

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**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:

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Rule Set Information:

ARD assigned rule set number:

2019-101 LR

Title of proposed rule set:

Skilled Trades Regulation 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?

Some of the rules within this rule set are mandated pursuant to MCL 339.5207(1) -(3), which states that the department shall, in consultation with the appropriate board, promulgate rules that the department considers necessary and appropriate to implement and administer articles 1-6 and that enable the department to fulfill its responsibilities under the act; that establish fees for licenses, exams, and inspections; and that establish the fee schedules for other items, including, but not limited to, variance requests, product approvals, or special inspections.

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.

Electrical

The proposed rules are less restrictive than the bordering states of Ohio, Indiana, Illinois and Wisconsin. Ohio is more stringent; the applicant must be a United States citizen or a legal alien who 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 (5) years immediately prior to the date the application is filed, currently be a registered engineer in this state with three (3) years of business experience in the construction industry in the trade for which the engineer is applying to take the examination, or have other experience acceptable to the appropriate section of the board; never have been convicted of a disqualifying offense; and carry a minimum \$500,000 contractor liability coverage. Indiana and Illinois do not have a statewide Electrical licensing system. Electrical contractors in those states are licensed at the county or city level. A Wisconsin journeyman license requires proof of a minimum of 5 years and 1,000 hours per year of experience and the master license requires a minimum of 1,000 hours per year of experience for at least 7 years in electrical construction.

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 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. They must be able to show the last 5 years as a tradesperson working under a licensed contractor on projects that required a permit. They must 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 they 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.

Plumbing

The proposed rules are less restrictive than the bordering states of Ohio, Indiana and Illinois. 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. In Illinois the individual must be a U.S. Citizen (or in the process of declaring citizenship), have been employed as a licensed apprentice plumber for a minimum of 4 years, and have successfully completed 2 years of high school or equivalent in addition to completing an approved course instruction through a college, university or trade school. In Indiana the applicant must be 18 years old, must reside in Indiana, and take the exam they offer. The applicant, who is an Indiana resident, must have at least 4 years in an apprenticeship program approved by the commission. If the applicant is not an Indiana resident, they must hold a license in a state that does not have a reciprocity agreement with Indiana. Unable to find licensing requirements for Wisconsin.

Building officials and Inspectors

The proposed rules are less restrictive than the bordering state of Wisconsin which requires 24 hours of educational requirements for provisional registration. None of the other Great Lake states have educational requirements. Unable to find licensing requirements for Illinois, Ohio 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, and 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 not 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, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

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, provide either the Michigan 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.

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

Purpose and Objectives of the Rule(s)

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

The Skilled Trades Regulation Act, 2016 PA 407, MCL 339.5101 to MCL 339.6133, repealed the following acts:

- The Boiler Act of 1965, 1965 PA 290, MCL 408.751 to 408.776
- The State Plumbing Act, 2002 PA 733, MCL 338.3511 to 338.3569
- The Forbes Mechanical Contractors Act, 1984 PA 192, MCL 338.971 to 338.988
- The Electrical Administrative Act, 1956 PA 217, MCL 338.881 to 338.892
- The Building Officials and Inspectors Registration Act, 1986 PA 54, MCL 338.2301 to 338.2313

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

The Skilled Trades Regulation rules are a new rule set as a result of the enactment of the Skilled Trades Regulation Act, 2016 PA 407. The new rule set will eliminate conflicting regulations while regulating the skilled trades, as provided under the new Act.

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 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. 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 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. The new rule set will regulate the skilled trades as provided under the new act.

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 rules are administrative in nature and are needed to reflect the current Skilled Trades Regulation Act, 2016 PA 407. These rules establish standards for license classifications, the examination and licensing of the skilled trades.

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

The following rule sets are being rescinded and the Skilled Trades Regulation Rules will take place of the following rules:

- Michigan Boiler Rules
- Board of Mechanical Licensing Examination Rules
- Building Officials, Plan Reviewers, and Inspector Rules
- Electrical Administrative Board General Rules
- State Plumbing Board Licenses 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, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

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).

R 339.5110 The establishment of the fee for a license reprinting will cover a portion of staffing costs to process the transaction.

R 339.5111 An amendment to a license may be completed by the licensee on-line at no cost. The establishment of the fee for amending licensee information (address, telephone, etc.) will cover a portion of staffing costs to process the transactions.

R 339.5112 Adding a classification to the license requires the same process of application review as the initial license. The establishment of the fee for a license upgrade will cover a portion of staffing costs to process the transaction.

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 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. 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 is promulgating a new rule set to regulate the skilled trades, as provided under the new Act.

Impact on Other State or Local Governmental Units

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.

Rural Impact

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

The proposed rules will have 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.

Environmental Impact

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.

Small Business Impact Statement

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

The agency did not consider exempting small businesses from the proposed rules because small businesses are not expected to be adversely affected by the proposed rules.

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; these rules are for the greater clarity of the Act.

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

Generally, 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.

Small businesses are not expected to be adversely affected by these 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 rules are needed to reflect the Skilled Trades Regulation Act and have no disproportionate impact on small businesses because of their size or geographic location.

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 rules are needed to reflect the Skilled Trades Regulation Act. There are no additional costs or harm anticipated as a result of the proposed rules.

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 rules are needed to reflect the Skilled Trades Regulation Act. There is no additional cost to the agency for administering and enforcing a rule that exempts or sets lesser standards for compliance by smaller businesses beyond the current operational costs.

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

The rules are needed to reflect the Skilled Trades Regulation Act. Small businesses are not exempt from these rules. 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 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).

Licensees and stake holders we have emails for were involved if they chose to be. Some businesses that participated were the ibew252 and Michigan Pipe Trades Association, as well as some people representing themselves.

Cost-Benefit Analysis of Rules (independent of statutory impact)

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 rules are needed to reflect the Skilled Trades Regulation Act . The proposed rules are not anticipated to increase compliance costs for the public. Individuals who in the past have had an application and examination fee will continue to do so. Individuals requesting registration as a plan review, inspector, or building official registration will continue to pay an application fee, and will now pay an examination fee as well.

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

Approximately 55,000 individuals would be affected under the following trades: Board of Boiler Rules, Board of Mechanical Rules, Building Officials, Plan Reviewers, and Inspectors, Electrical Administrative Board Rules, and State Plumbing Board Licenses Rules.

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

The impact 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 licensee, 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 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., that demonstrate a need for the proposed rules.

There were neither estimates or assumptions made.

Alternative to Regulation

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

There are no reasonable alternatives to the proposed rules that 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. There are no private market based systems utilized by other states that we currently know of.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. 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 to consider.

Additional Information

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

Not applicable.