

Michigan Department of Licensing and Regulatory Affairs  
**Office of Regulatory Reinvention**  
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**REGULATORY IMPACT STATEMENT  
and  
COST-BENEFIT ANALYSIS**

**PART 1: INTRODUCTION**

In accordance with the Administrative Procedures Act (APA) [1969 PA 306], the department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions should be made by the departmental Regulatory Affairs Officer (RAO) to **orr@michigan.gov**. The ORR will review the form and send its response to the RAO (see last page). Upon review by the ORR, the agency shall make copies available to the public at the public hearing [MCL 24.245(4)].

Please place your cursor in each box, and answer the question completely.

**ORR-assigned rule set number:**

2013-096 LR

**ORR rule set title:**

Board of Mechanical Rules License Examination Procedures

**Department:**

Department of Licensing and Regulatory Affairs

**Agency or Bureau/Division**

Bureau of Construction Codes/Mechanical Division

**Name and title of person completing this form; telephone number:**

Shannon Matsumoto, Senior Rules Analyst (517) 241-6312

**Reviewed by Department Regulatory Affairs Officer:**

Liz Arasim  
Department of Licensing and Regulatory Affairs

## **PART 2: APPLICABLE SECTIONS OF THE APA**

### **MCL 24.207a “Small business” defined.**

Sec. 7a.

“Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.”

### **MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).**

Sec. 40.

(1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

(a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.

(b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

(c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.

(d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

(a) 0-9 full-time employees.

(b) 10-49 full-time employees.

(c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

**MCL 24.245 (3)** “Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** containing...” (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5.]

**MCL 24.245b Information to be posted on office of regulatory reinvention website.**

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
  - (b) Instructions on any existing administrative remedies or appeals available to the public.
  - (c) Instructions regarding the method of complying with the rules, if available.
  - (d) Any rules filed with the secretary of state and the effective date of those rules.
- (2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

### PART 3: DEPARTMENT/AGENCY RESPONSE

Please place your cursor in each box, and provide the required information, using complete sentences. Please do not answer the question with “N/A” or “none.”

#### Comparison of Rule(s) to Federal/State/Association Standards:

(1) Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, and describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

There are no federal rules or standards that regulate construction codes. The proposed rules update the Board of Mechanical Rules - License Examination Procedures rules.

(2) Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities. If the rule(s) exceed standards in those states, please explain why, and specify the costs and benefits arising out of the deviation.

The proposed rules are less restrictive than the bordering states. Ohio is more stringent -- they have to be a United States citizen or a legal alien-must provide proof of being a legal alien; either have been a tradesperson in the type of licensed trade for which the application is filed for not less than five years immediately prior to the date the application is filed and carry a minimum \$500,000 contractor liability coverage. Dates of employment must have start and end month, day, and year to verify five (5) years working experience in that trade with no breaks in that five year history immediately prior to completing the application. They must be able to show the last 5 years as a tradesperson working under a licensed contractor on projects that required a permit. Attach W-2's and at least one permit for each of the last five year and the license number of the contractor they worked under. Indiana, Illinois, Wisconsin and Minnesota do not have statewide licensing programs. In these states, licenses are issued by individual local entities (city, county, etc.) each with their own requirements and fees. Also, Minnesota requires a \$25,000 bond which is not required in Michigan.

(3) Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s). Explain how the rule has been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

There are no federal, state, or local laws, rules, or other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

#### Purpose and Objectives of the Rule(s):

(4) Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s). Describe the difference between current behavior/practice and desired behavior/practice. What is the desired outcome?

The proposed revisions to R 338.901, R 338.902, R 338.903, R 338.904, R 338.905, R 338.906, R 338.907, R 338.908, R 338.909, and R 338.911 are administrative in nature and are being made to remove redundancy and provide clarification to the rules. The Bureau will not be enforcing the rules that have been rescinded because they conflict with the Forbes Mechanical Act 1984 PA 192. The language that is in the current rules is very confusing to the applicants.

(5) Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for changing the rule(s) and not leaving them as currently written?

There is no harm anticipated from the behavior related to the proposed rules, and there is little likelihood that harm will occur in the absence of the proposed rules. The proposed rules are intended to give greater clarity to the examination rules and to continue to protect the health, safety, and welfare of Michigan's citizens and visitors. The rules are in place to check the qualifications of potential mechanical contractors in the State of Michigan and with mechanical contractor also being in every State of Michigan building they are directly involved with public safety.

(6) Describe how the proposed rule(s) protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

**R 338.901, R 338.902, R 338.903, R 338.904, R 338.905, R 338.906, R 338.907, R 338.908, R 338.909, and R 338.911** are administrative in nature and are amended to remove redundancy and provide clarification to the rules. These rules protect the health, safety and welfare of Michigan citizens by preventing improper installations of mechanical systems by providing greater clarity of the examination rules which will be less burdensome for those who are required to comply. The rules only apply to the examination qualifications. The rules provide the time frame needed to set for the exam to become a licensed mechanical contractor.

(7) Describe any rules in the affected rule set that are obsolete, unnecessary, and can be rescinded.

The committee recommends that **R 338.910, R338.912, R 338.913, and R 338.914** be rescinded. The rules being rescinded are not exam qualification rules, but are rules for a person that already holds a license and does not fall under the exam rules.

#### **Fiscal Impact on the Agency:**

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, an increase in the cost of a contract, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It would not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

(8) Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings on the agency promulgating the rule).

There is no additional fiscal impact to the agency beyond the current operational costs.

(9) Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

The proposed rules will not result in additional fiscal impact on the agency. Thus, there is no need for an additional appropriation or funding source as a result of the changes to the rules.

(10) Describe how the proposed rule(s) is necessary and suitable to accomplish its purpose, in relationship to the burden(s) it places on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts. So despite the identified burden(s), identify how the requirements in the rule(s) are still needed and reasonable compared to the burdens.

The rules first took effect in 1984. Changes to the rules are needed to provide clarification of the examination procedures that are required under the Forbes Mechanical Contractors Act, 1984 PA 192. These rules do not place any burdens on individuals fiscally or administratively. The Bureau has never had an hour limit, just years, applicants would have to show 3 years at a 40 hour work week. The 6000 hours is actually easier to track for employers and applicants and is a less stringent requirement than in the past.

#### **Impact on Other State or Local Governmental Units:**

(11) Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions on other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Please include the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring.

There is no anticipated increase or decrease in revenues to other state or local governmental units as a result of the proposed rules.

(12) Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s). Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

The proposed rules do not require any additional or new responsibilities on behalf of governmental units to be in continued compliance with the rules.

(13) Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rule(s).

There is no appropriation to state or local governmental units required.

#### **Rural Impact:**

(14) In general, what impact will the rules have on rural areas? Describe the types of public or private interests in rural areas that will be affected by the rule(s).

**R 338.901, R 338.902, R 338.903, R 338.904, R 338.905, R 338.906, R 338.907, R 338.908, R 338.909, and R 338.911** apply to individuals who are seeking licensure, regardless of where they live in the state. The proposed revisions are administrative in nature and are amended to remove redundancy and provide clarification to the rule.

#### **Environmental Impact:**

(15) Do the proposed rule(s) have any impact on the environment? If yes, please explain.

The proposed rules do not have any impact on the environment.

#### **Small Business Impact Statement:**

*[Please refer to the discussion of “small business” on page 2 of this form.]*

(16) Describe whether and how the agency considered exempting small businesses from the proposed rules.

**R 338.901, R 338.902, R 338.903, R 338.904, R 338.905, R 338.906, R 338.907, R 338.908, R 338.909, R 338.911** are administrative in nature and are amended to remove redundancy and provide clarification to the rules. Because these rules on license examination procedures pertain to individuals – not small businesses – seeking licensure, the proposed rules will have no disproportionate economic impact on small businesses.

(17) If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rule(s) on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule(s) upon small businesses as described below (in accordance with MCL 24.240(1)(A-D)), or (b) the reasons such a reduction was not lawful or feasible.

Small businesses are not anticipated to be adversely affected by the proposed rule changes because individuals and not small businesses are subject to these rules. Furthermore, the revisions to **R 338.901, R 338.902, R 338.903, R 338.904, R 338.905, R 338.906, R 338.907, R 338.908, R 338.909,**

**and R 338.911** are administrative in nature and will remove redundancy and provide clarification to the rules.

(A) Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

Generally, the Bureau does not expect small businesses to be affected by these proposed rules.

(B) Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

Because these rules affect individuals, small businesses are not expected to be adversely affected by these rules. Consequently, there are no additional reporting, record keeping, or other administrative costs associated with the implementation of the proposed rules for small businesses.

(C) Describe how the agency consolidated or simplified the compliance and reporting requirements and identify the skills necessary to comply with the reporting requirements.

As noted above, the rules affect individuals and not small businesses. The compliance and reporting requirements are unchanged. The Bureau has no requirements for reporting.

(D) Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

As noted above, the rules affect individuals and not small businesses.

(18) Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

The proposed rules pertain to individuals seeking licensure and not to small businesses. So, the proposed rules will have no disproportionate impact on small businesses because of their size or geographic location.

(19) Identify the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule(s).

There are no reports required for small business to comply with the proposed rules.

(20) Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

There is no additional cost of compliance for small businesses because of these rules pertain to individuals seeking licensure and do not pertain to small businesses.

(21) Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

There are no legal, consulting, or accounting services costs that small businesses would incur because small businesses do not have to comply with the proposed rules.

(22) Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

Small businesses will not suffer economic harm because the rules apply to individuals and not businesses.

(23) Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The proposed rules do not exempt or set lesser standards for compliance by small businesses because the proposed rule changes affect individuals and not small businesses. Consequently, there is no additional cost to the agency beyond the current operational cost.

(24) Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

Exempting or setting lesser standards of compliance for small businesses with respect to these rules is not necessary because the rules do not pertain to small businesses.

(25) Describe whether and how the agency has involved small businesses in the development of the proposed rule(s). If small business was involved in the development of the rule(s), please identify the business(es).

Even though the rules apply to individuals who are applying for licensure, the Bureau still involved small businesses through the rules review committee process. Small business participation on the committee included mechanical contractors, HVAC suppliers, a professional engineer, the general public, and Inspectors.

### **Cost-Benefit Analysis of Rules (independent of statutory impact):**

(26) Estimate the actual statewide compliance costs of the rule amendments on businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s). What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

The amendments to **R 338.901, R 338.902, R 338.903, R 338.904, R 338.905, R 338.906, R 338.907, R 338.908, R 338.909, R 338.911** will not impose any statewide compliance costs on businesses or groups.

(27) Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Please include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping). How many and what category of individuals will be affected by the rules? What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

The amendments to **R 338.901, R 338.902, R 338.903, R 338.904, R 338.905, R 338.906, R 338.907, R 338.908, R 338.909, and R 338.911** will not impose any statewide compliance costs on regulated individuals or the public.

(28) Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

There are no expected cost reductions to businesses, individuals, or groups of individuals as a result of the proposed rules.

(29) Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed revisions to **R 338.901, R 338.902, R 338.903, R 338.904, R 338.905, R 338.906, R 338.907, R 338.908, R 338.909, and R 338.911** are administrative in nature and are amended to remove redundancy and provide clarification to the rules and increase the health and safety of Michigan's citizens and visitors.

(30) Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

The proposed rules will not inhibit business growth or job creation in Michigan. **R 338.901, R 338.902, R 338.903, R 338.904, R 338.905, R 338.906, R 338.907, R 338.908, R 338.909, and R 338.911** are administrative in nature and are amended to remove redundancy and provide clarification.

(31) Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The Bureau does not expect any business or individual to be disproportionately affected by these proposed rules.

(32) Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of a proposed rule(s) and a cost-benefit analysis of the proposed rule(s). How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

The Bureau relied upon input from the rules review committee in compiling the regulatory impact statement, including determining the existence and extent of the impact of the proposed rules and the cost benefit analysis of these proposed rules.

**Alternatives to Regulation:**

(33) Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. In enumerating your alternatives, please include any statutory amendments that may be necessary to achieve such alternatives.

There are no reasonable alternatives to the proposed rules that have been identified that would achieve the same or similar goals.

(34) Discuss the feasibility of establishing a regulatory program similar to that proposed in the rule(s) that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Establishment of a regulatory program operating through private market-based mechanisms similar to the proposed rules would not be feasible. The Forbes Mechanical Contractors Act 1984 PA 192, MCL 338.976 requires the state to license individuals.

(35) Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rule(s). This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

There were no significant alternatives presented for the Bureau and rules review committee to consider.

**Additional Information**

(36) As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

There are no instructions regarding the method of complying with the rules.

**PART 4: REVIEW BY THE ORR**

**Date Regulatory Impact Statement (RIS) received:**

6-2-2014

<b>Date RIS approved:</b>	6-4-2014
<b>ORR assigned rule set number:</b>	2013-096 LR

<b>Date of disapproval:</b>	Explain:
<b>More information needed:</b>	Explain:

(ORR-RIS March 2014)