

PROPOSED RULE

AGENCY #209-01

FERAL HOG AIRBORNE ERADICATION RULE

RECEIVED

OCT 07 2019

BUREAU OF

I. APPLICATION

A. The Arkansas Livestock and Poultry Commission (Commission) may issue a permit to any person to allow for the shooting of feral hogs from an aircraft if the Commission finds that management of feral hogs by the use of aircraft is necessary to protect or to aid in the administration or protection of land, water, wildlife, livestock, domestic animals, timber, human life, or crops and will not have a harmful effect on indigenous species.

B. All applications and supporting documentation shall be filed with the Arkansas Department of Agriculture (Department).

C. All applications must include:

1. One or more affidavits, containing facts as well as opinion, as to why the permit should be issued for the management of feral hogs by the use of aircraft, including the purpose for which the permit will be used, specifically identifying whether the permit is necessary to protect land, water, wildlife, livestock, domestic animals, timber, crops, or human life;
2. An address and adequate description of the land covered by the permit, including approximate acreage;
3. Unless the applicant is the landowner, an applicant must also submit to the Department a landowner's authorization to manage feral hogs. The landowner's authorization may be submitted by a group of landowners or by an association on behalf of such landowners;
4. the approximate number of hogs to be managed; and
5. an accurate and adequate description of the aircraft used, including aircraft number and the location where the aircraft was used. As defined in 7 U.S.C. § 742j-1(c) "aircraft" means any contrivance used for flight in the air.

D. The Department may:

1. Require permit holders to report to the Department on the eradication process.
2. Limit the number of feral hogs taken per permit
3. Limit airborne eradication to certain days or hours or both
4. Limit the duration of a permit

II. PROHIBITED ACTS

A. The permit provided for in this rule is for the purposes stated in the rule and for no other reason. Any act not consistent with this rule or state or federal law shall be grounds for revocation or suspension of the permit, including without limitation:

1. Hunting, killing, or capturing, or attempting to hunt, kill, or capture from an aircraft any animal that is not specifically authorized by a permit issued by the Commission;

2. Using an aircraft to manage feral hogs without first obtaining and having in the person's immediate possession a permit and a landowner's authorization for the management of feral hogs by the use of aircraft.
3. Using an aircraft to harass wildlife, exotic animals, or any other animal or bird including engaging in the activity of counting, photographing, relocating, capturing, or hunting wildlife or exotic animals under the authority of a permit.
4. Hunting any animal or bird from an aircraft for sport.
5. Knowingly participating in using an aircraft whether in the aircraft or on the ground for any purpose referred to in this section.

B. The acts prohibited in this section include without limitation, any person who:

1. Pilots or assists in the operation of the aircraft from which another person shoots or shoots at wildlife while airborne, or
2. While on the ground takes or attempts to take any wildlife by any means, aid, or use of an aircraft.

III. NOTIFICATION

All applicants shall sign a statement verifying that they understand that the Department will provide immediate notification to the FBI of issuance of the application, and that the permits holders' information will also be provided to federal authorities in an annual report as required by federal law. Information provided to federal authorities may include, without limitation:

1. Personal contact information of the permit holder and landowner;
2. the aircraft number of the aircraft used and the location where the aircraft was used;
3. any and all other information collected or assembled by the Department.

IV. PENALTIES AND AUTHORITY

A. Failure to comply with any of the provisions of this rule may result in administrative penalties as provided by law.

B. Authority. ACA §§ 2-32-501; 2-33-107(a); 2-38-502.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H3/25/19

A Bill

SENATE BILL 460

5 By: Senator K. Hammer
6 By: Representative Bragg
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE DEFINITION OF "FERAL HOG"; TO
10 AMEND THE LAW REGARDING THE RELEASE OF FERAL HOGS
11 INTO THE WILD; TO AMEND THE LAW REGARDING THE
12 CAPTURING AND KILLING OF FERAL HOGS; AND FOR OTHER
13 PURPOSES.
14
15

Subtitle

16 TO AMEND THE DEFINITION OF "FERAL HOG";
17 TO AMEND THE LAW REGARDING THE RELEASE OF
18 FERAL HOGS INTO THE WILD; AND TO AMEND
19 THE LAW REGARDING THE CAPTURING AND
20 KILLING OF FERAL HOGS.
21
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 2-38-501 is amended to read as follows:
27 2-38-501. Definition.

28 As used in this subchapter:

29 (1)(A) "Feral hog" means an animal or hybrid animal of either
30 the family Suidae, including without limitation a wild hog, Russian or
31 European wild boar, and Old World swine, or the family Tayassuidae, including
32 without limitation peccary, javelina, and New World swine, that is or has
33 been roaming freely upon public land or private land.

34 (B) ~~"Feral hog" includes a hog that is not conspicuously~~
35 ~~identified as required under §§ 2-34-101 and 2-34-102 [repealed].~~

36 (C) "Feral hog" does not include:



1 (i) A stray domestic hog that has escaped from
2 domestic confinement for less than:

3 (a) Five (5) calendar days; or

4 (b) Fifteen (15) calendar days if the owner of
5 the stray domestic hog provides notice of the escape to all adjacent
6 landowners within the first five (5) calendar days of the escape; or

7 (ii) A hog held by a zoo accredited by the
8 Association of Zoos and Aquariums or by the designated caretakers of the
9 University of Arkansas mascot; and or

10 (iii) A hog held while being transported to
11 livestock market or for slaughter and having a premises identification tag or
12 other official eartag; and

13 (2) A "feral hog" is deemed to be a public nuisance.
14

15 SECTION 2. Arkansas Code § 2-38-502 is amended to read as follows:

16 2-38-502. Capturing and killing feral hogs – Definition.

17 (a) A person may capture or kill a feral hog only as follows:

18 (1) On private land if the person is the landowner or lessee or
19 has the permission of the landowner or lessee; and

20 (2)~~(A)~~ On public land if:

21 ~~(i)(A)~~ Allowed by the ~~landowner~~ landowning entity;
22 and

23 ~~(ii)(B)~~ The person possesses a valid Arkansas
24 hunting license and complies with Arkansas hunting rules; or

25 ~~(B) However, a certified law enforcement officer or a~~
26 ~~public employee engaged in the performance of his or her official duties is~~
27 ~~exempt from the requirement under subdivision (a)(2)(A) of this section.~~

28 (3) After providing verification that he or she has a valid
29 permit issued by the Arkansas Livestock and Poultry Commission in accordance
30 with 16 U.S.C. § 742j-1, as it existed on January 1, 2019, upon determining
31 that the permit applicant has a bona fide need to kill feral hogs for
32 protection of land, water, wildlife, livestock, domesticated animals, human
33 life, or crops, and not for a recreational hunting purpose.

34 (b) A person whose hunting license is revoked shall not take or kill a
35 feral hog during the period of the revocation.

36 (c)(1) A feral hog captured by any means under subsection (a) of this

1 section shall be immediately killed.

2 ~~(1)(A) Killed.~~

3 ~~(B)(2) If a feral hog is captured on private property and~~
4 ~~not moved from the private property, the landowner or a lessee is not~~
5 ~~required to kill the feral hog immediately; or.~~

6 ~~(2)(A) Permanently identified by eartag approved by the Arkansas~~
7 ~~Livestock and Poultry Commission and transported to a terminal facility that~~
8 ~~is certified by the commission.~~

9 ~~(B) The commission shall adopt rules for the issuance of a~~
10 ~~certification permit for a terminal facility and the requirements for~~
11 ~~inspection of a terminal facility.~~

12 ~~(C) A terminal facility shall:~~

13 ~~(i) Maintain a record of each feral hog purchased,~~
14 ~~including without limitation the:~~

15 ~~(a) Name of the seller;~~

16 ~~(b) Date of the purchase;~~

17 ~~(c) Number of feral hogs purchased; and~~

18 ~~(d) Eartag number issued for each feral hog~~
19 ~~purchased; and~~

20 ~~(ii) Comply with all swine rules adopted by the~~
21 ~~commission.~~

22 ~~(D) As used in this subsection, "terminal facility" means~~
23 ~~a facility for the containment of domestic and feral hogs that requires that~~
24 ~~a hog be killed before leaving the facility.~~

25 ~~(E)(d)(1) A feral hog shall not may be released into the~~
26 ~~wild only under any circumstances, when the commission authorizes an employee~~
27 ~~of a state or federal agency to capture or release a feral hog, or both, for~~
28 ~~tracking or research purposes and with permission of the owner or lessee of~~
29 ~~the property.~~

30 ~~(2) Feral hogs that are captured for the purpose of tracking or~~
31 ~~research shall be killed upon completion of the tracking or research project.~~

32 ~~(e) A certified law enforcement officer or a public employee engaged~~
33 ~~in the performance of his or her official duties is exempt from the~~
34 ~~requirements under subdivisions (a)(2) and (3) of this section.~~

35

36 SECTION 3. Arkansas Code § 2-38-504(a)-(d), concerning the release of

1 hogs into the wild, are amended to read as follows:

2 (a) A ~~Except as provided in § 2-38-502(d),~~ a person who knowingly
3 releases or attempts to release a live hog upon public or private land upon
4 conviction is guilty of an unclassified misdemeanor and is subject to a fine
5 of not less than one thousand dollars (\$1,000) per hog nor more than five
6 thousand dollars (\$5,000) per hog and, imprisonment not exceeding ninety (90)
7 days revocation of his or her hunting and fishing rights in the state for up
8 to five (5) years, or a combination of fine and imprisonment.

9 (b)(1) ~~A person who knowingly releases or attempts to release a live~~
10 ~~hog on private property upon conviction is guilty of an unclassified~~
11 ~~misdemeanor and is subject to a fine of not less than one thousand dollars~~
12 ~~(\$1,000) per hog nor more than five thousand dollars (\$5,000) per hog or~~
13 ~~imprisonment not exceeding thirty (30) days, or both.~~

14 (2) ~~However, subdivision (b)(1) Subsection (a) of this section~~
15 ~~does not prohibit a person from:~~

16 (A) ~~Introduceing~~ introducing a domestic hog for farm
17 purposes onto private property enclosed with a fence sufficient under § 2-39-
18 101 et seq. and with permission of the owner or lessee of the property; ~~or,~~

19 (B)(i) ~~Continuing to operate a hog-hunting facility~~
20 ~~established before August 16, 2013, if:~~

21 (a) ~~The hog-hunting facility and operation~~
22 ~~meet the requirements imposed by the Arkansas Livestock and Poultry~~
23 ~~Commission for animal identification, transportation, and quarantine;~~

24 (b) ~~The hog-hunting facility and operation are~~
25 ~~subject to periodic inspections by the commission; and~~

26 (c) ~~The hog-hunting facility and operation are~~
27 ~~certified by the commission as a terminal facility, as defined in § 2-38-~~
28 ~~502(e).~~

29 (ii) ~~An owner or operator of a hog-hunting facility~~
30 ~~that is in operation before August 16, 2013, that does not meet the~~
31 ~~requirements stated in subdivision (b)(2)(B)(i) of this section is prohibited~~
32 ~~from purchasing or transporting a live feral hog under this subchapter.~~

33 (iii) ~~Except as provided in subdivision (b)(2)(B)(i)~~
34 ~~of this section, a person is prohibited from establishing or operating a~~
35 ~~business in which one (1) or more feral hogs are placed in one (1) or more~~
36 ~~fenced enclosures, regardless of the size of the enclosure, for the purpose~~

1 ~~of conducting a hog hunting operation.~~

2 ~~(e)~~(b) A person who knowingly purchases, sells, offers for sale,
3 receives, possesses, imports, distributes, or transports a live feral hog
4 upon conviction is guilty of an unclassified misdemeanor and is subject to a
5 fine of one thousand dollars (\$1,000) per hog or imprisonment not exceeding
6 thirty (30) days, or both.

7 ~~(d)~~(c) Upon the arrest of a person under this section, the arresting
8 law enforcement officer ~~shall~~ may seize and take custody of any hog in the
9 possession of the arrested person and may seize any equipment used in
10 furtherance of the violation, including without limitation a motor vehicle,
11 trailer, and trap.

12

13 SECTION 4. Arkansas Code § 2-38-504(g) and (h), concerning the penalty
14 for releasing a hog into the wild, are amended to read as follows:

15 (g) Any A certified state law enforcement officer may write a citation
16 for a violation under this section.

17 (h)(1) Fines collected under this section shall be deposited into the
18 Game Protection Fund Feral Hog Eradication Fund that is designated as special
19 revenues for the Arkansas Natural Resources Commission.

20 (2) The funds designated under subdivision (h)(1) of this
21 section are to be used for eradication efforts to eliminate feral hogs.

22

23 SECTION 5. Arkansas Code § 19-6-301, concerning the enumeration of
24 special revenues, is amended to add an additional subdivision to read as
25 follows:

26 (263) Fines collected under § 2-38-504.

27

28 SECTION 6. Arkansas Code Title 19, Chapter 6, is amended to add an
29 additional section to read as follows:

30 19-6-840. Feral Hog Eradication Fund.

31 (a) There is created on the books of the Treasurer of State, the
32 Auditor of State, and the Chief Fiscal Officer of the State a special revenue
33 fund to be known as the "Feral Hog Eradication Fund".

34 (b) The fund shall consist of:

35 (1) Fines collected under § 2-38-504; and

36 (2) Any other revenues as may be authorized by law.

1 (c) The fund shall be used by the Arkansas Natural Resources
2 Commission for expenses associated with the eradication efforts to eliminate
3 feral hogs.

4
5 */s/K. Hammer*
6

7
8 **APPROVED: 4/15/19**
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36