

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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

Agency Information:

Department name:

Licensing and Regulatory Affairs

Bureau name:

Bureau of Professional Licensing

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2021-52 LR

Title of proposed rule set:

Real Estate Appraisers - 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.

The proposed rules are consistent with the Appraisal Foundation's Appraisal Standards Board (ASB) Uniform Standards of Professional Appraisal Practice (USPAP), authorized by the United States Congress. The USPAP are the generally recognized ethical and performance standards for the appraisal profession in the United States. The proposed rules are also consistent with the Real Property Appraiser Qualification Criteria (AQB criteria), which is published by the Appraiser Qualifications Board of the Appraisal Foundation, The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria, effective January 1, 2022. The Department is not aware of any laws, rules, or legal requirements that duplicate, overlap, or conflict with the proposed rules.

R 339.23203: This proposed rule allows a licensure applicant to acquire the required experience hours through the Practical Applications of Real Estate Appraisal Program (PAREA). The PAREA program provides an alternative pathway for appraiser applicants to fulfill their experience requirements by using technology in a virtual environment. The Appraiser Qualifications Board created the program as an alternative to the traditional supervisor/trainee model for gaining appraisal experience. An appraiser applicant can choose between PAREA or the traditional supervisor/trainee model. The PAREA program is authorized by the AQB criteria which is published by the Appraiser Qualifications Board of the Appraisal Foundation, The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria, effective January 1, 2022.

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

Yes. Section 205 of the Occupational Code (Code), MCL 339.205, states that the department shall promulgate rules which are necessary and appropriate to enable the department to fulfill its role under the Occupational Code. Section 308 of the Code, MCL 339.308, states that the Board shall promulgate rules as required in the article in which it is created as are necessary and appropriate to fulfill its role. Section 2605 of the Code, MCL 339.2605, requires a licensee who performs an appraisal to utilize the USPAP in effect at the time of the appraisal, and requires the Department to utilize the AQB criteria regarding education, examination, and experience for licensure. Both the USPAP and AQB Criteria are subject to amendments adopted by the Department.

There is no federal mandate requiring rules.

The following provisions allow for rule making: MCL 339.202, MCL 339.205, MCL 339.210, MCL 339.308, MCL 339.2601, MCL 339.2605, MCL 330.3101, MCL 445.2001, MCL 445.2011, MCL 445.2025, and MCL 445.2030.

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 proposed rules do not exceed a federal standard.

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

The proposed rules are consistent with the standards required by the Code and AQB Criteria. All states require appraisers to be licensed or certified to provide appraisals to federally regulated lenders and use AQB minimum requirements. The proposed rules are similar to the requirements of other states in the Great Lakes region.

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

The proposed rules do not exceed standards in other states. All states must follow USPAP for state-licensed and state-certified appraisers involved in federally related real estate transactions. States must also follow the AQB criteria, which establishes the minimum education, experience, and examination requirements for real property appraisers to obtain state certification. The PAREA program, which provides an alternative pathway for appraiser applicants to fulfill their experience requirements by using technology in a virtual environment, is authorized, but not required by the AQB criteria. Each state determines if the PAREA program is an acceptable experience pathway. Minnesota has adopted PAREA through adoption by reference of the AQB criteria. Ohio has adopted PAREA. Pennsylvania is in the process of adopting PAREA, and Illinois, Indiana, New York, and Wisconsin are discussing the adoption of PAREA.

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

The proposed rules are consistent with the Occupational Code; the ASB, USPAP, authorized by the United States Congress; the Appraisal Subcommittee's (ASC) review results; and the AQB Criteria. The Department is not aware of any laws, rules, or 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 proposed rules have been coordinated with the Occupational Code; the ASB USPAP, authorized by the United States Congress; the ASC's review results; and the AQB Criteria.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

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, provide either the Michigan 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.

MCL 24.232(9) does not apply.

Purpose and Objectives of the Rule(s)

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

The proposed rules will modify the following behavior: appraiser applicants will not be limited to acquiring experience hours through the traditional in-person experience process; course sponsors will not be prohibited from advertising a course prior to Department approval; and appraiser applicants and licensees will not be limited to in-person prelicensure education and continuing education.

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

The goal is to change behavior as follows: appraiser applicants will acquire experience through either the PAREA program or traditional supervisor/trainee experience; course sponsors who desire to advertise the course prior to Department approval shall state in the advertising that “the course has been submitted for approval but has not yet been approved by the department” so licensees are aware of the status of the Department’s approval; and distance education courses for both prelicensure education and continuing education will be allowed in synchronous, asynchronous, and hybrid formats.

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

The differences include: appraiser applicants will have the option to acquire experience through either the PAREA program or traditional supervisor/trainee experience instead of only using the traditional supervisor/trainee process; course sponsors who desire to advertise the course prior to Department approval shall be able to advertise instead of being prohibited from advertising; and applicants and licensees will be able to attend synchronous, asynchronous, and hybrid courses in addition to in-person courses.

C. What is the desired outcome?

The desired outcome of the proposed rules is: appraiser applicants will have the option to acquire experience through either the PAREA program or traditional supervisor/trainee experience; course sponsors who desire to advertise the course prior to Department approval shall state in the advertising that “the course has been submitted for approval but has not yet been approved by the department” so licensees are aware of the status of the approval for the course; and distance education courses for both prelicensure education and continuing education will be offered through synchronous, asynchronous, and hybrid formats.

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 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 is: without allowing experience through the PAREA program, appraiser applicants are limited to acquiring experience hours only through live interaction, which has been difficult to acquire over the last few years; if course sponsors must wait for Department approval before advertising their courses, they will not have enough time to adequately advertise before the course is given; and applicants and licensees will no longer be limited to attending only in-person courses for prelicensure and continuing education, which has been difficult over the last few years.

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

The rationale for changing the rules is: appraiser applicants will have the option to acquire experience through either the PAREA program or traditional supervisor/trainee experience instead of only using the traditional supervisor/trainee process; course sponsors who desire to advertise the course prior to Department approval will be able to advertise instead of being prohibited from advertising, which gives the sponsor more time to advertise the course; and applicants and licensees will be able to attend synchronous, asynchronous, and hybrid courses in addition to in-person courses which will make it easier to find and attend the required courses.

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 will protect the health, safety, and welfare of Michigan citizens as follows: offering an alternative pathway for appraiser applicants to gain the necessary appraiser experience during circumstances where in-person experience is difficult to find is a benefit to the public as it provides well trained appraisers; allowing a sponsor to advertise a course and make arrangements for the course before they have Department approval, as long as they let applicants and licensees know that the course is awaiting approval, provides additional training and puts applicants and licensees on notice that the course may not receive full approval; and distance education courses for both prelicensure education and continuing education will be offered through synchronous, asynchronous, and hybrid formats instead of only in-person, which will allow for more educational options.

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

No rules are being rescinded.

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.

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).

The proposed rules are not expected to have a fiscal impact on the agency.

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

No agency appropriation has been made nor has a funding source been provided for 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.

There are no additional burdens placed on individuals as a result of the proposed rules. The proposed changes reduce burdens by offering an alternative pathway for experience to licensure applicants, and allowing continuing education through asynchronous, synchronous, and hybrid distance education.

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 additional burdens placed on individuals as a result of the proposed rules.

Impact on Other State or Local Governmental Units

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 are no anticipated increases in revenues, or cost increases or reductions, to other state or local government units as a result 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.

There are no anticipated or intended programs, services, duties, or responsibilities imposed on any city, county, town, 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 actions that governmental units 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 units as a result of these rules. No additional expenditures are anticipated or intended with the proposed rules.

Rural Impact

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

The proposed rules are not expected to impact rural areas. The proposed rules apply to applicants for licensure and licensees, regardless of their location.

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

The proposed rules are not expected to impact rural areas. The proposed rules apply to applicants for licensure and licensees in the state regardless of their location.

Environmental Impact

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

No, the proposed rules will not have any impact on the environment.

Small Business Impact Statement

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

The proposed rules impose requirements on individual appraisers rather than small businesses. Even if an appraiser's workplace qualifies as a small business, the Department could not exempt his or her business because it would create a 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.

The proposed rules cannot exempt small businesses because the rules do not directly regulate small businesses, but individual appraisers.

While an appraiser may work independently or as part of a small business, the law does not allow the rules to exempt these individuals from the requirements of the rules. However, the impact on an appraiser who works as part of a small business is minimized in the proposed rules, as the rules are written broadly. As a result, an appraiser, whether he or she works in small business or not, should not be impacted any more or any less by the changes.

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

As of July 20, 2022, there are approximately 502 state licensed real estate appraisers, 1,030 certified general real estate appraisers, 1,081 certified residential real estate appraisers, 518 limited licensed real estate appraisers, and 75 temporary practice permits in Michigan.

An appraiser may work in a small business, but no matter what type of business environment he or she works in, he or she will have to comply with the proposed rules. The rules do not impact small businesses differently because the impact is to the individual appraiser only.

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 agency did not establish separate compliance or reporting requirements for small businesses. The proposed rules will apply to all appraisers. The rules were drafted to be the least burdensome on all affected appraisers.

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, nor identify the skills necessary to comply with the reporting requirements as the proposed rules impose requirements on individual appraisers rather than small businesses.

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

The agency did not establish performance standards to replace design or operation standards required by these rules.

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

The proposed rules do not impact small business; rather, they impact an individual appraiser. Therefore, there is no disproportionate impact on a small business because of its size or geographic 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.

There is no report preparation cost to small businesses.

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 are no expected increased costs for small businesses concerning the costs of equipment, supplies, labor, or administrative costs.

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

There are no expected increased costs for small businesses concerning legal, consulting, or accounting services.

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

There are no expected costs to small businesses that will cause economic harm to a small business or the marketplace as a result of the proposed rules.

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 appraisers rather than a small business. Even if an appraiser qualifies as a small business, the department could not exempt his or her business because it would create disparity in the regulation of the profession. Therefore, there is no cost to the agency for administering or enforcing the rules because exempting or setting lesser standards of compliance 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 proposed rules impose requirements on appraisers rather than a small business. Even if an appraiser qualifies as a small business, the department could not exempt his or her business because it would create a disparity in the regulation of the profession. Therefore, exempting or setting lesser standards of compliance for a small business is not in the best interest of the public.

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

The Department worked with the Board of Real Estate Appraisers, as well as stakeholders who attended public meetings and submitted written comments in the development of the proposed rules. The Board is composed of members of the profession and public members who work in small and large businesses in Michigan.

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

The Department worked with the Board of Real Estate Appraisers as well as stakeholders who attended public meetings and submitted written comments in the development of the proposed rules. No other small businesses were involved in the development of the rules.

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

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

The Department does not expect any statewide compliance costs of the proposed rules 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.

The Department does not expect any businesses or groups to 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.

The Department does not expect the proposed rules to result in any additional costs such as new equipment, supplies, labor, accounting, or recordkeeping on businesses or other groups.

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

There are no additional compliance costs placed on individuals as a result of the proposed rules.

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

As of July 20, 2022, there were approximately 502 state licensed real estate appraisers, 1,030 certified general real estate appraisers, 1,081 certified residential real estate appraisers, 518 limited licensed real estate appraisers, and 75 temporary practice permits in Michigan.

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

The proposed rules will: allow appraiser applicants to acquire experience through either the PAREA program or traditional supervisor/trainee experience; allow licensees to be aware that a course has been submitted for approval but has not yet been approved by the department if the course is being advertised before approval; applicants and licensees will have more options for prelicensure education and continuing education; and courses will be offered through synchronous, asynchronous, and hybrid formats.

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

There may be a cost difference to appraiser applicants who participate in the PAREA program versus the traditional supervisor/trainee pathway, however, the PAREA programs are too new to estimate any cost differences.

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 will offer an alternative pathway for an appraiser applicant to gain the necessary experience; allow a sponsor to advertise a course and make arrangements for the course before they have Department approval as long as they let applicants and licensees know that the course is awaiting approval; distance education courses for both prelicensure education and continuing education will be offered through synchronous, asynchronous, and hybrid formats instead of only in-person, which will allow for more educational options; and individuals in a distance education course will be evaluated in a specific matter now that distance education in synchronous, asynchronous, and hybrid formats will be accepted.

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

The rules are not expected to have an impact on business growth, job creation, or job elimination.

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.

There is not expected to be a disproportionate effect due to 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.

Licensee Counts

<https://www.michigan.gov/lara/-/media/Project/Websites/lara/bpl/Shared-Files/BPL-Active-License-Counts.pdf?rev=3554f69e21a24b2da163c88ca6240747>

PAREA Program

https://appraisalfoundation.org/imis/TAF/Resources/Aspiring_Appraisers/PAREA/TAF/PAREA.aspx?hkey=7f759f5d-e8b7-4b32-8f0b-fef28a11810a&iSession=-1%27%27#:~:text=Practical%20Applications%20of%20Real%20Estate%20Appraisal%20%28PAREA%29%20PAREA,combining%20appraisal%20theory%20and%20methodology%20in%20real-world%20simulations.

The Appraisal Foundation

https://www.appraisalfoundation.org/imis/TAF/Standards/Qualification_Criteria/Qualification_Criteria_RP_/TAF/AQB_RPAQC.aspx?hkey=5ec61b8d-751b-4a97-90b1-9b3dae51beea

Appraiser Qualifications Board 2022 Summary of Actions related to Criteria Changes, December 10, 2021

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.

No estimates or assumptions were made.

Alternative to Regulation

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

Since the rules are required by statute, there is no other reasonable alternative to the proposed rules that would achieve the same or similar goal.

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

There is no other reasonable alternative to the proposed rules that would achieve the same or similar goal.

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

Since the rules are authorized by statute, private market-based systems cannot serve as an alternative. Each state is responsible for implementing its own laws and rules pertaining to appraisers. Private market-based systems are not used for regulating licensees. The licensing and regulation of appraisers are state functions, so a regulatory program independent of state intervention cannot be established. The profession has numerous professional associations that could be considered regulatory mechanisms that are independent of state intervention; however, these professional organizations would provide the public with significantly less protection because membership in many of these organizations is voluntary. This means an individual who meets the membership requirements, but does not join one of the professional organizations, would be able to practice and there would be no way to ensure their competency or hold them accountable.

37. 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.

Since the rules are required by statute, there are no alternatives to the proposed rules that the agency could consider. They are necessary for the administration and enforcement of the licensing process.

Additional Information

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 will explicitly inform licensees of the option to acquire experience through either the PAREA program or traditional supervisor/trainee format. The rules will require the applicant to submit a certificate of completion from the provider of an AQB approved PAREA program. The rules will explicitly inform applicants and licensees of the type of evaluation that will be required for a distance education course.