

ARKANSAS REGISTER

Transmittal Sheet



Sharon Priest
Secretary of State
State Capitol Rm. 026
Little Rock, Arkansas 72201-1094

For Office

Use Only:

Effective Date _____

Code Number

033.00.00-001

Name of Agency Contractors Licensing Board

Department _____

Contact Person Gregory L. CrowStatutory Authority for Promulgating Rules A.C.A. § 17-25-203

Intended Effective Date

☐ Emergency☒ 10 Days After Filing☐ Other _____

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

9/16/99

10/18/99

11/4/99

10/29/99

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

[Signature]
Signature

501-372-4661
Phone Number

Attorney
Title

5-10-00
Date

BY

SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

00 MAY 10 PM 2:05

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AR. REGISTER DIV.

(f) The Contractors Licensing Board may delegate the authority to the Administrator for necessary changes, such as suggested bid limit, name changes, added classification(s), etc., provided, however, proper information to support such change be submitted to the office for placement in file. Any such change will be presented for Board review at its next regular meeting.

224-25-8 COMPLAINTS & INVESTIGATIONS

(a) Any complaint registered with the Contractors Licensing Board of alleged violations must be submitted in writing with proper information to identify job site, owner if possible, any name and phone numbers of individuals and any other information that may tend to be useful in the investigation. The Complainant must furnish his/their name, address and phone number in order to obtain any other information that may be necessary for proper investigation. A written response will be made to a Complainant when investigation is closed if so requested in writing.

(b) The Contractors Licensing Board may delegate to the administrator/investigator the authority to obtain contractor compliance as may be necessary. The administrator/investigator will conduct all investigations in such a manner that would be complimentary to the Licensing Law for Contractors.

(c) Any application being denied because of a violation of Ark. Code Ann. § 17-25-101 et seq. shall become invalid and a new application must be submitted and the thirty (30) day waiting period shall begin anew upon being received in the office of the Contractors Licensing Board.

224-25-9 HEARINGS & APPEALS

(a) All hearings and appeals of decisions of the Contractors Licensing Board will be held in accordance with the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et. seq.

(b) Appeals from decisions of the Residential Building Contractors Committee.

(1) Appeals from decisions of the Residential Building Contractors Committee to the Board shall be in writing and filed with the Board within 10 calendar days of the date the decision was served upon the respondent.

(2) A transcript of the original hearing(s) will be ordered and filed with the Board. A copy of the transcript will be provided to the respondent upon request. In the event the Board affirms or modifies, but does not reverse the decision of the Committee, the respondent will be responsible for the cost of the appeal. Said costs include, but are not limited to, the cost of the transcript. Said costs are in addition to any civil penalties or other sanction imposed.

(3) The Board will review the decision of the Committee and hear arguments from the respondent or respondent's counsel and from the counsel for the Committee. No new or additional evidence will be taken.

(4) The Board may affirm, reverse or modify the decision of the Committee.

(c) Payment of civil penalties. All civil penalties assessed by the Board are required to be paid within 20 days of the date of the hearing. Any civil penalty suspended in whole or in part by the Board shall be suspended upon any condition specifically stated by the Board and upon the condition the civil penalty is paid within 20 days of the date of the hearing. In the event the civil penalty is not paid within 20 days of the date of the hearing, any amount suspended shall be reinstated and shall become due and payable without any further action of the Board being required.

224-25-10 DEADLINES

For any deadline that occurs on a Saturday, Sunday or holiday proclaimed by the State of Arkansas, the time to complete that event shall be extended until the next business day.

224-25-11 BONDS

All bonds required to be filed with the Board pursuant to Ark. Code Ann. § 17-25-401 et seq. shall be countersigned by a resident agent in the State of Arkansas.

224-25-12 DEFINITIONS

(a) Ownership: When the terms **His own** or **Its own property** is used in the contractors licensing law, it shall mean sole and exclusive right to sell or convey the property.

(b) Single-family residences: Single-family residence, as referred to in Arkansas Code Ann. § 17-25-101, as amended, means any project consisting of one but not more than four units constructed for residential occupancy, any project consisting of five or more units is considered multi-family housing.

(c) Qualifying party: A person who has passed the appropriate business and law or trade examination. To act as a "qualifying party" a person must be either: (1) a sole owner; (2) a partner of the partnership; (3) an officer of the corporation who is actively engaged in the day to day activities of the company; (4) a member of the Limited Liability Company who is actively engaged in the day to day activities of the company; (5) a partner of the Limited Liability Partnership who is actively engaged in the day to day activities of the company; or (6) a full time employee.

(d) Full time employee: A person who is an actual employee of the business, not an independent contractor. The person must work, on average, 30 or more hours a week for the business (1500 hours per year), must not be paid as an independent contractor (not receive a "1099" for his earnings but receive a "W-2" for his earnings). A full time employee is not someone who is hired "job to job" as needed. Other factors to be considered in making this determination include, but are not limited to: whether the business pays for workman's compensation insurance on the individual, whether the business pays payroll taxes on the individual, the amount of control the business has over the activities of the individual, the

ownership of the tools used by the individual and, whether the individual maintains his own business separate from the business in question.

(e) **Construction Management:** A process of professional management applied to a construction program, generally from start to finish, for the purpose of controlling time, cost, and quality. Usually the construction management organization links itself to the owner as an agent and thereby places itself in a fiduciary relationship with the owner. Construction management offers a broad range of services encompassing the planning, procurement, construction, and warranty phases of a project. In this relationship, the construction manager can properly represent the owner both to the design professional and to the contractors .

DEPARTMENT Contractors Licensing Board
 DIVISION _____
 PERSON COMPLETING THIS STATEMENT Gregory Crow
 TELEPHONE NO. 501-372-4661 FAX NO. 501-372-2247

FINANCIAL IMPACT STATEMENT

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules and Regulations Act 150 of 1965 (as amended)

1. Does this proposed, amended, or repealed rule or regulation have a financial impact? Yes _____ No XX
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.

1998-99 Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other _____
 Total _____

1999-2000 Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other _____
 Total _____

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation?

1998-99 Fiscal Year

None

1999-2000 Fiscal Year

None

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

1998-99 Fiscal Year

None

1999-2000 Fiscal Year

None

FILED
 AR. REGISTER DIV.
 MAY 10 PM 2:06
 BY _____
 SECRETARY OF STATE
 STATE OF ARKANSAS

July 28, 1995

(4) Any renewal application received more than thirty (30) days after the expiration of the license shall be accompanied by a \$100.00 fee and may be reviewed by the Board at its next available meeting. The applicant shall not have a valid license until said application is approved by the Board. A license may be renewed up until two (2) years after its expiration date. Any license expired two (2) years or more shall be considered a new application.

(5) Any renewal application not meeting the requirements of the Board at its' initial review, but being placed in an "improve status" will constitute an extension of the existing license until the next available board meeting, at which time the license will expire if a new license is not issued.

224-25-3 LICENSE APPLICATIONS

Any new application not complete within ninety (90) days after original receipt in our office will become invalid. Any new application not passing the Board's review will be considered invalid after ninety (90) days from the date of its original review. During the ninety (90) day period the applicant may have the opportunity to make corrections or improvements needed in the application in order to warrant the issuance of a license. After an application becomes invalid a new application and fee must be submitted for consideration to obtain a Contractors License.

224-25-4 INACTIVE STATUS

A contractor who is licensed may choose to become inactive in the State of Arkansas at the time of any renewal. A contractor who is inactive may not bid on any contract nor perform any work for which a licensed contractor is required. A contractor who elects inactive status must pay all renewal fees, but is not required to submit financial information to the Board. A contractor who is on inactive status may reactivate its license by making a request to the Board and providing the financial information required to renew as an active contractor. A contractor may remain on inactive status for a period of time not to exceed six (6) consecutive years.

224-25-5 CLASSIFICATION & EXPERIENCE

(a) A contractor may be licensed in any or all classifications. A contractor licensed as: Heavy Construction (HC), Highway, Railroad & Airport Construction (HRA), Municipal & Utility Construction (MU), Building (B), Light Building (LB), Mechanical (M) or Electrical (E) is authorized to perform any of the "specialties" associated with the classification in question. A contractor licensed as a Specialty (S) is authorized to only perform the functions of the specific specialty for which a license is held. It is the responsibility of the applicant for a classification or a specific specialty to show appropriate experience and qualifications in each classification requested and demonstrate the ability to perform said classification.

(b) All applications for new and renewal of license must show a minimum of five (5) years experience in the type of work they wish to perform in Arkansas. All applicants for new and renewal of license must furnish a list of equipment available to their use in performing the specific type work they are licensed to do in Arkansas.

Note: Past work experience and ability to perform work classification must be shown.

(c) A contractor holding the classification(s) of Heavy Construction (HC), Highway, Railroad & Airport Construction (HRA), Municipal & Utility Construction (MU), Building (B) or Light Building (LB) is considered to be a General Contractor in its respective market. A General Contractor may perform Construction Management in its respective market. All other classifications are considered to be subcontractors. A contractor considered to be a General Contractor shall maintain proper personnel, financial ability and facility to perform for the owner coordination, development and management expertise for the entire project.

(d) A contractor holding an Electrical classification must maintain expertise, proper facility, financial ability and at least 1 full time employee holding a Master Electrician's license (issued by the Arkansas Board of Electrical Examiners) to assure proper skills in performing and maintaining electrical projects.

(e) A contractor holding a Mechanical classification must maintain expertise, proper facility, financial ability and at least 1 full time employee holding a Master Plumbers license (issued by the Bureau of Environmental Health Service - Plumbing Section) and at least 1 full time employee holding a class A or B HVACR license issued by the Arkansas HVACR Board to assure proper skills in performing and maintaining mechanical projects.

(f) A contractor holding a Specialty plumbing classification must maintain expertise, proper facility, financial ability and at least 1 full time employee holding a Master Plumbers license (issued by the Bureau of Environmental Health Service - Plumbing Section) to assure proper skills in performing and maintaining plumbing projects.

(g) A contractor holding a HVACR classification must maintain expertise, proper facility, financial ability and at least 1 full time employee holding a class A or B HVACR license issued by the Arkansas HVACR Board to assure proper skills in performing and maintaining HVACR projects.

(h) Any contractor holding a specialty classification for which a license or permit is required by another licensing or permitting authority, must hold the necessary license or permit in order to receive a license from the Board.

(i) **CLASSIFICATIONS AND SPECIALTIES**

(1) **HC - HEAVY CONSTRUCTION** - Includes Marine (Wharves, Docks, Harbor Improvements, Terminals), Tunnel, Boring and Shaft, Energy and Power Plants, Dams, Dikes, Levees, Canals, Mining (Surface and Underground), Oil Field and Refineries Construction and similar activities.

(2) **HRA - HIGHWAY, RAILROAD, AIRPORT CONSTRUCTION** - Includes Grading, Drainage, Base, Paving, Bridges, Culverts, Railroad Construction and similar activities.

(3) **MU - MUNICIPAL & UTILITY CONSTRUCTION** - Includes Water & Sewer Plants, Sewer Disposal, Grading, Drainage, Streets & Roads, Base & Paving, Underground Piping & Cable and similar activities.

(4) **B - BUILDING** - Includes all activities necessary for major building construction, including all activities included in Light Building and Excavation, Foundations, Concrete, Carpentry, Framing, Millwork, Drywall, Insulation, Erection, Fabrication of Structural Steel, Sheet Metal, Elevators, Escalators, Floor Covering, Acoustical Treatments, Roofing, Institutional & Recreational Equipment, Landscaping, Fencing, Outdoor Advertising and similar activities.

(5) **LB - LIGHT BUILDING** - Light Building construction is construction, alterations or repairs of commercial projects for which the cost of materials and labor does not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in any project and the structure does not exceed two stories in height. Non-structural alterations and repairs of existing buildings exceeding two stories in height are considered to be Light Building construction if the overall cost of the project does not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) including materials and labor.

(6) **M - MECHANICAL CONTRACTING** - Includes Plumbing, Process Piping, Heating, Ventilating, Air Conditioning, Refrigeration, Sprinklers, Fire Protection, Pollution Control, Pneumatic Tube Systems, Temperature Controls (Pneumatic), Boiler Construction & Repair and similar activities.

(7) **E - ELECTRICAL CONTRACTING** - Includes Electrical Transmission Lines, Electrical Work for Building & Structures, Underground Electrical Conduit Installation, Sound & Intercom Systems, Fire Detection Systems, Signal & Burglar Alarm Systems, Computer Cabling, Electrical Signs, Telephone Lines, Ducts, Cable T.V., Substations, Electrical Temperature Controls and similar activities.

(8) **S - SPECIALTY (Specify)**

A Contractor may obtain any of the following Specialties by request and proper qualifications shown. (Example: Base & Paving, Plumbing, Drywall, Insulation, Etc.)

SPECIALTIES

Acoustical Treatments

Air Traffic Control

Asbestos

Awnings, Canopies, Gutters

Base & Paving

Blinds, Draperies

Boiler Construction & Repair
 Bridges & Culverts
 Bulk Storage Facilities
 Car Washes
 Carpentry, Framing, Millwork, Cabinets
 Ceiling, Wall Systems
 Chemical Resistant Tile & Brick
 Chimneys and Fireplaces
 Communication, Computer & Sound Systems, Cabling
 Concrete
 Control Systems & Instrumentation
 Conveyors, Cranes, Material Handling
 Cooling Towers
 Dams, Dikes, Levees, Canals
 Distribution Lines
 Dredging
 Drywall
 Elevators, Escalators, Dumbwaiters, Chairlifts
 Energy Management, Retrofit Systems
 Environmental General
 Erosion Control
 Excavation
 Fencing
 Fiberglass
 Fireproofing
 Floors & Floor Coverings
 Foundation Drilling & Construction, Pile Driving, Stabilization
 Furnaces, Stokers, Fuel Burning Equipment
 Furniture, Equipment, Bleachers
 Gas Fitters
 Generators, Turbines
 Glass, Windows, Doors, Glazing, Storefronts, Hardware
 Golf Courses
 Grading & Drainage
 Includes grading, drainage, pipe and structures, clearing and grubbing
 Greenhouses
 Heat Transfer Equipment
 Heating, Ventilation, Air Conditioning, Refrigeration (HVACR)
 HRA Miscellaneous & Specialty Items

1. Traffic Safety
 - a. Pavement Markers
 - b. Signaling
 - c. Guardrail and Fencing
 - d. Attenuators, Signalization and Roadway Lighting
2. Landscaping
 Includes seeding, sodding, planting, chemical weed and brush control
3. Pavement Rehabilitation

- Includes pressure grouting, grinding and grooving, concrete joints, underdrains
- 4. Well Drilling
- 5. Miscellaneous Concrete
 - Includes sidewalks, driveways, curb and gutter, box culverts

Hydraulics

Incinerator

Indoor/Outdoor Advertising

Institutional & Recreational Equipment

Insulation

Interior Work

Kilns, Drying Systems

Landscaping, Irrigation, Streams

Lathe, Plaster, Stucco, Dryvit, EIFS

Lead Abatement

Liners

Marine (Warves, Docks, Harbor Improvement, Terminals)

Masonry

Mausoleums

Medical Shielded Enclosures

Metal Buildings

Metal Studs, Walls

Millwright

Oil Field Construction

Overhead Doors

Paint Spray Booths

Painting

Passenger Boarding Bridges

Pipelines

Plant Maintenance

Plating & Waste Treatment Systems

Plumbing

Pneumatic Tube Systems

Pollution & Dust Control Systems

Poultry Houses

Process Piping, Valve Repair

Pumps & Pump Stations

Railroad Construction & Related Items

Rebar

Refractories

Refrigeration & Cold Storage

Remodeling, Renovations, Restoration, Alterations

Retaining Walls

Right of Way Clearing

Roofing, Roof Decks

Sandblasting, Hydroblasting

Scales

Security, Banking, Detention Equipment

224-25-1 ISSUANCE OF LICENSE

(a) All Contractors licenses will be issued under the name and address listed on the front of the application form. The use of any other name may constitute a violation. It is the responsibility of the contractor to inform the Contractors Licensing Board in writing of any name, address, ownership or any other change relating to said license within 15 days of such change.

(b) All applications for a Contractors license in the State of Arkansas must be filed in one of five categories; (1.) individual, (2.) partnership, (3.) corporation, (4.) limited liability company or (5) limited liability partnership. Each application must be supported by a qualifying party, who has satisfactorily completed such examination as may be required by the Board, prior to being issued a license to engage in contracting in the State of Arkansas. Anyone failing to pass such examination may be reexamined at any regular examination period, upon payment of proper fee. Should the qualifying party (business and law or trade) leave a licensed entity, written notice shall be given within fifteen (15) days to the Contractors Licensing Board. The notice shall state the name and position of individual leaving and the name and position of the individual who will replace the departing qualifier. The replacement qualifier must be fully qualified within thirty (30) days of the departure of the previous qualifier. Any license not renewed within two years of expiration shall be required to re-qualify by examination process, as may be required at the time.

224-25-2 LICENSE EXPIRATION & RENEWAL

(a) Expiration. All licenses to engage in the business of contracting in the State of Arkansas shall expire at midnight of the date of its expiration.

(b) Renewal.

(1) Renewal notices will be mailed approximately 60 days prior to the expiration of a license. However, it shall be the responsibility of the holder of the Contractors License to renew said license. Failure to receive a renewal notice shall not excuse the failure to timely renew. A renewal application will be considered timely filed if received by the Board or post marked by the expiration date.

(2) Renewal applications received by the Board prior to the expiration date of the license shall be accompanied by a renewal fee of \$50.00 and the licensee may continue to use the license until the next meeting of the Board following the expiration date of the license.

(3) Renewal applications received within thirty (30) days of the expiration of the license shall be accompanied by a \$100.00 renewal fee. UPON THE RECEIPT OF THE APPLICATION the license shall be deemed to be reinstated until the Board has met and acted upon the renewal. The reinstatement of a license **does not** reinstate the license for the time period between the expiration of the license and the receipt of the application by the Board.

Service Station Equipment
 Sheet Metal, Ducts
 Siding, Soffit, Facia
 Signal, Burglar, Fire Detection Systems
 Skylights, Solar Systems
 Special Coatings or Applications, Caulking, Waterproofing
 Sport & Recreational Surfaces
 Sprinklers, Fire Protection
 Steel, Alloy, Metal Fabrications, Welding
 Substations
 Swimming Pools, Spas
 Tanks
 Testing, Balancing
 Tile, Terrazzo, Marble
 Towers, Microwave Systems, Satellite Dishes
 Transmission Lines
 Tunnels, Boring, Shafts
 Underground Storage Tanks
 Wall Coverings
 Water & Sewer Plants, Sewer Disposals
 Water Wells

224-25-6 FINANCIAL REQUIREMENTS

(a) **New Applications.** All new applications must contain an audited financial statement, less than one year old and prepared in accordance with GAAP guidelines, of the company, and an audited Opinion Letter from an Independent CPA or RPA. Any application submitted as an individual or partnership must also be accompanied by an unaudited financial statement of the individual or partners. This is not in lieu of the audited statement of the company but in addition to.

(b) **All renewal applications** must contain an audited or reviewed financial statement and an Audit Opinion or Review Report from an Independent CPA or RPA.

(c) **Minimum Business Related Net Worth** (new and renewal applications). Minimum Business Related Net Worth for Classification(s) Requested: (Property not used for Business purposes is not acceptable.) New applicants must have one half (1/2) of the minimum Net Worth requirement in cash.

HEAVY	\$50,000
HIGHWAY, RAILROAD, AIRPORT	50,000
MUNICIPAL & UTILITY	50,000
BUILDING	50,000
LIGHT BUILDING	20,000
MECHANICAL	20,000
ELECTRICAL	20,000
SPECIALTY	5,000

(d) Working Capital will also be reviewed and considered in determining whether to issue a new or renewal license.

(e) If the Board determines that the financial information provided by an applicant for a renewal license does not satisfy the financial requirements, the Board may, at its option, deny the application or place the application in Improve status. An applicant who is placed in Improve status will have its license extended thirty (30) days, pending further information being provided and/or changes being made by the applicant to resolve any difficulties. The license is effective only until the next regular meeting of the Board and will expire at the next regular meeting unless further action is taken by the Board.

224-25-7 BIDDING & CLASSIFICATION

(a) It shall be permissible for any city, municipality, sewer or water district, or other political corporation to accept bids from unlicensed contractors for projects involving federal funds specifically designated for the project in question, provided, however, no contractor shall submit a bid prior to submitting application for licensure, and that no construction contract shall be executed until the successful bidder has furnished an appropriate license issued by the Contractors Licensing Board.

(b) Any project being advertised for bid in the State of Arkansas for construction, erection, alteration, or repair of any building or any other structure, must be bid by a prime contractor. However, if the Electrical and Mechanical classification, considered together, or any other specialty, considered by itself, should constitute 80% or more of the total project, the holder of that classification may bid as a prime contractor on the project. A prime Contractor accepts full responsibility for any project except as may be written in the contract with owner.

(c) A Contractor holding a Building classification cannot list itself as Electrical and Mechanical subcontractors unless these classifications have been properly issued by the Contractors Licensing Board and they appear on the current license held by the contractor.

(d) The listing of any classification or sub-classification on a license certificate authorizes the performance of work falling within that field or of any field so closely related that the skill required for the specified field would also apply. It is not intended for these classifications to be restrictive beyond the point of safeguarding the public interest in requiring Contractors to supply the skills necessary to perform the work under contract.

(e) A Contractor holding the Building classification may enter into general contracts for building construction including all specialty items required in the contract to make the building usable for the purpose intended and may perform these items with his own forces, if qualified, or may sublet such work to qualified specialty contractors skilled in the particular fields involved. It is the specific responsibility of the general contractor to furnish the skills required for the proper performance of all the work included in the contract.