

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Labor

Department Arkansas Board of Electrical Examiners

Contact Denise P. Oxley, General Counsel E-mail denise.oxley@arkansas.gov Phone 501-682-4502

Statutory Authority for Promulgating Rules Ark. Code Ann. 17-28-202(a)(1); 17-1-106(g)(Act 848 of 2015); 17-28-312(b)(3)(B)(Act 1122 of 2015); and 17-1-107(Act 1086 of 2015)

Rule Title: Rule 010.13 Rules of the Board of Electrical Electrical Examiners

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☒ Other 04/21/2016
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

9/24/15-9/26/15

11/17/15

02/16/2016

03/15/2016

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Denise P. Oxley

denise.oxley@arkansas.gov

March 18, 2016

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

(501) 682-4541

leon.jones@arkansas.gov

Phone Number

E-mail Address

Director of Labor

Title

March 18, 2016

Date

**ADMINISTRATIVE REGULATIONS OF
THE BOARD OF ELECTRICAL EXAMINERS,
STATE OF ARKANSAS**

**010.13 Administrative Regulations of the Board of Electrical Examiners of the State of
Arkansas**

Amendment 1. Amend Rule 010.13-002 to read as follows:

010.13-002 Information for public guidance

The mailing address and telephone number for the Board of Electrical Examiners of the State of Arkansas is:

Arkansas Board of Electrical Examiners
Arkansas Department of Labor
10421 West Markham Street
Little Rock, AR 72205
(501) 682-45489

The Department of Labor makes available a list of persons holding certain responsibilities for handling FOIA requests, licensing questions, complaints against licensees, and compliance requests or assistance so that the public may obtain information about the agency or make submissions or requests. The names, mailing addresses, telephone numbers and electronic addresses can be obtained from the agency's office or web site. The Department of Labor's Web site is <http://www.labor.ar.gov/>. The web site for the Board of Electrical Examiners is: <http://www.labor.ar.gov/divisions/Pages/electricalInspectionLicensing.aspx>.

The agency has a list of official forms used by the agency and a list of all formal, written statements of policy and written interpretative memoranda, and orders, decisions and opinions resulting from adjudications, which may be obtained from the division's office or web site. Copies of all forms used by the agency, written statements of policy and written interpretive memoranda, and all orders issued by the division may be obtained from the division's office.

Amendment 2. Amend Rule 010.13-004(D), dealing with rule-making, is amended to read as follows:

D. Filing with Legislative Council.

Thirty (30) days before the public-comment period ends, the division will file with the Legislative Council the text of the proposed rule or amendment as well as a financial impact statement and any additional information as may be required by the Legislative Council as provided by Ark. Code Ann. § 10-3-309.

Amendment 3. Amend Rule 010.13-004(G), dealing with rule-making, is amended to read as follows:

G. The Decision to Adopt a Rule

1. The Board will not finalize language of the rule or decide whether to adopt a rule until the period for public comment has expired and the proposed rule has been reviewed and approved by the Legislative Council or other legislative committee pursuant to Ark. Code Ann. § 10-3-309.
2. Before acting on a proposed rule, the Board will consider all of the written submissions and/or oral submissions received in the rule-making proceeding or any memorandum summarizing such oral submissions, and any regulatory analysis or fiscal impact statement issued in the rule-making proceedings.
3. The Board may use its own experience, specialized knowledge, and judgment in the adoption of a rule.

Amendment 4. Amend Rule 010.13-004(M), dealing with rule-making, is amended to read as follows:

M. Filing

1. After the Board formally adopts a new rule or amends a current rule or repeals an existing rule, and after the rule change has been reviewed and approved by the Legislative Council, the staff will file final copies of the rule with the Secretary of State, the Arkansas State Library, and the Legislative Council, or as otherwise provided by Ark. Code Ann. § 25-15-204(d).
2. Proof of filing a copy of the rule, amendment, or repeal with the Secretary of State, the Arkansas State Library, and the Legislative Council will be kept in a file maintained by the Legal Division of the Arkansas Department of Labor.
3. Notice of the rule change will be posted on the department Web site.

Amendment 5. Amend 010.13-005(C) dealing with emergency rule-making is amended to read as follows:

C. Effective Date of Emergency Rule

1. The Board shall not finalize an emergency rule or file an emergency rule with the Secretary of State for adoption until the emergency rule has been approved under Ark. Code Ann. § 10-3-309. An emergency rule shall not be effective before the emergency rule has been approved under Ark. Code Ann. § 10-3-309.

2. The emergency rule will be effective immediately upon filing, or at a stated time less than ten (10) days thereafter, if the Board finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The Board will file with the rule its written findings justifying the determination that emergency rule-making is appropriate and, if applicable, the basis for the effective date of the emergency rule being less than ten days after the filing of the rule pursuant to Ark. Code Ann. § 25-15-204(e). The Board will take appropriate measures to make emergency rules known to persons who may be affected by them.

Amendment 6. Rule 010.13-009 is amended to read as follows:

010.13-009 Definitions

A. The various classes of licenses shall be defined as follows:

1. "Master electrician" shall mean an individual with an unlimited license classification and who is authorized to plan, lay out, and supervise the installation, maintenance, and extension of electrical conductors and equipment.

2. "Journeyman electrician" shall mean an individual who is limited by license classification to install, maintain, and extend electrical conductors and equipment. A journeyman electrician cannot contract with the general public to plan, lay out or supervise the installation, maintenance and extension of electrical conductors and equipment without employing at least one (1) full-time master electrician.

3. "Residential master electrician" shall mean an individual who is limited by license classification to performing electrical work for one and two family dwellings, including planning and supervising the installation, maintenance and extension of electrical facilities. A residential master electrician may perform electrical work on a commercial or other project under the supervision of a journeyman electrician or master electrician in the same manner and with the same ratio as an electrical apprentice.

4. "Residential journeyman electrician" shall mean an individual who is limited by license classification to install, alter, repair, maintain, or renovate electrical facilities for one and two family dwellings under the general supervision of a residential master electrician or a master electrician. A residential journeyman may perform electrical work on a commercial or other project under the supervision of a journeyman electrician or master electrician in the same manner and with the same ratio as an electrical apprentice.

5. "Air conditioning electrician" shall mean an individual who is limited by license classification to the installation, maintenance, and extension of electrical conductors and equipment solely for the purpose of supplying heating and air conditioning and refrigeration units.
6. "Industrial maintenance electrician" shall mean an individual who is limited by license classification to the repair, maintenance, alteration, and extension of electrical conductors and equipment for electrical power and control systems on or within industrial, manufacturing, or similar type facilities. For employees of industrial facilities, it is not necessary to possess this or any other class of license. See Ark. Code Ann. § 17-28-102(a)(2) and Regulation 010.13.010(A).
7. "Specialist Sign Electrician" means any individual who is limited to a license classification possessing the necessary qualifications, training, and technical knowledge for installing, maintaining and repairing electrically illuminated or operated signs and gaseous tubing for illumination, making all connection to an approved outlet of sufficient capacity within twenty-five (25) feet of the sign to be connected.
- B. "Board" shall mean the Board of Electrical Examiners of the State of Arkansas.
- C. "Director" shall mean the Director of the Arkansas Department of Labor.
- D. "Electrical Apprentice" means any person whose principal occupation is the learning of and assisting in the installation of electrical work under the supervision of a journeyman electrician or master electrician.
- E. "Electrical work" means:
1. As defined by Ark. Code Ann. §§ 17-28-101(4) and 20-31-102(5):
 - a. Installations of electric conductors and equipment within or on public and private buildings or other structures, including recreational vehicles, and floating buildings, and other premises such as yards, carnivals, parking and other lots, and industrial substations;
 - b. Installations of conductors that connect to the supply of electricity; and
 - c. Installations of other outside conductors on the premises.
- F. "HVACR" shall mean heating, ventilation, air conditioning and refrigeration.
- G. "Manager" shall mean any employee:
1. whose primary duty consists of oversight of the technical and business functions of the electrical company in which he or she is employed; and

2. who customarily and regularly directs the work of one or more other employees therein; and
3. who has a good working knowledge of electrical theory, electrical materials and equipment, and electrical installation procedures; and
4. who customarily and regularly exercises discretion and independent judgment; and
5. who has the authority to hire or fire other employees, or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and
6. who normally maintains oversight of the electrical work performed by the electrical company in which he or she is employed during such time that company holds itself out to perform such work.

H. "Superintendent" shall mean any employee:

1. whose primary duty consists of oversight of the electrical work performed by the electrical company in which he or she is employed; and
2. who has a good working knowledge of electrical theory, electrical materials and equipment, and electrical installation procedures; and
3. who customarily and regularly directs the work of one or more other employees therein; and
4. who has the authority to hire or fire other employees, or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees, will be given particular weight; and
5. who customarily and regularly exercises discretion and independent judgment; and
6. who normally maintains oversight of the electrical work performed by the electrical company in which he or she is employed during such time that company holds itself out to perform such work.

Amendment 7. Rule 010.13-013(D) is amended to read as follows:

D. Expiration, Reinstatement and Renewal

1. Licenses shall expire on the date indicated on the license. Licenses shall expire on the last day of the month, one year following the date of issue. Such licenses may be renewed as provided herein. All licenses originally issued prior to the adoption of this rule shall continue to expire as indicated on the license.

2. Licenses may be renewed for one (1) year in the last year of an NEC cycle, two (2) years in the second year of an NEC cycle, or three (3) years in the first year of an NEC cycle upon a payment of fifty dollars (\$50.00) per year for a master electrician's license; fifty dollars (\$50.00) per year for a residential master electrician's license; twenty-five dollars (\$25.00) per year for a journeyman electrician's license; twenty-five dollars (\$25.00) per year for a residential journeyman electrician's license; twenty-five (\$25.00) per year for an air conditioning electrician's license; and twenty-five dollars (\$25.00) per year for an industrial maintenance electrician's license.

3. A license may be renewed within six (6) months of the expiration date by paying the renewal fees stated in Regulation 010.13-013(D)(2).

4. A license may be renewed after six (6) months from the expiration date, by paying the renewal fee stated in Regulation 010.13-013(D)(2) plus a penalty of ten dollars (\$10.00) for journeyman electrician, residential journeyman electrician, air conditioning electrician, or industrial maintenance electrician, and twenty dollars (\$20.00) for master electrician or residential master electrician.

5. If any license is not renewed within a year after the expiration of such license, the licensee shall be required to take another examination as authorized by the Board. If any grandfather license is not renewed within a year after the expiration of such license, the licensee shall be required to take an examination as authorized by the Board. An applicant shall not be required to take an examination if the applicant meets the requirements for reciprocity pursuant to Rule 010.13-016.

6. Reinstatement

a. Notwithstanding any rule to the contrary, an individual may seek reinstatement under this subsection, provided the applicant for reinstatement demonstrates that he or she:

- i. was previously licensed by the Board at any time;
- ii. was licensed in good standing at the time of licensing;
- iii. did not have his or her license revoked for: an act of bad faith or a violation of law, rule or ethics;
- iv. is not holding a suspended or probationary license in a sister state; and
- v. passes a licensing examination if the applicant's license has been expired for more than one (1) year.

b. Apprenticeship training is not required of applicants for reinstatement who are qualified pursuant to Rule 010.13-013(D)(6)(a) above.

- c. Continuing education requirements apply to a reinstated licensee in the same manner as other licensees.
- d. An applicant for reinstatement shall not be required to comply with the requirements of Rule 010.13-013(D)(6)(a) if the applicant meets the requirements for reciprocity pursuant to Rule 010.13-016.
- e. An application for reinstatement may be reviewed and approved for examination by the Department of Labor's Code Enforcement Manager in lieu of the Board's Screening Committee.

Amendment 8. Rule 010.13-013(H), dealing with apprentice electricians, is amended to read as follows:

H. Apprentices

1. Upon employing an electrical apprentice to work at the trade, the electrical contractor/master electrician shall within thirty (30) days register such apprentice with the Board, the Department of Career Education and the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OAT). The apprentice must begin school no later than the first full semester following the date of hire. In the event that school begins more than ninety (90) days from the hire date, the employer shall, in the interim, provide the apprentice with technically related instruction pursuant to the guidelines of the U. S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OAT).
2. An applicant for registration as an electrical apprentice shall submit the following:
 - a. an application on a form approved by the Board;
 - b. a registration fee of ten dollars (\$10.00);
 - c. satisfactory proof that the applicant is enrolled in and attending a school or training course for electrical apprentices certified by the OAT.
3. Apprentice registration certificates shall be valid for one (1) year. They shall expire on the last day of the month, one (1) year from the date of issue.
4. Apprentice registration certification may be renewed by payment of a ten dollar (\$10.00) renewal fee and submission of satisfactory proof of current enrollment in and attendance of a training program approved by the OAT.
5. An apprentice who has successfully completed a certified school or training program and has been released for testing may continue to renew his or her apprentice registration card, if otherwise qualified, without enrolling in a school or training program. Such an

apprentice may work as a fourth year apprentice for the purpose of Regulation 010.13-013(H)(6) for a period of six (6) months. If an apprentice has not passed the journeyman electrician examination within six (6) months of completing apprenticeship school, the apprentice shall be subject to the same supervision as a third year apprentice pursuant to Regulation 010.13-013(H)(6).

6. Ratios and Supervision

- a. No journeyman or master electrician shall employ or supervise electrical apprentices at a ratio greater than three (3) apprentices to one (1) journeyman or one (1) master electrician on a single electrical job.
- b. An apprentice electrician shall not engage in electrical work unless he or she is supervised by a master electrician or a journeyman electrician.
- c. Observation of apprentices' work. The supervising electrician shall observe the work of an apprentice electrician in person at regular and reasonable intervals. "Regular and reasonable intervals" shall mean a minimum of the following:
 - i. For work on 1-2 family dwellings:
 - A. an apprentice in the first 90 days of employment shall be under the direct, immediate, and continuous supervision of the supervising master or journeyman; and
 - B. an apprentice employed from the 91st day of employment through 2 years shall have his or her work observed by the supervising master or journeyman every 2-3 hours and before the work is operational, before it is considered complete, and before it is covered.
 - ii. For work on all projects other than 1-2 family dwellings:
 - A. For a first year apprentice, the supervising electrician shall observe the apprentice's work on a direct and continuous basis;
 - B. For a second year apprentice, the supervising electrician shall observe the apprentice's work every 30 minutes to 1 hour and before the electrical work is operational, before it is considered complete, and before it is covered;
 - C. For a third year apprentice, the supervising electrician shall observe the apprentice's work every 2-3 hours and before the work is operational, before it is considered complete, and before it is covered; and
 - D. For a fourth year apprentice, the supervising electrician shall observe the apprentice's work before the work is operational, before it is considered complete, and before it is covered.

d. Proximity to apprentices. The supervising electrician shall remain within reasonable proximity to an apprentice electrician while electrical work is being performed. The proximity of the supervising electrician to the apprentice electrician is reasonable if:

i. The supervising electrician is:

A. within the line of sight of the apprentice electrician; or

B. at the same street address at which the apprentice electrician is working; or

ii. The job site is not a single-family residence, requires a contractor's license, and the supervising electrician is within the line of sight of the apprentice electrician.

e. The responsible master electrician is responsible for all the electrical work performed by an apprentice. This means that it is the supervising electrician's initial responsibility and ultimately the responsible master's obligation to ensure that all electrical work performed by the apprentice is performed in compliance with the standards adopted by these rules.

7. Classroom Study

By memorandum of understanding, the Department of Career Education Apprenticeship Office shall oversee related classroom study of apprentices.

8. A certificate of registration may be revoked by the Board for cause. This includes, but is not limited to the following:

a. Expulsion from or dropping from the training program approved by the OAT.

b. Performing electrical work which is not performed under the ~~direct~~ supervision of a licensed master or journeyman electrician; or

c. Performing electrical work outside the employment of the apprentice's mentoring or sponsoring electrician or electrical contractor.

9. A licensed electrician shall verify the work hours of any apprentice who has been in his/her employ the previous four (4) years at the request of the Department of Labor; the Department of Career Education; the Office of Apprenticeship; and any local apprenticeship committee. Failure to comply with such a request may result in the assessment of civil money penalties and the revocation or suspension of a license.

Amendment 9. A new Rule 010.13-022 is added to read as follows, and subsequent rules are renumbered:

010.13-022. Active duty service members, returning military veterans, and spouses.

A. As used in this rule, “returning military veteran” means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.

B. Temporary License

1. An individual who is the holder in good standing of a substantially equivalent license in another state, shall be issued a temporary license of the same class while completing the application process for full licensure, provided the individual is one of the following:

- a. an active duty military service member stationed in the State of Arkansas;
- b. a returning military veteran applying within one (1) year of his or her discharge from active duty; or
- c. the spouse of a person under subdivisions (B)(1)(a) and (B)(1)(b) of this rule.

2. A temporary license under this rule shall expire on its face in six (6) months, although it is subject to renewal until a final administrative decision on full licensure is made.

3. If a full license is granted and the license fee paid, the license shall expire on the last day of the month, one (1) year following the date of the original temporary license.

C. The Department of Labor’s Code Enforcement Manager shall review the application for full licensure of any individual listed under subdivisions (B)(1)(a); (B)(1)(b); and (B)(1)(c) of this rule in lieu of the Board’s Screening Committee in order to expedite the process. The decision of the Code Enforcement Manager is subject to review by the full Board upon written request by the applicant.

D. When considering an application for full licensure for an active duty military service member stationed in the State of Arkansas or a returning military veteran applying within one (1) year of his or her discharge from active duty, the Code Enforcement Manager or Board shall:

1. consider whether or not the applicant’s military training and experience is substantially similar to the experience and education required by Rule 010.13-012 for the class of license being sought; and
2. accept the applicant’s military training and experience in lieu of the training experience and education required by Rule 010.13-012 if the Board determines the military training and experience is a satisfactory substitute for the training and experience required by Rule 010.13-012.

E. A license held by an active duty military service member deployed outside the State of Arkansas or his or her spouse shall not expire until one hundred eighty (180) days following the active duty military service member's or spouse's return from active deployment. The licensee must submit proof of deployment and deployment dates.

F. Continuing education.

1. An active duty military service member deployed outside the State of Arkansas or his or her spouse shall have an additional one hundred eighty (180) days to obtain the eight (8) hours of continuing education required by Rule 010.13-019, dating from:

- a. the three (3) years provided by Rule 010.13-019; or
- b. the date of return to active duty, whichever is longer. For this option the licensee must submit proof of deployment and deployment dates.

2. A returning military veteran discharged from active duty or his or her spouse shall have an additional one hundred eighty (180) days to obtain the eight (8) hours of continuing education required by Rule 010.13-019, dating from:

- a. the three (3) years provided by Rule 010.13-019; or
- b. the expiration of one (1) year from the date of discharge, whichever is longer. For this option, the licensee must submit proof of the discharge date

Amendment 10. Rule 010.13-022 is amended to read as follows:

010.13-023 Effective date, repealer and history.

A. Effective June 1, 2008 all previous regulations promulgated by the Board are hereby repealed.

B. The effective date of these regulations is June 1, 2008.

C. History

1. The Board of Electrical Examiners first promulgated regulations effective September 12, 1979. These regulations were amended effective October 15, 1987.

2. All previous rules and regulations of the Board were repealed and new rules and regulations were adopted effective January 1, 1992. These regulations were amended effective January 19, 1993; September 29, 1993; January 15, 1996; June 1, 1999; and July 1, 1999

3. All previous rules and regulations of the Board were repealed and new rules and regulations were adopted effective September 1, 1999. These regulations were amended

effective August 20, 2001; January 1, 2002; April 1, 2002; April 1, 2004; November 1, 2004; October 1, 2005; and June 1, 2006.

4. All previous rules and regulations of the Board of Electrical Examiners were repealed and new rules and regulations were adopted effective June 1, 2008. [Note: Rule 010.13-019 was amended effective September 1, 2008 by adding subsection (E)].
5. Regulations 010.13-009, 010.13-011, and 010.13-012 pertaining to Specialist Sign Electricians and examination fees were amended by emergency regulation effective July 31, 2009. These changes were adopted as permanent regulations effective February 1, 2010. Regulation 010.13-012(H)(5) was also added by the permanent regulation.
6. Effective December 15, 2011 the following Rules are amended: Rule 010.13-008 (to update the National Electrical Code to 2011 edition).
7. Regulation 010.13-021 pertaining to the licensure of electrical inspectors, was adopted with an effective date of February 10, 2014.
8. Effective November 21, 2014, Rule 010.13-008 was amended to update the National Electrical Code to the 2014 edition, with certain exceptions (dealing with fault circuit interrupters in kitchen and laundry rooms).
9. Effective April 21, 2016, the following Rules are amended: Rule 010.13-002 (Information for public guidance); Rule 010.13-004 (Rule-making); Rule 010.13-005 (Emergency rule-making); Rule 010.13-009 (Definitions); and Rule 010.13-013 (Licenses). A new rule was adopted effective February 1, 2016, Rule 010.13-022 (Active duty service members, returning military veterans, and spouses).