

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

611 W. Ottawa Street

Lansing, MI 48909

Phone: 517-335-8658 Fax: 517-335-9512

**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Licensing and Regulatory Affairs

Bureau name:

Bureau of Construction Codes

Name of person filling out RIS:

Amanda Johnson

Phone number of person filling out RIS:

517-241-3408

E-mail of person filling out RIS:

JohnsonA39@michigan.gov

Rule Set Information:

ARD assigned rule set number:

2019-126 LR

Title of proposed rule set:

Board of Mechanical Rules

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

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no federal rules or standards that are set by a state or national licensing agency or accreditation association.

A. Are these rules required by state law or federal mandate?

The Skilled Trades Regulations rules are required by state law 2016 PA 407, there are no federal mandates.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These rules do not exceed a federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

Mechanical

The proposed rules are less restrictive than the bordering states of Ohio and Illinois. Ohio is more stringent. Applicants 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 a start and end month, day, and year to verify five years working experience in that trade with no breaks in the five-year history immediately prior to completing the application. Applicants 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 years and the license number of the contractor they worked under. In Illinois, applicants must provide successful completion of the most recent version of ICC Commercial Mechanical Code Inspector examination; or evidence of current certification by the council as a Mechanical Code Official; or a Master Code Professional and written certification of at least 4,000 hours in reviews inspection, design and construction. Unable to find licensing requirements for Wisconsin and Indiana.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The rules do not exceed standards in the surrounding states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

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

A. Explain how the rules have 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 applicable to the same activity or subject matter.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

There are no federal rules or standards that regulate construction codes.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, either the statute that specifically authorizes the more stringent rules or a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

There are no federal rules or standards that regulate construction codes.

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

2016 PA 407 has repealed the old act, The Forbes Mechanical Contractors Act, 1984 PA 192, MCL 338.971 to 338.988, and new rules are being promulgated pursuant to Act 407.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The Board of Mechanical Rules License Examination Procedures are being rescinded.

B. Describe the difference between current behavior/practice and desired behavior/practice.

The current practice is inconsistent whereas the desired practice will be consistent and will regulate the skilled trades in one place.

C. What is the desired outcome?

The repealed acts are outdated and do not provide uniform licensing, complaint investigation, and enforcement provisions for skilled trades licenses. This places a burden on the bureau administering these acts and creates an inefficient use of resources. The new rule set will provide uniform regulation of the skilled trades, as provided under the new Act, 2016 PA 407.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The harm will be the continuation of the inconsistencies in the regulation of the license trades. Likewise, the harm is the continuation of a lack of uniform regulation.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The harm will be the continuation of the inconsistencies in the regulation of the license trades. Likewise, the harm is the continuation of a lack of uniform regulation.

8. Describe how the proposed rules 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.

The Board of Mechanical Rules License Examination Procedures are being rescinded. The new rules that will be placed in the Skilled Trades Regulation Act, are administrative in nature and establish standards for license classifications.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

2016 PA 407 repealed the old act, The Forbes Mechanical Contractors Act, 1984 PA 192, and new rules are being promulgated due to PA 407.

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

These rules are being rescinded so there is no fiscal impact on the agency.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No agency appropriation has been made nor a funding source provided for any expenditures associated with the proposed rules.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

As stated above in question 6, the repealed act is outdated and does not provide uniform licensing, complaint investigation, and enforcement provisions for skilled trades licenses. This places a burden on the bureau administering these acts and creates an inefficient use of resources. Additionally, many licensees who are cross licensed in multiple trades have expressed dissatisfaction with conflicting provisions in separate statutes. The Skilled Trades Regulation Act, 2016 PA 407, streamlines the processes for all license types included while providing for modernized provisions, such as electronic communication and third-party continuing education tracking options, and specifies violations for unlicensed activity as provided to other regulated professions. While the Skilled Trades Regulation Act repealed the five Acts that regulated certain skilled trades, this new Act includes provisions to regulate those same skilled trades. Consequently, the bureau is promulgating a new rule set to regulate these skilled trades, as provided under the new Act. In addition, the bureau has submitted separate RFRs to rescind the current rules that were promulgated under the authority of the five Acts that have been repealed.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The bureau has rescinded the Board of Mechanical Rules License Examination Procedures and are promulgating a new rule set to regulate the skilled trades, as provided under the new Act.

13. 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 for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. 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 increase or decrease in revenues to other state or local governmental units as a result of these rules.

There are no cost increases or reductions for such other state or local governmental units as a result of the rules. No cost of equipment, supplies, labor, or increased administrative costs.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

There is no program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by these rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

There are no actions that governmental units must take to be in compliance with the rules.

15. 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 rules.

No appropriations to state or local governmental units have been made nor a funding source provided for any additional expenditures associated with the proposed rules.

16. In general, what impact will the rules have on rural areas?

There will be no impact on rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

There are no public or private interests in rural areas that will be affected by the rules.

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules will have no impact on the environment.

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

These rules are being rescinded. The Bureau had a four-week period that licensees and stakeholders could propose a code change via the rules/code proposal form.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules 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 rules 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 changes.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

The Bureau does not expect that small businesses will be affected by these proposed rules.

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

Because the rules apply to individuals who apply for licensure, it is not practical to establish differing compliance or reporting requirements or timetables for small businesses. Small businesses are not expected to be adversely affected by these rules. There is no additional reporting, record keeping, or other administrative costs associated with the implementation of the proposed rules.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The compliance and reporting requirements are unchanged.

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

There are no design or operation standards in the proposed rules.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The Forbes Mechanical Contractors Act, 1984 PA 192, was repealed and new rules are being promulgated due to PA 407.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no anticipated reports or increased costs to small businesses that are required to comply with the proposed rules.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

Small businesses are not expected to be adversely affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no legal, consulting, or accounting services costs that small businesses would incur in complying with the proposed rules.

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

The Board of Mechanical Rules License Examination Procedures is being rescinded due to new rules being promulgated pursuant to PA 407.

25. 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 Board of Mechanical Rules License Examination Procedures is being rescinded due to new rules being promulgated pursuant to PA 407.

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

The Board of Mechanical Rules License Examination Procedures rules are being rescinded and the new rules are needed to reflect the Skilled Trades Regulation Act. Small businesses are not exempt from either rule set. Therefore, there is no impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The bureau involved small businesses through the new Skilled Trades Regulation Act rules review process. An email blast was sent out to stakeholders and licensees with a rule/code proposal form giving them four weeks to get any rule changes submitted and an advisory meeting was held with stakeholders and licensees invited.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Licenses and stakeholders that the bureau has email addresses for were involved if they chose to be.

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

The rules are needed to reflect the Skilled Trades Regulation Act and will not result in any statewide compliance costs on businesses or groups.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

Businesses will not be directly affected by the proposed rules.

B. 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.

There will be no additional costs imposed on businesses or other groups as a result of the proposed rules.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The Board of Mechanical Rules License Examination Procedures is being rescinded due to new rules being promulgated pursuant to PA 407.

A. How many and what category of individuals will be affected by the rules?

The individuals that would be affected by the repealing of these rules would be mechanical contractors.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The qualitative will ensure higher standards for an individual who is licensed in the skilled trades. There is no quantitative impact.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

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

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The primary benefit is uniform licensing, compliant investigation, and enforcement provisions for skilled trades licensees. The secondary benefit is higher quality licensees, citizens in Michigan will be better served, likewise fewer complaints will be investigated by the Bureau, this reduces staff costs.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The Board of Mechanical Rules License Examination Procedures are being rescinded and the Skilled Trades Regulation rules are needed to reflect the Skilled Trades Regulation Act. The proposed rules are not expected to have any adverse impact on business growth or job creation.

33. 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.

Individuals or businesses will not be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

34. 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 the proposed rules and a cost-benefit analysis of the proposed rules.

The bureau relied upon bureau staff and rules/code proposal forms that the bureau received as the form asks for justification for the change they are proposing, including determining the existence and extent of the impact of the proposed rules and the cost benefit analysis of these proposed rules.

A. 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 rules.

There were neither estimates nor assumptions made.

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

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

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

No statutory amendments are necessary to achieve alternatives.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules 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, as licensing by the bureau is the primary obligation as required under the Act.

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

There were no significant alternatives presented for the Bureau to consider.

38. 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.