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**RULE PROPOSALS**

**LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF EXAMINERS OF HEATING, VENTILATING, AIR CONDITIONING, AND REFRIG-  
ERATION CONTRACTORS**

*44 N.J.R. 647(a)*

**Proposed New Rules: N.J.A.C. 13:32A**

[Click here to view Interested Persons Statement](#)

**State Board of Examiners of Heating, Ventilating, Air Conditioning, and Refrigeration Contractors Rules**

Authorized By: State Board of Examiners of Heating, Ventilating, Air Conditioning, and Refrigeration Contractors,  
David M. Puteska, Acting Executive Director.

Authority: *N.J.S.A. 45:1-15.1, 45:1-21, and 45:16A-1* et seq., specifically 45:16A-4.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2012-048.

Submit written comments by May 18, 2012 to:

David M. Puteska, Acting Executive Director  
State Board of Examiners of Heating, Ventilating, Air Conditioning, and Refrigeration Contractors  
c/o Rosemarie Baccile  
Post Office Box 45008  
124 Halsey Street  
Newark, NJ 07101

The agency proposal follows:

**Summary**

P.L. 2007, c. 211, the State Heating, Ventilating, Air Conditioning and Refrigeration Contracting License Law) (the Act), *N.J.S.A. 45:16A-1* et seq., became effective on December 20, 2007. The State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors Board (Board) is proposing N.J.A.C. 13:32A to implement

P.L. 2007, c. 211 and to provide for the licensure and regulation of master heating, ventilating, air conditioning, and refrigeration contractors (master HVACR contractors).

The following is a summary of N.J.A.C. 13:32A. Proposed new N.J.A.C. 13:32A-1.1 sets forth the purpose and scope of the rules and the individuals to whom the proposed new rules do not apply. N.J.A.C. 13:32A-1.2 provides definitions for terms used throughout the chapter. The definition for "heating, ventilating, air conditioning, and refrigeration" includes specific functions that would otherwise be considered the practice of either electrical contracting or plumbing. The Board met with representatives of the Board of Examiners of Electrical Contractors and the Board of Examiners of Master Plumbers to ensure that the inclusion of these practices conformed to the Act and that they would not constitute unlicensed practice as a licensed electrical contractor or a licensed master plumber. N.J.A.C. 13:32A-1.3 sets forth electrical work that a master HVACR contractor is prohibited from performing.

Subchapter 2 establishes licensing standards for master HVACR contractors. Proposed new N.J.A.C. 13:32A-2.1 sets forth the documents that an applicant for licensure must submit to the Board. Once the Board has reviewed these documents, it will inform the applicant whether he or she is eligible to take the licensing examination and the time and place of the examination.

Proposed new N.J.A.C. 13:32A-2.2 establishes education requirements for licensure. Proposed new N.J.A.C. 13:32A-2.3 sets forth standards for the licensing examination. The licensing examination will be administered by an outside vendor and be held at least four times a year. The rule prevents an applicant who failed the licensing examination from retaking the examination for six months. The Board imposes this six-month time frame in order to provide an applicant additional time in which to prepare for the examination and obtain more experience as an HVACR journey-person.

Proposed new N.J.A.C. 13:32A-2.4 deals with issuing a license and the pressure seal. Once an applicant has passed the licensing examination, he or she will be required to submit a surety bond and the licensing fee. If the applicant will offer HVACR contracting services to the public, he or she also must submit proof that he or she has liability insurance for \$ 500,000 and a Federal Tax Identification number for the HVACR business.

When it issues a license to a master HVACR contractor, the Board will authorize the seal press vendor to furnish a seal press to the contractor. An individual who has qualified for a license will be required to submit the seal press fee to the Board. A seal press will remain the property of the Board and must be returned to the Board if a master HVACR contractor is suspended for failure to renew or a license is suspended or revoked for any other reason. A seal press is to be used exclusively by the HVACR contractor to whom it is issued and shall be used to impress all applications for permits. Use of a seal press by a person who was not issued the seal press, or securing a permit for an unlicensed person, is fraud and grounds for suspension or revocation of a license. The rule also sets forth how to obtain a new seal press.

Proposed new N.J.A.C. 13:32A-2.5 sets forth the process by which individuals licensed in other states may obtain licensure in New Jersey. If an individual is licensed in another state that has licensure requirements similar to those in New Jersey, and that other state permits New Jersey licensees to obtain licensure based upon that New Jersey license, he or she may obtain a New Jersey license without taking the licensing examination.

Proposed new N.J.A.C. 13:32A-2.6 sets forth standards for issuing a license to those who are currently practicing as HVACR contractors. *N.J.S.A. 45:16A-26* established that this process would be open for six months from the effective date of P.L. 2007, c. 211. The intent of this statute was to provide a full six months during which applicants could avail themselves of this process. In order to effectuate this intent, the Board will provide for this process to be open until six months from the effective date of the new rules. An applicant who was practicing as an HVACR contractor for at least two years prior to the effective date of the new rules can obtain a license as a master HVACR contractor without satisfying the education or examination requirements. Such an applicant would have to show that he or she was engaged in the practice of [page=648] HVACR contracting, was employed as a licensed inspector of HVACR systems, or taught courses in the HVACR field. The Board has recognized instances where individuals were employed as a licensed inspector of HVACR systems or taught courses in the HVACR field as practicing HVACR contracting.

Subchapter 3 sets forth requirements for renewal of licenses. Proposed new N.J.A.C. 13:32A-3.1 requires master HVACR contractors to renew licensure biennially. A master HVACR contractor who fails to renew his or her license will be suspended. A person seeking to renew a license within five years of being suspended may do so by submitting a reinstatement application to the Board. A person seeking reinstatement more than five years from being suspended is required to, among other things, successfully complete the licensing examination. The rule permits master HVACR con-

tractors to renew as inactive. Master HVACR contractors renewing as inactive are prohibited from practicing HVACR contracting.

Subchapter 4 deals with continuing education requirements for renewal of licensure. Proposed new N.J.A.C. 13:32A-4.1 requires all master HVACR contractors to complete five credits of continuing education every biennial period. The rule requires master HVACR contractors to maintain a record of continuing education that he or she has completed or taught for four years. The Board is permitted to review these records in order to determine if a master HVACR contractor has complied with continuing education requirements.

Proposed new N.J.A.C. 13:32A-4.2 details the responsibilities of continuing education sponsors. Sponsors are required to obtain Board approval prior to offering a continuing education course. The proposed new rule establishes the information an applicant for Board approval must submit to the Board and requires approved sponsors to provide attendance verification for those who completed the sponsors' courses. Course sponsors are also required to monitor attendance at courses, maintain attendance logs and obtain course evaluations from attendees and instructors. The Board is permitted to evaluate a continuing education instructor through observation. The proposed new rule limits continuing education class size to 50 people.

Proposed new N.J.A.C. 13:32A-4.3 requires master HVACR contractors to complete one hour of continuing education in the statutes and rules governing HVACR practice every biennial period. The remaining four hours of continuing education will be determined by the Board three months prior to the start of the biennial renewal period. A list of the required topics for the biennial renewal period will be published in the New Jersey Register.

Proposed new N.J.A.C. 13:32A-4.4 sets forth that one hour of attendance at a continuing education course will constitute one credit of continuing education. A master HVACR contractor who teaches a continuing education course will obtain five credits of continuing education. A master HVACR contractor who completes the continuing education requirements for a license as a master plumber shall earn four credits of continuing education. He or she will have to complete only the additional hour of continuing education in the statutes and rules governing HVACR practice.

Proposed new N.J.A.C. 13:32A-4.5 permits the Board to waive continuing education requirements for good cause. The rule sets forth how a master HVACR contractor may apply for a waiver.

Subchapter 5 sets forth general requirements for master HVACR contractors and practices for HVACR businesses. Proposed new N.J.A.C. 13:32A-5.1 requires that commercial vehicles, stationery, and advertising include specific information. Advertisements must include a disclosure that indicates that a master HVACR contractor subcontracts a substantial part of his or her work to other master HVACR contractors if he or she intends to subcontract more than one-third of his or her work or if he or she subcontracted one-third of his or her work in the previous year.

Proposed new N.J.A.C. 13:32A-5.2 imposes requirements on those seeking to become, and those acting as, bona fide representatives of an HVACR business. A master HVACR contractor who seeks to act as a bona fide representative must register with the Board. Applicants are also required to submit proof that the HVACR business consents for the master HVACR contractor to act as the agent for service of process for the business and proof that the business accepts liability for costs or penalties assessed against the bona fide representative. If a bona fide representative leaves an HVACR business, the business may continue to operate for 60 days without a bona fide representative. If a bona fide representative cannot perform his or her duties due to illness or death, an HVACR business may continue to operate for six months without a bona fide representative.

Proposed new N.J.A.C. 13:32A-5.3 imposes several requirements on bona fide representatives including: securing permits for any work performed by the business; being responsible for any violations of *N.J.S.A. 45:16A-1* et seq. committed by employees of the business; acting as the bona fide representative for only one business and either maintaining a place of business in New Jersey or designating an entity in New Jersey for service of process. The rule also requires a bona fide representative for an HVACR business to supervise its employees.

The rule permits the Board, and any person entitled to maintain an action on a bond, to proceed against both a bona fide representative and any master HVACR contractor employed by the HVACR business for violations of *N.J.S.A. 45:16A-1* et seq. or the Board's rules. The rule also imposes requirements on a bona fide representative who subcontracts work to another HVACR business. A bona fide representative is required to have knowledge as to an HVACR business' bookkeeping and financial practices so as to answer any Board inquiries into the business.

Proposed new N.J.A.C. 13:32A-5.4 dictates that any work that an HVACR contractor contracts to perform shall be either performed by the HVACR contractor, his or her employees, or be subcontracted to another HVACR contractor.

Pursuant to proposed new N.J.A.C. 13:32A-5.5, the Board will issue identification cards to all master HVACR contractors. Master HVACR contractors will be required to present this card when applying for permits.

Proposed new N.J.A.C. 13:32A-5.6 permits actions against a master HVACR contractor's bond if the contractor fails to perform the duties required by *N.J.S.A. 45:16A-1* et seq. or the Board's rules. Proposed new N.J.A.C. 13:32A-5.7 requires a master HVACR contractor to inform the Board of his or her office address and any change to an office address. Service of process to an address on record with the Board will be deemed adequate notice for the commencement of an action taken against a master HVACR contractor.

Proposed new N.J.A.C. 13:32A-5.8 prohibits a master HVACR contractor from charging an unconscionable price. The rule provides factors the Board will consider in determining if a price is unconscionable. Proposed new N.J.A.C. 13:32A-5.9 sets forth the titles that a licensee may use and prevents unlicensed individuals from engaging in the practice of HVACR or using titles reserved for licensees.

Proposed new Subchapter 6 sets forth the fees the Board will charge for the services it provides. These fees have been set at the lowest level calculated to discharge the duties of the Board, given the estimate of 8,000 individuals who will be seeking licensure. The fees are similar to those paid by licensed electrical contractors and licensed master plumbers.

As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to *N.J.A.C. 1:30-3.3(a)5*.

### **Social Impact**

The proposed new rules will have a positive impact on consumers who are the recipients of HVACR services and the HVACR industry. Requiring master HVACR contractors to hold licensure will ensure that every contractor is properly prepared to provide safe and effective HVACR services and that any master HVACR contractor who engages in inappropriate behavior will be subject to Board discipline. Additionally, the new rules will provide consumers with the ability to direct questions, concerns, or problems that may arise with any master HVACR contractor to the Board.

### **Economic Impact**

The proposed new rules impose costs on applicants for licensure and licensees. N.J.A.C. 13:32A-2.2 sets forth education requirements for applicants for licensure. These rules require applicants to complete an HVACR apprenticeship, a bachelor's degree in HVACR, or a bachelor's degree in a field related to HVACR. The cost of completing the education requirements can be as high as \$ 200,000, depending on the school at which the applicant received his or her education. N.J.A.C. 13:32A-2.3 requires applicants to successfully pass the licensing examination. [page=649] Applicants will bear the cost of taking the examination. The education and examination costs will be outweighed by the benefits of ensuring that applicants are adequately prepared to safely and effectively provide HVACR services.

N.J.A.C. 13:32A-2.4 requires individuals who have passed the licensing examination to obtain a surety bond in the amount of \$ 3,000 and, if they are going to engage in the business of HVACR contracting, general liability insurance in the amount of \$ 500,000. The costs of obtaining the bond and insurance will be outweighed by the benefit the public receives by ensuring that master HVACR contractors have the resources to compensate individuals who they have harmed. N.J.A.C. 13:32A-2.4 also requires master HVACR contractors to pay for a Board-issued pressure seal. Master HVACR contractors will bear the cost of obtaining the seal. The cost of the seal will be outweighed by the benefit of ensuring that only master HVACR contractors are able to obtain a permit to perform HVACR contracting work.

N.J.A.C. 13:32A-3.1 requires master HVACR contractors to renew licensure biennially with the Board and pay the fee set out in N.J.A.C. 13:32A-6.1. These fees are charged in order for the Board to be self-funding and in compliance with *N.J.S.A. 45:1-3.2*. The fees have been set at the lowest level calculated to discharge the duties of the Board, given the estimate of 8,000 individuals who will be seeking licensure.

N.J.A.C. 13:32A-4.1 requires master HVACR contractors to complete continuing education courses every biennial renewal period. The costs of these courses are set by the sponsors who offer them. The Board believes that the costs master HVACR contractors incur in completing these courses will be outweighed by the benefits master HVACR contractors, and the consumers who receive HVACR services from these master HVACR contractors, receive from continuously updating their competency through education.

N.J.A.C. 13:32A-5.1 requires that vehicles, correspondence, and advertising used or issued by master HVACR contractors include specific information. Master HVACR contractors will bear the cost of labeling vehicles and correspondence with this information and including this information in any advertisements.

### **Federal Standards Statement**

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the proposed new rules.

### **Jobs Impact**

The Board anticipates that the proposed new rules may create more jobs for instructors in HVACR. By requiring that all master HVACR contractors complete continuing education, the proposed new rules will increase the demand for continuing education programs and the need for instructors who can teach them. The Board does not anticipate that any other section of the proposed new rules will increase or decrease the number of jobs in the State.

### **Agriculture Industry Impact**

The proposed new rules will have no impact on the agriculture industry in the State.

### **Regulatory Flexibility Analysis**

Since master HVACR contractors will be individually licensed by the Board, they may be considered "small businesses" under the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq.

The costs imposed on small businesses by the proposed new rules will be the same costs that are imposed on all master HVACR contractors as set forth in the Economic Impact statement above. The Board does not believe that master HVACR contractors will need to employ any professional services to comply with the proposed new rules. The proposed new rules impose compliance, reporting, and recordkeeping requirements as detailed in the Summary above.

As the compliance, reporting and recordkeeping requirements contained in the proposed new rules are necessary to adequately regulate master HVACR contractors and protect consumers who use their services, the Board believes that the rules must be uniformly applied to all master HVACR contractors and no exemptions are provided based on the size of the licensee's business.

### **Housing Affordability Impact Analysis**

The proposed new rules will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the proposed rules concern the licensure and regulation of master HVACR contractors.

### **Smart Growth Development Impact Analysis**

The proposed new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed rules concern the licensure and regulation of master HVACR contractors.

**Full text** of the proposed new rules follows:

#### CHAPTER 32A

#### STATE BOARD OF EXAMINERS OF HEATING, VENTILATING, AIR CONDITIONING, AND REFRIGERATION CONTRACTORS RULES

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

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

## 44 N.J.R. 647(a)

(a) The rules contained in this chapter provide for the licensing and regulation of master heating, ventilating, air conditioning, and refrigeration contractors, implementing the provisions of the State Heating, Ventilating, Air Conditioning and Refrigeration Contracting License Law (P.L. 2007, c. 211, *N.J.S.A. 45:16A-1* et seq.).

(b) This chapter does not apply to any person who is:

1. Licensed to practice in New Jersey and is practicing within the scope of practice of his or her profession including architects, professional engineers, electrical contractors, and master plumbers, as long as such person does not identify him- or herself as a licensed Master HVACR contractor;

2. A chimney service professional regulated by the Division of Consumer Affairs as a home improvement contractor acting within the scope of practice of his or her profession as long as such person does not identify him- or herself as a licensed Master HVACR contractor;

3. A single-family home owner who personally occupies his or her own dwelling and who performs work on his or her own dwelling, except that any HVACR work involving chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs) shall be performed only by a licensed Master HVACR contractor;

4. Licensed as a master plumber and is engaged in the installation, maintenance, and repair of:

i. Power boiler systems, hot water and steam heating systems, fire tube and water tube boilers, pressure steam and hot water boilers, space heaters, unit heaters, and appurtenances utilizing electricity, fossil fuel, or solar energy;

ii. Steam, hot water and chilled water pipe, condensate piping, valves, fittings, burners and piping, expansion tanks, pumps, and gauges on the load side of a meter;

iii. Thermostatic controls; or

iv. Natural or manufactured gas piping;

5. Licensed as a master plumber and is engaged in the installation, maintenance, or connection of:

i. Pneumatic controls and control piping for the control of air, liquid, or gas temperatures, radiators, convectors, cabinet unit heaters, fan coil units, air handlers utilizing hydronic coils, mechanical ventilation for radon mitigation, humidifiers, flues, and patented chimneys; or

ii. Pneumatic controls and control piping of automatic oil, gas, or coal burning equipment, gasoline or diesel oil dispensing equipment, and, in replacement cases only, connecting to them the wiring from a dedicated electrical service disconnect box of adequate size to accommodate the equipment and controls, and the testing and balancing of hydronic systems;

6. Licensed as a master plumber and is engaged in the installation, repair, testing, or closure of waste oil underground storage tanks;

[page=650] 7. Licensed as an electrical contractor and is engaged in the installation of:

i. Electrical resistance heating equipment and ventilation equipment with an exhaust duct not exceeding 60 square inches in area; or

ii. In commercial applications the connection sleeve between a roof-top mounted exhaust fan and its central connecting register, provided that this connection sleeve is not more than 15 inches in length or the length necessary to penetrate a roof or other similar openings; or

8. Licensed as an electrical contractor and is engaged in the maintenance and repair of the electrical sections of any equipment used for heating, ventilating, air conditioning, or refrigeration.

(c) This chapter shall not apply to 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.*). This chapter does not apply to HVACR work performed on buildings, structures, or premises owned or operated by a public utility holding company or its subsidiaries.

(d) This chapter shall not apply to any liquefied petroleum gas marketer licensed by the Department of Community Affairs.

#### 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.

"Board" means the State Board of Examiners of Heating, Ventilating, Air Conditioning, and Refrigeration Contractors.

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

1. In the case of a sole proprietorship, is the owner of the business;
2. In the case of a partnership, is a partner in the business;
3. In the case of a limited liability company, is a manager; or
4. In the case of a corporation, is an executive officer.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Heating, ventilating, air conditioning, and refrigeration" or "HVACR" means the process of treating and protecting the environment by the responsible handling, dispensing, collecting, and cleaning of chlorofluorocarbons and other refrigerants in stationary sources, and controlling the temperature, humidity, and cleanliness of air by using the "wet," "dry," "radiant," "conduction," "convection," "direct," or "indirect" method or combination of methods, including those that utilize solar energy, to meet the environmental requirements of a designated area. "HVACR" also means the installation, servicing, connecting, maintenance, or repair of the following:

1. Power boiler systems, hydronic heating systems, fire tube and water tube boilers, pressure steam and hot water boilers, furnaces and space heaters, water recovery systems, and appurtenances utilizing electric, fossil fuel, wood pellets, or solar energy, other than those appurtenances utilized solely for the purpose of heating potable water;
2. Warm air heating or refrigeration and evaporative cooling systems, ventilation and exhaust systems, dust collectors, air handling equipment, heating or cooling coils, air or refrigerant compressors, chillers, cooling towers, evaporators, condensers, plenums, fans, blowers, air cleaners, mechanical ventilation for radon mitigation, humidifiers, filters, louvers, mixing boxes and appurtenances, energy recovery systems, geo-thermal systems (not including drilling of the well point), and related air distribution systems connected to any of these systems and appurtenances;
3. Hydronic heating and chilled water pipe, valves, fittings, burners and piping, hydronic heating, expansion tanks, refrigeration piping, pumps, gauges, humidity, and thermostatic controls;
4. Condensate piping in a dwelling, as defined in *N.J.A.C. 5:28-1.2*, not regulated under P.L. 1968, c. 362 (*N.J.S.A. 45:14C-1 et seq.*) (disposal of condensate from such piping must be performed pursuant to the Uniform Construction Code and any relevant local ordinances);
5. Natural or manufactured gas piping on the load side of a meter;

6. Supply water piping to equipment being served from an existing dedicated source connected downstream from an approved backflow preventer;
7. The installation of a replacement non-testable backflow device downstream from a pre-existing valve, in residential dwellings categorized as in Group R-4 or R-5 pursuant to *N.J.A.C. 5:23-3.14*;
8. Pneumatic controls, control piping, and any type of heat tracing, for the control of air, liquid, or gas temperatures, radiators, convectors, unit cabinet heaters, or fan coil units;
9. Pneumatic controls and control piping of automatic oil, gas, coal burning, or any other product of combustion equipment, mechanical refrigeration equipment, gasoline, or diesel oil dispensing equipment, and the testing and balancing of air and hydronic systems, but does not include the design or preparation of specifications for equipment or systems to be installed that are within the practice of professional engineering as defined in subsection (b) of section 2 of P.L. 1938, c. 342 (*N.J.S.A. 45:8-28*); and
10. In replacement cases only, the connection of the wiring from an equipment service disconnect box of adequate size to accommodate pneumatic controls and control piping of automatic oil, gas, coal burning, or any other product of combustion equipment, mechanical refrigeration equipment, gasoline, or diesel oil dispensing equipment previously dedicated to that equipment, as long as:
  - i. The heating or cooling capacity of each piece of equipment is 25 tons or less;
  - ii. The voltage of the system is 240 volts or less; and
  - iii. The connection of the wiring is performed according to all relevant provisions in the Uniform Construction Code.

"Heating, ventilating, air conditioning, and refrigeration contracting" means undertaking or advertising to undertake, for a fixed price, fee, commission, or gain of whatever nature, the planning, laying out, installation, piping, construction, maintenance, service, repair, alteration or modification to any portion of any system, product or equipment, or appurtenances used for the environmental needs or control of any heating, ventilating, air conditioning, and refrigeration system, regardless of its location on the property.

"HVACR apprentice" means a person who is enrolled in an HVACR apprenticeship or other training program 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.

"HVACR journeyman" means any person who installs, alters, repairs, services, maintains, or renovates HVACR systems and who works under the supervision of a Master HVACR contractor.

"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.

"Replacement" means a change of equipment with the same type or similar equipment.

"Retrofit" means a change in design, construction, or equipment already in operation in order to incorporate later improvements.

#### 13:32A-1.3 Electrical work

(a) Except in replacement cases described in the definition of "heating, ventilating, air conditioning, and refrigeration," a master HVACR contractor shall not perform any electrical work:

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1. With a potential of more than 10 volts, except as provided in (a)2 below; or
2. With a potential of more than 30 volts, in class III structures, as defined by *N.J.A.C. 5:23-1.4*.

## SUBCHAPTER 2. APPLICATION FOR LICENSURE

## 13:32A-2.1 Eligibility for examinations

(a) An applicant for the master HVACR licensing examination shall submit to the Board:

[page=651] 1. A completed application for examination, on a form provided by the Board, including a full street name and number. An application containing only a post office box number as a mailing address shall not be considered a complete application;

2. Proof that the applicant is at least 21 years of age;
3. A passport size photograph of the applicant taken within the last six months;
4. Proof that the applicant has met the education requirements of N.J.A.C. 13:32A-2.2; and
5. The application fee as set forth in N.J.A.C. 13:32A-6.1.

(b) After the Board has reviewed the information required in (a) above, the Board shall send a letter that informs the applicant whether he or she is eligible to take the licensing examination required by N.J.A.C. 13:32A-2.3 and, if deemed eligible, of the time and place of examination.

## 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 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
  - ii. One or more years employment as an HVACR journeyman;
2. A bachelor's degree in HVACR from a college or university accredited by a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education, which includes education in the proper management of chlorofluorocarbons and other refrigerants, including high global warming potential gases, and one year experience in the practical work of installing, servicing, or maintaining HVACR systems; or
3. A bachelor's degree in a field related to HVACR from a college or university accredited by a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education, which includes education in the proper management of chlorofluorocarbons and other refrigerants, including high global warming potential gases, and three years experience in the practical work of installing, servicing, and maintaining HVACR systems.

(b) Pursuant to *N.J.S.A. 45:16A-13*, successful completion of an HVACR program given by a technical school, trade school, county college, or community college accredited by a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education, shall satisfy two of the four years required by (a)1i above.

## 13:32A-2.3 Examinations

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(a) Examinations shall be prepared and administered by a third-party vendor, but no license shall be granted except by the Board. The Board chairperson may designate members of the Board to oversee the administration of the examination.

(b) Examinations shall be held at least four times annually.

(c) Examinations shall consist of a written portion covering practice issues in HVACR contracting and a written portion on the laws and rules governing the practice of HVACR contracting in New Jersey.

(d) In order to pass the examination an applicant must receive a minimum grade of 70 in each of the two areas set forth in (c) above.

(e) An applicant who fails the master HVACR licensing examination shall not be permitted to retake the examination for six months from the date he or she failed the examination.

#### 13:32A-2.4 Licensure and pressure seal

(a) After an applicant has successfully passed the master HVACR licensing examination, or has been informed by the Board that he or she qualifies for licensure pursuant to N.J.A.C. 13:32A-2.5 or 2.6, he or she shall submit to the Board:

1. A surety bond in the sum of \$ 3,000 as required pursuant to *N.J.S.A. 45:16A-23*. An applicant who has obtained a surety bond in the sum of \$ 3,000 in order to satisfy the requirements of *N.J.S.A. 45:14C-26* and N.J.A.C. 13:32A-2.5 shall meet this requirement if he or she submits proof that such a bond has been submitted to the State Board of Examiners of Master Plumbers;

2. A certificate of general liability insurance from an insurance company authorized and licensed to do business in New Jersey in the amount of \$ 500,000 for combined property damage and bodily injury to or death of one or more persons in any one accident or occurrence or proof of self-insurance approved by the Department of Banking and Insurance, obtained by the applicant or the HVACR company or corporation, if the applicant will offer HVACR contracting services to the public, which includes instances when the applicant will act as a bona fide representative for a company or corporation;

3. A Federal Tax Identification number for the HVACR business, if the applicant will be engaging in the business of HVACR contracting, which includes instances when the applicant will act as a bona fide representative for a company or corporation; and

4. The licensing fee as set forth in N.J.A.C. 13:32A-6.1.

(b) At the time of the issuance of the license to a master HVACR contractor, the Board shall authorize the vendor that issues pressure seals to furnish a pressure seal to the master HVACR contractor. After the Board has informed an applicant that he or she has passed the licensing examination, or has qualified for licensure pursuant to N.J.A.C. 13:32A-2.5 or 2.6, the applicant shall submit to the Board the initial pressure seal fee pursuant to N.J.A.C. 13:32A-6.1. The pressure seal shall remain the property of the Board and shall be returned to the Board as provided in (f) below.

(c) The seal shall be used exclusively by the master HVACR contractor in the conduct of the heating, ventilating, air conditioning, and refrigeration business practice. The master HVACR contractor shall impress the seal upon all applications for heating, ventilating, air conditioning, and refrigeration permits.

(d) Use of a seal by any person other than the master HVACR contractor to whom it was issued or the securing of a heating, ventilating, air conditioning, and refrigeration permit for an unlicensed person shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation, or false pretense. Such conduct may be grounds for the suspension or revocation of the license of an unauthorized user if he or she is already licensed by the Board. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license at any point in the future, which does not preclude the Board from proceeding against unlicensed practice pursuant to any other law or rule.

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Nothing in this subsection shall be deemed to preclude a bona fide representative from securing a heating, ventilating, air conditioning, and refrigeration permit for the heating, ventilating, air conditioning, and refrigeration business he or she represents.

(e) A master HVACR contractor who willfully or negligently allows an unlicensed or unauthorized person to use his or her seal shall be subject to such penalties and sanctions as shall be imposed by the Board pursuant to authority granted by *N.J.S.A. 45:16A-1 et seq.* and *45:1-14 et seq.*

(f) A master HVACR contractor who has been suspended for failure to renew a license in accordance with N.J.A.C. 13:32A-3.1 or who has had his or her license suspended or revoked for any reason shall return the pressure seal to the Board within 30 days of the suspension, revocation, or lapse of license.

(g) A master HVACR contractor who no longer possesses a pressure seal due to theft, loss, or other cause shall replace the seal by submitting to the Board a notarized letter detailing why the master HVACR contractor no longer possesses the pressure seal. The master HVACR contractor shall submit to the Board the replacement pressure seal fee pursuant to N.J.A.C. 13:32A-6.1. The replacement pressure seal shall remain the property of the Board and shall be returned to the Board as provided in (f) above.

(h) Only the Board recognized vendor of seal presses shall issue or create seal presses. No other entity or person shall issue or create seal presses.

## 13:32A-2.5 Reciprocity with other states

(a) An individual who is licensed to practice HVACR contracting in another state may obtain a license in New Jersey without taking the master HVACR licensing examination as long as the other state:

[page=652] 1. Has licensure standards equal to or comparable to licensure requirements in New Jersey; and

2. Permits New Jersey licensees to obtain licensure based upon a New Jersey license.

(b) An applicant for a master HVACR contractor license who is licensed in another state shall submit:

1. A completed application for licensure through reciprocity, on a form provided by the Board, which shall include a full street name and number. An application containing only a post office box number as a mailing address shall not be considered a complete application;

2. Proof that the applicant is at least 21 years of age;

3. A passport size photograph of the applicant taken within the last six months;

4. Proof that the applicant has met the education requirements of N.J.A.C. 13:32A-2.2;

5. Proof that the state in which he or she is licensed allows New Jersey licensed master HVACR contractors to obtain a license in that state based upon New Jersey licensure;

6. Proof that the applicant is licensed in the other state; and

7. The application fee as set forth in N.J.A.C. 13:32A-6.1.

(c) Once the Board has reviewed the submitted information, and has determined whether the other state meets the requirements of (a) above, the Board shall inform the applicant whether he or she qualifies for licensure and, if eligible, that he or she should submit the information and documentation required by N.J.A.C. 13:32A-2.4.

## 13:32A-2.6 Issuance of license to individuals engaged in practice as of (two years prior to effective date of rules)

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(a) Prior to (six months from the effective date of these rules) a licensed master plumber or any other person may apply for a license as a master HVACR contractor without satisfying the education requirements of N.J.A.C. 13:32A-2.2 or the examination requirements of N.J.A.C. 13:32A-2.3 if the person has for at least two years prior to the date the application is submitted to the Board engaged in the practice of installing, servicing, and maintaining HVACR systems.

1. For the purposes of this subsection, engaging in the practice of installing, servicing, and maintaining HVACR systems shall include:

i. Being employed as an inspector of HVACR systems and holding a license as a mechanical inspector or a plumbing inspector from the Department of Community Affairs; and

ii. Teaching courses in the HVACR field at an apprentice or other training program approved by the United States Department of Labor or a bachelor's degree program in a college or university accredited by a regional accrediting body recognized by the United State Department of Education, Office of Postsecondary Education. Such an applicant shall have worked as a master HVACR contractor for at least five years prior to, or during, the time he or she was teaching HVACR courses.

(b) An applicant who meets the requirements of (a) above shall submit:

1. A completed application for licensure, on a form provided by the Board, including a full street name and number. An application containing only a post office box number as a mailing address shall not be considered a complete application;

2. A passport size photograph of the applicant taken within the last six months;

3. Proof that the applicant has met the experience requirements of (a) above. Such proof may include:

i. An attestation from a master HVACR contractor indicating that the applicant has completed the requirements of (a) above;

ii. Any certifications the applicant has obtained indicating expertise in the field of heating, ventilating, air conditioning, and refrigeration contracting;

iii. Any education the applicant has completed related to the field of heating, ventilating, air conditioning, and refrigeration contracting;

iv. An employment history showing that the applicant has engaged in the practice of heating, ventilating, air conditioning, and refrigeration contracting;

v. A copy of a Form W-2 that has been submitted to the Internal Revenue Service indicating that the applicant engaged in the practice of heating, ventilating, air conditioning, and refrigeration contracting; or

vi. Any other documentation that demonstrates to the Board that the applicant has completed at least two years of experience in heating, ventilating, air conditioning, and refrigeration contracting.

4. The application and licensing fees as set forth in N.J.A.C. 13:32A-6.1.

### SUBCHAPTER 3. RENEWAL OF LICENSURE

#### 13:32A-3.1 Renewal of license

(a) Licenses shall be renewed biennially on a form provided by the Board. Each applicant for renewal shall attest that the continuing education requirements of N.J.A.C. 13:32A-4.1 have been completed during the prior biennial period.

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(b) The Board shall send a notice of renewal to each master HVACR contractor, at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for any unlicensed practice during the period following the licensure expiration, not to exceed the number of days short of the 60 before the notice of renewal was sent.

(c) The master HVACR contractor shall submit the renewal application and pay the renewal and pressure seal fees pursuant to N.J.A.C. 13:32A-6.1 prior to the date of expiration of the license.

(d) If the master HVACR contractor does not renew the license prior to its expiration date, the master HVACR contractor may renew the license no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee and a late fee pursuant to N.J.A.C. 13:32A-6.1. If a master HVACR contractor fails to renew the license within 30 days after the expiration date, the license shall be suspended without a hearing. A master HVACR contractor whose license has been suspended shall return his or her pressure seal to the Board.

(e) A person who continues to practice or hold himself or herself out as a master HVACR contractor after his or her license has been suspended pursuant to (d) above shall be deemed to have committed unlicensed practice pursuant to *N.J.S.A. 45:16A-7*, even if no notice of suspension has been provided to the person.

(f) A person seeking reinstatement within five years following the suspension of a license pursuant to (d) above shall submit the following to the Board:

1. A completed reinstatement application;
2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:32A-6.1;
3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:32A-6.1;
4. A certification verifying completion of the continuing education credits required pursuant to N.J.A.C. 13:32A-4.1 for the biennial renewal period immediately preceding the date the application for reinstatement is submitted; and
5. An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.

(g) A person seeking reinstatement after more than five years following the suspension of a license pursuant to (d) above shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:32A-2.3 and shall submit:

1. A completed reinstatement application;
2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:32A-6.1;
3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:32A-6.1; and
4. An affidavit of employment listing each job held during the period of suspension, which includes the names, addresses, and telephone numbers of each employer.

(h) Renewal applications for all master HVACR contractors shall provide the applicant with the option of either active or inactive renewal. Applicants electing to renew as inactive shall not practice or hold themselves out to the public as master HVACR contractors. A master HVACR contractor renewing as inactive shall submit to the Board:

1. A completed renewal application; and
2. The pressure seal.

[page=653] (i) Upon application to the Board, the Board may permit an applicant who has been on inactive status to return to active status provided such applicant completes the continuing education credits that are required pursuant to N.J.A.C. 13:32A-4.1 for the biennial period immediately preceding the date the application for reactivation is submitted and the applicant pays the renewal fee as set forth in N.J.A.C. 13:32A-6.1. The Board shall return the master HVACR contractor's pressure seal, or arrange for a new pressure seal to be issued, when the master HVACR contractor returns to active status.

#### SUBCHAPTER 4. CONTINUING EDUCATION

##### 13:32A-4.1 License renewal; continuing education requirement

(a) Every master HVACR contractor shall successfully complete five credits of continuing education at an approved course every biennial period. Master HVACR contractors applying for their first biennial renewal are exempt from this continuing education requirement.

(b) A master HVACR contractor shall indicate on the license renewal form that he or she has completed the continuing education requirements of this subchapter. Failure to meet the continuing education requirements as set forth in this subchapter or the falsification of any information submitted with the renewal application may result in the imposition of disciplinary sanctions pursuant to *N.J.S.A. 45:1-21* et seq.

(c) Every master HVACR contractor shall maintain, for a period of four years, all verification of attendance forms for all continuing education courses the master HVACR contractor has completed. Master HVACR contractors who teach a continuing education course during a biennial period shall maintain, for a four-year period, records that indicate that the master HVACR contractor has taught a Board-approved continuing education course.

(d) The Board may review the records of any master HVACR contractor, at any time, in order to ensure that the master HVACR contractor has complied with the continuing education requirements.

##### 13:32A-4.2 Continuing education sponsors; Board approval; duties

(a) All sponsors of continuing education courses shall obtain Board approval prior to offering a continuing education course for an upcoming biennial period. The Board shall maintain a list of approved courses at the Board offices and shall furnish this information to master HVACR contractors upon request.

(b) A sponsor seeking Board approval shall appear before the Board and submit, prior to that appearance, the following:

1. Detailed descriptions of course content and estimated hours of instruction;
2. Curriculum vitae of each instructor, including the background that qualifies him or her as an instructor in specific areas; and
3. The continuing education sponsor application fee pursuant to N.J.A.C. 13:32A-6.1.

(c) The sponsor of a continuing education course shall furnish each attendee a verification of attendance, which shall include the following:

1. The title, date, and location of course or program offering;
2. The name and license number of the attendee;
3. The number of hours attended; and
4. The name and signature of the sponsor or instructor.

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(d) The sponsor of a continuing education course shall monitor the attendance at each approved course and maintain an attendance log, which lists the name and license number of every master HVACR contractor who attends a course. The log shall document that each master HVACR contractor has completed the sponsor's course.

(e) The sponsor shall obtain course evaluations from both participants and instructors and maintain these evaluations as part of the sponsor's records.

(f) The Board may evaluate the performance of any continuing education instructor through observation of the instructor during the presentation of a course or evaluate the qualifications and abilities of the instructor by conducting an interview during a Board meeting.

(g) A continuing education class shall consist of no more than 50 people.

#### 13:32A-4.3 Required course topics

(a) Every biennial period, master HVACR contractors shall complete one hour of continuing education in statutes and rules governing the practice of heating, ventilating, air conditioning, and refrigeration, including the Uniform Construction Code, *N.J.A.C. 5:23*.

(b) Three months prior to the beginning of a biennial period, the Board shall determine the topics for the remaining four hours of continuing education that shall be provided by program sponsors for the upcoming biennial period. The Board shall determine these topics at a regularly scheduled public Board meeting.

(c) The list of required topics shall be published as a public notice in the New Jersey Register and shall be available at the Board offices.

#### 13:32A-4.4 Credit awarded

(a) One continuing education credit shall equal one hour of attendance at a continuing education course.

(b) A master HVACR contractor who teaches a continuing education course approved by the Board shall earn five credits of continuing education for the biennial period in which he or she teaches the course and shall be exempt from the requirement of *N.J.A.C. 13:32A-4.3(a)*.

(c) A master HVACR contractor who has completed the continuing education requirements for renewal of a license as a master plumber shall earn four credits of continuing education. Such a master HVACR contractor shall be required to complete one hour of continuing education in the statutes and rules governing the practice of heating, ventilating, air conditioning, and refrigeration required by *N.J.A.C. 13:32A-4.3*.

#### 13:32A-4.5 Waiver of continuing education requirement

(a) The Board may waive continuing education requirements on an individual basis for reasons of hardship, such as illness, disability, military duty, or other good cause that prevents the master HVACR contractor from completing continuing education credits during a biennial period.

(b) Any master HVACR contractor seeking a waiver of the continuing education requirements shall apply to the Board in writing and set forth in specific detail the reasons for requesting the waiver. The master HVACR contractor shall provide the Board with such supplemental materials as will support the request for waiver.

### SUBCHAPTER 5. IDENTIFICATION OF LICENSEES; BONA FIDE REPRESENTATIVE; SUPERVISION

#### 13:32A-5.1 Identification of master HVACR contractor; vehicles, stationery; advertising

(a) All commercial vehicles used by a master HVACR contractor shall be marked on driver's and passenger's sides with the following information:

1. The name of the HVACR business;
2. The name of the master HVACR contractor who owns the business or the name of the bona fide representative for the business in lettering at least one inch in height;
3. The words "Master HVACR contractor license number" or "Master HVACR contractor Lic. #" followed by the license number of the master HVACR contractor in lettering at least one inch in height; and
4. The municipality from which the master HVACR contractor practices or where the master HVACR contractor has a principal office in lettering at least three inches in height.

(b) All business correspondence, invoices, and stationery shall display:

1. The name of the master HVACR contractor;
2. The words "Master HVACR contractor license number" or "Master HVACR contractor Lic. #" followed by the license number of the master HVACR contractor; and
3. The New Jersey business address, including the street name and number.

(c) All advertising shall include:

1. The name of the master HVACR contractor;
2. The New Jersey business address, including the street name and number; and
3. The words "Master HVACR contractor license number" or "Master HVACR contractor Lic. #" followed by the license number of the master HVACR contractor.

[page=654] (d) Every master HVACR contractor whose name, office address, or license number appears or is mentioned in any advertisement of any kind or character shall be presumed to have caused, permitted, or approved the advertising and shall be personally responsible for its content and character.

(e) If a master HVACR contractor intends to subcontract, in a calendar year, more than one-third of the work that he or she contracts to perform, or subcontracted in the previous calendar year more than one-third of the work that he or she contracted to perform, all advertising by the master HVACR contractor shall state: "A substantial part of the work which we undertake may be subcontracted to independent licensed HVACR contractors."

#### 13:32A-5.2 Bona fide representative; reporting responsibilities

(a) A master HVACR contractor seeking to act as a bona fide representative shall comply with the following within 30 days of assuming the role of a bona fide representative:

1. Register with the Board, providing the name of the HVACR business, its address and if the HVACR business is a corporation, the names of the officers of record;
2. Provide to the Board proof that the HVACR business has consented that the bona fide representative will act as the agent for service of process within this State. Such proof shall be in writing and on a form provided by the Board; and
3. Provide to the Board the acceptance of liability by the HVACR business for any monetary penalty, monies to be paid for restoration to consumers of fees paid for services or for delays suffered by consumers, and costs assessed against the bona fide representative while acting within the scope of his or her employment on behalf of the HVACR business. Such acceptance of liability shall be in writing and on a form provided by the Board.

(b) If a bona fide representative for an HVACR business withdraws as the bona fide representative, the HVACR business may continue to operate for 60 days without a bona fide representative provided that:

1. A master HVACR contractor supervises all work to be conducted in the same manner as required by a bona fide representative pursuant to N.J.A.C. 13:32A-5.3(a)3;
2. The bona fide representative and the HVACR business notifies the Board within 10 days of the withdrawal of the bona fide representative; and
3. The supervising master HVACR contractor licensee notifies the Board within 10 days of being appointed as the supervising master HVACR contractor.

(c) If the bona fide representative for any HVACR business is unable to perform the duties of a bona fide representative because of death, illness, or disability, the HVACR business may continue to operate for six months without a bona fide representative provided that:

1. A master HVACR contractor supervises all work to be conducted in the same manner as required by a bona fide representative pursuant to N.J.A.C. 13:32A-5.3(a)3; and
2. The supervising master HVACR contractor and the HVACR business notify the Board within 10 days of the death, illness, or disability of the bona fide representative.

#### 13:32A-5.3 Bona fide representative responsibilities

(a) A bona fide representative registered with the Board pursuant to N.J.A.C. 13:32A-5.2 shall:

1. Give notice to the Board in writing concerning any change in the name or address of the entity within 10 days of the change;
2. Secure or instruct an authorized employee, or an independent master HVACR contractor, to secure all necessary permits as may be required by State and local law for the performance of HVACR work to be performed by the HVACR business. In making an application for permit issuance, the authorized employee or independent master HVACR contractor shall have in his or her possession a letter authorizing him or her to make the application. A letter of authorization may authorize a permit application for a specific period of time, not to exceed 60 days, and shall have affixed to it the seal of the bona fide representative. In all circumstances, the permit shall be signed by a master HVACR contractor and all work shall be supervised in the manner set forth in (a)3 below;
3. Supervise the performance of all HVACR work performed by the HVACR business as follows:
  - i. If the person performing the work is a master HVACR contractor, the bona fide representative shall require at the beginning of the job an initial report on the work to be performed and upon completion of the job a final report on the work performed;
  - ii. If the person performing the work is an HVACR journeyman, the bona fide representative or a master HVACR contractor employed by the HVACR business shall maintain daily contact with the HVACR journeyman either directly, by telephone or through writing and, where the work requires a HVACR permit, shall inspect the work upon completion. Any such contact shall be recorded by the bona fide representative or the master HVACR contractor employed by the HVACR business; and
  - iii. If the person performing the work is an apprentice, the bona fide representative shall ensure constant on-site supervision by a master HVACR contractor, or a HVACR journeyman with at least five years experience, during all times that HVACR services are being performed;
4. Be responsible for any and all violations of *N.J.S.A. 45:16A-1* et seq. committed by employees of the HVACR business if said violations were committed during the course of work that he or she was required to supervise;

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5. Serve as a bona fide representative for only one HVACR business; and
6. Maintain a place of business in the State of New Jersey or designate, and notify the Board of the identity of, an agent or entity in New Jersey for service of process.

(b) Nothing in this chapter shall preclude the Board from proceeding against both the bona fide representative for an HVACR business or any other master HVACR contractor employed by such a business who can be shown to have violated *N.J.S.A. 45:16A-1* et seq. or Board rules. Nothing shall preclude any person entitled to maintain an action on a bond from proceeding pursuant to N.J.A.C. 13:32A-5.6 against the bona fide representative and any other master HVACR contractor who has failed to perform the duties required by *N.J.S.A. 45:16A-1* et seq.

(c) The bona fide representative of any HVACR business that contracts to provide HVACR services to a consumer and wishes to subcontract that HVACR work to another HVACR business shall:

1. Subcontract only to a business whose sole proprietor is a licensed master HVACR contractor or which has a bona fide representative who is registered with the Board. The bona fide representative for the original master HVACR contractor shall be responsible for ensuring that the subcontractor has a registered bona fide representative;
2. Require of the subcontractor that a copy of any permit applications, permits, and changes in application or permit shall be delivered to the original HVACR business within five business days of the date the application or permit is filed;
3. Notify the consumer, prior to the beginning of any work, that the work has been subcontracted to another HVACR business and provide the consumer with the name, address, and telephone number of the subcontractor and the name and license number of the subcontractor's bona fide representative;
4. Advise the consumer prior to the beginning of any work that he or she has the right to terminate the contract prior to the beginning of any work because of the subcontracting;
5. Notify the consumer that the original HVACR business as well as the subcontractor remain liable for any defects, damages, or other losses that may result from the negligence, misconduct, or insolvency of the subcontractor;
6. Require that the subcontractor immediately notify the original HVACR business of any complaints by the consumer or the consumer's representative or by any governmental official; and
7. Supervise the work of the subcontractor in the same manner as required by (a)3i above.

(d) The bona fide representative shall have sufficient knowledge of the HVACR business' bookkeeping system and financial accounts to inform the Board, upon request by the Board, regarding the business' price-setting, billings, costs, subcontractors, overhead costs, and profits.

[page=655] 13:32A-5.4 Supervision

Any HVACR work that a master HVACR contractor agrees to perform, that has not been subcontracted to another master HVACR contractor, shall be performed only by the master HVACR contractor or those employees of the master HVACR contractor or the HVACR business whose remuneration is reported on a Form W-2 to the Internal Revenue Service.

13:32A-5.5 Requirement of identification card

(a) At the time of the biennial renewal of the license, the Board shall furnish a wallet size identification card to every master HVACR contractor. The card shall be used exclusively by the master HVACR contractor in the conduct of his or her practice. A master HVACR contractor is required to present the identification card upon request when applying for HVACR permits.

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(b) Use of an identification card by any person, other than the master HVACR contractor to whom the identification card is issued or by the agent authorized to act on behalf of the master HVACR contractor, shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation, or false pretense. Such conduct shall be unlawful and may be grounds for the suspension or revocation of the license of the unauthorized user if he or she is already licensed by the Board. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license in the future, which does not preclude the Board from proceeding against unlicensed practice pursuant to any other law or regulation.

(c) A master HVACR contractor who willfully or negligently allows an unlicensed or unauthorized person to use his or her identification card shall be deemed to have engaged in occupational misconduct and shall be subject to such penalties and sanctions as shall be imposed by the Board pursuant to authority granted by *N.J.S.A. 45:16A-1* and *45:1-14* et seq.

## 13:32A-5.6 Actions on the surety bond

(a) Any person, partnership, or corporation including any political subdivision of State government who has been injured, aggrieved, or damaged through the failure of a master HVACR contractor to perform the duties required by *N.J.S.A. 45:16A-1* et seq. or any rule of the Board shall be eligible to receive the financial protection of, and may maintain an action on, the surety bond.

(b) Any restitution to a person, partnership, corporation, or any political subdivision of State government ordered by the Board shall be eligible for the financial protection of the surety bond.

(c) If a bond is used to respond to a claim pursuant to (a) or (b) above, a master HVACR contractor shall replenish the bond so that its sum is \$ 3,000 as required by *N.J.S.A. 45:16A-23*.

## 13:32A-5.7 Change of address; service of process

(a) Every master HVACR contractor shall notify the Board in writing of his or her office address. Every master HVACR contractor shall notify the Board in writing of any change in his or her office within 10 days after such change.

(b) Service of an administrative complaint or other process initiated by the Board, the Attorney General, or the Division of Consumer Affairs at the master HVACR contractor's address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding against the master HVACR contractor.

## 13:32A-5.8 Unconscionable pricing

(a) A master HVACR contractor shall not charge an unconscionable price for services. A price is unconscionable when, after review of the facts, a master HVACR contractor of ordinary prudence would be left with a definite and firm conviction that the price is so high as to be manifestly unconscionable or overreaching under the circumstances.

(b) Factors that may be considered in determining whether a price is unconscionable include the following:

1. The time and effort required;
2. The novelty or difficulty of the job;
3. The skill required to perform the job properly;
4. Any special conditions placed upon the performance of the job by the person or entity for which the work is being performed;
5. The experience, reputation and ability of the master HVACR contractor to perform the services; and

6. The price customarily charged in the locality for similar services.

(c) Charging an unconscionable price shall constitute occupational misconduct within the meaning of *N.J.S.A. 45:1-21(e)* and may subject the master HVACR contractor to disciplinary action.

13:32A-5.9 Designations for licensees; prohibitions on unlicensed persons

(a) An active licensee may use the title "licensed master HVACR contractor" or "master HVACR contractor."

(b) No person, firm, partnership, corporation, or other legal entity shall engage in the business of HVACR contracting, advertise as a master HVACR contractor or use the title "licensed master HVACR contractor" or "master HVACR contractor" unless the person is licensed by the Board or the firm, partnership, corporation, or other legal entity has a bona fide representative who is licensed by the Board.

SUBCHAPTER 6. FEES

13:32A-6.1 Fee schedule

(a) The following fees shall be charged by the Board:

1. Application fee without prior registration (non-refundable)	\$ 100.00
2. Initial license fee:	
i. If paid during the first year of a biennial renewal period.....	160.00
ii. If paid during the second year of a biennial renewal period.....	80.00
3. License renewal fee, biennial.....	160.00
4. Late renewal fee.....	50.00
5. Reinstatement fee.....	150.00
6. Initial pressure seal.....	25.00
7. Replacement pressure seal.....	25.00
8. Duplicate license fee.....	25.00
9. Replacement wall certificate.....	40.00
10. Verification of licensure.....	25.00
11. Continuing education sponsor application fee.....	100.00