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ISSUE DATE: **FEBRUARY 21, 2017**
RULE ADOPTIONS
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

Adopted Amendments: N.J.A.C. 13:45A-17A.2, 17A.3, 17A.6, 17A.8, and 17A.9

Adopted New Rule: N.J.A.C. 13:45A-17A.14

Home Elevation Contractors: Definitions; Registration Required; Duty to Update Information; Refusal to Issue, Suspension or Revocation of Registration; Hearing; Other Sanctions; Reinstatement of Suspended Registration; Identification Badges

Proposed: February 1, 2016, at 48 N.J.R. 188(a).

Adopted: November 22, 2016, by Steven C. Lee, Director, **Division of Consumer Affairs**.

Filed: January 23, 2017, as R.2017 d.030, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 56:8-138.1.

Effective Date: February 21, 2017.

Expiration Date: December 14, 2018.

Summary of Public Comment and Agency Response:

The official comment period ended April 1, 2016. In order to ensure compliance with the Administrative Procedures Act and the rules promulgated by the Office of Administrative Law, the comment period was extended through November 12, 2016. **The Division of Consumer Affairs received no comments.**

Summary of Agency-Initiated Changes:

The Division is changing N.J.A.C. 13:45A-17A.2, 17A.6, and 17A.14 on adoption to correct certain references to "home elevation" in those rules. Under the existing rules in N.J.A.C. 13:45A-17A, an entity that is registered as a home elevation contractor is authorized to provide both home elevation and home improvement services. As proposed, N.J.A.C. 13:45A-17A.14(a) and (b) provide that an individual shall not engage in the sale of home improvements or elevations until the individual has obtained and is wearing a valid identification badge, and that for purposes of identifying those individuals who are required to wear an identification badge, each entity must complete a badge declaration identifying each individual who will perform, engage, or attempt to engage in the sale of home elevations or home improvements. The Division notes, however, that in several instances in the proposed amendments and new rule, the rules refer only to home elevations or only to home improvements, as opposed to "home elevations or home improvements," potentially leading to confusion as to the ability of home elevation contractors to perform home improvement services. Therefore, the Division is correcting a reference in the "badge

[page=335] declaration" definition in N.J.A.C. 13:45A-17A.2 and in references at N.J.A.C. 13:45A-17A.6(c) and 17A.14(g) to refer to "home elevation or home improvement."

To further eliminate confusion, the Division is also changing N.J.A.C. 13:45A-17A.14(d) on adoption to clarify the information that will be included on the home elevation contractor identification badge produced by the State-authorized vendor. As adopted, the rule provides that the badge will include a clear and visible statement that the badge is for a home elevation and home improvement contractor, thereby permitting the holder to engage in the provision of either home elevation or home improvement services. Additional public notice is not required because this change on adoption does not alter the requirements imposed on home elevation contractors under the amendments and new rule as originally proposed.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments and new rule are subject to State statutory requirements and are not subject to any Federal requirements.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 17A. HOME ELEVATION CONTRACTOR REGISTRATION

13:45A-17A.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

"Badge declaration" means the electronic form that a registered entity must complete, as set forth in N.J.A.C. 13:45A-17A.14(b), which identifies individuals performing, engaging, or attempting to engage in the sale of ***home elevations or*** home improvements.

...

"State-authorized vendor or vendors" means the business or businesses with which the State has contracted to act on behalf of the Director for the issuance and management of home improvement and home elevation contractor identification badges.

13:45A-17A.3 Registration required

(a)-(c) (No change.)

(d) A person registered as a home elevation contractor shall be exempt from the requirement to register as a home improvement contractor pursuant to N.J.A.C. 13:45A-17.3(a)9; provided that if a person's home elevation registration is surrendered, suspended, revoked, not renewed, or otherwise is no longer valid, such person shall register as a home improvement contractor under N.J.A.C. 13:45A-17.3 prior to engaging in the business of making or selling home improvements and shall obtain a new badge identifying the person as a home improvement contractor.

(e)-(f) (No change.)

13: 45A-17A.6 Duty to update information

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

(c) Whenever there is a deletion or addition to the list of individuals required to wear identification badges pursuant to N.J.A.C. 13:45A-17A.14, the registered home elevation contractor shall inform the Division within three business days of the deletion or addition by logging on to the Division's website and amending the badge declaration. Any additions to the list shall be accompanied by the badge fee. Any individual added to the entity's list of individuals required to wear a badge shall not perform, engage, or attempt to engage in the sale of home elevations ***or home improvements*** until the individual has obtained and is wearing a badge.

(d) (No change.)

13: 45A-17A.8 Refusal to issue; suspension or revocation of registration; hearing; other sanctions

(a) The Director may refuse to issue or renew, or may suspend or revoke any registration issued by the Division upon proof that an applicant or registrant or any of its officers, directors, principals, or persons with an ownership interest of 10 percent or more in the entity:

1.-8. (No change.)

9. Has failed to comply with the badge requirements set forth in N.J.A.C. 13:45A-17A.14. It shall be an affirmative defense to a charge of failing to return a badge to the State-authorized vendor that the entity used its best efforts to collect and surrender the badge;

10.-13. (No change.)

(b)-(e) (No change.)

13: 45A-17A.9 Reinstatement of suspended registration

A registration that is suspended by the Director may be reinstated upon the home elevation contractor satisfying the conditions for reinstatement as determined by the Director and paying all outstanding fees, fines, penalties, and restitution, including the payment of the reinstatement fee specified in N.J.A.C. 13:45A-17A.13. If a suspended registration is reinstated, all individuals associated with the reinstated entity required to wear badges pursuant to N.J.A.C. 13:45A-17A.14 shall obtain new badges.

13: 45A-17A.14 Identification badges

(a) On or after six months after the award of the contract for badge creation and other ancillary services related to the badges, each individual performing, engaging, or attempting to engage in the sale of home elevations ***or home improvements*** shall wear an identification badge on the upper left corner of the individual's torso in a plainly visible fashion. An individual shall not engage in the sale of home improvements or elevations until the individual has obtained and is wearing a valid identification badge.

(b) For the purpose of identifying those individuals who are required to obtain and wear an

identification badge, each entity shall, upon registration, complete a badge declaration setting forth the name and address of residence of each individual who will perform, engage, or attempt to engage in the sales of home elevations or home improvements on behalf of the entity. Access to the electronic form shall be available by logging on to the Division website. The name, address, and contact information for the State-authorized vendor or vendors issuing identification badges shall be posted on the Division website.

(c) An individual shall not be issued a badge unless:

1. The registration of the entity with which the individual is associated is in good standing;
2. The individual is listed on the entity's badge declaration, as supplemented and amended from time to time;
3. The badge fee has been paid by the entity to the vendor; and
4. The individual presents to the State-authorized vendor a form of government-issued photo identification containing the individual's current address of residence, which shall match the address listed on the entity's badge declaration.

(d) The Division, through the State-authorized vendor or vendors, shall issue an identification badge that shall be unalterable and shall include the following information:

1. The name, color photograph, and signature of the individual to whom the badge has been issued;
2. The business name and registration number of the entity;
3. The badge's expiration date; *[and]*

4. A clear and visible statement that the badge is for a home elevation and home improvement contractor; and

[4.] ***5.*** A clear and visible statement that the badge is not for an electrical contractor, plumbing contractor, or HVACR contractor.

(e) The badge shall be valid for two years. Each entity on whose behalf a badge has been issued shall apply for renewal of the badge at least 45 days prior to its expiration date, at which time the entity shall pay the badge renewal fee and shall obtain from the State-authorized vendor a new badge showing an updated photo and expiration date. An entity that permits an individual required to have a badge to work without a valid badge shall be deemed to be in violation of this subchapter within the meaning of N.J.A.C. 13:45A-17A.8 and shall also be subject to the penalty provisions of N.J.S.A. 56:8-143.

(f) Identification badges are not transferable. Upon termination of an association between an entity and an individual to whom an identification badge was issued, the entity shall:

[page=336] 1. Inform the Division within three business days of the date of termination by logging on to the Division's website and amending the badge declaration; and

2. Collect the individual's identification badge and surrender it to the State-authorized vendor for destruction within three business days of the date of termination.

i. Failure of an entity to collect and surrender an identification badge shall be deemed to be a violation within the meaning of N.J.A.C. 13:45A-17A.8. The address for surrender shall be set forth on the Division's website.

(g) If an individual's badge is lost or stolen, or a badge holder has legally changed his or her name through marriage or court order, the entity with which the individual is associated shall, within three business days of the event, report the event to the Division by logging on to the Division's website and:

1. In the case of a name change, amend the badge declaration; or
2. In the case of a lost or stolen badge, report the loss or theft.

i. In the case of a lost or stolen badge, the individual shall not perform, engage, or attempt to engage in the sales of home elevations ***or home improvements*** on behalf of the entity until the individual obtains and is wearing a new badge.

(h) An entity whose registration has been suspended or revoked, or has not been renewed shall, within three business days of that suspension, revocation, or nonrenewal, surrender all identification badges issued under the registration number of the entity to the State-authorized vendor. The address for surrender shall be set forth on the Division's website. All surrendered badges shall be destroyed. Any subsequent reinstatement of registration shall require the issuance of a new badge.