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ARKANSAS DEPARTMENT OF AGRICULTURE

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DEPARTMENT OF AGRICULTURE'S REPORT ON RULES TO BE ADOPTED PURSUANT TO 2023 ACTS OF THE ARKANSAS GENERAL ASSEMBLY

The Arkansas Department of Agriculture submits this rule promulgation status report in compliance with A.C.A. 25-15-216. Of the 2023 Acts requiring rules from the Department, one rule is pending review by the Arkansas Legislative Council Rules Subcommittee and seven rules are in the process of being finalized. The Department has determined that rules are not necessary under three of the 2023 Acts. Additional information is included below.

Act 161

Act 161 provides for the Veterinary Medical Examining Board (VMEB) to issue additional certifications for veterinary technician specialists (VTS) who may enter into a collaborative practice agreement with a veterinarian. However, Act 691 abolished the VMEB and transferred its authority and rules to the Livestock and Poultry Commission. Act 161 requires VTS's to keep records "in accordance with the rules of the board" and further provides for the establishment of initial and renewal application fees "as determined by the board." Rulemaking will be required to establish the referenced fees, record-keeping requirements, renewal dates, and the initial application process. A draft rule is being finalized.

Act 545

Act 545 amends provisions of a law passed in 2021 regarding rate studies required by retail water providers and funds dedicated to replacement and refurbishment of water system as well as training required by members for retail water provider boards. Amendments to the current Arkansas Natural Resources Commission rule will be required to conform the rule to the provisions of Act 545. The draft rule will be reviewed by the Arkansas Natural Resources Commission on November 15, 2023.

Act 588

Act 588 amends the law regarding catfish processors and commercial bait and ornamental fish, and transfers the powers, duties, and responsibilities of the State Plant Board regarding catfish processors and commercial bait and ornamental fish to the Department of Agriculture. The authority to promulgate rules regarding catfish processors refers to rules that already exist and were transferred to the Department. No additional rulemaking is required.

Act 594

Act 594 amends the law regarding livestock running at large, amends the law regarding fencing, and repeals the law regarding fencing districts. No rulemaking is necessary as the procedure referenced in the law is the reporting website created for animals at large that has been completed by the Department.

Act 598

The Arkansas Livestock and Poultry Commission (Commission) is vested with authority to enforce the provisions of the Arkansas Egg Marketing Act and promulgate rules as may be necessary to do so. Ark. Code Ann. § 20-58-214. Act 598 amends the Egg Marketing Act by adding a provision regarding the direct

delivery of eggs to consumers to address food safety in home grocery delivery which will allow delivery of eggs as long as they are maintained at a temperature of 45 degrees or less. Most provisions of Act 598 are self-implementing and require no rulemaking. However, an amendment to Commission rules implementing the Egg Marketing Act regarding the method of maintaining the temperature of eggs during direct delivery to consumers will be necessary. A draft rule is being finalized.

Act 600

Act 600 transfers responsibilities for registration of poultry feeding operations from the Arkansas Natural Resources Commission to the Department. The Act repeals a subsection of the law which provided that portions of the registration program may be delegated to conservation districts and repeals a subsection providing that conservation districts may retain a portion of the annual registration fee. Rulemaking will be required to remove conservation district responsibilities from the rule and to establish the fee. A draft rule is being finalized.

Act 629

Act 629 amends the definition of industrial hemp to specifically exclude substances under the Uniform Controlled Substances Act. Act 629 contains a definition of hemp that does not exactly track the definition of hemp in federal law. The Department does not view the definition as conflicting with federal law, however, for clarity the Department offered an amendment to the definition of industrial hemp in the Plant Board rule specifically recognizing the federal definition.

That rule amendment was proposed in conjunction with rule amendments to conform the rule to Act 565 of 2021, which established the Arkansas Industrial Hemp Production Act. That Act was passed in response to the 2018 Farm Bill, which transitioned state hemp programs from research-only to a closely regulated industry. The proposed rule is tentatively scheduled to be reviewed by ALC-Rules on November 16, 2023.

Act 690

Act 690 returns control of conservation district board member elections from the Arkansas Natural Resources Commission (ANRC) to the local districts. The election procedure outlined in the Act comes directly from an ANRC rule that has been in place for several years. While the Act does not explicitly require the promulgation of rules, the provisions in the existing ANRC rule will need to be amended to conform to changes in the Act. A draft rule is being finalized.

Act 691

Act 691 transferred rulemaking authority to various boards or commissions under the Department. The duty to promulgate rules under §159 of Act 691 regarding the supervision of veterinary technicians/technologists refers to rules that already exist and were transferred to the Livestock and Poultry Commission. The duty to promulgate rules under §125 and §137 of Act 691 regarding water well construction refers to rules that already exist and were transferred to the Natural Resources Commission. No additional rulemaking is required.

Act 695

Act 695 defines “prescribed burning” as “the planned and controlled application of fire to vegetative fuels under specified weather, environmental, and other conditions while following appropriate precautionary measures that will 1) confine the fire to a predetermined area, and 2) accomplish the intended management objectives of the area to be burned.” The Act provides that a “qualified prescribed burner” is a person who has completed training approved by the Department of Agriculture or the Arkansas Game and Fish Commission. The Act further states that the Department shall promulgate rules on the

requirements for becoming a prescribed burner. A draft rule has been developed, the public notice was published from October 29 – 31, 2023, and the public comment period is open through November 29, 2023.

Act 824

Act 824 provides that the Department of Agriculture, in consultation with the Division of Environmental Quality, has authority over all liquid animal waste management systems in the state, including issuance of permits for those systems. The Act requires the Department to adopt rules but provides that the Department shall use the current Pollution Control and Ecology Commission Regulation No. 5 until the Department promulgates rules. A draft rule is being finalized.

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