

RULE IMPACT STATEMENT

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

1. **BRIEF DESCRIPTION OF PURPOSE OF PROPOSED RULE:** The amendments to 158:50-1-2 are to add definitions to provide the public better clarity. The proposed amendment to 158:50-5-1 adds a license type for Fueled Hearth Product Work (fueled hearth product work already requires a license. By separating fueled hearth product work into its own category license type, specialty workers on fireplaces would be able to take a smaller examination over only the fueled hearth product work instead of the larger examination over all the subjects of the HVAC/R license that would make it easier for fireplace workers to obtain licensing and protect the health, safety, and welfare of the public); the amendments to 158:50-5-2 provide descriptions and license requirements for the added license type; the amendment to 158:50-9-1 provides examination requirements for the new license type; amendments to 158:50-9-1.1 is due to legislation (SB 670) and provides a fee waiver for active duty military and their spouses; amendments to 158:50-9-2 is due to legislation (HB 2933) and provides a one-time low income fee waiver; the amendment to 158:50-9-7 provides continuing education requirements for the new license type; and the amendment to 158:50-11-2 clarifies existing language.
2. **DESCRIPTION OF THE CLASSES OF PERSONS AFFECTED:** The agency, members of industry and the public who are involved in or wish to be involved in the mechanical industry/trade licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
3. **CLASSES OF PERSONS BENEFITTED:** The agency, members of industry and the public who are involved in or wish to be involved in the mechanical industry/trade licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma. Currently, fueled hearth product work requires a license. By separating fueled hearth product work into its own category license type, specialty workers on fireplaces would be able to take a smaller examination over only the fueled hearth product work instead of the larger examination over all the subjects of the HVAC/R license that would make it easier for fireplace workers to obtain licensing and protect the health, safety, and welfare of the public.
4. **ECONOMIC IMPACT UPON AFFECTED CLASSES OF PERSONS:** Having clear and unambiguous rules should have a positive economic impact in that it should help to keep an individual from unknowingly committing a violation that could result in a fine or penalty. No fees are established only fee waivers provided in certain circumstances by the proposed rules, thus having a positive economic impact on the classes of person affected. There is no additional licensing. Currently, fueled hearth product work requires a license. By separating fueled hearth product work into its own category license type, specialty workers on fireplaces would be able to take a smaller examination over only the fueled hearth product work instead of the larger examination over all the subjects of the HVAC/R license that would make it easier for fireplace workers to obtain licensing and protect the

health, safety, and welfare of the public.

5. **COSTS AND BENEFITS TO THE AGENCY:** Although there could be a loss of revenue received by the agency associated with SB 670 and HB 2933, the proposed amendments create a minimal initial cost for software changes to account for licenses issued without the associated fee. The benefit is to have clear, unambiguous rules in place to assist those impacted by the rules.
6. **ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** No economic impact on any political subdivision is anticipated by the proposed rules.
7. **ECONOMIC IMPACT ON SMALL BUSINESS:** Any economic impact on small business is not measurable.
8. **MEASURES TAKEN TO MINIMIZE COMPLIANCE COSTS:** The proposed rule changes are the least costly or least intrusive method of achieving the purpose of the proposed rules. There are no non-regulatory methods for achieving the purpose of the proposed rule changes.

9. **EFFECT OF THE PROPOSED RULE ON PUBLIC HEALTH:** Licensing helps to protect the health, safety and welfare of the public. Having clear and unambiguous rules regarding licensing requirements should have a positive effect on public health.
10. **DETRIMENTS TO PUBLIC HEALTH IF THE RULE IS NOT ADOPTED:** There are no known detriments to public health if the rule is not adopted.
11. **DATE IMPACT STATEMENT PREPARED:** December 18, 2019.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS**

SUBCHAPTER 1. GENERAL PROVISIONS

158:50-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means Mechanical Licensing Act as found at 59 O.S. § 1850.1, *et seq.*

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1, *et seq.*

"Applicant" means any person applying for an examination, for a license or registration, for continuing education approval, for review of plans and specifications or for a mechanical code variance from the standard of installation described in OAC 158:50-1-4 by the Construction Industries Board under the Act.

"Associated with and responsible for" means the relationship between a mechanical contractor and mechanical firm based on the mechanical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the mechanical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Mechanical Licensing Act and this Chapter.

"Biomass" means organic material that comes from plants and animals, and is a renewable source of energy intended for fueled hearth products.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the consolidated unit that processes bonds and insurance under the direction of the Construction Industries Board.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Chemical plant" means a chemical plant within the context of 59 O.S. §1850.10(D) including a fertilizer plant engaged in formulating chemicals ultimately used generally in the agricultural fertilizer industry.

"Committee" means the Committee of Mechanical Examiners.

"Contracting" means engaging or offering to engage in, on behalf of oneself or on behalf of another, any mechanical work which requires a valid and appropriate license from the Construction Industries Board as required by the Mechanical Licensing Act, regardless if said work is in exchange for monetary payment or otherwise.

"Credit Hour" or **"Hour"** means at least 50 minutes of classroom instruction with a 10 minute break.

"Direct supervision" means the on-the-job physical presence by the supervisor who must be in the work area where the mechanical work is being performed and who also must be a licensed mechanical contractor or mechanical journeyman in the appropriate category for any mechanical work supervised.

"Endorsed apprentice" means a registered apprentice who met the qualifications, pursuant to OAC 158:50-9-5(i), to sit for the journeyman examination in the HVAC limited category and received a passing score on the examination, but who is working to complete the

required one (1) year of verifiable experience as a registered apprentice prior to being issued the journeyman license.

"Fueled Hearth Product Work" means the installation, service or repair of biomass-fueled or natural gas-fired fireplace, fireplace insert, stove or log set and associated venting and piping that fuels or simulates a flame of a solid fuel fire, including accessories for use with natural gas. This does not include (a) gas piping work, (b) the servicing of gas piping, or (c) work associated with pressure regulating devices, except for factory installed appliance gas valves.

"Gas piping" means and includes all natural gas piping within or adjacent to any building, structure, or conveyance, on the premises up to the connection with a natural gas meter, regulator, or other source of supply.

"Ground source piping" means piping buried below the earth's surface or submerged in a water well, lake or pond and used in conjunction with a heat pump to provide heating, ventilation and/or air conditioning to a structure.

"Health care facility" includes but is not limited to hospitals, nursing homes, limited care facilities, clinics, medical or dental offices, and ambulatory care centers, whether permanent or moveable.

"Hearing Board" means the Mechanical Hearing Board.

"Humidification" when applied to air conditioning, means and includes an increase or decrease in moisture content of the air being conditioned and supplied to the space for human occupancy by means of that integral part of the entire air conditioning system, equipment, and control devices; when applied to refrigeration, means and includes an increase or decrease in the moisture content of the air or product being conditioned for a food preservation measure or manufacturing process by means of the integral part of the entire refrigeration system, equipment, and control devices.

"HVAC" or "heating, ventilation and air conditioning" means the process of treating air by controlling its temperature, humidity, and cleanliness and of supplying such air to spaces for human occupancy by means of an integrated system of air conditioning and ventilation equipment, accessories and control devices.

"ICC" means the International Code Council.

"Limited residential installer" means a type and category of mechanical license that is restricted to new installations in new construction for detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress as regulated by this Chapter.

"Limited residential journeyman" means a type and category of mechanical license that is restricted to new installations for detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress as regulated by this Chapter.

"Mechanical License Unit" means the staff and administrative support unit to the Committee of Mechanical Examiners and the Mechanical Hearing Board.

"Mechanical work" means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, exhaust system, cooling system, mechanical refrigeration system, ventilation system, medical gas system, medical-surgical vacuum systems, or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair, or renovation of process piping used to carry any liquid, substance, or material, including steam and hot water used for space heating purposes not under

the jurisdiction of the Department of Labor or Department of Health, provided that minor repairs and maintenance are excluded.

"Medical gas piping work" means the lay out, assembly, installation, and maintenance of pipe systems used in health care facilities for oxygen, nitrous oxide, medical air, carbon dioxide, helium, nitrogen, instrument air, medical-surgical vacuum, waste anesthetic gas disposal, mixtures thereof, or any other gaseous, partly gaseous substance, material or any mixtures thereof used in a health care facility. Replacing cylinders and filters, and performing routine and preventive maintenance that does not breach the integrity of the medical gas piping system and does not constitute the installation, repair, or replacement of medical gas piping shall not require a medical gas piping licensee.

"Medical gas journeyman" means a type and category of mechanical license that is restricted to medical gas piping.

"Minor repairs and maintenance" means minor repairs or maintenance as each are prescribed in the manufacturer's operating instructions to be performed by the equipment owner or his authorized agent, and shall not include replacement and repairs of any nature on natural gas piping, natural gas controls, the manufacturer installed controls and components, the vent system of fuel burning appliances, a breach of the integrity of a refrigeration system or any repair or maintenance which would violate the safe operation of the equipment.

"National Fireplace Institute" or "NFI" means the professional certification entity for planning and installing residential hearth fueled gas, wood, or pellet appliances and venting systems.

"Oklahoma Uniform Building Code Commission" or "OUBCC" means the state agency created under 59 O.S. § 1000.20, *et seq.*, and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

"Petroleum refinery" means an industrial plant which processes petroleum for purposes of creating products derived from petroleum and includes industrial plants which produce and/or refine alternative fuels or petroleum additives. "Petroleum refinery" shall not mean gas processing plant or gas gathering pipeline operations.

"Petroleum refinery journeyman" means a type and category of mechanical license that is restricted to petroleum refinery process piping.

"Petroleum refinery process piping work" means the lay out, assembly, installation, and maintenance of pipe systems used in the petroleum refining process or product refining systems of a petroleum refinery.

"Process" means a series of operations performed in the making or treatment of a product.

"Process piping" means lay out, assembly, installation, and maintenance of pipe systems, pipe supports, and related hydraulic and pneumatic equipment for steam, hot water, heating, cooling, lubricating and fire sprinklers, not subject to regulation pursuant to the Alarm Industry Act, and industrial production and processing systems, and piping used to carry any gaseous, or partly gaseous, substance or material as part of a medical gas piping system.

"Reciprocity" means an agreement whereby a person holding a mechanical license or registration who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Refrigeration system" means installation, repairing and servicing of a system employing fluid which normally is vaporized and liquefied in an air conditioning system, food preservation measure or manufacturing process.

"Variance" means the use of an alternative material or method of construction from that prescribed in the standard of installation as described in OAC 158:50-1-4 and/or other approved documents by the OUBCC for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Mechanical Installation Code Variance and Appeals Board.

"Verifiable experience" means mechanical experience obtained while employed by a licensed Mechanical contractor, or by other means approved by the Committee of Mechanical Examiners including equivalent experience earned while serving in the U.S. Military, for which one (1) year of verifiable experience equals two thousand (2,000) hours.

SUBCHAPTER 5. LICENSE TYPES, LIMITATIONS OF LICENSES, CONTRACTOR SPECIAL REQUIREMENTS AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:50-5-1. License types

- (a) Mechanical licenses shall be issued as journeyman, contractor or inactive contractor.
- (b) Licenses shall be issued for the following categories:
 - (1) HVAC limited or unlimited
 - (2) Natural Gas Piping
 - (3) Process Piping
 - (4) Refrigeration
 - (5) Sheet Metal
 - (6) Ground Source Piping
 - (7) Fueled Hearth Product Work
 - ~~(7)~~(8) Limited Residential (journeyman only)
 - ~~(8)~~(9) Limited Residential Installer (journeyman license type)
 - ~~(9)~~(10) Petroleum Refinery Process Piping (journeyman only)
 - ~~(10)~~(11) Medical Gas (journeyman only)

158:50-5-2. Limitations of licenses

- (a) **License duties.**
 - (1) Journeyman is a person who possesses the knowledge and skills to perform mechanical work within a category or categories without direct supervision.
 - (2) Contractor is a person who possesses the knowledge and skills of a journeyman and who is responsible, either to the contractor or the contractor's employer, for planning, contracting, supervising, or furnishing labor and/or materials used for mechanical work. A mechanical contractor shall only be associated with and responsible for one mechanical firm. However, a mechanical contractor may be responsible for one firm with branch offices.
 - (A) Active contractor is one who is actively performing as a contractor and who has met the bond and insurance requirements for licensure.
 - (B) Inactive contractor is one who has met all the licensing requirements of a contractor, but has chosen not to currently perform as a contractor. An inactive

contractor is not required to provide bond or insurance, and will be regulated as a journeyman.

(b) License categories.

(1) **Limited mechanical HVAC license.** A limited mechanical HVAC license entitles the licensee to install, alter, modify, service, maintain, or repair a ventilation (duct) system and/or:

- (A) any cooling product, system, or equipment including the process piping, that has a cooling capacity of no more than twenty-five (25) tons, and/or
- (B) all heating equipment including the process piping that have a heat input of no more than 500,000 Btu/h per appliance, and/or
- (C) natural gas piping, refrigeration, and sheet metal.

(2) **Limited residential journeyman license.** A limited residential journeyman license entitles the licensee to install complete new systems for detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress. Installations shall include 5-ton or less cooling systems and 150,000 Btu/h or less heating systems and related accessories such as humidifiers, filtering systems, kitchen vent hoods, exhaust fans and clothes dryer vent exhausts for such dwellings. Such installations shall not include any fuel gas piping, welding, soldering, brazing or final connection of refrigerant lines or final connection of any electrical wiring permitted to be installed in accordance with Oklahoma statutes.

(3) **Limited residential installer license.** A limited residential installer license entitles the licensee to install complete new systems in new construction for detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress. Installations shall include 5-ton or less cooling systems and 150,000 Btu/h or less heating systems and related accessories such as humidifiers, filtering systems, kitchen vent hoods, exhaust fans and clothes dryer vent exhausts for such dwellings. Such installations shall not include any fuel gas piping, welding, soldering, brazing or final connection of refrigerant lines or final connection of any electrical wiring permitted to be installed in accordance with Oklahoma statutes. Further:

(A) The limited residential installer is a person who possesses the knowledge and skills to perform limited residential mechanical work within this category without direct supervision while under the employment or supervision of a Mechanical Contractor.

(B) No licensee shall allow an apprentice under his or her direct supervision to perform mechanical work for which the limited residential installer is not licensed to perform, or be allowed more than three (3) apprentices per limited residential installer,

(C) Applicants for a limited residential installer license must be at least eighteen (18) years of age and have:

- i. one (1) year of verifiable experience in the mechanical trade in category for which he or she is applying, or
- ii. a vocational diploma certifying completion of an educational program consisting of a minimum of two hundred and fifty (250) or more hours from a school, approved by the Committee, which exhibits knowledge of

the trade and in the category of limited residential applied for, and six (6) months of verifiable experience in the mechanical trade, or
iii equivalent, verifiable experience in the mechanical trade while serving in the U.S. military.

(D) The examination requirements for an installer's license can be found in OAC 158:50-9-1(c).

(E) A license cannot be issued or renewed until the applicant has paid any and all outstanding fines due and owing to any division of the Construction Industries Board.

(F) Information on license, renewals, and examination fees can be found in OAC 158:50-9-2 (for journeyman)

(G) Continuing education requirements can be found in OCA 158:50-9-7.

(4) **Unlimited mechanical HVAC license.** An unlimited mechanical HVAC license entitles the licensee to install, alter, modify, service, maintain, or repair a ventilation (duct) system and/or:

(A) any cooling product, system, or equipment, including the process piping, and/or

(B) heating equipment, including the process piping, and/or

(C) natural gas piping, process piping, refrigeration, and sheet metal.

(5) **Natural gas piping license.** A natural gas piping license entitles the licensee to install, alter, modify, service, maintain, or repair all natural gas piping.

(6) **Process piping license.** A process piping license entitles the licensee to install, alter, modify, service, maintain, or repair all process piping.

(7) **Refrigeration license.** A refrigeration license entitles the licensee to install, alter, modify, service, maintain, or repair refrigeration products, systems, or equipment, including the process piping.

(8) **Sheet metal license.** A sheet metal license entitles the licensee to install, alter, modify, service, maintain, or repair all ferrous and nonferrous duct systems.

(9) **Ground source piping license.** A ground source piping license entitles the licensee to install, alter, modify, service, maintain or repair all piping outside a structure for a ground source (earth or water) loop pipe.

(10) **Fueled Hearth Product Work license.** A fueled hearth product work license allows for the licensee to install, service or repair Fueled Hearth Product Work as defined in this Chapter.

(A) The Fueled Hearth Product Work licensee shall be certified by the NFI through examination in the certification categories of gas, wood, or pellets for the work performed which, upon providing satisfactory proof of successful passage of any of the three (3) fuel classes of NFI examination, will meet the examination and experience requirements of this license.

(B) The Fueled Hearth Product Work Contractor licensee, in addition to providing satisfactory proof of successful passage of the appropriate NFI examination, shall provide satisfactory proof of having read the Mechanical Licensing Act and Mechanical Industry Regulations and shall comply with the contractor requirements of this Chapter including, but not limited to, proof of general liability insurance, compliance with workers' compensation insurance laws, bond, lawful presence, along with providing satisfactory proof of successfully passing the business and law portion of any Mechanical

Contractor examination or otherwise demonstrating minimum competency in business operations by any three (3) from the below listed items:

- i. Registration with the Oklahoma Secretary of State for the last five (5) years.
- ii. A letter (stating the specific professional service has been provided to the hearth product installation business of the Contractor applicant for a period of at least five (5) years) from a professional service provider used by your business including those who: prepare taxes, payroll, financial statements, provide legal services, banking, risk management or other professional services provided to your business.
- iii. Satisfactory proof of filing state business taxes for the last five (5) years.
- iv. Satisfactory proof of business entity filing with another state agency or registered business.
- v. Satisfactory proof of business operations for the last five (5) years such as bidding, estimating, quoting, contract/project management, customer relations, employee management, jobsite safety, or financial management, or
- vi. Any other substantial proof of business operations for the last five (5) years.

(C) Unless otherwise stated in this Section, all licensees and apprentices must comply with all other provisions of this Chapter.

(D) The licensed Fueled Hearth Product Work person can only perform work in the same certification category of gas, wood, or pellets as their certification and the apprentice must perform work in the same certification category of the licensee who is directly supervising the apprentice.

(E) No licensee shall perform mechanical work in a category under which he or she is not licensed or work outside of the confinements of the Fueled Hearth Product Work classification of certification of gas, wood, or pellets.

(F) There is no work experience requirement for licensing in Fueled Hearth Product Work and work experience under this category does not count towards the experience requirement of any other license category in this Chapter.

(G) Information on license, application, and renewal fees can be found in OAC 158:50-9-2.

(H) Continuing education requirements per OAC 158:50-9-7 can be satisfied for Fueled Hearth Product Work licensees by providing proof of continuing education or retesting as required by NFI.

(I) All licensees must maintain current NFI certification in order to renew his or her license.

~~(10)~~**(11) Petroleum refinery journeyman license.** A petroleum refinery journeyman license entitles the licensee to install, alter, modify, service, maintain, or repair all petroleum refinery process piping, and said license is limited to petroleum refinery process piping work only. A petroleum refinery journeyman shall be under the direction and supervision of a licensed unlimited mechanical contractor or a licensed process piping mechanical contractor.

~~(11)~~(12) **Medical gas journeyman license.** A medical gas journeyman license entitles the licensee to install, alter, modify, service, maintain, or repair medical gas or medical-surgical vacuum systems, or equipment, including the piping. A medical gas journeyman shall be under the direction and supervision of a licensed unlimited mechanical contractor or a licensed process piping mechanical contractor.

SUBCHAPTER 9. QUALIFICATIONS FOR MECHANICAL LICENSURE, LICENSE AND REGISTRATION FEES, DURATION OF LICENSE, MECHANICAL LICENSE APPLICATION, AND APPRENTICE REGISTRATION

158:50-9-1. Qualifications for mechanical licensure

(a) **Application.** A person desiring to be licensed under this Chapter, unless otherwise provided in this Chapter, shall file an application with the application fee, examination fee (unless the examination fee is paid directly to a testing provider), and the initial License fee to the Administrator. The fees must be received no less than three (3) working days before the examination date. If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited.

(b) **Experience.** All persons applying for a license must provide proof of experience in the mechanical trade. Applicants for mechanical license examinations who are not licensed and wish to include experience gained in Oklahoma must maintain an apprentice registration on file with the Oklahoma Construction Industries Board for all experience obtained in Oklahoma. The Construction Industries Board will not consider experience obtained in or outside of Oklahoma as verifiable experience for periods in which an apprentice is unregistered, except for experience lawfully obtained according to any applicable federal or state laws, and must be comprised of mechanical work as defined under the Act and in this Chapter.

(1) Applicants for a journeyman license must be at least eighteen (18) years of age and have:

(A) three (3) years of verifiable experience in the mechanical trade in the category for which he or she is applying, or

(B) an associate's degree or vocational diploma certifying completion of a formal mechanical educational program approved by the Committee, consisting of one thousand (1,000) hours or more from a school approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and one (1) year of verifiable experience in the mechanical trade, or

(C) a vocational diploma certifying completion of a formal mechanical educational program approved by the Committee, consisting of five hundred (500) or more hours from a school approved by the Committee, which exhibits knowledge of the trade in the category of license applied for, and two (2) years of verifiable experience in the mechanical trade, or

(D) a vocational diploma certifying completion of a formal mechanical educational program approved by the Committee, consisting of a minimum of three hundred and seventy five (375) or more hours from a school approved by the Committee, which exhibits knowledge of the trade and in the category of license applied for, and two and one-fourth (2 1/4) years of verifiable experience in the mechanical trade, or

(E) a vocational diploma certifying completion of a formal mechanical educational program approved by the Committee, consisting of a minimum of three hundred and thirty four (334) or more hours from a school approved by the Committee, which exhibits knowledge of the trade and in the category of license applied for, and two and one-third (2 1/3) years of verifiable experience in the mechanical trade, or

(F) a vocational diploma certifying completion of a formal mechanical educational program approved by the Committee, consisting of a minimum of two hundred and fifty (250) or more hours from a school approved by the Committee, which exhibits knowledge of the trade and in the category of license applied for, and two and one-half (2 1/2) years of verifiable experience in the mechanical trade, or

(G) equivalent, verifiable experience in the mechanical trade while serving in the U.S. military, or

(H) experience sufficient to obtain the special certification required for the mechanical category sought by the tendered application, such as Ground Source Piping and Medical Gas, or

(I) a verifiable out-of-state license in the mechanical classification for which the applicant is applying may expedite processing of the requirements or be considered for reciprocity under OAC 158:50-9-6 if there is a written reciprocity agreement with that state. The license must:

(i) be current,

(ii) be in good standing, and

(iii) meet qualifications listed in (A) through (F) above.

(2) Applicants for a contractor license must meet the same requirements as a journeyman with an additional one (1) year of experience.

(3) Applicants must present transcripts showing the Committee approved schools, the Committee approved program, courses, hours attended, grades, any certificates achieved, and a vocational diploma or certificate of completion for the specific educational program and school that has been approved by the Committee. The Administrator shall make the final determination on acceptability of the described supporting documentation.

(c) **Examination.** A license cannot be issued until the applicant has passed the appropriate examination for the license type and category. Examinations and the passing score for each examination shall be approved by the Committee. Applicants for the Ground Source Piping category shall provide proof of being certified by examination in the proper installation of ground source piping by an organization approved by the Committee. Applicants for the Petroleum Refinery journeyman category shall provide proof of being certified by examination in the area of industrial pipefitter by an organization approved by the Committee. Applicants for the Medical Gas category shall provide proof of being certified by examination in accordance with the most current NFPA 99 standard or certified in the proper installation of medical gas piping by an organization approved by the Committee. Applicants for a Fueled Hearth Product Work license shall provide proof of having been certified by examination in accordance with NFI in one of the three (3) categories: gas, wood, or pellets per OAC 158:50-5-2(b)(10).

(1) If the applicant does not pass the exam, the applicant may reapply for the exam and pay an additional retesting fee. However, no person will be allowed to retake an exam

within thirty (30) days of the first failed exam or within ninety (90) days of the second or subsequent failed exam.

(2) Applicants for a contractor license must pass both portions (business/law and trade) of the contractor license exam. If an applicant for a contractor license passes only one of the two portions of the required exam, the applicant need only retake the portion of the exam not passed if done within three (3) years of the date the Applicant is approved and eligible to sit for the contractor's exam. Otherwise, the Applicant will need to retake both portions of the contractor license exam.

(3) If an applicant for a contractor license passes only the trade portion of the contractor exam, the applicant may choose to apply the passing score of the trade portion of the contractor exam to a journeyman license application within the same license category as the trade portion of the contractor exam that the applicant passed. All other requirements in the Act and this Chapter for a journeyman license are required, including but not limited to, completing the journeyman application form and submitting any applicable fee, both of which must be received by the Board no more than one year after passing the trade portion of the contractor exam. The timeframe to complete both portions of the contractor exam as provided in (c)(2) of this Section is applicable even if a journeyman license is obtained under this subsection.

(4) A contractor license, whether active or inactive, must be renewed annually including completing the renewal form and paying the renewal license fee for a contractor license. An inactive contractor status may be changed to active contractor status at any time by providing proof of compliance with bond and insurance requirements as provided in this Chapter. A contractor, whether active or inactive, can elect to renew as a journeyman with filing of a journeyman renewal application and fee which election will be considered a permanent change of license category. If a permanent license category change occurs and the individual wants to change from journeyman to contractor category, either active or inactive, the individual must retake and pass the contractor license exam and meet all other contractor license requirements in the Act and this Chapter.

(5) If an active or inactive contractor license is current, the Applicant may pursue other category contractor applications in the same trade without being required to retake the business and law portion of the exam if the business and law portion was successfully passed previously.

(6) Any applicant who violates exam procedures as determined by the examination provider, including but not limited to cheating, misrepresenting oneself as another, or inappropriate actions during an examination may be immediately notified and expelled from the examination. Furthermore, the applicant's exam will be considered invalid and the applicant will be disqualified from retaking the exam for a period of time no less than 30 days and no more than 365 days as determined by the Administrator of the Construction Industries Board.

(7) No person shall be allowed any assistance in reading the contractor's examination, nor shall any persons other than the examinees or the Committee members be allowed in the examination area. However, an applicant may request that the Committee make reasonable accommodations for any disability.

(d) **Outstanding fines.** A license cannot be issued or renewed until the applicant has paid any and all outstanding fines due and owing to any division of the Construction Industries Board.

158:50-9-1.1. Acceptance of Military education, training and experience toward qualification for licensure examination

(a) **Licensure – ~~post-military service~~.** See OAC 158:1-3-10 for provisions related to the application of substantially equivalent education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction toward satisfying the qualifications for examination and license or registration issuance.

(b) **Military spouse applicant—~~equivalency~~.** See OAC 158:1-3-10 for provisions related to issuance of ~~an equivalent~~ a license or registration in an equivalent category for the spouse of an active-duty member of the Armed Forces or Reserves of the United States.

158:50-9-2. License and registration fees and renewals

(a) **Examination fees for contractors and journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by this Chapter. The cost for each such examination referenced in OAC 158:50-9-1 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to sitting for the examination. The unit testing fee shall be the amount negotiated by the Administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee pursuant to 59 O.S. § 1000.5(A)(2). Documentation confirming the contractual fee shall be available upon request.

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, registration and annual renewal fees shall be as follows:

- (1) contractors application - \$30.00
- (2) initial contractor license - \$300.00
- (3) renewal contractor license - \$200.00
- (4) renewal contractor late fee - \$100.00
- (5) journeyman application - \$25.00
- (6) initial journeyman license - \$50.00
- (7) renewal journeyman license - \$75.00
- (8) renewal journeyman late fee - \$25.00
- (9) apprentice application - \$5.00
- (10) apprentice registration - \$20.00

(c) **One time low-income fee waiver.** See OAC 158:1-3-13(c) regarding eligibility on a one-time, one-year fee waiver.

158:50-9-7. Continuing Education

(a) **Continuing Education Requirements:**

(1) No contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education ("CE") every three (3) years or thirty-six (36) months preceding the license expiration date. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Committee or its designee within seven (7) days of the

course. The continuing education material shall cover codes and revisions adopted by the OUBCC and/or other trade related subject matters appropriate for topics of continuing education for licensees and approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing Act, the trade regulations as set forth in this Chapter as well as the rules of the Construction Industries Board in OAC 158:10, and other trade or safety related subject matters approved by the Committee.

(2) If a license expires before the licensee completes the CE requirement, any CE that is completed while the license is expired will be applied to the CE requirement for the thirty-six (36) months preceding the date the license expired. Six (6) hours of CE will still have to be completed in order to meet the CE requirement for the subsequent thirty-six (36) month period.

(3) Credit will be given for CE programs approved by the Committee, or its designee.

(4) Except as provided herein, this Section shall apply to every licensed mechanical journeyman or contractor.

(5) A licensee is exempt from the education requirements of this Section for three (3) years from the date he or she passed their current licensing exam.

(6) The continuing education requirement provisions for Fueled Hearth Product Work corresponds with NFI certification requirements and are described in OAC 158:50-5-2(b)(10).

(b) **Standards.** The following standards will govern the approval of continuing education programs by the Committee.

(1) The program provider shall submit evidence that the provider and instructional staff are qualified by reason of education, experience or training. The training provider and instructors will be of good reputation and of good moral character.

(2) Any written material that is distributed during the session shall be readable, of high quality and shall be made available to all attendees.

(3) The program shall be presented in a comfortable location such as hotel/motel conference room, corporate meeting room, or regular classroom.

(4) The training session shall be presented outside the regular workplace or after regular working hours. An onsite conference room, that meets standards imposed by (3) of this subsection, shall be considered outside the regular workplace.

(5) A credit hour means at least fifty (50) minutes of classroom instruction with a ten (10) minute break.

(6) CE courses shall be presented in one of the following formats.

(A) Six (6) credit hours presented in one (1) day.

(B) Two (2) sessions of three (3) credit hours each presented within a seven (7) day period.

(C) One (1) session of two (2) credit hours of trade related instruction, Mechanical Licensing Act and/or Mechanical Industry Regulations.

(D) An approved correspondence course.

(E) Another format approved by the Committee.

(7) Verification of Credit.

(A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.

(B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.

(C) As soon as practicable but in any event on or before seven (7) days following an approved continuing education program, the provider shall furnish the original sign-in sheets from the course to the Mechanical License Unit of the Construction Industries Board.

(D) Providers shall maintain copies of all sign-in sheets for a period of two (2) years following the conclusion of the course.

(E) **Complaint Procedure.**

(i) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of this Section, and specifying the grounds for the complaint.

(ii) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(iii) The Committee may consider an unsigned or anonymous complaint for further investigation.

(iv) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen (15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of the Act or this Chapter. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this Section.

(v) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

(8) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.

(c) **Application Procedures.**

(1) A completed application form, with all supporting documentation, shall be submitted to the Construction Industries Board at least fifteen (15) days prior to the date of the Regular meeting of the Committee from which the provider wants the course to be considered for approval, and at least thirty (30) days prior to the scheduled start date. Supporting documents shall include the following:

(A) A resume or brief summary of qualifications of all course developers and instructors.

- (B) A course agenda designating the beginning and ending of actual instruction times, sign-in times, breaks, lunches and evaluation time.
 - (C) A course curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed or the trade related instruction being provided.
 - (2) An application is to be submitted for each date, or dates, that constitute a single course.
 - (3) Each course must be included on a separate application.
- (d) **Mechanical Examiners Committee Acceptance.**
 - (1) The Committee, or its designee, will review each application for completeness of form and supporting documentation, as well as course content.
 - (2) The approval of any course will be made by a majority vote of the Committee at a regularly scheduled meeting of the Mechanical Examiners Committee.
 - (3) The Committee's designee may approve additional dates and locations after the course has been approved by Committee vote. Substantive change to course content must be brought before the Committee.
 - (4) The applicant will be notified in writing whether the program is approved or disapproved, detailing the basis of the decision if disapproved.
 - (5) Approval is rescinded upon the adoption of a different statewide code and a new application showing updates of new code is necessary.
- (e) **Committee Rejection and Reevaluation of a Course.**
 - (1) The Committee, or its designee, may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons.
 - (A) Failure to comply with the continuing education provisions.
 - (B) Inadequate application or supporting documentation.
 - (C) Failure to instruct on topic approved.
 - (D) Inadequate experience of program developer or instructor.
 - (E) Unsatisfactory evaluation of the course instructor or materials from previous classes.
 - (2) The Committee may, at any time, re-evaluate and grant or revoke approval of application or course.
 - (A) The Committee may, at any time, review courses for quality of instruction. The Committee may also investigate complaints regarding approved courses. The Committee may then take appropriate action, up to and including revocation of authority to provide CE courses.
 - (B) A provider's failure to comply with this Section constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for course work.
 - (3) The Committee, or its designee, will notify the provider, in writing, of any changes in approval status.
- (f) **Appeals.**
 - (1) Applicants denied approval of a course may appeal such a decision by submitting a written letter of appeal to the Committee within fifteen (15) days of the receipt of the notice.
 - (2) All appeals will be heard by the Committee at its next regularly scheduled meeting.

(g) Course Presentation.

(1) The program, including the named advertised participants, shall be conducted as approved, including lunch and breaks shown on the approved agenda, subject to emergency withdrawals and minor alterations.

(2) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee, or its designee, in writing prior to start of class. All requests for change must include the course ID number.

(h) Course Advertisement.

(1) All advertising must include the course ID number.

(2) Approved program courses may be advertised.

(3) The provider of an approved continuing education program may announce or indicate as follows: Course #____ has been approved by the Construction Industries Board Mechanical Examiners Committee for ____ hours of CE credit.

(i) Correspondence and Online Courses.

(1) Applications, approvals and rejections, and appeals of all correspondence and online courses shall be the same as for classroom-based courses.

(2) Correspondence courses shall be required to comply with all requirements of continuing education courses, except sign-in sheets.

(3) Providers of an on-line course shall submit verification of six (6) hours of real time on-line instruction.

(4) Course providers shall provide a student with a document of completion which certifies completion of approved correspondence course.

(5) Applications shall be resubmitted annually, from date of approval, for review and approval.

(j) Alternate Credit Accrual.

(1) Credit may be earned through teaching an approved continuing education course. The Committee may award up to six (6) hours of CE credit, not to exceed the number of approved hours for that CE course.

(2) Credit may also be earned through teaching a course in an accredited trade school or a trade-specific program approved by the Committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.

(3) Credit may also be earned through participating as a designate of a technical committee appointed by the OUBCC to review and recommend adoption of building codes. The Committee may award up to six (6) hours of continuing education for completing a code review as designee in the code listed as the standard for the license held and upon completion of the code review receiving a certificate of completion from the OUBCC. A copy of the certificate will be required to be provided to CIB to receive continuing education credits.

(k) Continuing Education Not Required for Petroleum Refinery Journeyman. Subsections (a) through (j) of this Section shall not apply to the license category of Petroleum Refinery Journeyman. The Petroleum Refinery Journeyman license may be renewed without continuing education.

(l) Continuing Education Not Required for Ground Source Piping. Subsections (a) through (j) of this Section shall not apply to the license category of Ground Source Piping. The Ground

Source Piping category license may be renewed without continuing education provided that a current approved certification is submitted.

(m) **Continuing Education Not Required for Medical Gas.** Subsections (a) through (j) of this Section shall not apply to the license category of Medical Gas. The Medical Gas category may be renewed without continuing education provided that a current approved certification is submitted.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:50-11-2. Prohibited acts

(a) The following are prohibited acts:

- (1) No person, entity, or firm may engage in mechanical contracting or perform mechanical work without first obtaining the appropriate license or registration pursuant to this Chapter.
- (2) No licensee shall perform mechanical work in a category under which he or she is not licensed or work outside of the confinements of the required Medical Gas certification.
- (3) No licensee shall perform work contrary to any provision of the standards of installation as described in OAC 158:50-1-4, except as otherwise provided by law or rule. Each violation of the standards of installation in OAC 158:50-1-4 can be treated as a separate violation of this Chapter.
- (4) No person shall offer to engage in mechanical work during the period his or her license is suspended or revoked.
- (5) No employing mechanical firm shall employ or use an unlicensed or unregistered individual or entity to perform mechanical work.
- (6) No person, entity, or firm may transfer a license or registration.
- (7) No individual or entity, licensed pursuant to this Chapter shall enter into an agreement for the use of his or her license with any firm or person which is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Board.
- (8) No person shall make a materially false or fraudulent statement in an application for license.
- (9) No person may alter a license.
- (10) No licensee or registrant shall fail to notify the Administrator of a change in his or her address.
- (11) No licensee or registrant shall perform mechanical work without keeping their license or registration and any required certification on their person or in close proximity while performing mechanical work.
- (12) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.
- (13) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

- (b) The following prohibited acts apply to persons issued a contractor license:
 - (1) No licensee shall employ or supervise persons performing mechanical work unless those persons are licensed or registered to perform that category of work.
 - (2) No licensee shall allow any apprentice to perform mechanical work at the contractor's job site unless the apprentice will have direct supervision by a person licensed to perform in that category of mechanical work.
 - (3) No licensee shall allow more than three (3) apprentices per journeyman at a job site.
 - (4) No licensee shall fail to maintain a bond as provided for in OAC 158:50-5-3.
 - (5) No licensee shall fail to provide proof of financial responsibility to the Administrator as provided for in OAC 158:50-5-3(b).
 - (6) No licensee shall be associated with and responsible for more than one mechanical firm.
- (c) The following prohibited acts apply to persons issued a journeyman license:
 - (1) No licensee shall allow an apprentice under his or her direct supervision to perform mechanical work for which the journeyman is not licensed to perform.
 - (2) No licensee shall perform mechanical work except under the employment or supervision of a Mechanical Contractor.
 - (3) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for mechanical work.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:50-1-2 [AMENDED]

Subchapter 5. License Types, Limitations of Licenses, Contractor Special Requirements and Display of License Number and Firm Name

158:50-5-1 [AMENDED]

158:50-5-2 [AMENDED]

Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration

158:50-9-1 [AMENDED]

158:50-9-1.1 [AMENDED]

158:50-9-2 [AMENDED]

158:50-9-7 [AMENDED]

Subchapter 11. License Revocation or Suspension and Prohibited Acts

158:50-11-2 [AMENDED]

SUMMARY:

The proposed amendments to 158:50-1-2 add definitions related to a new category license type. There is no new fee. There is no additional licensing. Currently, fueled hearth product work requires a license. By separating fueled hearth product work into its own category license type, specialty workers on fireplaces would be able to take a smaller examination over only the fueled hearth product work instead of the larger examination over all the subjects of the HVAC/R license that would make it easier for fireplace workers to obtain licensing and protect the health, safety, and welfare of the public. HVAC/R licensees would continue to be able to perform the same work. The proposed amendment to 158:50-5-1 adds a license category related to fueled hearth product work. The proposed amendments 158:50-5-2 provide a description of the added license category and requirements. The proposed amendment to 158:50-9-1 is related to proof of examination related to the new license category. The proposed amendments to 158:50-9-1.1 are related to SB670 and provide a fee waiver for active duty military and their spouses and the proposed amendment to 158:50-9-2 provides a one-time low income fee waiver related to HB2933. The proposed amendments to 158:50-9-7 provide continuing education requirements for the new category license type. The proposed amendment to 158:50-11-2 provides further clarification to the public.

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.4, 1000.5, and 1850.3

COMMENT PERIOD:

Written and oral comments will be accepted until 4:30 p.m. on January 17, 2020, at the following address: Construction Industries Board, ATTN: Administrative Rules Division, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107. During the open public comment period, comments may be delivered during regular business hours or submitted via regular mail.

PUBLIC HEARING:

A Public Hearing is scheduled for 1:30 p.m. on Wednesday, January 29, 2020, at the monthly meeting of the Construction Industries Board which will be held in the Construction Industries Board Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone who wishes to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m. See "Additional Information" section below.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to the Administrative Rules Division through the close of the comment period on January 17, 2020, at the address shown below for obtaining copies of the proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rules are available at the Construction Industries Board, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107, or online at www.cib.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available beginning December 31, 2019, at the address listed above for obtaining copies of the proposed rules.

CONTACT PERSON:

Stephanie Brown, Board Secretary/Executive Assistant, 405-521-6550

ADDITIONAL INFORMATION:

If the monthly meeting of the Construction Industries Board scheduled for Wednesday, January 29, 2020, cannot be held due to inclement weather or lack of a quorum, the Public Hearing that would have occurred January 29, 2020, at that monthly meeting of the Construction Industries Board will be held instead at the monthly meeting scheduled for Wednesday, February 12, 2020, at 1:30 p.m., in the Construction Industries Board Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone who wishes to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m.