

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:

2019-28 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. 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?

The rules are required by state law including MCL 339.205, MCL 339.308, MCL 339.1203, MCL 339.1205, MCL 338.3501, MCL 445.2001, MCL 445.2011, and MCL 445.2030.

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 generally consistent with the requirements of other states in the Great Lakes region.

Part 1 of the proposed rules pertains to definitions used in the rule set. Each state in the Great Lakes region uses defined terms that pertain to the profession within its administrative regulations and statutes.

Part 2 of the proposed rules pertains to licensure requirements. It sets forth the exams required for licensure, the requirements for receiving a license by reciprocity, the requirements for becoming relicensed after a cosmetology license has lapsed, and requirements that take effect when a school of cosmetology or cosmetology establishment changes ownership or location. All states in the Great Lakes region require licensure applicants to pass exams that are applicable to the type of cosmetology license sought by the applicant, provide avenues for licensure for applicants who are licensed in another state or country, and impose requirements and limitations on licensees seeking to change ownership or location of a school of cosmetology or cosmetology establishment. Although, requirements in each Great Lakes state vary, the licensure requirements under part 2 of the proposed rules are substantially similar to the standards and requirements in the other Great Lakes states.

Part 3 of the proposed rules pertains to general training administration. It sets forth the equipment requirements for cosmetology schools, requirements and limitations for granting a student or apprentice credit for hours of training, the requirements for student and apprentice records that are maintained by a school and apprenticeship program, and the general program requirements that must be met by a school and apprentice program. Illinois, Indiana, Minnesota, Ohio, and Pennsylvania establish equipment requirements that must be met by schools teaching cosmetology. New York and Wisconsin do not impose specific equipment requirements for schools teaching cosmetology. Although, requirements in each Great Lakes state vary, the general training and equipment requirements under part 3 of the proposed rules are substantially similar to the equipment requirements in the other Great Lakes states.

Part 6 of the proposed rules pertains to curriculum requirements for prelicensure training in cosmetology. It sets forth the required subjects and hours of training required for a cosmetology license. All states in the Great Lakes region provide curriculum requirements that establish required subjects and hours of training that are required for each type of cosmetology license authorized by the state. The curriculum requirements for cosmetology in the proposed rules are substantially similar to the standards and requirements in the other states in the Great Lakes region.

Part 7 of the proposed rules pertains to health and safety requirements. It sets forth sanitation requirements and prohibited conduct for cosmetology establishments, schools, and individual licensees. All states in the Great Lakes region impose sanitation requirements and standards pertaining to prohibited conduct on cosmetology licensees. The sanitation requirements and prohibited conduct in the proposed rules are substantially similar to the standards and requirements in other states in the Great Lakes region.

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, general training administration, curriculum training, 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 Lake 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 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, 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 because the federal government has not mandated that Michigan promulgate rules pertaining to the regulation of cosmetology.

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 the federal government does not have standards pertaining to the regulation of cosmetology.

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 in the proposed rules. It is designed to provide more clarity.

R 338.2121a: This proposed rule pertains to licensure examination requirements and administration of examinations. It lists the exams required for each cosmetology license authorized under the act, 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 exams required for licensure.

R 338.2121b: This proposed rule pertains to licensure by reciprocity. It provides requirements that must be met by an applicant who is licensed in another state, an applicant who wishes to substitute hours of prelicensure training with work experience, and an applicant who has acquired qualifications outside the United States. MCL 339.1211 allows licensure of individuals authorized to perform cosmetology services in another state that has licensure requirements substantially equal to Michigan's requirements, allows applicants to substitute prelicensure training with work experience, and requires applicants who acquired qualifications outside of the United States to provide proof of training or experience. The proposed rule is designed to clarify what documentation is acceptable for satisfying the generalized provisions under MCL 339.1211.

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 exam required for licensure within a 1-year period preceding the date of the relicensure application. The proposed rule is designed to identify the distinct relicensure requirements that must be met 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 and school of cosmetology and requirements for a branch facility license. The proposed changes clarify that the transfer of ownership or location of the establishment or school voids the license, require the school or establishment to notify the department prior to the transfer of ownership or location, and require the school or establishment to provide the department with a copy of each student's or apprentice's record. In addition, the proposed changes initiate the phasing out of the practice of issuing branch facility licenses because the act does not provide for the issuance of branch facility licenses. The phase-out provisions will allow a current branch facility license to operate through November 1, 2021. The proposed rule is designed to clarify the effect that MCL 339.1204 has when a change of ownership, relocation, or closure occurs and eliminate the practice of issuing branch facility licenses over time to mitigate the disruptive effects the change will have on licensees who hold a branch facility license. Lastly, the proposed changes require a school that operates at more than one premises to display a copy of the license, a copy of the license of each instructor that works for the school, and require the school to provide the department with the address of each premises to ensure the department can adequately monitor and inspect the school for compliance with the act and rules.

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 and remove rules pertaining to apprenticeship practitioner requirements because rules pertaining to apprenticeship practitioner equipment requirements are not authorized by statute.

R 338.2136: This rule pertains to student and apprentice records maintained by a school and apprenticeship program. The proposed changes clarify the type of records that must be maintained by a school and apprenticeship program. These changes are designed to ensure a school and 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 and apprenticeship program, requires a school and apprenticeship program to identify hours that were credited to a student or apprentices for previous training, and requires a school and apprenticeship program to notify the department when a student's or apprentice's training is terminated

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

Promulgation of rules related to licensure, prelicensure training, and sanitation is required under statute. This provides a regulatory framework for the practice of cosmetology. The proposed changes should provide greater clarity to licensees, students, apprentices, and the department and assist with understanding and complying with the requirements under the rules.

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, and sanitation and adding clarifications regarding requirements that have been ambiguous under prior rules helps add clarity and certainty to the rules, which 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 rules do not identify the number of exams or name of the exams required for a cosmetology license or specialty license. This results in a lack of clarity and creates the potential for the type and number of required exams will be changed without notice provided to applicants or recent exam takers.

R 338.2121b: This proposed rule pertains to licensure by reciprocity. The act and rules do not offer any guidance to applicants or the department for determining whether another state has licensure requirements substantially equal to Michigan's licensure requirements, how to document the work experience used to calculate credit for prelicensure training, or what proof is required to verify training or experience that is acquired outside the United States. The proposed rule eliminates a lack of clarity and the potential for inconsistent licensure of out-of-state applicants.

R 338.2121c: This proposed rule pertains to relicensure requirements. Currently there is no rule pertaining to relicensure. 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 and 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 under the act. The proposed changes make it clear that the license is voided upon the occurrence of a transfer of ownership or location, ensure 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 rules and act.

R 338.2132: This rule pertains to school and apprentice training program equipment requirements. The proposed rule imposes outdated requirements that are unnecessary or unauthorized by statute. In the absence of the 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 students and apprentice records maintained by a school and apprenticeship program. The proposed changes provide needed stylistic changes that provide greater clarity and accurate reference to applicable parts of the rules and the act. 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 theory instruction. Currently schools and apprenticeship programs provide the department with superfluous information and records that are not required by the act and that the department does not need to administer the act. The proposed changes clarify the minimum reporting requirements under the act and ensure the department is provided information it needs to effectively administer the act. 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 training that is unnecessary.

R 338.2161: This rule pertains to the cosmetology curriculum. The duplicative practical training requirements create redundancy, which in the absence of the proposed changes imposes an unnecessary regulatory burden. In addition, in the view of the board and the department, the subject

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 imposed by the department, update standards to ensure sanitary conditions, eliminate practices that exceed the authority granted under the act, 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. MCL 339.1214(1) requires a school to report the enrollment of a student by filing an application at the time of enrollment and the proposed changes for R 338.2136 and R 338.2138 require a school to report the hours it credits from previous training. The rule is being rescinded because it is duplicative of MCL 339.1214(1) and duplicative of the proposed changes under R 338.2136 and R 338.2138.

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 act 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 provision 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 act 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 a electrology, manicuring, esthetician, or natural hair culturist apprentice an exam every 3 months. The act does not require the promulgation of rules pertaining to precicensure 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 is 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 is 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 is 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 338.604. This rule is being rescinded because it is duplicative of statute.

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 expected fiscal impact 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.

No agency appropriation has been made and no funding source has been provided 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 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 requirement of providing the rules. 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 burden on individuals as a result of the proposed rules.

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 are not expected to increase or decrease revenues to other state or local governmental units or increase or reduce costs on other state or local governmental units.

The proposed rules are not expected to increase or decrease revenues to other state or local governmental units or increase or reduce costs on other state or local governmental 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.

No action needs to be taken in order for governmental units to be in compliance with the rule(s).

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 additional expenditures. Therefore, no appropriation or funding source is necessary.

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

The proposed rules are not expected to have a disparate impact on rural areas.

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

Public or private interests in rural areas are not expected to be affected because the proposed rules do not impact rural areas.

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

The proposed will have no impact on the environment.

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

The proposed rules provide the minimum amount of regulation necessary to ensure licensees comply with training and sanitation requirements that are designed to protect the public. Although the Occupational Code provides for licensure of cosmetology schools and cosmetology establishments, some of which may qualify as small businesses, the statute does not allow the rules to exempt small businesses. Exempting businesses would create disparity in the regulation of the profession and reduce protections to members of the public who visit exempted businesses.

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 statute does not allow the rules to exempt small businesses. Exempting businesses would create disparity in the regulation of the profession and reduce protections to members of the public who visit exempted businesses.

However, the proposed rules minimize the impact on licensees who qualify as a small business because they are written to provide the minimum amount of regulation necessary to protect the public.

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

As of April 1, 2019, there are 93 licensed cosmetology schools and 8,832 licensed cosmetology establishments in the state. The department does not determine which licensed cosmetology schools or cosmetology establishments may be affiliated with a single company owning other licensed 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 department did not establish different requirements for small businesses because the statute does not allow the rules to exempt small businesses. Exempting small businesses would create disparity in the regulation of the profession and reduce protections to members of the public who visit exempted 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 department did not consolidate or simplify any requirements for small businesses because the statute does not allow the rules to exempt small businesses. Exempting small businesses would create disparity in the regulation of the profession and reduce protections to members of the public who visit exempted businesses.

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

The department did not establish performance standards to replace design or operation standards.

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

The proposed rules are not expected to have a disproportionate impact on small businesses because of the size or geographic location of small businesses.

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 do not require any reports.

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.

As of April 1, 2019, there are 93 licensed cosmetology schools and 8,832 licensed cosmetology establishments in the state. The department does not determine which licensed cosmetology schools or cosmetology establishments may be affiliated with a single company owning other licensed 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. Although the proposed rules amend current requirements pertaining to maintaining and sanitizing equipment and supplies, overall 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.

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 increased costs for small businesses concerning legal, consulting, or accounting services.

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

It is estimated that all licensees, including licensees who qualify as small businesses, will be able to absorb any costs associated with the proposed rules as a result of cost savings realized from proposed changes that eliminate unnecessary regulation and administration.

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 statute does not allow the rules to exempt or set lesser standards for compliance by small businesses. As a result, there is no increased cost estimated for the department to administer or enforce a rule that exempts or sets lesser standards for compliance by small businesses.

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

The statute does not allow the rules to exempt or set lesser standards for compliance by small businesses. Even if a licensee's practice qualifies as a small business, the department cannot exempt his or her 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.

The proposed rules were developed in consultation with the Michigan Board of Cosmetology, whose members consist of small business owners and small business employees.

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

The proposed rules were developed in consultation with the Michigan Board of Cosmetology, whose members consist of small business owners and small business employees.

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

Of the 93 licensed schools of cosmetology, 15 currently do not offer training of the cosmetologist instructor curriculum. These 15 schools will be required to offer training of the cosmetologist curriculum by January 1, 2020. In addition, on or around January 1, 2020, all schools and apprenticeship programs who were training students or apprentices enrolled in a curriculum prior to January 1, 2020, and who are training new students enrolled on or after January 1, 2020, will be required to provide training under separate curriculums at the same time until the students who were enrolled prior to January 1, 2020 complete training. The costs associated with this dual training are not estimated to be measurable because the curriculum requirements are substantially similar.

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.

As of April 1, 2019, approximately 93 licensed schools and 8,832 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.

The department does not expect any additional costs as a result of the proposed rules on businesses or 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 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 established by statute under the State License 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 individual licensees and individual applicants for cosmetology licensure will be affected by the proposed rules.

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

There are no qualitative or quantitative impacts as it relates to the actual statewide compliance costs 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 act 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 who 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 less 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 proposed rules are not expected to have any notable impact on 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 proposed rules are not expected to have a disproportionate effect on any individuals or businesses as the 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://dps.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., which 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, they 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.

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

The proposed rules are written to provide the minimum amount of regulation necessary to protect the public. No reasonable alternatives to the proposed would achieve the same or similar goal.

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

The proposed rules are written to provide the minimum amount of regulation necessary to protect the public. No reasonable alternatives to the proposed would achieve the same or similar goal.

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 proposed rules are required by statute, private market-based systems cannot serve as an alternative. The licensing and regulation of cosmetology are state functions, so a regulatory program independent of state intervention cannot be established.

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 department considered drafting the proposed changes without phasing in the requirements for the proposed changes pertaining to branch facility licensure and the curriculum requirements. These changes were not incorporated because of the potential cost burden it would impose on affected stakeholders. The phasing-in of the requirements was proposed as an alternative that would reduce or eliminate the cost burden associated with the proposed changes.

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.