



State of Alabama
Board of Heating, Air Conditioning & Refrigeration Contractors

Code of Alabama, (1975), § 34-31-18 et seq.

SECTION 34-31-18 Definitions.

For the purposes of this chapter, the following terms have the following meanings:

- (1) ADMINISTRATIVE PROCEDURE ACT. Chapter 22 of Title 41 and any rules adopted thereunder.
- (2) BOARD. The State Board of Heating, Air Conditioning, and Refrigeration Contractors.
- (3) CERTIFICATION or LICENSE. The process of testing to determine the knowledge and skill of an individual with respect to heating, air conditioning, and refrigeration."
- (4) CERTIFIED HEATING AND AIR CONDITIONING CONTRACTOR. Any person engaged in the business of heating and air conditioning contracting and installation or service and repair.
- (5) CERTIFIED REFRIGERATION CONTRACTOR. Any person engaged in the business of refrigeration contracting and servicing, installation, and repair.
- (6) DUCT AIR TIGHTNESS TESTING CONTRACTOR. Any person engaged in the practice of testing and verifying duct air tightness in conjunction with the installation, service, or repair of a heating and air conditioning system.
- (7) HEATING AND AIR CONDITIONING SYSTEM. A heating or cooling apparatus consisting of an air heating or cooling fixture from pipes, plenums, or blowers, including any accessory and equipment installed in connection within the system. The term does not include window units, automotive, or farm implement type heating or air conditioning equipment.
- (8) INSTALLATION. The act of setting up or installing a heating and air conditioning system or refrigeration system for operation and use.
- (9) PERSON. Includes an individual, firm, partnership, or corporation.
- (10) REFRIGERATION. 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.

(11) REFRIGERATION TRADE OR BUSINESS. Any individual or legal entity engaged in the installation, maintenance, servicing, and repairing of refrigerating machinery, equipment, devices, and components.

(12) REGULARLY EMPLOYED PERSON. An individual who meets all of the following conditions:

- a. Is an actual employee of the business, not an independent contractor.
- b. Works an average of 30 or more hours per week for the heating, air conditioning, or refrigeration business.
- c. Is not paid as an independent contractor.
- d. Receives a Form W-2, Wage and Tax Statement, for all earnings.

(13) RESPONSIBLE CHARGE. The direction of projects involving the installation or service and repair of heating, air conditioning, and refrigeration systems requiring initiation, professional skills, technical knowledge, and independent judgment.

(14) SERVICE AND REPAIR. The act of maintaining for operation a heating, air conditioning, or refrigeration system that has previously been installed, including parts replacement within a piece of equipment.

(Acts 1982, No. 82-547, p. 900, §3.1; Acts 1988, No. 88-217, p. 339, §3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, §3; Acts 1992, No. 92-180, p. 333, §3; Act 2009-486, p. 879, §1; Act 2015-169, §1; Act 2024-310, §1.)

SECTION 34-31-19 Purpose.

The purpose of this chapter is to certify qualified contractors on a state-wide basis in order to protect the public by identifying those contractors who have the knowledge and ability to install or service and repair heating, air conditioning, and refrigeration systems.

(Acts 1982, No. 82-547, p. 900, §3.2; Acts 1988, No. 88-217, p. 339, §3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, §3; Act 2009-486, p. 879, §1.)

SECTION 34-31-20 Board of Heating, Air Conditioning, and Refrigeration Contractors - Creation; composition; transfer of property, etc.

(a) The Board of Heating and Air Conditioning Contractors as created by Act 82-547, 1982 Regular Session (Acts 1982, p. 900), is renamed the Board of Heating, Air Conditioning, and Refrigeration Contractors. The authority of the board is expanded to allow the board to examine, certify, and regulate heating, air conditioning, and refrigeration on a statewide basis.

(b) The board shall consist of 12 members, who shall be citizens of this state and who shall be subject to confirmation by the Senate. The seven initial appointments shall be effective as of July 1, 1982, as follows: One member shall be appointed by the Governor for an initial term of one year, and shall be a licensed professional engineer; one member shall be appointed by the Governor for an initial term of four years and shall be a heating and air conditioning contractor; one member shall be appointed by the Lieutenant Governor for an initial term of three years and shall be a trade representative of an equipment manufacturer or supplier; one member shall be appointed by the Governor for an initial term of three years and shall be a consumer from the general public; one member shall be appointed by the

Speaker of the House of Representatives for an initial term of two years and shall be a trade representative of the service, repair parts industry; one member shall be appointed by the Lieutenant Governor for an initial term of two years, and shall be a representative from county or local inspection services department; and one member shall be appointed by the Speaker of the House of Representatives for an initial term of three years, and shall be a consumer from the general public. Three additional members shall be appointed to serve four-year terms beginning on January 1, 2001. Each of these three additional members shall be heating and air conditioning or refrigeration contractors. One of these additional members shall be appointed by the Governor, one of these additional members shall be appointed by the Lieutenant Governor, and one of these additional members shall be appointed by the President Pro Tempore of the Senate. An additional two members, who shall be heating and air conditioning contractors, shall be appointed by the Speaker of the House of Representatives for initial terms of three years. Their successors, who shall be appointed by the same respective appointing authorities, and shall possess the same respective occupational qualifications, shall each serve not more than two consecutive terms of office of four years each and until their successors are appointed and qualified. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(c) All moneys, equipment, and property of the board created pursuant to Sections 34-31-1 through 34-31-17, inclusive, shall, effective July 1, 1982, be transferred to the board created in subsection (a). The board shall pay all money received under this chapter to the State Treasurer, who shall keep the money in a separate fund for the board. All money remaining at the end of the fiscal year which exceeds 25 percent of the board's budget for the previous year shall be transferred to the 501(c)(3) nonprofit Alabama Home Builders Foundation to be used exclusively for classroom training tools at educational facilities that provide heating, air conditioning and/or refrigeration curriculums to include any program approved or accredited by the State of Alabama, United States federal government, or any state or federal governmental agency or board. If, at any time, the Alabama Home Builders Foundation should lose its nonprofit status, those funds shall be transferred to the State General Fund.

(Acts 1982, No. 82-547, p. 900, §3.3; Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, §1; Acts 1988, No. 88-217, p. 339, §3; Acts 1996, No. 96-748, p. 1318, §3; Act 2000-745, p. 1658, §1; Act 2004-67, p. 82, §3; Act 2008-130, p. 187, §3; Act 2009-486, p. 879, §1; Act 2015-169, §1.)

SECTION 34-31-21 Board of Heating, Air Conditioning, and Refrigeration Contractors - Officers; meetings; power and duties.

(a) The board shall elect from among its members a chairman, vice-chairman, and a secretary. The board may hire an executive director to serve at the pleasure of the board. The board may require the executive director to perform the duties required by this section and any other tasks required by the board. The board shall set the salary of the executive director. The executive director, with the consent of the board, may employ a deputy director who shall serve at the pleasure of the executive director. The salary and compensation for the deputy director shall be set by the board and shall not exceed the salary set for the executive director.

(b) The chairman shall preside over meetings of the board. The vice-chairman shall preside over meetings of the board in the absence of the chairman. The chairman shall designate another member to preside in the absence of the chairman and vice-chairman.

(c) The secretary or, if directed by the board, the executive director shall perform the following tasks:

(1) Keep all minutes, books, records, and files of the board.

(2) Issue all certificates in the name of the board.

(3) Send all notices and attend to all correspondence directed by the board.

(4) Receive and deposit all fees.

(5) Perform all incidental duties of the office as directed by the board.

(d) The secretary shall give bond, payable to the Governor, in the penal sum of \$5,000 for the faithful performance of his or her duties, and the premium therefor shall be paid from the fees of the board.

(e) No moneys shall be withdrawn from the funds of the board except by direction of the board as provided by state law.

(f) A majority of the board shall constitute a quorum for the transaction of all business.

(g) The board is also authorized to adopt and publish minimum repair and service standards for its certified contractors, and shall mail a copy thereof to every certified contractor at least 30 days before the standard of criteria becomes effective. Certified contractors who fail to comply with such minimum standards and criteria shall be punished as prescribed in Section 34-31-32(a).

(h) The board is authorized to hold hearings, call witnesses, administer oaths, take testimony, and obtain evidence in the conduct of its business. It is further authorized to take such disciplinary actions as are authorized in subsection (c) of Section 34-31-32.

(i) The board is authorized to expend funds for purposes of public awareness of the board and its rules and regulations to include advertising, promotional materials, event exhibiting, staff uniforms, or other means approved by the board.

(Acts 1982, No. 82-547, p. 900, §3.4; Acts 1986, No. 86-118, p. 143, §3; Acts 1988, No. 88-217, p. 339, §3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, §3; Acts 1992, No. 92-180, p. 333, §3; Act 2000-745, p. 1658, §1; Act 2015-169, §1.)

SECTION 34-31-22 Board of Heating, Air Conditioning, and Refrigeration Contractors - Compensation.

Each member of the board shall receive one hundred dollars (\$100) per day for attending sessions of the board or its committees and, in addition, shall be reimbursed for such necessary travel expenses as are paid to state employees, to be paid from fees collected.

(Acts 1982, No. 82-547, p. 900, §3.5; Act 2000-745, p. 1658, §1.)

SECTION 34-31-23 Board of Heating, Air Conditioning, and Refrigeration Contractors - Regular meetings.

The board shall meet in a regular session to perform its lawful duties at least once each three-month period.

(Acts 1982, No. 82-547, p. 900, §3.6.)

SECTION 34-31-24 Performance of functions of certified contractor; testing or verifying duct air tightness.

(a)(1) No person may advertise, solicit, bid, obtain permits, do business as, or perform the function of a certified contractor unless the person in responsible charge, is a certified contractor.

(2) Every contractor licensed under this chapter shall display the contractor's certification number and the company name on all documentation, forms of advertising, and on all service and installation vehicles used in conjunction with heating, air conditioning, and refrigeration contracting.

(3) A contractor licensed under this chapter may not permit the use of his or her license by any other person.

(4) No official who issues licenses to any person to operate a business as a certified contractor may issue a license unless there is presented for inspection a certificate of qualification issued by the board to the individual or to the person in responsible charge with the partnership or corporation.

(b) The following requirements apply to the practice of testing or verifying duct air tightness:

(1) Any individual who engages in the practice of testing and verifying duct air tightness is required to register with the board. The individuals are not required to become a certified heating and air conditioning contractor, but shall complete training as set forth by this subsection. The board shall maintain a list of individuals who are registered duct envelope testing contractors in the practice of testing and verifying duct air tightness and leakage. The board may establish fees to be paid by registrants. All fees must accompany the application for registration and are nonrefundable. All registrations must be renewed by December 31 of each year. The board may establish a late fee for those individuals failing to renew by December 31.

(2) Any board certified heating and air conditioning contractor or home builder licensed by the Alabama Home Builders Licensure Board seeking to register as a duct tightness tester for the purposes of testing ducts on his or her own project or on a third party basis for the general public, must successfully complete the Residential Energy Services Network Home Energy Rating Systems (HERS) Rater training, the Building Performance Institute Building Analyst (BPI) training, or the Home Builders Association of Alabama Qualified Credentialed Air Tightness Verifier (QCATV) training. Any applicant that is not a board certified contractor or a licensed home builder seeking to register as a duct tightness tester for the purposes of testing duct work on a third party basis for the general public must successfully complete the Residential Energy Services Network Home Energy Rating System (HERS) Rater training or the Building Performance Institute Building Analyst (BPI) training. Each applicant must submit verification that he or she has successfully completed the training required by at least one of the above listed programs to the board prior to receiving the registration in order to be added to the list of registered individuals. Each registrant must submit proof of completion, approved by the Home Builders Association of Alabama, prior to annual re-registration by the board.

(3) The board may discipline any registrant who fails to conduct air tightness testing to the standards set forth by the board. Discipline for registrants may include all penalties authorized by this chapter.

(Acts 1982, No. 82-547, p. 900, §3.7; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, §3; Act 2009-486, p. 879, §1; Act 2015-169, §1; Act 2024-310, §1.)

SECTION 34-31-25 Fees; disposition of funds.

(a)(1) For the purpose of defraying the expense in carrying out this chapter, the board may fix fees to be paid for the issuance, reissuance, and replacement of certificates and for any other service provided by the board, but in no event shall the charges fixed by the board exceed two hundred fifty dollars (\$250). The inactive fees may be waived for building officials or inspectors, as defined by the International Code Council. All fees fixed by the board must accompany the application, and no part of the fees shall be refunded. The fees shall be received by the board and held solely for the purpose of paying the expense of carrying out this chapter.

(2) Renewal fees shall be established by the board to ensure adequate funding to support the board. Fees shall not exceed two hundred fifty dollars (\$250) per year. The amount of these fees shall be established by the board on an annual basis to provide adequate funding to support the board and to pay the expenses incurred for applications, examinations, or renewals of licenses.

(b) All penalties collected by the board shall be used in the same manner and for the same purpose as fees.

(c) Fees for Duct Envelope Testing Contractors application and annual renewal shall not exceed one hundred dollars (\$100).

(Acts 1982, No. 82-547, p. 900, §3.8; Acts 1992, No. 92-180, p. 333, §3; Act 2000-745, p. 1658, §1; Act 2009-486, p. 879, §1; Act 2015-169, §1; Act 2024-310, §1.)

SECTION 34-31-26 Renewal of certificates; inactive status; continuing education.

(a) All certificates provided for herein shall be renewed annually, not later than December 31 of each year. All holders of certificates may be renewed annually, provided that the certified contractor has complied with all provisions of law and rules and regulations of the board thereof, upon payment of all fees set forth by the board as provided for in this chapter.

(b) Any person certified by the board may elect an inactive status certificate by notifying the board in writing. The fee for the issuance and renewal of an inactive status certificate shall be established by the board in an amount not to exceed one-half of the amount set for fees pursuant to Section 34-31-25.

(c) The board shall provide by rule or regulation those activities which an inactive status certificate holder may engage in, and for a procedure for the reinstatement as an active status certificate holder.

(d) The board shall adopt an annual program of continuing education for its certified contractors by January 1 of each year. All certified contractors shall be required to complete at least four hours of continuing education every year. In the event a contractor completes in excess of four hours continuing education in a calendar year, he or she may carry over four hours to the following renewal year. This minimum continuing education requirement will begin during the calendar year 2001. All certified contractors will be required to complete the minimum continuing education requirements prior to renewal in all years beginning January 1, 2002.

(e) The failure to complete the minimum continuing education requirements shall prevent the renewal of the certified contractor's license until proof of compliance with the continuing education requirement is submitted to the board. The board may permit a certified contractor to submit a deficiency plan to the board for approval by January 1 of each year for medical hardships and emergencies that prevent the certified contractor from complying with the continuing education requirements on time. This deficiency plan shall be specific in describing the plan for full compliance with the continuing education requirement and shall be accompanied by a deficiency plan fee established by the board.

(f) The board shall adopt rules that prescribe the policies, procedures, and fees for obtaining board approval of the providers, courses, and instructors for the continuing education program.

(g) Any inactive contractor who is 65 years of age or older is exempt from continuing education requirements.

(h) A contractor is exempt from completing continuing education requirements during the first year he or she receives his or her certification with the board.

(Acts 1982, No. 82-547, p. 900, §3.9; Acts 1992, No. 92-180, p. 333, §3; Act 2000-745, p. 1658, §1; Act 2009-486, p. 879, §1; Act 2015-169, §1.)

SECTION 34-31-27 Citizenship; application forms.

All applicants for examinations and certificates and all applicants for renewal certificates shall be citizens of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government, and shall be required to fill out a form which shall be provided by the board.

(Acts 1982, No. 82-547, p. 900, §3.10; Act 2008-130, p. 187, §3.)

SECTION 34-31-28 Examination for certification; registration; eligibility; further testing, etc., by localities prohibited; exemptions.

(a) All prospective certified contractors in this state seeking to qualify in accordance with this chapter shall be required to stand for a written examination before the board. Any applicant failing to pass his or her first examination for a certificate may take any subsequent examination, either written or, upon request of the applicant, a practical examination which is equivalent to the written examination, to be held within six months from the date of his or her unsuccessful examination.

(b) The board shall examine the character, fitness, and qualifications of every individual who applies for a certified heating, air conditioning, or refrigeration contractor license upon forms prescribed by the board and upon payment of all prescribed fees.

(c) An applicant for examination for a heating, air conditioning, or refrigeration certified contractor license shall be eligible to stand for the examination if the applicant has completed 3,000 hours of work experience, as defined by the board, or is a graduate of an approved heating, air conditioning, or refrigeration curriculum.

(d) Counties, municipalities, or other local entities are prohibited from requiring any further local testing or satisfaction of other requirements by certified contractors, subject to the payment of any applicable local privilege, license, or business fees or charges.

(e) Individuals licensed by the Alabama Liquefied Petroleum Gas Board are exempt from this chapter pertaining to heating, air conditioning, and refrigeration when:

(1) Engaged in the installation, repair, or replacement of a liquefied petroleum gas appliance so long as the appliance is not connected to a refrigeration system, provided that the individuals may engage in the replacement or repair of a liquefied petroleum gas central heating unit when it is combined with an air conditioning unit.

(2) Engaged in the installation of a venting system required for a vented-type liquefied petroleum gas appliance.

(f) This chapter does not apply to any of the following:

(1) An authorized employee of the United States, this state, or any municipality, county, or other political subdivision, if the employee does not hold himself or herself out for hire or otherwise engage in contracting except in accordance with his or her employment.

(2) Any mobile home or manufactured structure that is installed, inspected, or regulated by the Alabama Manufactured Housing Commission; however, the repair, servicing of a heating and air conditioning system, or the installation of a new heating and air conditioning system in a previously inspected manufactured structure is subject to this chapter.

(3) Individuals performing work on motor vehicles, residential refrigerators, or ice machines.

(4) Household appliances.

(5) Farm equipment.

(6) Poultry operations whether engaged in hatching, primary processing, or further processing of chicken, turkey, or other fowl.

(Acts 1982, No. 82-547, p. 900, §3.11; Acts 1986, No. 86-118, p. 143, §3; Acts 1988, No. 88-217, p. 339, §3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, §3; Acts 1992, No. 92-180, p. 333, §3; Act 2000-745, p. 1658, §1; Act 2009-486, p. 879, §1; Act 2024-310, §1.)

SECTION 34-31-29 Examinations generally; reciprocity agreements.

(a) The board shall provide for examinations which test the knowledge, skill, and proficiency of the applicants.

(b) Examinations shall be held at such time and place as may be fixed by the board at least once each three-month period. Written notice of the place of examinations shall be mailed to all persons who have filed current applications for the examinations of the board.

(c) The board may charge each applicant and retesting applicants for examination a reasonable fee based on the actual costs for administering the examinations. Applicants must stand for the examination within one year from the date the board receives the examination application and fees, otherwise the applicant must resubmit an application and appropriate fees.

(d) The board may enter into reciprocity agreements with other states to permit Alabama certified contractors to engage in work in other states in exchange for that state's contractors being permitted to

perform work in Alabama. This provision recognizes the status of the certified contractor as having passed the examination; however, all certification fees are required to be paid.

(Acts 1982, No. 82-547, p. 900, §3.12; Acts 1988, No. 88-217, p. 339, §3; Acts 1992, No. 92-180, p. 333, §3; Act 2000-745, p. 1658, §1; Act 2009-486, p. 879, §1.)

SECTION 34-31-30 Performance bond.

The board may require a performance bond not to exceed twenty-five thousand dollars (\$25,000) per year for all active certified contractors. There shall be no discrimination between contractors similarly situated, and each classification of regulated contractors for bonding purposes must be reasonable considering the purpose of the bond.

(Acts 1982, No. 82-547, p. 900, §3.13; Act 2009-486, p. 879, §1; Act 2024-310, §1.)

SECTION 34-31-31 List of certified contractors.

The board may publish annually a list of names, addresses of all individuals, and the name of their employer, if applicable, who are certified by the board, and shall mail a copy of the list to all qualified individuals so certified upon request to do so. The board may require a reasonable fee to cover the cost of producing and mailing the directory.

(Acts 1982, No. 82-547, p. 900, §3.14; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, §3; Act 2000-745, p. 1658, §1.)

SECTION 34-31-32 Violations; penalties.

(a) Except as provided in Section 13A-9-111.1, any individual engaged in business as a certified contractor or performing the functions of a certified contractor in violation of this chapter shall be guilty of a Class A misdemeanor.

(b) The board may impose late penalties on certified contractors who fail to renew certificates by December 31 of each year. The board may also remove the certification from any certified individual who fails to renew his or her certificate by the first day of March and require the individual to apply for a new certificate. The board may require the successful re-testing of any previously certified individual who applies for a new certification.

(c) The board may reprimand, in writing, any certified contractor who provides substandard or dangerous service, repair, or installation, or who otherwise violates this chapter.

(d) The board may remove, revoke, or suspend the certification of any certified contractor who provides substandard or dangerous service, repair, or installation, or who otherwise violates this chapter, and may require any previously certified individual to apply for a new certification.

(e) The board may levy and collect administrative fines for violations of this chapter or the rules of the board of not more than two thousand dollars (\$2,000) for each violation.

(f)(1) In addition to or in lieu of the criminal penalties and administrative sanctions provided in this chapter, the board may issue an order to any person engaged in any activity, conduct, or practice that is a violation of this chapter, directing the person to cease and desist from the activity, conduct, practice,

or performance of any work in progress or about to be commenced. The order shall be issued in the name of this state under the authority of the board.

(2) If the person fails to immediately comply with the cease and desist order, the board shall petition any court of competent jurisdiction to issue a writ of injunction enjoining the person from engaging in any activity, conduct, practice, or performance of work prohibited by this chapter. Upon a sufficient showing by the board that the person has engaged or is engaged in any activity, conduct, practice, or performance of work prohibited by this chapter, the court may issue a temporary restraining order to enjoin the person from engaging in the performance of work pending the hearing on a preliminary injunction. After a hearing, the court may issue a permanent injunction commanding the cessation of the performance of work complained of, all without the necessity of the board having to give bond. A temporary restraining order, preliminary injunction, or permanent injunction issued pursuant to this subsection shall not be subject to being released on bond.

(3) In the suit for an injunction, the board may issue a fine of up to two thousand dollars (\$2,000) plus costs for each offense.

(4) Any failure to cease work, after a hearing and notification from the board, shall render an individual ineligible to apply for a certified contractor's license for a period not to exceed one year from the date of official notification to cease work. The board may withhold approval for up to six months of any application from any individual who, prior to the application, has been found in violation of this chapter.

(Acts 1982, No. 82-547, p. 900, §3.15; Acts 1988, No. 88-217, p. 339, §3; Acts 1992, No. 92-180, p. 333, §3; Act 2000-745, p. 1658, §1; Act 2004-67, p. 82, §3; Act 2009-486, p. 879, §1; Act 2021-272, §2; Act 2024-310, §1.)

SECTION 34-31-33 Procedure.

The procedures shall be same as those defined in the Alabama Administrative Procedure Act, Chapter 22 of Title 41. The board may establish additional procedures as needed provided that the procedure is published and made public and are not in conflict with the state law.

(Acts 1982, No. 82-547, p. 900, §3.16; Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, §1.)

SECTION 34-31-34 Appeals.

Any appeals to the chapter shall be as defined by the Alabama Administrative Procedure Act. Any judicial review pursuant to the Alabama Administrative Procedure Act must be filed, commenced, and maintained in the Circuit Court of Montgomery County, Alabama.

(Acts 1982, No. 82-547, p. 900, §3.17; Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, §1; Act 2024-310, §1.)

SECTION 34-31-35 Sunset provision.

The State Board of Heating, Air Conditioning, and Refrigeration Contractors shall be subject to the Alabama Sunset Law, Title 41, Chapter 20, as an enumerated agency as provided in Section 41-20-3, and shall have a termination date of October 1, 2004, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.

(Act 2000-745, p. 1658, §2; Act 2009-486, p. 879, §1.)

ALABAMA BOARD OF
HEATING, AIR CONDITIONING AND REFRIGERATION CONTRACTORS
ADMINISTRATIVE CODE

CHAPTER 440-X-1
DEFINITIONS

440-X-1-.01 Definitions.

(1) Code of Ala. 1975, Section 34-31-18, provides for definitions of the following terms: "certified contractor," "installation," "service and repair," "board," "heating, air conditioning and refrigeration system or systems," "administrative procedures law: and "responsible charge."

(2) Act. The term "Act" as used in these rules shall mean Title 34, Chapter 31 of the Code of Ala. 1975, regulating the heating, air conditioning, and commercial refrigeration contractors industry.

(3) Alabama Administrative Procedure Act. The term "Alabama Administrative Procedure Act" refers to the Act .codified at Title 41, Chapter 22, of the Code of Ala. 1975

(4) Board. The term "Board" as used in these Rules shall mean the State Board of Heating, Air Conditioning and Refrigeration Contractors. The Board shall be comprised of members appointed by the Governor, Lieutenant Governor, Speaker of the House, and President Pro Tempore of the Senate pursuant to Section 34-31-20, Code of Ala. 1975. The public may make submissions and requests to the Board in writing at the following mailing address:

State of Alabama
Board of Heating, Air Conditioning
and Refrigeration Contractors
100 North Union Street, Suite 986
Montgomery, Alabama 36130

(5) Certificate. The term "certificate" as used in these Rules shall mean a certificate issued to or renewed by a certified contractor by the Board pursuant to the Act. The term certificate may also be interchanged with the term "license".

(6) Certified Contractor. The term "certified contractor" as used in these Rules shall mean any individual or any regularly employed person for any partnership or corporation who for hire is engaged in the installation or service and repair of heating, air conditioning or refrigeration systems; provided that nothing in this chapter shall apply to retail sellers of heating, air conditioning or refrigeration systems who do not install said

systems themselves. A certified contractor is authorized to install or service and repair or replace natural gas heating, air conditioning or refrigeration appliances, including specifically the servicing, repair, or replacement of those appliances, including specifically the servicing, repair, or replacement of those appliances in manufactured housing set up as stationary housing, but excluding the piping to such appliances, and except as otherwise prohibited by law.

(7) Retail Seller. The term "retail seller" shall mean any person (as defined in these rules) who sells a heating, air conditioning or refrigeration system or systems, but does not provide for the service, repair or installation of said system.

(8) Inactive Contractor. The term "inactive contractor" refers to any certified contractor who elects to obtain inactive status as a certified contractor. To obtain status as an inactive contractor, the certified contractor shall notify the Board in writing of his desire to seek inactive contractor status and return his licensing card reflecting his status as a certified contractor. The Board shall then issue the contractor an inactive contractor-licensing card. Inactive contractors shall be required to pay an annual licensing fee in an amount that does not exceed one-half of the annual licensing fee for certified contractors. An "inactive contractor" shall not be eligible or allowed to purchase local licenses or be issued any permits to perform installation, service, or repair work, or to solicit or bid to perform installation, service or repair work, on heating, air conditioning or refrigeration systems. An inactive contractor may be allowed by the Board to reactivate certification as a "certified contractor" at any time by notifying the Board in writing of his desire to return to "certified contractor" status and by informing the Board that he or she has obtained the proper bond pursuant to Alabama law and the Rules and Regulations of the Board. The inactive contractor shall also submit payment to the Board of the difference in fees between "certified contractor" and "inactive contractor" status.

(9) Person. The term "person" as used in these Rules shall mean any natural person, limited or general partnership, corporation, association, limited liability company, or other legal entity, or any combination thereof.

(10) Bond. The term "bond" as used in these Rules shall mean that performance bond described in the Act.

(11) Minimum Standards. The term "minimum standards" as used in these Rules shall mean those minimum repair and service standards adopted for certified contractors by the Board pursuant to the Act.

(12) Continuing Education. The term "continuing education" as used in these rules shall mean the required hours of continuing education required by state law for certified contractors.

(13) Regularly Employed Person. The term "regularly employed person" as used in these rules shall mean a person who is an actual employee of the business, not an independent contractor, who works at least 30 hours or more per week and receives a W-2 wage form not a 1099 form from the employer.

Author: Kathy LeCroix, Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §§34-31-18.

History: Filed September 30, 1982. **Amended:** Filed September 21, 1987; May 18, 1992. **Amended:** Filed November 5, 1996; December 10, 1996. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009. **Amended:** Published November 30, 2022; effective January 14, 2023.

**ALABAMA BOARD OF
HEATING, AIR CONDITIONING AND REFRIGERATION CONTRACTORS
ADMINISTRATIVE CODE**

**CHAPTER 440-X-2
ORGANIZATION AND ADMINISTRATIVE PROCEDURES OF THE BOARD**

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440-X-2-.01 Purpose.

The Alabama Board of Heating, Air Conditioning Refrigeration Contractors was created to certify qualified contractors on a state-wide basis in order to protect the public by identifying those contractors who have the knowledge and ability to install, service, or repair heating, air conditioning or refrigeration systems.

Author: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-19.

History: Filed July 17, 1985. **Amended:** Filed July 12, 1988.

Repealed and New Rule: Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009.

440-X-2-.02 Officers.

The Board annually shall elect from its members a chairman, vice-chairman, and a secretary. The chairman shall preside over meetings of the Board when present and shall appoint all committees of the Board. The vice-chairman shall preside over meetings of the Board in the absence of the chairman. The chairman shall designate another member to preside at meetings from which both the chairman and vice-chairman are absent. The secretary or, if directed by the board, the executive director shall perform the following tasks: keep all minutes, books, records, and files of the Board; shall issue all certificates in the name of the Board; shall send all notices and attend to all correspondence directed

by the Board; shall receive and deposit fees; and shall perform all incidental duties of the office as directed by the Board. The secretary shall give bond, payable to the Governor, in the penal sum of Five Thousand Dollars (\$5,000.00) for the faithful performance of his duties, and the premium thereof shall be paid from the fees of the Board. No moneys shall be withdrawn from the funds of the Board except by direction of the Board as provided in state law.

Author: Mark Montiel

Statutory Authority: Code of Ala. 1975, §34-31-21.

History: Filed September 30, 1982. **Amended:** Filed July 12, 1988; February 21, 1991. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Published November 30, 2022; effective January 14, 2023.

440-X-2-.03 Executive Director.

The Board may select and hire an executive director to serve at the pleasure of the Board. The executive director shall be responsible for the administration of Board policies. The executive director shall perform duties assigned by the Board and shall perform the duties of the secretary of the Board if directed by the Board. The executive director shall also fulfill the duties assigned to the executive director or executive secretary as described in the Alabama Administrative Procedure Act. The executive director shall be designated as the agent for the Board for service of legal process upon the Board. The executive director shall have custody of and shall safeguard and keep in good order all property and records of the Board. The executive director shall sign all instruments and matters that require approval of the Board. The executive director shall receive and deposit all funds to the credit of the board in the State Treasury and shall review all bills before requesting the State Comptroller to make payment of any accounts. The executive director shall keep the records of the Board which shall include, without limitation, all applications for certification by the Board and supporting documentation; a complete and permanent record of all applications that fail to result in certification; evidence of the important business transactions of the Board; a complete and permanent record of all certifications issued by the Board; and a record of all enforcement and disciplinary actions taken by the Board. All correspondence to the Board, including requests for information and the submission of requests, shall be made to the executive director at the Board's office in Montgomery, Alabama.

Author: Mark Montiel

Statutory Authority: Code of Ala. 1975, §34-31-21(a).

History: Filed January 6, 1988. **Amended:** Filed July 12, 1988. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003.

Ed. Note: Formerly Rule No. 440-X-2-.06. **Amended:** Filed February 21, 1991; December 11, 1991; July 17, 1992.

440-X-2-.04 Deputy Directory And Other Staff.

(1) The Executive Director with the consent of the Board may also employ a deputy director who shall serve at the pleasure of the Executive Director. The salary and compensation of the deputy director shall be set by the Board and shall not exceed the salary set for the executive director.

(2) The Board may also employ other full time or part time administrative staff who shall work under the direction and supervision of the executive director.

(3) All Board staff, including the executive director and deputy director, shall be entitled to reimbursement for travel the same as other employees of the State of Alabama, including actual expenses for authorized out-of-state travel, and per diem and transportation costs for in-state travel.

Author: Mark Montiel

Statutory Authority: Code of Ala. 1975, §34-31-21(a).

History: Filed October 3, 1991. **Amended:** Filed November 5, 1996; effective December 10, 1996. **Amended:** Published November 30, 2022; Effective January 14, 2023; **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003.

440-X-2-.05 Meetings.

(1) The Board shall conduct regular meetings to perform its lawful duties at least once in each three-month period.

(2) The Board may meet on other occasions as necessary to conduct its business and to comply with state law and the Rules and Regulations of the Board. Special meetings of the Board may be called by the chairman or by a majority of the members of the Board.

(3) Each member of the Board shall be given at least ten days notice of the time, place, and purpose of any regular meeting. This notice may be waived by the individual member and is waived by the member's presence at the called meeting. Each member of the Board shall receive reasonable notice for all called special meetings. The executive director shall provide reasonable notice to the public of all regular and special meetings of the Board as appropriate under the circumstances.

(4) A majority of the Board shall constitute a quorum for the transaction of all business.

(5) The Board may meet at its Board offices in Montgomery, Alabama or such other location as designated to conduct the business of the Board.

(6) Each member of the Board shall receive One Hundred Dollars (\$100.00) per day for attending sessions of the Board or its committees and, in addition, shall be reimbursed for such necessary travel as are paid to state employees, to be paid from fees collected by the Board.

Author: Mark Montiel

Statutory Authority: Code of Ala. 1975, §34-31-21, 34-31-23.

History: Filed July 17, 1992. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Published November 30, 2022; effective January 14, 2023.

440-X-2-.06 Voting.

All Board members, including the chairman, are entitled to make or second motions. A majority of those members of the Board present and voting on any matter shall decide the matter before the Board. The chairman and other officers of the Board shall be allowed to vote on matters the same as other members of the Board. Votes of the Board shall be included in the minutes of the Board and kept as part of the permanent records of the Board.

Author: Mark Montiel

Statutory Authority: Code of Ala. 1975, §34-31-21.

History: **New Rule:** Filed April 9, 2003; effective May 14, 2003.

440-X-2-.07 List Of Certified Contractors.

The Board may publish annually a list of names and addresses of all individuals certified by the Board. The Board may also publish the list of certified contractors on the Board's designated website. The Board may provide, upon request to the Board, a copy of said list to persons and may require a reasonable fee to cover the costs of producing and mailing said directory.

Author: Mark Montiel

Statutory Authority: Code of Ala. 1975, §34-31-31.

History: **New Rule:** Filed April 9, 2003; effective May 14, 2003.

440-X-2-.08 Advisory Opinions.

The Board may, in its discretion, issue an advisory opinion to any certified contractor, governmental official, or entity

substantially affected by a Rule or statute enforceable by the Board. Board advisory opinions may address the applicability of such Rules or statutes and other matters to assist the certified contractor, government official, or entity with the meaning and scope of the orders of the board and the Rules and Regulations of the Board. All requests for advisory opinions must be in writing and must specifically state that it is a "request for an advisory opinion". The Board's general counsel shall assist the Board as necessary in responding to these requests for advisory opinions.

Author: Mark Montiel ,

Statutory Authority: Code of Ala. 1975 §34-31-33.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Ed. Note: Previous rules:

440-X-2-.03 Annual Renewal Of Certified Contractors: Filed September 30, 1982. **Amended:** Filed September 21, 1987. **Repealed:** Filed July 12, 1988.

440-X-2-.04 Application For Registered Contractor: Filed September 30, 1982. **Repealed:** Filed July 12, 1988.

440-X-2-.05 Information Verification: Filed September 30, 1982. **Amended:** Filed September 21, 1987. **Repealed:** Filed July 12, 1988.

**ALABAMA BOARD OF
HEATING, AIR CONDITIONING AND REFRIGERATION CONTRACTORS
ADMINISTRATIVE CODE**

**CHAPTER 440-X-3
LICENSING AND FEES**

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440-X-3-.01 Definitions.

(1) Applicant - Any person or entity making a formal application for an examination or certification of any type.

(2) Certification/License - The determination that the qualifications for the knowledge and skill of an individual with respect to heating, air conditioning, commercial refrigeration, or duct air tightness system has been met. The term certification and license may be used interchangeably in throughout this section.

(3) Entity - Any being that possess a certification, license, or registration by this Board.

(4) Person in Responsible Charge - A certification or license holder at the direction of projects involving the installation or service and repair of heating, air conditioning, and refrigeration

systems requiring initiation, professional skills, technical knowledge, and independent judgement.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §34-31-26.

History: New Rule: Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule No. 440-X-3-.01 was renumbered 02, and Replaced as New Rule .01, Definitions, as per certified published November 30, 2022; effective January 4, 2023.

440-X-3-.02 Requirements For Licensing Of Certified Contractors.

(1) All certified contractors shall have and maintain a current license issued by the Board. A license is current only during the calendar year in which it is issued and shall expire on December 31 annually. A license shall automatically lapse at the end of the calendar year in which it was issued if it is not renewed prior to 11:59 pm December 31st annually.

(2) Certification by the Board is required for at least one person in responsible charge employed by realty management companies who perform heating, air conditioning, or commercial refrigeration installation, service or repair on property owned by a party other than themselves.

(3) Certification by the Board is required for work involving air duct cleaning services, filter changing services, test and balance services, and the cleaning of heating, air conditioning or refrigeration equipment or systems.

(4) Certification by the Board is required for heating and air conditioning installation, service, or repair work performed preowned, previously set manufactured or modular homes.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §34-31-18.

History: Filed February 21, 1991. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

Ed. Note: Rule No. 440-X-3-.01 entitled "Distinction Between Installation and Service Repair" filed September 30, 1982.

Repealed and new rule entitled "Registered Contractor" adopted in lieu thereof: Filed September 21, 1987. **Repealed and new rule entitled "Failure to Renew Before March 1" adopted in lieu thereof:** Filed July 12, 1988. **Repealed and new rule entitled "Failure to Renew" adopted in lieu thereof:** Filed February 21, 1991. Previous Rule .01 was renumbered .02 as per certification published November 30, 2022; effective January 14, 2023.

440-X-3-.03 Renewal And Licensing Filing Requirements.

All new licensure applications, application for examination, annual renewal application, or any other submissions to the Board required by these rules, shall be deemed filed when received by the executive director or their designee. The executive director or designee may reject any application for licensure, application for examination, annual renewal application, or other submission to the Board that appear inaccurate, are incomplete, are for an individual or entity of whom which any fees and past due administrative fines have not been paid at the time the application or renewal is filed.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §34-31-18.

History: Filed July 12, 1988. **Amended:** Filed February 21, 1991.

Repealed and New Rule: Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .02 was renumbered .03 as per certification published November 30, 2022; effective January 14, 2023.

440-X-3-.04 Forms Of Licensing.

(1) Any individual with the desire to qualify as a certified heating and air conditioning contractor or refrigeration contractor via examination process shall be required to sit for a prelicensure examination prior to being considered for licensing by the Board. Any applicant who fails to pass their prelicensure examination the first time taken, shall be entitled to take the same written examination, upon request by the applicant, a practical examination which is equivalent to the written examination, again within six months from the date he or she failed the examination the first time. Certifications shall be issued only to those individuals or legal entities who have properly submitted the appropriate applications to the Board under Alabama law and the Board's rules and regulations, and who have taken and passed the Board's written examination or practical examination as provided in Alabama law.

(2) An individual who desires to obtain status as a certified heating and air conditioning contractor or refrigeration contractor via reciprocity may qualify if they hold a current and valid license in a qualifying reciprocal state with no previous or pending disciplinary action. Certifications shall be issued only to those individuals or legal entities who have properly submitted

the appropriate applications to the Board under Alabama law and the Board's rules and regulations.

(3) Any individual applying for a heating and air conditioning license must personally satisfy all licensure requirements before issuance of the license as certified contractor by the Board.

(4) Any person or legal entity applying for a refrigeration license must satisfy all licensure requirements before issuance of a license as a certified refrigeration contractor by the Board.

(5) All new heating and air conditioning, or refrigeration contractor applicants must provide a performance bond in the amount of Twenty Thousand Dollars (\$20,000.00) to the Board. Proof of bond may be required annually during the renewal process.

(6) Applying for certification by the Board to engage in the business of heating and air condition and/or refrigeration installation, service, or repair as a partnership, corporation, business trust, or other legal entity must be done so through a person in responsible charge as defined by Alabama law and the Rules and Regulations of the Board. The application to the Board shall provide the name of the partnership and its partners; the name of the corporation and its officers and directors; the name of the business trust and its trustees; or the name of any other legal entity and its members. The application to the Board shall establish that the person in responsible charge under Alabama law and these Rules and Regulations is legally qualified to act for the business organization in all matters connected with its heating, air conditioning, and/ or refrigeration installation, service, or repair business. The heating and air conditioning, and/or refrigeration certification by the Board issued upon such application described in this Rule shall be issued in the name of the person in responsible charge and shall include the name of the business organization engaged in the heating, air conditioning, and/or refrigeration installation, service, or repair business.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §§34-31-18.

History: Filed July 12, 1988. **Amended:** Filed June 9, 1999; effective July 14, 1999. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009. **Amended:** Published December 31, 2019; effective February 14, 2020. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023. **Amended:** Published August 30, 2024; effective October 14, 2024, operative October 15, 2024.

Ed. Note: Previous Rule .03 was renumbered .04 as per certification published November 30, 2022; effective January 14, 2023.

440-X-3-.05 Exemptions.

The licensing requirements for certified contractors do not apply to the following:

(1) Retail sellers of heating, air conditioning or refrigeration systems who do not provide installation, nor contracting for the installation, nor contracting for the installation, service, or repair of said systems;

(2) Heating and air conditioning, or refrigeration installation, service or repair work performed by an owner of a building that is the real property of said owner;

(3) Heating and air conditioning, or refrigeration installation, or service and repair, performed by anyone who is regularly employed as a maintenance person incidental to and in connection with the business in which he or she is employed, provided said heating and air conditioning work is done on the premises of said owner, and repairperson does not engage in heating and air conditioning work for others.

(4) In instances where a certified heating and air conditioning contractor bids installation work and is responsible for obtaining all required permits, the certified contractor may subcontract the installation of duct work only to an uncertified person who is performing the work under the supervision of the certified contractor as the person in responsible charge. The certified contractor is responsible for all such work performed and is considered by the Board as the person in responsible should the work fail to meet the minimum standards under these Rules. This exemption does not apply to design and installation of duct work not performed under the responsible supervision of a certified contractor.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §§34-31-25, 34-31-26.

History: Filed July 12, 1988. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .04 was renumbered .05 as per certification published November 30, 2022; effective January 14, 2023.

440-X-3-.06 Failure To Renew.

(1) Any certified contractor who has not renewed their certification by 11:59 pm on December 31st annually is immediately considered lapsed and shall have until 11:59 pm on December 31st of the calendar year immediately following the lapse of certification to renew his certification. An additional \$250.00 late fee will be imposed on all late renewals, without additional testing by the Board.

(2) Any certified contractor who remains unlicensed for a period of one calendar year (365 days), or more, is considered expired and shall be required to sit for and pass the written prelicensure examination prior to applying for re-licensure as a new applicant. Expired licenses are not eligible for late fees nor prelicensure waivers for any reason.

Author: Jeffrey Becraft

Statutory Authority: Code of Ala. 1975, §§34-31-28; 34-31-16.

History: Filed July 12, 1988. **Repealed and replaced with new rule (same title):** Filed February 13, 1992. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:**

Filed August 14, 2009; effective September 18, 2009. **Amended:**

Published December 31, 2019; effective February 14, 2020.

Repealed and New Rule: Published November 30, 2022; effective

January 14, 2023.

Ed. Note: Previous Rule .05 was renumbered .06 as per certification published November 30, 2022; effective January 14, 2023.

440-X-3-.07 Alternative Method Of Testing.

In the event an individual has taken the written examination without achieving a passing score they may, upon specific written request to the Board, be given an opportunity to take a practical examination equivalent to the written examination. This practical examination shall be held within six months from the date of the applicant's last unsuccessful written examination.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §34-31-28(b).

History: Filed July 12, 1988. **Amended:** Filed November 29, 1990.

Amended: Filed December 1990; February 21, 1991; August 18, 1993;

effective September 22, 1993. **Amended:** Filed July 28, 1994;

effective September 1, 1994. **Amended:** Filed November 5, 1996;

effective December 10, 1996. **Repealed and New Rule:** Filed April

9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009;

effective September 18, 2009. **Repealed and New Rule:** Published

November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .06 was renumbered .07 as per certification published November 30, 2022; effective January 14, 2023.

440-X-3-.08 **Procedure In The Event Of The Loss, Death, Or Incapacitation Of A Certified Contractor.**

(1) In the event a certified contractor in responsible charge separates by termination, layoff, or voluntary resignation from a partnership, corporation, business trust, or other legal entity operating under his or her certification, the certified contractor and entity shall notify the Board within five {5} days of the separation by submitting a severance notification form prescribed by the Board. The entity must immediately cease entering all contracts, both verbal and written, and the installation, service and/or repair of any heating and air conditioning or refrigeration system until a certified contractor applies to, and is approved by, the Board as responsible in charge for the entity. Operating without a certified contractor in responsible charge is a violation of Section 31-31-32(a), Code of Ala. 1975.

(2) In the event of the death or incapacitation of a certified contractor in writing within 45 days by any partnership, corporation, business trust, or other legal entity operating under the certification of the deceased or incapacitated person in responsible charge. These business entities are eligible to apply for an emergency certification on an application prescribed by the Board and must provide a death certificate or official statement from a physician attesting to incapacitation, and new bond or bond rider.

An emergency certification shall be active for no longer than 90 days before expiring. The entity may continue to enter new contracts and engage in the installation, service or repair of heating and air conditioning or refrigeration systems while the certification remains active. Once expired the entity must immediately cease entering all contracts, both verbal and written, and the installation, service and/or repair of any heating and air conditioning or refrigeration system until a certified contractor applies to, and is approved by, the Board as responsible in charge for the entity. Failure to notify the Board of the death of a contractor is a violation of Section 34- 31-32(a), Code of Ala. 1975.

Author: Jeffery M. Becraft

Statutory Authority: Code of Ala. 1975, §§34-31-18; 34-31-32; 41-9A-3.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

Amended: Published September 30, 2021; effective November 14,

2021. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

440-X-3-.09 Person In Responsible Charge.

(1) The person in responsible charge must direct the projects involving the installation or service and repair of heating, air conditioning or refrigeration systems under Alabama law. The person in responsible charge must be regularly employed person, a person who is an actual employee of the business, not an independent contractor and must receive a W-2 for all earnings. The person must work an average of 30 or more hours per week for the heating, air conditioning, or refrigeration business as a full-time employee. The responsible charge may also be an owner, partner, or corporate officer of the partnership, corporation, business trust, or other legal entity. The responsible charge must possess the requisite skill, knowledge, and experience and have the responsibility to supervise, direct, manage, and control the installation, service, or repair activities of the business entity with which he is affiliated. The Board shall examine the technical and personal qualifications of the person in responsible charge and may investigate and/or examine that person's qualifications.

(2) If the person in responsible charge of a business entity desires to qualify a second or additional business entity by holding dual certifications with the Board, that person is required to appear at a meeting of the Board and present evidence of ownership, ability to supervise, direct, manage and control that business entity. The person in responsible charge must also present evidence at or before this Board meeting of his financial responsibility for the additional business entity. The person in responsible charge shall also pay an additional licensing fee to the Board for this additional business entity and shall provide a bond in the amount required for certified contractors under these Rules. It is entirely within the Board's discretion to allow or disallow the additional business entity to be certified under the certified contractors responsible charge.

(3) The person in responsible charge, as a certified contractor, is responsible for electrical work, to include circuit protection and wiring, from the appliance to the means of disconnect related to commercial and residential heating and air conditioning, and/or commercial refrigeration equipment, and is considered by the Board as the person responsible for such work should the work fail to meet the minimum standards outlined in Section 440-X-5 of these rules.

(4) The person in responsible charge, as a certified contractor, is responsible for gas piping from the appliance to the means of disconnect, related to commercial and residential heating and air conditioning, and/or commercial refrigeration equipment, and is

considered by the Board as the person responsible for such work should the work fail to meet the minimum standards in Section 440-X-5 of these Rules.

Author: Jeffrey Becraft

Statutory Authority: Code of Ala. 1975, §34-31-18.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

Amended: Published December 31, 2019; effective February 14, 2020. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

440-X-3-.10 Fees And Charges.

(1) The following fees and charges have been established by the Board effective October 14, 2024.

- (a) Written examination fee \$175.00
- (b) Practical examination fee \$375.00
- (c) Initial certification fee for ACTIVE heating and air conditioning license \$220.00
- (d) Annual renewal fee for ACTIVE heating and air conditioning license \$220.00
- (e) Initial certification fee for ACTIVE refrigeration license \$220.00
- (f) Annual renewal fee for ACTIVE refrigeration license \$220.00
- (g) Initial certification fee for INACTIVE heating and air conditioning license \$110.00
- (h) Annual renewal fee for INACTIVE heating and air conditioning license \$110.00
- (i) Initial certification fee for INACTIVE refrigeration license \$110.00
- (j) Annual renewal Fee for INACTIVE refrigeration license \$110.00
- (k) Late fee for certification renewal received after December 31 annually \$250.00
- (l) Continuing Education Deficiency fee \$100.00

(m) Dishonored check fee	\$ 30.00
(n) Continuing Provider Application Fee	\$ 75.00
(o) Continuing Education Course Fee	\$ 25.00
(p) Continuing Education Instructor Fee	\$ 25.00
(q) Non-Traditional Continuing Education Application	\$ 25.00
(r) Duct Air Tightness Testing Contractor Registration Fee	\$ 50.00
(s) Duct Air Tightness Testing Contractor Registration Late Fee	\$ 50.00
(t) Issuance of printed certification cards	\$ 25.00

(Inactive contractors are not eligible to purchase local licenses or permits until the inactive contractor returns to an active certified contractor status and meets all requirements for licensing as an active certified contractor, including payment of the proper fee(s))

(2) Examination fees are in addition to the fees required for initial certification, renewals, inactive contractor status, and the late fees for late renewals.

(3) All fees established by the Board shall be submitted with the application for examination to become certified with the Board, and no part of said fees shall be refunded. These fees shall be received by the Board and held for the purpose of paying the expenses associated with processing the application and to pay the expenses associated with testing.

(4) The Board may pass along to the applicant the service fee charged by any credit card company, bank, or card processing organization to process any online or in house credit card fee.

Author: Jeffrey Becraft, Kathy S. Byrom

Statutory Authority: Code of Ala. 1975, §§34-31-24, 34-31-25.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

Amended: Filed October 13, 2015; effective November 17, 2015.

Amended: Filed September 11, 2018; effective October 26, 2018.

Amended: Published January 31, 2020; effective March 16, 2020.

Repealed and New Rule: Published November 30, 2022; effective January 14, 2023. **Amended:** Published August 30, 2024; effective October 14, 2024.

440-X-3-.11 License Modifications.

(1) All licenses issued after July 26, 2019, are available for each contractor to view and print through an online portal provided by the Board. The Board may issue a copy of a license prior to 2019 for a certified contractor by request.

(2) The Board may modify the information on a license for a certified contractor who submits a written, sworn, and notarized statement to the Board that includes information establishing that the certified contractor's name has been changed by marriage or court order. If the certified contractor seeks issuance of a replacement licensed to accommodate a name change, the originally issued certification card must be returned to the Board as a condition of the issuance of the new certified contractor card.

(3) A certified contractor may apply to the Board to change the business name on their license by submitting a new application for licensure with their current certification number listed.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §34-31-27.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

Repealed and New Rule: Published November 30, 2022; effective January 14, 2023.

440-X-3-.12 Dishonored Checks.

The Board may charge a dishonored check fee as set by the Code of Alabama and established by these regulations for any check that has been dishonored by the financial institution that it was drawn on. Pursuant to Code of Ala. 1975, §8-8-15, this fee must accompany a new payment in guaranteed funds. The Board may suspend the certified contractor's license until the dishonored check plus the dishonored check fee has been received by the Board and cleared by the payer's financial institution.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §8-8-15.

History: New Rule: Filed August 14, 2009; effective September 18, 2009. **Repealed and New Rule:** Published November 30, 2022;

effective January 14, 2023.

440-X-3-.13 Building Official Waiver.

(1) Any building official or mechanical inspector who holds an inactive heating and air conditioning license and/or refrigeration

license, or who has sat for and passed the examination for certification shall not be required to submit payment of fees for an inactive certification if they meet one of the following requirements:

(a) Maintaining International Code Council certification as a certified:

1. Residential Mechanical Inspector,
2. Commercial Mechanical Inspector,
3. Mechanical Inspector,
4. Certified Mechanical Code Official,
5. Master Code Professional,
6. Mechanical Inspector (Uniform Mechanical Code),
7. State Mechanical Inspector CMC.

(b) Contractor must submit proper form prescribed by the Board along with documentation of certification listed in 1-7 above.

(2) If at any point the building official desires to become an active heating and air conditioning and/or refrigeration certified contractor, they will be required follow the initial application process for an active contractor as well as pay the full active certification fee for the remainder of the year and each year they hold active certification with the board.

Author: Jeffrey Becraft

Statutory Authority: Code of Ala. 1975, §34-31-28(d); Act No. 2009-486.

History: New Rule: Filed August 14, 2009; effective September 18, 2009. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

440-X-3-.14 Background Checks.

(1) The Board may require an individual to provide a background check prior to applying for examination. Once the background check has been completed and reviewed, and all further documents have also been reviewed by the Board, a determination of a candidate's fitness to sit for examination will be made.

Author: Jeffrey Becraft, Kathy S. LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-21(a); Act No. 2009-486.

History: New Rule: March 6, 2013; effective April 10, 2013.

Amended: Filed October 13, 2015; effective November 17, 2015.

Repealed and New Rule: Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .15 was renumbered .14 as per certification published November 30, 2022; effective January 14, 2023.

440-X-3-.15 **Duct Air Tightness Testing Contractor Registration.**

(1) The Duct Air Tightness Testing (DAT) Contractor Registration is for individuals who perform duct leakage and duct tightness testing on heating and air conditioning systems in conjunction with energy code compliance as required by the International Energy Conservation Code or the Alabama Residential Energy Code Board. Each Duct Air Tightness Testing Contractor is an independent Registration. Renewal of the DAT Registration is required annually.

(2) Any individual applying for a Duct Air Tightness Contractor Registration must complete their registration on a form prescribed by the Board and will be issued a separate registration. Prior to being issued a registration, he or she must first provide proof that they successfully completed one of the following approved programs:

(a) Home Builders Association of Alabama Qualified Credentialed Air Tightness Verifier or equivalent,

(b) Building Performance Institute Building Analyst Training (BPI Energy Auditor),

(c) Residential Energy Services Network Home Energy Rating System (RESNETHERS Rater).

Author: Jeffrey Becraft, Kathy S. LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-24(4)(1); Act No. 2015-169.

History: **New Rule:** Filed October 13, 2015; effective November 17, 2015. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .16 was renumbered .15 as per certification published November 30, 2022; effective January 14, 2023.

440-X-3-.16 **Military Members And Spouses, And Federal Government Personnel.**

(1) Acceptance of Military Education, Training, or Service.

(a) The Board may accept education, training, or service completed by an individual as a member of the Armed Forces or reserves of the United States, the National Guard of any state, the military reserves of any state, or the naval militia of any state as sufficient education or experience to sit for examination.

(2) Acknowledgement of Military and Federal Government Personnel and Military Spouses

(a) After receiving military orders or federal government transfer to the State of Alabama, the Board may waive the heating and air conditioning and/or refrigeration examination for military or Federal Government personnel and military spouses who hold a current and valid heating and air conditioning, refrigeration, or mechanical license or certification in another state, district, or territory of the United States, or in any branch of the United States Armed Forces, including the National Guard, with licensing or certification; or U.S. Dept of Justice, FBI, U.S. Attorney's Office, Bur of ATF, DEA(Drug), U.S. Marshall Services and NASA

(b) The Board will waive the licensing fee for military spouses upon initial certification during a transfer of station ordered by the Armed Forces or reserves of the United States.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §§31-12A-2, §§31-1-6.

History: New Rule: Published November 30, 2021; effective: January 14, 2022. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .17 was renumbered .16 as per certification published November 30, 2022; effective January 14, 2023.

**ALABAMA BOARD OF
HEATING, AIR CONDITIONING AND REFRIGERATION CONTRACTORS
ADMINISTRATIVE CODE**

**CHAPTER 440-X-4
CONTINUING EDUCATION REQUIREMENTS FOR CERTIFIED CONTRACTORS**

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440-X-4-.01 Definitions.

(1) Board Approved Continuing Education Provider: An individual; partnership; association; organization; educational institution; or governmental agency, offering continuing education for heating and air conditioning, and refrigeration contractors that meet Board criteria for approval and are assigned an issued a Provider ID by the Board.

(2) Board Approved Continuing Education Instructor: May be a certified HVAC contractor, certified refrigeration contractor, industry expert professional, or otherwise qualified individual. When the instructor is not a certified contractor, there shall be evidence of knowledge, skill, and experience of the heating, air conditioning and refrigeration industry.

(3) Board Approved Continuing Education Course: A course that meets the definition of continuing education and has been approved by the Board to be administered by a board approved provider. A course may be a program of multiple sessions or a single session lasting at least two hours.

(4) Continuing Education: Planned, organized learning experiences designed to augment the knowledge, skill, and ability to enhance the knowledge of a certified contractor and therefore improve the installation, service or repair of HVAC or commercial refrigeration equipment to the consumer.

(5) Continuing Education Hours: Unit of measurement of continuing education that meets Board criteria for approval and lasts at least two hours.

(6) Provider ID: A permanent, nontransferable number assigned by the Board to designate an approved provider.

(7) Education Committee: An annually designated committee consisting of at least one Board member and the executive director that assist in the review and continuation of the Board's continuing education program and prelicensure program.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Published May 31, 2022; effective July 15, 2022.

440-X-4-.02 Continuing Education General Standards.

(1) All certified contractors shall be individually accountable for continued competence to renew annually.

(2) The Board may prescribe additional continuing education courses as disciplinary action.

(3) All certified contractors shall meet continuing education requirements as stated in Section 34-31-26 Code of Ala. 1975.

(4) Continuing education is not required for the first year a contractor holds a certification.

(5) Failure to complete the minimum continuing education requirements before November 1st annually will prevent the renewal of a certified contractor's license until proof of compliance is submitted to the Board.

(6) Units of measure for continuing education in hours. One hour equals at least 50 minutes.

(7) Continuing education hours are awarded in increments of two hours not to exceed eight hours.

(8) Certified contractors may roll over up to four hours on an annual basis.

(9) The Board may accept continuing education earned from an alternative continuing education provider by submitting a request for approval of non-traditional continuing education.

(10) Continuing education courses and activities may not be repeated within the earning period for credit.

(11) Proof of compliance with the continuing education requirements must be submitted to the Board before November 1st annually.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: Filed August 20, 1986. **Amended:** Filed July 12, 1988; December 29, 1988. **Emergency rule** filed April 16, 1992.

Amended: Filed June 8, 1992. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009. **Amended:** Published December 31, 2019; effective February 14, 2020. **Repealed and New Rule:** Published May 31, 2022; effective July 15, 2022.

Ed. Note: Rule .01 was renumbered .02 per certification published May 31, 2022; effective July 15, 2022.

440-X-4-.03 Deficiency.

The Board may implement a continuing education credit hour deficiency policy in the event a certified contractor cannot submit their continuing education hours before November 1st annually. A contractor must appeal in writing for Board approval for a continuing education credit hour deficiency extension after November 1st but before January 1st annually. The written appeal must outline in detail the contractors plan, including intended date of completion, before consideration will be given.

The fee for deficiency approval may not exceed one hundred dollars (\$100).

All applications for a continuing education deficiency extension must be received by the Board prior to December 30, of the year in which the license certification was to be renewed. Late fees will apply if the deficiency extends past December 31 annually.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: **New Rule:** Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

Amended: Published January 31, 2020; effective March 16, 2020.

Repealed and New Rule: Published May 31, 2022; effective July 15, 2022.

440-X-4-.04 Education Committee.

(1) The Board may designate an Education Committee on an annual basis to assist in the development of a curriculum of courses each year. The Board may charge fees for reviewing continuing education providers, courses, instructors, and non-traditional continuing education course applications to the applicant.

(2) The Education Committee shall be tasked with the following duties:

- (a) Approve all pre-licensure curricula applications;
- (b) Approve apprentice/technician curricula;
- (c) Approve or deny course applications that meet the requirements for Board Approved Continuing Education Course;
- (d) Approve or deny provider applications that meet the requirements for Board Approved Continuing Education Providers;
- (e) Approve or deny instructor applications that meet the requirements for Board Approved Continuing Education Instructors;
- (f) Approve or deny applications for non-traditional continuing education.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Published May 31, 2022; effective July 15, 2022.

440-X-4-.05 Qualifications And Standards For Board Approved Providers And Instructors.

(1) An application for approval as a Board approved provider of continuing education shall submit to the Board the required fee and a complete application that demonstrates:

- (a) An organized plan for quality continuing education for heating and air conditioning or refrigeration contractors;
- (b) The mission and objectives of the provider;
- (c) Policies and procedures for implementation and evaluation of the educational programs and the educational unit;

- (d) An identifiable educational unit with designated qualified personnel and resources for conducting an organized plan of continuing education.
- (2) Approved providers are accountable for the quality, accuracy and veracity of continuing education provided.
- (3) Approved providers are responsible for ensuring the instructor(s) possess qualifications appropriate to the content of the activity.
- (4) Approved providers shall submit electronic records of all contact hours awarded to certified contractors to the Board in a format and method specified by the Board.
- (5) Records and reports shall be maintained for a minimum of two years.
- (6) An assigned provider number shall be issued upon approval of the entity as an approved provider of continuing education.
 - (a) The Board Approved Provider ID does not expire, provided standards for approval are maintained;
 - (b) The provider ID shall be listed on course announcements, certificates, records, and reports including all correspondence with the Board;
 - (c) Name of entity attached to the Board assigned provider number may be changed upon written request from the contact person or administrator.
- (7) Withdrawal of approval as a provider may occur if the provider fails to adhere to requirements in these rules. Grounds for withdrawal of approval include, but are not limited to:
 - (a) Lack of qualified personnel for planning and conducting continuing education for industry contractors,
 - (b) Inadequate record maintenance,
 - (c) Fraud, deception, or misrepresentation relating to the educational program,
 - (d) Failure to comply with request for documents, submitting false, inaccurate, or incomplete evidence of continuing education programs conducted, and certificates issued,
 - (e) Aiding or abetting a licensee who fails to meet the continuing education requirement by altering or falsifying certificates.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Published May 31, 2022; effective July 15, 2022.

440-X-4-.06 Application For Continuing Education Course Standards.

(1) An application for course approval from an approved provider of continuing education shall be submitted to the Board with the required fee.

(2) The Board will consider proposed courses and curricula for approval only after a review of the proposal by the Board's Education Committee. Requests for approval of proposed courses and curricula shall contain:

(a) Detailed information regarding the instructors to be used;

(b) The proposed facilities or platform, including equipment to be utilized in instruction;

(c) A detailed course syllabus, which shall include a sufficient description of the planned instruction, resource materials, and textbooks involved in the instruction;

(d) The number of contact hours and continuing education hours requested.

(3) Acceptable content for continuing education courses shall include one or more of the following:

(a) Technology, procedures, and industry related applications;

(b) Specialty areas of heating and air conditioning and refrigeration practices;

(c) HVAC techniques, indoor air quality, system controls, and safety factors;

(d) Administration, management, and supervision in heating, air conditioning, or related trade;

(e) Heating and air conditioning and/or refrigeration education;

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Published May 31, 2022; effective July 15, 2022.

**440-X-4-.07 Denial Of Application For Course Or Curricula;
Request For Reconsideration.**

(1) The Board may deny any education related application that fails to meet the established standards of the Board or which the Board considers inadequate to properly educate its certified contractors. The Board may consider requests for reconsideration for applications which have been denied upon a submission of a written request to the Board.

(2) Upon approval of a proposed course or curriculum by the Board, the Board shall require the Board approved provider to execute a written agreement to conduct the Board approved course and curriculum in accordance with the terms of the Board's approval process. This agreement shall be signed by the applicant for course and curriculum approval.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

Repealed and New Rule: Published May 31, 2022; effective July 15, 2022.

Ed. Note: Rule .05 was renumbered .07 per certification published May 31, 2022; effective July 15, 2022.

**440-X-4-.08 Revocation, Suspension, Termination Of Course Or
Curricula.**

(1) The Board may revoke, suspend, or terminate any provider, course, instructor, or curriculum approval if the Board determines that a course provider or curriculum has failed to comply with the Rules of the Board or its education requirements or has failed to comply with its written agreement regarding conduct of the approved course or curriculum.

(2) The Board may request that a course provider reapply to the Board for approval if the provider has not held any classes for continuing education credit or submitted a roster to the Board for a period of four years. The provider will be required to submit a new application along with all appropriate fees to the Board for approval prior to holding a class for continuing education credit.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

Repealed and New Rule: Published May 31, 2022; effective July 15, 2022.

Ed. Note: Rule .07 was renumbered .08 per certification published May 31, 2022; effective July 15, 2022.

440-X-4-.09 **Over 65 Years Of Age Exemption From Continuing Education Requirements For Inactive Contractors Only.**

(1) Any INACTIVE contractor who is 65 years of age or older is exempt from continuing education requirements. The inactive contractor is not eligible for this exemption until the year after they turn 65 years old. This exemption does not apply for the year in which the inactive contractor turns 65 years old.

(a) Example: (1) If the inactive contractor is 64 on January 1, 2010 and turns 65 on January 2, 2010 the inactive contractor does not qualify for the exemption for the 2010 licensing year, however the inactive contractor will qualify for the exemption during the renewal period for the 2011 licensing year.

(b) Example: (2) If the inactive contractor turns 65 on December 31, 2009 they would qualify for the exemption and not be required to have 4 hours of continuing education to renew for 2010 licensing year because their birthday occurred prior to the 2010 licensing year.

(2) Once the inactive contractor returns to active status after the age of 65, they will be required to submit 8 hours of Continuing Education prior to receiving an active contractor's license.

(3) This exemption DOES NOT apply to contractors 65 years or older who hold an ACTIVE certification.

Author: Jeffery M. Becraft, Kathy S. Byrom

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Filed August 14, 2009; effective September 18, 2009. **Repealed and New Rule:** Published May 31, 2022; effective July 15, 2022.

440-X-4-.10 **First Year Continuing Education Exemption.**

A certified contractor is not required to obtain four (4) hours of continuing education hours to renew their license for the first renewal year following the year he or she received their initial license.

Author: Jeffrey Becraft, Kathy S. Byrom

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Filed March 6, 2013; effective April 10, 2013. **Repealed and New Rule:** Published May 31, 2022; effective July 15, 2022.

ALABAMA BOARD OF
HEATING, AIR CONDITIONING AND REFRIGERATION CONTRACTORS
ADMINISTRATIVE CODE

CHAPTER 440-X-5
MINIMUM STANDARDS FOR INSTALLATION, SERVICE, AND REPAIR OF
HEATING, AIR CONDITIONING AND REFRIGERATION SYSTEMS BY CERTIFIED
CONTRACTORS

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440-X-5-.01 Definitions.

(1) Minimum Standard: The basic or minimum requirements allowable by the Board as it pertains to the installation, service, and repair of residential and commercial heating and air conditioning, and commercial refrigeration equipment.

(2) Installation: The act of installing, placing, or permanently affixing residential and commercial heating and air conditioning, and commercial refrigeration equipment.

(3) Service: The act of performing routine maintenance to or on residential and commercial heating and air conditioning, and commercial refrigeration equipment.

(4) Repair: The act of fixing or mending residential and commercial heating and air conditioning, and commercial refrigeration equipment.

(5) **Certification Number:** A unique number assigned to each heating and air conditioning contractor entity, or refrigeration contractor entity upon issuance of a certification.

(6) **Business Name:** The company name printed on the certification under which any entity is certified by this Board.

(7) **Residential Heating and Air Conditioning System:** A heating and/or cooling apparatus consisting of an air heating and/or cooling fixture from pipes, plenums, or blowers including any accessory and equipment installed in a one or two person dwelling for the use of human comfort as defined in the International Residential Code.

(8) **Commercial Heating and Air Conditioning System:** A heating and/or cooling apparatus consisting of an air heating and/or cooling fixture from pipes, plenums, or blowers including any accessory and equipment installed in a commercial structure or building for the use of human comfort as defined in the International Building Code.

(9) **Commercial Refrigeration System:** 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 person as defined in Section 34-31-18(10), Code of Ala. 1975.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §34-31-21(g).

History: New Rule: Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule No. 440-X-3-.01 was renumbered 02, and Replaced as New Rule .01, Definitions, as per certified published November 30, 2022; effective January 4, 2023.

440-X-5-.02

Minimum Standards For Installation, Service Or Repair Of Residential And Commercial Heating And Air Conditioning, And Commercial Refrigeration.

(1) Pursuant to Section 34-31-21(g), Code of Ala. 1975, the Board adopts the following minimum standards for the installation, service or repair of residential heating and air conditioning system, and all certified heating and air conditioning contractors shall comply with the minimum standards required by:

(a) ACCA/Manual J as described in Load Calculation for Residential Winter and Summer Air Conditioning;

(b) ACCA/Manual D as described in Duct Design for Residential Winter and Summer Air Condition and Equipment Selection;

- (c) International Residential Code; including appendices;
- (d) International Fuel Gas Code;
- (e) NFPA 70 National Electrical Code;
- (f) NAIMA Fibrous Glass Duct Construction;
- (g) SMACNA HVAC Duct Construction Standards, Metal and Flexible
- (h) ACCA, Trane, or equivalent ductulators;
- (i) NASLCA Contractors Guide to Business, Law and Project Management
- (j) Brand specific manufacturers installation instructions;
- (k) Any minimum standards required and described by applicable local, State, and Federal codes or ordinances, as well as any and all applicable Alabama agencies, Board's and Commissions' rules and regulations. Where there is conflict between the minimum standards adopted by the Board and the applicable local, State, or Federal codes or ordinances or any applicable Alabama agency, Board or Commission's, rules and regulations, the most restrictive will govern;
- (l) ADC Flexible Air Duct Standards.

(2) Pursuant to Section 34-31-21(g), Code of Ala. 1975, the Board adopts the following minimum standards for the installation, service or repair of commercial heating and air conditioning system, and all certified heating and air conditioning contractors shall comply with the minimum standards required by:

- (a) ACCA/Manual N as described in Load Calculation for Commercial Summer and Winter Air Conditioning;
- (b) ACCA/Manual Q as described in Low Pressure, Low Velocity, Duct System Design;
- (c) International Mechanical Code; including appendices;
- (d) International Fuel Gas Code and appendices;
- (e) NFPA 70 National Electrical Code;
- (f) ASHRAE Standard 15-2019 as described in Safety Standard for Mechanical Refrigeration;
- (g) NAIMA Fibrous Glass Duct Construction;
- (h) SMACNA HVAC Duct Construction Standards, Metal

- (i) ACCA, Trane, or equivalent ductulators;
- (j) NASLCA Contractors Guide to Business, Law and project management
- (k) Brand specific manufacturers installation instructions;
- (l) Any minimum standards required and described by applicable local, State, and Federal codes or ordinances, as well as any and all applicable Alabama agencies, Board's and Commissions' rules and regulations. Where there is conflict between the minimum standards adopted by the Board and the applicable local, State, or Federal codes or ordinances or any applicable Alabama agency, Board or Commission's, rules and regulations, the most restrictive will govern.
- (m) ADC Flexible Air Duct Standards

(3) Pursuant to Section 34-31-21{g}, Code of Ala. 1975, the Board adopts the following minimum standards for the installation, service or repair of commercial refrigeration systems, and all certified refrigeration contractors shall comply with the minimum standards required by:

- (a) International Mechanical Code; including appendices;
- (b) NFPA 70 National Electrical Code;
- (c) ASHRAE Standard 15-2019 as described in Safety Standard for Mechanical Refrigeration;
- (d) NASLCA Contractors Guide to Business, Law and Project Management;
- (e) Brand specific manufacturers installation instructions;
- (f) Any minimum standards required and described by applicable local, State, and Federal codes or ordinances, as well as any and all applicable Alabama agencies, Board's and Commissions' rules and regulations. Where there is conflict between the minimum standards adopted by the Board and the applicable local, State, or Federal codes or ordinances or any applicable Alabama agency, Board or Commission's, rules and regulations, the most restrictive will govern.

Author: Jeffrey Becraft

Statutory Authority: Code of Ala. 1975, §34-31-21(g).

History: Filed August 20, 1986. **Amended:** Filed July 12, 1988.

Repealed and New Rule: Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed October 15, 2008; effective November 19, 2008. **Amended:** Filed August 14, 2009; effective September 18, 2009. **Amended:** Filed March 6, 2013; effective April 10, 2013.

Amended: Published December 31, 2019; effective February 14,

2020. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .01 was renumbered .02 as per certification published November 30, 2022; effective January 14, 2023.

440-X-5-.03 Compliance With Updated Or Amended Versions.

All certified contractors shall be required to provide the Board, if requested, a copy of the heat gain, heat loss, duct sizing, gas piping calculations drawings or other information used by the certified contractor or concerning the installation, service, and repair of heating, air conditioning or refrigeration systems by the certified contractor.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §34-31-21(g).

History: Filed August 20, 1986. **Amended:** Filed July 12, 1988.

Repealed and New Rule: Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .02 was renumbered .03 as per certification published November 30, 2022; effective January 14, 2023.

**440-X-5-.04 Obligation To Furnish Information Regarding
Installation, Service, Or Repair Of A Residential
Or Commercial Heating And Air Conditioning System
Or Commercial Refrigeration System.**

All certified heating and air conditioning contractors and certified refrigeration contractors shall be required to provide the Board, upon request, a copy of all heat gain, heat loss, duct design plans, gas piping plans, other load calculations, or drawings, and any information used by the certified contractor pertaining to the installation, service, and/or repair of residential or commercial heating, air conditioning systems, and/or commercial refrigeration systems.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §34-31-21(g).

History: Filed August 20, 1986. **Amended:** Filed July 12, 1988.

Amended: Filed June 9, 1999; effective July 14, 1999. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

Repealed and New Rule: Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .03 was renumbered .04 as per certification published November 30, 2022; effective January 14, 2023.

440-X-5-.05 Gas Connections.

(1) Certified heating and air conditioning contractors, who do not hold the appropriate gas fitters license when performing work on heating, air conditioning or refrigeration systems involving gas connections, shall work only the gas piping after the shut off valve to the unit located ahead of all controls.

(2) Certified heating and air conditioning contractors shall conform and abide by all city, county, and state codes regarding permits, licenses, and inspections for gas appliance, installation and change outs.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §34-31-21(g).

History: Filed August 20, 1986. **Amended:** Filed July 12, 1988; May 18, 1992. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .04 was renumbered .05 as per certification published November 30, 2022; effective January 14, 2023.

**440-X-5-.06 Heating Air Conditioning Systems In Modular Or
Manufactured Housing.**

(1) Any heating and air conditioning system installation, service, or repair in a previously inspected modular or manufactured housing, by the Alabama Manufactured Housing Commission; is under contractual agreement between the owner of the structure and the certified contractor and is within the regulatory authority of the Board. Any individual performing such work is required to be certified by the Board.

(2) The Board will refer complaints involving heating and air conditioning systems in newly titled modular or manufactured housing to the Alabama Manufactured Housing Commission established by Alabama law.

(3) The Board will investigate all illegal or uncertified individuals involved in the installation service, or repair of a heating and air conditioning system performed in a previously inspected modular or manufactured home.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §34-31-21(g).

History: Filed August 20, 1986. **Amended:** Filed July 12, 1988; February 21, 1991. **Amended:** Filed November 5, 1996; effective December 10, 1996. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .05 was renumbered .06 as per certification published November 30, 2022; effective January 14, 2023.

440-X-5-.07 Display Of Certification Number And Business Name.

(1) Every certified contractor shall display in a prominent, legible manner, The State of Alabama Board of Heating, Air Conditioning and Refrigeration Contractor's certification number and company name on all service and/or installation vehicles used in conjunction with heat and air conditioning contracting. The company name and Alabama certification number shall:

- (a) Be at least two inches in height;
- (b) Be displayed on at least two sides of the vehicle;
- (c) Display the phrase "AL Number"; "AL No."; or "AL#" immediately before the certification number in equal sized print.

(2) Every certified contractor shall display in a prominent, legible manner, The State of Alabama Board of Heating, Air Conditioning and Refrigeration Contractor's certification number and company name on all documentation and forms of advertising, including but not limited to letterhead, proposals, estimates, service tickets, contracts, work orders, receipts, business cards, yellow page advertisements, flyers, bulletins, mail solicitation, billboard advertisements, television commercials, radio commercials, websites; in conjunction with heat and air conditioning contracting. The company name and Alabama certification number shall:

- (a) Display the phrase "AL Number," "AL No." or "AL#" immediately before the certification number in equal sized print.
- (b) Failure to comply with this provision constitutes a cause for disciplinary action.

Author: Jeffrey Becraft : Code Act No. Statutory Authority of Ala. 1975, §31-31-26; 2009-486.

Statutory Authority:

History: Filed June 19, 2009. **New Rule:** Filed August 14, 2009; effective September 18, 2009. **Repealed and New Rule:** Published November 30, 2022; effective January 14, 2023.

Ed. Note: Previous Rule .06 was renumbered .07 as per certification published November 30, 2022; effective January 14, 2023.

**ALABAMA BOARD OF
HEATING, AIR CONDITIONING AND REFRIGERATION CONTRACTORS
ADMINISTRATIVE CODE**

**CHAPTER 440-X-6
DISCIPLINARY AND COMPLIANCE PROCEEDINGS**

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440-X-6-.01 Definitions.

(1) **Consumer Complaint:** A complaint initiated by any written notice from a consumer that a certified contractor has performed substandard installation, service, or repair of a heating and air conditioning, or commercial refrigeration system

(2) **Board Complaint:** A complaint initiated by a Board compliance officer, certified contractors, or municipal, county, or state official charged with the responsibility of issuing building or similar permits.

(3) **Administrative Complaint:** A legal document which contains notice of the time and place of an administrative hearing; contains a statement of the charges against the certified contractor; and complies with the notice provisions for contested cases as set forth in the Alabama Administrative Procedures Act.

(4) **Fine:** A monetary penalty imposed by the Board.

(5) **Settlement Agreement:** Informal offer to resolve a consumer or Board compliant in lieu of the administrative compliant process.

(6) **Consent Agreement:** Informal offer to resolve a complaint involving an unlicensed contractor in lieu of criminal proceedings.

(7) Private Reprimand: Letter of disciplinary action to formally reprove or censure a certified contractor for unprofessional or unlawful conduct, with the documentation of the action being classified as a private record

(8) Public Reprimand: Letter of disciplinary action to formally reprove or censure a certified contractor for unprofessional or unlawful conduct, with the documentation of the action being part of the contractor's licensure file and may be published online or in the Board's newsletter.

(9) Probation: The monitored practice of heating and air conditioning or refrigeration which permits the certified contractor to continue to work pursuant to specified conditions as set forth by the Board.

(10) Revocation: The withdrawal of the license by Board action

(11) Suspension: The temporary withdrawal of the license by Board action.

(12) Voluntary Surrender: The voluntary relinquishment of a license that has the force and effect of revocation.

(13) Violation Letter: A letter from the Board detailing each violation found during an investigation into a consumer complaint.

(14) Letter of Closure: A letter from the Board notifying a contractor that no probable cause has been found after an investigation into a Board or consumer complaint.

(15) Investigative Committee: A committee comprised of at least one Board member; the executive director of the Board; and the Board's attorney which determine whether probable cause exists to discipline a certified contractor or unlicensed contractor. The Board shall name the Board member to serve on the Investigative Committee on an annual basis.

Author: Jeffrey M. Becraft; Ellen Leonard

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Published November 30, 2021; effective: January 14, 2022.

440-X-6-.02

Violations Of State Law And Rules Of The Board Of Heating, Air Conditioning And Refrigeration Contractors.

(1) All entities, municipality, county, or state official charged with the duty of issuing mechanical or similar permits shall report to the Board the name and contact information of any individual in violation of Alabama law and/ or the rules and

regulations set forth by the Board of Heating, Air Conditioning and Refrigeration Contractors.

(2) The Board may reprimand, fine, probate, or suspend the license of a certified contractor and/or otherwise discipline a contractor engaging in the business of heating and air conditioning or refrigeration installation, service, or repair.

Author: Jeffrey M. Becraft; Ellen Leonard

Statutory Authority: Code of Ala. 1975, §§34-31-21; 34-31-32.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Repealed and New Rule: Filed April 9, 2003; effective May 14, 2003. **Repealed and New Rule:** Published November 30, 2021; effective January 14, 2022.

Ed. Note: Original Rule .01 was renumbered .02 per certification published November 30, 2021; effective: January 14, 2022.

440-X-6-.03 Investigative Committee.

The Investigative Committee shall be comprised of at least one Board member; the executive director of the Board; and the Board's attorney. The Board shall name the Board member to serve on the Investigative Committee on an annual basis.

(1) No Board members shall serve more than two (2) consecutive complete annual terms on the Investigative Committee.

(a) The Board Chairman shall have the power to replace or remove the designated Board member serving on the Investigative Committee due to any vacancy in the Board member position caused by any reason.

(b) The Board Chairman or Executive Director may name a Board member to serve as a substitute appointment to the Investigative Committee for any specific investigation or complaint in which the Board member has recused themselves or is disqualified from participating due to a conflict of interest, including involvement in the investigation as a possible witness to the facts.

(2) The Investigative Committee shall review the investigation and complaint to determine whether probable cause exists for disciplinary action or formal revocation proceedings by the Board.

(3) Any Board member participating in the probable cause determination by the Investigative Committee shall recuse themselves in any disciplinary proceedings of the Board arising from that investigation.

Author: Jeffrey M. Becraft; Ellen Leonard

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.
Repealed and New Rule: Published November 30, 2021; effective January 14, 2022.

440-X-6-.04 Initiation Of Compliance Investigation.

(1) The Board may initiate investigations, as it deems appropriate, to determine compliance with state law and the rules and regulations of the Board including the competency, ability, and integrity of an individual certified or registered by the Board.

(2) The Board shall consider consumer complaints which must include the following:

(a) The name of the certified contractor.

(b) The name and contact information (telephone number, email address, etc.) of the complainant.

(c) Specific allegation(s) which, if substantiated through investigation, would constitute violation(s) of the Board of Heating, Air Conditioning & Refrigeration Law (Code of Ala. 1975, §34-31-18, et. seq.) or the Alabama Board of Heating, Air Conditioning & Refrigeration Administrative Code (Rules and Regulations).

(3) Upon receipt of a written complaint the Executive Director and staff will review the information to determine if a certified contractor has potentially violated a statute or rule by committing one or more of the actions specified as grounds for disciplinary action, the Executive Director shall then provide for an investigation by Board staff to determine if there is sufficient evidence to warrant disciplinary proceedings.

(4) The Board shall retain the authority to pursue or discontinue any investigation based on the information obtained in during the investigation of a complaint.

(5) The Board may require a certified contractor to submit a written and sworn statement to the Board in response to any complaint or investigation by the Board.

(6) All reports of investigations of complaints against certified contractors shall be submitted to the Investigative Committee prior to moving forward with disciplinary action.

(7) When an investigation concludes no probable cause exists to move forward with disciplinary action the complaint file shall be closed, and a letter of closure issued. The complaint may be

reinvestigated within the jurisdictional timeframe set by the Board if circumstances so warrant.

(8) The Board shall refer any investigation involving possible criminal violations of state law to the State Attorney General or other appropriate state, county or local law enforcement agency.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

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440-X-6-.05 Action Following Investigation.

The investigative committee or its designee shall have the power to act on the report of the investigation as follows:

- (1) Dismiss a complaint with a letter of closure If following its investigation, the Investigative Committee determines that no probable cause exists to proceed with disciplinary action, the compliance investigation shall be terminated, and the investigation closed.
- (2) Offer a settlement agreement which may include a public reprimand, private reprimand, probation, suspension and/or fines.
- (3) Private reprimand
- (4) Public reprimand
- (5) Suspension of certification for a Specified Period of Time
- (6) Revocation of Certification.
- (7) Accept voluntary surrender of a license of a certified contractor.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Repealed and New Rule: Published November 30, 2021; effective January 14, 2022.

440-X-6-.06 Informal Disciplinary Proceedings.

(1) The Board may offer an informal settlement to any individual involved in an investigation to resolve the administrative complaint or investigation by the Board. Neither the Board nor any other party is obligated or required to use informal settlement procedures or to participate in informal settlement negotiations and any informal settlement shall be to terms that are negotiated to be in the best interest of the Board and the public and shall not become final until ratified and approved by the Board. All informal settlement agreements ratified and approved by the Board shall be incorporated by reference in the official minutes of the Board.

(2) The Board may issue a public reprimand that may be published online or in the annual newsletter.

(3) The Board may issue a private reprimand that is sealed to the public.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §§31-31-31.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

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440-X-6-.07 Administrative Proceedings.

(1) When the Investigative Committee recommends a suspension or revocation, the certified contractor is entitled to a hearing.

(2) At least twenty days prior to the administrative hearing, an administrative complaint shall be served on the certified contractor as follows:

(a) Personal service made by a Board Compliance Officer.

(b) If the certified contractor out of state, evades service, or cannot be served personally, service shall be made by registered or certified mail to the last known post office mailing address shown on the records of the Board.

(c) If the certified contractor is represented by an attorney who has filed a notice of appearance with the Board, service shall be made on the attorney personally or by registered or certified mail.

(3) The Board's administrative complaint may be amended without leave of the hearing officer prior to the hearing so long as the

amendment is germane to the charge or charges and does not materially alter the nature of any offense charged. Any amended administrative complaint will be served on the certified contractor being charged.

(4) Requests for subpoenas shall be filed with the Board at least ten days prior to the administrative hearing along. Any expenses incurred relative to subpoenas requested by a Respondent, either for witnesses or related to production of documents, are the responsibility of the party who requested the issuance of said subpoena.

(5) The administrative hearing shall be conducted by a hearing officer provided by the Board. All testimony shall be under oath and shall be transcribed by a court reporter scheduled by the Board. Telephonic or other real-time electronic testimony is admissible at the discretion of the hearing officer.

(6) A continuance may be granted by the hearing officer, upon the filing of a written motion detailing the reasons for the continuance.

Author: Jeffrey M. Becraft; Ellen Leonard

Statutory Authority: Code of Ala. 1975, §31-31-32.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Repealed and New Rule: Published November 30, 2021; effective January 14, 2022.

440-X-6-.08 Decision Of The Board.

(1) Based upon the evidence presented at the administrative hearing or pursuant to informal disposition, the Board may take one or more of the following actions:

(a) Dismiss the administrative complaint in its entirety or any alleged violation in the complaint.

(b) Find the respondent not guilty of any or all the violations alleged in the administrative complaint.

(c) Find the respondent guilty of any or all the violations alleged in the administrative complaint. If the Board finds the respondent guilty of one or more of the violations alleged in the administrative complaint, the Board may take one or more of the following disciplinary actions against the respondent:

1. Reprimand the respondent.
2. Require additional continuing education hours.
3. Suspend the respondent's certification.

4. Revoke the respondent's certification.

5. Levy a fine not to exceed \$2,000.00 per violation.

(2) The decisions of the Board shall be in writing in the form of an Order, a copy of which shall be mailed or delivered to the respondent or the respondent's attorney.

(3) The decisions of the Board shall be subject to public dissemination, including but not limited to the required reporting of disciplinary actions to all federal databanks.

(4) Section 34-31-33 requires judicial review of decisions of the Board, if requested, be sought in the Circuit Court of Montgomery County, Montgomery, Alabama. Appeals are to be perfected in accordance with the Alabama Administrative Procedures Act and a petition shall be filed either in the Circuit Court of Montgomery County or in the circuit court of the county in which the agency maintains its headquarters, or unless otherwise specifically provided by statute, in the circuit court of the county where a party other than an intervenor, resides or if a party, other than an intervenor, is a corporation, domestic or foreign, having a registered office or business office in this state, then in the county of the registered office or principal place of business within this state.

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, §31-31-33.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

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