

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 _____

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 Arkansas Department of Agriculture
BOARD/COMMISSION Arkansas Forestry Commission
BOARD/COMMISSION DIRECTOR Kyle Cunningham
CONTACT PERSON Cynthia Edwards
ADDRESS 1 Natural Resources Drive, Little Rock, AR 72205
PHONE NO. (501) 831-2163 EMAIL cynthia.edwards@agriculture.arkansas.gov
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING
Kyle Cunningham
PRESENTER EMAIL(S) kyle.cunningham@agriculture.arkansas.gov

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?
Posting Paint Rule
2. What is the subject of the proposed rule? Establishing the type and color of paint to be used in posting real p
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.

[ACA 18-11-404](#)

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.

[The Arkansas Forestry Commission does not have two rules to be repealed.](#)

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).

ACA 15-31-103

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?

The Arkansas Forestry Commission is required in ACA 18-11-404 to establish the type and color of paint to be used in posting real property.

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).

agriculture.arkansas.gov

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

If yes, please complete the following:

Date: March 15, 2024

Time: 9:00 a.m.

Place: AR Department of Agriculture, 1 Natural Resources Drive, Little Rock, AR

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. 3/18/2024

15. What is the proposed effective date for this rule? After ALC approval

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.

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).

agriculture.arkansas.gov

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? [After ALC approval](#) _____

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 Arkansas Department of Agriculture

BOARD/COMMISSION Arkansas Forestry Commission

PERSON COMPLETING THIS STATEMENT Cynthia Edwards

TELEPHONE NO. (501) 831-2163 **EMAIL** cynthia.edwards@agriculture.arkansas.gov

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 Posting Paint 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.



Sarah Huckabee Sanders
Governor

ARKANSAS DEPARTMENT OF AGRICULTURE

1 Natural Resources Drive, Little Rock, AR 72205
agriculture.arkansas.gov
(501) 225-1598



Wes Ward
Secretary of Agriculture

February 20, 2024

MEMORANDUM REGARDING THE ARKANSAS DEPARTMENT OF AGRICULTURE RULE GOVERNING POSTING PAINT

Purpose

This memorandum analyses the Arkansas Department of Agriculture's proposed rule concerning posting paint.

Background

Ark. Code Ann. § 18-11-404(2)(D) directs the Arkansas Department of Agriculture's Arkansas Forestry Commission to prescribe rules governing the type and color of paint to be used by owners or lessees of forest land when posting their property against trespassing.

Discussion

The proposed rule sets a standard for color and type of accepted paint to be used by land owners or lessees when posting property. The proposed rule also requires the Arkansas Forestry Division to maintain samples and formulas of approved posting paint, and make samples available upon request.

Conclusion

The new rule will fulfill the requirements of Ark. Code Ann. § 18-11-404(2)(D).

Linda Luebke

From: Legal Ads <legalads@arkansasonline.com>
Sent: Thursday, February 15, 2024 8:36 AM
To: Linda Luebke
Subject: Re: Legal Notice - Posting Paint Rules

Thanks, Linda. As per your request, this will run in the non-statewide edition on Sun 2/18 (will run in print in 63 counties, excluding NW Arkansas), and Mon 2/19 and Tues 2/20 (running in print in Pulaski County only).

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Linda Luebke" <linda.luebke@agriculture.arkansas.gov>
To: "legalads@arkansasonline.com" <legalads@arkansasonline.com>
Cc: "Corey Seats" <corey.seats@agriculture.arkansas.gov>, "Robert Murphy (AFC)" <Robert.D.Murphy@agriculture.arkansas.gov>, "Kyle Cunningham" <Kyle.Cunningham@agriculture.arkansas.gov>, "Wes Ward" <wes.ward@agriculture.arkansas.gov>, "Cynthia Edwards" <cynthia.edwards@agriculture.arkansas.gov>, "Autumn Causey" <Autumn.causey@agriculture.arkansas.gov>
Sent: Wednesday, February 14, 2024 9:30:19 AM
Subject: Legal Notice - Posting Paint Rules

Please run the attached legal notice February 18 – 20, 2024.

Sunday, February 18, 2024, statewide. Monday (2/19/24) and Tuesday (2/20/24) in all counties that still receive daily (Mon. – Sat.) delivery of the printed edition.

Thank you!

Linda Luebke

Administrative Analyst

Arkansas Department of Agriculture
1 Natural Resources Drive, Little Rock, AR 72205
(501) 225-1598
linda.luebke@agriculture.arkansas.gov
agriculture.arkansas.gov



Legal Notice

Arkansas Forestry Commission

The Arkansas Forestry Commission is proposing amendments to Posting Paint Rules under Arkansas Code § 18-11-404.

The purpose of the proposed rule amendment is to comply with Arkansas Code § 18-11-404(2)(D) in establishing the type and color of paint to be used in posting real property, as well as addressing the publishing of the paint color and availability of samples.

Comments can be mailed to: Arkansas Department of Agriculture – Attn: Robert Murphy, 1 Natural Resources Drive, Little Rock, AR 72205, or emailed to robert.d.murphy@agriculture.arkansas.gov.

Written comments will be accepted beginning February 18, 2024 until March 18, 2024. Oral comments may be made in person at the Arkansas Department of Agriculture, 1 Natural Resources Drive, Little Rock, AR 72205 on March 15, 2024 at 9 am.

The proposed rules changes can be viewed on the website at www.arkansas.agriculture.gov



Robert Murphy
Assistant State Forester
Arkansas Department of Agriculture

Posting Paint Rules Draft

I. Approved Posting Paint.

A. The accepted paint for posting real property shall be:

1. light purple in color; and
2. an exterior grade paint.

II. Availability

A. The Forestry Division of the Arkansas Department of Agriculture shall:

1. Maintain paint sample formulas from major manufacturers for the approved paint; and
2. Publish them on their web site; and
3. Have samples available upon request.