

## 54 N.J.R. 85(a)

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### RULE ADOPTIONS

#### Reporter

54 N.J.R. 85(a)

*NJ - New Jersey Register > 2022 > JANUARY > JANUARY 3, 2022 > RULE ADOPTIONS > LAW AND PUBLIC SAFETY -- DIVISION OF CONSUMER AFFAIRS*

#### Agency

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LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > STATE BOARD OF EXAMINERS OF HEATING, VENTILATING, AIR CONDITIONING AND REFRIGERATION CONTRACTORS

#### Administrative Code Citation

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**Adopted Amendments: N.J.A.C. 13:32A-1.1 and 1.2**

#### Text

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##### **Bona Fide Representative**

Proposed: June 17, 2019, at 51 N.J.R. 910(a) (The notice of proposal would have expired on June 17, 2020, but was extended by Executive Order No. 127 (2020) and P.L. 2021, c. 103, to January 1, 2022).

Adopted: July 6, 2021, by Michael Maloney, President, State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors.

Filed: November 29, 2021, as R.2022 d.001, **without change**.

Authority: N.J.S.A. 45:16A-4; and P.L. 2018, c. 125.

Effective Date: January 3, 2022.

Expiration Date: February 4, 2027.

##### **Summary of Public Comment and Agency Response:**

The official comment period ended August 16, 2019. The Board received a comment from Eric DeGesero, Executive Vice President, Fuel Merchants Association of New Jersey.

COMMENT: The commenter supports the amendments at N.J.A.C. 13:32A-1.1 and 1.2.

RESPONSE: The Board thanks the commenter for his support.

### **Federal Standards Statement**

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted amendments.

**Full text** of the adoption follows:

#### SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

##### 13:32A-1.1 Purpose and scope

(a)-(b) (No change.)

(c) This chapter shall not apply to:

[page=86] 1. Any public utility company regulated by the Board of Public Utilities or any related competitive business segment of that public utility that offers competitive services pursuant to the Electric Discount and Energy Competition Act, P.L. 1999, c. 21 (N.J.S.A. 48:3-49 et seq.);

2. A related competitive business segment of a public utility holding company that offers to provide or provides competitive services pursuant to the Electric Discount and Energy Competition Act, P.L. 1999, c. 23 (N.J.S.A. 48:3-49 et seq.); or

3. HVACR work performed on buildings, structures, or premises owned or operated by a public utility holding company or its subsidiaries.

(d)-(f) (No change.)

##### 13:32A-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

"Bona fide representative" means a licensed master HVACR contractor who:

1. Has not less than one percent ownership of the issued and outstanding shares of stock in a corporation, not less than one percent ownership of the capital of a partnership, or not less than one percent ownership of any other firm or legal entity engaged in HVACR contracting in this State; or

2. Is, if the entity engaged in HVACR contracting generates more than 65 percent of its gross revenue from sources other than HVACR contracting or if the entity is a publicly traded corporation, including its wholly owned subsidiaries, whose principal business in this State is HVACR contracting:

i. In the case of a sole proprietorship, the owner of the business;

ii. In the case of a partnership, a partner in the business;

iii. In the case of a limited liability company, a manager; or

iv. In the case of a corporation, an executive officer.

...

"One percent ownership" means that a bona fide representative is entitled to one percent of any net profits from a business, owns one percent equity in a master HVACR contractor, and is entitled to one percent of the net proceeds from the sale of a business in the event of sale of the business. If the master HVACR contractor is a corporation, the bona fide representative owns stock equaling one percent equity interest, and, if there is more than one class of stock, the stock owned by the bona fide representative is the highest level stock with full voting rights.

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