

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

**SUMMARY OF PROPOSED AMENDMENTS TO THE
ADMINISTRATIVE RULES REGARDING THE HVACR LICENSING
BOARD**

DEPARTMENT OF LABOR AND LICENSING

February 7, 2022

The purpose of the proposed rule is to repeal the licensing or certification requirement for HVACR mechanical inspectors employed by cities and counties, including the \$25 annual fee.

MARK-UP

~~Rules and Regulations~~ ~~Pertaining to the Certification Of~~ ~~Heating, Ventilation, Air Conditioning~~ ~~And Refrigeration~~ ~~Mechanical Inspectors~~

~~SECTION I. Authority~~

~~The following 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~~

~~To insure that the construction, installation and maintenance of heating, ventilating, air conditioning and refrigeration within all buildings be safe and conform to the Arkansas Mechanical Code.~~

~~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) HVACR means heating, ventilation, air conditioning, and refrigeration as defined in Act 277, as amended.~~
- ~~(3) Incompetency means the performance of any act or procedure by the licensee which could cause or has caused harm to the public's health or safety.~~
- ~~(4) Inspection certification examination means the examination given and administered by the HVACR Board for the purpose of being certified as a Mechanical Inspector.~~
- ~~(5) Mechanical Inspector means any person (1) regularly employed as a Mechanical Inspector by any city, county or the HVACR Board, (2) any other person certified by the Board.~~
- ~~(6) SBCCI means the Southern Building Code Congress International.~~
- ~~(7) SBCCI Certified Mechanical Inspector means any person who successfully passes the Mechanical Inspector certification examination given by the Southern Building Code Congress International.~~

~~SECTION IV. Eligibility For Certification~~

~~To be eligible for certification as an HVACR Inspector, applicants must meet at least one of the following requirements:~~

- ~~(1) Currently employed as a Mechanical Inspector by the HVACR Section of the Arkansas State Health Department.~~
- ~~(2) Currently employed as a Mechanical Inspector by a city, town, county; or other municipality within the State of Arkansas that has adopted or is adopting the State Mechanical Code or a more stringent Code by regulation or ordinance.~~
- ~~(3) Any other persons determined to be eligible for certification by the HVACR Board for the State of Arkansas.~~

~~SECTION V. Qualifications~~

- ~~1) To qualify as a Mechanical Inspector the applicant must show eligibility for certification and successfully pass an SBCCI Mechanical Inspector examination or successfully pass the inspection certification examination administered by the HVACR Board.~~

~~SECTION VI. Terms of Certification, Renewal and Fees~~

~~License fees for the HVACR Inspector's license will be as follows: Municipal or county or employees of other governmental entities (except employees of the State Health Department) will be assessed a \$25.00 annual certification fee; any other person obtaining a Mechanical Inspector's license will be assessed a \$25.00 annual certification fee. Applicants for certification will be issued their license upon the completion of 12 hours instruction plus passing the required exam. Licenses will be renewed annually upon completion of 8 hours of annual training.~~

~~SECTION VII. Examinations~~

~~Examinations will be given on an as needed basis by the HVACR Board at various times and places. The examination will cover the Arkansas Mechanical Code, as amended, and inspection procedures and materials taught during training sessions administered by the HVACR Board. A score of 70% or better is considered a passing score.~~

~~SECTION VIII. Revocation of License or Certification~~

~~The Board may, on its own motion, make investigations and conduct hearings. Upon its own motion or upon complaint in writing duly signed and verified by the complainant, the Board may suspend or revoke any license issued 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 incompetency to act as an HVACR Mechanical Inspector.~~

~~SECTION IX. 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 with the ACR Board within twenty (20) days of the licensee's receipt of the complaint.~~

- ~~(2) No order suspending or revoking a license or certification shall be made until after a public hearing set by the Board not less than sixty (60) days after the irerving of a complaint on the licensee. 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 the recognized rules of legal procedure.~~
- ~~(3) The decision rendered as a result of the hearing may be appealed pursuant to the Administrative Procedure Act 25-15-201et seq.~~
- ~~(4) Any member of the Board or a representative designated by the Board shall have the authority to administer oaths for the taking of testimony.~~
- ~~(5) One (1) year after the date of the revocation, an application may be made for anew license or certification.~~

~~SECTION X.—Severability~~

~~If any provision 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 he leto are declared to be severable.~~

~~SECTION XI.—Repeal~~

~~All regulations and parts of regulations in conflict here with are hereby repealed.~~

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Labor and Licensing

DIVISION HVACR Licensing Board, Division of Labor

PERSON COMPLETING THIS STATEMENT Denise Oxley

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To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Administrative Rules Pertaining to the Certification of Heating, Ventilation, Air Conditioning and Refrigeration Mechanical Inspectors

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☒ No ☐
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 ☒ 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 ☒ 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?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

Total \$ 0.00

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

Total \$ 0.00

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

Next Fiscal Year

\$ -0-

\$ -0-

The board will have a loss of revenue with respect to the \$25 license fee of approximately \$7,550 annually. This is also the sum of the cost savings to municipalities and individual licensees.

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.

Current Fiscal Year

Next Fiscal Year

\$ -0-

\$ -0-

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 ☐

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.