

## RULE IMPACT STATEMENT

### TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

1. **BRIEF DESCRIPTION OF PURPOSE OF PROPOSED RULE:** The purpose of the proposed amendments to 158:50-1-2 is to provide the public a description of terms as the statutes have historically been applied by the agency. The purpose of the amendments to 158:50-9-1 is to provide options for those no longer needing to hold a contractor license but still wanting to work in the trade; to establish a time limit for completing both portions of the contractor exam before an applicant is required to retake a portion they may have previously passed; to establish procedures which allow an applicant for a contractor license who passes only the trade portion of the contractor exam to apply the passing score of the trade portion to an application for a journeyman license in the same license category as the trade portion of the contractor exam the applicant passed; to allow an individual holding a current active or inactive contractor license to pursue other category contractor applications in the mechanical trade without being required to retake the business and law portion of the exam if they previously successfully passed the business and law portion; to allow an active or inactive contractor to elect to have a permanent change of license category and renew as a journeyman; and, to amend procedures/requirements related to an applicant who violates exam procedures. The purpose of the proposed amendments to 158:50-9-6 is to clarify that in order to obtain a mechanical license by reciprocity, there must be a written reciprocity agreement in force between the applicant's state and Oklahoma for the license the applicant is seeking. The purpose of the proposed amendments to 158:50-9-7 is to remove obsolete, outdated verbiage; to clarify the manner in which continuing education programs must be conducted; to amend the deadline for submission of applications for continuing education course approval; and, to allow continuing education credit to be earned through teaching a course in an accredited trade school or a trade-specific program approved by the Mechanical Examiners Committee.
2. **DESCRIPTION OF THE CLASSES OF PERSONS AFFECTED:** The agency, members of industry and the public who are involved in or wish to be involved in the mechanical industry/trade licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
3. **CLASSES OF PERSONS BENEFITTED:** The agency, members of industry and the public who are involved in or wish to be involved in the mechanical industry/trade licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
4. **ECONOMIC IMPACT UPON AFFECTED CLASSES OF PERSONS:** Having clear and unambiguous definitions should have a positive economic impact in that it should help to keep an individual from unknowingly committing a violation that could result in a fine or penalty. There is only an increased cost to an applicant for a contractor license if the applicant chooses not to take both portions of the contractor exam on the same day. Allowing an applicant for a contractor license who passes only the trade portion of the contractor exam to apply the passing score of the trade portion to an application for a journeyman license in the same license category should have a positive economic impact

upon the applicant because it would allow them to perform work, thus earning wages, as a journeyman until they meet the requirements for a contractor license. Allowing an individual with a current active or inactive contractor license to pursue other category contractor applications without retaking the business and law portion of the exam could have a positive economic impact on such individual because it would shorten the time they would need to study/prepare for the contractor exam giving them the ability to acquire the license in another category sooner and increasing the scope of mechanical work they would be able to perform to earn wages. The proposed rules allow options for those no longer needing to hold a contractor license, but still wanting to work in the trade. An active contractor who elects to have a permanent change of license category and renew as a journeyman would no longer have the expense of the bond and insurance required of contractors and would have a lower license renewal fee. An inactive contractor who elects such a permanent change of license category would have a lower license renewal fee. However, should such an individual later decide they want to again hold an active or inactive contractor license, they would have the cost of the bond and insurance, if applicable, the cost to retake the contractor exam, and the cost of the contractor license. Allowing alternate credit to be earned through teaching a course in an accredited trade school or a trade-specific program approved by the Committee would have a positive impact on such an individual as they would not have to incur the time and cost to take additional continuing education courses.

5. **COSTS AND BENEFITS TO THE AGENCY:** Allowing an inactive or active contractor to elect a permanent change in licensing category and renew as a journeyman would result in a lower renewal fee collected by the CIB. The CIB does not collect any examination fees as those are paid directly to the testing vendor. Therefore, the proposed amendments that require an individual retake all or a portion of the contractor exam or that waive a requirement to take the business and law portion of the contractor exam do not result in a cost or economic benefit to the agency.
6. **ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** No economic impact on any political subdivision is anticipated by the proposed rules.
7. **ECONOMIC IMPACT ON SMALL BUSINESS:** The economic impact on small business is not measurable.
8. **MEASURES TAKEN TO MINIMIZE COMPLIANCE COSTS:** The proposed rule changes are the least costly or least intrusive method of achieving the purpose of the proposed rules. There are no non-regulatory methods for achieving the purpose of the proposed rule changes.
9. **EFFECT OF THE PROPOSED RULE ON PUBLIC HEALTH:** Licensing helps to protect the health, safety and welfare of the public. Having a time limit for an applicant to pass both portions of the contractor exam would help the agency to ensure an individual issued a contractor license has knowledge of current, applicable mechanical codes, laws, rules, and practices.
10. **DETRIMENTS TO PUBLIC HEALTH IF THE RULE IS NOT ADOPTED:** There are no known detriments to public health if the rule is not adopted.
11. **DATE IMPACT STATEMENT PREPARED:** December 6, 2016.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD  
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**158:50-1-2. Definitions**

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Act"** means Mechanical Licensing Act as found at 59 O.S. § 1850.1, *et seq.*

**"Administrator"** means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1, *et seq.*

**"Applicant"** means any person applying for an examination, for a license or registration, for continuing education approval, for review of plans and specifications or for a mechanical code variance from the standard of installation described in OAC 158:50-1-4 by the Construction Industries Board under the Act.

**"Associated with and responsible for"** means the relationship between a mechanical contractor and mechanical firm based on the mechanical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the mechanical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Mechanical Licensing Act and this Chapter.

**"Board"** means the Oklahoma Construction Industries Board.

**"Bonds and Insurance Unit"** means the consolidated unit that processes bonds and insurance under the direction of the Construction Industries Board.

**"Cheating"** means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

**"Chemical plant"** means a chemical plant within the context of 59 O.S. §1850.10(D) including a fertilizer plant engaged in formulating chemicals ultimately used generally in the agricultural fertilizer industry.

**"Committee"** means the Committee of Mechanical Examiners.

**"Contracting"** means engaging or offering to engage in, on behalf of oneself or on behalf of another, any mechanical work which requires a valid and appropriate license from the Construction Industries Board as required by the Mechanical Licensing Act, regardless if said work is in exchange for monetary payment or otherwise.

**"Credit Hour or Hour"** means at least 50 minutes of classroom instruction with a 10 minute break.

**"Direct supervision"** means the on-the-job presence by the supervisor who must be a licensed mechanical contractor or mechanical journeyman.

**"Gas piping"** means and includes all natural gas piping within or adjacent to any building, structure, or conveyance, on the premises up to the connection with a natural gas meter, regulator, or other source of supply.

**"Ground source piping"** means piping buried below the earth's surface or submerged in a water well, lake or pond and used in conjunction with a heat pump to provide heating, ventilation and/or air conditioning to a structure.

**"Health care facility"** includes but is not limited to hospitals, nursing homes, limited care facilities, clinics, medical or dental offices, and ambulatory care centers, whether permanent or moveable.

**"Hearing Board"** means the Mechanical Hearing Board.

**"Humidification"** when applied to air conditioning, means and includes an increase or decrease in moisture content of the air being conditioned and supplied to the space for human occupancy by means of that integral part of the entire air conditioning system, equipment, and control devices; when applied to refrigeration, means and includes an increase or decrease in the moisture content of the air or product being conditioned for a food preservation measure or manufacturing process by means of the integral part of the entire refrigeration system, equipment, and control devices.

**"HVAC" or "heating, ventilation and air conditioning"** means the process of treating air by controlling its temperature, humidity, and cleanliness and of supplying such air to spaces for human occupancy by means of an integrated system of air conditioning and ventilation equipment, accessories and control devices.

**"ICC"** means the International Code Council.

**"Limited residential journeyman"** means a type and category of mechanical license that is restricted to new installations in new construction for detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress as regulated by this Chapter.

**"Mechanical License Unit"** means the staff and administrative support unit to the Committee of Mechanical Examiners and the Mechanical Hearing Board.

**"Mechanical work"** means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, exhaust system, cooling system, mechanical refrigeration system, ventilation system, medical gas system, medical-surgical vacuum systems, or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair, or renovation of process piping used to carry any liquid, substance, or material, including steam and hot water used for space heating purposes not under the jurisdiction of the Department of Labor or Department of Health, provided that minor repairs and maintenance are excluded.

**"Medical gas piping work"** means the lay out, assembly, installation, and maintenance of pipe systems used in health care facilities for oxygen, nitrous oxide, medical air, carbon dioxide, helium, nitrogen, instrument air, medical-surgical vacuum, waste anesthetic gas disposal, mixtures thereof, or any other gaseous, partly gaseous substance, material or any mixtures thereof used in a health care facility. Replacing cylinders and filters, and performing routine and preventive maintenance that does not breach the integrity of the medical gas piping system and does not constitute the installation, repair, or replacement of medical gas piping shall not require a medical gas piping licensee.

**"Medical gas journeyman"** means a type and category of mechanical license that is restricted to medical gas piping.

**"Minor repairs and maintenance"** means minor repairs or maintenance as each are prescribed in the manufacturer's operating instructions to be performed by the equipment owner or his authorized agent, and shall not include replacement and repairs of any nature on natural gas piping, natural gas controls, the manufacturer installed controls and components, the vent system of fuel burning appliances, a breach of the integrity of a refrigeration system or any repair or maintenance which would violate the safe operation of the equipment.

**"Oklahoma Uniform Building Code Commission"** or **"OUBCC"** means the state agency created under 59 O.S. § 1000.20, *et seq.*, and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

**"Petroleum refinery"** means an industrial plant which processes petroleum for purposes of creating products derived from petroleum and includes industrial plants which produce and/or refine alternative fuels or petroleum additives. "Petroleum refinery" shall not mean gas processing plant or gas gathering pipeline operations.

**"Petroleum refinery journeyman"** means a type and category of mechanical license that is restricted to petroleum refinery process piping.

**"Petroleum refinery process piping work"** means the lay out, assembly, installation, and maintenance of pipe systems used in the petroleum refining process or product refining systems of a petroleum refinery.

**"Process"** means a series of operations performed in the making or treatment of a product.

**"Process piping"** means lay out, assembly, installation, and maintenance of pipe systems, pipe supports, and related hydraulic and pneumatic equipment for steam, hot water, heating, cooling, lubricating and fire sprinklers, not subject to regulation pursuant to the Alarm Industry Act, and industrial production and processing systems, and piping used to carry any gaseous, or partly gaseous, substance or material as part of a medical gas piping system.

**"Reciprocity"** means an agreement whereby a person holding a mechanical license or registration who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

**"Refrigeration system"** means installation, repairing and servicing of a system employing fluid which normally is vaporized and liquefied in an air conditioning system, food preservation measure or manufacturing process.

**"Variance"** means the use of an alternative material or method of construction from that prescribed in the standard of installation as described in OAC 158:50-1-4 and/or other approved documents by the OUBCC for use at a particular location or project specified in the variance application; and

**"Variance and Appeals Board"** means the Oklahoma State Mechanical Installation Code Variance and Appeals Board.

**"Verifiable experience"** means mechanical experience obtained while employed by a licensed Mechanical contractor, or by other means approved by the Committee of Mechanical Examiners including equivalent experience earned while serving in the U.S. Military, for which one (1) year of verifiable experience equals two thousand (2,000) hours.

## **SUBCHAPTER 9. QUALIFICATIONS FOR MECHANICAL LICENSURE, LICENSE AND REGISTRATION FEES, DURATION OF LICENSE, MECHANICAL LICENSE APPLICATION, AND APPRENTICE REGISTRATION**

### **158:50-9-1. Qualifications for mechanical licensure**

(a) **Application.** A person desiring to be licensed under this Chapter shall file an application with the application fee, examination fee (unless the examination fee is paid directly to a testing provider), and the initial License fee to the Administrator. The fees must be received no less than three (3) working days before the examination date. If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited.

(b) **Experience.** All persons applying for a license must provide proof of experience in the mechanical trade. Applicants for mechanical license examinations who are not licensed and wish to include experience gained in Oklahoma must maintain an apprentice registration on file with the Oklahoma Construction Industries Board for all experience obtained in Oklahoma. The Construction Industries Board will not consider experience obtained in or outside of Oklahoma as verifiable experience for periods in which an apprentice is unregistered, except for experience lawfully obtained according to any applicable federal or state laws, and must be comprised of mechanical work as defined under the Act and in this Chapter.

(1) Applicants for a journeyman license must be at least eighteen (18) years of age and have:

(A) three (3) years of verifiable experience in the mechanical trade in the category for which he or she is applying, or

(B) an associate's degree or vocational diploma certifying completion of an educational program consisting of one thousand (1,000) hours or more from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and one (1) year of verifiable experience in the mechanical trade, or

(C) a vocational diploma certifying completion of an educational program consisting of five hundred (500) or more hours from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for, and two (2) years of verifiable experience in the mechanical trade, or

(D) a vocational diploma certifying completion of an educational program consisting of a minimum of three hundred and seventy five (375) or more hours from a school, approved by the Committee, which exhibits knowledge of the trade and in the category of license applied for, and two and one-fourth (2 1/4) years of verifiable experience in the mechanical trade, or

(E) a vocational diploma certifying completion of an educational program consisting of a minimum of three hundred and thirty four (334) or more hours from a school, approved by the Committee, which exhibits knowledge of the trade and in the category of license applied for, and two and one-third (2 1/3) years of verifiable experience in the mechanical trade, or

(F) a vocational diploma certifying completion of an educational program consisting of a minimum of two hundred and fifty (250) or more hours from a school, approved by the Committee, which exhibits knowledge of the trade and in the category of license applied for, and two and one-half (2 1/2) years of verifiable experience in the mechanical trade, or

(G) equivalent, verifiable experience in the mechanical trade while serving in the U.S. military, or

(H) experience sufficient to obtain the special certification required for the mechanical category sought by the tendered application, such as Ground Source Piping and Medical Gas, or

(I) a verifiable out-of-state license in the mechanical classification for which the applicant is applying. The license must:

(i) be current,

(ii) be in good standing, and

(iii) meet qualifications listed in (A) through (E) above.

(2) Applicants for a contractor license must meet the same requirements as a journeyman with an additional one (1) year of experience.

(c) **Examination.** A license cannot be issued until the applicant has passed the appropriate examination for the license type and category. Examinations and the passing score for each examination shall be approved by the Committee. Applicants for the Ground Source Piping category shall provide proof of being certified by examination in the proper installation of ground source piping by an organization approved by the Committee. Applicants for the Petroleum Refinery journeyman category shall provide proof of being certified by examination in the area of industrial pipefitter by an organization approved by the Committee. Applicants for the Medical Gas category shall provide proof of being certified by examination in accordance with the most current NFPA 99 standard or certified in the proper installation of medical gas piping by an organization approved by the Committee.

(1) If the applicant does not pass the exam, the applicant may reapply for the exam and pay an additional retesting fee. However, no person will be allowed to retake an exam within thirty (30) days of the first failed exam or within ninety (90) days of the second or subsequent failed exam.

(2) Applicants for a contractor license must pass both portions (business/law and trade) of the contractor license exam. If an applicant for a contractor license passes only one of the two portions of the required exam, the applicant need only retake the portion of the exam not passed if done within three (3) years of the date the Applicant is approved and eligible to sit for the contractor's exam. Otherwise, the Applicant will need to retake both portions of the contractor license exam.

(3) If an applicant for a contractor license passes only the trade portion of the contractor exam, the applicant may choose to apply the passing score of the trade portion of the contractor exam to a journeyman license application within the same license category as the trade portion of the contractor exam that the applicant passed. All other requirements in the Act and this Chapter for a journeyman license are required, including but not limited to, completing the journeyman application form and submitting any applicable fee, both of which must be received by the Board no more than one year after passing the trade portion of the contractor exam. The timeframe to complete both portions of the contractor exam as provided in (c)(2) of this Section is applicable even if a journeyman license is obtained under this subsection.

(4) A contractor license, whether active or inactive, must be renewed annually including completing the renewal form and paying the renewal license fee for a contractor license. An inactive contractor status may be changed to active contractor status at any time by providing proof of compliance with bond and insurance requirements as provided in this Chapter. A contractor, whether active or inactive, can elect to renew as a journeyman with filing of a journeyman renewal application and fee which election will be considered a permanent change of license category. If a permanent license category change occurs and the individual wants to change from journeyman to contractor category, either active or inactive, the individual must retake and pass the contractor license exam and meet all other contractor license requirements in the Act and this Chapter.

(5) If an active or inactive contractor license is current, the Applicant may pursue other category contractor applications in the same trade without being required to retake the business and law portion of the exam if the business and law portion was successfully passed previously.

~~(2)(6)~~ Any person suspected of cheating during an examination shall be immediately notified of the suspicion and shall not be allowed to finish the examination. He or she shall be called before the Committee during the next scheduled meeting for discussion of the incident. If the Committee determines that the person did in fact cheat, the examinee's application for licensure shall be denied and the Committee shall determine when the applicant can next apply for an examination. Any applicant who violates exam procedures as determined by the examination provider, including but not limited to cheating, misrepresenting oneself as another, or inappropriate actions during an examination may be immediately notified and expelled from the examination. Furthermore, the applicant's exam will be considered invalid and the applicant will be disqualified from retaking the exam for a period of time no less than 30 days and no more than 365 days as determined by the Administrator of the Construction Industries Board.

~~(3)(7)~~ No person shall be allowed any assistance in reading the contractor's examination, nor shall any persons other than the examinees or the Committee members be allowed in the examination area. However, an applicant may request that the Committee make reasonable accommodations for any disability.

(d) **Outstanding fines.** A license cannot be issued or renewed until the applicant has paid any and all outstanding fines due and owing to any division of the Construction Industries Board.

#### **158:50-9-6. Mechanical journeyman and contractor licenses by reciprocity**

(a) **General procedures for application.** Any person holding a valid mechanical journeyman license or mechanical contractor license issued by another state who is seeking to obtain a license by reciprocity shall first submit an application to the Construction Industries Board on a form provided by the Board and confirm that a written reciprocity agreement exists between the applicant's state and Oklahoma for the license the applicant is seeking. The application shall include all documentation necessary to show the applicant meets the requirements established by this Chapter. All applications shall first be directed to the Committee or its designee for an initial review to determine if the applicant meets the qualifications for a license by reciprocity as set forth in this Section and in 59 O.S. § 1000.5a or any subsequent enactment of the Legislature. Following this review, the Committee or its designee shall make a recommendation to the Board or its designee as to whether the application should be approved or disapproved. The Board or its designee shall make the final determination as to whether an application shall be approved or disapproved. If an application is disapproved by the Board or its designee, the application shall be returned to the applicant with the reason for the disapproval.

(b) **Application fees.** Before an application will be considered, a person applying for a mechanical journeyman license by reciprocity must pay the journeyman application fee and the initial journeyman license fee as set forth in OAC 158:50-9-2(b). If the person is applying for a mechanical contractor license, the person must pay the contractors application fee and the initial contractor license fee as set forth in OAC 158:50-9-2(b). These fees shall not be refundable under any circumstances.

(c) **Requirements for issuance of a license by reciprocity.** An application for a license by reciprocity may be approved upon a satisfactory showing by the applicant of the following:

(1) That the requirements for licensure from the state in which the applicant is licensed is determined to be substantially the same or equivalent to the requirements for obtaining

a license by examination in this State. In making this determination the following shall be considered:

- (A) Whether the other state regulates and issues licenses for mechanical trade categories in a manner that is substantially the same or equivalent to the State of Oklahoma;
  - (B) Whether the experience required by the other state to be eligible to sit for the license examination is substantially the same or equivalent to the Board's requirements;
  - (C) Whether the continuing education requirements of the other state are substantially the same or equivalent to the Board's requirements;
  - (D) Whether the codes adopted by the other state are substantially the same or equivalent to the Board's requirements;
  - (E) Whether the examination of the other state is substantially the same or equivalent to the Board's requirements. This shall include the score required to pass the examination, whether examinations are given for specific mechanical trade categories, and whether the examination is in written form.
- (2) That the other state will recognize licenses issued by the State of Oklahoma through the Construction Industries Board. Paragraphs (1) and (2) of this subsection may be satisfied by the existence of a reciprocity agreement between the Board and the state issuing the applicant's current license as provided in (d) of this Section.
  - (3) That the applicant is currently licensed by a state that meets the requirements of (c)(1) of this Section and that one year immediately prior to the application, the applicant lawfully practiced an applicable trade within and under the laws of that state.
  - (4) That no disciplinary matters are pending against the applicant in any jurisdiction in which the applicant is currently licensed. This requirement will be considered satisfied upon presentation of a certified statement from the licensing authorities of all jurisdictions in which the applicant is currently licensed that no disciplinary matters are pending against applicant.
  - (5) That the applicant obtained the license to be reciprocated by examination in the applicable mechanical trade category.
- (d) **Reciprocity agreements.** The Board may enter into a reciprocity agreement with another state if the requirements for licensure in the other state are deemed by the Board to be substantially the same or equivalent to the requirements for obtaining an original license by examination in this State.
- (e) **Additional requirements for contractor applicants.** Applicants seeking a mechanical contractor license by reciprocity who meet the necessary qualifications for a license as required in this Section and for which there is a written reciprocity agreement for contractors, will be granted a journeyman license by reciprocity. The applicant will be issued a contractor license upon successfully passing the Oklahoma Mechanical Contractor Business and Law portion of the full contractor examination and satisfaction of the requirements of OAC 158:50-5-3.
- (f) **Additional requirements for ground source piping license applicants.** Applicants seeking a mechanical license by reciprocity in the ground source piping category must provide proof of being certified in the proper installation of ground source piping by an organization approved by the Committee.

**158:50-9-7. Continuing Education**

**(a) Continuing Education Requirements:**

(1) ~~By July 1, 2014, no~~ No contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education ("CE"); ~~and thereafter, the licensee shall complete six (6) hours every three (3) years or thirty-six (36) months preceding the license expiration date.~~ The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Committee or its designee within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the OUBCC and/or other trade related subject matters appropriate for topics of continuing education for licensees and approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing Act, the trade regulations as set forth in this Chapter as well as the rules of the Construction Industries Board in OAC 158:10, and other trade or safety related subject matters approved by the Committee.

(2) If a license expires before the licensee completes the CE requirement, any CE that is completed while the license is expired will be applied to the CE requirement for the thirty-six (36) months preceding the date the license expired. Six (6) hours of CE will still have to be completed in order to meet the CE requirement for the subsequent thirty-six (36) month period.

(3) Credit will be given for CE programs approved by the Committee, or its designee.

(4) Except as provided herein, this Section shall apply to every licensed mechanical journeyman or contractor.

(5) A licensee is exempt from the education requirements of this Section for three (3) years from the date he or she passed their current licensing exam.

**(b) Standards.** The following standards will govern the approval of continuing education programs by the Committee.

(1) The program provider shall submit evidence that the provider and instructional staff are qualified by reason of education, experience or training. The training provider and instructors will be of good reputation and of good moral character.

(2) Any written material that is distributed during the session shall be readable, of high quality and shall be made available to all attendees.

(3) The program shall be presented in a comfortable location such as hotel/motel conference room, corporate meeting room, or regular classroom.

(4) The training session shall be presented outside the regular workplace or after regular working hours. An onsite conference room, that meets standards imposed by (3) of this subsection, shall be considered outside the regular workplace.

(5) A credit hour means at least fifty (50) minutes of classroom instruction with a ten (10) minute break.

(6) CE courses shall be presented in one of the following formats.

(A) Six (6) credit hours presented in one (1) day.

(B) Two (2) sessions of three (3) credit hours each presented within a seven (7) day period.

- (C) One (1) session of two (2) credit hours of trade related instruction, Mechanical Licensing Act and/or Mechanical Industry Regulations.
  - (D) An approved correspondence course.
  - (E) Another format approved by the Committee.
- (7) Verification of Credit.
- (A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.
  - (B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.
  - (C) As soon as practicable but in any event on or before seven (7) days following an approved continuing education program, the provider shall furnish the original sign-in sheets from the course to the Mechanical License Unit of the Construction Industries Board.
  - (D) Providers shall maintain copies of all sign-in sheets for a period of two (2) years following the conclusion of the course.
  - (E) Complaint Procedure.
    - (i) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of this Section, and specifying the grounds for the complaint.
    - (ii) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.
    - (iii) The Committee may consider an unsigned or anonymous complaint for further investigation.
    - (iv) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen (15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of the Act or this Chapter. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this Section.
    - (v) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.
- (8) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.

(c) **Application Procedures.**

(1) A completed application form, with all supporting documentation, shall be submitted to the Construction Industries Board at least fifteen (15) days prior to the date of the Regular meeting of the Committee from which the provider wants the course to be considered for approval, and at least thirty (30) days prior to the scheduled start date. Supporting documents shall include the following:

(A) A resume or brief summary of qualifications of all course developers and instructors.

(B) A course agenda designating the beginning and ending of actual instruction times, sign-in times, breaks, lunches and evaluation time.

(C) A course curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed or the trade related instruction being provided.

(2) An application is to be submitted for each date, or dates, that constitute a single course.

(3) Each course must be included on a separate application.

(d) **Mechanical Examiners Committee Acceptance.**

(1) The Committee, or its designee, will review each application for completeness of form and supporting documentation, as well as course content.

(2) The approval of any course will be made by a majority vote of the Committee at a regularly scheduled meeting of the Mechanical Examiners Committee.

(3) The Committee's designee may approve additional dates and locations after the course has been approved by Committee vote. Substantive change to course content must be brought before the Committee.

(4) The applicant will be notified in writing whether the program is approved or disapproved, detailing the basis of the decision if disapproved.

(5) Approval is rescinded upon the adoption of a different statewide code and a new application showing updates of new code is necessary.

(e) **Committee Rejection and Reevaluation of a Course.**

(1) The Committee, or its designee, may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons.

(A) Failure to comply with the continuing education provisions.

(B) Inadequate application or supporting documentation.

(C) Failure to instruct on topic approved.

(D) Inadequate experience of program developer or instructor.

(E) Unsatisfactory evaluation of the course instructor or materials from previous classes.

(2) The Committee may, at any time, re-evaluate and grant or revoke approval of application or course.

(A) The Committee may, at any time, review courses for quality of instruction. The Committee may also investigate complaints regarding approved courses. The Committee may then take appropriate action, up to and including revocation of authority to provide CE courses.

- (B) A provider's failure to comply with this Section constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for course work.
- (3) The Committee, or its designee, will notify the provider, in writing, of any changes in approval status.
- (f) **Appeals.**
- (1) Applicants denied approval of a course may appeal such a decision by submitting a written letter of appeal to the Committee within fifteen (15) days of the receipt of the notice.
- (2) All appeals will be heard by the Committee at its next regularly scheduled meeting.
- (g) **Course Presentation.**
- (1) The program, including the named advertised participants, shall be conducted as approved by the Committee, including lunch and breaks shown on the approved agenda, subject to emergency withdrawals and minor alterations.
- (2) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee, or its designee, in writing prior to start of class. All requests for change must include the course ID number.
- (h) **Course Advertisement.**
- (1) All advertising must include the course ID number.
- (2) Approved program courses may be advertised.
- (3) The provider of an approved continuing education program may announce or indicate as follows: Course #\_\_\_\_ has been approved by the Construction Industries Board Mechanical Examiners Committee for \_\_\_\_ hours of CE credit.
- (i) **Correspondence and Online Courses.**
- (1) Applications, approvals and rejections, and appeals of all correspondence and online courses shall be the same as for classroom-based courses.
- (2) Correspondence courses shall be required to comply with all requirements of continuing education courses, except sign-in sheets.
- (3) Providers of an on-line course shall submit verification of six (6) hours of real time on-line instruction.
- (4) Course providers shall provide a student with a document of completion which certifies completion of approved correspondence course.
- (5) Applications shall be resubmitted annually, from date of approval, for review and approval.
- (j) **Alternate Credit Method Accrual.**
- (1) Credit may be earned through teaching an approved continuing education course. The Committee may award up to six (6) hours of CE credit, not to exceed the number of approved hours for that CE course.
- (2) Credit may also be earned through teaching a course in an accredited trade school or a trade-specific program approved by the Committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.
- (k) **Continuing Education Not Required for Petroleum Refinery Journeyman.** Subsections (a) through (j) of this Section shall not apply to the license category of Petroleum Refinery Journeyman. The Petroleum Refinery Journeyman license may be renewed without continuing education.

(l) **Continuing Education Not Required for Ground Source Piping.** Subsections (a) through (j) of this Section shall not apply to the license category of Ground Source Piping. The Ground Source Piping category license may be renewed without continuing education provided that a current approved certification is submitted.

(m) **Continuing Education Not Required for Medical Gas.** Subsections (a) through (j) of this Section shall not apply to the license category of Medical Gas. The Medical Gas category may be renewed without continuing education provided that a current approved certification is submitted.

## NOTICE OF RULEMAKING INTENT

### **TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS**

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 1. General Provisions

158:50-1-2 [AMENDED]

Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration

158:50-9-1 [AMENDED]

158:50-9-6 [AMENDED]

158:50-9-7 [AMENDED]

#### **SUMMARY:**

The amendments to 158:50-1-2 clarify that an applicant can also be an applicant for continuing education approval, and add a definition for "Contracting." The amendments to 158:50-9-1 provide a time limit by which an applicant for a contractor license must pass both portions of the contractor exam, business and law portion and trade portion, after which they would be required to retake both portions of the exam; establish procedures by which an applicant for a contractor license who passes only the trade portion of the contractor exam may apply the passing score of the trade portion to an application for a journeyman license; establish procedures and requirements for an active or inactive contractor to be able to elect to have a permanent change of license category and renew as a journeyman; allow an individual who has a current active or inactive contractor license to pursue other contractor applications in the mechanical trade without being required to retake the business and law portion of the exam if the business and law portion was successfully passed previously; amend procedures/requirements related to an applicant who violates exam procedures as determined by the examination provider. The amendments to 158:50-9-6 provide that in order for a journeyman or contractor to be licensed by reciprocity, a written reciprocity agreement must exist between the applicant's state and Oklahoma for the license the applicant is seeking. The amendments to 158:50-9-7 remove obsolete, outdated verbiage; amend the deadline for submission of applications for continuing education course approval; clarify that continuing education programs have to be conducted substantially as shown on the agenda approved by the Mechanical Examiners Committee ("the Committee"); and allow continuing education credit to be earned through teaching a course in an accredited trade school or a trade-specific program approved by the Committee.

#### **AUTHORITY:**

Construction Industries Board: 59 O.S. §§ 1000.4 and 1850.3.

#### **COMMENT PERIOD:**

Written and oral comments will be accepted until 4:30 p.m. on January 17, 2017, at the following address: 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107. During the open public comment period, comments may be delivered during regular business hours or submitted via regular mail.

#### **PUBLIC HEARING:**

A Public Hearing is scheduled for 1:30 p.m. on Wednesday, January 18, 2017, at the meeting of the Construction Industries Board which will be held in the Construction Industries Board Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone wishing to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Linda Ruckman through the

## NOTICE OF RULEMAKING INTENT

close of the comment period on January 17, 2017, at the address shown below for obtaining copies of the proposed rules.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules are available at the Construction Industries Board, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107, or online at [www.cib.ok.gov](http://www.cib.ok.gov).

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available beginning December 29, 2016, at the address listed above for obtaining copies of the proposed rules.

**CONTACT PERSON:**

Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.