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DEPARTMENT OF AGRICULTURE'S REPORT ON RULES TO BE ADOPTED PURSUANT TO 2021 ACTS OF THE ARKANSAS GENERAL ASSEMBLY

Department Acts

Act 418

Creates a State Meat Inspection Program; amends the Arkansas Meat and Meat Products Inspection Act to transfer authority over meat inspection to the Department of Agriculture; authorizes the Department to collect application fees and fees for services relating to the inspection of animals, birds, or products that are not regulated under the Federal Meat Inspection Act; and both requires and authorizes the Secretary of Agriculture to adopt rules in consultation with the Arkansas Livestock & Poultry Commission.

Status: New rules are required. As this program is required by federal law to be “at least equal to” the federal laws and regulations, the draft was forwarded to USDA for their review and has received initial approval. Act 418 also requires the Secretary of Agriculture to adopt the rules in consultation with “the meat and meat foods products industry, including the Arkansas Livestock & Poultry Commission, as well as the Department of Health” and those entities were consulted accordingly. The rules have been reviewed and approved by the Governor and the public comment period ran from November 26 through December 27, 2021, including a public hearing held on December 27. The rule was forwarded to the ALC Administrative Rules Subcommittee on January 3, 2022, with a request that the rule be placed on the next available agenda.

Act 901

The Arkansas Unpaved Roads Program Act, Ark. Code Ann. § 14-305-101 et. seq., establishes the Unpaved Roads program (program), which allows grant funds to be given to counties for unpaved road projects that reduce or prevent the erosion of unpaved roads and the nonpoint source pollution of water bodies. The Transformation and Efficiencies Act of 2019 transferred the program from the Rural Services Division of the Economic Development Commission to the Arkansas Natural Resources Commission (ANRC). Since that time, the program has continued to operate under the rules adopted by the Rural Services Division. In the 2021 General Assembly, the legislature passed Act 901, which shifted from the ANRC to the Department the responsibility and authority for all unpaved road program functions, including rule making.

Status: New rules are necessary. Proposed rules have been approved by the Secretary of Agriculture and the Governor. The public comment period began on December 24, 2021, and ended January 22, 2022, including a public comment hearing held on January 11, 2022. The rule was forwarded to the ALC Administrative Rules Subcommittee on January 25, 2022, with a request that the rule be placed on the April agenda.

Livestock & Poultry Commission Acts

Act 692

Amends the law regarding feral hogs to provide the Livestock & Poultry Commission (ALPC) authority to issue civil penalties for transporting or releasing feral hogs into the wild and establishes a permit fee for airborne eradication of feral hogs which will provide revenue to offset the cost of administering airborne eradication permits.

Status: Amendments to two separate rules are necessary. Amendments to the ALPC's Swine Rule and Feral Hog Airborne Eradication Rule have been approved by ALPC, reviewed and approved by the Governor, and have completed the public comment period. The amendments were reviewed by the ALC Administrative Rules Subcommittee on November 17, 2021, and subsequently filed with the Secretary of State. The rules became effective December 3, 2021.

Act 700

Establishes a Fair-Funding Program within the Department of Agriculture and repeals existing law regarding Livestock Shows and Fairs requiring use of an outdated points system for funding of fairs and livestock shows.

Status: The repeal of the ALPC's rule based on the outdated points system has been approved by the Commission, reviewed and approved by the Governor, completed the public comment period, reviewed by the ALC Administrative Rules subcommittee, and received final approval from ALC. The repeal of the rule has been filed with the Secretary of State, and the repeal became effective October 2, 2021.

Act 716

Amends the law regarding the legal methods of fowl carcass disposal and provides that extrusion and cooking for swine food are no longer acceptable methods.

Status: This Act required amendments to both the ALPC's Fowl Carcass Disposal Rule and its Garbage Feeding for Swine Rule. The amendment to the Garbage Feeding for Swine Rule has been approved by the ALPC, reviewed and approved by the Governor, completed the public comment period, reviewed by the Administrative Rules Subcommittee, and received final approval from ALC. The rule has been filed with the Secretary of State and became effective October 2, 2021.

As noted, an amendment to the Fowl Carcass Disposal Rule is also necessary. However, the ALPC currently has separate rules for Fowl Carcass Disposal and Large Animal Carcass Disposal. Therefore, the ALPC proposed to repeal the two existing carcass disposal rules and adopt one new rule covering both large animal and fowl carcass disposal. The repeal of the two existing carcass disposal rules and the adoption of a new carcass disposal rule have been approved by the ALPC, reviewed and approved by the Governor, completed the public comment period, reviewed by the Administrative Rules Subcommittee, and received final approval from ALC. The rule has been filed with the Secretary of State and became effective October 2, 2021.

Milk Stabilization Board Acts

Act 521

Amends the Arkansas Milk Stabilization Board Act and provides that the Milk Stabilization Board (MSB) shall require that an Arkansas milk producer receive Class 1 prices for milk utilized or sold as fluid milk in this state. It further provides that the MSB may make and enforce rules it deems necessary to effectively carry out the provisions of the Act.

Status: New rules are necessary. The initial draft was reviewed by the Board on September 30, 2021. The Board requested the Department to work with the Office of the Attorney General in preparing revisions to the draft, for presentation to the Board at its next meeting. Department legal staff and Attorney General representatives conferred regarding the proposed rule and staff presented a revised version to the Board at its December 3, 2021 meeting. The Board decided additional time was needed to consider the rule and reviewed the rule again at a meeting on January 11, 2022 and directed staff to make further changes to the rule. The Board voted to move forward with promulgation of the rule on January 27 and the proposed rule was forwarded to the Governor for review and approval on January 28.

Natural Resources Commission Acts

Act 563

Amends the time period for completing projects under the Water Resource Conservation and Development Incentives Act.

Status: While the Act does not explicitly require the promulgation of rules, existing rules of the Arkansas Natural Resources Commission (ANRC) will need to be amended to reflect the project deadlines changed by the Act. Rule amendments have been approved by the ANRC. On September 29, 2021, the amendments were forwarded to the Department of Finance and Administration (DF&A) for review and approval as required by A.C.A. § 26-51-1010(a)(2). As of the date of this report, final approval has not yet been issued by DF&A. One rule amendment is proposed to cover both this Act and Act 875, below.

Act 875

Amends the Water Resource Conservation and Development Incentives Act by increasing the tax credit that can be issued to projects under the Act, increasing the time allowed for an entity to take a Tax Credit issued to those projects, and expanding the tax credit to include projects in counties adjacent to counties with Critical Groundwater Areas.

Status: While the Act does not explicitly require the promulgation of rules, existing rules of the ANRC will need to be amended to reflect the project amounts and deadlines changed by the Act. Rule amendments have been approved by the ANRC. On September 29, 2021, the amendments were forwarded to the Department of Finance and Administration for review and approval as required by A.C.A. § 26-51-1010(a)(2). As of the date of this report, final approval has not yet been issued by DF&A. One rule amendment is proposed to cover both this Act and Act 563, above.

Act 605

Amends the law concerning retail water providers by giving ANRC the authority to determine when a water provider is in financial distress and to determine when a new provider is required. The Act creates an advisory board to assist the ANRC with development of training for provider board members. It also requires ANRC to adopt rules regarding rate studies, training for members of water provider boards, and general rules to implement the law.

Status: New rules are required. The rule was approved by the ANRC on October 20, 2021 and received approval from the Governor on November 4, 2021. The public comment period began on November 10 and ran through December 9. The ANRC finalized the rule following a public hearing on December 15 and the rule was forwarded to the ALC Administrative Rules Subcommittee that same day. The rule was reviewed by the Subcommittee on January 26 and the full ALC on January 28. The rule was filed with the Secretary of State on January 31, 2022, for an effective date of February 10, 2022.

Plant Board Acts

Act 364

Amends the Abandoned Agricultural Pesticide Disposal Act to provide for an increase in the pesticide registration fee from \$50 to an amount not to exceed \$100 to be used for collection and disposal of abandoned pesticides across the state.

Status: A rule amendment was approved by the Plant Board on November 5 and approved by the Governor on November 10. The public comment period ran from November 14 through December 13, 2021. No comments were received, and the rule was forwarded to the ALC Administrative Rules Subcommittee on December 15, 2021, with a request that the rule be placed on the January agenda. The rule was reviewed by the Subcommittee on January 26 and the full ALC on January 28. The rule was filed with the Secretary of State on January 31, 2022, for an effective date of February 10, 2022.

Act 565

Repeals the Arkansas Industrial Hemp Act and establishes the Arkansas Industrial Hemp Production Act. This Act provides for the transition of the current hemp program from a pilot program established under the 2014 Farm Bill to an agricultural production program under the 2018 Farm Bill. The Act authorizes the Plant Board to promulgate rules to implement the program.

Status: New rules will be necessary. A new rule has been drafted and was approved by the Plant Board's Hemp committee on January 28, 2022 and will be presented to the full Plant Board at its March 3 meeting. Current hemp rules can be repealed when the new rules are adopted.

Veterinary Medical Examining Board Acts

Act 130

Authorizes the Veterinary Medical Examining Board (VMEB) to promulgate rules regarding telehealth and telemedicine and to issue Restricted Licenses for veterinarians who have graduated veterinary school but have not yet passed the national and state examinations.

Status: The Act required amendments to the VMEB's Fees rule and will require a new rule for telehealth. Amendments to the Fees Rule were approved by Board, reviewed and approved by the Governor, completed the public comment period, and were reviewed by the ALC Administrative Rules Subcommittee on November 17, 2021. The rule amendments were subsequently filed with the Secretary of State and became effective on December 3, 2021.

Following a stakeholder input meeting, an initial draft of the telehealth rule was considered by the Board on December 9, 2021. The Board decided to gather more input and a second stakeholder meeting was held January 13, 2022. The Board will review the rule again at its meeting on February 3, 2022.

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