

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State
Mark Martin

500 Woodlane, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency _____

Department _____

Contact _____ E-mail _____ Phone _____

Statutory Authority for Promulgating Rules _____

Rule Title: _____

Intended Effective Date

(Check One)

Date

- | | | |
|--|---------------------------------------|-------|
| <input type="checkbox"/> Emergency (ACA 25-15-204) | Legal Notice Published | _____ |
| <input type="checkbox"/> 10 Days After Filing (ACA 25-15-204) | Final Date for Public Comment | _____ |
| <input type="checkbox"/> Other _____
(Must be more than 10 days after filing date.) | Reviewed by Legislatice Council | _____ |
| | Adopted by State Agency | _____ |

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

Phone Number

E-mail Address

Title

Date

Arkansas Division of Higher Education
Rules Governing The Arkansas Governor's Scholars Program
(Effective Date: May 2, 2022)

Policy Statement

A scholarship program to promote academic excellence and to encourage the state's most talented graduates to enroll in Arkansas postsecondary educational institutions is created and established which shall be cited as the Arkansas Governor's Scholars Program. These rules shall be known as the Arkansas Division of Higher Education Rules Governing the Arkansas Governor's Scholars Program. This policy addresses the student eligibility criteria, method for recipient selection, and continuing eligibility requirements procedures for making payments to an approved institution of higher education and other administrative procedures necessary for operation of the program.

Applicable Arkansas Code

Arkansas Code Annotated § 6-82-301 et. Seq.

Definitions

- (1) "Academic ability" means the intellectual standing of a student. In determining superior academic ability, the Division of Higher Education shall examine the student's high school records, competitive examination scores, and demonstrated leadership capabilities;
- (2) "Academic Year" means fall, spring, first and second summer semesters in that order, or as defined by the Division of Higher Education;
- (3) "Approved institution" means a public or private college or university:
 - (A) Which is dedicated to educational purposes, located in Arkansas, or located out of state and educating Arkansas residents in dentistry, optometry, veterinary medicine, podiatry, chiropractic, or osteopathy under agreement with the Board of Control for Southern Regional Education, accredited by an accrediting agency certified and recognized by the United States Department of Education or the Division of Agency Evaluation and Institutional Accreditation, or a school giving satisfactory assurance that it has the potential for accreditation and is making progress which, if continued, will result in its achieving accreditation;
 - (B) Which does not discriminate in the admission of students on the basis of race, color, religion, sex, or national origin; and
 - (C) Which subscribes to the principle of academic freedom;

- (4) "Arkansas resident" means a natural person who provides evidence deemed sufficient by the Division of Higher Education. Such evidence includes but is not limited to a valid Arkansas voter's registration card; valid Arkansas motor vehicle driver's license; Arkansas residence address used for federal or state tax purposes; or claims Arkansas as a residence to hold public office or for judicial actions;
- (5) "Competitive examination" means a standardized examination measuring achievement which is administered annually on a specified date and at a specified location and which is announced publicly;
- (6) "Division" means the Division of Higher Education;
- (7) "Eligible student" means a resident of the State of Arkansas as defined by the Division of Higher Education who:
- (A) Is eligible for admission as a full-time student;
 - (B) Declares an intent to matriculate in an approved institution in Arkansas; and
 - (C) Graduates from:
 - (i) A high school in this state, for Arkansas Governor's Scholars; or
 - (ii) A high school, for Arkansas Governor's Distinguished Scholars;
- (8) (A) "Extraordinary academic ability" means:
- (i) Achievement of a superscore of 32 or above on the American College Test (ACT) or a score of 1410 or above on the Scholastic Aptitude Test (SAT); and
 - (ii) (a) Achievement of a high school grade point average of 3.5 or above on a 4.0 scale; or
 - (b) Selection as a finalist in either the National Merit Scholarship competition, the National Hispanic Recognition Program, or the National Achievement Scholarship competition conducted by the National Merit Scholarship Corporation.
- (B) The American College Test superscores and Scholastic Aptitude Test scores shall be earned by December 31 prior to the application deadline in order for the scores to be considered by the division for a scholarship award;
- (9) "Full-time student" means a resident of Arkansas who is in attendance at an approved private or public institution and who is enrolled in at least twelve (12) credit hours the first semester and fifteen (15) hours thereafter, or other reasonable academic equivalent as defined by the division;

- (10) "Part-time student" means a resident of Arkansas who is in attendance at an approved private or public institution and who is enrolled in less than fifteen (15) credit hours for their fourth academic year;
- (11) "Scholarship" means an award to an eligible student for matriculation in an approved institution in the State of Arkansas;
- (12) "Undergraduate student" means an individual who is enrolled in a postsecondary educational program, which leads to or is directly creditable toward the individual's first baccalaureate degree;
- (13) "U.S. Citizen" means the student must be either a United States citizen or a permanent resident alien. If the student is not a United States citizen, but a permanent resident alien, the student must attach a copy of the permanent resident alien form I 151, I 551, I 94, or G 641 to the application.

Procedures

Organization and Structure

The Arkansas Division of Higher Education shall administer the Governor's Scholars Program within the policies set by the Arkansas Higher Education Coordinating Board. All formal communications shall be addressed to or signed by the Director of the Arkansas Division of Higher Education or his/her designee. The Governor's Scholars Advisory Council shall provide advice to the Division of Higher Education regarding the administration of the program.

Governor's Scholars Program Advisory Council

- A. The Governor's Scholars Program Advisory Council shall consist of ten members appointed by the Arkansas Higher Education Coordinating Board for staggered two-year terms and shall represent the public and private sectors of post-secondary education and secondary schools.
- B. The Governor's Scholars Program Advisory Council shall advise the Arkansas Division of Higher Education in the determination of guidelines and regulations for the administration of this program.
- C. The Director of the Arkansas Division of Higher Education or his/her-designee shall serve as presiding officer of the Governor's Scholars Program Advisory Council and shall ensure that staff services for the Council are provided.

The final responsibility for selecting scholarship recipients shall rest with the Director of the Arkansas Division of Higher Education pursuant to the provisions of Arkansas Code Annotated § 6-82-301 et. Seq.

When functioning under Arkansas Code Annotated § 6-82-301 et. Seq., the Arkansas Division of Higher Education shall follow the provisions of the Administrative Procedure Act.

Eligibility Criteria

(a) The Arkansas Governor's Scholars Program scholarships are to be awarded to those students who demonstrate the highest capabilities for successful college study.

(b) A student is eligible for this scholarship if he or she:

- (1) Meets the admission requirements and is accepted for enrollment as a full-time undergraduate student in an eligible public or private college or university in Arkansas;
- (2) (A) Is a bona fide resident of the state, as defined by the Division of Higher Education, and is either:
 - a. A citizen of the United States or a permanent resident alien;
 - b. The holder, or the child of a holder, of a Federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document, known popularly as a "work permit"; or
 - c. A person who is a migrant from the Compact of Free Association Islands
- (3) Graduates from a high school;
- (4) Completes and submits to the U.S. Department of Education a Free Application for Federal Student Aid (FAFSA) or a subsequent application required by the U.S. Department of Education for federal financial aid;
- (5)(A) Satisfies the qualifications of superior academic ability as established by the Division of Higher Education with criteria consisting of value points for academic achievement and leadership, including without limitation:
 - (i) American College Test (ACT) or Scholastic Aptitude Test (SAT) score, National Merit Finalist, or National Achievement Finalist;
 - (ii) High school grade point average;
 - (iii) Rank in high school class; and
 - (iv) Leadership in school, community, and employment.
- (B) (i) The Division of Higher Education may alter the weight assigned to the individual criterion to more appropriately meet the needs of the state as determined by the Arkansas Higher Education Coordinating Board.

Value points assigned to each selection criterion are weighted as follows:

American College Test (ACT) or Scholastic Aptitude Test (SAT) score, National Merit Finalist,

or National Achievement Finalist -----	45%
High school grade point average -----	35%
Rank in high school class -----	10%
Leadership in school, community, and employment -----	10%

(ii) The Division of Higher Education shall ensure that the weight assigned to each individual criterion under this subdivision (b)(5)(B) does not place a home-schooled, public school, or private school student at a disadvantage.

(iii) (a) After determining qualified recipients based on the qualifications under subdivision (b)(5)(A) of this section, the Division of Higher Education shall ensure that at least one (1) recipient is selected from each of the seventy-five (75) counties in Arkansas.

(b) If any of the seventy-five (75) counties is not represented, the Division of Higher Education shall select a student from each nonrepresented county with the highest qualifications under subdivision (b)(5)(A) of this section who was not initially qualified.

(c) The scholarship shall be weighed on the factors of achievement, ability, and demonstrated leadership capabilities.

(d) Students who are selected as Arkansas Governor's Scholars who also exhibit extraordinary academic ability as defined in the definitions section of this rule shall be designated as Arkansas Governor's Distinguished Scholars.

(e) Preference will be given to students who plan to enter college at the beginning of the academic year directly following their last year of high school attendance.

Continued Eligibility

(a) An Arkansas Governor's Scholarship or Arkansas Governor's Distinguished Scholarship may be awarded annually for a period not to exceed an academic year.

(b)(1) A scholarship shall correspond to academic terms, semesters, quarters, or equivalent time periods at the eligible institutions.

(2) In no instance may the entire amount of the grant for an educational year be paid to or on behalf of students in advance.

(c) Provided sufficient funds are available, a scholarship shall be awarded for one (1) academic year and renewed annually for three (3) additional academic years if the following conditions for renewal are met:

(1) The student maintains not less than a 3.0 grade point average on a 4.0 scholastic grading scale;

- (2) A student receiving a scholarship under the Scholarship Amounts subsection (a) maintains not less than a 3.25 grade point average on a 4.0 scholastic grading scale;
- (3) The recipient has successfully completed a total of at least twenty-seven (27) hours during the first full academic year and, if applicable, a total of at least thirty (30) hours per academic year thereafter; and
- (4) The recipient has met any other continuing eligibility criteria established by the Division of Higher Education.
- (5) If a student who has continuously been a recipient of the scholarship for at least three (3) consecutive years is enrolled as a part-time student in the student's fourth academic year, the student shall be eligible to continue to receive the scholarship if the student has completed, by his or her fourth academic year, or is enrolled in, for his or her fourth academic year, the requisite number of credit hours to complete the student's degree program.

Application

Students must submit an on-line application, available at the ADHE website <http://scholarships.adhe.edu/>.

The application deadline shall be established by the Division of Higher Education of the calendar year in which a student graduates from high school. At its discretion, the Division of Higher Education may extend the deadline, provided sufficient notice is provided to the public. The applicant is responsible for submitting the application and all supporting documentation in a timely manner.

Number of Scholarships

- (a) If sufficient funds are available, effective for students receiving their initial awards beginning in fall 2007, the number of initial scholarship awards to eligible high achievers shall not exceed three hundred seventy-five (375) each year.
- (b) If there are more eligible applicants than available scholarships, the division may determine a procedure for awarding additional scholarships while not exceeding available funds.

Use of Scholarship

- (a) No student may utilize scholarship funds for educational purposes beyond the baccalaureate degree.
- (b) There shall be an exception to the requirement of subsection (a) of this section for any student who receives a baccalaureate degree in three (3) years or less. The student may receive an award of the scholarship for a fourth academic year to be used as a full-time student enrolled in a postgraduate program at an approved institution.

Scholarship Amounts

- (a) An Arkansas Governor's Scholarship or Arkansas Governor's Distinguished Scholarship awarded to a new recipient who enrolls in an approved institution as a first-time entering freshman shall be in an amount that equals the lesser of:
 - (1) Ten thousand dollars (\$10,000); or
 - (2) Tuition, room and board, and mandatory fees charged for a regular full-time course load by the approved institution in which the recipient is enrolled.
- (b) A student selected as a recipient under the “Eligibility Criteria” subsection (b)(6)(B)(iii)(b) who enrolls in an approved institution as a first-time entering freshman after July 1, 2017, shall be awarded in an amount that equals the lesser of:
 - (1) Five thousand dollars (\$5,000); or
 - (2) Tuition, room and board, and mandatory fees charged for a regular full-time course load by the approved institution in which the recipient is enrolled.
- (c) The scholarship amount for each semester in which a student who is the recipient of a scholarship is enrolled as a part-time student during their fourth academic year shall be prorated by the number of credit hours in which the student is enrolled.

Notification of Application and Award Status

- (a) An Arkansas Governor's Scholarship or Arkansas Governor's Distinguished Scholarship shall receive an award notice and information sheet explaining disbursement procedures and conditions of the Arkansas Governor's Scholars Award.
- (b) The Arkansas Division of Higher Education shall notify applicants who are determined to be ineligible and provide the reason for ineligibility. They will also be given instructions on how to correct any information on the application they believe to be incorrect.
- (c) Applicants who fail to submit complete applications, or who fail to supply the required documentation to process the application, will be classified as Incomplete. The Arkansas Division of Higher Education shall notify these students of their status. The Incomplete Notice provides a list of the incomplete items and the actions necessary for completion.

Scholarship Payment Policies

- (a) Payment of Scholarships

Funds will be disbursed to the approved institution of the Governor’s Scholars choice by state warrant. After verification of full-time enrollment, the institution shall disburse the

Governor's Scholars Award to the student according to the individual institution's disbursement procedures. Disbursement of the Governor's Scholars award shall correspond with the institution's academic terms (semesters, trimesters, quarters, or equivalent time periods). In no instance may the entire amount of the award for an educational year be paid to or on behalf of the student in advance.

(b) Transfer to Another Institution of Higher Education

A student who receives a Governor's Scholars Award may transfer to another eligible Arkansas institution of higher education, provided the recipient notifies the Arkansas Division of Higher Education, in writing, of the change of institution by October 1 for the fall term, and by February 1 for the winter and/or spring terms. Failure to notify the Arkansas Division of Higher Education by the specified deadlines shall result in the loss of the Governor's Scholars award for the term in question.

(c) Scholarship Hold

The Division of Higher Education may approve a scholarship hold for a student for a period of twenty-four (24) months or less for the following reasons without limitation:

- (1) A medical condition of the student or a member of the student's immediate family that, on the basis of a physician's good-faith judgment, necessitates that the student or the student's immediate family member be hospitalized or receive outpatient or home-based medical care or recuperate until released by the attending physician;
- (2) A personal or family emergency that requires the student to:
 - (a) Attend the funeral of an immediate family member; or
 - (b) Visit a relative of the student if the relative has a medical condition in which death is possible or imminent;
- (3) Military service under § 6-61-112; or
- (4)
 - (a) A commitment of twelve (12) to twenty-four (24) months for service in a national or international humanitarian project sponsored by a nonprofit corporation organized with a charitable or educational purpose.
 - (b) The student's commitment shall be expressed in a written agreement with the nonprofit organization, including the terms of completion for the student's service on the related project.
 - (c) The division shall release a scholarship hold if the division determines that the student did not complete the commitment under the written agreement.

The recipient must submit a written request for a scholarship hold. The petition shall give the reason for withdrawal and be supported by documentation. In the absence of

extraordinary circumstances, the award will be revoked if the recipient fails to enroll full-time in an eligible institution in Arkansas, and the Arkansas Division of Higher Education receives neither notification of transfer of the scholarship to another eligible institution, nor a petition for withdrawal by the recipient by October 1 for the fall term and February 1 for the winter and/or spring terms. At the discretion of the Division of Higher Education, the award will not be revoked if it is determined by ADHE that extraordinary circumstances prevented the student from notifying ADHE by the required dates.

(d) Cancellation of Governor's Distinguished Scholar Award

(1) The Governor's Scholars Award and the Governor's Distinguished Scholar Award shall be terminated for any one of the following reasons:

- (a) Failure to maintain a minimum 3.0 cumulative college grade point average (Governor's Scholars) or a minimum 3.25 cumulative college grade point average (Governor's Distinguished Scholars) on a 4.0 scale and successfully complete and pass a minimum of at least twenty-seven (27) credit hours the first academic year and thirty (30) hours each academic year thereafter;
- (b) Failure to complete a baccalaureate degree within five years from initial college entrance; or
- (c) Failure to petition the Arkansas Division of Higher Education for a temporary withdrawal for two consecutive academic terms; or
- (d) Failure to enroll as a full time student in an eligible Arkansas college or university after a two-year temporary withdrawal.

(2) Failure by the Governor's Scholar to provide written notification to the Arkansas Division of Higher Education of a change in status (such as a transfer to another eligible institution, change in address, change in name, etc.) before appropriate deadline dates shall result in cancellation of the Governor's Scholars award for the term in question.

(e) Refunds and Overpayments

If a Governor's Scholar withdraws from an eligible institution, and under the refund policy of that institution the student is entitled to a refund of any tuition, fees, or other charges, the institution shall pay the refund amount in question to the Arkansas Division of Higher Education.

Act 1180 of 1999 states that students who receive scholarships from public funds may not use those funds in a financial aid package to exceed the recognized cost of attendance at the institution where the student enrolls. The institution must follow ADHE policy in repaying public funds in the amount exceeding the total cost of attendance for any student who receives public funds in a financial aid package above the cost of attendance.

Higher Education Institution Responsibilities

(a) Administrative Agreement

The chief executive officer of the eligible institution is responsible for appointing one representative from the financial aid office to act as administrator of the Arkansas Governor's Scholars Program and to receive all communications, forms, etc. This representative is responsible for Governor's Scholars disbursement, completion of all forms and rosters, verification of data, and compliance with all Governor's Scholars Program rules and regulations. The institution must comply with the following responsibilities in order to maintain continued eligibility status.

(b) Disbursement Records

The institution shall maintain information on the student indicating disbursement of Governor's Scholars funds.

(c) Institutional Information Sheet

The administrator is responsible for designating a certifying official responsible for certifying full-time enrollment and a disbursing official responsible for the disbursement of Governor's Scholars Program funds.

(d) Institutional Verification

The institution shall provide certification to the Arkansas Division of Higher Education each semester after registration, giving the names of the Governor's Scholars who are officially enrolled as full-time students as of the end of the 11th class day of enrollment. This information is reported on a verification roster. The person responsible for verification of full-time enrollment is the registrar or a member of the registrar's staff. The certifying official is responsible for completing the verification roster twice a year for those schools on the semester system and three times a year for those schools on the quarter system. The verification roster shall be mailed to the Financial Aid Administrator prior to registration for the semester or quarter. The completed and signed Governor's Scholars verification roster shall be returned to the Arkansas Division of Higher Education by the dates specified on the roster. The verification roster is an alphabetical listing by institution of all persons receiving a Governor's Scholars award for a given academic term. Students who are not enrolled full-time in the current term shall not receive Governor's Scholars funds for that term.

(e) Deadlines for Disbursement of Funds

All funds must be disbursed within ten days of written receipt of funds. Any outstanding funds not disbursed by these dates must be returned within ten days to the Arkansas Division of Higher Education.

(f) Refund Policy

It is the institution's responsibility to notify the Arkansas Division of Higher Education of the name of the person who withdrew, the date of the withdrawal, and the refund amount. This information shall be placed on the institution's verification roster before the roster is returned to the Arkansas Division of Higher Education. The institution shall be responsible for the refund amount and shall pay that amount to the Arkansas Division of Higher Education.

(g) Continuing Eligibility

It is the responsibility of each institution to complete annually the Continuing Eligibility roster. This roster shall be mailed to all institutions that have a Governor's Scholar enrolled. The Continuing Eligibility roster shall be returned to the Arkansas Division of Higher Education by the date specified on the roster. The person responsible for completing the Continuing Eligibility roster is the Financial Aid Administrator. The Continuing Eligibility roster is an alphabetical listing by institution of all persons receiving a Governor's Scholars award that attended that institution for the academic year immediately preceding receipt of the Continuing Eligibility roster. The certifying official must complete the roster by providing the number of hours completed for the previous academic year and the cumulative grade point average achieved for each student listed.

(h) Due Diligence

The institution shall exercise due diligence in providing complete, accurate, and timely information as requested by the Arkansas Division of Higher Education for any Governor's Scholar or former Governor's Scholar. In addition, the institution shall exercise due diligence in complying with all the rules and regulations of the Arkansas Governor's Scholars Program. The Arkansas Division of Higher Education shall periodically review the institution's records concerning the Governor's Scholars Program in an effort to exercise its due diligence requirements as a steward of State of Arkansas funds.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Education

DIVISION Division of Higher Education

PERSON COMPLETING THIS STATEMENT Whitney James

TELEPHONE NO. (501) 683-1876

FAX NO. _____

EMAIL: Whitney.James@ade.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

Rules Governing Arkansas Governor's Scholars Program

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 an agency is proposing a more costly rule, please state the following:

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 more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

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

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

Next Fiscal Year

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

Total \$ 0.00

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

Total \$ 0.00

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

Current Fiscal Year

Next Fiscal Year

General Revenue \$ 600,000.00
Federal Funds \$ 0.00
Cash Funds \$ 0.00
Special Revenue \$ 0.00
Other (Identify) \$ 0.00

Total \$ 600,000.00

General Revenue \$ 600,000.00
Federal Funds \$ 0.00
Cash Funds \$ 0.00
Special Revenue \$ 0.00
Other (Identify) \$ 0.00

Total \$ 600,000.00

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.

Current Fiscal Year

Next Fiscal Year

\$ N/A

\$ N/A

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

Next Fiscal Year

\$ N/A

\$ N/A

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.