

IN THIS ISSUE...

- 1 President's Message
- 1 November Meeting
- 4 Editor's Notes
- 6 Ottaviano - Fate of Renewable Energy Credits
- 7 Welcome New Member
- 8 Pearl - Changes in NY Soc. Sec. Law
- 9 Richard Blackman Passes
- 10 Online Certificate in HVAC Res. Design
- 11 Registration Open for ACCA 2013 Expo
- 12 Enterprise - Where the Rubber Meets Road
- 13 Holiday Gala Promotion
- 14 Zisholtz - On Arbitration

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Greater New York Contractors' NEWS



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PLEASE ROUTE THIS PUBLICATION WITHIN YOUR ORGANIZATION

NOVEMBER 2012

President's Message



Michael Newman

Summer is now over and we are gearing up to perform all our winter installation work and seasonal change-overs. Before we know it heating season will be here.

This month we held our annual Management Round Table discussion. The topics discussed were social networking, tablet technology, inventory/refrigerants and best service technician stories. I would like to thank the moderators for leading the discussions and summarizing the topics. It was a great time and a well

Turn to President's Message on page 3

Thursday, November 1st Meeting



New York State Energy Research and Development Authority will present on diagnostic tools, cash incentives for contractors and how they can work for you!

NYSERDA's aim is to help New York meet its energy goals: reducing energy consumption, promoting the use of renewable energy sources, and protecting the environment.

Join your fellow ACCA members at this important meeting!

Westbury Manor
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Register Online at www.accany.org

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PRESIDENT'S MESSAGE

Continued from page 1

attended event. Next month, NYSERDA – New York State of Energy Research & Development Authority will provide a presentation of diagnostic tools for service and cash incentives for contractors. In December, we will have our annual Holiday party...more news to follow on the Holiday Party.

This year we will be focusing on increasing the membership within our organization and seeking out greater participation from our contractors, suppliers and associate members. If anybody has an idea or issue relating to our business and industry, please get in touch with us and we will make it happen. How can ACCA help you this year? Are there any issues or topics you want to hear about this year?

Please use ACCA as a networking experience and a place where you can bring the hottest and most relevant business topics back to your day to day operations. As I always say this year has been legendary.

Thank you for your support and I look forward to seeing you at the next meeting! — **Mike Newman**

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for news and information
www.accany.org**



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Editor's Notes

by Anthony N. Carbone

How professional does your "team" look? Recently, I have noticed some HVAC operations were trying to save money by eliminating the need and use of uniforms. Some companies believe it's a cost saving measure. It then puts the burden of laundry and the cost of uniforms on the back of the employee. I have found if left to the employees' discretion, that a wild assortment of what is acceptable can take place. And with that said, come the excuses of why these make-shift uniforms couldn't be business acceptable; from... "my wife doesn't do laundry every week," "I have to get to the laundry-mat," "I only own 3 pairs of pants," "My T-shirt got caught on a screw & ripped," Other companies offer "T" shirts as uniforms with company information imprinted on them.

As a residential contractor, I have found many of my customers would more likely feel comfortable with a professionally uniformed employee entering their homes. It is a formal protocol that I believe leads to more profits and most important... a level of professional respect that will get more recommendations! With employees, I try to equate them to the same as a baseball team or football team. I ask them if they went to a professional game and 9 of the players came out with different uniforms – some dirty, some ripped... how would they feel? Many were able to relate. What experiences have you had with your employees???

Please join us for the Annual Holiday Party this year at 420 North Restaurant. As always, it is a nice time to meet with old friends and associates of our industry. Hope to see you there and thank you for reading our monthly newsletter. —*Anthony N. Carbone*



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The Election and the Fate of Renewable Energy Tax Credits

By John Ottaviano – Air Ideal

A recent article in the New York Times echoed the death knell of the wind power industry as the result of both the new glut of shale gas and the sunset of wind turbine tax credits on December 31st. Of late, 10,000 wind turbine jobs have evaporated in an industry that relies on those credits and the high cost of fossil fuels to remain competitive. Whether or not the renewal of this credit will ever be considered will surely depend upon the outcome of the election not only of the next President, but also in the House and Senate. Mr. Romney has said that one of the priorities of his administration will be to clear the way for the Keystone XL pipeline, shale hydrofracture exploration and eliminate tax burdens created by renewable energy tax credits.

If this is indeed the case, the future of both the solar and geothermal industries then is in the hands of the electorate. Of course, it would take a majority of the House and Senate to renew such tax credits, but without them, both the Solar and Geothermal industries will go the way of Wind. Right now, with the glut of cheap natural gas created by stockpiles from fracking, geothermal HVAC is a very hard sell against gas. Based upon ROI projections, payback periods in the northeast versus fuel oil can be any where in the 3 to 6 year range with the inclusion of a 30% Federal Tax Credit. Natural gas, however, has plummeted in cost per therm over the past 3 years and now can get extended out past 10 years, making it hard to compete against. Without the Tax Credits, the growth of the geothermal industry would sputter. These tax credits expire in 2016, so the jury is out on what will happen to them, but certainly Solar and Geothermal cannot compete without incentives. The Romney energy plan focuses mainly on oil, gas, coal and nuclear energy, which together meet 91% of current US primary energy demand. Little has been said about Federal Tax Credits for consumer energy efficiency in Romney's energy policy prospectus, although he has called upon the expiration of the wind tax credits. The Romney and GOP platform focuses almost entirely on exploiting America's vast fossil-fuel resources. This 21 page white paper takes

some in-depth reading, but does not specifically call for the end to all renewable energy tax credits.

Romney's paper says only that his policy is to, "Ensure that policies for expanding energy development apply broadly to energy sources, from oil and gas exploration, to coal mining, to the siting of wind, solar, hydroelectric, and other renewable energy facilities." In criticizing the current administration's policy on renewables, the paper goes on to say that "President Obama's poor understanding of the private sector has spilled directly into his energy policy, as he sought to have government play venture capitalist and spend billions of dollars subsidizing his chosen companies and technologies."

But the most revealing statement that Romney has issued in his policy that may project the end of renewable subsidies is as follows:

"Instead of distorting the playing field, the government should be ensuring that it remains level. The same policies that will open access to land for oil, gas, and coal development can also open access for the construction of wind, solar, and hydropower facilities. Strengthening and streamlining regulations and permitting processes will benefit the development of both traditional and alternative energy sources, and encourage the use of a diverse range of fuels including natural gas in transportation. Instead of defining success as providing enough subsidies for an uncompetitive technology to survive in the market, success should be defined as eliminating any barriers that might prevent the best technologies from succeeding on their own."

I asked Geoffrey Styles, a noted energy industry consultant and strategist, for his view on what a GOP victory would mean for the renewable tax credits:

"Repeal would be hard, but developers and manufacturers should certainly plan on the basis that 12/31/16 represents true sunset for the renewable investment tax credit. Here's one reason why: Assume 5,000 MW of solar installed per year @\$2/W by then. That's \$3B/yr in tax credits—roughly equal to the entire current oil & gas tax incentives—for an energy stream equivalent to about 30,000 bbl/day of oil, but less flexible." •



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October Membership Meeting

Social networking, tablet technology, inventory/refrigerants and best service technician stories topped the list of discussions at our Technology Roundtable on October 4th. Camaraderie and networking filled out the program. Were you there? You should have been. It was a worthwhile evening!



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Changes to the New York Social Security Protection Law

The New York Social Security Protection Law was recently amended to prohibit employers from requiring employees to disclose or furnish their social security numbers. This change becomes effective on December 12, 2012.

The Existing Law

The law was originally enacted in 2006. Among other things, the law prohibits employers from making their employees' social security numbers available to the general public, printing employees' social security numbers on cards or tags required for the employees to access services or benefits, or requiring employees to transmit their social security numbers over the internet, unless the connection is secure or the numbers are encrypted.

The New York State Attorney General has the sole authority to pursue violations of these prohibitions. An

employer found to have violated one of the prohibitions may be fined up to \$1,000 for a single violation and up to \$100,000 for multiple violations resulting from a single act or incident. Second-time offenders face substantially higher fines. Importantly, the law allows employers to escape liability if they can prove that they maintained reasonable procedures to prevent a bona fide error and the violation at issue was unintentional and resulted from a bona fide error that occurred despite the maintenance of such procedure.

The New Rules

The recent amendments to the law have created an entirely new section, which bars employers from requiring employees to disclose their social security numbers. Prior to the enactment of the amendments, the Social Security Law's limitations in this area were limited. The new section, however, provides broad restrictions.

Notably, the new section not only makes it unlawful for employers to require employees to provide their full nine-digit social security numbers, but it also prohibits employers from forcing employees to disclose any "number derived from such number(s)." This means that an employer may not even require its employees to disclose the last four digits of their social security number.

Although the new section's protections are broad, there are some exceptions. For example, the prohibition against

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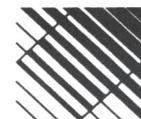
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- The social security number is requested for determining whether or not a person has a criminal record.
- The social security number is requested for purposes of employment including in the course of administration of a claim, benefit, and procedure related to the individual's employment, including the individual's termination from employment, retirement from employment, injury suffered during the course of employment, and or to check on an unemployment insurance claim of the individual.
- The social security number is requested for purposes of furnishing information to the Centers for Medicare and Medicaid Services by an authorized insurer.

The new section is enforced by the New York State Attorney General. An employer may be fined up to \$500 for a first offense, and \$1,000 for a second offense. Significantly, this section also provides that an unintentional violation caused by a bona fide error will not result in penalties if the employer implemented reasonable measures to avoid such an error.

Layoffs and Terminations

The federal WARN Act has been on the books for years and covers employers with at least 100 full-time workers. However, it has recently come to our attention that many employers are unaware of New York's mini-WARN statute.

The state WARN Act covers companies that employ at least 50 full-time workers. Among other things, the law requires employers to provide 90 days notice to affected employees before laying off 25 or more full-time workers at a single site of employment during any 90 day period where the number of affected workers composes at least 33% of the workers at that site, laying off 250 or more workers at a single site of employment during any 90 day period, or permanently or temporarily closing down a single site of employment, resulting in 25 or more employees at that site being laid off or terminated during any 90 day period. If an employer's actions trigger the state WARN Act, the employer must also provide 90 days written notice to the representative(s) of affected employees, the commissioner of labor, and the local Workforce Investment Board(s) where the site of employment is located.

If you have questions about any of the material covered in this article, please feel free to contact me at Abpearl@pmpHR.com or (516) 921-3400. •

Richard Blackman Passes

Richard Blackman, 79, chairman of the board at Blackman Plumbing Supply Co. died on September 19, 2012.

Blackman joined Blackman Plumbing in the early 1950s, working initially at the company's Flushing, N.Y. branch where he learned every facet of the business. In 1975, he succeeded his father and company founder Sam Blackman, as CEO. Over the next 37 years, Blackman was instrumental in the diversification of the company from basic plumbing and water works supplies to air conditioning, heating and the retail showroom business, including bath and kitchen design services.

He also was a key driver in the company's expansion, which include 22 branches and showrooms located throughout the metropolitan New York area, as well as a newly constructed distribution center and corporate headquarters in Bayport, N.Y.

"All of us at Blackman are deeply saddened by this profound loss," said President Robert Mannheimer. "Mr. Blackman was a visionary who grew the company from a small plumbing supply shop founded by his father in 1921 in New York City to its current position as a market leader. Mr. Blackman inspired all of us with his leadership and dedication and will be deeply missed." •



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New Online Certificate in Residential HVAC Design

Fully Online Class Covers Concepts Required for "Quality Installation"; In-Person Program Also Available

ACCA has launched a new education initiative to make professional, consistent training available to industry professionals all over the country. ACCA's first online certificate program, "Residential HVAC Design for Quality Installation," is available 24/7 to interested learners at <http://residentialdesignhvac.com>, offering a thorough grounding in the concepts required to properly design a residential air conditioning system.

Quality Installation (QI) of residential HVAC is built on the fundamentals of sound system design using ANSI-approved standards such as ACCA Manual J (Load Calculation) and ACCA Manual D (Residential Duct Design). QI requirements, as outlined in ANSI/ACCA Standard 5 (the HVAC Quality Installation Specification), are increasingly incorporated into codes, state, and local government rules, utility rebate programs, federal incentive programs (including ENERGY STAR for New Homes), and others.

"Builders and homeowners expect HVAC systems to be installed according to QI principles," said Paul T. Stalknecht, ACCA President & CEO. "But QI starts with the design process — you can't install it right if you don't design it right!"

Modern HVAC system design is a complex process, requiring the use of ACCA-approved software to be fully compliant with codes and best practices. "However," Stalknecht says, "expecting software to produce an accurate HVAC system design is like expecting Microsoft Word to produce a bestselling novel! Just because you can type, doesn't mean you can write. And just because you can enter some values in a field, doesn't mean that they are the right values and they will probably produce a wrong result. Software is a tool that can and should be used. But if you don't fully understand the concepts and principles of Manual J and Manual D, you will not get software to produce an accurate load calculation. This class provides you the knowledge you

need to understand Manual J, Manual D, and the HVAC QI Specification."

The ACCA Certificate in Residential HVAC Design for Quality Installation is a unique program that will ensure that industry professionals fully understand how to apply current Manual J and Manual D principles, which are required to successfully use software in the design process. The certificate is currently available through three methods:

A fully online class, which can be taken at the learner's leisure. This online class features over 18 hours of video training, 28 interactive exams, and a final exam that must be taken and passed successfully within 180 days of enrollment (and once it is passed, the learner will be able to access his or her certificate and transcript online). Developed by noted technical trainer Jack Rise, who has created many successful computer video training modules for ACCA, learners who sign up for this class will be able to ask questions of the instructor as they go along. The fee for this class and certificate starts at only \$495 per learner and can be purchased at <http://ResidentialDesignHVAC.com>.

An in-person, three-day class, held a few times a year at ACCA's headquarters near Washington, DC, which covers the same material in an intensive format for those who prefer live interaction with an instructor and fellow students in a small class experience. The fee for this class and certificate starts at \$895 per learner. The next class will be held November 6-8; learn more and register at <http://ResidentialDesignHVAC.com>.

For those seeking to train a larger number of personnel, ACCA also offers a number of private training options, where the association will arrange to bring an in-person class to your facility. Fees vary. Learn more at <http://ResidentialDesignHVAC.com>.

The ACCA Certificate in Residential HVAC Design for Quality Installation is awarded to those who successfully complete one of the three options above. Because of constantly changing standards in the HVAC industry, the certificate will expire five years from its date of issuance and must be renewed.

"This is ACCA's first 'official' certificate program, but it will not be our last, as ACCA is committed to professional learning that helps contractors and industry professionals exceed their customers' expectations while installing and maintaining first-class, efficient, and effective systems," said Kevin Holland, ACCA Senior Vice President for Business Operations & Membership. "Future certificates already under development include Residential Equipment Selection, Light Commercial HVAC Design, and more."

For more information, visit <http://ResidentialDesignHVAC.com>. •



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Registration Open For ACCA 2013 And IE3 Expo

ACCA, the nation's largest organization of indoor environment and energy services contracting businesses, has opened registration for ACCA 2013, the Business Solutions Conference for Indoor Environment Contractors. The 45th annual event is being held in conjunction with IE3: The Indoor Environment & Energy Expo (formerly the Indoor Air Expo), in Orlando, Florida from February 26 through March 2, 2013.

ACCA 2013 is the largest educational event for the HVACR contracting industry. This year there will be an expanded number of learning labs to help contractors improve business operations, increase bottom line profits, and reach new levels of success. Topics will cover residential and commercial contracting, refrigeration, radiant and hydronics, business operations, building performance, and quality assurance. Some of the learning labs scheduled are:

Using Social Media & Online Reviews To Catapult Your Company To The Next Level

Partnering with Your Commercial Clients

The Whole Building Approach Business Opportunity

Quality Installations Lead The Way

The How-Tos & Pitfalls Of Hiring & Firing

Integrating Hydronics into a Forced Air HVAC Business

A full list of scheduled learning labs is available at www.accaconference.com/education.

ACCA has scheduled one of the nation's most sought-after keynote speakers to create a well-rounded educational experience. The event will open up with Mark Scharenbroich, who has helped business owners all over the world to make the important connections they need to be successful. Using his "Nice Bike" principle he will help contractors connect management to the front line — connect team member to team member — company to customer — and educator to student.

ACCA has also added a special "Service Leadership Day" on March 2, featuring Dennis Snow, the man who created the consulting division of the Disney Institute. He will share the secrets for managing world class customer service. While this event is included in the price of a full conference registration, it has a limited number of seats available and requires advance registration.

To make sure that participating contractors leave the event armed with valuable information to drive their businesses in the future, ACCA is recording all of the conference presentations and workshops. Those who purchase a full, "first employee" registration before December 1, 2012, will receive the full Learning Labs DVD set for free after

the conference.

"It's impossible to remember everything you learn at an event like our conference, so as we have done in the past, we are offering a free DVD of all the sessions to attendees who register early," says Paul T. Stalknecht, president and CEO. "It's a great way for us to thank them for attending and it helps them refresh their learning experiences, and share valuable information with the top leaders in their companies who may not have been able to attend. Register early and you'll be guaranteed a copy."

Full conference registration includes all of the learning labs, sessions, and forums, as well as passes to IE3 and the evening Chairman's Banquet. Many other meals, parties and other special events are included with registration. The different registration options are detailed at www.accaconference.com/register.

IE3: The Indoor Environment & Energy Expo is the industry's biggest and fastest growing marketplace and product showcase. In 2013, IE3 is co-presented by ACCA, the Indoor Air Quality Association, and RESNET. The show floor is filling up fast, as HVACR suppliers gear up to present contractors the latest in improvements and technological advances aimed to make contractors' businesses more efficient and productive. More than 3,000 decision makers in the indoor environment and energy services industry will be converging in Orlando. It is an audience that is eager and ready to explore new products, technology, and ideas. For more information about exhibiting and sponsoring, contact Tom Murphy at tom.murphy@acca.org or 703-824-8875.

On February 26 attendees can participate in the ACCA Golf Classic at the Hawk's Landing Golf Club for \$175. This optional event will benefit the HVACR Development Workforce Foundation and requires pre-registration as there are only a limited number of spaces. You can learn more about this special golf outing at www.accaconference.com.

The official hotel of ACCA 2013 is the Marriott World Center in Orlando, Florida. You can book your room at the special ACCA rate of \$215 per night plus applicable taxes, www.accaconference.com or by calling 800-621-0638 and mentioning ACCA. Do not wait to book your room, because this rate is only good until February 4, 2013 or when our block is sold out, whichever comes first.

Complete program information, including accommodation and schedule details, may be found online at www.accaconference.com.

Check the ACCA national website, www.acca.org, regularly.

Safety: Where the Rubber Meets the Road

By Kelly Hiner

Rock performer Meat Loaf sings about it and the National Highway Traffic Safety Administration (NHTSA) studies it. Although, over the years the idiom “where the rubber meets the road” has been used to describe the “moment of truth,” it actually refers to the tires on the surface of the road. And, when it comes to driver safety—both meanings are appropriate.

“Studies of tire safety show that maintaining proper tire pressure, observing tire and vehicle load limits (not carrying more weight in your vehicle than your tires or vehicle can safely handle), avoiding road hazards, and inspecting tires for cuts, slashes, and other irregularities are the most important things you can do to avoid tire failure, such as tread separation or blowout and flat tires,” states an NHTSA booklet.

Under-inflated tires and low tread depth are cited by NHTSA as the most significant tire problems contributing to an increase in collisions. While under-inflated tires lead to poor vehicle handling, tires with low tread depth have less traction on the road, especially when roads are wet. Both can result in loss of vehicle control.

In addition, over-inflation can make tires more susceptible to road hazard damage that can also impact vehicle handling, and overloading a vehicle can create excessive stress and heat, leading to tire failure. It’s important to note that tire inflation pressure increases in warm weather and decreases in cold weather as much as one to two pounds for every 10

degrees of temperature change.

There is no substitute for good maintenance measures:

- *Observe guidelines for inflation pressure. Using a quality tire gauge, check tire pressure at least once a month and before any long road trips. The best time to check pressure is when tires are cold. For the proper cold-tire inflation pressure for individual vehicles, check the Owner’s Manual and/or the tire placard located inside the front driver side door.*
- *Rotate tires regularly. Just rotating tires regularly can extend tire life by as much as 20 percent. A good rule of thumb is to rotate tires during every other oil change, or more frequently depending on driving habits and road conditions. A rotation schedule may be suggested in the Owner’s Manual.*
- *Inspect tires monthly. Check tires on all vehicles monthly, paying particular attention to signs of wear or visible damage, as well as ensuring all valve caps are in place to help keep out dirt and moisture.*
- *Maintain vehicles “by the book.” Many vehicle components, including shocks, struts and brakes, can affect the tire’s performance. Ensure company vehicles are inspected regularly and follow the recommended maintenance schedule listed in the Owner’s Manual or provided by your fleet maintenance management provider.*

Because tires are the only thing separating vehicles from the road, it’s extremely important to make sure they are in the best possible condition at all times. Manufacturers emphasize the need to select tires of the same brand, line, size, speed rating, load index and load range when replacement is needed. Failure to use equivalent replacement tires may adversely affect the safety, handling and vehicle performance.

When it comes to tire safety and maintenance, NHTSA sums up the benefits: “Proper tire care and maintenance can improve vehicle handling, help protect you and others from avoidable breakdowns and accidents, improve fuel economy and increase the life of your tires.”

Kelly Hiner is Group Sales Manager for Enterprise Fleet Management in New York and can be contacted at 973-709-2499. Visit the company’s web site at www.enterprisefleet.com or call toll free 1-877-23-FLEET. •

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Statement From Stuart S. Zisholtz, Esq.

On Arbitration

Over the years I have written many articles about how egregious arbitration is in the construction community. Every contract which contains an arbitration clause should have the clause stricken. The reasons for that, from a legal point of view, are that you are subject to the whims and idiosyncrasies of the Arbitrator.

For instance, the ordinary rules of evidence do not apply in an arbitration. If a contractor writes you a letter telling you the project is delayed, work was inferior and that he is the best contractor on the face of the planet, the letter is admissible in an arbitration for "whatever it is worth." What that means and how it is applied by the Arbitrator is unknown to everyone.

An Arbitrator does not have to explain his decisions while a Judge in the Supreme Court has to set forth findings of fact and conclusions of law. A Judge has to breakdown the various aspects of the claim and explain how it is applicable to this and how much is applicable to that. Moreover, a Judge's decision is appealable. An Arbitrator's decision is not. In the most unusual and unique situation, an arbitration award will be modified or reversed. Usually, however, it is set in stone

and you are bound by the determination.

Finally, the cost for arbitration far exceeds the cost for an action instituted in the courthouse. They are not even close to being similar.

The reality of the situation is the arbitration process could be horrific. If you win, you obviously believe that arbitration was quick and worthwhile. If you lose, however, the result could be catastrophic since the determination is not appealable. No matter how you slice it, the cost associated with arbitration is gut wrenching.

Never let your lien time run out!

For a free copy of our pamphlet pertaining to mechanic's liens and payment bond claims, kindly contact me or the association.

Stuart S. Zisholtz is a partner in the law firm of Zisholtz & Zisholtz, Mineola, New York, a general practice firm specializing in Construction Law and Mechanic's Liens. He is also a member of the Greater New York Chapter, ACCA. He can be reached at 516-741-2200. •

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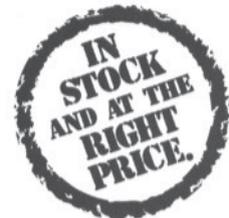
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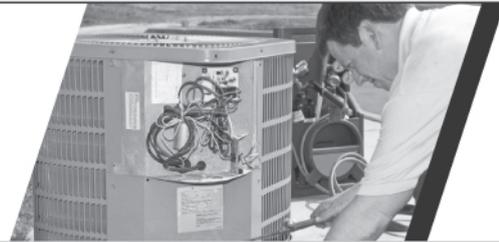
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