

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



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.

The Joint Enlistment Enhancement Program (JEEP) for Arkansas National Guard

Executive Summary

The Joint Enlistment Enhancement Program (JEEP) is a new rule proposed by the Arkansas Department of the Military. The rule will aid in recruitment and enlistment efforts of the Arkansas National Guard by providing monetary incentives for successful referrals. The JEEP budget is \$500,000, all of which will come from the Department of Military's cash funds. The JEEP program will not require any new money be appropriated. The Adjutant General has the authority to promulgate this proposed rule under Ark. Code Ann. § 12-61-106(o).

DRAFT

NGAR REG 2024-XX

The Joint Enlistment Enhancement Program (JEEP) for the Arkansas National Guard

**Department of the Military
Office of the Adjutant General
Arkansas National Guard
XX May 2024**

UNCLASSIFIED

Headquarters
Department of the Military
Camp Joseph T. Robinson

Arkansas National Guard Regulation
Effective xx May 2024

**JOINT ENLISTMENT ENHANCEMENT PROGRAM (JEEP)
FOR THE ARKANSAS ARMY AND AIR NATIONAL GUARD**

By Order of Governor:

Official:

JONATHAN M. STUBBS
Major General
The Adjutant General

Summary. This regulation is to implement an assistance program to encourage members and veterans of the Arkansas National Guard (AR NG) to be more actively engaged in enlisting and accessing new Soldiers or Airmen into the AR NG. This regulation and the program promulgated herein will provide a monetary incentive to Soldiers or Airmen who provide a lead to a recruiter resulting in an enlistment or accession into the AR NG. This regulation encourages Soldiers, Airmen and veterans to assist with increasing enlistments and accessions for the AR NG.

Applicability. This regulation applies to the Arkansas Army National Guard (AR ARNG) and the Arkansas Air National Guard (AR ANG).

Legal Authority. Arkansas Code Annotated § 12-61-106.

Suggested Improvements. Submit recommendations for changes, corrections, deletions, or additions on a DA Form 2028 to The Adjutant General, Arkansas National Guard.

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Chapter 1

Joint Enlistment Enhancement Program for the Arkansas Army and Air National Guard

1-1. Joint Enlistment Enhancement Program (JEEP) Overview. This program is designed to gain assistance in enlisting Soldiers or Airmen into the AR NG who are not otherwise excluded from the program by the terms contained herein. When a Soldier, Airman, or veteran exercise personal initiative resulting in the enlistment of a Recruit, the State of Arkansas by and through the offices of the Adjutant General will enter into an agreement with the Soldier, Airman, or veteran whereby they will receive compensation in the form of a voucher payment.

1-2. Definitions

a. **Lead:** The name, address and phone number of someone who may be interested in joining the AR NG.

b. **Prospect:** An individual who has agreed to an appointment with a recruiter.

c. **Applicant:** A person who is prequalified and desires voluntary enlistment in the AR NG and is being considered for entry.

d. **Enlistee:** An applicant who has been found eligible and is accepted for enlistment or accession in the AR NG.

e. **Recruit:** A person newly enlisted or accessed into the AR NG and not yet fully trained.

f. **Assistant:** An AR NG Soldier, Airman, or veteran whose primary duty is not recruiting (full-time or part-time to include Active Duty for Operational Support (ADOS) or a temporary recruiting position), who helps locate interested individuals to join the AR NG. This program is limited to Soldiers or Airmen in the rank (grade) of Major (O-4) or below and veterans of any grade.

g. **Veteran:** A former member of the AR NG of any rank or grade who has met all requirements for veteran designation in accordance with Arkansas Code Annotated 27-16-812.

h. **Recruiter:** A person whose job is to enlist or assess members into the Arkansas Army or Air National Guard and assigned or attached to the respective recruiting command.

i. **JEEP Assistant Agreement:** A contract between the State of Arkansas and an assistant that provides a new or prior service lead to a recruiter that results in an enlistment or accession as a result of their efforts, mentorship, and assistance.

j. **JEEP Assistant Payment:** The State of Arkansas shall compensate an assistant in the amount of One Thousand Dollars (\$1000.00) per new or prior service lead who enlists or accesses into the AR NG and ships to initial training as a result of the assistant's effort, mentorship, and assistance.

k. **He, She, His, Hers.** Includes both male and female genders.

l. **Family:** Spouse and children, including stepchildren.

1-3. Duties of the JEEP Assistant.

a. The assistant shall be available to the prospect from initial contact until the the new recruit ships to initial training in order to provide guidance, encouragement, mentorship, and support.

b. The assistant shall perform other duties related to the enlistment action as deemed necessary or directed by the Adjutant General.

c. The assistant must accompany new recruit at initial meeting with recruiting.

1-4. JEEP Assistant Payment.

a. The State of Arkansas will pay \$1000.00 to the assistant for services per the assistant agreement. A Soldier, Airman, or veteran may enter into a separate assistant agreement for each lead provided. When that lead enlists into the AR NG and ships to initial training, the documented assistant will receive \$1000.00 for each recruit upon completion of the terms and conditions of the assistant agreement. The total number of compensated leads for an individual during a fiscal year will not exceed five (5) unless the Department of the Military performs an audit of the circumstances to confirm full JEEP compliance.

b. JEEP assistant payments are taxable income and shall be reported on a Form 1099 to the respective tax authorities by the State of Arkansas.

c. Assistants must be a current member of the AR NG or a qualified veteran at the time of payment.

1-5. JEEP Administration and Responsibility for Administration

a. The AR NG and DOTM will establish an internal administrative system to coordinate, supervise, monitor, and maintain all records, track all aspects of the program in detail, and perform in depth quality reviews related to the administration of JEEP. This system will conform to all applicable state and federal fiscal law requirements while providing a clear auditing trail to prevent fraud, waste, and abuse.

b. The Soldier, Airman, or veteran who desires to assist in recruiting someone according to JEEP must initially provide information about themselves and the recruit through JEEP's website. Assistants will complete and sign the JEEP Assistant

Agreement, which will establish claim for that lead. Additionally, assistants will need to complete a W-9 tax form for payment. During the online process, assistants will be assigned a control number. This number will be used for supervision, tracking, and processing purposes. The lead's and assistant's information will be sent to JEEP's Program Manager, who will determine the assistant's eligibility and forward the lead's information to an AR NG recruiting and retention NCOIC. The NCOIC will be responsible for linking the lead to a recruiter. Once the recruiter has been selected, the recruiter will request the help of the assistant in mentoring the recruit. All paperwork and documents needed prior to enlistment, will be prepared by the recruiter and finalized at the Military Entrance Processing Station (MEPS). Within ten (10) days of the lead enlisting/accessing into the AR NG, the recruiter will consolidate and forward all documentation to the AR Recruiting and Retention Battalion for verification and processing. Documentation to be submitted includes, but is not limited to, the JEEP Assistant Agreement, DD Forms 4/1 and 4/2, DD Form 1966 (all pages), and NGB Form 377 (if applicable). For veterans, the NGB Form 22, DD Form 214, or retirement order will be submitted. Other documentation may be required for verification purposes. Upon enlistment or accession, the assistant must be named in the remarks on the DD Form 1966 as the individual who referred the lead to the recruiter. Enlistment/accession credit shall not be attributed to an assistant if these procedures are not followed. Further, an assistant shall not be added retroactively to a DD Form 1966 following the Soldier or Airman taking the oath of enlistment into the AR NG

c. Upon the new lead shipping to initial training per the JEEP terms, the Adjutant General's designee will verify all documents, confirm assistant eligibility, and certify the payment is due and payable to the assistant. The certified JEEP Assistant Agreement will be forwarded to the SPDO for processing and payment submittal. Copies of all documents will be maintained for a ten (10) year minimum for auditing purposes.

1-6. JEEP Excluded Persons and Actions Prohibited

a. Officers of the AR NG holding the pay grade of O-5 and above cannot participate in this program.

b. Soldiers or Airman assigned or attached (full-time, part-time, temporary status, or performing Active Duty for Operational Support) to the AR Recruiting Battalion, AR ARNG or the Recruiting Command for the AR ANG and their immediate family members are excluded from participating in this program.

c. The persons described in paragraphs a. and b. above are prohibited from receiving any funds, directly or indirectly, paid to a JEEP assistant. Receipt of such funds in any amount by a prohibited person according to any agreement, understanding, or deal is considered misconduct and appropriate disciplinary action may be taken. Allegations of any criminal acts or conduct, including but not limited to fraud or misuse of this program will be investigated and prosecuted to the full extent of the law. Any assistant charged with a criminal offense under this program is subject to civilian prosecution, administrative actions, and actions under the ACMJ to include courts-martial.

d. An assistant may not assign any rights or expectations of payment to another person.

e. Any acts directly or indirectly related to excluded persons or prohibited activities could result in disciplinary actions or prosecution as deemed necessary by the Adjutant General or the Governor of the State of Arkansas.

1-7. Joint Enlistment Enhancement Program (JEEP) Conflicts and Dispute Resolution

a. In the case of a dispute involving the JEEP assistant program, all issues of the dispute will be decided by a dispute resolution panel consisting of the Army Guard Chief of Staff, Air Guard Director of Staff, DCSPER, and the HRO. The panel will have full authority to determine the procedure and process to use in resolving disputes. The panel's decision is final and the Director of Joint Staff (DJS) is the appeal authority.

b. In the event of a conflict regarding the language of this DOTM and the JEEP Assistant Agreement, the language of this NGAR governs.

1-8 Effective Dates and Duration of the Program. This program will be effective X May 2024 and shall remain in effect unless amended or suspended by the Adjutant General. This program may be terminated at any time and for any reason by the Adjutant General. Payment of all assistant agreements are subject to the availability of funds.

1-9 Forms. The JEEP Assistant Agreement and the JEEP Request for Payment are included as Appendix A and B.

Appendix A – JEEP Assistant Agreement

CONTROL NUMBER: _____

JOINT ENLISTMENT ENHANCEMENT PROGRAM (J.E.E.P.) CONTRACT FOR THE ARKANSAS ARMY AND AIR NATIONAL GUARD

PART I. ASSISTANT AGREEMENT

This agreement is entered between the State Military Department (SMD) of the State of Arkansas through the office of the Adjutant General of Arkansas and the parties listed below:

(Soldier's or Airman's Rank, Last Name, First Name, Middle Initial)

(Recruiter's Duty Address to Include City, State and Zip Code)

Currently serving as a member of the Arkansas Air or Army National Guard, assigned as a recruiter to:

(Recruiter's Unit Name and Complete Address)

To enhance and actively engage in enlisting or accessing new members of the Arkansas National Guard by the provisions of the JOINT ENLISTMENT ENHANCEMENT PROGRAM (J.E.E.P.). Be it known that:

(Rank, Last Name, First Name, Middle Initial - hereafter referred to as J.E.E.P. ASSISTANT)

Currently residing at: _____
(Complete Home Address and Phone Number of J.E.E.P. ASSISTANT)

Has provided the following information about a potential new or prior service recruit:

(RECRUIT'S First Name, Middle Name, Last Name and Phone Number - Hereafter Referred to as RECRUIT)

The JEEP ASSISTANT has agreed to the following terms via www.

- 1. The JEEP ASSISTANT agrees to be available to the prospective RECRUIT prior to enlistment or accession and provide information, guidance, mentorship, encouragement, and support until the prospective RECRUIT enlists into the Arkansas National Guard.
2. The RECRUIT must successfully enlist into the Arkansas Army National Guard or the Arkansas Air National Guard and complete DD Form 4, and DD Form 1966 or NGB 377, and be assigned to a unit of the Arkansas National Guard. Other documents may be required for validation and certification purposes.
3. The J.E.E.P. ASSISTANT must be a member of the Arkansas National Guard or verified veteran at the time of the enlistment or accession to validate the terms of this contract.

(J.E.E.P. ASSISTANT Signature and Date)

(Recruiter Signature and Date)

CONTROL NUMBER: _____

PART II. ENLISTMENT VERIFICATION

I, _____
(MEPS Guidance Counselor's First, Middle, and Last Name and MEPS ID Code)

Hereby certify the RECRUIT listed below has enlisted into the Arkansas National Guard,

(RECRUITS First Name, Middle Name, Last Name)

And is assigned to: _____
(Unit name and complete address)

I further certify that _____
(J.E.E.P. ASSISTANT – Rank, First Name, Middle Name, and Last Name and Last 4 of SSN)

Who acted as the Joint Enlistment Enhancement Program (J.E.E.P.) ASSISTANT has provided sufficient evidence that he/she is a member or veteran of the Arkansas National Guard assigned to/discharged from:

(Unit Name and Complete Address)

The following forms have been attached to this J.E.E.P. CONTRACT:

- _____ DD 4
- _____ NGB 377
- _____ W-9 (For J.E.E.P. ASSISTANT)
- _____ Form verifying assistant's Veteran status, if applicable
- _____ REDD Report (for current member J.E.E.P. ASSISTANTS)
- _____ DD 1966 (J.E.E.P. ASSISTANT information must be recorded in remarks section)

CONTROL NUMBER: _____

PART III. CERTIFICATION AND REQUEST FOR PAYMENT

TO: Department of the Military

Pursuant to NGAR 2024-XX all requirements below have been met:

- a. _____ RECRUIT has been identified as Army Guard ____ or Air Guard ____
- b. _____ RECRUIT has completed DD Form 4 (attached).
- c. _____ The RECRUITER has completed DD Form 1966 (attached) and the J.E.E.P. ASSISTANT who referred the new RECRUIT is recorded in the remarks section.
- d. _____ The J.E.E.P. ASSISTANT has a Vendor Account on file with the Department of the Military.
- e. _____ Other documents not listed above (*list*): _____
- f. _____ J.E.E.P. ASSISTANT has provided evidence of service or veteran status.

It is expressly understood and agreed that the J.E.E.P. payment is not due and payable by the State of Arkansas Military Department (SMD) to the J.E.E.P. ASSISTANT unless each condition set forth above is satisfied. J.E.E.P. Contracts are completed per Arkansas law and Executive Order XX and State Military Department Regulation (DOTM) 7-27, which administers the J.E.E.P. as directed by the Governor. All parties agree to the procedures and requirements of the J.E.E.P. as outlined in DOTM 7-27. The terms and conditions contained in J.E.E.P. Agreement Sections I., II. and III. with Control Number _____ has been fulfilled and the JEEP Assistant payment of \$1000.00 is due and payable to the assistant.

 (*Commander, AR ARNG RRBN – Signature/Date*)

By order of the Adjutant General on this the _____ day of _____, 20_____.

 (Adjutant General, Arkansas National Guard)

 (Chief of Staff, Department of the Military)

LEGAL NOTICE OF RULEMAKING

In accordance with the provisions of Arkansas Code Annotated 25-15-204 and published in the Arkansas Democrat Gazette March 7-10, 2024, NOTICE OF RULEMAKING is hereby given that the Arkansas Department of the Military (DOTM) has submitted proposed rules to the Secretary of State to be posted on its website for thirty (30) days for the Joint Enlistment Enhancement Program (JEEP) for Arkansas National Guard.

A PUBLIC HEARING WILL BE HELD MARCH 21, 2024, FROM 1:00 PM to 02:00 PM AT PHILLIPS ARMORY (POST HQ), CAMP JOSEPH T. ROBINSON, NORTH LITTLE ROCK, 72199.

Written comments shall be accepted until Noon April 7, 2024, including at the public hearing. Send written comments to Legal Department, DOTM HQ, Bldg. 4201, Camp Joseph T. Robinson, North Little Rock, 72199.

The proposed rule can be found on the Arkansas Department of the Military's website: <https://military.arkansas.gov/department-of-military-offices/legal/legalnotices/>

All comments submitted in writing shall become public property once received by DOTM and are subject to the Arkansas Freedom of Information Act.