

# THE STATE OF VERMONT APPRENTICESHIP COUNCIL RULES

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RELATING TO LABOR STANDARDS FOR THE REGISTRATION OF  
APPRENTICESHIP PROGRAMS INCLUDING PROGRAMS OF ON-  
THE-JOB TRAINING AND EQUAL EMPLOYMENT OPPORTUNITY  
IN APPRENTICESHIP AND TRAINING

STATE OF VERMONT  
VERMONT DEPARTMENT OF LABOR  
APPRENTICESHIP RULES

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RELATING TO LABOR STANDARDS FOR THE REGISTRATION OF  
APPRENTICESHIP PROGRAMS

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## § 1. AUTHORITY

The authority for the implementation and adoption of these policies and procedures affecting the registration of the Apprenticeship and Training Program with the Department of Labor is vested under authority of 21 V.S.A. Chapter 13.

## § 2. PURPOSE AND SCOPE (29 CFR Part 29.1)

- a. 21 V.S.A. Chapter 13 directs the Department of Labor to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices and to extend the application of those standards by requiring the inclusion of them in contracts of apprenticeship.
- b. The purpose of these rules is to set forth labor standards to safeguard the welfare of apprentices, promote apprenticeship opportunity, and to extend the application of these standards by prescribing rules concerning the registration of acceptable apprenticeship programs. These rules cover the registration, termination and deregistration of apprenticeship programs and of apprenticeship agreements and any matters relating to those subjects.
- c. These rules apply to a person, firm, corporation or craft only after that person, firm, corporation or craft has voluntarily elected to conform with them.

## § 3 DEFINITIONS (29 CFR Part 29.2)

“Administrator” means the Vermont Department of Labor Apprenticeship Program Director or designee.

“Apprentice” means a worker at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn an apprenticeable occupation under the standards of apprenticeship contained in these rules.

“Apprenticeship Agreement” means a written agreement, complying with the standards of apprenticeship in these rules, between an apprentice and either the apprentice’s program sponsor, or an apprenticeship committee acting as agent for the program sponsor(s), which contains the terms and conditions of the employment and training of the apprentice.

“Apprenticeship Committee” (Committee) means those persons designated by the sponsor to administer the program. A committee may be either joint or non-joint, as follows:

(a) A joint committee is composed of an equal number of representatives of the employer(s) and of the employees represented by a bona fide collective bargaining agent(s).

(b) A non-joint committee, which may also be known as a unilateral or group non-joint (which may include employees) committee, has employer representatives but does not have a bona fide collective bargaining agent as a participant.

“Apprenticeship Program” means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, as required under the standards of

apprenticeship section of these rules, including such matters as the requirement for a written apprenticeship agreement.

“Cancellation” means the termination of the registration or approval status of a program at the request of the sponsor, or termination of an Apprenticeship Agreement at the request of the apprentice or the sponsor.

“Certification” or “Certificate” means documentary evidence that:

(a) The Registration Agency/Department has established that an individual is eligible for probationary employment as an apprentice under a registered apprenticeship program;

(b) The Registration Agency/Department has registered an apprenticeship program as evidenced by a Certificate of Registration or other written indicia;

(c) The Registration Agency/Department has determined that an apprentice has successfully met the requirements to receive an interim credential; or

(d) The Registration Agency/Department has determined that an individual has successfully completed apprenticeship.

“Competency” means the attainment of manual, mechanical or technical skills and knowledge, as specified by an occupational standard and demonstrated by an appropriate written and hands-on proficiency measurement.

“Completion rate” means the percentage of an apprenticeship cohort who receives a certificate of apprenticeship completion within 1 year of the projected completion date. An apprenticeship cohort is the group of individual apprentices registered to a specific program during a 1 year time frame, except that a cohort does not include the apprentices whose apprenticeship agreement has been cancelled during the probationary period.

“Department” means the Vermont Department of Labor.

“Electronic media” means media that utilize electronics or electromechanical energy for the end user (audience) to access the content; and includes, but is not limited to: electronic storage media, transmission media, the Internet, extranet, lease lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic media and/or interactive distance learning.

“Employer” means any person or organization employing an apprentice whether or not such person or organization is a party to an Apprenticeship Agreement with the apprentice.

“Interim credential” means a credential issued by the Registration Agency, upon request of the appropriate sponsor, as certification of competency attainment by an apprentice.

“Journeyworker” means a worker who has attained a level of skill, abilities and competencies recognized within an industry as having mastered the skills and competencies required for the occupation. In the licensed trades, it will mean an individual who holds a journey level license. In non-licensed occupations, it shall mean an individual with either a completion of apprenticeship certificate or experience equal to one and one-half times the work process hours. (Use of the term may also refer to a mentor, technician, specialist or other skilled worker who has documented

sufficient skills and knowledge of an occupation, either through formal apprenticeship or through practical on-the-job experience and formal training.)

“Provisional registration” means the 1-year initial provisional approval of newly registered programs that meet the required standards for program registration, after which program approval may be made permanent, continued as provisional, or rescinded following a review by the Registration Agency.

“Quality Assurance Assessment” means a comprehensive review conducted by a Registration Agency regarding all aspects of an apprenticeship program’s performance, including but not limited to: determining if apprentices are receiving: on-the-job training in all phases of the apprenticeable occupation; scheduled wage increases consistent with the registered standards; related instruction through appropriate curriculum and delivery systems; and that the registration agency is receiving notification of all new registrations, cancellations, and completions as required in this part.

“Registration Agency” means the Vermont Department of Labor, which has the responsibility for registering apprenticeship programs and apprentices, providing technical assistance and conducting reviews for compliance with 29 CFR parts 29 and 30, and conducting quality assurance assessments.

“Registration of an apprenticeship agreement” means the acceptance and recording of an apprenticeship agreement by the Vermont Department of Labor as evidence of the apprentice’s participation in a particular registered apprenticeship program.

“Registration of an apprenticeship program” means the acceptance and recording of such program by the Vermont Department of Labor as meeting the basic standards and requirements of apprenticeship as defined by these rules. Approval is evidenced by a Certificate of Registration or other written indicia.

“Related instruction” means an organized and systematic form of instruction designed to provide the apprentice with the knowledge of the theoretical and technical subjects related to the apprentice’s occupation. Such instruction may be given in a classroom, through occupational or industrial courses, or by correspondence courses of equivalent value, electronic media, or other forms of self-study approved by the Registration Agency.

“Sponsor” means any person, association, committee, or organization operating an apprenticeship program and in whose name the program is (or is to be) registered or approved.

“Vermont State Apprenticeship Council” means the regulatory State Apprenticeship Council established by 21 VSA § 1101 to assist the Vermont Department of Labor/Registration Agency. The role of the VT State Apprenticeship Council is described in § 5 of these rules.

“Technical assistance” means guidance provided by Registration Agency staff in the development, revision, amendment, or processing of a potential or current program sponsor’s Standards of Apprenticeship, Apprenticeship Agreements, or advice or consultation with a program sponsor to further compliance with this part or guidance from the Office of Apprenticeship to a State Apprenticeship Agency on how to remedy nonconformity with this part.

“Transfer” means a shift of apprenticeship registration from one program to another or from one employer within a program to another employer within that same program, where there is agreement between the apprenticeship committees or program sponsors and the affected.

§ 4 ELIGIBILITY AND PROCEDURE FOR REGISTRATION OF AN APPRENTICESHIP PROGRAM (29 CFR Part 29.3)

(a) Eligibility for registration of an apprenticeship program is conditioned upon a program's conformity with the apprenticeship program standards published in this part. For a program to be determined as being in conformity with the standards, the program must apply for registration and be registered with the Department. A program registered under these rules is recognized for various federal purposes.

(b) Only an apprenticeship program or agreement that meets the following criteria is eligible for registration with the Department:

(1) It is in conformity with the requirements of this part and the training is in an apprenticeable occupation having the characteristics set forth in § 6 of these rules; and

(2) It is in conformity with the requirements of the Department's regulation on Equal Employment Opportunity in Apprenticeship and Training in compliance with 29 CFR part 30, as amended.

(c) Except as provided under paragraph (d) of the section, apprentices must be individually registered under a registered program. Such individual registration may be effected:

(1) By filing copies of each individual agreement with the Department; or

(2) Subject to prior Department approval, by filing a master copy of such agreement followed by a listing of the name, and other required data, of each individual when apprenticed.

(d) The names of persons in probationary employment as an apprentice under an apprenticeship program registered by the Department, if not individually registered under such program, must be submitted within 45 days of employment to the Department for certification to establish the apprentice as eligible for such probationary employment.

(e) The Department must be notified within 45 days of persons who have successfully completed apprenticeship programs; and of transfers, suspensions, and cancellations of apprenticeship agreements and a statement of the reasons therefore.

(f) Approved and operating apprenticeship programs shall be registered with the Department. A certificate of registration will be issued to each program upon approval.

(g) Applications for new programs that the Department determines meet the required standards for program registration must be given provisional approval for a period of 1 year. The Department must review all new programs for quality and for conformity with the requirements of this part at the end of the first year after registration. At that time:

(1) A program that conforms with the requirements of this part:

(i) May be made permanent; or

(ii) May continue to be provisionally approved through the first full training cycle.

(2) A program not in operation or not conforming to the regulations during the provisional approval period must be recommended for deregistration procedures.

(h) The Department must review all programs for quality and for conformity with the requirements of this part at the end of the first full training cycle. A satisfactory review of a provisionally approved program will result in conversion of provisional approval to permanent registration. Subsequent reviews must be conducted no less frequently than every five years. Programs not in operation or not conforming to the regulations must be recommended for deregistration procedures.

(i) Any sponsor proposals or applications for modification(s) or change(s) to registered programs must be submitted to the Department. The Department must make a determination on whether to approve such submissions within 90 days from the date of receipt. If approved, the modification(s) or change(s) will be recorded and acknowledged within 90 days of approval as an amendment to such program. If not approved, the sponsor must be notified of the disapproval and the reasons therefore and provided the appropriate technical assistance.

(j) Under a program proposed for registration by an employer or employers' association, where the standards, collective bargaining agreement or other instrument provides for participation by a union in any manner in the operation of the substantive matters of the apprenticeship program, and such participation is exercised, written acknowledgement of union agreement or no objection to the registration is required. Where no such participation is evidenced and practiced, the employer or employers' association must simultaneously furnish to an existing union, which is the collective bargaining agent of the employees to be trained, a copy of its application for registration and of the apprenticeship program. The Department must provide for receipt of union comments, if any, within 45 days before final action on the application for registration and/or approval.

(k) Where the employees to be trained have no collective bargaining agreement, an apprenticeship program may be proposed for registration by an employer or group of employers, or an employer association.

(l) Any modification or change to a registered standard shall be promptly submitted to The Department, and if approved, shall be recorded and acknowledged as a revision of the standards.

(m) If the sponsor is involved in any abnormal labor condition such as a strike, lockout, or other similar condition, the application for an apprenticeship program may be withheld until that issue is resolved.

(n) If it is determined by the Department that a sponsor is in violation of any federal or state labor laws or rules and regulations affecting registration of programs, the application for an apprenticeship program may be withheld until these issues are resolved.

#### § 5 VERMONT STATE APPRENTICESHIP COUNCIL

The Vermont State Apprenticeship Council shall be comprised of 12 members, four ex officio members and eight members who shall be appointed by the Governor. Of the ex officio members, one shall be the Commissioner of Labor or designee, one shall be the Commissioner of Public Safety or designee, one shall be the Secretary of Education or designee, and one shall be the Director of the Apprenticeship Division who shall act as secretary of the Council without vote. The Council shall be composed of persons familiar with apprenticeable occupations. Of the appointed members, three

shall be individuals who represent employers, three shall be individuals who represent employee organizations, and two shall be members of the public. Under the direction of the Vermont Department of Labor, the Vermont State Apprenticeship Council shall:

- (a) Review and recommend new apprenticeship programs to the Department for registration.
- (b) Review and recommend approval of prior credit requests over 50% of time in the trade.
- (c) Advise the Department on related instruction content, attendance policies and other matters related to apprenticeship classes.
- (d) Set guidelines for the ratio variance process.
- (e) Promulgate rules at the direction of the Department.
- (f) Review and recommend approval of new occupations.

#### § 6 CRITERIA FOR APPRENTICABLE OCCUPATIONS (29 CFR Part 29.4)

An apprenticeable occupation is one which is specified by industry and which must:

- (a) Involve skills that are customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning;
- (b) Be clearly identified and commonly recognized throughout an industry;
- (c) Involve the progressive attainment of manual, mechanical or technical skills and knowledge which, in accordance with the industry standard for the occupation, would require the completion of at least 2,000 hours of on-the-job learning to attain;
- (d) Require related instruction to supplement the on-the-job learning; and
- (e) Be on the list of occupations approved by the US DOL Office of Apprenticeship or has been approved by the Department, in consultation with the Vermont State Apprenticeship Council. Any request for approval of a new apprenticeable occupation shall include a full work process, a related instruction outline and a statement that the apprentice will be fully instructed in safety and Vermont Occupational Safety and Health Administration requirements.

#### § 7 STANDARDS OF APPRENTICESHIP (29 CFR Part 29.5)

An apprenticeship program, to be eligible for approval and registration by a Registration Agency, must conform to the following standards:

- (a) The program must have an organized, written plan (program standards) embodying the terms and conditions of employment, training, and supervision of one or more apprentices in an apprenticeable occupation, as defined in this part, and subscribed to by a sponsor who has undertaken to carry out the apprentice training program.
- (b) The program standards must contain provisions that address:

(1) The employment and training of the apprentice in a skilled occupation.

(2) The term of apprenticeship, which for an individual apprentice may be measured either through the completion of the industry standard for on-the-job learning (at least 2,000 hours) (time-based approach), the attainment of competency (competency-based approach), or a blend of the time-based and competency-based approaches (hybrid approach).

(i) The time-based approach measures skill acquisition through the individual apprentice's completion of at least 2,000 hours of on-the-job learning as described in a work process schedule;

(ii) The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as verified by the program sponsor. Programs utilizing this approach must still require apprentices to complete an on-the-job learning component of Registered Apprenticeship. The program standards must address how on-the-job learning will be integrated into the program, describe competencies, and identify an appropriate means of testing and evaluation for such competencies;

(iii) The hybrid approach measures the individual apprentice's skill acquisition through a combination of specified minimum number of hours of on-the-job learning and the successful demonstration of competency as described in a work process schedule; and

(iv) The determination of the appropriate approach for the program standards is made by the program sponsor, subject to approval by the Registration Agency of the determination as appropriate to the apprenticeable occupation for which the program standards are registered.

(3) An outline of the work processes in which the apprentice will receive supervised work experience and training on the job, and the allocation of the approximate amount of time to be spent in each major process.

(4) Provision for organized, related instruction in technical subjects related to the occupation. A minimum of 144 hours for each year of apprenticeship is recommended. This instruction in technical subjects may be accomplished through media such as classroom, occupational or industry courses, electronic media, or other instruction approved by the Registration Agency. Every apprenticeship instructor must:

(i) Meet the State Department of Education's requirements for a vocational-technical instructor in the State of registration, or be a subject matter expert, which is an individual, such as a journeyworker, who is recognized within an industry as having expertise in a specific occupation; and

(ii) Have training in teaching techniques and adult learning styles, which may occur before or after the apprenticeship instructor has started to provide the related technical instruction.

(5) A progressively increasing schedule of wages to be paid to the apprentice consistent with the skill acquired. The entry wage must not be less than the minimum wage prescribed by the Fair Labor Standards Act, where applicable, unless a higher wage is required by other applicable Federal law, State law, respective regulations, or by collective bargaining agreement.

(6) Periodic review and evaluation of the apprentice's performance on the job and in related instruction; and the maintenance of appropriate progress records.

(7) A numeric ratio of apprentices to journeyworkers consistent with proper supervision, training, safety, and continuity of employment, and applicable provisions in collective bargaining agreements, except where such ratios are expressly prohibited by the collective bargaining agreements. The ratio language must be specific and clearly described as to its application to the job site, workforce, department or plant.

(8) A probationary period reasonable in relation to the full apprenticeship term, with full credit given for such period toward completion of apprenticeship. The probationary period cannot exceed 25 percent of the length of the program, or 1 year, whichever is shorter.

(9) Adequate and safe equipment and facilities for training and supervision, and safety training for apprentices on the job and in related instruction.

(10) The minimum qualifications required by a sponsor for persons entering the apprenticeship program, with an eligible starting age not less than 16 years.

(11) The placement of an apprentice under a written Apprenticeship Agreement that meets the requirements of these rules and the State Apprenticeship law. The agreement must directly, or by reference, incorporate the standards of the program as part of the agreement.

(12) The granting of advanced standing or credit for demonstrated competency, acquired experience, training, or skills for all applicants equally, with commensurate wages for any progression step so granted.

(13) The transfer of an apprentice between apprenticeship programs and within an apprenticeship program must be based on agreement between the apprentice and the affected apprenticeship committees or program sponsors, and must comply with the following requirements:

(i) The transferring apprentice must be provided a transcript of related instruction and on-the-job learning by the committee or program sponsor;

(ii) Transfer must be to the same occupation; and

(iii) A new apprenticeship agreement must be executed when the transfer occurs between program sponsors.

(14) Assurance of qualified training personnel and adequate supervision on the job.

(15) Recognition for successful completion of apprenticeship evidenced by an appropriate certificate issued by the Registration Agency.

(16) Program standards that utilize the competency-based or hybrid approach for progression through an apprenticeship and that choose to issue interim credentials must clearly identify the interim credentials, demonstrate how these credentials link to the components of the apprenticeable occupation, and establish the process for assessing an individual apprentice's demonstration of competency associated with the particular interim credential. Further, interim credentials must only be issued for recognized components of an apprenticeable occupation, thereby

linking interim credentials specifically to the knowledge, skills, and abilities associated with those components of the apprenticeable occupation.

(17) Identification of the Registration Agency.

(18) Provision for the registration, cancellation and deregistration of the program; and for the prompt submission of any program standard modification or amendment to the Registration Agency for approval.

(19) Provision for registration of apprenticeship agreements, modifications, and amendments; notice to the Registration Agency of persons who have successfully completed apprenticeship programs; and notice of transfers, suspensions, and cancellations of apprenticeship agreements and a statement of the reasons therefore.

(20) Authority for the cancellation of an apprenticeship agreement during the probationary period by either party without stated cause; cancellation during the probationary period will not have an adverse impact on the sponsor's completion rate.

(21) Compliance with 29 CFR part 30, including the equal opportunity pledge prescribed in 29 CFR 30.3(b); an affirmative action plan complying with 29 CFR 30.4; and a method for the selection of apprentices authorized by 29 CFR 30.5, or compliance with parallel requirements contained in a State plan for equal opportunity in apprenticeship adopted under 29 CFR part 30 and approved by the Department. The apprenticeship standards must also include a statement that the program will be conducted, operated and administered in conformity with applicable provisions of 29 CFR part 30, as amended, or, if applicable, an approved State plan for equal opportunity in apprenticeship. In addition to compliance with 29 CFR part 30, apprenticeship programs may not discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, or age or against a qualified disabled individual.

(22) Contact information (name, address, telephone number, and e-mail address if appropriate) for the appropriate individual with authority under the program to receive, process and make disposition of complaints.

(23) Recording and maintenance of all records concerning apprenticeship as may be required by the Registration Agency.

#### § 8 PROGRAM PERFORMANCE STANDARDS (29 CFR Part 29.6)

(a) Every registered apprenticeship program must have at least one registered apprentice, except for the following specified periods of time, which may not exceed 1 year:

(1) Between the date when a program is registered and the date of registration for its first apprentice(s); or

(2) Between the date that a program graduates an apprentice and the date of registration for the next apprentice(s) in the program.

(b) The Registration Agency must evaluate performance of registered apprenticeship programs.

(1) The tools and factors to be used must include, but are not limited to:

- (i) Quality assurance assessments;
- (ii) Equal Employment Opportunity (EEO) Compliance Reviews; and
- (iii) Completion rates.

(2) Any additional tools and factors used by the Registration Agency in evaluating program performance will adhere to the goals and policies articulated in this part and in guidance issued by the Office of Apprenticeship.

(c) In order to evaluate completion rates, the Registration Agency must review a program's completion rates in comparison to the national average for completion rates. Based on the review, the Registration Agency must provide technical assistance to programs with completion rates lower than the national average.

(d) Cancellation of apprenticeship agreements during the probationary period will not have an adverse impact on a sponsor's completion rate.

#### § 9 APPRENTICESHIP AGREEMENT (29 CFR Part 29.7)

The apprenticeship agreement must contain, explicitly or by reference:

(a) Names and signatures of the contracting parties (apprentice, and the program sponsor or employer), and the signature of a parent or guardian if the apprentice is a minor.

(b) The date of birth and, on a voluntary basis, Social Security number of the apprentice.

(c) Contact information of the Program Sponsor and Registration Agency.

(d) A statement of the occupation in which the apprentice is to be trained, and the beginning date and term (duration) of apprenticeship.

(e) A statement showing:

(1) The number of hours to be spent by the apprentice in work on the job in a time-based program; or a description of the skill sets to be attained by completion of a competency-based program, including the on-the-job learning component; or the minimum number of hours to be spent by the apprentice and a description of the skill sets to be attained by completion of hybrid program; and

(2) The number of hours to be spent in related instruction in technical subjects related to the occupation, which is recommended to be not less than 144 hours per year.

(f) A statement setting forth a schedule of the work processes in the occupation or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process.

(g) A statement of the graduated scale of wages to be paid to the apprentice and whether or not the required related instruction is compensated.

(h) Statements providing:

(1) For a specific period of probation during which the apprenticeship agreement may be cancelled by either party to the agreement upon written notice to the registration agency, without adverse impact on the sponsor.

(2) That, after the probationary period, the agreement may be:

(i) Cancelled at the request of the apprentice, or

(ii) Suspended or cancelled by the sponsor, for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action, and with written notice to the apprentice and to the Registration Agency of the final action taken.

(i) A reference incorporating as part of the agreement the standards of the apprenticeship program as they exist on the date of the agreement and as they may be amended during the period of the agreement.

(j) A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, religion, national origin, or sex.

(k) Contact information (name, address, phone, and e-mail if appropriate) of the appropriate authority designated under the program to receive, process and make disposition of complaints arising out of the apprenticeship agreement when the complaints cannot be adjusted locally or resolved in accordance with the established procedure or applicable collective bargaining provisions.

## § 10 RATIOS

(a) The ratio of apprentices to journey workers and masters in all apprenticeable occupations shall be 10 apprenticed to the first 10 journey workers or masters, and thereafter one apprenticed to the next three journey workers or masters. This ratio shall apply to the sponsor's workforce, except where a labor management contract specifies another ratio.

(b) The ratio shall "sunset" two years from the effective date of these rules, if 26 VSA Chapter 15, § 881 and Sections 3.1 and 3.2 of the Electrical Safety Rules have not been amended to prohibit helpers in the electrical trade.

(c) If 26 VSA Chapter 15, § 881 and Sections 3.1 and 3.2 of the Electrical Safety Rules have not been amended within two years from the effective date of these rules, effective on the first day following the two-year sunset period, the ratio shall then be four apprenticed to the first four journey workers or masters and thereafter one apprenticed to the next three journey workers or masters, except where a labor management contract specifies another ratio.

(d) A sponsor applying to the Department for a variance from the journeyman to apprentice ratio shall supply the Department with all information reasonably related to the request for a variance, including at least the following:

(1) A letter from the sponsor summarizing:

(i) Its recruitment efforts including, but not limited to, contact with the Vermont Department of Labor office;

(ii) The number of qualified journey workers and masters at the firm the number of apprentices presently registered at the firm; the number of apprentices that can be expected to complete their training within one year and the number of apprentices that can be expected to complete their training within two years;

(iii) Number of persons the sponsor wishes to register as apprentices in excess of the current journeyman to apprentice ratio;

(iv) Its safety record, including all recordable employee accidents, injuries and Vermont Occupational Safety and Health Administration citations covering the last three years; and

(v) A statement to the effect that the granting of an increased ratio variance will in no way adversely affect either the sponsor's ability to adequately train all registered apprentices or to provide appropriate on-the-job supervision consistent with the employee safety at all times.

(2) A letter from the Vermont Department of Labor Apprenticeship Field Representative stating:

(i) That adequate training and supervision have taken place in the past and can be reasonably expected to continue with the new ratio; and

(ii) The sponsor's record of completions and cancellations.

Persons who become apprentices as a result of this variance shall be registered within 90 days of the date of the variance. After this time, no new persons may be registered as apprentices in excess of the ratio of journey workers to apprentices as adopted by the Department, without a subsequent variance granted by the Department.

(e) The sponsor may replace apprentices that have completed their training or have left the employ of the firm when:

(1) The sponsor falls below the ratio of apprentices to journeymen currently approved by the Department;

(2) The apprentice terminates due to inability or unsatisfactory job performance; and

(3) The apprentice voluntarily leaves the employment of the firm.

(f) An apprentice must work under the direct supervision of a journey worker or master of the same trade. This supervision need not be constant and first hand, but the journey worker or master must be on the same job site or located in the same building or buildings or place immediately adjacent thereto.

#### § 11 DEREGISTRATION OF A REGISTERED PROGRAM (29 CFR Part 29.8)

Deregistration of a program may be effected upon the voluntary action of the sponsor by submitting a request for cancellation of the registration in accordance with paragraph (a) Of this section, or upon reasonable cause, by the Registration Agency instituting formal deregistration proceedings in accordance with paragraph (b) of this section.

(a) Deregistration at the request of the sponsor. The Registration Agency may cancel the registration of an apprenticeship program by written acknowledgment of such request stating the following:

(1) The registration is cancelled at the sponsor's request, and the effective date thereof;

(2) That, within 15 days of the date of the acknowledgment, the sponsor will notify all apprentices of such cancellation and the effective date; that such cancellation automatically deprives the apprentice of individual registration; that the deregistration of the program removes the apprentice from coverage for Federal purposes which require the Secretary of Labor's approval of an apprenticeship program, and that all apprentices are referred to the Registration Agency for information about potential transfer to other registered apprenticeship programs.

(b) Deregistration by the Registration Agency upon reasonable cause.

(1)(i) Deregistration proceedings may be undertaken when the apprenticeship program is not conducted, operated, or administered in accordance with the program's registered provisions, or with the requirements of this part, including but not limited to: failure to provide on-the-job learning; failure to provide related instruction; failure to pay the apprentice a progressively increasing schedule of wages consistent with the apprentices skills acquired; or persistent and significant failure to perform successfully. Deregistration proceedings for violation of equal opportunity requirements must be processed in accordance with the provisions under 29 CFR part 30.

(ii) For purposes of this section, persistent and significant failure to perform successfully occurs when a program sponsor consistently fails to register at least one apprentice, shows a pattern of poor quality assessment results over a period of several years, demonstrates an ongoing pattern of very low completion rates over a period of several years, or shows no indication of improvement in the areas identified by the Registration Agency during a review process as requiring corrective action.

(2) Where it appears the program is not being operated in accordance with the registered standards or with requirements of this part, the Registration Agency must notify the program sponsor in writing.

(3) The notice sent to the program sponsor's contact person must:

(i) Be sent by registered or certified mail, with return receipt requested;

(ii) State the shortcoming(s) and the remedy required; and

(iii) State that a determination of reasonable cause for deregistration will be made unless corrective action is effected within 30 days.

(4) Upon request by the sponsor for good cause, the 30-day term may be extended by the Commissioner for another 30 days. During the period for corrective action, the Registration Agency shall assist the sponsor to achieve conformity.

(5) If the required correction is not effected within the allotted time, the Registration Agency must send a notice to the sponsor, by registered or certified mail, return receipt requested, stating the following:

(i) The notice is sent under this paragraph;

(ii) Certain deficiencies were called to the sponsor's attention (enumerating them and the remedial measures requested, with the dates of such occasions and letters), and that the sponsor has failed or refused to effect correction;

(iii) Based upon the stated deficiencies and failure to remedy them, a determination has been made that there is reasonable cause to deregister the program and the program may be deregistered unless, within 15 days of the receipt of this notice, the sponsor requests a hearing with the applicable Registration Agency; and

(iv) If the sponsor does not request a hearing, the entire matter will be submitted to the Administrator, Office of Apprenticeship, for a decision on the record with respect to deregistration.

(6) If the sponsor requests a hearing, the Registration Agency will transmit to the Administrator a report containing all the data listed in paragraph (b)(6) of this section, and the Administrator will refer the matter to the Office of Administrative Law Judges. An Administrative Law Judge will convene a hearing in accordance with § 29.10, and issue a decision as required in § 29.10(c).

(7) If the sponsor does not request a hearing, the Registration Agency will transmit to the Administrator a report containing all pertinent facts and circumstances concerning the nonconformity, including the findings and recommendation for deregistration, and copies of all relevant documents and records. Statements concerning interviews, meetings and conferences will include the time, date, place, and persons present. The Administrator will make a final order on the basis of the record presented.

(8) Every order of deregistration must contain a provision that the sponsor must, within 15 days of the effective date of the order, notify all registered apprentices of the deregistration of the program; the effective date thereof; that such cancellation automatically deprives the apprentice of individual registration; that the deregistration removes the apprentice from coverage for Federal purposes which require the Secretary of Labor's approval of an apprenticeship program; and that all apprentices are referred to the Registration Agency for information about potential transfer to other registered apprenticeship programs.

## § 12. REINSTATEMENT OF PROGRAM REGISTRATION (29 CFR Part 29.9)

Any apprenticeship program deregistered under § 11 may be reinstated upon presentation of adequate evidence that the apprenticeship program is operating in accordance with this part. Such evidence must be presented to the Registration Agency.

## § 13. HEARING FOR DEREGISTRATION (29 CFR Part 29.10)

(a) Within 10 days of receipt of a request for a hearing, the Director of the Apprenticeship Program must contact the U S Department of Labor's Office of Administrative Law Judges to request the designation of an Administrative Law Judge to preside over the hearing. The Administrative Law Judge shall give reasonable notice of such hearing by registered mail, return receipt requested, to the appropriate sponsor. Such notice will include:

- (1) A reasonable time and place of hearing;
- (2) A statement of the provisions of this part pursuant to which the hearing is to be held; and
- (3) A concise statement of the matters pursuant to which the action forming the basis of the hearing is proposed to be taken.

(b) The procedures contained in 29 CFR part 18 will apply to the disposition of the request for hearing except that:

(1) The Administrative Law Judge will receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof will be made available by the party submitting the documentary evidence to any party to the hearing upon request.

(2) Technical rules of evidence will not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination will be applied, where reasonably necessary, by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence.

(c) The Administrative Law Judge should issue a written decision within 90 days of the close of the hearing record. The Administrative Law Judge's decision constitutes final agency action unless, within 15 days from receipt of the decision, a party dissatisfied with the decision files a petition for review with the Administrative Review Board, specifically identifying the procedure, fact, law or policy to which exception is taken. Any exception not specifically urged is deemed to have been waived. A copy of the petition for review must be sent to the opposing party at the same time. Thereafter, the decision of the Administrative Law Judge remains final agency action unless the Administrative Review Board, within 30 days of the filing of the petition for review, notifies the parties that it has accepted the case for review. The Administrative Review Board may set a briefing schedule or decide the matter on the record. The Administrative Review Board must decide any case it accepts for review within 180 days of the close of the record. If not so decided, the Administrative Law Judge's decision constitutes final agency action.

#### § 14 RECIPROCITY

The Department will accord reciprocal approval for Federal purposes to apprentices, apprenticeship programs and standards that are registered in other States by the Office of Apprenticeship or a Registration Agency if such reciprocity is requested by the apprenticeship program sponsor. Program sponsors seeking reciprocal approval must meet the wage and hour provisions and apprentice ratio standards of the reciprocal State.

#### § 15 LIMITATIONS (29 CFR Part 29.11)

Nothing in this part or in any apprenticeship agreement will operate to invalidate:

(a) Any apprenticeship provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards; or

(b) Any special provision for veterans, minority persons, or women in the standards, apprentice qualifications or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by law, Executive Order, or authorized regulation.

§ 16 COMPLAINTS (29 CFR Part 29.12)

(a) This section is not applicable to any complaint concerning discrimination or other equal opportunity matters; all such complaints must be submitted, processed and resolved in accordance with applicable provisions in 29 CFR part 30, or applicable provisions of a State Plan for Equal Employment Opportunity in Apprenticeship adopted pursuant to 29 CFR part 30 and approved by the Department.

(b) Except for matters described in paragraph (a) of this section, any complaint arising under an apprenticeship agreement which cannot be adjusted locally and which is not covered by a collective bargaining agreement, may be submitted by an apprentice, or the apprentice's authorized representative, to the Department for review. Matters covered by a collective bargaining agreement are not subject to such review.

(c) The complaint must be in writing and signed by the complainant, or authorized representative, and must be submitted within 60 days of the final local decision. It must set forth the specific matter(s) complained of, together with relevant facts and circumstances. Copies of pertinent documents and correspondence must accompany the complaint.

(d) The Department will render an opinion within 90 days after receipt of the complaint, based upon such investigation of the matters submitted as may be found necessary, and the record before it. During the 90-day period, Department will make reasonable efforts to effect a satisfactory resolution between the parties involved. If so resolved, the parties will be notified that the case is closed. Where an opinion is rendered, copies will be sent to all interested parties.

(e) Nothing in this section precludes an apprentice from pursuing any other remedy authorized under another Federal, State, or local law.