

# ARKANSAS REGISTER

## Transmittal Sheet

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



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**For Office**

**Use Only:**

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

Name of Agency Department of Agriculture

Department Plant Board

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Statutory Authority for Promulgating Rules 2-16-207

**Rule Title:** Catfish Processors Rules

**Intended Effective Date**

(Check One)

**Date**

☐ Emergency (ACA 25-15-204) Legal Notice Published ..... \_\_\_\_\_

☐ 10 Days After Filing (ACA 25-15-204) Final Date for Public Comment ..... \_\_\_\_\_

☒ Other 10/15/1987 Reviewed by Legislative Council ..... \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Adopted by State Agency ..... 09/04/1987

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

Wade Hodge wade.hodge@agriculture.arkansas.gov 12/23/2019

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

501-291-6361 wade.hodge@agriculture.arkansas.gov

Phone Number

E-mail Address

Managing Attorney

Title

12/23/1019

Date

# **RULES ON CATFISH PROCESSORS IN ARKANSAS**

**(Promulgated and adopted under authority of Act 365 of 1987  
The Arkansas Catfish Processor Fair Practices Law)**

## **SECTION I. GENERAL PURPOSE AND INTENT**

The Arkansas Catfish Processor Fair Practices Act charges the State Plant Board with the responsibility of registering, auditing and regulating those catfish processors who receive or purchase catfish from producers. The principal objective and intent of this law is to provide any catfish producer who delivers catfish to a processor in Arkansas some measure of protection from unlawful or fraudulent processing and payment practices.

## **SECTION II. ORGANIZATION AND DESIGNATION OF DUTIES**

The Arkansas Catfish Processor Fair Practices Act will be administered as a Section of the Division of Marketing of the State Plant Board. The Director of Marketing and the Manager of the Grain Warehouse Section are designated the authority and duties assigned by the Commissioner in Act 365 of 1987, and will be carried out under general supervision from the Commissioner in Act 365 of 1987 and Act 434 of 1967 and amended (The Administrative Procedures Act).

## **SECTION III. REGISTRATION**

All "persons" as defined by law engaged in the handling, storing, preparing, manufacturing, packaging, or holding of catfish products shall register with the State Plant Board. The registration shall be for a period of one (1) year which runs from July 1 through June 30 of each year. Registration shall be on forms provided by the State Plant Board.

Each registration form shall be accompanied by a financial statement and a certificate of fact. The financial statement shall be a signed report of a Certified Public Accountant or a Registered Public Accountant which must be a representation of an examined audit report, review report, or a compilation report.

## **SECTION IV. SECURITY**

Catfish processors who elect to pay for the fish they purchase as specified in Section 5(1)(b) of Act 365 of 1987 (taking up to 14 days to pay) shall provide security in the form of cash, bond, certificate of deposit, letter of credit, or such other evidences of security as authorized by the Board. Processors who elect to pay for fish the day of delivery (Section 5 (l) (a)), or as specified in a written contract or agreement (Section 5 (1) (c)) are exempt from this section.

The issuing institution of a bond, certificate of deposit, letter of credit, or any other securities shall not cancel the security unless a thirty (30) day written notice of cancellation is sent by certified mail to the Director of the State Plant Board, P. O. Box 1069, Little Rock, AR 72203. Cancellation notice must be received at least thirty (30) days prior to the cancellation or termination date of said security.

All renewal or replacement bonds, certificates of deposit, letters of credit, or other securities specified by the Board shall be in the State Plant Board office five (5) business days prior to the effective cancellation or termination date of said security. If renewal or replacement documents are not received within the five (5) days time frame, the original security shall be drawn on by the State Plant Board staff. All monies received from the drawing shall be held by the State Plant Board for the purpose of paying producers and/or secured creditors for non-payment by the processor.

The minimum security shall be set at \$20,000 for any person(s) (as defined by Law) deemed as being a processor. All bonds or combinations of securities shall be set at a rate of .20¢ per pound of catfish purchased by the processor. Increments of security shall be set in the following amounts:

| <b>LBS. OF CATFISH<br/>PURCHASED PER<br/>MONTH</b> | <b>AMOUNT OF<br/>SECURITY</b> |
|--|-------------------------------|
| 0 - 99,00  | \$20,000                      |
| 100,000 - 199,0                                    | \$40,000                      |
| 200,000 - 299,0                                    | \$60,000                      |
| 300,000 - 399,0                                    | \$80,000                      |
| 400,000 - 499,0                                    | \$100,000                     |
| 500,000 - 599,0                                    | \$120,000                     |
| 600,000 - 699,0                                    | \$140,000                     |
| 700,000 - 799,0                                    | \$160,000                     |
| 800,000 - 899,0                                    | \$180,000                     |
| 900,000 - 999,0                                    | \$200,000                     |
| Amounts Over - 1,000                               | Maximum \$250,000             |

Security documents shall be included with registration forms.

## **SECTION V. CONTRACTS OR AGREEMENTS BETWEEN PRODUCERS AND BUYERS**

Catfish processors who elect to pay for the fish they purchase as specified in Section 5(1)(c) of Act 365 of 1987 (written contracts and agreements) shall have their contracts/agreements prepared in advance and approved by the State Plant Board. Each contract/agreement shall contain a statement informing the producer or seller that he is relinquishing all rights and title to the buyer or processor upon delivery of catfish. Each contract/agreement shall include a lien holder statement. The Director may require any additional information deemed necessary to protect the interest of the producer or seller or secured creditor in these transactions. All contracts/agreements shall be pre-numbered with no duplication of numbers.

## **SECTION VI. SCALES FOR WEIGHING CATFISH**

As a matter of fair practice, all scales used for the weighing of catfish by a processor shall be calibrated, tested, and officially approved by the Arkansas Bureau of Standards. It shall be the duty of the catfish processor to contact the Arkansas Bureau of Standards annually for the testing and approval of their scales used for weighing catfish. If a processor's scale is not approved, the processor shall not engage in the business of buying catfish from producers.

## **SECTION VII. WEIGH TICKETS**

Weigh tickets used for the weighing of catfish shall be pre-numbered and in the form prescribed by the State Plant Board. All records shall be maintained on a daily basis by the catfish processor which the State Plant Board deems necessary for auditing purposes. The State Plant Board shall require change in weigh tickets and other record keeping forms anytime deemed necessary while auditing and regulating catfish processors.

## **SECTION VIII. AUDITING**

Auditors of the State Plant Board's Public Grain Warehouse Section shall audit the records of Arkansas catfish processors periodically to determine:

1. Volume of catfish purchased.
2. Payment of producers as specified, contracted, or agreed to.
3. Solvency of the processor (Section 6 of Act 365 of 1987).

All registrants shall maintain on a daily basis bookkeeping records required by the State Plant Board as deemed necessary for auditing purposes.