ADMINISTRATIVE RULES SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Thursday, November 19, 2026
10:00 a.m.
Room A, MAC
Little Rock, Arkansas

A. Call to Order

B. Reports on Administrative Directives Pursuant to Act 1258 of 2015, for Quarter Ending September 30, 2026

C. Rules Filed Pursuant to Arkansas Code § 10-3-309

1. Arkansas Department of Transportation, State Highway Commission (Michelle Davenport)

a. Utility Accommodation Rules, 27 CAR pt. 91

DESCRIPTION: The Arkansas Department of Transportation, State Highway Commission, proposes changes to its Utility Accommodation Rules, 27 CAR pt. 91. The major changes between the original and revised versions of the Utility Accommodation Rules involve updated definitions, specific technical requirements, provide clarity for damage to utility facilities on the right of way, and make changes to the relocation of utilities process to comply with Act 699 of 2025, now codified as Ark. Code Ann. §§ 27-67-325 and 27-67-326. The primary differences are as follows:

Definitions and Scope (27 CAR §§ 91-102 and 91-103)

Several definitions were added, including:

- **Extraordinary Event:** The revised document adds a detailed definition for an "extraordinary event," defining it as an event beyond a utility's reasonable control or a change of plans causing a relocation delay. This is the same definition as in the new statute.
- **Relocation:** The definition of "relocation" was changed to the same definition that was enacted by the legislature.

Technical and Environmental Requirements

- **Open Cut Backfill:** A new subsection (27 CAR § 91-304(f)) was added in the revised version requiring flowable select as backfill for open cuts of the highway, as directed by the District Engineer.
- **Small Wireless Facilities:** Guidelines for Small Wireless Facilities (such as mini cell towers) were added to ensure uniform installation on the Right of Way. (27 CAR § 91-307)

Responsibilities and Liability

- **Damage to Facilities:** The revised rules clarify the liability for damage to utility facilities on the right-of-way. While the original held the utility

owner responsible for damage from "routine maintenance, including mowing" , the revised version assigns responsibility to the utility owner for "weather or other natural occurrence" and to a negligent party if damage is caused by a person's act. The first draft of the new policy required the facilities be marked to ensure visibility. After public comment and discussions with the utility industry, this language was clarified that the markings would comply with the national electrical codes. It is anticipated that the new language has resolved the concerns raised by some utilities. (27 CAR § 91-306(j)(2)(B))

- **Right to Revoke Permits:** While always in the original rules, several utilities objected to this provision that allows the Department to revoke a permit for a violation of the terms of the permit or agreement, or if the facility interferes with the use of the highway for highway purposes. The Department originally declined to remove this provision, however a duplicate section was eliminated. (27 CAR § 91-108). Upon additional public comment by the utility industry, the Department made language changes to this section to that noncompliance at one location shall not serve as the sole reason for denial of future permits for other locations or public transportation facility projects.
- **Civil penalties:** A new section was added that allows the assessment of civil penalties for a failure of the utility company to comply with a relocation proposal request or relocation agreement. These provisions include the same language from the statutes. (27 CAR §§ 91-109 and 91-524)

Administrative Processes

- **Relocation Agreements:** The revised rules incorporate the recent legislative changes and now include a process for utilities and the Department to enter a mutually agreed upon relocation agreement that includes a proposed schedule for the movement of the utilities. This process was clarified after input from the utilities. (27 CAR §§ 91-514 – 523)
- **Administrative Appeal:** The rules now include an administrative appeal process that allows for the appeal of a Department decision to assess a civil penalty. (27 CAR §§ 91-1401 – 1404)

Changes not included

- **Reimbursement language:** Several utilities requested changes to the reimbursement language to include automatic reimbursement for utility companies with franchise agreements. These provisions were not changed and the Department will continue to assess the reimbursement for utility relocation on a case-by-case basis.

Additional information concerning changes after rule submittal for the August meeting

- A revised set of rules was submitted following the public comment period, with the responses to the comments outlining the changes made in response. Subsequent additional discussions continued after the rule was submitted for the August subcommittee hearing with the utility industry

and a final revised set was submitted. Changes from the additional discussions can be found on pages 13, 14, 38, and 88 of the most recent revision. In summary, changes were made to 27 CAR § 91-107, Enforcement, and 27 CAR § 91-108, Right to revoke, to clarify the language. A change was made to adopt a different standard in 27 CAR § 91-306(j)(2)(B), and language was added back in from the original rule in 27 CAR § 91-1209, Contract labor.

PUBLIC COMMENT: A public hearing was held on May 13, 2026. The public comment period expired May 14, 2026. Due to its length, the public comment summary is attached separately.

Grant Wise, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

1. 27 CAR § 91-109(b) – This subsection appears to be premised on Arkansas Code § 27-67-325(f)(7), which provides the department may offset and collect the amount owed by a municipal utility system if a municipal utility system fails to comply with subdivision (f)(6) of the statute. Arkansas Code § 27-67-325(f)(6) specifically concerns a municipal utility system's actions upon receipt of a written invoice from the department. The rule, however, provides that the department may offset and collect the amount owed if a municipal utility system fails to comply with "these rules". Is there a reason the rule seemingly differs from the statute? **RESPONSE:** Rule was intended to follow the statute replacing the word section with part. There is no intent there to be a difference from the rule from the procedures in subdivision (f)(6) of Arkansas Code § 27-67-325, however procedures in (f)(6) are found in various parts of the rule (dispute resolution and reimbursement procedures).

2. 27 CAR § 91-109(c) – This subsection provides that "[t]his section shall comply with Ark. Code Ann. § 27-65-325 and this part." What is meant by this? **RESPONSE:** Part was in reference to the whole section of 27 CAR § 91-109 and was used in place of the word section.

3. 27 CAR § 91-516(1)(E) – Should this be subdivision (1)(B)(v) instead? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-515(1)(C) and was a typographical error that has been corrected.

4. 27 CAR § 91-516(4)(iv, v) – Should these subdivisions be subsections (5) and (6) instead? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-515(4), (5), and (6) and was a typographical error that has been corrected.

5. 27 CAR § 91-517(a)(2)(E) – Should this subdivision be subdivision (a)(3) instead? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-516 and no, the number of days required for relocation should be part of the discussion under (2). No change was made to the rule.

6. 27 CAR § 91-519(a)(1) – This subdivision appears premised on Arkansas Code § 27-67-326(b)(2)(C), which sets out five (5) items that the rules for a relocation proposal shall include without limitation that a relocation proposal include. While the rule tracks the statute for the most part, it appears to lack a reference to "[t]he estimated cost of reimbursement by the department for the relocation" as provided in Arkansas Code § 27-67-326(b)(2)(C)(v). Is there a reason?

RESPONSE: Renumbering resulted in this being found in 27 CAR § 91-518. The reason it was not included in this list is that not all jobs have reimbursement agreements and those agreements and their content are included in the relocation proposal as set out in 27 CAR § 91-704 and in 27 CAR § 91-516(a)(2)(c) (the determination of the expected cost of the relocation is done by the relocation cost estimate).

7. 27 CAR § 91-519(a)(1)(C) – This subdivision appears premised on Arkansas Code § 27-67-326(b)(2)(C)(iii), which provides that the rules for a relocation proposal shall include without limitation that a relocation proposal include a cost estimate for the relocation. The rule provides that the proposal shall include "[r]easonable cost estimates for the relocation" but qualifies that with "if reimbursement is being sought for the project." Is there a reason that the rule appears to differ from the statute? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-518. As stated, not all jobs have department reimbursement agreements, however there is always a reasonable cost for the relocation. This is included in the relocation proposal as set out in 27 CAR § 91-704 and in 27 CAR § 91-516(a)(2)(c) (the determination of the expected cost of the relocation is done by the relocation cost estimate for both the reimbursable and non-reimbursable projects). No change was made.

8. 27 CAR § 91-519(a)(2) – This subdivision provides that the final relocation proposal shall "[b]e provided to the department [in] written form." However, Arkansas Code § 27-67-326(b)(2)(A) provides that the rules for a relocation proposal shall include without limitation that a relocation proposal "[b]e provided to each party in written form." Is there a reason the rule appears to differ? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-518. The utility is providing the written proposal to the department, so therefore it will already have a written copy. This clarifies that it is the utility's responsibility to submit the proposal and then the final relocation agreement is provided to both parties in written form after signatures under subsection (c)(1).

9. 27 CAR § 91-519(a)(3) – This subdivision provides that the final relocation proposal shall "[b]e signed by the authorized representatives of the utility." Arkansas Code § 27-67-326(b)(2)(B), however, provides that the rules for a relocation proposal shall include without limitation that a relocation proposal "[b]e signed by the authorized representatives of the department and the utility." Is there a reason the rule appears to differ? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-518. Clarification was made that it was to be signed by both parties in subdivision (c)(2).

10. 27 CAR § 91-519(c) – This subsection appears to be based on Arkansas Code § 27-67-326(b)(2)(A, B), which provides that the rules shall include without limitation that a relocation proposal shall be provided to each party in written form and be signed by the authorized representatives of the department and the utility. The rule, however, speaks to the relocation agreement. Was this intended? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-518. Yes, this was intentional, as the relocation proposal becomes part of the final agreement that the statute did not give a name to. The final relocation agreement

will include all items of the proposal and all agreements for clarity and signing the agreement will be signing the relocation proposal information. No change was made.

11. 27 CAR § 91-519(d) – This subsection provides that the relocation agreement "shall be a tracking number associated with the project." Is this correct? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-518. Yes, our permit system will have the relocation agreement as a specific tracking number for reference. If a grammar change is required for code style, that would be agreeable. Internally the "permits" are referred to as the tracking number and the relocation agreement will be treated the same as a permit in being issued this tracking number.

12. 27 CAR § 91-512(b, c) – Should subsection (b) and (c) be subdivisions (14) and (15)? If not, what is the subject for each of them? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-519. Subsections (b) and (c) were clarified and now have the subject of relocation plans.

13. 27 CAR § 91-524(e) – This subsection appears premised on Arkansas Code § 27-67-325(d)(2). The rule has outlined five (5) circumstances under which a civil penalty may be assessed; however, the statute outlines three (3) plus two (2) that fall under the third circumstance. Is there a reason the rule seemingly differs from the statute? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-522. The penalty may be assessed in subdivision (c) in two situations, and those are enumerated in the list for clarity. This was a format change and did not result in a change in the intent or function of the statute.

14. 27 CAR § 91-525(c) – This subsection provides that the money collected as civil penalties shall be paid into the "State Highway and Transportation Department Fund", whereas Arkansas Code § 27-67-325(e)(4) specifies the "Arkansas Department of Transportation Fund". Is there a reason the rule appears to differ? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-522. This is an oversight and failure to change the name of the fund from the name prior to the Department's name change (some internal documents still refer to it by that name) and it was not caught during the review process. A codification change would be recommended to incorporate this change.

15. 27 CAR § 91-"426"(c, d) – These subsections appear to be premised on Arkansas Code § 27-67-325(f)(3)(A)(i). The rule seems to provide that the municipal utility system shall provide a list of three (3) or more approved engineers and three (3) or more approved contractors and then the department shall enter into a contract for relocation from the list provided; however, the statute seems to provide that if the municipal utility system provides the department with the list, then the department shall enter into a contract only with an engineer or contractor contained in the list. Is there a reason the rule appears to differ from the statute? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-524. This is a typographical error, the "If" should have been deleted and the "within" capitalized. This change is recommended to be adopted prior to the publication of the final rule.

16. 27 CAR § 91-"426"(g) – This subsection appears to be premised on Arkansas Code § 27-67-325(f)(4). The rule references "this subsection" as the statute does, but in the statute, that reference would be to the entire subsection (f), whereas in the rule "this subsection" would refer only to subsection (g) of the rule. Was "this section" perhaps intended? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-524. This is a typographical error and the correct use of section has been included in the revised draft.

17. 27 CAR § 91-"426"(h) – This subsection appears to be premised on Arkansas Code § 27-67-325(f)(5). The rule references "this subsection" as the statute does, but in the statute, that reference would be to the entire subsection (f), whereas in the rule "this subsection" would refer only to subsection (h) of the rule. Was "this section" perhaps intended? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-524. This is a typographical error and the correct use of section has been included in the revised draft.

18. 27 CAR § 91-"426"(i) – This subsection appears to be premised on Arkansas Code § 27-67-325(f)(6). The rule references "this subsection" as the statute does, but in the statute, that reference would be to the entire subsection (f), whereas in the rule "this subsection" would refer only to subsection (i) of the rule. Was "this section" perhaps intended? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-524. This is a typographical error and the correct use of section has been included in the revised draft.

19. 27 CAR § 91-"426"(i)(3) – This subdivision appears to track Arkansas Code § 27-67-325(f)(7); the rule, however, makes this part of a list rather than its own provision. Is there a reason for this? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-524. This is a formatting and section alignment error and the correct alignment of this as subsection (m) has been included in the revised draft.

20. 27 CAR § 91-"426"(i)(3) – This subdivision appears to be premised on Arkansas Code § 27-67-325(f)(7). The rule references "subdivision (f)(6)" as the statute does, but in the statute, that reference would be to the preceding subdivision, whereas in the rule "subdivision (f)(6)" does not exist. Was "subsection (i)" perhaps intended? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-524. This subsection was re-written and this portion of the statute was included in the section concerning civil penalties with regard to municipalities in 27 CAR § 91-109(b).

21. 27 CAR § 91-"426"(k)(1) – This subdivision appears to be premised upon Arkansas Code § 27-67-325(h)(1). The rule provides that the department shall not "assume the relocation of a utility facility" if an extraordinary event prevents completion, whereas the statute provides that the department shall not act "under subsection (d) or subsection (f)" of the statute, with subsection (d) concerning assessing a civil penalty against a utility other than a municipal utility facility and subsection (f) concerning the department's relocation of a utility facility if a municipal utility system fails to complete relocation. Is there a reason the rule seemingly omits the process under subsection (d) of the statute for utilities other than a municipal utility facility? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-524. This portion of the statute was included in the section

concerning civil penalties for non-municipal utilities in 27 CAR § 91-109(f).

22. 27 CAR § 91-"426"(k)(2) – This subdivision appears to be based on Arkansas Code § 27-67-325(h)(2), which requires the "utility" to provide certain information. The rule, however, requires the "municipal utility" to do so. Is there a reason the rule seemingly differs? **RESPONSE:** Renumbering resulted in this being found in 27 CAR § 91-524. This portion of the statute was included in the section concerning civil penalties for non-municipal utilities in 27 CAR § 91-109. The Code section was broken into two parts, one for utilities and one for municipal utilities and each have the statutory requirements in each section to clarify which section applies to each type of utility.

23. 27 CAR § 91-1403 – The rule references "[u]pon receipt of a written notice of appeal". Is there a time period in which the notice of appeal shall be received? **RESPONSE:** There is no time specified here, however under 27 CAR § 91-109(a)(2) the utility is given 30 days to correct the action before the civil penalty would apply. In addition, if a civil penalty is not paid in full within ninety (90) days, the department may begin the collection activities under 27 CAR § 91-523. The utility would be subject to paying that civil penalty if they have not filed the appeal within that ninety (90) day period of time. No specific time frame was included.

24. 27 CAR § 91-1403(a)(2) – This subdivision provides, in relevant part, that upon receipt of a written notice of appeal the utilities section of the department shall inform the "Right of Way Division Head will review the appeal request". Who will review the appeal request? **RESPONSE:** This section was rewritten to provide clarity. The Right of Way Division Head will review the appeal request and notify the Chief Legal Counsel to convene the appeal hearing panel.

25. 27 CAR § 91-1404(d)(2) – This subdivision provides that the department may impose "reasonable conditions" on the appellant's right to inspect materials. What sort of conditions are contemplated or envisioned by the department? **RESPONSE:** Reasonable conditions may include not allowing a utility to remove a portion of roadway to inspect a type of work, interfere with another utility's installation of a facility for an inspection, inspect documents that are not available for release under the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et. seq., timing considerations regarding inspections and production of information. Further, the department does not have subpoena powers and cannot compel the testimony of those outside of the authority of the department. No change was made in the current rule.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rule does not have a financial impact.

LEGAL AUTHORIZATION: The Arkansas Department of Transportation shall promulgate rules for the implementation of Arkansas Code § 27-67-325, concerning relocation of a utility facility and definitions relating thereto. *See* Arkansas Code § 27-67-325(i). Utility accommodation rules adopted by the State Highway Commission concerning relocation under Arkansas Code § 27-67-325 shall include without limitation the relocation coordination process between the

department and a utility. *See* Arkansas Code § 27-67-326(a)(1). Rules concerning the relocation coordination process between the department and a utility shall include without limitation that the department shall schedule a meeting with the owner of the utility facility at a time mutually convenient for both parties, and before a meeting, the department shall provide the owner of the utility facility with plans for a proposed relocation. *See* Arkansas Code § 27-67-326(a)(2). Pursuant to Arkansas Code § 27-67-326(b)(1), the rules promulgated by the department concerning a relocation under Arkansas Code § 27-67-325 shall include without limitation the process for the creation of a relocation proposal and relocation agreement and the procedure for the reimbursement of the costs of a relocation. The rules for a relocation proposal shall include without limitation that a relocation proposal be provided to each party in written form; be signed by the authorized representatives of the department and the utility; and include the plan for the relocation, the schedule for the utility to complete the relocation, a cost estimate for the relocation, deadlines for the commencement and completion of the relocation, and the estimated cost of reimbursement by the department for the relocation. *See* Arkansas Code § 27-67-326(b)(2).

Pursuant to Arkansas Code § 27-67-326(b)(3), the rules for a relocation agreement shall include that a relocation agreement may be modified if an extraordinary event occurs and either party requests a modification to the relocation agreement. Additionally, Arkansas Code § 27-67-326(b)(4) provides that rules for the reimbursement of the costs for a relocation shall include without limitation that the utility owner may submit an invoice for the reimbursement of costs to the department upon completion of the relocation; the invoice for the reimbursement of costs for the relocation shall reflect all costs and expenses incurred by the utility for the relocation; and the department shall pay a complete invoice submitted under Arkansas Code § 27-67-326(b)(4)(A) within ninety (90) days of receipt of the complete invoice by the department. Further authority for the rulemaking can be found in Arkansas Code § 27-65-107(a)(13), which provides that the State Highway Commission shall be vested with the power and shall have the duty to adopt rules to implement the commission's powers.

Revisions to the rule include those made in light of Acts 2025, No. 699, sponsored by Senator Joshua Bryant, which amended the law concerning the relocation of utility facilities; amended the law concerning the acquisition, condemnation, and disposition of real property by the State Highway Commission; and established a process for the relocation of a utility facility located on a public right of way.

2. Arkansas Teacher Retirement System (Mark White, Jennifer Kelly)

a. Arkansas Teacher Retirement System Rules, Retirement and Benefits, 24 CAR § 10-601 et seq.

DESCRIPTION: The definitions of "dependent child" and "retiree" in 24 CAR § 10-601 are being repealed as they are already defined by statute. The amendment to 24 CAR § 10-603 will enable members who owe a balance to the Arkansas Teacher Retirement System to retire or return to retirement status sooner.

PUBLIC COMMENT: A public hearing was held on September 28, 2026. The

public comment period expired on September 28, 2026. The agency received the following comments:

ATRS Staff Comment. 24 CAR § 10-603(b). Regarding enabling members who owe a balance to ATRS to start drawing retirement benefits by entering a written agreement to repay all amounts owed: I am concerned about the potential liability this change poses to the System for members that "say" they will pay it back but never actually do since there is no incentive if they are still able to draw their retirement benefits. If the answer to question 3 is "yes," the other questions are moot points.

1. What happens if there is an agreement to repay, but the member never repays? **Response**: Ideally, an agreement to repay the System all amounts owed ("payment arrangement") would involve the System and the member agreeing to have the member's monthly benefit temporarily adjusted or reduced by a specified amount over a set period of time until the balance owed is paid in full. A payment arrangement such as this would reduce or altogether eliminate the likelihood that the balance owed would not be paid.

2. What happens if there is an agreement to repay, but the member dies before all amounts are repaid? **Response**: Under current law, if a member dies with a balance owed to the System, ATRS may withhold the amount owed from any benefit payable from the member's ATRS account or collect the amount owed in any other manner provided by law.

3. Is the intent of this change to allow ATRS to garnish amounts owed to ATRS from the member's retirement benefits? If this is the case, I could see how this would be a positive change for the System. **Response**: This amendment is intended to give ATRS more flexibility with helping members retire or return to retirement status sooner. This may be accomplished by the member and the System agreeing to a payment arrangement in which the member's monthly benefit is temporarily adjusted or reduced by a specified amount over a set period of time until the balance owed is paid in full. After the full balance owed is paid, the member would begin receiving their full monthly benefit again.

4. Will this change require more overhead for ATRS (additional staffing or outsourcing) in order to facilitate recovery of ATRS funds that have been disbursed when a member enters the written agreement but does not honor their end? **Response**: No.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rule does not have a financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 24-7-301 provides that the general administration and responsibility for the proper operation of the Arkansas Teacher Retirement System are vested in a board of trustees. Arkansas Code § 24-7-305(b)(1) also provides that the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the Arkansas Teacher Retirement System.

3. Department of Agriculture, Arkansas Forestry Commission (Kyle Cunningham, Matthew Ford, Darren Spinks)

a. Rules of the Arkansas Forestry Commission for Registration of Foresters, 17 CAR pt. 20

DESCRIPTION: Act 291 of 2025 amended Arkansas Code § 17-31-105(a) to allow the Arkansas Forestry Commission (Commission) to impose a civil penalty of up to $5,000 for violations related to the unregistered practice of forestry. The act also added Arkansas Code § 17-31-204(d), permitting the Commission to promulgate rules to establish a penalty matrix. Amendments to 17 CAR pt. 20 are necessary to add the maximum civil penalty amount and a penalty matrix.

Amendments to 17 CAR pt. 20 were also made to list the Arkansas Forestry Commission as the entity responsible for enforcement of the Registration of Foresters Act, Arkansas Code § 17-31-101 et seq., and associated rules, change the title of the rule accordingly, and create the Registered Forester Committee as required by Arkansas Code § 15-31-102(g).

Finally, the fee schedule for registered forester certifications, examinations, and renewals was removed to simplify the Arkansas Forestry Commission's annual fee review required by Arkansas Code §§ 17-31-303(b), 17-31-307(f).

Please note that the final version of the rule has a few minor changes from the originally filed version. We revised 17 CAR § 20-105(b)(2)(B) to allow the Registered Forester Committee chair to request an item be added to the meeting agenda; 17 CAR § 20-107(a) to add the word "registered" before "forester" to avoid confusion; re-worded 17 CAR § 20-108(b)(3)(A) to clarify reciprocity requirements; removed the requirement that a complaint be notarized in 17 CAR § 20-112(a)(2); and revised 17 CAR § 20-112(a)(3) to state that complaint review is by both the department and committee.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired September 2, 2026. The commission indicated it received no public comments.

Isaac Linam, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

QUESTION (1): In 17 CAR § 20-109(c)(3)(B), it looks like some language may be missing at the end or the language may be out of order. Is this a typo? If so, how should it read? **RESPONSE:** 17 CAR § 20-109(c)(3)(B) is drafted correctly.

QUESTION (2): Arkansas Code § 25-15-105(b)(2)(A) provides that "[a]n agency assessing or imposing a fee or penalty shall promulgate the fee or penalty by rule." Subdivision (b)(2)(B) provides that "[a]n agency is not required to promulgate a fee or penalty by rule if the specific amount of the fee or penalty is set by statute." Subdivision (b)(2)(C) provides that "[a] rule assessing or imposing a fee or penalty shall be submitted to the Legislative Council for review and approval before a fee or penalty may be assessed or imposed by the agency." Your rule summary states that "the fee schedule for registered forester certifications, examinations, and renewals was removed to simplify the Arkansas

Forestry Commission's annual fee review required by Arkansas Code §§ 17-31-303(b), -307(f)", and this amendment removes specific fees from the rule. How does the board reconcile the requirements of Arkansas Code § 25-15-105 with a plan to assess fees in which the amounts are not specifically set in statute, are not promulgated, and are not submitted to the Legislative Council for review and approval? **RESPONSE:** Ark. Code Ann. 17-31-303(b) states that the "amount of the application fee and the registration fee shall be set annually by the commission." Our view on [this statute] is that the legislature intended to give the Department the authority to set these application fees annually without rulemaking.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The commission indicated this rule amendment has no financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 17-31-204(a) provides that the commission may promulgate "rules consistent with the Arkansas Constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it." Arkansas Code § 15-31-106(b)(2) provides that the commission may "make and amend and enforce all reasonable rules not inconsistent with law which will aid in the performance of any of the functions, powers, or duties conferred or imposed upon it by law." Arkansas Code § 17-31-307(e) provides that the "commission may promulgate rules to ensure compliance with the requirements of" Arkansas Code § 17-31-307, concerning the expiration and renewal of certificates of registration and continuing education.

Arkansas Code § 17-31-303(b) requires the commission annually to set the amounts of application and registration fees for certification of registration for foresters, and Arkansas Code § 17-31-307(f) requires the commission annually to set fees for renewal of a certification of registration. Arkansas Code § 17-31-307(g) provides that late renewal fees "shall be increased ten percent (10%) for each month or fraction of a month that payment of renewal is delayed", but that "the maximum fee for delayed renewal shall not exceed two (2) times the annual renewal fee."

This rule amendment implements Acts 2025, No. 291, sponsored by Senator Matt Stone. Act 291 amended Arkansas Code § 17-31-105(a) to provide that the commission "may impose a civil penalty not to exceed five thousand dollars ($5,000)" to persons who perform certain actions or violate the Registration of Foresters Act, Arkansas Code § 17-31-101 et seq. Act 291 also created Arkansas Code § 17-31-204(d), which grants the commission authority to "establish a penalty matrix".

4. Department of Agriculture, Arkansas Natural Resources Commission (Chris Colclasure, Matthew Ford)

a. Oversight of Retail Water, Wastewater, and Sewer Providers, 14 CAR pt. 2

DESCRIPTION: Act 925 added Arkansas Code §§ 14-239-101 to 107 to require the Arkansas Natural Resources Commission to oversee wastewater and sewer systems for the purpose of improving the operations and infrastructures of

systems in Arkansas. The act requires rate studies and board training of public or private sewage collection or sewage treatment service providers.

Amendments to the Oversight of Retail Water Providers rules, 14 CAR pt. 2, are made to add wastewater and sewer providers to the oversight rules.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on August 18, 2026. The commission received the following public comment and made the following response:

Commenter Name: Chris Harris, Arkansas Rural Water Association

COMMENT: I have just two questions: One being do we have clarification on how soon before the deadline we can submit rate studies and them be accepted before the due date? Secondly, is there any clarification on will board members have to sit through an additional 8hrs training for wastewater if they have already taken ACT 605 training? **RESPONSE:** The Department appreciates the Arkansas Rural Water Association's comments. Based on questions raised, the Department added language to the rule amendments to clarify that a rate study submitted more than eighteen (18) months before the system's submission deadline or dated more than eighteen (18) months before the date of submission will not be accepted. Either limitation may be waived if the study is accompanied by a certification from the rate study provider that conditions have not changed and are not anticipated to change during the period the study is intended to cover. To the second question, the Department consulted with the wastewater advisory training board to establish training curriculum elements. It was recommended to require a minimum of twelve (12) hours of training for combined water, wastewater, and sewer boards. The Department added language to the rule amendments to clarify that combined water, wastewater, and sewer systems must obtain twelve (12) hours of training with four (4) hours of statutory and legislative basics, four (4) hours of water operation basics, and four (4) hours of wastewater operation basics.

Isaac Linam, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

QUESTION (1) Throughout the rule, the commission cites to statutes within the subchapter of Arkansas Code § 14-239-101 et seq., which is accurate in regards to the language as set out in the act. However, when Acts 2025, No. 925, was codified into the Arkansas Code, Subchapter 1 was changed to a [Reserved] subchapter, and the rest of the act was codified in Subchapter 2. This means that the commission's citations to statutes within Arkansas Code § 14-239-101 et seq. are now inaccurate. Was this intentional? **RESPONSE:** We discovered the error during the public comment period and corrected the citations in the final rule.

QUESTION (2) In 14 CAR § 2-102(7), a list item was added as (7)(D) but there is no conjunction between (7)(C) and (7)(D). Was this omission intentional? **RESPONSE:** The conjunction should be "or" and was corrected in the final rule.

The proposed effective date for this rule is pending legislative review and approval.

FINANCIAL IMPACT: The commission indicated this rule amendment has no

financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 15-22-505(7)(A) provides that the commission may "adopt and enforce such rules as are necessary for the proper and efficient administration" of Arkansas Code § 15-22-501 et seq., concerning water development projects generally.

Arkansas Code § 14-234-806 provides that the commission "shall promulgate rules necessary to implement" Arkansas Code § 14-234-801 et seq., concerning the oversight of retail water providers. Arkansas Code § 14-234-802(d) provides that the "commission shall determine by rule the requirements of the rate study, including without limitation a review of the provider's refurbishment and replacement account and asset management plan". In addition, subsection (d) goes on to provide that the "commission shall determine by rule an appropriate entity to provide guidelines for the rate study to use as its basis if guidelines of the American Water Works Association and the Water Environment Federation are unavailable." Arkansas Code § 14-234-805 provides that "[w]ithin one (1) year of election or appointment, a majority of the members of a provider board shall receive a minimum of eight (8) hours of provider training as promulgated by rule of the" commission.

This rule implements Acts 2025, No. 925, sponsored by Representative Justin Gonzales. Act 925 created Arkansas Code § 14-239-201 et seq., concerning the oversight of wastewater and sewer retail providers. Arkansas Code § 14-239-207 provides that the commission "shall promulgate rules to implement" Arkansas Code § 239-201 et seq. Arkansas Code § 14-239-205 provides that "[w]ithin one (1) year of election or appointment, a majority of the members of a provider's board shall receive a minimum of eight (8) hours of provider training as promulgated by rule of the" commission.

b. Water Authorities, 4 CAR pt. 1

DESCRIPTION: Act 736 amended the Water Authority Act, codified at Arkansas Code §§ 4-35-101 to 4-35-306, to allow a qualified corporation involved in the sale, transmission, and distribution of potable water to the public to form or convert its entity status to a water authority. The act also amended Arkansas Code § 4-35-103(7) to expand the definition of "qualified corporation" to include various governmental, municipal, and private entities, and amended Arkansas Code §§ 4-35-202(a) and 4-35-203 to address the formation of or conversion to a water authority.

Act 239 amended Arkansas Code § 4-35-204 to require the board of directors of a public water authority to post the directors' contact information on the public facing websites of the public water authority and the Arkansas Natural Resources Commission.

The Arkansas Department of Agriculture amends the Water Authorities rules, 4 CAR pt. 1, to incorporate the new definition of "qualified corporation," revise the formation of or conversion to a water authority, and address the contact information requirement for a water authority's board of directors.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired August 18, 2026. The commission indicated it received

no public comments.

Isaac Linam, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

QUESTION (1) In existing language at 4 CAR § 1-102(6)(A), the citation for the Arkansas Nonprofit Corporation Act of 1993 is incorrect. The citation, Arkansas Code § 4-28-201 et seq., is for the Arkansas Nonprofit Corporation Act. The correct citation for the Arkansas Nonprofit Corporation Act of 1993 is Arkansas Code § 4-33-101 et seq. Did the commission intend to cite to the Arkansas Nonprofit Corporation Act, Arkansas Code § 4-28-201 et seq., rather than the Arkansas Nonprofit Corporation Act of 1993, Arkansas Code § 4-33-101 et seq.? **RESPONSE:** No, the errors (mis-citing one nonprofit act and omitting the other) were an oversight on our part. We revised 4 CAR § 1-102(4) as follows: "Qualified corporation means the same as defined in Arkansas Code § 4-35-103;"

QUESTION (2) In the introductory language of 4 CAR § 1-201, the current phrase "which may include cities, counties, public bodies, or nonprofit corporations" is being replaced with "representing a qualified corporation". The current phrase tracks almost exactly the introductory language of Arkansas Code § 4-35-201, which was not amended in Act 736 even though that act made other language changes to use the term "qualified corporation" in the Water Authority Act. Why is the commission deviating from the current statutory language in Arkansas Code § 4-35-201 to make this change? **RESPONSE:** We removed the added language and will keep the intro paragraph of 4 CAR § 1-201 as it presently reads.

The proposed effective date for this rule is pending legislative review and approval.

FINANCIAL IMPACT: The commission indicated this rule amendment has no financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 15-22-505(7)(A) provides that the commission may "adopt and enforce such rules as are necessary for the proper and efficient administration" of Arkansas Code § 15-22-501 et seq., concerning water development projects generally. Arkansas Code § 4-35-105 provides that the commission may promulgate rules to carry out the intent of the Water Authority Act, Arkansas Code § 4-35-101 et seq.

This rule amendment implements Acts 2025, No. 239, sponsored by Representative Cameron Cooper. Act 239 required members of the board of directors of a public water authority to publish their contact information under the Water Authority Act.

This rule amendment also implements Acts 2025, No. 736, sponsored by Senator Bart Hester. Act 736 expanded eligibility for water development state programs, amended the Water Authority Act, and amended the uses of the construction assistance revolving loan fund.

5. Department of Agriculture, State Plant Board (Corey Seats, Matthew Ford, items a-c; Mike Stage, item a)

a. Official Standards for Seed Certification in Arkansas, 2 CAR pt. 34

DESCRIPTION: Act 527 of 2025 amended Arkansas Code §§ 2-18-102 through 2-18-109 to designate the Arkansas Department of Agriculture (Department) as the agency responsible for investigating and certifying agricultural seeds. The act also amended Arkansas Code § 2-18-105 to require the Department, instead of seed certification applicants, to calculate and invoice applicants for costs related to inspection and certification and promotion and advertising of certified seed. Amendments to 2 CAR pt. 34, Official Standards for Seed Certification in Arkansas, are made to incorporate the changes of the act.

PUBLIC COMMENT: A public hearing was held on this rule on August 19, 2026. The public comment period expired August 18, 2026. The board indicated it received no public comments.

Isaac Linam, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

QUESTION (1) The summary to the rule indicates that the amendments are to come into compliance with Acts 2025, No. 527, but the amendments to the rule seem to go beyond those from the act. Can you summarize the additional changes and provide a reason why they are necessary? **RESPONSE**: An amendment of these rules was required by Act 527 of 2025. In the process of drafting we found a number of other things, not associated with the act, that needed to be revised. Since we were going through the amendment/ promulgation process anyway, the Secretary wanted us to include these additional updates.

QUESTION (2) In 2 CAR § 34-101(a), the terms “brand”, “coating material”, “cotton staple length”, “double cross”, “fallowed land”, “open-pollination”, “seed conditioning”, “seed pubescence”, “three-way cross”, “threshing”, and “top cross” are defined in this section but never used in the rule. Is there a reason the board included these terms in the definitions section while never using them?

RESPONSE: Brand – while brand is not specifically used in this rule the background of the definition is in my opinion important to know. – It can be deleted if required. [The board retained the definition.]

“coating material” - this can be deleted. [The board deleted the definition.]

“cotton staple length” - Staple is used in the rule in relation to cotton.

“double cross,” “open-pollination," “three-way cross,” “top cross” - These terms are indirectly referred to in the context of pollination and types of pollination crosses, and a background of the methods is helpful.

“fallowed land” - appears as fallowed

“seed conditioning” - appears as conditioning

“seed pubescence” - appears as pubescence

“threshing” appears as threshed

QUESTION (3) In 2 CAR § 34-204(b)(8), the conjunction “and” at the end of

this subdivision was struck as deleted, leaving the list in subsection (b) without a conjunction. Was this deletion intentional? **RESPONSE:** Unintentional - can be replaced. [The board restored the conjunction.]

QUESTION (4) In 2 CAR § 34-213(a)(7), the conjunction "and" at the end of this subdivision was struck as deleted, leaving the list in subsection (a) without a conjunction. Was this deletion intentional? **RESPONSE:** Unintentional - can be replaced. [The board restored the conjunction.]

QUESTION (5) In 2 CAR § 34-214(b)(3)(A), the conjunction "or" at the end of this subdivision was struck as deleted, leaving the list in subdivision (b)(3) without a conjunction. Was this deletion intentional? **RESPONSE:** Unintentional - can be replaced. [The board restored the conjunction.]

QUESTION (6) In 2 CAR § 34-217(a)(2)(E), the conjunction "and" at the end of this subdivision was struck as deleted, leaving the list in subdivision (a)(2) without a conjunction. Was this deletion intentional? **RESPONSE:** Unintentional - can be replaced. [The board restored the conjunction.]

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The board indicated this rule has no financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 2-18-103 (a)(2) provides that the board shall include in its rules "one (1) or more classifications of seed, designating the classifications as "Registered" and "Certified" or by any other one (1) or more names which it may specify", and that it shall specify in the rules "the standards which seed must meet and the methods by which seed must be handled in order to be certified under the classifications." Arkansas Code § 2-18-104(1) provides that the board shall promulgate rules "to provide supplies of high-grade seed, true to name and free from disease, for planting purposes". Arkansas Code § 2-18-104(2) provides that the board shall promulgate rules "to protect the interest of breeders who have developed high-quality strains of seed". Arkansas Code § 2-18-105 provides that the board "shall establish by rule promotion and advertising costs" to "cover costs of promotion and advertising of certified seed."

The amendments to this rule also implement Acts 2025, No. 527, sponsored by Representative Jeremy Wooldridge. Act 527 amended the law related to seed certification.

b. Arkansas Feed Rules, 2 CAR pt. 25

DESCRIPTION: Act 586 of 2025 amended the Arkansas Feed Law of 1997, codified at Arkansas Code § 2-37-101 et seq., to designate the Department of Agriculture as the enforcing agency responsible for administering feed laws. In addition, Sections 4, 5, and 6 amended inspection fees to sums due for inspection and reports in Arkansas Code §§ 2-37-104, 2-37-108(g), and 2-37-109, respectively. Section 5 amended Arkansas Code § 2-37-108(g) to add a sum to be paid for each facility exempted from licensure. Section 6 amended Arkansas Code § 2-37-109 to require the Department, instead of the commercial feed license applicants, to calculate and invoice applicants for costs related to inspection and reports.

Amendments to 2 CAR pt. 25, Arkansas Feed Rules, are being made to

incorporate these changes, and to update names, references, and terminology. Additional amended provisions include updates to reflect changes in animal food labeling, expanded requirements for weight, volume and quantity statements, and additional language to address the safe labeling and display of raw milk as animal feed.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on August 18, 2026. The board received the following public comment and provided the following response:

Commenter Name: Savonne Caughey, Vice President of Government Relations and Advocacy, Pet Food Institute

COMMENT: The Pet Food Institute (PFI) appreciates the opportunity to provide comments on the Arkansas Department of Agriculture's proposed amendments to 2 CAR pt. 25, Arkansas Feed Rules.

Established in 1958, PFI is the trade association representing U.S. cat and dog food and treat manufacturers. Our members produce the vast majority of pet food and treats made in the United States, providing complete and balanced nutrition for the dogs and cats in 95 million American households. For more than 65 years, PFI has advocated for a transparent, science-based regulatory environment and provided information to pet owners about pet food safety, nutrition, and health.

PFI appreciates the department's efforts to update the Arkansas Feed Rules. As explained in the public notice, the proposed amendments implement recent legislative changes and make additional revisions to update terminology and references, reflect changes in animal food labeling, expand requirements for weight, volume, and quantity statements, and address other animal food requirements.

As part of this rulemaking, PFI respectfully encourages the Department to implement the Association of American Feed Control Officials' (AAFCO) Pet Food Label Modernization (PFLM) Model Regulations for Pet Food and Specialty Pet Food and make any necessary conforming amendments to Arkansas's existing pet food provisions. Although the proposed amendments make substantial changes to 2 CAR pt. 25, including changes related to animal food labeling, they do not incorporate AAFCO's current PFLM Model Regulations. For example, the proposed rules continue to reference "crude fiber" and do not include PFLM provisions addressing total dietary fiber or the Pet Nutrition Facts and Specialty Pet Nutrition Facts labeling formats. Although the proposal references certain AAFCO ingredient definitions and official feed terms, it does not similarly incorporate AAFCO's current Model Regulations for Pet Food and Specialty Pet Food.

PFLM represents a significant modernization of pet food labeling intended to provide consumers with clearer and more consistent information. Among other changes, the PFLM Model Regulations replace the traditional Guaranteed Analysis format with Pet Nutrition Facts and Specialty Pet Nutrition Facts, revise the presentation of nutritional information, and make other significant changes to pet food labels. AAFCO approved the revised Model Regulations in 2023, and they became effective as AAFCO model regulations in 2024.

Given the scope of the current rulemaking—and its express purpose of addressing changes in animal food labeling—PFI encourages the Department to use this opportunity to implement the PFLM Model Regulations for Pet Food and Specialty Pet Food and make any necessary conforming amendments to Arkansas's existing pet food provisions. If that cannot be accomplished at this stage of the rulemaking process, PFI respectfully urges the Department to prioritize a separate rulemaking to do so as soon as practicable. Timely implementation would provide clarity to regulated businesses, maintain consistency with the modernized AAFCO framework as states begin implementation, and avoid unnecessary delay in updating Arkansas's pet food labeling requirements.

PFI also requests that Arkansas provide a transition period through 2030, consistent with the six-year enforcement-discretion period recommended by AAFCO and subsequently supported by the National Association of State Departments of Agriculture (NASDA). AAFCO recommended that state feed regulatory programs use enforcement discretion in reviewing pet food labels for six years, beginning with the availability of the printed 2024 AAFCO Official Publication. NASDA subsequently encouraged states to work toward full implementation during that six-year grace period and, during that period, to use enforcement discretion to allow the sale and distribution of pet food products that comply with either existing state pet food regulations or the PFLM Model Regulations.

Consistent with that approach, PFI encourages Arkansas to allow both fully legacy-compliant and fully PFLM-compliant labels throughout the six-year transition period, with full implementation of PFLM at the conclusion of the transition. Providing this flexibility is particularly important because implementation of PFLM requires substantial changes to product labels and packaging, including design and artwork changes, laboratory analyses, information-system updates, and coordination of registration and labeling requirements across multiple jurisdictions.

A six-year transition would also promote regulatory uniformity and harmonization among the states. As states begin implementing the modernized AAFCO pet food labeling framework, timely adoption by Arkansas will be important to maintaining consistency in pet food labeling requirements across jurisdictions. Regulatory uniformity is particularly important for pet food products distributed in interstate commerce, where differing state labeling requirements and implementation timelines can create unnecessary compliance burdens, complicate implementation of the new labeling framework, and potentially disrupt supply chains or affect product availability if products compliant in one jurisdiction cannot be distributed in another.

Aligning Arkansas' transition with the approach recommended by AAFCO, supported by NASDA, and communicated to state agriculture officials by NASDA and AAFCO leadership would allow manufacturers to coordinate substantial label and packaging changes across jurisdictions while providing consumers and regulators with an orderly transition to the modernized framework.

Accordingly, PFI respectfully encourages the Department to implement the PFLM

Model Regulations for Pet Food and Specialty Pet Food and make any necessary conforming amendments to Arkansas's existing pet food provisions as part of its current modernization of the Arkansas Feed Rules or, if that cannot be accomplished through the current rulemaking, to prioritize a separate rulemaking to do so as soon as practicable. PFI further requests a six-year transition period through 2030, during which both fully legacy-compliant and fully PFLM-compliant pet food labels are accepted, with full implementation of PFLM at the conclusion of that transition.

On behalf of PFI members, whose 36,000 employees in 34 states provide safe and nutritious food for the dogs and cats in 95 million U.S. households, PFI appreciates the department's consideration of these comments and welcomes the opportunity to work with Arkansas as it considers implementation of PFLM in Arkansas. **RESPONSE:** While the Department and the Arkansas State Plant Board would entertain a discussion concerning the adoption of PFLM Model Regulations, doing so would require several statutory amendments to current law and cannot be accomplished through rulemaking.

The proposed effective date of this rule is pending legislative review and approval.

FINANCIAL IMPACT: The board indicated this rule has no financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 2-37-110 provides that the board may promulgate rules necessary "for the efficient enforcement of" the Arkansas Feed Law of 1997, Arkansas Code § 2-37-101 et seq. The statute goes on to say that, "unless the board determines that they are inconsistent with the provisions of [the Arkansas Feed Law of 1997] or are not appropriate to conditions which exist in this state", the board shall adopt by rule the "Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials and published in the Association of American Feed Control Officials Official Publication" and "[a]ny rule promulgated under the authority of the Federal Food, Drug, and Cosmetic Act, provided, that the board would have the authority under this chapter to promulgate such rule."

Arkansas Code § 2-37-103(c) provides that the board may exempt from the definition of "commercial feed" or from specific provisions of the Arkansas Feed Law of 1997 "commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not intermixed with other materials, and are not adulterated." In addition, that subdivision provides that the board may also exempt by rule from the definition of "commercial feed" or from specific provisions of the Arkansas Feed Law of 1997 "certain pet food or specialty pet food." Arkansas Code § 2-37-104(c) provides that the "form and content of the commercial feed license application shall be established by rules adopted by the board."

Arkansas Code § 2-37-109(a) provides that the "sum of thirty cents (30¢) per ton shall be paid on commercial feeds distributed in this state by the person whose name appears on the label as the manufacturer, guarantor, or distributor". The statute goes on to provide that a person other than a manufacturer, guarantor, or

distributor may assume liability for the inspection costs under certain conditions. Arkansas Code § 2-37-109(b) provides that inspection costs that have not been paid within fifteen days of the due date "shall have a penalty of fifteen percent (15%) or twenty-five dollars ($25.00), whichever is the higher, added to the amount due when payment is finally made."

Arkansas Code § 2-37-104(b)(1)(B) provides that a sum of ten dollars per facility shall be paid to the Department of Agriculture for each facility that manufactures or distributes commercial feed "in or into the state". Arkansas Code § 2-37-104(b)(3) provides that an applicant must pay an extra thirty dollars in addition to the license sum if the applicant "fails to obtain a license within fifteen (15) working days after notification of the requirement to obtain a license, or any licensee who fails to comply with license renewal requirements". In addition, Arkansas Code § 2-37-104(f)(2) provides that integrated operators may be exempt from payment of the sums upon application for an exemption.

This rule implements Acts 2025, No. 586, sponsored by Representative Jeremy Wooldridge. Act 586 amended the Arkansas Feed Law of 1997.

c. Fertilizer Rules, 2 CAR pt. 26

DESCRIPTION: Sections 1, 2, 3, and 5 of Act 530 of 2025 amended Arkansas Code §§ 2-19-202(a)(1), 2-19-202(d)(1)(B)(i), 2-19-203(a), and 2-19-207, respectively, to designate the Department as the agency responsible for approving registration of commercial fertilizer and fertilizer materials sold in Arkansas. Section 7 amended Arkansas Code § 2-19-208(a)(2) to require the Department, instead of fertilizer registration applicants, to calculate and invoice applicants for the amount due per ton or fractional ton of fertilizer.

Amendments to 2 CAR pt. 26, Fertilizer Rules, are being made to replace the State Plant Board with the Department as the agency responsible and to change the invoice process from direct pay by the applicant to Department-billed.

Additional changes include updating language regarding names, references, and terminology, and adding definitions to clarify terms and language used. In addition, the penalty section was expanded to better explain the process and rules.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired August 18, 2026. The board indicated it received no public comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The board indicated this rule has no financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 2-19-210(a) provides that the board may promulgate rules for the enforcement of Arkansas Code § 2-19-201 et seq., concerning fertilizers, and "in regard to inspection, analysis, and sale of fertilizer or fertilizer materials".

Arkansas Code § 2-19-206(a) provides that the board "may set up penalties for any guaranteed constituents found deficient beyond a reasonable tolerance". Subsection (a) goes on to provide that "[i]f the deficiency is over five percent (5%), then the penalty will be three (3) times the amount of the total deficiency as found by the official analysis." Arkansas Code § 2-19-202(c)(1)(A) provides that

"[t]he board may, under its rules, set and collect reasonable fertilizer brand registration and facility licensing fees."

This rule amendment implements Acts 2025, No. 530, sponsored by Representative Jeremy Wooldridge. Act 530 amended the law related to fertilizer.

6. Department of Commerce, Arkansas Economic Development Commission (Brian Black)

a. Arkansas Small Business Innovation Research and Small Business Technology Transfer Matching Grant Program, 15 CAR pt. 141

DESCRIPTION:

History

The federal Small Business Innovation Research (SBIR) grant program is offered through eleven federal agencies and provides funding to American small businesses. The Small Business Technology Transfer (STTR) program complements the SBIR program and includes a requirement that businesses partner with a research institution. The SBIR/STTR programs are an important source of early-stage technology development funding for small businesses. Arkansas Act 166 of 2017, codified at Arkansas Code §§ 15-3-701 – 709, implemented a matching grant program for Arkansas-based small businesses that secure federal SBIR awards, but did not include STTR grants. It further placed a lifetime cap of three matching grant awards to any Arkansas business. SBIR awards are discretionary and are granted by the Executive Director following recommendations from the AEDC Science and Technology Board.

2025 SBIR Amendments

Act 440 of 2025 amended Arkansas' SBIR grant program to include STTR grants, bringing Arkansas into alignment with the federal program. The Act further removed the lifetime cap of three awards per business, which is critical for the growth of high-performing technology businesses, several of which have already received three awards. Finally, for the purpose of efficiency and streamlined administration, Act 440 transferred the recommendation power for SBIR and STTR grants from the Science and Technology Board to the AEDC. Arkansas Code § 15-3-709 requires the AEDC to promulgate rules to carry out the purposes of the statute.

The proposed amended rule makes the above changes to effectuate the amendments to the SBIR grant passed in Act 440.

Summary of Proposed SBIR Rule Amendments

The proposed amendment to the SBIR Rules, codified at 15 CAR §§ 141-101 – 141-108, makes the following changes to the rules:

- Adds provisions to include Small Business Technology Transfer grants;
- Removes references to the Division of Science and Technology, which is required by Act 440;
- Clarifies that eligible business applicants must be in good standing with the Arkansas Secretary of State's office;

- Adds a definition for "Principal Business Office";
- Removes restrictions on the number of times companies can apply as per Act 440;
- Removes an unneeded definition of "Small Business Innovation Program";
- Removes references to AEDC internal grant administration procedures that were not accurate and were unnecessary;
- Adds Arkansas Freedom of Information Act language and guidance for applying companies; and
- Effectuates other miscellaneous language cleanups.

PUBLIC COMMENT: A public hearing was held on August 26, 2026. The public comment period expired September 8, 2026. The commission indicated it received no public comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The commission indicated the proposed amendment to this rule has no financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 15-3-709 provides that the Arkansas Economic Development Commission "shall promulgate rules to carry out the purposes of" the Arkansas Small Business Innovation Research Matching Grant Program, Arkansas Code § 15-3-701 et seq. Arkansas Code § 15-3-703 defines the Small Business Innovation Research Program as a federal program "which provides funds for Phase I and Phase II Small Business Innovation Research grants and Small Business Technology Transfer grants through participating federal agencies."

Acts 2025, No. 440, sponsored by Senator Missy Irvin, amended the Arkansas Small Business Innovation Research Matching Grant Program to add Small Business Technology Transfer grants and make the Arkansas Economic Development Commission responsible for the grants' administration.

7. Department of Education, Division of Higher Education (Dr. Ken Warden, Daniel Shults)

a. Student Undergraduate Research Fellowship Program Rules, 6 CAR pt. 396

DESCRIPTION: The Department of Education, Division of Higher Education, seeks to amend it Student Undergraduate Research Fellowship Program Rules.

SUMMARY OF PROPOSED RULE:

Pursuant to Arkansas Code § 6-61-236, the Division of Higher Education is amending the Student Undergraduate Research Fellowship Program Rules. The division is updating the definition of "institution of higher education" to reflect a uniform definition used in all other Division of Higher Education rules. The rules are also amended to cite to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 C.F.R. § 200. The amended rule also clarifies the amount awarded for fellowships that run beginning

in a spring semester through the summer semester shall not exceed $625.

POST PUBLIC COMMENT:

No public comments were received during the public comment period; no substantive changes were made to the rule following the public comment period pursuant to public comment. A non-substantive change was made to the appendix to correct an error in which the appendix title and link were stricken. The title and link have been restored.

PUBLIC COMMENT: A public hearing was held on August 21, 2026. The public comment period expired on August 26, 2026. The agency indicated that it did not receive any public comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following questions and was provided with the following agency responses:

1) 6 CAR § 396-108 – What does the acronym OMB, referenced in this section, stand for? **RESPONSE:** It's the federal OMB – Office of Management and Budget.

2) Is Appendix A being repealed, or is the title of Appendix A simply stricken through in the text of the rule? **RESPONSE:** This was an error and the text has been restored.

The proposed effective date is December 1, 2026.

FINANCIAL IMPACT: The agency has indicated that the amended rule does not have a financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code § 6-61-236(c), the Division of Higher Education shall promulgate rules necessary for the implementation and operation of the Student Undergraduate Research Fellowship Program.

b. Rules Governing the Arkansas Future Grant Program, 6 CAR pt. 400

DESCRIPTION: The Department of Education, Division of Higher Education, seeks to amend its Rules Governing the Arkansas Future Grant Program.

SUMMARY OF PROPOSED RULE:

Pursuant to Act 341 of 2025, Sections 74-76, the Division is amending the Rules Governing the Arkansas Future Grant Program of Arkansas Code § 6-82-1801 et seq. The Arkansas Future Grant Program is amended by capping the grant to a maximum of seventy-five course credit hours rather than five academic semesters as it pertains to a grant recipient's eligibility. It also now requires that disbursement of this scholarship follow the new Arkansas stacking policy defined in Arkansas Code § 6-80-105. Finally, it updates residency requirements and instead of requiring three years of continuous residency to be eligible for this scholarship, it now requires six months.

POST PUBLIC COMMENT:

No public comments were received during the public comment period; no substantive or non-substantive changes were made to the rule following the public comment period pursuant to public comment.

PUBLIC COMMENT: A public hearing was held on August 21, 2026. The public comment period expired on August 26, 2026. The agency indicated that it did not receive any public comments.

The proposed effective date is December 1, 2026.

FINANCIAL IMPACT: The agency has indicated that the amended rule does not have a financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code § 6-82-1805, the Division of Higher Education shall promulgate rules to implement Arkansas Code § 6-82-1801 et seq., which concerns the Arkansas Future Grant Program.

The proposed amendments implement Acts 2025, Nos. 340 and 341, §§ 74 – 76, identical acts sponsored by former Senator Jonathan Dismang and by Representative Matthew J. Shepherd, respectively, which created the Arkansas ACCESS Act and amended various provisions of the Arkansas Code as they relate to education in the State of Arkansas.

c. Arkansas Direct Admissions Program, 6 CAR pt. 376

DESCRIPTION: The Department of Education, Division of Higher Education, proposes its Arkansas Direct Admissions Program rules.

SUMMARY OF PROPOSED RULE:

Pursuant to Act 341, Section 48 of 2025, the Division of Higher Education is proposing new rules governing the Arkansas Direct Admissions Program, codified at Arkansas Code § 6-60-1701 et seq. Act 341, Section 48 creates the Arkansas Direct Admissions Program. Under the program, the "AR A.C.C.E.S.S. Portal" allows Arkansas students to apply for provisional admission to approved institutions of higher education. Arkansas institutions may opt to participate in the program. The program will be implemented in stages beginning with the high school graduating class of 2026 – 2027.

POST PUBLIC COMMENT:

No public comments were received during the public comment period; no substantive changes were made to the rule following the public comment period pursuant to public comment. Non-substantive grammatical changes were made:

1) The name of the Direct Admissions Portal was amended in 6 CAR § 376-104 to reflect the accurate name, "AR A.C.C.E.S.S. Portal."

2) The application fee was stricken from 6 CAR § 376-104 to conform with statutory requirements.

PUBLIC COMMENT: A public hearing was held on August 21, 2026. The public comment period expired on August 26, 2026. The agency indicated that it did not receive any public comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following questions and was provided with the following agency responses:

1) 6 CAR § 376-101(5)(C)(2) refers to "an emergency medical technician". Was this a typo? **RESPONSE:** Yes, this was a typo and it has been deleted.

2) 6 CAR § 376-102(b)(2)(B)(ii) – Should there be a semicolon with a conjunction following this provision? **RESPONSE:** Yes, this was corrected.

3) 6 CAR § 376-104(b)(3) – Is the agency aware of any statutory authority which permits the twenty five dollar ($25) application fee set forth in this provision of the rules, in light of Arkansas Code § 25-15-105(b)(1)? **RESPONSE:** The division has removed the $25 fee to conform with statutory requirements.

The proposed effective date is December 1, 2026.

FINANCIAL IMPACT: The agency has indicated that the proposed rule does not have a financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code § 6-60-1705, the Division of Higher Education may promulgate rules to implement the Arkansas Direct Admissions Program Act, codified in Arkansas Code § 6-60-1701 et seq.

The proposed rules implement Acts 2025, Nos. 340 and 341, § 48, identical acts sponsored by former Senator Jonathan Dismang and by Representative Matthew J. Shepherd, respectively, which created the Arkansas ACCESS Act and amended various provisions of the Arkansas Code as they relate to education in the State of Arkansas.

d. Arkansas Heroes Scholarship, 6 CAR pt. 409

DESCRIPTION: The Department of Education, Division of Higher Education, proposes its Arkansas Heroes Scholarship rules.

SUMMARY OF PROPOSED RULE:

Act 341, the Arkansas ACCESS Act of 2025, Section 79 created the Arkansas Heroes Scholarship Act, Arkansas Code § 6-82-2501 et seq. This scholarship honors the heroic efforts of Arkansas families who served as Arkansas heroes or in the United States Armed Forces. It is available to certain United States Armed Forces spouses and dependents, dependents of law enforcement, or heroic state personnel who suffered fatal injury or permanent disability.

Arkansas Heroes replaces the Law Enforcement Officer's Dependents Scholarship and the Military Dependents' Scholarship and covers the tuition and fees for eligible dependent students. Students who have already been awarded the Military Dependents' Scholarship will have their meal benefits grandfathered in until the student has received eight semesters of funding. Beginning with the 2025 application cycle, students will only be able to apply for the Arkansas Heroes Scholarship. The rule amendment adds Armed Forces disability retirement benefit recipients, Medal of Honor and Purple Heart recipient dependents as eligible for scholarships. Implementation began October 1, 2025, for the Fall 2026 semester.

POST PUBLIC COMMENT:

No public comments were received during the public comment period; no substantive changes were made to the rule following the public comment period pursuant to public comment. Non-substantive grammatical changes were made to conform with BLR Style Guide.

PUBLIC COMMENT: A public hearing was held on August 21, 2026. The

public comment period expired on August 26, 2026. The agency indicated that it did not receive any public comments.

The proposed effective date is December 1, 2026.

FINANCIAL IMPACT: The agency has indicated that the proposed rule does not have a financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code § 6-82-2504, the Division of Higher Education may promulgate rules to implement the Arkansas Heroes Scholarship Act, codified in Arkansas Code § 6-82-2501 et seq.

The proposed rules implement Acts 2025, Nos. 340 and 341, § 79, identical acts sponsored by former Senator Jonathan Dismang and by Representative Matthew J. Shepherd, respectively, which created the Arkansas ACCESS Act and amended various provisions of the Arkansas Code as they relate to education in the State of Arkansas.

e. Rules Governing the Military Dependents' Scholarship Program, 6 CAR pt. 393

DESCRIPTION: The Department of Education, Division of Higher Education, proposes amendments to its Rules Governing the Military Dependents' Scholarship Program.

SUMMARY OF PROPOSED RULE:

Act 341, the Arkansas ACCESS Act of 2025, Section 79, created the Arkansas Heroes Scholarship Act, Arkansas Code § 6-82-2501 et seq. This scholarship honors the heroic efforts of Arkansas families who served as Arkansas heroes or in the United States Armed Forces. It is available to certain United States Armed Forces spouses and dependents, dependents of law enforcement, or heroic state personnel who suffered fatal injury or permanent disability.

Arkansas Heroes replaces the Law Enforcement Officer's Dependents Scholarship and the Military Dependents' Scholarship and covers the tuition and fees for eligible dependent students. Students who have already been awarded the Military Dependents' Scholarship will be grandfathered in until the student has received eight semesters of funding. Beginning with the 2025 application cycle, students will only be able to apply for the Arkansas Heroes Scholarship; therefore, a sunset clause is being added to the Military Dependents' Scholarship Program rules. The division anticipates it will repeal Arkansas Code § 6-82-601 and the corresponding Military Dependents' Scholarship rules during the next legislative session.

POST PUBLIC COMMENT:

No public comments were received during the public comment period; no substantive or non-substantive changes were made to the rule following the public comment period pursuant to public comment.

PUBLIC COMMENT: A public hearing was held on August 21, 2026. The public comment period expired on August 26, 2026. The agency indicated that it did not receive any public comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the

following questions and was provided with the following agency responses:

1) The agency states that the proposed amendments are the result of the Arkansas ACCESS Act of 2025. Does that Act explicitly repeal either the Military Dependents' Scholarship Program or Arkansas Code § 6-82-601, the law upon which the scholarship program is based? **RESPONSE:** The ACCESS Act does not repeal the Military Dependents' Scholarship Program, but the Arkansas Heroes Scholarship does replace it and no new scholarships are being awarded for the Military Dependents' Scholarship Program. Rather, students already receiving the scholarship will continue to receive the scholarship until their eligibility ends.

2) The agency sates that it anticipates the repeal of Arkansas Code § 6-82-601 and the corresponding Military Dependents' Scholarship rules during the next legislative session. In the event that the underlying law is not repealed, does the agency intend to maintain both these rules and the corresponding scholarship program? **RESPONSE:** The intent is to repeal this scholarship in the upcoming session, but in the event the repeal does not occur, the division will continue to implement the scholarship in accordance with the law.

The proposed effective date is December 1, 2026.

FINANCIAL IMPACT: The agency has indicated that the amended rule does not have a financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code § 6-82-601(c), the Arkansas Higher Education Coordinating Board and the State Board of Education are directed, authorized, and empowered to promulgate and adopt such rules as are necessary to implement the provisions of Arkansas Code § 6-82-601, which concerns tuition waiver for dependents of certain veterans.

The proposed rules implement Acts 2025, Nos. 340 and 341, § 79, identical acts sponsored by former Senator Jonathan Dismang and by Representative Matthew J. Shepherd, respectively, which created the Arkansas ACCESS Act and amended various provisions of the Arkansas Code as they relate to education in the State of Arkansas.

8. Department of Finance and Administration, Arkansas Racing Commission (Tim Frith)

a. Rules Governing Horse Racing in Arkansas, 23 CAR § 357-401. Jockeys

DESCRIPTION: The purpose of this rule is to allow for the Arkansas Racing Commission to approve the schedule of jockey mount fees in the event there is no specific agreement between the jockey and the horse owner. The rule is necessary to give the Commission the ability to set the jockey mount fee schedule with the input from interested parties prior to the commencement of racing season.

PUBLIC COMMENT: A public hearing was held on October 7, 2026. The public comment period expired on October 7, 2026. The agency provided the following public comment summary:

COMMENTER NAME: Mr. Skip Ebel, counsel for Oaklawn Jockey Club, Inc.

COMMENT: Mr. Ebel voiced support for the amendment to the rule.

RESPONSE: The Commission thanked Mr. Ebel for voicing his support for the amendment to the rule.

Camille Fleming, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

1. **QUESTION**. 23 CAR § 357-401(k)(1). This subdivision states that the commission will review and approve an applicable schedule of jockey mount fees prior to each racing season. Does the commission know how far in advance prior to the season that it plans to review and approve this schedule? **RESPONSE**: There is no set date. As of now, I am trying to work with Commission and its Commissioners to have a more consistent schedule. The goal is to have a "racing" meeting prior to the commencement of the season going forward to allow for racing business to be handled at that time. This of course will depend on the schedule approval and release date.

2. **QUESTION**. 23 CAR § 357-401(k)(1). Will the fee schedule be reviewed and approved at a public meeting? **RESPONSE**: Yes.

3. **QUESTION**. 23 CAR § 357-401(k)(1). This subdivision states that "In the event of disagreement between the organizations representing jockeys and horsemen regarding the applicable schedule of jockey mount fees, the Commission may set the applicable schedule of jockey mount fees for the racing season." Is there a deadline by which there must be an agreement between the jockeys and the horsemen before the commission may set the schedule? **RESPONSE**: There is no deadline, but as stated above, the "racing" meeting prior to the season (once approved), would likely function as the deadline.

4. **QUESTION**. Is it the Commission's belief that this rule satisfies the requirements of Arkansas Code § 25-15-105? This statute states that agencies assessing or imposing a fee or penalty shall promulgate them by rule (see Arkansas Code § 25-15-105(b)(2)(A)) unless that fee or penalty is set by statute (see Arkansas Code § 25-15-105(b)(2)(B)). **RESPONSE**: After reviewing the statute, it is my belief the rule meets the statutory requirements, as the jockey mount fee is not paid to the state.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this amended rule has no financial impact.

LEGAL AUTHORIZATION: Subject to the limitations and conditions as provided in the Arkansas Horse Racing Law, Arkansas Code § 23-110-101 et seq., or other applicable law, the Arkansas Racing Commission shall have sole jurisdiction over the business and the sport of horse racing in this state where the racing is permitted for any stake, purse, or reward. *See* Arkansas Code § 23-110-204(a). Furthermore, the commission shall have full, complete, and sole power and authority to promulgate rules. *See* Arkansas Code § 23-110-204(b)(1)(E). For the purpose of regulating its own procedure and carrying out its functions, powers, and duties, the commission shall have the authority from time to time to make, amend, and enforce all necessary or desirable rules not inconsistent with law. *See* Arkansas Code § 23-110-204(d).

9. Department of Health (Craig Smith, items a-h; Terry Paul, item a; Charles Bedell, item b; Paula Day, items c-e; Shane David, item f; Laura Bailey, item g; Jeff Jackson, item h)

a. Rules Pertaining to General Sanitation, 20 CAR pt. 131

DESCRIPTION: The proposed amendments to the Rules Pertaining to General Sanitation are pursuant to required updates to reflect changes based on Acts 2025, No. 314, and clarifying plan review language.

Detailed Summary of Changes:

1. 20 CAR § 131-106: Update language regarding plan review process.

2. 20 CAR § 131-111: Repealed section on "Sanitary infrastructure with municipal jurisdiction" to comply with Acts 2025, No. 314.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on August 3, 2026. The agency indicated that it received no comments.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

Q. 20 CAR § 131-106(b)(1) requires plans to be submitted to the department for review and approved by either "the department" or "another state agency with appropriate jurisdiction prior to the start of any construction." Does departmental approval also need to occur prior to the start of construction? **RESPONSE:** Approval from the approving agency (not always ADH) must be acquired before construction may start.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The State Board of Health has power "to make all necessary and reasonable rules of a general nature for: [t]he protection of the public health and safety; [and t]he general amelioration of the sanitary and hygienic conditions within the state[.]" Ark. Code Ann. § 20-7-109(a)(1).

This rule implements Act 314 of 2025. The Act, sponsored by Representative Justin Gonzales, amended the law concerning territorial jurisdiction of municipalities and repealed the authority for a municipality to exercise territorial jurisdiction over an unincorporated area of a county.

b. Rules for the State Kidney Disease Program, 20 CAR pt. 260

DESCRIPTION: The proposed amendments to the Rules for the Arkansas Kidney Disease Program are to enact changes from Acts 2025, No. 852, which for the purpose of efficiency converts the State Kidney Disease Commission into the State Kidney Disease Advisory Council.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on August 6, 2026. The agency indicated that it received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: This rule implements Act 852 of 2025. The Act, sponsored by Representative Ryan Rose, amended the State Kidney Disease Commission to be an advisory council to the Department of Health. The Act gave the Department of Health the authority, in consultation with the State Kidney Disease Advisory Council, to make rules for eligibility for financial assistance under the state kidney disease treatment assistance program. Ark. Code Ann. § 20-15-306, *as amended by* Act 852.

c. Rules for Freestanding Birthing Centers in Arkansas, 20 CAR pt. 44

DESCRIPTION: The proposed amendments to the Rules for Freestanding Birthing Centers in Arkansas are to: add allowance of electronic medical records (Act 141); allow private professional providers to complete building project review and approval (Act 591); allow facilities to ban emotional support animals (Act 819), and add definition of service animals and amend rule to comply with this definition.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on August 4, 2026. The agency indicated that it received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Health is required to promulgate rules establishing "minimum standards for the construction, maintenance, and operation of a freestanding birthing center[.]" Ark. Code Ann. § 20-9-403(a)(1). This rule implements Acts 141, 591, and 819 of 2025.

Act 141, sponsored by Senator Justin Boyd, permitted healthcare providers to maintain medical records in an electronic format.

Act 591, sponsored by Senator Joshua Bryant, amended the law concerning construction and development and allowed third parties to perform plan reviews and site inspections.

Act 819, sponsored by Representative Matt Brown, amended the law regarding emotional support animals, authorized a private property owner or business owner to ban an emotional support animal from the private property or the business premises, and regulated liability on private property related to emotional support animals.

d. Rules for Conducting Criminal History Record Checks for Home Health, Hospice, and Private Care Agencies in Arkansas, 20 CAR pt. 42

DESCRIPTION: The proposed amendments to the Rules for Conducting Criminal History Record Checks for Home Health, Hospice, and Private Care Agencies in Arkansas are to: add provisions allowing third-party evaluation services to conduct criminal history record checks and revising applicable

language throughout the rules (Act 674); and remove DHS DPSQA certification for PCAs (Act 853).

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on August 4, 2026. The agency indicated that it received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: A licensing or certifying agency shall cooperate with the Arkansas Crime Information Center and Arkansas State Police to "promulgate consistent rules as necessary to implement" Title 20, Chapter 38, Subchapter 1 of the Arkansas Code, regarding criminal background checks. The Department of Health has rulemaking authority regarding home healthcare services, personal care services, and hospice care. *See* Ark. Code Ann. §§ 20-7-117(b)(1)(B), 20-10-806(b)(1), and 20-10-2304(a).

This rule implements Acts 674 and 853 of 2025.

Act 674, sponsored by Representative Mary Bentley, amended the laws concerning criminal history records checks for employees of service providers, allowed third-party employee evaluation services to perform criminal history records checks, and included independent contractors.

Act 853, sponsored by Representative Jack Ladyman, removed the certification process of the Department of Human Services from licensure as a private care agency.

e. Rules for In Vitro Fertilization, 20 CAR pt. 48

DESCRIPTION: The proposed amendments are to implement changes pursuant to Acts 2025, No. 859, the Reproductive Empowerment and Support Through Optimal Restoration (RESTORE) Act, and to align provisions with current practices and utilization of electronic medical records.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on August 4, 2026. The agency indicated that it received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Health may promulgate rules as necessary to accomplish the purposes of Arkansas Code §§ 20-9-201 to -223, regarding health facilities services. Ark. Code Ann. § 20-9-205(b). The Department also has general rulemaking authority for protection of the public health and safety and suppression and prevention of infectious, contagious, and communicable diseases. Ark. Code Ann. § 20-7-109(a)(1)(A), (C). This rule implements Acts 141 and 859 of 2025.

Act 141, sponsored by Senator Justin Boyd, permitted healthcare providers to

maintain medical records in an electronic format.

Act 859, sponsored by Representative Alyssa Brown, created the Reproductive Empowerment and Support Through Optimal Restoration (RESTORE) Act.

f. Public Access to Epinephrine, 20 CAR pt. 201

DESCRIPTION: The proposed amendments to the Public Access to Epinephrine rules are to clarify the types of epinephrine for use by authorized entities and expand on health professionals who can issue certificates pursuant to Act 245 of 2025.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on August 2, 2026. The agency indicated that it received no comments.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

Q. Section 201-102(5) states that epinephrine includes auto-injectable and nasal spray. These are the same forms listed in Act 245, but Act 245 states that epinephrine "only includes" these items. Is there a reason the word "only" was not included in the rule? **RESPONSE:** We can correct the draft to include "only" to match the Act.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The State Board of Health has power "to make all necessary and reasonable rules of a general nature for the protection of the public health and safety[.]" Ark. Code Ann. § 20-7-109(a)(1). This rule implements Act 245 of 2025, sponsored by Representative Zack Gramlich. The Act clarified the types of epinephrine for use in elementary and secondary schools in this state.

g. Arkansas Rules for Breath Alcohol Ignition Interlock Devices, 5 CAR pt. 21

DESCRIPTION: The proposed amendments to the rules are to implement changes pursuant to Act 841 of 2025 regarding requirements for approval of devices and to update to industry standards.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on August 14, 2026. The agency provided a public comment report which, due to its length, is attached separately.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Health "shall adopt rules for the certification of . . . ignition interlock devices and ignition interlock device installation." Ark. Code Ann. § 5-65-118(f)(1)(C).

This rule implements Act 841 of 2025. The Act, sponsored by Representative

Dwight Tosh, amended the law concerning the use of an ignition interlock device and provided for the extension of the mandatory period for the use of an ignition interlock device.

h. Rules for Food Establishments (Concerning 20 CAR pts. 190, 191, 192, 193, 194, 195, 196, 197)

DESCRIPTION: The proposed amendments are to comply with Acts 2025, Nos. 125 and 698, regarding sale of raw milk, changes to the Federal Food, Drug, and Cosmetic Act, and recommended changes to comply with the Code of Arkansas Rules.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on September 30, 2026. The agency provided the following comment summary:

Commenter's Name: Renee Smith, Arkansas Hospitality Association

COMMENT: Believe it or not, I have read the Arkansas Food Code draft you sent and it looks great! I'm happy it follows so closely to the FDA food code. This will surely help me teach the ServSafe classes. When do you expect it to be live? **RESPONSE:** Proceed to adoption.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

Q. The questionnaire says that these rules are promulgated in response to two acts regarding raw milk, but I don't see anything in the changes related to raw milk. Were there changes made related to raw milk that the Department decided not to go forward with, or are the wrong act numbers listed, or am I missing something? **A.** The changes didn't speak directly to raw milk, but the changes below were directed at that legislation and to apply to any food that did not require a license, as similarly done under the Food Freedom Act to keep the food types separate.

Here are all changes made that were due to raw milk legislation:

20 CAR 192-302

Amended paragraph (A)(i) to add subparagraph (c):"Fruits and vegetables before they are washed" to the list of foods that need to be separated from raw meats.

Renumbered former paragraph (A)(ii) to new paragraph (A)(i)(d).

Added paragraph (1)(I) to require separation of lawfully manufactured foods without regulatory inspection from foods that have been produced, prepared, or distributed under regulatory inspection.

Amended paragraph (e)(2) and (3) to include reference for the use of Produce Wash testing devices.

20 CAR 192-601

Added paragraph (b)(3) to require honest presentation by separating lawfully manufactured foods without regulatory inspection from foods that have been produced, prepared, or distributed under regulatory inspection.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that these rules have no financial impact.

LEGAL AUTHORIZATION: The State Board of Health has authority to promulgate rules regarding the enforcement of the Arkansas Food, Drug, and Cosmetic Act and to make such rules "conform, insofar as practicable, with those promulgated under the Federal Food, Drug, and Cosmetic Act." Ark. Code Ann. § 20-56-219(a). The Board also has authority to promulgate reasonable rules and define and establish standards for dairy products included in Arkansas Code Title 20, Chapter 59, Subchapter 2, regarding the regulation of manufacture and sale of dairy products. Ark. Code Ann. § 20-59-204(b).

This rule is promulgated in response to Acts 125 and 698 of 2025. Act 125, sponsored by Representative Cameron Cooper, amended the law concerning the incidental sale of goat milk, sheep milk, and whole milk that has not been pasteurized and clarified that the incidental sale of raw milk is not limited to a sale on the farm. Act 698, sponsored by Senator Alan Clark, amended the laws concerning sales of raw milk and allowed sales of raw milk and raw milk products at locations other than the farm where the raw milk or raw milk product is produced.

D. Agency Updates on the Status of Outstanding Rulemaking from the 2023 Regular Session Pursuant to Act 595 of 2021

1. Department of Education

Rules Outstanding as of November 1, 2026, as Reported and Updated by the Agency

Arkansas State Library

- Rules Governing the Standards for State Aid to Public Libraries (Act 566 of 2023, § 11)
    - Rulemaking regarding Act 566 of 2023 was temporarily suspended due to the passage of Act 903 of 2025. The rule has completed a second round of public comment and will be considered for final approval at the November 13, 2026 meeting of the State Library Board.

Division of Career and Technical Education

- Rules Governing Grading and Course Credit (Act 654 of 2025, § 4)
    - This rule has completed a third round of public comments and will be considered for final approval at the November 12, 2026 meeting of the State Board of Education.

Division of Elementary and Secondary Education

- Rules Governing School District Waivers (Act 347 of 2023, § 1)
    - The agency has redrafted this rule due to the enactment of Act 304 of 2025. The State Board of Education will consider releasing this rule for public comment at its November 12, 2026 meeting.

- Rules Governing Grading and Course Credit (Act 654 of 2023, §§ 2, 4)
    - This rule has completed a third round of public comments and will be considered for final approval at the November 12, 2026 meeting of the State Board of Education.

State Board of Education

- Rules Governing Public Charter Schools (Act 237 of 2023, § 49)
    - The agency has redrafted this rule due to the enactment of Act 800 of 2025. The State Board of Education will consider releasing this rule for public comment at its November 12, 2026 meeting.

E. Agency Updates on the Status of Outstanding Rulemaking from the 2025 Regular Session Pursuant to Act 595 of 2021[1]

1. Arkansas Department of Transportation

2. Arkansas Public Service Commission

3. Department of Agriculture

4. Department of Commerce, Arkansas Economic Development Commission*

5. Department of Commerce, State Insurance Department

6. Department of Corrections

7. Department of Education

8. Department of Energy and Environment

9. Department of Finance and Administration

10. Department of Health

11. Department of Human Services

12. Department of Labor and Licensing

13. State Board of Finance

F. Adjournment

[1] An asterisk (*) denotes that no written November 1 update was received.