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Uniform Referral Standards and Joint Referral Rules

Applicable to the
Boilermaker Exclusive Referral System

FOR LOCAL LODGE 242

Adopted and Approved by the National Joint Rules and Standards Committee for
Implementation Effective at 12:00 p.m. (noon) Eastern Standard Time August 27, 2018.

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UNIFORM REFERRAL STANDARDS

AND

JOINT REFERRAL RULES

FOR LOCAL LODGE 242

PREAMBLE

WHEREAS, collectively bargained standards for operation of locally administered referral rules are required by federal law and considered of utmost importance for effective, fair and equitable referral of workers for performance of work in the boilermaking industry; and

WHEREAS, the International President and the Chairman of the National Association of Construction Boilermaker Employers (NACBE) have reactivated and appointed the National Joint Rules and Standards Committee for the purpose of reviewing and revising, where necessary, the Minimum Standards dated September 15, 1959; and

WHEREAS, it is the desire of those Employers who by agreement establish the Local Lodge as their exclusive referral agent to retain some means of effective control of the work force, which is casual and transient by nature of the industry, by negotiated, employment-related discipline implemented ministerially through the offices of the Local Lodge,

NOW, THEREFORE, the following exclusive referral rules are hereby established:

1.**SCOPE**

1.1**Adoption of Rules:**

In accordance with the nondiscriminatory Uniform Referral Standards established by the National Joint Rules and Standards Committee and the governing collective bargaining agreement, the below-signed duly established Local Joint Referral Rules Committee has adopted the following rules and standards which shall govern the exclusive referral procedures in the geographical area under the jurisdiction of Local Lodge 242.

1.2**Adoption of MOST Boilermaker Delivery System (MBDS):**

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

1.3**Normal Labor Market:**

The normal labor market shall be the area of geographical jurisdiction of the Local Lodge as allocated or reallocated by the International Brotherhood of Boilermakers.

2. LOCAL JOINT REFERRAL RULES COMMITTEE

In accordance with the governing collective bargaining agreement and the Uniform Referral Standards established by the National Joint Rules and Standards Committee, the Local Joint Referral Rules Committee shall be selected and empowered as follows:

2.1 Selection:

The Local Joint Referral Rules Committee shall be composed of a minimum of two (2) Employer representatives and two (2) Union representatives. The Employer representatives shall be appointed by the Chairman of the governing Employers' Negotiating Committee. The Union representatives shall be appointed by the Business Manager.

2.2 Duties:

The Local Joint Referral Rules Committee shall be empowered to establish, interpret or modify from time to time, as deemed advisable for the operation of the exclusive referral procedure, any and all rules and regulations, consistent with the Uniform Referral Standards, including the establishment of appropriate out-of-work lists and referral registration pools. Such proposed rules or modifications shall be submitted to the National Joint Rules and Standards Committee for approval as to conformance with the Uniform Referral Standards prior to implementation.

2.3 Posting:

The Local Joint Referral Rules Committee shall require the posting of these exclusive referral procedures and rules at the appropriate registration facility and the actual places of hire at the Employers' job sites. Upon request, the Local Lodge shall make available copies of these Referral Rules to applicants qualified for referral.

3. LOCAL JOINT REFERRAL DISPUTE COMMITTEE

In accordance with the governing collective bargaining agreement and the Uniform Referral Standards established by the National Joint Rules and Standards Committee, the Local Joint Referral Dispute Committee shall be selected and empowered as follows:

3.1 Selection:

The Union representatives shall be appointed by the International Vice President of the area and the Employer representatives shall be appointed by the Chairman of the governing Employers' Negotiating Committee as specified in Article 10.2. A Local Joint Referral Dispute Committee shall consist of equal numbers of Union and Employer representatives. In no event, however, will an agent of any party involved in a dispute be allowed to participate as a representative of a Local Joint Referral Dispute Committee.

3.2 Duties:

3.2.1 Dispute Hearings:

The Local Joint Referral Dispute Committee shall investigate, hear and decide disputes arising out of the exclusive referral procedures, including but not limited to, disputes arising from out-of-work registration, qualifications and competency of applicants, work referrals, preparation of the referral registration list and application of referral discipline as specified in Article 9.

3.2.2 Convene as Necessary:

The Local Joint Referral Dispute Committee shall convene, as needed, to consider any referral disputes of record, which have gone unresolved through the preliminary steps of the local joint referral disputes procedure as specified in Article 10.

3.2.3 Authority to Resolve Dispute:

The Local Joint Referral Dispute Committee will have full authority to determine the merit of any dispute properly submitted to it and to fashion appropriate remedies. In cases where the dispute involves a claim of misapplication of exclusive referral procedures by the Local Lodge acting as referral agent, an appropriate remedy will include payment of lost wages to the disputant by the Local Lodge only where such misapplication is found to have been the result of arbitrary, discriminatory or capricious conduct in the administration of the exclusive referral procedures. Decisions of the Local Joint Referral Dispute Committee shall be rendered in writing, signed by the committee representatives, transmitted to all parties to the dispute and reported to the National Joint Rules and Standards Committee. Such decision shall be final and binding.

3.2.4 Impartial Umpire:

In the event the Local Joint Referral Dispute Committee fails to render a decision, it shall submit the dispute to an impartial umpire to be appointed by the National Joint Rules and Standards Committee. The appointed umpire will have full authority to determine the merit of such dispute and to fashion an appropriate remedy. In cases where the dispute involves a claim of misapplication of referral procedures by the Local Lodge, an appropriate remedy will include payment of lost wages to the disputant by the Local Lodge only where such misapplication is found to have been the result of arbitrary, discriminatory or capricious conduct in the administration of the referral procedures. The fees and expenses of the umpire will be assessed among the participants at the discretion of the umpire, absent any prior agreement. Decisions of the impartial umpire will be final and binding.

3.2.5 Applicant Must Exhaust:

Prior to a request for a Local Joint Referral Dispute Committee hearing, the individual shall exhaust all available remedies with the administrator of the Local Joint Referral Rules as specified in Article 10.

4. OUT-OF-WORK LISTS AND REFERRAL REGISTRATION POOLS

4.1 Maintaining of Lists and Pools:

The Local Lodge shall establish and maintain an out-of-work list and referral registration pools for registration and referral of Qualified Construction Boilermakers and other applicable classifications. Applicants shall be referred from the out-of-work list and referral registration pools in a fair, equitable and nondiscriminatory manner. This may include provisions to alleviate inequities or problems that arise due to variations of job duration or job requirements. Additional out-of-work lists and referral pools for registration of Qualified Construction Boilermakers and other applicable classifications may, where circumstances warrant, be established only on the basis of domicile and/or work experience in the area of primary labor supply, which shall be a geographical area defined in the terms of state, county, city, or zone boundaries, or a combination thereof as determined by the Local Joint Referral Rules Committee.

4.2 Fair, Equitable and Nondiscriminatory Lists and Pools:

Separate out-of-work lists and referral registration pools shall be established for registration of applicants in accordance with Article 5. Such lists and pools shall be maintained and operated in a fair, equitable and nondiscriminatory manner.

4.3 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 their 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.

5. REGISTRATION

It is the intent of the parties that priority in job opportunities, to the extent allowed by law, is established to assure the Employers a reliable source of employees experienced in the work standards in the area and so as to assure employees that as they grow older their long service in the area will not go unrewarded. It is also the intent of the parties that applicants may only be registered on one (1) primary or secondary out-of-work list at any given time.

When the International President or their designated representative approves a waiver to the domicile requirements of Articles 5.1.2(3), 5.2(3), 5.3.1(3), 5.6.1(3) and 5.7.1(3), a Local Lodge, other than the Local Lodge where the referral applicant is domiciled, shall be designated as the applicant's 'Dispatch Local Lodge.' Said applicant shall be permitted to seek referral, from whichever list the applicant is otherwise qualified, in the applicant's 'Dispatch Local Lodge,' as if their 'Dispatch Local Lodge' were the Local Lodge where the applicant is domiciled. If at any time said applicant wishes to seek referral from their Local Lodge of domicile, they must register for referral as a traveler on whichever list the applicant is otherwise qualified.

If at any time such referral applicant wishes to change, so that their 'Dispatch Local Lodge' and domicile Local Lodge are the same, said applicant must take the following action:

- (1) Notify in writing the Business Manager of the Local Lodge designated as the applicant's 'Dispatch Local Lodge,' that four (4) years from the date of said notification that they no longer wishes said Local Lodge to be considered their 'Dispatch Local Lodge.' Send a copy of said notice to the Business Manager of their Local Lodge of domicile.
- (2) Notify in writing the Business Manager, where the applicant has maintained their domicile, that four (4) years from the date of said notice, they wish the referral applicant's 'Dispatch Local Lodge' be their Local Lodge of domicile, provided said referral applicant's domicile has remained in that Local Lodge's jurisdiction for four (4) consecutive years. Send a copy of said notice to the Business Manager of their 'Dispatch Local Lodge.'
- (3) Upon confirmation by the Business Manager, where the applicant has maintained their domicile, that the applicant has met the requirements set forth in paragraphs one (1) and two (2) above, said Business Manager shall designate the referral applicant's 'Dispatch Local Lodge' to be the applicant's Local Lodge of domicile.

Absent extreme extenuating circumstances, no referral applicant will be permitted to change their 'Dispatch Local Lodge' more than one (1) time, after the International President or their designee has approved a waiver as referenced above. However, if the referral applicant's Local Lodge of domicile actually changes, and is maintained for four (4) years in a different Local Lodge, the referral applicant may request that the Business Manager of said Local Lodge approve said Local Lodge as their 'Dispatch Local Lodge'. The Business Manager of said Local Lodge shall approve such request if it is confirmed that the referral applicant has maintained domicile in said Local Lodge for four (4) years.

The Local Lodge shall establish and maintain an appropriate nondiscriminatory registry facility for Qualified Construction Boilermakers, Apprentices and other applicable classifications, as defined under the governing collective bargaining agreement. The registry for referral shall be the office(s) of Boilermaker Local Lodge 242.

The Business Manager or their designated representative shall be the registrar and dispatcher, and shall administer and oversee registration and referral associated with all referral lists/pools, and shall refer by order of registration and skill set, unless otherwise stated herein.

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.

5.1 Primary List:

5.1.1 Permanent Grandfathered Primary Applicants:

Grandfathered Qualified Construction Boilermaker Applicants, as defined in Article 6.1.1, available for employment and wishing to register for the Primary Referral List must meet the four (4) requirements listed below:

- (1) Qualifying on or before January 1, 1996, for "A" List registration within Local Lodge 242 or meeting the domicile requirement of Article 5.1.2 (3) and having accumulated eight thousand (8,000) Boilermaker field construction hours.
- (2) Have a current MOST drug screen certification, or a timely chain-of-custody receipt indicating that a MOST drug screen certification may be issued.
- (3) Have satisfactorily completed MOST OSHA 10 training with refresher training every five (5) years.
- (4) Have satisfactorily completed the Boilermaker Code Training, effective December 31, 2020.

5.1.2 Non-Grandfathered Primary Applicants:

Non-Grandfathered Qualified Construction Boilermaker Applicants, as defined in Article 6.1.1, available for employment and wishing to register for the Primary Referral List must meet requirements listed below:

- (1) A current MOST drug screen certification or a timely chain-of-custody receipt indicating that a MOST drug screen certification may be issued.
- (2) Must have satisfactorily completed MOST OSHA 10 training with refresher training every five (5) years.
- (3) Four (4) years of domicile within the geographical jurisdiction of Local Lodge 242, unless a waiver is requested by the Business Manager of a subordinate Local Lodge and approved by the International President or their designated representative.
- (4) Complete one (1) of the following:
 - (a) Become certified in welding through Common Arc or a signatory Boilermaker Employer and pass the approved Standardized Welding Theory exam with a seventy percent (70%) passing grade; **or**
 - (b) Pass the Standardized Rigging Theory and Equipment Identification exams with a seventy percent (70%) passing grade.
- (5) Must have completed the approved Blueprint Reading exam and Oxy-Acetylene Burning Proficiency exam with a seventy percent (70%) passing grade.
- (6) Must have satisfactorily completed the MOST Rigger Training course or Canadian Master Rigger Program.
- (7) Must have satisfactorily completed the Scaffolding User Class and/or Erection and Dismantler Class of the MOST Scaffold Training course.
- (8) Must have satisfactorily completed the MOST Steel Erection (Sub Part R) training.
- (9) Have satisfactorily completed the Boilermaker Code Training, effective December 31, 2020.

Graduate Apprentices/Trainees who have satisfactorily served an apprenticeship or a certified and accredited trainee program in the trade of Field Construction Boilermaker under an apprenticeship program approved by the United States Bureau of Apprenticeship Training or State Division of Apprenticeship Standards or a certified and accredited trainee program approved by the International President shall be considered as meeting the qualifications for items four (4) and five (5) above.

COMMENT:

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.

5.1.3 Selectivity:

Selectivity associated with the Primary Referral List shall be in accordance with Article 8.7 of these Referral Rules or the respective collective bargaining agreement and should be standard for all agreements becoming national in scope.

COMMENT:

It is suggested that effective dates for all collective bargaining agreements be determined and selectivity language be revised accordingly at subsequent negotiations.

5.2 Secondary List:

Qualified Construction Boilermaker Applicants as defined in Article 6.1.1 who do not meet the established requirements as stated in Article 5.1 shall register on the Secondary Referral List and shall be given referral when the Primary Referral List is exhausted of Qualified Construction Boilermaker Applicants. Applicants available for employment and wishing to register for the Secondary Referral List must meet the following mandatory requirements:

- (1) A current MOST drug screen certification or a timely chain-of-custody receipt indicating that a MOST drug screen certification may be issued.
- (2) Must have satisfactorily completed MOST OSHA 10 training with refresher training every five (5) years.
- (3) Four (4) years of domicile within the geographical jurisdiction of Local Lodge 242 unless a waiver is requested by the Business Manager of a subordinate Local Lodge and approved by the International President or their designated representative.
- (4) Must have satisfactorily completed the MOST Rigger Training course or Canadian Master Rigger Program.
- (5) Must have satisfactorily completed the Scaffolding User and/or Erector and Dismantler class of the MOST Scaffold Training course.
- (6) Must have satisfactorily completed the MOST Steel Erection (Sub Part R) training.

COMMENT:

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.

5.3 Apprentice/Trainee List:

5.3.1 Qualifications:

Qualified Local Lodge 242 Construction Boilermaker Apprentices/Trainees available for employment and wishing to register for the Apprentice/Trainee Referral List must meet the following mandatory requirements:

- (1) A current MOST drug screen certification or a timely chain-of-custody receipt indicating that a MOST drug screen certification may be issued.
- (2) Must have satisfactorily completed MOST OSHA 10 training with refresher training every five (5) years.
- (3) Four (4) years of domicile within the geographical jurisdiction of Local Lodge 242 unless a waiver is requested by the Business Manager of a subordinate Local Lodge and approved by the International President or their designated representative.
- (4) An Indentured Apprentice meeting the requirements of Article 6.3 and the respective Area Joint Apprenticeship Committee or an Indentured Trainee meeting the requirements of Article 6.3.

5.3.2 Referral Ratio:

Qualified Construction Boilermaker Apprentices/Trainees meeting the requirements of Article 5.3.1 of these Referral Rules shall be requisitioned by Employers and referred according to the ratio in the governing collective bargaining agreement, and in compliance with all provisions of these Referral Rules, and with the National and Area Apprenticeship Standards or a Certified/Accredited Trainee Program approved by the International President.

5.3.3 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.

5.4 Helpers List/Pool:

Qualified Construction Boilermaker Helpers who meets the requirements of the governing collective bargaining agreement shall be registered, requisitioned and referred in a nondiscriminatory manner, in accordance with the governing collective bargaining agreement.

5.5 Journeyworker Travelers Referral List/Pool:

5.5.1 Journeyworker Travelers Referral Registration:

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 List/Pool. Said applicant for referral may select a maximum of twelve (12) Local Lodges where the applicant is willing to work.

5.5.1.1 Online Application:

Applicants available for employment and wishing to register for the Journeyworker Travelers Referral Pool must apply online and must update their status by verification through the online database every thirty (30) days or be removed from the Journeyworker Travelers Referral Pool.

5.5.1.2 No Affect on Primary/Secondary List:

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

5.5.1.3 Order of Referral:

When the Primary and Secondary Lists are exhausted of Qualified Construction Boilermakers the Employer shall be entitled to one hundred percent (100%) selectivity from among applicants registered on the Journeyworker Travelers Referral Pool. Any remaining referral request, not filled by Employer request, shall be referred by the Business Manager or their designated representative. The Business Manager or their designated representative shall select for referral by order of registration and skill set.

The Business Manager or their designated representative shall first refer applicants from the Journeyworker Travelers Referral Pool within the geographical jurisdiction of all Local Lodges, which are geographically contiguous to the Local Lodge from which the referral is made.

COMMENT:

In the event a Local Lodge wishes to enter into reciprocal referral agreements with other Local Lodges, the Local Lodge may do so after having nondiscriminatory Joint Referral Rules approved by the National and Local Joint Referral Rules Committees of all Local Lodges involved. This reciprocal arrangement may or may not take priority over geographical contiguous referrals, as determined by the Local Lodge with prior approval of the National and Local Joint Referral Rules Committees.

5.5.2 Apprentice Travelers Referral Registration:

An Indentured Apprentice seeking work outside the geographical jurisdiction of the Local Lodge where the applicant is domiciled must register on the Apprentice Travelers Referral List. Said applicant for referral may select a maximum of twelve (12) Local Lodges where the applicant is willing to work.

5.5.2.1 Online Application:

Apprentices available for employment and wishing to register for the Apprentice Travelers Referral List must apply online through the Business Manager of their Local Lodge of domicile in accordance with the Boilermaker National Apprenticeship Program (BNAP) policy. Applicants must update their status by verification through the online database every thirty (30) days or be removed from the Apprentice/Travelers List.

5.5.2.2 No Affect on Domicile Apprenticeship List:

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.

5.5.2.3 Order of Referral:

When the Domicile Apprentice/Trainee List becomes exhausted the Business Manager or their designated representative shall first refer applicants from the Apprentice Travelers List within the geographical jurisdiction of all Local Lodges, which are geographically contiguous to the Local Lodge from which the referral is made. All Apprentices shall be referred by order of registration and skill set, as set forth above.

COMMENT:

In the event a Local Lodge wishes to enter into reciprocal referral agreements with other Local Lodges, the Local Lodge may do so after having nondiscriminatory Joint Referral Rules approved by the National and Local Joint Referral Rules Committees of all Local Lodges involved. This reciprocal arrangement may or may not take priority over geographical contiguous referrals, as determined by the Local Lodge with prior approval of the National and Local Joint Referral Rules Committees.

5.6 Intern Boilermaker:

5.6.1 Qualifications of Domicile Intern Boilermaker:

Intern Boilermakers as defined in Article 6.4 shall register on the Domicile Intern Boilermaker Referral Pool. Applicants available for employment and wishing to register for the Intern Boilermaker Referral Pool must be able to meet the following mandatory requirements upon referral:

- (1) A current MOST drug screen certification or a timely chain-of-custody receipt indicating that a MOST drug screen certification may be issued.

- (2) Must have satisfactorily completed OSHA 10 or equivalent training through a recognized OSHA outreach training institute with refresher training every five (5) years.
- (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 their designated representative.

5.6.1.1 Selectivity/Referral:

When the Primary List, Secondary List and Journeyworker Travelers Pool are exhausted of Qualified Construction Boilermakers the Employer shall be entitled to one hundred percent (100%) selectivity from among applicants registered on the Domicile Intern Boilermaker Referral Pool. All remaining referral requests, not filled by Employer request, shall be referred by the Business Manager or their designated representative. The Business Manager or their designated representative shall select for referral by order of registration and skill set. An Intern Boilermaker with one thousand (1,000) or more verifiable hours of Field Construction Boilermaker experience shall receive preference in referral over those who have less than one thousand (1,000) verifiable hours of Field Construction Boilermaker experience.

5.6.1.2 Update Status:

All applicants on the Domicile Intern Boilermaker Referral Pool must update their availability status every thirty (30) days.

5.6.2 Intern Boilermaker Travelers Registration

A Qualified Intern Boilermaker, who meets all requirements stated in Article 5.6.1, except the domicile requirement, seeking work outside the geographical jurisdiction of the Local Lodge where the applicant is domiciled, must register on the Intern Boilermaker Travelers Referral List/Pool. Said applicant for referral may select a maximum of twelve (12) Local Lodges where the applicant is willing to work.

5.6.2.1 Online Application:

Applicants available for employment and wishing to register for the Intern Boilermaker Travelers Referral Pool must apply online and must update their status by verification through the online database every thirty (30) days or be removed from the Intern Boilermaker Travelers Referral Pool.

5.6.2.2 No Affect 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 on or referral from the Intern Boilermaker Travelers Referral Pool or by employment outside the applicant's Local Lodge of domicile.

5.6.2.3 Order of Referral:

When the Domicile Intern Boilermaker Referral Pool is exhausted of applicants the Employer shall be entitled to one hundred percent (100%) selectivity from among applicants registered on the Intern Boilermaker Travelers Referral Pool. All remaining referral requests, not filled by Employer request, shall be referred by the Business Manager or their designated representative. The Business Manager or their designated representative shall select for referral by order of registration and skill set.

The Business Manager or their designated representative shall first refer applicants from the Intern Boilermaker Travelers Referral Pool within the geographical jurisdiction of all Local Lodges which are geographically contiguous to the Local Lodge from which the referral is made.

COMMENT:

In the event a Local Lodge wishes to enter into reciprocal referral agreements with other Local Lodges, the Local Lodge may do so after having nondiscriminatory Joint Referral Rules approved by the National and Local Joint Referral Rules Committees of all Local Lodges involved. This reciprocal arrangement may or may not take priority over geographical contiguous referrals, as determined by the Local Lodge with prior approval of the National and Local Joint Referral Rules Committees.

5.6.3 Revocation of Probationary Status:

Eligibility for registration on the Intern Boilermaker Referral Pool is to be extended on a probationary basis only and is subject to immediate and permanent revocation in the event an individual registered on or referred from this pool demonstrates himself to be unsuitable for further consideration by conduct detrimental to the industry, for example:

- (1) Termination for cause, misconduct, failure of a duty owed to the Employer or violation of lawful Employer rules.
- (2) Quitting or leaving a job without permission of the Employer and the Business Manager.
- (3) Refusing a referral.
- (4) Failure to report on-time and ready to work in response to a referral.

An individual whose eligibility for referral is revoked pursuant to the foregoing may appeal such revocation to the Local Joint Referral Dispute Committee.

5.7 Retired Boilermaker Referral Pool:

5.7.1 Qualifications of Domicile Retired Boilermaker Referral Pool:

Qualified Construction Boilermaker Retirees meeting the requirements of the Boilermaker-Blacksmith National Pension Trust under the Special Retiree Work Rule and who are available for employment and wishing to register for the Retired Boilermaker Referral Pool must meet

the following mandatory requirements below. Applicants registered on the Domicile Retired Boilermaker Referral Pool are only to be referred when all lists and pools as stated in Articles 5.1, 5.2, 5.3, 5.4, 5.5 and 5.6 are exhausted of qualified applicants.

- (1) A current MOST drug screen certification or a timely chain-of-custody receipt indicating that a MOST drug screen certification may be issued.
- (2) Must have satisfactorily completed MOST OSHA 10 training with refresher training every five (5) years.
- (3) Four (4) years of domicile within the geographical jurisdiction of Local Lodge 242 unless a waiver is requested by the Business Manager of a subordinate Local Lodge and approved by the International President or their designated representative.

5.7.1.1 Order of Referral:

Employers shall be entitled to one hundred percent (100%) selectivity from among applicants registered on the Domicile Retired Boilermaker Referral Pool. All remaining referral requests, not filled by Employer request, shall be referred by the Business Manager or their designated representative. The Business Manager or their designated representative shall select for referral by order of registration and skill set.

5.7.1.2 Update Status:

All applicants on the Domicile Retired Boilermaker Referral Pool must update their availability status every thirty (30) days.

5.7.2 Retired Boilermaker Travelers Registration:

A Qualified Retired Boilermaker, who meets all requirements stated in Article 5.6.1, except the domicile requirement, seeking work outside the geographical jurisdiction of the Local Lodge where the applicant is domiciled, must register on the Retired Boilermaker Travelers Referral List/Pool. Said applicant for referral may select a maximum of twelve (12) Local Lodges where the applicant is willing to work.

5.7.2.1 Online Application:

Applicants available for employment and wishing to register for the Retired Boilermaker Travelers Referral Pool must apply online and must update their status by verification through the online database every thirty (30) days or be removed from the Boilermaker Travelers Referral Pool.

5.7.2.2 No Affect on Domicile Retired Boilermaker Referral Pool:

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.

5.7.2.3 Order of Referral:

When the Domicile Retired Boilermaker Referral Pool is exhausted of applicants the Employer shall be entitled to one hundred percent (100%) selectivity from among applicants registered on the Retired Boilermaker Travelers Pool. All remaining referral requests, not filled by Employer request, shall be referred by the Business Manager or their designated representative. The Business Manager or their designated representative shall select for referral by order of registration and skill set.

The Business Manager or their designated representative shall first refer applicants from the Retired Boilermaker Travelers Referral Pool within the geographical jurisdiction of all Local Lodges which are geographically contiguous to the Local Lodge from which the referral is made.

COMMENT:

In the event a Local Lodge wishes to enter into reciprocal referral agreements with other Local Lodges, the Local Lodge may do so after having nondiscriminatory Joint Referral Rules approved by the National and Local Joint Referral Rules Committees of all Local Lodges involved. This reciprocal arrangement may or may not take priority over geographical contiguous referrals, as determined by the Local Lodge with prior approval of the National and Local Joint Referral Rules Committees.

5.8 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.

5.9 Ineligible Pool

Any referral applicant who is not eligible for any of the above defined referral lists/pools 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.

5.10 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.

5.11 Referral Discipline:

Any and all referral discipline shall apply nationwide. Any and all referral applicants who have been disciplined shall not be eligible for referral by any United States Local or District Lodge for the period of the said applicant's referral penalty. The Local or District Lodge, which implements the referral discipline, shall apply it immediately by electronic posting on the MOST Boilermaker Delivery System. This will serve as notification to all Local Lodges nationwide of the individual's name and duration of the discipline.

5.12.1 Reasons for Referral Discipline:

Applicants for referral may be discipline for two (2) distinct reasons.

5.12.1.1 Employer Action:

First, an applicant may be penalized for referral because of Employer action, such as a situation where an employee is automatically penalized because an Employer determines an employee has been discharged for "just cause". An applicant who is penalized in referral as the result of action by an Employer, who chooses to dispute or otherwise "appeal" such Employer action, must use the grievance procedure. See Article 9.6.1.

5.12.1.2 Ministerial Acts of the Referral Agent:

Second, an applicant may be penalized for referral as the result of the ministerial act of the referral agent, which is properly the subject of the referral dispute procedure. Any dispute or "appeal" regarding such action, which an applicant wishes to file, must be resolved through the Local Joint Referral Dispute Procedure as referenced in Articles 3 and 10. See Article 9.6.2.

5.12.2 Duty to Post, Adhere to and Remove Penalty from MBDS:

5.12.2.1 Duty to Post Penalty:

Once an applicant is penalized through Employer action or through the ministerial act of the referral agent, the referral agent shall perform the ministerial act of electronically posting the penalty through the MBDS, in addition to reporting obligations set forth in Articles 11 and 13.

5.12.2.2 Duty to Observe Penalty:

Said posting shall serve as notice to all referral agents operating an exclusive referral procedure, pursuant to these Uniform Referral Standards and Joint Referral Rules, that the applicant shall not be referred for the duration of the penalty.

5.12.2.3 Duty to Confirm Removal from Penalty List:

The referral agent responsible for said posting is also responsible to check the MBDS system to confirm that the posting of the penalty is removed upon completion of the penalty.

6. APPLICANTS FOR REGISTRATION

6.1 Qualified Construction Boilermaker:

6.1.1 Qualified Construction Boilermakers Shall be Defined as Those Who Have:

- (1) Satisfactorily established that they have at least six thousand (6,000) hours of actual, practical working experience in the boilermaking trade in the building and construction industry regardless of geographical jurisdiction, or;
- (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;

- (3) Satisfactorily completed a certified/accredited trainee program approved by the International President or;
- (4) Complete the below tests:
 - (a) Become a certified ASME pressure welder and pass an ASME, 6-G, GTAW-SMAW weld test administered by Common Arc or a signatory Boilermaker Employer and pass the Standardize Welding Theory exam with a seventy percent (70%) passing grade; **and**
 - (b) Pass the Standardized Rigging Theory and Equipment Identification exams with a seventy percent (70%) passing grade.

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

6.2 Construction Boilermaker Welder:

Verification of a welder's current welding certification with an Employer will be the responsibility of the Local Lodge through the offices of Common Arc or MOST. Boilermaker welders failing to pass two (2) consecutive welding certification examinations shall have their eligibility for registration as a welder revoked. A welder's revocation will continue until such time that they participate in a welders' training program and certifies with an Employer signatory to a collective bargaining agreement in the boilermaking construction industry.

6.3 Qualified Boilermaker Apprentice/Trainee:

Boilermaker Apprentices/Trainees shall be qualified for registration who can establish they are indentured, in good-standing, and serving an Apprenticeship/Trainee program as a Field Construction Boilermaker under an apprenticeship program approved by the United States Bureau of Apprenticeship Training or State Division of Apprenticeship Standards or a certified and accredited trainee program approved by the International President. A Boilermaker Apprentice who is suspended or terminated from the apprenticeship program shall be deemed "not in good-standing" for the term of the suspension or termination. A Boilermaker Trainee who is suspended or terminated from a certified and accredited trainee program approved by the International President shall be deemed "not in good-standing" for the term of the suspension or termination. 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.

6.4 Intern Boilermakers:

An Intern Boilermaker is anyone who does not qualify as a Qualified Construction Boilermaker, as defined by Article 6.1, or as a Qualified Boilermaker Apprentice/Trainee, as defined by Article 6.3, yet has some experience in the boilermaking trade or has experience in a craft with related skills. 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.

COMMENT:

Any other classifications as defined and contained in the governing collective bargaining agreement. 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.

6.5 Working Outside Boilermaker Construction Jurisdiction:

Irrespective of any other provisions in these Referral Rules, applicants registered on the Primary List, Secondary List, or Apprentice/Trainee Referral List shall be allowed to work in non-construction facilities such as shops, shipyards, marine, manufacturing, and construction in non-Boilermaker craft jurisdiction while maintaining registration on the respective out-of-work list. Apprentices/Trainees working as set forth herein may not refuse a work referral when called for work except for compelling reasons as determined by the Business Manager.

6.5.1 Individuals Who Cannot Maintain Position on the Referral Lists/ Pools:

Except as provided in Article 6.5, individuals working within their Local Lodge of domicile, for a signatory Employer which is employing Boilermakers on the same job, shall not be able to be placed on, and shall be removed from, any referral list/pool provided for under these Referral Rules.

Individuals who are not eligible for placement on a referral list/pool pursuant to this Article, shall so inform the Business Manager or their designated representative, of the individual's Local Lodge of domicile.

6.5.2 Individuals Who Can Maintain Position in Local Lodge of Domicile, but Must Remove Themselves as Travelers:

Individuals working outside their Local Lodge of domicile for a signatory Employer which is employing Boilermakers on the same job, may be placed on and/or remain on the referral list/pool of their Local Lodge of domicile. However, said individuals are not eligible to remain on any Travelers lists/pools and shall be responsible for removing their name from any and all Travelers lists/pools through the MBDS.

6.6 Effect of Military Service:

6.6.1 Effect of Military Service Upon Special Certifications:

When a Boilermaker applicant possessing certified special skills, such as welding, is activated for service in any branch of the United States Armed Services for a period of active service not exceeding that which is protected by USERRA or applicable law results in the expiration of such certification, the Boilermaker, when returning to actively seeking employment, will not lose any referral opportunity as a result of the expired certification. Rather, the Boilermaker's referral status shall be "Currently Eligible, Retest Required". Any Employer to whom the

Boilermaker is referred will be advised of the Boilermaker's prior certification with that Employer and the Employer will be requested to provide a retest for the purpose of renewing the certificate. The Boilermaker shall be given a reasonable time to prepare for and successfully complete the retest.

6.6.2 Placement on Out-Of-Work List Protected During Military Service:

When a Boilermaker applicant duly registered on any out-of-work list governed by these referral standards is activated for service in any branch of the United States Armed Services for a period of active service not exceeding that protected by USERRA or other applicable law and subsequently returns to actively seeking employment, their place on the out-of-work list will be, to the extent possible, that which they would have held but for the time spent on active duty, even if such requires placing the applicant at the top of the list.

6.7 Re-registration and Confirmation of Availability:

It is the responsibility of all applicants for referral to register or re-register for referral on all lists and pools with the Business Manager or their designee. At no time is a steward, foreman, general foreman, or superintendent considered as the Business Manager's designee for registration or re-registration on any referral list or pool. Further, it is the sole responsibility of all applicants for referral to ensure, at all times and on any and all referral lists or pools, that they are properly registered. Regardless of any practices to the contrary or representations made by a steward, foreman, general foreman, or superintendent, it remains, at all times, the sole responsibility of all applicants for referral to ensure that they are properly placed on any and all referral lists or pools.

6.7.1 Each referral applicant shall be responsible for personally registering on the out-of-work list that they are qualified for, in person or by telephone.

6.7.2 A referral applicant must be available for call within a reasonable time or the next available referral applicant on the list shall be called. The discretion of the Business Manager or their designated representative shall prevail in terms of "reasonable" in consideration of the Employer provisions of the work order being filed at the time of call.

6.7.3 Any referral applicant that refuses or is unavailable for three (3) successive offers of employment shall be placed at the bottom of their respective list/pool, unless the applicant has a reasonable excuse acceptable to the Business Manager or their designated representative.

6.7.4 All referrals for work shall be accepted by the applicant personally.

6.7.5 After a period of temporary disability and where the referral office is aware of same, an applicant will be required to furnish the referral office with written medical evidence of release to perform Boilermaker field construction work.

7. NATIONAL TRANSIENT DIVISION (NTD) EMPLOYMENT

7.1 Application of Rule:

These Rules govern employment of an employee with a NTD Employer only to the extent set forth in the governing collective bargaining agreement. Applicants for employment with a NTD Employer may continue to seek employment by direct application with an Employer, as set forth in the governing NTD collective bargaining agreements.

7.2 NTD Employment:

In the event an applicant for employment obtains employment through direct application, with a NTD Employer, they shall be removed from all out-of-work pools or lists governed by these Uniform Referral Standards and Joint Referral Rules.

7.3 Notification of NTD Employment:

Any applicant for employment who obtains employment with a NTD Employer, without resort to an out-of-work pool or list, shall notify the office of the NTD of such employment within two (2) business days of actual initial performance of work. It is the responsibility of the NTD Director or their designated representative to remove said applicant from the appropriate out-of-work lists.

7.4 Registration of Applicants After NTD Employment:

Applicants for employment who are removed from an out-of-work pool or list, as set forth above, who choose to re-register on any referral out-of-work pool or list, shall be treated the same as any new applicant for referral, and shall have their name placed on the bottom of the out-of-work list and referred in order of registration or as otherwise provided for by these Uniform Referral Standards and Joint Referral Rules.

7.5 Failure of Applicant to Abide by These Rules:

In the event an applicant for employment fails to provide notice as set forth in this Article, they shall be given a written warning by the NTD Director or their designated representative, for the first such violation. Subsequent violations shall be dealt with as set forth in Article 9.

8. NONDISCRIMINATORY REFERRAL

8.1 Fair, Equitable and Nondiscriminatory:

Competent and qualified applicants shall be referred and employed exclusively from the out-of-work lists and referral registration pools in a fair, equitable, and nondiscriminatory manner. This shall be done immediately and in accordance with the requirements of the Employer's job.

8.2 Not Affected by Membership:

The Union and the Employer agree that referral of all classifications of Construction Boilermakers shall be on the following basis: Selection of applicants for referral shall be on a nondiscriminatory basis and shall not be based upon or in any way affected by Union membership, by-Laws, rules, regulations, constitutional provisions, or any other aspect or obligation of Union membership policies or requirements. Generally, applicants are referred in order of registration within skill set from a particular referral list/pool.

8.3 Employer Right to Reject:

The Employer retains the right to reject any job applicant referred by the Union. In the event the Employer does reject the job applicant, the applicant's status on the out-of-work list shall not be affected. The Employer shall upon request from the Union, give reasons in writing for rejecting any applicant who has been referred for employment.

8.4 Posting of Rules:

The Union and the Employer shall post, in places where notices to all employees and applicants for employment are customarily posted, all provisions relating to the functioning of the Local Joint Referral Rules. The Local Lodge referral agency shall furnish to each job site a copy of the Local Joint Referral Rules for posting.

8.5 Request Key Employees:

Requests by Employers for key Boilermakers to act as foremen shall be honored without regard to the requested Boilermaker's place on the out-of-work list. Due to the extensive knowledge required of the steward in the application of the bargaining agreement, jurisdiction, etc., the steward shall be appointed by the Union without regard to position on the referral list.

COMMENT:

It is strongly recommended applicants for referral as foremen complete OSHA 30 and Leadership Training courses.

8.6 Request Special Skills:

A bona fide request by Employers for Boilermakers with special skills and abilities shall be honored and filled in accordance with Article 8.1. To assure all Employers an adequate supply of Boilermaker welders for each job shift, the Union shall refer welders to jobs at no more than one hundred twenty-five percent (125%) of the available welding leads connected to machines in service. Exceptions to this rule shall be allowed for job conditions that require rotation of welders because of unusual or safety related working conditions.

8.7 Selectivity:

8.7.1 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 242 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 242 Primary out-of-work list, with the remaining fifty percent (50%) referred by Local Lodge 242 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.

8.7.1.1 Preferred Welders:

Preferred welders must be currently registered in Common Arc or have weld certifications through an Employer signatory to a Boilermaker collective bargaining agreement. Upon failure to promptly update certification of all welders on each jobsite, an Employer may not be allowed to use priority referral of Common Arc welders or preferred welders on future jobs as determined by the National Joint Rules and Standards Committee after recommendation from the Local Joint Referral Rules Committee. It is the intent of the National Joint Rules and Standards Committee that Employers utilizing the Common Arc Program in a Local Lodge must make an earnest effort to certify all welders who avail themselves to scheduled Common Arc tests.

8.7.1.2 Additional Programs:

All preferred applicants must complete additional programs as determined by the National Joint Rules and Standards Committee.

8.7.1.3 Preferred Applicants Referred in Order:

Upon receiving an Employer's list of preferred applicants, the Local Lodge shall refer each preferred applicant to that Employer by order of registration and skill set.

8.7.1.4 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.

8.7.1.5 Modification of Referral Protocol

The International Vice President and Employer Chairman of the governing Collective Bargaining Agreement 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.

8.8 Selection of Applicants:

8.8.1 Foreman and Steward:

The first two (2) employees on a job shall be the foreman selected by the Employer, and the steward, selected by the Business Manager, regardless of their positions on the out-of-work list.

8.8.2 Order of Referral:

Order of referral shall be in accordance with Article 8.7.1. After the foreman and steward are selected, the Employer shall select the next preferred referral applicant with the next applicant referred by the Local Lodge in accordance with these Uniform Referral Standards and Joint Referral Rules.

8.8.3 Referral of Apprentice/Trainee Applicants:

Qualified Construction Boilermaker Apprentices/Trainees meeting the requirements of Article 5.3.1 of these Uniform Referral Standards and Joint Referral Rules shall be requisitioned by Employers and referred according to ratio requirements of the Boilermaker National Apprenticeship Program (BNAP) or a Certified/Accredited Trainee Program approved by the International President.

8.9 Transfer of Employees:

8.9.1 Within Local Lodge:

The Employer may transfer Boilermaker employees from one job to another job within the Local Lodge's geographical jurisdiction.

8.9.2 Preferred/Referral Ratio:

For each Employer's job, employees may be transferred to another job with ratio of preferred and referred applicants not to exceed the ratio set forth in Article 8.7.1. The Employer may utilize selectivity and transferability of which shall not exceed the ratio set forth in Article 8.7.1.

8.9.3 Across Employers:

When requested by the owner, the transfer of employees from one Employer to another Employer in the same facility shall be permissible at the discretion of the Business Manager.

8.10 Reduction of Crews:

When reducing crews, the Employer shall determine which Boilermaker employees shall be laid off. However, when a shift is reduced to an equal number of regular and preferred Boilermakers, the one-to-one ratio will then apply to the remaining layoffs, provided that the remaining Boilermakers have the skill required.

8.11 Failed Apprentices Hours:

In order to preserve the integrity of the apprenticeship and trainee programs, an individual failing to satisfactorily complete either the apprenticeship or an accredited trainee program will not be permitted to apply any hours, credit, certifications or credentials acquired while enrolled in or on suspension from such programs toward Journeyworker eligibility status.

8.12 Suspension of Apprentices/Trainees:

Any Boilermaker Apprentice/Trainee who has been suspended or terminated from the apprenticeship program or a certified and accredited trainee program approved by the International President shall be removed from the Apprentice/Trainee out-of-work list immediately upon notification from the apprenticeship program or trainee program. Suspension from the Apprentice/Trainee out-of-work list shall be for the duration of the period the Boilermaker Apprentice is suspended or terminated from the apprenticeship program or the Boilermaker Trainee is suspended or terminated from the trainee program.

8.13 Accumulation of Hours:

A referral applicant who meets the requirements of any referral list/pool and receives or is offered five (5) days of work or less on any job to which they were referred, shall be allowed to re-register on the referral list/pool previously qualified for in the position they occupied prior to referral, if qualified for said referral list/pool. A referral applicant who meets the requirements of any referral list/pool and receives or is offered six (6) days or more of work on any job to which they were referred, shall not be allowed to retain their position on the referral list/pool previously qualified for and shall be required to re-register for referral on bottom of the referral list/pool that they are qualified for.

8.14 Emergency Referral:

It shall not be considered a violation of these Referral Rules for the Business Manager or their designated representative to use whatever means necessary to provide adequate numbers of referral applicants to staff projects under an emergency situation. In the event of an emergency

situation, any referral applicant whose bona fide permanent address is located within a reasonable distance from the jobsite may be given referral priority. The determination in these cases shall be made solely by the Business Manager or their designated representative who is dispatching the applicants.

9. SUSPENSION AND REMOVAL FROM OUT-OF-WORK LISTS AND REFERRAL REGISTRATION POOLS

Pursuant to collective bargaining negotiations, the parties have jointly agreed that the following provisions concerning the suspension and removal from out-of-work lists and referral registration pools are adopted as part of any governing collective bargaining agreement wherein the parties to said agreement bind themselves to the Uniform Referral Standards and Joint Referral Rules.

Any Boilermaker employee or referral applicant who receives a referral suspension shall not be referred during the suspension period by any referral agent nationwide. The referral agent shall be responsible for the MBDS posting as set forth in Article 5.10 and Article 11.

Applicants referred to projects being performed under the National Transient Division Articles of Agreement, the National Transient Division Articles of Agreement Covering Tank Repair and Related Work, or other agreements administered by the National Transient Division shall not be subject to the referral penalty set forth in Article 9.1.3.

9.1 Twenty-One (21) Day Suspension:

An individual shall be suspended from the out-of-work list or referral registration pool and ineligible to be referred for employment for a twenty-one (21) day period for any of the following:

9.1.1 Not Reporting to Job:

Accepting a referral and not reporting to the job ready for work at the appointed time unless the individual has a reasonable excuse approved by the Employer and Business Manager.

9.1.2 Just Cause Discharge:

Discharge from employment for just cause, including absenteeism. The Employer will have cause to discharge for absenteeism any employee who is excessively absent or who is absent from work for two (2) consecutive days without prior approval or who on the second day fails to call in and notify the Employer within two (2) hours of the start of their regularly scheduled shift. In addition to the referral penalty specified herein, an Employer will have cause to reject for up to six (6) months any applicant, which it has previously discharged for excessive or habitual absenteeism as defined by the Employer's attendance policy. The Employer must provide written notification of all such action to the appropriate referral facilities pursuant to Articles 12 and 13 of these Referral Rules.

9.1.3 Unauthorized Quit:

Quitting or leaving a job without approval from the Employer and Business Manager. Such approval shall not be unreasonably withheld if the individual can be replaced by another with similar skills or otherwise will not cause undue hardship to the Employer. If requested, the Employer shall timely notify the individual in writing of the reason that such approval was withheld. Approval by the Employer shall be reduced to writing and forwarded to the Local Lodge for its records. An Employer may regard an employee who is absent from work as described in Article 9.1.2 as having constructively quit employment without approval. The Employer must provide written notification of all such action to the appropriate referral facilities pursuant to Articles 12 and 13 of these Referral Rules.

9.1.4 Failed Drug/Alcohol Test:

The following individuals shall be suspended from the applicable out-of-work list/pool 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 list/pool who fails a MOST drug test.

9.1.5 Failure to Report NTD Employment:

The second and each subsequent occasion upon which an applicant for referral fails to provide notice as set forth in Article 7.

9.1.6 Imposition and Appeal of Twenty-One (21) Day Suspension:

All suspensions imposed pursuant to Article 9.1 of these Referral Rules shall be immediately imposed and applied against the individual in question. It shall be the responsibility of the referral agent to advise any applicant of any such suspension. The individual shall have the right to file a timely grievance or dispute, whichever procedure is applicable, challenging the propriety of the suspension imposed. However, such suspension will not be held in abeyance pending exhaustion of the grievance or dispute procedure. The time period for invoking the applicable procedure shall begin to run when the affected individual is reasonably notified of the suspension or circumstances requiring a suspension pursuant to Article 9.1 of these Referral Rules.

9.2 Thirty (30) Day Suspension:

An individual who is suspended in accordance with these Referral Rules, from referral for a second time, within one hundred eighty (180) days from the date of the first suspension, shall be suspended for a thirty (30) day period for the second suspension, provided neither suspension is overturned through the grievance procedure or the referral dispute procedure.

9.3 Ninety (90) Day Suspension:

An individual shall be suspended from the out-of-work list or referral registration pools and ineligible to be referred for employment for a ninety (90) day period for the following:

9.3.1 False Referral Information:

Intentionally supplying the Local Lodge referral agency with false data, records or other information used to establish qualification for registration and/or referral.

9.3.2 Three (3) Suspensions in a Twelve (12) Month Period:

Three (3) suspensions in accordance with these Referral Rules within any twelve (12) month period, provided that none of the suspensions is overturned or otherwise overturned through the grievance procedure or referral dispute procedure.

Upon serving a ninety (90) day suspension, pursuant to this Article and Subsection, the oldest suspension shall be removed when determining whether additional ninety (90) day suspension(s) should be applied under this Article and Subsection.

9.3.3 Assault and/or Battery:

Discharge from employment obtained under the auspice of the exclusive referral procedures for unlawful assault and/or battery.

9.3.4 Interference with Hiring Hall:

Intentional interference with proper operation of the exclusive referral procedures by obtaining or seeking to obtain bargaining unit employment with a signatory Employer directly, in circumvention of the exclusive referral procedures, or by any other act calculated to circumvent and/or disrupt efficient, fair and equitable operation of the exclusive referral procedures.

9.3.5 Illegal Strike Activity:

Involvement in any illegal strike or any work stoppage, slowdown, or other misconduct intended to affect a curtailment of work in violation of the no-strike obligation of the collective bargaining agreement. Insistence upon recognition of any picket when such is in violation of a no-strike obligation in the applicable collective bargaining agreement.

9.3.6 Placement on Secondary List:

In addition to the ninety (90) day suspension set forth herein, Primary List applicants receiving a suspension under Article 9.3 shall be reduced to Secondary List status for a period of twelve (12) months.

9.4 Imposition and Appeal of Thirty (30) and Ninety (90) Day Suspensions:

9.4.1 Notice:

Any individual against whom a suspension is prospectively to be applied pursuant to the foregoing provisions of Articles 9.2 and 9.3 shall be first given notice and opportunity to have the propriety of such suspension considered through timely invocation of the appropriate grievance or dispute procedure. The time period for invoking the applicable procedure shall begin to run when the affected individual is reasonably notified of the suspension or circumstances requiring a suspension pursuant to Articles 9.2 or 9.3 of these Referral Rules. No such suspension will be implemented against any individual except upon a final determination as to the propriety of such suspension in accordance with the appropriate grievance or dispute procedure or upon default or waiver by the individual of their right to grieve or dispute the matter in a timely fashion.

9.4.2 Appeal:

It shall be the responsibility of the referral agent to advise an applicant of any prospective suspension then outstanding. Assuming that applicable time limits have not yet expired, the applicant for registration must, at that time, make an election either to initiate the appropriate procedure or waive any right to do so. Failure to invoke the applicable procedure in a timely fashion will, in any event, constitute default. If the appropriate procedure is initiated in a timely fashion, imposition of any suspension will be held in abeyance pending a final determination pursuant to Article 9.4.4.

9.4.3 Waiver of Appeal:

If the applicant for registration waives invocation of the appropriate grievance or dispute procedure, or defaults, the suspension will become effective and will be applied immediately to one who is then registered and applied against any other upon registration or termination of current employment.

9.4.4 Referral Pending Appeal:

Should an applicant for registration elect to contest in a timely fashion any action which may lead to a suspension pursuant to Articles 9.2 or 9.3, then such individual will be registered on the out-of-work list or referral registration pools and be considered eligible for employment during the pendency of such grievance or dispute. Should any suspension be ultimately determined appropriate as against that individual by virtue of a final decision achieved through either the appropriate grievance or dispute procedure, then such suspension will be applied immediately against that individual if then registered, or upon registration or termination of current employment.

9.5 Imposition and Appeal of Sanctions for Serious or Chronic Misconduct:

9.5.1 Nature of Penalty:

Misconduct demonstrating an individual's unsuitability for further employment as a Field Construction Boilermaker (for example: acts of violence, sabotage, job site theft, serious and chronic violations of referral rules) will be referred to the National Joint Rules and Standards Committee for consideration and recommendation. Such misconduct may be cause for more 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 Standards.

9.5.2 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.

9.6 Grievances and Referral Disputes:

In the operation of these exclusive Referral Rules, referral suspensions may be imposed either as a direct result of Employer action or by ministerial action of the referral agent in the course of administering the provisions of these exclusive Referral Rules.

9.6.1 Grieve Employer Action:

If the suspension would not be imposed but for action taken by an Employer, such Employer action and related suspension must be grieved through the basic grievance procedure of the applicable collective bargaining agreement (for example: a discharge for asserted just cause and related twenty-one (21) day suspension).

9.6.2 Dispute Hiring Hall Action:

If the suspension is otherwise imposed as the result of ministerial action of the referral agent, such is properly the subject of the referral dispute procedures (for example: Failure to properly offer referral) as are all complaints concerning fair, equitable, and nondiscriminatory operation of these exclusive referral procedures.

9.6.3 Cumulative Suspensions:

If an individual grieves an Employer action, the consequences of which could include a suspension of cumulative duration (thirty (30) and ninety (90) day suspensions for repeated discharge for just cause), such circumstances will be reviewed by the Local Joint Referral Dispute Committee upon exhaustion of the basic grievance procedure and prior to imposition of any cumulative suspension.

9.6.4 Rescission or Modification of Suspensions:

Both the Employer and Union representatives to the basic grievance procedure and/or the Local Joint Referral Dispute Procedure, as to all matters properly presented, shall be empowered to rescind or modify any suspension as they see fit.

10. LOCAL JOINT REFERRAL DISPUTE PROCEDURE

10.1 Resolving a Referral Dispute with the Business Manager:

An individual must first make an earnest effort to resolve a dispute with the Business Manager who is responsible for the administration of the Local Joint Referral Rules. This must be done within seven (7) calendar days of the time the individual becomes aware of the event or events giving rise to the dispute. If the matter is not satisfactorily resolved, the individual may submit the matter for a hearing by a Local Joint Referral Dispute Committee. This must be done by written notice to the Business Manager within seven (7) calendar days following failure to reach settlement of the dispute outlined above.

10.2 Appointment of Local Joint Referral Dispute Committee:

The Business Manager shall refer the written dispute to the Chairman of the Employers' Negotiating Committee and the International Vice President. The International Vice President and Employer Chairman shall then appoint the respective representatives to the Local Joint Referral Dispute Committee. The individual and the Business Manager may be required to submit in writing, in advance of any hearing, any information needed to properly resolve the dispute.

10.3 Appearance Bond:

Individuals filing a written notice to the Business Manager for a Local Joint Referral Dispute Committee hearing, must attach to the written notice a good faith bond in the amount of fifty dollars (\$50.00). The individual may choose to pay the bond by personal check or by other means of payment, which will be held by the Local Lodge. The Local Lodge shall return the personal check or other means of payment to the individual, when said individual appears before the Local Joint Referral Dispute Committee or if said individual is excused from the need to appear before the Dispute Committee.

11. 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.

12. **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.

13. **REFERRAL AND TERMINATION RECORDS**

It shall be the responsibility of each Employer to provide and each Local Lodge to maintain detailed and accurate referral and termination records for each applicant referred to work within the jurisdiction of the Local Lodge. Such records shall be subject to review and use by the duly appointed Local Joint Referral Dispute Committee or the Local Joint Referral Rules Committee.

14. **AUDIT**

The National Joint Rules and Standards Committee or its designated representative shall have the right to audit, at any time, the operation of any exclusive referral procedure that is subject to the Uniform Referral Standards.

15. **CHANGE OR MODIFICATION**

The Local Joint Referral Rules may be changed or modified from time to time by the Local Joint Referral Rules Committee, subject to the provisions of Article 2.

16. **GENERAL SAVINGS CLAUSE**

It is not the intent of the Local Joint Referral Rules Committee or the National Joint Rules and Standards Committee in operating under the Rules, Regulations and Standards set forth herein to violate any laws or any rulings of any governmental authority or State agency having jurisdiction of the subject matter contained herein, and it is understood and agreed between the representatives of the Local Joint Referral Rules Committee and National Joint Rules and Standards Committee that, in the event any provision or provisions of the Rules, Regulations and Standards shall be held contrary to law, it shall not affect any other provisions hereof.

EFFECTIVE as amended this _____ day of _____, 20_____

FOR THE LOCAL JOINT REFERRAL RULES COMMITTEE,
LOCAL LODGE 242

For the Employers:

For the Union:

Adopted and Approved by the National Joint Rules and Standards Committee for
Implementation Effective at 12:00 p.m. (noon) Eastern Standard Time August 27, 2018.