

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
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Little Rock, Arkansas 72201-1094  
(501) 682-5070  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



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 \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_


Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

## **AR-224 Tobacco**

### **Summary**

This is an existing rule that is being revised in order to capture organizational changes resulting from the Transformation and Efficiencies Act of 2019. In 2000 the Board of Corrections made all facilities and offices of the Divisions of Correction and Community Correction tobacco free. This policy was implemented in recognition of the health risks associated with tobacco use. The rule is being amended to extend that policy to apply to electronic cigarettes, the use of which is commonly referred to as “vaping.” This change is being proposed in recognition of the potential health risks from “vaping.”

 <p style="text-align: center;"><b>ADMINISTRATIVE RULE</b></p> <p style="text-align: center;"><b>STATE OF ARKANSAS</b></p> <p style="text-align: center;"><b>BOARD OF CORRECTIONS</b></p>	Section Number: <u>ADC-, 224</u> <u>ACC- 4.7</u>	Page Number: 1 of 1
	Board Approval Date:	
	Supersedes: ADC 224	Dated: <u>1/17/2000</u>
	Reference:	Effective Date:
<b>SUBJECT: Tobacco <u>and Smoke Free Policy</u></b>		

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**I. AUTHORITY:**

The Board of Corrections (Board) is vested with the authority to promulgate this Administrative Rule by Ark. Code Ann. § 25-43-401.

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**II. APPLICABILITY:**

All Department of Corrections (Department) offenders, employees, contract staff, volunteers, vendors, visitors, and any other persons on Department owned or leased property.

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16-93-1205 (Michie Supp. 1997).

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**III. DEFINITIONS:**

A. Tobacco Products – Any smoking or smokeless tobacco product.

B. Electronic Cigarettes – A cigarette-shaped device containing a nicotine-based liquid that is vaporized and inhaled, used to simulate the experience and effect of smoking tobacco.

C. Offenders – Inmates, parolees, and probationers; in addition to residents in a community correction center or reentry center.

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¶ Effective January 17, 2000, it is the policy of the BCCP that Departments shall provide a tobacco-free environment for the health and safety of all staff and offenders. The departments shall develop administrative directives to implement this policy....

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¶ A. **Tobacco Products** – Any smoking or smokeless tobacco product. ¶

¶ B. **Offenders** – Inmates and residents incarcerated or confined in Department correctional facilities and jails. ¶

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**IV. POLICY:**

It is the policy of the Board that the Department shall provide a tobacco and smoke-free environment for the health and safety of all staff and offenders. This prohibition includes electronic cigarettes and applies to all facilities, offices, and vehicles owned or leased by the Department. The Secretary of the Department of Corrections shall develop any necessary policy to implement this Administrative Rule.

 <p style="text-align: center;"><b>ADMINISTRATIVE RULE</b></p> <p style="text-align: center;"><b>STATE OF ARKANSAS</b></p> <p style="text-align: center;"><b>BOARD OF CORRECTIONS</b></p>	<b>Section Number:</b> <b>ADC- 224</b> <b>ACC- 4.7</b>	<b>Page Number:</b> <b>1 of 1</b>
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	<b>Reference:</b>	<b>Effective Date:</b>
<b>SUBJECT: Tobacco and Smoke Free Policy</b>		

**I. AUTHORITY:**

The Board of Corrections (Board) is vested with the authority to promulgate this Administrative Rule by Ark. Code Ann. § 25-43-401.

**II. APPLICABILITY:**

All Department of Corrections (Department) offenders, employees, contract staff, volunteers, vendors, visitors, and any other persons on Department owned or leased property.

**III. DEFINITIONS:**

- A. **Tobacco Products** – Any smoking or smokeless tobacco product.
- B. **Electronic Cigarettes** – A cigarette-shaped device containing a nicotine-based liquid that is vaporized and inhaled, used to simulate the experience and effect of smoking tobacco.
- C. **Offenders** – Inmates, parolees, and probationers; in addition to residents in a community correction center or reentry center.

**IV. POLICY:**

It is the policy of the Board that the Department shall provide a tobacco and smoke-free environment for the health and safety of all staff and offenders. This prohibition includes electronic cigarettes and applies to all facilities, offices, and vehicles owned or leased by the Department. The Secretary of the Department of Corrections shall develop any necessary policy to implement this Administrative Rule.

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

**DEPARTMENT/AGENCY** Department of Corrections

**DIVISION** Secretary's Office

**DIVISION DIRECTOR** Secretary Solomon Graves

**CONTACT PERSON** Lindsay Wallace

**ADDRESS** 1302 Pike Avenue, Little Rock, AR 72114

**PHONE NO.** 501-682-3309 **FAX NO.** 501-537-3958 **E-MAIL** Lindsay.Wallace@arkansas.gov

**NAME OF PRESENTER AT COMMITTEE MEETING** Lindsay Wallace

**PRESENTER E-MAIL** Lindsay.Wallace@arkansas.gov

**INSTRUCTIONS**

- A.** Please make copies of this form for future use.
- B.** Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C.** If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D.** Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

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- 1. What is the short title of this rule? AR 224 Tobacco
- 2. What is the subject of the proposed rule? In 2000 the Board of Corrections made all facilities and offices of the Divisions of Correction and Community Correction tobacco free. This rule was implemented in recognition of the health risks associated with tobacco use. The rule is being amended to extend that policy to apply to electronic cigarettes, the use of which is commonly referred to as "vaping." This change is being proposed in recognition of the potential health risks from "vaping."
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes\_\_ No **X**  
If yes, please provide the federal rule, regulation, and/or statute citation. \_\_\_\_\_
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes\_\_ No **X**  
If yes, what is the effective date of the emergency rule? \_\_\_\_\_  
When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes \_\_\_\_\_ No \_\_\_\_\_

5. Is this a new rule? Yes \_\_\_\_\_ No X If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes \_\_\_\_\_ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes \_\_\_\_\_ No X If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A 25-43-401
7. What is the purpose of this proposed rule? Why is it necessary? In 2000 the Board of Corrections made all facilities and offices of the Divisions of Correction and Community Correction tobacco free. This rule was implemented in recognition of the health risks associated with tobacco use. The rule is being amended to extend that policy to apply to electronic cigarettes, the use of which is commonly referred to as "vaping." This change is being proposed in recognition of the potential health risks from "vaping."
8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). DOC.Arkansas.gov
9. Will a public hearing be held on this proposed rule? Yes \_\_\_\_\_ No X  
If yes, please complete the following:  
Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Place: \_\_\_\_\_
10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
June 10, 2021
11. What is the proposed effective date of this proposed rule? (Must provide a date.)  
TBD
12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. Attached
13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). Attached
14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. None Known

## FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Corrections

DIVISION Office of the Secretary

PERSON COMPLETING THIS STATEMENT Tameca Williams

TELEPHONE NO. 870-267-6345 FAX NO. 870-267-6373 EMAIL: Tameca.Williams@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE AR 224 Tobacco

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

If an agency is proposing a more costly rule, please state the following: **N/A**

(a) How the additional benefits of the more costly rule justify its additional cost; **N/A**

(b) The reason for adoption of the more costly rule; **N/A**

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and **N/A**

(d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain. **N/A**

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? **N/A**

### Current Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$0 \_\_\_\_\_

### Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$0 \_\_\_\_\_

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

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$0 \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$0 \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected. N/A

**Current Fiscal Year**

\$0 \_\_\_\_\_

**Next Fiscal Year**

\$0 \_\_\_\_\_

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6. What is the total estimated cost by fiscal year to state, county, and 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**

\$0 \_\_\_\_\_

**Next Fiscal Year**

\$0 \_\_\_\_\_

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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 X

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.