

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

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

DEPARTMENT OF LABOR AND LICENSING

February 7, 2022

The purpose and necessity of the proposed amendment is to: 1) comply with changes from the 2021 legislative session; 2) add two new rules; and 3) make some grammatical and stylistic changes.

The proposed amendments would accomplish the following:

1. Amend the board's rule on license and examination fees to provide for an initial fee waiver for certain individuals pursuant to Act 725 of 2021;
2. Amend the board's rule on the responsibilities of licensees to require the maintenance of liability insurance for certain classes of licensees, as authorized by Arkansas Code Annotated § 17-33-202(8);
3. Amend the board's rule on automatic licensure for military personnel and their spouses to conform to Act 135 of 2021;
4. Create a new rule requiring four (4) hours of annual continuing education hours as authorized by Act 978 of 2021; and
5. Create a new rule for the recognition of apprenticeship programs pursuant to Act 811 of 2021.
6. Make some grammatical and stylistic changes as a result of government transformation.

MARK-UP

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

Rules effective as of ~~October 1, 2020~~
March 1, 2022

**Heating, Ventilation, Air Conditioning and Refrigeration
Licensing Board
Arkansas Department of Labor and Licensing
900 West Capitol, Suite 400
Little Rock, Arkansas 72201**

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

SECTION I. AUTHORITY

The following rules 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 rule 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 rule, shall have the following meanings, unless the context clearly indicates otherwise. Words not defined in this rule 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~~ Labor and Licensing;
- (6) "Director" means the Director of the Division of Occupational and Professional Licensing Boards and Commissions or other designee of the Secretary of the Department of Labor and Licensing;
- (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 wellbeing 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) “Substantially similar” 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.

(23) “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) The Board shall approve an applicant for Class A, B, C, D or E licensure with examination provided that the applicant is currently licensed as a in another state or political subdivision of that state or territory, or district of the United States with which the Board has no reciprocity, but whose HVAC/R licensing laws are substantially similar to those of the State of Arkansas and:
 - 1) Holds his or her occupational licensure in good standing;
 - 2) Has not had his or her occupational licensure revoked for and 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;
 - 3) Is sufficiently competent in his or her field, and;
 - 4) Pays the required license fee.

In no case shall apprenticeship, education, or training be a prerequisite or condition for licensure.

In this section, "substantially similar" 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.

- (4) Applicants for licensure must pass a Board approved examination if the candidate for licensing does not hold licensing in another state or political subdivision of that state or territory, or district of the United States.
- (5) Applicants for licensure with no licensing background 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.
 - a. The Board shall use the least restrictive requirements by allowing the licensing candidate to show proof of experience in the form of records, affidavits, or bona fide evidence from current or former employers, or persons who can attest to the applicant's work background as an HVACR contractor.
 - b. In no case shall apprenticeship, education, or training be a prerequisite or condition for licensure.
- (6) 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 rules.

(7) 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.

(8) Criminal background checks shall not be required.

(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.

(C) Temporary Permits or Provisional Licensing

(1) When requested, the Board shall immediately issue temporary revocable permits or provisional licensing to all Class A, B, C, D or E applicants upon receipt of the application under the following conditions:

- a. The temporary permits or provisional licensing shall be granted for ninety (90) days in accordance with Section XIII (Reciprocity) unless the Board determines the candidate for licensing does not meet the criteria as noted in these rules in which case the temporary permit or provisional licensing shall be revoked. The Board may extend temporary permit or provisional licensing to exceed ninety (90) days if a hardship status is determined by the Board for the applicant;
- b. Candidates for temporary permits or provisional licensing shall be required to attend the scheduled examinations unless official excused or forfeit temporary permit or provisional licensing.
- c. The candidate holds his or her occupational licensure in good standing;
- d. The candidate has not had his or her occupational licensure revoked for and 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 candidate is sufficiently competent in his or her field, and;
- f. The candidate pays the required license fee.

(D) 1. An individual is not eligible to receive or hold a license issues by the Board if that individual has pleaded guilty or nolo contendere to or been found guilty of any of the offenses

detailed in Ark. Code Ann. §17-3-102 et. seq. by any court in the State of Arkansas or of any similar offense by a federal court, unless the conviction was lawfully sealed under the Comprehensive Criminal Record Sealing Act of 2013 § 16-90-1401 et. seq. or otherwise sealed pardoned or expunged under prior law.

2. The Board may grant a waiver as authorized by Ark. Code Ann. §17-3-102 et. seq. in certain circumstances.

3. The Board is not authorized to conduct criminal background checks, but the Board may inquire about criminal convictions at the time of license application or the renewal of a license. Any applicant or licensee who provides false information to the Board may be subject to suspension, license revocation or the denial of a license.

SECTION VI. TERMS OF EXPIRATION, RENEWAL AND EXAMINATION.

- (1) All licenses called for under these rules 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.
- (9) The Board shall waive the initial licensing fee if the applicant:
 - (a) Is receiving assistance through the Arkansas Medicaid Program; the Supplemental Nutrition Assistance Program; the Special Supplemental Nutrition Program for Women, Infants, and Children; the Temporary Assistance for Needy Families Program; or the Lifeline Assistance Program;
 - (b) Was approved for unemployment within the last twelve (12) months; or

- (c) Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

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 rules 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 rules if it has reason to believe that the holder of such license has violated any provision of these rules 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. In no case shall the reinstatement of the license require apprenticeship, education, or training as a prerequisite for reinstatement.
- (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. In no case shall the reinstatement of the license require apprenticeship, education, or training as a prerequisite for reinstatement.
- (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, and rules. 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 as a means of facilitating interstate practice, may enter into reciprocal agreements with other states regarding HVAC/R licensing. Application license fees shall apply for license requested and candidates for licensure under reciprocity shall not be required to pass an examination or participate in continuing education, training, or apprenticeship as a prerequisite to licensing for HVACR Class A, B, C, D or E contractor.

(2) An applicant applying for reciprocal licensure shall meet the following requirements:

(a) The applicant shall hold an HVAC/R license in another United States jurisdiction that are substantially similar to Arkansas HVAC/R licensure requirements as established by these rules.

(i) Minimum education requirements for licensure are not required.

(b) The applicant shall hold his or her occupational licensure in good standing.

(c) The applicant shall not have had a license revoked for an act of bad faith or a violation of laws, rule or ethics:

(d) The applicant shall not hold a suspended or probationary license in a United States jurisdiction;

(e) The applicant shall be sufficiently competent in the mechanical HVAC/R installations.

(3) The HVAC/R Board shall apply the least restrictive requirements for an applicant applying for reciprocal licensure unless it is required as a condition of reciprocity with another United States jurisdiction:

(a) Examinations shall not be required;

(b) Apprenticeship, education, or training shall not be required as a prerequisite to licensure.

(4) An applicant shall submit a completed application, the required fee, and the documentation described below.

(a) As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas, the applicant shall submit the following information:

(i) Copy of HVAC/R license from other jurisdiction;

(ii) Completion of required forms from other jurisdiction(s) showing the

candidates licensing status including suspensions and revocations, types of examinations administered, and types mechanical code used.

- (iii) Candidates shall also be required to submit the names of all states in which the candidates is either currently or has been previously licensed in and confirmation that the license is in good standing. The Board has the authority to verify candidate licensing information.

SECTION XIV. CORRECTION OF VIOLATIONS

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 rules. 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 rule. The Department may charge a fee for codes as printed in the Arkansas Mechanical Code book rule.

SECTION XVII. PENALTIES

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

- (1) In accordance with the rule 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, 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 rule 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.

- (4) A license holder who holds a class A, B, C, D, or E license shall maintain liability insurance for any work performed or shall be covered by an employer policy with the minimum

coverage. The minimum coverage of the policy shall be \$250,000 for an individual licensee or \$250,000 per licensed employee for an employer provided policy. Proof of coverage shall be presented to the Board at the time of issuance or renewal of license.

SECTION XIX. EXEMPTIONS

(1) These rules 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 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. §17-38-

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 servicing or repairing its own HVAC/R system by its own personnel specifically trained for such service or repair.
- (4) Any person exempt under this section is required to conform to rules on the performance of HVACR work as well as obtaining local permits and inspection as may be required by local ordinance.

SECTION XX. LICENSURE, CERTIFICATION, OR PERMITTING OF ~~ACTIVE DUTY~~ UNIFORMED SERVICE MEMBERS, ~~RETURNING~~ VETERANS, AND SPOUSES – ARK CODE 17-1-106

- (1) As used in this subsection, “~~returning military~~ uniformed service veteran” means a former member of the United States ~~Armed Forces Uniformed Services~~ who was discharged from active duty under circumstances other than dishonorable.
- (2) As used in the subsection, “automatic licensure” means the granting of occupational licensure without an individual's having met occupational licensure requirements provided under this title or by the rules of the occupational licensing entity;
- (3) The HVAC/R Board shall grant automatic licensure to an individual who ~~holds a substantially equivalent license in another U.S. jurisdiction~~ is the holder in good standing of a license with a similar scope of practice issued by another state, territory, or district of the U.S. for Class A, B, C, D or E licensure and is:
- (a) ~~An active duty military~~ A uniformed service member stationed in the State of Arkansas;
- (b) ~~A returning military veteran applying for licensure within one (1) year of his or discharge from active duty~~ A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or
- (c) The spouse of ~~a person under this section~~;
- (i) A person under (3)(a) or (3)(b) above;
- (ii) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or

(iii) A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

- (4) The HVAC/R Board shall grant such automatic licensure upon receipt of all of the below:
 - (a) Payment of the initial licensure fee;
 - (b) Evidence that the individual holds a substantially equivalent license with a similar scope of practice in another state; and
 - (c) Evidence that the applicant is a qualified applicant under the provisions of this section.
- (5) The expiration date of a license for a deployed uniform service member or spouse will be extended for one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.
- (6) A full exemption from any continuing education requirements will be allowed for a deployed uniform service member or spouse until one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.

SECTION XXI CONTINUING EDUCATION

- (1) No HVAC/R license shall be renewed unless the licensee completes at least four (4) hours of continuing education per calendar year. Continuing education shall consist of classroom or other Board approved instruction relating specifically to the construction, installation, maintenance, and repair of HVAC/R systems. Two (2) of the four (4) hours shall be on the mechanical code as adopted by the Board. The remaining two (2) hours may be on any other Board approved instruction. The first cycle shall begin on the effective date of Section XXI and end on December 31, 2022.
- (2) Approved Continuing Education Hours:
 - (A) Continuing education hours required by these Rules shall be obtained only in programs and courses approved by the Board.
 - (B) The Board shall examine and approve curricula from any entity that provides continuing education to determine whether it provides appropriate and adequate HVAC/R instruction.
 - (C) Course curricula shall be presented to the Board for approval at least sixty (60) days prior to the date of the course. The curricula shall be presented on a form approved by the Board. Board staff may recommend course providers and curricula to the Board for approval. The Board may approve retroactive credit for courses completed during the current calendar year but before the effective date of these

rules.

(D) Upon completion of a Board approved course, the course provider shall complete an attendance roster form approved by the Board to confirm completion. The course provider shall submit this form to the Board. The course provider's roster is the only document acceptable to confirm completion of course credit. Each course provider shall maintain this information not less than five (5) years from the course completion date.

(E) The Board shall:

- (i) maintain the attendance rosters submitted by course providers; and
- (ii) maintain a list of Board approved courses.

(3) Failure to complete continuing education hours

(A) If any licensee fails to complete the required continuing education hours before the end of calendar year, the licensee may obtain the required continuing education hours within ninety (90) days without being subject to examination requirements or civil penalties for performing unlicensed electrical work. All other civil penalties shall apply.

(B) If the licensee fails to obtain the required hours within this ninety (90) day period, the licensee shall be required to take another examination.

(4) Notwithstanding the provisions of Section XXI(3)(B) above, the required continuing education hours for the 2022 calendar year may be obtained no later than December 31, 2023, without the licensee being required to take another examination. A licensee may be subject to civil penalties for performing unlicensed HVAC/R work and may be subject to an examination requirement pursuant to Ark. Code Ann. § 17-33-302.

SECTION XXII. EARN AND LEARN APPRENTICESHIPS.

(1) The Board shall grant a license to an applicant who:

- (a) Completes an apprenticeship as defined by Ark. Code Ann. § 17-6-103(1) in the HVAC/R field;
- (b) Passes an examination with a score required for licensure, if deemed to be necessary by the Board and required of all applicants;
- (c) Pays any fees deemed necessary by the Board;
- (d) Does not have a disqualifying criminal record as determined by the Board under state law; and
- (e) Completes all other requirements for licensure unrelated to training and education.

(2) Should the Board deny an application under subsection A, the Board shall provide the applicant with a written denial detailing the reason for the denial including whether the Board determined the applicant's apprenticeship program does not

correspond to the HVAC/R field or level of license for which the applicant applied.

- (3) An apprenticeship in the HVAC/R field is not required to exceed the number of hours required by the Board, except as otherwise required by federal law.

SECTION ~~XXI~~. XXIII SEVERABILITY

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

SECTION ~~XXII~~. XXIV REPEAL

All rules and parts of rules in conflict herewith 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

TELEPHONE NO. (501) 682-4507 FAX NO. (501) 682-4535 EMAIL: denise.oxley@arkansas.gov

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 Licensing of Heating, Ventilation, Air Conditioning and Refrigeration Contractors

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.

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.