

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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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 _____



Mike A. Hagar
Secretary

State of Arkansas
Governor Sarah Huckabee Sanders



Mike A. Hagar
Director

ARKANSAS STATE POLICE

1 State Police Plaza Drive Little Rock, Arkansas 72209-4822 www.asp.arkansas.gov

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ARKANSAS STATE POLICE 2024 RULE CHANGE

RULES AND REGULATIONS FOR LICENSE PLATE READERS

- Request for Governor's approval
- Questionnaire for filing proposed Rules and Regulations with the Arkansas Legislative Council and Fiscal Impact Statement
- Rule Change Summary
- Rules – Clean
- A.C.A. § 12-12-1805



STATE OF ARKANSAS
SARAH HUCKABEE SANDERS
GOVERNOR

Request for Governor's Approval of Proposed Rule or Regulation

Department /Agency: _____

Short Title of Rule: _____

New Rule: ☐ Yes ☐ No

Amendment to Existing Rule: ☐ Yes ☐ No

State Mandate: ☐ Yes ☐ No

Federal Mandate: ☐ Yes ☐ No

If yes, please provide the legal citation of the mandate: _____

Legal Authority for Rule: _____

Proposed Effective Date: _____

Emergency Rule: ☐ Yes ☐ No

Expedited Rule Requested: ☐ Yes ☐ No

Summary of Proposed New Rule or Proposed Amendment to Existing Rule:

Financial Impact: ☐ Yes ☐ No ☐ Unknown; If yes or unknown, please explain:

Public Hearing Occurred on Rule: ☐ Yes ☐ No

Controversial: ☐ Yes ☐ No

If yes, please explain and provide detail of expected opposition.

Two Rules Repealed:

Exception from the Governor:

First Rule Repealed:

Brief explanation of why repeal is appropriate:

Second Rule Repealed:

Brief explanation of why repeal is appropriate:

Documents Required for Approval Process

Please note that the Governor's office will not begin the approval process if any of the following applicable documents are not enclosed with the approval request.

- ☐ BLR Questionnaire
- ☐ BLR Financial Impact Statement
- ☐ Proposed Rule - clean version
- ☐ Mark-Up of Rule, if amended from previous version
- ☐ Copy of Act or Regulation, if Rule is pursuant to State or Federal mandate

Contact Information

Department POC for Rules Process:

Department POC for this Rule:

NOTE: All documents must be returned to the Governor's Counsel as a single PDF file.

**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.



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Rule Summary

The License-Plate Reader rules have been written to allow the Arkansas State Police to begin to use License-Place Readers in its mission to keep the citizens of Arkansas safe. These rules meet the requirement set out in A. C. A. § 12-12-1805 as a condition to use the license-plate readers.

LICENSE PLATE READERS (LPR)

Rule 1. Authority – These Rules are promulgated under A.C.A. § 12-12-1805(4)(A), establishing the manner and method of obtaining, retaining, and destroying captured plate data, including specific rules concerning retention of data in excess of 150 days as specified in A.C.A. §12-12-1805(b)(4)(A).

Rule 2. Effective Date – These rules shall be effective on or after July 1, 2024.

Rule 3. Title – These rules shall be known as the License Plate Reader rules.

Rule 4. Definitions –

- a. **Hot List** - License plate numbers of stolen cars, vehicles owned by persons of interest, and vehicles associated with AMBER Alerts, SILVER Alerts, and similar alerts that are regularly added to “hot lists” circulated among law enforcement agencies. Information can come from a variety of sources, including the National Crime Information Center (NCIC) database and the Arkansas Crime Information Center (ACIC) database. In addition to lists provided by other sources, users may enter license plate numbers into hot lists be alerted if and when a vehicle license plate of interest is read by the LPR system.
- b. **License Plate Reader (LPR)** – a system of one (1) or more mobile or fixed automated high-speed cameras used to convert images of license plates into computer-readable data.
 - 1. **Fixed LPR system** – LPR cameras that are permanently affixed to a structure such as a pole, a traffic barrier, a building, or a bridge.
 - 2. **Mobile LPR system** – LPR cameras that are affixed, either permanently or temporarily to a law enforcement vehicle for mobile deployment.
 - 3. **Portable LPR system** – LPR cameras that are transportable and can be moved and deployed in a variety of venues as needed.
- c. **Member** – Sworn law enforcement officer of Arkansas State Police.
- d. **Alert** – A visual and/or auditory notice that is triggered when the LPR system receives a potential “hit” on a license plate.

- e. **Read** – Digital images of license plates and vehicles associated and metadata (e.g. date, time, and geographic coordinates associated with eh vehicle image capture) that are captured by the LPR system.
- f. **Hit** – A read matched to a plate that has previously been registered on an agency’s “hot list” of vehicle plates related to stolen vehicles, wanted vehicles, or other factors supporting investigation, or which has been manually entered by a user for further investigation.
- g. **Legitimate Law Enforcement Purpose** – Accessing, imputing, reviewing or receiving data from the LPR system in the performance of his/her duties and in compliance with Arkansas Code Annotated §12-12-1803 and §12-12-1804. Duties include but are not limited to, locating wanted persons, missing persons, AMBER Alerts, SILVER Alerts, stolen vehicles, crime vehicles, narcotic investigations, criminal investigations, and similar circumstances.

Legitimate Law Enforcement Purposes does not include, enhancing or assisting a member’s position in a legal proceeding in this state or influencing the outcome of a legal proceeding in this state for the benefit of the member or a member’s family, causing a pecuniary or professional gain for the member or a member’s family, or any political purpose.

- h. **LPR Data Query Logs** – A record of a search or query of LPR data from the server.
- i. **ASP** – Arkansas State Police
- j. **ARDOT** – Arkansas Department of Transportation
- k. **ACIC** – Arkansas Crime Information Center
- l. **NCIC** – National Crime Information Center, which allows access to criminal history and other law enforcement information through the Federal Bureau of Investigation.

Rule 5. Procedures

- a. The use of LPR systems is restricted to legitimate law enforcement purposes.

b. Anyone with access who misuses the LPR Systems that result in Arkansas Crime Information Center data being released or disclosed to an unauthorized person is punishable under A. C. A. §12-12-212 (A-misdemeanor or D-felony).

c. Anyone with access who misuse LPR Systems as defined in A.C.A. § 12-12-1803 are subject to penalties outline in A.C.A. § 12-12-1807.

d. ASP LPR systems, associated equipment, databases, and data are the property of the Arkansas State Police and for use in conducting official business for official law enforcement purposes.

e. The Interstate Criminal Patrol Commanders shall serve as the ASP LPR Administrator and shall establish and maintain protocols to document LPR usage and results, including appropriate documentation of all incidents, arrests, and property recoveries related to LPR usage in accordance with A. C. A. §12-12-1805. LPR usage reports and their results shall be provided to the Arkansas Legislative Council on a quarterly basis by the ASP for their interview.

f. Statistical data shall be compiled in accordance with A.C. A. § 12-12-1805 to allow the general public to review the compiled data. The compiled data shall be retained for eighteen (18) months.

Rule 6. ASP LPR Data Usage and Retention

a. LPR Alerts/Hits: Prior to the initiation of a traffic stop based on LPR alter, the officer must:

1. Visually verify that the vehicle plate number matches the plate number run by the LPR system, including both alphanumeric characters of the license plate and the state of issuance, and

2. Verify the status of the plate through the communications center or ACIC/NCIC query.

3. Make reasonable efforts to verify that the driver and/or occupants physically match the description of any wanted person(s).

b. LPR operation and access to LPR collected data shall be for law enforcement purposes only and can be shared with other law enforcement agencies only as outlined in these rules and A. C. A. § 12-12-1803.

c. When ASP data is disseminated to another law enforcement agency, it shall be documented on a dissemination log that is maintained by the LPR Administrator.

d. All ASP LPR system data will be stored on the designated LPR system server for a period not to exceed 150 days.

e. If the LPR Administrator, or designee, determines that data should be retained based upon the criteria in A. C. A. § 12-12-1804(b), the LPR Administrator will authorize the transfer of the applicable data from the LPR server to a form of digital storage media (CD, DVD, etc.) or other portable storage device and make a notation in the log of the transfer of the data. Once the data is no longer needed as outline in A. C. A. § 12-12-1804(b), the data shall be permanently deleted, and a note of the deletion made on the log.

West's Arkansas Code Annotated

Title 12. Law Enforcement, Emergency Management, and Military Affairs

Subtitle 2. Law Enforcement Agencies and Programs (Chapters 6 to 24)

Chapter 12. Crime Reporting and Investigations

Subchapter 18. Use of Automatic License Plate Reader Systems

A.C.A. § 12-12-1805

§ 12-12-1805. Practice and usage data preservation

Effective: August 16, 2013

Currentness

(a) An entity that uses an automatic license plate reader system under § 12-12-1803(b) shall:

(1) Compile statistical data identified in subsection (b) of this section every six (6) months into a format sufficient to allow the general public to review the compiled data; and

(2) Preserve the compiled data for eighteen (18) months.

(b) The preserved data shall include:

(1) The number of license plates scanned;

(2) The names of the lists against which captured plate data were checked;

(3) For each check of captured plate data against a list:

(A) The number of confirmed matches;

(B) The number of matches that upon further investigation did not correlate to an alert; and

(C) The number of matches that resulted in arrest and prosecution; and

(4)(A) Promulgate rules and policies concerning the manner and method of obtaining, retaining, and destroying captured plate data, including without limitation specific rules and policies concerning retention of material in excess of one hundred fifty (150) days under § 12-12-1804(b) and make those rules and policies available for public inspection.

(B) Failure to comply with subdivision (b)(4)(A) of this section shall be grounds for a court of competent jurisdiction to exclude any evidence obtained under this subchapter.

Credits

Acts of 2013, Act 1491, § 1, eff. Aug. 16, 2013.

A.C.A. § **12-12-1805**, AR ST § **12-12-1805**

The constitution and statutes are current through acts effective July 1, 2024, of the 2024 Fiscal Session of the 94th Arkansas General Assembly. Some statute sections may be more current; see credits for details. Also included are changes made by the Arkansas Code Revision Commission received through May 30, 2024.

End of Document

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