

# PROPOSED RULE/CODE CHANGE REQUEST

Michigan Department of Licensing and Regulatory Affairs  
Bureau of Construction Codes/Administrative Services Division

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ACTION:

DATE:			
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**RULE/CODE SECTIONS/TABLES/FIGURES PROPOSED FOR REVISION (Note: If the proposal is for a new section, indicate "new")**

**PROPOSED LANGUAGE:** Show proposed text in accordance with the following format: ~~Strikeout~~/**Bold & underline proposed added text**

**REASON:** Thoroughly explain the need and reason for the proposed change to include the following:

- Identify the problem.
- Explain the rationale for the proposed change.
- Describe the environmental impact.
- Is the proposed change comparable to federal rules or national or regional standards in similarly situated states, based upon geographic location, topography, natural resources, commonalities, or economic similarities? If the proposed change exceeds standards in those states, explain why and specify costs and benefits.
- Identify individuals and groups affected by the proposed change and the impact on these groups.
- Are there any reasonable alternatives to the proposed change? If so, please provide those alternatives.
- What is the fiscal impact for the proposed change? Provide a cost/benefit analysis.
- Estimate the actual statewide compliance costs of the proposed rule.
- What are the primary and direct benefits of the rule?
- Estimate any cost increases or reductions to businesses, individuals, groups, or governmental units as a result of the rule.

As well as any other information appropriate to assist with a clear understanding of the issue. During the rulemaking process, the need and reasoning of all proposed rule changes should be identified. By including a detailed explanation, the general public will gain a better understanding on all aspects of the proposal. Providing an explanation on the need and rationale for the proposal is optional; however, MCL 24.245 requires the department to provide proper justification for each proposal. Without this important information, the department may not be able to document appropriate justification and merit for a proposal. For further information, please refer to the Administrative Procedures Act of 1969.

**Back Up/Graphic Material Included**

Supporting documentation for the rule set for the Skilled Trades Regulation Act, 2016 PA 407, MCL 339.5101 to MCL 339.6133

PROPOSED LANGUAGE: Show proposed text in accordance with the following format: Strikeout/Bold & underline proposed added text:

**R XXX.XXX Examination qualifications.**

**Rule XXX. (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.**

**(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.**

REASON: Thoroughly explain the need and reason for the proposed change to include the following:

*-Identify the problem:* Not continuing Rule R 338.903, that has served Michigan extremely well since 1984 when the preceding mechanical licensing act was first enacted, being the Forbes Mechanical Contractors Act, 1984 PA 192, MCL 338.971 to 338.988, will needlessly put those who enter buildings with mechanical systems at risk; including but not limited to homeowners, tenants, guests, the public, first responders, mechanical inspectors, mechanical technicians and others. Licensed mechanical contractors are responsible for properly installing, servicing and maintaining mechanical

systems that include among other things: properly ventilating buildings, piping of explosive gases, and the venting of dangerous/deadly exhaust fumes and the piping of high pressure liquids and gases. Therefore it is important that the Legislature required mechanical work experience be verified by the Bureau of Construction Codes or the Board of Mechanical Rules.

*-Explain the rational for the proposed change:* MCL 339.807(1) requires:

“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 in addition to what is stated herein and adopted by reference, continuing Rule R 338.903, being the longstanding proper practice of having those licensed mechanical contractors who were responsible the applicant properly installing, servicing and maintaining mechanical systems state what the applicant’s mechanical work experience has been demonstrated to provide appropriate safety and property protection. To now experiment with this important aspect of determining a mechanical licensee’s competence, being their mechanical work experience, is reckless without substantial justification that provides equivalent protection to those who have put their trust in the state to provide appropriately experienced mechanical licensees.

It should also be noted that in 2015 the Bureau of Construction Codes, without going through the process to rescind Rule R 338.903, has arbitrarily and arguably illegally stopped enforcing Rule R 338.903 by allowing mechanical licensee applicants to self-certify their own mechanical work experience without the approval or acceptance of the Board of Mechanical Rules as required by MCL 339.5807(1). While it is debatable the Skilled Trades Regulation Act provides better authority for the Bureau of Construction Codes to remove a mechanical license from someone who intentionally or otherwise misrepresented their work mechanical experience and still passed the written mechanical licensing examination of questions that are not currently being reviewed by the Board of Mechanical Rules pursuant to MCL 339.5321, homeowners, tenants, guests, the public, first responders, mechanical inspectors, mechanical technicians and others should not be first put at risk before those who do not have the required mechanical work experience.

Furthermore according to the Bureau of Construction Codes’ FY 2018 Annual Report (p. 7) out of the 187 complaints received under the Skilled Trades Regulation Act, the Bureau of Construction Codes only served 1 Formal Complaint; which is additional evidence that continuing Rule R 338.903 is needed and an appropriate component for protecting all those who enter buildings that have a mechanical system and the buildings in which the mechanical systems are installed.

*-Describe the environmental impact:* There will be no environmental impact.

*-Is the proposed change comparable to federal rules or national or regional standards in similarly situated states, based upon geographic location, topography, natural resources, commonalities, or*

*economic similarities? If the proposed change exceeds standards in those states, explain why and specify costs and benefits:* Yes, continuing Rule R 338.903 is comparable to other regional requirements in similarly situated states.

*-Identify individuals and groups affected by the proposed change and the impact on these groups:* the public, first responders, mechanical technicians, mechanical inspectors, mechanical contractor associations, existing mechanical licensees and future mechanical licensee applicants.

*-Are there any reasonable alternatives to the proposed change? If so, please provide those alternatives:* No, having the mechanical licensee who employed and was responsible for a person wanting to take the mechanical licensing exam provides a notarized statement of the applicant's work experience is reasonable and has served Michigan well for 30+ years, as evident from the low injury and property damage incidents caused by mechanical systems.

*-What is the fiscal impact for the proposed change? Provide a cost/benefit analysis:* There is no fiscal impact on continuing what has been in effect for 30+ years.

*-Estimate the actual statewide compliance costs of the proposed rule:* There is no statewide compliance cost as the Bureau of Construction Codes already processes the application for mechanical licensing examination.

*-What are the primary and direct benefits of the rule?:* The continued safety and protection of those who go in to buildings with mechanical systems; including but not limited to homeowners, tenants, guests, the public, first responders, mechanical inspectors, mechanical technicians and others

*-Estimate any cost increases or reductions to businesses, individuals, groups, or governmental units as a result of the rule:* The only minuscule cost would be having a mechanical licensee applicant contact the mechanical licensee responsible for their mechanical work and the mechanical licensee having his statement of mechanical work experience notarized when signed.

Please contact me if there are any questions or if additional information is needed.