

# ARKANSAS REGISTER

## Transmittal Sheet

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



Secretary of State

**John Thurston**

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas Department of Agriculture

Department The Arkansas State Board of Registration for Foresters

Contact Wade Hodge E-mail wade.hodge@agriculture.arkansas.gov Phone 501-225-1598

Statutory Authority for Promulgating Rules Ark Code Ann. §17-31-204(a)

Rule Title: Rules of the Arkansas State Board of Registration for Foresters

Intended Effective Date  
(Check One)

☐ Emergency (ACA 25-15-204)

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

☐ Other \_\_\_\_\_  
(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

April 17 - 19, 2020

May 16, 2020

July 24, 2020

October 3, 2019

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

Linda Luebke

linda.luebke@agriculture.arkansas.gov

July 27, 2020

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

501-225-1598

Phone Number

wade.hodge@agriculture.arkansas.gov

E-mail Address

Chief Council, Arkansas Department of Agriculture

Title

July 27, 2020

Date



Asa Hutchinson  
Governor

# ARKANSAS DEPARTMENT OF AGRICULTURE

1 Natural Resources Drive, Little Rock, AR 72205  
agriculture.arkansas.gov  
(501) 225-1598



Wes Ward  
Secretary of Agriculture

July 27, 2020

Honorable John Thurston  
Secretary of State  
State Capitol Rm. 01  
Little Rock, Arkansas 72201-1094

Enclosed are Transmittal Sheets and a copy of the **Final Rule, Rules of the Arkansas State Board of Registration for Foresters**. The Rule was approved at the Arkansas State Board of Registration for Foresters meeting held October 3, 2019.

The rule was reviewed and approved by the Administrative Rules Subcommittee of the Arkansas Legislative Council on July 22, 2020 and the Arkansas Legislative Council on July 24, 2020.

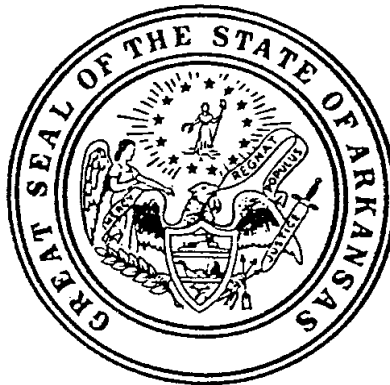
If more information is needed, please contact me.

Sincerely,

Wade Hodge  
Chief Counsel

WH:ll

*Rules*  
of the **Arkansas State**  
**Board of Registration for**  
**Foresters**



**October 1, 2019**

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RULES  
OF THE  
ARKANSAS STATE BOARD OF REGISTRATION FOR FORESTERS

I. General

- A. Definition: The “Board” means the Arkansas State Board of Registration for Foresters.
- B. Definition: “Returning military veteran” means former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.
- C. Intent: These Rules supplement the Board’s enabling legislation, codified at A.C.A. § 17-31-101 *et seq.* These Rules govern the conduct of the business of the Board and shall be interpreted to establish orderly, equitable, and efficient procedures.
- D. Effective Date: These Rules are effective January 1, 2020 or, pursuant to A.C.A. § 25-15-204(e), 30 days after filing, whichever is later.
- E. Authority: The Arkansas General Assembly established the Board and prescribed its organization, duties, and powers. A.C.A. § 17-31-101 *et seq.*
- F. Compliance: The Board shall comply with the Administrative Procedure Act, codified at A.C.A. § 25-15-201 *et seq.* and with the Freedom of Information Act, codified at A.C.A. § 25-19-101 *et seq.*

II. Membership and Structure

- A. Members and Terms: A.C.A. §17-31-201(b) provides that the Board shall have six members appointed by the Governor. Members serve five-year terms.
- B. Officers: A.C.A. § 17-31-203(a) provides that the Board shall elect annually from its membership a Chair, a Vice Chair, and a Secretary. The Board will elect officers during the final business meeting of the fiscal year. The terms for officers begin July 1.

1. Chair

- a. The Chair shall call Board meetings.

- b. The Chair shall determine the schedule and agenda for Board meetings, except the Chair shall place items on the agenda at the request of three or more members.
- c. The Chair shall preside at Board meetings.
- d. The Chair may establish Committees and appoint members.
- e. The Chair shall authenticate by the Chair's signature all the approved acts, orders, and minutes of the Board.
- f. The Chair may represent the Board.

## 2. Vice Chair

- a. The Vice Chair shall become the acting Chair and temporarily shall assume the powers and duties of the Chair in the event of the absence or disability of the Chair.
- b. The acting Chair shall revert to the Vice Chair and the Chair shall resume the powers and duties of the office when the Chair is able.

## 3. Secretary

- a. The Secretary will record meeting minutes.
- b. The Secretary will ensure all public meetings are recorded via audio recording or video recording. Recordings of the meetings will be stored for one year after the meeting's date at the Board's office according to A.C.A. §25-19-106.

# III. Committees

## A. General

- 1. Committees shall review issues and recommend action to be taken by the Board.
- 2. A Committee shall meet as needed and as called by the Committee Chair.
- 3. The Committee Chair shall determine the agendas for Committee meetings, preside at Committee meetings, and report Committee recommendations to the Board.

4. The Committee Chair shall authenticate by the Chair's signature all the approved acts, orders, and minutes of the Committee.

#### IV. Meetings of the Board

- A. Quorum: A.C.A. § 17-31-203 provides that a quorum shall consist of not fewer than three members, and no action shall be official without at least three votes in accord.
- B. Regular Meetings: A.C.A. § 17-31-203(c) provides that the Board shall conduct at least two regular meetings each year.
- C. Procedures: In presiding at meetings, the Chair shall employ reasonable and efficient procedures.
- D. Voting: Except the Chair, each member shall be entitled to one vote on each matter coming before the Board. The Chair may vote whenever the Chair's vote will affect the result.

#### V. Public Information

The Board's Executive Director is responsible for the day-to-day affairs of the Board and is the custodian of the Board's records. The Board's office is at 1 Natural Resources Drive, Little Rock, AR 72205. Please call the Executive Director at 501/680-0013 or visit the Board's website at [www.arkansas.gov/abof](http://www.arkansas.gov/abof) for information, schedules, and forms.

#### VI. Registration

- A. Requirement: A person must be a "Registered Forester" to lawfully practice forestry in Arkansas. A.C.A. § 17-31-101, 301.
- B. Becoming Registered
  1. Review A.C.A § 17-31-302 to determine if you meet the statutory requirements for education and/or experience.
  2. Obtain an application form from the Board.
  3. Submit to the Board a completed application and a \$40 non-refundable application fee.
  4. Submit an official college transcript, showing the qualifying degree posted, to the Board office.

5. Each applicant is required to have each of his/ her five (5) references submit a “Reference Form” to the Board’s office.
  1. At least three (3) of the five references must be registered foresters.
  2. Current Board members or relatives of the applicant may not be used as references.
6. Reciprocal Registration: Reciprocity is governed by A.C.A. §17-31-308. The Registered Foresters exam is not required for individuals seeking reciprocal registration.
7. Reciprocal Registration for military members and their spouses: Reciprocity is governed by A.C.A. §17-1-106. The Registered Foresters exam is not required for individuals seeking reciprocal registration.
  1. The Board shall grant automatic licensure to an individual who holds a substantially equivalent license in another U.S. jurisdiction and is:
  2. An active duty military service member stationed in the State of Arkansas;
  3. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or
  4. The spouse of a person under Section VI. 7.2 or 7.3.
    - a. The Board shall grant automatic licensure upon receipt of all the below:
      - i. Completed application.
      - ii. Payment of application and registration fees.
      - iii. Official college transcript.
      - iv. Completed reference forms. See VI. B5.
      - v. Evidence that the individual holds a substantially equivalent license in good standing in another state; and

vi. Evidence that the applicant is qualified under Section VI. B7.

8. Sign-up for the Registered Foresters exam, and pass the exam. Subsequent exam fees will be \$30.

9. Pay the \$30 registration fee.

C. Maintaining Registration

1. Registered Foresters must pay an annual renewal fee of \$30.

2. Registered Foresters must annually participate in continuing forestry education and must certify to the Board completion of at least the minimum requirement.

3. Expired licenses maybe re-instated after the individual has paid the penalty and renewal fee as well as completed the last calendar year's required continuing education hours.

D. Reciprocal Registration: Reciprocity is governed by A.C.A §17-31-308.

E. Reciprocal Registration for military members and their spouses: Reciprocity is governed by A.C.A. §17-1-106.

1.The Board shall grant automatic licensure to an individual who holds a substantially equivalent license in another U.S. jurisdiction and is:

1. An active duty military service member stationed in the State of Arkansas;
2. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or
3. The spouse of a person under E1 or E2.

2.The Board shall grant automatic licensure upon receipt of all the below:

1. Completed application.

2. Payment of application and registration fees.
3. Official college transcript.
4. Completed reference forms. See VI. B5.
5. Evidence that the individual holds a substantially equivalent license in good standing in another state; and
6. Evidence that the applicant is qualified under Section E.

#### VII. Pre-licensure Criminal Background Check

- A. Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.
- B. The individual must obtain the pre-licensure criminal background check petition form from the Board.
- C. The Board will respond with a decision in writing to a completed petition within a reasonable time.
- D. The Board's response will state the reason(s) for the decision.
- E. All decisions of the Board in response to the petition will be determined by the information provided by the individual.
- F. Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.
- G. The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.

#### VIII. Waiver Request

- A. If an individual has been convicted of an offense listed in A.C.A. §17-1-102(a), except those permanently disqualifying offenses found in subsection (e), the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:

1. An affected applicant for a license; or

2. An individual holding a license subject to revocation.

B. The Board may grant a waiver upon consideration of the following, without limitation:

1. The age at which the offense was committed;

2. The circumstances surrounding the offense;

3. The length of time since the offense was committed;

4. Subsequent work history since the offense was committed;

5. Employment references since the offense was committed;

6. Character references since the offense was committed;

7. Relevance of the offense to the occupational license; and

8. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

C. A request for a waiver, if made an applicant, must be in writing and accompany the completed application and fees.

D. The Board will respond with a decision in writing and will state reasons for the decision.

E. An appeal of a determination under this section will be subject to the Administrative Procedures Act §25-15-201 et seq.

#### IX. Continuing Education

A. Except as set-out in paragraph D, every Registered Forester shall complete eight (8) hours of approved continuing forestry education during each calendar year. Of those eight hours, at least one hour shall be in ethics that has bearing or relationship to forestry.

B. A Registered Forester may carry-over to the next calendar year up to two hours of continuing forestry education.

C. The continuing education requirement must be met through courses that have been approved by the Society of American Foresters or the Board.

D. Waiver of Continuing Education Requirement

1. For the causes set-out in A.C.A. §17-31-307(d), the Executive Director may waive the continuing education requirement.
2. The Executive Director's waiver must be ratified by the Board.

VIII. Complaints

A. Filing a Complaint

1. Any person, including members of the Board and the Executive Director, may file a complaint against an individual found in violation of A.C.A. § 17-31-101 *et seq.*
2. Complaints must be made in writing on forms authorized by the Board.
3. All complaints must be notarized and filed with the Executive Director.
4. The Executive Director will review each complaint for jurisdiction. Only those complaints within the Board's jurisdiction shall proceed through the complaint process.

B. Complaint Committee

1. The Chair shall select two members of the Board to serve on the Complaint Committee. Terms shall be for the duration of member's appointment.
2. The Executive Director is a non-voting member of the complaint committee.
3. The Complaint Committee shall assist the Executive Director, when needed, to establish jurisdiction.
4. The Complaint Committee shall review all complaint letters within the Board's jurisdiction and corresponding respondent letters. The committee shall make additional inquiries, contact outside sources, etc as needed to investigate the complaint.
5. The Complaint Committee shall make recommendations to the Board regarding complaint dismissal or specific charges to bring against the respondent.

6. Should an offer of settlement be made, the complaint committee shall review the offer and make a recommendation to the Board as to acceptance or denial.

#### C. Respondents

1. Respondents are those individuals who have a complaint brought against them.
2. Respondents shall be sent a certified letter stating that a complaint (within the Board's jurisdiction) has been filed against them. The letter shall contain a copy of the complaint filed and a respondent form. Respondents have two weeks from receipt of the letter to complete and return the respondent form.

#### D. Hearings

1. If the Board finds a complaint has probable cause, a notice shall be sent to the respondent stating the following:
  - a. Time, place, nature of the hearing
  - b. Board's legal authority and jurisdiction under which the hearing is held
  - c. Statement of facts and law asserted
  - d. Possible actions/penalties to be assessed against respondent if allegations are proven.
  - e. If requested, the Board shall provide all documents as required by Arkansas Code §25-15-208.
2. Hearings will be made in accordance with Arkansas Code §25-15-208.
3. A final decision including statement of fact and conclusions of law shall be mailed to the respondent upon conclusion of the hearing.
4. Hearing transcriptions will only be made should the Board's decision be appealed for judicial review. Individuals requesting transcriptions from a hearing that has not been appealed must reimburse the agency all costs associated with the transcription.

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE**  
**ARKANSAS LEGISLATIVE COUNCIL**

**DEPARTMENT/AGENCY** Arkansas Department of Agriculture

**DIVISION** Arkansas State Board of Registration for Foresters

**DIVISION DIRECTOR** Rebecca Montgomery

**CONTACT PERSON** Rebecca Montgomery

**ADDRESS** 1 Natural Resources Dr., Little Rock, AR 72205

**PHONE NO.** 501.680.0013 **FAX NO.** 501.683.4852 **E-MAIL**

[rebecca.montgomery@arkansas.gov](mailto:rebecca.montgomery@arkansas.gov)

**NAME OF PRESENTER AT COMMITTEE MEETING** Rebecca Montgomery; Wade Hodge

**PRESENTER E-MAIL** [rebecca.montgomery@arkansas.gov](mailto:rebecca.montgomery@arkansas.gov); [wade.hodge@agriculture.arkansas.gov](mailto:wade.hodge@agriculture.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:

Jessica C. Sutton  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

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- 1. What is the short title of this rule? Rules of the Arkansas State Board of Registration for Foresters
- 2. What is the subject of the proposed rule? To comply with Acts 820 and 990 of 2019. See attached summary for further clarification
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes \_ No X  
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 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 \_\_\_\_\_ No \_\_\_\_\_

5. Is this a new rule? Yes ☒ No ☐ If yes, please provide a brief summary explaining the rule.

While this is an amendment to existing Board rules, it adds entirely new sections. See the attached memo for further clarification

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.

Ark. Code Ann. §17-31-204(a)

7. What is the purpose of this proposed rule? Why is it necessary?

The proposed new additions to the rules provide for portability of occupational licenses for military members and spouses, and for pre-licensure criminal background checks. See attached memo for further clarification.

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.aad.arkansas.gov

9. Will a public hearing be held on this proposed rule? Yes ☐ No ☒  
If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

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

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

No later than August 1, 2020

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark.

14. 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.

None known at this time.

### **FINANCIAL IMPACT STATEMENT**

#### **PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Agriculture

**DIVISION** Arkansas State Board of registration for Foresters

**PERSON COMPLETING THIS STATEMENT** Wade Hodge

**TELEPHONE NO.** 501-219-6361 **FAX NO.** 501-312-7051 **EMAIL:**

[wade.hodge@agriculture.arkansas.gov](mailto:wade.hodge@agriculture.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** Reciprocity and Temporary Permits

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes \_\_\_\_\_ No X
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 X 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 X 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;
  - (b) The reason for adoption of the more costly rule;
  - (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
  - (d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.
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? N/A

**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? N/A

**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, 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**

\$ 0.00 \_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

**Next Fiscal Year**

\$ 0.00 \_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

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. N/A

**Current Fiscal Year**

\$ 0.00 \_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

**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   X  

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.