QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEP	ARTMENT/AGENCY: Elevator Safety Board, Department of Labor and Licensing
DIV	SION: Division of Occupational and Professional Licensing Board and Commissions
	SION DIRECTOR
	TACT PERSON: Denise P. Oxley, General Counsel
	RESS: 10421 W. Markham Street, Little Rock, AR 72205
	NE NO. 501-682-4502 FAX NO. 501-682-4535 E-MAIL: denise.oxley@arkansas.gov
	E OF PRESENTER AT COMMITTEE MEETING: Denise P. Oxley
PKE	SENTER E-MAIL: denise.oxley@arkansas.gov
	INSTRUCTIONS
A. B.	Please make copies of this form for future use. Please answer each question <u>completely</u> 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
	Arkansas Legislative Council
	One Contain Mall 5th Files
	One Capitol Mall, 5th Floor
****	Little Rock, AR 72201 **********************************
	- "LSEARCH
1.	What is the short title of this rule? Rules of the Elevator Safety Board
2.	What is the subject of the proposed rule? <u>licensing for active duty service members, returning military veterans, and spouses.</u>
3.	Is this rule required to comply with a federal statute, rule, or regulation? YesNoX_
	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? YesNo_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 NoX_ If yes, please provide a brief summary explaining the rule.
	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 Yes No X If yes, a copy of the repealed rule is to be included with your completed questionnaire.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 X 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." See Attachment A, Summary and Attachment B., mark-up copy. Attachment C is a clean copy.
6.	Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.
	The rule-making authority of the Elevator Safety Board is principally at Ark. Code Ann. § 20-24-106(c). See 2019 Ark. Acts 910 (organizational name changes); 2019 Ark. Acts 315 (replace "regulation" with "rule"); Ark. Code Ann. §§ 17-1-107 and -108 (2019 Ark. Acts 426 and 1011) (reinstatement and temporary licensure); and Ark. Code Ann. § 17-1-106 (2019 Ark. Acts 820) (active duty service members, returning military veterans and spouses.
7.	What is the purpose of this proposed rule? Why is it necessary? The purpose and necessity of the proposed amendments is to comply and conform to legislation passed during the 2019 regular sessions, particularly Act 820 of 2019
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). http://www.labor.arkansas.gov/proposed-rule-making
9.	Will a public hearing be held on this proposed rule? Yes X No No If yes, please complete the following:
	Date: to be decided
	Time:
	Place:_Department of Labor and Licensing, Room 216 10421 W. Markham Street Little Rock, AR 72205
10.	When does the public comment period expire for permanent promulgation? (Must provide a date.)
	To be decided
11_{\circ}	What is the proposed effective date of this proposed rule? (Must provide a date.)

June 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.

Will do when formal process begins

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e).

Will do when formal process begins

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.

See Attachment F, which is the Interested Party mailing list. Positions are unknown at present, but the rules are not anticipated to be controversial.



FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY LEGISLATIVE RESEARCH

	ARTMENTElevator Safety Board, Depart					
	SION Division of Occupational and Profe					
	SON COMPLETING THIS STATEMENT					
TEL]	EPHONE NO. <u>501-682-4502</u> FAX NO. <u>50</u>	01-682-4535 EMAIL: denise.oxley@arkansas.gov				
	omply with Ark. Code Ann. § 25-15-204(e), pment and file two copies with the questionnal	lease complete the following Financial Impact re and proposed rules.				
SHO	RT TITLE OF THIS RULE Rules of the	Elevator Safety Board				
1.	Does this proposed, amended, or repealed rule have a financial impact? Yes NoX					
2.		rainable scientific, technical, economic, or other ning the need for, consequences of, and alternatives to				
3.	In consideration of the alternatives to this releast costly rule considered? Yes X	ule, was this rule determined by the agency to be theNo				
	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 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?					
	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)				

(b) What is the additional cost of the state	rule?
Cummont Fiscal Voor	
Current Fiscal Year	Next Fiscal Year
General Revenue0	General Revenue0
Federal Funds	Federal Funds
Cash Funds	Cash Funds
Special RevenueOther (Identify)	Special RevenueOther (Identify)
Total	Total
and explain how they are affected. Current Fiscal Year -0	Next Fiscal Year \$ -0-
<u></u>	Ψ
What is the total estimated cost by fiscal ve	ear to state, county, and municipal government to program or grant? Please explain how the gove
is affected. Current Fiscal Year	Next Fiscal Year
5	\$0
cost or obligation of at least one hundred th	nestions #5 and #6 above, is there a new or increase a new and dollars (\$100,000) per year to a private state government, county government, municipal

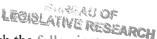
If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously

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.

SUMMARY OF PROPOSED AMENDMENTS TO THE ADMINISTRATIVE RIFES OF THE ELEVATOR SAFETY BOARD DEPARTMENT OF LABOR AND LICENSING

Act 820 of 2019



The proposed amendments to the Elevator Safety Board's rules would accomplish the following:

- 1. Revises organizational names as needed. 2019 Ark. Acts 910;
- 2. Replaces the term "regulations" with "rules." 2019 Ark. Acts 315;
- 3. Revises definitions to include a definition of "substantially similar license" and "substantially equivalent license." *See* 2019 Ark. Acts 426 and 820;
- 4. Provides for a temporary or provisional license unless an immediate decision is made on the application for licensure.
- 5. Amends the provision for active duty service members, returning military veterans, and spouses for licensure to comply with 2019 Ark. Acts 820. The revision will still require proof of having been tested.

010.05-005

AGENCY #010.05

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Definitions

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As used in these regulations rules, unless the context otherwise requires:

- **A.** "Alteration" means any change made to an existing elevator, dumbwaiter, escalator or other conveyance; or to its hoistway, enclosure, or doors other than the repair or replacement of damaged, worn, or broken parts necessary for normal operation. The changing of the speed governor shall be considered an alteration;
- **B.** "Authorized representative" means the building department of cities, towns, or other governmental subdivisions designated by the Department of Labor and Licensing to enforce certain provisions of Ark. Code Ann. § 20-24-101 *et seq.*;
- C. "Board" means the Arkansas Elevator Safety Board;
- D. "Conveyance" means an elevator, dumbwaiter, escalator, moving sidewalk, automatic people mover, platform lift or stairway chair lift;
- E. "Director" means the Director of the Department of Labor Division of Labor:
- F. "Department" means the Department of Labor and Licensing;
- G. "Dormant elevator, dumbwaiter, or escalator" means an elevator or dumbwaiter whose cables have been removed, whose car and counterweight rest at the bottom of the shaftway, and whose shaftway doors are permanently boarded up or barricaded on the inside or an escalator whose main power feed lines have been disconnected;
- H. "Dumbwaiter" means a hoisting and lowering mechanism, driven by mechanical power, equipped with a car which moves in guides in a substantially vertical direction, the floor area of which does not exceed nine (9) square feet, whose total compartment height does not exceed four feet (4'), the capacity of which does not exceed five hundred pounds (500 lbs.), and which is used exclusively for carrying freight;
- I. "Elevator" means a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction;
- 1. The term "elevator" shall not include a, conveyor chain bucket hoist, construction hoist, or similar devices used for the primary purpose of elevating or lowering materials, nor shall it include tiering, piling, feeding, or similar machines or devices giving service within only one (1) story;

- 2. The term "power elevator" shall mean those driven by the application of energy other than hand or gravity;
 - 3. "Hand elevators" shall mean those driven by manual power;
- 4. The term "elevator" shall include vertical wheelchair lifts, inclined wheelchair lifts, and inclined stairway chairlifts installed in any location, including a private, single-family dwelling for use by individuals with physical disabilities;
- **J.** "**Escalator**" means a power-driven, inclined, continuous stairway or runway used for raising or lowering passengers;
- **K.** "Freight elevator" means an elevator used for carrying freight and on which only the operator and the persons necessary for loading and unloading are permitted to ride; and
- L. "Passenger elevator" means an elevator that is used to carry persons other than the operator and persons necessary for loading and unloading.;
- M. "Section" means the Elevator Safety Section of the Division of Labor, Department of Labor and Licensing; and
- N. "Substantially similar" license or "substantially equivalent" license means an occupational license from another state or political subdivision of that state or territory, or district of the United States that has adopted a national model mechanical code and utilizes a comprehensive examination created and proctored by a national examination agency or equivalent or the state or political subdivision of that state.

P. Temporary or Provisional Licensing

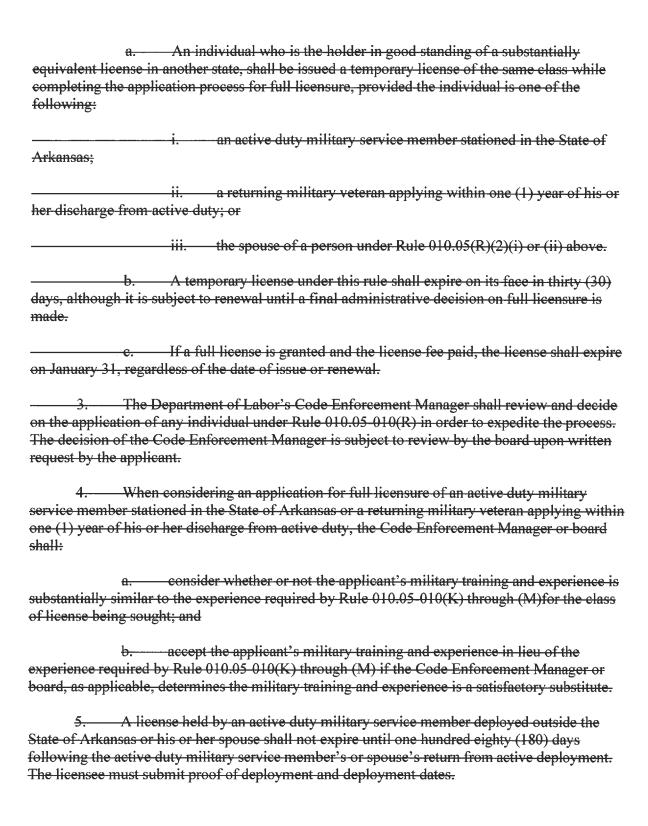
- 1. See Rule 010.05-010(M)(4) for the temporary and emergency licensing of elevator mechanics.
- 2. When requested by the applicant, the staff of the Elevator Safety Section shall immediately issue a revocable temporary or provisional license under the following conditions:
 - a. An immediate decision is not made on the application for licensure:
- b. The temporary or provisional license shall be granted for ninety (90) days in accordance with Rule 010.05-011(O)(Reciprocity) unless the staff determines the applicant does not meet the criteria of these rules in which case the request for the temporary or provisional licensing shall be denied or the temporary or provisional license shall be immediately

revoked.	The board may	extend temporary	or provisional	licensing to	exceed ninety	(90)	days if			
a hardship status is determined by the board for the applicant:										

- c. The applicant holds his or her occupational license in good standing:
- d. The applicant has not had his or her occupational license revoked for an act of bad faith, a violation of law, rule, or ethics, and is not holding a suspended or probationary license from any state, territory, or district of the United States;
 - e. The applicant is sufficiently competent in his or her field; and
 - g. The applicant pays the required license fee.

R.S. Active duty service member, returning military veterans, and spouses

- 1. Definitions. As used in this rule, subsection:
- a. "Holder in good standing" means the holder of a license issued by another state, district, or city of the United States in which the holder:
 - i. is currently and actively licensed;
 - ii. is not holding a suspended or probationary license;
- iii. has not had his or her license revoked for an act of bad faith or a violation of law, rule or ethics; and
- iv. has not voluntarily surrendered his or her license in lieu of disciplinary proceedings.
- <u>b.</u> <u>"returning military veteran" "Returning military veteran"</u> means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.:
- c. "Substantially equivalent license" means an occupational license from another state or political subdivision of that state or territory, or district of the United States that has adopted a national model mechanical code and utilizes a comprehensive examination created and proctored by a national examination agency or equivalent or the state or political subdivision of that state.
 - 2. Temporary license



6.2. Continuing education

- a. 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 010.05-010(Q), dating from:
 - i. the two (2) years provided by 010.05-010(Q); or
- ii. the date of return to active duty, whichever is longer. For this option, the licensee must submit proof of deployment and deployment dates.
- b. 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 010.05-010(Q), dating from:
 - i. the two (2) years provided by Rule 010.05-010(Q); or
- ii. 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.
- 3. The board shall grant licensure to an individual who is the holder in good standing of a substantially equivalent license issued by another state, territory, district, or city of the United States and is:
 - a. An active duty military service member stationed in the State of Arkansas:
- b. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or
 - c. The spouse of a person under Rule 010.05.010(S)(2)(a) and (b) above.
 - 3. The staff of the Elevator Safety Section shall grant licensure upon receipt of:
 - a. payment of the initial license fee:
- b. Evidence that the applicant holds a substantially equivalent license in another state, territory district, or city of the United States; and
- c. Evidence that the applicant is a qualified applicant under the provisions of this Rule 010.05-05-010(S).

4. The Elevator Safety Section shall be responsible for maintaining records and making an annual report to the House Committee on Aging, Children, Youth, Legislative and Military Affairs on the number of automatic licenses and expedited licenses granted military service members, veterans, and spouses under this Rule 010.05-010(S) pursuant to Ark. Code Ann. § 17-1-106(f)(2).

AGENCY #010.05



010.05-005 **Definitions**

As used in these rules, unless the context otherwise requires:

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- **B.** "Authorized representative" means the building department of cities, towns, or other governmental subdivisions designated by the Department of Labor and Licensing to enforce certain provisions of Ark. Code Ann. § 20-24-101 *et seq.*;
- C. "Board" means the Arkansas Elevator Safety Board;
- D. "Conveyance" means an elevator, dumbwaiter, escalator, moving sidewalk, automatic people mover, platform lift or stairway chair lift;
- E. "Director" means the Director of the Division of Labor;
- F. "Department" means the Department of Labor and Licensing;
- G. "Dormant elevator, dumbwaiter, or escalator" means an elevator or dumbwaiter whose cables have been removed, whose car and counterweight rest at the bottom of the shaftway, and whose shaftway doors are permanently boarded up or barricaded on the inside or an escalator whose main power feed lines have been disconnected;
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- L. "Passenger elevator" means an elevator that is used to carry persons other than the operator and persons necessary for loading and unloading.;
- M. "Section" means the Elevator Safety Section of the Division of Labor, Department of Labor and Licensing; and
- N. "Substantially similar" license or "substantially equivalent" license means an occupational license from another state or political subdivision of that state or territory, or district of the United States that has adopted a national model mechanical code and utilizes a comprehensive examination created and proctored by a national examination agency or equivalent or the state or political subdivision of that state.

P. Temporary or Provisional Licensing

- 1. See Rule 010.05-010(M)(4) for the temporary and emergency licensing of elevator mechanics.
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 - a. An immediate decision is not made on the application for licensure;
- b. The temporary or provisional license shall be granted for ninety (90) days in accordance with Rule 010.05-011(O)(Reciprocity) unless the staff determines the applicant does not meet the criteria of these rules in which case the request for the temporary or provisional licensing shall be denied or the temporary or provisional license shall be immediately revoked. The board may extend temporary or provisional licensing to exceed ninety (90) days if a hardship status is determined by the board for the applicant;

- c. The applicant holds his or her occupational license in good standing;
- d. The applicant has not had his or her occupational license revoked for an act of bad faith, a violation of law, rule, or ethics, and is not holding a suspended or probationary license from any state, territory, or district of the United States;
 - e. The applicant is sufficiently competent in his or her field; and
 - g. The applicant pays the required license fee.

S. Active duty service member, returning military veterans, and spouses

- 1. Definitions. As used in this, subsection:
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 - i. is currently and actively licensed;
 - ii. is not holding a suspended or probationary license;
- iii. has not had his or her license revoked for an act of bad faith or a violation of law, rule or ethics; and
- iv. has not voluntarily surrendered his or her license in lieu of disciplinary proceedings.
- b. "Returning military veteran" means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.:
- c. "Substantially equivalent license" means an occupational license from another state or political subdivision of that state or territory, or district of the United States that has adopted a national model mechanical code and utilizes a comprehensive examination created and proctored by a national examination agency or equivalent or the state or political subdivision of that state.

2. Continuing education

a. 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 010.05-010(Q), dating from:

- i. the two (2) years provided by 010.05-010(Q); or
- ii. the date of return to active duty, whichever is longer. For this option, the licensee must submit proof of deployment and deployment dates.
- b. 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 010.05-010(Q), dating from:
 - i. the two (2) years provided by Rule 010.05-010(Q); or
- ii. 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.
- 3. The board shall grant licensure to an individual who is the holder in good standing of a substantially equivalent license issued by another state, territory, district, or city of the United States and is:
 - a. An active duty military service member stationed in the State of Arkansas;
- b. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or
 - c. The spouse of a person under Rule 010.05.010(S)(2)(a) and (b) above.
 - 3. The staff of the Elevator Safety Section shall grant licensure upon receipt of:
 - a. payment of the initial license fee;
- b. Evidence that the applicant holds a substantially equivalent license in another state, territory district, or city of the United States; and
- c. Evidence that the applicant is a qualified applicant under the provisions of this Rule 010.05-05-010(S).
- 4. The Elevator Safety Section shall be responsible for maintaining records and making an annual report to the House Committee on Aging, Children, Youth, Legislative and Military Affairs on the number of automatic licenses and expedited licenses granted military service members, veterans, and spouses under this Rule 010.05-010(S) pursuant to Ark. Code Ann. § 17-1-106(f)(2).

ELEVATOR SAFETY BOARD DEPARTMENT OF LABOR AND LICENSING

Interested Party Mailing List 7/30/2019

RES 0 5 2020

REGISLATIVE RESEARCH

General and Requested

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Elevator Inspection Services

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