

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:

2023-32 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 contains the 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, was amended in June 2023. The amendments become effective January 1, 2025. The department is not aware of any other laws, rules, or legal requirements that duplicate, overlap, or conflict with the proposed rules.

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

Yes. These rules are required by state law. However, there is no federal mandate requiring these rules.

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 (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.

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.

The following provisions require rule making: MCL 339.202, MCL 339.205, MCL, MCL 339.308, Executive Reorganization Order No. 1991-9, MCL 338.3501; Executive Reorganization Order No. 1996-2, MCL 445.2001; Executive Reorganization Order No. 2003-1, MCL 445.2011, and Executive Reorganization Order No. 2011-4, 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 the 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.

All states in the country, which includes the Great Lakes Region (Indiana, Illinois, Ohio, Minnesota, Pennsylvania, and New York), require real estate appraisers to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act. 12 USC 3331 – 3351. Additionally, all real estate appraisers in the Great Lakes Region must follow the ASB's USPAP when performing an appraisal. These are federal laws that supersede state law in the area of real estate appraisals. This means that states may not pass rules that are inconsistent with the federal law and all rules must comply with and be consistent with the AQB Criteria.

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. All states must also follow the AQB Criteria, which establishes the minimum education, experience, and examination requirements for real property appraisers to obtain state certification.

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 Code, the ASB USPAP, which is authorized by the United States Congress, the Appraisal Subcommittee's (ASC) review results, and the AQB Criteria. The department is not aware of any other 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 Code, the ASB USPAP, authorized by the United States Congress, the ASC's review results, and the AQB Criteria as required by state law and the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. 12 USC 3331 et seq.

Purpose and Objectives of the Rule(s)

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

Part 1 General Provisions: The rules in this section identify and define the terms used throughout the rule set. Additionally, the USPAP standards and exemptions from the USPAP standards are included in this section. The proposed changes update the rules to current drafting standards and add content advising that the USPAP and AQB standards must be followed. These changes notify licensees of the required standards and discloses where to access them.

Part 2 Licensing: The rules in this section pertain to licensure requirements for appraisers, criteria for a supervisory certified appraiser, licensure exemptions, and market analysis. The proposed rules will rescind R 339.23207, which pertains to market analysis by real estate licensees. The reason for the rescission is that a market analysis performed by a real estate licensee does not meet USPAP requirements and violates MCL 339.2605 and the requirements of the ASB.

Part 3 Appraiser Education: The rules in this section pertain to the preclicensure educational requirements for a real estate appraiser, preclicensure education course approval, and continuing education. The current set combines the preclicensure and continuing education requirements. To provide clarity, the proposed rules move all the continuing education information from this section to Part 3B, which will contain all the continuing education information. Additionally, non-substantive grammatical changes were made to comply with the most recent drafting standards.

Part 3A Preclicensure Education Course Approval: This section contains the preclicensure education course approval information. The proposed rules rescind R 339.23316, which allows continuing education credit for preclicensure courses and moves the content of this rule under Part 3B Continuing Education. Additionally, updates were made to R 339.23317 regarding the application for preclicensure course approval. The rule was modified to state that distance education courses must comply with the AQB Criteria and require the student to pass a written, closed book examination proctored by an approved official from the college, university, or sponsoring organization. Remote proctoring, including biometric proctoring, is acceptable. Lastly, the rule allows a written examination to be in paper or electronic form and disallows oral examinations. These changes were made to ensure a distance education program's curriculum and presentation are consistent with AQB Criteria and that students are tested in a manner that exam results reliably show the student, in a remotely proctored exam, sufficiently demonstrates knowledge of the course curriculum using currently available technology.

Part 3B Continuing Education: This section contains the continuing education requirements for the licensee and the protocol for approval of a continuing education course. This section was reorganized and includes the updated continuing education requirements included in the AQB Criteria that become effective on January 1, 2026. Specifically, the proposed changes to R 339.23321 clarify that the 7-hour national USPAP continuing education course must be completed one time every 2 calendar years and that licensees must attend a course pertaining to valuation bias and fair housing law and regulations every 2 calendar years. The initial participation in the valuation bias course must be 7 hours in length plus a 1-hour exam. Thereafter, the course length must be at least 4 hours.

Additionally, proposed new rules were created to encompass the continuing education information that was originally located in Part 3 Appraiser Education or Part 3A Preclicensure Education Course Approval. These new rules identify activities that simultaneously count toward preclicensure education and continuing education requirements, outline sponsor and instructor duties, define unacceptable courses and activities, and prohibit misleading information in the programs.

Lastly, some content was removed. R 339.23325, which pertains to instructors receiving continuing education for teaching courses, was rescinded, and moved to R 339.23322. And the permitted activity of receiving continuing education credit for attending a board meeting was removed because R 339.23321(d) states that continuing education hours must be completed with educational offerings that are consistent with the AQB Criteria. This activity is specifically allowed in the AQB Criteria. Additionally, the 2 hours of required continuing education pertaining to state laws and rules was removed as much of its content was duplicative of information conveyed in the 7-hour USPAP Continuing Education course.

The updates and organizational changes to Part 3B were made to advise licensees of the current AQB Criteria continuing education requirements and to make the rules easier to understand.

Part 4 Standards of Conduct: Edits were made to update and align the transaction limits for a state licensed real estate appraiser with current federal standards.

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

Part 1 General Provisions: The rules in this section identify and define the terms used throughout the rule set. Additionally, the USPAP standards and exemptions from the USPAP standards are included in this section. The proposed changes update the rules to current drafting standards and add content advising that the USPAP and AQB standards must be followed. These changes notify licensees of the required standards and discloses where to access them.

Part 2 Licensing: The rules in this section pertain to licensure requirements for appraisers, criteria for a supervisory certified appraiser, licensure exemptions, and market analysis. The proposed rules will rescind R 339.23207, which pertains to market analysis by real estate licensees. The reason for the rescission is that a market analysis performed by a real estate licensee does not meet USPAP requirements and violates MCL 339.2605 and the requirements of the ASB.

Part 3 Appraiser Education: The rules in this section pertain to the prelicensure educational requirements for a real estate appraiser, prelicensure education course approval, and continuing education. The current set combines the prelicensure and continuing education requirements. To provide clarity, the proposed rules move all the continuing education information from this section to Part 3B which will contain all the continuing education information. Additionally, non-substantive grammatical changes were made to comply with the most recent drafting standards.

Part 3A Prelicensure Education Course Approval: This section contains the prelicensure education course approval information. The proposed rules rescind R 339.23316, which allows continuing education credit for prelicensure courses and moves the content of this rule under Part 3B Continuing Education. Additionally, updates were made to R 339.23317 regarding the application for prelicensure course approval. The rule was modified to state that distance education courses must comply with the AQB Criteria and require the student to pass a written, closed book examination proctored by an approved official from the college, university, or sponsoring organization. Remote proctoring, including biometric proctoring, is acceptable. Lastly, the rule allows a written examination to be in paper or electronic form and disallows oral examinations. These changes were made to ensure a distance education program's curriculum and presentation are consistent with AQB Criteria and that students are tested in a manner that exam results reliably show the student, in a remotely proctored exam, sufficiently demonstrates knowledge of the course curriculum using currently available technology.

Part 3B Continuing Education: This section contains the continuing education requirements for the licensee and the protocol for approval of a continuing education course. This section was reorganized and includes the updated continuing education requirements included in the AQB Criteria that become effective on January 1, 2026. Specifically, the proposed changes to R 339.23321 clarify that the 7-hour national USPAP continuing education course must be completed one time every 2 calendar years and that licensees must attend a course pertaining to valuation bias and fair housing law and regulations every 2 calendar years. The initial participation in the valuation bias course must be 7 hours in length plus a 1-hour exam. Thereafter, the course length must be at least 4 hours.

Additionally, proposed new rules were created to encompass the continuing education information that was originally located in Part 3 Appraiser Education or Part 3A Prelicensure Education Course Approval. These new rules identify activities that simultaneously count toward prelicensure education and continuing education requirements, outline sponsor and instructor duties, define unacceptable courses and activities, and prohibit misleading information in the programs.

Lastly, some content was removed. R 339.23325, which pertains to instructors receiving continuing education for

teaching courses, was rescinded, and moved to R 339.23322. And the permitted activity of receiving continuing education credit for attending a board meeting was removed because R 339.23321(d) states that continuing education hours must be completed with educational offerings that are consistent with the AQB Criteria. This activity is specifically allowed in the AQB Criteria. Additionally, the 2 hours of required continuing education pertaining to state laws and rules was removed as much of its content was duplicative of information conveyed in the 7-hour USPAP Continuing Education course.

The updates and organizational changes to Part 3B were made to advise licensees of the current AQB Criteria continuing education requirements and to make the rules easier to understand.

Part 4 Standards of Conduct: Edits were made to update and align the transaction limits for a state licensed real estate appraiser with current federal standards.

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

Part 1 General Provisions: The updates were made ensure that the set contains current requirements so that it is reliable to the licensees who utilize the content. The additions to the rules are designed to comply with current drafting standards, and provide clarity by referencing the statutes that explain why the licensees must follow the federal standards.

Part 2 Licensing: Rescinding R 339.23207 will reduce the amount of market analyses drafted by individuals who are not licensed real estate appraisers. This promotes public protection by ensuring that USPAP standards are followed when appraisals are drafted and to promotes compliance with MCL 339.2605. Appraisals that are performed outside of compliance with the USPAP and MCL 339.2605 violate federal standards and the Occupational Code. Therefore, removing this rule will remove confusion that exists in the profession and provide clarity.

Part 3 Appraiser Education: The changes to the Appraiser Education section separate the prelicensure education requirements, prelicensure course approval requirements, and continuing education requirements into separate sections to provide clarity and to allow for easier reading and understanding. The current rule set is difficult to decipher which rules apply to which subject and require the reader to consult more than one section and/or part when determining requirements that needed to be satisfied.

The changes to the Prelicensure Education Course Approval section provide updates to ensure distance education programs are compliant with AQB Criteria enhancing the quality of the program and the reliability of test results for remotely proctored students. This will promote public protection by ensuring that remotely proctored students take the exam in a secure environment that is similar to in person testing.

The changes to the Continuing Education section include the AQB Criteria updates to ensure licensees complete continuing education accordingly. Licensees will know the precise number of hours that must be completed and the topics that must be covered. These changes lessen any obstacles that may prevent timely license renewal and align the rules with federal standards.

Part 4 Standards of Conduct: The changes to the Standards of Conduct section provide updates to the transaction limits for a state licensed real estate appraiser to align with current federal standards. These updates help ensure that licensees are aware of the current federal transaction limits for real estate appraisals, so that appraisers with the proper credentials are handling higher valued transactions or the appraisals involving more complex properties.

C. What is the desired outcome?

Part 1 General Provisions: The updates were made to the general provisions to ensure that the rule set contains current requirements, so that it is reliable resource to the licensees who utilize the content. The desired outcome is to have current and easy to understand rules to lessen confusion and promote compliance.

Part 2 Licensing: Rescinding R 339.23207 will reduce the amount of market analyses drafted by individuals who are not licensed real estate appraisers. This promotes public protection by ensuring that USPAP standards are followed when these documents are drafted and to promote compliance with MCL 339.2605. It is imperative that the appropriately credentialed licensees are performing appraisals. The desired outcome is to ensure that appraisals are performed by licensees using USPAP standards so the public is assured that the appraisal value is accurate and based upon federal standards.

Part 3 Appraiser Education: The changes to the Appraiser Education section separate the prelicensure education requirements, prelicensure course approval requirements, and continuing education requirements into separate sections to provide clarity. The desired outcome will promote easier reading, review, and understanding of the rule requirements for these topics.

The changes to the Prelicensure Education Course Approval section provide updates to ensure distance education programs are compliant with AQB Criteria enhancing the quality of the program and the reliability of test results for remotely proctored students. The desired outcome is to ensure that programs are following the latest requirements, following current federal standards, and ensuring that remote testing produces reliable results. These changes protect the public by ensuring that the graduates are ready to enter into the profession and provide reliable appraisals.

The changes to the Continuing Education section include the AQB Criteria updates to ensure licensees complete continuing education accordingly. Licensees will know the precise number of hours that must be completed and the topics that must be covered. These changes lessen any obstacles that may prevent the timely license renewal. The desired outcome will be that licensees will be taking continuing education programs that comply with the most up-to-date AQB Criteria.

Part 4 Standards of Conduct: The changes to the Standards of Conduct section provide updates to the transaction limits for a state licensed real estate appraiser to align with current federal standards. The desired outcome is that appropriately credentialed appraisers are performing appraisals for higher transaction amounts or more complex properties.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The harm 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 changes are as follows:

For licensure, the proposed changes enhance protection of the public by ensuring that licensed real estate appraisers are performing a market analysis and that the analysis is done according to USPAP standards. If the rule remains the same, these documents will be drafted by unlicensed individuals and potentially not comply with the required USPAP standards or MCL 339.2605.

For appraiser education, the proposed organizational changes will make the rule set easier for licensees to understand. This will decrease the potential for misunderstanding and misapplication of the rules. Additionally, the edits to the distance education requirements ensure that those enrolled in prelicensure education programs will be tested on the content of the class in accordance with AQB Criteria with an examination that tests the knowledge of the student in a method that allows validation and reliability of the remote exam results using the most current technologically available methods. Without the changes, the harm that would occur is that the testing results for a remote attendee may not be as reliable as a proctored in person examination.

For continuing education, the proposed organizational changes will make the rule set easier to understand for licensees. Additionally, the changes include the most up-to-date AQB Criteria requirements. The harm that would occur if these updates were not made would be that licensees may complete their continuing education requirements incorrectly which will impede the renewal of the license.

For standards of conduct, the proposed changes were made to align the transaction limits for state licensed real estate appraisers with federal law. Without these changes, inappropriately credentialed appraisers may be completing appraisals for higher transactional amounts or for very complex properties.

All the above-mentioned changes were made to ensure that the rule set was clear, easy to understand, contained updates to the AQB Criteria, and promote public protection.

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

For licensure, the rationale for changing the rules is to enhance public protection by ensuring that licensed real estate appraisers are performing market analysis and that the analysis is done according to USPAP standards. If the rule remains the same, these documents will be drafted by unlicensed individuals and potentially not comply with the required USPAP standards. Leaving the rule unchanged will allow the public to use an appraisal that is not performed by a licensed appraiser who complied with the federal standards.

For appraiser education, the rationale for changing the rules is to make the set easier for licensees to understand. This will decrease the potential for misunderstanding and misapplication of the rules. Additionally, the rationale for making the edits to the distance education requirements is to ensure that those enrolled in prelicensure education programs will be tested on the content of the class in accordance with AQB Criteria with an examination that tests the knowledge of the student in a method that allows validation of the remotely proctored exam results using the most current technologically available methods. Without the changes, the testing results for a remotely proctored student may not be as reliable as a proctored in person examination. These changes provide clarity to promote compliance and allow public confidence in graduates from programs that allow remote testing.

For continuing education, the rationale for making the proposed organizational changes is to make the rule set easier for licensees to understand. Additionally, the changes include the most up-to-date AQB Criteria requirements. Not updating the rules to include these updates would result in licensees completing continuing education requirements incorrectly which will impede timely license renewal.

For standards of conduct, the proposed changes were made to align the transaction limits for state licensed real estate appraisers with federal law. This will ensure that properly credentialed appraisers are performing appraisals for higher valued properties or for properties that are more complex to appraise.

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

The proposed rules will protect the health, safety, and welfare of Michigan citizens by:

- Rescinding rules that could result in appraisal documents being completed by unlicensed individuals that are not in compliance with USPAP standards.
- Organizing and clarifying the content of the rule set for easier understanding, which promotes compliance with regulations which are designed to protect the public.
- Requiring distance education programs to conduct examinations that ensure reliable results demonstrating knowledge of the class curriculum using the most current technology.
- Providing the most current AQB Criteria standards which include taking a course on valuation bias.
- Clarifying which prelicensure program activities simultaneously count toward continuing education requirements.
- Updating the transactional limits for a state licensed real estate appraiser to align with federal law.

All the above-mentioned changes were made to ensure that the rule set was clear, easy to understand, and contains updates made by the AQB to ensure compliance with the regulations that promote public protection.

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

The proposed rules rescind R 339.23207, R 339.23316, R 339.23325, and R 339.23326.

R 339.23207 Market analysis by real estate licensees; acceptable experience.

The reason for the proposed rescission is that a market analysis performed by a real estate licensee does not meet USPAP requirements, which violates MCL 339.2605 and the requirements of the ASB.

R 339.23316 Prelicensure education. This rule states that prelicensure education courses may be used to obtain credit for both prelicensure educating and continuing education. The proposed rules rescind R 339.23316 and move the content under Part 3B Continuing Education.

R 339.23325 Continuing education course credit for instructors. For organizational purposes, the proposed rules rescind R 339.23325 and move the content to R 339.23322.

R 339.23326 Continuing education requirements for the licensee. For organizational purposes, the proposed rules rescind R 339.23326 and move the content to R 339.23321.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

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

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

No agency appropriation has been made nor has a funding source been provided for expenditures associated with the proposed rules.

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

The proposed rules are necessary because the content is not found in statute. In fact, the statutes require these rules. The rules provide the requirements for licensure, prelicensure education, and continuing education for the licensee. The rules further provide the criteria for how to become an approved sponsor of a prelicensure program and continuing education program and the protocols that program coordinators and instructors must follow.

For prelicensure courses, the addition of requirements distance education programs must satisfy may be considered more burdensome. However, the benefit of these requirements permits the usage of technology that increases the reliability of test results of a remotely proctored student.

Lastly, the AQB Criteria now requires that licensees take a course in valuation bias and fair housing law and regulations as part of the continuing education requirements. While the addition of this course is considered another requirement that must be satisfied, there is no increased burden on the licensee because the total amount of required continuing education hours for the licensure period did not increase. Therefore, it is the department's position that proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. The proposed rules, to the extent that a burden is created, promote public protection.

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 licensees as a result of the proposed rules. The addition mandating that some of the continuing education hours pertain to learning about valuation bias and fair housing law and regulations does not add extra hours to the required continuing education and will help licensees identify implicit valuation bias that occurs when drafting an appraisal and promote equality in the housing market.

Impact on Other State or Local Governmental Units

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

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

12. 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.

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

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

14. 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, regardless of their location.

Environmental Impact

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

No. The proposed rules do not have any impact on the environment.

Small Business Impact Statement

16. 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.

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

The proposed rules 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 September 19, 2023, there are approximately 450 state licensed real estate appraisers, 955 certified general real estate appraisers, 1,039 certified residential real estate appraisers, 384 limited licensed real estate appraisers, and 59 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.

18. 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.

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

There is no report preparation cost to small businesses.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

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

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

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

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

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

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

The proposed 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.

24. 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.

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

The department worked with the Michigan 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 Michigan 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)

26. 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.

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

There are 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?

There are approximately 2,951 licensed real estate appraisers. All licensees and applicants for licensure as a real estate appraiser are affected by the proposed rules.

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

There is no quantitative impact on individuals because of the proposed rules. However, the qualitative impact will be that a real estate appraiser licensee will learn about valuation bias, which promotes an awareness of the concept. This will teach the licensee how to avoid including implicit bias in appraisals.

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

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

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

The primary and direct benefits of the proposed rules are to applicants and licensees as the proposed rules will update out-of-date information, reorganize, and clarify requirements in the rule set. Further, the requirement of the valuation bias continuing education course will benefit the public by teaching licensees about valuation bias and how to prevent it from occurring in appraisals.

30. 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.

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

There is not expected to be a disproportionate effect due to industrial sector, segment of the public, business size, or geographic location.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The Appraisal Foundation:

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

The Real Property Appraiser Qualification Criteria (AQB Criteria):

<https://appraisalfoundation.sharefile.com/share/view/s63f99dc2b9f241e0b3fd1645f7b63680>

Code of Federal Regulations:

<https://www.ecfr.gov/current/title-12/chapter-III/subchapter-B/part-323>

Illinois:

<https://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=1368&ChapterID=0>

<https://www.ilga.gov/commission/jcar/admincode/068/06801455sections.html>

Indiana:

<https://iga.in.gov/laws/2023/ic/titles/25#25-34.1-8-10>

<https://iga.in.gov/laws/2022/ic/titles/25#25-34.1-3>

https://www.in.gov/pla/professions/real-estate-appraisers-home/real-estate-appraiser-resources/#Statutes__Rules

Minnesota:

<https://www.revisor.mn.gov/statutes/cite/82B>

* Note: Real estate appraiser rules were repealed.

New York:

<https://dos.ny.gov/system/files/documents/2021/09/real-estate-appraiser-law-booklet-march-2021.pdf>

Ohio:

<https://codes.ohio.gov/ohio-revised-code/chapter-4763>

<https://codes.ohio.gov/ohio-administrative-code/chapter-1301:11-3>

Pennsylvania:

<https://www.legis.state.pa.us/WU01/LI/LI/US/HTM/1990/0/0098..HTM>

<https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/049/chapter36/chap36toc.html&d=reduce#:~:text=An%20applicant%20for%20certification%20as,a%20residential%20real%20estate%20appraiser.>

Wisconsin:

<https://docs.legis.wisconsin.gov/statutes/statutes/458.pdf>

https://docs.legis.wisconsin.gov/code/admin_code/sps/professional_services/080/85.pdf

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

33. 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.

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

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.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

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

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

The instructions for compliance are included in the rules.