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N.J.A.C. 13:31-4.1

Notice of Action on Petition for Rulemaking

State Board on Examiners of Electrical Contractors

Petitioner: Darren Reaman, Director of Government Affairs, CEDIA.

Authority: N.J.S.A. 45:1-15.1.

[page=345] **Take notice** that on October 14, 2016, the State Board of Examiners of Electrical Contractors (Board) received a petition for rulemaking from Darren Reaman, Director of Government Affairs, on behalf of the Custom Electronic Design & Installation Association (CEDIA), requesting that the Board amend its rule governing the limited telecommunications wiring exemption. The petitioner proposed that the Board amend N.J.A.C. 13:31-4.1 to add a new exemption for the design, installation, integration, erection, repair, maintenance, or alteration of products that transport voice, video, audio, and data signals in residential premises.

CEDIA is the professional trade association of companies that specialize in designing and installing electronic systems for the home. These systems include home networking, home automation and communication systems, media rooms, and single or multi-room entertainment systems. CEDIA members include home technology professionals, manufacturers, industry-related professionals, professional services, and manufacturer representatives, and range from small, independent electronic systems contracting firms to large multi-national manufacturers.

According to the petitioner, its interest in the petition for rulemaking is to clarify a "confusing regulatory scheme" that is outpaced by 21st century technological developments and consumer demands. The petitioner notes that the limited telecommunications wiring exemption was created in 1993 with few or no substantial changes since. The petitioner believes that, in an industry as dynamic as technology, changes must be made to adapt with the times. The petitioner further believes that recent regulatory changes and pending legislation are an attempt to narrow the scope of the limited telecommunications wiring exemption.

The petitioner believes that the work of home technology professionals is not properly classified under existing New Jersey law. It states that its members are typically registered as home improvement contractors, but there is no specific license that embodies the work of home technology professionals. The petitioner further notes that its members work either through the "less than 10 volts" threshold set forth at N.J.S.A. 45:5A-18(j), or the limited telecommunications wiring exemption. The petitioner states that it supports licensing for home technology professionals when the license properly represents the specific skills for the work they complete.

The petitioner notes that, with the convergence of technology, applications and capabilities within the home have increased. The petitioner also states that the skills needed for home technology professionals have evolved and grown with the capabilities of residential electronic systems. In addition, the petitioner believes that having electronic systems work fall under the scope of an electrical contractors' license, a burglar alarm business license, or any other existing professional license does not properly represent and support the residential electronic systems industry.

The petitioner states that New York, Connecticut, Pennsylvania, Massachusetts, New York City, and Philadelphia have licenses or exemptions that address the low-voltage electronic systems industry. The petitioner further notes that the wired infrastructure used in today's modern residential technology systems is not in place to deliver electricity, but rather to deliver information and intelligence in the form of voice, data, audio, and video systems. The petitioner believes that these complex systems require well-trained and technologically astute home technology professionals, who understand not only the intricacies of installing these systems, but also how to integrate these systems, so they work in conjunction with each other through the ease of a single control device. The petitioner believes that residential electronic systems do not pose a hazard from a shock or fire initiation standpoint as defined in the National Electric Code.

The petitioner recommends amending N.J.A.C. 13:31-4.1 pursuant to the Board's statutory authority at N.J.S.A. 45:5A-18, which sets forth exemptions from the requirements of the Electrical Contractors Licensing Act of 1962. The petitioner notes that this statute expressly authorizes the Board to "also exempt from the business permit provisions of this act such other electrical activities of like character which in the Board's opinion warrant exclusion from the provisions of this act." In addition, the petitioner cites N.J.S.A. 45:5A-6, which expressly authorizes the Board to "adopt and amend all rules and regulations not inconsistent with the Constitution and laws of this State which may be reasonably necessary for the proper performance of its duties and the purposes of this act and for the conduct of the proceedings before it."

In further support of its petition, the petitioner refers to the regulatory history of the limited telecommunications wiring exemption (see 24 N.J.R. 339(a); 25 N.J.R. 705(a)). Specifically, the petitioner notes that the Board, at the time of rule adoption, did not impose a voltage limit for the exemption. In addition, the petitioner notes that one commenter noted that, at the time of the statute's enactment in 1992, the "interconnect" industry (as it was known in 1992) was virtually non-existent and that, without an exemption, smaller companies would be unable to compete with larger companies if the regulatory scheme required the subcontracting of telecommunications wiring work to electrical contractors. The petitioner believes that this comment is precisely why, nearly 25 years later, the telecommunications wiring exemption needs to be modernized. The petitioner further states that technology has far outpaced the regulations and that modernization of the rule is long overdue. The petitioner notes that the internet, along with wireless technology, has almost completely replaced telephone wiring in today's residences, and that consumers have dozens of wireless devices using their home network, which have grown increasingly advanced and yet remain quite safe.

The petitioner believes that, given this growing marketplace, it is not a surprise that smaller businesses are concerned that the existing antiquated regulatory scheme works to their disadvantage. The petitioner also states that, if home technology professionals cannot work within the existing limited telecommunications wiring exemption and cannot work with products in excess of 10 volts, their well-established businesses are jeopardized by larger companies who can more easily afford the additional expenses. The petitioner believes that,

such a result, would not only close hundreds of small businesses in New Jersey, but would also result in unnecessary expense to New Jersey consumers who seek to employ advanced technologies in their homes.

The petitioner states that: 1) home technology professionals are contractors who work on connected home technology to give customers a seamless experience; 2) home technology professionals design and install electronically enhanced living environments, such as home theaters, media rooms, and whole-house installations and the technology is a conduit for information and intelligence in the form of voice, video, audio, and data signals; 3) with the convergence of technology, the proposed amendment represents the current technologies that home technology professionals design, install, and integrate on residential projects on a daily basis; and 4) the work of home technology professionals is more akin to that of information technology professionals than electrical contractors. Based on the foregoing, the petitioner requests that the Board amend N.J.A.C. 13:31-4.1 by adding a new subsection (c) with the following text:

"For purposes of this subsection, this exemption applies to the design, installation, integration, erection, repair, maintenance, or alteration of products that transport voice, video, audio, and data signals in residential premises."

On December 7, 2016, the Board referred this matter to its Rules and Regulations Committee for further deliberation to develop a better understanding of the implications this request would have for licensees, registrants, other professional licensees, and the welfare and safety of the general public. A notice acknowledging the Board's action on December 7, 2016, was filed with the Office of Administrative Law and was published in the New Jersey Register on January 3, 2017, at 49 N.J.R. 147(d).

Take further notice that, on January 19, 2017, the Board and petitioner agreed to an extension until September 18, 2017, for the Board to further deliberate on the petition for rulemaking, consistent with the requirements of N.J.A.C. 1:30-4.2(b).

A copy of this notice has been mailed to the petitioner pursuant to N.J.A.C. 1:30-4.2.