

# 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 ~~General purpose and intent.~~ [Repealed]**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.~~

#### **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 ~~Organization and designation of duties.~~ [Repealed]**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 Registration.** ~~[Repealed]~~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 Security.** ~~[Repealed]~~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~~

~~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:~~

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

~~—(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.~~

**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.~~

~~—(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]~~

~~—(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.~~