

Michigan Department of Licensing and Regulatory Affairs
Office of Regulatory Reinvention
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**REGULATORY IMPACT STATEMENT
and
COST-BENEFIT ANALYSIS**

PART 1: INTRODUCTION

In accordance with the Administrative Procedures Act (APA) [1969 PA 306], the department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions should be made by the departmental Regulatory Affairs Officer (RAO) to **orr@michigan.gov**. The ORR will review the form and send its response to the RAO (see last page). Upon review by the ORR, the agency shall make copies available to the public at the public hearing [MCL 24.245(4)].

Please place your cursor in each box, and answer the question completely.

ORR-assigned rule set number:

2012-008 LR

ORR rule set title:

Survey and Remonumentation Rules

Department:

Department of Licensing and Regulatory Affairs

Agency or Bureau/Division

Bureau of Construction Codes-Office of Land Survey and Remonumentation

Name and title of person completing this form; telephone number:

Shannon Matsumoto, Rules Analyst, (517) 241-6312

Reviewed by Department Regulatory Affairs Officer:

PART 2: APPLICABLE SECTIONS OF THE APA

MCL 24.207a “Small business” defined.

Sec. 7a.

“Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.”

MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).

Sec. 40.

(1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

(a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.

(b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

(c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.

(d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

(a) 0-9 full-time employees.

(b) 10-49 full-time employees.

(c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

MCL 24.245 (3) “Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** containing...” (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5.]

PART 3: DEPARTMENT/AGENCY RESPONSE

Please place your cursor in each box, and provide the required information, using complete sentences. Please do not answer the question with “N/A” or “none.”

Comparison of Rule(s) to Federal/State/Association Standards:

(1) Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, and describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These rules are required for the implementation and operation of a program unique to Michigan and established by state law in 1990, the State Survey and Remonumentation Act, 1990 PA 345, MCL 54.261 to 54.279. No federal standards or rules exist for this program.

(2) Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities. If the rule(s) exceed standards in those states, please explain why, and specify the costs and benefits arising out of the deviation.

We are unaware of similar programs or rules in other states. However, the Bureau has been in communication with other states that are considering implementing similar programs and are looking at Michigan’s program to help establish their models.

(3) Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s). Explain how the rule has 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.

These rules are required for the implementation and operation of the State Survey and Remonumentation Act, 1990 PA 345, MCL 54.261-54.279. The State Survey and Remonumentation Act requires compliance with the Corner Recordation Act, 1970 PA 74, MCL 54.201-54.210d. Great care was taken to reference the Corner Recordation Act and to use the same language from the Corner Recordation Act within this rule set to eliminate conflicts or duplication.

Purpose and Objectives of the Rule(s):

(4) Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s). Describe the difference between current behavior/practice and desired behavior/practice. What is the desired outcome?

Over the years, changes in administration or program management have lead to varying interpretations of program requirements and a lack of consistency in the administration of the program. Currently, the program is being administered through several guidance documents including county plans, grant agreements, administrative rules, and multiple information memoranda. The existing rules lack the necessary content to provide operating guidelines for administration of the program and annual grants process. The rule amendments were initiated to codify the operating guidelines for administration of the program and annual grants process. A codified process will lead to consistency in the administration of the program which in turn will lead to efficiencies in program operation.

(5) Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for changing the rule(s) and not leaving them as currently written?

Without codified operating methods and procedures, grantees may be subject to major program changes whenever the program administrator changes. A codified process will lead to consistency in the administration of the program which in turn will lead to efficiencies in program operations.

(6) Describe how the proposed rule(s) 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 revised rules will help insure uniform application of the purposes of the statute by setting clear requirements for program operations.

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

The current rule set, R 54.201 – R 54.210, is obsolete and the language is being deleted in favor of creating a new rule set that is more specific to the program's operations.

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, an increase in the cost of a contract, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It would not include more intangible costs or 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 on the agency promulgating the rule).

The agency could potentially decrease operational costs regarding who may initiate an appeal through the administrative hearing process.

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

No new or additional appropriations are needed because no additional fiscal impact is expected.

Impact on Other State or Local Governmental Units:

(10) 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 on other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Please include the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring.

No measureable fiscal impact on any state or local government agency's operating budget is expected.

(11) Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s). Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

The program is a voluntary grant and the grant funds are restricted specifically for program use at all levels. Any local administrative expenses required to implement the grant are covered by the grant.

(12) 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 rule(s).

There is no new or additional appropriation to state or local governmental units required.

Rural Impact:

(13) In general, what impact will the rules have on rural areas? Describe the types of public or private interests in rural areas that will be affected by the rule(s).

There is no known impact on rural areas from this rule set.

Environmental Impact:

(14) Do the proposed rule(s) have any impact on the environment? If yes, please explain.

There is no known impact on the environment from this rule set.

Small Business Impact Statement:

[Please refer to the discussion of "small business" on page 2 of this form.]

(15) Describe whether and how the agency considered exempting small businesses from the proposed rules.

Small businesses are not directly impacted by this rule set. These rules are required for the implementation and operation of the State Survey and Remonumentation Act, which is a grant program between the state and individual counties. Small businesses may benefit from the program as the grantee may contract with local businesses for services needed to carry out the program work.

(16) If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rule(s) 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 rule(s) 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.

Small businesses are not directly impacted by this rule set. As noted earlier in Question 15, these rules are required for the implementation and operation of the State Survey and Remonumentation Act. The counties, as the grantee, administer the program at the local level by contracting with local businesses for services that lead to the completion of program work.

(A) Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

Small businesses are not directly impacted by this rule set.

(B) Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

There is no reporting, record keeping, or timetable requirements that impact small businesses in the rules.

(C) Describe how the agency consolidated or simplified the compliance and reporting requirements and identify the skills necessary to comply with the reporting requirements.

There is no compliance or reporting requirements that impact small businesses in these rules.

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

There are no design or operation standards that impact small businesses in these rules.

(17) Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

The proposed rules have no disproportionate impact on small businesses because of their size or geographic location.

(18) Identify the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule(s).

There are no reporting requirements that impact small businesses in these rules.

(19) Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

There are no compliance requirements that impact small businesses in these rules.

(20) Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

Small businesses are not directly impacted by this rule set.

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

Small businesses are not directly impacted by this rule set. In fact, small businesses may benefit from the program as the grantee may contract with local businesses for services needed to complete the program requirements.

(22) 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 do not exempt or set lesser standards for compliance by small businesses. There is no additional cost to the agency beyond the current operational cost.

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

Small businesses are not directly impacted by this rule set.

(24) Describe whether and how the agency has involved small businesses in the development of the proposed rule(s). If small business was involved in the development of the rule(s), please identify the business(es).

Small businesses are not directly impacted by this rule set; however, the rules review committee membership included an individual from the Michigan Society of Professional Surveyors which represents small business owners.

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

(25) Estimate the actual statewide compliance costs of the rule amendments on businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s). 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.

This is an annual grant program. There are no actual statewide compliance costs of the rule amendments on businesses or groups.

(26) Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Please include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping). How many and what category of individuals will be affected by the rules? What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

There are no actual statewide compliance costs of the rule amendments on individuals or the public.

(27) Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

No measureable cost reduction is anticipated through these rules.

(28) Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Please provide both quantitative and qualitative information, as well as your assumptions.

The rule changes were initiated to codify the operating guidelines for administration of the program and annual grants process. The proposed rules will promote program consistency and efficiencies in program operations.

(29) Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

No measureable business growth is anticipated through these rules.

(30) 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.

No known individuals or businesses will be disproportionately affected by these rules.

(31) 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 a proposed rule(s) and a cost-benefit analysis of the proposed rule(s). 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 rule(s).

The Bureau relied upon the rules review committee in compiling the regulatory impact statement, including determining the existence and extent of the impact of these proposed rules and the cost-benefit analysis of these proposed rules.

Alternatives to Regulation:

(32) Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. In enumerating your alternatives, please include any statutory amendments that may be necessary to achieve such alternatives.

There are no reasonable alternatives to the proposed rules that have been identified that would achieve the same or similar goals. The statute establishes the program and the rules outline the implementation guidelines and operating procedures; to add these to the statute would make it overly technical in nature and cumbersome to follow.

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

We are unaware of similar programs or private market-based systems in other states.

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

There were no significant alternatives presented for the bureau and rules committee to consider.

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

Not applicable.

PART 4: REVIEW BY THE ORR

Date Regulatory Impact Statement (RIS) received:

12-18-2012

Date RIS approved:

12/26/2012

ORR assigned rule set number:

2012-008 LR

Date of disapproval:

Explain:

More information needed:	Explain:

(ORR-RIS January 2012)