

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Little Rock, Arkansas 72201-1094
(501) 682-5070
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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
BOARD/COMMISSION _____
BOARD/COMMISSION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ EMAIL _____
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Proposed Rulemaking

Title

Promulgated by:
Department of Commerce
Arkansas Economic Development Commission

~~Title 15. Natural Resources and Economic Development~~

~~Chapter VIII. Arkansas Economic Development Commission, Department of
Commerce~~

~~Subchapter C. Community Development Grants~~

~~Part 183. Minority Business Enterprise and Women Owned Business~~

~~Enterprise Certification Program~~

~~Subpart 1. Generally~~

~~— 15 CAR § 183-101. Definitions.~~

~~— As used in this part:~~

~~— (1) "Minority" means a lawful permanent resident of the State of Arkansas who
is:~~

~~— (A) African American;~~

~~— (B) American Indian;~~

~~— (C) Asian American;~~

~~— (D) Hispanic American;~~

~~— (E) Pacific Islander American; or~~

~~— (F) A service disabled veteran as designated by the United States
Department of Veterans Affairs;~~

~~— (2) "Minority and Women-owned Business Advisory Council" means the
appointed council of advisors to the Division of Minority and Women-owned Business~~

DRAFT

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~~Enterprise whose duties and responsibilities are delineated under Arkansas Code § 15-4-307;~~

~~———(3) "Minority business enterprise" means a business that is at least fifty-one percent (51%) owned by one (1) or more minority persons; and~~

~~———(4) "Women-owned business enterprise" means a business that is at least fifty-one percent (51%) owned by one (1) or more women who are lawful permanent residents of this state.~~

~~———**15 CAR § 183-102. Eligible applicants.**~~

~~———(a) To be eligible for certification, applicants must:~~

~~———(1) Meet the definition of:~~

~~———(A) Minority business enterprise; or~~

~~———(B) Women-owned business enterprise;~~

~~———(2) Provide proof of legal organization as a for-profit business entity in good standing with the appropriate governmental agency;~~

~~———(3) Verify minority or women majority ownership, operation, and management of the business, as applicable, based upon the type of certification requested;~~

~~———(4) Submit a completed minority business enterprise/women-owned business enterprise application with all required attachments demonstrating the firm's capacity to conduct business with the State of Arkansas (see Appendix); and~~

~~———(5) Demonstrate that the business's annual revenues are less than ten million dollars (\$10,000,000).~~

~~———(b) Eligible minority and women-owned enterprises that are actively certified with any of the following organizations may qualify for a streamlined application by submitting the completed application and proof of certification from the qualifying organization:~~

~~———(1) Southern Region Minority Supplier Development Council (MBE);~~

~~———(2) Small Business Administration 8(a) Business Development Program;~~

~~———(3) Arkansas Department of Transportation (DBE);~~

~~———(4) Women's Business Council—Southwest (WBE); and~~

~~—————(5) United States Department of Veterans Affairs (SDVOSB).~~

~~—————15 CAR § 183-103. Certification benefits.~~

~~—————(a) Although certification is not a requirement for contracting for goods and services with the State of Arkansas, certified minority business enterprises (CMBE) and certified women-owned business enterprises (CWBE) will enjoy several benefits which include:~~

~~—————(1) Notification of opportunities to conduct business with state agencies;~~

~~—————(2) Notification of:~~

~~—————(A) Training events;~~

~~—————(B) Workshops;~~

~~—————(C) Networking events; and~~

~~—————(D) Educational opportunities;~~

~~—————(3) Designation as a CMBE or CWBE in the Division of Minority and Women-owned Business Enterprise's online directory;~~

~~—————(4) Issuance of an official CMBE or CWBE certificate; and~~

~~—————(5) A streamlined certification process.~~

~~—————(b) The State Procurement Director, state agency procurement agents, college and university procurement officials, MBE, WBE, constitutional officers, and minority business officers will be notified of businesses which are CMBE or CWBE.~~

~~—————15 CAR § 183-104. Certification process.~~

~~—————(a) To request certification, eligible applicants shall, using forms prescribed by the Division of Minority and Women-owned Business Enterprise, submit a completed, signed application with all supporting documentation listed in the Appendix.~~

~~—————(b) The division shall review the application for completeness to determine that:~~

~~—————(1) All required eligibility, fiscal, managerial, and organizational documentation and attachments have been submitted;~~

~~—————(2) The applicant meets the definition of:~~

~~—————(A) Minority business enterprise; or~~

~~—————(B) Women-owned business enterprise;~~

~~—————(3) The applicant has provided proof of legal organization as a for-profit business entity in good standing with the appropriate governmental agency;~~

~~—————(4) There is sufficient documentation to verify minority or woman majority ownership, operation, and management of the business, as applicable, based upon the type of certification requested; and~~

~~—————(5) All customer business references have been verified.~~

~~———(c) The division may:~~

~~—————(1) Schedule a precertification interview/site visit with the applicant; and~~

~~—————(2) Examine vendor agreements, invoices, partnership agreements, and articles of incorporation that relate to business with the State of Arkansas.~~

~~———(d) The division shall also include as an integral component of the ongoing certification program:~~

~~—————(1) An education program to assist minority business enterprises and women-owned business enterprises in achieving certification; and~~

~~—————(2) Outreach to ensure the broadest possible participation of:~~

~~—————(A) Minority business enterprises and women-owned business enterprises;~~

~~and~~

~~—————(B) Persons proposing new minority business enterprises or women-owned business enterprises.~~

~~———(e) Eligible minority and women-owned firms, as defined herein, enterprises that are actively certified with any of the following organizations may qualify for a streamlined application by submitting the completed application and proof of certification from the qualifying organization:~~

~~—————(1) Southern Region Minority Supplier Development Council (MBE);~~

~~—————(2) Small Business Administration 8(a) Business Development Program;~~

~~—————(3) Arkansas Department of Transportation (DBE);~~

~~—————(4) Women's Business Council – Southwest (WBE); and~~

~~—————(5) United States Department of Veterans Affairs (SDVOSB).~~

~~—— **15 CAR § 183-105. CMBE and CWBE operations.**~~

~~—— (a) CMBE and CWBE are subject to periodic reviews by the Division of Minority and Women-owned Business Enterprise.~~

~~—— (b) It is mandatory to report any change in the status of the business affecting the ability to meet product demand or any change in ownership, with a notarized Notice of Change Affidavit.~~

~~—— (c) All business transactions, including billing and the remittance of such, must be conducted under the name appearing on the MBE or WBE certificate.~~

~~—— **15 CAR § 183-106. Recertification.**~~

~~—— (a)(1) CMBEs and CWBEs are required to recertify every two (2) years.~~

~~—— (2) To initiate recertification, CMBEs and CWBEs shall send a Recertification Affidavit to the Division of Minority and Women-owned Business Enterprise thirty (30) days prior to their current expiration date stating their desire to maintain certification.~~

~~—— (b) The affidavit:~~

~~—— (1) Shall state that the business enterprise continues to be fifty one percent (51%):~~

~~—— (A) Minority owned, operated, and managed; or~~

~~—— (B) Women owned, operated, and managed; and~~

~~—— (2) Must be signed by the:~~

~~—— (A) Owner;~~

~~—— (B) Executive officer; and~~

~~—— (C) Chair of its board of directors, if applicable.~~

~~—— **15 CAR § 183-107. Revocation.**~~

~~—— (a)(1) The Director of the Division of Minority and Women-owned Business Enterprise has the authority to suspend, revoke, or both, the certification of any business which fails to comply with the rules of this program.~~

~~—— (2) Any business with a revoked certification will be ineligible to reapply to the program for a period of two (2) years.~~

~~—(b) Prior to revocation of an MBE or WBE certification under this part, the MBE or WBE shall be afforded an opportunity to discuss with the director the issues which have given rise to the revocation.~~

~~—15 CAR § 183-108. Appeals.~~

~~—(a)(1) Any applicant that is denied its request for certification or recertification because it was unable to prove its minority-owned or women-owned status may appeal the decision to the Minority and Women-owned Business Advisory Council.~~

~~—(2) A written notice of appeal must be received no more than thirty (30) days after the date of the notice of denial.~~

~~—(3) The council shall meet to hear the appeal within forty five (45) days of receipt of the written notice.~~

~~—(b)(1) Certified businesses may appeal a revocation action to the council.~~

~~—(2) A written notice of appeal must be received within thirty (30) days after the date on the notice of the revocation.~~

~~—(3) The council shall meet to hear the appeal within forty five (45) days of receipt of the written notice.~~

~~—15 CAR § 183-109. Contact information.~~

~~—For more information, please contact:~~

~~—Arkansas Economic Development Commission~~

~~—Division of Minority and Women-Owned Business Enterprise~~

~~—1 Commerce Way, Suite 601~~

~~—Little Rock, AR 72202~~

~~—(501) 682-1121~~

~~Appendix A. List of Documents~~

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/55/15CARpt.183Appendix.pdf>



Hugh McDonald
SECRETARY OF COMMERCE
Clint O'Neal
EXECUTIVE DIRECTOR,
ARKANSAS ECONOMIC
DEVELOPMENT COMMISSION

DATE: September 26, 2025
TO: All Interested Persons
FROM: Arkansas Economic Development Commission
SUBJECT: Proposed Repeal of the Minority Business Enterprise and Women-Owned Business Enterprise Certification Program Rules

NOTICE OF PUBLIC HEARING

Please find attached or available by electronic publication by the Arkansas Economic Development Commission's (the "AEDC") proposed repeal of its Minority Business Enterprise and Women-Owned Business Enterprise Certification Program Rules.

Pursuant to the Arkansas Administrative Procedures Act, and all other applicable statutes or rules, NOTICE is hereby given that a PUBLIC HEARING will be held on October 15th, 2025, at 10 a.m. in the Diamond Mine Room on the second floor of the offices of the Arkansas Department of Commerce, 1 Commerce Way, Little Rock, AR 72202.

The purpose of the Public Hearing will be to determine whether the AEDC should repeal the existing program rules. AEDC is proposing the repeal in order to maintain compliance with Act 116, which was enacted during the 2025 Regular Session.

All interested persons are encouraged to send their comments, statements, or opinions to the address below or to attend the Public Hearing and present, orally or in writing, statements, arguments, or opinions on the proposed amendments. The record will remain open for public comment until the close of the 30-day period outlined in the Arkansas Administrative Procedures Act; in this instance, October 28th, 2025.

Persons who wish to testify or make comments are requested to submit intended statements in writing in advance of the Public Hearing. Inquiries should be directed to: Jake Windley, Director of Legislative Affairs & Policies, Arkansas Department of Commerce, 501-682-5355, email: jake.windley@arkansas.gov. A copy of the proposed amendments may be obtained or viewed at <https://www.arkansasedc.com/data-reports/rules>.

Sincerely,

A handwritten signature in blue ink that reads "Jake Windley".

Jake G. Windley
Director of Legislative Affairs & Policies
Arkansas Department of Commerce



Hugh McDonald
SECRETARY OF COMMERCE
Clint O'Neal
EXECUTIVE DIRECTOR,
ARKANSAS ECONOMIC
DEVELOPMENT COMMISSION

Executive Summary

The Arkansas Economic Development Commission (the “AEDC”) is proposing to repeal its existing Minority Business Enterprise and Women-Owned Business Enterprise Certification Program Rules. AEDC maintains that the proposed repeal is necessary to maintain compliance with Act 116, enacted during the 2025 Regular Session. Specifically, the rule repeal is necessary to maintain compliance with Ark. Code Ann. § 25-1-130, which prohibits the state from engaging in discrimination or preferential treatment on the basis of sex, race, ethnicity, or national origin. The repeal of this rule serves to maintain statutory compliance and limit AEDC’s liability.