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NTD EMPLOYERS ASSOCIATION

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INTERNATIONAL BROTHERHOOD OF
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NATIONAL JOINT RULES AND STANDARDS COMMITTEE

753 State Ave., Suite 570

Kansas City, KS 66101

September 7, 2018

TO: All CSO District and Local Lodges

RE: Modified Model Referral Rules

Dear Colleagues:

In an effort to update and incorporate all language modifications approved since December 15, 2016, into the Model Referral Rules, the following changes have been reviewed and adopted by the National Joint Rules and Standards Committee effective August 27, 2018:

Please note changes will be separated into two (2) categories: generic or specific modifications.

Generic Modifications:

- 1) The terms “Local or Area” when referring to a collective bargaining agreement or negotiating committee has been modified to read as “governing” to include all collective bargaining agreements and negotiating committees.
 - a. For example:
Article 1.1
Removed: “...Local or Area collective bargaining agreement, ...”
Replaced with: “...governing collective bargaining agreement, ...”
- 2) The term “Contractor” has been modified to “Employer” for consistency.
- 3) The term “below” or “herein” when referencing subsequent language or articles has been removed.
- 4) The term “Local” in referencing a referral hall has been modified with “Local Lodge” where practicable.
- 5) Grammatical errors, punctuation errors, misspelled words, incorrect titles/article numbers have been corrected.
- 6) All gender-specific pronouns have been modified to gender-neutral or gender-inclusive pronouns.
- 7) The term “Journeyman” has been modified to “Journeyworker”.
- 8) Any and all committee “members” will be referenced as committee “representatives”.

Specific Modifications:

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Removed: REPORTING OF SUSPENSIONS BY LOCALS AND NATIONAL COMMITTEE

Replaced with: REPORTING OF SUSPENSIONS BY LOCAL LODGES

Article 1.2

Removed: **Adoption of MOST Boilermaker Delivery System (MBDS):**
By adoption of these Local Joint Referral Rules, the Local Lodge hereby adopts the MBDS as the exclusive mechanism whereby all applicant registrations and referrals shall be accomplished under these rules.

Replaced with: **Adoption of MOST Boilermaker Delivery System (MBDS):**
These Uniform Referral Standards and Joint Referral Rules and the MOST Boilermaker Delivery System shall serve as the exclusive mechanism, except for emergency situations, whereby all applicant registrations and referrals shall be accomplished under these Referral Rules.

Article 4.1

Removed: "...nondiscriminatory, fair and equitable..."

Replaced with: "...fair, equitable and nondiscriminatory..."

Article 4.3

Removed: **MOST Boilermaker Delivery System (MBDS):**
The Local Lodge must use the MBDS to register and refer all applicants for referral in accordance with these Local Joint Referral Rules. In the event of an emergency where it is impossible for the Local Lodge to access or use the MBDS, the Business Manager, or his/her designee, may temporarily use an alternative system which satisfies these Local Joint Referral Rules to register and/or dispatch applicants in a nondiscriminatory fashion, provided however, that as soon as possible, all registrations and/or referrals will be recorded in the MBDS.

Replaced with: **MOST Boilermaker Delivery System (MBDS):**
The Local Lodge must use the MBDS to register and refer all applicants for referral in accordance with these Local Joint Referral Rules. In the event of an emergency where it is **impracticable** for the Local Lodge to access or use the MBDS, the Business Manager, or his/her designee, may temporarily use an alternative system which satisfies these Local Joint Referral Rules to register and/or dispatch applicants in a nondiscriminatory fashion, provided however, that as soon as **reasonable**, all registrations and/or referrals will be recorded in the MBDS.

Article 5

Removed: Skills for placement on all referral lists shall be verified by computer cross-reference with MOST, Common Arc and/or other acceptable skills testing databases and with approval of the Business Manager or his/her designated representative. All applicants are required to complete a Referral Application Form approved by the National Joint Rules and Standards Committee.

Replaced with: Skills for placement on all referral lists shall be verified by computer cross-reference with MOST, Common Arc and/or other acceptable skills testing databases and with approval of the Business Manager or their designated representative. All applicants are required to register for referral on the MOST Boilermaker Delivery System.

Article 5.1.1

Removed: "...the three (3) requirements listed below:"

Replaced with: "...the four (4) requirements listed below:"

Article 5.1.1

New language: (4) Have satisfactorily completed the Boilermaker Code Training, effective December 31, 2020.

Article 5.1.2

Removed: (4) Must have satisfactorily completed the MOST Rigger Training course.

Replaced with: (4) Must have satisfactorily completed the MOST Rigger Training course or Canadian Master Rigger Program.

Article 5.1.2

New language: (9) Have satisfactorily completed the Boilermaker Code Training, effective December 31, 2020.

Article 5.1.2

Comment Section

Removed: If your collective bargaining agreements require MOST Pulmonary Function Test (PFT)/Respirator Fit Test (RFT) as a requirement for referral, then it should be added as a requirement (#9) to Article 5.1.2.

Replaced with: If your collective bargaining agreements require MOST Pulmonary Function Test (PFT)/Respirator Fit Test (RFT) as a requirement for referral, then it should be added as a requirement to Article 5.1.1 and Article 5.1.2.

Article 5.2

Removed: (4) Must have satisfactorily completed the MOST Rigger Training course.

Replaced with: (4) Must have satisfactorily completed the MOST Rigger Training course or Canadian Master Rigger Program.

Article 5.2 Comment Section

Removed: If your collective bargaining agreements require MOST Pulmonary Function Test (PFT)/Respirator Fit Test (RFT) as a requirement for referral, then it should be added as a requirement (#7) to Article 5.1.2.

Replaced with: If your collective bargaining agreements require MOST Pulmonary Function Test (PFT)/Respirator Fit Test (RFT) as a requirement for referral, then it should be added as a requirement to Article 5.2.

Article 5.3.3

New language: **Journeyworker Boilermakers Indentured into the Boilermaker National Apprenticeship Program:**
Any referral applicant who has previously qualified for referral from the Primary or Secondary list, and subsequently enrolls in the Boilermaker National Apprenticeship Program (BNAP), for the purpose of furthering their education in the Boilermaker construction industry, shall be referred from the Primary or Secondary list if qualified for such referral. Such applicants for referral are not eligible for registration on or referral from the Apprenticeship/Trainee list.

Article 5.5.1

Removed: A qualified Construction Boilermaker who meets all the requirements, as stated in Articles 5.1 and 5.2, except the domicile requirement, seeking work outside the geographical jurisdiction of the Local Lodge where the applicant is domiciled, must register on the Journeyman Travelers Referral List/Pool. Said applicant for referral shall be limited to selecting a maximum of twelve (12) Locals where the applicant is willing to work.

Replaced with: A Qualified Construction Boilermaker who meets all the requirements of Articles 5.1 or 5.2, except the domicile requirement, seeking work outside the geographical jurisdiction of the Local Lodge where the applicant is domiciled, must register on the Journeyworker Travelers Referral Pool/List. Said applicant for referral may select a maximum of twelve (12) Local Lodges where the applicant is willing to work.

Article 5.5.2, 5.6.2, 5.7.2

Removed: "...Said applicant for referral shall be limited to selecting a maximum of twelve (12) Locals where the applicant is willing to work."

Replaced with: "...Said applicant for referral may select a maximum of twelve (12) Local Lodges where the applicant is willing to work."

Article 5.5.1.2

Removed: An applicant's eligibility or status on the Primary or Secondary List in the applicant's Local Lodge of domicile shall not be affected by registration on or referral from the Journeyman Travelers Referral Pool or by employment outside the applicant's Local Lodge of domicile.

Replaced with: An applicant's position on the Primary or Secondary List in the applicant's Local Lodge of domicile shall not be affected by registration on or referral from the Journeyworker Travelers Referral Pool or by employment outside the applicant's Local Lodge of domicile.

Articles 5.5.1.3, 5.6.1.1, 5.6.2.3, 5.7.1.1, 5.7.2.3

Removed: All Contractor selections from the Journeyman Travelers Referral Pool and any remaining referral requests not selected by the Contractor shall be referred by the Business Manager or his/her designated representative. The Business Manager or his/her designated representative shall select for referral by order of registration and skill set.

Replaced with: Any remaining referral request, not filled by Employer request, shall be referred by the Business Manager or his/her designated representative. The Business Manager or his/her designated representative shall select for referral by order of registration and skill set.

Article 5.5.2.2

Removed: An Apprentice's eligibility or status in the Apprentice's Local Lodge of domicile shall not be affected by registration on or referral from the Apprentice Travelers Referral Pool or by employment outside the applicant's Local Lodge of domicile.

Replaced with: An Apprentice's position in the Apprentice's Local Lodge of domicile shall not be affected by registration on or referral from the Apprentice Travelers Referral List or by employment outside the applicant's Local Lodge of domicile.

Article 5.6.1

Removed: (3) Four (4) years of domicile within the geographical jurisdiction of Local Lodge 00, unless a waiver is requested by the Business Manager of a subordinate Lodge and approved by the International President or his/her designated representative.

Replaced with: (3) The domicile of Interns registering for the MBDS shall initially be the Local Lodge where the Intern first registers, until such time as the Intern requests a change of domicile and can establish four (4) years of domicile in a different Local Lodge. In the alternative, a change of initial domicile may be requested by the Business Manager of a subordinate Local Lodge and approved by the International President or his/her designated representative.

Article 5.6.2.2

Removed:

No Affect on Domicile Intern Boilermaker Referral Pool:

An Intern Boilermaker applicant eligibility or status on the Domicile Intern Boilermaker Referral Pool of the applicant's Local Lodge of domicile should not be affected by registration in or referral from the Intern Boilermaker Travelers Referral Pool or by employment outside the applicant's Local Lodge of domicile.

Replaced with:

No Effect on Domicile Intern Boilermaker Referral Pool:

An Intern Boilermaker applicant's position on the Domicile Intern Boilermaker Referral Pool of the applicant's Local Lodge of domicile should not be affected by registration in or referral from the Intern Boilermaker Travelers Referral Pool or by employment outside the applicant's Local Lodge of domicile.

Article 5.7.2.2

Removed:

A Retired Boilermaker applicant eligibility or status on the Domicile Retired Boilermaker Referral Pool of the applicant's Local Lodge of domicile should not be affected by registration in or referral from the Retired Boilermaker Travelers Referral Pool or by employment outside the applicant's Local Lodge of domicile.

Replaced with:

A Retired Boilermaker's position on the Domicile Retired Boilermaker Referral Pool of the applicant's Local Lodge of domicile should not be affected by registration in or referral from the Retired Boilermaker Travelers Referral Pool or by employment outside the applicant's Local Lodge of domicile.

Article 5.8

New language:

Dual-Citizenship Boilermakers:

Anyone who maintains dual citizenship in the United States and any other country, who does not maintain a domicile in the United States and would otherwise be qualified for referral as a journeyworker, intern or apprentice, shall be permitted to register for and be referred in accordance with the Uniform Referral Standards and Joint Referral Rules as a traveler. In order to facilitate such referral, the Administrator of MOST shall make appropriate accommodations to permit said applicants to register for traveler referral.

Article 5.9

New language:

Ineligible Pool:

Any referral applicant who is not eligible for any of the above defined referral pools/lists shall be placed in an "Ineligible Pool". In the event of an emergency, a Local Lodge may use this "Ineligible Pool" or any other source to refer individuals to an Employer. Due to the emergency nature of the work in question, these referral applicants need not be referred in their order of registration.

5.9.1. Fair, Equitable and Nondiscriminatory Referral:

In the event of an emergency referral, a Local Lodge shall be fair, equitable and nondiscriminatory in its referral.

5.9.2 No Referrals from Penalty List:

In the event of such emergency referral, a Local Lodge shall not refer individuals who are currently ineligible for referral because of disciplinary/penalty action taken pursuant to these standards and rules.

Article 5.10

New language:

Deactivation of Referral Applicants:

5.10.1 Deactivation After Twenty-Four (24) Months of Ineligibility:

If a referral applicant remains on the “Ineligible Pool” for twenty-four (24) consecutive months, the Local Lodge where that individual maintains domicile, shall as soon as practicable during the twenty-fifth (25) month of the applicant’s ineligibility, deactivate said individual in the MOST Boilermaker Delivery System.

5.10.2 Deactivation Upon Death:

When a Local Lodge becomes aware from a reliable source, such as the International Brotherhood or the Boilermaker National Funds, that a referral applicant is deceased, the Local Lodge where the individual maintains domicile, shall deactivate said applicant in the MOST Boilermaker Delivery System.

5.10.3 Request to be Deactivated:

Upon request of a referral applicant, the Local Lodge where the individual maintains domicile shall deactivate said applicant in the MOST Boilermaker Delivery System.

5.10.4 Reactivation of Applicants:

Any applicant who has been deactivated by operation of Article 5.10, and each of its subsection, who wishes to be reactivated, shall re-register in accordance with the provisions of Article 6.7.

Article 6.1.1

Removed:

(2) Satisfactorily served an apprenticeship in the trade of field construction boilermaking under an apprenticeship program approved by the United States Bureau of Apprenticeship Training, State Division of Apprenticeship Standards, or;

Replaced with:

(2) Satisfactorily served an apprenticeship in the trade of field construction boilermaking under an apprenticeship program approved by the United States Bureau of Apprenticeship Training, State Division of Apprenticeship Standards or Canadian National Apprenticeship Program, or;

Article 6.1.1

Removed: The above tests shall be administered by the local Joint Referral Rules Committee.

Replaced with: The written examination will be developed by BNAP and MOST. The above written examinations, developed by BNAP and MOST, shall be administered by the Business Manager or their designee.

Article 6.1.1

Removed: Training will be made available to applicants who have accumulated at least two thousand (2,000) hours in the employ of a contributing Employer.

Article 6.3

Sentence added: No Local Lodge shall deny a reasonable request from any Boilermaker Apprentice/Trainee list applicant, with two thousand (2,000) or more hours in the employ of a contributing Employer, MOST OSHA and/or MOST Rigger Training.

Article 6.4

Sentence added: No Local Lodge shall deny a reasonable request from any Boilermaker Intern list applicant, with two thousand (2,000) or more hours in the employ of a contributing Employer, MOST OSHA and/or MOST Rigger Training.

**Article 6.4,
Comment Section**

Sentence added: No Local Lodge shall deny a reasonable request from any other classification, as defined and contained in the governing collective bargaining agreement, list applicant, with two thousand (2,000) or more hours in the employ of a contributing Employer, MOST OSHA and/or MOST Rigger Training.

Article 7

Removed: **NTD EMPLOYMENT**

Replaced with: **NATIONAL TRANSIENT DIVISION (NTD) EMPLOYMENT**

Article 8.1

Header Modified to: **Fair, Equitable and Nondiscriminatory:**

Article 8.7.1

Removed: **Alternative to Applicable Collective Bargaining Agreement:**
For any job performed within the geographical jurisdiction of the Local, an employer shall have the right to use these procedures for selection of applicants and transfer of employees as an alternative to the selection and transfer provisions of the applicable Boilermaker Collective Bargaining Agreement, or when no provisions are contained in the applicable agreement. Each employer shall establish a list of preferred Boilermaker applicants from this Local's "Primary" out-of-work list. The list of

preferred Boilermakers may be updated no more than once per calendar quarter. The employer will consider skills, attendance, reliability, and work performance when adding applicants to or removing applicants from the preferred list. Skills shall be based on four categories: (1) welder, (2) rigger, (3) layout/blueprint, and (4) general mechanic.

Replaced with:

Alternative to Applicable Collective Bargaining Agreement:

For any job performed within the geographical jurisdiction of the Local Lodge, an Employer shall have the right to use these procedures for selection of applicants and transfer of employees as an alternative to the selection and transfer provisions of the applicable Boilermaker collective bargaining agreement, or when no provisions are contained in the applicable agreement. Each Employer shall have the right to select the first twenty (20) preferred referral applicants or fifty percent (50%) of referral applicants, whichever is less, from the Primary out-of-work list of any Local Lodge under the authority of and upon the approval of the International Vice President having jurisdiction over Local Lodge (000) and after consultation with the Business Manager. After the Employer has selected the first twenty (20) preferred referral applicants or fifty percent (50%) of referral applicants, whichever is less, from the Primary out-of-work list as set forth above, fifty percent (50%) of referral applicants may be selected by the Employer from the top ninety percent (90%) of the Local Lodge (000) Primary out-of-work list, with the remaining fifty percent (50%) referred by Local Lodge (000) in accordance with these referral rules, alternately on a one-to-one basis. This referral ratio may be maintained when additional referral applicants are requisitioned by the Employer.

Article 8.7.1.4

Removed:

Disputes:

All questions or disputes arising from the implementation of this Article shall be presented to the Local Joint Referral Rules Committee for recommendation to the National Joint Rules and Standards Committee.

Replaced with:

Disagreements Regarding the Interpretation of Selectivity:

All questions or disagreements between the Local Lodge and an Employer concerning the interpretation and/or application of the selectivity provisions of Article 8.7 and all of its subsections, shall be presented by either party to the Local Joint Referral Rules Committee for its recommendation. Either party that is not willing to be bound by said recommendation, may appeal the matter to the National Joint Rules and Standards Committee, whose decision shall be final and binding on all parties.

Article 8.7.1.5

New language:

Modification of Referral Protocol:

The International Vice-President and Chairman of the Employer Negotiating Committee have the authority to change the referral protocol, within the geographical jurisdiction of their authority. Any such changes

shall be effective, unless rejected by the National Joint Rules and Standards Committee as being contrary the spirit and intent of the Uniform Referral Standards and Joint Referral Rules.

Article 9.1.4

Removed:

Failed Drug/Alcohol Test:

The following individuals shall be suspended from the applicable out-of-work list/pool for twenty-one (21) days and not be allowed to re-register until passing a drug/alcohol test within five (5) days prior to the date of registration.

(a) Referral applicants refused employment by the employer or employees disciplined by the employer for failing a drug/alcohol test on any job where testing is required.

(b) Any referral applicant registered on any referral registration list/pool who fails a MOST drug test.

Such test shall meet the requirements of the MOST drug screening procedure and shall test for the same panel of drugs in the same amounts.

Replaced with:

Failed Drug/Alcohol Test:

The following individuals shall be suspended from the applicable out-of-work pool/list and, in addition to the twenty-one (21) day suspension, must pass a MOST drug/alcohol test, in accordance with the MOST DRUG SCREENING POLICY AND PROCEDURES, to be eligible for referral. In accordance with said policy, the applicant must pay for the drug/alcohol test.

(a) Referral applicants refused employment by the employer or employees disciplined by the employer for failing a drug/alcohol test on any job where testing is required.

(b) Any referral applicant registered on any referral registration pool/list who fails a MOST drug test.

Article 9.5.2

Removed:

Notice:

Should the National Joint Rules and Standards Committee have cause to believe that an individual has, in accordance with the preceding paragraph, demonstrated himself unsuitable for further employment as a Field Construction Boilermaker, the committee shall advise the individual in question, in writing, of its tentative conclusions and provide a reasonable opportunity for such individual to show cause why serious disciplinary action up to and including permanent removal from all out-of-work lists and referral registration pools in conformance with the Uniform Referral Standard should not be imposed.

Replaced with:

Notice:

Should the National Joint Rules and Standards Committee have cause to believe that an individual has, in accordance with the preceding paragraph, demonstrated themselves unsuitable for further employment as a Field Construction Boilermaker, the Committee shall advise the individual in question, in writing, of its tentative conclusions and provide a reasonable opportunity for such individual to show cause why serious disciplinary action up to and including permanent removal from all out-of-work lists and referral registration pools in conformance with the Uniform Referral Standard should not be imposed.

Article 11

Removed:

REPORTING OF SUSPENSIONS BY LOCALS AND NATIONAL COMMITTEE:

All suspensions imposed shall be reported immediately on appropriate forms to the National Joint Rules and Standards Committee and to the individual. Suspensions will be applied in all Local referral agencies governed by the Uniform Referral Standards unless such suspension is otherwise modified in accordance with the basic grievance procedure or the local joint referral dispute procedure.

Replaced with:

REPORTING OF REFERRAL SUSPENSIONS BY LOCAL LODGES:

All referral suspensions imposed shall be reported immediately by the Local Lodge in the MOST Boilermaker Delivery System and to the individual. Suspensions will be applied in all Local Lodge referral agencies governed by the Uniform Referral Standards unless such suspension is otherwise modified in accordance with the applicable grievance procedure or the Local Joint Referral Dispute Procedure.

Article 12

Removed:

REPORTING BY EMPLOYERS:

Employers shall cooperate with the referral agent by providing all information necessary and relevant to proper functioning of the referral system including written termination reports stating time, date and reason for any and all terminations.

Replaced with:

REPORTING BY EMPLOYERS:

When an Employer takes disciplinary action against a referral applicant, the Employer must provide the referral applicant with a written explanation of the nature of the disciplinary action taken along with a brief explanation of the reason(s) for the disciplinary action taken. The Employer must contemporaneously send a copy of the written explanation to the Business Manager of the Local Lodge having geographical jurisdiction over the job site where the events occurred; and to the Construction Sector Operation office.

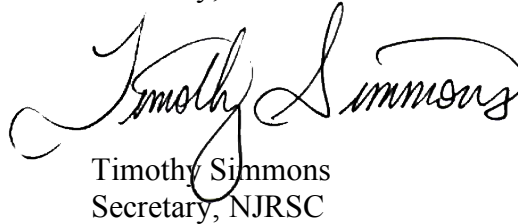
A copy of the new Model Referral Rules has been included and are to be used in conjunction with your approved Local Joint Referral Rules. Please provide a copy of this communication to each member of your Local's Joint Referral Rules Committee and take immediate steps to bring your Local Joint Referral Rules into compliance with the amended Rules.

You are reminded of the posting requirements as set forth in Articles 2.3 and 8.4 of these Rules. Please post this notice on the Local Lodge bulletin board, website, job site location and/or facility where the Uniform Referral Standards and Joint Referral Rules are displayed.

In addition, please take the necessary steps to inform all referral applicants of these amendments.

Please contact me with any questions.

Sincerely,



Timothy Simmons
Secretary, NJRSC

TS

Enclosure

cc: N.B. Jones, IP
All International Vice Presidents
T. Brown, AAIP
M. Vandiver, SAIP, AD-AAIP, ED-CSO
C. Channon, AD-CSO, AIP
G. Forkin, AD-CSO, AIP, ED-QCCUS
J. Hughes, AD-CSO, AIP, D-NTS-CSO
M. Stanton, AD-CSO, AIP, D-JS-CSO
M. West, AD-CSO, D-NTDS
All CSO Reps
C. Smith, D-ITS-IPO
E. Jasinski, SE/A
M. Garrett, MOST
R. Traxler, NACBE
NJRSC
M. Stapp, General Council