

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 Professional Licensing

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2020-50 LR

Title of proposed rule set:

Cosmetology -- 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.

Each state establishes its own requirements with respect to cosmetology, so there are no federal rules or standards set by a national or state agency that the proposed rules can be compared to.

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

MCL 339.205 requires the department to promulgate rules that are necessary and appropriate for it to fulfill its role.

MCL 339.308 requires the board to promulgate rules that are necessary and appropriate for it to fulfill its role.

MCL 339.1203 requires the department in consultation with the board to establish sanitation standards and rules for the operation of mobile salons and the performance of cosmetology services in or at mobile salons.

MCL 339.1205 requires the department to establish, by rule, the criteria for determining whether an hour of instruction at a state barber college is substantially similar to an hour of instruction at a school of cosmetology.

The rules are not required by federal mandate.

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 rules do not exceed a federal standard.

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

The proposed rules are consistent with the standards required by the Occupational Code and are largely consistent with the requirements of other states in the Great Lakes region. Every state in the Great Lakes region provides for the regulation of the profession.

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

The standards pertaining to licensure, education and examination requirements, mobile salons, and sanitation differ from state to state. Overall, the standards in the proposed rules do not exceed those of the other states in the Great Lakes region.

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 that may duplicate, overlap, or conflict with these proposed rules.

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

No coordination is needed because there are no other applicable laws that regulate the areas addressed in the proposed rules.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(8) does not apply.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(9) does not apply.

Purpose and Objectives of the Rule(s)

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

The purpose of the proposed rules is set forth below:

R 338.2101: This rule pertains to definitions for terms used in the rule set. This proposed rule adds and amends definitions of terms used and is designed to provide more clarity.

R 338.2121a: This proposed rule pertains to licensure examination requirements and administration of examinations. It identifies the approved examination and lists the examinations required for each cosmetology license authorized by statute, identifies how a passing score is determined, and limits the acceptance of a passing score to 1 year from the date the exam is passed. The proposed rule is designed to improve clarity by identifying the examinations required for licensure.

R 338.2121b: This proposed rule pertains to licensure by endorsement. It provides requirements that must be met by an applicant who is licensed in another state and an applicant who wishes to substitute hours of prelicensure training with work experience. The proposed rule is designed to clarify what is required for licensure by endorsement.

R 338.2121c: This proposed rule pertains to relicensure requirements. The proposed rule requires a licensee whose license has lapsed for 3 years or more to retake the applicable examinations required for licensure within a 1-year period preceding the date of the relicensure application. The proposed rule is designed to assist an applicant to comply with the requirements for relicensure.

R 338.2126a: This is a proposed new rule setting out the requirements for a cosmetology establishment license, which now includes a cosmetology suite and a mobile salon. The rule is designed to assist a cosmetology establishment in satisfying the requirements for licensure.

R 338.2127: This proposed rule pertains to the business address for a mobile salon, the effect of a change of ownership, relocation, or closure of a cosmetology establishment or a school of cosmetology, and the requirements for a branch facility license. The proposed changes clarify the effect of a transfer of ownership or location and outlines the establishment's or school's duties if there is a transfer of ownership or change in location. The proposed changes initiate the phasing out branch facility licenses, which is not authorized by statute. The proposed changes also set out duties related to the display of licenses and disclosure of school locations. The rule is designed to ensure compliance with statute and to permit the department to adequately monitor and inspect establishments and schools for compliance with the code and rules.

R 338.2131: This proposed new rule provides the criteria to be used by a cosmetology school to determine whether instruction completed at a Michigan-licensed barber college is substantially similar instruction to course work required in a cosmetology student's program of instruction. It also sets out the school's duties to notify the department of the substantially similar hours the student was permitted to substitute and the number of minimum practical applications it has verified for the student. The rule is designed to comply with statute and to provide schools and students the criteria needed to determine what previous instruction was substantially similar to coursework required in a cosmetology school program.

R 338.2132: This rule pertains to school and apprentice training program equipment requirements. The proposed changes update the equipment standards for a school and remove equipment standards for apprenticeship practitioners. The proposed rule is designed to reflect the needs of the current training environment by eliminating unnecessarily restrictive requirements.

R 338.2136: This rule pertains to student and apprentice records maintained by a school or apprenticeship program. The proposed changes clarify the type of records that must be maintained by a school or apprenticeship program to ensure a school or apprenticeship program can provide a student, apprentice, licensee, or the department with the information that will allow for verification of an individual's training.

R 338.2138: This rule pertains to theory instruction. The proposed rule incorporates statutory requirements under MCL 339.1205(5) that are imposed on a school or apprenticeship program, requires a school or apprenticeship program to identify hours that were credited to a student or apprentice for previous training, and requires a school or apprenticeship program to notify the department when a student's or apprentice's training is terminated. The proposed amendments incorporate some of the crossover provisions for crediting hours that will be removed under rescinded rules R 338.2161a, R 338.2161b, R 338.2162a, R 338.2163a, and R 338.2163c. The proposed rule is designed to incorporate some requirements that will be removed by the proposed rescission of R 338.2139 and R 338.2151, R 338.2161a, R 338.2161b, R 338.2162a, R 338.2163a, and R 338.2163c, clarify what documentation a school or apprenticeship program is required to submit to the department, and give schools and apprenticeship programs the authority to determine the hours of training that the school or apprenticeship program will accept.

R 338.2158: This is a proposed new rule pertaining to distance education requirements. The proposed rule provides a definition for distance education, standards for the delivery of distance education, and establishes the requirements for the delivery of distance education. The rule is designed to assist schools and students using distance education.

R 338.2161; R 338.2162; R 338.2163; R 338.2163a; R 338.2163b; R 338.2163c; R 338.2166; R 338.2167; R 338.2168; R 338.2169: These rules pertain to the cosmetology, cosmetology specialties, and cosmetology instructor curricula. The rules establish the curriculum requirements for each license type. The proposed changes update the presentation of the table that outlines the curriculum requirements and initiates a phase out of the current requirements.

R 338.2169a: This proposed new rule pertains to the cosmetologist, esthetician, electrologist, manicurist, and natural hair culturist curricula. It establishes the curriculum requirements for students and apprentices who are enrolled in the applicable curriculum under the proposed rule on or after January 1, 2020. The proposed rule consolidates the various curricula from R 338.2161, R 338.2162, R 338.2163, R 338.2163a, and R 338.2163b into one rule for clarity and

establishes the minimum practical applications.

R 338.2169b: This proposed new rule pertains to the cosmetology instructor, cosmetologist limited instructor, electrologist instructor, limited electrologist instructor, and limited specialist instructor curricula. It establishes the curriculum requirements for students who are enrolled in the applicable curriculum under the proposed rule on or after January 1, 2020. The proposed rule consolidates the various instructor curricula from R 338.2163c, R 338.2166, R 338.2167, R 338.2168, and R 338.2169 into one rule and establishes the minimum practical applications.

R 338.2171: This rule pertains to the general health and safety requirements that must be met by an establishment or school. The proposed rule removes outdated requirements that are unnecessarily restrictive and incorporates updated requirements. The proposed rule is designed to make it easier for licensees to locate the general health and safety requirements and eliminate ambiguous language that makes it compliance difficult.

R 338.2171a: This proposed new rule pertains to disinfecting and sterilizing requirements. It establishes detailed procedures which will allow licensees and the department to objectively verify that an item is disinfected and sterilized. The proposed rule is designed to assist in compliance.

R 338.2171b: This proposed new rule pertains to patron protection that sets forth the requirements for performing services on a patron. The proposed rule is designed to assist in compliance.

R 338.2171c: This proposed new rule pertains to mobile salon services performed in a device that is self-contained or is otherwise transported from 1 location to another. The rule provides health and safety requirements unique to this type of mobile salon.

R 338.2179g: This rule pertains to prohibited actions. The rule will be amended to add additional prohibitions and to clarify actions currently prohibited under the rule. The proposed rule is designed to assist in compliance.

R 338.2180: This proposed new rule pertains to mobile salon premises, display of licenses, providing contact information to the department, transfer of ownership, and changes in the owner's name or contact information. The proposed rule is designed to permit the department to adequately monitor and inspect mobile salon cosmetology establishments for compliance with the code and rules.

R 338.2187: This proposed new rule pertains to a mobile salon's duty to provide an itinerary and access to the premises where cosmetology services are being performed. The rule is designed to permit the department to adequately monitor and inspect mobile salon cosmetology establishments for compliance with the code and rules.

R 338.2188: This proposed new rule pertains to the records a mobile salon owner must maintain. The rule is designed to permit the department to adequately monitor mobile salon cosmetology establishments to ensure compliance with the code and rules.

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

The proposed rules are not expected to change the frequency of the targeted behavior.

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

The practice of cosmetology is regulated by statute. Updating standards for licensure, prelicensure training, sanitation, the operation of mobile salons, and adding clarifications regarding requirements that have been ambiguous under prior rules will make compliance easier for students, apprentices, and licensees.

C. What is the desired outcome?

People who wish to practice cosmetology are regulated. By improving and clarifying the rules, students, apprentices, and licensees should find compliance easier. This should result in fewer questions, fewer regulatory problems, and greater protection of the public.

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 use of outdated rules that do not comport with the statutes governing the practice of cosmetology creates conflict

and confusion for cosmetologists, the public, and the department. The proposed rules update the previously adopted rules and add new rules to provide greater clarity. Specifically, changes have been made to address the following:

R 338.2101: This rule pertains to definitions for terms used in the rule set. Terms used in the rule set without further definition can create confusion. The proposed changes provide clarification regarding the use of certain terms, including apprenticeship program, autoclave, clean or cleaned, disinfectant, establishment, patron, practical hours, school, specialty license, specialty services, sterilant, and wet sanitizer.

R 338.2121a: This proposed rule pertains to examinations required for licensure. The current rules do not identify the examinations required for a cosmetology license or specialty license. This results in a lack of clarity and creates the potential for confusion for applicants.

R 338.2121b: This proposed rule pertains to licensure by endorsement. The statute does not offer any guidance to applicants or the department for determining whether another state has licensure requirements substantially equal to Michigan's licensure requirements or how to document the work experience used to calculate credit for prelicensure training. The proposed rule eliminates a lack of clarity and the potential for inconsistent licensure of out-of-state applicants.

R 338.2121c: This proposed new rule pertains to relicensure requirements. The proposed rule provides needed clarity over the distinct requirements for relicensure when a license has lapsed for less than 3 years and when a license has lapsed for 3 years or more.

R 338.2127: This rule pertains to the change of ownership, relocation, or closure of a cosmetology establishment or school of cosmetology. The language of the current rule suggests that a school or establishment can operate for 30 days after the transfer of ownership or change in location occurs, fails to address the disposition of apprenticeship records when an establishment closes, and allows the department to issue a branch facility license that is not authorized by statute. The proposed changes make clear the result if there is a transfer of ownership or location, ensures that the department and licensees have access to student and apprentice records when a school or establishment closes, and phases out the practice of branch facility licensure in a nondisruptive manner. Furthermore, the rule ensures that when licensees operate a school at more than one premises, the department is able to adequately monitor and inspect all of the premises for compliance with the code and rules.

R 338.2131: This proposed new rule provides the criteria to be used by a cosmetology school in determining if instruction received from a Michigan-licensed barber college is substantially similar to instruction required in a cosmetology student's program. It also requires the cosmetology school to notify the department of the number of substantially similar hours it permitted a student to substitute in the cosmetology curriculum and the number of minimum practical applications it has verified for the student. The rule ensures that a cosmetology student who is licensed as a barber in Michigan, and who attended a Michigan-licensed barber college, is not required to complete duplicative training in his or her cosmetology program. The rule will save the student money and permit him or her to complete the cosmetology program quicker.

R 338.2132: This rule pertains to school and apprentice training program equipment requirements. The current rule imposes outdated requirements that are unnecessary or unauthorized by statute. In the absence of the proposed rule, schools and apprentice programs will be required to follow requirements that have little or no relevance to the appropriate regulation of the profession.

R 338.2136: This rule pertains to permanent student and apprentice records maintained by a school or apprenticeship program. The proposed changes provide needed stylistic changes that provide greater clarity and accurate reference to applicable parts of the rules and the code. A lack of clarity and appropriate references used in the rule is likely to create confusion for licensees and applicants.

R 338.2138: This rule pertains to school and apprenticeship instruction. The proposed changes clarify the minimum reporting requirements under the code and ensure the department is provided information it needs to effectively

administer the code. In addition, schools and apprenticeship programs are in the best position to determine whether and how much credit should be granted to an individual who received previous training. In the absence of the proposed changes, the rules impose arbitrary restrictions on the number of hours that can be credited, which can result in students and apprentices having to receive duplicative, unnecessary training.

R 338.2158: This is a proposed new rule pertaining to distance education requirements. The proposed rule provides standards for the delivery of distance education. The proposed rule is designed to provide clear standards for the use of distance education to assist schools in the delivery of the program while maintaining the educational standards required for student success.

R 338.2161; R 338.2162; R 338.2163; R 338.2163a; R 338.2163b: These rules pertain to cosmetology curricula. The subject areas and number of hours under these rules do not currently provide adequate training. Without the proposed changes, a licensee may meet the technical requirements without receiving the training the board and department consider necessary for the safe practice of the profession.

R 338.2163c; R 338.2166; R 338.2167; R 338.2168; R 338.2169: These rules pertain to cosmetology instructor curricula. The duplicative practical training requirements create redundancy, which in the absence of the proposed changes impose an unnecessary regulatory burden.

R 338.2169a: This proposed rule pertains to the cosmetologist, esthetician, electrologist, manicurist, and natural hair culturist curricula. The subject areas and number of hours under these rules do not currently provide adequate training. Without the proposed changes, a licensee may meet the technical requirements without receiving the training the board and department consider necessary for the safe practice of the profession.

R 338.2169b: This proposed rule pertains to the cosmetologist instructor, cosmetologist limited instructor, electrologist instructor, limited electrologist instructor, and limited specialist instructor curricula. The proposed rule is designed to eliminate confusion created by the presence of multiple curriculum tables that each have the same requirements and eliminate duplicative practical training. In the absence of the proposed changes, it is likely students will receive duplicative training that imposes an unnecessary regulatory burden.

R 338.2171: This rule pertains to the general health and safety requirements that must be met by an establishment or school. Currently, there are ambiguities which make it difficult for the department to conduct inspections to verify if licensees are in compliance. In the absence of the proposed changes, licensees acting in good-faith to comply with the rules are faced with uncertainty and the likelihood of inconsistent inspection outcomes is increased.

R 338.2171a: This proposed rule pertains to disinfecting and sterilizing requirements. Currently, the rules do not provide objective standards for disinfection or sterilization, which can only be accomplished by changing the rule.

R 338.2171b: This proposed rule pertains to patron protection. The proposed rule clearly sets forth the requirements a licensee, student, or apprentice must meet when performing services and will assist in compliance.

R 338.2171c: This proposed new rule pertains to mobile salon services performed in a vehicle that is self-contained or is otherwise transported from 1 location to another. The proposed rule is designed to provide standards that must be satisfied to ensure the health and safety of those giving and receiving cosmetology services within the mobile salon.

R 338.2179g: This rule pertains to actions a student, apprentice, and licensee are prohibited from taking. The proposed rule is amended to add actions that are prohibited and clarify the understanding of actions currently prohibited under the rule. The proposed rule is designed to make it easier for licensees, students, apprentices, and the department to determine what actions the licensee, student, or apprentice is prohibited from taking.

R 338.2180: This proposed new rule pertains to mobile salon premises, display of licenses, providing contact information, transfer of ownership, and changes in the owner's name or contact information. The proposed rule is designed to permit the department to adequately monitor and inspect mobile salon cosmetology establishments for

compliance with the occupational code and administrative rules.

R 338.2187: This proposed new rule pertains to a mobile salon's duty to provide an itinerary and access to the premises where cosmetology services are being performed. The rule is designed to permit the department to adequately monitor and inspect mobile salon cosmetology establishments for compliance with the occupational code and administrative rules.

R 338.2188: This proposed new rule pertains to the records a mobile salon owner must maintain. The rule is designed to permit the department to adequately monitor mobile salon cosmetology establishments to ensure compliance with the occupational code and administrative rules.

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

The rationale for changing the rules is to eliminate ambiguous and outdated language, provide greater transparency of the licensure requirements, update standards to ensure sanitary conditions, eliminate practices that exceed the authority granted under the code, provide for distance education, provide standards for operating a mobile salon, and provide licensees and the department with clarity that will assist in understanding and complying with the requirements under the rules.

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 rules provide a regulatory mechanism for the practice of cosmetology. To protect the public, it is important that members of the profession adhere to professional standards.

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

R 338.2131: This rule pertains to the definition of equivalent. The definition is included under the proposed changes for R 338.2101 pertaining to definitions of the rule set. The rule is being rescinded to avoid duplication in the rule set.

R 338.2133: This rule pertains to credit of school hours and apprenticeship training. The rule is being rescinded because amended requirements pertaining to credit of school hours and apprenticeship training will be moved under the proposed changes for R 338.2138.

R 338.2134: This rule pertains to enrollment. It requires a school to report enrollment of a student within 60 days after the student begins a course of instruction and the hours of training a school accepts from a previous enrollment. Proposed rules R 338.2136 and R 338.2138 establish new requirements pertaining to school and apprenticeship programs and student and apprenticeship records, so this rule will be rescinded.

R 338.2137: This rule pertains to student and apprentice supplies. It requires a school and establishment to provide each student and apprentice a copy of the code and rules and all necessary materials, equipment, and supplies for work performed on the public. It is being rescinded because it is duplicative of the proposed changes for R 338.2132 and R 338.2162, which contain substantially similar provisions as this rule.

R 338.2139: This rule pertains to the state board examination. It requires a student or apprentice to pass a final examination on each subject before becoming eligible to sit for the state exam, requires a school and apprenticeship practitioner to provide certification to the department that a student or apprentice has completed the training and exam requirements, allows for a partial waiver of the instructor exam, and limits acceptability of a passing score on the state exam to 1 year. The rule is being rescinded because the requirements for training certification are included under the proposed changes for R 338.2138 and the period for which a passing examination score is acceptable is moved under the proposed changes for R 338.2121a.

R 338.2151: This rule pertains to the application for apprenticeship. It sets forth the requirements for a licensee who seeks to train an apprentice. The code does not require the promulgation of rules pertaining to requirements that must be met before a licensee may train an apprentice. The rule is being rescinded because it unnecessary.

R 338.2153: This rule pertains to apprenticeship program examinations and grades. It requires a licensee who trains an apprentice to give a cosmetology apprentice an exam every 6 months and an electrology, manicuring, esthetician,

or natural hair culturist apprentice an exam every 3 months. The code does not require the promulgation of rules pertaining to prelicensure training exams for apprentices. The rule is being rescinded because it is unnecessary.

R 338.2161a: This rule pertains to crossover hours for cosmetology. It sets forth requirements and limitations for receiving credit toward the cosmetology curriculum requirements based on previous training a student or apprentice has earned under the manicuring curriculum. It is being rescinded because it conflicts with updated requirements proposed under R 338.2133.

R 338.2161b: This rule pertains to crossover hours for cosmetology. It sets forth requirements and limitations for receiving credit toward the cosmetology curriculum requirements based on previous training a student or apprentice has earned under the esthetics curriculum. It is being rescinded because it conflicts with updated requirements proposed under R 338.2133.

R 338.2162a: This rule pertains to crossover hours for manicuring. It sets forth requirements and limitations for receiving credit toward the manicuring curriculum requirements based on previous training a student or apprentice has earned under the cosmetology curriculum. It is being rescinded because it conflicts with updated requirements under the proposed changes for R 338.2133.

R 338.2173, R 338.2176, R 338.2178, R 338.2179, R 338.2179a, R 338.2179b, R 338.2179c, R 338.2179d, R 338.2179f: These rules pertain to health, safety, and sanitation requirements for licensees, schools, and establishments. These rules are being rescinded because they are duplicative of, and conflict with, the updated requirements proposed under R 338.2171 and the amended requirements under R 338.2171a.

R 338.2179h: This rule pertains to advertising. It prohibits a licensee or owner from using false, confusing, or misleading statements in advertising. False advertising is prohibited under MCL 339.604(f). This rule is being rescinded because it is duplicative of statute.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

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

The proposed rules are not expected to have a fiscal impact on the agency.

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

No agency appropriation has been made or a funding source provided because there are no expenditures associated with the proposed rules.

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

The proposed rules are required by statute to provide regulatory requirements for the practice of cosmetology. The proposed rules are written to impose no more burden on individuals than is necessary to accomplish the statutory requirements and to provide for the public health and safety. There is no burden on individuals as a result of the proposed rules.

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

There is no identified burden imposed by the proposed rules.

Impact on Other State or Local Governmental Units

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

There are no anticipated increases or reductions for other state or local governmental units as result of the proposed rules.

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

There are no anticipated or intended programs, services, duties, or responsibilities imposed on any city, town, village, or school district as a result of these proposed rules.

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

There are no anticipated actions that a governmental unit must take to comply with the proposed rules.

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

No appropriations have been made to any governmental units as result of the proposed rules. No additional expenditures are anticipated or intended with the proposed rules.

Rural Impact

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

The proposed rules impact individual licensees rather than small businesses. Even if a licensee or licensee's workplace qualifies as a small business, the department could not exempt the business because it would create a disparity in the regulation of the profession.

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

The proposed rules will not impact public or private interests in rural areas.

Environmental Impact

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

The proposed rules will not have any impact on the environment.

Small Business Impact Statement

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

The department did not consider exempting small business because they are not impacted by the proposed rules.

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

The rules cannot exempt small businesses because the rules do not directly regulate small businesses. The rules regulate licensees. Further, the Michigan Occupational Code requires cosmetologists, cosmetology establishments, and cosmetology schools to be licensed.

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

There are approximately 102,089 cosmetology, cosmetology school, cosmetology establishment, and cosmetology specialty licensees in Michigan.

A licensee may be or may work in a small business. However, no matter what type of business environment the licensee is or works in, the licensee will have to comply with the proposed rules. The rules do not impact small businesses differently because the impact is to the licensee only.

The department does not determine which licensed cosmetology schools or cosmetology establishments may be affiliated with a single company owning other licensed cosmetology schools or establishments to allow for determining which licenses are part of a small business.

In addition, the department does not determine the annual gross sales or number of full-time employees associated with each cosmetology school or establishment license to allow for determining the number of small businesses. However, the impact on licensees who qualify as a small business is minimized in the proposed rules because they are written to provide the minimum amount of regulation necessary to protect the public.

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.

The agency did not establish separate compliance or reporting requirements for small businesses. The proposed rules will apply to all licensees. The rules were drafted to be the least burdensome on all affected licensees.

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 agency did not consolidate or simplify compliance and reporting requirements for small businesses with the proposed rules because the proposed rules do not directly impact small businesses.

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

The agency did not establish performance standards to replace design or operation standards required by these rules.

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

The proposed rules do not directly impact small business. They impact a licensee. Therefore, there is no disproportionate impact on a small business because of its 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.

The proposed rules affect applicants applying for licensure and renewal, regardless of whether they are or work in a small business. There is no separate cost to a small business.

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.

There are no expected costs for equipment, supplies, labor, or administrative costs that a small business would incur in complying with the proposed rules.

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 expected costs for legal, consulting, or accounting services that a small business would incur in complying with the proposed rules.

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

There are no expected costs to a small business that will cause economic harm to a small business or the marketplace as a result of the proposed rules. To the extent that a license is required to operate a small business, it is required by statute.

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 rules impose requirements on licensees rather than directly on a small business. Even if a licensee's business or workplace qualifies as a small business, the department could not exempt the business because it would create disparity in the regulation of the profession.

Therefore, there is no cost to the agency for administering or enforcing the rules because exempting or setting lesser standards of compliance for a small business is not in the best interest of the public.

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

The proposed rules impose requirements on licensees rather than a small business. Even if a licensee's workplace qualifies as a small business, the department could not exempt the business because it would create a disparity in the regulation of the profession. Therefore, exempting or setting lesser standards of compliance for a small business is not in the best interest of the public.

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

The department worked with the Michigan Board of Cosmetology in the development of the proposed rules. The Board is composed of members of the profession and public members.

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

No small businesses were involved in the development of the rules.

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

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

Of the 97 licensed schools of cosmetology, some currently do not offer the cosmetologist instructor curriculum. These schools will be required to offer the cosmetologist instructor curriculum by 1 year after the date of promulgation of these rules. The cost to comply with this requirement should be offset by the school's ability to collect tuition costs for students enrolled in the program.

Beginning 1 year after the date of promulgation of these rules, all schools and apprenticeship programs that were training students or apprentices enrolled in a curriculum prior to 1 year before the date of promulgation of these rules, and that are training new students enrolled on or after 1 year after the date of promulgation of these rules, will be required to provide training under separate curricula at the same time until the earlier enrolled students complete their training. The costs associated with this dual training are not estimated to be measurable because the curriculum requirements are substantially similar.

A statutory change requires mobile salons and cosmetology suites to be licensed as cosmetology establishments. The cost for this license is \$75.00. Additionally, mobile salons will need to comply with unique health and safety rules pertaining to the operation of a mobile salon that is contained within a vehicle. The costs associated with those health and safety requirements include securing furniture, equipment, and supplies, providing a restroom, providing a ramp, if needed, and providing a water heater. It is estimated that some of these items would be needed for the operation of the business, even without a requirement, such as providing a restroom, water heater, and ramp. It is estimated that the cost to secure furniture, equipment, and supplies will be minimal because items such as safety latches, screws, and bolts are inexpensive.

In addition, the proposed rules amend current school and establishment requirements pertaining to maintaining and sanitizing equipment and supplies. The cost associated with the new requirements are not estimated to be measurable because the requirements are substantially similar to the current rules. The proposed changes provide greater clarification that is anticipated to make it easier for licensees to comply with the rules, which should result in fewer violations of the rules and reduce the overall costs of compliance.

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

The direct cost of obtaining a license to operate a cosmetology establishment or school will be borne by the applicant for licensure. A cosmetology establishment license will be required for mobile salons and cosmetology suites, as they are now included in the definition of a cosmetology establishment by statute. No additional costs will be imposed on any businesses or groups. Approximately 97 licensed schools and 9,754 licensed establishments will be directly affected by any cost burden or benefit from the proposed rules.

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

No additional costs will be imposed on any businesses or 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.

It is estimated that there will be no new compliance costs imposed on individuals as a result of the proposed rules.

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

All licensees and applicants are affected by the proposed rules.

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

There is no qualitative or quantitative impact on individuals as a result of the proposed rules because the proposed rules are not expected to increase or decrease costs for education, training, experience, application fees, examination fees, or licensure fees.

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

The proposed rules are expected to result in several cost reductions on businesses, individuals, and the department.

Eliminating branch facility licensure will reduce costs for licensed schools of cosmetology who currently pay a \$200 initial branch facility licensure fee and a biennial \$200 branch facility renewal fee. Current branch facilities can operate under the primary school of cosmetology license, assuming the branch facility has met the requirements under the code and rules.

Eliminating unnecessary school equipment requirements and apprentice program equipment requirements will reduce costs for licensees who are currently maintaining equipment that will no longer be required under the proposed rules.

Clarifying the record reporting and completion of training certification requirements will reduce costs for licensed schools and apprenticeship programs that currently submit to the department more information than is necessary to properly administer the act and rules.

Clarifying the sanitation requirements will make it easier for licensees and the department to remain compliant with the rules, which should result in fewer disciplinary actions and reduce costs associated with failing to comply with the current requirements.

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 rules update standards and eliminate ambiguous and outdated language to provide greater clarity to licensees and assist them with understanding and complying with the requirements under the rules. The clear and concise language allows the public and licensees to better understand the requirements for the profession.

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

The rules are not expected to have an impact on business growth, job creation, or job elimination 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 department does not expect any individuals or businesses to be disproportionately impacted by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

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

Illinois: <https://www.idfpr.com/profs/cosmo.asp>

Indiana: <https://www.in.gov/pla/cosmo.htm>

Minnesota: <https://mn.gov/boards/cosmetology/>

New York: <https://www.dos.ny.gov/licensing/cosmetology/cosmetology.html>

Ohio: <https://cos.ohio.gov/>

Pennsylvania: <https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Cosmetology/Pages/default.aspx>

Wisconsin: <https://dsps.wi.gov/pages/Professions/Cosmetologist/Default.aspx>

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

Estimates were made based on an analysis of the current requirements under the rules in comparison to the proposed changes.

Although the proposed changes impose different requirements, most are substantially similar to the current requirements under the rules.

It is assumed that a phase-in of the proposed changes pertaining to branch facility licensure and the curriculum requirements will reduce or eliminate any measurable cost burden associated with the proposed changes.

Alternative to Regulation

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

The rules are required by statute; there is no reasonable alternative to the proposed rules.

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

Since the rules are required by statute, a statutory change would be needed to provide an alternative.

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.

Since the rules are required by statute, private market-based systems cannot serve as an alternative. States regulate cosmetology by statute, regulation, or both. Private market-based systems are not used for licensing and regulation. The licensing and regulation are state functions, so a regulatory program independent of state intervention cannot be established.

There are professional associations that establish criteria for membership, but these professional organizations would provide the public with significantly less protection because membership in many of these organizations is voluntary. This means an individual who meets the membership requirements, but does not join one of the professional organizations, would be able to practice and there would be no way to ensure his or her competency or hold him or her accountable.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

Since the rules are specifically required by statute, there are no alternatives to the proposed rules that the agency could consider. They are necessary for the administration and enforcement of the licensing process.

Additional Information

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

The instructions for compliance are included in the rules.