

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Licensing and Regulatory Affairs

Bureau name:

Bureau of Professional Licensing

Name of person filling out RIS:

Weston MacIntosh

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Rule Set Information:

ARD assigned rule set number:

2019-103 LR

Title of proposed rule set:

Sanitarians Registration - 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.

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 must be promulgated under state law, including MCL 333.16145, 333.16148, and 333.18413, as well as Executive Reorganization Nos. 1991-9, 1996-2, 2003-1 2011-4, 2009-10, MCL 338.3501, 445.2001, 445.2011, 445.2030, and 333.26364.

No federal mandate demands the rules.

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 or law.

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

The rules specify the conditions and requirements for registration, reregistration, and renewal.

Many Great Lakes states have rules regulating the practice of sanitarians, as listed below. As further noted below, some states refer to sanitarians by different names, and may require either licensure or registration:

- Illinois – Applicants for licensure as environmental health practitioners must either: (1) Hold a bachelor's degree from an accredited college or university approved by the National Environmental Health Science and Protection Accreditation Council (EHAC); (2) Hold a bachelor's degree from an accredited college or university which included a minimum of 30 semester hours, or the equivalent, of basic sciences and 12 months of full-time experience; or (3) Hold a master's degree in public health or environmental health science from an accredited college or university if the applicant has completed a minimum of 30 semester or equivalent hours of basic science. Applicants must pass the National Environmental Health Association (NEHA) Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) examination.

- Indiana – Applicants for registration as environmental health specialists must hold a baccalaureate degree from an accredited college or university and have satisfactorily completed at least forty-five (45) quarter hours or thirty (30) semester hours of academic training in the basic physical, chemical, biological, or sanitary sciences. Applicants must have been employed full time in the field of environmental sanitation for a period of at least two (2) years within the preceding five (5) years. Applicants must pass an examination that includes subjects in the field of public health and sanitary science and such other subjects pertinent to environmental sanitation.

- Minnesota – Applicants for registration as an environmental health specialist/registered sanitarian must supply evidence of receiving a baccalaureate or postbaccalaureate degree in environmental health, sanitary science, sanitary engineering, or other related environmental health field which includes at least 30 semester or 45 quarter hour credits in the physical or biological sciences. Applicants must supply evidence of at least one year of supervised employment. Applicants must pass the NEHA REHS/RS examination.

- Ohio – Applicants for registration as a sanitarian must either: (1) Graduate from an accredited college or university with at least a baccalaureate degree, including at least forty-five quarter units or thirty semester units of science courses and completed at least two years of full-time employment as a sanitarian; (2) Graduate from an accredited college or university with at least a baccalaureate degree, completed a major in environmental health science which included an internship program and completed at least one year of full-time employment as a sanitarian; or (3) Graduate from an accredited college or university with a degree higher than a baccalaureate degree, including at least forty-five quarter units or thirty semester units of science courses and completed at least one year of full-time employment as a sanitarian. Applicants must pass an examination that includes subjects in the field of environmental health science.

- Wisconsin – Applicants for registration must either: (1) Have a baccalaureate or higher degree in environmental health from an accredited college or university with academic credits in physical, biological, chemical, environmental or environmental health areas and one year of full-time equivalent employment in the field of environmental health; (2) Have a baccalaureate or higher degree in physical or biological sciences from an accredited college or university with academic credits in physical, biological, chemical, environmental or environmental health areas and 2 years of full-time equivalent employment in the field of environmental health; (3) Have a baccalaureate or higher degree from an accredited college or university and 4 years of full-time equivalent employment in the field of environmental health; (4) Have an associate degree from an accredited college, community college or technical institute in environmental, physical, biological or chemical sciences, and 5 years of full-time equivalent employment in the field of environmental health; or (5) Have an associate degree from an accredited college, community college or technical institute and 8 years of full-time equivalent employment in the field of environmental health. Applicants must pass the NEHA REHS/RS examination.

When compared to other Great Lakes states, Michigan's registration requirements for a sanitarian are like other Great Lakes states.

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

MCL 333.18413 allows promulgation of rules related to registration. The rules do not exceed the requirements of other states.

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

There are no federal regulations for sanitarians. There are no other 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.

Review of applicable statutory law avoided unnecessary duplication in the 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.

There is no applicable federal mandate for these rules.

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.

There is no applicable federal mandate for these rules.

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

The proposed changes include reorganization of the rules. The specific topics that the proposed rules address and the substantive changes to the proposed rules is set forth below:

R 338.3901. This rule sets forth an explanation of specific terms used throughout the rule set. The rule revision clarifies definitions and the meaning of terms used in the rule set.

R 338.3911. This rule sets forth the adoption of educational accreditation standards. It updates environmental health baccalaureate programs accreditation standards, updates environmental health graduate programs accreditation standards, and updates higher institution educational program regional accreditation standards.

R 338.3913. This rule sets forth the educational requirements for registration as a sanitarian. It requires applicants who are graduates of only regionally accredited programs to provide to the department an evaluation of their educational credentials by a credential evaluation organization.

R 338.3921. This rule sets forth the requirements for training on identifying victims of human trafficking. The rule includes a date of promulgation.

R 338.3923. This rule sets forth the adoption of the examination for registration. It also removes duplicative language from the former examination rule.

R 338.3925. This rule sets forth the requirements for registration. It clarifies and simplifies registration by examination requirements, including the removal of departmental review of an alternative educational and training program.

R 338.3927. This rule sets forth the requirements for registration by endorsement. It includes the educational and experience requirements an applicant must satisfy to qualify for registration by endorsement.

R 338.3929. This rule sets forth the requirements for reregistration. It adds criteria related to good moral character and fingerprinting as conditions for reregistration of a sanitarian, as well as other relevant criteria, depending on the circumstances of the applicant.

R 338.3931. This rule sets forth the requirements for renewal of a registration. It addresses the requirements for registration renewal.

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

Promulgation of rules related to registration is necessary under statute. This supplies a regulatory framework for the practice of sanitarians. The proposed changes supply greater clarity to registrants and aid in understanding the requirements of the rules.

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

Statute regulates the practice of sanitarians. The rules update standards of educational programs and add clarifications, including the requirements of supplying fingerprints and proving good moral character for the purposes of reregistration. These additions will make compliance easier for applicants and registrants.

C. What is the desired outcome?

Regulation is necessary for individuals who wish to practice as sanitarians. By improving and clarifying the rules, applicants and registrants should find compliance easier. This should result in fewer questions, fewer regulatory problems, and greater safety and 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 statutes governing the sanitarian profession creates conflict and confusion for sanitarians. The proposed rules update previously adopted rules.

Changes made specifically address the following:

R 338.3901 pertains to definitions. Terms used in the rule set, without further clarification, can create confusion for applicants and registrants. The proposed changes supply clarification for the use of terms used throughout the set.

R 338.3911 pertains to accreditation standards for sanitarian educational training programs. Outdated standards supply little help or guidance about proper training of sanitarians. The updated standards ensure future registrants are properly qualified.

R 338.3913 pertains to educational training requirements. Unclear educational requirements create ambiguity about applicant qualifications throughout the registration process. The revisions clarify educational requirements for applicants.

R 338.3921 pertains to detecting human trafficking. A rule without specific compliance dates can create confusion for applicants and registrants. Including specific dates of promulgation aids applicants and registrants in following this rule.

R 338.3923 pertains to examinations. Unclear examination requirements create ambiguity about the conditions for registration. The revisions clarify the examination requirements for applicants.

R 338.3925 pertains to applications for a sanitarian registration. Unclear requirements create ambiguity about the conditions for registration. The revisions clarify the registration requirements for applicants.

R 338.3927 pertains to applications for registration by endorsement. Unclear documentation requirements create ambiguity about applicant responsibilities throughout the registration process. The revisions clarify documentation requirements for applicants.

R 338.3923 pertains to reregistration. The prior version of the rule did not include all statutory requirements for reregistration. The proposed changes incorporate the needed statutory requirements under MCL 333.16201.

R 338.3931 pertains to registration renewal. Unclear requirements create ambiguity about the conditions for renewal. The revisions clarify the renewal requirements for registrants.

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

The proposed rule set updates outdated standards, corrects typographical errors, and supplies clarity to all rules on registration.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules supply a regulatory mechanism for the practice of sanitarians. To protect the health, safety, and welfare of Michigan's citizens, it is important that members of the profession adhere to educational and professional standards.

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

Rescission of R 338.3910, the prohibited conduct rule, is necessary, as MCL 333.16221 and MCL 333.18413 already regulate conduct.

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.

There has been no agency appropriation for the proposed rules because there are no expected agency expenditures associated with the proposed rules.

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

The proposed rules supply a mechanism for the registration and regulation of individuals in this state, as mandated by statute. Applicants and registrants will continue to have a cost-related burden associated with registration, renewal, or reregistration. The cost of renewal for a sanitarian is \$118.90. The cost of reregistration for a sanitarian is \$106.45. The cost of registration for a sanitarian by examination or endorsement is \$86.45.

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

The rules are necessary to supply a mechanism for registration and regulation of the profession. The rules are not more restrictive than allowed by statute. Despite the cost-related burden of registration, the rules and regulations are necessary to supply a framework of standards for educational and registration requirements.

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

There is no expected increase or decrease in revenues to other state or local government units, nor are there cost increases or reductions on other state or local government units expected because of the proposed rules. There is no expected increase or decrease in revenues to other state or local government units, nor are there cost increases or reductions on other state or local government units expected because of the proposed rules.

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

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 is necessary for governmental units to follow 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.

State and local government units will incur no added expenditures because of implementing the proposed rules. Therefore, no appropriation or funding source is necessary.

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

There is no expected disparate impact on rural areas because of the proposed rules.

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

There is no expected disparate impact of public or private interests in rural areas because of the proposed rules.

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

No, the proposed rules will have no impact on the environment.

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

The public health code authorizes the department to regulate individuals with sanitarian registrations; not small businesses. Even if a registrant's practice qualified as a small business, the department could not exempt his or her small business because it would create disparity in the regulation of the profession.

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

There is no expected economic impact on small businesses because of the proposed rules. The proposed rules affect individual registrants rather than small businesses.

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

The department does not collect or have access to information that would allow it to find and estimate the potentially affected number of small businesses. It is impossible to estimate the number of small businesses affected by the proposed rules. The only small businesses affected by these rules are sanitarians practicing in small business settings. The department does not track or have access to this type of information since it is not a data repository.

The rules do not affect the operation of the small business. The probable impact on small business is small.

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.

Because the proposed rules pertain to individuals and not small businesses, they do not have differing compliance or reporting requirements or timetables for small businesses. They are unnecessary for the proposed rules.

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

The proposed rules do not impose any reporting requirements.

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

The agency did not set up 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 affect individual registrants rather than small businesses. Therefore, there is no expected disproportionate impact on small businesses based on size or geographic location because of the rules.

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 need 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.

There is no expectation of an effect on small businesses because of the proposed rules, nor are there any added costs, because the proposed rules apply to individuals and not businesses.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

The proposed rules, which apply to individuals and not businesses, should not create a need for any legal, consulting, or accounting services for small businesses to be able to follow the proposed rules.

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

Since the rules affect individual registrants rather than small businesses, there is no expected cause of economic harm or for the rules to adversely affect a small business' competition in the marketplace.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The proposed rules impose requirements on individual registrants rather than small businesses. Even if a registrant's practice qualifies as a small business, the department could not exempt his or her small business because it would create disparity in regulation of the profession. Therefore, exempting or setting a lesser standard of competence for a small business is not in the best interest of the public.

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

The department is not able to exempt registrants that own a small business. If the department exempted small businesses, it would create a disparity in the regulation of a profession and have a negative impact on public safety.

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

Development of the proposed rules included the opportunity for any member of the public to participate in open rules work group meetings, as well as consultation with members of the Michigan Environmental Health Association and the Michigan Association for Local Public Health.

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

Development of the proposed rules included the opportunity for any member of the public to participate in open rules work group meetings, as well as consultation with members of the Michigan Environmental Health Association and the Michigan Association for Local Public Health.

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

There are no small businesses affected by the proposed rules. Those affected are individuals who are engaged in practice as sanitarians.

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

The registrants will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

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

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

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

Applicants and registrants will continue to have a cost related burden associated with registration, renewal, or reregistration. The cost of renewal for a sanitarian is \$118.90. The cost of reregistration for a sanitarian is \$106.45.

The cost of registration for a sanitarian by examination or endorsement is \$86.45.

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

The rules affect all individuals who seek registration as sanitarians.

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

The fees involved will be like those incurred in other regulated professions.

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

There are no expected reductions in costs to businesses, individuals, groups of individuals, or governmental units because of the proposed rules.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed rules use clear, concise language, and implement the statutory requirements for registration. The clear, concise language allows the public, registrants, and schools to better understand the requirements for registration.

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

There is no expected significant impact on business growth, job growth, or job elimination because of the rules.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The department does not expect any disproportionate effect on any individuals or businesses by their industrial sector, segment of the public, business size, or geographical 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.

Council for Higher Education:
<https://www.chea.org/>

National Association of Credential Evaluation Services:
<https://www.naces.org/>

National Environmental Health Association:
<https://www.neha.org/>

National Environmental Health Science and Protection Accreditation Council:
<https://www.nehspac.org/>

United States Department of Education Office of Postsecondary Education:
<http://www.ed.gov/about/offices/list/OPE/index.html>

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

Indiana:
https://www.in.gov/pla/files/IBEHS.2008_EDITION.pdf

Minnesota:
<https://www.health.state.mn.us/communities/environment/sanitarian/index.html>

Ohio:
<https://odh.ohio.gov/wps/portal/gov/odh/know-our-programs/sanitarian-registration/welcome-to>

Wisconsin:
<https://dsps.wi.gov/Pages/Professions/RegisteredSanitarian/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.

Since statute mandates the rules, no estimate was necessary.

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

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

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

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

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Since statute mandates the rules, private market-based systems cannot serve as an alternative. The registration and regulation of sanitarians are state functions, so a regulatory program independent of state intervention cannot be set up. One could consider sanitarian professional associations as regulatory mechanisms that are independent of state intervention; however, these professional organizations would provide the public with significantly less protection because membership in these organizations is voluntary. This means an individual who meets the membership requirements, but does not join, would still be able to practice and there would be no way to ensure his or her competency or hold them accountable for harm done to clients.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

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

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

The rules include the instructions for compliance.