

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:

State

Bureau name:

Driver Licensing

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2023-55 ST

Title of proposed rule set:

Visual Standards For Motor Vehicle Driver's Licenses

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

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

There are no federal rules or standards. The proposed rules are consistent with the majority of states that permit use of bioptic or telescopic lens for restricted driving privileges.

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

MCL 257.309(3): The secretary of state shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the examination of the applicant's physical and mental qualifications to operate a motor vehicle in a manner as not to jeopardize the safety of persons or property, and shall ascertain whether facts exist that would bar the issuance of a license under section 303.

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.

No federal standard exists.

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 majority of states that permit use of bioptic or telescopic lens for restricted driving privileges (AL, AZ, CT, GA, IN, KS, KY, LA, MS, NC, OR, PA, TN, VA, WV).

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

The proposed rules are consistent with the majority of states that permit use of bioptic or telescopic lens for restricted driving privileges (AL, AZ, CT, GA, IN, KS, KY, LA, MS, NC, OR, PA, TN, VA, WV).

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

There are no laws, rules, or other legal requirements that 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 other federal, state, or local laws exist that establish a standard permitting use of bioptic or telescopic lens for restricted driving privileges.

Purpose and Objectives of the Rule(s)

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

The rules are not intended to affect behavior. They are intended to create a consistent standard applied to all private individual applicants that require use of bioptic or telescopic lens for restricted driving privileges.

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

There is no estimated change in the frequency as the rules are not intended to affect behavior.

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

The current practice is to apply Department policy. Department policy defines the visual standard and training required for eligibility of restricted driving privileges with use of bioptic or telescopic lens. Amending the rules will codify the visual standard and training requirement making it easily accessible to the public and other states.

C. What is the desired outcome?

The desired outcome is a consistent and reasonable standard, that is transparent and not subject to arbitrary change, to apply to the use of bioptic or telescopic lens for the purpose of restricted driving privilege eligibility.

5. 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 harm is the lack of transparency and accessibility by the public, or the possibility of arbitrary change, of the visual standard and training requirements, documented in Department policy, as they relate specifically to eligibility of restricted driving privileges with use of bioptic or telescopic lens.

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

Update to ensure transparency and consistent application of requirements pertaining to the use of bioptic or telescopic lens for restricted driving privilege eligibility.

6. 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 formally establish a standard for restricted driving privilege eligibility when using bioptic or telescopic lens. The rules ensure that individuals who use bioptic or telescopic lens meet a reasonable standard to be eligible for restricted driving privileges. The rules also ensure the standard cannot be changed without a formal process.

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

There are no rules in the affected rule 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.

8. 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 to MDOS.

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

Neither an agency appropriation nor a funding source is provided or required.

10. 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 establish a transparent and consistent standard. That standard presently exists in Department policy. There is no new burden.

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 new burden. The proposed rules establish a transparent and consistent standard.

Impact on Other State or Local Governmental Units

11. 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 is no increase or decrease in revenues to other state or local governmental units. There is no increase or reduction in costs for other state or local government units.

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

There is no program, service, duty, or responsibility that will be imposed 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 actions required by governmental units to be in compliance with the rules.

13. 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.

Neither an appropriation to state or local governmental units nor a funding source is associated with the proposed rules.

Rural Impact

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

There is no impact on rural areas as the standard currently exists in Department policy.

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

There are no types of public or private interests in rural areas that will be affected by the rules as the standard currently exists in Department policy.

Environmental Impact

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

There is no impact on the environment.

Small Business Impact Statement

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

MDOS is not considering exempting small businesses from the proposed rules. The proposed rules apply to private individuals making application for restricted driving privileges requiring use of bioptic or telescopic lens, not businesses.

17. 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.

There is no new economic impact on small businesses. The proposed rules apply to private individuals making application for restricted driving privileges requiring use of bioptic or telescopic lens, not businesses.

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

Low vision optometry practices (estimated to be fewer than 30 statewide) and driving rehabilitation agencies (estimated to be fewer than 10 statewide) are the small business that could be effect by the proposed rules, but there is no probable effect for these small businesses as the proposed rules are currently the standard applied through Department policy.

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.

MDOS did not establish differing compliance or reporting requirements or timetables for small businesses. The proposed rules apply to private individuals, not 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.

MDOS did not consolidate or simplify the compliance and reporting requirements for small businesses. The proposed rules apply to private individuals making application for restricted driving privileges requiring use of bioptic or telescopic lens, not businesses.

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

MDOS did not establish performance standards to replace design or operation standards. The standard is presently applied through Department policy.

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

There is no disproportionate impact on small businesses because of their size or geographic location. The proposed rules apply to private individuals making application for restricted driving privileges requiring use of bioptic or telescopic lens, not businesses.

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

There is no report and no cost for small businesses to prepare reports. The proposed rules apply to private individuals making application for restricted driving privileges requiring use of bioptic or telescopic lens, not businesses.

20. 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 is no cost of compliance for small businesses. The proposed rules apply to private individuals making application for restricted driving privileges requiring use of bioptic or telescopic lens, not businesses.

21. 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 is no cost of legal, consulting, or accounting services incurred by small businesses. The proposed rules apply to private individuals making application for restricted driving privileges requiring use of bioptic or telescopic lens, not businesses.

22. 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 costs for small businesses to absorb. The proposed rules apply to private individuals making application for restricted driving privileges requiring use of bioptic or telescopic lens, not businesses.

23. 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.

MDOS cannot promulgate a rule that exempts for sets lesser standards of compliance by small businesses because the rule does not affect small businesses.

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

There is no impact on the public interest as there are no exemptions or lower standards of compliance for small businesses. The proposed rules apply to private individuals making application for restricted driving privileges requiring use of bioptic or telescopic lens, not businesses.

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

MDOS has not involved small businesses in the development of the proposed rules because the proposed rules are the current standard applied through Department policy.

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

Small business were not involved in the development of the rules. The proposed rules are the current standard applied through Department policy.

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

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

No change in costs as the standard is currently applied through Department policy.

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

Low vision applicants for restricted driving privileges. Low vision optometry practices. Driving rehabilitation agencies.

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 to businesses. The proposed rules apply to private individuals making application for restricted driving privileges requiring use of bioptic or telescopic lens, not businesses. No additional costs to private individuals, the proposed rules are the current standard applied through Department policy.

27. 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.

There are costs to individuals to purchase bioptic or telescopic lens and attend training through driving rehabilitation agencies, but there are no increased costs due to the proposed rules, as the current standard is already applied through Department policy.

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

Low vision applicants for restricted driving privileges are affected by the rules. Currently there are 922 Michigan-licensed drivers restricted to drive only with use of bioptic or telescopic lens.

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

The qualitative impact on individuals is transparency and consistent application of the visual standard required for eligibility of restricted driving privileges with use of bioptic or telescopic lens. Transparency means that individuals are able to more easily determine if they are eligible for restricted driving privileges with use of bioptic or telescopic lens. Codifying the visual standard ensures consistent application, whereas retaining in Department policy the standard may be subject to arbitrary change or interpretation.

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

There are no quantifiable cost reductions; the proposed rules are the current standard applied through Department policy.

29. 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 primary and direct benefits include transparency of and consistent application of the requirements pertaining to use of bioptic or telescopic lens for restricted driving privileges. The secondary benefit is that codifying the visual standard limits the ability to arbitrarily change the standard without a formal process as is possible if retained in Department policy.

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

The proposed rules are neutral as it relates to potential business growth and job creation in Michigan.

31. 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.

Low vision applicants for restricted driving privileges are disproportionately affected by the proposed rules; however, the proposed rules are the current standard applied through Department policy.

32. 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.

American Association of Motor Vehicle Administrators.

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.

It was not necessary to make estimates. The American Association of Motor Vehicle Administrators published an overview and update on bioptic driving in May of 2023 which included vision standards for restricted driving privileges. Those standards were consistent with the current Department policy.

Alternative to Regulation

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

Continuing to apply the standard through Department policy would achieve the same or similar goals.

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

No statutory amendments are needed to continue with current the process.

34. 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.

A regulatory program through private market-based mechanisms is not feasible because MDOS is the agency with the legal authority to issue driver's licenses and impose appropriate restrictions.

35. 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.

The alternative is to continue to apply the standard through Department policy. Codifying the standard in the proposed rules ensures transparency of and consistent application of the requirements. Codifying the visual standard in the proposed rules limits the ability to arbitrarily change the standard as is possible if retained in Department policy.

Additional Information

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

Determination of compliance will be made through the application for driver's license restricted privileges process.