

# Michigan Register

Issue No. 6– 2015 (Published April 15, 2015)



# GRAPHIC IMAGES IN THE MICHIGAN REGISTER

## COVER DRAWING

### *Michigan State Capitol:*

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

## PAGE GRAPHICS

### *Capitol Dome:*

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19<sup>th</sup> century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

### *East Elevation of the Michigan State Capitol:*

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

# Michigan Register

Published pursuant to § 24.208 of  
The Michigan Compiled Laws



Issue No. 6— 2015

(This issue, published April 15, 2015, contains  
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**Rick Snyder, Governor**



**Brian Calley, Lieutenant Governor**

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## PREFACE

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### PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

**24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.**

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
- (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
- (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
- (d) Proposed administrative rules.
- (e) Notices of public hearings on proposed administrative rules.
- (f) Administrative rules filed with the secretary of state.
- (g) Emergency rules filed with the secretary of state.
- (h) Notice of proposed and adopted agency guidelines.
- (i) Other official information considered necessary or appropriate by the office of regulatory reform.
- (j) Attorney general opinions.
- (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.

(3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.

(4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.

(5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

**4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.**

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

**CITATION TO THE MICHIGAN REGISTER**

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

**CLOSING DATES AND PUBLICATION SCHEDULE**

The deadlines for submitting documents to the Office of Regulatory Reinvention for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reinvention is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reinvention, Ottawa Building – Second Floor, 611 W. Ottawa Street, Lansing, MI 48909.

### **RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE**

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

### **SUBSCRIPTIONS AND DISTRIBUTION**

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: Office of Regulatory Reinvention, Ottawa Building – Second Floor, 611 W. Ottawa Street, Lansing, MI 48909. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reinvention (517) 335-8658.

### **INTERNET ACCESS**

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reinvention: [www.michigan.gov/orr](http://www.michigan.gov/orr).

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reinvention Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Mike Zimmer, Director  
Licensing and Regulatory Affairs

## 2015 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2015	February 1, 2015
2	February 1, 2015	February 15, 2015
3	February 15, 2015	March 1, 2015
4	March 1, 2015	March 15, 2015
5	March 15, 2015	April 1, 2015
6	April 1, 2015	April 15, 2015
7	April 15, 2015	May 1, 2015
8	May 1, 2015	May 15, 2015
9	May 15, 2015	June 1, 2015
10	June 1, 2015	June 15, 2015
11	June 15, 2015	July 1, 2015
12	July 1, 2015	July 15, 2015
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14	August 1, 2015	August 15, 2015
15	August 15, 2015	September 1, 2015
16	September 1, 2015	September 15, 2015
17	September 15, 2015	October 1, 2015
18	October 1, 2015	October 15, 2015
19	October 15, 2015	November 1, 2015
20	November 1, 2015	November 15, 2015
21	November 15, 2015	December 1, 2015
22	December 1, 2015	December 15, 2015
23	December 15, 2015	January 1, 2016
24	January 1, 2016	January 15, 2016

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**ADMINISTRATIVE RULES  
FILED WITH THE SECRETARY OF STATE**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reinvention shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(f) Administrative rules filed with the secretary of state.”*

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**ADMINISTRATIVE RULES**

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DEPARTMENT OF HUMAN SERVICES

FIELD OPERATIONS ADMINISTRATION

STATE DISABILITY ASSISTANCE PROGRAM

Filed with the Secretary of State on March 24, 2015

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the department of human services by section 6 of 1939 PA 280, MCL 400.6.)

R 400.3151, R 400.3155, R 400.3156, R 400.3157, R 400.3158, R 400.3159, R 400.3160, R 400.3161, R 400.3162, R 400.3163, R 400.3164, R 400.3165, R 400.3168, R 400.3169, R 400.3170, R 400.3171, R 400.3173 R 400.3178, and R 400.3179 are amended; and R 400.3167 is rescinded as follows:

R 400.3151 Definitions.

Rule 1. As used in these rules:

(a) "Administrative hearing" means the impartial review by an administrative law judge of a department decision that a client believes is illegal or unsatisfactory. Both the client and the department may present evidence in support of their respective positions.

(b) "Administrative recoupment" means a process by which a group's benefits are reduced to make payments on an overissuance.

(c) "Agency errors" means overissuances caused from incorrect actions by the department.

(d) "Application" means a signed and dated statement on a form prescribed by the department that a person wishes to receive state disability assistance.

(e) "Application filing date" means the date an application with minimum required information is received by the department.

(f) "Authorized representative" means a person who is not less than 18 years of age and who applies for assistance on behalf of a client or otherwise acts on a client's behalf, or both. The person may be, but is not limited to, a guardian, spouse, or relative outside the group.

(g) "Available date" means the date an assistance benefit was issued.

(h) "Client" means a person applying for, currently receiving program benefits, inquiring about benefits, or is part of the program group.

(i) "Client error" means the department has taken all actions required under normal processing procedures but the client has given incorrect or incomplete information or failed to meet other requirements which impact the amount of program benefits and the error has not been determined as intentional. An overissuance that results from department action being discontinued due to a client's administrative hearing request is client error if a client withdraws his or her request, fails to show for the administrative hearing, or the department's action is upheld at the hearing.

(j) "Collateral contact" means contact with an information source other than the client through written correspondence, a telephone interview, or an in-person interview.

(k) "Crediting" means returning the warrant amount to treasury.

(l) "Department" means the Michigan department of human services.

(m) "Disqualification" means a department penalty action for a person who is ineligible for program benefits because an eligibility factor has not been met or because the person refuses or fails to cooperate in meeting an eligibility factor.

(n) "Domiciliary care" means a type of care given to residents in a special living arrangement whose principal need is supervision and who are generally able to perform the basic activities of daily living, such as eating, bathing, and dressing.

(o) "Group" means the state disability assistance group.

(p) "Head of household" means the person who is customarily responsible for the verbal and written communication between the eligible group and the department and in whose name program benefits are generated and received.

(q) "Institution" means an establishment that furnishes food, shelter, and some treatment or services to more than 3 people who are unrelated to the proprietor.

(r) "Intentional program violation" means an action that occurs when a client or authorized representative intentionally withholds or misrepresents information for the purpose of obtaining benefits for which he or she would not otherwise be eligible. An overissuance becomes an intentional program violation if a client or client's authorized representative is found to be responsible for an intentional program violation by a court, or as a result of an administrative hearing, or has signed a disqualification agreement.

(s) "Mandatory vrending" means an agency payment of assistance amounts, without client request, directly to the client's landlord, mortgage holder, or land contract holder and to the providers of the client's home heating and electricity services.

(t) "Monthly payment amount" means the amount of assistance paid to a group after deductions for vrending and any department recoupment.

(u) "Overissuance" means that a group receives more benefits than it is eligible to receive.

(v) "Overissuance period" means the time period during which the overissuance occurred.

(w) "Overissuance type" means the reason an overissuance occurred. Types of overissuances are agency error, client error, and client intentional program violation.

(x) "Pay period" means the first through the fifteenth of the month or the sixteenth through the end of the month.

(y) "Personal care" means assistance that is provided to a person who needs help in performing personal daily activities, such as cooking, eating, grooming, shopping, and taking medication.

(z) "Potential benefits" means any of the following benefits:

(i) Retirement, survivors, and disability insurance.

(ii) Worker's compensation benefits.

(iii) Veterans administration benefits.

(iv) Railroad retirement benefits.

(v) Pension payments.

(vi) Disability or retirement benefits.

(vii) Earned but unpaid wages.

(viii) Strike pay.

(ix) Vacation pay.

(x) Supplemental security income.

(xi) Family independence program benefits.

(xii) Other than state-funded, needs-based programs, any other financial benefits for which potential eligibility exists and which may reduce the state disability assistance program benefit.

(aa) "Program group" means those persons living together whose income and assets must be counted in determining eligibility for state disability assistance.

(bb) "Provider" means a person or agency that furnishes services to a client.

(cc) "Reapplication" means an application for state disability assistance after a previous case has been closed.

(dd) "Recoupment" means the process by which the department recovers an overissuance of program benefits.

(ee) "Redetermination" means a review of continuing eligibility for state disability assistance.

(ff) "Redirecting" means routing a warrant to a different address.

(gg) "Reinstatement" means restoring a closed assistance case to active status without a new application/redetermination form.

(hh) "Repayment" means an action by a client to pay back benefits received.

(ii) "Restricted payments" means mandatory payment made to a person other than the client in the form of vendor payments or third-party payments due to a third-party resource disqualification or money mismanagement.

(jj) "Returned warrants" means uncashed warrants received by the local department office or treasury.

(kk) "Special living arrangement" means any of the following:

(A) An adult foster care facility.

(B) A county infirmary.

(C) A substance abuse treatment center.

(D) A home for the aged.

(E) A long-term care facility.

(F) A hospital.

(ll) "State disability assistance group" means the members of a program group who receive state disability assistance.

(mm) "Stop payment" means a department directive to treasury to not honor a warrant.

(nn) "Third-party payments" mean an agency payment of a client's entire assistance benefit, without client request, to an agency or person outside the eligible group for management of the assistance on behalf of the group.

(oo) "Third-party resource" means a person, entity, or program that is, or might be, liable to pay all or part of a group member's medical expenses.

(pp) "Treasury" means the Michigan department of treasury.

(qq) "Underissuance" means that a group receives less cash assistance than it is eligible to receive.

(rr) "Verification" means documentation or action taken that provides evidence establishing the accuracy of a client's verbal or written statements.

(ss) "Voluntary vendoring" means a payment system whereby, at the group's request, the department sends part of the group's cash assistance directly to the provider for payment of the group's shelter, heat, or electricity.

(tt) "Warrant date" means the date shown on a warrant .For regular client and vendor warrants, the warrant date is the expected date of delivery. For replacement warrants, the warrant date is the date the warrant was mailed.

R 400.3155 Applications for assistance.

Rule 5. (1) Any person, regardless of age, may apply for assistance for himself or herself. With the group's permission, a person who is more than 18 years of age may be authorized to represent, and apply on behalf of, the group.

(2) An applicant may submit an application in person, by mail, telephone, or electronically. The department must receive the original, signed application before benefits are approved.

(3) A person shall complete a department application form when first applying for assistance benefits and when eligibility is redetermined.

(4) If an application contains the minimum information established by the department, including the signature of the client or authorized representative, then the department shall accept and register the application as soon as it is filed.

(5) Upon receipt of an incomplete application, department staff shall give or send a client an appropriate form that identifies the information needed to render the application complete and shall specify a due date by which the information must be provided. Eligibility shall be denied, or an ongoing assistance case shall be terminated, if an application remains incomplete. An incomplete application is valid through the last day of the month after the month of denial or termination and may be updated during that period.

(6) As part of the application and redetermination process, the department may conduct an official, confidential interview with a client, another responsible applicant group member, or an authorized representative. An interview shall be conducted in a department local office during normal weekday office hours. The department may conduct an interview in the group's home if the client is physically unable to come to the office and if the group has no one else to help or to come to the office on its behalf.

#### R 400.3156 Verification of eligibility factors.

Rule 6. (1) A group shall provide the department with verification of the factors that affect the initial and continued eligibility of the group or its individual members in the state disability assistance program, including information obtained by data exchanges.

(2) The department shall provide a client with a written notice of the factors that must be verified and the due date for submitting verification to the local office of the department.

(3) Department staff may visit a group's home to verify eligibility information or to conduct other department business. A group shall cooperate with department home visits.

#### R 400.3157 Determination of eligibility and assistance amount.

Rule 7. The department shall determine the eligibility of each person in a program group and the amount of assistance for which the group qualifies.

#### R 400.3158 Beginning of assistance benefits.

Rule 8. The department shall begin assistance benefits not earlier than the half-month pay period after the pay period that includes the application filing date and not later than the pay period in which the application becomes 30 calendar days old, if the group is eligible for that pay period. If the application becomes 30 calendar days old and the group has not met eligibility requirements, the department shall begin assistance benefits for the pay period in which all eligibility requirements are met.

#### R 400.3159 Client responsibility to cooperate with department; effect of failure to cooperate.

Rule 9. (1) A client shall cooperate with department staff in determining initial and ongoing eligibility and benefit levels. Cooperation includes all of the following:

- (a) Answering completely and truthfully all questions on department forms and during interviews.
  - (b) Taking all actions within the client's ability to verify factors concerning the client's eligibility.
  - (c) Cooperating with department staff during quality control reviews.
  - (d) Reporting accurate information that potentially affects eligibility or benefit amount within 10 calendar days after the information is known to the client.
- (2) Failure to cooperate with the department in any matter of eligibility will result in denial of the assistance application or case closure, member disqualification, or benefit level reduction.

R 400.3160 Eligibility; citizenship and alien status.

Rule 10. (1) To be eligible for assistance benefits, a person shall be either of the following:

- (a) A citizen of the United States.
  - (b) An alien qualified to receive supplemental security income as provided under title IV, section 402 of Public Law 104-193, 8 U.S.C. §1612.
- (2) An alien who is qualified as specified in subrule (1)(b) of this rule shall verify the qualification. An alien who is unable to provide verification or who refuses to cooperate with the department in obtaining verification is ineligible for assistance benefits.
- (3) Subrule (1)(b) of this rule notwithstanding, a refugee or asylee who loses eligibility for the federal supplemental security income program by virtue of exceeding the maximum time limit for eligibility as delineated in Public Law 104-193 and who otherwise meets the eligibility criteria for the state disability assistance program shall be eligible to receive benefits under the state disability assistance program.

R 400.3161 Mandatory vrending or third-party payments.

- Rule 11. (1) If the department determines that a grantee's negligence has resulted in the mismanagement of funds and has endangered the health or safety of a group member, then, subject to subrule (2) of this rule, the department shall initiate mandatory vrending or third-party payments.
- (2) The department's decision to initiate third-party payments or mandatory vrending shall be based on the seriousness of the client endangerment, the availability of a competent third-party payee, and the qualification of shelter providers.
- (3) Mandatory vrending shall be limited to the monthly combined shelter, heat, and utility expenses. A client shall receive a minimum \$2.00 monthly payment amount after vrending and other required deductions from the payment standard.
- (4) A group in restricted payment status has the right to department review of the need to continue mandatory vrending or third-party payments at least once every 6 months.

R 400.3162 Voluntary vrending.

- Rule 12. (1) A group may request voluntary vrending at any time by completing a department vendor payment form.
- (2) As part of a voluntary vrending request, a group that has heat and electricity obligations shall request vendor payments for both services unless vrending both would leave a monthly payment amount of less than \$2.00. The department or a utility company shall establish vendored amounts for heat and electricity based on the assistance payment standard.
- (3) A group may specify any monthly shelter amount that is not less than \$2.00 to be vendored if vrending would leave a monthly payment amount of at least \$2.00.
- (4) The department shall cease voluntary vendor payments as soon as administratively feasible when requested in writing by a client.

(5) The department shall not authorize voluntary vendor payments for rent under any of the following circumstances:

(a) The local housing authority notifies the department that the dwelling fails to meet the housing code or that the landlord has failed to cooperate with housing code policies and procedures. In this situation, the department shall discontinue ongoing vendoring within 5 workdays if administratively feasible.

(b) The landlord has not cooperated with the department or a utility company in the installation of energy conservation measures that were determined necessary to reduce energy consumption. In this situation, the department shall discontinue ongoing vendoring within 5 workdays if administratively feasible.

(c) Title to the rental property reverts to this state or local municipality for nonpayment of property taxes.

#### R 400.3163 Special living arrangements.

Rule 13. (1) A client who resides in an adult foster care facility, county infirmary, or home for the aged may be eligible for a client incidental allowance and for provider payment.

(2) A client who resides in a substance abuse treatment center, long-term care facility, or hospital may be eligible for a client incidental allowance, but is not eligible for provider payment.

(3) A special living arrangement facility must be licensed in order to receive payment.

(4) The department must determine a client's level of care to be either domiciliary care or personal care before provider payment may be authorized.

(5) Provider payment for a special living arrangement may begin up to 10 calendar days before the application filing date for an eligible client who was residing in a facility 10 days before the date of application.

(6) Subject to subrule (5) of this rule, per diem provider payment eligibility begins the day an eligible client enters a special living arrangement facility and ends the day the client becomes ineligible for assistance or the day before the date of discharge, whichever is earlier.

(7) If a client's failure to report timely, complete, and accurate information results in an overpayment for special living arrangement care, then the department shall recover the amount overpaid from the client.

(8) If a provider of special living arrangement care is overpaid as a result of incorrect provider billing or level of care authorization, then the department shall recover the amount overpaid from the provider.

#### R 400.3164 Changes in group's circumstances.

Rule 14. (1) A group shall report a change in circumstance within 10 days of the change.

(2) The department shall act on changes that continue for at least 1 month beyond the month in which the change was reported.

(3) A group member addition or change in income that results in a benefit increase must affect the benefit level for the month after the month the change occurred, if the addition or change is timely reported. If a group member addition or change in income that results in a benefit increase is reported late, then the effective month of the increase is the month after the month the change is reported and verified.

(4) A change other than the changes specified in subrule (3) of this rule must affect the first full benefit month that begins not later than 10 days after the change is reported.

The department may affect the first full benefit month that begins earlier than 10 days after the change is reported, if administratively possible. A benefit month is the calendar month for which assistance is paid. Assistance may be paid for 1/2 of the benefit month or for a full benefit month, depending upon a group's eligibility for payment.

(5) A change that results in case closure may affect the month in which the change occurred.

(6) If a change in a group's assets results in exceeding the asset standard established by the department, then the group is ineligible for benefits for 1 month or for as long as the assets exceed the standard, whichever is longer. In this situation, the month in which assistance is closed is either the month following the month in which the group obtained the asset or, if administratively feasible, the second month following the month in which the group obtained the assets.

R 400.3165 Determination of eligibility and benefit levels; use of data base- exchange.

Rule 15. The department shall use information available through data base matching to determine eligibility and benefit levels for clients.

R 400.3167 Rescinded.

R 400.3168 Returned warrants.

Rule 18. (1) A returned warrant may be rewritten by the department if a group was eligible for cash assistance during the period covered by the original warrant.

(2) A group is presumed to be ineligible for cash assistance under any of the following circumstances:

(a) The post office returned a client warrant to the treasury as undeliverable and there has been no contact from the group regarding the warrant.

(b) A warrant remains uncashed for more than 30 calendar days and there has been no contact from the client regarding the warrant.

(c) A client fails to contact the department by the disposition deadline for a warrant returned or delivered to the local department office.

(3) A representative of a group who picks up a client warrant shall present the group's signed statement authorizing the representative to pick up the warrant.

R 400.3169 Replacement policies for warrants.

Rule 19. (1) If a group reports an unendorsed warrant lost, stolen, not received, or destroyed, then the group may have the warrant replaced if all of the following criteria, as appropriate, are met:

(a) The group completes a stop payment/replacement request affidavit. For stolen warrants, a group shall file a police report, unless replacement of the warrant is made after recovery of the warrant amount.

(b) A client or provider shall contact the post office to verify delivery of a warrant that was issued but not received. If delivery is verified, then the warrant is considered lost. If delivery cannot be verified, then the warrant is considered not received.

(c) For warrants considered not received, a client or provider shall complete a stop payment/replacement request affidavit.

(d) Under any of the following circumstances, a warrant shall be replaced only after recovery of the original warrant amount:

(i) Replacement is requested more than 30 calendar days after the warrant date.

(ii) The client has previously requested a replacement after cashing the original warrant.

(iii) A police report was not filed on a stolen warrant.

(iv) The case is closed or closure is pending.

(v) The warrant to be replaced is a replacement warrant or a vendor warrant.

(2) If a warrant is cashed by a recipient of cash assistance, then the department shall not take action on a request to stop payment on the cashed warrant and a replacement warrant will not be issued.

(3) A warrant that is lost or stolen after endorsement shall be replaced only if the warrant is later returned or voided.

(4) If a replacement warrant is issued for a warrant that was cashed and the client claims that the warrant copy signature is not his or hers, then the client shall sign an affidavit that the signature is not the client's signature.

(5) If a replacement warrant is issued for a warrant that was cashed and the client fails to keep an appointment to view the warrant, refuses to sign the affidavit, or admits endorsing both the original and replacement warrants, then the department shall recover the overissuance from the group.

R 400.3170 Supplemental benefits policy for cash assistance.

Rule 20. (1) Supplemental benefits, also referred to as a supplement, are issued to correct an underissuance.

(2) A supplement is offset by overissuances for which collection actions have not yet begun. The department shall subtract the amount of the overissuance from the amount of the supplement, up to the amount of the supplement.

(3) The department shall issue a supplement promptly when verification of the need for a supplement is received by the department or when the department has knowledge of the need for a supplement.

(4) A supplement is issued back to the month following the month that verification, if required, shows the need began, but not earlier than the month following the month that the group reported the change which resulted in the need for a supplement.

(5) The department shall not issue a supplement for a period before the effective date for program eligibility.

(6) The department shall give a group adequate notice that a supplement has been authorized or denied.

R 400.3171 Identity verification requirement.

Rule 21. A grantee shall verify his or her identity in order to receive benefits.

R 400.3173 Penalties for failure to pursue potential benefits; verification requirements.

Rule 23. (1) If a group refuses to pursue a potential benefit, then the group is ineligible for state disability assistance.

(2) If a client or other group members act to restrict the amount of a potential benefit that is available to the group, then the group is ineligible for state disability assistance.

(3) The department shall accept a client's statement that he or she has applied for a benefit or that he or she is not eligible for a benefit, unless the statement is unclear, inconsistent, or in conflict with other information.

R 400.3178 Intentional program violation; disqualification; recoupment.

Rule 28. (1) If, in the course of an overissuance investigation, the department determines that an intentional program violation occurred, then the person accused of the violation shall be notified of all of the following:

(a) The allegation.

(b) A potential penalty.

(c) The right to meet with department representatives to discuss the allegation.

(2) The department shall conduct an administrative hearing to determine if an overissuance occurred due to intentional program violation, unless either of the following provisions applies:

(a) The person accused of the violation waives his or her right to the hearing by signing a recoupment and disqualification agreement.

(b) The individual has been convicted of the fraudulent receipt of benefits under section 60 of 1939 PA 280, MCL 400.60, or any other criminal fraud statute.

(3) If a person accused of an intentional program violation has agreed to and signed a recoupment and disqualification agreement, then the person does not have recourse to further administrative appeal.

(4) A person accused of an intentional program violation may request a hearing to contest the computation of the benefit reduction amount, but not the overissuance amount.

(5) The department may conduct an intentional program violation hearing without the person accused of the violation or his or her authorized representative present if the hearing notice that was sent to the person is not returned by the post office as undeliverable.

(6) Any administrative hearing initiated by the department under this rule shall be conducted pursuant to notice served on the accused person not later than 6 years after the overissuance occurred.

(7) If the department does not establish that an overpayment was the result of an intentional program violation, then the department shall recoup the overpayment as department or client error.

(8) A person who is determined, in an administrative disqualification hearing, to have committed an intentional program violation, who pleads guilty to an intentional program violation, who waives his or her legal right to an administrative disqualification hearing regarding an allegation of intentional program violation, or who is convicted of criminal fraud based on the fraudulent receipt of benefits shall be disqualified by reducing the monthly benefit level by the amount deemed to meet the individual's monthly needs for the following periods:

(a) A period of 1 year for a first offense.

(b) A period of 2 years for a second offense.

(c) Permanently for a third or subsequent offense.

(9) For current or former state disability assistance recipients, the department shall impose a disqualification penalty for an intentional program violation within 5 days of the receipt of a decision that an intentional program violation occurred.

#### R 400.3179 Benefit overissuance; collection and repayment actions.

Rule 29. (1) The department shall employ administrative recoupment processes to recoup all benefit overissuances from active or inactive state disability assistance groups by cash repayment or benefit reduction.

(2) The department shall seek recoupment of benefit overissuances from any adult who was a group member when the overissuance occurred.

(3) The department shall recoup overissuances on active state disability assistance cases through benefit reduction, unless cash payments are ordered by a court.

(4) If an overissuance is not paid in full during the timely notice period, then the department shall reduce state disability assistance warrants by a percentage of the payment standard as follows:

(a) The department and client error overissuances are recouped at a 5% reduction of the payment standard.

(b) Intentional program violation overissuances are recouped at a 10% reduction of the payment standard.

(5) An overissuance repayment amount shall be adjusted to maintain a minimum \$2.00 cash benefit to the client.

(6) If a court orders cash repayment of an overissuance and the active state disability assistance client does not make regular cash payments, then the department shall change the collection method to benefit reduction.

(7) A local department office may pursue, through probate court claim action, collection from the estate of a person who dies and has an overissuance balance.

(8) A payment received as restitution under the terms of a person's probation reduces the balance owed, but completing the probation period or performing a requirement of probation does not reduce the amount owed in excess of the actual dollar amount paid toward the balance owed.

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**ADMINISTRATIVE RULES**

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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

Filed with the Secretary of State on March 24, 2015

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154, MCL 408.1019 and 408.1021 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.40601, R 408.40603, R 408.40617a, R 408.40623, R 408.40625, and R 408.40631 of the Michigan Administrative Code are amended, and R 408.40650, R 408.40655, and R 408.40660 are added, as follows:

**PART 6. PERSONAL PROTECTIVE EQUIPMENT**

R 408.40601 Scope.

Rule 601. (1) This standard provides specifications for personal protective equipment and prescribes the use, selection, and maintenance of this equipment for the protection of the employee's head, face, eyes, hands, feet, and body during construction operations.

(2) Hearing protection shall be in compliance with Occupational Health Standard Part 380 "Occupational Noise Exposure," as referenced in R 408.40603.

(3) Respiratory protection shall be in compliance with Occupational Health Standard Part 451 "Respiratory Protection," as referenced in R 408.40603.

(4) Protective equipment, including personal protective equipment for eyes, face, head, hands, feet, and body, protective clothing, and protective shields and barriers, shall be provided, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation, or physical contact.

R 408.40603 Adopted and referenced standards.

Rule 603. (1) The following standards are adopted by reference in these rules and are available from the Document Center, Inc., Customer Service, 121 Industrial Road, Suite 8, Belmont, California 94002, USA, telephone: (650) 591-7600 or via the internet at website: [www.document-center.com](http://www.document-center.com); at a cost as of the time of adoption of these rules, as stated in this subrule:

(a) American National Standard Institute ANSI standard Z-41 "Personal Protection - Protective Footwear," 1991 edition. Cost: \$49.95.

(b) ANSI Z-89.1 "American National Standard for Industrial Head Protection," 2003 edition. Cost: \$20.00.

(c) ANSI Z-89.1 "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers--Requirements," 1997 edition. Cost: \$20.00.

(d) ANSI Z-87.1 "Practice for Occupational and Educational Eye and Face Protection," 1991 edition. Cost: \$117.30

(2) The following standards are adoption by reference in these rules and are available from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112, telephone number 1-800-854-7179, website: [www.global.ihs.com](http://www.global.ihs.com), at a cost as of the time of adoption of these rules, as stated in this subrule:

(a) ANSI Z-89.1 "American National Standard for Industrial Head Protection," 2009 edition. Cost: \$35.00.

(b) American Society of Testing Materials ASTM Standard D-120, "Standard Specification for Rubber Insulating Gloves," 2009 edition. Cost: \$58.00.

(c) ASTM D-178 "Standard Specification for Rubber Insulating Matting," 2001 edition with 2010 supplement. Cost: \$47.00.

(d) ASTM D-1048 "Standard Specification for Rubber Insulating Blankets," 2012 Edition. Cost: \$47.00.

(e) ASTM D-1049 "Standard Specification for Rubber Insulating Covers," 1998 edition with 2010 supplement. Cost: \$47.00.

(f) ASTM D-1050 "Standard Specification for Rubber Insulating Line Hose," 2005 edition with 2011 supplement. Cost: \$47.00.

(g) ASTM D-1051 "Standard Specification for Rubber Insulating Sleeves," 2008 edition. Cost: \$58.00.

(h) ASTM F-478 "Standard Specification for In-Service Care of Insulating Line Hose and Covers," 2009 edition. Cost: \$52.00.

(i) ASTM F-479 "Standard Specification for In-Service Care of Insulating Blankets," 2006 edition with 2011 supplement. Cost: \$47.00.

(j) ASTM F-496 "Standard Specification for In-Service Care of Insulating Gloves and Sleeves," 2008 edition. Cost: \$58.00.

(k) ASTM F-712 "Standard Test Methods and Specifications for Electrically Insulating Plastic Guard Equipment for Protection of Workers," 2006 edition with 2011 supplement. Cost \$47.00.

(l) ASTM F-819 "Standard Terminology Relating to Electrical Protective Equipment for Workers," 2010 edition. Cost: \$41.00.

(m) ASTM F-1236 "Standard Guide for Visual Inspection of Electrical Protective Rubber Products," 1996 Edition with 2012 supplement. Cost: \$ 47.00.

(n) Institute of Electrical and Electronics Engineers IEEE Standard 516 "Guide for Maintenance Methods on Energized Power Lines," 2009 edition. Cost: \$135.00.

(3) The standards adopted in these rules are available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 7150 Harris Drive, Lansing, Michigan, 48909-8143.

(4) The standards adopted in these rules may be obtained from the publisher or may be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, plus \$20.00 for shipping and handling.

(5) The following Michigan occupational safety and health (MIOSHA) standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at website:

[www.michigan.gov/mioshastandards](http://www.michigan.gov/mioshastandards). For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) Construction Safety Standard Part 16. “Power Transmission and Distribution,” R 408.41601 to R 408.41658.

(b) Construction Safety Standard Part 45 “Fall Protection,” R 408.44501 to R 408.44502.

(c) Occupational Health Standard Part 380 “Occupational Noise Exposure” R 325.60101 to R 325.60128.

(d) Occupational Health Standard Part 451 “Respiratory Protection,” R 325.60051 to R 325.60052.

(6) The appendices are informational only and are not intended to create any additional obligations or requirements not otherwise imposed or to detract from any established obligations or requirements.

#### PAYMENT FOR PERSONAL PROTECTIVE EQUIPMENT.

R 408.40617a Payment for personal protective equipment (PPE).

Rule 617a. (1) An employer shall provide at no cost to employees the personal protective equipment necessary to protect against hazards that the employer is aware of as a result of any required assessments.

(2) An employer shall pay for replacement PPE, as necessary, under either of the following conditions:

(a) When the PPE no longer provides the protection it was designed to provide.

(b) When the previously provided PPE is no longer adequate or functional.

(3) When an employee has lost or intentionally damaged the PPE issued to him or her, an employer is not required to pay for its replacement and may require the employee to pay for its replacement.

(4) An employer is not required to pay for prescription safety eyewear with removable or permanent sideshields as long as the employer provides safety eyewear that fits over an employee’s prescription lenses.

(5) An employer is not required to pay for non-specialty prescription safety eyewear, provided that the employer permits these items to be worn off the job-site.

(6) An employer is not required to pay for non-specialty safety-toe protective footwear, including steel-toe shoes or steel-toe boots, provided that the employer permits these items to be worn off the job-site.

(7) An employer shall provide, at no cost to employees, metatarsal guards attachable to shoes when metatarsal protection is necessary, when both of the following apply:

(a) If metatarsal protection is necessary and an employer requires employees to use metatarsal shoes instead of detachable guards, then the employer shall provide the metatarsal shoe at no cost to the employee.

(b) If an employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, then the employer is not required to pay for the metatarsal shoes or boots.

(8) An employer is not required to pay for either of the following:

(a) Everyday clothing, which includes any of the following:

(i) Long-sleeve shirts.

(ii) Long pants.

(iii) Street shoes.

(iv) Normal work boots.

(v) Ordinary clothing.

(vi) Skin creams.

(b) Other items used solely for protection from weather, which includes any of the following:

(i) Winter coats.

(ii) Jackets.

- (iii) Gloves.
- (iv) Parkas.
- (v) Rubber boots.
- (vi) Hats.
- (vii) Raincoats.
- (viii) Ordinary sunglasses.
- (ix) Sunscreen.

(9) An employer shall pay for protection when ordinary weather gear is not sufficient to protect an employee and special equipment or extraordinary clothing is needed to protect the employee from unusually severe weather conditions. Clothing used in artificially-controlled environments with extreme hot or cold temperatures, such as freezers, is not considered part of the weather gear exception.

(10) All of the following apply to upgraded and personalized PPE:

(a) An employer is not required to pay for PPE requested by an employee that exceeds the PPE requirements, provided that the employer provides PPE that meets the standards at no cost to the employee.

(b) If an employer allows an employee to acquire and use upgraded or personalized PPE, then the employer is not required to reimburse the employee for the equipment, provided that the employer has provided adequate PPE at no cost to the employee.

(c) An employer shall evaluate an employee's upgraded or personalized PPE to ensure that it is in compliance with all of the following:

- (i) Adequate to protect from hazards present in the workplace.
- (ii) Properly maintained.
- (iii) Kept in a sanitary condition.

(11) When the provisions of another MIOSHA standard specify whether the employer shall pay for specific equipment, the payment provisions of that standard prevails.

#### R 408.40623 Certification of face and eye protection.

Rule 623. Except for the devices required by R 408.40624(5), all face and eye protection devices shall bear a certification by the manufacturer that the device has been produced according to ANSI standard Z-87.1, "Practice for Occupational and Educational Eye and Face Protection," 1991 edition, as adopted in R 408.40603. If it is impractical for the protection device to bear the certification, then the container for the device shall bear the certification.

## FOOT AND TOE PROTECTION

#### R 408.40625 Foot and toe protection; consensus standards; specific requirements.

Rule 625. (1) Safety toe footwear shall bear a permanent mark to show the manufacturer's name or trademark and to show certification of compliance with ANSI standard Z-41 "Personal Protection – Protective Footwear," 1991 edition, as adopted in R 408.40603.

(2) An employer shall ensure that each affected employee wears foot protection or toe protection, or both, if conditions of the job are likely to cause a foot injury.

(3) If a hazard is created from a process, chemical, or mechanical irritant which could cause an injury or impairment to the feet by absorption or physical contact, other than from impact, then the employer shall provide any of the following to the employee:

- (a) Boots.
- (b) Overshoes.
- (c) Rubbers.

- (d) Wooden-soled shoes.
- (e) The equivalent to subdivisions (a) to (d) of this subrule.

## FALL PROTECTION

### R 408.40631 Fall protection.

Rule 631. An employer shall ensure that each employee whose fall protection is not covered by another MIOSHA safety standard, and the employee's work area is more than 6 feet above the ground, floor, water, or other surface, shall be protected as prescribed in Construction Safety Standard Part 45 "Fall Protection," as referenced in R 408.40603. The following systems are included in Construction Safety Standard Part 45 "Fall Protection:"

- (a) Guardrail systems.
- (b) Safety net systems.
- (c) Personal fall arrest systems.

See Appendix C for reference to the correct safety standards for construction industry threshold heights requiring fall prevention/protection equipment.

## ELECTRICAL PROTECTIVE EQUIPMENT

### R 408.40650 Design requirements for specific types of electrical protective equipment.

Rule 650. (1) Rubber insulating blankets, rubber insulating matting, rubber insulating covers, rubber insulating line hose, rubber insulating gloves, and rubber insulating sleeves shall meet the requirements of this rule.

(2) Manufacture and marking of rubber insulating equipment shall be as follows:

(a) Blankets, gloves, and sleeves shall be produced by a seamless process.

(b) Each item shall be clearly marked as follows:

(i) Class 00 equipment shall be marked class 00.

(ii) Class 0 equipment shall be marked class 0.

(iii) Class 1 equipment shall be marked class 1.

(iv) Class 2 equipment shall be marked class 2.

(v) Class 3 equipment shall be marked class 3.

(vi) Class 4 equipment shall be marked class 4.

(vii) Non-ozone-resistant equipment shall be marked type I.

(viii) Ozone-resistant equipment shall be marked type II.

(ix) Other relevant markings, such as the manufacturer's identification and the size of the equipment, may also be provided.

(c) Markings shall be nonconducting and shall be applied in such a manner as not to impair the insulating qualities of the equipment.

(d) Markings on gloves shall be confined to the cuff portion of the glove.

(3) Electrical requirements shall be all of the following:

(a) Equipment shall be capable of withstanding the alternating current proof-test voltage specified in Table A or the direct current proof-test voltage specified in Table B, all of the following apply:

(i) The proof test shall reliably indicate that the equipment can withstand the voltage involved.

(ii) The test voltage shall be applied continuously for 3 minutes for equipment other than matting and shall be applied continuously for 1 minute for matting.

(iii) Gloves shall also be capable of separately withstanding the alternating current proof-test voltage specified in Table A after a 16-hour water soak.

(b) When the alternating current proof test is used on gloves, the 60-hertz proof-test current may not exceed the values specified in Table A at any time during the test period all of the following apply:

(i) If the alternating current proof test is made at a frequency other than 60 hertz, the permissible proof-test current shall be computed from the direct ratio of the frequencies.

(ii) For the test, gloves (right side out) shall be filled with tap water and immersed in water to a depth that is in accordance with Table C. Water shall be added to or removed from the glove, as necessary, so that the water level is the same inside and outside the glove.

(iii) After the 16-hour water soak specified in this subrule, the 60-hertz proof-test current may not exceed the values given in Table A by more than 2 milliamperes.

(c) Equipment that has been subjected to a minimum breakdown voltage test may not be used for electrical protection. See subrule (3) of this rule.

(d) Material used for Type II insulating equipment shall be capable of withstanding an ozone test, with no visible effects. The ozone test shall reliably indicate that the material will resist ozone exposure in actual use. Any visible signs of ozone deterioration of the material, such as checking, cracking, breaks, or pitting, is evidence of failure to meet the requirements for ozone-resistant material. See subrule (3) of this rule.

(4) Workmanship and finish shall comply with both of the following:

(a) Equipment shall be free of physical irregularities that can adversely affect the insulating properties of the equipment and that can be detected by the tests or inspections required by these rules.

(b) Surface irregularities that may be present on all rubber goods, because of imperfections on forms or molds or because of inherent difficulties in the manufacturing process, and that may appear as indentations, protuberances, or imbedded foreign material are acceptable under both of the following conditions:

(i) The indentation or protuberance blends into a smooth slope when the material is stretched.

(ii) Foreign material remains in place when the insulating material is folded and stretches with the insulating material surrounding it.

(5) Rubber insulating equipment meeting the national consensus standards in Table 4 is considered to be in compliance with the performance requirements of these rules.

TABLE 4  
AMERICAN SOCIETY OF TESTING MATERIALS STANDARDS

STANDARD TITLE	ASTM NUMBER	EDITION	SUPPLEME NT
Standard Specification for Rubber Insulating Gloves	D-120	2009	-
Standard Specification for Rubber Insulating Matting	D-178	2001	2010
Standard Specification for Rubber Insulating Blankets	D-1048	2012	
Standard Specification for Rubber Insulating Covers	D-1049	1998	2010
Standard Specification for Rubber Insulating Line Hose	D-1050	2005	2011
Standard Specification for Rubber Insulating Sleeves	D-1051	2008	-
<p>These standards also contain specifications for conducting the various tests required in these rules. For example, the alternating current and direct current proof tests, the breakdown test, the water-soak procedure, and the ozone test mentioned in these rules are described in detail in these ASTM standards.</p>			
<p>ASTM F-1236 “Standard Guide for Visual Inspection of Electrical Protective Rubber Products,” 1996 Edition with 2012 supplement, as adopted in R 408.40603, presents methods and techniques for the visual inspection of electrical protective equipment made of rubber. This guide also contains descriptions and photographs of irregularities that can be found in this equipment.</p>			
<p>ASTM F-819 “Standard Terminology Relating to Electrical Protective Equipment for Workers,” 2010 edition, as adopted in R 408.40603, includes definitions of terms relating to the electrical protective equipment covered in these rules.</p>			

R 408.40655 Design requirements for other types of electrical protective equipment.

Rule 655. (1) The following requirements apply to the design and manufacture of electrical protective equipment that is not covered by R 408.40650:

(2) Insulating equipment used for the protection of employees shall be capable of withstanding, without failure, the voltages that may be imposed upon it.

Note 1 to subrule (2): These voltages include transient over-voltages, such as switching surges, as well as nominal line voltage. See Construction Safety Standard Part 16 “Power Transmission and Distribution,” Appendix B, as referenced in R 408.40603, for a discussion of transient over-voltages on electric power transmission and distribution systems.

Note 2 to subrule (2): See IEEE 516 “Guide for Maintenance Methods on Energized Power Lines,” 2009 edition, as adopted in R 408.40603, for methods of determining the magnitude of transient over-voltages on an electrical system and for a discussion comparing the ability of insulation equipment to withstand a transient overvoltage based on its ability to withstand alternating current voltage testing.

(3) Equipment current shall comply with both of the following:

(a) Protective equipment used for the primary insulation of employees from energized circuit parts shall be capable of passing a current test when subjected to the highest nominal voltage on which the equipment is to be used.

(b) When insulating equipment is tested pursuant to these rules, the equipment current shall not exceed 1 microampere per kilovolt of phase-to-phase applied voltage.

Note 1 to subrule (3): This rule shall apply to equipment that provides primary insulation of employees from energized parts. It does not apply to equipment used for secondary insulation or equipment used for brush contact only.

Note 2 to subrule (3): For alternating current excitation, this current shall consist of the following components:

(i) Capacitive current because of the dielectric properties of the insulating material itself.

(ii) Conduction current through the volume of the insulating equipment.

(iii) Leakage current along the surface of the tool or equipment.

The conduction current shall be normally negligible. For clean, dry insulating equipment, the leakage current shall be small, and the capacitive current shall be predominate.

Note 3 to (3): Plastic guard equipment is considered to conform to the performance requirements of this rule, if it meets, and is used in accordance with ASTM F-712 “Standard Test Methods and Specifications for Electrically Insulating Plastic Guard Equipment for Protection of Workers,” 2006 edition with 2011 supplement, as adopted in R 408.40603.

#### R 408.40660 In-service care and use of electrical protective equipment.

Rule 660. (1) Electrical protective equipment shall be maintained in a safe, reliable condition.

(2) The following requirements apply to rubber insulating blankets, rubber insulating covers, rubber insulating line hose, rubber insulating gloves, and rubber insulating sleeves.

(3) Maximum use voltages shall conform to those listed in Table D.

(4) Insulating equipment shall be inspected for damage before each day’s use and immediately following any incident that can reasonably be suspected of causing damage. Insulating gloves shall be given an air test, along with the inspection.

Note to subrule (4): ASTM F-1236 “Standard Guide for Visual Inspection of Electrical Protective Rubber Products,” 1996 Edition with 2012 supplement, as adopted in R 408.40603, presents methods and techniques for the visual inspection of electrical protective equipment made of rubber. This guide also contains descriptions and photographs of irregularities that can be found in this equipment.

(5) Insulating equipment with any of the following defects shall not be used.

(a) A hole, tear, puncture, or cut.

(b) Ozone cutting or ozone checking, that is a series of interlacing cracks produced by ozone on rubber under mechanical stress.

(c) An embedded foreign object.

(d) Any of the following texture changes:

(i) Swelling.

(ii) Softening.

(iii) Hardening.

(iv) Becoming sticky or inelastic.

(v) Any other defect that damages the insulating properties.

(6) Insulating equipment found to have other defects that might affect its insulating properties shall be removed from service and returned for testing under subrules (10) and (11) of this rule.

(7) Insulating equipment shall be cleaned as needed to remove foreign substances.

(8) Insulating equipment shall be stored in a location and in a manner as to protect it from all of the following:

- (a) Light.
- (b) Temperature extremes.
- (c) Excessive humidity.
- (d) Ozone.
- (e) Other damaging substances and conditions.

(9) Protector gloves shall be worn over insulating gloves, except under the following conditions:

(a) Protector gloves need not be used with class 0 gloves, under limited-use conditions, when small equipment and parts manipulation necessitate unusually high finger dexterity.

Note to subrule (9)(a): Persons inspecting rubber insulating gloves used under these conditions shall take extra care in visually examining them. Employees using rubber insulating gloves under these conditions shall take extra care to avoid handling sharp objects.

(b) If the voltage does not exceed 250 volts, ac, or 375 volts, direct current, protector gloves shall not be used with class 00 gloves, under limited-use conditions, when small equipment and parts manipulation necessitate unusually high finger dexterity.

Note to subrule (9)(b): Persons inspecting rubber insulating gloves used under these conditions shall take extra care in visually examining them. Employees using rubber insulating gloves under these conditions need to take extra care to avoid handling sharp objects.

(c) Any other class of glove may be used without protector gloves, under limited-use conditions, when small equipment and parts manipulation necessitate unusually high finger dexterity but only if the employer can demonstrate that the possibility of physical damage to the gloves is small and if the class of glove is 1 class higher than that required for the voltage involved.

(d) Insulating gloves that have been used without protector gloves shall not be reused until they have been tested under the provisions of this rule.

(10) Electrical protective equipment shall be subjected to periodic electrical tests. Test voltages and the maximum intervals between tests shall be pursuant to Table D and Table E.

(11) The test method used in this subrule shall reliably indicate whether the insulating equipment can withstand the voltages involved.

Note to subrule (11): The standard electrical test methods considered as meeting this requirement are listed in Table 5.

(12) Insulating equipment failing to pass inspections or electrical tests shall not be used by employees, except as follows:

(a) Rubber insulating line hose may be used in shorter lengths with the defective portion cut off.

(b) Rubber insulating blankets may be salvaged by severing the defective area from the undamaged portion of the blanket. The resulting undamaged area shall not be smaller than 560 millimeters by 560 millimeters (22 inches by 22 inches) for class 1, 2, 3, and 4 blankets.

(c) Rubber insulating blankets may be repaired using a compatible patch that results in physical and electrical properties equal to those of the blanket.

(d) Rubber insulating gloves and sleeves with minor physical defects, such as small cuts, tears, or punctures, may be repaired by the application of a compatible patch. Also, rubber insulating gloves and sleeves with minor surface blemishes may be repaired with a compatible liquid compound. The repaired area shall have electrical and physical properties equal to those of the surrounding material. Repairs to gloves shall be permitted only in the area between the wrist and the reinforced edge of the opening.

(13) Repaired insulating equipment shall be retested before it may be used by employees.

(14) The employer shall certify that equipment has been tested pursuant to the requirements of this rule. The certification shall identify the equipment that passed the test and the date it was tested and shall be

made available upon request to the department of licensing and regulatory affairs director and to MIOSHA employees or their authorized representatives.

Note to subrule (14): Marking equipment with, and entering onto logs, the results of the tests and the dates of testing are acceptable means of meeting the certification requirement.

TABLE 5  
AMERICAN SOCIETY OF TESTING MATERIALS STANDARDS

STANDARD TITLE	ASTM NUMBER	EDITION	SUPPLEMENT
Standard Specification for Rubber Insulating Gloves	D-120	2009	-
Standard Specification for Rubber Insulating Matting	D-178	2001	2010
Standard Specification for Rubber Insulating Blankets	D-1048	2012	
Standard Specification for Rubber Insulating Covers	D-1049	1998	2010
Standard Specification for Rubber Insulating Line Hose	D-1050	2005	2011
Standard Specification for Rubber Insulating Sleeves	D-1051	2008	-
Standard Specification for In-Service Care of Insulating Line Hose and Covers	F-478	2009	-
Standard Specification for In-Service Care of Insulating Blankets	F-479	2006	2011
Standard Specification for In-Service Care of Insulating Gloves And Sleeves	F-496	2008	-

**TABLE A  
ALTERNATING CURRENT PROOF-TEST REQUIREMENTS**

CLASS OF EQUIPMENT	PROOF-TEST VOLTAGE RMS V	Maximum Proof-Test Current, mA (Globes Only)			
		280-mm (11 in.) Glove	360-mm (14 in.) Glove	410-mm (16 in.) Glove	460-mm (18 in.) Glove
00	2,500	8	12	-	-
0	5,000	8	12	14	16
1	10,000	-	14	16	18
2	20,000	-	16	18	20
3	30,000	-	18	20	22
4	40,000	-	-	22	24

**TABLE B  
DIRECT CURRENT PROOF-TEST REQUIREMENTS**

CLASS OF EQUIPMENT	PROOF-TEST VOLTAGE
00	10,000
0	20,000
1	40,000
2	50,000
3	60,000
4	70,000

NOTE: The dc voltages listed in this table are not appropriate for proof testing rubber insulating line hose or covers. For this equipment, dc proof tests shall use a voltage high enough to indicate that the equipment can be safely used at the voltages listed in Table D.

See ASTM D-1050 “Standard Specification for Rubber Insulating Line Hose,” 2005 edition with 2011 supplement and ASTM D-1049 “Standard Specification for Rubber Insulating Covers,” 1998 edition with 2010 supplement, as adopted in R 408.40603, for further information on proof tests for rubber insulating line hose and covers, respectively.

TABLE C  
GLOVE TESTS – WATER LEVEL<sup>1,2</sup>

CLASS OF GLOVE	ALTERNATING CURRENT PROOF TEST		DIRECT CURRENT PROOF TEST	
	mm	in	mm	in
00	38	1.5	38	1.5
0	38	1.5	38	1.5
1	38	1.5	51	2.0
2	64	2.5	76	3.0
3	89	3.5	102	4.0
4	127	5.0	153	6.0

<sup>1</sup> The water level is given as the clearance from the reinforced edge of the glove to the water line, with a tolerance of  $\pm 13$  mm. ( $\pm 0.5$  in.).

<sup>2</sup> If atmospheric conditions make the specified clearances impractical, the clearances may be increased by a maximum of 25 mm. (1 in.).

TABLE D  
RUBBER INSULATING EQUIPMENT, VOLTAGE REQUIREMENTS

CLASS OF EQUIPMENT	MAXIMUM USE VOLTAGE <sup>1</sup> ALTERNATING CURRENT RMS	RETEST VOLTAGE <sup>2</sup> ALTERNATING CURRENT RMS	RETEST VOLTAGE <sup>2</sup> DIRECT CURRENT AVG
00	500	2,500	10,000
0	1,000	5,000	20,000
1	7,500	10,000	40,000
2	17,000	20,000	50,000
3	26,500	30,000	60,000
4	36,000	40,000	70,000

<sup>1</sup> The maximum use voltage is the ac voltage (rms) classification of the protective equipment that designates the maximum nominal design voltage of the energized system that may be safely worked. The nominal design voltage is equal to the phase-to-phase voltage on multiphase circuits. However, the phase-to-ground potential is considered to be the nominal design voltage if either of the following occur:

- (1) There is no multiphase exposure in a system area and the voltage exposure is limited to the phase-to-ground potential.
- (2) The electric equipment and devices are insulated or isolated or both so that the multiphase exposure on a grounded wye circuit is removed.

<sup>2</sup> The proof-test voltage shall be applied continuously for at least 1 minute, but no more than 3 minutes.

TABLE E  
RUBBER INSULATING EQUIPMENT TEST INTERVALS

TYPE OF EQUIPMENT	WHEN TO TEST
Rubber insulating line hose	Upon indication that insulating value is suspect and after repair.
Rubber insulating covers	Upon indication that insulating value is suspect and after repair.
Rubber insulating blankets	Before first issue and every 12 months thereafter; <sup>1</sup> upon indication that insulating value is suspect; and after repair
Rubber insulating gloves	Before first issue and every 6 months thereafter; <sup>1</sup> upon indication that insulating value is suspect; after repair; and after use without protectors
Rubber insulating sleeves	Before first issue and every 12 months thereafter; <sup>1</sup> upon indication that insulating value is suspect; and after repair

<sup>1</sup> If the insulating equipment has been electrically tested but not issued for service, the insulating equipment may not be placed into service unless it has been electrically tested within the previous 12 months.

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**ADMINISTRATIVE RULES**

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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF HEALTH CARE SERVICES

BOARD OF VETERINARY MEDICINE

PUBLIC CONDUCT AT MEETINGS

Filed with the Secretary of State on March 17, 2015

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by section 16145 of 1978 PA 368 and section 33 of 1969 PA 306, MCL 333.16145 and 24.233, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2011-4, being MCL 330.3101, 445.2001, 445.2011, and 445.2030)

R 338.3801 of the Michigan Administrative Code is rescinded as follows:

R 338.3801 Rescinded.

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**ADMINISTRATIVE RULES**

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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

DENTISTRY - GENERAL RULES

Filed with the Secretary of State on March 17, 2015

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 2226, 16145, 16215(6), 16625, and 16644 of 1978 PA 368, MCL 333.2226, 333.16145, 333.16215(6), 333.16225, and 333.16644, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2011-4, MCL 330.3101, 445.2001, 445.2011, and 445.2030)

R 338.11109 and R 338.11115 of the Michigan Administrative Code are rescinded as follows:

R 338.11109 Rescinded.

R 338.11115 Rescinded.

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**PROPOSED ADMINISTRATIVE RULES,  
NOTICES OF PUBLIC HEARINGS**

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*MCL 24.242(3) states in part:*

*“... the agency shall submit a copy of the notice of public hearing to the Office of Regulatory Reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the Office of Regulatory Reform.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

*\* \* \**

*(d) Proposed administrative rules.*

*(e) Notices of public hearings on proposed administrative rules.”*

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**ADMINISTRATIVE RULES**

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**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS CONSUMER AND INDUSTRY SERVICES**

**OFFICE OF COMMERCIAL SERVICES CORPORATIONS, SECURITIES, AND COMMERCIAL LICENSING BUREAU**

**CEMETERY COMMISSION REGULATION**

**GENERAL RULES**

Proposed Draft March 11, 2015

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the state cemetery ~~commission~~ **commissioner** by section 8 of **1968 PA 251**, Act No. 251 of the Public Acts of 1968, as amended, being ~~MCL 456.528, S456.528~~ of the Michigan Compiled Laws and Executive Reorganization Order Nos. **1991-9, 1996-2, 2003-1, 2008-4, 2011-4, MCL 338.3501, 445.2001, 445.2011, 445.2025, and 445.2030**)

R 456.101, R 456.111, R 456.121, R 456.123, R 456.124, R 456.125, R 456.126, R 456.131, R 456.132, R 456.133, R 456.134, R 456.136, R 456.137, R 456.138, R 456.139, R 456.144, R 456.145, R 456.146, R 456.151, R 456.152, R 456.153, R 456.154, R 456.161, R 456.162, R 456.163, R 456.164, R 456.165, R 456.166, R 456.167, R 456.191, R 456.192, R 456.193, R 456.194, R 456.195, and R 456.196 are being rescinded, and R 456.1101, R 456.1201, R 456.1202, R 456.1301, R 456.1302, R 456.1303, R 456.1401, R 456.1501, R 456.1502, R 456.1503, R 456.1601, R 456.1701, R 456.1702, R 456.1801, R 456.1802, and R 456.1803 are being added, as follows:

**PART 1. GENERAL PROVISIONS**

**R 456.101 Definitions-Rescinded.**

**Rule 1. As used in these rules:**

- ~~-(a) "Act" means Act No. 251 of the Public Acts of 1968, as amended, being SS456.521 to 456.543 of the Michigan Compiled Laws.~~
- ~~-(b) "Cemetery" means a cemetery or entity subject to the act.~~
- ~~-(c) "Commission" means the state cemetery commission created by the act.~~
- ~~-(d) "Remains" means human remains.~~
- ~~-(e) "Memorials" means any object on which is inscribed the name and generally the inclusive dates of life of the deceased that is used to identify a grave.~~
- ~~-(f) "Trainee" means a person who has not been previously licensed by the commission to sell interment rights, cemetery merchandise or services.~~

- ~~-(g) "Business entity" means a group of persons formed into a corporation, association, organization, partnership or copartnership.~~
- ~~-(h) "Agent" means a person who acts with authority for or in the place of another person in the sale of interment rights or cemetery merchandise and services.~~
- ~~-(i) "Seller" means a person who offers for sale interment rights, cemetery merchandise or services.~~
- ~~-(j) "Cemetery lots" means an area for earth interment.~~
- ~~-(k) "Pre need" or "advance of need" means interment rights, cemetery merchandise or services sold to a purchaser before time of death.~~
- ~~-(l) "Turf top crypts" means a section of a cemetery in which preconstructed underground outside containers have been installed for use of interments.~~
- ~~-(m) "Vendor" means a cemetery company or its authorized agents.~~
- ~~-(n) "Interment right" means 1 of the following:~~
  - ~~-(i) Burial right (earth burial).~~
  - ~~-(ii) Entombment right (crypt).~~
  - ~~-(iii) Columbarium right (inurnment).~~
- ~~-(o) "Escrow" means an unallocated account held pursuant to the terms of a written trust agreement.~~

**R 456.111 Rescission. Rescinded.**

~~Rule 11. The General Rules of the predecessor state cemetery commission, being R 456.1 to R 456.52 of the Michigan Administrative Code and appearing on pages 4821 to 4823 of the 1968 Annual Supplement to the Code, are rescinded.~~

**PART 2. PERMITS, REGISTRATIONS, LICENSES, AND RECORDS**

**R 456.121 Permits, registrations, and licenses. Rescinded.**

~~Rule 21. A permit, registration or license issued pursuant to the act is valid from July 1 to June 30. An application for a permit, registration or license shall be filed with the commission at least 30 days before July 1 of each year.~~

**R 456.123 Property and unit descriptions. Rescinded.**

- ~~Rule 23. (1) A cemetery shall file with the commission:~~
  - ~~-(a) A map containing a legal description of all land that has been purchased for cemetery purposes and adopted as part of the plan or design of the cemetery.~~
  - ~~-(b) Platted maps designating all locations of burial rights developed and completed for burial.~~
- ~~(2) A cemetery shall not sell or assign burial rights in a section or part of the cemetery which has not been developed and completed for burial unless a certified copy of the platted map designating burial rights contained in the section, has been filed with the commission.~~
- ~~(3) In case of a mausoleum, a burial structure or a columbarium, a cemetery shall file with the commission a substantial map or plat on which shall be delineated the sections, halls, rooms, corridors, elevations and other divisions with descriptive names and numbers. If a structure has not been completed for entombment or inurnment as of the effective date of this rule, the map shall be filed before any rights in this structure are sold.~~

**R 456.124 Ownership and location records. Rescinded.**

~~Rule 24. (1) A cemetery shall keep a record of the ownership of all interment, entombment and inurnment rights in the cemetery.~~

~~-(2) A cemetery shall keep record of all interments, entombments and inurnments showing the name, age, date of service, cemetery sections, lot numbers, grave number and, in case of a mausoleum or columbarium, all information necessary to easily locate an interment, entombment or inurnment.~~

~~-(3) A cemetery shall keep a record of remains cremated in the cemetery and whether or not the cremated remains are interred, entombed or inurned on the premises.~~

~~-(4) A cemetery shall keep records either in duplicate forms in separate buildings or in single copies within a container which has at least 1 hour fire proof rating. These records shall be available at all reasonable times to official inspection by the commission or any of its officers or agents.~~

**R 456.125 Records of future obligations. Rescinded.**

~~Rule 25. On December 31 of each year a cemetery shall have available for examination by the commission, an annual statement or record as of its most recent fiscal year which ended at least 6 months prior to the December 31 date, certified to by the owners, or in case of a corporation by 2 directors or trustees, showing the financial status of all contractual liabilities and obligations for future performance of services by the cemetery corporation or the organization so obligated which is affiliated with the cemetery. This statement or record shall contain the following information:~~

~~-(a) Complete description of the future performance obligations involved.~~

~~-(b) Total cost of full performance of all obligations as of the date of statement.~~

~~-(c) Complete information on the means, provision, trust or other vehicle which will assure fulfillment of all obligations, stating ledger and market values of the vehicle, its location, nature of investments and trustees including fees paid to trustees.~~

**R 456.126 Financial statements. Rescinded.**

~~Rule 26. A cemetery shall have available each year for examination by the commission, an annual statement or record as of its most recent fiscal year. The statement shall be available 6 months after the end of the fiscal year. The statement or record shall be certified to by the owners, or in case of a corporation, by 2 directors or trustees, as to the financial condition of the cemetery entity or corporation. This statement or record shall contain substantially all of the following information:~~

~~-(a) List of all assets, current and fixed, showing costs and depreciation.~~

~~-(b) List of all liabilities, current and long term.~~

~~-(c) Stockholders' equity.~~

~~-(d) Statement of income and expenses.~~

~~-(e) Information on all insurance coverage of cemetery assets and responsibilities.~~

**PART 3. ENDOWED CARE FUND, MERCHANDISE FUND, AUDITS, REPORTS, AND SALES**

**R 456.131 Sales of interment rights, cemetery merchandise or services. Rescinded.**

~~Rule 31. (1) A contract or agreement in which payments are to be made as consideration toward the purchase or option to purchase of interment rights, cemetery merchandise or services and which is signed by a purchaser and a vendor, constitutes a sale as referred to in subsection (2) of section 7a of Act No. 12 of the Public Acts of 1869, as amended, being S456.107a of the Michigan Compiled Laws in subsection (2) of section 35a of Act No. 87 of the Public Acts of 1855, as amended, being S456.35a of the Michigan Compiled Laws and in subsections (1), (2), and (3) of section 16 of Act No. 251 of the Public Acts of 1968, as amended, being S456.536 of the Michigan Compiled Laws.~~

~~–(2) If a cemetery uses sales contracts or purchase agreements that include interment rights, burial vaults, grave memorials or cemetery services, payments made by a purchaser in event of a death of either spouse shall apply first on the amount shown as charged for interment rights.~~

~~–(3) All vendors shall comply with Act No. 227 of the Public Acts of 1971, being SS445.111 to 445.117 of the Michigan Compiled Laws, if sales are made at residences of purchasers.~~

**R 456.132 Gross proceeds from sales. Rescinded.**

~~–Rule 32. Gross proceeds received from a sale of interment rights, cemetery merchandise or services is the total of all funds received or credited to the vendor as payments from a purchaser or lending institution on behalf of a purchaser before an amount is deducted as security for an uncollectible account or an amount is deducted which is due the trust funds by contract which is charged the purchaser in addition to the purchase price. A record of monthly gross proceeds of sales shall be kept by a vendor. An interest or carrying charge payment or sales tax shall not be considered part of gross proceeds from sales if the interest, carrying charge or sales tax is separately stated in the purchase agreement and is recorded separately as a payment is made.~~

**R 456.133 Endowed care funds. Rescinded.**

~~–Rule 33. (1) An irrevocable endowed care fund, as referred to in section 16 of the act, shall be a trust fund administered by a trustee or trustees under the terms of a written trust instrument which specifies the statutory and regulatory responsibilities of the trustee or trustees. The endowed care trust fund shall be kept separate and apart from all other funds, property or securities of the cemetery, cemetery corporation, association or trustee or trustees. The net income of the endowed care trust fund shall be paid only to the entity in possession, management, operation and control of the cemetery grounds and structures for the sole purpose of maintenance of the cemetery grounds or structures. Capital gains from the sale of an asset in the endowed care trust fund shall be considered a deposit to the principal or the corpus of the trust and as such shall not be considered a part of net income.~~

~~–(2) The required funds due the endowed care trust fund shall be deposited only in an account, which is a legal depository of the corpus of the endowed care trust fund.~~

~~–(3) Assets of the endowed care trust fund shall be deposited with a bank or trust company located in this state.~~

**R 456.134 Trust fund audits and records. Rescinded.**

~~–Rule 34. (1) If an audit of a trust fund obligation is made by the commission, an audit report shall be furnished to the party audited. The audit report shall contain the following information:~~

~~–(a) Deposits made to the trust fund for the period of audit.~~

~~–(b) Required deposits as per audit.~~

~~–(c) Deficit or overage, if any.~~

~~–(2) Deposit deficits shall be paid within 30 days from the date of the audit unless other arrangements are authorized in writing by the commission. Certification of the deposits shall be forwarded to the commission.~~

~~–(3) A party in disagreement with a commission audit report may appeal for an adjustment by:~~

~~–(a) Furnishing the commission with the party's contention of adequate proof of error.~~

~~–(b) Requesting an informal hearing with the commission.~~

~~–(c) Requesting a formal hearing with the commission.~~

~~(4) A cemetery shall have available in its registered office for examination by the commission, all records pertinent to the maintenance, establishment and reporting of its required trust funds.~~

**R 456.136 Sales tactics. ~~Rescinded.~~**

~~Rule 36. An organization or person selling interment rights, cemetery merchandise or services, pursuant to R 456.131 shall:~~

~~(a) Not use a sales presentation or advertisement which conceals or misstates a material fact.~~

~~(b) Fully disclose to a purchaser in a conspicuous manner on the purchase agreement or contract that there will be a future cost for interment fees or installation of cemetery merchandise unless these costs are included in the sales price and so stated on the contract or agreement.~~

~~(c) Not mislead prospects to believe that the seller is in any way connected with an organization other than the entity which is selling the interment rights, cemetery merchandise or services.~~

~~(d) Not offer free interment rights, installation or care deposits to an organization, group or person if the free offer is accompanied by a requirement that other interment rights, cemetery merchandise or services be purchased or that the free offer is accompanied by the option of purchase of adjoining interment rights at a price which is inflated above regular comparable prices within the cemetery.~~

~~(e) Not sell interment rights supposedly at a substantial discount where in fact the actual price of the rights has been increased to cover the supposed discount.~~

~~(f) Not represent that the price of interment rights to a purchaser is a special price to him only, if another purchaser would be given the same price.~~

~~(g) Not use sales presentations which lead a purchaser to believe that interment rights, cemetery merchandise or services are being acquired at no cost and that the money required to be contributed by the purchaser is for maintenance or other expenses, whereas a different result follows.~~

~~(h) Not induce a purchaser to buy interment rights with promises or representations that future price increases will enable a purchaser to realize profits from the sale of his rights.~~

~~(i) Not promise, represent or agree as a condition of an interment right's sale, or sale of cemetery merchandise or services, to resell for, or repurchase from a purchaser, any right, cemetery merchandise or services.~~

~~(j) Not sell interment rights unless the specific location and description of the rights coinciding with the official platted records of the cemetery is specified in the sales agreement.~~

~~(k) Not sell interment rights in an earth interment section which is not completed for interment including lawn and landscaping, unless there is a comparable section completed for interment including lawn and landscaping in the same cemetery that is available at no additional cost to the purchaser in case of need, to which the purchaser agrees to transfer.~~

~~(l) Not sell interment rights in an earth interment section which is not developed as provided in subrule (7) of R 456.137, 48 months after the date of the first sale of rights in such section. If the section is not developed by that date, except for national emergency, all moneys paid by the purchaser shall be refunded on written request by the purchaser.~~

~~(m) Not accept a pre-need sales contract unless a minimum down payment of \$10.00 is received from the purchaser at the time of sale.~~

~~(n) Not take a negotiable instrument, other than cash or a currently dated check or draft, as evidence of the obligation of the purchaser as a down payment.~~

~~(o) Not pay the down payment for the purchaser, or make an agreement with the purchaser that the down payment can be paid at a later date. This practice is commonly known in the cemetery industry as "fronting a sale".~~

~~(p) Not present a sales presentation and obtain purchaser's signature to a sales contract if the purchaser cannot read or speak English unless there is a disinterested person present who can explain fully to the purchaser what he is buying. The name and address of the disinterested person shall appear in his handwriting somewhere on the contract.~~

**R 456.137 Incomplete structures. Rescinded.**

~~–Rule 37. (1) A vendor who sells an interment right in a structure which is not then completed for interment shall:~~

~~–(a) Stipulate in the sales agreement a specific period of time within which the structure shall be completed and ready for interment which shall be not more than 48 months after the date of the sales agreement, and that if the structure is not completed by that date, except for a national emergency, all moneys paid by the purchaser pursuant to the agreement shall be refunded.~~

~~–(b) Determine the total construction cost of the structure.~~

~~–(c) Determine the construction cost of the unit being sold and divide it by the amount of gross proceeds to be derived from the sale of the unit which figure shall be multiplied by 100 to obtain the construction cost percentage.~~

~~–(d) Place the construction cost percentage of any gross proceeds payment in a special construction trust fund in a bank or trust company located in this state within 30 days after the date of the payment.~~

~~–(2) The sum of construction costs of all units in a subrule (1) structure shall equal the total construction cost of the subrule (1) structure.~~

~~–(3) Withdrawals from the construction fund can be made only to pay current construction costs as the construction of the structure progresses to the final completion.~~

~~–(4) All vendors shall submit to the commission for approval, and before such sales are made, the following:~~

~~–(a) Copy of contracts or purchase agreements.~~

~~–(b) Maps required by subrule (2) of R 456.123.~~

~~–(c) Estimated cost of the structure, including features and embellishments.~~

~~–(d) Estimated amount of gross proceeds to be derived from the sale of the interment rights.~~

~~–(e) A copy of sales brochures, promotional pamphlets and artist's rendering of the proposed structure if such items are used in the sales program.~~

~~–(f) A copy of all proposed sales advertising or radio and television scripts used in these sales promotions.~~

~~–(5) A vendor shall not sell or assign burial rights in any undeveloped part of the cemetery unless 15% of the gross proceeds received from the sales is deposited in a special fund under a written agreement in a bank or trust company located in this state. The fund shall be designated as a cemetery development fund, naming the new area. A copy of the written agreement shall be forwarded to the commission. Withdrawals from the development fund can be made only to pay current development costs as the development progresses to final completion. Upon final completion any undisbursed funds including earned income may be withdrawn by the vendor from the development fund.~~

~~–(6) A vendor selling turf top crypts in an area that is not developed or ready for interments shall deposit 130% of the cost of each crypt sold into a special fund, under a written agreement, in a bank or trust company located in this state. The fund shall be designated as a cemetery development fund, naming the new area. A copy of the written agreement shall be forwarded to the commission. Withdrawals from the development fund can be made only to pay current development costs as the development progresses to the final completion. Upon final completion any undisbursed funds including earned income may be withdrawn by the vendor from the development fund. Vendors~~

~~contemplating selling in an undeveloped cemetery area or undeveloped turf top crypt area shall submit to the commission the following information before sales are made:~~

- ~~–(a) Estimated cost of the development, including features and all embellishments.~~
- ~~–(b) Plat maps required by subrule (2) of R 456.123.~~
- ~~–(c) A copy of sales brochures, promotional pamphlets and artist's rendering of the proposed developed area if such items are used in the sales programs.~~
- ~~–(d) A copy of all proposed sales advertising or radio and television scripts used in these sales promotions.~~

~~(7) A developed cemetery area means an area containing grass or sod and landscaping of sufficient quality to present a good appearance, and section markers of durable material used to identify the location of interment rights in that area including any and all cemetery features promised the purchaser for that area. Deposits will be made to the development fund until an inspection of the area so developed is made by the commission. The inspection shall be made within 30 days after receipt of written request from the vendor. If the inspection is not made within 30 days, the vendor may terminate deposits to the development fund as required under subrule (5) and may withdraw any funds remaining in development fund. The commission shall approve or disapprove the area as ready for interment and the commission's failure to do so in writing within 30 days constitutes approval of the area.~~

**R 456.138 Permitting violations of R 456.136. Rescinded.**

~~–Rule 38. An organization including its officers which knowingly permits a person under employment, contract or sales control, either directly or indirectly, to violate any provision of R 456.136 is also guilty of the same violation.~~

**R 456.139 New cemeteries. Rescinded.**

~~–Rule 39. (1) In determining community need for a proposed new cemetery as required by section 13 of the act the commission shall use a 25-mile radius as a potential sales and service area in making a survey to determine the number of cemeteries, type of ownership and burial rights available to the public in that area.~~

~~–(2) The commission shall require the applicant for a new proposed cemetery to have title in fee to at least 40 acres before final approval is granted.~~

~~–(3) A newly established cemetery shall not sell or assign burial rights in any areas of the cemetery until at least 2 acres are developed, as required by subrule (7) of R 456.137 which development shall be located at the front or near the main entrance of the proposed cemetery.~~

#### PART 4. CASKETS, EARTH BURIALS, ENTOMBMENTS, AND CREMATIONS

**R 456.144 Earth burials. Rescinded.**

~~–Rule 44. (1) A cemetery shall not make an interment unless a legally executed burial transit permit is received.~~

~~–(2) A cemetery shall make an interment immediately following the committal service or receipt of remains if it does not interfere with the dignity of any other committal service. If weather conditions prevent an immediate interment, the cemetery shall obtain written authorization for delayed interment signed by the next of kin or authorized agent. The authorization shall specify the approximate hour and date of interment and place of temporary storage.~~

~~–(3) Immediately following the committal service and interment, a cemetery shall fill a grave and as soon as settling is reasonably complete and weather conditions permit, shall sod, seed or adequately cover a grave with limestone chips, gravel or other suitable material.~~

~~–(4) A cemetery shall cover a grave in which an unsealed outside container is used with at least 16 inches of earth over the outside container.~~

~~–(5) A cemetery shall remove all equipment used in the committal service and in the interment immediately following the service and interment.~~

**R 456.145 Entombments. Rescinded.**

~~–Rule 45. (1) A cemetery shall not make an entombment unless a legally executed burial transit permit is received.~~

~~–(2) A cemetery shall entomb the remains and permanently seal the crypt immediately following the committal services or receipt of the remains.~~

~~–(3) If circumstances do not permit immediate entombment following a committal service or receipt of remains, the cemetery shall obtain written authorization for delayed entombment signed by the next of kin or authorized agent. The authorization shall specify the approximate hour and date of entombment and place of temporary storage of the remains.~~

**R 456.146 Cremations. Rescinded.**

~~–Rule 46. (1) A crematory shall not cremate remains unless it has:~~

~~–(a) A legally executed burial transit permit authorizing the cremation.~~

~~–(b) A written authorization from a person representing himself as being legally qualified to make the authorization and who in the opinion of the crematory authority is legally qualified to make the authorization and is 1 of the following:~~

~~–(i) The surviving spouse.~~

~~–(ii) A surviving child or parent.~~

~~–(iii) A next of kin.~~

~~–(iv) A person who has acquired the right to control disposition of the remains.~~

~~–(2) A crematory shall cremate remains as soon as reasonably possible, but if cremation does not take place within a reasonable time after receipt of the remains, the crematory shall obtain written authorization for delayed cremation signed by the next of kin or authorized agent. The authorization shall specify the approximate hour and date of cremation and place of temporary storage.~~

~~–(3) A crematory shall place cremated remains in a container properly marked as to the name of the deceased and date of cremation.~~

~~–(4) A crematory at all times shall handle cremated remains with dignity, respect and utmost care.~~

**PART 5. GROUNDS, FACILITIES, AND BUILDINGS**

**R 456.151 Grounds. Rescinded.**

~~–Rule 51. (1) A cemetery grounds shall be maintained with a general cemetery care program at required intervals to assure an acceptable appearance.~~

~~–(2) A cemetery grounds including maintenance service areas shall be kept free of trash and debris. Trash receptacles shall be provided.~~

~~–(3) A pond, lake, waterway, fountain and other body of water on a cemetery shall be kept reasonably free of trash and odors.~~

~~–(4) A cemetery's trees and shrubs shall be trimmed at regular intervals.~~

- ~~–(5) An undeveloped cemetery property shall be screened by fencing or shrubs, or it shall be mowed or maintained in an attractive manner.~~
- ~~–(6) A cemetery road shall be kept accessible and in reasonably good repair as the normal operation of the cemetery dictates.~~
- ~~–(7) A grave which has settled shall be refilled as soon as reasonably possible.~~
- ~~–(8) A grave marker or a monument shall be reset and trimmed as necessary.~~
- ~~–(9) A dangerous condition in the cemetery shall be corrected immediately.~~

**R 456.152 Facilities. Rescinded.**

- ~~–Rule 52. (1) The name of the cemetery shall appear near the entrance on a permanent type sign, at least 3 square feet in size, and if the office is not located on the grounds, the location of the office shall be noted on the sign.~~
- ~~–(2) A cemetery fence shall be kept in good repair.~~
- ~~–(3) Identifying features or section markers of durable material shall be placed permanently in the ground to identify the named or numbered sections of the cemetery which shall coincide with a cemetery map.~~
- ~~–(4) A grave shall be located by a permanent lot survey marker which shall be located in the ground within a reasonable distance of the grave and coinciding with a cemetery section on the map. Each grave in a single grave section shall be located by a permanent numbered grave marker.~~
- ~~–(5) A lot survey marker shall be kept reasonably visible under normal weather conditions.~~
- ~~–(6) A cemetery's grave decorations rules shall be posted or made available in printed form.~~
- ~~–(7) Maintenance equipment not in use shall be stored in the maintenance service areas.~~

**R 456.153 Buildings. Rescinded.**

- ~~–Rule 53. A building, including a mausoleum, shall be kept in good repair.~~

**R 456.154 Rest rooms and public accommodations. Rescinded.**

- ~~–Rule 54. A cemetery shall maintain reasonable and acceptable rest rooms and public accommodations deemed necessary by the commission after inspection is made by a field investigator and a report submitted.~~

**PART 6. MERCHANDISE TRUSTS**

**R 456.161 Merchandise trust agreements. Rescinded.**

- ~~–Rule 61. (1) A vendor shall submit 2 copies of a written merchandise trust agreement to the commission for approval. In addition to other requirements, a merchandise trust agreement shall provide all of the following:~~
  - ~~–(a) That deposits made to the merchandise trust account by a vendor shall be invested by the trustee only in accordance with Act No. 177 of the Public Acts of 1937, as amended, being SS555.201 to 555.203 of the Michigan Compiled Laws, except that funds shall not be invested in life insurance policies on any person or invested in a company owned or operated by a cemetery or its authorized agent or in loans to any person directly connected with or employed by a cemetery or its agents.~~
  - ~~–(b) That deposits to the merchandise trust account shall be certified by an officer of the vendor or agents authorized by a vendor to act in its behalf.~~
  - ~~–(c) That withdrawals from the merchandise trust account shall be made on the presentation to the trustee of an affidavit certified by the vendor that the cemetery merchandise or services have been~~

~~installed, delivered, performed or terminated. Withdrawals shall not be made in excess of the allocated deposit and vendor shall so certify. The trustee shall retain the affidavit as a permanent part of the trust records and the vendor shall keep a copy.~~

~~–(d) That at least an annual accounting period shall be established and the trustee shall furnish to the vendor an accounting which shall contain the following information:~~

~~–(i) A separate listing of all assets held by cost and fair market value with totals.~~

~~–(ii) Total deposits made to the trust account during the reporting period and total to date.~~

~~–(iii) Total withdrawals from the merchandise trust account during the reporting period and total to date.~~

~~–(iv) A certification by the vendor to the trustee that the total assets of the merchandise trust account are at least equal to the total obligations as determined by the current deposits as required by subrule (1) of R 456.162.~~

~~–(v) Net income including ordinary income and capital gains paid to vendor during the accounting period.~~

~~–(e) That at any time the commission makes a determination that the merchandise trust account is underfunded to meet the total current obligations, the commission may order the vendor to deposit all future trust income, as of the date of the order, to the principal of the merchandise trust account to be allocated in accordance with subdivision (b) until the total assets of the corpus of the merchandise trust account equals the total obligations as determined by the current deposits as required by subrule (1) of R 456.162.~~

~~–(f) That the purpose of the merchandise trust account is to protect the purchaser and the commission may inspect the records of the vendor and trustee relating thereto.~~

~~–(2) Assets of the merchandise trust funds established by a vendor or its authorized agents shall be deposited with a bank or trust company located in this state.~~

**R 456.162 Required deposits to merchandise trust account. Rescinded.**

~~–Rule 62. (1) When cemetery merchandise or services are sold to a purchaser, a vendor or an agent authorized by a vendor or acting on its behalf under an agreement or sales contract to sell cemetery merchandise or services shall deposit, on or before the last day of the month following the month of collection, the following amounts to a merchandise trust account and maintain such deposits until such time as the cemetery merchandise or services are installed, delivered, performed or terminated:~~

~~–(a) One hundred thirty percent of the cost of each grave memorial that the vendor is obligated to furnish and install. A vendor representing more than 1 memorial manufacturer may take the average cost of all manufacturers the vendor represents in determining the 130% of cost if all manufacturers meet the specifications as contained in the purchase or sales agreement. At all times the total amount required to be on deposit in the merchandise trust account for obligations concerning grave memorials shall be not less than the current cost of all such obligations.~~

~~(b) The greater amount of either 70% of the gross proceeds received from the sale of each burial vault or 130% of the cost of each burial vault that the vendor is obligated to furnish and install. At all times the total amount required to be on deposit in the merchandise trust account for obligations concerning burial vaults shall be not less than 130% of the current costs of all such obligations.~~

~~–(c) The greater amount of either 100% of the gross proceeds received from the sale of cremations, grave openings and closings or \$100.00 for each cremation, grave opening and closing that the vendor is obligated to furnish.~~

~~–(2) A vendor may withdraw from the merchandise trust account only after the cemetery merchandise or services are delivered, stored, installed, performed or terminated. The vendor may withdraw~~

~~from the merchandise trust account only the current cost of grave memorials which are ordered by him and stored by the vendor or cast and stored by a memorial company. He may withdraw the balance only when the grave memorial is installed. A vendor may withdraw from the merchandise trust account only the current cost of a burial vault if he orders and stores the vault. He may withdraw the balance only when the vault is installed.~~

~~–(3) A vendor storing grave memorials or burial vaults until time of need shall insure the memorials and vaults against fire and theft in an amount in excess of their total replacement cost. A current certificate of insurance coverage shall be filed with the commission annually.~~

~~–(4) A vendor shall make deposits to the merchandise trust account as required by the act and when he does any of the following:~~

~~–(a) Makes a pre-need cash sale.~~

~~–(b) Sells the sale contract to a bank or lending institution.~~

~~–(c) Receives prorated payments direct from a purchaser, generally referred to as a house account, unless the vendor has an approved merchandise escrow account as provided in R 456.163. The deposit required on a house account payment shall be as provided in R 456.163.~~

#### **R 456.163 Merchandise escrow account. Rescinded.**

~~–Rule 63. (1) A vendor may establish a merchandise escrow account in a bank or trust company located in this state under a written trust agreement approved by the commission into which he shall deposit payments on house accounts.~~

~~–(2) The deposit required on a house account payment received from the sale of a grave memorial shall be a percentage of each payment made by a purchaser computed by dividing the sale price of the grave memorial into 130% of the cost of the memorial. Sales tax, finance or carrying charges and memorial maintenance trust deposits are not considered a part of the sale price in determining the percentage.~~

~~–(3) The deposit required on a house account payment received from the sale of a burial vault is the greater of either 70% of each payment made by a purchaser or 130% of the cost of the burial vault. The deposit shall be computed as provided in subrule (2) for grave memorials.~~

~~–(4) A vendor may make payments to a merchandise escrow account until the purchaser makes payment in full at which time the vendor shall transfer the deposit to the merchandise trust account.~~

~~–(5) A vendor may withdraw from the merchandise escrow account only after the cemetery merchandise or services are delivered, stored, installed, performed or terminated.~~

~~–(6) Merchandise escrow account deposits and withdrawals shall be certified to by the vendor as to their regularity and accuracy.~~

#### **R 456.164 Pre-existing merchandise trust accounts. Rescinded.**

~~–Rule 64. (1) A vendor having a merchandise trust, escrow or other depository account pre-dating the effective date of this rule, shall take appropriate measures to demonstrate annually to the satisfaction of the commission the assurance of fiduciary responsibility in the maintenance of the account and the financial integrity of the account to meet the current cost of the merchandise for which deposits were made to the pre-existing merchandise trust. If the total amount in a pre-existing account is inadequate to meet current obligations, the vendor shall present to the commission a satisfactory plan of good faith affirmative action to restore the deficit. R 456.162 does not apply to any contractual obligations entered into prior to the effective date of this rule except for withdrawal requirement as stated in subrule (2).~~

~~–(2) A vendor continuing a pre-existing merchandise trust, escrow or other depository account shall furnish the commission an annual accounting on forms acceptable to the commission which shall~~

~~contain the information required by R 456.125 and a certification that the total deposits are adequate to meet the total current cost of the merchandise for which deposits were made to the pre-existing merchandise trust, escrow or other depository account.~~

~~(3) Instead of complying with subrules (1) and (2) a vendor having a pre-existing merchandise trust, escrow or other depository account may close the account and deposit its assets in a merchandise trust under R 456.161 subject to all the terms and conditions of the trust except that the vendor shall not be required to deposit an amount in excess of that necessary to meet current cost of total contractual obligations. If the amount deposited is inadequate to meet current obligations, the vendor shall present to the commission a satisfactory plan of good faith affirmative action to restore the deficit. The election in this section shall be made in writing with a copy to the commission.~~

**R 456.165 Record keeping, inspection, audit, and hearings. Rescinded.**

~~Rule 65. A vendor shall maintain a monthly accounting record which indicates separately all cash proceeds received from the sale of interment rights, burial vaults, grave memorials or cemetery services. The vendor shall also maintain a monthly accounting record setting forth in detail all deposits to the merchandise trust account. This record shall include:~~

- ~~(a) Name and contract number of the purchaser.~~
- ~~(b) A description of the cemetery merchandise or services purchased.~~
- ~~(c) Amount to be credited to the purchaser's account.~~

~~(2) A vendor shall also maintain a monthly accounting record setting forth in detail all withdrawals from the merchandise trust account. This record shall include:~~

- ~~(a) Name and contract number of the purchaser.~~
- ~~(b) A description of the cemetery merchandise or services purchased.~~
- ~~(c) Amount withdrawn.~~

~~(d) Whether the cemetery merchandise or services were installed, delivered, performed or terminated.~~

~~(3) The records shall be available for inspection or audit at any time during regular business hours by the commission or its authorized agents. The records shall be maintained within the state either by the cemetery or in the office of its authorized agent.~~

~~(4) The commission may order a hearing on the current status of the merchandise trust account if it determines that one of the following has occurred:~~

- ~~(a) The trust is underfunded to meet current obligations.~~
- ~~(b) Required deposits were not made.~~

**R 456.166 Required reporting; financial statement. Rescinded.**

~~Rule 66. (1) A vendor shall submit to the commission, 60 days after the accounting date established as required by R 456.161, on forms provided by the commission, all information deemed necessary by the commission to assure that the merchandise trust account is adequate to provide all of the cemetery merchandise and services the vendor is obligated to provide. A vendor shall submit a current financial statement when requested by the commission as provided in R 456.126.~~

**R 456.167 Sales contracts or agreements. Rescinded.**

~~Rule 67. (1) Purchase agreements or sales contracts made with a purchaser of grave memorials shall contain at least the following descriptive information:~~

- ~~(a) Size of memorial.~~
- ~~(b) Material and specifications.~~

- ~~–(c) Number of vases.~~
- ~~–(d) Type of base.~~
- ~~–(2) Purchase agreements or sales contracts made with a purchaser of burial vaults shall contain at least the following descriptive information:~~
  - ~~–(a) Size.~~
  - ~~–(b) Type (concrete, steel, plastic, etc.).~~
  - ~~–(c) Approximate weight.~~
  - ~~–(d) Approximate load strength specifications.~~
- ~~–(3) The descriptive information may be contained in a separate certification attached to the sales contract or agreement.~~

## PART 9. HEARINGS

### R 456.191 Statements of facts and appearances. **Rescinded.**

- ~~–Rule 91. (1) A party requesting a hearing shall submit in writing a fair and accurate statement of the facts to the commission and all interested parties.~~
- ~~–(2) An appearance at a hearing shall be made in person, by a duly authorized representative, or by counsel.~~

### R 456.192 Defaults. **Rescinded.**

- ~~–Rule 92. If a person who has been properly served with a notice of hearing fails to appear at a noticed hearing, the commission or designated hearing officer may proceed with a hearing of the case brought before them and, on evidence presented, may make a decision.~~

### R 456.193 Answers, arguments, and briefs. **Rescinded.**

- ~~–Rule 93. A person who has been served with a notice of hearing may file a written answer before the date of the hearing, and at the hearing may appear and present an oral statement on the charges contained in the notice of hearing. If a written argument or brief is presented, a copy shall be served on the secretary of the commission and all interested parties, at least 5 days before the date for the hearing.~~

### R 456.194 Adjournments and continuances. **Rescinded.**

- ~~–Rule 94. A hearing shall not be adjourned or continued except on an order of the commission. A motion or request for an adjournment or a continuance shall be in writing, and shall state concisely the reasons why the adjournment or continuance is necessary. The motion or request shall not be considered unless it is filed with the secretary of the commission at least 5 days before the date assigned for the hearing, except on a showing that, for reasons not within the control of the person or party making the motion or request, the motion or request could not be filed within the time limited.~~

### R 456.195 Stipulations. **Rescinded.**

- ~~–Rule 95. The parties to a hearing, by a stipulation in writing filed with the secretary of the commission, may agree on the facts or any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence in the hearing. Parties are requested to agree on the facts when practicable.~~

### R 456.196 Depositions. **Rescinded.**

~~Rule 96. A deposition shall be taken only on written authority of the commission if it is proved in writing to the commission that it is impractical or impossible to otherwise obtain the evidence. If a deposition is permitted, it shall be taken according to the rules for taking a deposition in a civil action in this state.~~

## **PART 1. GENERAL PROVISIONS**

### **R 456.1101 Definitions.**

**R 101. (1) As used in these rules:**

- (a) “Act” means the cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543.**
- (b) “Encumbrances” means anything restricting title to the land, including, but not limited to, a lease, lien, or mortgage; excluding an easement for a utility.**
- (2) A term defined in the act has the same meaning when used in these rules.**

## **PART 2. APPLICATION**

### **R 456.1201 New cemetery application.**

**Rule 201. An application for a permit to create, maintain, and operate a new cemetery shall contain the following:**

- (a) The name and address of the owner or operator and any affiliated persons of the proposed cemetery.**
- (b) The name and address of the proposed cemetery.**
- (c) The names and addresses, and relationship to the owner, of all directors, officers, partners, members, or any other person occupying a similar status or performing similar functions, or affiliated persons.**
- (d) Documentation supporting the community need.**
- (e) Applicable entity documents, including but not limited to, any of the following:**
  - (i) The bylaws.**
  - (ii) An operating agreement.**
  - (iii) A certificate of assumed name.**
  - (iv) The articles of incorporation.**
  - (v) The articles of organization.**
  - (vi) The articles of association.**
  - (vii) Partnership certificates.**
- (f) An endowment and perpetual care trust agreement.**
- (g) Physical plans.**
- (h) The resume of the person designated to run the daily operations of the cemetery.**
- (i) A prepaid funeral and cemetery sales registration or application, if applicable.**
- (j) A prepaid escrow agreement, if applicable.**
- (k) Proof of health department approval required under section 2458 of the public health code, 1978 PA 368, MCL 333.2458, if applicable.**
- (l) Copy of permit to install required by part 55 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5501 to 324.5542, if applicable.**

### **R 456.1202 Proposed change of control application.**

**Rule 202. In addition to the requirements of MCL 456.532 and R 456.1201, an application for a change of control of a cemetery shall contain all of the following:**

- (a) A purchase agreement that identifies clearly the sale and assets disposition.
- (b) Identification of the source, nature, and amount of consideration to be used in the sale or transfer of the cemetery.
- (c) The escrow agreement as required by MCL 456.532(2)(d).

### **PART 3. REPORTING AND RECORDS**

#### **R 456.1301 Records retention; requirements.**

**Rule 301. (1) Each registrant shall maintain accurate, complete, and legible records of any books, contracts, records, or documents pertaining to, prepared in, or generated by, the cemetery operation including, but not limited to, all of the following:**

- (a) Forms.
- (b) Reports.
- (c) Accounting records.
- (d) Ledgers.
- (e) Internal audit records.
- (f) Correspondence.
- (g) Personnel records.

**(2) All records required to be maintained under subrule (1) of this rule shall be kept for at least 7 years from the date of record completion.**

**(3) Upon the change of control of a cemetery, the records identified in subrule (1) of this rule shall be transferred to the new registrant, and the cemetery owner shall maintain the transferred records for the time specified in subrule (2) of this rule, less any period of time that elapsed beginning on the date of record completion.**

#### **R 456.1302 Receipts journal; requirements.**

**Rule 302. (1) A registrant shall maintain, in chronological order, a monthly receipts journal that separately lists all proceeds received from the sale of all of the following:**

- (a) Internment rights.
- (b) Burial vaults.
- (c) Grave memorials.
- (d) Grave openings and closings.
- (e) Cremations.
- (f) Other sale items.

**(2) The journal shall be retained as a record, as required under R 456.1301, and shall include the following:**

- (a) The date the proceeds are received.
- (b) The name of the buyer and beneficiary, if there is a beneficiary.
- (c) The contract number.
- (d) The total amount of proceeds received, itemized to indicate the cost of each item by category of sale, and the applicable interest and sales tax, as specified in subrule (1) of this rule.
- (e) Monthly totals by sales category.
- (f) For an interment right provided by the registrant without charge, the journal shall include the name of the recipient, beneficiary, the date the right was given, and an indication in the journal that the interment right was given at no charge.

#### **R 456.1303 Funding and disbursement journals; requirements.**

**Rule 303.** For each trust, a registrant shall maintain, in chronological order, a separate monthly funding and disbursements journal. The journal shall be retained as a record, as required under R 456.1301, and include all of the following:

- (a) For funding, the journal shall include all of the following:
  - (i) The date funds were placed in trust.
  - (ii) The date income was placed in trust.
  - (iii) The amount of funds placed in trust.
  - (iv) The amount of income placed in trust.
  - (v) The month the underlying receipts were received to which the funding relates.
- (b) For disbursements, the journal shall include all of the following:
  - (i) The date funds were disbursed from trust.
  - (ii) The date income was disbursed from trust.
  - (iii) The amount of funds disbursed from trust.
  - (iv) The amount of income disbursed from trust.
  - (v) The purpose of the disbursement.

#### **PART 4. ENDOWMENT AND PERPETUAL CARE TRUST AGREEMENTS**

**R 456.1401** Endowment and perpetual care trust agreement; requirements.

**Rule 401.** (1) The endowment and perpetual care trust fund agreement shall include reference to all of the following:

(a) No portion of the interest or income of the funds required to be in the trust may be used directly or indirectly for salaries or other payments to the officers, directors, partners, members, or managers of the entity owning the cemetery.

(b) The income and interest from the fund may be paid only to the person in possession, management, operation, and control of the grounds and structures intended to benefit from the fund.

(c) The sole use of the income and interest from the fund shall be for the endowment and perpetual care of the cemetery specifically intended to benefit from the fund.

(d) The trust shall be governed by state law.

(2) If the registrant chooses to direct the trustee in the investment of the funds under section 16 of the act, MCL 456.536(4), the registrant shall provide the commissioner with an acceptable certificate of proof of fiduciary liability insurance every 6 months.

#### **PART 5. MERCHANDISE TRUST FUNDS**

**R 456.1501** Merchandise trust accounts; required deposits.

**Rule 501.** (1) For preneed contracts for cemetery merchandise or services executed before January 1, 2005, excluding items or services sold under the agreements for disposition of dead human bodies act, 1954 PA 70, MCL 328.201 to 328.204, a registrant, or an agent authorized by a registrant to act on its behalf, under an agreement or sales contract to sell cemetery merchandise or services, shall deposit the following amounts into a merchandise trust account, and maintain those deposits until the cemetery merchandise or services are installed, delivered, performed, or terminated:

(a) One hundred percent of the cost of each memorial that the registrant is obligated to furnish and install.

(b) The greater amount of either 100% of the proceeds received from the sale of cremations, grave openings and closings or \$100.00 for each cremation, or grave opening and closing that the registrant is obligated to furnish.

(2) Deposits required under this rule shall be deposited no later than the last day of the month following the month of collection.

**R 456.1502 Merchandise or service sales before January 1, 2005.**

**Rule 502.** The registrant shall ensure that preneed contracts for cemetery merchandise or services executed before January 1, 2005, regardless of when payments are received, are placed in trust as required under the law and rules in effect before January 1, 2005. The amounts placed in trust shall remain in trust, until the cemetery merchandise or services are installed, delivered, performed, or the contract is terminated. The amounts placed in trust for preneed contracts executed before January 1, 2005, shall not be removed from the trust and placed with a prepaid funeral and cemetery sales escrow agent, which is required for sales contracts executed on or after January 1, 2005.

**R 456.1503 Merchandise trust fund agreements.**

**Rule 503.** Cemeteries that entered into contracts for merchandise or services after October 30, 1972, and before January 1, 2005, shall establish and maintain a merchandise trust account. A registrant shall submit a copy of the merchandise trust fund agreement to the commissioner. In addition to the requirements specified in section 16 of the act, MCL 456.536 and R 456.1501, a merchandise trust agreement shall provide all of the following:

(a) Deposits made to the merchandise trust account shall be invested by the trustee only as directed in the trust agreement. All trust investments and agreements shall provide for a standard not less than the standard of care in the prudent investor rule. Additionally, funds shall not be invested in any of the following:

(i) Life insurance policies on any person.

(ii) A company owned or operated by a registrant or its authorized agent.

(iii) Loans to any person directly connected with or employed by a registrant or its agents.

(b) Deposits to the merchandise trust account shall be certified by an officer of the registrant or agents authorized by a registrant to act in its behalf.

(c) Withdrawals from the merchandise trust account shall be made on the presentation to the trustee of an affidavit certified by the registrant that the cemetery merchandise or services have been installed, delivered, performed, or terminated. Withdrawals shall not be made in excess of the funds actually held on deposit for the merchandise or services that were delivered or performed. The trustee shall retain the affidavit as a permanent part of the trust records, and the registrant shall keep a copy.

(d) Not less than an annual accounting period shall be established, and that the trustee shall furnish to the registrant an accounting that contains all of the following information:

(i) A separate listing by cost and fair market value of all assets held with totals.

(ii) Total deposits made to the trust account during the reporting period and the total to date.

(e) A certification by the registrant to the trustee that the total assets of the merchandise trust account are not less than equal to the total obligations, as determined by the current deposits required by R 456.1501(1).

(f) That the commissioner may inspect the related records of the cemetery, the registrant, and trustee.

## **PART 6. AUDIT**

### **R 456.1601 Audit fee.**

**Rule 601.** The registrant shall pay the audit invoice within 60 days of the date of the invoice, unless extended in writing by the commissioner.

## **PART 7. ANNUAL REPORT**

### **R 456.1701 Annual reports.**

**Rule 701. (1)** A registrant shall submit an annual report for examination by the commissioner on forms provided by the commissioner that includes all information considered necessary by the commissioner. The report shall be submitted by June 30 unless an extension of not more than 90 days is granted by the commissioner upon written request of the registrant as specified in subrule (2) of this rule.

**(2)** A registrant shall submit to the commissioner a written request for an extension of the due date for the annual report before June 15 of the year following the report year. The request shall contain the name and address of the cemetery, the registration number, and the length of the extension requested.

### **R 456.1702 Internal controls purpose.**

**Rule 702.** The procedures of the internal control system specified in section 16(12)(d) of the act, MCL 456.536(12)(d), shall be designed to ensure all of the following:

- (a)** The trust assets of the cemetery are safeguarded.
- (b)** The financial records of the registrant are accurate and reliable.
- (c)** The transactions of the registrant are performed only under specific authorization.
- (d)** The transactions are recorded adequately.
- (e)** Accountability for trust funds is maintained.
- (f)** Only authorized personnel have access to trust assets.
- (g)** Recorded trust assets are compared with actual trust assets at reasonable intervals, and that appropriate actions are taken with respect to any discrepancies.
- (h)** The functions, duties, and responsibilities are appropriately segregated and performed under sound practices by competent, qualified personnel, and that no person is in a position to perpetuate and conceal errors or irregularities in the normal course of his or her duties.

## **PART 8. DISCIPLINARY ACTIONS AND HEARINGS**

### **R 456.1801 Investigation or audit; disciplinary action.**

**Rule 801 (1)** When a written allegation of violation is submitted to the commissioner, the commissioner may conduct an investigation or audit.

**(2)** If it is determined through an investigation or audit that a person violated the act or rules promulgated under the act, then the commissioner may determine whether to initiate formal disciplinary proceedings or if another method of resolution is appropriate considering the factual circumstances.

### **R 456.1802 Response to notice of intent.**

**Rule 802. A respondent's written response to a notice of intent, as described in section 19 of the act, MCL 456.539, shall be received within 30 days of the date of the notice of intent and shall be signed by the party or the party's attorney of record.**

**R 456.1803 Formal complaint; compliance conference.**

**Rule 803. A respondent to a formal complaint may request an informal compliance and settlement conference with the commissioner to show compliance and attempt a settlement of the formal complaint before a formal hearing.**

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**NOTICE OF PUBLIC HEARING**

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**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
CORPORATION, SECURITIES, AND COMMERCIAL LICENSING BUREAU**

**CEMETERY RULES  
Rule Set 2013-093 LR**

**NOTICE OF PUBLIC HEARING  
THURSDAY, APRIL 30, 2015  
2501 Woodlake Circle, Okemos, Michigan  
Conference Room 3, 1<sup>st</sup> Floor, 9:00 AM**

The Department of Licensing and Regulatory Affairs will hold a public hearing on Thursday, April 30, 2015, at the Corporation, Securities, and Commercial Licensing Bureau, 2501 Woodlake Circle, Okemos, Michigan in Conference Room 3 at 9:00 a.m. The hearing will be held to receive public comments on proposed changes to the Cemetery Commissioner rules.

The proposed rule set (2013-093 LR) will amend the current rules to conform to the requirements of the Cemetery Regulation Act, 1968 PA 251, which has been amended numerous times since the promulgation of the current administrative rules in 1979. Additionally, the proposed rules will rescind obsolete and unnecessary rules.

These rules are promulgated by authority conferred on the state cemetery commissioner by section 8 of 1968 PA 251, as amended, MCL 456.528, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, 2008-4, 2011-4, MCL 338.3501, 445.2001, 445.2011, 445.2025, and 445.2030. These rules will take effect immediately upon filing with the Secretary of State.

The rules (2013-093 LR) are published on the Office of Regulatory Reinvention's website at [www.michigan.gov/orr](http://www.michigan.gov/orr) and in the April 15, 2015 issue of the *Michigan Register*. Comments may be submitted to the following address by 5:00 P.M. on Friday, May 1, 2015. Copies of the draft rules may also be obtained by mail or electronic transmission at the following address:

Department of Licensing and Regulatory Affairs  
Stephani Fleming, Corporation, Securities, and Commercial Licensing Bureau  
P.O. Box 30018  
Lansing, MI 48909-7518  
Phone: 517-373-9871  
Fax: 517-241-7539  
E-mail: [flemings2@michigan.gov](mailto:flemings2@michigan.gov)

The hearing site is accessible, including handicap parking. People with disabilities requiring additional accommodations in order to participate in the hearing (such as information in alternative formats) should contact the Bureau at 517-373-9871 at least 14 days prior to the hearing date. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. Information at this meeting will be presented by speakers and printed handouts.

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**CERTIFICATE OF NEED  
REVIEW STANDARDS**

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*MCL 24.208 states in part:*

*Sec. 8. The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\* \* \*

*(k) All of the items in section 7(l) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.2217.*

*MCL 24.207 states in part:*

*Sec. 7. "Rule" means an agency regulation, statement, standard, policy, ruling, or instruction of general applicability that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure, or practice of the agency, including the amendment, suspension, or rescission of the law enforced or administered by the agency. Rule does not include any of the following:*

\* \* \*

*(l) All of the following, after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217:*

- (i) The designation, deletion, or revision of covered medical equipment and covered clinical services.*
- (ii) Certificate of need review standards*
- (iii) Data reporting requirements and criteria for determining health facility viability.*
- (iv) Standards used by the department of community health in designating a regional certificate of need review agency.*
- (v) The modification of the 100 licensed bed limitation for short-term nursing care programs set forth in section 22210 of the public health code, 1978 PA 368, MCL 333.22210.*

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**CERTIFICATE OF NEED REVIEW STANDARDS**

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**CERTIFICATE OF NEED (CON) REVIEW STANDARDS  
SYNOPSIS FOR PUBLICATION IN THE MICHIGAN REGISTER  
PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, 1969 PA 306, MCL  
24.208(1)(k)**

**HOSPITAL BEDS**

**Final Approval by the CON Commission 12/11/14 and Effective 3/20/15**

The language changes include the following:

1. Section 2: Definitions have been modified consistent with other CON review standards, and new definitions have been added as follows:
  - “Inpatient rehabilitation facility hospital” or “IRF hospital” means a hospital that has been approved to participate in the Title XVIII (Medicare) program as a prospective payment system (PPS) exempt inpatient rehabilitation hospital in accordance with 42 CFR Part 412 Subpart P. Definition added to allow for IRF Hospitals the same considerations as LTAC Hospitals.
  - “Replace beds” means a change in the location of the licensed hospital, the replacement of a portion of the licensed beds at the same licensed site, OR THE ONE-TIME REPLACEMENT OF LESS THAN 50% OF THE LICENSED BEDS TO A NEW SITE WITHIN 250 YARDS OF THE BUILDING ON THE LICENSED SITE CONTAINING MORE THAN 50% OF THE LICENSED BEDS, WHICH MAY INCLUDE A NEW SITE ACROSS A HIGHWAY(S) OR STREET(S) AS DEFINED IN MCL 257.20 AND EXCLUDES A NEW SITE ACROSS A LIMITED ACCESS HIGHWAY AS DEFINED IN MCL 257.26. The hospital beds will be in new physical plant space being developed in new construction or in newly acquired space (purchase, lease, donation, etc.) within the replacement zone. Definition modified to allow for a one-time replacement of beds to property separated by a road(s).
2. Section 5: Modified consistent with other CON review standards.
3. Section 6(2): Modified to allow for IRF Hospitals the same considerations as LTAC Hospitals.
4. Section 7(2): Modified to allow for the one-time replacement of beds to property separated by a road(s). This includes the same additional language as added in the definition of “replace beds.”
5. Removal of Previous Section 10: Technical edit consistent with other CON Review Standards.
6. Appendix B: Updated the counties based on the 2010 Census data.
7. Other technical edits.

**Complete Standards**

A complete set of the approved language can be found at [www.michigan.gov/con](http://www.michigan.gov/con). A hard copy may be obtained, for a fee, by sending a written request to:

Michigan Department of Community Health  
Office of Health Policy and Innovation  
Planning and Access to Care Section

2015 MR 6 – April 15, 2015

Capitol View Building  
201 Townsend  
Lansing, MI 48913

(517) 335-6708

Email address: [MDCH-ConWebTeam@michigan.gov](mailto:MDCH-ConWebTeam@michigan.gov)

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**CERTIFICATE OF NEED REVIEW STANDARDS**

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**CERTIFICATE OF NEED (CON) REVIEW STANDARDS  
SYNOPSIS FOR PUBLICATION IN THE MICHIGAN REGISTER  
PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, 1969 PA 306, MCL  
24.208(1)(k)**

**NURSING HOME AND HOSPITAL LONG-TERM-CARE UNIT (HLTCU) BEDS**

**Final Approval by the CON Commission 12/11/14 and Effective 3/20/15**

The language changes include the following:

1. Section 1: Modified for consistency with other CON review standards.
2. Section 2: Definitions have been modified, moved, and/or deleted if no longer needed, and a new definition has been added as follows:
  - “Applicant’s cash” has been revised to include contributions designated for the project from the landlord to reflect the investment by the lease holder.
  - “PROPOSED LICENSED SITE” MEANS THE PHYSICAL LOCATION AND ADDRESS (OR LEGAL DESCRIPTION OF PROPERTY) OF THE PROPOSED PROJECT OR WITHIN 250 YARDS OF THE PHYSICAL LOCATION AND ADDRESS (OR LEGAL DESCRIPTION OF PROPERTY) AND WITHIN THE SAME PLANNING AREA OF THE PROPOSED PROJECT THAT WILL BE AUTHORIZED BY LICENSE AND WILL BE LISTED ON THAT LICENSEE'S CERTIFICATE OF LICENSURE. This definition would allow for 250 yards of movement, if necessary, when a CON application has been approved, but the specific site cannot be used for new construction.
3. Section 6(1)(a)(vi) and other applicable sections: Changed “outstanding” to “delinquent” to meet the intent and aid in administering this requirement.
4. Section 6(1)(d)(ii) and 6(1)(d)(iii)(B): The Staffing/Bed Utilization Ratios Report is no longer available. The CON Annual Survey will now be used.
5. Section 6(2)(a)(vi) and other applicable sections: Added Preadmission Screening and Annual Resident Review (PASARR) to the list of outstanding debts as well as adding “including, but not limited to,” to aid in debt collection.
6. Section 6(2)(c) and other applicable sections: Revised consistent with change under comparative review criteria in Section 10(7).
7. Section 7(1)(b) and (c): Language revised consistent with the proposed new definition for “proposed licensed site.”
8. Section 7(3)(c)(i): Removed three mile radius language as it is no longer necessary. This was originally drafted for the pilot programs (new design model) in 2008, and all pilot programs are now CON approved.
9. Section 8(1): Removed the restrictions of relocating no more than 50% of a nursing home’s beds and the seven year restriction making it consistent with HLTCUs and added that relocation of beds shall not increase the number of rooms with three or more bed wards at the receiving facility.
10. Section 10(2): Updated to reduce redundancy and to simplify while maintaining the high consideration of Medicaid access.

11. Old Section 10(3): Removed the points for Medicare participation within the most recent 12 months based on the modifications made to Section 10(2).
12. New Section 10(3): Removed redundant special focus nursing home/HLTCU language.
13. Section 10(4): Revised points. Qualifying projects that already participate or plan to participate in a culture change model will receive three points. They will receive an additional 5 points if the culture change model is a Department approved model.
14. Old Section 10(6): Removed the requirement for sprinklers as this became Federal law in 2013.
15. New Section 10(6): Revised to award points if there is climate control for the entire facility.
16. Section 10(7): Revised language and points for facility design to create a more homelike environment for the resident while recognizing that there is still a need for semi-private rooms too.
17. Old Section 10(11): Removed for redundancy as this is a requirement in the Administrative Rules.
18. Section 10(10): Revised to award points if the entire facility will have no more than double occupancy rooms at completion of the project to help with improved quality of care.
19. Section 10(11): Points revised to balance the points of comparative review based on the relevance of care to the resident.
20. Section 10(12): Revised to reflect technology Innovations to better reflect on changes in healthcare, i.e. wireless nurse call/paging system for the proposed project; wireless internet with resident access to related equipment/device in entire facility; integrated electronic medical records system for the entire facility; a backup generator for the proposed project.
21. Section 10(13): Added points if the proposed project includes bariatric rooms to ensure access for the bariatric resident.
22. Section 11: Divided requirements into distinct groups consistent with other standards: quality assurance, access to care, and monitoring and reporting.
  - Under subsection (1), added clarifying language that an applicant approved pursuant to Section 10 will be held accountable for complying with the requirements agreed to in the awarding of beds for the approved project.
  - Under new subsection (3), added access to care requirements consistent with other CON review standards.
23. Other technical edits.

### **Complete Standards**

A complete set of the approved language can be found at [www.michigan.gov/con](http://www.michigan.gov/con). A hard copy may be obtained, for a fee, by sending a written request to:

Michigan Department of Community Health  
Office of Health Policy and Innovation  
Planning and Access to Care Section  
Capitol View Building  
201 Townsend  
Lansing, MI 48913

(517) 335-6708

Email address: MDCH-ConWebTeam@michigan.gov

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**EXECUTIVE ORDERS  
AND  
EXECUTIVE REORGANIZATION ORDERS**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

*(a) Executive orders and executive reorganization orders.”*

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**EXECUTIVE ORDERS**

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**EXECUTIVE ORDER**

**No. 2015 - 10**

**CREATION OF THE  
MICHIGAN AGENCY FOR ENERGY**

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
DEPARTMENT OF STATE POLICE  
MICHIGAN ECONOMIC DEVELOPMENT CORPORATION  
MICHIGAN STRATEGIC FUND**

**EXECUTIVE REORGANIZATION**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that he considers necessary for efficient administration; and

WHEREAS, there is a continued need to increase collaboration, optimize service delivery, and ensure efficient administration; and

WHEREAS, Michigan's energy future requires making long-term decisions that are adaptable, affordable, reliable, and environmentally protective; and

WHEREAS, such decision-making will be best informed if experts in each area are working closely together and ensuring their efforts are efficient and effective;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the powers and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

## **I. DEFINITIONS**

As used in this Order:

- A. “Agency” means the Michigan Agency for Energy created under Section II of this order.
- B. “Department of Environmental Quality” means the principal department of state government created under Executive Order 2011-1.
- C. “Department of Licensing and Regulatory Affairs” means the principal department of state government created as the Department of Commerce under Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, renamed the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001, renamed the Department of Labor and Economic Growth under Executive Order 2003-18, MCL 445.2011, renamed the Department of Energy, Labor, and Economic Growth under Executive Order 2008-20, MCL 445.2025, and renamed the Department of Licensing and Regulatory Affairs under Executive Order 2011-4, MCL 445.2030.
- D. “Department of State Police” means the principal department of state government created under Section 150 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.250.
- E. “Executive Director” means the executive director of the Agency.
- F. “Michigan Economic Development Corporation” means the public body corporate created under the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, as amended, between the Michigan Strategic Fund and local participating economic development corporations formed under the Economic Development Corporations Act, 1974 PA 338, MCL 125.1601 to 125.1636.
- G. “Michigan Strategic Fund” means the public body corporate and politic created under Section 5 of 1984 PA 270, MCL 125.2005.
- H. “Public Service Commission” means the public body corporate created under the Michigan Public Service Commission Act of 1939, PA 3, MCL 460.1 et seq., as amended, located within the Department of Licensing and Regulatory Affairs.
- I. “State Budget Director” means the individual appointed by the Governor pursuant to Section 321 of the Management and Budget Act, 1984 PA 431, MCL 18.1321.

## **II. CREATION OF THE MICHIGAN AGENCY FOR ENERGY**

- A. The Michigan Agency for Energy is created as an agency within the Department of Licensing and Regulatory Affairs. The Agency shall exercise its prescribed powers, duties, and functions independently of the Director of the Department of Licensing and Regulatory Affairs.
- B. The Agency shall be headed by an Executive Director who shall be appointed by the Governor and serve at the pleasure of the Governor. The Executive Director shall serve as a member of

the Governor's Cabinet.

C. The Executive Director shall be the chief advisor to the Governor and the directors of state departments regarding the development of energy policies and programs.

### **III. FUNCTIONS OF THE AGENCY**

A. The Agency shall perform the following functions:

- i. Analyze and make recommendations to the Governor on proposed programs and policies relating to energy, and on the elimination of duplication in existing state programs in these areas;
- ii. Directly administer certain programs related to energy, and serve as the coordinating office for all agencies of the executive branch of government that are responsible for programs related to energy; and
- iii. Provide information and assistance to all departments and agencies of the executive branch of government related to energy, both directly and by functioning as a clearinghouse for information received from such agencies, other branches of government, other states, and the federal government.

B. The Agency may make and execute contracts and other instruments necessary or convenient to the proper exercise of its functions.

### **IV. TRANSFER OF MOTOR CARRIER AUTHORITIES**

A. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Public Service Commission, Department of Licensing and Regulatory Affairs, under the following acts are transferred from the Public Service Commission, Department of Licensing and Regulatory Affairs, to the Michigan State Police:

- a. Motor Carrier Act, P.A. 254 (1933), as amended, being Michigan Compiled Laws, MCL 475.1 to 479.49;
- b. Carriers by Water Act, P.A. 246 (1921), as amended, being Michigan Compiled Laws, MCL 460.201 to 460.206; and
- c. Motor Carrier Safety Act, P.A. 181 (1963), as amended, being Michigan Compiled Laws, MCL 480.11 to 480.25.

B. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, used, held, employed, available, or to be made available to the Public Service Commission, Department of Licensing and Regulatory Affairs for the activities, powers, duties, functions, and responsibilities transferred by this Order are transferred to the Michigan State Police.

C. The Director of the Michigan State Police, after consultation with the Public Service Commissioners and the Director of the Department of Licensing and Regulatory Affairs, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Michigan State Police.

D. Any authority, powers, duties, and functions relative to the final agency decisions for cases arising under the authorities transferred under this section of this Order are transferred from the Public Service Commission, Department of Licensing and Regulatory Affairs, to the Director of the State Police.

**V. TRANSFER OF RETIRED ENGINEERS TECHNICAL ASSISTANCE PROGRAM AND AIR POLICY PROGRAM**

A. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Department of Environmental Quality under the Retired Engineers Technical Assistance Program, created under MCL 324.14511 and 324.14512, as amended, are transferred from the Department of Environmental Quality to the Michigan Agency for Energy, Department of Licensing and Regulatory Affairs.

B. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Air Policy Director of the Department of Environmental Quality, are transferred from the Department of Environmental Quality to the Michigan Agency for Energy, Department of Licensing and Regulatory Affairs.

C. The Executive Director, after consultation with the Director of the Department of Environmental Quality and the Director of the Department of Licensing and Regulatory Affairs, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Executive Director.

## **VI. TRANSFER OF THE MICHIGAN ENERGY OFFICE**

A. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Michigan Energy Office, are transferred from the Michigan Economic Development Corporation and the Michigan Strategic Fund to the Department of Licensing and Regulatory Affairs. Such funds shall include the Energy Efficiency and Renewable Energy Revolving Loan Fund, MCL 460.911 to 460.913, as amended.

B. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Michigan Energy Office, are transferred from the Department of Licensing and Regulatory Affairs to the Michigan Agency for Energy, Department of Licensing and Regulatory Affairs.

C. The Executive Director, after consultation with the Chief Executive Officer of the Michigan Economic Development Corporation and the President of the Michigan Strategic Fund, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Executive Director.

## **VII. RELATIONSHIP OF AGENCY AND MICHIGAN PUBLIC SERVICE COMMISSION, AND TRANSFER OF CERTAIN FUNCTIONS**

A. The Public Service Commission shall be transferred intact from the Department of Licensing and Regulatory Affairs to the Michigan Agency for Energy.

B. The Public Service Commission shall exercise its functions as an autonomous entity independently from the Director of the Department of Licensing and Regulatory Affairs and the Executive Director of the Agency, as further described in this Order. Unless expressly stated otherwise in this Order, the Public Service Commission shall retain all of its statutory authority, powers, duties, functions, and responsibilities, including records, personnel, budgeting, procurement, and unexpended balances of appropriations. The powers, duties, and functions related to property are transferred to the Agency. The Public Service Commission shall retain control of all monies and funds, including but not limited to grants, bonds, notes, and reserves, subject to any agreements related to such grants, bonds, notes or reserves. Nothing in this Order shall be interpreted to infringe on the plenary powers of the Public Service Commission to regulate all rates, fares, fees, charges, services, rules, conditions of service, and all other matters pertaining to the formation, operation, or direction of public utilities, common carriers, or similar entities. The Commission shall retain the sole power and jurisdiction to hear and pass upon all matters pertaining to, necessary, or incidental to the regulation of public utilities, common carriers, or similar entities. It shall also retain all power to retain engineers, experts, and related personnel, and fix their compensation to assist it in such duties as provided under current law.

C. The legislative liaison and communications specialist of the Public Service Commission shall be transferred to the Agency. However, the Commission may request the services of either individual to advise the Public Service Commission regarding legislative matters and to communicate with the public regarding its plenary authorities, and the Executive Director shall ensure such personnel

will provide the requested services to the Commission. When performing duties requested by the Commission, such individuals shall be considered Commission staff and supervision of those tasks shall be by the Commission.

D. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the customer service division, and the Energy Markets and Energy Data & Security sections of the Public Service Commission shall be transferred to the Michigan Agency for Energy, Department of Licensing and Regulatory Affairs. Additionally, one position supporting human resource functions and any positions dedicated to property functions in the administration section shall be transferred from the Public Service Commission to the Agency. Notwithstanding any of the above, those priorities, powers, duties, and functions that are within the plenary powers described in Section VII.B. of this Order shall remain with the Public Service Commission and shall not be subject to transfer. When undertaking activities necessary to carry out plenary powers, individuals shall be considered Commission staff and supervision of those tasks shall be by the Commission.

E. The Executive Director, after consultation with the Chair of the Public Service Commission and the Director of the Department of Licensing and Regulatory Affairs, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Executive Director.

### **VIII. TRANSFER OF ENERGY ADVISORY COMMITTEE AUTHORITIES**

A. Any authority, powers duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement related to the duties of the Director of Licensing and Regulatory Affairs created under MCL 10.82, and now residing in the Director of the Department of Licensing and Regulatory Affairs under Executive Orders 2008-20 and 2011-4, shall be transferred to the Executive Director of the Agency.

B. The Executive Director, after consultation with Director of the Department of Licensing and Regulatory Affairs, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Executive Director.

**IX. IMPLEMENTATION OF TRANSFERS**

A. The Executive Director shall provide executive direction and supervision for the implementation of all transfers of authority under this Order in consultation with the Director of the Department of Licensing and Regulatory Affairs.

B. The Executive Director shall establish the internal organization of the Agency and allocate and reallocate duties and functions to promote economic and efficient administration and operation of the Agency. The Executive Director shall be responsible for the day-to-day operations of the Agency.

**X. MISCELLANEOUS**

A. All records, personnel, and property used, held, employed, or to be made available to the Department of Licensing and Regulatory Affairs, the Michigan Economic Development Corporation, the Michigan Strategic Fund, and the Department of Environmental Quality for the activities, powers, duties, functions, and responsibilities transferred by this Order to the Agency are hereby transferred to the Agency.

B. All records, personnel, and property used, held, employed, or to be made available to the Public Service Commission for the activities, powers, duties, functions, and responsibilities transferred by this Order to the Michigan State Police are hereby transferred to the Michigan State Police.

C. The State Budget Director shall determine and authorize the most efficient manner possible for the handling of financial transactions and records in the state's financial management system for the remainder of the current state fiscal year for transfers made under this Order.

D. All rules, orders, contracts, plans, and agreements relating to the functions transferred to the Agency by this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or rescinded.

E. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity transferred by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

F. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, this Order shall be effective 60 days after the filing of this Order.

Given under my hand and the Great Seal of the state of Michigan this \_\_\_\_\_ day of March, in the Year of our Lord Two Thousand Fifteen.

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RICHARD D. SNYDER  
GOVERNOR

BY THE GOVERNOR:

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SECRETARY OF STATE

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**EXECUTIVE ORDERS**

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**EXECUTIVE ORDER  
No. 2015 - 11**

**GOVERNOR’S TALENT INVESTMENT BOARD  
MICHIGAN TALENT INVESTMENT AGENCY**

**RESCISSION OF  
EXECUTIVE ORDER 2011-13**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that each principal department shall be under the supervision of the Governor unless otherwise provided by the Constitution; and

WHEREAS, the development of workforce talent in concurrence with the demands of Michigan’s economy is essential to the economic prosperity and well-being of the people of Michigan; and

WHEREAS, strategies for regional economic prosperity throughout Michigan have a consistent focus on strategic development and retention of workforce talent; and

WHEREAS, Executive Order 2011-13 established the Governor’s Talent Investment Board within the Workforce Development Agency as the state workforce investment board required under Section 111 of the federal Workforce Investment Act of 1998, 29 USC 2821; and

WHEREAS, the Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, 29 USCS § 3101 et seq., supersedes the Workforce Investment Act of 1998 and establishes new requirements for state workforce investment boards, including alignment with regional economic strategies; and

WHEREAS, Executive Order 2014-12 created the Michigan Talent Investment Agency as an independent and autonomous agency within the Michigan Department of Talent and Economic Development in order to enhance workforce talent and economic development efforts within this state, consistent with the legislative intent of the Workforce Innovation and Opportunity Act of 2014; and

WHEREAS, the Workforce Development Agency was transferred to the Michigan Talent Investment Agency under Executive Order 2014-12;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by the virtue of the powers and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

**I. GOVERNOR’S TALENT INVESTMENT BOARD**

A. The Governor’s Talent Investment Board is created as an advisory body within the Michigan Talent Investment Agency.

B. The Governor’s Talent Investment Board is the state workforce investment board required for this state under Section 101 of the Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, or any other Act that amends or repeals the Workforce Innovation and Opportunity Act, so long as the composition, duties, and responsibilities of the Board align with the successor Act.

C. Executive Order 2011-13 is rescinded.

## **II. COMPOSITION AND TERMS OF THE GOVERNOR’S TALENT INVESTMENT BOARD**

A. The Governor’s Talent Investment Board shall consist of not less than the following:

1. The Governor;

2. A member of the Michigan House of Representatives, appointed by the Speaker of the House of Representatives. A member appointed under this subsection shall only serve while serving as a member of the Michigan House of Representatives;

3. A member of the Michigan Senate, appointed by the Majority Leader of the Michigan Senate. A member appointed under this subsection shall serve only while serving as a member of the Michigan Senate;

4. Members appointed by the Governor, consisting of the following:

a. A majority of the board shall be representatives of businesses in Michigan, who –

i. Are owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority, and who, in addition, may be members of a local workforce development board established by the Michigan One-Stop Service Center System Act of 2006, Mich. Comp. Laws § 408.111-123, or its successor;

ii. Represent businesses or organizations representing businesses that provide employment opportunities that include emerging and in-demand occupations in Michigan;

iii. Are individuals nominated by business organizations and business trade associations in Michigan;

b. A minimum of two (2) representatives of individuals who are elected chief executive officers of a city or a county;

c. Not less than 20 percent of the board shall be representatives of the workforce within Michigan, who –

i. Shall include representatives of labor organizations, who have been nominated by labor federations in Michigan;

ii. Shall include a representative of a labor organization or a training director, from a joint labor-management apprenticeship program, or if no such joint program exists in Michigan, such a representative of an apprenticeship program in Michigan;

iii. May include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of individuals with barriers to employment, including organizations that serve veterans or that provide or support competitive, integrated employment for individuals with disabilities;

iv. May include representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth; and

d. The lead state official(s) with primary responsibility for the administration of core programs as defined by Section 3(12)-(13) of the Workforce Innovation and Opportunity Act of 2014, Public Law 113-128.

B. Of the members initially appointed after the effective date of this Order, pursuant to Section II.4.a.–c., seven (7) members shall be appointed for a term of two years, seven (7) members shall be appointed for a term of three years, and six (6) members shall be appointed for a term of four years.

C. All subsequent appointments shall be for a term of three years. A vacancy on the board shall be filled in the same manner as the original appointment. Board members may be reappointed to serve multiple terms.

D. The Governor shall designate a chairperson and vice-chairperson for the Governor's Talent Investment Board from among those members described in Section II.A.4.a.i.-iii., who both shall serve at the pleasure of the Governor.

E. The Governor may send a designee to any meeting of the Governor's Talent Investment Board and that designee's attendance shall constitute attendance by the Governor for quorum purposes. A person attending a Board meeting as a designee of the Governor is authorized to vote on behalf of the Governor.

F. In addition to the aforementioned members, the state department directors listed below shall serve in an ex-officio capacity on the board. They shall be non-voting members and their participation shall not count for the purpose of establishing a quorum.

1. Director of the Department of Agriculture and Rural Development;

2. Director of the Department of Health and Human Services;
3. Director of the Department of Licensing and Regulatory Affairs;
4. Director of the Talent Investment Agency; and
5. The Superintendent of Public Instruction.

G. In accordance with regional diversity requirements for state workforce development boards under Section 101(b)(2) of the Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, the Governor shall consult with representatives of each of Michigan's ten prosperity regions as part of the process of making appointments to the Governor's Talent Investment Board.

### **III. DUTIES AND OPERATIONS OF THE GOVERNOR'S TALENT INVESTMENT BOARD**

A. The Governor's Talent Investment Board is an advisory body charged with advising and assisting the Governor regarding compliance with the Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, 29 USCS § 3101 et seq.

B. The Board may promulgate bylaws, not inconsistent with federal law, Michigan law, or this Order, governing its organization, operation, and procedures.

C. Michigan Talent Investment Agency personnel shall staff and assist the Board in performing its functions.

D. The Board shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Board. Meetings of the board shall be held within the state of Michigan.

E. A majority of the members of the Board constitutes a quorum for the transaction of business. The Board's actions shall be constituted by a majority vote of serving members participating in a meeting only when a quorum is present. To the extent authorized by Michigan law, the Board may authorize members to participate in a Board meeting by the use of telephonic or video equipment. A member participating in a meeting via telephonic or video equipment shall be deemed present at the meeting. Voting shall be conducted in person or by the use of telephonic or video equipment.

F. The Board may, as appropriate, make inquiries, studies, investigations, hold hearings, and receive comments from the public.

G. Members of the Board shall serve without compensation. Members of the Board may receive reimbursement for necessary travel and expenses according to relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Technology, Management and Budget, subject to available appropriations.

H. As required under Section 101(f) of the Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, 29 USCS § 3101 et seq., a member of the Board may not do any of the following:

1. Vote on a matter under consideration by the Board:

a. Regarding the provision of services by the member or by an entity that the member represents; or

b. That would provide direct financial benefit to the member or the immediate family of the member; or

2. Engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the unified state plan required by Section 102 of the Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, 29 USCS § 3101 et seq.

I. To assure full compliance with the sunshine requirements under Section 101(g) of the Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, 29 USCS § 3101 et seq., meetings of the Board shall be held according to procedures established under the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275.

J. To assure full compliance with the sunshine requirements under Section 101(g) of the Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, 29 USCS § 3101 et seq., the Board is a public body under the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, and shall comply with provisions of the Act.

K. Members of the board shall refer all legal, legislative, and media contacts to the Michigan Talent Investment Agency.

**IV. MISCELLANEOUS**

A. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before any appropriate successor of an entity affected by this order.

B. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

This Order shall become effective April 15, 2015.

Given under my hand and the Great Seal of  
the state of Michigan this \_\_\_\_ day of  
April, in the Year of our Lord, Two  
Thousand Fifteen

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RICHARD D. SNYDER  
GOVERNOR

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SECRETARY OF STATE

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**OPINIONS OF THE  
ATTORNEY GENERAL**

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*MCL 14.32 states in part:*

*“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(j) Attorney general opinions. ”*

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**OPINIONS OF THE ATTORNEY GENERAL**

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STATE OF MICHIGAN

BILL SCHUETTE, ATTORNEY GENERAL

SCRAP METAL REGULATORY ACT:      Payment restrictions on purchases of scrap metal.

Subsection 6(5), MCL 445.426(5), of the Scrap Metal Regulatory Act, MCL 445.421 *et seq.*, requiring payment by mail applies to purchase transactions with a seller whose collective sales for a business day total \$25.00 or more, whether or not any of the specific items identified in subsection 6(1), MCL 445.426(1), are involved in the purchase transactions.

Opinion No. 7281

March 27, 2015

The Honorable Mike Kowall  
State Senator  
The Capitol  
Lansing, MI 48909

You ask whether the mailing requirements of subsection 6(5), MCL 445.426(5), of the Scrap Metal Regulatory Act, MCL 445.421 *et seq.*, apply only to the items listed in subsection 6(1), MCL 445.426(1), of the Act and not to any other types of scrap metal.

Previously named the Nonferrous Metal Regulatory Act, 2008 PA 429, the Scrap Metal Regulatory Act regulates the purchase and sale of scrap metal and other items containing ferrous or nonferrous metal. This law specifically sets out the recordkeeping requirements and acceptable payment methods for various transactions involving these metals. The Act was amended by 2014 PA 99 to address several issues, including the growing problem of metal theft, which was found to create serious safety hazards and significant financial consequences for Michigan businesses. See House Legislative Analysis, HB 4593 and HB 4595, July 7, 2014, p 8. The amendments broadened the scope of the Act to

include both ferrous and nonferrous metals, restricted payment options for scrap metal sales, and expanded the recordkeeping requirements for scrap metal dealers to better equip law enforcement in their detection and pursuit of metal thieves.

Your request arises from reports that police departments are not uniformly applying the mailing requirement in subsection 6(5), MCL 445.426(5), of the Act. Specifically, you note that one police department has distributed a flow chart that indicates that scrap metal dealers “must mail payment if the seller is to receive \$25.00 or more for *all* scrap metal sold in a single transaction or in a business day and the transaction includes one of the [ ] items” listed in subsection 6(1), MCL 445.426(1), of the Act.<sup>1</sup>

The analysis of a statute must begin with the language of the statute itself. The Michigan Supreme Court has recognized that “[t]he cardinal rule of statutory construction is to discern and give effect to the intent of the Legislature.” *People v Williams*, 491 Mich 164, 172; 814 NW2d 270 (2012), quoting *People v Dowdy*, 489 Mich 373, 379; 802 NW2d 239 (2011). The statute’s language is the “‘touchstone of legislative intent.’ ” *People v Hardy*, 494 Mich 430, 439; 835 NW2d 340 (2013), quoting *People v Gardner*, 482 Mich 41, 50; 753 NW2d 78 (2008). When the language of a statute is clear and unambiguous, the courts will “assume that the Legislature intended its plain meaning and [ ] enforce the statute as written.” *Id.*

Section 5, MCL 445.425, of the Act sets forth a number of general requirements for scrap metal dealers, including limitations regarding the form of payment permissible for scrap metal purchases, and an identification requirement. Subsection 5(1)(a) provides that “[u]nless section 6 applies, and except as provided in subdivision (b) [regarding commercial and industrial sellers], a scrap metal dealer shall only pay a seller using 1 of the following methods of payment in a purchase transaction and shall not pay the

seller in cash or using any other method of payment[.]” MCL 445.425(1)(a) (emphasis added). The permitted payment methods are check or money order, or by an electronic payment card or encrypted receipt. MCL 445.425(1)(a)(i)-(ii).

Section 6, MCL 445.426, also sets forth a number of requirements, including payment-method restrictions for specific items, a database development option, and the payment mailing requirement.<sup>2</sup>

Subsection 6(1), MCL 445.426(1), lists acceptable payment methods for three categories of commonly stolen items:

(1) In a purchase transaction of any of the following items, the only methods of payment a scrap metal dealer may use to pay a seller are a direct deposit or electronic transfer to the seller’s account at a financial institution; *subject to subsection (5)*, payment with a check or money order described in section 5(1)(a)(i); or, *subject to subsection (5)*, payment with an electronic payment card or encrypted receipt described in section 5(1)(a)(ii):

(a) Catalytic converters, unless the seller is an automotive recycler as defined in section 2a of the Michigan vehicle code, 1949 PA 300, MCL 257.2a; a manufacturer or wholesaler of catalytic converters; or a muffler shop, tire store, or other retail business that sells converters separately or as part of an exhaust system.

(b) Air conditioners, air conditioner evaporator coils or condensers, or parts of air conditioner evaporator coils and condensers.

(c) Copper wire, including copper wire that is burned in whole or in part to remove the insulation, copper pipe, or copper fittings. [Emphasis added.]<sup>3</sup>

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<sup>1</sup> To the extent the flowchart received in conjunction with this request suggests that payment may never be received in person at a scrap metal dealer on the same day of a purchase transaction, it is incorrect. As discussed herein, the mailing requirement set forth in MCL 445.426(5) only applies to purchase transactions of \$25.00 or more.

<sup>2</sup> Section 6, MCL 445.426, was not part of House Bill 4593, which became 2014 PA 99, as introduced. Rather, it was added and amended several times during the legislative process. See HB 4593, Substitute H-2, Substitute S-9, and Substitute H-6, available online at [www.legislature.mi.gov/\(S\(tif4wx55nktphg45ket4sk55\)\)/mileg.aspx?page=getObject&objectName=2013-HB-4593](http://www.legislature.mi.gov/(S(tif4wx55nktphg45ket4sk55))/mileg.aspx?page=getObject&objectName=2013-HB-4593) (accessed February 18, 2015).

<sup>3</sup> The requirements of subsection 6(1), MCL 445.426(6)(1), do not apply to purchase transactions by an industrial or commercial customer. See MCL 445.425(1)(B)(ii) (“The payment requirements described in section 6(1) do not apply to the purchase of any of the items described in section 6(1)(a) to (c) by an industrial or commercial customer.”).

Under this subsection, transactions involving catalytic converters, air conditioners and parts, and copper wire, pipes, or fittings, may only be paid by (i) direct deposit or electronic transfer, (ii) check or money order, or (iii) an electronic payment card or encrypted receipt. However, subsection 6(1) provides that the latter two payment methods are further subject to the requirements of subsection 6(5).

Subsection 6(5), MCL 445.426(5), imposes additional restrictions with respect to payment for transactions under the Act:

*(5) If the purchase price in a purchase transaction described in subsection (1) is \$25.00 or more, or if the purchase price for all of a seller's purchase transactions in a business day is \$25.00 or more, the scrap metal dealer must pay the seller by mailing 1 of the following items to the seller at the address shown on the identification card presented under section 5(2)(a), and shall not deliver that payment in person or using any other form of delivery:*

- (a) A check or money order described in section 5(1)(a)(i).
- (b) An electronic payment card or encrypted receipt described in section 5(1)(a)(ii).
- (c) A nontransferable receipt that the seller may redeem at the scrap dealer's premises for 1 of the items described in subdivision (a) or (b).

You ask whether the mailing requirement applies only to transactions involving subsection 6(1) items – catalytic converters, air conditioners and parts, and copper wire, pipes, or fittings – or to transactions involving other scrap metal as well.

Subsection 6(5) requires a dealer to pay a seller by mailing an acceptable form of payment “[i]f the purchase price in a purchase transaction described in subsection (1) is \$25.00 or more, or if the purchase price for all of a seller's purchase transactions in a business day is \$25.00 or more . . . .”

The first clause of subsection 6(5) plainly applies the mailing requirement to any single transaction involving a subsection 6(1) item with a purchase price of \$25.00 or more. The second clause

– “or if the purchase price for *all of a seller’s purchase transactions in a business day* is \$25.00 or more” – requires further analysis. (Emphasis added). The question is whether the phrase “all . . . purchase transactions” refers only to multiple transactions involving subsection 6(1) items that total \$25.00 or more in a business day, or whether it includes transactions involving other scrap metal that total \$25.00 or more in a business day, or a combination of both.

Where words are not defined by statute, a dictionary may be consulted to ascertain the plain meaning of the terms. *Holland v Trinity Health Care Corp*, 287 Mich App 524, 527–528; 791 NW2d 724 (2010). “The word ‘all’ is defined, in part, by Random House Webster’s College Dictionary (2001) as follows: ‘1. the whole or full amount of . . . 4. any; any whatever . . . 10. Everything[.]’ ” *Schmude Oil Co, Inc v Dep’t of Environmental Quality*, 306 Mich App 35, 44-45; 856 NW2d 84 (2014). The “term is all-inclusive . . . .” *Id.* The phrase “purchase transaction” is defined in the Act, in part, as the “purchase of scrap metal . . . by a scrap metal dealer.” MCL 445.423(h). The definition of “scrap metal” broadly includes “ferrous or nonferrous metal, or items that contain ferrous or nonferrous metal . . . .” MCL 445.423(k).<sup>1</sup> These terms plainly encompass more items than the three types specifically identified in subsection 6(1)(a)-(c). In addition, as noted above subsection 5(1), MCL 445.425(1), which imposes payment limitations on scrap-metal dealers and sellers generally, expressly references the limitations of section 6 – “Unless section 6 applies . . . a scrap metal dealer shall only pay a seller using 1 of the following methods of payment in a purchase transaction . . . .”

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<sup>1</sup> Ferrous metal “means a metal that contains significant quantities of iron or steel.” MCL 445.423(a). Nonferrous metal “means a metal that does not contain significant quantities of ferrous metal but contains copper, brass, platinum group-based metals, aluminum, bronze, lead, zinc, nickel, or alloys of those metals.” MCL 445.423(e).

Giving all these terms their plain meaning and reading them in context of the Act as a whole, the phrase “all . . . purchase transactions” means any “purchase transaction” involving the purchase of “scrap metal” as these terms are defined in the Act. Accordingly, the mailing requirement imposed by the second clause of subsection 6(5) for multiple transactions totaling \$25.00 or more in a business day is *not* limited to transactions solely involving subsection 6(1) items. Rather, it includes subsection 6(1) items and other scrap-metal items, or transactions including a combination of both.

This interpretation is supported by the fact that the Legislature did not repeat in the second clause the “described in subsection (1)” limitation that appears in the first clause. It is impermissible to “read into [a] statute a requirement that the Legislature has seen fit to omit.” *Menard, Inc v Dep’t of Treasury*, 302 Mich App 467, 471–472; 838 NW2d 736 (2013) (citations omitted). Moreover, it is consistent with the purpose of the amendments that added subsections 6(1) and (5), which was in large part to address metal theft by making the receipt of payment more difficult. Although the items identified in subsection 6(1) may be those most commonly stolen, illicit activity is not limited to those items. Furthermore, while legislative analyses are not dispositive of legislative intent, *In re Certified Question*, 468 Mich 109, 115 n 5; 659 NW2d 597 (2003), it is worth observing that the analysis of 2014 PA 99, as enacted, similarly interpreted subsection 6(5) as applying to other types of scrap metal. See House Legislative Analysis, HB 4593 and HB 4595, July 7, 2014, p 4.<sup>1</sup> Thus, for purposes of requiring payment by mail, the Legislature set a \$25.00 per transaction threshold for subsection 6(1) items, or a \$25.00 per business day threshold for all scrap-metal items. The payment thresholds allow smaller purchase transactions of any scrap-metal items to be processed on an immediate or daily basis.

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<sup>1</sup> This analysis is available online at [www.legislature.mi.gov/documents/2013-2014/billanalysis/House/pdf/2013-HLA-4593-6313B58F.pdf](http://www.legislature.mi.gov/documents/2013-2014/billanalysis/House/pdf/2013-HLA-4593-6313B58F.pdf) (accessed February 18, 2015).

It is my opinion, therefore, that subsection 6(5), MCL 445.426(5), of the Act requiring payment by mail applies to purchase transactions with a seller whose collective sales for a business day total \$25.00 or more, whether or not any of the specific items identified in subsection 6(1), MCL 445.426(1), are involved in the purchase transactions.

A handwritten signature in black ink that reads "Bill Schuette". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

BILL SCHUETTE  
Attorney General

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**OPINIONS OF THE ATTORNEY GENERAL**

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STATE OF MICHIGAN

BILL SCHUETTE, ATTORNEY GENERAL

MICHIGAN VEHICLE CODE:                      Permits for transporting agricultural commodities.

A county road commission cannot refuse to issue a permit to a person hauling agricultural commodities under MCL 257.722(5) of the Michigan Vehicle Code on the basis that the hauler has not agreed to additional conditions requested by the county road commission but not expressly required by subsections 722(5)(a)-(c).

A county road commission cannot charge a person requesting a permit under MCL 257.722(5) of the Michigan Vehicle Code a fee in excess of the administrative costs the county road commission incurred to issue the permit.

Opinion No. 7282

April 2, 2015

The Honorable Bruce Rendon  
State Representative  
The Capitol  
Lansing, MI 48909

You have asked two questions relating to a county road commission's authority to impose additional restrictions and charge fees relating to an agricultural hauler's request for an exception from specific weight restrictions under MCL 257.722(5) of the Michigan Vehicle Code (Code), 1949 PA 300, MCL 257.1 *et seq.*

Pertinent to your request, the Code contains several sections governing the size, weight, and loads of vehicles that use roads within the state. Section 722 of the Code, MCL 257.722, governs the weight of vehicles. In particular, MCL 257.722(12) imposes a limit on the gross weight of vehicles traveling on interstate highways and other designated roads. And MCL 257.722(8) decreases both the maximum axle loads and maximum wheel loads otherwise permitted by the Code during the months of

March, April, and May. The purpose of the weight limitations in MCL 257.722 is “to reduce the serious damage caused to our highways by heavily loaded trucks and trailers.” *People v Brown Bros Equip Co*, 3 Mich App 618, 621; 143 NW2d 155 (1966), *aff’d* 379 Mich 363 (1967).

The subsection that is the subject of your questions, MCL 257.722(5), provides an exception to the limitations in both MCL 257.722(12) (gross weight) and MCL 257.722(8) (seasonal axle and wheel loads) for “a person hauling agricultural commodities.” The Legislature added the substance of what is now subsection 722(5) in 2000 PA 6. In its entirety, MCL 257.722(5) currently reads as follows:

The seasonal reductions described under subsection (8) to the loading maximums and gross vehicle weight requirement of subsection (12) do not apply to a person hauling agricultural commodities if the person who picks up or delivers the agricultural commodity either from a farm or to a farm *notifies the county road commission for roads under its authority not less than 48 hours before the pickup or delivery of the time and location of the pickup or delivery*. The county road commission *shall issue* a permit to the person and *charge a fee that does not exceed the administrative costs incurred*. The permit *shall* contain all of the following:

- (a) The designated route or routes of travel for the load.
- (b) The date and time period requested by the person who picks up or delivers the agricultural commodities during which the load may be delivered or picked up.
- (c) A maximum speed limit of travel, if necessary.
- (d) Any other specific conditions agreed to between the parties.

[MCL 257.722(5); emphasis added.]

Under this provision, when a hauler of agricultural commodities wishes to benefit from subsection 722(5), the county road commission shall issue the permit if the hauler satisfies certain conditions, and the permit sets forth the route the hauler will use, the time period during which the hauler must pick up or deliver the load based on the hauler’s request, and a maximum speed limit on the hauler’s travel, if necessary.

The permit provided for in subsection 722(5) is specific to persons hauling agricultural commodities. But the Code also generally authorizes any vehicle to apply for a permit to exceed weight and load restrictions applicable in a county. See MCL 257.725. Because county road commissions may be conflating the two processes, both are discussed below.

You first ask whether a county road commission must issue a permit subject to route restrictions, date and time restrictions, speed limit restrictions, and payment of a reasonable fee, but where an agricultural hauler has not agreed to other restrictions requested by the commission.

This question implicates subsection 722(5)(d), which requires that “[a]ny other specific conditions agreed to between the parties” also be included in the permit. Information gathered in connection with your request shows that even when the haulers of agricultural commodities agree to pay a fee and comply with each of the express provisions in subsection 722(5)(a)-(c), some county road commissions refuse to issue haulers a permit unless the haulers agree to additional conditions. Examples of the specific conditions imposed by county road commissions include the requirement that the applicant indemnify the county road commission, the posting of a security bond with the county road commission, proof of a certain amount of liability insurance, and the naming of the county road commission as an additional insured party on the applicant’s insurance policy.

As an initial matter, it is important to note that the Michigan Supreme Court has distinguished between “counties,” which have specific rights granted by the Michigan Constitution, and “county road commissions,” which do not. “A county road commission draws its legal life from the county road law and, as a creature of that legislation, the commission has no power save that which is legislatively conferred.” *Arrowhead Dev Co v Livingston Co Rd Comm*, 413 Mich 505, 511-512; 322 NW2d 702 (1982). Therefore, the statutory language alone determines whether county road commissions can

lawfully deny an application for a permit under MCL 257.722(5).

When interpreting statutes, the goal is to “give effect to the Legislature’s intent, focusing first on the statute’s plain language.” *Malpass v Dep’t of Treasury*, 494 Mich 237, 247-248; 833 NW2d 272 (2013) (internal quotation omitted). In focusing on a statute’s plain language, we also must “examine the statute as a whole, reading individual words and phrases in the context of the entire legislative scheme.” *Id.* Provisions of the Michigan Vehicle Code, in particular, must “be read together” in order to discern “the intention of the legislature.” *People v Wolfe*, 338 Mich 525, 535; 61 NW2d 767 (1953).

The Legislature authorized counties to create county road commissions in the General Highway Law (Highway Law), 1909 PA 283, MCL 220.1 *et seq.*<sup>1</sup> Chapter 4 of the Highway Law requires counties to ensure that the public roads within its control are kept “in reasonable repair, so that they are reasonably safe and convenient for public travel.” MCL 224.21(2). If counties do not perform this duty, then the county road commission might be liable for damages incurred from any injuries the failure causes. MCL 224.21(3).<sup>1</sup> Chapter 6 of the Michigan Vehicle Code includes numerous sections describing size, weight, and load restrictions. See MCL 257.716 *et seq.*

As explained above, the purpose of the weight limitations in MCL 257.722 is “to reduce the serious damage caused to our highways by heavily loaded trucks and trailers.” *Brown Bros Equip Co*, 3 Mich App at 621. The Code strikes a balance between the uniformity needed by the operators of heavy vehicles and the right of local communities to address local concerns. On the one hand, the Code establishes that the “maximum size and weight specified in this chapter are lawful throughout this state,”

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<sup>1</sup> The analysis set forth in this opinion applies equally to a county road commission or a county that has dissolved its road commission as authorized by MCL 224.6 which permits the powers, duties, and functions of a county road commission to be reassigned within county government.

and mandates that “local authorities shall not alter those . . . weight limitations except as express authority is granted in this chapter.” MCL 257.716(1). On the other hand, the Code expressly gives local authorities – including county road commissions – several ways to regulate heavy vehicle use on roads under the locality’s jurisdiction. As the Michigan Supreme Court requires, the specific authority in subsection 722(5) governing the haulers of agricultural commodities must be read in context with the other provisions of the Code. *Wolfe*, 338 Mich at 535.

First, a county road commission can impose weight limitations on roads under its jurisdiction. MCL 257.726(1)(b). The provisions of subsection 722(5) do not appear to conflict with this authority. When a county road commission issues a permit under subsection 722(5), it retains the authority to designate a “route or routes of travel for the load.” MCL 257.722(5)(a). The permit can require that the haulers of agricultural commodities to avoid or minimize the use of specific weight-limited roads in order to reach the farm where they are either picking up or dropping off an agricultural commodity.

Second, MCL 257.722(10) grants a county road commission broad authority to “impose” or “suspend” the restrictions provided in section 722 when the “conditions of the highway may require.” But that authority does not affect the process both the applicant and the commission must follow, or the substance of what can be included in a permit under subsection 722(5), if the commission has activated the requirement to obtain the permit. If seasonal weight restrictions are suspended, for example, the permitting requirements are moot. But if a county road commission imposes seasonal weight restrictions, persons seeking to haul agricultural commodities to or from a farm in excess of the restrictions in subsection 722(8) must obtain a permit under subsection 722(5).

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<sup>1</sup> There are limitations that apply with respect to the liability of counties and county road commissions. See, for example, the Governmental Tort Liability Act, MCL 691.1401 *et seq.*

Finally, “upon receipt of a written application and good cause being shown,” a county road commission can issue a special permit authorizing a vehicle to use roads under its jurisdiction even though the vehicle exceeds the maximum weight allowed under Chapter 6 of the Code, including MCL 257.722. MCL 257.725(1). County road commissions are generally authorized to “prescribe conditions of operation” in a special permit “to protect the safety of the public or to ensure against undue damage to the road foundations, surfaces, structures, or installations.” MCL 257.725(4). Specifically, the commission can require an applicant to provide whatever “security” the commission “determines necessary to compensate for damages caused by the movement” authorized in the special permit. MCL 257.725(4).

Absent the specific permitting requirements for haulers of agricultural commodities established in subsection 722(5), a hauler would need to apply for a special permit under MCL 257.725 to use vehicles on county roads that exceed the weight limits imposed in MCL 257.722(12) and MCL 257.722(8). But in 2000, the Legislature created a provision, MCL 257.722(5), to address the particular circumstance of a person who hauls agricultural commodities and needs to deliver the commodities to, or pick them up from, a farm.

When a statute provides both a general provision and a specific provision regarding a particular circumstance that would otherwise be governed by the general provision, then the specific provision prevails over the general provision. *Manuel v Gill*, 481 Mich 637, 648–649; 753 NW2d 48 (2008). Here, overweight haulers of agricultural commodities would otherwise be governed by the general provisions for special permits under MCL 257.725. But the Legislature created provisions in MCL 257.722(5) that are specific to the particular circumstances of people who haul agricultural commodities to and from farms. Therefore, when it comes to haulers of agricultural commodities that satisfy the

conditions of MCL 257.722(5), the specific provisions of subsection 722(5) prevail over the general permit provisions of MCL 257.725.

Additionally, the text of the statute indicates that the Legislature intended that activities subject to permits under subsection 722(5) not be subject to the special permit provisions in MCL 257.725. The sections do not reference each other directly, and they use different language. For example, a permit under subsection 722(5) is available only to “a person hauling agricultural commodities.” But the special permit under MCL 257.725 is available for any “vehicle or combination of vehicles.” MCL 257.725(1).

And again, even if an applicant under MCL 257.725 demonstrates good cause, the county road commission has discretion, and “may” issue the permit. MCL 257.725(1). But if an applicant under subsection 722(5) satisfies the conditions in that subsection, the road commission “shall issue” the permit. While “the term ‘may’ is permissive . . . the term ‘shall,’ . . . is a mandatory term, not a permissive one.” *In re Forfeiture of Bail Bond*, 496 Mich 320, 328; 852 NW2d 747 (2014) (internal quotations omitted). These differing standards further demonstrate that the Legislature intended subsection 722(5) to operate independently of the more general permitting requirements of MCL 257.725.

To qualify for a permit under subsection 722(5), an applicant must satisfy four conditions: first, the applicant must be “a person hauling agricultural commodities” as that term is defined in the statute; second, the applicant must be a “person who picks up or delivers the agricultural commodity either from a farm or to a farm”; third, the applicant must notify “the county road commission . . . not less than 48 hours before the pickup or delivery of the time and location of the pickup or delivery”; and fourth, the

applicant must pay a reasonable fee. MCL 257.722(5). If the applicant satisfies these conditions, then the county road commission “shall issue” a permit. *Id.*

The permit that the county road commission is required to issue must designate a route, identify a time period during which the load may be picked up or delivered, and set a speed limit if necessary. But subsection 722(5)(d) then provides that “the permit shall contain . . . [a]ny other specific conditions *agreed to* between the parties.” (Emphasis added).

The phrase “agreed to between the parties” indicates that the inclusion of “other specific conditions” in the permit requires the agreement of both the hauler and the county road commission. County road commissions have no express authority to unilaterally impose “other specific conditions.” If the parties agree to “other specific conditions,” then those conditions “shall” be included in the permit. MCL 257.722(5)(d). But if the parties do not agree to “other specific conditions,” then subsection 722(5)(d) does not require that any extra conditions be included in the permit. The language of subsection 722(5)(d) is unambiguous. It plainly makes the inclusion of “other special conditions” in the permit conditional on the agreement of the parties.

When the specific grant of authority described in subsection 722(5) is read in the context of a county road commission’s general authority and the other provisions of the Code discussed above, the statute’s plain language indicates that county road commissions do not have the authority to require “other specific conditions” before issuing a permit under subsection 722(5). Such a reading does not frustrate the general duty of county road commissions to ensure that the public roads within its control are kept “in reasonable repair, so that they are reasonably safe and convenient for public travel.” MCL 224.21(2). While the Legislature imposed this duty on counties, and therefore on county road commissions, the duty is not a general grant of authority to the

commissions to take any action they deem necessary. This is evidenced by the fact that the Legislature carefully outlines a county road commission’s authority to carry out this duty.

It is my opinion, therefore, that a county road commission cannot refuse to issue a permit to a person hauling agricultural commodities under MCL 257.722(5) of the Code on the basis that the hauler has not agreed to additional conditions required by the county road commission but not expressly required by subsections 722(5)(a)-(c).

You next ask whether a county road commission can charge a fee to issue a permit under MCL 257.722(5) that exceeds the administrative costs the commission incurred to issue the permit.

Relevant to this question, subsection 722(5) provides that “[t]he county road commission shall issue a permit to the person and charge a fee that *does not exceed* the administrative costs incurred.” MCL 257.722(5) (emphasis added). As explained above, a county road commission has only the authority “which is legislatively conferred” in a statute. *Arrowhead Dev Co*, 413 Mich at 512. And when interpreting statutes, the goal is to give effect to the intent of the Legislature by focusing on the statute’s plain language. *Malpass*, 494 Mich at 247-248. The plain language of subsection 722(5) says that the fee a county road commission charges to issue a permit under that subsection “shall . . . not exceed the administrative costs incurred.” There is no indication that the county road commission can charge a fee to cover administrative costs it “incurred” doing anything other than the steps required to “issue a permit” under subsection 722(5).

When the Legislature intends to authorize a county road commission to charge a fee for a permit based on a measure other than the administrative costs the commission incurred to issue the permit, it does so expressly. For example, depending on the nature of an application for a special permit under MCL 257.725, the Legislature authorizes the county road commission to charge “a reasonable inspection

fee,” MCL 257.725(4), a set dollar amount that can only be increased annually based on the “consumer price index,” MCL 257.725(5), or, similar to subsection 722(5), a fee that “shall not exceed the administrative costs incurred . . . in issuing the permit,” MCL 257.725(6). In contrast, the Legislature did not provide the imposition of such fees in subsection 722(5).

Again, the provisions for a special permit in MCL 257.725 are completely separate from the provisions for a permit under subsection 722(5). The only fee the Legislature authorizes a county road commission to charge for a permit under subsection 722(5) is one that “does not exceed the administrative costs incurred” by the commission to issue the permit.

It is my opinion, therefore, that a county road commission cannot charge a person requesting a permit under MCL 257.722(5) of the Code a fee in excess of the administrative costs the county road commission incurred to issue the permit.



BILL SCHUETTE  
Attorney General

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**CORRECTION OF OBVIOUS  
ERRORS IN PUBLICATION**

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*MCL 24.256(1) states in part:*

*“Sec. 56. (1) The Office of Regulatory Reform shall perform the editorial work for the Michigan register and the Michigan Administrative Code and its annual supplement. The classification, arrangement, numbering, and indexing of rules shall be under the ownership and control of the Office of Regulatory Reform, shall be uniform, and shall conform as nearly as practicable to the classification, arrangement, numbering, and indexing of the compiled laws. The Office of Regulatory Reform may correct in the publications obvious errors in rules when requested by the promulgating agency to do so...”*

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**CORRECTION OF OBVIOUS  
ERRORS IN PUBLICATION**

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March 24, 2015

VIA E-MAIL

Ms. Deidre O’Berry  
Office of Regulatory Reinvention  
Department of Licensing and Regulatory Affairs  
Ottawa Building, 2nd Floor  
611 West Ottawa Street  
Lansing, Michigan 48909

Dear Ms. O’Berry:

SUBJECT: Request for Correction of the Michigan Administrative Code, ORR 2013-101 EQ

The Department of Environmental Quality (DEQ), as the promulgating agency, is writing to request that the Office of Regulatory Reinvention exercise its discretion to correct an obvious error in the Michigan Administrative Code, pursuant to Section 56(1), MCL 24.256, of the Administrative Procedures Act, 1969 PA 306, as amended.

The error is contained in R 324.1204(7). This rule was promulgated as part of a series of revisions to the Oil and Gas Operations rules, identified as ORR 2013-101 EQ. The rules became effective on March 11, 2015.

Specifically, R 324.1204(6) was amended to state that an answer to a petition for hearing must be received by the supervisor and petitioner not fewer than 5 days before the hearing. It was intended subrule (7) of R 324.1204 was to be amended with the exact same language but somehow, the change did not get made and now the two subrules conflict. Subrule (6) requires someone to submit an answer so that it is received at least 5 days before the hearing while subrule (7) allows people to mail the answer 5 days before the hearing. If there is a weekend and/or holiday less than 5 days before the hearing, the Department of Environmental Quality might not receive the answer before the hearing. These two paragraphs previously had the same language and the intent was for them to have the same amended language.

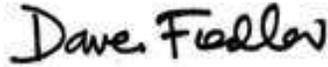
R 324.1204(7) should be corrected as follows:

(7) The notice of hearing shall contain the following statement:  
You can obtain a copy of the written petition by requesting one in writing from the petitioner at \_\_\_\_\_ . Take note that if you wish to participate as a party in the hearing by presenting evidence or cross-examining witnesses, you shall ~~prepare and mail or otherwise~~ deliver to the petitioner and supervisor, not less than 5 days before the hearing date, an answer to the petition in the manner set forth in R 324.1204(6). Proof of mailing or delivering the answer shall be filed with the supervisor on or before the date of hearing.

The answer shall state with specificity the interested person's position with regard to the petition. Failure to prepare and serve an answer in a timely manner shall preclude you from presenting evidence or cross-examining witnesses at the hearing. If an answer to the petition is not filed, the supervisor may elect to consider the petition and enter an order without oral hearing.

Please note the correction in both the *Michigan Register* and the Michigan Administrative Code.

Sincerely,



David Fiedler  
Regulatory Affairs Officer  
517-284-6705

cc: Mr. Dan Wyant, Director, DEQ

Mr. Jim Sygo, Deputy Director, DEQ

Ms. Madhu R. Anderson, Director of Policy, DEQ  
Ms. Maggie Datema, Director of Legislative Affairs, DEQ  
Mr. Hal Fitch, DEQ  
Ms. Sue Maul, DEQ  
Mr. Adam Wygant, DEQ  
OOGM File ORR 2013-101 EQ File

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**CORRECTION OF OBVIOUS  
ERRORS IN PUBLICATION**

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March 13, 2015

Liz Smalley  
Office of Regulatory Reinvention  
Ottawa Building, 2<sup>nd</sup> Floor  
611 W. Ottawa Street  
Lansing, Michigan 48909

Dear Ms. Smalley:

The Liquor Control Commission is requesting the Office of Regulatory Reinvention correct one obvious error under MCL 24.256(1) of the Administrative Procedures Act that was noted in R 436.1959(2) of the Church or School Hearings rules.

Subsection (2) of R 436.1959 requires the representative of the church or school to be prepared to show that the church or school objecting to the issuance of a liquor license “meets the definition of section 107(5) or 111(8) of the act. The “act” is defined as “1998 P.A. 58, MCL 436.1101 et. seq” and is commonly known as the Liquor Control Code of 1998.” This rule, along with the other rules contained in the Church or School Hearings rules, was amended, effective May 30, 2003, specifically to correct the statutory references to reflect the proper citations in the act.

During the course of amending this rule, a statutory change was passed by the legislature to create the “Class G-1” and “Class G-2” licenses. Definitions of these licenses were included in section 107 of the act, MCL 436.1107(3) and (4), respectively. This changed the numbering in this section and the definition of “church” was modified from subsection (5) to subsection (7). This legislative change was unintentionally overlooked in making the corrections to the statutory citations in this rule.

Therefore, the Liquor Control Commission is requesting that R 436.1959(2) be amended under MCL 436.256(1) of the Administrative Procedures Act to reference section 107(7) instead of section 107(5) of the act, due to an obvious error.

If you have any questions, please do not hesitate to contact us at 517-284-6310.

Sincerely,

Andrew J. Deloney, Chairman  
Michigan Liquor Control Commission

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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2015 SESSION)**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(i) Other official information considered necessary or appropriate by the Office of Regulatory Reform.”*

*The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).*

**MICHIGAN ADMINISTRATIVE CODE TABLE  
(2015 RULE FILINGS)**

R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue
38.22	R	1	38.1673	R	1	225.10	R	1
38.23	R	1	38.1674	R	1	247.351	R	1
38.24	R	1	38.1675	R	1	247.403	R	1
38.25	R	1	38.1676	R	1	247.404	R	1
38.28	R	1	38.1677	R	1	247.405	R	1
38.71	R	1	38.1678	R	1	247.406	R	1
38.72	R	1	38.1679	R	1	247.741	R	1
38.73	R	1	38.1680	R	1	247.742	R	1
38.74	R	1	38.1681	R	1	247.748	R	1
38.75	R	1	38.1682	R	1	281.811	*	5
38.76	R	1	38.1683	R	1	285.900.1	R	3
38.77	R	1	38.1684	R	1	299.4101	*	5
38.78	R	1	38.1685	R	1	299.4102	*	5
38.79	R	1	38.1686	R	1	299.4103	*	5
38.80	R	1	38.2171	R	1	299.4104	*	5
38.81	R	1	38.2172	R	1	299.4105	*	5
38.82	R	1	38.2173	R	1	299.4106a	*	5
38.83	R	1	38.2174	R	1	299.4110	*	5
38.84	R	1	38.2175	R	1	299.4111	*	5
38.85	R	1	38.2176	R	1	299.4117	*	5
38.86	R	1	38.2177	R	1	299.4121	*	5
38.1371	R	1	38.2178	R	1	299.4128	*	5
38.1372	R	1	38.2179	R	1	299.4201	*	5
38.1373	R	1	38.2180	R	1	299.4203	*	5
38.1374	R	1	38.2181	R	1	299.4302	*	5
38.1375	R	1	38.2182	R	1	299.4307	*	5
38.1376	R	1	38.2183	R	1	299.4318	*	5
38.1377	R	1	38.2184	R	1	299.4420	*	5
38.1378	R	1	38.2185	R	1	299.4428	*	5
38.1379	R	1	38.2186	R	1	299.4430	*	5
38.1380	R	1	225.1	R	1	299.4440	*	5
38.1381	R	1	225.2	R	1	299.4701	*	5
38.1382	R	1	225.3	R	1	299.4702	*	5
38.1383	R	1	225.4	R	1	299.4703	*	5
38.1384	R	1	225.5	R	1	299.4706	*	5
38.1385	R	1	225.6	R	1	299.4707	*	5
38.1386	R	1	225.7	R	1	299.4708	*	5
38.1671	R	1	225.8	R	1	299.4709	*	5
38.1672	R	1	225.9	R	1	299.4710	*	5

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

2015 MR 6 – April 15, 2015

R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue
299.4711	*	5	324.130	*	5	324.1405	A	5
299.4712	*	5	324.201	*	5	324.1406	A	5
299.4806	*	5	324.202	*	5	325.9571	R	1
299.4118a	A	5	324.203	*	5	325.9572	R	1
324.1	R	1	324.206	*	5	325.9573	R	1
324.2	R	1	324.210	*	5	325.9574	R	1
324.3	R	1	324.301	*	5	325.9575	R	1
324.21	R	1	324.302	*	5	325.9576	R	1
324.23	R	1	324.303	*	5	325.9577	R	1
324.24	R	1	324.407	*	5	325.9578	R	1
324.31	R	1	324.411	*	5	325.9579	R	1
324.32	R	1	324.102	*	5	325.9580	R	1
324.33	R	1	324.130	*	5	325.9581	R	1
324.41	R	1	324.201	*	5	325.9582	R	1
324.42	R	1	324.202	*	5	325.22346	R	1
324.43	R	1	324.203	*	5	325.22347	R	1
324.51	R	1	324.206	*	5	325.22348	R	1
324.52	R	1	324.210	*	5	325.22349	R	1
324.53	R	1	324.301	*	5	325.22350	R	1
324.54	R	1	324.302	*	5	325.22351	R	1
324.55	R	1	324.303	*	5	325.22352	R	1
324.56	R	1	324.407	*	5	325.22353	R	1
324.57	R	1	324.411	*	5	325.22354	R	1
324.58	R	1	324.413	*	5	325.22355	R	1
324.59	R	1	324.418	*	5	325.22356	R	1
324.59a	R	1	324.503	*	5	325.22357	R	1
324.59b	R	1	324.511	*	5	325.22358	R	1
324.59c	R	1	324.613	*	5	325.22359	R	1
324.59d	R	1	324.705	*	5	325.22360	R	1
324.59e	R	1	324.801	*	5	325.22361	R	1
324.61	R	1	324.1015	*	5	325.22362	R	1
324.62	R	1	324.1103	*	5	325.47401	A	4
324.63	R	1	324.1202	*	5	325.47403	A	4
324.64	R	1	324.1204	*	5	325.47405	A	4
324.65	R	1	324.1206	*	5	325.47407	A	4
324.71	R	1	324.1401	A	5	325.47408	A	4
324.72	R	1	324.1402	A	5	325.47409	A	4
324.75	R	1	324.1403	A	5	325.47410	A	4
324.102	*	5	324.1404	A	5	325.47411	A	4

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

2015 MR 6 – April 15, 2015

R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue
325.47414	A	4	325.50059a	A	7	325.51508	*	4
325.47415	A	4	325.50059b	A	7	325.51509	*	4
325.47416	A	4	325.50060a	A	7	325.51510	*	4
325.47417	A	4	325.50060b	A	7	325.51511	*	4
325.47418	A	4	325.50061a	A	7	325.51513	*	4
325.47419	A	4	325.50061b	A	7	325.51516	*	4
325.47420	A	4	325.50061c	A	7	325.51517	*	4
325.47424	A	4	325.50062a	A	7	325.51519	*	4
325.47425	A	4	325.50062b	A	7	325.51520	*	4
OHR 4201	R	4	325.50063a	A	7	325.51521	*	4
OHR 4202	R	4	325.50063b	A	7	325.51522	*	4
325.50051	*	7	325.50064a	A	7	325.51523	*	4
325.50052	*	7	325.50064b	A	7	325.51524	*	4
325.50054	*	7	325.50067a	A	7	325.51525	*	4
325.50055	*	7	325.50067b	A	7	325.51526	*	4
325.50056	*	7	325.50067c	A	7	325.51501a	A	4
325.50057	*	7	325.50069a	A	7	325.51519a	A	4
325.50058	*	7	325.50070a	A	7	325.51504	R	4
325.50059	*	7	325.51152	*	4	325.51527	R	4
325.50060	*	7	325.51156	*	4	325.51902	*	4
325.50061	*	7	325.51158	*	4	325.51903	*	4
325.50062	*	7	325.51162	*	4	325.51904	*	4
325.50063	*	7	325.51163	*	4	325.51905	*	4
325.50064	*	7	325.51164	*	4	325.51906	*	4
325.50065	*	7	325.51166	*	4	325.51907	*	4
325.50066	*	7	325.51167	*	4	325.51908	*	4
325.50067	*	7	325.51169	*	4	325.51909	*	4
325.50068	*	7	325.51172	*	4	325.51910	*	4
325.50069	*	7	325.51173	*	4	325.51912	*	4
325.50070	*	7	325.51174	*	4	325.51913	*	4
325.50071	*	7	325.51175	*	4	325.51914	*	4
325.50072	*	7	325.51151a	A	4	325.51915	*	4
325.50051a	A	7	325.51156a	A	4	325.51916a	*	4
325.50053a	A	7	325.51168a	A	4	325.51916b	*	4
325.50056a	A	7	325.51177	R	4	325.51917	*	4
325.50056b	A	7	325.51501	*	4	325.51918	*	4
325.50056c	A	7	325.51502	*	4	325.51922	*	4
325.50056d	A	7	325.51505	*	4	325.51923	*	4
325.50056e	A	7	325.51507	*	4	325.51924	*	4

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

2015 MR 6 – April 15, 2015

R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue
325.51925	*	4	333.103	*	1	338.3001	R	5
325.51926	*	4	333.105	*	1	338.3002	R	5
325.51928	*	4	333.109	*	1	338.3003	R	5
325.51929	*	4	333.111	*	1	338.3004	R	5
325.51930	*	4	333.113	*	1	338.3005	R	5
325.51931	*	4	333.117	*	1	338.3006	R	5
325.51931a	*	4	333.119	*	1	338.3007	R	5
325.51932	*	4	333.123	*	1	338.3801	R	6
325.51933	*	4	333.125	*	1	338.11109	R	6
325.51934	*	4	333.131	*	1	338.11115	R	6
325.51935	*	4	333.133	*	1	338.30310	R	5
325.51936	*	4	333.126	A	1	339.1701	R	1
325.51937	*	4	333.107	R	1	339.1705	R	1
325.51938	*	4	333.121	R	1	339.1709	R	1
325.51938a	*	4	333.127	R	1	339.1713	R	1
325.51939	*	4	338.1601	R	1	339.1721	R	1
325.51940	*	4	338.1602	R	1	339.1741	R	1
325.51941	*	4	338.1610	R	1	339.1743	R	1
325.51943	*	4	338.1611	R	1	339.1745	R	1
325.51944	*	4	338.1614	R	1	339.1747	R	1
325.51945	*	4	338.1616	R	1	339.1751	R	1
325.51946	*	4	338.1617	R	1	339.1755	R	1
325.51947	*	4	338.1618	R	1	339.1757	R	1
325.51948	*	4	338.1619	R	1	339.1759	R	1
325.51949	*	4	338.1620	R	1	339.1761	R	1
325.51950	*	4	338.1621	R	1	339.1763	R	1
325.51950a	*	4	338.1622	R	1	339.1765	R	1
325.51950b	*	4	338.1623	R	1	339.1767	R	1
325.51951	*	4	338.1624	R	1	339.1771	R	1
325.51952	*	4	338.1625	R	1	339.23102	*	5
325.51953	*	4	338.1626	R	1	339.23403	*	5
325.51955	*	4	338.1627	R	1	340.1883	R	1
325.51956	*	4	338.1628	R	1	340.1884	R	1
325.51957	*	4	338.1629	R	1	340.1885	R	1
325.51902a	A	4	338.1633	R	1	380.126	R	1
325.51924a	A	4	338.1634	R	1	380.127	R	1
325.51921	R	4	338.1635	R	1	380.128	R	1
325.51958	R	4	338.1636	R	1	380.129	R	1
333.101	*	1	338.1637	R	1	380.132	R	1

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

2015 MR 6 – April 15, 2015

R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue
380.133	R	1	400.3160	*	6	408.14004	*	7
380.134	R	1	400.3161	*	6	408.14005	*	7
390.1202	R	1	400.3162	*	6	408.14008	*	7
390.1206	R	1	400.3163	*	6	408.14009	*	7
390.1207	R	1	400.3164	*	6	408.14001a	A	7
390.1209	R	1	400.3165	*	6	408.14001b	A	7
390.1210	R	1	400.3168	*	6	408.15915	*	7
390.1212	R	1	400.3169	*	6	408.15922	*	7
390.1213	R	1	400.3170	*	6	408.15923	*	7
390.1214	R	1	400.3171	*	6	408.15903	A	7
390.1251	R	1	400.3173	*	6	408.15911	R	7
400.901	R	1	400.3178	*	6	408.16204	*	7
400.902	R	1	400.3179	*	6	408.16223	*	7
400.903	R	1	400.3167	R	6	408.16227	*	7
400.905	R	1	400.3401	R	1	408.16234	*	7
400.906	R	1	400.3403	R	1	408.16237	*	7
400.907	R	1	400.3409	R	1	408.16251	*	7
400.908	R	1	400.3410	R	1	408.16202	A	7
400.909	R	1	400.3411	R	1	408.22951	R	1
400.910	R	1	400.3412	R	1	408.22952	R	1
400.911	R	1	400.3413	R	1	408.22953	R	1
400.912	R	1	400.3414	R	1	408.22954	R	1
400.913	R	1	400.3415	R	1	408.22955	R	1
400.914	R	1	400.3416	R	1	408.22956	R	1
400.915	R	1	400.3417	R	1	408.22957	R	1
400.916	R	1	400.3418	R	1	408.22958	R	1
400.917	R	1	400.3419	R	1	408.22959	R	1
400.918	R	1	400.3420	R	1	408.22960	R	1
400.919	R	1	400.3421	R	1	408.22961	R	1
400.920	R	1	400.3422	R	1	408.22962	R	1
400.921	R	1	400.3423	R	1	408.22963	R	1
400.922	R	1	408.6203	R	5	408.22964	R	1
400.941	R	1	408.6204	R	5	408.22965	R	1
400.3151	*	6	408.6206	R	5	408.22966	R	1
400.3155	*	6	408.6208	R	5	408.22967	R	1
400.3156	*	6	408.6209	R	5	408.22968	R	1
400.3157	*	6	408.6301	R	5	408.22969	R	1
400.3158	*	6	408.14001	*	7	408.22970	R	1
400.3159	*	6	408.14002	*	7	408.22971	R	1

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

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R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue
408.40115	*	4	408.41861	*	7	408.42737	R	7
408.40120	*	4	408.41862	*	7	408.42741	R	7
408.40121	*	4	408.41863	*	7	408.42742	R	7
408.40122	*	4	408.41864	*	7	408.42743	R	7
408.40123	*	4	408.41865	*	7	408.42744	R	7
408.40128	*	4	408.41866	*	7	408.42751	R	7
408.40130	*	4	408.41867	*	7	408.42752	R	7
408.40131	*	4	408.41868	*	7	408.42753	R	7
408.40132	*	4	408.41869	*	7	408.42754	R	7
408.40133	*	4	408.41874	*	7	408.42755	R	7
408.40105	A	4	408.41875	*	7	408.42757	R	7
408.40601	*	6	408.41877	*	7	408.42758	R	7
408.40603	*	6	408.41884	*	7	408.42759	R	7
408.40617a	*	6	408.41861a	A	7	408.42761	R	7
408.40623	*	6	408.41861b	A	7	408.42762	R	7
408.40625	*	6	408.41861c	A	7	408.42763	R	7
408.40631	*	6	408.41861d	A	7	408.42799	R	7
408.40650	A	6	408.41877a	A	7	408.44501	*	7
408.40655	A	6	408.41871	R	7	408.44502	*	7
408.40660	A	6	408.41872	R	7	418.1	R	1
408.40709	*	4	408.41876	R	7	418.2	R	1
408.40713	*	4	408.41878	R	7	418.3	R	1
408.40721	*	4	408.41879	R	7	418.4	R	1
408.40722	*	4	408.41881	R	7	418.5	R	1
408.40723	*	4	408.41882	R	7	418.6	R	1
408.40731	*	4	408.41883	R	7	418.7	R	1
408.40751	*	4	408.42701	*	7	418.8	R	1
408.40761	*	4	408.42705	A	7	418.51	R	1
408.40762	*	4	408.42710	R	7	418.52	R	1
408.41802	*	7	408.42724	R	7	418.53	R	1
408.41836	*	7	408.42725	R	7	418.54	R	1
408.41837	*	7	408.42726	R	7	418.55	R	1
408.41838	*	7	408.42727	R	7	418.56	R	1
408.41841	*	7	408.42728	R	7	418.57	R	1
408.41851	*	7	408.42731	R	7	418.58	R	1
408.41852	*	7	408.42732	R	7	421.1101	R	1
408.41853	*	7	408.42733	R	7	421.1102	R	1
408.41854	*	7	408.42734	R	7	421.1103	R	1
408.41855	*	7	408.42735	R	7	421.1104	R	1

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

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R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue
421.1105	R	1	460.17109	R	1	460.17513	R	1
421.1106	R	1	460.17111	R	1	460.17515	R	1
421.1107	R	1	460.17113	R	1	460.17601	R	1
421.1108	R	1	460.17115	R	1	460.17701	R	1
421.1109	R	1	460.17201	R	1	500.2101	R	1
421.1110	R	1	460.17203	R	1	500.2105	R	1
421.1201	R	1	460.17205	R	1	500.2106	R	1
421.1202	R	1	460.17207	R	1	500.2107	R	1
421.1203	R	1	460.17209	R	1	500.2109	R	1
421.1204	R	1	460.17301	R	1	500.2110	R	1
421.1205	R	1	460.17303	R	1	500.2111	R	1
421.1206	R	1	460.17305	R	1	500.2112	R	1
421.1207	R	1	460.17307	R	1	500.2113	R	1
421.1208	R	1	460.17309	R	1	500.2114	R	1
421.1209	R	1	460.17311	R	1	500.2115	R	1
421.1210	R	1	460.17313	R	1	500.2116	R	1
421.1211	R	1	460.17315	R	1	500.2117	R	1
421.1212	R	1	460.17317	R	1	500.2118	R	1
421.1213	R	1	460.17319	R	1	500.2119	R	1
421.1214	R	1	460.17321	R	1	500.2120	R	1
421.1301	R	1	460.17323	R	1	500.2121	R	1
421.1302	R	1	460.17325	R	1	500.2122	R	1
421.1304	R	1	460.17327	R	1	500.2123	R	1
421.1305	R	1	460.17329	R	1	500.2124	R	1
421.1306	R	1	460.17331	R	1	500.2125	R	1
421.1307	R	1	460.17333	R	1	500.2126	R	1
421.1308	R	1	460.17335	R	1	500.2127	R	1
421.1309	R	1	460.17337	R	1	500.2128	R	1
421.1310	R	1	460.17339	R	1	500.2129	R	1
421.1311	R	1	460.17341	R	1	500.2130	R	1
421.1313	R	1	460.17401	R	1	500.2131	R	1
421.1314	R	1	460.17403	R	1	500.2134	R	1
421.1315	R	1	460.17405	R	1	500.2136	R	1
421.1316	R	1	460.17501	R	1	500.2137	R	1
421.1317	R	1	460.17503	R	1	500.2138	R	1
460.17101	R	1	460.17505	R	1	554.1	R	5
460.17103	R	1	460.17507	R	1	554.2	R	5
460.17105	R	1	460.17509	R	1	554.3	R	5
460.17107	R	1	460.17511	R	1	554.4	R	5

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

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R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue
554.5	R	5	792.10104	A	1	792.10213	*	1
554.6	R	5	792.10105	A	1	792.10215	*	1
554.21	R	5	792.10106	A	1	792.10219	*	1
554.22	R	5	792.10107	A	1	792.10221	*	1
554.23	R	5	792.10108	A	1	792.10223	*	1
554.24	R	5	792.10109	A	1	792.10225	*	1
554.25	R	5	792.10110	A	1	792.10227	*	1
554.26	R	5	792.10111	A	1	792.10229	*	1
554.27	R	5	792.10112	A	1	792.10231	*	1
554.28	R	5	792.10113	A	1	792.10233	*	1
554.29	R	5	792.10114	A	1	792.10237	*	1
554.31	R	5	792.10115	A	1	792.10239	*	1
554.32	R	5	792.10116	A	1	792.10241	*	1
554.33	R	5	792.10117	A	1	792.10243	*	1
554.34	R	5	792.10118	A	1	792.10247	*	1
554.35	R	5	792.10119	A	1	792.10251	*	1
554.41	R	5	792.10120	A	1	792.10253	*	1
554.42	R	5	792.10121	A	1	792.10255	*	1
554.51	R	5	792.10122	A	1	792.10257	*	1
554.52	R	5	792.10123	A	1	792.10259	*	1
554.53	R	5	792.10124	A	1	792.10261	*	1
554.61	R	5	792.10125	A	1	792.10263	*	1
554.62	R	5	792.10126	A	1	792.10265	*	1
554.63	R	5	792.10128	A	1	792.10269	*	1
554.64	R	5	792.10129	A	1	792.10271	*	1
554.65	R	5	792.10130	A	1	792.10273	*	1
554.66	R	5	792.10131	A	1	792.10275	*	1
554.67	R	5	792.10132	A	1	792.10277	*	1
554.68	R	5	792.10133	A	1	792.10279	*	1
554.69	R	5	792.10134	A	1	792.10283	*	1
554.70	R	5	792.10135	A	1	792.10287	*	1
554.71	R	5	792.10136	A	1	792.10289	*	1
791.3301	R	1	792.10137	A	1	792.10301	A	1
791.3305	R	1	792.10201	*	1	792.10302	A	1
791.3310	R	1	792.10203	*	1	792.10303	A	1
791.3315	R	1	792.10205	*	1	792.10304	A	1
792.10101	A	1	792.10207	*	1	792.10305	A	1
792.10102	A	1	792.10209	*	1	792.10306	A	1

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

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R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue
792.10402	A	1	792.10441	A	1	792.10711	A	1
792.10403	A	1	792.10442	A	1	792.10712	A	1
792.10404	A	1	792.10443	A	1	792.10713	A	1
792.10405	A	1	792.10444	A	1	792.10714	A	1
792.10406	A	1	792.10445	A	1	792.10715	A	1
792.10407	A	1	792.10446	A	1	792.10801	A	1
792.10408	A	1	792.10447	A	1	792.10802	A	1
792.10409	A	1	792.10448	A	1	792.10803	A	1
792.10410	A	1	792.10501	A	1	792.10804	A	1
792.10411	A	1	792.10502	A	1	792.10805	A	1
792.10412	A	1	792.10503	A	1	792.10806	A	1
792.10413	A	1	792.10504	A	1	792.10807	A	1
792.10414	A	1	792.10505	A	1	792.10808	A	1
792.10415	A	1	792.10506	A	1	792.10809	A	1
792.10416	A	1	792.10507	A	1	792.10901	A	1
792.10417	A	1	792.10508	A	1	792.10902	A	1
792.10418	A	1	792.10509	A	1	792.10903	A	1
792.10419	A	1	792.10510	A	1	792.10904	A	1
792.10420	A	1	792.10511	A	1	792.10905	A	1
792.10421	A	1	792.10512	A	1	792.10906	A	1
792.10422	A	1	792.10601	A	1	792.10907	A	1
792.10423	A	1	792.10602	A	1	792.10908	A	1
792.10424	A	1	792.10603	A	1	792.10909	A	1
792.10425	A	1	792.10604	A	1	792.10910	A	1
792.10426	A	1	792.10605	A	1	792.10911	A	1
792.10427	A	1	792.10606	A	1	792.10912	A	1
792.10428	A	1	792.10607	A	1	792.11001	A	1
792.10429	A	1	792.10608	A	1	792.11002	A	1
792.10430	A	1	792.10609	A	1	792.11003	A	1
792.10431	A	1	792.10701	A	1	792.11004	A	1
792.10432	A	1	792.10702	A	1	792.11005	A	1
792.10433	A	1	792.10703	A	1	792.11006	A	1
792.10434	A	1	792.10704	A	1	792.11007	A	1
792.10435	A	1	792.10705	A	1	792.11008	A	1
792.10436	A	1	792.10706	A	1	792.11009	A	1
792.10437	A	1	792.10707	A	1	792.11010	A	1
792.10438	A	1	792.10708	A	1	792.11011	A	1
792.10439	A	1	792.10709	A	1	792.11012	A	1
792.10440	A	1	792.10710	A	1	792.11013	A	1

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

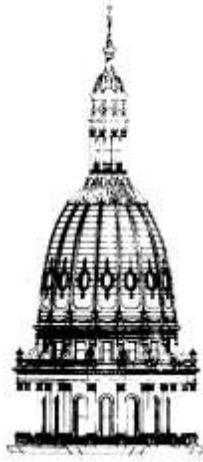
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R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue	R Number	Action	2015 MR Issue
792.11014	A	1	792.11208	A	1	792.11419	A	1
792.11015	A	1	792.11301	A	1	792.11420	A	1
792.11016	A	1	792.11302	A	1	792.11421	A	1
792.11017	A	1	792.11303	A	1	792.11422	A	1
792.11018	A	1	792.11304	A	1	792.11423	A	1
792.11019	A	1	792.11305	A	1	792.11424	A	1
792.11020	A	1	792.11306	A	1	792.11425	A	1
792.11021	A	1	792.11307	A	1	792.11426	A	1
792.11022	A	1	792.11309	A	1	792.11427	A	1
792.11023	A	1	792.11310	A	1	792.11428	A	1
792.11024	A	1	792.11311	A	1	792.11429	A	1
792.11025	A	1	792.11312	A	1	792.11430	A	1
792.11026	A	1	792.11313	A	1	792.11431	A	1
792.11027	A	1	792.11314	A	1	792.11432	A	1
792.11101	A	1	792.11315	A	1	792.11433	A	1
792.11102	A	1	792.11316	A	1	792.11501	A	1
792.11103	A	1	792.11317	A	1	792.11502	A	1
792.11104	A	1	792.11318	A	1	792.11503	A	1
792.11105	A	1	792.11319	A	1	792.11504	A	1
792.11106	A	1	792.11320	A	1	792.11505	A	1
792.11107	A	1	792.11321	A	1	792.11506	A	1
792.11108	A	1	792.11401	A	1	792.11507	A	1
792.11109	A	1	792.11402	A	1	792.11508	A	1
792.11110	A	1	792.11403	A	1	792.11509	A	1
792.11111	A	1	792.11404	A	1	792.11510	A	1
792.11112	A	1	792.11405	A	1	792.11511	A	1
792.11113	A	1	792.11406	A	1	792.11512	A	1
792.11114	A	1	792.11407	A	1	792.11513	A	1
792.11115	A	1	792.11408	A	1	792.11514	A	1
792.11116	A	1	792.11409	A	1	792.11515	A	1
792.11117	A	1	792.11410	A	1	792.11516	A	1
792.11118	A	1	792.11411	A	1	792.11517	A	1
792.11201	A	1	792.11412	A	1	792.11601	A	1
792.11202	A	1	792.11413	A	1	792.11602	A	1
792.11203	A	1	792.11414	A	1	792.11603	A	1
792.11204	A	1	792.11415	A	1	792.11604	A	1
792.11205	A	1	792.11416	A	1	792.11605	A	1
792.11206	A	1	792.11417	A	1	792.11606	A	1
792.11207	A	1	792.11418	A	1	792.11607	A	1

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2015 MR Issue
792.11608	A	1
792.11609	A	1
792.11610	A	1
792.11611	A	1
792.11701	A	1
792.11702	A	1
792.11703	A	1
792.11704	A	1
792.11705	A	1
792.11706	A	1
792.11707	A	1
792.11708	A	1
792.11709	A	1
792.11801	A	1
792.11802	A	1
792.11803	A	1
792.11901	A	1
792.11902	A	1
792.11903	A	1

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



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SIGNED INTO LAW OR VETOED  
(2014 SESSION)**

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*Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”*

*Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\* \* \*

*(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.*

*(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”*

# 2015 Michigan Public Acts Table

Legislative Service Bureau  
Legal Division, Statutory Compiling and Law Publications Unit  
124 W. Allegan, Lansing, MI 48909

March 24, 2015  
Through PA 7 of 2015

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
1		0044	Yes	2/19	2/20	5/21/15 #	<b>Elections; primary</b> ; presidential primary election date; revise. <b>(Sen. D. Robertson)</b>
2		0045	Yes	2/19	2/20	5/21/15 #	<b>Elections; primary</b> ; presidential primary election date; revise. <b>(Sen. D. Robertson)</b>
3		0034	Yes	3/4	3/4	3/4/15	<b>Weapons; licensing</b> ; concealed pistol licensing boards; eliminate, and transfer duties to the department of state police and county clerks. <b>(Sen. M. Green)</b>
4		0035	Yes	3/4	3/4	10/1/15 #	<b>Criminal procedure; sentencing guidelines</b> ; reference in sentencing guidelines; update. <b>(Sen. M. Green)</b>
5	4110		Yes	3/10	3/10	3/10/15	<b>Appropriations; supplemental</b> ; omnibus school aid supplemental adjusting certain appropriations and fund sources; provide for. <b>(Rep. A. Pscholka)</b>
6	4112		Yes	3/10	3/10	3/10/15	<b>Appropriations; zero budget</b> ; supplemental appropriations; provide for fiscal year 2014-2015. <b>(Rep. A. Pscholka)</b>
7	4078		Yes	3/17	3/17	3/17/15	<b>Appropriations; capital outlay</b> ; Michigan natural resources trust fund; provide appropriations. <b>(Rep. J. Bumstead)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.
- \*\* - Act takes effect on the 91st day after sine die adjournment of the Legislature.
- \*\*\* - See Act for applicable effective date.
- + - Line item veto.
- ++ - Pocket veto.
- # - Tie bar.