



DEPARTMENT OF COMMERCE

ASA HUTCHINSON | Governor MICHAEL PRESTON | Secretary

April 9, 2020

Ms. Marty Garrity, Director
Arkansas Bureau of Legislative Research
State Capitol, Suite 315
Little Rock, AR 72201

RECEIVED

APR 09 2020

BUREAU OF
LEGISLATIVE RESEARCH

Re: Arkansas Division of Workforce Services ("DWS") Request for Emergency Rule 30

Dear Marty:

Please find enclosed a copy of proposed DWS Emergency Rule 30. The proposed rule is needed to be issued on an emergency basis in order for the State to qualify for federal unemployment benefit funds. Pursuant to Arkansas Legislative Council requirements on the promulgation of an Emergency Rule, we request a meeting to present the proposed Emergency Rule to the Executive Rules Subcommittee to obtain review and approval for the Rule. Given the fiscal session, the review may well be through a different body. I am attaching a copy of the proposed rule and the standard BLR Rule filings for your review. Although this is an emergency rule, and DWS is not an agency subject to the APA, we are holding a public hearing, via internet streaming next Friday; so, we are requesting expedited review if possible for early next week.

If you have any questions, please give me a call.

Sincerely,

A blue ink signature of Steven Porch, written in a cursive style.

Steven Porch
General Counsel
Arkansas Department of Commerce

F I L E D

APR 09 2020

Arkansas
Secretary of State

CC: Jessica Sutton, BLR



DEPARTMENT/AGENCY	Arkansas Department of Commerce (“ADOC”)		
DIVISION	Division of Workforce Services		
DIVISION DIRECTOR	Dr. Charrise Childers, Ph.D.		
CONTACT PERSON	Cindy Uhrynowycz, Associate General Counsel		
ADDRESS	2 Capitol Mall, P.O. Box 8040, Little Rock, AR 72203-8040		
PHONE NO.	501-682-3151	FAX NO.	501-682-3140
NAME OF PRESENTER	E-MAIL		
AT COMMITTEE MEETING	Cindy Uhrynowycz, Don Denton		
PRESENTER E-MAIL	cindy.uhrynowycz@arkansas.gov , don.denton@arkansas.gov		

- 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:**

- 900 West Capitol Avenue | Suite 400 | Little Rock, Arkansas 72201

Yes ☐ No ☒

If yes, what is the effective date of the emergency rule?

4/27/2020

When does the emergency rule expire?

12/31/2020

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 regulation. See Attached Summary. The rule sets out the form which all employers must provide their employees upon an employee's separation from employment. The Notice tells the employee of the availability of unemployment compensation benefits and where to go to file a claim. The Notice does not promise employees they will ultimately receive benefits. The Notice directs the employee where to go to file a claim.

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."** See attached mark-up of proposed changes.

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

ACA 11-10-306 and 307

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

In order to qualify for Allotment I of emergency administrative grants from the United States Department of Labor, three conditions have to be met, and one of the conditions is that the state requires the employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment. USDOL UIPL 13-20 sets out a form Notice which states may use. The Arkansas Divisions of

Workforce Services has adopted this form. Emergency Regulation 30 requires employers to provide this Notice.

Before the adoption of Emergency Rule 30, the Arkansas Division of Workforce Services did not require employers to provide notice to employees upon separation from employment.

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://dws.arkansas.gov/> This link will be available beginning April 10, 2020 by close of business.

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

If yes, please complete the following:

Date: 4-17-2020

Time: 10: a.m.

2 Capitol Mall, Little Rock, AR, Fifth
Floor Conference Room via internet

Place: streaming

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

4-17-2020

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

4-27-2020

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. See attached.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). We will provide you with a file marked copy when received from SOS.

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.

The Department does not know at this time but will update BLR and ALC in the public comments summary following the close of the comment period and public hearing.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Commerce (“ADOC”)

DIVISION Division of Workforce Services (“DWS”)

PERSON COMPLETING THIS STATEMENT Cindy Uhrynowycz, Associate General Counsel

TELEPHONE 501-682-3151 **FAX** 501-682-3140 **EMAIL:** cindy.uhrynowycz@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 Emergency Rule 30

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?

NONE or NOT APPLICABLE.

Current Fiscal Year

General Revenue _____

Next Fiscal Year

General Revenue _____

Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	<u>0</u>

Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	<u>0</u>

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

Current Fiscal Year

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	<u>0</u>

Next Fiscal Year

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	<u>0</u>

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.

The cost to any private individual, entity and business subject to Emergency Rule 30, is the price of copying the notice on paper times the number of employees separating from employment. The amount is speculative and is unknown at this time.

Current Fiscal Year

\$ 0
0

Next Fiscal Year

\$ 0

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.

NONE

Current Fiscal Year

\$ 0
0

Next Fiscal Year

\$ 0

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?

NOT APPLICABLE

If YES, the agency is required by Ark. Code Ann. § 25-15- to file written findings at the time of filing the financial statement. The written findings shall be filed simultaneously

Yes ☐

No ☐

204(e)(4)
impact

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.



DEPARTMENT OF COMMERCE

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Attachment B

SUMMARY OF PROPOSED EMERGENCY RULE 30 OF THE RULES OF THE ARKANSAS DIVISION OF WORKFORCE SERVICES

Arkansas Division of Workforce Services
April 8, 2020

- 30.1** This section of Emergency Rule 30 sets out the Director's authority to promulgate the rule.
- 30.2** This section sets out the main provision of the rule requiring all employers to give notice to any employee, upon separation from employment, of the availability of unemployment insurance benefits.
- 30.3** This section sets out, the effective date April 27, 2020, and the expiration date of December 31, 2020 and the emergency clause which explains the reason why the Rule should be adopted as an emergency. The clause cites the emergency caused by the COVID-19 pandemic and the resulting widespread unemployment in Arkansas. The Rule is necessary in order for the Division of Workforce Services to access federal emergency grant money.



Michael Preston
SECRETARY OF COMMERCE

Charisse Childers, Ph.D.
DIRECTOR,
DIVISION OF WORKFORCE SERVICES

DATE: APRIL 9, 2020
TO: ALL INTERESTED PARTIES
FROM: DIVISION OF WORKFORCE SERVICES
SUBJECT: EMERGENCY RULE 30

NOTICE OF PUBLIC HEARING

Pursuant to Arkansas Code Annotated §11-10-306 and 307 for the purpose of giving the public an opportunity to be heard regarding Emergency Rule 30 of the Arkansas Division of Workforce Services. The anticipated effective date is April 27, 2020, and a public hearing will be held on Friday, April 17, 2020, at 10:00 a.m. Due to COVID-19 concerns, the hearing will be held by live stream via internet.


The purpose of the hearing is to allow interested employers doing business in the State of Arkansas and the public to comment regarding Emergency Rule 30 and the required notice to employees. Emergency Rule 30 requires employers in Arkansas to provide notice to their employees of the availability of unemployment insurance benefits. Rule 30 requires the notice to be given to an employee upon separation from employment. The rule and required notice to employees is set out below.

Those persons wishing to participate via live stream may access the hearing at <https://www.youtube.com/user/ArkansasDIS> or at <https://www.dws.arkansas.gov/unemployment/public-hearing>.

Written comments may be submitted to: Emergency Rule 30 c/o Charisse Childers, Ph.D., Director, Division of Workforce Services, P.O. Box 8040, Little Rock, AR 72203. Online comments or questions may be submitted prior to the hearing at <https://www.dws.arkansas.gov/unemployment/public-hearing>

The full text of Emergency Rule 30 may also be obtained by calling 501-682-2121 or by writing to: Emergency Rule 30 c/o Charisse Childers, Ph.D., Director, Division of Workforce Services, P.O. Box 8040, Little Rock, AR 72203.

Sincerely,


Dr. Charisse Childers, Ph.D., Director
Division of Workforce Services
P.O. Box 8040, Little Rock, AR 72203
(501) 682-2121



DEPARTMENT OF COMMERCE

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STATUTORY AUTHORITY FOR RULEMAKING

A.C.A. § 11-10-307

§ 11-10-307. Rules

Effective: July 24, 2019

(a)(1) General and special rules may be adopted, amended, or rescinded by the Director of the Division of Workforce Services only after public hearing or opportunity to be heard thereon, on which proper notice has been given.

(2) General rules shall become effective ten (10) days after filing with the Secretary of State and publication in one (1) or more newspapers of general circulation in this state.

(3) Special rules shall become effective ten (10) days after notification to or mailing to the last known address of the individuals or employing units affected thereby.

(b) Rules may be adopted, amended, or rescinded by the director and shall become effective in the manner and at the time prescribed by the director.

Formerly A.S.A. 1947, § 81-1114.

F I L E D

APR 09 2020

Arkansas
Secretary of State

EMERGENCY RULE NO. 30

RECEIVED

APR 09 2020

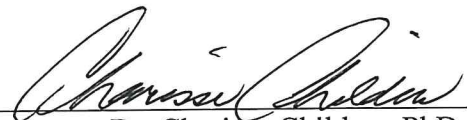
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30.1. This general rule is promulgated pursuant to the Director's authority as set out in Arkansas Code Annotated §11-10-306 and 307 and is necessary to comply with 42 U.S.C. §1103(h)(1)(C)(i) and (2) and receive supplemental federal funding.

30.2 All employers in the State of Arkansas must provide the notice as set out in Appendix "A" of Rule 30 to an employee upon that employee's separation from employment.

30.3 This rule shall become effective on April 27, 2020 and shall expire on December 31, 2020.

30.4 EMERGENCY CLAUSE. The Director finds that because of the COVID-19 pandemic and the widespread closures of businesses an extraordinary amount of unemployment claims have been filed or will be filed as a result of such closures throughout the State of Arkansas. The Director further finds that Rule No. 30 is necessary in order for the State of Arkansas to receive emergency administrative grant funding from the United States Department of Labor pursuant to 42 U.S.C. §1103(h)(1)(C)(i) and (2). One of the conditions of receiving such funding is that employers must be required by the state to provide direct notice to their employees of the availability of unemployment compensation benefits. This rule is necessary to ensure that the Division of Workforce Services has adequate resources to meet the increased demand caused by the COVID-19 pandemic.



Dr. Charisse Childers, PhD.
Director, DWS

4/8/2020

Date

APPENDIX A TO RULE 30

NOTICE TO EMPLOYEE

Unemployment Insurance (UI) benefits are available to workers who are unemployed and who meet the requirements of Arkansas UI eligibility laws. You may file a UI claim in the first week that employment stops or work hours are reduced.

You will need to provide the Arkansas Division of Workforce Services with the following information for the Division to process your claim:

- 1. Your Full legal name**
- 2. Your Social Security Number**
- 3. Your authorization to work (if you are not a US Citizen or resident)**

To file a UI claim online, visit our Arkansas' online claims filing site at <https://www.ezarc.adws.arkansas.gov/> from 6 a.m. through 6 p.m. Sunday through Saturday.

To file a UI claim by telephone, call 1-844-908-2178 or 501-534-6304 from 8 a.m. to 3:30 p.m. Monday through Friday.

To file a UI claim by paper, please visit your nearest Arkansas Workforce Center. To find the nearest Arkansas Workforce Center please visit www.dws.arkansas.gov/contact.

For general assistance or more information about filing a UI claim, call 1-855-225-4440 or 501-682-2121. HOURS: Monday – Friday, 8a.m. - 3:30p.m.

If you have questions about the status of your UI claim, you may call your local Arkansas Workforce Services office or 1-855-225-4440.



DEPARTMENT OF COMMERCE

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APPENDIX A MARK UP

Emergency Rule No. 30

30.1. This general rule is promulgated pursuant to the Director's authority as set out in Arkansas Code Annotated §11-10-306 and 307 and is necessary to comply with 42 U.S.C. §1103(h)(1)(C)(i) and (2) and receive supplemental federal funding.

30.2 All employers in the State of Arkansas must provide the notice as set out in Attachment A of Rule 30 to an employee upon that employee's separation from employment.

30.3 This rule shall become effective on April 27, 2020 and shall expire on December 31, 2020.

30.4 EMERGENCY CLAUSE. The Director finds that because of the COVID-19 pandemic and the widespread closures of businesses an extraordinary amount of unemployment claims have been filed or will be filed as a result of such closures throughout the State of Arkansas. The Director further finds that Rule No. 30 is necessary in order for the State of Arkansas to receive emergency administrative grant funding from the United States Department of Labor pursuant to 42 U.S.C §1103(h)(1)(C)(i) and (2). One of the conditions of receiving such funding is that employers must be required by the state to provide direct notice to their employees of the availability of unemployment compensation benefits. This rule is necessary to ensure that the Division of Workforce Services has adequate resources to meet the increased demand caused by the COVID-19 pandemic.

APPENDIX A TO RULE 30

NOTICE TO EMPLOYEE

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You will need to provide the Arkansas Division of Workforce Services with the following information for the Division to process your claim:

1. Your Full legal name
2. Your Social Security Number
3. Your authorization to work (if you are not a US Citizen or resident)

To file a UI claim online, visit our Arkansas' online claims filing site at <https://www.ezarc.adws.arkansas.gov/> from 6 am through 6 pm Sunday through Saturday.

To file a UI claim by telephone, call 1-844-908-2178 or 501-534-6304 from 8 a.m to 3:30 p.m Monday through Friday.

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If you have questions about the status of your UI claim, you may call your local office or 1-855-225-4440.



DEPARTMENT OF COMMERCE

ASA HUTCHINSON | Governor MICHAEL PRESTON | Secretary

APPENDIX D CLEAN COPY

Emergency Rule No. 30

30.1. This general rule is promulgated pursuant to the Director's authority as set out in Arkansas Code Annotated §11-10-306 and 307 and is necessary to comply with 42 U.S.C. §1103(h)(1)(C)(i) and (2) and receive supplemental federal funding.

30.2 All employers in the State of Arkansas must provide the notice as set out in Attachment A of Rule 30 to an employee upon that employee's separation from employment.

30.3 This rule shall become effective on April 27, 2020 and shall expire on December 31, 2020.

30.4 EMERGENCY CLAUSE. The Director finds that because of the COVID-19 pandemic and the widespread closures of businesses an extraordinary amount of unemployment claims have been filed or will be filed as a result of such closures throughout the State of Arkansas. The Director further finds that Rule No. 30 is necessary in order for the State of Arkansas to receive emergency administrative grant funding from the United States Department of Labor pursuant to 42 U.S.C §1103(h)(1)(C)(i) and (2). One of the conditions of receiving such funding is that employers must be required by the state to provide direct notice to their employees of the availability of unemployment compensation benefits. This rule is necessary to ensure that the Division of Workforce Services has adequate resources to meet the increased demand caused by the COVID-19 pandemic.

APPENDIX A TO RULE 30

NOTICE TO EMPLOYEE

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- 1. Your Full legal name**
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If you have questions about the status of your UI claim, you may call your local office or 1-855-225-4440.



State of Arkansas
Bureau of
Legislative Research

Marty Garrity, Director
Kevin Anderson, Assistant Director
for Fiscal Services
Tim Carlock, Assistant Director
for Information Technology
Matthew Miller, Assistant Director
for Legal Services
Estella Smith, Assistant Director
for Research Services

Memorandum

TO: Members, ALC Executive Subcommittee

FROM: Rebecca Miller-Rice, Legislative Attorney, Administrative Rules Review Section, Legal Services Division

CC: Marty Garrity, Director, Bureau of Legislative Research;
Jessica Sutton, Administrator, Administrative Rules Review Section, Legal Services Division

DATE: April 9, 2020

SUBJECT: Legal Authorization for the Arkansas Department of Commerce's Division of Workforce Services' Emergency Rule 30

In an effort to qualify for Allotment I of emergency administrative grants from the United States Department of Labor, the Arkansas Department of Commerce's Division of Workforce Services seeks legislative review and approval of its Emergency Rule 30. The agency states that the proposed rule is required to comply with 42 U.S.C. § 1103(h)(1)(C)(i) and (2), and that it will require all employers to provide a notice regarding the availability of unemployment insurance benefits to any employee upon separation from employment.

It is the duty of the Director of the Division of Workforce Services to administer the Division of Workforce Services Law, Ark. Code Ann. §§ 11-10-101 through 11-10-1018. *See* Ark. Code Ann. § 11-10-306(a). Pursuant to Ark. Code Ann. § 11-10-306(b)(1), the Director shall have the power and authority to adopt, amend, or rescind such rules, employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as he or she deems necessary or suitable to that end. *See also* Ark. Code Ann. § 11-10-307 (authorizing the adoption, amendment, or rescindment of general and special rules by the Director of the Division after public hearing or opportunity to be heard thereon, on which proper notice has been given).