

53 N.J.R. 1282(a)

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RULE ADOPTIONS

Reporter

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Agency

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

Administrative Code Citation

Adopted Amendments: N.J.A.C. 13:32A-1.2 and 2.2

Text

Apprenticeship Programs

Proposed: May 4, 2020, at 52 N.J.R. 1011(b). (The notice of proposal would have expired on May 4, 2021, but was extended by Executive Order No. 127 (2020) and P.L. 2021, c. 104, to January 1, 2022.)

Adopted: October 6, 2020, by the State Board of Examiners of Heating, Ventilating, Air Conditioning, and Refrigeration Contractors, Michael Maloney, President.

Filed: July 6, 2021, as R.2021 d.081, **without change.**

Authority: N.J.S.A. 45:16A-4; and P.L. 2018, c. 99.

Effective Date: August 2, 2021.

Expiration Date: February 4, 2027.

Summary of Public Comments and Agency Responses:

The official comment period ended July 3, 2020. The State Board of Examiners of Heating, Ventilating, Air Conditioning, and Refrigeration Contractors (Board) received comments from the following individuals:

1. Omar Daibes
2. Russel J. McEwan, Littler Mendelson, P.C.
3. Brian Riggs, Executive Director, NJ ACCA

1. COMMENT: A commenter recommends that plumbing apprenticeships be recognized along with apprenticeships for steamfitters, pipe fitters, and sheet metal workers as qualifying an individual as a heating, ventilating, air conditioning, and refrigeration (HVACR) journey person. The commenter points out that plumbing apprenticeships address hydronic heating and believes that there is a lot of similarity between plumbing and HVACR.

RESPONSE: The Board points out that, pursuant to P.L. 2018, c. 99, steamfitter, pipe fitter, and sheet metal worker apprenticeships are training programs that are considered HVACR apprenticeships. Plumbing apprenticeships are not specifically recognized at P.L. 2018, c. 99. A training program that is not specifically recognized at P.L. 2018, c. 99, could qualify as an HVACR apprenticeship if apprentices in the training program have studied and performed the majority of the topics addressed in the definition of HVACR at N.J.S.A. 45:16A-2 during the apprenticeship. While the Board does not believe that a plumbing apprentice will necessarily have studied and performed the majority of HVACR training requirements during the apprenticeship, the Board will review applications from individuals who completed plumbing apprenticeships on a case-by-case basis to determine if the applicant has completed an apprenticeship that includes the study and performance of the majority of HVACR and is, thus, qualified to become an HVACR journey person and to take the licensing examination.

2. COMMENT: Two commenters contend that the New Jersey Public Works Contractor Registration Act requires public works contractors to [page=1283] certify participation in a United States Department of Labor-approved apprenticeship program for each classification of worker employed on a public works jobsite. The commenters also contend that New Jersey prevailing wage law only recognizes one classification for HVACR contractor work, the Air Conditioning and Refrigeration Services and Repair classification. This classification only applies to service, repair, and maintenance work for existing facilities; replacement or installation of air conditioning equipment that does not exceed 25 tons or refrigeration equipment that does not exceed 15 tons; and replacement or installation of packaged or unitary rooftop-type units that do not exceed 75 tons. The commenters contend that the Air Conditioning and Refrigeration Service and Repair classification may not be used for work in new construction and that a master HVACR contractor who performs work in new construction must classify the work

performed by apprentices under a different classification, such as a plumber/pipefitter or as an electrician. The commenters are concerned that New Jersey law could be interpreted as requiring HVACR apprentices to participate in HVACR apprentice programs and numerous other programs, such as plumber/pipefitter or sheet metal worker. The commenters believe that the amendments at N.J.A.C. 13:32A-1.2 and 2.2 mean that participating in a steamfitter, plumber/pipefitter, or sheet metal worker apprenticeship program is equivalent to participating in an HVACR apprenticeship program and support the amendments.

RESPONSE: The Board takes no position with regard to the accuracy of the commenters' statements on the New Jersey Public Works Contractor Registration Act or New Jersey prevailing wage law. The commenters are correct in their belief that the amendments at N.J.A.C. 13:32A-1.2 and 2.2 mean that a steamfitter, pipefitter, or sheet metal worker apprenticeship program is equivalent to an HVACR apprenticeship program. As discussed above, the Board is not convinced that a plumbing apprenticeship is the equivalent to an HVACR apprenticeship and will review applications from individuals who completed plumbing apprenticeships on a case-by-case basis to determine equivalency.

3. COMMENT: A commenter recommends that, in order to address gaps between the New Jersey Public Works Contractor Registration Act and Prevailing Wage Act, the Board amend the first sentence of the definition of "master heating, ventilating, air conditioning, and refrigeration contractor" or "master HVACR contractor" to add the following statement to the end of the sentence: "including the performance of tasks within the jurisdiction of skilled building trades such as but not limited to Electricians, Heat & Frost Insulators, Plumbers/Pipefitters, Sheet Metal Workers and Steamfitters."

RESPONSE: It is not within the Board's purview to address any gaps between the New Jersey Public Works Contractor Registration Act and Prevailing Wage Act. The Board points out that the definition of "master heating, ventilating, air conditioning, and refrigeration contractor" is taken from N.J.S.A. 45:16A-2 and that it does not believe it is appropriate to change the statutory definition as the commenter recommends.

4. COMMENT: A commenter recommends that, since the terms "plumber" and "pipefitter" are interchangeable for prevailing wage purposes, the Board amend all of N.J.A.C. 13:32A to change the term "pipefitter" to "plumber/pipefitter."

RESPONSE: As discussed in the Response to Comment 3, the Board does not believe that a plumbing apprenticeship is automatically equivalent to an HVACR apprenticeship. The Board does not believe that the terms

"plumber" and "pipefitter" are interchangeable for the purposes of HVACR apprenticeships. The Board does not believe it is appropriate to amend N.J.A.C. 13:32A, as the commenter recommends.

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:

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.

. . .

"HVACR apprentice" means a person who is enrolled in an HVACR apprenticeship or other training program including, but not limited to, steamfitter, pipefitter, or sheet metal apprenticeship programs, approved by the United States Department of Labor and who engages in the installation, alteration, repair, service, or renovation of HVACR systems under the supervision of a Master HVACR contractor as part of that apprenticeship or other training program and who has studied and performed the majority of HVACR practices.

"HVACR journey person" means any person who installs, alters, repairs, services, maintains, or renovates HVACR systems and who works under the supervision of a Master HVACR contractor and has studied and performed the majority of HVACR practices.

"Master heating, ventilating, air conditioning, and refrigeration contractor" or "Master HVACR contractor" means any person licensed by the Board who obtains a pressure seal and advertises, undertakes, or offers to undertake for another, the planning, laying out, supervising, installing, servicing, maintaining, renovating, testing, commissioning, starting-up, or repairing of HVACR systems, apparatus, or equipment. In order to act as a "Master HVACR contractor," an individual shall be a bona fide representative of the legal entity licensed pursuant to the provisions of this chapter and shall have studied and performed the majority of HVACR practices.

. . .

SUBCHAPTER 2. APPLICATION FOR LICENSURE

13:32A-2.2 Education requirements

(a) An applicant for licensure as a master HVACR contractor shall complete one of the following:

1. Five years of employment in the HVACR contracting business, which consists of:

i. Four or more years in an HVACR apprenticeship or other training program including, but not limited to, steamfitter, pipefitter, or sheet metal apprenticeship programs, approved by the United States Department of Labor, which includes education in the proper management of chlorofluorocarbons and other refrigerants, including high global warming potential gases, and education in propane services that meets the requirements of (c) below; and

ii. (No change.)

2.-3. (No change.)

(b) - (c) (No change.)

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