



NEW YORK STATE CONFERENCE
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October 9, 2019

Apprenticeship Training Program Office
NYS Department of Labor
Attention: Comments on Trade Reactivation
W. Averell Harriman State Office Campus
Building 12, Room 459
Albany, NY 12240

To Whom it May Concern,

On behalf of the New York State Conference of Operating Engineers comprised of 12 local unions and 35,000 members I submit comments in reference to the Operating Engineer (Heavy Duty Repairer) reactivation request submitted by Johnston & Rhodes Bluestone Co. We strongly oppose the reactivation of this trade by this company.

The New York State Department of Labor is the golden seal of approval for apprenticeship both because of the history and position of our state in the labor movement as well as the fact that NYS DOL is known to take the responsibility of approving and overseeing these programs very seriously. That is very important since apprentices are putting a great deal of trust—and committing their future—to these programs.

Johnson & Rhodes Bluestone Co. has not demonstrated that they are worthy of that trust. In fact, there is strong evidence that they are unworthy of that approval. A few examples:

--A public search shows conflicting information about when the company was formed.¹
In the construction industry, this is a red flag since bad actors in the construction

¹ https://www.dexknows.com/business/profiles/johnston_and_rhodes_bluestone_co-10502579028

<https://www.local.com/business/details/east-branch-ny/johnston-&-rhodes-bluestone-co-124437450>

industry are often forming and reforming to avoid judgments, lawsuits, and escape other consequences of bad faith.

--A public search shows conflicting information about how many people the company employs.² This is also a warning sign, especially in our industry, since some companies consistently fire or lay-off employees to pad their bottom line. This should be of special concern when considering an apprenticeship program.

--Johnston & Rhodes Bluestone Co. has shown a flagrant disregard for the laws of New York State having been found guilty of multiple violations of state law.³

--The history of Johnston & Rhodes Bluestone Co. is further suspect as they are currently the subject of a lawsuit.⁴

--A public search of the United States Mine Safety and Health Administration database shows no registration for Johnson & Rhodes Bluestone Co.

Any of these individual questions may be explained away but collectively they paint the picture of a company who does not deserve to receive the approval of the New York State Department of Labor.

There are further serious problems with this specific application:

1. The application shows a failure to understand safety requirements for workers by failing to state or address the ratio of journey workers to apprentices. While this ratio can vary by work type and situation, the ratio of apprentices to journey workers is the key to ensuring that apprentices are safe and also that they are receiving proper training.
2. The application shows a failure to understand New York State Wage Law by proposing pay steps for apprentices that will be under New York's minimum wage (Step One 0-3 months is \$11.10/hour and Step Two 3-6 months is \$11.60/hour while New York State's

² <https://www.thomasnet.com/profile/10020715/johnston-rhodes-bluestone-co-.html?cid=10020715&cov=UN&heading=80601602&searchpos=4&what=Building+Stone>

³ http://134.179.112.44/docs/regions_pdf/johnstonrhodesorder.pdf
https://www.dec.ny.gov/docs/regions_pdf/jandrororder.pdf
https://www.dec.ny.gov/docs/regions_pdf/johnstonord.pdf
http://134.179.112.44/docs/regions_pdf/johnstonrhodesblu.pdf

⁴ <https://www.leagle.com/decision/infdco20190717e39>

minimum wage will be \$11.80 on 12/31/2019). This demonstrates a wanton disregard for the law but also for workers.

The reauthorization of the Operating Engineer Heavy Duty Mechanic is duplicative. The skills herein are currently covered by the Heavy Construction Equipment Operator Apprenticeship Program. Reauthorizing the Heavy Duty Mechanic will simply diminish the high standards this program applies.

Skills to be taught in the proposed unilateral program's related instruction schedule fall short of the baseline minimum of instruction offered to apprentices in existing IUOE joint labor-management training programs. While the Work Process Schedule parallels the existing one for 47.2073-02 in expectation of several years of skill acquisition in on-the-job experience, the outline for related instruction is more abbreviated. The intention of the proposed program appears to be providing introductory content more suited to a short-duration pre-apprenticeship program. As such, apprentices in this program would not be obtaining related instruction that aligns with the work process schedule.

The IUOE National Training Fund (NTF) sponsors one such pre-apprenticeship program, Heavy Construction Equipment Mechanic Training, under the auspices of the Department of Labor National Office of Job Corps. This program is aligned with the IUOE NTF national apprenticeship standards currently in place for registered programs in New York. This program provides well-rounded instruction for Job Corps students covering multiple pieces of heavy construction equipment. The topics covered in the program are listed below.

- Engine Basics
- Preventative Maintenance
- Basic Heavy Equipment Operations
- Cylinder Heads, Blocks and Liners
- Fuel and Air Intake Systems
- Exhaust Systems
- Cooling Systems
- Electrical Systems
- Transmission and Differentials
- Final Drive and Air Brakes
- Hydraulic Systems
- Welding
- Forklifts
- Employer-specific skills

The topics appear to be more comprehensive than those indicated in the proposed related instruction outline, yet are designed to be completed in a one-year time frame, far less than the three year program that as proposed.

It is not clear how the proposed training providers will be teaching related instruction topics as outlined. There is no track record documented for Tooling U and PennFoster mechanic/repairer apprenticeships.

It is impossible to compare the proposed related instruction outline to actual availability of competency-based courses offered by Tooling U.

“Tooling U-SME has created competency frameworks for the following apprenticeship occupations: 1)CNC Machine Operator, 2) Electrician, 3) Maintenance Technician, 4) Assembler, 5) Grinding Operator, 6) Quality Control Inspector, 7) Welder, 8) Tool and Die Maker, 9) Press Operator, 10) Composites Technician, 11) 3-D Technician, 12) CAD/CAM Design, 13) Robotics Technician”

<https://www.toolingu.com/toolingu/media/Apprenticeships/FAQ.pdf>

PennFoster Online does not list any available apprenticeship training on their website.

“The Penn Foster Diesel Mechanics Career Diploma program is designed to help students learn how to become a diesel mechanic and prepare to sit for the Medium/Heavy Duty Trucks ASE certification exam upon completion of the program. The course outline includes lessons on repairing diesel engines, brake systems, shop safety practices, and more.”

“The Diesel Mechanics/Heavy Truck Maintenance Career Diploma program provides students with knowledge of skills ranging from basic diesel engine operations to computerized truck management systems. Students will learn how to maintain and do repairs on their own trucks, work for a truck fleet or dealership, or start a full- or part-time business.”

In conclusion, Johnson & Rhodes Bluestone Co. should not be approved by the New York State Department of Labor for an apprenticeship program; the specific application should not be approved; and the Heavy Duty Mechanic program should remain dormant.

Respectfully Submitted,

Marina O'Donnell
Political and Legislative Director
NYS Conference of Operating Engineers