

**REPORT OF THE
ADMINISTRATIVE RULES SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

December 16, 2022

Co-Chairs:

The Administrative Rules Subcommittee met on Thursday, December 15, 2022, at 9:00 a.m., in Room A, MAC.

- 1. The Subcommittee filed the attached report from the ALC-Medical Marijuana Oversight Subcommittee concerning the review of rules.**
- 2. The Subcommittee reviewed and approved the following rules filed pursuant to Ark. Code Ann. § 10-3-309:**

ARKANSAS PUBLIC SERVICE COMMISSION

- a. Amendments to the Arkansas Gas Pipeline Code**

**DEPARTMENT OF AGRICULTURE, ARKANSAS NATURAL RESOURCES
COMMISSION**

- a. Title 10: Water Resource Agricultural Cost-Share Program Rules**
- b. Rules Governing the Tax Credit Program for the Creation, Restoration, and Conservation of Private Wetland and Riparian Zones**

**DEPARTMENT OF FINANCE AND ADMINISTRATION, MEDICAL
MARIJUANA COMMISSION**

- a. Rules Governing the Licensure of Medical Marijuana Cultivation Facilities, Processors, and Dispensaries (Section VII-Section IX)**

DEPARTMENT OF HEALTH, ARKANSAS STATE BOARD OF PHARMACY

- a. Rule 7 – Drug Products/Prescriptions**

**DEPARTMENT OF HEALTH, STATE BOARD OF EXAMINERS OF
ALCOHOLISM AND DRUG ABUSE COUNSELORS**

- a. Rules Governing Alcoholism and Drug Abuse Counselors**

**DEPARTMENT OF HUMAN SERVICES, DIVISION OF AGING, ADULT, AND
BEHAVIORAL HEALTH SERVICES**

- a. Procedures for Name Removal from Arkansas Adult Maltreatment Registry**

**DEPARTMENT OF HUMAN SERVICES, DIVISION OF COUNTY
OPERATIONS**

- a. SNAP and Medicaid – Office of Child Support Enforcement Related Changes**
- b. SUPPORT Act Changes for Former Foster Care Youth**
- c. TEA Income Limit Increase**
- d. Adding Unborn Child to Pregnant Woman Need Standard**
- e. Expansion of Pregnant Women Medicaid**

DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES

- a. Arkansas Independent Assessment (ARIA) Manual, 1915(i)**
- b. Pharmacy (1-22) Provider Manual Change for Combining the DUR Board and DRC**
- c. Prosthetics Rate Review – State Plan Amendment (SPA) and Prosthetics Provider Manual**
- d. National Drug Code (NDC) Billing Updates**
- e. Living Choices Waiver Rate Adjustment**
- f. Primary Care Case Management (PCCM) Reconciliation**
- g. Long Acting Reversible Contraceptive Rate Increase**
- h. Life360 HOME Program**
- i. Rebalancing Services for Clients with Intellectual and Developmental Disabilities and Behavioral Health Needs**

j. **ARHOME, Workers with Disabilities, Transitional Medicaid Cost Sharing**

**DEPARTMENT OF HUMAN SERVICES, DIVISION OF PROVIDER SERVICES
AND QUALITY ASSURANCE**

a. **Rules for the Arkansas Long Term Care Facility Nursing Assistant Training Program**

3. **The Subcommittee reviewed and approved the following rule with a change by the agency to exempt Federally Qualified Health Centers:**

DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES

a. **340B Modifiers on Physician Administered Drugs**

4. **The Subcommittee approved the following agencies' requests for the expedited repeal of rules not meeting the definition of a rule under the Arkansas Administrative Procedure Act pursuant to Act 65 of 2021:**

DEPARTMENT OF FINANCE AND ADMINISTRATION

a. **Financial Management Guide**

DEPARTMENT OF HUMAN SERVICES

a. **Policy 1009 – Equal Opportunity Policy**

b. **Policy 1078 – Americans with Disabilities Act**

c. **Policy 1094 – DHS DRC Cooperation Rule**

5. **Pursuant to Act 1076 of 2021, the Subcommittee reviewed the attached recommendation report of the House and Senate Committees on Agriculture, Forestry, and Economic Development relating to the review and sunset of state agency rules pertaining to milk and cattle production, and it voted to accept the agencies' final rule reports such that the rules therein shall remain in effect.**
6. **The Subcommittee received agency updates on outstanding rulemaking pursuant to Act 595 of 2021.**
7. **The Subcommittee received an agency update on outstanding rulemaking pursuant to Act 517 of 2019.**
8. **The Subcommittee filed a December monthly written update pursuant to Act 595 of 2021.**

9. Prior to the meeting, the following rules were pulled from consideration at the request of the agency:

**DEPARTMENT OF HUMAN SERVICES, DIVISION OF AGING, ADULT, AND
BEHAVIORAL HEALTH SERVICES**

- a. Amendment to ARChoices to Allow Inpatient Attendant Care

DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES

- d. Hospital Cost Settlement Reopening Process

Respectfully submitted,

Senator Kim Hammer, Co-Chair

Representative Les Eaves, Co-Chair

ARKANSAS LEGISLATIVE COUNCIL



Senator Bill Sample
Senate Chair

Representative Lanny Fite
House Chair

ALC-MEDICAL MARIJUANA OVERSIGHT SUBCOMMITTEE

December 15, 2022

The Honorable Kim Hammer, Senate Chair
The Honorable Les Eaves, House Chair
Arkansas Legislative Council – Administrative Rules Subcommittee
Room 315, State Capitol
Little Rock, AR 72201

RE: DFA Reviewed Rules

VIA ELECTRONIC MAIL

Dear Senator Hammer and Representative Eaves:

On December 14, 2022, the ALC-Medical Marijuana Oversight Subcommittee met in Big MAC Room B. The purpose of this meeting was to review the Rules Governing the Licensure of Medical Marijuana Cultivation Facilities, Processors, and Dispensaries from the Department of Finance and Administration.

The Subcommittee reviewed the rules.

Please feel free to contact us if we can provide any additional information in this regard.

Respectfully submitted,

Bill Sample/jj

Lanny Fite/jj

Senator Bill Sample
Senate Chair

Representative Lanny Fite
House Chair

ARKANSAS GENERAL ASSEMBLY



Senator Ronald Caldwell, Chair

Representative DeAnn Vaught, Chair

HOUSE & SENATE COMMITTEES ON AGRICULTURE, FORESTRY & ECONOMIC DEVELOPMENT

December 15, 2022

The Honorable Senator Kim Hammer, Co-Chair
The Honorable Representative Les Eaves, Co-Chair
Arkansas Legislative Council – Administrative Rules Subcommittee
State Capitol, Room 315
Little Rock, Arkansas 72201

RE: Reporting Requirements – Act 1076 of 2021

Dear Senator Hammer and Representative Eaves:

Act 1076 of 2021 established a process for review and a sunset date for state agency rules pertaining to milk and cattle production. The act mandates that each agency that promulgates rules pertaining to milk and cattle production shall file a report stating their intent to either repeal or continue to enforce said rules. Upon receiving rule reports from the Department of Agriculture and the Department of Health, the House and Senate Agriculture, Forestry & Economic Development Committees met on December 9, 2022, to consider the reports. The Committees voted to accept both reports. As such, we recommend that the Administrative Rules Subcommittee accept both reports.

Please contact us if you have any questions or need additional information.

Sincerely,

Ronald Caldwell/jj

DeAnn Vaught/jj

Senator Ronald Caldwell, Chair

Representative DeAnn Vaught, Chair

Department of Agriculture Final Report pursuant to Act 1076 of 2021

August 31, 2022

Rules of:

Arkansas Livestock and Poultry Commission

Veterinary Medical Examining Board

Arkansas Milk Stabilization Board

Initial Report filed November 22, 2021

1. Arkansas Health Requirements Governing the Entry of Livestock, Poultry, and Exotic Animals	
Initial Effective Date:	01/12/2011
Date the rule was filed with the Secretary of State:	01/02/2011
Authority for Promulgation:	Ark. Code Ann. § 2-33-107; 2-40-103
Is the rule required by state or federal law?	Yes, Ark. Code Ann. § 2-33-107 provides for the Livestock & Poultry Commission to adopt rules “necessary to effectively carry out the functions performable by it.” 2-40-103 requires the Commission to adopt rules regarding “isolation or quarantine of infected animals.”
Does the agency plan to keep or repeal the rule?	Keep
Justification	The rule carries out the mandate of the statute.
2. Arkansas Regulations for Concentration Points of Cattle Involving Infectious, Contagious, and Communicable Diseases	
Initial Effective Date:	06/07/1985
Date the rule was filed with the Secretary of State:	05/24/1985
Authority for Promulgation:	Ark. Code Ann. § 2-33-107; 2-40-208
Is the rule required by state or federal law?	Yes, Ark. Code Ann. § 2-33-107 provides for the Livestock & Poultry Commission to adopt rules “necessary to effectively carry out the functions performable by it.” 2-40-208 requires the Commission to prescribe minimum sanitary and health standards for livestock markets.
Does the agency plan to keep or repeal the rule?	Keep
Justification	The rule carries out the mandate of the statute.
3. Arkansas Tuberculosis Regulations	
Initial Effective Date:	08/18/2005
Date the rule was filed with the Secretary of State:	08/08/2005
Authority for Promulgation:	Ark. Code Ann. § 2-33-107; 2-40-103
Is the rule required by state or federal law?	Yes, Ark. Code Ann. § 2-33-107 provides for the Livestock & Poultry Commission to adopt rules “necessary to effectively carry out the functions performable by it.” 2-40-103 requires the Commission to adopt rules regarding “isolation or quarantine of infected animals.”
Does the agency plan to keep or repeal the rule?	Keep
Justification	The rule carries out the mandate of the statute.

4. Exhibition Health Requirements for Livestock, Poultry, and Exotic Animals	
Initial Effective Date:	06/15/1984
Date the rule was filed with the Secretary of State:	05/25/1984
Authority for Promulgation:	Ark. Code Ann. § 2-33-107; 2-40-103
Is the rule required by state or federal law?	Yes, Ark. Code Ann. § 2-33-107 provides for the Livestock & Poultry Commission to adopt rules “necessary to effectively carry out the functions performable by it.” 2-40-103 requires the Commission to adopt rules regarding “isolation or quarantine of infected animals.”
Does the agency plan to keep or repeal the rule?	Keep
Justification	The rule carries out the mandate of the statute.
5. List of Reportable Diseases	
Initial Effective Date:	04/28/1992
Date the rule was filed with the Secretary of State:	04/08/1992
Authority for Promulgation:	Ark. Code Ann. § 2-33-107; 2-40-103
Is the rule required by state or federal law?	Yes, Ark. Code Ann. § 2-33-107 provides for the Livestock & Poultry Commission to adopt rules “necessary to effectively carry out the functions performable by it.” 2-40-103 requires the Commission to adopt rules regarding “isolation or quarantine of infected animals.”
Does the agency plan to keep or repeal the rule?	Keep
Justification	The rule carries out the mandate of the statute.
6. Brucellosis in Cattle	
Initial Effective Date:	10/02/2019
Date the rule was filed with the Secretary of State:	10/02/2019
Authority for Promulgation:	Ark. Code Ann. § 2-40-103; 2-40-210(b)
Is the rule required by state or federal law?	Yes, Ark. Code Ann. § 2-40-103 requires the Livestock & Poultry Commission to adopt rules regarding “isolation or quarantine of infected animals.” 2-40-210(b) requires the Commission to promulgate rules concerning depopulation, negotiation, and hearing procedures for brucellosis infected or exposed bovine herds.
Does the agency plan to keep or repeal the rule?	Keep
Justification	The rule carries out the mandate of the statute.
7. Regular and Special Cattle Sale Regulations	
Initial Effective Date:	11/01/2000
Date the rule was filed with the Secretary of State:	09/15/2000
Authority for Promulgation:	Ark. Code Ann. § 2-33-107

Is the rule required by state or federal law?	Yes, § 2-33-107 provides for the Livestock & Poultry Commission to adopt rules “necessary to effectively carry out the functions performable by it.”
Does the agency plan to keep or repeal the rule?	Keep
Justification	The rule carries out the mandate of the statute.
8. Regulation for Livestock Dealer License	
Initial Effective Date:	10/06/1987
Date the rule was filed with the Secretary of State:	09/17/1987
Authority for Promulgation:	Ark. Code Ann. § 2-33-107
Is the rule required by state or federal law?	No
Does the agency plan to keep or repeal the rule?	Keep
Justification	Ark. Code Ann. § 2-33-107 vests the commission with the authority for the control, suppression, and eradication of livestock and poultry diseases and pests, and supervision of livestock and poultry work in this state. Without knowledge and administrative oversight of those moving cattle in and out of the state, maintaining “control, suppression, and eradication of livestock and poultry diseases” becomes extremely difficult.
9. Regulations Governing Quarantined Feedlots	
Initial Effective Date:	07/16/1971
Date the rule was filed with the Secretary of State:	06/16/1971
Authority for Promulgation:	Ark. Code Ann. § 2-40-103
Is the rule required by state or federal law?	Yes, Ark. Code Ann. § 2-40-103 requires the Commission to adopt rules regarding “isolation or quarantine of infected animals.”
Does the agency plan to keep or repeal the rule?	Keep
Justification	The rule carries out the mandate of the statute.
10. Trichomoniasis Testing and Movement Requirements for Cattle	
Initial Effective Date:	09/16/2001
Date the rule was filed with the Secretary of State:	10/16/2001
Authority for Promulgation:	Ark. Code Ann. § 2-33-107; 2-40-103
Is the rule required by state or federal law?	Yes, Ark. Code Ann. § 2-33-107 provides for the Livestock & Poultry Commission to adopt rules “necessary to effectively carry out the functions performable by it.” 2-40-103 requires the Commission to adopt rules regarding “isolation or quarantine of infected animals.”
Does the agency plan to keep or repeal the rule?	Keep
Justification	The rule carries out the mandate of the statute.

11. Livestock Embryo Transfer or Transplant; and Livestock Pregnancy Determination	
Initial Effective Date:	09/01/2018
Date the rule was filed with the Secretary of State:	08/22/2018
Authority for Promulgation:	Ark. Code Ann. § 17-101-203; 17-101-316
Is the rule required by state or federal law?	Yes, 17-101-203 provides for the Veterinary Medical Examining Board to adopt rules necessary to carry out its functions. 17-101-316 provides that the Board shall issue certifications for embryo transplants. This rule carries out that mandate.
Does the agency plan to keep or repeal the rule?	Keep
Justification	The rule carries out the mandate of the statute.
12. Milk Stabilization	
Initial Effective Date:	06/02/2022
Date the rule was filed with the Secretary of State:	05/23/2022
Authority for Promulgation:	Ark. Code Ann. § 2-10-104
Is the rule required by state or federal law?	Yes, 2-10-104(d)(1) directs the Milk Stabilization Board to ensure that Arkansas milk producers receive Class 1 prices for milk utilized or sold as fluid milk in the state.
Does the agency plan to keep or repeal the rule?	Keep
Justification:	The rule carries out the mandate of the statute and the Milk Stabilization Board has no other way to ensure that the requirements of the law are met.



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

August 31, 2022

The Honorable Terry Rice
The Honorable Jeff Wardlaw
Arkansas Legislative Council
1 Capitol Mall, Fifth Floor
Little Rock, AR 72201

RE: Final Report required by Act 1076 of the 2021 Regular Session of the Arkansas General Assembly

Dear Senator Rice and Representative Wardlaw:

Pursuant to Act 1076 of 2021, the Arkansas Department of Health filed the enclosed Initial Report dated December 1, 2021 reporting the rules currently enforced concerning cattle and milk production. The Arkansas Department of Health currently enforces the following rules:

Rules and Regulations Pertaining to Frozen Desserts (1990)
Effective Date: 6-29-1990.

Rules and Regulations Pertaining to Grade "A" Milk and Milk Products (2000)
Amendment to Milk and Milk Products of 1988
Effective Date 11-1-2000.

In accordance with Act 1076 of 2021, the Arkansas Department of Health is confirming the Department will continue to enforce these two rules and does not wish to repeal either of them. These rules ensure the continued ability to ship raw or processed dairy products across state lines in accordance with standards set by the U.S. Food and Drug Administration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Terry Paul", is written over the printed name.

J. Terry Paul, R.S
Environmental Health Branch Chief
Arkansas Department of Health