

Mark-up Copy. Stricken language would be deleted from and underlined language would be added to the rules effective July 1, 2006.

**ADMINISTRATIVE RULES OF
THE BOILER INSPECTION DIVISION OF THE ARKANSAS DEPARTMENT OF
LABOR AND THE BOILER ADVISORY BOARD,
STATE OF ARKANSAS**

010.01 Administrative Regulations of the Boiler Inspection Division of the Arkansas Department of Labor and the Boiler Advisory Board, State of Arkansas.

Amendment 1. Rule 010.01-002 is amended to read as follows:

010.01-002 Information for Public Guidance

The mailing address and telephone number for the Boiler Inspection Division is:

Boiler Inspection Division
Arkansas Department of Labor
10421 West Markham Street
Little Rock, AR 72205
(501) 682-4513

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~~ website. The Department of Labor's ~~Web site~~ website is: <http://www.arkansas.gov/labor/> <http://www.labor.ar.gov/Pages/default.aspx>. The Boiler Inspection Division's ~~Web site~~ website is: http://www.arkansas.gov/labor/divisions/boiler_p1.html <http://www.labor.ar.gov/divisions/Pages/boilerInspectionDivision.aspx>.

The division has a list of official forms used by the division 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~~ website. Copies of all forms used by the division, written statements of policy and written interpretative memoranda, and all orders issued by the division may be obtained from the division's office.

Amendment 2. Rule 010.01-004(D), dealing with rule-making, is amended to read as follows:

D. ~~Pre-Filing with the Bureau of Legislative Research~~ Filing with Legislative Council

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

Amendment 3. Rule 010.01-004(G)(1), dealing with rule-making, is amended to read as follows:

G. The Decision to Adopt a Rule

1. The division 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.

Amendment 4. Rule 010.01-004(M), dealing with rule-making, is amended to read as follows:

M. Filing

1. After the division 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~~ Legislative Council, the agency staff will file final copies of the rule with the Secretary of State, the Arkansas State Library, and the ~~Bureau of Legislative Research~~ Legislative Council or as otherwise provided by Ark. Code Ann. § 25-14-204(d).

2. Proof of filing a copy of the rule, amendment, or repeal with the Secretary of State, the Arkansas State Library, and the ~~Bureau of Legislative Research~~ 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 page~~ department website.

Amendment 5. Rule 010.01-005(C), dealing with emergency rule-making, is amended to read as follows:

C. Effective Date of Emergency Rule

1. The division 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.

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

Amendment 6. Rule 010.01-008(J), dealing with re-licensure for a revoked or surrendered license, is amended to read as follows:

J. Re-Licensure for Revoked or Surrendered License and General Reinstatement

1. No individual who has had his or her license revoked or who has surrendered his or her license for an act of bad faith or a violation of law, rule or ethics will be licensed, except on petition made to the division. The application for re-licensure is not allowed until at least two (2) years after the revocation or surrender of license took effect.

~~2.~~ a. The applicant bears the burden of proof that he or she is rehabilitated following the revocation or surrender of his or her license, that he or she can engage in the conduct authorized by the license without undue risk to the public, health, safety, and welfare, and that he or she is otherwise qualified for the license pursuant to Ark. Code Ann. § 20-23-101 *et seq.*

~~3.~~ b. The division may impose any appropriate conditions or limitations on a license to protect the public, health, safety, and welfare.

4. c. The division may require that the person seeking re-licensure take the licensing examination, if applicable.

2. Reinstatement

a. An individual may seek reinstatement under this subsection, Rule 010.01-008(J)(2), provided the applicant for reinstatement demonstrates that he or she:

i was previously licensed by the division 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; and

iv. is not holding a suspended or probationary license in this state or a sister state.

b. The Department of Labor’s Code Enforcement Manager shall ensure that any application for reinstatement is handled in an expedited manner.

Amendment 7. Rule 010.01-008, dealing with licensing, is amended to add a new subsection (O) to read as follows:

O. Active duty service members, returning military veterans, and spouses

1. 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.

2. Temporary license

a. 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:

i. an active duty military service member stationed in the State of Arkansas;

ii. a returning military veteran applying within one (1) year of his or her discharge from active duty; or

iii. the spouse of a person under Rule 010.01-008(O)(2)(a)(i) or (ii) above.

b. A temporary license under this rule shall expire on its face in thirty (30) days, although it is subject to renewal until a final administrative decision on full licensure is made.

c. If a full license is granted and the license fee paid, the license shall expire on the same date or in the same manner as other licenses of that class or type, regardless of the date of issue or renewal.

d. The Department of Labor’s Code Enforcement Manager shall ensure that any application for temporary licensure under Rule 010.01-008(O) is handled in an expedited manner.

e. When considering an application for full licensure of 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 division shall:

(i) consider whether or not the applicant's military training and experience is substantially similar to the experience required by Rule 010.01-008(K) through (M) for the class of license being sought; and

(ii) accept the applicant's military training and experience in lieu of the experience required by Rule 010.01-008(K) through (M) if the Code Enforcement Manager or division, determines the military training and experience is a satisfactory substitute.

f. 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.

Amendment 8. Rule 010.01-010(C)(1), dealing with inspection requirements, is amended to read as follows:

C. Inspection Requirements

1. All boilers shall be inspected as follows:

a. High pressure steam boilers shall be inspected internally and externally once each year unless the chief inspector grants an extension for good cause. Such an extension:

(i) shall not exceed six (6) months; and

(ii) shall cause the time period for the next annual inspection to begin on the day following the date of the inspection.

b. All low pressure steam boilers shall be inspected externally annually and internally once each three (3) years as far as construction permits to the extent permitted by the design and construction of the vessel.

c. All hot water heating boilers shall be inspected externally annually and internally if required by the inspector.

d. These times may be shortened at any time an inspector feels there is reason to question the boiler or controls integrity. An inspector may require a more frequent inspection than those required in Rule 010.01-010(C)(1)(a) through (c) above if the inspector has reason to question the integrity of the boiler or boiler controls.

Amendment 9. Rule 010.01-027, dealing with history of the division’s rule-making, is amended to read as follows:

010.01-027 Repealer, ~~and~~ Effective Date and History

A. All previous rules and regulations of the Boiler Safety Advisory Board and the Boiler Safety Division of the Arkansas Department of Labor are hereby repealed.

B. The effective date of these rules and regulations is the 1st day of July, 2006.

C. Effective January 1, 2017, the following rules and regulations of the board were amended: Rule 010.01-002 (Information for public guidance); Rule 010.01-004 (Rule-making); Rule 010.01-005 (Emergency rule-making); Rule 010.01-008 (Licensing); Rule 010.01-010(C) (Inspection requirements); and Rule 010.01-027 (Repealer, Effective Date and History).