

EXHIBIT F

ARKANSAS TOBACCO CONTROL

SUBJECT: Safe Manufacture of Vapor Products, Alternative Nicotine Products, and E-Liquids and Consumer Safety

DESCRIPTION: This proposed rule sets out basic safe handling requirements when mixing or re-sizing e-liquids, vapor products, and alternative nicotine products. It also establishes Arkansas Tobacco Control's ability to obtain samples of product, test same, and if necessary, cause their removal from public sale.

PUBLIC COMMENT: A public hearing was held on February 22, 2106. The public comment period expired on March 18, 2016. The agency received no comments.

The proposed effective date is pending legislative approval.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: This rule implements parts of Act 1235 of 2015. Section 24 of Act 1235 amended Arkansas Code Annotated § 26-57-257 and gave the Director of Arkansas Tobacco Control the specific authority to "adopt safety and hygiene rules for persons that prepare or mix e-liquid products or alternate nicotine products..."

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Arkansas Tobacco Control
DIVISION N/A
DIVISION DIRECTOR Agency Director: Steve Goode
CONTACT PERSON Roland Darrow
ADDRESS 101 E. Capitol Ave., Suite 401
PHONE NO. 501-682-9756 FAX NO. 501-682-9760 E-MAIL roland.darrow@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Director Steve Goode
PRESENTER E-MAIL steve.goode@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 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:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

RECEIVED

SEP 14 2016

BUREAU OF
LEGISLATIVE RESEARCH

1. What is the short title of this rule? Rules for the Safe Manufacture of Vapor Products, Alternative Nicotine Products and E-Liquids and Consumer Safety

2. What is the subject of the proposed rule? Manufacturer of Vapor Products and Consumer Safety

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? N/A

When does the emergency rule expire?

N/A

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. Provides minimum safety standards for the manufacturing of e-liquids and the prohibitions of consumer interaction with that process.

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."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A. § 26-57-257(s)

7. What is the purpose of this proposed rule? Why is it necessary? Section 24 of Act 1235 of 2015 states: Child safety being of paramount concern when dealing with alternative nicotine products and e-liquid products, the Director of Arkansas Tobacco Control may adopt safety and hygiene rules for persons that prepare or mix e-liquid products or alternative nicotine products. These rules address these concerns.

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).
<http://www.atc.arkansas.gov/Websites/tobaccocontrol/images/Draft%20of%20Vapor%20Mfg%20Rules.pdf>

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

If yes, please complete the following:

Date: February 22, 2016

Time: 10:00 a.m.

Place: ATC Board Room

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

March 18, 2016

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

November 1, 2016

12. Do you expect this rule to be controversial? Yes ☐ No ☒

If yes, please
explain. _____

13. 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.

ADH--For, In-state vapor manufacturers--For

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Tobacco Control

DIVISION N/A

PERSON COMPLETING THIS STATEMENT Roland Darrow

TELEPHONE NO. 501-683-2577 FAX NO. 501-682-9760 EMAIL: roland.darrow@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 Rules for the Safe Manufacture of Vapor Products, Alternative Nicotine Products and E-Liquids and Consumer Safety

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;
N/A

(b) The reason for adoption of the more costly rule;
N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
N/A

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

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	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>

Next Fiscal Year

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>

Total N/A

Total N/A

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

Current Fiscal Year

General Revenue	<u>0.00</u>
Federal Funds	<u>0.00</u>
Cash Funds	<u>0.00</u>
Special Revenue	<u>0.00</u>
Other (Identify)	<u>0.00</u>
Total	<u>0.00</u>

Next Fiscal Year

General Revenue	<u>0.00</u>
Federal Funds	<u>0.00</u>
Cash Funds	<u>0.00</u>
Special Revenue	<u>0.00</u>
Other (Identify)	<u>0.00</u>
Total	<u>0.00</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.

Current Fiscal Year

\$ Negligible

Entities affected are Vapor Product, Alternative Nicotine Product and E-Liquid Manufacturers who generally have already adopted the same or substantially similar as part of their ordinary business practices.

Next Fiscal Year

\$ Negligible

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

\$ 0.00

ATC inspections will be expanded to include checking items covered by the new rules at no additional expense.

Next Fiscal Year

\$ 0.00

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.