New. This proposal is to continue Rule R 338.903 (1) for verifying work experience with notarized signatures from mechanical contractors for applicants who desire to take the mechanical licensing examination.

To qualify for examination, the applicant shall furnish on the application a notarized statement or statements from present or former employers to the effect that the applicant has a minimum of 3 years of experience totaling at least 6,000 hours in performance of 1 or more of the work classifications in the act. The notarized statement shall show a detailed and specific description of the type of work performed and the length of time work was performed.

- Problem: Since the Bureau of Construction Codes (BCC) stopped following its own Rule R 338.903 (1), applicants for the mechanical licensing exam have been allowed by the BCC to self-certify their work own experience; which has shifted the burden of proving appropriate work experience from the applicant to former employers, future customers and others in the event an untruthful applicant passes the examination and then causes harm due to lack of work experience.

- Rational for the proposed change: Rule R 338.903(1) has served Michigan well since 1986 and the proponent adopts by reference the attached Request for Declaratory Ruling dated 7/9/16 and the ...

(continued on next page)
Continuation of request for Rule R 338.903(1)

REASON (continued):

- Rational for the proposed change (continuation):

previous filings used by the BCC to adopt Rule R 338.903(1) for 2014.

Additionally Sec. 807(1) of the Skilled Trades Regulation Act requires that mechanical licensee applicants have mechanical work experience stating: “An applicant is not eligible for a work classification examination under this article unless the applicant meets the requirements under article 2, is of good moral character, and has a minimum of 3 years of experience, or an equivalent of that experience, that is acceptable to the board, and shown to the department, in 1 or more of the work classifications described in subsection (2).” Therefore having the mechanical contractor of record certify work experience is appropriate.

The Board of Mechanical Rules has never approved the administrative change to not follow Rule R 338.903(1) and allow for mechanical licensee applicants to self-certify their own work experience.

- Compatible with Federal Law: The proposed change is compatible with federal rule.

- Identify individuals affected by the proposed continuation: only mechanical license applicants and licensed mechanical contractors who have to verify applicant work experience.

- Reasonable Alternatives: Short of having every applicant appear before the Board of Mechanical Rules to prove work experience, there are no reasonable alternatives to have the licensed mechanical contractor, who is solely responsible for those who worked under their license, validating the work experience of an applicant.

- Fiscal Impact: Continuing Rule R 338.903(1) will save the State significant money on complaint investigation and prosecution as it will help prevent mechanical licensing applicants that do not have the necessary work experience from getting licensed for mechanical work for which they don’t have the needed work experience.

- Primary and direct benefits: Having the licensed mechanical contractors who were responsible for the applicant’s mechanical verify the work experience will be substantially safer for Michiganders than allowing mechanical licensee applicants to self-certify their own work experience.

- Estimate of cost increases or reductions to businesses, individuals, groups, or governmental units as a result of the rule: There will no cost increase to governmental units, and in fact the better work experience of mechanical licensees there should be less cost in code compliance and licensing enforcement. Only minimal cost will be incurred for obtaining a notarized signature.
Michigan Department of Licensing and Regulatory Affairs  
Request for Declaratory Ruling  

July 9, 2016

To: Shelly Edgerton, Director, Department of Licensing and Regulatory Affairs  
Certified Mail No. 7015 3430 0000 1970 6442

Applicant:  
Mr. Phil Forner  
POB 296, Allendale, MI 49401  
(616) 299-0275  
Mechanical Contractor License No. 7108404

Statement of Facts:

A) Rule R 338.903 (1) states: “To qualify for examination, the applicant shall furnish on the application a notarized statement or statements from present or former employers to the effect that the applicant has a minimum of 3 years of experience totaling at least 6,000 hours in performance of 1 or more of the work classifications in the act. The notarized statement shall show a detailed and specific description of the type of work performed and the length of time work was performed.”

B) At least since 1986, without objection from the Board of Mechanical Rules, the Bureau of Construction Codes (“BCC”) has promulgated Rule R 338.903(1) in accordance with MCL 24.333(3) and the Forbes Mechanical Contractors Act, 1984 PA 192, MCL 338.973 (“Forbes”). Additionally since 1986, the BCC has enforced Rule R 338.903(1) and the requirement that mechanical license applicants furnish on the mechanical licensee application a notarized statement or statements from present or former employers to the effect that the applicant has a minimum of 3 years of experience totaling at least 6,000 hours in performance of 1 or more of the work classifications in the Forbes.

C) Sometime before May 2015, the BCC, according to Irvin Poke and Kevin Kalakay, adopted the following belief regarding Rule 338.903(1): “The rule regarding certification of experience is more restrictive than what is provided in statute. The RPM review is an initiative from the Governor [Rick Snyder]’s office to bring processed in line with statute, and LARA was the pilot department. Our legal counsel has told the bureau that when statute and rule differ the statute is what we follow.” After doing so the BCC developed and began using the form attached hereto (titled: dleg_bcc_mechanical_contractor_exam_app_262467_7.pdf. This new form is hereinafter referred to the “New Mechanical Licensing Application”).

D) Around May 2015 the BCC developed and began using the New Mechanical Licensing Application. The New Mechanical Licensing Application does not contain a place for notarized statements from current or former employers to show compliance with Rule R 338.903(1).

E) Before implementing the use of the New Mechanical Licensing Application, BCC received no written directive from the Governor Rick Synder’s office to no longer follow Rule R 338.903(1).

F) Before implementing the use of the New Mechanical Licensing Application, BCC received no written legal opinion that that their new interpretation that Rule R 338.903(1) is more restrictive than what is provided in Forbes or that Rule R 338.903(1) is not consistent with the intent of Forbes.

G) Before implementing the use of the New Mechanical Licensing Application, BCC did not follow MCL 24.263 to rescind Rule R 338.903(1); which should have included an opportunity for public input and a public hearing.

H) Before implementing the use of the New Mechanical Licensing Application, BCC did not have a court order or other applicable legal authority to stop following Rule 338.903(1).

I) On April 21, 2016, Irvin Poke, former BCC Director, admitted that the BCC, including the Mechanical Division, is not following Rule R 338.903(1) when processing the New Mechanical Licensing Applications for examination under MCL 338.976(1)-(3). April 11, 2016 correspondence attached.
J) Since May 2015 or thereabouts, the BCC has allowed mechanical licensee applicants that have not complied with Rule R 338.903(1) to take mechanical licensing exams.
K) The Board of Mechanical Rules, as authorized in MCL 338.976(2), has not taken any official action to state that the BCC of action of allowing applicants that have only completed the New Mechanical Licensing Application but have not complied with Rule R 338.903(1), is acceptable to the Board of Mechanical Rules as being equivalent of the work experience required.

**Laws / Rules / Orders:**
Rule R 338.903(1); MCL 338.973 et al, MCL 338.976(1)-(3); New Mechanical Licensing Application; MCL 24.231; MCL 24.232(1); and MCL 24.233(3)

**Issues:**
In 2015 the BCC arbitrarily choose to stop enforcing Rule R 338.903(1) and in effect facilitated numerous violations of Rule R 338.903(1) with publishing and accepting the New Mechanical Licensing Applications. Without going through the proper process of trying to rescind Rule R 338.903(1), the BCC has effectively and illicitly made parts of MCL 24.231-24.233 moot and meaningless.

**Analysis and Conclusions:**
The BCC 2015 choice to allow mechanical licensee applicants to take mechanical license examinations without requiring compliance with Rule R 338.903(1), is without question ignoring the requirements of MCL 24.231, and MCL 24.232(1).

The BCC 2015 choice to allow mechanical licensee applicants to take mechanical license examinations without requiring compliance with Rule R 338.903(1), before going through the proper process of rescinding Rule R 338.903(1) is depriving interested persons and the public of the opportunity for public comment pursuant MCL 24.241.

The BCC 2015 choice to allow mechanical licensee applicants to take mechanical license examinations without requiring compliance with Rule R 338.903(1), is putting the public at risk by removing the important component of notarized work experience from the mechanical license holder that was responsible for the applicant’s work.

The BCC 2015 choice to allow mechanical licensee applicants to take mechanical license examinations without requiring compliance with Rule R 338.903(1), has shifted the burden of the mechanical licensee applicant to obtain notarized work experience for taking the exam to others (mechanical license holders and or future customers of the new licensees) to file a written complaint with and proving to the BCC that the mechanical licensee was not truthful on their New Mechanical Licensing Application and should not have been given the opportunity to take the exam.

What the BCC is doing is illegal and the BCC must be ordered to follow Rule R 338.903(1) until and if ever Rule R 338.903(1) is properly rescinded or set aside by a court of competent jurisdiction. Additionally the BCC must be ordered to identify all candidates that were issued a mechanical license without complying with Rule R 338.903(1) and contact those licensee in order to give those licensees an opportunity to keep their newly issued license by showing compliance with Rule R 338.903(1) or appearing before the Board of Mechanical Rules pursuant to MCL 338.976(2).

**Certification:** I hereby certify the existence of the actual state of facts set forth and the submission of all relevant facts known to me.

Date: 7/9/10  Signature: [Signature]
Note: In accordance with 2012 PA 312, any veteran providing satisfactory proof of separation from the armed forces of the United States under "honorable" or "general under honorable conditions" is exempt from licensing and examination fees. For consideration, please attach a copy of either a DD-214, and/or DD-215 to your application. You may email your application and documentation to bccmech@michigan.gov if you are requesting a veterans exemption only.

Instructions:
- To help provide optimum customer service and for scheduling purposes please provide completed application at least 20 business days prior to your desired exam date.
- Enclose a check made payable to the State of Michigan. Mail completed application and payment to the address listed above.

### Applicant Information

<table>
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<tr>
<th>CONTRACTOR LICENSE NUMBER - REQUIRED FOR ADDITIONS TO LICENSE</th>
<th>71 -</th>
<th>Addition to License</th>
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<td>DATE OF BIRTH</td>
<td>LAST 4 DIGITS OF SOCIAL SECURITY NUMBER*</td>
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<td>ADDRESS</td>
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<td>STATE</td>
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<td>COUNTY</td>
<td>TELEPHONE NUMBER (Include Area Code)</td>
<td>E-MAIL ADDRESS</td>
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Have you previously taken this examination?  □ Yes  □ No  If yes, when? ____________

Have you taken and passed the Law portion of this examination?  □ Yes  □ No  If yes, when? ____________

### Work Classifications (Check work classifications for which you are desiring to test for)

- □ 1. Hydronic heating and cooling and process piping (includes the installation of residential boilers). (Means the application of equipment and systems which provide air conditioning by the controlled forced circulation of fluids or vapors in pipes.)

- □ 2. HVAC equipment (includes ductwork, gas piping and venting). (Means the application of equipment and systems to provide air conditioning for occupants of buildings and structures. HVAC does not include the installation of portable self-contained refrigeration equipment and window type air conditioners of not more than 1 1/2 horsepower.)

- □ 3. Ductwork. (Means the air distribution arrangement for supply, return and exhaust in air conditioning systems and in non-air conditioning systems, the materials and methods of which are specified in the Michigan Mechanical Code. Ductwork includes flues, vents and chimneys.)

- □ 4. Refrigeration. (Means the use of equipment and systems including refrigeration piping, employing the refrigeration cycle to generate low temperatures for other than air conditioning equipment and systems. Refrigeration includes such equipment and systems as supermarket refrigeration, industrial refrigeration, the preservation of biological materials and food storage facilities. Refrigeration does not include the installation of portable self-contained units such as refrigerators, dehumidifiers and other similar equipment of not more than 1 1/2 horsepower or other equipment exempted from the Michigan Mechanical Code.)

- □ 5. Limited heating service. (Means the servicing of gas-designed sectional boilers having inputs of not more than 1 million Btu's, utilizing a combustion safeguard designed to shut off the main gas supply 10 or less seconds after pilot flame failure, and all other gas-fired or solid fuel equipment and systems limited to input ratings of less than 400,000 Btu's per unit; or oil-fired equipment and systems designed for the use of number 1 or number 2 fuel oil, having a maximum firing rate of less than five gallons per hour per unit; or electrical furnaces and electric boilers using the same kilowatts that are equivalent to the fossil fuel British thermal units generated.)

- □ 6. Unlimited heating service. (Means the servicing of heating equipment and systems without restrictions concerning thermal capacity or grade of fuel oil or type of fuel.)

- □ 7. Limited refrigeration and air conditioning service. (Means the servicing of refrigeration equipment and systems and air conditioning equipment and systems employing the refrigeration cycle unlimited capacity utilizing group one refrigerants as listed in the Michigan Mechanical Code.)

- □ 8. Unlimited refrigeration and air conditioning service. (Means the servicing of refrigeration equipment and systems and air conditioning equipment and systems employing the refrigeration cycle unlimited as to thermal capacity or type of refrigerant.)

- □ 9. Fire Suppression. (Means the integrated combination of a fire alarm system and fire suppression equipment which as a result of predetermined temperature, rate of temperature rise, products of combustion, flame, or human intervention will discharge a fire extinguishing substance over a fire area.)

- □ 10. Specialty License. (Means a license to perform work within limits established by the board in one of the work classifications set forth below, for the installation and servicing of:)
  - a. Solar Heating and Cooling
  - b. Solid Fuel Equipment & Vented Decorative Gas Appliances
  - c. LP Distribution Piping
  - d. Fuel Gas Piping
  - e. Fuel Gas Piping & Venting
### Background Information

Have you been convicted of a felony?  □ Yes  □ No  If yes, complete the "Conviction History" section below.

If you have checked yes, you must contact the court(s) where convicted and have copies sent from the court to our office at the address listed on page 1. The documentation must contain the name and location of the court, docket/case number, name of offender, the offense(s) for which convicted, date of conviction/sentencing, the sentence(s) given, and any other sentencing/probation conditions ordered to include the following:

1. Complaint(s) Information, Indictment
2. Judgement Order of Conviction
3. Order of Sentencing
4. Probation/Parole Order(s) and any Amendments

### Conviction History

In accordance with the Former Offenders Act, 1974 PA 381, this is to provide you with an opportunity to explain your affirmative response to the question above. If you are unsure of the exact details, respond to the best of your knowledge. **Attach additional sheet(s) if necessary.**

**YOUR NAME WHEN CONVICTED (if different)**

**INDICATE CONVICTION(S) FOR WHICH YOU WERE CHARGED**

**DATE(S) OF CONVICTION(S) AND SENTENCE(S)**

**NAME AND ADDRESS OF SENTENCING COURT(S)**

**CHECK YES OR NO TO THE FOLLOWING**

1. Are you currently an inmate?  □ Yes  □ No  Release date if applicable _______________________

2. Are you currently on probation/parole?  □ Yes  □ No  Release date if applicable _______________________

3. If yes, provide the name, address and telephone number of the correctional facility, probation officer or parole officer.

**REHABILITATION PROGRAM ENROLLED IN OR COMPLETED**

---

**NOTE:** IF YOU HAVE TAKEN THIS EXAMINATION PREVIOUSLY FOR THE CLASSIFICATIONS IN WHICH YOU ARE APPLYING, YOU MAY SKIP THE EXPERIENCE PORTION OF THIS DOCUMENT AND PROCEED TO THE EXAMINATION LOCATION AND SIGNATURE.

### Experience Record

Applicant must provide statements from employer verifying work experience in accordance with Section 338.576(4)(b) and (5) of the Forbes Mechanical Contractors Act. Each statement must include a description of the work performed, the length of time and dates that the work was performed, the employer under which the work was performed, and the title of the individual signing the statement.

A description of work performed must include, but not limited to, heating/cooling BTU ratings, venting and duct systems, types of fuel, types of refrigerants, types of equipment and types of fire suppression systems and equipment if applicable.

### Work Classifications

1. Hydronic Heating and Cooling and Process Piping (includes the installation of residential boilers)  □ Full Time  □ Part Time

   **Employer Name ___________________________ License # (if applicable) ___________________________**

   **Date(s) Held This Position ___________________________ Number of Months/Years ___________________________**

   **Description of Duties Performed**

2. HVAC Equipment (includes ductwork, gas piping and venting)  □ Full Time  □ Part Time

   **Employer Name ___________________________ License # (if applicable) ___________________________**

   **Date(s) Held This Position ___________________________ Number of Months/Years ___________________________**

   **Description of Duties Performed**
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<th>3. Ductwork</th>
<th>Full Time</th>
<th>Part Time</th>
<th>Employer Name</th>
<th>License # (if applicable)</th>
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<th>4. Refrigeration</th>
<th>Full Time</th>
<th>Part Time</th>
<th>Employer Name</th>
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<th>Date(s) Held This Position</th>
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<th>5. Limited Heating Service</th>
<th>Full Time</th>
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<th>Employer Name</th>
<th>License # (if applicable)</th>
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<th>7. Limited Refrigeration and Air Conditioning Service</th>
<th>Full Time</th>
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<th>8. Unlimited Refrigeration and Air Conditioning Service</th>
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<th>9. Fire Suppression</th>
<th>Full Time</th>
<th>Part Time</th>
<th>Employer Name</th>
<th>License # (if applicable)</th>
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10. **Specialty License**  □ Full Time  □ Part Time

Employer Name ___________________________ License # (if applicable) ____________________

□ a. **Solar Heating and Cooling**

Date(s) Held This Position ___________________________ Number of Months/Years ________________

Description of Duties Performed:
____________________________________________________________________________________

□ b. **Solid Fuel Equipment & Vented Decorative Gas Appliances**

Date(s) Held This Position ___________________________ Number of Months/Years ________________

Description of Duties Performed:
____________________________________________________________________________________

□ c. **LP Distribution Piping**

Date(s) Held This Position ___________________________ Number of Months/Years ________________

Description of Duties Performed:
____________________________________________________________________________________

□ d. **Fuel Gas Piping**

Date(s) Held This Position ___________________________ Number of Months/Years ________________

Description of Duties Performed:
____________________________________________________________________________________

□ e. **Fuel Gas Piping & Venting**

Date(s) Held This Position ___________________________ Number of Months/Years ________________

Description of Duties Performed:
____________________________________________________________________________________

**Examination Location**

Examinations are given in Lansing. Please note your preferred examination date. If approved for examination, an admission card will be mailed to you approximately 10 days prior to the examination date. If the examination you have selected is full, you will be scheduled for the next available examination.

□ Preferred Date ___________________________ □ No Preference - Next Available Examination

If you have a learning disability, a psychological disability, or other hidden disability that requires an accommodation in testing, submit written documentation from an appropriate professional (education professional, doctor, psychologist, psychiatrist) to certify that your disabling condition requires the requested test accommodation.

**Signature**

I hereby certify that the statements in this application are true and correct. I have not withheld information which might affect the decisions to be made on this application. I am aware that a false statement or dishonest answer may be grounds for denial of my application or disciplinary action against my license.

SIGNATURE ___________________________ DATE ________

BCC-11 (Rev. 05/15) Page 4 of 4
Mr. Forner;

The April Construction Code Commission meeting was on the regular approve meeting schedule.

By the time the comment was received re N1102.3 it was to late to correct it and meet the imposed schedule.

When we receive a legal review that a rule is beyond the statutory authority we stop using it. The Board of Mechanical Rules does not get a say regarding legal advice.

When a legal review is perform and rules are found to exceed legal authority we are advised to cease using those rules.

As I indicated previously the rules will be corrected when we get to them as this is the case with more than the mechanical rules.

A proper reading of MCL 338.976(3) reveals that subsections e and f each have 2 classifications that recognized be “or” leading to 10 classifications.

Thank you;

Irvin J. Poke, AIA, Director
Bureau of Construction Codes
Phone: 517 241 9302
Fax: 517 241 9570
According to MCL 125.1503a(3); “Meetings of the commission may be called by the chairperson or by 3 members on 10 days' written notice.” So did the BCC inform the chairperson or 3 Commission members in order to call a meeting or did the BCC again self-determine that the self-created issue warranted the BCC again taking action without the input from the Construction Code Commission and or the Board of Mechanical Rules as allowed for by MCL 125.1504(4)?

With regards to the “conflict” issue, encase you are not aware one of the major mechanical contractors’ associations in Michigan, being the Michigan Air Conditioning Contractors Association (MIACCA), along with others told the BCC in May 2015 about the issues with N1102.3 at the public hearing held by the BCC for the 2015 MRC and yet the BCC went forward with N1102.3 without amendment. So are you now saying that “many calls regarding the conflict” after-the-fact means more to the BCC and Director Zimmer than written and supported public hearing testimony from a major mechanical contractors’ association?

As for BCC not following its own promulgated mechanical licensing Rule R 338.903(1), MCL 338.976(2) states that: “An applicant is not considered eligible for examination unless the applicant is of good moral character, as defined in section 1 of 1974 PA 381, MCL 338.41, and has a minimum of 3 years of experience, or an equivalent of that experience, that is acceptable to the board, and shown to the department, in 1 or more of the work classifications listed in subsection (3).” (Emphasis added) Did the Board of Mechanical Rules vote to state that the 20+ year practice of having an applicant submit a notarized statement from the mechanical license holder from which the applicant claims to have experience under, no longer necessary?

Again under what specific legal authority can the Governor’s office, the BCC and or the BCC legal department suddenly decide to claim that the “rule regarding certification of experience is more restrictive than what is provide in statute” without initiating the process to rescind Rule R 338.903(1)?

It’s been almost a year since the BCC made this self-determination without public input or Board of Mechanical Rules input, so when is the BCC going to begin the process to rescind Rule R 338.903(1) and allow public input and Board of Mechanical Rules input or isn’t other input of others important to the BCC?

Finally along the same lines, did the BCC also do away with its long-standing practice (as shown on: http://www.michigan.gov/lara/0,4601,7-154-10575_17394_17566-45140--00.html) of issuing mechanical licenses under two more classifications than what is specifically listed in MCL 338.976(3) of the Forbes Mechanical Contractors Act? If not, isn’t the below BCC position somewhat hypocritical when the BCC is issuing mechanical licenses under 10 classifications when there are only 8 classifications listed under MCL 338.976(3)? If the BCC is picking and choosing what statutes and or rules to follow, where is the public notification of such determinations being made or posted so that Michiganders can hopefully be informed in advance?

Respectfully,
Phil Forner

From: Poke, Irvin (LARA) [mailto:pokei@michigan.gov]
Sent: Monday, April 04, 2016 4:26 PM
To: Phil Forner
Cc: Arlan Meekhof; Kalakay, Kevin (LARA)
Subject: RE: Is there a reason why Rule R 338.903(1) is not being rescinded or updated?

Mr. Forner;
What was put on the BCC website was done quickly after many calls regarding how the conflict is to be resolved. Given that the commission meets quarterly something had to be done immediately and the department director designated and approved what was done. A more comprehensive document will be distributed that provides statutory reasoning after the commission reviews and discusses it.

The rule regarding certification of experience is more restrictive than what is provide in statute. The RPM review is an initiative from the governor's office to bring processed in line with statute, and LARA was the pilot department. Our legal counsel has told the bureau that when statute and rule differ the statute is what we follow.

Thank you;

Irvin J. Poke, AIA, Director
Bureau of Construction Codes
Phone: 517 241 9302
Fax: 517 241 9570

From: Phil Forner [mailto:phil@allendaleheating.com]
Sent: Monday, April 04, 2016 1:55 PM
To: Poke, Irvin (LARA) <pokei@michigan.gov>
Cc: Arlan Meekhof <SenAMeekhof@senate.michigan.gov>; Kalakay, Kevin (LARA) <kalakayk@michigan.gov>
Subject: RE: Is there a reason why Rule R 338.903(1) is not being rescinded or updated?

Mr. Polk,

Thank you for the prompt reply. I'm not sure I understand the Bureau's demonstrated logic of adopting N1102.3 as published by the Bureau despite the public comment and testimony regarding the issues with N1102.3. Then putting out a web page posting with no stated author or authority along with no explanation as to how such claimed conflict must be applied by non-state code enforcement agencies. Likewise doesn't declared conflict resolution now allow building cavities within the building envelope to be used as ducts?

Additionally is there a reason why the Department is not engaging the expertise of the Construction Code Commission and the Board of Mechanical Rules before issuing such web pape statements or making a "beyond the scope" determinations?

Finally under what authority can the Department under the self-initiated RPM review process, without public input, arguably self-determine that a properly promulgated rule, with opportunity for public comment, is beyond the statutory scope and ignore the rule before it is properly rescinded by the Department or set aside by a court of competent jurisdiction? Isn't such a Department process denying Michiganders the opportunity for required public notice and
comment? What harm would theer be i continuing to follow Rule R 338.903 (1) until it's properly rescinded or set aside by a court of competent jurisdiction?

Please advise.

Thanks,
Phil

-------- Original message --------
From: "Poke, Irvin (LARA)" <pokei@michigan.gov>
Date: 4/4/16 9:46 AM (GMT-05:00)
To: Phil Forner <phil@allendaleheating.com>
Cc: Arlan Meekhof <SenAMeekhof@senate.michigan.gov>, "Kalakay, Kevin (LARA)"
    <kalakayk@michigan.gov>
Subject: RE: Is there a reason why Rule R 338.903(1) is not being rescinded or updated?

Mr. Forner;

The rule requiring a notarized statement of experience was found to be beyond the scope of the statute during the RPM review and our development of the licensing software. The bureau then cease to apply it as it is not supported by statute. With the code updates underway we have focused on those rules as we have limited resources. To rescind that rule takes almost as much effort as rule promulgation and we will correct it in due time.

The code has a number of conflicts and errors that must be resolved so that there is consistent application of the code. The conflict between section N1102.3 and M 1601.1 was created by the ICC process. The resolution action was taken in accordance with MCL 125.1504(3)(d) and the bureau has the obligation to carry out this function.

Thank you;

Irvin J. Poke, AIA, Director

Bureau of Construction Codes
From: Phil Forner [mailto:phil@allendaleheating.com]
Sent: Friday, April 01, 2016 5:14 PM
To: Poke, Irvin (LARA) <pokie@michigan.gov>
Cc: Arlan Meekhof <SenAMeekhof@senate.michigan.gov>
Subject: Is there a reason why Rule R 338.903(1) is not being rescinded or updated?

Mr. Poke,

If what Mr. Kalakay stated last year (see below) is true, as it appears to be by the Bureau of
Construction Code’s action of continuing to use its form (located at:
http://www.michigan.gov/documents/dleg/dleg_bcc_mechanical_contractor_exam_app_262467_7.pdf), please explain why the Bureau of Construction Codes has not taken steps to rescind or
modify Administrative Rule R 338.903(1); that being:

“Rule 903. (1) To qualify for examination, the applicant shall furnish on the
application a notarized statement or statements from present or former employers to the
effect that the applicant has a minimum of 3 years of experience totaling at least 6,000
hours in performance of 1 or more of the work classifications in the act. The notarized
statement shall show a detailed and specific description of the type of work performed
and the length of time work was performed.”

Given Rule R 338.903(1) is not being followed or timely changed along with the Bureau of
Construction Codes “Duct Construction Conflict Resolved” web page posting (located at:
http://www.michigan.gov/lara/0,4601,7-154-10575-378767--,00.html), which arguably rescinds
part of Rule R 408.30500, specifically Section N1103.2.3 of the 2015 Michigan Residential
Code. Could such Bureau of Construction Codes activity be construed as a pattern of the Bureau
promulgating rules and then not following those rules and or is this evidence to support having
the Legislature amend MCL 445.2001 to again empower the Construction Code Commission and
other licensing trade boards to again promulgate the rules?
Please advise.

Respectfully,

Phil Forner

---

From: Kalakay, Kevin (LARA) [mailto:kalakayk@michigan.gov]
Sent: Tuesday, August 25, 2015 7:00 AM
To: Phil Forner
Subject: RE: Employer verification portion of the mechanical license application has been removed

Mr. Forner,

There is not a statutory requirement for the reporting of candidates approved to take the licensing examination.

Thank you

---

From: Phil Forner [mailto:phil@allendaleheating.com]
Sent: Tuesday, August 18, 2015 8:41 AM
To: Kalakay, Kevin (LARA)
Subject: RE: Employer verification portion of the mechanical license application has been removed

Thank you Mr. Kalakay for the response. It will be interesting to see how the BCC investigates and makes recommendations to the Board of Mechanical Rules when a mechanical license holder disputes an applicant’s work-experience claim under that license. Is there a report that is regularly generated by the BCC that shows all the new applicants approved by the BCC to take a mechanical licensing examination?

---

From: Kalakay, Kevin (LARA) [mailto:kalakayk@michigan.gov]
Sent: Tuesday, August 18, 2015 7:27 AM
To: Phil Forner
Subject: RE: Employer verification portion of the mechanical license application has been removed
Mr. Forner,

Per a directive from the Governor’s office, departments were tasked with reviewing all current forms for compliance with existing acts. As a result, the bureau eliminated specifics on forms that were not required by statute. The Forbes Act does not contain a requirement for employer verification of work experience. The act does provide sanctions for the practice of fraud or deceit in obtaining a license. The Board of Mechanical Rules has no authority to require items not in the Act.

If you have a specific complaint, you may file it in writing with the Bureau and we will investigate the allegations.

Thank you

From: Phil Forner [mailto:phil@allendaleheating.com]
Sent: Saturday, August 15, 2015 12:17 PM
To: Kalakay, Kevin (LARA)
Subject: Employer verification portion of the mechanical license application has been removed

Mr. Kalakay,

According to the attached application form (dated 5/15), the Bureau of Construction Codes (BCC) has removed from the mechanical license application the part where the previous license holder needed to verify (sign for) the work experience of the applicant.

Did the Board of Mechanical Rules approve this change or have input on this change?

Without employer verification, how is the BCC now verifying work experience? Can a parts runner or office person now take all mechanical license examinations that are register to the company they are working for?
What is the BCC going to do if the an applicant provides false information on the application and passes the examination?

Can a mechanical licensee under which an applicant is claiming work experience challenge the factualness of what an applicant put on their application? If so, how is this done and who would decide this?

Please advise.

Thanks,

Phil Forner

AHC

Allendale Heating Company Inc.

11672 60th Avenue – P.O. Box 296

Allendale, Michigan 49401

Office: (616) 895-4949

Fax: (616) 895-5020

E-mail: phil@allendaleheating.com

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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF MECHANICAL RULES
LICENSE EXAMINATION PROCEDURES

Filed with the Secretary of State on December 23, 2014

These rules take immediate Effect after filing with the Secretary of State


R 338.901 Definitions.
   Rule 901. (1) The terms defined in the Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to 338.988, have the same meaning when used in these rules.
   (2) “Act” means 1984 PA 192, MCL 338.971 to 338.988 and known as the Forbes mechanical contractors act when used in these rules.

R 338.902 Applications; form; fee; grounds for denial of application and forfeiture of fee.
   Rule 902. (1) An applicant for examination shall submit, to the department, application on the form prepared and furnished by the department.
   (2) An application shall be accompanied by the examination fee prescribed in the act.
   (3) The department shall return an incomplete application to the applicant for completion and the applicant must resubmit the application to the department within 15 business days after the date of the department’s request.
   (4) Failure to comply with subrule (3) of this rule is grounds for denial of the application and forfeiture of the examination fee.

R 338.903 Examination qualifications.
   Rule 903. (1) To qualify for examination, the applicant shall furnish on the application a notarized statement or statements from present or former employers to the effect that the applicant has a minimum of 3 years of experience totaling at least 6,000 hours in performance of 1 or more of the work classifications in the act. The notarized statement shall show a detailed and specific description of the type of work performed and the length of time work was performed.
   (2) When evidence is produced that an applicant is a graduate of a recognized trade school, credit shall be given the applicant, but such credit shall not exceed 1 year or 2,000 hours of the required 3 years of experience.

July 10, 2014
(3) If the applicant is unable to comply with any of the requirements in subrules (1) and (2) of this rule, he or she shall, upon written request, appear before a representative of the department and a quorum of the board to present evidence as to his or her eligibility for examination. The board shall then determine if the individual may sit for the examination.

(4) An applicant shall be of good moral character as defined in the occupational license for former offenders act, 1974 PA 381, MCL 338.41 to 338.47.

(5) The department may investigate any applicant as to character and experience.

(6) The department may approve or deny an application for examination based upon the requisites established by the act and these rules.

(7) Upon the acceptance, or rejection, of an application the department shall immediately notify the applicant. If an application is rejected, the examination fee shall not be refunded.

R 338.904 Acceptance of applications.

Rule 904. An application shall not be accepted, and an admission card shall not be issued, for a scheduled examination unless the completed application has been accepted, approved, and placed on file with the department for not less than 20 business days before the date of the next scheduled examination.

R 338.905 Time of examinations.

Rule 905. The department shall conduct an examination at least once each calendar quarter at a time and place designated by the department.

R 338.906 Failure to appear for examination.

Rule 906. The department shall not reissue an admission card unless the applicant provides a written explanation of his or her absence from the scheduled examination to the department within 10 business days following the scheduled examination. Unless the explanation is accepted and approved by the department, the application shall be denied and the examination fee shall be forfeited.

R 338.907 Examinations; notice; identification.

Rule 907. (1) Notice of the time, place, and date of the examination shall be provided by the department to those applicants whose applications have been approved.

(2) An applicant appearing for examination shall present the admission card issued by the department and a current government-issued photo identification.

R 338.908 Review and approval of form and content of examination; scope of examinations; minimum grade for qualification for license for work classification.

Rule 908. (1) The examination shall consist of a written test on the law, which shall cover knowledge of the act and the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, and for each work classification for which the applicant qualifies based upon experience provided.

(2) An examination shall cover the general theories and practices of the specific work classification, knowledge of the code, and applicable laws.

(3) To qualify for a license for any classification, an applicant must receive a minimum grade of 70% on the examination for the law portion and for the work classification for which licensure is being sought.
R 338.909 Notification of results of examination.
  Rule 909. An applicant shall be notified of the results of an examination within 30 business
days after completing the examination. A license shall be issued pursuant to R 338.911
within 10 business days after receipt of the license application and fee.

R 338.910 Rescinded.

R 338.911 Licenses; issuance.
  Rule 911. The department shall issue a license only after an applicant has successfully
completed all requirements of the act and these rules, including the receiving of the minimum
passing grade on the law portion and work classifications to be covered by the license portion
of the examination, and paid the license fee prescribed in the act.

R 338.912 Rescinded.

R 338.913 Rescinded.

R 338.914 Rescinded.
December 12, 2014

Joint Committee on Administrative Rules
Chair and Alternate Chair, Members
Boji Tower, 4th Floor
124 W. Allegan
P.O. Box 30036
Lansing, MI 48909-7536

RE: Board of Mechanical Rules – License Examination Procedures

Dear Committee Chair, Alternate Chair, and Members:

As the Regulatory Affairs Officer for the Department of Licensing and Regulatory Affairs, I request that the Joint Committee on Administrative Rules waive the remaining session days, under the authority provided in the Administrative Procedures Act, MCL 24.245a(1), for the following rule set:

- Board of Mechanical Rules – License Examination Procedures (2013-096 LR).

Thank you for your consideration of this matter.

Sincerely,

Liz Arasim
Regulatory Affairs Officer
Department of Licensing and Regulatory Affairs
CERTIFICATE OF ADOPTION


Date: 12/16/14

Adopted by: [Signature]

Michael Zimmer
Acting Director
Department of Licensing and Regulatory Affairs
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
LICENSING AND REGULATORY AFFAIRS

BUREAU OF CONSTRUCTION CODES

BOARD OF MECHANICAL RULES

LICENSE EXAMINATION PROCEDURES

Filed with the Secretary of State on
These rules take immediate Effect after filing with the Secretary of State


R 338.901 Definitions.
Rule 901. (1) The terms defined in the Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to 338.988, have the same meaning when used in these rules.
(2) “Act” means 1984 PA 192, MCL 338.971 to 338.988 and known as the Forbes mechanical contractors act when used in these rules. Act No. 192 of the Public Acts of 1984, being S338.971 et seq. of the Michigan Compiled Laws.
(b) “Board” means the board of mechanical rules.
(c) “Department” means the department of labor.
(d) “Classification” means the work categories covered by the act.
A term defined in the act has the same meaning when used in these rules.

R 338.902 Applications; form; fee; grounds for denial of application and forfeiture of fee.
Rule 902. (1) An applicant for examination shall submit, to the department, in Lansing, an application on the form prepared and furnished by the department.
(2) An application shall be accompanied by the examination fee prescribed in the act.
(3) An applicant who seeks licensure in more than 1 work classification on a single application shall only be required to pay 1 examination fee.
(4) Each question on the application shall be answered in its entirety.
(5) The department shall return an incomplete application to the applicant for completion and then the resubmitted applicant must resubmit to the department within 15 business days after the date of the department’s request.
(6) Failure to comply with the requirement of subrule (5) of this rule is grounds for denial of the application and forfeiture of the examination fee.

July 10, 2014
R 338.903 Examination Qualifications. 
(1) To qualify for examination, the applicant shall furnish, either on or with on the application, a notarized statement or statements from present or former employers to the effect that the applicant has a minimum of 3 years of experience totaling at least 6,000 hours in performance of 1 or more of the work classifications set forth in the act. The notarized statement shall show a detailed and specific description of the type of work performed and the length of time work was performed. 
(2) When evidence is produced to the effect that an applicant is a graduate of or is attending a recognized trade school, credit shall be given the applicant, but such credit shall not exceed 1 year or 2,000 hours of the required 3 years of experience. 
(3) If the applicant is unable to comply with any of the requirements in subrules (1) and (2) of this rule, he or she shall, upon written request, appear before a representative of the department and a quorum of the board to present evidence as to his or her eligibility for examination. The board shall then determine if the individual may sit for the examination. 
(4) An applicant shall be of good moral character as defined in Act No. 381 of the Public Acts of 1974, as amended, being S338.41 et seq. of the Michigan Compiled Laws the occupational license for former offenders act, 1974 PA 381, MCL 338.41 to 338.47. 
(5) The department may have the right to investigate any applicant as to character and experience. 
(6) The department may approve or deny an application for examination based upon the requisites established by the act and these rules. 
(7) Upon the acceptance, or rejection, of an application the department shall immediately notify the applicant. If an application is rejected, the examination fee shall not be refunded.

R 338.904 Acceptance of applications. 
(1) An application shall not be accepted, and an admission card shall not be issued, for a scheduled examination unless the completed application has been accepted, approved, and placed on file in the Lansing office with the department for not less than 20 calendar business days before the date of the next scheduled examination. 
(2) An admission card shall not be renewed unless the applicant provides a written explanation of his or her absence from the scheduled examination to the department within 10 calendar days after the scheduled examination.

R 338.905 Time of examinations. 
(1) The department shall conduct an examination at least once each calendar year at a time and place designated by the board and the department. 
(2) If the applications on file warrant, an examination shall be conducted in the Upper Peninsula once each year at a place designated by the board and the department.

R 338.906 Examination of applicants; exceptions. 
(1) An applicant for a license shall take a written examination for each work classification for which he or she seeks licensure. 
(a) An applicant who is a legally authorized mechanical contractor in another state or country if the licensing requirements of the state or country are considered by the board and
the department to be substantially equivalent to the licensing requirements of this state and if the state or country observes reciprocity in regard to mechanical contractors licensed in this state.

(b) An applicant who is certified to install, modify, test, service, inspect, or maintain fire suppression systems under Act No. 207 of the Public Acts of 1941, as amended, being S29.1 et seq. of the Michigan Compiled Laws 1941 PA 207, MCL 29.1 to 29.34 and known as the fire prevention code act, and who seeks licensure under the act only in the fire suppression work classification. The department shall not reissue an admission card unless the applicant provides a written explanation of his or her absence from the scheduled examination to the department within 10 business days following the scheduled examination. Unless the explanation is accepted and approved by the department, the application shall be denied and the examination fee shall be forfeited.

R 338.907 Examinations; notice; identification.

Rule 907. (1) Notice of the time, place, and date of the examination shall be provided by the department mailed to those applicants whose applications have been accepted and are on file in the Lansing office for not less than 20 calendar days before the date of the next scheduled examination.

(2) An applicant appearing for examination shall present the admission card issued by the department and a current government-issued picture photo identification, such as a driver’s license.

R 338.908 Review and approval of form and content of examination; scope of examinations; minimum grade for qualification for license for work classification.

Rule 908. (1) The department and the board, acting jointly, shall review and approve the form and content of the examination or other test.

(2) The examination shall consist of a written test on the law, which shall cover knowledge of the act and the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, and for each work classification for which the applicant qualifies based upon experience provided.

(3) An examination shall cover the general theories and practices of the specific work classification, knowledge of the mechanical code, and applicable laws.

(4) To qualify for a license for any classification, an applicant shall be required to receive a minimum grade of 70% on the examination for the law portion and for the work classification for which licensure is being sought.

R 338.909 Notification of results of examination.

Rule 909. An applicant shall be notified of the results of an examination within 30 business days after completing the examination. A license shall be issued pursuant to R 338.911 within 10 working business days after receipt of the license application and fee.

R 338.910 Subsequent examinations Rescinded.

Rule 910. (1) An applicant who fails to receive a passing grade on any part of the examination may take a second examination, without additional charge, by submitting a written request to retake the next scheduled examination.
(2) An applicant applying for a second examination need only complete the portions of the examination which he or she failed on the first examination.
(3) Notice for the second examination shall be made in the same manner as provided for in the first examination.
(4) Application for a second examination shall be filed in the Lansing office within 209 calendar days of the next scheduled examination.
(5) On the failure of an applicant to qualify for licensure after a second examination, the applicant shall be required to reapply for examination, on a form for reexamination to be provided by the department, and pay the fee prescribed in the act.

R 338.911 Licenses; issuance.
Rule 911. (1) The department shall issue a license only after an applicant has successfully completed all requirements of the act and these rules, including the receiving of the minimum passing grade on the law portion and work classifications to be covered by the license portion of the examination, and paid the license fee prescribed in the act.
(2) A license shall be issued to an applicant for work classifications for which he or she was successfully examined, even where there may be some other classifications for which the applicant did not qualify during the examination.
(3) The board shall establish limits for the issuance of a specialty license.
(4) A license issued shall expire on December 31 of each year and shall be renewable within 60 days after that date upon payment of the fee prescribed in the act.

R 338.912 Renewal of voided license; examination Rescinded.
Rule 912. A person who renews his or her license within 3 years after the license is voided shall not be subject to reexamination for the license. A person who does not review his or her license within the 3 years shall be required to apply for examination pursuant to R 338.902.

R 338.913 Application for additional work classifications Rescinded.
Rule 913. A person who desires to add additional work classifications to those indicated on the license shall apply for the additional work classifications on a regular application from pursuant to R 338.902.

R 338.914 Inactive license Rescinded.
Rule 914. (1) An applicant for a license who completes all of the requirements of these rules for a license may request that the license be retained by the department as inactive.
(2) An inactive license shall become void if not renewed within 3 years after its preparation.
(3) An inactive license shall be issued as active upon the request of the applicant.
Agency Report to the
JOINT COMMITTEE ON ADMINISTRATIVE RULES

This form must be completed by the department/agency that has the statutory authority for promulgating the rules. Please send an electronic copy of this form to the Office of Regulatory Reinvention at orr@michigan.gov. The ORR will review the document, the newspaper advertisements, and the corresponding rules prior to completing the legal certification of the rules. Please be sure to send to the ORR proofs of publication for the three newspaper advertisements required by MCL 24.242(1). You may mail them or send them as a scanned attachment.

Department
Department of Licensing and Regulatory Affairs

Division/agency/bureau:
Bureau of Construction Codes

Rule set number (as assigned by ORR)
2013-096 LR

Title of rules:
Board of Mechanical Rules License Examination Procedures

1. Name, address, FAX and phone numbers of agency contact person:
Department of Licensing and Regulatory Affairs, Bureau of Construction Codes
2501 Woodlake Circle, Okemos MI 48864
Phone: (517) 241-6312, Fax: (517) 373-8547
Shannon Matsumoto, Senior Rules Analyst, Office of Administrative Services

2. Purpose for the proposed rules and background:
The rules first took effect in 1984. Changes to the rules are needed to provide clarification of the examination procedures for the Forbes Mechanical Contractors Act, 1984 PA 192.

3. Summary of proposed rules:
The proposed rules are intended to remove redundancy and provide clarity to the examination procedures that are required under the Forbes Mechanical Contractors Act, 1984 PA 192. The rules apply to the examination qualifications and provide the time frame needed to sit for the exam to become a licensed mechanical contractor.

4. Name of newspapers and date of publication in newspapers (minimum 3
newspapers of general circulation, representing different parts of the state, one of which must be located in the Upper Peninsula):

<table>
<thead>
<tr>
<th>Newspaper</th>
<th>Location</th>
<th>Date of Issue</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Mining Journal – Marquette</td>
<td></td>
<td>August 11, 2014</td>
</tr>
<tr>
<td>The Morning Sun – Mt. Pleasant</td>
<td></td>
<td>August 11, 2014</td>
</tr>
<tr>
<td>Oakland Press</td>
<td></td>
<td>August 14, 2014</td>
</tr>
</tbody>
</table>

5. Time, date, location and duration of public hearing:
The public hearing was held at 9:02 a.m. on Thursday, September 11, 2014, at 2501 Woodlake Circle, Okemos, MI 48864 in conference room 3. The hearing lasted 3 minutes.

6. Date of publication of rules and public hearing notice in Michigan Register:
Issue No. 4, published August 15, 2014.

7. Provide the link the agency used to post the regulatory impact statement on its website:
http://www.michigan.gov/lara/0,4601,7-154-35299_10575_17394_17566---,00.html

8. Agency representative(s) attending hearing (include agency name and title of representative[s]):
- Irvin J. Poke, AIA, Director, BCC
- Keith Lambert, Deputy Director, BCC
- Deborah Young, Director, Office of Administrative Services, BCC
- Kevin Kalakay, Chief, Mechanical Division, BCC
- Jon Paradine, Assistant Chief, Mechanical Division, BCC
- Shannon Matsumoto, Senior Rules Analyst, Office of Administrative Services, BCC

9. Persons submitting letters, comments and testimony of support:
Ken Misiewicz, President and CEO, Pleune Services Co., Grand Rapids, MI, stated that as a mechanical contractor there are no recognized negative financial or administrative impacts to contractors. Mr. Misiewicz, speaking as the chairman of the Mechanical Board of Rules for the State of Michigan, stated that the board supports the proposed revisions as this eases the processing and simplifies documentation and the navigation of the systems and processes.

10. Persons submitting letters, comments and testimony of opposition:
No letters, comments, or testimony of opposition were received.
11. **Summary of suggestions to modify proposed rules:**

No suggested changes were received.

**Name of person completing this report:**
Shannon Matsumoto, Senior Rules Analyst

**Date report completed:**
September 12, 2014
(ORR-JCAR March 2014)
STATE OF MICHIGAN  
County of Washtenaw

Being duly sworn deposes and say he/she is Principal Clerk of

ANN ARBOR NEWS
DAILY EDITION

a newspaper published and circulated in the County of Washtenaw and otherwise qualified according to Supreme Court Rule; and that the annexed notice, taken from said paper, has been duly published in said paper on the following day(days)

August 14 A.D. 2014

Sworn to and subscribed before me this 15th day of August 2014

JANICE M. RINGLER
Notary Public, State of Michigan
County of Kent
My Commission Expires: 10/03/2014
Acting in the County of 

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
NOTICE OF PUBLIC HEARING

Board of Mechanical Rules License Examination Procedures (CR588-2013096 (R))

The Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, will hold a public hearing on Thursday, September 11, 2014, at 9:00 a.m. in Conference Room 3, 2501 W. Ann Arbor, Ann Arbor, MI 48105. The Board of Mechanical Rules License Examination Procedures are proposed to take immediate effect after filing with the Secretary of State.

The public hearing is being held to receive public comment on the proposed amendments to the mechanical license examination rules. Individuals who are not present at the hearing have an opportunity to provide written testimony on the mechanical license examination rules.

The proposed revisions to the mechanical license examination rules are needed to reflect the current mechanical statute, the Forced Mechanical Contractors Act, 1984 PA 192. The rules first took effect in 1984. Changes to the rules are needed to provide clarification of the examination procedures for the Forced Mechanical Contractors Act. The hearing is being conducted by the Department under the authority of Section 5 of 1984 PA 192, MCL 338.975, and Executive Reorganization Order 2003/1, 2006/4 and 2011/4, MCL 445.1101. MCL 445.2252 and MCL 445.2303.

The proposed rules will be published in the August 15, 2014 Michigan Register. Copies of the proposed Michigan amendments to the mechanical license examination rules may be obtained for a fee of $3.00 by submitting a check or money order made payable to the State of Michigan at the address below. You may download a free copy of the proposed amendments by visiting the Bureau’s website at www.michigan.gov/bcc. The amendments are located under “What's New” on the front page of the website.

Oral or written comments may be presented in person at the hearing on September 11, 2014, or submitted in writing by mail, email, or facsimile and received no later than 5:00 p.m. September 11, 2014, to the Bureau’s contact information below. If your presentation at the public hearing is in written form, please provide a copy to the Rules Analyst at the conclusion of your testimony at the hearing.

Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Office of Administrative Services
P.O. Box 30254
Lansing, MI 48909
Telephone (517) 335-2557
Facsimile (517) 335-2590
michstate@michigan.gov

The meeting site and parking are accessible. Individuals attending the meeting are expected to refrain from using heavily scented personal care products in order to enhance accessibility for all persons. People with disabilities requiring additional services (such as materials in alternative formats) in order to participate in the meeting should call Jessica Lightner at (517) 335-2972 (voice) at least 14 days prior to the hearing. LARA is an equal opportunity employer/program.
Being duly sworn deposes and says he/she is Principal Clerk of

ANN ARBOR NEWS
DAILY EDITION

a newspaper published and circulated in the County of Washtenaw and otherwise qualified according to Supreme Court Rule; and that the annexed notice, taken from said paper, has been duly published in said paper on the following day (days)

August 14, A.D. 2014

Sworn to and subscribed before me this 15th day of August, 2014

Janie M. Ringsler
Notary Public, State of Michigan
County of Kent
My Commission Expires: 10/03/2014
Acting in the County of

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
NOTICE OF PUBLIC HEARING

Board of Mechanical Rules License Examination Procedure (CRRA 2009-096 (U))

The Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, will hold a public hearing on Thursday, September 11, 2014, at 9:00 a.m. in Conference Room 5, 2501 Wadsworth Circle, Okemos, MI 48864. The Board of Mechanical Rules License Examination Procedure are proposed to take immediate effect after filing with the Secretary of State.

The public hearing is being held to receive public comment on the proposed amendments to the mechanical license examination rules. Individuals who are not present at the hearing have an opportunity to provide written testimony on the mechanical license examination rules.

The proposed revisions to the mechanical license examination rules are needed to reflect the current mechanical statute, the Michigan Mechanical Contractors Act, 1986 PA 192. The rules first took effect in 1984. Changes to the rules are needed to provide clarification of the examination procedures for the Michigan Mechanical Contractors Act. The hearing is being conducted by the Department under the authority of Section 3 of 1986 PA 192, MCL 338.975, and Executive Reorganization Order Nos. 2003-11, 2006-4 and 2014-4, MCL 445.111, MCL 445.205 and MCL 445.2010.

The proposed rules will be published in the August 15, 2014 Michigan Register. Copies of the proposed Michigan amendments to the mechanical license examination rules may be obtained for a fee of $3.00 by submitting a check or money order made payable to the State of Michigan at the address below. You may download a free copy of the proposed amendments by visiting the Bureau’s website at www.michigan.gov/bcc. The amendments are located under “What’s New” on the home page of the website.

Oural or written comments may be presented in person at the hearing on September 11, 2014, at 5:00 p.m., in Conference Room 5, 2501 Wadsworth Circle, Okemos, MI 48864. The Bureau’s contact information below. If your presentation at the public hearing is in written form, please submit a copy to the Rules Analyst at the conclusion of your testimony at the hearing.

Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Office of Administrative Services
P.O. Box 32253
Lansing, MI 48909
Telephone (517) 444-3312
Facsimile (517) 444-4470
mccrumma@osb.state.mi.us

The meeting site and parking are accessible. Individuals attending the meeting are requested to refrain from using heavily scented personal care products in order to enhance accessibility for everyone. People with disabilities requiring additional services (such as materials in alternative formats) in order to participate in the meeting should call Jessica Lattner at (517) 333-2972 (voice) or 14 days prior to the hearing. LARA is an equal opportunity employer/program.
AFFIDAVIT OF PUBLICATION

For the County of MARQUETTE

In the matter of: Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Notice of Public Hearing (ORR#2013-096LR)

State of MICHIGAN, County of Marquette ss.

GERALD NEWHOUSE

being duly sworn, says that he is

CIRCULATION MANAGER
of THE MINING JOURNAL

a newspaper published and circulated in
said county and otherwise qualified
according to Supreme Court Rule; that
annexed hereto is a printed copy of a
notice which was published in said
newspaper on the following date, or
dates, to-wit

August 11th, 2014

Jerry Newhouse

Subscribed and sworn to before me this 11th day of August, 2014.

AMY L. BOND
Notary Public for Marquette County, Michigan
Acting in the County of Marquette
My commission expires: July 3, 2019
Affidavit of Publication

STATE OF MICHIGAN
County of Isabella
County of Gratiot
County of Clare

ss.

__________________________ being duly sworn, deposes and says that he is Executive Editor and Online Editor of the MORNING SUN, a public newspaper printed and published by Morning Star Publishing Company, in the Cities of Mt. Pleasant (Isabella County), Clare (Clare County) and Alma (Gratiot County) in said counties and circulated in said cities and counties, that the annexed printed notice was duly printed and published in said newspaper at least 1 in each week for 1 successive week(s), and that the first publication of said notice in said newspapers was on the 11th day of August, 2014 and that last publication of said notice in said newspapers was on the 11th day of August, 2014.

__________________________
Rick Mills

Subscribed and sworn to before me the 15th day of September 2014.

__________________________
Joyce Baker Notary Public

Joyce Baker
Notary Public of Michigan
Isabella County
Expires 6/15/2019

My commission expires ____________________________
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
NOTICE OF PUBLIC HEARING

Board of Mechanical Rules License Examination Procedures
(ORE# 2013-096 LR)

The Department of Licensing and Regulatory Affairs, Bureau of
Construction Codes, will hold a public hearing on Thursday, September
11, 2014, at 9:00 a.m. in Conference Room 3, 2501 Woodlake
Circle, Okemos, MI 48864. The Board of Mechanical Rules License
Examination Procedures are proposed to take immediate effect after
filing with the Secretary of State.

The public hearing is being held to receive public comment on the
proposed amendments to the mechanical license examination rules.
Individuals who are not present at the hearing have an opportunity to
provide written testimony on the mechanical license examination rules.

The proposed revisions to the mechanical license examination rules
are needed to reflect the current mechanical statute, the Forbes
Mechanical Contractors Act, 1984 PA 192. The rules first took effect in
1984. Changes to the rules are needed to provide clarification of the
examination procedures for the Forbes Mechanical Contractors Act.
The hearing is being conducted by the Department under the authority of
Section 5 of 1984 PA 192, MCL 338.975, and Executive Reorganization
and MCL 445.2030. The proposed rules will be published in the
amendments to the mechanical license examination rules may be
obtained for a fee of $3.00 by submitting a check or money order
made payable to the State of Michigan at the address below. You
may download a free copy of the proposed amendments by visiting
the Bureau’s website at www.michigan.gov/bcc. The amendments are
located under “What’s New” on the front page of the website.

Oral or written comments may be presented in person at the hearing on
September 11, 2014, or submitted in writing by mail, email, or facsimile
and received no later than 5:00 p.m., September 11, 2014, to the
Bureau’s contact information below. If your presentation at the public
hearing is in written form, please provide a copy to the Rules Analyst at
the conclusion of your testimony at the hearing.

Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Office of Administrative Services
P.O. Box 30254
Lansing, MI 48909
Telephone (517) 241-8312
Facsimile (517) 241-9570
matsumoto@micigan.gov

The meeting site and parking are accessible. Individuals attending the
meeting are requested to refrain from using heavily scented personal
care products, in order to enhance accessibility for everyone. People
with disabilities requiring additional services (such as materials in
alternative format) in order to participate in the meeting should call
Jessica Lightner at (517) 335-2972 (voice) at least 14 days prior to the
hearing. LARA is an equal opportunity employer/program.
REQUEST FOR RULEMAKING (RFR)

In accordance with MCL 24.239(1): “Before initiating any changes or additions to rules, an agency shall file with the Office of Regulatory Reinvention (ORR) a request for rulemaking.” The agency will complete this form and send an electronic copy to the ORR at orr@michigan.gov. The ORR will review the request for rulemaking and send its response to the agency (see last page).

The ORR is “not required to approve a request for rule-making and shall do so only after it has indicated in its response to the request for rule-making submitted by an agency that there are appropriate and necessary policy and legal bases for approving the request for rule-making.” MCL 24.239(3).

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<tr>
<th>Department or agency</th>
<th>Department of Licensing and Regulatory Affairs</th>
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<tr>
<td>Bureau/Division</td>
<td>Bureau of Construction Codes</td>
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<tr>
<td>Address</td>
<td>2501 Woodlake Circle, Okemos, MI 48864</td>
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<tr>
<td>Contact person</td>
<td>Shannon Matsumoto</td>
</tr>
<tr>
<td>Telephone</td>
<td>(517) 241-6312</td>
</tr>
<tr>
<td>Email</td>
<td><a href="mailto:matsumotos@michigan.gov">matsumotos@michigan.gov</a></td>
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1. **Title of proposed rule(s) or rule set:**
   
   Board of Mechanical Rules - License Examination Procedures

2. **Rule number(s) or rule set range of numbers:**
   
   R 338.901 to R 338.914

3. **Estimated timetable for completion, or statutory deadline, if applicable:**
   
   A rules committee is expected to begin reviewing the rules in January 2014. Draft rules will be submitted by mid-2014, with an anticipated effective date late-2014.

4. **Describe the general goal/purpose of these rules. Include a discussion of the problem(s) the rule rescissions, additions, or amendments intend to address:**

   The rules first took effect in 1984. Changes to the rules are needed to provide clarification of the examination procedures for the Forbes Mechanical Contractors Act, 1984 PA 192.
5. Please cite the specific promulgation authority for these rules (i.e. department director, commission, board, etc.), listing all applicable statutory references. Are these rules mandated by any applicable constitutional or statutory provision? If so, please explain.


6. Please describe the extent to which the rules conflict with or duplicate similar rules or regulations adopted by the state or federal government [include statutory references and public acts, as applicable]:

There are no similar rules or regulations adopted by the state or federal government.

7. Is the subject matter of these 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 instructions, or operational memoranda.

8. Will these proposed rules be promulgated under Sections 44 or 48 of the Administrative Procedures Act, 1969 PA 306, as amended, being MCL 24.244 or 24.248? Please explain. Or, will these rules be promulgated under the full rulemaking process?

These rules will be promulgated under the full rulemaking process.

Note: If this request for rulemaking applies to rules that will be promulgated pursuant to Sections 44 or 48 of the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.244 or 24.248, you do not have to answer questions 9 to 13.

9. Please describe the extent to which the rules exceed national or regional compliance requirements or other standards:

There are no national or regional compliance requirements or standards.

10. Do these rules incorporate the recommendations of any Advisory Rules Committee formed pursuant to Executive Order 2011-5? If yes, please explain.

The Board of Mechanical Rules are not being reviewed by an advisory rules committee formed pursuant to Executive Order 2011-5 at this time.

11. Do these rules incorporate the recommendations received by the public regarding any complaints or comments regarding the rules? If yes, please explain.
Yes, the State Board of Mechanical Rules License Rules will be reviewed by a rules review committee with a membership composed of representatives of the state Board of Mechanical Rules, a mechanical inspector, small business, and an engineer/designer.

12. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions or other factors have changed the regulatory activity covered by the rules since the last evaluation.

   These rules were first promulgated in 1984. The rules have not been updated since then.

13. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

   No.

14. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

   There is no applicable decision record.

15. Reviewed by the following Departmental Regulatory Affairs Officer (RAO):

   Liz Arasim
   Department of Licensing and Regulatory Affairs

   -----------------------------------------------↓ To be completed by the ORR ↓-----------------------------------------------

Date RFR received:
9-26-2013

☑ Based on the information provided in this RFR, the ORR concludes that there are sufficient policy and legal bases for approving the RFR.

| ORR assigned rule set number: | 2013-096 LR |
| Date of approval: | 10/1/2013 |
| Date of approval: | Explanation: This Request for Rulemaking satisfies the requirements of the Administrative Procedures Act, 1969 PA 306, MCL 24.201 *et seq.*, and Executive Order 2011-5. |

☐ Based on the information provided in this RFR, the ORR is not approving the RFR at this time.
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(ORR-RFR January 2012)
Waiver of Remaining Session Days

TO: Mike Zimmer, Acting Director
    Department of Licensing and Regulatory Affairs,
    Office of Regulatory Reinvention
    Secretary of the Senate
    Clerk of the House

FROM: Senator John Pappageorge, Presiding Co-Chair
      Representative Tom McMillin, Co-Chair

DATE: December 17, 2014

Pursuant to MCL 24.245a(1) the Joint Committee on Administrative Rules has by a concurrent majority vote, waived the remaining session days for the following rule set:

Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Board of Mechanical Rules
License Examination Procedures
(2013-096 LR) (JCAR 14-42)

According to MCL 24.245a(2), if the Committee waives the remaining session days, the Office of Regulatory Reinvention may immediately file the rule.

Sincerely,

[Signatures]

SENATOR John Pappageorge
Presiding Co-Chair

REPRESENTATIVE Tom McMillin
Co-Chair
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, and 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.


(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?


(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

Date RIS approved: 6-4-2014

ORR assigned rule set number: 2013-096 LR
<table>
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(ORR-RIS March 2014)
December 9, 2014

Joint Committee on Administrative Rules
Boji Tower; 4th Floor - 124 W. Allegan
P.O. 30036
Lansing, Michigan 48909-7536

Dear JCAR Staff:

On behalf of the Office of Regulatory Reinvention, I hereby submit the following rule set for consideration by the Joint Committee on Administrative Rules:

(2013-096 LR) License Examination Procedures

Enclosed, you will find copies of the following:

1. 1 copy of the RFR.
2. 1 copy of the LSB formal certificate.
3. 1 copy of the ORR formal certificate.
4. 1 copy of the Regulatory Impact Statement.
5. 1 copy of the draft rules.
6. 1 copy of the JCAR Agency Report.

Please let me know if you have any questions. I can be reached at 241-1671.

Thanks.

Sincerely,

Deidre O’Berry
Office of Regulatory Reinvention

enclosures
CERTIFICATE OF APPROVAL


Dated: November 25, 2014

LEGISLATIVE SERVICE BUREAU

By Marge Martin,
Michigan Law Compiler
LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated July 10, 2014, in which the Department of Licensing and Regulatory Affairs proposes to modify a portion of the Michigan Administrative Code entitled, "License Examination Procedures" by:


The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 et seq., and Executive Order No. 2005-1. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: 12/5/14

Office of Regulatory Reinvention

By: ____________________________

Phillip A. Hendges,
Administrative Law Specialist