreak response and control methods have changed, and the new rule will replace outdated language and inadequate options in order to provide a better response to an outbreak of poultry disease or identification of a diseased flock. Department staff consulted with the Poultry Federation, the USDA, and others from the poultry industry on the language for the new rule.

The proposed Poultry Disease and Flock Condemnation Rule updates, supplements, and combines portions of the three current rules, in addition to proposing permanent adoption of some language from an emergency rule regarding Avian Influenza that was in place earlier this year. The Commission approved moving forward with adoption of the new rule and the repeal of the three current rules on November 14, 2022.

Discussion

The proposed rule makes significant changes to the reporting and handling of diseased flocks to reflect modern prevention methods and provide more equity to smaller producers. The current Regulation Prescribing the Procedures for Condemning a Diseased Poultry Flock splits poultry diseases into two categories, "exotic diseases and ornithosis" and "other pathogenic diseases," making reporting mandatory in the first category and voluntary in the second. Having a category of voluntarily reportable pathogenic diseases impedes response and enforcement. The proposed rule eliminates the two categories and lists only diseases that must be reported, incorporating those from the previously voluntary list and avian influenza.

Under the existing rule, depopulation was the only practicable remedy for a backyard poultry flock infected with a disease in the "other pathogenic diseases" category because those producers lacked the resources to prevent the "grave danger to the poultry industry" which required depopulation. With the combination of the categories, the proposed rule also creates options for disposition, giving backyard poultry growers alternative methods to handle their diseased flock while maintaining safety measures to prevent the spread of the disease. The proposed rule eliminates the provisions for state compensation

and indemnity for the destruction of a flock. Under the proposed rule the producers and the Department can assess the specific risks and potential remedies to best address the situation.

Bird dealer licensing fees were provided for in the existing rule, however, the statutory authority for fees was not clearly present. The proposed rule replaces the licensing requirement with a registration requirement, eliminating licensing fees while maintaining information gathering for disease prevention and outbreak response.

The proposed rule includes a section for the response to an outbreak of avian influenza. This section incorporates portions of the existing Arkansas Regulations to Prevent the Introduction of Avian Influenza and the Avian Influenza Emergency Rule that was in effect during the most recent outbreak. The proposed rule gives the Department a framework for rapid response to an outbreak, particularly in regard to the movement of birds.

Key Points

The new rule:

- Eliminates the need to search through three separate rules for poultry disease issues;
- Updates language and complies with National Poultry Improvement Plan (NPIP) requirements as needed;
- Eliminates the category of voluntarily reportable diseases and mandates the reporting of all listed diseases, incorporating avian influenza;
- Creates the following disposition options for a flock infected with a reportable disease:
 - Creation of a flock plan that includes quarantine, biosecurity, NPIP certification, testing, and record maintenance;
 - Quarantine of all birds on the premises for the life of the flock; or
 - Depopulation of the birds on the premises;
- Eliminates provisions for compensation or indemnity from the state;
- Requires bird dealers to register with the Department, rather than obtain a dealer license;
- Requires event coordinators for swap meets, flea markets, and poultry exhibitions to take steps to prevent the spread of disease; and
- Delineates the Department's response options of to an outbreak of avian influenza.

Conclusion: The new rule will reduce confusion associated with having three separate rules to address poultry disease and provides clear response options for the Department in cases of disease identification and outbreaks of avian influenza and other poultry diseases.