

*** This file includes all Regulations adopted and published through the ***
*** New Jersey Register, Vol. 48 No. 11, June 6, 2016 ***

TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 62. LANDSCAPE IRRIGATION CONTRACTORS

N.J.A.C. 7:62 (2016)

§ 7:62-1.1 Scope

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

§ 7:62-1.2 Construction

These rules shall be liberally construed to permit the Landscape Irrigation Contractors Examining Board to discharge its statutory functions.

§ 7:62-1.3 Practice where rules do not govern

(a) The Board may rescind, amend, or expand these rules from time to time in accordance with the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq.

(b) The Board shall exercise its discretion with respect to any other matters not governed by these rules.

§ 7:62-1.4 Definitions

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

"Act" means the Landscape Irrigation Contractor Certification Act of 1991 as amended, *N.J.S.A. 45:5AA-1* et seq.

"Advertising" means any attempt by a person to induce, directly or indirectly, by publication, print, electronic media, or any other form of communication, another person to purchase or enter into an agreement to purchase landscape irrigation contracting offered by the person in the advertisement.

"Board" means the Landscape Irrigation Contractors Examining Board 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. The website is:
<http://www.nj.gov/dca/divisions/codes/advisory/LICboard.html>.

"Business permit" means the permit issued by the Board to a person, allowing the person to engage in the business of landscape irrigation contracting, in accordance with the provisions of the Act and this chapter. A person applying for a business permit is known as "the business permit applicant." The person to whom the business permit is issued to is known as the "permittee" or the "business permit holder."

"Candidate" means a natural person who is in the process of obtaining certification, and who also may be known as an "applicant."

"CECs" means continuing education credits as set forth in this chapter.

"Certificate" or "certification" means the certificate issued by the Board pursuant to the Act to a natural person allowing the natural person to do landscape irrigation contracting, in accordance with the provisions of the Act and this chapter.

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"Certificate holder" means the natural person to whom the Board has issued the certificate.

"Certified landscape irrigation contractor" means a natural person engaged in the construction, repair, maintenance, improvement, and/or alteration of any portion of a landscape irrigation system who has successfully completed the requirements for certification and has a valid current certificate pursuant to the Act and this chapter.

"Department" means the Department of Environmental Protection.

"Designated certificate holder" means the natural person, to whom the Board has issued a certificate for landscape irrigation contracting and who has been designated by the permittee, whose designation has been filed and recorded by the Board, as the person responsible for supervision and inspection of landscape irrigation contracting work to be performed by the permittee pursuant to *N.J.A.C. 7:62-3.1*.

"Division" means the Division of Revenue within the Department of Treasury.

"Duly authorized representative" means a natural person or company who is designated or retained by the Board to perform administrative 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.

"Experience" means constructing, repairing, maintaining, improving, or altering of a landscape irrigation system, while employed 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 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.

"Landscape irrigation contracting" means the construction, repair, maintenance, improvement, and alteration of any portion of a landscape irrigation system, or drip irrigation system, including required wiring within the system and connection to the required power supply and the installation and connection to a public or private water supply system under terms and conditions of a contract. Any such single act or transaction by a person, including the advertising by the person of available services, shall constitute engaging in the business of landscape irrigation contracting.

"Landscape irrigation system" means any assemblage of components, materials, or special equipment which is designed, constructed, and installed for controlled dispersion of water from any safe and suitable source, including properly treated wastewater, for the purpose of irrigating landscape vegetation, or the control of dust and erosion on landscape areas, including drip irrigation systems, integral pumping systems, or integral control systems for manual, semi-automatic, or automatic control of the operation of these systems.

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"Natural person" means an individual human being and does not include any: corporation, company, partnership, firm, or association.

"Permittee" means a person who has secured a business permit to engage in the business of landscape irrigation contracting, and who also may be known as a "business permit holder." A person applying for a business permit is known as "the business permit applicant."

"Person" means any natural person, corporation, company, partnership, firm, or association, and any owner or operator of a permittee.

"Registry" means the listing maintained by the Board or its duly authorized representative, of certificate holders and permittees, including each permittee's designated certificate holder.

"Revocation" means a surrender of a certificate and/or business permit, requiring the certified landscape irrigation contractor and/or the permittee to return the certificate and/or business permit to the Board and formally reapply for the examination and/or a business permit at the end of the stated period of surrender.

"Suspension" means a temporary termination of a certificate and/or business permit, requiring the certified landscape irrigation contractor and/or permittee to request the Board to reinstate his or her certificate and/or business permit at the end of the period of temporary termination.

"Water conservation" means a reduction in water use by implementing water efficiency measures or management practices.

§ 7:62-2.1 Application and examination for certification

(a) Upon request, each candidate shall be furnished with an application for certification by the Board or its duly authorized representative. Applications are also available at www.nj.gov/dep/exams/lic.htm.

(b) In order to be considered by the Board or its duly authorized representative, an application shall include the applicant's name, home address, social security number, and most recent W-2; and the applicant's employer's: business address, business trade name, 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 detailed description of the applicant's experience, as defined at *N.J.A.C. 7:62-1.4*, of at least three years; proof that the applicant is at least 18 years old; a statement that the applicant has no unresolved violations of this chapter; and the application fee. 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.

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(d) If the Board or its duly authorized representative deems the application incomplete or finds that the candidate does not meet the requirements set forth in the Act and this chapter, it shall reject the application and notify the candidate of the reasons for rejection. The application fee shall not be refunded.

(e) Each candidate has a period of two years from the date his or her application is complete to pass the examination. An application shall expire two years and one day from the date it is deemed complete by the Board or its duly authorized representative. A candidate shall be required to submit a new application and application fee once an application has expired.

(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.

§ 7:62-2.2 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 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.

§ 7:62-2.3 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. Otherwise, the candidate shall reapply as a new candidate and retake and pass the examination before being eligible to obtain the certificate.

§ 7:62-2.4 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 <http://www.nj.gov/dca/divisions/codes/advisory/LICboard.html>.

§ 7:62-2.5 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 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.

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§ 7:62-2.6 Certificate renewal and continuing education requirements

(a) Each certificate holder shall be sent a renewal fee payment invoice 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:

1. Submit to the Board a completed renewal application and CEC submission form, which are available at www.nj.gov/dep/exams/lic.htm, certifying the certificate holder has successfully obtained the required CECs, as specified in (b) through (e) below and including any change in address, employment, or business or company name;

2. Submit payment of the non-refundable bi-annual renewal fee to the Department of the Treasury, Division of Revenue, P.O. Box 417, Trenton, NJ 08625; and

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. 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 CECs shall be in a training activity related to water conservation. 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) In accordance with the table found in the Appendix to this chapter, incorporated herein by reference, the Board shall approve CECs for the satisfactory completion of any of the following training activities:

1. Attending or teaching courses in the design, installation, and maintenance of landscape irrigation systems;
2. Attending or teaching courses in water conservation technologies and procedures;
3. Attending or participating in irrigation demonstration projects;
4. Attending or teaching courses in the application and installation of irrigation products;
5. Attending or teaching courses in business development techniques;
6. Attendance at irrigation and related industry trade shows; or
7. Other activities as deemed appropriate by the Board.

(d) 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 address, and landscape irrigation contractor certificate number. The sponsoring person or organization shall submit the completed sign-in sheet to the Board and keep a copy on file for five years following the completion date of the training activity.

(e) Certificates of attendance, or other proof of attendance, for each training activity, shall be submitted to the Board by the certificate holder along with the completed CECs submission form. If a training activity has not been pre-approved by the Board, the certificate holder shall also include the title of the training activity, the outline or syllabus

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detailing the instruction, the instructor's name and qualifications, and the hours and dates of the training activity. CEC submissions for attendance at trade shows shall include proof of attendance, such as a copy of either the certificate holder's attendance receipt or name badge.

(f) A certificate holder may request a reduction or waiver of the continuing education requirement if any of the following prevented the certificate holder from satisfactorily completing the continuing education requirement: illness, certified by a physician; undue hardship; disability; military deployment; or other good cause deemed acceptable by the Board.

1. Certificate holders requesting a reduction or waiver of CECs shall provide the following information with his or her certificate renewal application, which the Board will evaluate:

- i. A statement as to whether the certificate holder is requesting a waiver of all CECs or setting forth the specific number of CECs requested for reduction;
- ii. The approximate date the certificate holder's hardship began, and the approximate date it ended;
- iii. A statement detailing the certificate holder's hardship;
- iv. A statement detailing the specific reason why the certificate holder could not satisfactorily complete the training activities specified in (c)1 through 6 above due to the hardship;
- v. A statement of the reason why another activity pursuant to (c)7 above of this subchapter was not submitted for consideration by the Board;
- vi. A statement that the certificate holder did not directly cause or contribute in any way to the circumstances preventing the satisfactory completion of the education requirement; and
- vii. Any additional information that the Board determines is reasonable and necessary to evaluate the waiver request.

2. All waiver requests, and any additional information submitted to the Board in support of the waiver request, shall be submitted with the certificate holder's signed and certified oath set forth at *N.J.A.C. 7:62-2.1(b)*.

3. Waiver requests shall be submitted with the application to renew the certificate and received by the Board no later than 30 days prior to the certificate expiration date.

4. Waiver requests may be denied if:

- i. The certificate holder fails to submit any information or documentation specified in (f)1 above and the signed oath specified in (f)2 above;
- ii. The waiver request is not supported by sufficient documentation as determined by the Board;
- iii. The waiver request is not submitted with the certificate holder's renewal application;
- iv. The certificate holder's renewal application is received later than 30 days prior to the certificate's expiration date;
- v. The certificate holder fails to submit additional information requested by the Board; or
- vi. The Board determines that a waiver or reduction of the CECs is not merited based upon the information or documentation provided.

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5. The Board's reasons for granting or denying the certificate holder's waiver request shall be included in its decision regarding the renewal application.

6. The Board may accept late CEC waiver requests if the certificate holder's hardship caused the delay in submittal.

(g) If a renewal application and waiver request, if applicable, and fee are not received, the certificate shall expire at 12:00 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 (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.

(h) 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.

(i) Certificates may be suspended if the certificate holder does not comply with the continuing education requirements of this section as determined by the Board.

(j) The Board may suspend a business permit if the business permit holder's designated certificate holder does not comply with the continuing education requirements as determined by the Board.

(k) For certificates that are renewed on January 31, 2014, and January 31, 2015, CECs shall have been acquired on or after July 15, 2010, the effective date of the amendments to the Act.

§ 7:62-3.1 Requirement for business permit

(a) Except as provided in (b) below, no person shall advertise, enter into, or engage in the business of landscape irrigation contracting, unless the person has first secured a business permit from the Board, and such person or an officer, partner, or employee who is actively engaged in the business has obtained a landscape irrigation contractor's certificate, and such designated certified landscape irrigation contractor has assumed full responsibility for the inspection and supervision of all landscape irrigation contracting work performed by the person. The person who has secured the business permit is known as the "permittee" or the "business permit holder," and the certified landscape irrigation holder responsible for the inspection and supervision of all landscape irrigation contracting performed by the permittee is known as the "designated certificate holder." To apply for a business permit, the person shall complete and submit a business permit application in accordance with *N.J.A.C. 7:62-3.2*, including designating a certificate holder to be the permittee's designated certificate holder. The designated certificate holder shall be a natural person to whom the Board has issued a landscape irrigation contractor certificate, and may be the business permit applicant, or an officer, partner, or employee who is or will be actively engaged in the business of the permittee. The designated certificate holder shall be responsible for the inspection and supervision of all landscape irrigation contracting work to be performed by the permittee.

(b) No later than June 15, 2014, every business entity engaged in the business of landscape irrigation contracting, including the advertising of such available services, that has registered with the Board a registered certificate holder pursuant to the rules effective December 18, 2006, shall submit a complete application for a business permit, in accordance with *N.J.A.C. 7:62-3.2*, to the Board. As provided in (a) above, as of March 17, 2014, all other persons shall secure a business permit from the Board prior to engaging in the business of landscape irrigation contracting. Nothing in

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this subsection shall relieve any person from the requirement of obtaining a business permit for entering into, engaging in, or advertising the business of landscape irrigation contracting.

(c) If the business permit applicant employs more than one certificate holder, the business permit applicant shall inform the Board which certificate holder will be the permittee's designated certificate holder.

(d) A certificate holder shall be the designated certificate holder for only one permittee.

§ 7:62-3.2 Application for business permit and Board action

(a) A business permit application may be requested from the Board and is also available at www.nj.gov/dep/exams/lic.htm. Pursuant to N.J.S.A. 45:5AA-7.e, the business permit applicant shall submit to the Board as part of the application:

1. The name, address, and telephone number of the business permit applicant;
2. The trade name and Federal and State tax identification of the business permit applicant;
3. Whether the business permit applicant is a natural person, corporation, company, partnership, firm, or association;
4. The name, address, and telephone number of the designated certificate holder;
5. The name, address, and telephone number of all certified landscape irrigation contractors employed by the business permit applicant;
6. Proof of liability insurance;
7. Proof of worker's compensation insurance, if required by law;
8. The designated certificate holder's signed oath stating the identity of the business permit applicant or permittee and stating as follows: "I certify under penalty of law that I am the designated certified landscape irrigation contractor for the above named applicant and have full responsibility for inspection and supervision of all landscape irrigation work to be performed by the above named applicant or permittee. I am aware that there are, or may be, significant civil and criminal penalties, including fines and/or imprisonment, for submitting false, inaccurate or incomplete information or statements."; and
9. The signed and certified oath set forth at *N.J.A.C. 7:62-2.1(b)*, of the owner or the operator of the business permit applicant.

(b) A business permit shall remain valid for two years from the date of issuance.

(c) If the Board or its duly authorized representative deems the request for the business permit incomplete, and/or finds that the business permit applicant or business permit holder does not meet the requirements set forth in the Act and this chapter, it shall reject the request for the business permit and notify the business permit applicant of the reasons for the rejection. If the Board or its duly authorized representative determines the application complies with the Act and this chapter, the business permit applicant shall be issued a business permit and number.

(d) A business permit may be suspended, revoked, not renewed, or denied if the permittee's designated certificate holder does not comply with the continuing education requirements of this chapter as determined by the Board, or fails to renew his or her certificate, or if the designated certificate holder's certificate has been suspended or revoked, or as

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provided pursuant to *N.J.S.A. 45:5AA-8, 9, and 10*. The business permit may be reinstated if a complete application is submitted and approved by the Board.

§ 7:62-3.3 Business permit renewal

(a) Business permits expire two years from the date of issuance as indicated on the business permit certificate. Each certificate holder shall be mailed a renewal application prior to the expiration of its certificate.

(b) Permit renewal applications shall be sent to the Landscape Irrigation Contractors Examining Board, c/o Department of Environmental Protection, Licensing and Pesticide Operations, PO Box 420, Mail Code 401-04E, Trenton, NJ 08625-0420, and postmarked no later than 30 days prior to the date the certificate expires. The renewal application shall include any change in: the permittee's name and/or trade name; the business street and/or mailing address; the permittee's telephone number; Federal and/or State tax identification numbers; the company name; or the designated certificate holder.

(c) If the Board or its duly authorized representative determines the request for the business permit renewal incomplete, late, or finds the permittee or its designated certificate holder does not meet the requirements set forth in the Act and this chapter, it may reject the request for the business permit renewal, and notify the permittee of the reasons for the rejection. If the Board or its duly authorized representative determines the renewal application complies with the Act and this chapter, the Board shall issue the renewal to the permittee.

(d) The business permit of a business permit holder who has timely filed a complete renewal application in compliance with this subchapter will remain in effect pending the permittee's receipt of the Board's decision regarding the renewal of the business permit.

(e) An application for a new business permit shall be required of a permittee:

1. Within 10 days after it changes or replaces its designated certificate holder, except in the instance of death or disability of the permittee's designated certificate holder in accordance with *N.J.A.C. 7:62-3.4*; or
2. Who fails to apply for renewal of the business permit within two years after its expiration.

§ 7:62-3.4 Continuation of permittee upon the death or disability of the permittee's designated certificate holder

(a) The Board may allow a business permit holder to operate without a designated certificate holder for a period of up to 180 days from the date of the loss of the designated certificate holder, if that permittee provides a written request to the Board within 30 business days after the death or disability of the designated certificate holder and proof of the death or disability of the designated certificate holder.

(b) Proof of the death or disability of the designated certificate holder shall be submitted by the permittee to the Board with the signed and certified oath set forth at *N.J.A.C. 7:62-2.1(b)1*.

(c) At the end of the 180-day period, the Board may assess a civil administrative penalty or take any other action authorized by the Act and this chapter, for the business permittee's failure to have a designated certificate holder.

§ 7:62-4.1 Fee schedule

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(a) The fee schedule is as follows:

1.	Application for certification	\$ 45.00
2.	Re-application for certification	45.00
3.	Examination fee (\$ 75.00 for partial examination)	150.00
4.	Examination re-take fee (\$ 75.00 for partial examination)	150.00
5.	Certification fee (initial)	300.00
6.	Certification renewal fee (bi-annual)	300.00

(b) Applicants who desire to take a computer-based testing examination will be referred to an approved computer testing center.

§ 7:62-4.2 (Reserved)

§ 7:62-4.3 (Reserved)

§ 7:62-4.4 (Reserved)

§ 7:62-4.5 (Reserved)

§ 7:62-4.6 (Reserved)

§ 7:62-4.7 (Reserved)

§ 7:62-4.8 (Reserved)

§ 7:62-5.1 Identification of certificate holders

(a) The Board or its duly authorized representative shall issue to the certificate holder an identification card. The certificate holder shall have the identification card in his or her possession at all times while performing landscape irrigation contracting.

(b) The identification card of any certificate holder who has failed to submit a timely application to renew the certificate or who has had the certificate suspended or revoked for any reason is deemed null and void and the certificate holder shall immediately return the identification card to the Board or its duly authorized representative.

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§ 7:62-5.2 Business permit number use

(a) The permittee's business permit number shall appear on the permittee's business correspondence, stationery, landscape irrigation plans and drawings, contracts, bids, legal documents, and in all advertisements.

(b) The permittee's business permit number shall be visibly displayed on both sides of all commercial vehicles utilized in the practice of its landscape irrigation contracting in at least three-inch high characters and shall read "LICBP #" followed by the business permit number. If there are other legally required markings, making strict compliance with the above letter size requirement impractical, the size of the lettering shall be as close to three-inches as practicable.

§ 7:62-5.3 Pressure seal and embossing documents

(a) Upon issuance of a certificate, the certificate holder is required to purchase a pressure seal.

(b) No person, other than the certificate holder to whom the seal has been issued, shall have the right to use the seal.

(c) The designated certificate holder shall emboss all the permittee's construction applications, construction drawings, and construction contracts with the imprint of his or her seal.

§ 7:62-5.4 Change of address or status

(a) Each certificate holder, including a permittee's designated certificate holder, and permittee shall give written notice to the Board or its duly authorized representative of any address change within 10 days after such change.

(b) A new business permit is required prior to a change of the designated certificate holder.

§ 7:62-5.5 Joint ventures

Before two or more persons form a joint venture for the purpose of entering into, engaging in, or advertising the business of landscape irrigation contracting in New Jersey, each party to the joint venture shall obtain a valid business permit pursuant to *N.J.A.C. 7:62-3.1*.

§ 7:62-5.6 Potable water supply connections

If a landscape irrigation system is connected to a potable water supply, the certified landscape irrigation contractor's connection is to begin at the downstream side of a properly installed backflow prevention device as required by the Plumbing Subcode of the Uniform Construction Code, *N.J.A.C. 5:23-3.15*.

§ 7:62-5.7 Exemptions

(a) The following are exempt from obtaining a certificate and a business permit pursuant to N.J.S.A. 45:5AA-3.c:

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1. Licensed plumbing contractors, as defined in *N.J.S.A. 45:14C-2*, are exempt from having to obtain a landscape irrigation contractor certificate and a business permit pursuant to the Act if they are installing landscape irrigation systems as part of their plumbing contracting business. 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. Officers, employees, and authorized representatives of the United States, the State, or any political subdivision thereof performing work on the property of the public entity;

3. Vendors of landscape irrigation components, materials, or equipment who perform only such functions as delivery, rendering of advice or assistance in installation, normal warranty service, or exchange of defective or damaged goods;

4. Contractors engaged in the design, fabrication, installation, or construction of irrigation apparatus, or irrigation equipment of any type which is to be used solely for agricultural purposes in the production of harvestable and saleable vegetative or animal products;

5. Employees engaged in landscape irrigation contracting for a permittee which has a designated certified landscape irrigation contractor;

6. Golf course employees performing work on landscape irrigation systems on the golf course where they are currently employed; and

7. Landscape contractors when replacing sprinkler heads damaged during lawn mowing or grounds maintenance or when making minor incidental repairs to sprinkler piping damaged during landscape construction, except that this exemption shall not apply to the installation of automatic controllers, electric or hydraulic control valves, drip irrigation systems and micro-irrigation systems, or to the performance of irrigation system service or maintenance.

(b) A business permit is not required for landscape irrigation contracting performed by employees of community associations for the community association's landscape irrigation system. "Community association" as used in this subchapter means a condominium, homeowner association, or fee simple, cooperative, or other community association.

1. Any person, including employees of a community association, shall obtain a landscape irrigation contractor certificate to perform landscape irrigation contracting for a community association.

2. Any person performing landscape irrigation contracting for a community association, other than an employee of a community association, shall obtain a business permit to perform landscape irrigation contracting for a community association.

§ 7:62-5.8 Other laws and rules

(a) Nothing in this chapter or the Act shall be construed to release any permittee or certificate holder, or any other person, from:

1. Complying with the Consumer Fraud Act, *N.J.S.A. 56:8-1* et seq., and the rules promulgated pursuant thereto, *N.J.A.C. 13:45A*;

2. Complying with any other applicable State laws and/or rules;

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3. Obtaining any business licenses, paying permit fees, and obtaining such other standard licenses and paying associated fees, as may be required of any person doing business in the municipality, county, or other political subdivision of the State in which they are to engage in landscape irrigation contracting, and complying with any applicable code, rule, or regulation of any such jurisdiction, except that no other examination or special license shall be required of a permittee or a certificate holder to advertise, enter into, or engage in landscape irrigation contracting.

(b) Nothing in this chapter or the Act shall be construed to prevent persons licensed or certified in this State under any other law or rule from engaging in the profession for which they are licensed or certified.

§ 7:62-5.9 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. The registry shall indicate each certificate holder who is a designated certificate holder for a business permit holder.

(b) The Board or its duly authorized representative shall maintain a registry of business permit holders, including each permittee's: name, trade name, street and mailing address, phone number, business permit number, and Federal and State tax identification numbers; the permittee's designated certificate holder's name and certification number, street address and mailing address, and phone number; the date the business permit was issued and renewed; and any unresolved violations with the Board.

(c) The registry of certified landscape irrigation contractors and the registry of business permit holders are available at the Department's web site at <http://www.nj.gov/dca/divisions/codes/advisory/LICboard.html>.

§ 7:62-6.1 Board actions; remedies

(a) The Board may take any and all actions authorized pursuant to *N.J.S.A. 45:5AA-8, 9, and 10*.

(b) A person whose application for a certificate or business permit has been denied, or whose certificate or business permit has been suspended or revoked, or against whom a civil administrative penalty has been assessed, or who has been issued any other order by the Board, is entitled to a hearing in accordance with the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and the Uniform Administration Procedure Rules, *N.J.A.C. 1:1*, the Act, and this chapter.

(c) Should the Board have cause to believe that any person is in violation of any provision of the Act or rules promulgated pursuant thereto, the Board may initiate an investigation. If, upon investigation, the Board determines that there has been a violation, the Board may take any and all actions authorized pursuant to *N.J.S.A. 45:5AA-8, 9, and 10*. Failure by an applicant for a certificate or a business permit, a certificate holder, or a permittee to respond to a written request from the Board or its duly authorized representative for information or to provide necessary information in connection with an investigation by the Board shall be grounds for denial, suspension, revocation, or refusal to renew a certificate or business permit as determined by the Board.

(d) The minimum period of suspension of a certificate or business permit shall be 90 days. The suspension shall terminate and the certificate or business permit be reinstated only when:

1. The suspension period has ended;

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2. The certificate holder or permittee has satisfactorily remedied all causes for the suspension and has provided written proof thereof and any other proof determined necessary by the Board;

3. The certificate holder or permittee has submitted a request in writing to the Board to have his or her certificate or business permit reinstated with his or her signed and certified oath, as set forth at *N.J.A.C. 7:62-2.1(b)1*; and

4. The certificate holder or permittee shall submit a request for reinstatement no later than 90 days after the end of the suspension period. If a request for re-instatement is not timely submitted, the certificate holder or permittee shall reapply as a new applicant for a certificate or a business permit.

(e) The minimum period of revocation of a certificate or business permit shall be two years. At the end of the revocation period, the person whose certificate or business permit has been revoked may apply as a new applicant for certification or business permit pursuant to *N.J.S.A. 45:5AA-4* and this chapter.

(f) Civil administrative penalties are determined by the level of violation, that is, first, second, third, or subsequent violation. The amount of the penalty shall be as shown in the following Civil Administrative Base Penalty Matrix unless adjusted by the Board.

Civil Administrative Base Penalty Matrix			
Type of Violation	First Violation	Second Violation	Third and Each Subsequent Violation
Performing landscape irrigation system maintenance or repair without having obtained a certificate and/or a business permit	\$ 500	\$ 1,500	\$ 3,000
Installing a landscape irrigation system without having obtained a certificate and/or a business permit	\$ 1,000	\$ 2,000	\$ 4,000
Advertising landscape irrigation contracting without having obtained a certificate and/or a business permit	\$ 1,000	\$ 2,000	\$ 4,000
Failure to use seal as Required	\$ 250	\$ 500	\$ 1,000
Other	Up to \$ 1,000	Up to \$ 2,500	Up to \$ 5,000

1. The Board shall consider each violation of each provision of the Act or this chapter as a separate and distinct violation. If the violation is of a continuing nature, each day during which a violation continues shall constitute an additional, separate, and distinct violation subjecting the violator to the penalty amount set forth in the Civil Administrative Base Penalty Matrix above.

2. The Board may treat a violation as a first violation solely for the purpose of determining the civil administrative penalty if the violator has not committed the same violation in the preceding three years.

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3. The Board may, in its discretion, adjust the penalty amount listed in the Civil Administrative Base Penalty Matrix above on the basis of any factor or combination of factors listed in (f)3i through vii below. No such factor constitutes a defense to any violation.

- i. The compliance history of the violator;
- ii. The number, frequency, and severity of the violations;
- iii. The measures taken by the violator to mitigate the violation or to prevent future violations;
- iv. The deterrent effect of the penalty;
- v. The cooperation of the violator in correcting the violation and ensuring the violation does not occur again;
- vi. Any unusual or extraordinary costs directly or indirectly imposed on the public by the violation; and/or
- vii. Any other extenuating, mitigating, or aggravating circumstances.

§ 7:62-6.2 Procedures

(a) Any order, notice of civil administrative penalty, or notice of revocation, suspension, denial, or non-renewal of a certification or a business permit will:

1. Be served by certified mail, return receipt requested, and first class mail, or by personal service upon the person or persons who are subject of the order or notice;
2. Identify the person or persons subject to the order, notice, denial, penalty assessment, or other action;
3. Set forth a concise statement of the facts alleged to constitute a violation;
4. Identify the specific provisions of the Act, chapter, certification, business permit, or order which has been violated;
5. Describe the remedial or other action which shall be implemented, or caused to be implemented, by the violator, and the time periods within which such implementation shall commence and be completed;
6. In the case of a civil administrative penalty assessment, specify the amount of the civil administrative penalty to be imposed in accordance with the Civil Administrative Base Penalty Matrix at *N.J.A.C. 7:62-6.1(f)*;
7. If a civil administrative penalty is assessed against more than one person for the same violation or violations, each shall be jointly and severally liable for the penalty assessed;
8. In the case of a denial, suspension, revocation, or non-renewal of a certification or business permit, a description of the specific grounds for the denial, suspension or revocation, or non-renewal;
9. In the case of a suspension of a certification or business permit, the length of time the suspension shall remain in effect; and
10. Notify the person or persons named in the denial, non-renewal, suspension, revocation, civil administrative penalty assessment, or other order, of the right to request an adjudicatory hearing pursuant to the provisions of *N.J.A.C. 7:62-7*.

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§ 7:62-7.1 Procedures to request an adjudicatory hearing

(a) Subject to the limitation on third party hearing rights specified in *N.J.S.A. 52:14B-3.1* through 3.3, a person aggrieved by a decision made by the Board including: an assessment of civil administrative penalty; notice of denial, non-renewal, suspension, or revocation of a certificate or business permit; or any other Board decision from which a contested case hearing is to be provided pursuant to Administrative Procedures Act, *N.J.S.A. 52:14B-1* et seq., may request a hearing. The written request for a hearing shall be submitted to:

Board of Landscape Irrigation Contractors
c/o Department of Community Affairs
Division of Codes and Standards
PO Box 802
Trenton, NJ 08625-0802

(b) All requests for a contested case hearing shall be received by the Board no later than 20 days after the date the Administrative Order or any decision in (a) above was received by the petitioner. The order or decision shall be presumed to have been received three days after it was mailed by regular mail, unless it was returned to the Board as undeliverable.

(c) All requests for a contested case hearing shall be submitted in writing to the Board in accordance with (b) above and shall contain:

1. The name, address, and telephone number of the person making the hearing request;
2. A copy of the document being contested;
3. A brief and clear statement of the requester's interest in such decision;
4. A statement of all facts alleged to be at issue and their relevance to the Board's decision for which a hearing is requested. Any legal issues associated with the alleged facts at issue shall also be included;
5. An admission or denial of each of the Board's findings of fact;
6. A description of the facts and/or issues which the person believes constitute a defense to the allegations made by the Board;
7. Information and documentation supporting the hearing request and specific reference to, or copies of, other written documents relied upon to support the request;
8. An estimate of the time required for the hearing (in days or hours); and
9. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(d) If the request for a hearing fails to provide all the information required by (c) above, the Board may deny the hearing request.

(e) All adjudicatory hearings shall be conducted in accordance with the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and the Uniform Administrative Procedure Rules, *N.J.A.C. 1:1*.

(f) The Board shall determine whether any request for a contested case hearing should be granted. In making such determination, the Board shall evaluate the request to determine whether a contested case exists and whether there are issues of fact which, if assumed to be true, might change the Board's decision. Where only issues of law are raised by a

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hearing request, the request will be denied. Denial by the Board of a request for a contested case hearing shall constitute a final agency order of the Board for the purposes of judicial appeal pursuant to the Rules of New Jersey Civil Practice.

(g) If the Board determines a hearing should be granted, the Board shall determine whether to conduct the hearing itself or refer the matter to the Office of Administrative Law (OAL) for an Administrative Law Judge (ALJ) to conduct the hearing. If the matter is referred to the OAL, the Board shall affirm, reject, or modify the decision within 45 days after its receipt of the ALJ's initial decision by issuing its own final decision. The Board's action shall be considered the final agency action for the purposes of the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and shall be subject only to judicial review as provided by the Rules of the Court.

(h) The Board shall inform the person or persons who requested the hearing in writing whether the request for a hearing was granted and, if so, whether the Board will be conducting the hearing or the matter is being transmitted to the OAL for a hearing. If the Board determines not to grant a hearing, it shall provide the reason for the denial in writing.

(i) If no hearing is requested, the assessment of civil administrative penalty; notice of denial, non-renewal, suspension, or revocation of a certificate or business permit; or any other Board decision from which a contested case hearing is to be provided pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., becomes a final order on the 21st day following receipt of the notice by the person.

(j) If the hearing request submitted is subsequently withdrawn, the Board action for which the hearing request was requested becomes a final order upon such withdrawal.

(k) The jurisdiction of an appeal of a final agency decision lies within the Appellate Division of the Superior Court of the State of New Jersey.

(l) No certification or business permit, which is the subject of a final order of suspension, revocation, non-renewal, or denial, shall be valid during the pendency of any action on appeal to a court of competent jurisdiction from that order, unless a stay of the final order has been granted.

APPENDIX

New Jersey Certified Landscape Irrigation Contractor Activities that Qualify for Continuing Education Credits (CECs)

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Irrigation Association Certifications

CAP	No cap (maximum) on the number of CECs per period in this category.
QUALIFYING ACTIVITY	20 CECs earned for obtaining first Irrigation Association Certified Irrigation Designer (CID) specialty.
	10 CECs earned for each additional Irrigation Association CID specialty.
	10 CECs earned for obtaining each of the following Irrigation Association Certifications: Certified Landscape Irrigation Auditor (CLIA), Certified Golf Irrigation Auditor (CGIA), Certified Agricultural Irrigation Specialist (CAIS), Certified Landscape Water Manager (CLWM).

Irrigation Educational Content Developer

CAP	No cap (maximum) on the number of CECs per period in this category. CECs in this category are earned at the rate of two CECs per article/book chapter/session.
QUALIFYING ACTIVITY	Writing reference material or irrigation books.
	Presenting irrigation related technical papers.
	Writing articles for an irrigation publication.

Irrigation Training - TIER 1

CAP	No cap (maximum) on the number of CECs per period in this category. CECs in this category are earned at the rate of one CEC per hour of instruction.
QUALIFYING ACTIVITY	Attending irrigation education courses or seminars.
	Teaching irrigation education courses or seminars or conducting demonstration projects.
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 be product specific.

Irrigation Training - TIER 2

CAP	No cap (maximum) on the number of CECs per period in this category. CECs in this category are earned at the rate of .5 CECs per hour of instruction.
QUALIFYING ACTIVITY	Attending irrigation education courses or seminars.
	Teaching irrigation education courses or seminars.
	Attending an irrigation demonstration project.
TRAINING DEFINITION	Irrigation educational courses and seminars sponsored by a distributor or manufacturer and taught by someone other than an Irrigation Association Licensed Provider, college or university staff, or approved professional instructor. The subject matter shall be directly related to irrigation and may or may not be product specific.
TRAINING DEFINITION	Irrigation educational courses and seminars that do not fall under the TIER 1 training definition. The subject can be product specific.

Irrigation Training - TIER 3

CAP	A maximum of five CECs per period can be earned in this category. CECs in this category are earned at the rate of .25 CECs per hour of attendance.
QUALIFYING ACTIVITY	Attending irrigation or green industry trade shows.
	Attending or teaching green industry courses or seminars that are not irrigation specific.
	Attending or teaching business related courses or seminars.

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TRAINING	Irrigation or green industry trade show attendance is considered for walking the trade show floor and attending on floor education sessions.
DEFINITION	Green industry courses or seminars relating to subjects that are indirectly related to irrigation and can be product specific.
	Business courses and seminars relating to subject matter directly related to the business of landscape irrigation contracting.

Water Conservation (WC) Designation

CAP	No cap (maximum) on the number of CECs per period in this category.
TRAINING DEFINITION	Irrigation courses, seminars, or training in a subject related to water conservation (WC) shall be given a WC designation. All CECs earned for obtaining Irrigation Association Certifications shall carry a WC designation. WC credits may be from any tier.