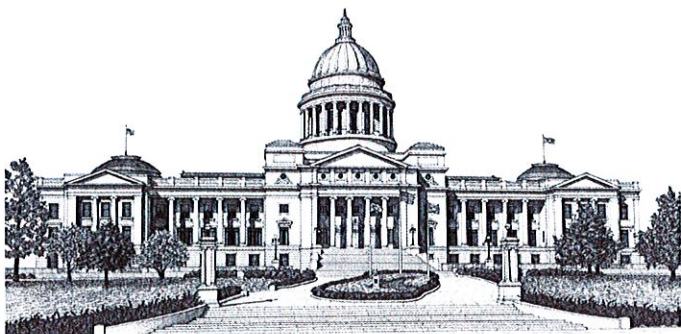


ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State

John Thurston

500 Woodlane Street, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



Name of Department Arkansas Department of Parks, Heritage and Tourism

Agency or Division Name Division of Arkansas State Parks

Other Subdivision or Department, If Applicable n/a

Previous Agency Name, If Applicable n/a

Contact Person Leslie Fiskien

Contact E-mail leslie.fiskien@arkansas.gov

Contact Phone (501) 944-1492

Name of Rule Smoking, Tobacco and Electronic Cigarette Policy in Arkansas State Parks

Newspaper Name Arkansas Democrat Gazette

Date of Publishing July 26 through July 28, 2022

Final Date for Public Comment July 28, 2022

Location and Time of Public Meeting n/a

ARKANSAS DEPARTMENT OF PARKS, HERITAGE, AND TOURISM
DIVISION OF STATE PARKS

~~FEBRUARY 1, 2016~~ September 15, 2022

PARK DIRECTIVE 1191

SMOKING / TOBACCO / ELECTRONIC CIGARETTE POLICY

For public health, safety, preservation, and the prevention of triggering of smoke/fire alarm/vapor sensitive systems, the use of the following “products” ~~is~~ are prohibited inside or within twenty-five (25) feet of any enclosed Arkansas State Park building or structure:

- Smoking of tobacco
- Use of ~~Tobacco~~ tobacco
- Use of Non-FDA Center for Tobacco Products (CTP) regulated nicotine products in any form
- Electronic cigarettes (e-cig or e-cigarette)
- Personal vaporizers (PV)
- Electronic nicotine delivery systems (ENDS)

~~An exception to the above is the use of legal products at:~~

- Open picnic pavilions
- Outside of cabins, to include screened and open porches and decks

~~Smoking continues to be prohibited inside all park / museum buildings. In addition, to ensure water quality, reduce littering, and improve guest experience, smoking will not be allowed within the boundaries of all park beaches and on the Crater of Diamonds minefield. Park Superintendents may establish designated employee and guest legal product use areas outside of buildings that are away from (at least twenty-five (25) feet) any building entrances and out of primary public use areas.~~

Replaces PD 1191 dated ~~August 9, 2005~~ February 1, 2016

APPROVED BY: _____

GRADY SPANNSHEA LEWIS, DIRECTOR
Division of Arkansas State Parks

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Department of Parks, Heritage and Tourism

DIVISION Division of Arkansas State Parks

DIVISION DIRECTOR Secretary Stacy Hurst, Director Shea Lewis, Deputy Director Jeff King

CONTACT PERSON Leslie Fisken

ADDRESS 1100 North Street, Little Rock, AR 72201

PHONE NO. (501) 324-9586 **FAX NO.** (501) 324-9575 **E-MAIL** leslie.fisken@arkansas.gov

NAME OF PRESENTER AT COMMITTEE MEETING Leslie Fisken, Chief of Legislative Affairs

PRESENTER E-MAIL leslie.fisken@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
- D. Rule" below.
- E. Submit two (2) copies of the 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, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Smoking, Tobacco, Electronic Cigarette Policy at Arkansas State Parks

2. What is the subject of the proposed rule? Smoking, Tobacco, Electronic Cigarette Policy at Arkansas State Parks

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒

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 ☒

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 ☒ If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes ☐ No ☒ 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 ☐ 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."

The proposed amendment provides that smoking inside any Arkansas State Park building is prohibited. The amendment eliminates the exceptions to the prohibition in open picnic pavilions and on patios and screened-in porches of rental cabins. The amendment extends the prohibition of smoking, tobacco and electronic cigarette use to include the boundaries of public beaches and on the Crater of Diamonds minefield. The amendment also provides that State Park Superintendents may establish smoking areas for employees and guests away from building entrances and primary use areas.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

Ark. Code Ann. §22-4-101 et seq., Ark. Code Ann. §25-43-1301 et seq. and Ark. Code Ann. §15-11-206.

7. What is the purpose of this proposed rule? Why is it necessary?

The purpose of the proposed amendment to the rule is to provide for the public health and safety, preservation of State Parks, and the prevention of triggering of smoke/fire alarm/vapor sensitive systems. Additionally, in order to ensure water quality, reduce littering, and improved guest experience, smoking, tobacco and electronic cigarette use will not be allowed on public beaches and on the Crater of Diamonds minefield. Park Superintendents may establish designated employee and guest areas for use of these products outside that are located away from building entrances and out of primary public use areas.

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).

<https://www.arkansasstateparks.com/>

9. Will a public hearing be held on this proposed rule? Yes ☐ No ☒ If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

08/25/2022

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

10/31/2022

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.

We are not aware of any persons, groups or organizations that plan to comment on these rules.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Parks, Heritage and Tourism

DIVISION Division of Arkansas State Parks

PERSON COMPLETING THIS STATEMENT Leslie Fiskens, Chief of Legislative Affairs

TELEPHONE NO. (501) 324-9586 FAX NO. (501) 324-9575 EMAIL: leslie.fiskens@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 Smoking, Tobacco, Electronic Cigarette Policy at Arkansas State Parks

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) _____

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

Total _____ \$ 0.00

Total _____ \$ 0.00

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

Current Fiscal Year

Next Fiscal Year

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

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

Total _____ \$ 0.00

Total _____ \$ 0.00

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

\$ 0 _____

\$ 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

Next Fiscal Year

\$ 0 _____

\$ 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 ☒

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.

Notice of Rulemaking

Pursuant to Arkansas Code Annotated §25-15-201 et seq., notice is hereby given that the Arkansas Department of Parks, Heritage and Tourism is proposing an amended rule for the Smoking, Tobacco and Electronic Cigarette Policy in State Parks.

The Department is accepting public comment on the proposed amended rule through August 25, 2022. Interested persons may review these proposed rule and make comments online to Leslie Fiskien, Chief of Legislative Affairs, Arkansas Department of Parks, Heritage & Tourism at leslie.fiskien@arkansas.gov. Written comments may be returned to Leslie Fiskien, Chief of Legislative Affairs, Arkansas Department of Parks, Heritage & Tourism, 1100 North Street, Little Rock, AR 72201. Comments may be submitted by phone to Leslie Fiskien, Chief of Legislative Affairs, Arkansas Department of Parks, Heritage & Tourism, by calling (501) 324-9162.

A copy of the proposed amended rule can be found on the Division of Arkansas State Parks' website at: <https://adpht.arkansas.gov/>. Copies also may be obtained by contacting Arkansas Department of Parks, Heritage & Tourism, 1100 North Street, Little Rock, AR 72201, Phone: (501) 324-9162.

Leslie Fisken

From: Leslie Fisken
Sent: Friday, July 22, 2022 3:42 PM
To: legalads@arkansasonline.com
Subject: Full Run Advertisement
Attachments: LEGAL AD Smoking Tobacco Electronic Cigarette Policy ADPHT.docx

Good afternoon.

The purpose of this email is to request legal advertisement of the proposed amended rules for the Smoking, Tobacco and Electronic Cigarette Policy in State Parks. We request that the advertisement be published for three consecutive days from July 27, 2022 through July 29, 2022.

Please submit the invoice to my attention via email or at the address provided below.

Please let me know if you have any questions. Thank you.



LESLIE FISKEN

Chief of Legislative Affairs

Arkansas Department of Parks, Heritage and Tourism
Office of the Secretary
1100 North Street
Little Rock, AR 72201
leslie.fisken@arkansas.gov
p: 501.324.9586 | c: 501.944.1492 | f: 501.324.9575

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