

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:

Elections & Campaign Finance

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2025-13 ST

Title of proposed rule set:

Voter Registration Cancellation, Challenge, and Correction

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 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?

No, the rules are not required by state law or 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 very similar to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The Illinois administrative code, title 26, § 216.50 addresses canceling voter registrations, and explicitly states all cancellations must comply with the National Voter Registration Act (NVRA), and these proposed rules are also drafted to make clear that Michigan's cancellation process complies with the NVRA. The Illinois administrative rule lists five documents that trigger a voter's registration being canceled upon the election authority's receipt: (1) notice of incarceration following conviction in a federal facility, (2) notice of incarceration following conviction in a state facility, (3) judgment of conviction of a crime that disqualifies the person from voting regardless of incarceration status, (4) final judgment or order of a court that made a final determination that the voter lacked the requisite qualifications to be a voter in Illinois either at the time of entry of the judgment or at the time they applied to be a voter, and (5) a death certificate. These proposed rules similarly define the details around what information may trigger voter registration cancellation or investigation of a voter's registration status and like Illinois, include death certificates as one type of information that triggers registration cancellation.

The Wisconsin law similarly requires reliable information before beginning the process of voter cancellation; these proposed rules also require reliable information (as Michigan statute also does), and seek to define and explain what reliable information is. Wisconsin does not define the term.

Mississippi defines reliable information in a way that is very similar to the definition provided in these rules. Mississippi also requires a notice process that is very similar to the process described in these rules.

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 do not exceed standards in the similarly situated states.

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 or conflict with the proposed rules. There is some overlap between the proposed rules and federal and state law governing voter registration cancellation, challenge, and correction because both federal and state law address these issues. See the National Voter Registration Act (NVRA), specifically 52 USC § 20507 and MCL 168.491 to MCL 168.523b. However, the purpose of the proposed rules is to clarify aspects of the federal and state law that are not explained by the federal and state statutes.

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.

The rules are coordinated with all applicable state and federal law. There are no applicable local laws. The efforts undertaken by the agency to avoid duplication are that the agency carefully read and reviewed the state and federal law and did not repeat what it says. Rather, these proposed rules define terms that are not defined in state law and clarify processes that are not spelled out in state law. The proposed rules show how to follow state requirements without violating any federal requirements.

Purpose and Objectives of the Rule(s)

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

The proposed rules are not intended to alter any behavior or frequency of behavior. The “behavior” most relevant to these rules is the federally required voter list maintenance under the NVRA and/or the state-law mandated voter registration challenge process. However, the frequency of these behaviors will not be altered by the proposed rules. Further, the undertaking of list maintenance will similarly not be altered by the proposed rules. All the proposed rules seek to do is to clarify the legal procedures that govern the federally required list maintenance program and the state-mandated challenge process around voter registration.

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

The frequency of list maintenance and voter registration challenges will not be altered by the proposed rules.

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

There is no difference between current behavior/practice and desired behavior/practice. The proposed rules seek to clarify the process of voter list maintenance and voter registration challenges.

C. What is the desired outcome?

The desired outcome is greater clarity around voter list maintenance and voter registration challenges so that clerks can confidently do their jobs and the public understands the process.

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 that the public and clerks may not understand all of the legal requirements around voter list maintenance and voter registration challenges. This potential misunderstanding could lead to a lack of confidence in elections in the case of the public or in the case of a clerk, and difficulties in performing legal duties.

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

There are no pre-existing rules to modify; this is a new rule set.

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 do not impose any additional regulations, rather, they clarify legal requirements that already exist in statute. Accordingly, the proposed rules are not burdensome for those required to comply and they protect the welfare of Michigan citizens because everyone benefits from a clear understanding of the required process for list maintenance and registration challenges. The proposed rules do not directly impact health or safety.

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

There are no obsolete or unnecessary rules in the rule set that can be rescinded because these rules create a new rule set and there is no existing rule set.

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 will be no fiscal impact on the agency - the rule will not cost any money but it will also not save any money.

9. 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 there is no funding source because there will be no expenditures associated with the proposed rules.

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.

There are no fiscal or administrative burdens and no duplicative acts as a result of the proposed rules. The proposed rules define terms and clarify processes that are already required under state and federal law.

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

There are no burdens.

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 are no estimated increases or decreases in revenue to other state or local governmental units. There are no estimated increases or reductions in cost to other state or local governmental units. The estimated cost of equipment, supplies, labor, and administrative costs in either the initial imposition or any ongoing monitoring is zero – there are no anticipated costs.

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

There are no programs, services, duties, or responsibilities imposed upon any city, county, town, village, or school district by the rules.

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

There are no actions that governmental units must take to be in compliance with the rules, including record keeping and reporting requirements or changing operational practices. The proposed rules do not add or change any legal requirements - they just define terms and clarify already required processes.

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.

An appropriation has not been made because additional expenditures by other state or local governmental units associated with the rules are not anticipated.

Rural Impact

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

The proposed rules are not expected to impact rural areas.

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

The proposed rules should have no impact on public or private interests in rural areas.

Environmental Impact

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

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

Small Business Impact Statement

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

Small businesses will not be governed or impacted by the proposed rules so the agency did not consider small 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.

The proposed rules do not apply to small businesses.

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

None. The proposed rules do not apply to small businesses.

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 proposed rules do not apply to small businesses and will not have an impact on their reporting or record-keeping requirements and will impose zero administrative costs.

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

The agency did not consolidate or simplify the compliance and reporting requirements for small businesses as the proposed rules do not apply to small businesses.

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

The proposed rules do not apply to performance, design, or operation standards in relation to small businesses.

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

The proposed rule set will have no impact on small 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 are no estimated costs for small businesses as the proposed rules do not apply to small 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.

The proposed rule set will have no impact on small businesses and require no compliance from small 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.

The proposed rule set will have no impact on small businesses and require no legal, consulting, or accounting services on behalf of small businesses.

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

The proposed rule set will have no impact on small businesses; accordingly, there are no costs for small businesses to absorb.

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.

The proposed rule set will have no impact on small businesses as small businesses have no part to play in voter registration and challenge; accordingly, there are no costs for administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses. Stated again, there are no costs to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

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

The proposed rule set will have no impact on small businesses. Accordingly, there is no impact on the public interest by exempting or setting lesser standards of compliance for small businesses.

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

The proposed rule set will have no impact on small businesses; accordingly, the agency has not involved small businesses in the development of the proposed rules.

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

None were involved because the proposed rule set will have no impact on small businesses.

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

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

There will be no compliance costs 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.

No businesses will be directly affected by, bear the cost of, or directly benefit from the proposed rules. No groups will be directly affected by or bear the cost of the proposed rules. Some groups may benefit from the proposed rules; specifically: election officials tasked with doing list maintenance and addressing challenges to voter registration and members of the public interested in voter registration. The benefit these groups will receive is that the rules clarify the process around list maintenance and voter registration challenges and clarity/better understanding of legal requirements will help everyone understand the process and comply with the law.

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 costs imposed on businesses and other groups as a result of these proposed rules.

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 will be no statewide compliance costs resulting from the proposed rules on individuals. There will be no costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

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

No one will be directly affected by the rules in that the rules do not mandate or prohibit anything that statute did not already mandate or prohibit. Generally, 1,604 local clerks and BOE staff will be the individuals most impacted by the rules as these individuals are legally required to perform list maintenance and respond to voter registration challenges.

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

There will be no quantitative impact on the individuals from the proposed rules. The qualitative impact will be greater clarity about the legal requirements and process for list maintenance and challenges to voter registration.

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

The proposed rules will not impact costs in any way so there will be zero cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

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 rules will not affect the quantity of anything so there is no quantitative information and no assumptions around quantity. The rules clarify and explain existing legal requirements so the qualitative primary and direct benefit is that legal requirements will be better understood. The assumption that the agency makes is that if legal requirements are better understood, the law will be more uniformly complied with. A secondary/indirect benefit of this is greater confidence in election procedures from the public due to greater understanding of legal requirements and more uniform compliance with legal requirements.

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

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

There are no individuals or businesses will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

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.

The agency relied upon the Department's current practice, comments provided by city and township clerks, and current procedures used by local clerks. The agency relied upon agency staff and its regulatory experience to formulate estimates and determine the need for the proposed rules. The agency has not identified any costs to the proposed rules, only benefits gained by greater clarity and explanation of legal requirements.

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

Estimates were made based on agency staff and its regulatory experience as well as its interactions with clerks and the questions and comments made by clerks. The agency did not make any assumptions when making estimates. No specific sources, published reports, or information provided by associations or organizations, etc. was relied upon to demonstrate a need for the proposed rules because the agency sees a need for the proposed rules based on questions and confusion it observes regarding the legal requirements around list maintenance and voter registration challenges.

Alternative to Regulation

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

There are no reasonable alternatives to the proposed rules to achieve the same or similar goals except that the Legislature could amend the Michigan Election Law to incorporate all the definitions and clarifications in the proposed rules and the Governor could sign it.

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

The Michigan Election Law could be amended to incorporate all the definitions and clarifications in the proposed rules.

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.

There are no private market-based mechanisms available to address the needs covered by the proposed rules. The agency is not aware of any private market-based system utilized by any other state.

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 agency did not consider any significant alternatives during rule development. Both internal discussions and discussions with stakeholders and affected parties supported the proposed rules as presented. The agency did not discuss the proposed rules with any other outside advisory group.

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.

The rules explicitly inform persons of requirements and methods of compliance.