

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Licensing and Regulatory Affairs

2. Bureau:

Bureau of Construction Codes

3. Promulgation type:

MCL 24.244 (1)

4. Title of proposed rule set:

Electrical Administrative Board General Rules

5. Rule numbers or rule set range of numbers:

R 338.1001 - R 388.1099a

6. Estimated time frame:

3 months

Name of person filling out RFR:

Tony Williamson

E-mail of person filling out RFR:

WilliamsonT5@michigan.gov

Phone number of person filling out RFR:

517-241-9303

Address of person filling out RFR:

611 W. Ottawa Street, Lansing, MI 48933

7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The Skilled Trades Regulation Act, 2016 PA 407, repealed the Electrical Administrative Act, 1956 PA 217, MCL 338.881 to 338.892, and incorporated provisions of the Electrical Administrative Act into the Skilled Trades Regulation Act. Because the Electrical Administrative Act was repealed, the bureau intended to rescind the Electrical Administrative Board General Rules rule set promulgated under that Act and include rules pertaining to the Electrical Administrative Board into a new rule set – the Skilled Trades Regulation Rules.

The final draft rules to rescind the Electrical Administrative Board General Rules (2019-110 LR) were filed with the Office of the Great Seal on April 26, 2023 and took effect on May 3, 2023.

The Michigan Office of Administrative Hearings and Rules (MOAHR) noted that R 338.1037a (Sanctions and fines imposed by board) was omitted from the rules that were rescinded under 2019-110 LR. Consequently, R 338.1037a still appears in the current Michigan Administrative Code Electrical Administrative Board General Rules.

The bureau's intent was to rescind R 338.1037a with the rest of the rules in this rule set when the rescission was being processed under 2019-110 LR, but R 338.1037a was inadvertently omitted from the rules that were being rescinded. Given that, the bureau is submitting a Request for Rulemaking to be processed under Section 44(1), MCL 24.244(1) of the Administrative Procedures Act to make an obviously needed correction to have this rule rescinded from the Electrical Administrative Board General Rules in the Administrative Code.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

Department Director and Boards & Commission

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

Promulgation of the electrical administrative board general rules is authorized under section 207 of the Skilled Trades Regulation Act, 2016 PA 407, MCL 339.5207; and Executive Reorganization Order Nos. 2003-1, 2008-4, and 2011-4, MCL 445.2011, 445.2025 and 445.2030. This authority replaces the previous authority under 1956 PA 217, MCL 338.881 to 338.892.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

Section 109(3) of the Skilled Trades Regulation Act, MCL 339.5109, provides that rules promulgated by the department or a by a board under a former act and in effect on the day immediately preceding the effective date of the Skilled Trades Regulation Act continue in effect as long as they don't conflict with the Act. This section also allows the rules to be amended or rescinded by the department or a board under this Act.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

R 338.1037a pertains to sanctions and fines imposed by the Electrical Administrative Board and is proposed for rescission. Article 5 of the Skilled Trades Regulation Act, MCL 339.5501 – MCL 339.5541, pertains to complaints, investigations, and administrative proceedings. Article 6 of the Skilled Trades Regulation Act, MCL 339.5601 – MCL 339.5613, pertains to penalties and remedies. The general subject matter of R 338.1037a may be addressed in the Act.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

There is no subject matter of these rules currently contained in any guideline, handbook, manual, instructional bulletin, form with the instructions, or operational memoranda.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

The rescission of the Electrical Administrative Board General Rules, including R 338.1037a, was included in the 2022-2023 Annual Regulatory Plan.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

MCL 24.244 (1)

A. Explain why the rules are being promulgated under 24.244.

The proposed rule rescission will be promulgated under Section 44(1), MCL 24.244(1), of the Administrative Procedures Act. The bureau's intent was to rescind R 338.1037a with the rest of the rules in the Electrical Administrative Board General Rules when the rescission of the entire rule set was being processed under 2019-110 LR. R 338.1037a, however, was inadvertently omitted from the list of rules that were being rescinded.

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.