

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State

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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____



Sarah Huckabee Sanders
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

1 Natural Resources Drive, Little Rock, AR 72205
agriculture.arkansas.gov
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Wes Ward
Secretary of Agriculture

Notice of Proposed Rule Change and Comment Period

Notice is hereby given that the Arkansas Department of Agriculture is repealing Rules on Catfish Processors in Arkansas, 2 CAR Pt. 23. Act 577 of 2025 repealed the Arkansas Catfish Processor Fair Practices Act of 1987, codified at Arkansas Code § 2-6-101, et seq., which requires the repeal of Rules on Catfish Processors in Arkansas, 2 CAR Pt. 23.

A complete copy of the proposed rule amendments is available at
<https://agriculture.arkansas.gov/resources/about/rules/>.

Interested parties may submit comments to the proposed rule amendments until January 13, 2026, at 5:00 p.m. Public comments will be accepted by email to rule.comments@arkansas.gov or by mail to Arkansas Department of Agriculture, Attn: Matthew M. Ford, 1 Natural Resources Drive, Little Rock, AR 72205. Oral and written comments received during the public comment period will be made part of the record.

This Legal Notice will be published in the Arkansas Democrat-Gazette on December 14, 15, and 16, 2025.

Matthew M. Ford
Chief Legal Counsel, Arkansas Department of Agriculture

Stricken language would be deleted from and underlined language would be added to the Code of Arkansas Rules.

Proposed Rulemaking

Title

Promulgated by:
State Plant Board

Title 2. Agriculture

Chapter II. State Plant Board, Department of Agriculture

Subchapter A. Generally

Part 23. Rules on Catfish Processors in Arkansas

Subpart 1. Generally

2 CAR § 23-101. ~~General purpose and intent.~~ [Repealed]

~~—(a) The Arkansas Catfish Processor Fair Practices Act of 1987, § 2-6-101 et seq., charges the State Plant Board with the responsibility of registering, auditing, and regulating those catfish processors who receive or purchase catfish from producers.~~

~~—(b) 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.~~

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2 CAR § 23-102. ~~Organization and designation of duties.~~ [Repealed]

~~—(a) The Arkansas Catfish Processor Fair Practices Act, § 2-6-101 et seq., will be administered as a section of the Division of Marketing of the State Plant Board.~~

~~—(b) The Director of Marketing and the Manager of the Public Grain Warehouse Section are designated the authority and duties assigned by the Commissioner in Acts 1987, No. 365, and will be carried out under general supervision from the Commissioner in Acts 1987, No. 365, and Acts 1967, No. 434, as amended, the Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

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2 CAR § 23-103. ~~Registration.~~ [Repealed]

~~—(a) 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.~~

~~—(b) The registration shall be for a period of one (1) year, which runs from July 1 through June 30 of each year.~~

~~—(c)(1) Registration shall be on forms provided by the State Plant Board.~~

~~—(2) Each registration form shall be accompanied by a financial statement and a certificate of fact.~~

~~—(3) 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.~~

2 CAR § 23-104. ~~Security.~~ [Repealed]

~~—(a)(1) Catfish processors who elect to pay for the fish they purchase as specified in Acts 1987, No. 365, § 5(1)(b), taking up to fourteen (14) days to pay, shall provide security in the form of:~~

~~—(A) Cash;~~

~~—(B) Bond;~~

~~—(C) Certificate of deposit;~~

~~—(D) Letter of credit; or~~

~~—(E) Such other evidences of security as authorized by the State Plant Board.~~

~~—(2) Processors who elect to pay for fish the day of delivery, per Section 5(1)(a), or as specified in a written contract or agreement, per Section 5(1)(c), are exempt from this section.~~

~~—(b)(1) The issuing institution of a bond, certificate of deposit, letter of credit, or any other securities shall not cancel the security unless a thirty-day written notice of~~

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~~cancellation is sent by certified mail to the Director of the State Plant Board, P.O. Box 1069, Little Rock, AR 72203.~~

~~———— (2) Cancellation notice must be received at least thirty (30) days prior to the cancellation or termination date of said security.~~

~~———— (c)(1) All renewal or replacement bonds, certificates of deposit, letters of credit, or other securities specified by the board shall be in the board office five (5) business days prior to the effective cancellation or termination date of said security.~~

~~———— (2)(A) If renewal or replacement documents are not received within the five-day time frame, the original security shall be drawn on by the board staff.~~

~~———— (B) All monies received from the drawing shall be held by the board for the purpose of paying producers and/or secured creditors for nonpayment by the processor.~~

~~(d)(1) The minimum security shall be set at twenty thousand dollars (\$20,000) for any person or persons, as defined by law, deemed as being a processor.~~

~~———— (2)(A) All bonds or combinations of securities shall be set at a rate of twenty cents (20¢) per pound of catfish purchased by the processor.~~

~~———— (B) Increments of security shall be set in the following amounts:~~

LBS. OF CATFISH PURCHASED PER MONTH	AMOUNT OF SECURITY
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

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~~—(e) Security documents shall be included with registration forms.~~

2 CAR § 23-105. ~~Contracts or agreements between producers and buyers.~~[Repealed]

~~—(a) Catfish processors who elect to pay for the fish they purchase as specified in Acts 1987, No. 365, § 5(1)(c), written contracts and agreements, shall have their contracts/agreements prepared in advance and approved by the State Plant Board.~~

~~—(b)(1) Each contract/agreement shall contain:~~

~~—(A) A statement informing the producer or seller that he is relinquishing all rights and title to the buyer or processor upon delivery of catfish; and~~

~~—(B) A lien holder statement.~~

~~—(2) The Director of the State Plant Board may require any additional information deemed necessary to protect the interest of the producer or seller or secured creditor in these transactions.~~

~~—(c) All contracts/agreements shall be prenumbered with no duplication of numbers.~~

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2 CAR § 23-106. ~~Scales for weighing catfish.~~[Repealed]

~~—(a) 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.~~

~~—(b) It shall be the duty of the catfish processor to contact the bureau annually for the testing and approval of their scales used for weighing catfish.~~

~~—(c) If a processor's scale is not approved, the processor shall not engage in the business of buying catfish from producers.~~

2 CAR § 23-107. ~~Weigh tickets.~~[Repealed]

~~—(a) Weigh tickets used for the weighing of catfish shall be prenumbered and in the form prescribed by the State Plant Board.~~

~~—(b) All records shall be maintained on a daily basis by the catfish processor which the board deems necessary for auditing purposes.~~

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~~—(c) The board shall require changes in weigh tickets and other record keeping forms anytime deemed necessary while auditing and regulating catfish processors.~~

2 CAR § 23-108. Auditing, [Repealed]

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~~—(a) 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; and~~

~~———(3) Solvency of the processor, under Acts 1987, No. 365, § 6.~~

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

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

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 no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 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 _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or 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

\$ _____

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.



ARKANSAS DEPARTMENT OF AGRICULTURE

Repeal of Rules on Catfish Processors in Arkansas, 2 CAR Pt. 23

Act 577 of 2025 repealed the Arkansas Catfish Processor Fair Practices Act of 1987, codified at Arkansas Code § 2-6-101, et seq. The act requires the repeal of Rules on Catfish Processors in Arkansas, 2 CAR Pt. 23.