

DIVISION OF ARKANSAS STATE POLICE
"MUNICIPAL POLICE PATROLS OF CONTROLLED-ACCESS FACILITIES RULES"

Rule 1.0 Rules Adopted; Purpose.

These Rules shall be known as the "MUNICIPAL POLICE PATROLS OF CONTROLLED ACCESS FACILITIES RULES", promulgated by the Director of the Division of Arkansas State Police ("Arkansas State Police" or "ASP"). The purpose of the Rules is to set written guidelines for compliance with Arkansas Act 371 of 2007; and thus to ensure the orderly patrol of controlled-access facilities by municipal police departments listed by the Director to provide orderly and appropriate law enforcement assistance to Division of Arkansas State Police.

Rule 1.1 Authority; Scope; Effective Date.

a) These Rules are issued under the Director's authority at Ark. Code Ann. § 12-8-106(h), as amended by Arkansas Act 371 of 2007, as well as the Arkansas Administrative Procedure Act, codified at Ark. Code Ann. §§ 25-15-201, *et seq.*

b) These Rules shall apply to all municipal police departments in the state of Arkansas who make application to the Director to patrol the controlled-access facilities pursuant to A.C.A. § 12-8-106(h).

c) These Rules shall be effective on and after April 1, 2008.

Rule 1.2. Definitions.

As used in these Rules, these terms mean the following:

a) "Controlled-access facilities", for purposes of Ark. Code Ann. § 12-8-106 and these Rules, include highways designated by the Arkansas Highway and Transportation Department as "Fully Controlled-Access Routes on Arkansas's State Highway System." These are interstate highways and those highways which are constructed to meet the standard and specifications of interstate highways. ASP will maintain a list of the "Controlled-access facilities" on its web site and in the office of the Director. This list will be updated annually when highways are designated by the Arkansas State Highway and Transportation Department as "Fully Controlled-Access Routes on Arkansas' State Highway System", and they also may be referred to as "Fully-Accessed Control Highways";

b) "Director" means Director of the Division of the Arkansas State Police; and

c) "Division" means the Division of Arkansas State Police.

Rule 2.0 Factors Considered By the Director In Approving Requests by Municipal Police Departments to Patrol Controlled-Access Facilities Pursuant to A.C.A. § 12-8-106(h) .

The factors which the Director shall take into consideration in approving authorization for Municipal Police Departments to patrol controlled-access facilities pursuant to A.C.A. § 12-8-106(h) are:

- a) Public safety;
- b) Size of municipality served by municipal police department requesting authorization under these Rules;
- c) Size of the municipal police department requesting authorization;
- d) Training of the municipal police department requesting authorization;
- e) Financial impact;
- f) Abuse of police power;
- g) The types of roadways or highways that are controlled-access facilities for purposes of this section and these Rules;
- h) The need of the Arkansas State Police for assistance in patrolling the controlled-access facilities;
- i) The number and location of other municipal police departments which have been granted authorization to patrol the controlled-access facilities; and
- j) Reason and justification submitted by the municipality for requesting authorization to patrol Controlled-Access Facility.

Rule 2.1 Patrol Authorizations Issued by Arkansas State Police Director.

a) All municipal police departments which have previously been granted approval by this Division to patrol what has previously been described as limited access highways will be authorized to patrol controlled-access facilities provided such police department notifies the Director within sixty (60) days of the effective date of these Rules that said police department desires to remain on the approved list. Failure to notify the Director will result in removal from the approved list and such department will need to apply for authorization in accordance with these Rules.

b) After the effective date of these Rules, requests by municipal police departments to patrol controlled-access facilities shall provide the following information:

- 1) The request shall be on letterhead stationery of the municipal police department and be signed by the Chief of Police;
- 2) Population of the municipality;
- 3) The size of the police force;
- 4) The training of the police force; and
- 5) Reason(s) why the municipal police department is requesting authorization to patrol controlled-access facilities and how granting authorization will improve public safety.

Rule 3.0 Require Records to be Maintained by Municipal Police Departments Granted Authorization to Patrol "Controlled-Access Facilities."

a) The municipal police department shall keep records reflecting the ratio of the total number of tickets written by the police department in comparison to the number of tickets written on the "controlled-access facility."

b) The records referred to in the preceding paragraph shall be kept on a monthly basis and available for inspection at any time by the Arkansas State Police. Such records shall be kept for a period of five (5) years. On request, such records shall be submitted to the Division.

c) It shall be presumed that the affected municipality is abusing its police power if thirty per cent (30%) or more of the total tickets written for traffic violations are written for offenses occurring on the "controlled-access facility"; or more

than fifty percent (50%) are written for traffic offenses occurring on the "controlled-access facility" for speeding and are issued for speed limit violations that are ten miles per hour (10 m.p.h.) or less than the posted limit.

d) All citations for violations occurring on controlled-access facilities will be for violations of state statute.

e) Any police municipality found to be in violation of the Rule 3.0 will be subject to having its authorization to patrol the "controlled-access facility" immediately withdrawn. The authorization will not be in effect pending any appeal.

Rule 4.0 Withdrawal of Authorization.

a) The Director may withdraw authorization from a municipal police department to patrol any controlled-access facilities for good cause. In withdrawing any authorization, the Director will consider the factors set out in Rule 2 above.

b) If any municipal police department, which has been authorized by the Director to patrol controlled-access facilities, fails to abide by these Rules; abuses police power in patrolling such controlled-access facilities; or if that department's assistance to the Arkansas State Police is no longer needed, such authorization may be withdrawn.

c) The Director shall provide his/her reasons, in writing, to any municipal police department whose authority to patrol controlled-access facilities is withdrawn.

Rule 4.1 Appeal Process.

The appeal process applies only to municipal police departments which have been granted authorization to patrol "controlled-access facilities" and such authorization is withdrawn.

Rule 4.2 Appeal Procedure

a) A municipal police department whose authority has been withdrawn by the Director to patrol controlled-access facilities may appeal the decision. A written or electronic Notice of Appeal shall be filed in the Director's office within ten (10) days of receipt of notification that the authority has been withdrawn.

b) Once an appeal has been filed with the Director's office the Director may personally hear the appeal or may designate a Hearing Officer to hear the appeal and make recommendations to the Director for a final order. The appeal hearing shall be held in accordance with the Administrative Procedure Act, §§ 25-15-201, *et seq.*

c) Filing the Notice of Appeal does not automatically stay the withdrawal of authority for the municipal police department to patrol the controlled-access facilities. If a stay of authorization is not granted, the hearing on the appeal should be held within forty-five (45) days of the filing of the Notice of Appeal, unless for good cause a party requests a continuance. A final order should be entered within a reasonable time after the conclusion of the hearing and/or the submission of other pleadings submitted post-hearing.