

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

June 17, 2011

Co-Chairs:

The Subcommittee on Administrative Rules and Regulations met at 10:00 a.m. on Tuesday, June 14, 2011 and at 10:00 a.m. on Wednesday, June 15, 2011 in Room 171 of the State Capitol. On Tuesday, June 14, 2011, the following committee members attended: Senator Percy Malone, Co-Chair; Representative James Word, Co-Chair; Senator Randy Laverty, Co-Vice-Chair; and Representative Jonathan Barnett, Co-Vice-Chair; Senators Jimmy Jeffress, David Johnson, and David Burnett; Representatives Eddie Cheatham, Toni Bradford, Tommy Lee Baker, Johnnie Roebuck, Randy Stewart, Les “Skip” Carnine, Linda Tyler, and Kelley Linck. Other legislators attended as follows: Senators Bill Sample, Paul Bookout, and Jonathan Dismang; Representatives Billy Gaskill, Betty Overbey, Buddy Lovell, Matthew Shepherd, and Andrea Lea.

June 14, 2011

- 1. On June 14, 2011, the Subcommittee reviewed the following rules filed pursuant to Ark. Code Ann. § 10-3-309:**

ARKANSAS AGRICULTURE DEPARTMENT, STATE PLANT BOARD (Darryl Little, Mike Thompson)

- a. Rice Certification Regulations for 2011 as contained in Plant Board Circular 11.
- b. Regulations on Aquaculture in Arkansas
- c. Boll Weevil Eradication Program Regulations for 2011 contained in State Plant Board Circular 11
- d. Pesticide Container and Containment Rule

STATE BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, AND INTERIOR DESIGNERS (Kingsley Glasgow)

- a. Rules and Regulations Regulating the Practice of Architecture

ARKANSAS DEVELOPMENT FINANCE AUTHORITY (Sara Oliver)

- a. Compliance Monitoring Policies and Procedures Manual for the HOME Program
- b. Market Study Guidelines for Affordable Rental Housing
- c. 2011 HOME Policy and Operations Manual
- d. 2011 Multifamily Housing Minimum Design Standards
- e. 2011 Housing Credit Qualified Allocation Plan

BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS (Stephen Haralson)

- a. Rules of the Board of Licensure for Professional Engineers and Professional Surveyors

DEPARTMENT OF ENVIRONMENTAL QUALITY, HAZARDOUS WASTE DIVISION (Teresa Marks, Clyde Rhodes)

- a. Regulation No. 23, Hazardous Waste Management

DEPARTMENT OF ENVIRONMENTAL QUALITY, WATER DIVISION (Teresa Marks represented ADEQ; Al Eckert, Jim Malcolm, and Lucius Boudreaux represented UMETCO)

- a. Regulation 2, Water Quality Standards; Third Party Rulemaking by UMETCO

DEPARTMENT OF FINANCE AND ADMINISTRATION, ARKANSAS RACING COMMISSION (Byron Freeland)

- a. Revisions to Rules & Regulations

DEPARTMENT OF FINANCE AND ADMINISTRATION, REVENUE DIVISION (Mike Munns, John Theis)

- a. Rule 2005-7 Dealer Plates and Tags for Motor Vehicles and Motorcycles
- b. Rule 2007-9; The Delta Geotourism Incentive Act of 2007
- c. Emergency Rule 2011-2: Arkansas Sales Tax Holiday

DEPARTMENT OF HEALTH (Linda Lehing, James Phillips)

- a. Hospital Discharge Data Submittal Guide
- b. Tuberculosis Screening for Foreign-Born University and College Students
2. **The Department of Agriculture, State Plant Board's rule concerning Thousand Canker Disease Quarantine and Inspection Fee Adjustment was deferred so that the agency may revise the fee language to specify the exact fee for an inspection fee for a state phytosanitary certificate or federal limited permits for product shipments having a commercial value of \$1250 or more. Currently, the language in the proposed rule establishes the inspection fee of up to \$100.**
3. **The Department of Career Education's Special Policies and Procedures Relating to Secondary Area Technical Centers rule was referred to the Senate Interim Committee on Education and the House Interim Committee on Education for further review.**
4. **While considering the State Board of Examiners in Counseling's rule concerning creating an inactive status for retired licensed counselors and marriage and family therapists, Ann Thomas indicated that the board would be considering a fee schedule in a near future promulgation. These rules were deferred until after the next meeting of the board so that the fee schedule can be a part of the subsequent promulgated rule review.**
5. **The following three Arkansas Development Finance Authority rules were deferred so that a revised financial impact can be filed:**
 - a. Compliance Monitoring Policies and Procedures Manual for the Low Income Housing Tax Credit Program
 - b. 2011 Mortgage Credit Certificate (MCC) Policy and Procedures Manual
 - c. 2011 Financial Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) Program Policies
6. **At the Department of Education's request, the Non-Traditional Licensure Program rule was not considered due to potential conflicts with Act 1178 of 2011 (effective July 27, 2011).**
7. **The Department of Environmental Quality's third party rulemaking filed by UMETCO was reviewed, and Teresa Marks, Director, committed to working on submitting a proposal, in consultation with industry, to the next legislature to assure that drinking water will be safe.**

June 15, 2011

On Wednesday, June 15, 2011, the following members attended: Senator Percy Malone, Co-Chair; Representative James Word, Co-Chair; Senator Randy Lavery, Co-Vice-Chair; Representative Jonathan Barnett, Co-Vice-Chair; Senators Jimmy Jeffress, Jack Crumbly, Johnny Key, and David Burnett; Representatives Eddie Cheatham, Toni Bradford, Tommy Lee Baker, Randy Stewart, Les “Skip” Carnine, and Kelley Linck. Other legislators attended as follows: Senator Paul Bookout; Representatives Buddy Lovell, Homer Lenderman, Billy Gaskill, Butch Wilkins, Lori Benedict, and John Burris.

1. On June 15, 2011, the Subcommittee reviewed the following rules filed pursuant to Ark. Code Ann. § 10-3-309:

DEPARTMENT OF HUMAN SERVICES, BEHAVIORAL HEALTH (Joe Hill, Ann Patterson)

- a. Arkansas Access to Recovery (AR ATR)

DEPARTMENT OF HUMAN SERVICES, SERVICES FOR THE BLIND (Kandy Cayce)

- a. 2011 Vocational Rehabilitation State Plan

DEPARTMENT OF HUMAN SERVICES, CHILDREN AND FAMILY SERVICES (Christin Harper, Chuck Thompson)

- a. Revisions to Rules and Regulations
- b. Revisions to Rules and Regulations

DEPARTMENT OF HUMAN SERVICES, COUNTY OPERATIONS (Thomas Green, Doris Wright)

- a. State Plan for Fiscal Years 2011-2012 – Weatherization Assistance Program

DEPARTMENT OF HUMAN SERVICES, FINANCE AND ADMINISTRATION (Rex Jones, Krista Hughes)

- a. DHS Administrative Procedures Manual; Chapter 303, Vendor Maintenance
- b. Social Services Block Grant Pre-Expenditure Report Amendment #1 for January 1, 2011
- c. DHS Policy 3007; Options Counseling and MDS Referrals to the Department of Human Services

- d. Financial Guidelines for Purchased Services

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES (Jeff Wood)

- a. Official Notice #ON-007-10; Prior Authorization for Procedure Codes 87901, 87903, and 87094
- b. Physician Update 5-10 and Hospital 6-10
- c. Assisted Living Facilities Level I
- d. Assisted Living Facilities Level II
- e. Official Notice ON-001-11 and Sec V-1-11; Dental Providers' Acceptance of New Medicaid or CHIP Patients

ARKANSAS BOARD OF PAROLE (Solomon Graves, Jim Williams)

- a. Act 679 Conditions of Release

STATE BOARD OF PODIATRIC MEDICINE (Dr. Bunny Brown)

- a. Amendments to Rules and Regulations

COMMISSION FOR PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION (Dr. Charles Stein, Mark White)

- a. Academic Facilities Partnership Program

SEBASTIAN COUNTY REGIONAL SOLID WASTE MANAGEMENT DISTRICT (Randy Hall, Maylon Rice)

- a. Waste Fee Assessment

DEPARTMENT OF WORKFORCE SERVICES (Roger Harrod, Sharon Walker)

- a. Regulation No. 27; Employer Coverage Hearings

2. **The following rules were deferred pending review by the House Interim Committee on Public Health Welfare and Labor and the Senate Interim Committee on Public Health Welfare and Labor:**

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

- a. Official Notice ON-002-11; CPT 2011 Code Conversion and Official Notice ON-003-11; HCPCS 2011 Code Conversion

- b. Official Notice ON-004-11; National Correct Coding Initiative
- c. Hearing 1-11 and Sec V-3-11
- d. ARKids 2-11 and Section I-1-11
- e. Provider Manual Updates; ELDER 3-10 and APDWVR 2-10
- f. Rehabilitative Services for Persons with Mental Illness (RSPMI) Update No. 4-11
- g. Rehabilitative Services for Persons with Mental Illness (RSPMI) Update No. 1-11
- h. Service Options Using Resources in Community Environment (SOURCE) New-11 and State Plan Amendment #2009-001
- i. Substance Abuse Treatment Services (SATS) New-11
- j. Manual of Cost Reimbursement Rules for Long Term Care Facilities Estate Recovery Address Update
- k. Trans 1-11

3. The following rules were referred to the House Interim Committee on Agriculture Forestry and Economic Development and the Senate Interim Committee on Agriculture Forestry and Economic Development:

OIL AND GAS COMMISSION

- a. B-19; Requirements for Well Completion Utilizing Fracture Stimulation
- b. A-5; Enforcement Procedures
- c. B-1; Application to Drill a Production Well Procedures
- d. B-32; Vacuum Pumps Prohibited Procedures
- e. H-1; Class II Disposal and Class II Commercial Disposal Well Permit Application Procedures

4. The Subcommittee passed a motion by Senator Jeffress to require that any of the rule changes be brought before the subject matter committees first, then brought to the Administrative Rules and Regulations Subcommittee.

Respectfully submitted,

Senator Percy Malone
Co-Chair

Representative James Word
Co-Chair