

COMMISSION ON LAW ENFORCEMENT STANDARDS & TRAINING

SUBJECT: Certification of Law Enforcement Canines & Certifying Officials

DESCRIPTION: These amendments establish certification of law enforcement canines and canine certifying officials.

The top three benefits of the proposed rule is that it provides a cost free training for certification and training for law enforcement agencies throughout the state; minimizes exposure to liabilities during canine deployments; and provides a minimum standard for canine units in the state.

PUBLIC COMMENT: The commission held a public hearing on May 29, 2012, and received no public comments. Matthew Miller with the Bureau of Legislative Research asked the following questions (along with the commission's response):

(1) In looking at the commission's rulemaking authority, I don't see authority to regulate canines. Can you point to the authority for the certification of canines?

RESPONSE: While law enforcement canines are not specifically addressed as part of the commission's jurisdiction, the commission feels its regulatory power over law enforcement is broad enough to cover the certification of law enforcement canines. Matthew Miller noted that the commission's enabling statutes do not specifically address authority over law enforcement canines and its power generally covers law enforcement officers.

(2) The rule references "Canine Certification Requirements" that will be approved by the commission. Will those requirements be in a separate rule? It seems those provisions would arguably meet the definition of a rule. **RESPONSE:** The commission equates the certification requirements to the curriculum at its training courses as opposed to a document that should be promulgated as a rule. However, they will reexamine the issue and consider whether the certification requirements should be promulgated as a separate rule.

The proposed effective date is August 1, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 12-9-104 authorizes the Arkansas Commission on Law Enforcement Standards and Training to provide specialized training in subjects and fields to be selected by the board. As noted above, the commission's enabling legislation does not reference jurisdiction over law enforcement canines.

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

DEPARTMENT/AGENCY Commission on Law Enforcement Standards and Training

DIVISION N/A

DIVISION DIRECTOR Ken Jones

CONTACT PERSON Ken Jones

ADDRESS P. O. BOX 3106 EAST CAMDEN, AR 71711

PHONE NO. 870-574-1810 **FAX NO.** 870-574-2706 **E-MAIL** ken.jones@arkansas.gov

NAME OF PRESENTER AT COMMITTEE MEETING Ken Jones

PRESENTER E-MAIL ken.jones@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
Room 315, State Capitol
Little Rock, AR 72201

- 1. What is the short title of this rule? Certification of Law Enforcement Canines and Certifying Officials
- 2. What is the subject of the proposed rule? -
Certifying of Canines and Canine Certifying Officials
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ___ No X
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes ___ No X
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 X No ___
- 5. Is this a new rule? Yes X No ___ If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes _____ No X 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 X 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 Arkansas Code citation. ACA 12-9-104
7. What is the purpose of this proposed rule? Why is it necessary?
To establish standards for Canines and Canine Certifying Officials. No such rule currently exists.
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). www.clest.org
9. Will a public hearing be held on this proposed rule? Yes X No _____
If yes, please complete the following:
Date: May 29, 2012
Time: 10:00 A. M.
Place: Arkansas Law Enforcement Training Academy East Camden, Arkansas
10. When does the public comment period expire for the permanent promulgation? (Must provide a date.)
May 29, 2012
11. What is the proposed effective date of this proposed rule? (Must provide a date.) August 1, 2012
12. Do you expect this rule to be controversial? Yes _____ No X If yes, please explain.
13. Please give us the names of persons, groups, or organizations that you expect to comment on these rules. Please provide their position (for or against) if known.

**ECONOMIC IMPACT STATEMENT
OF PROPOSED RULES OR REGULATIONS
EO 05-04: Regulatory Flexibility**

Department: Commission on Law Enforcement Standards and Training	Division: N/A
Contact Person: Ken Jones	Date: April 20, 2012
Contact Phone: 870-574-1810	Contact Email: ken.jones@arkansas.gov
Title or Subject: Certification of Canines and Canine Certifying Officials	

Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints. No complaints. No previous regulation established.
2. What are the top three benefits of the proposed rule or regulation?
 1. Provides a cost free training for certification and training for law enforcement agencies throughout the state.
 2. Minimizes exposure to liabilities during canine deployments.
 3. Provides a minimum standard for canine units in the state.
3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo? Failure to adopt this proposal could enhance tort liabilities concerning failure to train, regulate and establish canine guidelines for training.
4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives. N/A

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of *collecting information, completing paperwork, filing, recordkeeping, auditing and inspecting* associated with this new rule or regulation. N/A
6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected. N/A
7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary. N/A
8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance. N/A
9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary. N/A
10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation. N/A
11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government? N/A
12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation. N/A

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT: Commission on Law Enforcement Standards and Training

DIVISION: N/A

PERSON COMPLETING THIS STATEMENT: Ken Jones

TELEPHONE NO. 870-574-1810

FAX NO. 870-574-2706

EMAIL: ken.jones@arkansas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE:

Certification of Law Enforcement Canines and Canine Certifying Officials

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No X
2. Does this proposed, amended, or repealed rule affect small businesses?
Yes _____ No X

If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain. N/A
4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program. N/A

CURRENT FISCAL YEAR		NEXT FISCAL YEAR	
General Revenue		General Revenue	
Federal Funds		Federal Funds	
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	
Total	0		0

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected. N/A

CURRENT FISCAL YEAR	NEXT FISCAL YEAR
\$ N/A	\$ N/A

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

CURRENT FISCAL YEAR	NEXT FISCAL YEAR
\$ N/A	\$ N/A

SUMMARY OF RULE CHANGE

The proposed amendments to the rules of the Commission include establishing certification of Law Enforcement Canines and Canine Certifying Officials.

1028. CERTIFICATION OF LAW ENFORCEMENT CANINES

- (1) A canine used as a law enforcement tool in the State of Arkansas must be certified by a Law Enforcement Certifying Official in accordance with Canine Certification Requirements approved by CLEST.
- (2) All Law Enforcement Canines shall meet or exceed the minimum standards approved by CLEST.
- (3) Law Enforcement Canine Certifications shall expire one (1) year after the date of issue.
- (4) Law Enforcement Canines that are used for the sole purpose of tracking shall not be required to obtain CLEST certification.
- (5) All Law Enforcement Canines currently active in Arkansas shall be certified within eighteen (18) months of the effective date of this regulation.
- (6) A Certified Law Enforcement Canine must be recertified each year and each time it is assigned to a new Law Enforcement Officer.

1029. DECERTIFICATION OF LAW ENFORCEMENT CANINES

- (1) Law Enforcement Canine Certificates issued by the Commission remain the property of CLEST and the Commission shall have the power to revoke or recall any certificate for the following reasons:
 - (a) The Law Enforcement Canine is found to be a danger to the public.
 - (b) The Law Enforcement Canine is no longer in use by a Law Enforcement Agency.
- (2) The Law Enforcement Agency utilizing the Law Enforcement Canine shall have the right to a hearing before the Commission prior to a final decision to decertify a Law Enforcement Canine.

1030. CERTIFICATION OF LAW ENFORCEMENT CANINE CERTIFYING OFFICIAL

- (1) In order to certify Law Enforcement Canines in the State of Arkansas, a person must be certified by CLEST as a Law Enforcement Canine Certifying Official.
- (2) A person may be certified as a Dual Purpose Certifying Official or a Single Purpose Certifying Official.
 - (a) A Dual Purpose Certification will be issued to a person who is trained to certify Law Enforcement Canines in narcotics/explosives and patrol work.

- (b) A Single Purpose Certification will be issued to a person who is trained to certify Law Enforcement Canines in narcotics/explosives work only.
 - (c) A Dual Purpose Certifying Official may certify a Single Purpose Canine, but a Single Purpose Certifying Official may not certify a Dual Purpose Canine.
- (3) A person desiring to become a Law Enforcement Canine Certifying Official must submit an application to the Commission.
 - (4) An applicant for Law Enforcement Canine Certifying Official Certification must be a Certified Law Enforcement or Corrections Officer in the State of Arkansas.
 - (5) Applicants who are certified as Law Enforcement or Corrections Officers must have completed a CLEST approved Instructor Development Course.
 - (6) Applicants must have five (5) years of experience as a Dual or Single Purpose Canine Officer to qualify as a Certifying Official in that respective field.
 - (7) All applicants for Law Enforcement Canine Certifying Official Certification must pass a written examination approved and administered by CLEST.
 - (8) All Applicants must conduct the certification process for each Law Enforcement Canine in accordance Arkansas Certifications Requirements approved by CLEST.

1031. DECERTIFICATION OF LAW ENFORCEMENT CANINE CERTIFYING OFFICIALS

Decertification of Law Enforcement Canine Certifying Officials will be handled in accordance with rules set forth in Regulation 1010 regarding decertification of Law Enforcement Officers.