

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Licensing and Regulatory Affairs

Bureau name:

Bureau of Construction Codes

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2019-139 LR

Title of proposed rule set:

Ski Area Safety- General Rules

Comparison of Rule(s) to Federal/State/Association Standard:

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no federal rules or standards that are set by a state or national licensing agency or accreditation association.

A. Are these rules required by state law or federal mandate?

There are no federal requirements related to regulating ski area safety and no federal rules exist. The rules are state law mandated under the authority of the Michigan Ski Area Safety Act of 1962, 1962 PA 199.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The proposed rule does not exceed any federal standards.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

There are no standards in similarly situated states to compare these rules to.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

These rules do not exceed standards in other states, because there are no standards in similarly situated states to compare these rules to.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

There are no other laws, rules, or other legal requirements duplicate, overlap, or conflict with the proposed rule. The rules within the Michigan Administrative Code concerning ski area safety are the sole authority for the responsibilities of ski area owners and operators in Michigan.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

Accordingly, no coordination is necessary to ensure that duplication was avoided or minimized.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

MCL 24.232(8) does not apply to this ruleset because there is no applicable federally mandated standard.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, either the statute that specifically authorizes the more stringent rules or a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

MCL 24.232(9) does not apply because there is no applicable federal standard that regulates ski area safety.

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

The proposed rule is designed to mandate compliance with the American National Standard Institute standards B77.1-2017; a predecessor version of these standards published in 2006 is currently in effect.

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

Department inspectors will be able to confirm compliance with the new standards upon inspection of ski areas.

B. Describe the difference between current behavior/practice and desired behavior/practice.

The new proposed rule provides the latest standards to protect the safety and welfare of the people by regulating the safety requirements for passenger ropeways - aerial tramways, aerial lifts, surface lifts, tows, and conveyors within the state of Michigan.

C. What is the desired outcome?

The desired outcome of adopting the new standards is for Michigan ski area owners to protect the health, safety, and welfare of the public by remaining current with industry best practices, as codified by the ANSI B77.1-2011 and B77.1a-2012 standards.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The proposed rule is intended to protect persons enjoying ski areas by mandating compliance with industry best practices concerning the operation of passenger ropeways, including chair lifts, tow ropes, and similar devices, as well as to protect persons by mandating stricter requirements for signage to be placed on trails or runs that are partially but not fully closed.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The rationale for changing the rule and not leaving it as written is to modernize the rule and bring Michigan in line with industry best practices as codified in the most recent ANSI standards, as well as to prevent future incidents involving persons enjoying ski area facilities becoming injured in part due to inadequately marked trail closures.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rule enhances regulatory oversight over ski area operators by mandating compliance with industry best practices, as promulgated in recent ANSI standards, and for marking closed trails or runs in a manner to warn of partial closures. Those practices ensure customer safety, which is important to maintaining a welcoming and safe environment for patrons, which is important to tourism as an industry.

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

No rules in the existing rule set are obsolete or unnecessary.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

No fiscal impact is associated with this rule promulgation.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No appropriations or funding have been provided, given that the proposed rule has no fiscal impact.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rule is necessary and suitable to mandate ski area operators' compliance with industry best practices, as promulgated in recent ANSI standards, and for marking closed trails or runs in a manner to warn of partial closures.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

Ski area operators are presently subject to ANSI standards; no significant additional burden is anticipated. Marking partially-closed trails or runs is a narrowly-tailored solution to informing patrons to avoid those routes.

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

The proposed rule affects ski area owners and operators. The proposed rule does not affect state or local government revenues or costs.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The proposed rule does not impose any duty or responsibility on any city, town, village, or school district.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

The proposed rule does not require any additional or new responsibilities on behalf of government units to be in continued compliance with the rule.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

The proposed rule does not require any additional funds for state or local governmental units.

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

The proposed rule will apply throughout Michigan. By their nature, ski areas are located in relatively rural areas, but the rules will have no direct effect on rural areas that will not exist in urban areas as well. The proposed rule is necessary to protect the health and safety of patrons visiting ski areas in rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rule does not have any impact on public or private interests in rural areas.

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rule focuses on safe administration of ski areas and will have little, if any, impact on the environment.

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

The bureau did not consider exempting small business from the proposed rule because rule promulgation authority exists in the Ski Area Safety Act of 1962, PA 199 of 1962, for the safe construction, installation, repair, use, operation, maintenance, and inspection of all ski areas and ski lifts as the board finds necessary for protection of the general public while using ski areas and ski lifts.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

Small businesses are not anticipated to be adversely affected by the change to R 408.65.

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

The bureau does not expect small businesses to be affected by the proposed rule change.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

It is not practical to establish differing compliance or reporting requirements or timetables for small businesses.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The compliance and reporting requirements are unchanged.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

There are no design or operation standards in the proposed rule.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The proposed rule has no disproportionate impact on small businesses because of their size or geographic location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no anticipated reports or increased costs to small businesses that are required to comply with the proposed rule.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

Small businesses are not expected to be affected by the proposed rule, including costs of equipment, supplies, labor, and increased administrative costs.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no legal, consulting, or accounting service costs that small businesses would incur in complying with the proposed rule.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no additional costs or harm anticipated with the proposed rule.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The proposed rule does not exempt or set lesser standards for compliance by small businesses. There is no additional cost to the agency beyond the current operational cost.

26. 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 business with respect to the proposed rule may have a negative effect on the health, safety, and welfare of the citizens of the State of Michigan.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The bureau involved small businesses through the rules review committee process.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Small business participation for the proposed rule included ski areas.

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

We do not anticipate for the ski resort businesses to be affected, bear cost from this rule set. We do anticipate for the ski resort business to benefit from the proposed rules.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

There will be no businesses or groups who will be directly affected by, bear the costs of, or directly benefit from the proposed rule.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

The proposed rule will not add any additional costs on businesses and other groups.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The proposed rule will not result in statewide compliance costs on businesses or groups.

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

The proposed rule will not affect any category of individuals.

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

The proposed rule will not have a qualitative or quantitative impact on individuals.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no cost reductions to business, individuals, groups of individuals, or governmental units as a result of the proposed rule.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed rule will provide greater clarity to the code and an increase in safety to the citizens of the State of Michigan and its visitors.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules will not impact business growth or job creation in Michigan.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The bureau does not expect any business or individual to be disproportionately affected by the proposed rule.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The bureau worked with the board and had an advisory meeting with stakeholders involved to help compile the regulatory impact statement, including determining the existence and extent of the impact of the proposed rule and the cost benefit analysis of this proposed rule.

A. 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 rules.

The bureau relied on the commission and stakeholders when determining the existence and extent of the impact of the proposed rule.

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

No reasonable alternatives to the proposed rule have been identified that would achieve the same or similar goals.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There are no reasonable alternatives to the proposed rule that have been identified.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

The bureau is unaware of similar programs or private market-based systems in other states. There is no way to establish a program similar to what the rules establish that would operate solely through private market-based mechanism.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

There were no significant alternatives presented for the bureau to consider.

38. 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 rule.