

[52 N.J.R. 1317\(a\)](#)

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RULE PROPOSALS

Reporter

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Interested Persons Statement

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of [N.J.S.A. 52:14B-3](#). An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at [N.J.A.C. 1:30-6.3](#). The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

Agency

COMMUNITY AFFAIRS > LANDSCAPE IRRIGATION CONTRACTORS EXAMINING BOARD

Administrative Code Citation

Proposed Amendments: [N.J.A.C. 5:62-1.1](#), [1.4](#), 2, 4.1, 5.7, and 5.9 and 5:62 Appendix

Text

Landscape Irrigation Contractors

Authorized By: Landscape Irrigation Contractors Examining Board, Gaetano Virone, Chairman.

Authority: N.J.S.A. 45:5AA, specifically [45:5AA-6](#).m and n; and P.L. 2015, c. 169.

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

Proposal Number: PRN 2020-062.

Submit written comments by September 4, 2020, to:

Geraldine Callahan
Department of Community Affairs
PO Box 800
Trenton, New Jersey 08625
Fax No. (609) 984-6696

geraldine.callahan@dca.nj.gov

The agency proposal follows:

Summary

Pursuant to the Landscape Irrigation Contractor Certification Act, [N.J.S.A. 45:5AA-1](#) et seq., the Landscape Irrigation Contractors Examining Board (Board) regulates persons who engage in the business of landscape irrigation contracting within the State of New Jersey and is authorized to promulgate and enforce rules and collect fees to carry out the provisions of the Act. The Board is proposing to amend the Landscape Irrigation Contractor Rules, [N.J.A.C. 5:62](#), to make administrative corrections and to incorporate amendments to make the certification program for landscape irrigation contractors more efficient. A section-by-section summary of the proposed amendments follows.

1. At [N.J.A.C. 5:62-1.1](#), Scope, amendments would include adding the Board of Landscape Irrigation's mailing address and website for clarity. This information would, thus, be deleted from the definition of "Board."

2. At [N.J.A.C. 5:62-1.4](#), Definitions, the definition of Board would remove the reference to the Board's address and website as stated above.

In addition, the definition of "Department" would be amended to reflect that the Department of Community Affairs administers the Board's business, and "duly authorized representative" would be amended to clarify that such representatives can perform investigative functions.

Amendments would change the definition of "examination" to reference the Irrigation Association Certified Irrigation Contractor Exam. This is because the Board is proposing to accept the Irrigation Association Certified Irrigation Contractor examination as the official examination to achieve certification in the State, rather than the existing State-specific examination developed in conjunction with the Irrigation Association. This change would make the program more efficient and constituent-friendly by allowing greater flexibility in scheduling and completing the examination on the part of the applicant.

Amendments would also clarify the definition of "experience" by incorporating a reference to a valid business permit holder and to include a reference to the exempt entities listed at [N.J.A.C. 5:62-5.7\(a\)](#)1.

3. At [N.J.A.C. 5:62-2.1](#), the requirements for the application would be broken down into a list and changes would be made to clarify the experience necessary to become qualified for admittance to the examination. Currently, the experience requirement is three years under the supervision of a certified individual. This rulemaking would define 1,100 hours as the standard for any one year of experience to better define the minimum amount of time required based on the nature of the industry's work. Amendments would further specify that the work be certified by a valid holder of a business permit. The 1,100 hour experience requirement allows applicants to gain experience on a

proportionate basis under 1,100 hours, but does not allow credit for hours worked in excess of that standard in any one year.

This section would also require applicants to take the Irrigation Association Certified Irrigation Contractor Exam. These amendments would allow the Board to determine other examinations equivalent to the Irrigation Association Certified Irrigation Contractor Exam and specify that possession of a current and valid Certified Irrigation Contractor (CIC) certification issued by the Irrigation Association satisfies the examination requirement.

4. At [N.J.A.C. 5:62-2.2](#), amendments would state that the Irrigation Association sets the passing score for the exam; currently, the Board sets the passing score.

5. At [N.J.A.C. 5:62-2.3](#), applicants would be required to complete the application process by December 31 of the year that they successfully complete the examination. This corresponds with the procedures of the outside examination provider (the Irrigation Association).

6. At [N.J.A.C. 5:62-2.4](#), amendments would remove the link to the Department's website where the time and date of examination was listed.

7. At [N.J.A.C. 5:62-2.5](#), amendments would remove the reference to the examination re-take fee. This fee is also proposed for removal at [N.J.A.C. 5:62-4.1](#). Because the Board will no longer be maintaining and administering the exam, no examination fee will be collected.

8. At [N.J.A.C. 5:62-2.6](#), in an effort to achieve better compliance with the renewal of certificates, amendments would establish that a late fee of \$ 300.00, as proposed at [N.J.A.C. 5:62-4.1](#), be assessed to any certificate holders who have failed to renew their certification by March 1 of the year in which the certificate has expired.

[page=1318] In addition, to replace the State-specific questions from the State-administered examination, this section would establish new continuing education requirements. The amendments would require at least two hours of the existing 16 hours of education in each renewal cycle to address topics specific to New Jersey State laws or building codes related to landscape irrigation contracting. This would not increase the burden on certified individuals; rather, it is intended to ensure that the certified landscape irrigation contractors are up-to-date on the laws and codes that regulate the industry.

These changes are necessary, because continuing education is vitally important in maintaining a properly certified population of landscape irrigation contractors; these continuing education courses have been in place for five years, and certified individuals are able to maintain and track their requirements.

Amendments would also be proposed at recodified subsection (e) requiring the submitted sign-in sheet to be filed with the Board within 10 business days and at recodified subsection (h) to extend, by 12 hours, the deadline to allow an individual more time to provide all necessary items to renew certification.

Lastly, this section would be amended to clarify that no individual shall perform work with an expired certificate and that any business permit issued based on an expired certificate shall be void.

9. At [N.J.A.C. 5:62-4.1](#), the fee schedule would be amended to delete the examination and the examination re-take fees. Because the Board will no longer administer and maintain the examination, there is no need to collect a fee. Additionally, a late renewal fee of \$ 300.00 would be established to achieve better compliance with the certificate renewal.

10. At [N.J.A.C. 5:62-5.7](#), amendments would require licensed New Jersey Master Plumbers to obtain a business permit if they perform landscape irrigation work. The reason for this amendment is two-fold: first, the Board would be able to better track plumbing contractors performing exempt landscape irrigation work to avoid complaints from the public; second, the Board would be able to allow employees of those plumbing contractors to document their experience towards meeting the requirements for the landscape irrigation contractor certification.

11. [N.J.A.C. 5:62-5.9](#) would be amended to require the Board to include information about any unresolved violations with the Board in its online registry. These amendments would also establish a second registry of individuals performing or advertising as certified to perform landscape irrigation work without certification. This would allow for better tracking and more transparent reporting of compliance and enforcement matters.

12. [N.J.A.C. 5:62](#) Appendix would be amended to allow product-specific subject matter related to irrigation for Irrigation Training CEC courses.

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

Social Impact

The proposed amendments are expected to have a positive social impact by clarifying the rules governing landscape irrigation contractors. In addition, requiring licensed New Jersey Master Plumbers to obtain a business permit and expanding the registries maintained on the Board's website allow for greater transparency in the information available to the public.

Economic Impact

The proposed amendments would remove fees related to the State examination for landscape irrigation contractors since the Board will no longer be administering the examination. Because the registration and examination process will be carried out through the Irrigation Association, this creates a more streamlined approach to becoming certified. A \$ 300.00 late fee would be established for failure to renew certification. This cost ensures that certified landscape irrigation contractors remain up-to-date on related laws, rules, and practices within the field, and will not be burdensome, so long as contractors are in compliance with the rules.

Federal Standards Statement

No Federal standards analysis is required because the proposed amendments are not being proposed under any authority of, or in order to implement, comply with, or participate in any program established under Federal law or a statute that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

These proposed amendments address the examination and requirements for certified landscape irrigation contractors and are not expected to have an impact on the creation or loss of jobs.

Agricultural Industry Impact

The Board does not anticipate that the proposed amendments, which address the examination and requirements for certified landscape irrigation contractors, would have any effect on the agricultural industry.

Regulatory Flexibility Analysis

The proposed amendments impose compliance requirements on landscape irrigation contractors and Master Plumbers, some of which are "small businesses" as defined under the Regulatory Flexibility Act, [N.J.S.A. 52:14B-16](#) et seq. This rulemaking does not introduce any new recordkeeping or reporting requirements on small businesses, nor is it expected to cause small businesses to need to employ professional services not already required for compliance with the chapter. While New Jersey Master Plumbers will be required to secure a business permit for landscape irrigation work, the business permitting process is free of charge and is valid for two years; the Board initiates the renewal process for these permits. As such, there is no basis for differential treatment of small businesses.

Housing Affordability Impact Analysis

The proposed amendments are applicable to the examination and requirements for certified landscape irrigation contractors. The rules would not likely have an impact on the average costs associated with housing or affect the affordability of housing.

Smart Growth Development Impact Analysis

These proposed amendments address the examination and requirements for certified landscape irrigation contractors and would not be likely to have any impact upon housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Board has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 1. GENERAL PROVISIONS

5:62-1.1 Scope

(a) Unless otherwise provided by a rule or statute, this chapter shall constitute the rules of the Board of Landscape Irrigation Contractors. These rules are promulgated pursuant to the Act.

(b) **The Board's mailing address is:**

Board of Landscape Irrigation Contractors

c/o Department of Community Affairs

Division of Codes and Standards

PO Box 802

Trenton, New Jersey 08625-0802

(c) The Board's website is <http://www.nj.gov/dca/divisions/codes/advisory/LICboard.html>.

5:62-1.4 Definitions

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

...

"Board" means the Board of Landscape Irrigation Contractors established pursuant to the Act. [The Board's mailing address is Board of Landscape Irrigation Contractors, c/o Department of Community Affairs, Division of Codes and Standards, PO Box 802, Trenton, NJ 08625-0802. [page=1319] The website is: www.nj.gov/dca/divisions/codes/advisory/LICboard.html.]

...

"Department" means the Department of [Environmental Protection] **Community Affairs**.

...

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"Duly authorized representative" means a natural person or company who is designated or retained by the Board to perform administrative, **investigative**, and/or testing functions.

"Examination" means [a comprehensive examination to evaluate the knowledge, ability, and fitness of an applicant to perform as a landscape irrigation contractor, or a partial examination of an applicant licensed or certified by another state that the Board determines has standards equal or comparable to those of New Jersey, and where New Jersey certified landscape irrigation contractors are granted reciprocity. Partial examinations are limited to testing knowledge necessary for engaging in landscape irrigation contracting in New Jersey.] **the Irrigation Association Certified Irrigation Contractor exam, or its equivalent, as determined by the Board.**

"Experience" means constructing, repairing, maintaining, improving, or altering of a landscape irrigation system, while employed **by a valid business permit holder and** under the direct supervision of a New Jersey certified landscape irrigation contractor, except as provided in this definition, and/or educational experience regarding landscape irrigation systems, which the Board may allow to be substituted for actual landscape irrigation experience. Pursuant to [N.J.S.A. 45:5AA-4](#), experience of at least three years shall have been acquired no earlier than 15 years prior to the date of the application. [Field] **Experience** acquired after January 1, 1997, the effective date of the Act, shall be in compliance with the Act. [Field] **Experience gained while working for an exempt entity, as defined at [N.J.A.C. 5:62-5.7\(a\)1](#), in landscape irrigation work may be considered by the Board; and** experience acquired by the candidate outside New Jersey may be considered by the Board in substitution of New Jersey [field] experience. Such out-of-State experience shall be in compliance with all landscape irrigation laws and regulations, if any, of the applicable jurisdiction, documented and verified in writing, and submitted with the candidate's application for certification. Educational experience shall be accepted by the Board as a substitute for one year's [field] experience only. Such educational substitution shall consist of a minimum of six college credits, or 90 course hours of instruction related to landscape irrigation contracting that is offered by a trade association, a trade school, a college, a manufacturer, or distributor of landscape irrigation contracting equipment, or by a similar source, or by the Board.

...

SUBCHAPTER 2. CERTIFICATION AND RENEWAL

5:62-2.1 Application and examination for certification

(a) (No change.)

(b) In order to be considered by the Board or its duly authorized representative, an application shall include [the]:

1. **The** applicant's name, home address, [social security] **Social Security** number, and most recent W-2; [and the]

2. [the] **The** applicant's employer's: business address, business trade name, **landscape irrigation contractor certificate number and business permit number**, Federal employer identification number, New Jersey sales tax number, insurance company name, and policy number for general liability/workmen's compensation insurance, if required; [a]

3. **A** detailed description of the applicant's experience, as defined at [N.J.A.C. 5:62-1.4](#), of at least three years **and a signed attestation to that experience by the applicant's employer; and** proof that the applicant is at least 18 years old; [a]

i. **The standard for one year of experience shall be 1,100 hours of work in any one calendar year. The Board shall consider work hours less than 1,100 in any one calendar year on a proportional basis. No additional experience shall be given for hours in excess of 1,100 hours regardless of the amount of overtime the applicant describes.**

4. **A** statement that the applicant has no unresolved violations of this chapter; and [the]

5. The application fee.

6. Applicants shall sign the Oath of Candidate in the application that states as follows: "I certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are, or may be, significant civil and criminal penalties, including fines and/or imprisonment, for my knowingly submitting false, inaccurate or incomplete information or statements." If, at any time, the Board finds that an applicant obtained a landscape irrigation contractor certificate or a business permit under false pretenses, such findings shall be cause for revocation. Additional documentation may be required if the Board deems it necessary to determine whether the applicant meets the above criteria.

(c) The Board, or its duly authorized representative, shall notify the candidate when his or her application has been deemed complete. [Upon such notification, the candidate shall submit to the Board or its duly authorized representative the required examination fee.]

(d)-(e) (No change.)

[(f) To be admitted to take the examination, a candidate shall produce upon check-in at the examination site, the scheduling letter and a valid government issued photo identification, such as a driver's license or a passport.

(g) Applicants who request to take a computer-based examination will be referred to an approved computer testing center.]

(f) Applicants shall take the Irrigation Association Certified Irrigation Contractor exam.

1. The Board may determine other examinations as equivalent to that offered by the Irrigation Association.

2. Possession of a current and valid Certified Irrigation Contractor (CIC) certification issued by the Irrigation Association shall satisfy this examination requirement.

5:62-2.2 Notification of pass-fail

To receive certification, a candidate is required to obtain a passing score on the examination. The passing score will be set by [the Board or its duly authorized representative] **the Irrigation Association**. [The Board or its duly authorized representative shall notify all candidates whether they have passed or failed the examination within 60 days after the date of examination.]

5:62-2.3 Passed candidates

The Board or its duly authorized representative shall issue a certificate to each candidate who successfully passes the examination, pays the required certification fee, and otherwise meets the standards and qualifications set forth in the Act and this chapter. Each initial certificate issued pursuant to the Act and this chapter shall expire on January 31 of the second calendar year following issuance. A candidate who passes the exam shall [have one year from the date of notification to] complete the certification process and pay the required fees to obtain the certification **no later than December 31st of that calendar year**. Otherwise, the candidate shall reapply as a new candidate and retake and pass the examination before being eligible to obtain the certificate.

5:62-2.4 Failed candidates

A candidate who has failed the examination shall be sent notification of those subject areas in which a passing grade was not achieved. [The date and location of examinations can be found at www.nj.gov/dca/divisions/codes/advisory/LICboard.html.]

5:62-2.5 Re-examination

A candidate who has failed the examination shall not be required to reapply for certification if said candidate's application has not expired. [The candidate shall be allowed to retake the examination upon completing a request to

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take examination form and paying an examination re-take fee.] The candidate shall wait a minimum of six months from the date he or she failed before he or she will be allowed to retake the examination.

5:62-2.6 Certificate renewal and continuing education requirements

(a) Each certificate holder shall be sent a renewal [fee payment invoice] **application** prior to the expiration of his or her certificate. The Board or its duly authorized representative shall issue a renewal certificate pursuant to [N.J.S.A. 45:5AA-7.c](#) et seq., if the certificate holder submits a complete renewal application to the Board and [separately submits] payment of a bi-annual renewal fee to the Division as follows:

[page=1320] 1.-2. (No change.)

3. The renewal application [shall be received by the Board] and the renewal fee shall be received by the Division [of Revenue] no later than [30 days prior to] January 31 of the year in which the certificate will expire. **If the renewal is received after March 1, a late fee shall be assessed in accordance with (i) below.** Each renewed certificate shall remain valid until January 31 of the second calendar year after it was renewed.

(b) To renew a certificate, each certificate holder shall provide on his or her renewal application proof of having successfully obtained a minimum of 16 CECs [of which a minimum of eight] **as follows:**

1. **Eight CECs shall be in a training activity related to water conservation[.];**
2. **Two CECs shall be courses on New Jersey Laws or Building Codes; and**
3. **The remaining six CECs shall be fulfilled through other approved courses or training activities related to landscape irrigation.**

(c) Credit for CECs shall be issued for verified attendance at training activities approved by the Board. CECs shall have been acquired within three years prior to the date of the application for certificate renewal, except that a maximum of eight CECs may be carried forward and applied to the subsequent certificate renewal.

[(c)] **(d)** (No change in text.)

[(d)] **(e)** A person or organization seeking to have training pre-approved for CECs shall submit to the Board the title of the training activity, the outline or syllabus detailing the instruction, the instructor's name and qualifications, and the hours and date of the training activity and shall agree to the procedures set forth in this subsection. If the training activity is approved, on the day of the training, the sponsoring person or organization shall require each participant to sign in and provide his or her name, address, phone number, [e-mail] **email** address, and landscape irrigation contractor certificate number. The sponsoring person or organization shall submit the completed sign-in sheet to the Board **within 10 business days** and keep a copy on file for five years following the completion date of the training activity.

Recodify existing (e)-(f) as **(f)-(g)** (No change in text.)

[(g)] **(h)** If a renewal application and waiver request, if applicable, and fee are not received, the certificate shall expire [at 12:00] **after 11:59 P.M.** on January 31 of the expiring year. A certificate holder whose certificate has expired may renew his or her certificate within two years from its expiration date upon submittal of a complete renewal application, including proof of having obtained the required CECs, or CECs waiver request as specified [in] **at (f) above**, and payment of the renewal fee. A new certificate shall be required of a certificate holder who fails to apply for renewal of the certificate within two years after its expiration. **No individual shall perform work with an expired certificate. All business permits issued based on an expired certificate shall be void.**

[(h)] **(i)** The certificate of a certificate holder who has timely filed a complete renewal application in compliance with this section will remain in effect pending the certificate holder's receipt of the Board's decision regarding renewal of the certificate.

1. Where the certificate holder has allowed the certificate to lapse by failing to renew the certificate as provided in this section by 11:59 P.M. on January 31 of the expiring year, it shall be considered late as of March 1 of that year and any such late renewal application shall be accompanied by the appropriate renewal fee and an additional late fee of \$ 300.00 per year or any fraction thereof.

Recodify existing (i)-(k) as **(j)-(l)** (No change in text.)

SUBCHAPTER 4. FEE SCHEDULE

5:62-4.1 Fee schedule

(a) The fee schedule is as follows:

1.-2. (No change in text.)

[3. Examination fee 150.00

(\$ 75.00 for partial examination)

4. Examination re-take fee 150.00

(\$ 75.00 for partial examination)]

3. Late renewal fee 300.00

Recodify existing 5.-6. as **4.-5.** (No change in text.)

(b) (No change.)

SUBCHAPTER 5. ADDITIONAL REQUIREMENTS

5:62-5.7 Exemptions

(a) The following are exempt from obtaining a certificate and/or a business permit pursuant to [N.J.S.A. 45:5AA-3.c](#), as detailed below:

1. Licensed plumbing contractors, as defined [in] at [N.J.S.A. 45:14C-2](#), are exempt from having to obtain a landscape irrigation contractor certificate [and] **but not** a business permit pursuant to the Act if they are installing landscape irrigation systems as part of their plumbing contracting business. **A licensed plumbing contractor who installs landscape irrigation systems as part of his or her plumbing contracting business shall file for a business permit in accordance with this chapter by (180 days from the effective date of this amendment) in order for the Board to have a record of such activity and to qualify any subsequent applications for a certificate.** The existence of a licensed plumber or plumbing contractor on staff or payroll of a business does not exempt it from having to obtain a business permit and designate a certificate holder in order to advertise, enter into, or engage in the business of landscape irrigation contracting. A landscape irrigation contractor, who may be the owner or an employee of the business engaged in landscape irrigation contracting, shall obtain certification pursuant to the provisions of the Act and this chapter;

2.-7. (No change.)

(b) (No change.)

5:62-5.9 Registry

(a) The Board or its duly authorized representative shall maintain a registry of certified landscape irrigation contractors that will include the certificate holder's name, address, certificate number, [and] the date the certificate

was issued and expiration date, **and any unresolved violations with the Board.** The registry shall indicate each certificate holder who is a designated certificate holder for a business permit holder.

(b) (No change.)

(c) The Board or its duly authorized representative shall maintain a registry of those businesses or individuals performing or advertising as certified to perform landscape irrigation work without certification.

[(c)] **(d)** [The registry of certified landscape irrigation contractors and the registry of business permit holders] **All registries maintained by the Board** are available at the Department's web site at www.nj.gov/dca/divisions/codes/advisory/LICboard.html.

APPENDIX

New Jersey Certified Landscape Irrigation Contractor

Activities that Qualify for Continuing Education Credits (CECs)

...

Irrigation Training - TIER 1

...

TRAINING

DEFINITION

Irrigation educational courses and seminars sponsored by trade associations, trade schools, educational institutions, professional instructors, or manufacturers. If the course or seminar is sponsored by a distributor or manufacturer, the course shall be taught by an Irrigation Association Licensed Provider, college or university staff, or other approved professional instructor. The subject matter shall be related to irrigation and [cannot] **can** be product specific.

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NEW JERSEY REGISTER

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