

RULES AND REGULATIONS
PERTAINING TO THE LICENSING OF
HEATING, VENTILATION, AIR CONDITIONING
AND
REFRIGERATION CONTRACTORS

SECTION I. AUTHORITY

The following rules and regulations are duly adopted and promulgated by the Arkansas Heating, Ventilation, Air Conditioning and Refrigeration Licensing Board pursuant to the authority expressly conferred by the laws of the State of Arkansas in Act 277, of 1991, as amended, and Act 96, of 1913, as amended.

SECTION II. PURPOSE

The purpose of this regulation is to provide for the administration and enforcement of Act 277, of 1991, as amended.

SECTION III. DEFINITIONS

The following words and terms, when used in this regulation, shall have the following meanings, unless the context clearly indicates otherwise. Words not defined in this regulation shall have the meaning stated in the Webster's Ninth New Collegiate Dictionary, as revised.

- (1) "Board" means the Arkansas Heating, Ventilation, Air Conditioning and Refrigeration Licensing Board;
- (2) "BTUH" means British Thermal Unit per hour of heat;
- (3) "Deferred License" means an inactive or non-usable license;
- (4) "Designated License Holder" means the Class A, B, C, D or E licensee who is responsible for the HVACR work performed;
- (5) "Department" means the Arkansas Department of Health;
- (6) "Director" means the Director of the Arkansas Department of Health;

- (7) "Heating and Air Conditioning" means the process of treating air to control temperature, humidity, cleanliness, ventilation, or circulation, to meet human comfort requirements;
- (8) "Heating, Ventilation, Air Conditioning and Refrigeration" or "HVACR" means the design, installation, construction, maintenance, service, repair, alteration or modification of a product or of equipment in heating and air conditioning, refrigeration, ventilation, or process cooling or heating systems;
- (9) "Horsepower" means the equivalent to 746 watts;
- (10) "HVACR Gas Fitting Work" means gas fitting work for the purpose of supplying an HVACR system and shall be limited to installing six (6) feet or less of final gas piping connection to a heating unit from an existing, accessible manual safety shutoff gas cock, installing flue gas vents and combustion air for the HVACR system;
- (11) "HVACR Licensing Fund" means a fund established under this act to be used exclusively to fund all activities covered under this act;
- (12) "HVACR Maintenance Work" means repair, modification, service and all other work required for the normal continued performance of an HVACR system. This term does not include the installation or total replacement of a system, or the installation of boiler or pressure vessels that must be installed by persons licensed under Arkansas Code Title 20, Chapter 23.
- (13) "Pattern of Incompetence" means one or more of the following:
- (a) A history of repeat offenses as described by citation reports.
 - (b) One or more impositions of civil penalties by the Board.
 - (c) Criminal activity not conducive to the trust and well being of the public.
- (14) "Licensee" means the holder of a license issued pursuant to this act;
- (15) "One Ton" means 12,000 BTUH;
- (16) "Persons" means any individual, firm, partnership, co-partnership, corporation, association, cooperative or any other association or combination thereof;
- (17) "Public Entity" means any agency of the State of Arkansas or any political subdivision of the state;
- (18) "Refrigeration" means the use of mechanical or absorption equipment to control temperature, humidity, or both, in order to satisfy the intended use of a specific space other than for human comfort;

(19) "Registrant" means a person who does not hold a Class A, B, C, D or E HVACR license and who can only perform work for an HVACR licensee and who holds a current HVACR registration;

(20) "Repair" means the reconstruction or replacement of any part of an existing HVACR system for the purpose of its maintenance;

(21) "Subcontractor" means a person who performs a portion of the HVACR installation;

(22) "Ventilation" means the process of supplying or removing air by natural or mechanical means to or from any space.

SECTION IV. CLASSIFICATION OF LICENSES

(1) Class A - Entitles the licensee to perform HVACR work without limitation to BTUH or horsepower capacities;

(2) Class B - Entitles the licensee to perform HVACR work on air conditioning systems that develop a total of not more than 15 tons cooling capacity per unit or 1 million BTUH heating input per unit and refrigeration systems of 15 H.P. or less per unit; or

(3) Class C - Entitles the licensee, who is in the business of servicing and repairing heating, ventilation, air conditioning or refrigeration equipment for the public to service, repair or replace components of HVACR equipment and to perform HVACR work on air conditioning systems that develop a total of not more than 15 tons cooling capacity per unit or 1 million BTUH heating input per unit and refrigeration systems of 15 horsepower or less per unit. A Class C license holder shall not install any original HVACR equipment or replace any existing HVACR equipment.

(4) Class D – Entitles the licensee to perform "Sheetmetal" work as it relates to ductwork for HVACR systems without regard to or limitation of horsepower of the system to which the duct connects. The licensee in this category is prohibited from the sale, installation and service of HVACR equipment and systems.

(5) Class E – Entitles the licensee to perform "Refrigeration" work as defined in Ark. Code 17-33-101 without regard to or limitation of horsepower. The licensee in this category is prohibited from the sale, installation and service of heating and air conditioning equipment used for the treatment of air for human comfort requirements..

- (6) Class L – Entitles the license holder to a “Lifetime” license to perform HVACR service and maintenance work on air conditioning systems that develop a total of not more than 15 tons cooling capacity per unit or 1 million BTUH heating input per unit and refrigeration systems of 15 H.P. or less per unit only. A Lifetime license holder shall not install any original equipment or replace any existing HVACR equipment.

SECTION V. QUALIFICATIONS AND APPLICATION FOR LICENSURE

(A)

- (1) Applicants for Class A, B, C, D or E licensure shall be at least (18) years of age.
- (2) Applicants must make application to the department on forms prescribed by the Board.
- (3) Applicants for licensure must pass a Board approved examination.
- (4) Applicants for licensure shall present satisfactory evidence of having at least two (2) years experience as an HVACR contractor or an employee of an HVACR contractor. The Board may substitute HVACR related educational training for experience provided that the educational training is approved by the Board. Copies of educational transcripts shall be provided prior to Board consideration.
- (5) A designated license holder is the Class A, B, C, D or E licensee who is responsible for the HVACR work performed. Employees of the designated license holder shall be a registrant, unless otherwise exempt. The designated license holder shall be solely responsible to maintain the registration of all employees required to be registered under Ark. Code 17-33-303(d)(3) and these regulations.
- (6) A person who designs HVACR systems, as a service to a licensee and does not charge for that service, is not required to obtain an HVACR license.

(B) Qualifications and Application for Lifetime Licensure

- (1) Applicants for a Class “L” Lifetime license must be at least sixty-five (65) years of age.
- (2) Prior to application, applicants must have been eligible for a Class A, Class B, Class C, Class D or Class E license.

SECTION VI. TERMS OF EXPIRATION, RENEWAL AND EXAMINATION.

- (1) All licenses called for under these regulations shall expire one (1) year from the original date of issuance.
- (2) Class A, B, C, D or E license examinations shall be offered at least four (4) times per year or as often as the Board determines to be appropriate.

SECTION VII. LICENSE AND EXAMINATION FEES

- (1) The license fee for the Class A contractor shall be \$200.00 per year.
- (2) The license fee for the Class B contractor shall be \$150.00 per year.
- (3) The license fee for the Class C contractor shall be \$100.00 per year.
- (4) The license fee for the Class D contractor shall be \$150.00 per year.
- (5) The license fee for the Class E contractor shall be \$150.00 per year.
- (6) The license fee for the Class L "Lifetime" license shall be "No Charge".
- (7) The Registrant fee is \$25.00 per year.
- (8) Fees for the Class A, B C, D or E examination shall be a minimum of \$55.00 each for written exams and \$100.00 each for computerized exams.

SECTION VIII. DENIAL OF LICENSE

All applicants who meet the requirements for licensure or registration shall be issued the appropriate license or registration except that the Board may deny a license if the applicant has:

- (1) Committed any act which, if committed by a licensee or registrant, would be grounds for suspension or revocation of the license or registration:
- (2) Previously been denied a license or registration under these regulations for cause or previously had a license or registration revoked for cause; or
- (3) Knowingly made any false statement or misrepresentation on the application.

SECTION IX. REVOCATION OF LICENSE

- (1) The Board may, on its own motion, make investigations and conduct hearings and may, on its own motion or upon complaint in writing, duly signed and verified by the complainant, suspend or revoke any license called for under these regulations if it has reason to believe that the holder of such license has violated any provision of these regulations, any rule or order prescribed by the Board or has demonstrated a pattern of incompetence to act as an HVACR license holder or Mechanical Inspector.

SECTION X. PROCEDURES FOR SUSPENSION OR REVOCATION

- (1) A copy of the complaint shall be served on the licensee complained against. The licensee's answer thereto shall be filed within twenty (20) days of the licensee's receipt of the complaint.
- (2) No order suspending or revoking a license or registration shall be made until after a public hearing set by the Board pursuant to the procedures of the Arkansas Administrative Procedures Act, Ark. Code Ann. §25-15-201. The hearing shall be held at the place designated by the Board. The individual complained against shall have the right to be represented by counsel and to introduce any evidence in his defense. The conduct of the hearing shall be in accordance with recognized rules of procedure.
- (3) The decision rendered as a result of the hearing may be appealed pursuant to the Administrative Procedures Act, §25-15-201 et seq.
- (4) Any member of the Board or a representative of the Board shall have the authority to administer oaths for the taking of testimony.
- (5) One (1) year after the date of revocation, an application may be made for a new license or registration.

SECTION XI. DEFERMENT AND REINSTATEMENT

- (1) A Class A, B, C, D or E contractor holding a current HVACR license may make application to the Board for deferment of such license. Deferred license means inactive and non-usable. The Board, upon receipt of such application, may grant deferment of license. Deferments shall be renewed annually at a fee of \$40.00 for a Class A, \$30.00 for a Class B, \$20.00 for a Class C, \$30.00 for a Class D and \$30.00 for Class E.
- (2) The Board may grant a deferred license without deferment or reinstatement fees to members of the armed services or Class A, B, C, D

or E license holders who became legally appointed or employed Mechanical Inspectors.

- (3) A Class A, B, C, D or E license holder, whose license expired for non-payment of renewal fees, may make application for reinstatement of license. A penalty fee of \$10,00 per month shall be added for late payment. The application must be supported with an amended experience record covering all experience subsequent to the date of the lapse. Upon receipt of the application and experience record, the Board will determine whether to reinstate with or without examination.
- (4) The Board shall reinstate a deferred license provided the applicant pays the current license fee for the type of license requested. If the applicant has been deferred for over a five (5) year period, the Board may request that the applicant complete a reinstatement form outlining work experience. If it has been determined by the Board that the applicant has not been affiliated with HVACR work since the original date of deferment, an examination may be required. Applicants for re-instatement, who have been delinquent for over five (5) years, must take the prescribed exam.
- (5) A Class A, B, C, D or E contractor or Registrant whose license has been revoked, may make application for a new license one (1) year after the date of revocation. Such application shall contain a statement of intent to comply with all pertinent laws, rules and regulations. The Board shall issue a new license after the applicant has passed the prescribed examination and paid applicable fees.

SECTION XII. TRANSFER OF LICENSE

- (1) An HVACR license holder may transfer to a lower classification of HVACR license without examination. A transfer fee of \$15.00 shall be charged. Only a Class A license holder may transfer to a Class D or Class E license. Class D and Class E licenses are specialty licenses and are not transferable to each other or with any other HVACR license.
- (2) An HVACR license holder may not transfer to a higher license without first meeting the qualification requirements of the Board and passing the prescribed exam.
- (3) A \$15.00 fee shall be required and accompany each request for a revised license or to replace a lost or duplicate license or for a revised or lost identification card.

SECTION XIII. LICENSE BY RECIPROCITY

(1) The Board may waive any license requirement for an application with a valid license from another state or sub-division thereof when the applicant provides proof of exam sufficient in content to be deemed by the Board to be equal to an Arkansas exam and is in good standing with that jurisdiction.

SECTION XIV. CORRECTION OF VIOLATIONS

(a) An applicant applying for any license, or reinstatement or renewal of license, under any condition, shall submit satisfactory evidence, when required, that said applicant has not violated any provisions of Act 277, of 1991, as amended or these regulations. Where such violations have existed, the Board may require all back license fees and penalties to be paid, all violations corrected and attendance at least one (1) code training class on the subject of the violation confirmed in writing by the inspector issuing the violation report.

SECTION XV. INSPECTION FEES

(1) The Department may charge fees for inspections authorized under Act 277, of 1991, as amended. The fees for each installation shall be \$25.00 for the first \$1,000.00 or fraction thereof, of valuation of the installation plus \$2.00 for each additional \$1,000.00 or fraction thereof. Total inspection fees shall not exceed \$1,000.00 per job. Each additional re-inspection shall be \$25.00 each.

(2) The Department may not charge an inspection fee to investigate consumer complaints and/or to assist the inspection authorities when making a survey or assisting them with inspections.

SECTION XVI. MECHANICAL CODE BOOK FEES

The Department may prepare and cause to be printed such codes, bulletins, or other documents as necessary for the purpose of enforcing this regulation. The Department shall charge a fee for codes as printed in the Arkansas Mechanical Code book.

SECTION XVII. PENALTIES

(a) Any person who violates any provision of Act 277, of 1991, as amended, or violates any rule, regulation, or order of the Board or any permit, license or certification may:

(1) In accordance with the regulation issued by the Board, be assessed a civil penalty by the Board. The penalty shall not exceed two hundred fifty (\$250.00) dollars for each violation and each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments.

However, no civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation.

- (2) The amount of any civil penalty levied by the Board may be recovered in a civil action brought by the Board in a court of competent jurisdiction, without paying costs or giving bond for costs.
 - (b) In addition to the civil penalty provided in this section, the Board is authorized to petition any court of competent jurisdiction without paying costs or giving bond for costs to :
 - (1) Enjoin or restrain any violation of, or compel compliance with, the provisions of this chapter and any rules, regulations, or orders issued thereunder;
 - (2) Affirmatively order that remedial measures be taken as may be necessary or appropriate to implement or effectuate the purposes and intent of this chapter; and
 - (3) Recover all costs, expenses and damages to the Board and any other agency or subdivision of the state in enforcing or effectuating the provisions of this subchapter.
 - (c) An unlicensed person shall not be entitled to a mechanic's and materialman's lien, a laborer's lien or any other artisan's lien for work done in violation of these rules.

SECTION XVIII. RESPONSIBILITIES OF THE LICENSEE

- (1) Each license shall be displayed at the contractor's place of business as listed with the HVACR Board.
- (2) Each licensed contractor shall display (in a prominent, legible manner) the license number and company name in letters not less than two inches high on both sides of all service and installation vehicles used in conjunction with air conditioning and refrigeration contracting. Additionally, the license number and company name shall be displayed at all job sites.

(EXAMPLE: HVACR LICENSE #0000001)

- (3) A license holder is required to notify the Board in writing within 30 days of any change in permanent mailing address, business affiliation, change of business location, or business telephone number. A license revision is required for any change to permanent mailing address, change of

business affiliation, or the business location reflected on the license. The permanent address on file with the Board shall be considered the license holder's permanent address and all correspondence, including license expiration notice from the department, will be mailed to such address of record. A license holder wishing to revise a license shall request in writing the revision, and pay the appropriate fee required in this rule. A license holder requiring a replacement license or wallet card must send a notarized statement to the Department indicating the loss and requesting the replacement. Payment of the fees required in Section XII of this regulation must be submitted with the statement of loss. The wallet card or license card for each license holder or registrant, on the jobsite, must be with the person to which it was issued for inspection by the state or local inspector in order to confirm the license status of the individual.

SECTION XIX. EXEMPTIONS

- (1) These rules and regulations shall not apply to:
 - (A) Household appliances;
 - (B) American Gas Association (AGA) approved un-vented space heaters;
 - (C) Factory assembled air-cooled, self-contained refrigeration equipment of 1.5 HP or less and which have no refrigerant lines extending beyond the cabinet enclosure;
 - (D) Factory assembled air-cooled, self-contained window type air conditioning units of 36,000 BTUH or less not connected to ducts;
 - (E) Window, attic, ceiling and wall fans in residences; or
 - (F) Poultry operations whether engaged in hatching, primary processing or further processing of chicken, turkey or other fowl.
- (2) This act shall not apply to a person who:
 - (A) Performs HVACR working an existing building or structure owned and occupied by him as his home;
 - (B) Performs HVACR work in an existing building or structure owned or occupied by him on his farm;
 - (C) Performs work for public utilities on construction, maintenance, and development work, which is incidental to their business;

- (D) Performs work on motor vehicles;
 - (E) Is an architect or registered engineer who designs HVACR systems for design criteria only;
 - (F) Is an employee of a hospital and who performs HVACR work which is incidental to the hospital's operation; items related to Health Care facilities shall continue to be governed by the Rules and Regulations pertaining to health care facilities licensed under Act 414, of 1961, as amended and administered by the Arkansas Department of Health, Division of Health Care Facilities;
 - (G) Installs or does maintenance work on a gas-fired floor furnace, wall furnace or unit heater, if the person is licensed pursuant to Arkansas Code Ann. §17-31-301 et seq. and the work is performed within the limitations of the person's license;
 - (H) Is a pipefitter, welder, well driller, sheetmetal worker, or plumber working under a Class A, Class B, Class D, or Class E licensee and who is enrolled in or has satisfactorily completed an apprenticeship training program, approved by the state of Arkansas, in his respective trade and the work is performed within the limitations of the person's license.
- (3) The provisions of this act shall not apply to a person or public entity serving or repairing it's own HVACR system by it's own personnel specifically trained for such service or repair.
- (4) Any person exempt under this section is required to conform to regulations on the performance of HVACR work as well as obtaining local permits and inspection as may be required by local ordinance.

SECTION XX. SEVERABILITY

If any provisions of these regulations, or the application thereof to any person, is held invalid, such invalidity shall not affect other provisions or application of these regulations which can give effect without the invalid provisions of applications, and to this end the provisions hereto are declared to be severable.

SECTION XXI. REPEAL

All regulations and parts of regulations in conflict herewith are hereby repealed.

CERTIFICATION

This will certify that the 2003 Rules and Regulations Pertaining to the Licensing of Heating, Ventilation, Air Conditioning and Refrigeration Contractors was adopted by the Heating, Ventilation, Air Conditioning and Refrigeration Licensing Board at a regular session of said Board held in Little Rock, Arkansas, on the 14th day of January, 2004.

Jim Brown, Chairman
Heating, Ventilation, Air Conditioning
and Refrigeration Licensing Board

Bob Higginbottom, Executive Secretary
Heating, Ventilation, Air Conditioning
And Refrigeration Licensing Board

Dated at Little Rock, Arkansas, on this _____ day of _____, 2004

Governor
State of Arkansas

Dated at Little Rock, Arkansas, on this _____ day of _____, 2004