

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:

Treasury

Bureau name:

Michigan Gaming Control Board

Name of person filling out RIS:

Wendy Harns

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Rule Set Information:

ARD assigned rule set number:

2020-38 TY

Title of proposed rule set:

Horse Racing 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. Association of Racing Commissioners International (ARCI), however, is an association of the governmental regulators of horse and greyhound racing. The association exists to assist in the coordination of the collective efforts of its members who are responsible for ensuring compliance with government laws and regulations designed to protect the general public and racing industry participants, including the equine and canine athletes.

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

These rules are authorized under § 7(1) of Horse Racing Law of 1995, as amended, which states the Racing Commissioner may promulgate rules pursuant to the administrative procedures act of 1969 for conducting horse racing, pari-mutuel wagering on horse racing results, and simulcasting. MCL 431.307(1)

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.

There are no federal standards.

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

Approximately 32 states allow pari-mutuel wagering on horse racing. Each state establishes its own requirements for licensing and regulating horse racing. These rules provide a regulatory framework for the licensing and operation of racetracks, race meet licensees, third-party facilitators and occupational licensees to ensure the public's interest in fair and honest gaming is protected.

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

In comparing certain areas of Michigan's licensing and regulation of horse racing, we found that Michigan's standards were the same or exceeded those states with similar demographics to Michigan. The proposed rules continue to meet or exceed industry standards and protect the public's interest in ensuring fair, honest gaming and the safety of all participants. Comparisons were conducted in the following areas: (a) void claim requirements; (b) Standardbred claiming race scratches; and (c) coupled entries.

Voidable Claims

In comparing Michigan's requirements to allow a claim for a horse to be voided due to lameness, death, or drug infraction found in Rules 431.3201 and 431.4140, we determined that the new standards were consistent with industry standards found in regulations in several other states and the ARCI model rules.

- Michigan's rule is like Minnesota's standards in that the stewards shall void a claim if a horse dies or the horse is placed on the veterinarian's list.
- Michigan's rule is like New York's standards in that a claim shall be void for any horse that dies during a race or should the analysis of a race-day blood or urine sample taken from a claimed horse result in a positive test the stewards and the claimant shall have the option to void said claim.
- Michigan's rule is like California's standards in that the stewards shall void the claim if the official veterinarian determines the horse will be placed on the Veterinarian's List as bled, unsound or lame or if the horse suffers a fatality during the running of the race.
- Michigan's rule is like the ARCI model rule in that a claim shall be voided if the horse suffers an injury which requires the euthanasia or is observed by the Official Veterinarian to be lame or unsound.

Standardbred claiming race scratches

In comparing the claiming scratch requirements in Rule 431.4140 to the requirements in the other states, we determined the requirement that a scratched horse is available at the same claiming price on reentry is similar to other states.

- Michigan's rule is like Indiana's in that a horse scratched in a claiming race may be claimed for the same price as the race from which it was scratched.
- Michigan's rule is like Illinois in that a horse excused by the stewards, in its next start, must race in a claiming race for the same price or less.
- Michigan's rule is like Pennsylvania's in that a horse scratched from a claiming race in its next start, shall be subject to be claimed at the claiming price to which it was subject in the race from which it was scratched.
- Michigan's rule is like the ARCI model rules in that a scratched horse shall be subject to claim in its next start at the claiming price it was subject to in the race in which it was scratched.

Coupled entries

In providing owners and trainers the ability to race their horses as separate betting interests in Rules 431.3110 and 431.4180 it allows more opportunities for the licensees and more options for racing patrons. It is imperative that these new opportunities be authorized by stewards to prevent potential conflicts.

- Michigan's rule is like Minnesota's standards in that the association may uncouple entries on any race with the permission of the stewards.
- Michigan's rule is like Kentucky's standards that two or more horses may race as a separate betting entry after a request by the association and approval of the stewards.
- Michigan's rule is like Pennsylvania's for allowing horses from different owners but trained by the same person to race as separate betting entities.
- Michigan's rule is like the ARCI model rule that allows two or more horses with common ownership to race uncoupled with the approval of the stewards.

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 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.

The rules have not been coordinated as there are no other laws, rules, or other legal requirements that duplicate, overlap, or conflict with 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.

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.

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

The rules are designed to promote a safe, responsible, fair, and legal system of horse racing, pari-mutuel wagering, and simulcasting in this state. The behaviors being altered increase safety and create the least burdensome alternative for those required to comply. The rules also provide process clarifications and improvements for consistency with industry practices. In particular:

Part 1 specifies licensing requirements; clarifies who assumes responsibility for a horse when an owner dies; explains the certification process for Certified Horsemen's Organizations (CHO); explains eligibility of a horse to race without traveling to a track; provides executive director of MGCB authority to waive a rule; clarifies restricted area rules and who is prohibited from making a wager or soliciting a stake; gives association employees ability to own a horse participating in the race meet; clarifies penalties for illegal activity; gives stewards discretion to relieve a licensee of his or her commitments if found to have a breathalyzer result under .05%; clarifies when a horse is eligible to race if the licensee has been disqualified, expelled, or ruled off; clarifies who can make an objection or complaint and the process to do such; modifies the declaratory ruling process; changes drug testing methodology to reflect advances in Standard Operating Procedures (SOP); adds requirement that ARCI penalty guidelines be taken into consideration when administering disciplinary action; sets forth licensed veterinarian requirements and responsibilities; combines denervating standards and use of extracorporeal shock wave therapy; clarifies result of positive drug test; expands postmortem requirements to off-track locations; and, permits blood, urine, other bodily fluid specimens or other tissue specimens for analysis and potential disciplinary action.

Part 2 clarifies the calculation of certain monies from wagering to local units of government; eliminates usage of breakage to reflect change in act; clarifies usage of dead heat and wagering for late scratches; clarifies retention of breakage; clarifies betting interest on trifecta and superfecta; clarifies refund of wager; clarifies pool distribution where there is no winning ticket; and adds new type of wagering.

Part 3 eliminates steward's duty to review stall applications; creates stewards report; clarifies the usage of stable names; changes the time to assemble horses before going to racetrack; enhances oversight of jockey weigh-in; clarifies the use of starter and requirement that all parts of the horse remain visible during pre-race exam; explains shoeing requirements; updates methods of placing and entry of horses; requires oversight of stewards when making alterations of entries; forbids entry of horses at two different races tracks in same day; clarifies use of the veterinarian's list; clarifies when horses can be scratched and allows horses with common ties through ownership or training to race as separate betting interests; lengthens preference date from 30 to 45 days; specifies that scratches are irrevocable and use of official database for racing information and statistics to determine eligibility, allowances, and penalties; clarifies distribution of purse money and the claiming process; clarifies division of money with dead heat finish; changes requirement for jockey license upgrade; eliminates the priority of retainers when employers retain jockeys; clarifies safety equipment requirements; removes numbering requirements when track is officially rated sloppy; adds specifications for riding crops their use; clarifies best effort to win requirement; creates opportunities for Michigan-bred horses to compete.

Part 4 specifies that a racing official cannot be the owner of a horse racing at a track where the official is serving; requires stewards to make daily reports; makes responsible for recording images as horses cross the finish line; allows licensee to leave the paddock with approval; updates identification methods for horses and use of new electronic recordkeeping; clarifies eligibility of horse when trained by an ineligible or associated person; clarifies what is an extended pari-mutuel; creates opportunity for more types of races; clarifies the claiming process; clarifies entry procedures; requires the use of safety vests; and explains driving rules including proper use of whips and pylon violation.

Part 5 sets forth parameters for third-party facilitators by defining new terms and explaining the provisions for licensure of a TPF, establishment and operations of accounts and penalties for failure to comply, providing false information, or posing a threat to the integrity of racing.

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

The change in frequency of the targeted behavior for Part 1 is: that there be a contractual relationship between an owner and trainer when the trainer owns less than 50% of the horse; that a CHO must file its registration no later than September 1 of the year preceding the calendar year in which the race meeting would be conducted; to maintain a 24-hour guard at any entrance to the stable area 30 days before a live race meeting if horses are stabled on the grounds; that all occupants of a vehicle entering a restricted area must be logged; to prohibit smoking in certain areas and provide stewards with discretion to relieve a licensee of his or her commitments if found to have a breathalyzer result under .05%; to reduce the time period to 48 hours in which to file a complaint; to enlarge the time period to 90 calendar days for the executive director to issue a written notification about whether a declaratory ruling will be issued; to authorize taking specimens; to set forth trainer responsibility to create and maintain full and accurate records of all treatments given or performed on a horse in his or her care; to set forth veterinarian reporting requirements; to define a licensee's participation in a live race meeting to include 30 days before the live race meeting starts and 30 days after the live race meeting ends.

The change in frequency in the targeted behavior for Part 2 is: to pay on all win, place and show bets when there is a dead heat instead of just paying on the first 4 horses; to clarify negative breakage; to allow cancellation of place and/or show wagering; that there will be no trifecta wagering on any race with less than 5 separate betting interests and there will be no superfecta wagering on any race with less than 6 separate betting interests; to allow pick three and four wagering.

The change in frequency in the targeted behavior for Part 3 is: stewards will maintain a daily report; that paddock judges will assemble horses not less than 15 minutes before the scheduled post time; that the clerk of scales will weigh in not less than the first 4 finishers instead of the first 3 finishers; that a horse that has never started must have at least 2 published workouts with one being from the starting gate approved by the official starter; that a horse cannot race without a lip tattoo or unique microchip; that toe grabs are permitted up to 2 millimeters in length; that a horse shall not be entered at more than one track when races are conducted on the same day; that 4 instead of 6 horses will be posted on the entry sheet as "also eligible" to start; that preference dates will not be carried for a period of more than 45 days instead of 30 days; that a claiming permit will take effect upon issuance; that all claimed horses will be post-race drug tested; that a trainer will no longer have to race a claimed horse at an increased value for a period of 30 days after claim; that a jockey must have 5 races before being granted a license upgrade; that the a jockey or apprentice jockey can serve less than a year with a racing stable to get a license; that a jockey agent may act for 2 jockeys; that entries for Michigan-bred horse races may include non-Michigan-bred horses when there is an insufficient number of Michigan-bred horses.

The change in frequency in the targeted behavior for Part 4 is: that a racing official is not required to take eye exam; that stewards will maintain daily reports; that the timer/photo finisher record image as horse crosses the finish line; that condition sheets contain not less than 1 week of a racing program; that a person issued a license may claim same day; that a person shall not claim more than 1 horse from any 1 race; that a claimed horse cannot be sold or transferred to anyone within 30 days after the date of claim, except in another claiming race; that a claim may be voided within 3 days if a claimed horse's post-race blood or urine sample come back positive; that in overnight races not more than 9 horses will be allowed to start on a ½ mile racecourse and not more than 2 trailers will be permitted at any one time; that when drawing post positions for handicapped races on a ½ mile racecourse, 1-2-3-9 are considered inside post positions; that two horses with common ties cannot both start in a race to the exclusion of a single interest; that if two or more horses have the same first and second preference dates, then the entry will be determined by lot; that stewards will set the time for driver changes; that wait time on the backstretch prior to post time is eliminated; that a Q license holder must perform at least 12 satisfactory qualifying drives before being advanced to a P license.

There is no frequency of the targeted behavior being changed in Part 5 as it is new.

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

The difference between current behavior/practice and desired behavior/practice in Part 1 is: an increase in reporting, improve licensee safety and clarify licensee status; to require a contractual requirement between owners and trainers; to have CHOs file by a certain date; to have training centers to prepare horses to race closer to their farm; to have lease agreements submitted and allow stewards to suspend or revoke the agreements; to have executive director waive rule to permit a horse to participate in a specific race of special interest to the sport; to clarify when a stable area becomes a restricted area; to prohibit smoking in certain areas and to allow stewards to relieve a licensee of his or her commitments if found to have a breathalyzer result under .05%; clarification to who can make an objection or complaint and to whom that objection or complaint may be made too; to have 10 days to pay a fine instead of 5; to allow stewards to cancel races; to give official veterinarian additional authority; to change the drug testing methodology to reflect advances in SOPs; to provide notice to trainers about standing pending a stewards investigation of a positive drug test; to require trainers to keep accurate medical records; to require prompt notification of a reportable disease and communicable illness; to require prompt notification when a horse is seriously injured or dies; to clarify what substances a licensee can give a horse before a qualifier, workout, or race; to specify reporting requirements for licensed veterinarians; to enhance safety by creating a veterinarian's list for lame, sick, and injured horses to prevent those horses from competing; to require reporting and restrictions on use of extracorporeal shock wave therapy; to require reporting when a horse dies at a premise related to a licensee's participation in a live race meeting to enhance equine health and welfare.

The difference between current behavior/practice and desired behavior/practice in Part 2 is: to explain how breakage is handled between race meeting licensees and local municipalities; to explain requirements for superfecta wagering; to notify patron that he must present and surrender a valid ticket as proof of the wager; to add a new type of wagering to replace triple crown and special sweepstakes wagering.

The difference between current behavior/practice and desired behavior/practice in Part 3 is: that a trainer must make a horse's leg visible and free from substances before a physical exam; that trainer must ensure that his horse has 2 specific published workouts if starting for first time; that owners may identify horses using a unique microchip; that trainers may use toe grabs no longer than 2 millimeters; that entries can be made by electronic means and that a horse cannot be entered at more than one track when races are conducted on the same day; to allow the uncoupling of horses with common ties to race as separate betting interests; that 4 horses will be posted on the entry sheet as "also eligible" to start; that all claimed horses will be post-race drug tested; that a new jockey will be required to ride in more races before being granted a license upgrade; that certain persons will be required to wear safety equipment; to set regulations for use of a riding crop; to fill unfilled Michigan-bred races with entries, even if those places are filled by a non-Michigan-bred horse.

The difference between current behavior/practice and desired behavior/practice in Part 4 is: allowing one racing official to substitute for another; to allow the use of a unique microchip to identify a Standardbred; to prohibit a horse that is owned by an ineligible or associated person from racing; clarification of what constitutes an extended pari-mutuel; to allow a person to claim a horse the same day; to provide that all claimed horses must be drug tested and clarify circumstances under which a claim may be voided; to indicate the maximum number of horses allowed to participate in a single event to prevent unsafe crowding and to limit a horse to one race per day; to require video recording of qualifying events to allow replay of potential infractions for steward decisions; that trainers may race more than one horse in an event as long as they have different owners; to instruct drivers in what actions may lead to a recall and set forth the requirement to upgrade from a qualifier driving license to a P license; that drivers will be required to wear a safety vest when out on the track; to instruct drivers in the proper use of whips to address equine welfare issues and to set forth penalties for leaving the course and pylon violations.

There is no difference between current behavior/practice and desired behavior/practice in Part 5 because account wagering did not exist before December 20, 2019.

C. What is the desired outcome?

The desired outcome of rule changes to Part 1 is: to provide clarity, consistency, and ease of reference for applicants and licensees about occupational licensing and disciplinary action; to explain the certification process for horsemen's organizations; to provide a method that allows more horses to become eligible to race without traveling to a licensed racetrack; to provide a framework to allow workouts or qualifying races at training centers; to clarify licensing requirements for multiple owners of a single horse; to have lease agreements submitted and give the stewards the ability to suspend or revoke approval; to maintain a 24-hour guard at any entrance to the stable area 30-days before a live race; to strengthen disease prevention; to eliminate provisions regarding denervating; to clarify who is prohibited from making a wager or soliciting a stake; to clarify when an association employee may own a race horse; to prohibit smoking in certain areas, prohibit a licensee from possessing or using alcohol while performing duties, and, provide stewards with discretion to relieve a licensee of his or her commitments if found to have a breathalyzer result under .05%; to have a person make a complaint within 48 hours; to add authorization for certain actions related to weather conditions; to reflect advances in SOPs and limit the number of licensees allowed in the detention barn; to clarify that no substance may be administered to any horse on race-day unless authorized; to specify reporting requirements for licensed veterinarians; to enhance safety; to combine denervating standards with standards for use of extracorporeal shock wave therapy; to have bleeders placed on a veterinarian's list and to have the official veterinarian examine the horse before it is removed from the list; to expand post mortem requirements to off-track locations and permit blood, urine, other bodily fluid specimens or other tissue specimens for analysis and potential disciplinary action.

The desired outcome of the rules changes to Part 2 is: to clarify the calculation of certain monies from wagering to local units of government where the track is located; to make the rule consistent with the act; to clarify required breakage payments to city or township in which the racetrack is located; to provide the stewards with authority to cancel certain betting at the request of the association based on number of horses in a race; to clarify trifecta and superfecta betting interests; to clarify refund of wager upon presentation and surrender of ticket when race has been declared no contest or cancelled; to clarify trifecta pool distribution in cases where there is no winning ticket; to add a new type of wagering to replace triple crown wagering and special sweepstakes.

The desired outcome of rule changes in Part 3 is: to clarify the racing officials' positions; to eliminate the stewards' duty to review stall applications and to clarify use of stable names; to require a trainer to make a horse's leg visible and free from substances before a physical exam; to ensure a horse starting for the first time has 2 specific published workouts; for owners to identify their horses by using a unique microchip; that toe grabs of no longer than 2 millimeters in length will be used by trainers on their horse's shoes; that entries can be made electronically and that a horse is not be entered at more than 1 track when races are conducted on the same day; to allow the uncoupling of horses with common ties to race as separate betting interests; that 4 horses will be posted on the entry sheet as "also eligible" to start; that all claimed horses will be post-race drug tested; to enhance safety; to set regulations for using a riding crop; to fill entries in Michigan-bred races.

The desired outcome of rule changes in Part 4 is: greater staffing flexibility; to allow use of a unique microchip; to not allow an ineligible or associated person to race their horses; to clarify what is considered extended pari-mutuel for the purpose of eligibility; to allow a person to claim same day license is issued; to have all claimed horses drug tested and provide clarifications on the circumstances in which a claim may be voided; to streamline entries and declarations; to prevent unsafe crowding by limiting the number of horses allowed to participate in a single event and limiting a horse to one race per day; to provide stewards with a video recording of qualifying events; to provide more racing opportunities; to instruct drivers what actions may lead to a recall; to instruct licensees how to upgrade from a qualifier driving license to a P license; increased safety.

The desired outcome of the rules in Part 5 is to set forth account wagering as authorized with amendment to the Horse Racing Law of 1995, on December 20, 2019.

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 current rules have requirements that are outdated by advances and changes in industry. If the rules are not changed, operational efficiencies cannot be implemented, and enforcement activities are not prioritized. Additionally, with the amendment to the Horse Racing Law of 1995, on December 20, 2019, it is necessary to promulgate rules related to account wagering.

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

The rationale for changing the rules is to lessen the burden on the horse racing industry without jeopardizing regulatory enforcement activity or the integrity of horse racing. The changes also allow for clarification of processes and procedures. It is also necessary to promulgate new rules to address account wagering as now authorized by the Horse Racing Law of 1995.

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 are designed to protect the public interest in equine safety, along with responsible, fair, and a legal system of horse racing, pari-mutuel wagering on horse races, and simulcasting in the state of Michigan while at the same time promoting a regulatory environment that is the least burdensome alternative for those required to comply.

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

R 431.1050 is being rescinded because it has been provided for in the act.

R 431.1055 is being rescinded because it has been incorporated into R 431.1035.

R 431.1075 is being rescinded because it has been incorporated into R 431.1065.

R 431.1080 is being rescinded because it has been incorporated into R 431.1065.

R 431.1090 is being rescinded because it has been incorporated in R 431.1035.

R 431.1135 is being rescinded because it has been incorporated into R 431.1302.

R 431.1180 is being rescinded because it has been incorporated into R 431.1035.

R 431.1185 is being rescinded because it has been incorporated into R 431.1035.

R 431.1190 is being rescinded because it has been incorporated into R 431.1035.

R 431.1195 is being rescinded because it has been incorporated into R 431.1035.

R 431.1285 is being rescinded because the terms and conditions are handled contractually.

R 431.1290 is being rescinded because the terms and conditions are handled contractually.

R 431.1999 is being rescinded because it is no longer necessary. The prior rules have already been rescinded.

R 431.2005 is being rescinded because the definitions already are in Part 1 of the rules.

R 431.2040 is being rescinded because it has been provided for in the act.

R 431.2045 is being rescinded because messengers are no longer used.

R 431.2061 is being rescinded because blended simulcast purse pools are no longer provided for in the act.

R 431.2080 is being rescinded because it is a wager no longer used in this state.

R 431.2095 is being rescinded because it has been replaced by the pick three wager, R 431.2094.

R 431.2100 is being rescinded because it is a wager no longer used in this state.

R 431.2105 is being rescinded because it is a wager no longer used in this state.

R 431.2110 is being rescinded because it is a wager no longer used in this state.

R 431.2115 is being rescinded because it is a wager no longer used in this state.

R 431.3015 is being rescinded because the definitions have been moved or are no longer being used in the rules.

R 431.3050 is being rescinded because these patrol judge responsibilities are no longer necessary.

R 431.3085 is being rescinded because it was moved to Part 1.

R 431.3240 is being rescinded because these are contract issues between the jockey and contractor or otherwise covered by R 431.3245.

R 431.4165 is being rescinded because these types of races are no longer offered in this state and to the extent such type races are conducted, R 431.4160 clarifies the requirements.

R 431.4205 is being rescinded because it has been provided for in R 431.1261.

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).

Other than the costs to promulgate the proposed rules, the MGCB does not anticipate any additional costs or savings.

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 or funding source provided for related to any expenditures associated with the proposed rules because the agency does not anticipate any additional costs.

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 necessary and suitable to promote equine safety while providing a responsible, fair, and a legal system of horse racing, pari-mutuel wagering on horse racing results, and simulcasting in the state of Michigan. Any burden on an applicant or licensee is necessary to accomplish these purposes.

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

Any burden on an applicant or licensee is necessary to regulate horse racing, pari-mutuel wagering on horse racing results, and simulcasting in the state of Michigan.

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

The proposed rules do not establish any new requirements that would either increase or decrease the revenues for state or local government units or increase or reduce their costs.

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

There are no anticipated or intended programs, services, duties, or responsibilities imposed on any city, county, township, village, or school district as a result of these proposed 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 anticipated actions that a governmental unit must take to comply with these proposed rules.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

No appropriations have been made to any governmental unit as a result of these rules. No additional expenditures are anticipated or intended with the proposed rules.

16. 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.

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

The proposed rules should have no impact on the environment.

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

Under the Michigan Horse Racing Law of 1995, a legal entity must be licensed to operate a track, conduct a race meeting, accept wagers over the Internet, or participate in horse racing with pari-mutuel wagering and simulcasting; thus, while some of these entities may be small businesses, they cannot be exempt from the proposed rules.

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.

Because the Horse Racing Law of 1995 requires licensure of the involved entities, small businesses were not exempted from the proposed rules. These rules set forth the regulatory structure necessary to promote safety, as well as responsible, fair, and a legal system horse racing, pari-mutuel wagering on horse racing results, and simulcasting in the state of Michigan.

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

There are approximately 670 small businesses that may be affected by the proposed rules. The effect on these small businesses will be minimal as the proposed rules lessen the burden on the horse racing industry without jeopardizing regulatory enforcement activity or the integrity of horse racing.

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.

Separate compliance and reporting requirements were not established for small businesses. The projected costs for reporting, record keeping, and other administrative requirements are minimal and the benefits to safety and integrity issues are high.

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 MGCB did not consolidate or simplify compliance or reporting requirements for businesses that must be licensed.

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

The MGCB did not establish performance standards to replace design or operation standards for businesses that must be licensed.

20. 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 geographical location.

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

While no specific report is required, trainers and veterinarians are required to keep training and medical records of their horses, but these records should already be maintained. Therefore, there is no estimated cost for preparation of a report by a small business.

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 will be some cost savings and minimal increased costs for equipment, supplies, and labor including:

R 431.1295 Trainers; responsibilities; positive test presumptions.

(4) A trainer is responsible for creating and maintaining full and accurate electronic or paper records of all treatments given to or performed on a horse in his or her care. The records must include:

*This change will have minimal supply costs and minimal labor cost. The supply cost would commonly be a notebook, the labor cost would be the time recording a treatment in the notebook.

R 431.1340 Postmortem of horses.

(1) A horse that dies on the grounds or on a premise related to a licensee's participation in a live race meeting shall not be removed before notification of the official veterinarian

*In adding the premise related to a licensee's participation to on the grounds requirements of postmortem exams, an added cost may be incurred. This change is necessary when horses are no longer stabled at racetracks to effectively monitor the health of the racing population. A postmortem will commonly cost \$320. There are an average of 3 deceased horses per year.

R 431.3260 Racing and safety equipment.

(1) Any person mounted on a horse or stable pony on the grounds must wear a properly secured safety helmet at all times.

(2) Any person mounted on a horse or stable pony on the grounds must wear a properly secured safety vest at all times.

*This change will entail an up-front cost to some participants, but this outlay could result in net savings when injuries are prevented.

R 431.4075 Charting of races.

Rule 4075. The charting of races shall be done by a United States Trotting Association certified person...

*This change will increase costs for the racing official by \$20.

R 431.4175 Qualifying races.

(i) Qualifying races must be recorded by the association.

*This change will increase costs for the association an undetermined amount as this is a contractually negotiated value. Costs can be minimized by holding qualifying races on race nights as is the current practice.

R 431.4260 Driver restrictions.

(5) A driver shall not drive during the time when colors are required on a race course unless he or she is wearing an approved safety vest and an approved protective helmet

*This change will entail an up-front cost to some participants, but this outlay could result in net savings when injuries are prevented.

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 costs for legal, consulting, or accounting services that a small business would incur in complying with 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.

Businesses will be able to absorb the cost without suffering economic harm and without adversely affecting 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 rules do not, and cannot, exempt or set 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.

Because horse racing, pari-mutuel wagering on horse racing results, and simulcasting are highly regulated, a regulatory structure is necessary to protect equine welfare and the public interest. By exempting or setting lesser standards for compliance by small businesses, equine welfare and the public interest in a responsible, fair legal system of horse racing could be harmed.

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

Track licensees, race meeting licensees, third-party facilitators, and occupational licensees were provided information and met with more than once to discuss proposed changes to the administrative rules. The agency weighed the input of the licensees with its duty to license, regulate, and enforce regulations to administer horse racing, pari-mutuel wagering on horse racing results, and simulcasting in the state of Michigan. Where possible, the input was incorporated into the proposed rules.

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

Hazel Park Harness Raceway, Northville Downs, MHHA, MiHBPA, Twin Spires, TVG, Express Bets, and MTOBA were all met with regarding the proposed changes.

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

As set forth in question 22, licensees will have minimal increased compliance costs with these amendments.

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

In 2019 there was 1 licensed track, 1 licensed race meeting, 2 certified horsemen's organizations, 455 licensed owners, and 219 licensed trainers. Due to the nature of the business, an individual (such as an owner or trainer) may also be a business.

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.

As set forth in question 22, there will be minimal costs associated with the rule changes. Some of them include safety equipment and materials for record keeping.

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.

As set forth in question 22, licensees will have minimal increased compliance costs with these amendments.

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

In 2019 there were 455 licensed owners and 219 licensed trainers.

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

Most of the changes will increase opportunities and income for licensees. Changes to medication requirements will increase flexibility for a changing industry. Safety equipment requirements will help improve health outcomes.

Record keeping requirements may require additional time by a licensee but are necessary for equine welfare.

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

By including R 431.1052 trainers will save money because they will be allowed to keep their horse race eligible at nearby training centers instead of traveling long distances to the only remaining racetrack. The amount of money saved depends on how many training centers participate and how often individual trainers qualify their horses.

By rescinding R 431.1080 licensees will save \$25 by eliminating the need for individuals in partnerships to purchase two licenses.

By amending R 431.1095 to allow a licensed paramedic or licensed EMT to be substituted for an ambulance during training hours, the association will save money by decreasing costs for emergency medical personnel. The association may also save money if the Executive Director approves having a racing official hold more than one position during a race meeting.

By adding R 431.1302 licensees will save money by allowing common veterinary prescribed treatments to be administered by the licensee without paying for a farm visit by a veterinarian.

By rescinding R 431.3050 a race meeting license will save money by the reduction of two racing official positions.

By amending R 431.4015 a race meeting license will save money by the reduction of three racing official positions.

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 primary and direct benefit of the proposed rules is a safe, responsible, fair, and legal system horse racing, pari-mutuel wagering on horse racing results, and simulcasting in the state of Michigan. The secondary impact creates a regulatory environment that is the least burdensome alternative for those required to comply. The proposed rules will benefit those regulated under the Horse Racing Law of 1995 because of process clarifications and improvements as well as consistency with industry practices.

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

There is no expected job creation or elimination as a result of the rule changes.

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.

Individuals or businesses will not be disproportionately affected by the rules as a 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.

The MGCB relied upon agency staff and its regulatory experience to determine the impact of the proposed rules.

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 and assumptions were made by internal work groups, ARCI model rules and best practices were consulted. All racing stakeholders and potential licensees had input during creation and the final draft phase of rulemaking.

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

To create a safe, responsible, fair, and a legal system horse racing, pari-mutuel wagering on horse racing results, and simulcasting in the state of Michigan, there are no reasonable alternatives to the proposed rules.

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

There are no statutory amendments necessary because there are no reasonable alternatives to the proposed rules to achieve the desired result of safe, responsible, fair, and a legal system horse racing, pari-mutuel wagering on horse racing results, and simulcasting in the state of Michigan.

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 MGCB and the Executive Director have the sole authority and responsibility for the licensing, regulating, and enforcing a legal system horse racing, pari-mutuel wagering on horse racing results, and simulcasting in the state of Michigan. There is no feasibility of establishing a regulatory program to operate this legal system horse racing, pari-mutuel wagering on horse racing results, and simulcasting through a private market-based mechanism.

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.

Due to the nature of horse racing, pari-mutuel wagering, and simulcasting, no significant alternatives to reasonable regulation were considered during the development of the proposed rules. However, input was received from track licensees, race meeting licensees, certified horsemen organizations, third-party facilitators, as well as owners, trainers, and veterinarians. Some alternative language proposed by the interested parties was incorporated into the proposed rules.

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

There are no instructions regarding the method of complying with the rules.