

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:

Weston MacIntosh

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Rule Set Information:

ARD assigned rule set number:

2021-46 LR

Title of proposed rule set:

Accountancy – 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 creates its own requirements for the profession. There are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

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

State law requires promulgation of the rules under MCL 339.205, MCL 339.308, MCL 339.721, MCL 339.725, MCL 339.726, MCL 339.728, and MCL 339.729, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, 2008-4, and 2011-4, MCL 338.3501, MCL 445.2001, MCL 445.2011, MCL 445.2025, and MCL 445.2030.

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 rules do not exceed a federal standard or law.

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 like accountancy standards in the other Great Lake states, as well as other states throughout the United States. According to the National Association of State Boards of Accountancy's National Qualification Appraisal Service, all United States jurisdictions have requirements that are substantially equivalent to the licensure requirements of the Uniform Accountancy Act (<https://nasba.org/licensure/substantialequivalency/>). Although the state does not have to have rule requirements that are consistent with the Uniform Accountancy Act, however the rule requirements must instead be consistent with state law, which they are, it is useful to note for comparison's sake that the rules follow state law and are also similar to the requirements of surrounding states.

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

The rules on licensure, license renewal, continuing education, and relicensure in the proposed rules are like the standards in other states and do not exceed the standards of 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 the 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 necessary because there are no other federal, state, and local laws that apply to the same activity or subject matter of 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 because the federal government has not mandated that Michigan promulgate rules for the regulation of licensed accountants.

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 because the federal government does not have standards for the regulation of licensed accountants.

Purpose and Objectives of the Rule(s)

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

The specific topics and purpose of the proposed rules are set forth below:

R 338.5101: This rule pertains to definitions used in the rule set. The proposed revised rule clarifies the meaning of terms used in the proposed rules and remove definitions that are no longer necessary or are duplicative of definitions found in the Occupational Code.

R 338.5102: This rule pertains to standards of professional practice adopted by reference. The proposed revised rule uses the most current standards published and supplies the cost for obtaining copies of the adopted standards.

R 338.5104, R 338.5110a, R 338.5111, R 338.5116, R 338.5139, R 338.5140, R 338.5210, R 338.5211, R 338.5215, R 338.5230, R 338.5460, R 338.5465, and R 338.5503 include clean-up, clarifying language, and typographical revisions to the language in the current rules.

R 338.5115: This rule pertains to qualifying educational requirements, approved educational institutions, and adoption of accreditation standards. The proposed revised rule updates the standards and supplies the cost for obtaining copies of the adopted standards.

R 338.5401: This rule pertains to responsibility for conduct of supervised persons. The proposed revised rule includes clarification that responsibility for compliance with the rules of professional conduct extends to officers, employees, partners, and principals.

R 338.5405: This rule pertains to the independence rule. The proposed revised rule includes clarification that an individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm may perform attest services of an enterprise only if the individual licensee, firm licensee, individual with practice privileges, or out of-state firm is independent from the enterprise.

R 338.5475: This rule pertains to payment of acceptance of commissions. The proposed rule includes clarification that commission means any consideration paid to an individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm by a third party in connection with a recommendation or referral of a person to the third party.

R 338.5501: This rule pertains to peer review. The proposed rule includes clarification that qualified sponsoring organizations include the American Institute of Certified Public Accountants (AICPA) peer review program, other entities that adhere to the standards under R 338.5102(1)(a) as decided by the board, and a peer review sponsoring organization approved by another state.

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

The proposed rules provide greater clarity to licensees about compliance with requirements of the rules and the act. The proposed rules should make compliance easier for applicants and licensees.

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

Updating standards, clarifying the documentation required to satisfy the licensure requirements, and supplying more detail related to renewal, continuing education, and relicensure requirements help supply clarity and certainty of the rules. These proposed changes will make compliance easier for applicants and licensees.

C. What is the desired outcome?

The desired outcome is to supply greater clarity to applicants and licensees to help them follow the licensure requirements under the act. By making improvements and clarifications to the rules, applicants and licensees should find compliance easier. In addition, the proposed rules should result in fewer questions, fewer regulatory problems, and aid with protecting 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 proposed rules relieve ambiguity about the requirements for licensure, renewal, and relicensure under the act. In the absence of the proposed rules, applicants and licensees are likely to misunderstand the requirements and could be unaware of all the criteria used by the department for finding compliance with the rules.

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

The proposed rules primarily update the previously adopted rules and cut ambiguous and outdated requirements to provide applicants and licensees with greater clarity that will help them with understanding and following 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 supply regulatory requirements for licensure for the practice of accountancy. To protect Michigan's citizens, it is important for the proposed rules to provide licensees with clarity about licensure requirements.

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

There are no rules in the rules set that are obsolete or unnecessary.

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).

There is no fiscal impact expected on the agency for promulgating the proposed rules.

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

There was no agency appropriation made and there was no funding source supplied for any 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 supply regulatory requirements related to the practice of accountancy. They do not impose more of a burden on individuals than is necessary to conduct the statutory requirement of supplying the rules. There is no identified burden on individuals because 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 on individuals because of 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.

The proposed rules do not increase or decrease revenues or costs to other state or local government units.

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

The proposed rules do not impose any program, service, duty, or responsibility upon any city, county, 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.

There are no additional actions that governmental units must take to comply with these 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.

The proposed rules do not require state or local governmental units to make added expenditures. Therefore, no appropriation or funding source is necessary.

Rural Impact

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

The proposed rules do not have an impact on rural areas.

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

The proposed rules do not affect rural areas.

Environmental Impact

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

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

Small Business Impact Statement

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

The proposed rules impose requirements on individual licensees rather than small businesses. Even if a licensee's practice qualified as a small business, the proposed rules create no expected impact on the licensee's small business. Further, the department could not exempt the licensee's small business because it would create disparity in the regulation of the profession.

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 proposed rules impose requirements on individual licensees rather than small businesses. The proposed rules will have little to no economic impact on individual licensees. As a result, even if a licensee's practice qualified as a small business, the proposed rules do not have an economic impact on the licensee's small business.

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

The proposed rules do not have an economic impact on small businesses. The proposed rules affect individual licensees.

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 individuals applying to be a licensed accountant in this state.

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 proposed rules pertain to individuals and not small businesses. There would be no differing compliance or reporting requirements or timetables for small businesses.

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

The department did not set up performance standards to replace design or operation standards, because they are unnecessary for the proposed 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 have a 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 reports or report preparation costs for small businesses.

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 costs of compliance expected for small businesses because the proposed rules affect individual licensees and not small businesses.

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.

The proposed rules apply to individuals and not small businesses. Therefore, there is no estimated cost for legal, consulting, or accounting services that small businesses would incur.

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

Since the rules affect individual licensees rather than small businesses, the rules do not cause economic harm or adversely affect a small business' competition in the marketplace.

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 individual licensees rather than small businesses. Even if a licensee's practice qualifies as a small business, the department cannot exempt the licensee's small business because it would create disparity in regulation of the profession. Therefore, exempting or setting lesser standards of competence for small businesses 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 individual licensees rather than small businesses. Even if a licensee's practice qualifies as a small business, the department cannot exempt the licensee's small business because it would create disparity in regulation of the profession. Therefore, exempting or setting lesser standards of competence for small businesses 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.

Development of the proposed rules occurred in consultation with, and approval of, the Michigan Board of Accountancy, whose members include employees of small businesses. However, the department did not involve any other small businesses in the development of the proposed rules because the proposed rules impose requirements on individual licensees rather than small businesses.

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

Development of the proposed rules occurred in consultation with, and approval of, the Michigan Board of Accountancy, whose members include employees of small businesses. However, the department did not involve any other small businesses in the development of the proposed rules because the proposed rules impose requirements on individual licensees rather than small businesses.

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

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

There is no estimated compliance cost with these proposed rules on businesses or groups.

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

Licensees bear the cost and receive the 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.

There will be no expected added costs imposed upon licensees because of compliance with these proposed rules.

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 rules make no changes to compliance costs that are different than the actual cost of compliance imposed under current statutes and rules. Licensure and applications fees are set up by statute under the State Licensee Fee Act, 1979 PA 152, MCL 338.2201 to 338.2277.

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

All individuals applying for a license in this state.

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

There are no other qualitative or quantitative impacts as it relates to the actual statewide compliance costs of the proposed rules because the proposed rules create no expected increased or decreased 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.

There are no cost reductions for businesses, individuals, groups of individuals, or governmental units because of the proposed rules.

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 use clear, concise language, and implement the statutory requirements for licensing. The clear and concise language allows the public and licensees to better understand the requirements for licensure.

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

The proposed rules do not have a significant impact on business growth, job growth, or job elimination.

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 disproportionate effect on any individuals or businesses by 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.

National Association of State Boards of Accountancy (NASBA): <https://nasba.org/>

Illinois: <http://www.ilboe.org/>

Indiana: <https://www.in.gov/pla/professions/indiana-board-of-accountancy/>

Minnesota: <http://www.boa.state.mn.us/>

New York: <http://www.op.nysed.gov/prof/cpa/>

Ohio: <http://www.acc.ohio.gov/>

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

Wisconsin: <https://dsps.wi.gov/pages/BoardsCouncils/Accounting/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.

Because the proposed rules have no measurable economic impact on individuals, businesses, or governmental units of the state, no estimates were necessary.

Alternative to Regulation

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

Since statute requires the rules, there are no reasonable alternatives to the proposed rules.

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

Since statute requires the rules, there are no reasonable alternatives to the proposed rules.

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 statute requires the rules, private market-based systems cannot serve as an alternative. The regulation of accountants is a state function, so a regulatory program independent of state intervention cannot be set up. Although there are accountancy-related professional associations that could perform regulatory functions that are independent of state intervention, these organizations would provide the public with significantly less protection because membership in these organizations is voluntary and would not encompass all licensed accountants.

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 statute requires the rules, there are no reasonable alternatives to the proposed rules. There were no alternatives that the department considered to achieve the intended changes. They are necessary for the administration and enforcement of the licensing process and practice of the profession.

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 rules include the instructions for compliance.