Michigan Register

Issue No. 5 – 2001 (Published April 1, 2001)

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, architectural renderings of the 19th century have not often 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. 5 — 2001
(This issue, published April 1, 2001, contains
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John Engler, Governor

Dick Posthumus, Lieutenant Governor

PREFACE

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.

MCL 24.208 states:

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(1) 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.

(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 transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

MCL 4.1203 states:

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 preparing, printing, and distributing the Michigan register.

(4) The department of management and budget shall sell copies of Michigan register at a price determined by the office of regulatory reform not to exceed 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 Reform 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 Reform 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 Reform, Executive Office, George W. Romney Building, 111 S. Capitol Avenue, Lansing, MI 48933

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 $110.00 per year. Submit subscription requests to: DMB, Office of Administrative Services, P.O. Box 30026, 320 South Walnut Street, Lansing, MI 48909. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reform (517) 373-0526.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reform: www.state.mi.us/orr

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reform 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.

Brian D. Devlin, Director
Office of Regulatory Reform

2001 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
	2001	
1	January 16, 2001	February 1, 2001
2	February 1, 2001	February 15, 2001
3	February 15, 2001	March 1, 2001
4	March 1, 2001	March 15, 2001
5	March 15, 2001	April 1, 2001
6	April 1, 2001	April 15, 2001
7	April 15, 2001	May 1, 2001
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19	October 15, 2001	November 1, 2001
20	November 1, 2001	November 15, 2001
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23	December 15, 2001	January 1, 2002
24	January 1, 2002	January 15, 2002

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FILED WITH THE SECRETARY OF STATE

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:

* * *

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

ADMINISTRATIVE RULES

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

STATE FIRE SAFETY BOARD

NEW AND EXISTING PENAL INSTITUTIONS FIRE SAFETY

Filed with the Secretary of State on March 5, 2001.
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the state fire safety board by section 3c of 1941 PA 207, as amended, and Executive Reorganization Order No. 1997-2, being §§29.3c and 29.451 of the Michigan Compiled Laws)

R 29.601-R 29.622 Rescinded by R 29.1711.

PART 1. GENERAL PROVISIONS

R 29.1701 Applicability.

Rule 1. These rules apply to fire safety requirements for the construction, operation, or maintenance of all new penal institutions and those existing penal institutions or portions of existing penal institutions that have been remodeled or constructed since November 17, 1982.

R 29.1702 Life safety code; adoption by reference.

Rule 2. The provisions of chapters 1 to 7, 14, 15, 32, and 33 of the national fire protection association standard no. 101, 1997 edition, entitled "Life Safety Code," referred to in these rules as "code," are adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution through the State Fire Safety Board, Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Lansing, Michigan 48913, or from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone: 800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50 per copy.

R 29.1703 General definitions.

Rule 3. (1) As used in these rules:

(a) "Act" means 1941 PA 207, as amended, being §29.1 et seq. of the Michigan Compiled Laws.

(b) "Authority having jurisdiction" means the director of the Michigan department of consumer and industry services, an employee of the department of consumer and industry

services appointed by the director to implement the act, or an employee of a city, village, or township delegated authority to enforce the code under the provisions of section 2b of the act.
(c) “Code” means national fire protection association standard no. 101, 1997 edition, entitled “Life Safety Code.”
(d) “Cosmetic remodeling” means surface changes to the wall, floor, and ceiling that do not decrease the fire rating of the wall, floor, or ceiling. Some examples of cosmetic remodeling are the replacement of windows and non-locking doors.
(e) “Existing” means any facility or portion of a facility that is constructed, reconstructed, remodeled, or added onto since November 17, 1982.
(f) “Level of exit discharge” means a floor or floors of a building that exit directly to the outside at grade. Floors that are not more than 4 feet above or below grade at exit discharge shall also be considered a level of exit discharge.
(g) “Maintenance” means repair that is required to keep the building and its component parts in an operative condition at all times. “Maintenance” includes the replacement of a building's components when, for any reason, they become undependable or inoperable. “Maintenance” does not include remodeling.
(h) “Penal institution” means a detention or correctional occupancy which provides sleeping facilities for 4 or more residents and which is occupied by persons who are generally prevented from exiting an area because of security measures not under the occupants' control.
(i) “Remodeling” means an alteration or change of fire-rated assembly, or the installation of new equipment required by these rules.
(2) Terms defined in the act have the same meanings when used in these rules.

R 29.1704 Plans and specifications.

Rule 4. (1) A penal institution or designated representative shall submit plans and specifications to the office of fire safety for all projects that involve construction, remodeling, or an addition.
(2) A penal institution or designated representative need not submit plans and specifications to the office of fire safety for maintenance or cosmetic remodeling functions; however, the penal institution or designated representative shall perform all work in compliance with these rules.
(3) Plans and specifications for work that involves the practice of architecture or engineering, as defined by the provisions of 1980 PA 299, as amended, being §339.101 et seq. of the Michigan Compiled Laws, and known as the occupational code, shall bear the seal of an architect or professional engineer who is licensed pursuant to the provisions of 1980 PA 299 of the Public Acts of 1980, as amended.
(4) Plans and specifications shall contain all of the following information, as applicable:
(a) A complete floor plan and layout of the building drawn accurately to scale.
(b) The use of each room.
(c) The dimensions of each room.
(d) The size, location, direction of swing, and fire rating of each door and frame assembly.
(e) The size and location of windows.
(f) The materials of wall assembly, including the fire-resistance rating of the wall assembly.

(g) The type of construction as identified by the provisions of the national fire protection association standard no. 220, 1995 edition, entitled "Standard for Types of Building Construction," as adopted in these rules.
(h) The number of stories, including basement and attic areas.
(i) The interior finish classification.
(j) The location of fuel-fired equipment.
(k) The type of furnace and water heater.
(l) Air-handling system specifications.
(m) Fire detection and alarm system plans and specifications that are in compliance with the provisions of the act.
(n) Sprinkler or other suppression system plans and specifications that are in compliance with the provisions of the act.
(o) The type, size, and location of fire extinguishers.
(p) Other pertinent information that is required to determine compliance with these rules.
(5) Plan approval that is given before the effective date of these rules shall terminate 6 months after the effective date of these rules if construction has not started. However, upon written request to the office of fire safety, an approval extension may be granted in a specific instance.
(6) An architect or engineer who seals plans and who ceases to be the architect or engineer of record before completion of a project shall notify the office of fire safety in writing. Construction shall not continue until a new architect or engineer of record has been identified to the office of fire safety in writing.

R 29.1705 Inspection during construction; approval for occupancy.

Rule 5. (1) During construction, addition, or remodeling, the penal institution, architect, professional engineer, or penal institution's designated representative shall notify the office of fire safety, in writing, when the building is ready for inspection under both of the following conditions:
(a) When the building is framed and mechanical systems are substantially complete, but before concealment.
(b) Upon completion of construction.
(2) A newly constructed facility or a facility that is being remodeled or added to shall not be occupied, in whole or in part, without the approval of the office of fire safety.

R 29.1706 Projects affecting outside configuration of building; site plan and specifications; office of fire safety or local fire department specifications; fire safety measures during construction.

Rule 6. (1) For a project that involves construction, addition, or remodeling which affects the outside configuration of a building, and as part of the building plans and specifications otherwise required by these rules, the penal institution or designated representative shall provide the office of fire safety and the local fire department with a site plan and specifications that detail all of the following:
(a) The available water supply.
(b) Hydrant locations.
(c) Vehicle access routes.

(d) Fire lanes.
(2) The office of fire safety or local fire department may specify any of the following:
(a) The size of the water mains that supply the hydrants.
(b) The location of hydrants.
(c) The locations and dimensions of fire department vehicle access routes.
(d) The posting of fire lanes.
(3) As soon as possible during construction, the penal institution or designated representative shall take appropriate fire safety measures, including providing fire extinguishers and fire suppression systems and establishing access routes to the building that can be traveled by fire department vehicles.

R 29.1707 Electrical equipment; inspections; certificate.

Rule 7. (1) The penal institution or a designated representative shall ensure that electrical wiring and equipment, including an emergency supply if installed, is installed in compliance with the applicable provisions of R 408.30801 et seq. of the Michigan Administrative Code. Copies of the rules are available from the Michigan Department of Consumer and Industry Services, Bureau of Construction Codes, 2501 Woodlake Circle, P.O. Box 30254, Lansing, Michigan 48909 or from the internet address www.state.mi.us/orr.
(2) The electrical inspection authority having jurisdiction shall make the electrical inspection. The electrical inspection authority shall issue a certificate of compliance covering the installation and the penal institution or designated representative shall provide a copy of the certificate to the office of fire safety.

R 29.1708 Universal amendments.

Rule 8. Sections 1-3.11.1, 6-4.3, 7-1.1, 7-4.2, 7-4.3, 7-6.3.2, 7-6.4, 33-1.1, and 33-1.2 of the national fire protection association standard no. 101, 1997 edition, entitled "Life Safety Code," are amended and sections 7-1.2, 7-4.4, 7-4.5, 7-4.7, 7-4.8, 7-6.3.3, and 7-6.5.3 are deleted, as follows:
1-3.11.1. A person may occupy a building or portion of a building during construction, repair, alterations, or additions only if all means of egress and all fire protection features in the building and on-site are in place and continuously maintained for the part occupied and if the occupied portion is separated from the part under construction by a wall that has a 1-hour-fire-resistance rating. The temporary 1-hour-rated wall that is used for separation may be constructed of combustible material. Instead of having all means of egress and fire protection features in place, the penal institution or designated representative may take other measures that would provide equivalent safety if approved by the office of fire safety.
6-4.3. The penal institution or designated representative shall store and handle flammable and combustible liquids in compliance with rules promulgated under the act.
7-1.1. The penal institution or designated representative shall ensure that equipment which utilizes gas and related gas piping is installed in compliance with the provisions of the national fire protection association standard no. 54, 1996 edition, entitled "National Fuel Gas Code," as adopted in these rules, or rules promulgated under the act, as applicable.
Exception: Existing installations may be continued in service, subject to approval by the authority having jurisdiction.

7-1.2. Deleted.
7-4.2. The penal institution or designated representative shall ensure that new elevators, escalators, dumbwaiters, and moving walks are installed in compliance with R 408.8101 et seq. of the Michigan Administrative Code.
7-4.3. The penal institution or designated representative shall ensure that existing elevators, escalators, dumbwaiters, and moving walks are in compliance with the provisions of
R 408.8101 et seq. of the Michigan Administrative Code.
7-4.4. Deleted.
7-4.5. Deleted.
7-4.7. Deleted.
7-4.8. Deleted.
7-6.3.2. The penal institution or designated representative shall ensure that notification is provided by audible and visible signals that are in compliance with sections 7-6.3.3 to 7-6.3.10 of the code.
Exception no. 1: Where permitted by sections 8 to 32 of the code, a presignal system is permitted when the initial fire alarm signal is automatically transmitted without delay to a municipal fire department or a fire brigade and to an on-site staff person who is trained to respond to a fire emergency.
Exception no. 2: Where permitted by sections 8 to 32 of the code, a positive alarm sequence shall be permitted if it is in compliance with the provisions of the national fire protection association standard no. 72, 1996 edition, entitled "National Fire Alarm Code," as adopted in these rules.
Exception no. 3: Detectors that are in compliance with the exception to section 14-3.4.3.1 of the code and the exception to section 15-3.4.3.1 of the code shall not be required to sound the building alarm.
7-6.3.3. Deleted.
7-6.4. (1) Where required by another section of the code, the penal institution or designated representative shall provide emergency forces notification to alert the municipal fire department and fire brigade, if provided, of fire or other emergency.
(2) Where fire department notification is required by another section of the code, the penal institution or designated representative shall ensure that the fire alarm system is arranged to transmit the alarm automatically by any of the following means acceptable to the authority having jurisdiction and in compliance with national fire protection association standard no. 72, 1996 edition, entitled "National Fire Alarm Code," as adopted in these rules:
(a) An auxiliary alarm system.
(b) A central station connection.
(c) A proprietary system.
(d) A remote station connection.
(3) A facility is in compliance with required emergency forces notification if it has written policy and procedure that is approved by the authority having jurisdiction. The policy and procedure shall provide for all of the following:
(a) The designation of a staff member on each shift to be responsible for notifying a local fire department.

(b) The availability at all times of a nonpay telephone for employees who are designated under subdivision (a) of this subrule to notify a local fire department.
(c) That the telephone number of the local fire department is conspicuously posted near the telephone.
(d) A requirement that notification of the fire department is incorporated into all fire drills.
7-6.5.3. Deleted.
33-1.1. The standards specified in this rule are adopted by reference as part of these rules. Copies of the adopted standards are available for review at the office of the State Fire Safety Board, Office of Fire Safety, Consumer and Industry Services, 7150 Harris Drive, Lansing, Michigan 48909. Copies of adopted national fire protection association standards may be purchased from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1-800-344-3555, internet address www.nfpa.org. The costs of the standards as of the time of adoption of these rules are as indicated:
NFPA 10, 1994 edition, entitled "Standard for Portable Fire Extinguishers." Cost: $24.25.
NFPA 13, 1996 edition, entitled "Standard for the Installation of Sprinkler Systems." Cost: $35.00.
NFPA 13D, 1996 edition, entitled "Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes." Cost: $21.75.
NFPA 13R, 1996 edition, entitled "Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height." Cost: $21.75.
NFPA 14, 1996 edition, entitled "Standard for the Installation of Standpipe and Hose Systems." Cost: $21.75.
NFPA 25, 1995 edition, entitled "Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems." Cost: $24.25.
NFPA 30, 1996 edition, entitled "Flammable and Combustible Liquids Code." Cost: $24.25.
NFPA 30B, 1994 edition, entitled "Code for the Manufacture and Storage of Aerosol Products." Cost: $24.25.
NFPA 31, 1997 edition, entitled "Standard for the Installation of Oil-Burning Equipment." Cost: $21.75.
NFPA 40, 1994 edition, entitled "Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film." Cost: $18.25.
NFPA 43B, 1993 edition, entitled "Code for the Storage of Organic Peroxide Formulations." Cost: $18.25.
NFPA 43D, 1994 edition, entitled "Code for the Storage of Pesticides." Cost: $18.25.
NFPA 45, 1996 edition, entitled "Standard on Fire Protection for Laboratories Using Chemicals." Cost: $21.75.
NFPA 54, 1996 edition, entitled "National Fuel Gas Code." Cost: $28.75.
NFPA 58, 1995 edition, entitled "Standard for the Storage and Handling of Liquefied Petroleum Gases." Cost: $28.75.
NFPA 70, 1996 edition, entitled "National Electrical Code." Cost: $46.25.
NFPA 72, 1996 edition, entitled "National Fire Alarm Code." Cost: $35.00.
NFPA 80, 1995 edition, entitled "Standard for Fire Doors and Windows." Cost: $24.25.
NFPA 82, 1994 edition, entitled "Standard on Incinerators and Waste and Linen Handling Systems and Equipment." Cost: $18.25.

NFPA 90A, 1996 edition, entitled "Standard for the Installation of Air Conditioning and Ventilating Systems." Cost: $21.75.
NFPA 90B, 1996 edition, entitled "Standard for the Installation of Warm Air Heating and Air Conditioning Systems." Cost: $18.25.
NFPA 91, 1995 edition, entitled "Standard for Exhaust Systems for Air Conveying of Materials." Cost: $18.25.
NFPA 96, 1997 edition, entitled "Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations." Cost: $21.75.
NFPA 99, 1996 edition, entitled "Standard for Health Care Facilities." Cost: $35.00.
NFPA 101A, 1995 edition, entitled "Alternative Approaches to Life Safety." Cost: $27.00.
NFPA 102, 1995 edition, entitled "Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures." Cost: $24.25.
NFPA 110, 1996 edition, entitled "Standard for Emergency and Standby Power Systems." Cost: $21.75.
NFPA 111, 1996 edition, entitled "Standard on Stored Electrical Energy Emergency and Standby Power Systems." Cost: $18.75.
NFPA 211, 1996 edition, entitled "Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances." Cost: $21.75.
NFPA 220, 1995 edition, entitled "Standard on Types of Building Construction." Cost: $18.25.
NFPA 221, 1994 edition, entitled "Standard for Fire Walls and Fire Barrier Walls." Cost: $18.25.
NFPA 231, 1995 edition, entitled "Standard for General Storage." Cost: $24.25.
NFPA 231C, 1995 edition, entitled "Standard for Rack Storage of Materials." Cost: $24.25.
NFPA 231D, 1994 edition, entitled "Standard for Storage of Rubber Tires." Cost: $18.25.
NFPA 241, 1996 edition, entitled "Standard for Safeguarding Construction, Alteration, and Demolition Operations." Cost: $21.75.
NFPA 251, 1995 edition, entitled "Standard Methods of Tests of Fire Endurance of Building Construction and Materials." Cost: $21.75.
NFPA 252, 1995 edition, entitled "Standard Methods of Fire Tests of Door Assemblies." Cost: $18.25.
NFPA 253, 1995 edition, entitled "Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source." Cost: $18.25.
NFPA 255, 1996 edition, entitled "Standard Method of Test of Surface Burning Characteristics of Building Materials." Cost: $18.25.
NFPA 256, 1993 edition, entitled "Standard Methods of Fire Tests of Roof Coverings." Cost: $18.25.
NFPA 257, 1996 edition, entitled "Standard on Fire Test for Window and Glass Block Assemblies." Cost: $18.25.
NFPA 260, 1994 edition, entitled "Standard Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture." Cost: $18.25.
NFPA 265, 1994 edition, entitled "Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Wall Coverings." Cost: $18.25.
NFPA 266, 1994 edition, entitled "Standard Method of Test for Fire Characteristics of Upholstered Furniture Exposed to Flaming Ignition Source." Cost: $18.25.

NFPA 418, 1995 edition, entitled "Standard for Heliports." Cost: $18.25.
NFPA 701, 1996 edition, entitled "Standard Methods of Fire Tests for Flame-Resistant Textiles and Films." Cost: $18.25.
NFPA 703, 1995 edition, entitled "Standard for Fire Retardant Impregnated Wood for Fire Retardant Coatings for Building Materials." Cost: $18.25.
NFPA 1126, 1996 edition, entitled "Standard for the Use of Pyrotechnics before a Proximate Audience." Cost: $18.25.
33-1.2. The standards specified in this rule are adopted by reference as part of these rules. Copies of the adopted standards are available for review at the office of the State Fire Safety Board, Office of Fire Safety, Consumer and Industry Services, 7150 Harris Drive, Lansing, Michigan 48909. Referenced standards may be purchased from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112, telephone number 1-800-854-7179, internet address www.global.ihs.com. California technical bulletin no. 129 may be ordered from the State of California, Department of Consumer Affairs, Bureau of Home Furnishings and Thermal Insulation, 3485 Orange Grove Avenue, North Highlands, California 95660-5595 at no charge or from the internet address www.dca.ca.gov/bhfti/ at no charge. The code of federal regulations may be downloaded from the internet address of www.access.gpo.gov/nara/cfr at no charge. The costs of the standards as of the time of adoption of these rules are as indicated:
ANSI A14.3-1984, entitled "Safety Code for Fixed Ladders." Cost: $25.00.
CABO/ANSI A117.1-1992, entitled "American National Standard for Accessible and Usable Buildings and Facilities." Cost: $47.50.
ANSI A1264.1-1989, entitled "Safety Requirements for Workplace Floor and Wall Openings, Stairs and Railing Systems." Cost: $25.00.
ASME/ANSI A17.1-1993, entitled "Safety Code for Elevators and Escalators," including Addenda A17.1a-1994 and A17.1b-1995. Cost: $414.00.
ASTM E136-1982, entitled "Standard Test Method for Behavior of Materials in a Vertical Tube Furnace at 750°C." Cost: $39.00.
ASTM E1537, entitled "Standard Method for Fire Testing of Real Scale Upholstered Furniture Items." Cost: $39.00.
ASTM E1590-1994, entitled "Standard Method for Fire Testing of Real Scale Mattresses." Cost: $39.00.
ASTM F851-1983, entitled "Standard Test Method for Self-Rising Seat Mechanisms." Cost: $28.00.
California Department of Consumer Affairs Technical Bulletin No. 129, entitled "Flammability Test Procedure for Mattresses for Use in Public Buildings." Cost: No charge.
Code of Federal Regulations 16, Part 1632, entitled "Standard for the Flammability of Mattresses and Mattress Pads." Cost: $74.00 from Global Engineering Documents. No charge for internet download.
UL 924, entitled "Standard for Safety Emergency Lighting and Power Equipment." Cost: $312.00.
UL 1975, entitled "Standard for Fire Tests for Foamed Plastics Used for Decorative Purposes." Cost: $355.00.

R 29.1710 Fire reporting.

Rule 10. After the occurrence of a fire that results in the loss of life, personal injury, or the loss of property, the administrative authority of the facility shall immediately notify the local fire department of all details of the fire.

R 29.1711 Rescission.

Rule 11. R 29.601 to R 29.622 of the Michigan Administrative Code are rescinded.

PART 2. NEW PENAL INSTITUTIONS
LIFE SAFETY CODE CHAPTERS 1 to 7, 14, 32, AND 33

R 29.1721 Applicability.

Rule 21. This part applies to fire safety requirements for the construction, operation, or maintenance of all new penal institutions.

R 29.1722 Amendments to section 6 of the code.

Rule 22. Sections 6-4.3.2, 6-6.2, 6-6.3, and 6-6.4 of the code are amended only for use in part 2 of these rules for application to new penal institutions as follows:

6-4.3.2. The penal institution shall ensure that flammable liquids or gases are not stored or handled in any prisoner housing units or where it would jeopardize egress from the structure. Any permitted storage or handling of flammable liquids or gases shall be in accordance with section 14-3.2 of the code.

6-6.2. If required by the applicable provisions of this section, upholstered furniture and mattresses shall be resistant to a cigarette ignition in accordance with the following provisions:

(a) If required by the applicable provisions of this section, the components of the upholstered furniture shall meet the requirements for class I when tested in accordance with national fire protection association standard no. 260, 1994 edition, entitled "Standard Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture," as adopted in these rules.

(b) If required by the applicable provisions of this section, mocked-up composites of the upholstered furniture shall have a char length of not more than 1.5 inches (3.8 cm) when tested in accordance with national fire protection association standard no. 261, 1994 edition, entitled "Standard Method of Test for Determining Resistance of Mock-up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes," as adopted in these rules.

(c) If required by the applicable provisions of this section, mattresses shall have a char length of not more than 2 inches (5.1 cm) when tested in accordance with the provisions of 16 C.F.R. part 1632, entitled "Standard for the Flammability of Mattresses and Mattress Pads."

6-6.3. If required by the applicable provisions of this section, upholstered furniture shall have limited rates of heat release when tested in accordance with ASTM E1537-1994, entitled "Standard Method for Fire Testing of Real Scale Upholstered Furniture Items," as adopted in these rules as follows:

(a) The peak rate of heat release for the single upholstered furniture item shall not be more than 250 kW.
(b) The total energy released by the single upholstered furniture item during the first 5 minutes of the test shall not be more than 40 MJ.
6-6.4. If required by the applicable provisions of this section, mattresses shall have limited rates of heat release when tested in accordance with California technical bulletin no. 129, entitled "Flammability Test Procedure for Mattresses for Use in Public Buildings" or in accordance with ASTM E1590-1994, entitled "Standard Method for Fire Testing of Real Scale Mattresses," as adopted in these rules as follows:
(a) The peak rate of heat release for the mattress shall not be more than 250 kW.
(b) The total energy released by the mattress during the first 5 minutes of the test shall not be more than 40 MJ.

R 29.1723 Amendments to section 14 of the code.

Rule 23. Sections 14-1.1.2 and 14-1.6.3 of the code are amended and section 14-1.6.3.1 is added to the code to read as follows:
14-1.1.2. This chapter establishes life safety requirements for the design of all new detention and correctional facilities.
Exception no. 1: Use condition I facilities protected as residential occupancies in accordance with section 14-1.4.3 of the code.
14-1.6.3. Detention and correctional occupancies shall be limited to the following types of building construction:

Type of Construction	Below 1st Story	1st Story	2nd Story	3rd Story	4th Story and Above
I (443)	A.S.	A.S.	A.S.	A.S.	A.S.
I (332)	A.S.	A.S.	A.S.	A.S.	A.S.
II (222	A.S.	A.S.	A.S.	A.S.	A.S.
II (111)	A.S.	A.S.	A.S.	N.P.	N.P.
III (211)	A.S.	A.S.	A.S.	N.P.	N.P.
IV (2HH)	A.S.	A.S.	A.S.	N.P.	N.P.
V (111)	A.S.	A.S.	A.S.	N.P.	N.P.
II (000)	A.S.	A.S.	A.S.	N.P.	N.P.
III (200)	A.S.	A.S.	A.S.	N.P.	N.P.
V (000	A.S.	A.S.	A.S.	N.P.	N.P.

A.S.: Permitted if the entire building is protected throughout by an approved automatic sprinkler system in accordance with section 7-7 of the code.

N.P.: Not permitted.

14-1.6.3.1. For the purpose of section 14-1.6.3 of the code, the number of stories shall be counted starting with the primary level of exit discharge and ending with the highest occupiable level. For the purpose of this section, the primary level of exit discharge of a

building shall be the floor that is level with or above finished grade of the exterior wall line for 50% or more of its perimeter. Building levels below the primary level shall not be counted as a story in determining the height of a building.

PART 3. EXISTING PENAL INSTITUTIONS
LIFE SAFETY CODE CHAPTERS 1 to 7, 15, 32, AND 33

R 29.1731 Applicability.

Rule 31. This part applies to all existing penal institutions or portions of existing penal institutions that have been remodeled or constructed since November 17, 1982.

R 29.1732 Amendment to section 6 of the code.

Rule 32. Section 6-4.3.2 of the code is amended only for use in part 3 of these rules for application to existing penal institutions as follows:

6-4.3.2. The penal institution shall ensure that flammable liquids or gases shall not be stored or handled in any prisoner housing units or where it would jeopardize egress from the structure. Any permitted storage or handling of flammable liquids or gases shall be in accordance with section 15-3.2 of these rules.

R 29.1733 Amendments to section 15 of the code.

Rule 33. Section 15-1.6.3 of the code is amended and section 15-1.6.3.1 is added to the code to read as follows:

15-1.6.3. Detention and correctional occupancies shall be limited to the following types of building construction:

Type of Construction	Below 1st Story	1st Story	2nd Story	3rd Story	4th Story and Above
I (443)	A.S.	A.S.	A.S.	A.S.	A.S.
I (332)	A.S.	A.S.	A.S.	A.S.	A.S.
II (222	A.S.	A.S.	A.S.	A.S.	A.S.
II (111)	A.S.	A.S.	A.S.	N.P.	N.P.
III (211)	A.S.	A.S.	A.S.	N.P.	N.P.
IV (2HH)	A.S.	A.S.	A.S.	N.P.	N.P.
V (111)	A.S.	A.S.	A.S.	N.P.	N.P.
II (000)	A.S.	A.S.	A.S.	N.P.	N.P.
III (200)	A.S.	A.S.	A.S.	N.P.	N.P.
V (000	A.S.	A.S.	A.S.	N.P.	N.P.

A.S.: Permitted if the entire building is protected throughout by an approved automatic sprinkler system in accordance with section 7-7 of the code.

N.P.: Not permitted.

15-1.6.3.1. For the purpose of section 15-1.6.3 of the code, the number of stories shall be counted starting with the primary level of exit discharge and ending with the highest occupiable level. For the purpose of this section, the primary level of exit discharge of a building shall be the floor that is level with or above finished grade of the exterior wall line for 50% or more of its perimeter. Building levels below the primary level shall not be counted as a story in determining the height of a building.

ADMINISTRATIVE RULES

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

STATE FIRE SAFETY BOARD

STATE-OWNED AND LEASED BUILDINGS FIRE SAFETY

Filed with the Secretary of State on March 5, 2001.
These rules take effect 7 days after filing with the Secretary of State.

(By authority conferred on the state fire safety board by section 3c of 1941 PA 207, as amended, and Executive Reorganization Order No. 1997-2, being §§29.3c and 29.451 of the Michigan Compiled Laws)

R 29.1501 Applicability.

Rule 1. These rules apply to all new and existing business occupancies in buildings that are owned or leased by the state of Michigan and in special structures that are owned or leased by the state of Michigan.

R 29.1502 Life safety code; adoption by reference.

Rule 2. The provisions of chapters 1 to 7, 26, 27, 29, 32, and 33 of national fire protection association standard no. 101, 1997 edition, entitled "Life Safety Code," are adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Consumer and Industry Services, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1-800-344-3555. The cost as of the time of adoption of these rules is $48.50 per copy.

R 29.1503. Definitions.

Rule 3. As used in these rules:

(a) "Act" means 1941 PA 207, as amended, being §29.1 et seq. of the Michigan Compiled Laws.

(b) "Authority having jurisdiction" means the director of the Michigan department of consumer and industry services, an employee of the department of consumer and industry services appointed by the director to implement the act, or an employee of a city, village, or township delegated to enforce the code under the provisions of section 2b of the act.

(c) "Code" means national fire protection association standard no. 101, 1997 edition, entitled "Life Safety Code."

(d) "Cosmetic remodeling" means surface changes made solely to the wall, floor, and ceiling, that do not decrease the fire rating of the wall, floor, or ceiling, including the replacement of windows and doors.
(e) "Maintenance" means repairs required to keep a building and its component parts in an operative condition at all times, including the replacement of component parts, when, for any reason, the component parts are no longer dependable. "Maintenance" does not include remodeling.
(f) "Remodeling" means an alteration or change of fire-rated assembly, or the installation of new equipment required by these rules.

R 29.1504 Plans and specifications.

Rule 4. (1) When required by the authority having jurisdiction, the owner or the owner's authorized representative shall submit plans and specifications to the office of fire safety for projects that involve construction, remodeling, an addition, or maintenance functions.
(2) When required by the authority having jurisdiction, the owner or the owner's authorized representative shall ensure that plans and specifications for work that involves the practices of architecture or engineering, as defined by the provisions of 1980 PA 299, as amended, being §339.101 et seq. of the Michigan Compiled Laws, and known as the occupational code, bear the seal of an architect or professional engineer who is licensed pursuant to the provisions of 1980 PA 299, as amended.
(3) When required by the authority having jurisdiction, the owner or the owner's authorized representative shall ensure that plans and specifications contain all of the following information, as applicable:
(a) A complete floor plan and layout of the building drawn accurately to scale.
(b) The use of each room.
(c) The dimensions of each room.
(d) The size, location, direction of swing, and fire rating of each door and frame assembly.
(e) The size and location of windows.
(f) The materials of wall assembly, including the fire-resistance rating of the wall assembly.
(g) The type of construction as identified by the provisions of the national fire protection association standard no. 220, 1995 edition, entitled "Standard on Types of Building Construction" as adopted in these rules.
(h) The number of stories, including basement and attic areas.
(i) The interior finish classification.
(j) The location of fuel-fired equipment.
(k) The type of furnace and water heater.
(l) Air-handling system specifications.
(m) Fire detection and alarm system plans and specifications that are in compliance with the provisions of the act.
(n) Sprinkler or other suppression system plans and specifications that are in compliance with the provisions of the act.
(o) The type, size, and location of fire extinguishers.
(p) Other pertinent information that is required to determine compliance with these rules.

R 29.1506 Projects affecting outside configuration of building; site plan and specifications; local fire department specifications; fire safety measures during construction.

Rule 6. (1) For projects that involve construction, addition, or remodeling which affect the outside configuration of a building, and as part of the building plans and specifications otherwise required by these rules, before construction begins, the owner or the owner's authorized representative shall provide the local fire department with a site plan and specifications that detail all of the following:

(a) The available water supply.

(b) Hydrant locations.

(c) Vehicle access routes.

(d) Fire lanes.

(2) As soon as possible during construction, the owner or the owner's authorized representative shall take appropriate fire safety measures, including providing fire extinguishers and fire suppression systems and establishing access routes to the building that can be traveled by fire department vehicles.

R 29.1507 Electrical equipment; inspections; certificate.

Rule 7. (1) The owner or owner's authorized representative shall ensure that electrical wiring and equipment, including an emergency supply if installed, is installed in compliance with the applicable provisions of R 408.30801 et seq. of the Michigan Administrative Code. Copies of the rules are available from the Michigan Department of Consumer and Industry Services, Bureau of Construction Codes, 2501 Woodlake Circle, Second Floor, P.O. Box 30254, Okemos, Michigan 48864, or from the internet address www.state.mi.us/orr.

(2) Electrical inspection shall be made by an electrical inspection authority acceptable to the office of fire safety. The electrical authority shall issue a final certificate of compliance covering the installation. A copy of the certificate shall be provided to the office of fire safety by the owner or owner's authorized representative.

R 29.1508 Universal amendments.

Rule 8. Sections 1-3.11.1, 6-4.3, 7-1.1, 7-4.2, 7-4.3, 7-6.3.2, 7-6.4, 7-6.5.3, 33-1.1, and 33-1.2 of the code are amended, and sections 7-1.2, 7-4.4, 7-4.5, 7-4.7, and 7-4.8 of the code are deleted, as follows:

1-3.11.1 A person may occupy a building or portion of a building during construction, repair, alterations, or additions only if all required means of egress and all required fire protection features in the building and on site are in place and continuously maintained for the part occupied and if the occupied portion is separated from the part under construction by a fire barrier that has a 1-hour-fire-resistance rating. The temporary 1-hour rated fire barrier that is used for this separation may be constructed of combustible material. Instead of having all required means of egress and required fire protection features in place, the owner or authorized representative may take other measures if the measures would provide equivalent safety and if the measures are approved by the office of fire safety.

6-4.3. The owner or authorized representative shall ensure that flammable and combustible liquids are stored and handled in compliance with rules promulgated pursuant to the provisions of the act.
7-1.1. The owner or authorized representative shall ensure that equipment which utilizes gas and related gas piping is installed in compliance with the provisions of the national fire protection association standard no. 54, 1996 edition, entitled "National Fuel Gas Code," as adopted in these rules, or rules promulgated under the act, as applicable.
Exception: Existing installations may be continued in service, subject to approval by the authority having jurisdiction.
7-1.2. Deleted.
7-4.2. The owner or authorized representative shall ensure that new elevators, escalators, dumbwaiters, and moving walks are installed in compliance with R 408.8101 et seq. of the Michigan Administrative Code.
7-4.3. The owner or authorized representative shall ensure that existing elevators, escalators, dumbwaiters, and moving walks are in compliance with R 408.8101 et seq. of the Michigan Administrative Code.
7-4.4. Deleted.
7-4.5. Deleted.
7-4.7. Deleted.
7-4.8. Deleted.
7-6.3.2. The owner or authorized representative shall ensure that notification is provided by audible and visible signals that are in compliance with sections 7-6.3.3 to section 7-6.3.10 of the code.
Exception no. 1: Where permitted by sections 8 to 32 of the code, a presignal system is permitted if the initial fire alarm signal is automatically transmitted without delay to a municipal fire department or a fire brigade and to an on-site staff person who is trained to respond to a fire emergency.
Exception no. 2: Where permitted by sections 8 to 32 of the code, a positive alarm sequence is permitted if it is in compliance with the provisions of national fire protection association standard no. 72, 1996 edition, entitled "National Fire Alarm Code," as adopted in these rules.
7-6.4. (1) Where required by another section of the code, the owner or authorized representative shall ensure that emergency forces notification is provided to alert the municipal fire department and fire brigade, if provided, of fire or other emergency.
(2) Where fire department notification is required by another section of the code, the owner or authorized representative shall ensure that the fire alarm system is arranged to transmit the alarm automatically by any of the following means acceptable to the authority having jurisdiction and in compliance with national fire protection standard no. 72, 1996 edition, entitled "National Fire Alarm Code," as adopted in these rules:
(a) An auxiliary alarm system.
(b) A central station connection.
(c) A proprietary system.
(d) A remote station connection.

(3) A facility is in compliance with required emergency forces notification if it has written policy and procedure that is approved by the authority having jurisdiction. The policy and procedure shall provide for all of the following:
(a) The designation of a staff member on each shift to be responsible for notifying a local fire department.
(b) The availability at all times of a nonpay telephone for employees who are designated pursuant to the provisions of subdivision (a) of this subrule to notify a local fire department.
(c) That the telephone number of the local fire department is conspicuously posted near the telephone.
(d) A requirement that notification of the fire department is incorporated into all fire drills.
7-6.5.3. The functions specified in section 7-6.5.2 shall be permitted to be actuated by any protective signaling and control system where otherwise not required by the code when acceptable to the authority having jurisdiction.
33-1.1. The standards specified in this rule are adopted by reference as part of these rules. Copies of the adopted standards are available for review at the office of the State Fire Safety Board, Office of Fire Safety, Consumer and Industry Services, 7150 Harris Drive, Lansing, Michigan 48909. Copies of adopted national fire protection association standards may be purchased from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1-800-344-3555, internet address www.nfpa.org. The costs of the standards as of the time of adoption of these rules are as indicated:
NFPA 10, 1994 edition, entitled "Standard for Portable Fire Extinguishers." Cost: $24.25.
NFPA 13, 1996 edition, entitled "Standard for the Installation of Sprinkler Systems." Cost: $35.00.
NFPA 13D, 1996 edition, entitled "Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes." Cost: $21.75.
NFPA 13R, 1996 edition, entitled "Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height." Cost: $21.75.
NFPA 14, 1996 edition, entitled "Standard for the Installation of Standpipe and Hose Systems." Cost: $21.75.
NFPA 25, 1995 edition, entitled "Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems." Cost: $24.25.
NFPA 30, 1996 edition, entitled "Flammable and Combustible Liquids Code." Cost: $24.25.
NFPA 30B, 1994 edition, entitled "Code for the Manufacture and Storage of Aerosol Products." Cost: $24.25.
NFPA 31, 1997 edition, entitled "Standard for the Installation of Oil-Burning Equipment." Cost: $21.75.
NFPA 40, 1994 edition, entitled "Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film." Cost: $18.25.
NFPA 43B, 1993 edition, entitled "Code for the Storage of Organic Peroxide Formulations." Cost: $18.25.
NFPA 43D, 1994 edition, entitled "Code for the Storage of Pesticides." Cost: $18.25.
NFPA 45, 1996 edition, entitled "Standard on Fire Protection for Laboratories Using Chemicals." Cost: $21.75.
NFPA 54, 1996 edition, entitled "National Fuel Gas Code." Cost: $28.75.

NFPA 58, 1995 edition, entitled "Standard for the Storage and Handling of Liquefied Petroleum Gases." Cost: $28.75.
NFPA 70, 1996 edition, entitled "National Electrical Code." Cost: $46.25.
NFPA 72, 1996 edition, entitled "National Fire Alarm Code." Cost: $35.00.
NFPA 80, 1995 edition, entitled "Standard for Fire Doors and Windows." Cost: $24.25.
NFPA 82, 1994 edition, entitled "Standard on Incinerators and Waste and Linen Handling Systems and Equipment." Cost: $18.25.
NFPA 90A, 1996 edition, entitled "Standard for the Installation of Air Conditioning and Ventilating Systems." Cost: $21.75.
NFPA 90B, 1996 edition, entitled "Standard for the Installation of Warm Air Heating and Air Conditioning Systems." Cost: $18.25.
NFPA 91, 1995 edition, entitled "Standard for Exhaust Systems for Air Conveying of Materials." Cost: $18.25.
NFPA 96, 1997 edition, entitled "Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations." Cost: $21.75.
NFPA 99, 1996 edition, entitled "Standard for Health Care Facilities." Cost: $35.00.
NFPA 101A, 1995 edition, entitled "Alternative Approaches to Life Safety." Cost: $27.00.
NFPA 102, 1995 edition, entitled "Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures." Cost: $ 24.25.
NFPA 110, 1996 edition, entitled "Standard for Emergency and Standby Power Systems." Cost: $21.75.
NFPA 111, 1996 edition, entitled "Standard on Stored Electrical Energy Emergency and Standby Power Systems." Cost: $18.75.
NFPA 211, 1996 edition, entitled "Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances." Cost: $21.75.
NFPA 220, 1995 edition, entitled "Standard on Types of Building Construction." Cost: $18.25.
NFPA 221, 1994 edition, entitled "Standard for Fire Walls and Fire Barrier Walls." Cost: $18.25.
NFPA 231, 1995 edition, entitled "Standard for General Storage." Cost: $ 24.25.
NFPA 231C, 1995 edition, entitled "Standard for Rack Storage of Materials." Cost: $24.25.
NFPA 231D, 1994 edition, entitled "Standard for Storage of Rubber Tires." Cost: $18.25.
NFPA 241, 1996 edition, entitled "Standard for Safeguarding Construction, Alteration, and Demolition Operations." Cost: $21.75.
NFPA 251, 1995 edition, entitled "Standard Methods of Tests of Fire Endurance of Building Construction and Materials." Cost: $21.75.
NFPA 252, 1995 edition, entitled "Standard Methods of Fire Tests of Door Assemblies." Cost: $18.25.
NFPA 253, 1995 edition, entitled "Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source." Cost: $18.25.
NFPA 255, 1996 edition, entitled "Standard Method of Test of Surface Burning Characteristics of Building Materials." Cost: $18.25.
NFPA 256, 1993 edition, entitled "Standard Methods of Fire Tests of Roof Coverings." Cost: $18.25.

NFPA 257, 1996 edition, entitled "Standard on Fire Test for Window and Glass Block Assemblies." Cost: $18.25.
NFPA 260, 1994 edition, entitled "Standard Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture." Cost: $18.25.
NFPA 265, 1994 edition, entitled "Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Wall Coverings." Cost: $18.25.
NFPA 266, 1994 edition, entitled "Standard Method of Test for Fire Characteristics of Upholstered Furniture Exposed to Flaming Ignition Source." Cost: $18.25.
NFPA 418, 1995 edition, entitled "Standard for Heliports." Cost: $18.25.
NFPA 701, 1996 edition, entitled "Standard Methods of Fire Tests for Flame-Resistant Textiles and Films." Cost: $18.25.
NFPA 703, 1995 edition, entitled "Standard for Fire Retardant Impregnated Wood for Fire Retardant Coatings for Building Materials." Cost: $18.25.
NFPA 1126, 1996 edition, entitled "Standard for the Use of Pyrotechnics before a Proximate Audience." Cost: $18.25.
33-1.2. The standards specified in this rule are adopted by reference as part of these rules. Copies of the adopted standards are available for review at the office of the State Fire Safety Board, Office of Fire Safety, Consumer and Industry Services, 7150 Harris Drive, Lansing, Michigan 48909. Referenced standards may be purchased from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112, telephone number 1-800-854-7179, internet address www.global.ihs.com. California technical bulletin no. 129 may be ordered from the State of California, Department of Consumer Affairs, Bureau of Home Furnishings and Thermal Insulation, 3485 Orange Grove Avenue, North Highlands, California 95660-5595 at no charge or from the internet address www.dca.ca.gov/bhfti/ at no charge. The code of federal regulations may be downloaded from the internet address of www.access.gpo.gov/nara/cfr at no charge. The costs of the standards as of the time of adoption of these rules are as indicated:
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UL 1975, entitled "Standard for Fire Tests for Foamed Plastics Used for Decorative Purposes." Cost: $355.00.

R 29.1509 Fire reporting.

Rule 9. After the occurrence of a fire that results in a loss of life, personal injury, or loss of property, the administrative authority of the facility shall immediately notify the local fire department of all details of the fire.

ADMINISTRATIVE RULES

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

STATE FIRE SAFETY BOARD

HEALTH CARE FACILITIES FIRE SAFETY

Filed with the Secretary of State on March 5, 2001.
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the state fire safety board by section 3c of 1941 PA 207, as amended, and Executive Reorganization Order No. 1997-2, being §§29.3c and 29.451 of the Michigan Compiled Laws)

R 29.1001 -R 29.1053 Rescinded by R 29.1810.

PART 1. GENERAL PROVISIONS

R 29.1801 Applicability.

Rule 1. (1) These rules apply to all of the following new and existing health care and mental health care facilities:
(a) Freestanding surgical outpatient facilities.
(b) Hospitals.
(c) Nursing homes.
(d) Homes for the aged.
(e) Psychiatric hospitals and psychiatric units.
(2) County medical care facilities are considered nursing homes for the purpose of these rules.

R 29.1802 Life safety code; adoption by reference.

Rule 2. The provisions of chapters 1 to 7, 12, 13, 26, 27, 32, and 33 of the national fire protection association standard no. 101, 1997 edition, entitled "Life Safety Code," referred to in these rules as "code," are adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Michigan Department of Consumer and Industry Services, Office of Fire Safety, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50.

R 29.1803 Definitions.

Rule 3. As used in these rules:

(a) "Act" means 1941 PA 207, as amended, being §29.1 et seq. of the Michigan Compiled Laws.

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(b) "Authority having jurisdiction" means the director of the Michigan department of consumer and industry services, an employee of the department of consumer and industry services appointed by the director to implement the act, or an employee of a city, village, or township delegated to enforce the code under the provisions of section 2b of the act.

(c) "Code" means national fire protection association standard no. 101, 1997 edition, entitled "Life Safety Code."

(d) "Cosmetic remodeling" means surface changes made solely to the wall, floor, or ceiling, that do not decrease the fire rating of the wall, floor, or ceiling, including the replacement of windows and doors.

(e) "County medical care facility" means a nursing care facility, other than a hospital long-term care unit, which provides organized nursing care and medical treatment to 7 or more unrelated individuals who are suffering or recovering from illness, injury, or infirmity and which is owned by a county or counties. For the purpose of these rules, a county medical care facility shall be considered a nursing home.

(f) "Existing facility" means a facility that is licensed as a health care or mental health care facility under the provisions of 1978 PA 368, as amended, being §333.1001 et seq. of the Michigan Compiled Laws, and 1974 PA 258, as amended, being §330.1001 et seq. of the Michigan Compiled Laws, on the date these rules become effective.

(g) "Freestanding surgical outpatient facility" means a facility, other than the office of a physician, dentist, podiatrist, or other private practice office, that offers a surgical procedure and related care which, in the opinion of the attending physician, can be safely performed without requiring overnight inpatient hospital care. The term does not include a surgical outpatient facility owned by, and operated as part of, a hospital.

(h) "Freestanding surgical outpatient facility, type I facility" means a freestanding surgical outpatient facility that does not use anesthetics or medications which render a person incapable of taking action in an emergency within 2 minutes of being notified of an emergency.

(i) "Freestanding surgical outpatient facility, type II facility" means a freestanding surgical outpatient facility that uses anesthetics or medications which render a person incapable of taking action in an emergency within 2 minutes of being notified of an emergency.

(j) "Health care facility" means a facility as defined in section 20106 of 1978 PA 368, as amended, being §333.20106 of the Michigan Compiled Laws, and includes the facilities defined in subdivisions (e), (g), (h), (i), (j), (k), (l), (m), (n), (o), (q), (r), and (s) of this rule.

(k) "Home for the aged" means a supervised personal care facility, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility, that provides room, board, and supervised personal care to 21 or more unrelated, nontransient individuals who are 60 years of age or older. "Home for the aged" includes a supervised personal care facility for 20 or fewer individuals who are 60 years of age or older if the facility is operated in conjunction with, and as a distinct part of, a licensed nursing home.

(l) "Hospital" means a facility that offers inpatient,
overnight care and services for observing, diagnosing, and actively treating an individual who has a medical, surgical, obstetric, chronic, or rehabilitative condition that requires the daily direction or supervision of a physician. For the purposes of these rules, the term includes a hospital long-term care unit.
(m) "Limited care facility" means a home for the aged.
(n) "Mental health care facility" means a facility as defined in section 135 of 1974 PA 258, as amended, being §330.1135 of the Michigan Compiled Laws.
(o) "Mental hospital," "psychiatric hospital," or "psychiatric unit" means an establishment that offers inpatient services for the observation, diagnosis, active treatment, and overnight care of persons who have a mental disease or who have a chronic mental disease or condition that requires the daily direction or supervision of physicians who are licensed to practice in the state.
(p) "Mobile" means capable of removing or protecting oneself from danger by one's own efforts.
(q) "Mobile and transportable health care structures" mean trailers and motor homes. Mobile and transportable health care structures shall comply with part 6 of these rules.
(r) "Modular units" means prefabricated units that are placed on piers or foundations. Modular units shall comply with the requirements of part 3 and part 4 of these rules.
(s) "Nursing home" means a nursing care facility, including a county medical care facility, but excluding a hospital or a facility that is or was created pursuant to the provisions of 1885 PA 152, as amended, being §36.1 et seq. of the Michigan Compiled Laws, which provides organized nursing care and medical treatment to 7 or more unrelated individuals who are suffering or recovering from illness, injury, or infirmity.
(t) "Remodeling" means an alteration or change of fire-rated assembly, or the installation of new equipment required by these rules.
(u) "Typical smoke zone" means the average size smoke zone within the facility.

R 29.1804 Plans and specifications.

Rule 4. (1) A health care facility, or designated representative shall submit plans and specifications to the office of fire safety for all projects that involve construction, remodeling, or an addition.
(2) A health care facility is not required to submit plans and specifications for routine maintenance functions or cosmetic remodeling; however, a health care facility shall ensure that all work is in compliance with these rules.
(3) Plans and specifications for work that involves the practices of architecture or engineering, as defined by the provisions of 1980 PA 299, as amended, being §339.101 et seq. of the Michigan Compiled Laws, and known as the occupational code, shall bear the seal of an architect or professional engineer who is licensed pursuant to the provisions of 1980 PA 299, as amended.
(4) Plans and specifications shall contain all of the following information, as applicable:
(a) A complete floor plan and layout of the building drawn accurately to scale.
(b) The use of each room.
(c) The dimensions of each room.
(d) The size, location, direction of swing, and fire rating of each door and frame assembly.

(e) The size and location of windows.
(f) The wall construction, including the fire-resistance rating.
(g) The type of construction as identified in the national fire protection association standard no. 220, 1995 edition, entitled "Standard on Types of Building Construction," as adopted in these rules.
(h) The number of stories, including basement and attic areas.
(i) The interior finish classification.
(j) The location of fuel-fired equipment.
(k) The type of furnace and water heater.
(l) Air-handling system specifications.
(m) Fire detection and alarm system plans and specifications that are in compliance with the provisions of the act.
(n) Sprinkler or other suppression system plans and specifications that are in compliance with the provisions of the act.
(o) The type, size, and location of fire extinguishers.
(p) Other pertinent information that is required to determine compliance with these rules.
(5) Plan approval that is given before the effective date of these rules shall terminate 6 months after the effective date of these rules if construction has not started. However, upon written request, the office of fire safety may grant an approval extension in a specific instance.

R 29.1805 Inspections during construction; approval for occupancy.

Rule 5. (1) During construction, addition, or remodeling, the architect, professional engineer, or owner's representative shall notify the office of fire safety, in writing, when the building is ready for inspection under both of the following conditions:
(a) When the building is framed and mechanical systems are substantially complete, but before concealment.
(b) Upon completion of construction.
(2) A person shall not occupy a newly constructed facility or a facility that is being remodeled or added to, in whole or in part, without the approval of the office of fire safety.

R 29.1806 Projects affecting outside configuration of building; site plan and specifications; office of fire safety or local fire department specifications; fire safety measures during construction.

Rule 6. (1) For projects that involve construction, addition, or remodeling which affect the outside configuration of a building, and as part of the building plans and specifications otherwise required by these rules, before the construction begins, the owner or the owner's authorized representative shall provide the office of fire safety and the local fire department with a site plan and specifications that detail all of the following:
(a) The available water supply.
(b) Hydrant locations.
(c) Vehicle access routes.
(d) Fire lanes.
(2) The authority having jurisdiction or the local fire department may specify any of the following:

(a) The size of the water mains that supply the hydrants.
(b) The location of hydrants.
(c) The locations and dimensions of fire department vehicle access routes.
(d) The posting of fire lanes.
(3) As soon as possible during construction, the health care facility shall ensure that appropriate fire safety measures are taken, including the provision of fire extinguishers and fire suppression systems and the establishment of access routes to the building that can be traveled by fire department vehicles.

R 29.1807 Electrical equipment; inspections; certificate.

Rule 7. (1) The health care facility or authorized representative shall ensure that the electrical wiring and equipment, including an emergency electrical supply if installed, is in compliance with the applicable provisions of R 408.30801 et seq. of the Michigan Administrative Code. Copies of the rules are available from the Michigan Department of Consumer and Industry Services, Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909 or from the internet address www.state.mi.us/orr.
(2) Electrical inspection shall be made by an electrical inspection authority acceptable to the office of fire safety. The authority shall issue a final certification of compliance covering the installation. The health care facility, or authorized representative shall provide a copy of the certificate to the office of fire safety.

R 29.1808 Universal amendments.

Rule 8. Sections 1-3.11.1, 6-4.3, 7-1.1, 7-4.2, 7-4.3, 7-6.4, 7-6.5.2, 33-1.1, and 33-1.2 of the code are amended, section 7-6.5.2.1 is added, and sections 7-1.2, 7-4.4, 7-4.5, and 7-6.5.3**,** are deleted, as follows:
1-3.11.1. A person may occupy a building or portion of a building during construction, repair, alterations, or additions only if all means of egress and all fire protection features in the building and on-site are in place and continuously maintained for the part occupied and if the occupied portion is separated from the part under construction by a wall that has a 1-hour-fire-resistance rating. The temporary 1-hour-rated wall that is used for this separation may be constructed of combustible material. Instead of having all means of egress and fire protection features in place, the health care facility may take other measures that would provide equivalent safety if approved by the office of fire safety. A health care facility or part of a health care facility shall not be occupied, in whole or in part, without approval from the office of fire safety and the department of consumer and industry services, bureau of health systems.
6-4.3. The health care facility shall store and handle flammable and combustible liquids in compliance with rules promulgated under the act.
7-1.1. The health care facility shall ensure that equipment which utilizes gas and related gas piping is installed in compliance with the provisions of the national fire protection association standard no. 54, 1996 edition, entitled “National Fuel Gas Code,” as adopted in these rules or rules promulgated under the act, as applicable.
Exception: Existing installations may be continued in service subject to approval by the authority having jurisdiction.
7-1.2. Deleted.

7-4.2. The health care facility shall ensure that new elevators, escalators, dumbwaiters, and moving walks are installed in compliance with R 408.8101 et seq. of the Michigan Administrative Code.
7-4.3. The health care facility shall ensure that existing elevators, escalators, dumbwaiters, and moving walks are in compliance with R 408.8101 et seq. of the Michigan Administrative Code.
7-4.4. Deleted.
7-4.5. Deleted.
7-6.4. When emergency forces notification is specified by another section of the code, actuation of emergency forces notification shall provide signal notification to alert the local fire brigade or municipal fire department of fire or other emergency. When fire department notification is required by another section of the code, the health care facility shall ensure that the fire alarm system is arranged to automatically transmit an alarm to the municipal fire department through any of the following means:
(a) An auxiliary alarm system in compliance with the provisions of the national fire protection association standard no. 72, 1996 edition, entitled "National Fire Alarm Code," as adopted in these rules.
(b) A central station connection in compliance with the provisions of the national fire protection association standard no. 72, 1996 edition, entitled "National Fire Alarm Code."
(c) A proprietary system operator in compliance with the provisions of the national fire protection association standard no. 72, 1996 edition, entitled "National Fire Alarm Code."
(d) A remote station connection in compliance with the provisions of the national fire protection association standard no. 72, 1996 edition, entitled "National Fire Alarm Code."
Exception: A facility is in compliance with this section if it has written policy and procedure which is approved by the facility's governing body and which is acceptable to the authority having jurisdiction. The policy and procedure shall provide for all of the following:
(a) The designation of a staff member on each shift to be responsible for notifying a local fire department.
(b) The availability at all times of a nonpay telephone for employees who are designated pursuant to the provisions of subdivision (a) of this subsection to notify a local fire department.
(c) The telephone number of the local fire department is conspicuously posted near the telephone.
(d) A requirement that notification of the fire department be incorporated into all fire drills.
7-6.5.2. When required by another section of the code, the health care facility shall ensure that all of the following functions are actuated by the fire alarm system:
(a) The release of automatic door closers.
(b) Stairwell or elevator shaft pressurization.
(c) A smoke management or smoke control system.
(d) The initiation of automatic fire-extinguishing equipment.
(e) Emergency lighting control.
(f) The unlocking of doors.
(g) Emergency shutoff of gas and fuel supplies that may be hazardous, if the continuation of service is not essential to the preservation of life.

7-6.5.2.1. Elevator capture and control -elevator controls shall not be connected to the fire alarm system.
7-6.5.3. Deleted.
33-1.1. The standards specified in this rule are adopted by reference as part of these rules. Copies of the adopted standards are available for review at the office of the State Fire Safety Board, Office of Fire Safety, Consumer and Industry Services, 7150 Harris Drive, Lansing, Michigan 48909. Copies of adopted national fire protection association standards may be purchased from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1-800-344-3555, internet address www.nfpa.org. The costs of the standards as of the time of adoption of these rules are as indicated:
NFPA 10, 1994 edition, entitled "Standard for Portable Fire Extinguishers." Cost: $24.25.
NFPA 13, 1996 edition, entitled "Standard for the Installation of Sprinkler Systems." Cost: $35.00.
NFPA 13D, 1996 edition, entitled "Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes." Cost: $21.75.
NFPA 13R, 1996 edition, entitled "Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height." Cost: $21.75.
NFPA 14, 1996 edition, entitled "Standard for the Installation of Standpipe and Hose Systems." Cost: $21.75.
NFPA 25, 1995 edition, entitled "Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems." Cost: $24.25.
NFPA 30, 1996 edition, entitled "Flammable and Combustible Liquids Code." Cost: $24.25.
NFPA 30B, 1994 edition, entitled "Code for the Manufacture and Storage of Aerosol Products." Cost: $24.25.
NFPA 31, 1997 edition, entitled "Standard for the Installation of Oil-Burning Equipment." Cost: $21.75.
NFPA 40, 1994 edition, entitled "Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film." Cost: $18.25.
NFPA 43B, 1993 edition, entitled "Code for the Storage of Organic Peroxide Formulations." Cost: $18.25.
NFPA 43D, 1994 edition, entitled "Code for the Storage of Pesticides." Cost: $18.25.
NFPA 45, 1996 edition, entitled "Standard on Fire Protection for Laboratories Using Chemicals." Cost: $21.75.
NFPA 54, 1996 edition, entitled "National Fuel Gas Code." Cost: $28.75.
NFPA 58, 1995 edition, entitled "Standard for the Storage and Handling of Liquefied Petroleum Gases." Cost: $28.75.
NFPA 70, 1996 edition, entitled "National Electrical Code." Cost: $46.25.
NFPA 72, 1996 edition, entitled "National Fire Alarm Code." Cost: $35.00.
NFPA 80, 1995 edition, entitled "Standard for Fire Doors and Windows." Cost: $24.25.
NFPA 82, 1994 edition, entitled "Standard on Incinerators and Waste and Linen Handling Systems and Equipment." Cost: $18.25.
NFPA 90A, 1996 edition, entitled "Standard for the Installation of Air Conditioning and Ventilating Systems." Cost: $21.75.

NFPA 90B, 1996 edition, entitled "Standard for the Installation of Warm Air Heating and Air Conditioning Systems." Cost: $18.25.
NFPA 91, 1995 edition, entitled "Standard for Exhaust Systems for Air Conveying of Materials." Cost: $18.25.
NFPA 96, 1997 edition, entitled "Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations." Cost: $21.75.
NFPA 99, 1996 edition, entitled "Standard for Health Care Facilities." Cost: $35.00.
NFPA 101A, 1995 edition, entitled "Alternative Approaches to Life Safety." Cost: $27.00.
NFPA 102, 1995 edition, entitled "Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures." Cost: $ 24.25.
NFPA 110, 1996 edition, entitled "Standard for Emergency and Standby Power Systems." Cost: $21.75.
NFPA 111, 1996 edition, entitled "Standard on Stored Electrical Energy Emergency and Standby Power Systems." Cost: $18.75.
NFPA 211, 1996 edition, entitled "Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances." Cost: $21.75.
NFPA 220, 1995 edition, entitled "Standard on Types of Building Construction." Cost: $18.25.
NFPA 221, 1994 edition, entitled "Standard for Fire Walls and Fire Barrier Walls." Cost: $18.25.
NFPA 231, 1995 edition, entitled "Standard for General Storage." Cost: $ 24.25.
NFPA 231C, 1995 edition, entitled "Standard for Rack Storage of Materials." Cost: $24.25.
NFPA 231D, 1994 edition, entitled "Standard for Storage of Rubber Tires." Cost: $18.25.
NFPA 241, 1996 edition, entitled "Standard for Safeguarding Construction, Alteration, and Demolition Operations." Cost: $21.75.
NFPA 251, 1995 edition, entitled "Standard Methods of Tests of Fire Endurance of Building Construction and Materials." Cost: $21.75.
NFPA 252, 1995 edition, entitled "Standard Methods of Fire Tests of Door Assemblies." Cost: $18.25.
NFPA 253, 1995 edition, entitled "Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source." Cost: $18.25.
NFPA 255, 1996 edition, entitled "Standard Method of Test of Surface Burning Characteristics of Building Materials." Cost: $18.25.
NFPA 256, 1993 edition, entitled "Standard Methods of Fire Tests of Roof Coverings." Cost: $18.25.
NFPA 257, 1996 edition, entitled "Standard on Fire Test for Window and Glass Block Assemblies." Cost: $18.25.
NFPA 260, 1994 edition, entitled "Standard Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture." Cost: $18.25.
NFPA 265, 1994 edition, entitled "Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Wall Coverings." Cost: $18.25.
NFPA 266, 1994 edition, entitled "Standard Method of Test for Fire Characteristics of Upholstered Furniture Exposed to Flaming Ignition Source." Cost: $18.25.
NFPA 418, 1995 edition, entitled "Standard for Heliports." Cost: $18.25.

NFPA 701, 1996 edition, entitled "Standard Methods of Fire Tests for Flame-Resistant Textiles and Films." Cost: $18.25.
NFPA 703, 1995 edition, entitled "Standard for Fire Retardant Impregnated Wood for Fire Retardant Coatings for Building Materials." Cost: $18.25.
NFPA 1126, 1996 edition, entitled "Standard for the Use of Pyrotechnics before a Proximate Audience." Cost: $18.25.
33-1.2. The standards specified in this rule are adopted by reference as part of these rules. Copies of the adopted standards are available for review at the office of the State Fire Safety Board, Office of Fire Safety, Consumer and Industry Services, 7150 Harris Drive, Lansing, Michigan 48909. Referenced standards may be purchased from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112, telephone number 1-800-854-7179, internet address www.global.ihs.com. California technical bulletin no. 129 may be ordered from the State of California, Department of Consumer Affairs, Bureau of Home Furnishings and Thermal Insulation, 3485 Orange Grove Avenue, North Highlands, California 95660-5595 at no charge or from the internet address www.dca.ca.gov/bhfti/ at no charge. The code of federal regulations may be downloaded from the internet address of www.access.gpo.gov/nara/cfr at no charge. The costs of the standards as of the time of adoption of these rules are as indicated:
ANSI A14.3-1984, entitled "Safety Code for Fixed Ladders." Cost: $25.00.
CABO/ANSI A117.1-1992, entitled "American National Standard for Accessible and Usable Buildings and Facilities." Cost: $47.50.
ANSI A1264.1-1989, entitled "Safety Requirements for Workplace Floor and Wall Openings, Stairs and Railing Systems." Cost: $25.00.
ASME/ANSI A17.1-1993, entitled "Safety Code for Elevators and Escalators," including Addenda A17.1a-1994 and A17.1b-1995. Cost: $414.00.
ASTM E136-1982, entitled "Standard Test Method for Behavior of Materials in a Vertical Tube Furnace at 750°C." Cost: $39.00.
ASTM E1537, entitled "Standard Method for Fire Testing of Real Scale Upholstered Furniture Items." Cost: $39.00.
ASTM E1590-1994, entitled "Standard Method for Fire Testing of Real Scale Mattresses." Cost: $39.00.
ASTM F851-1983, entitled "Standard Test Method for Self-Rising Seat Mechanisms." Cost: $28.00.
California Department of Consumer Affairs Technical Bulletin No. 129, entitled "Flammability Test Procedure for Mattresses for Use in Public Buildings." Cost: No charge.
Code of Federal Regulations 16, Part 1632, entitled "Standard for the Flammability of Mattresses and Mattress Pads." Cost: $74.00 from Global Engineering Documents. No charge for internet download.
UL 924, entitled "Standard for Safety Emergency Lighting and Power Equipment." Cost: $312.00.
UL 1975, entitled "Standard for Fire Tests for Foamed Plastics Used for Decorative Purposes." Cost: $355.00.

R 29.1809 Fire reporting.

Rule 9. After the occurrence of a fire that results in personal injury or loss of life or property, the administrative authority of a health care facility shall immediately notify the local fire department of all details of the fire.

R 29.1810 Rescission.

Rule 10. R 29.1001 to R 29.1053 of the Michigan Administrative Code are rescinded.

PART 2. FREESTANDING SURGICAL OUTPATIENT FACILITIES

R 29.1821 Life safety code; adoption by reference for existing type I freestanding surgical outpatient facilities.

Rule 21. The provisions of chapters 1 to 7, 27, and 33 of the code that apply to existing business occupancies are adopted by reference in these rules and apply to type I freestanding surgical outpatient facilities. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50.

R 29.1822 Life safety code; adoption by reference for existing type II freestanding surgical outpatient facilities.

Rule 22. The provisions of chapters 1 to 7, 13-6, 27, and 33 of the code that apply to existing ambulatory health care centers and existing business occupancies are adopted by reference in these rules and apply to existing type II freestanding surgical outpatient facilities. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50.

R 29.1823 Life safety code; adoption by reference for new type I freestanding surgical outpatient facilities.

Rule 23. (1) The provisions of chapters 1 to 7, 26, and 33 of the code that apply to new business occupancies apply to new type I freestanding surgical outpatient facilities and, except for the amendments to the provisions specified in these rules, are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50.

(2) Section 26-1.1.1 of the code is amended, and sections 26-3.4, 26-3.4.1, and 26-3.4.2 of the code are deleted to read as follows:
26-1.1.1. National fire protection association standard no. 101A, 1995 edition, entitled "Alternative Approaches to Life Safety," does not apply to the design of new freestanding surgical outpatient facilities construction.
26-3.4. Deleted.
26-3.4.1. Deleted.
26-3.4.2. Deleted.

R 29.1824 Life safety code; adoption by reference for new type II freestanding surgical outpatient facilities.

Rule 24. (1) The provisions of chapters 1 to 7, 12-6, 26, and 33 of the code that apply to new ambulatory health care centers and new business occupancies apply to new type II freestanding surgical outpatient facilities and, except for the amendments to the provisions specified in these rules, are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909 or the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50.
(2) Sections 12-6.2.3.2, 12-6.2.3.3, and 26-3.6.1 of the code are amended, and sections 26-3.4, 26-3.4.1, and 26-3.4.2 of the code are deleted, to read as follows:
12-6.2.3.2. The minimum width of any corridor or passageway required for exit access shall be 44 inches clear. Corridors that serve surgical areas and recovery rooms shall be not less than 6 feet wide and lead to an approved exit in each direction with no reduction in width.
12-6.2.3.3. Doors in the means of egress from diagnostic or treatment areas, such as x-ray, surgical, or physical therapy areas, shall provide a minimum clear width of 32 inches. Doors in the means of egress that serve surgical areas and recovery rooms shall provide a minimum clear width of 41.5 inches.
26-3.4. Deleted.
26-3.4.1. Deleted.
26-3.4.2. Deleted.
26-3.6.1. Where access to exits is provided by corridors, the corridors shall be separated from use areas by walls having a fire resistance rating of at least 1 hour in compliance with section 6-2.3 of the code.
Exception no. 1: Where exits are available from an open floor area.
Exception no. 2: Corridors need not have a fire resistance rating within a space occupied by a single tenant.
Exception no. 3: Corridors need not have a fire resistance rating within buildings protected throughout by an approved automatic sprinkler system in accordance with section 7-7 of the code.
Exception no. 4: Spaces may be open to the corridors in compliance with section 12-3.6.1 of the code.

PART 3. HOSPITALS; MENTAL HOSPITALS

R 29.1831 Life safety code; adoption by reference for existing hospitals, mental hospitals, psychiatric hospitals, and psychiatric units.

Rule 31. Existing hospitals, mental hospitals, psychiatric hospitals, and psychiatric units shall be in compliance with either of the following provisions:

(a) The provisions of chapters 1 to 7, 13, and 33 of the code and the amendments in these rules that apply to existing health care occupancies. Except for the provisions of the chapters amended by these rules, the provisions are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provision as of the time of adoption of these rules is $48.50. Sections 13-2.2.1, 13-2.2.6, 13-2.3.4, 13-2.5.9, 13-3.1.1, 13-3.6.1, 13-3.6.3.1, 13-3.6.3.2, 13-3.6.3.5, 13-3.6.4, and 13-3.7.3 of the code are amended, and section 13-3.5.7 is added to the code, to read as follows:

13-2.2.1. Components of means of egress shall be restricted to the permissible types described in section 13-2.2.2 to section 13-2.2.10 of the code.

Exception: A health facility which, before the effective date of these rules, was provided with an outside fire escape or escapes as required means of egress or which was provided with an outside fire escape or escapes to correct an existing deficiency created by a dead-end corridor shall not be required to replace the fire escape or escapes to comply with this rule if all of the following requirements are satisfied:

(a) Upon a request of the office of fire safety, the fire escape or escapes are certified by an architect or professional engineer, in affidavit form, attesting to their structural stability.

(b) The building is protected against fire by blank or closed walls directly under the stairway and for a distance of 6 feet in all other directions, with a window permitted within this area in a fixed fire window assembly in accordance with section 6-2.3.2.2 of the code.

(c) The bottom riser terminates at ground level, with the last riser not more than the spacing of a riser above.

(d) A doorway leading to a fire escape is at floor level.

13-2.2.6. The width of class A or B ramps shall be as specified in section 13-2.3.3 of the code or existing ramps may remain subject to the authority having jurisdiction.

13-2.3.4. The minimum clear width for evacuation purposes only for doors in the means of egress from hospital, nursing home, and limited care sleeping rooms and diagnostic and treatment areas, such as X-ray, surgery, or physical therapy areas, shall be not less than 32 inches (86 cm). For ambulatory patient and resident use, an existing 30-inch door width shall be permitted.

13-2.5.9. Every corridor shall provide access to not less than 2 approved exits in accordance with sections 5-4 and 5-5 of the code without passing through any intervening rooms or spaces other than corridors or lobbies. Waiting areas may be located in lobby areas if the waiting areas are in compliance with the waiting area exceptions listed in section 13-3.6.1 of the code. Direct supervision by facility staff is not required for waiting areas if the lobby

is separated from corridors entering the lobby by walls and doors that are in compliance with the same fire-resistive rating and construction requirements as a smoke barrier wall.
Exception: Existing dead-end corridors may be continued in use if it is not practical and feasible to alter them so that exits will be accessible in at least 2 different directions from all points in aisles, passageways, and corridors.
13-3.1.1. Any stairway, ramp, light or ventilation shaft, chute, and other vertical opening between stories shall be enclosed in accordance with the provisions of section 6-2.4 of the code. The enclosure shall be constructed of material that has a ½-hour-fire-resistance rating. Elevator and dumbwaiter shafts shall have at least a 1-hour-fire-resistance rating. Doors to shaft openings may remain subject to the authority having jurisdiction if approved fire door construction was utilized to build the doors.
13-3.5.7. Existing health care facilities that are not totally protected by an approved automatic sprinkler system shall maintain existing standpipe systems in accordance with the provisions of the national fire protection association standard no. 14, 1996 edition, entitled "Standard for the Installation of Standpipe and Hose Systems," as adopted in these rules.
13-3.6.1. Corridors shall be separated from all other areas by partitions that are in compliance with section 13-3.6.2 to section 13-3.6.5 of the code.
Exception no. 1: Smoke compartments protected throughout by an approved, supervised automatic sprinkler system in accordance with section 13-3.5.3 of the code may have spaces that are unlimited in size open to the corridor, if all of the following provisions are satisfied:
(a) The spaces shall not be used for patient sleeping rooms, treatment rooms, or hazardous areas.
(b) The corridors onto which the spaces open in the same smoke compartment are protected by an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code or the smoke compartment in which the space is located is protected throughout by quick-response sprinklers.
(c) The open space is protected by an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code or the entire space is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.
(d) The space does not obstruct access to required exits.
Exception no. 2: In smoke compartments protected throughout by an approved, supervised automatic sprinkler system in accordance with section 13-3.5.3 of the code, waiting areas may be open to the corridor if all of the following provisions are satisfied:
(a) The aggregate waiting area in each smoke compartment is not more than 600 square feet (55.7 square meters).
(b) Each area is protected by an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code or each area is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.
(c) The area does not obstruct access to required exits.
Exception no. 3: A nursing and control station sufficient in size for the number of occupants served may be open to the corridor if all of the following provisions are satisfied:
(a) The station is staffed 24 hours a day.
(b) The station does not reduce the required corridor width.

(c) The station contains only communication and monitoring equipment, a desk or counter, seating, and a storage space for use in charting.
(d) Wall and ceiling interior finishes shall have a class A fire hazard classification. The permitted desk or counter and enclosed storage space shall not be constructed of materials that are more hazardous than class B for all exposed surfaces.
Exception no. 4: Gift shops which open to the corridor and which are protected in accordance with section 13-3.2.5 of the code.
Exception no. 5: Deleted.
Exception no. 6: Spaces other than patient sleeping rooms, treatment rooms, and hazardous areas may be open to the corridor and may be unlimited in area if all of the following provisions are satisfied:
(a) Each space is located to permit direct supervision by the facility staff.
(b) The space and corridors which the space opens onto in the same smoke compartment are protected by an electrically supervised automatic smoke detection system that is installed in accordance with the provisions of section 13-3.4 of the code.
(c) Each space is protected by automatic sprinklers.
(d) The space is arranged so as not to obstruct access to required exits.
Exception no. 7: Waiting areas may be open to the corridor if all of the following provisions are satisfied:
(a) Each area is not more than 600 square feet (55.7 square meters).
(b) The area is located to permit direct supervision by the facility staff.
(c) The area is equipped with an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code.
(d) The area does not obstruct any access to required exits.
Exception no. 8: Deleted.
13-3.6.3.1. Doors protecting openings in other than required enclosures of vertical openings, exits, or hazardous areas shall be substantial doors, such as doors constructed of 1 3/4-inch thick solid bonded core wood or constructed to resist fire for not less than 20 minutes and shall be constructed to resist the passage of smoke.
Exception no. 1: In smoke compartments protected throughout by an approved, supervised automatic sprinkler system in accordance with section 13-3.5.2 of the code, the door construction requirements noted in this section are not mandatory, but the doors shall be constructed to resist the passage of smoke.
Exception no. 2: Deleted.
13-3.6.3.2. Doors shall be provided with a suitable means for keeping the doors closed that is acceptable to the authority having jurisdiction.
Exception no. 1: Deleted.
Exception no. 2: Deleted.
13-3.6.3.5. Labeled door frames are not required if the door frames and stops are steel or other approved materials that are in compliance with the requirements of national fire protection association standard no. 252, 1995 edition, entitled “Standard Methods of Fire Tests of Door Assemblies,” as adopted in these rules. There are no restrictions on door frames in smoke compartments protected throughout by an approved automatic sprinkler system. Existing door frames of substantial construction are acceptable subject to the approval of the authority having jurisdiction.

13-3.6.4. Transfer grilles, whether or not protected by fusible link-operated dampers, shall not be used in corridor walls or doors.
Exception: Deleted.
13-3.7.3. Any required smoke barrier shall be constructed in accordance with the provisions of section 6-3 of the code and shall have a fire-resistance rating of not less than ½ hour.
Exception no. 1: When an atrium is used, smoke barriers may terminate at an atrium wall. A minimum of 2 separate smoke compartments shall be provided on each floor.
Exception no. 2: The smoke dampers specified in the provisions of section 6-3.5.1 of the code are not required.
(b) The provisions of chapters 1 to 7, 13, and 33 of the code and the provisions of national fire protection association standard no. 101A, 1995 edition, entitled "Alternative Approaches to Life Safety," that apply to existing health care occupancies, which are adopted by reference in these rules. The provisions of subdivision (a) of this rule that are not addressed by national fire protection association standard no. 101A shall be complied with. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions at the time of adoption of these rules is $48.50 for the code and $27.00 for standard no. 101A.

R 29.1832 Life safety code; adoption by reference for new hospitals, mental hospitals, psychiatric hospitals, and psychiatric units.

Rule 32. (1) The provisions of chapters 1 to 7, 12, and 33 of the code that apply to new hospitals, new mental hospitals, new psychiatric hospitals, and new psychiatric units are adopted by reference in these rules, except as amended by these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50.
(2) Sections 12-1.1.1.1, 12-2.5.9, 12-3.5.1, 12-3.6.1, 12-3.6.3.1, 12-3.6.3.2, 12-3.6.4, and 12-3.8.1 of the code are amended to read as follows:
12-1.1.1.1. National fire protection association standard no. 101A, 1995 edition, entitled "Guide on Alternative Approaches to Life Safety," does not apply to the design of new hospital construction.
12-2.5.9. Every corridor shall provide access to not less than 2 approved exits in accordance with the provisions of sections 5-4 and 5-5 of the code without passing through any intervening rooms or spaces other than corridors or lobbies. Waiting areas may be located in lobby areas if the waiting areas are in compliance with the waiting area exceptions listed in section 12-3.6.1 of the code. Direct supervision by facility staff is not required for waiting areas if the lobby is separated from corridors entering the lobby by walls and doors that are

in compliance with the same fire-resistance rating and construction requirements as a smoke barrier wall.

12-3.5.1. All hospitals, including additions to existing buildings, regardless of height, floor area, or construction type, shall be protected throughout by an approved automatic sprinkler system, except as follows:

(a) This section does not apply to the remodeling of areas of an existing hospital where the remodeling is cosmetic or the area involved is smaller than a typical smoke zone of the facility.

(b) This section does not apply to an addition to an existing room area unless automatic sprinklers are required by the type of room use.

(c) In modular health care units, alternative fire suppression systems acceptable to the authority having jurisdiction shall be permitted in place of required automatic sprinkler systems.

12-3.6.1. Corridors shall be separated from all other areas by partitions that are in compliance with section 12-3.6.2 through section 12-3.6.5 of the code.

Exception no. 1: Spaces may be unlimited in area and open to the corridor if all of the following provisions are satisfied:

(a) The spaces are not used for patient sleeping rooms, treatment rooms, or hazardous areas.

(b) The corridors onto which the spaces open in the same smoke compartment are protected by an electrically supervised automatic smoke detection system installed in accordance with section 12-3.4 of the code or the smoke compartment in which the space is located is protected throughout by quick-response sprinklers.

(c) The open space is protected by an electrically supervised automatic smoke detection system installed in accordance with section 12-3.4 of the code or the entire space is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.

(d) The space does not obstruct access to required exits.

Exception no. 2: Waiting areas may be open to the corridor if all of the following provisions are satisfied:

(a) The aggregate waiting area in each smoke compartment is not more than 600 square feet (55.7 square meters).

(b) Each area is protected by an electrically supervised automatic smoke detection system installed in accordance with section 12-3.4 of the code or each area is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.

(c) The area does not obstruct access to required exits.

Exception no. 3. A nursing and control station that is sufficient in size for the number of occupants served may be open to the corridor if all of the following provisions are satisfied:

(i) The station is staffed 24 hours a day.

(ii) The station does not reduce the required corridor width.

(iii) The station contains only communication and monitoring equipment, a desk or counter, seating, and a storage space for use in charting.

(iv) Wall and ceiling interior finishes shall have a class A fire hazard classification. The permitted desk or counter and enclosed storage space shall not be constructed of materials that are more hazardous than class B for all exposed surfaces.

Exception no. 4: Gift shops which open to the corridor and which are protected in accordance with section 12-3.2.5 of the code.
Exception no. 5: Deleted.
12-3.6.3.1. Doors protecting corridor openings shall be constructed to resist the passage of smoke.
Exception: Deleted.
12-3.6.3.2. Doors shall be provided with positive-latching hardware. Roller latches are prohibited.
Exception: Deleted.
12-3.6.4. Transfer grilles, whether or not protected by fusible link-operated dampers, shall not be used in corridor walls or doors.
Exception: Deleted.
12-3.8.1. Every patient sleeping room shall have an outside window or outside door arranged and located so that it can be opened from the inside to permit the venting of products of combustion and to permit any occupant to have direct access to fresh air in case of emergency. The maximum allowable sill height shall not be more than 36 inches above the floor. If windows require the use of tools or keys for operation, then the tools or keys shall be located at a prominent location accessible to staff on the floor where the windows are situated.
Exception no. 1: The window sill in special nursing care areas, such as areas housing an intensive care unit, a critical care unit, hemodialysis, and neonatal patients, shall not be more than 60 inches (152 centimeters) above the floor.
Exception no. 2: Newborn nurseries and rooms intended for occupancy for less than 24 hours, such as rooms housing obstetrical labor beds, recovery beds, and observation beds in the emergency department.
Exception no. 3: Windows in atrium walls shall be considered outside windows for the purposes of this requirement.
Exception no. 4: Deleted.

PART 4. NURSING HOMES

R 29.1841 Life safety code; adoption by reference for existing nursing homes.

Rule 41. Existing nursing homes shall comply with either of the following provisions:
(a) The provisions of chapters 1 to 7, 13, and 33 of the code and the amendments to the provisions specified in these rules that apply to existing health care occupancies. Except for the amendments to the provisions specified in these rules, the provisions are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50. Sections 13-2.2.1, 13-2.2.6, 13-2.3.4, 13-2.5.9, 13-3.1.1, 13-3.6.1, 13-3.6.3.1, 13-3.6.3.2, 13-3.6.3.5, 13-3.6.4, and 13-3.7.3 of the code are amended, and section 13-3.5.7 is added to the code, to read as follows:

13-2.2.1. Components of means of egress shall be restricted to the permissible types described in the provisions of section 13-2.2.1 to section 13-2.2.10 of the code.
Exception: A health facility which, before the effective date of these rules, was provided with an outside fire escape or escapes as a required means of egress or which was provided with an outside fire escape or escapes to correct an existing deficiency created by a dead-end corridor shall not be required to replace the fire escape or escapes to comply with this rule if all of the following provisions are satisfied:
(a) Upon a request of the office of fire safety, the fire escape or escapes are certified by an architect or professional engineer, in affidavit form, attesting to their structural stability.
(b) The building is protected against fire by blank or closed walls directly under the stairway and for a distance of 6 feet in all other directions, with a window permitted within this area in a fixed fire window assembly in accordance with section 6-2.3.2.2 of the code.
(c) The bottom riser terminates at ground level, with the last riser not more than the spacing of a riser above.
(d) A doorway leading to a fire escape is at floor level.
13-2.2.6. The width of class A or B ramps shall be as specified in section 13-2.3.3 of the code or existing ramps may remain subject to the authority having jurisdiction.
13-2.3.4. The minimum clear width, for evacuation purposes only, for doors in the means of egress from hospital, nursing home, and limited care sleeping rooms and diagnostic and treatment areas, such as X-ray, surgery, or physical therapy areas, shall be not less than 32 inches. For ambulatory patient and resident use, an existing 30-inch door shall be permitted.
13-2.5.9. Every corridor shall provide access to not less than 2 approved exits in accordance with the provisions of sections 5-4 and 5-5 of the code without passing through any intervening rooms or spaces other than corridors or lobbies. Waiting areas may be located in lobby areas if the waiting areas are in compliance with the waiting area exceptions listed in section 13-3.6.1 of the code. Direct supervision by facility staff is not required for waiting areas if the lobby is separated from the corridors that enter the lobby by walls and doors that are in compliance with the same fire-resistive rating and construction requirements as a smoke barrier wall.
Exception: Existing dead-end corridors may be continued in use if it is not practical and feasible to alter them so that exits will be accessible in at least 2 different directions from all points in aisles, passageways, and corridors.
13-3.1.1. Any stairway, ramp, light or ventilation shaft, chute, and other vertical opening between stories shall be enclosed in accordance with the provisions of section 6-2.4 of the code. The enclosure shall be constructed of materials that have a ½-hour-fire-resistance rating. Elevator and dumbwaiter shafts shall have at least a 1-hour-fire-resistance rating. Doors to shaft openings may remain subject to the authority having jurisdiction if approved fire door construction was utilized to build the doors.
13-3.5.7. Existing health care facilities that are not totally protected by an approved automatic sprinkler system shall maintain existing standpipe systems in accordance with the provisions of the national fire protection association standard no. 14, 1996 edition, entitled “Standard for Installation of Standpipe and Hose Systems,” as adopted in these rules.

13-3.6.1. Corridors shall be separated from all other areas by partitions that are in compliance with section 13-3.6.2 to section 13-3.6.5 of the code.

Exception no. 1: Smoke compartments protected throughout by an approved, supervised automatic sprinkler system in accordance with section 13-3.5.3 of the code may have spaces that are unlimited in size open to the corridor if all of the following provisions are satisfied:

(a) The spaces shall not be used for patient sleeping rooms, treatment rooms, or hazardous areas.

(b) The corridors onto which the spaces open in the same smoke compartment are protected by an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code or the smoke compartment in which the space is located is protected throughout by quick-response sprinklers.

(c) The open space is protected by an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code or the entire space is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.

(d) The space does not obstruct access to required exits.

Exception no. 2: In smoke compartments protected throughout by an approved, supervised automatic sprinkler system in accordance with section 13-3.5.3 of the code, waiting areas may be open to the corridor if all of the following provisions are satisfied:

(a) The aggregate waiting area in each smoke compartment is not more than 600 square feet (55.7 square meters).

(b) Each area is protected by an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code or each area is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.

(c) The area does not obstruct access to required exits.

Exception no. 3: A nursing and control station sufficient in size for the number of occupants served may be open to the corridor if all of the following provisions are satisfied:

(a) The station is staffed 24 hours a day.

(b) The station does not reduce the required corridor width.

(c) The station contains only communication and monitoring equipment, a desk or counter, seating, and a storage space for use in charting.

(d) Wall and ceiling interior finishes shall have a class A fire hazard classification. The permitted desk or counter and enclosed storage space shall not be constructed of materials that are more hazardous than class B for all exposed surfaces.

Exception no. 4: Gift shops open to the corridor that are protected in accordance with section 13-3.2.5 of the code.

Exception no. 5: Deleted.

Exception no. 6. Spaces other than patient sleeping rooms, treatment rooms, and hazardous areas may be open to the corridor and may be unlimited in area if all of the following provisions are satisfied:

(a) Each space is located to permit direct supervision by the facility staff.

(b) The space and corridors which the space opens onto in the same smoke compartment are protected by an electrically supervised automatic smoke detection system that is installed in accordance with the provisions of section 13-3.4 of the code.

(c) Each space is protected by automatic sprinklers.

(d) The space is arranged so as not to obstruct access to required exits.
Exception no. 7: Waiting areas shall be permitted to be open to the corridor if all of the following provisions are satisfied:
(a) Each area is not more than 600 square feet (55.7 square meters).
(b) The area is located to permit direct supervision by the facility staff.
(c) The area is equipped with an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code.
(d) The area does not obstruct any access to required exits.
Exception no. 8: Deleted.
13-3.6.3.1. Doors protecting corridor openings in other than required enclosures of vertical openings, exits, or hazardous areas shall be substantial doors, such as doors constructed of 1 3/4-inch thick solid bonded core wood or constructed to resist fire for not less than 20 minutes and shall be constructed to resist the passage of smoke.
Exception no. 1: In smoke compartments protected throughout by an approved, supervised automatic sprinkler system in accordance with section 13-3.5.2 of the code, the door construction requirements under this section are not required, but the doors shall be constructed to resist the passage of smoke.
Exception no. 2: Deleted.
13-3.6.3.2. Doors shall be provided with a means suitable for keeping the doors closed that is acceptable to the authority having jurisdiction.
Exception no. 1: Deleted.
Exception no. 2: Deleted.
13-3.6.3.5. Labeled door frames are not required if the door frames and stops are constructed of steel or other approved materials that are in compliance with the requirements of national fire protection association standard no. 252, 1995 edition, entitled "Standard Methods of Fire Tests of Door Assemblies" as adopted in these rules. There are no restrictions on door frames in smoke compartments that are protected throughout by an approved automatic sprinkler system. Existing door frames that are constructed in a substantial manner are acceptable to the authority having jurisdiction.
13-3.6.4. Transfer grilles, whether or not protected by fusible link-operated dampers, shall not be used in corridor walls or doors.
Exception: Deleted.
13-3.7.3. Any required smoke barrier shall be constructed in accordance with the provisions of section 6-3 of the code and shall have a fire-resistance rating of not less than ½ hour.
Exception no. 1: When an atrium is used, smoke barriers may terminate at an atrium wall. A minimum of 2 separate smoke compartments shall be provided on each floor.
Exception no. 2: The smoke dampers specified in section 6-3.5.1 of the code are not required.
(b) The provisions of chapters 1 to 7, 13, and 33 of the code, the amendments to the chapters set forth in these rules, and the provisions of national fire protection association standard no. 101A, 1995 edition, entitled "Alternative Approaches to Life Safety," that apply to existing nursing home occupancies. Except for the amendments to the chapters, the provisions are adopted by reference in these rules. The provisions of subdivision (a) of this rule that are not addressed by national fire protection association standard no. 101A, 1995 edition, entitled "Alternative Approaches to Life Safety," shall be complied with. Copies of the adopted provisions are available for inspection and distribution either at the office of

the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50 for the code and $27.00 for standard no. 101A.

R 29.1842 Life safety code; adoption by reference for new nursing homes.

Rule 42. (1) The provisions of chapters 1 to 7, 12, and 33 of the code that apply to new nursing home occupancies, except as amended by these rules, are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50.

(2) Sections 12-1.1.1.1., 12-2.5.9, 12-3.5.1, 12-3.6.1, 12-3.6.3.1, 12-3.6.3.2, 12-3.6.4, and 12-3.8.1 of the code are amended, to read as follows:

12-1.1.1.1. National fire protection association standard no. 101A, 1995 edition, entitled "Guide on Alternative Approaches to Life Safety" does not apply to the design of new nursing home construction.

12-2.5.9. Every corridor shall provide access to not less than 2 approved exits in accordance with the provisions of sections 5-4 and 5-5 of the code without passing through any intervening rooms or spaces other than corridors or lobbies. Waiting areas may be located in lobby areas if the waiting areas are in compliance with the waiting area exceptions listed in section 12-3.6.1 of the code. Direct supervision by facility staff is not required for the waiting areas if the lobby is separated from the corridors that enter the lobby by walls and doors that are in compliance with the same fire-resistance rating and construction requirements as a smoke barrier wall.

12-3.5.1. All nursing homes, including additions to existing buildings, regardless of height, floor area, or construction types, shall be protected throughout by an approved automatic sprinkler system, except as follows:

(a) This section does not apply to the remodeling of areas of an existing nursing home where the remodeling is cosmetic or the area involved is smaller than a typical smoke zone of the facility.

(b) This section does not apply to an addition to an existing room area unless automatic sprinklers are required by the type of room use.

(c) In modular health care units, alternative fire suppression systems, acceptable to the authority having jurisdiction, shall be permitted in place of required automatic sprinkler systems.

12-3.6.1. Corridors shall be separated from all other areas by partitions that are in compliance with section 12-3.6.2 to section 12-3.6.5 of the code.

Exception no. 1: Spaces may be unlimited in area and open to the corridor if all of the following provisions are satisfied:

(a) The spaces are not used for patient sleeping rooms, treatment rooms, or hazardous areas.

(b) The corridors onto which the spaces open in the same smoke compartment are protected by an electrically supervised automatic smoke detection system installed in accordance with section 12-3.4 of the code or the smoke compartment in which the space is located is protected throughout by quick-response sprinklers.
(c) The open space is protected by an electrically supervised automatic smoke detection system installed in accordance with section 12-3.4 of the code or the entire space is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.
(d) The space does not obstruct access to required exits.
Exception no. 2: Waiting areas may be open to the corridor if all of the following provisions are satisfied:
(a) The aggregate waiting area in each smoke compartment is not more than 600 square feet (55.7 square meters).
(b) Each area is protected by an electrically supervised automatic smoke detection system installed in accordance with section 12-3.4 of the code or each area is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.
(c) The area does not obstruct access to required exits.
Exception no. 3: A nursing and control station that is sufficient in size for the number of occupants served may be open to the corridor if all of the following provisions are satisfied:
(a) The station is staffed 24 hours a day.
(b) The station does not reduce the required corridor width.
(c) The station contains only communication and monitoring equipment, a desk or counter, seating, and a storage space for use in charting.
(d) Wall and ceiling interior finishes shall have a class A fire hazard classification. The permitted desk or counter and enclosed storage space shall not be constructed of materials that are more hazardous than class B for all exposed surfaces.
Exception no. 4: Gift shops which open to the corridor and which are protected in accordance with section 12-3.2.5 of the code.
Exception no. 5: Deleted.
12-3.6.3.1. Doors protecting corridor openings shall be constructed to resist the passage of smoke.
Exception: Deleted.
12-3.6.3.2. Doors shall be provided with positive-latching hardware. Roller latches are prohibited.
Exception: Deleted.
12-3.6.4. Transfer grilles, whether or not protected by fusible link-operated dampers, shall not be used in corridor walls or doors.
Exception: Deleted.
12-3.8.1. Every patient sleeping room shall have an outside window or outside door arranged and located so that it can be opened from the inside to permit the venting of products of combustion and to permit any occupant to have direct access to fresh air in case of emergency. The maximum allowable sill height shall not be more than 36 inches above the floor. If windows require the use of tools or keys for operation, then the tools or keys shall be located at a prominent location accessible to staff on the floor where the windows are situated.

Exception no. 1: The window sill in special nursing care areas, such as areas housing an intensive care unit, a critical care unit, hemodialysis, and neonatal patients, shall not be more than 60 inches (152 centimeters) above the floor.
Exception no. 2: Newborn nurseries and rooms intended for occupancy for less than 24 hours, such as rooms housing obstetrical labor beds, recovery beds, and observation beds in the emergency department.
Exception no. 3: Windows in atrium walls shall be considered outside windows for the purposes of this requirement.
Exception no. 4: Deleted.

PART 5. HOMES FOR THE AGED

R 29.1851 Life safety code; adoption by reference for existing homes for the aged.

Rule 51. Existing homes for the aged shall be in compliance with either of the following provisions:
(a) The provisions of chapters 1 to 7, 13, and 33 of the code and the amendments in these rules that apply to existing limited care occupancies. Except for the provisions of the chapters amended by these rules, the provisions are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50. Sections 13-2.2.1, 13-2.2.6, 13-2.3.4, 13-2.5.9, 13-3.1.1, 13-3.6.1, 13-3.6.3.1, 13-3.6.3.2, 13-3.6.3.5, 13-3.6.4, and 13-3.7.3 of the code are amended, and sections 13-1.1.3.1, 13-3.5.8, and 13-3.5.9 are added to the code, to read as follows:
13-1.1.3.1. (i) Homes for the aged shall be staffed as follows:
(A) For 19 to 100 residents -2 attendants who are awake and fully dressed.
(B) For 101 to 180 residents -3 attendants who are awake and fully dressed.
(C) For 181 to 260 residents -4 attendants who are awake and fully dressed.
(D) For each additional 80 residents -1 additional attendant who is awake and fully dressed.
(ii) Security chart-keyed clocks shall be used. Numerically numbered key stations shall be installed throughout the corridor system of the building. There shall be not less than 2 key stations, with 1 located at each end of every corridor.
Exception: Smoke compartments that are protected throughout with an automatic extinguishing system which is in compliance with section 13-3.5.3 of the code.
(iii) Security rounds shall be conducted and key-recorded on the charts at least once every hour in each location between the hours of 11 p.m. and 7 a.m. If the exception to subdivision (ii) is utilized, the security rounds do not need to be key-recorded. Security rounds shall be conducted and recorded on forms acceptable to the authority having jurisdiction. The facility administration shall keep the key-recorded charts, or forms documenting rounds if allowed, on file for 1 year and make them available for review by fire safety inspection authorities.

(iv) An attendant who is required pursuant to the provisions of this rule shall be physically and mentally capable of performing the duties of evacuation. Only the management or an employee of the management shall be considered an attendant.
(v) Existing home for the aged facilities shall only house mobile residents unless the smoke compartments that house non-mobile residents are protected throughout by an automatic extinguishing system that is in compliance with section 13-3.5.3 of the code. The facility owner or designated representative shall comply with this requirement within 2 years of the effective date of these rules.
13-2.2.1. Components of means of egress shall be restricted to the permissible types described in section 13-2.2.2 to section 13-2.2.10 of the code.
Exception: A health facility which, before the effective date of these rules, had an outside fire escape or escapes as required means of egress or which had an outside fire escape or escapes to correct an existing deficiency created by a dead-end corridor shall not be required to replace the fire escape or escapes to comply with this rule if all of the following provisions are satisfied:
(a) Upon a request of the office of fire safety, the fire escape or escapes are certified by an architect or professional engineer, in affidavit form, attesting to their structural stability.
(b) The building is protected against fire by blank or closed walls directly under the stairway and for a distance of 6 feet in all other directions, with a window permitted within this area in a fixed fire window assembly in accordance with section 6-2.3.2.2 of the code.
(c) The bottom riser terminates at ground level and the last riser is not more than the spacing of a riser above.
(d) A doorway leading to a fire escape is at floor level.
13-2.2.6. The width of class A or B ramps shall be as specified in the provisions of section 13-2.3.3 of the code or existing ramps may remain subject to the authority that has jurisdiction.
13-2.3.4. For evacuation purposes only the minimum clear width for doors in the means of egress from hospital, nursing home, and limited care sleeping rooms and diagnostic and treatment areas, such as X-ray, surgery, or physical therapy, shall be not less than 32 inches (81 centimeters). For ambulatory patient and resident use, an existing 30-inch door shall be permitted.
13-2.5.9. Every corridor shall provide access to not less than 2 approved exits in accordance with the provisions of sections 5-4 and 5-5 of the code without passing through any intervening rooms or spaces other than corridors or lobbies. Waiting areas may be located in lobby areas if the waiting areas are in compliance with the waiting area exceptions listed in the provisions of section 13-3.6.1 of the code. Direct supervision by facility staff is not required for the waiting areas if the lobby is separated from the corridors that enter the lobby by walls and doors that are in compliance with the same fire-resistance rating and construction requirements as a smoke barrier wall.
Exception: Existing dead-end corridors may be continued in use if it is not practical and feasible to alter them so that exits will be accessible in at least 2 different directions from all points in aisles, passageways, and corridors.
13-3.1.1. Any stairway, ramp, light or ventilation shaft, chute, and other vertical opening between stories shall be enclosed in accordance with the provisions of section 6-2.4 of the code. The enclosure shall be constructed of materials that have a ½-hour-fire-resistance

rating. Elevator and dumbwaiter shafts shall maintain a minimum 1-hour-fire-resistance rating. Doors to shaft openings may remain subject to the authority having jurisdiction if approved fire door construction was utilized.

13-3.5.8. Existing health care facilities that are not totally protected by an approved automatic sprinkler system shall maintain existing standpipe systems in accordance with the provisions of national fire protection association standard no. 14, 1996 edition, entitled "Standard for Installation of Standpipe and Hose Systems," as adopted in these rules.

13-3.5.9. The main sprinkler control valve or valves shall be electrically supervised so that at least a local alarm will sound at a constantly attended location when the valve is closed. If a constantly attended location is not available, then the local alarm may sound at a routinely monitored location when the valve is closed.

13-3.6.1 Corridors shall be separated from all other areas by partitions that are in compliance with sections 13-3.6.1 to 13-3.6.5 of the code.

Exception no. 1: Smoke compartments that are protected throughout by an approved supervised automatic sprinkler system in accordance with section 13-3.5.3 of the code may have spaces that are unlimited in size open to the corridor if all of the following provisions are satisfied:

(a) The spaces are not used for patient sleeping rooms, treatment rooms, or hazardous areas.

(b) The corridors onto which the spaces open in the same smoke compartment are protected by an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code or the smoke compartment in which the space is located is protected throughout by quick-response sprinklers.

(c) The open space is protected by an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code or the entire space is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.

(d) The space does not obstruct access to required exits.

Exception no. 2: In smoke compartments protected throughout by an approved supervised automatic sprinkler system in accordance with section 13-3.5.3 of the code, waiting areas may be open to the corridor if all of the following provisions are satisfied:

(a) The aggregate waiting area in each smoke compartment is not more than 600 square feet (55.7 square meters).

(b) Each area is protected by an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code or each area is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.

(c) The area does not obstruct access to required exits.

Exception no. 3: A nursing and control station that is sufficient in size for the number of occupants served may be open to the corridor if all of the following provisions are satisfied:

(i) The station is staffed 24 hours a day.

(ii) The station does not reduce the required corridor width.

(iii) The station contains only communication and monitoring equipment, a desk or counter, seating, and a storage space for use in charting.

(iv) Wall and ceiling interior finishes shall have a class A fire hazard classification. The permitted desk or counter and enclosed storage space shall not be constructed of materials that are more hazardous than class B for all exposed surfaces.

Exception no. 4: Gift shops which open to the corridor and which are protected in accordance with section 13-3.2.5 of the code.

Exception no. 5: Limited care facilities in smoke compartments that are protected throughout by an approved supervised automatic sprinkler system in accordance with section 13-3.5.3 of the code may have group meeting or multipurpose therapeutic spaces open to the corridor if all of the following provisions are satisfied:

(a) The space is not a hazardous area.

(b) The space is protected by an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code or the space is arranged and located to permit direct supervision by the facility staff from the nursing station or similar location.

(c) The area does not obstruct access to required exits.

Exception no. 6: Spaces other than patient sleeping rooms, treatment rooms, and hazardous areas may be open to the corridor and unlimited in area if all of the following provisions are satisfied:

(a) The space and corridors that the space opens onto in the same smoke compartment area are protected by an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code.

(b) Each space is located to permit direct supervision by the facility staff.

(c) Each space is protected by automatic sprinklers.

(d) The space does not obstruct access to required exits.

Exception no. 7: Waiting areas may be open to the corridor if all of the following provisions are satisfied:

(a) Each area is not more than 600 square feet (55.7 square meters).

(b) The area is located to permit direct supervision by the facility staff.

(c) The area is equipped with an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code.

(d) The area does not obstruct any access to required exits.

Exception no. 8: In a limited care facility, group meeting or multipurpose therapeutic spaces, other than hazardous areas, that are under continuous supervision by facility staff may be open to the corridor if all of the following provisions are satisfied:

(a) Each area is not more than 1,500 square feet (140 square meters).

(b) Only 1 group meeting or multipurpose therapeutic space is permitted for each smoke compartment.

(c) The area is located to permit direct supervision by the facility staff.

(d) The area is equipped with an electrically supervised automatic smoke detection system installed in accordance with section 13-3.4 of the code.

(e) The area does not obstruct any access to required exits.

Section 13-3.6.3.1. Doors protecting corridor openings in other than required enclosures of vertical openings, exits, or hazardous areas shall be substantial doors, such as doors constructed of 1 3/4-inch (4.4 centimeters) thick solid bonded core wood or constructed to resist fire for 20 minutes and shall be constructed to resist the passage of smoke.

Exception no. 1: In smoke compartments protected throughout by an approved supervised automatic sprinkler system in accordance with 13-3.5.2 of the code, the door construction requirements specified in this section are not mandatory, but the doors shall be constructed to resist the passage of smoke.
Exception no. 2: Deleted.
13-3.6.3.2. A door shall be provided with a means which is suitable for keeping the door closed and which is acceptable to the authority having jurisdiction.
Exception no. 1: Deleted.
Exception no. 2: Deleted.
13-3.6.3.5. Labeled door frames are not required if the door frames and stops are steel or other approved materials that are in compliance with the requirements of national fire protection association standard no. 252, 1995 edition, entitled "Standard Methods of Fire Tests of Door Assemblies," as adopted in these rules. There are no restrictions on door frames in smoke compartments protected throughout by an approved automatic sprinkler system. Existing door frames or substantial construction are acceptable subject to the approval of the authority having jurisdiction.
13-3.6.4. Transfer grilles, whether or not protected by fusible link-operated dampers, shall not be used in corridor walls or doors.
Exception: Deleted.
13-3.7.3. Any required smoke barrier shall be constructed in accordance with the provisions of section 6-3 of the code and shall have a fire-resistance rating of not less than ½ hour.
Exception no. 1: If an atrium is used, then smoke barriers may terminate at an atrium wall. A minimum of 2 separate smoke compartments shall be provided on each floor.
Exception no. 2: The smoke dampers specified in section 6-3.5.1 of the code are not required.
(b) The provisions of chapters 1 to 7, 13, and 33 of the code, the amendments to the chapters set forth in these rules, and the provisions of national fire protection association standard no. 101A, 1995 edition, entitled "Guide on Alternative Approaches to Life Safety," that apply to existing limited care occupancies. Except for the amendments to the chapters set forth in these rules, the provisions are adopted by reference in these rules. The provisions of subdivision (a) of this rule that are not addressed by national fire protection association standard no. 101A, 1995 edition, entitled "Guide on Alternative Approaches to Life Safety," shall be complied with. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50 for the code and $27.00 for standard no. 101A. Section 13-1.1.3.1 is added to the code to read as follows:
13-1.1.3.1. (i) Homes for the aged shall be staffed as follows:
(A) For 19 to 100 residents -2 attendants who are awake and fully dressed.
(B) For 101 to 180 residents -3 attendants who are awake and fully dressed.
(C) For 181 to 260 residents -4 attendants who are awake and fully dressed.
(D) For each additional 80 residents -1 additional attendant who is awake and fully dressed.

(ii) Security chart-keyed clocks shall be used. Numerically numbered key stations shall be installed throughout the corridor system of the building. There shall be not less than 2 key stations, with 1 located at each end of every corridor.
Exception: Smoke compartments that are protected throughout with an automatic extinguishing system in compliance with section 13-3.5.3 of the code.
(iii) Security rounds shall be conducted and key-recorded on the charts at least once every hour in each location between the hours of 11 p.m. and 7 a.m. If the exception to subdivision (ii) is utilized, then the security rounds do not need to be key-recorded. Security rounds shall be conducted and recorded on forms acceptable to the authority having jurisdiction. The facility administration shall keep the key-recorded charts, or forms documenting rounds if allowed, on file for 1 year and make them available for review by fire safety inspection authorities.
(iv) An attendant who is required pursuant to the provisions of this rule shall be physically and mentally capable of performing the duties of evacuation. Only the management or an employee of the management shall be considered an attendant.
(v) Existing home for the aged facilities shall only house mobile residents unless the smoke compartments that house non-mobile residents are protected throughout by an automatic extinguishing system that is in compliance with section 13-3.5.3 of the code. The facility owner or designated representative shall comply with this requirement within 2 years of the effective date of these rules.

R 29.1852 Life safety code; adoption by reference for new homes for the aged.

Rule 52. (1) The provisions of chapters 1 to 7, 12, and 33 of the code that apply to new limited care occupancies, except as amended by these rules, are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the State Fire Safety Board, Office of Fire Safety, Department of Consumer and Industry Services, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is $48.50.
(2) Sections 12-2.5.9, 12-3.4.5.1, 12-3.5.1, 12-3.6.1, 12-3.6.3.1, 12-3.6.3.2, 12-3.6.4, and 12-3.8.1 of the code are amended, and sections 12-1.1.1.1, 12-1.1.3.1, and 12-3.5.5 are added to the code, to read as follows:
12-1.1.1.1. National fire protection association standard 101A, 1995 edition, entitled “Guide on Alternative Approaches to Life Safety,” does not apply to the design of new homes for the aged construction.
12-1.1.3.1. (i) Homes for the aged shall be staffed as follows:
(A) For 19 to 100 residents -2 attendants who are awake and fully dressed.
(B) For 101 to 180 residents -3 attendants who are awake and fully dressed.
(C) For 181 to 260 residents -4 attendants who are awake and fully dressed.
(D) For each additional 80 residents -1 additional attendant who is awake and fully dressed.
(ii) Security rounds shall be conducted and documented on forms acceptable to the authority having jurisdiction at least once every hour between the hours of 11 p.m. and 7 a.m. Security rounds shall include all areas of the facility.

(iii) An attendant who is required pursuant to the provisions of this rule shall be physically and mentally capable of performing the duties of evacuation. Only the management or an employee of the management shall be considered an attendant.

12-2.5.9. Every corridor shall provide access to not less than 2 approved exits in accordance with the provisions of sections 5-4 and 5-5 of the code without passing through any intervening rooms or spaces other than corridors or lobbies. Waiting areas may be located in lobby areas if the waiting areas are in compliance with the waiting area exceptions listed in section 12-3.6.1 of the code. Direct supervision by facility staff is not required for the waiting areas if the lobby is separated from the corridors that enter the lobby by walls and doors that are in compliance with the same fire-resistance rating and construction requirements as a smoke barrier wall.

12-3.4.5.1. An approved automatic smoke detection system shall be installed in all corridors of limited care facilities. The system shall be installed in accordance with section 7-6 of the code.

Exception: If each patient sleeping room is protected by an approved smoke detection system and a local smoke detector is provided at smoke barriers and horizontal exits, then an approved automatic smoke detection system need not be installed in the corridors on the patient sleeping room floors.

12-3.5.1. All homes for the aged, including additions to existing buildings, regardless of height, floor area, or construction types, shall be protected throughout by an approved automatic sprinkler system. The following exceptions apply:

(a) This provision shall not apply to the remodeling of areas of an existing home for the aged if the remodeling is cosmetic or the area involved is smaller than a typical smoke zone of the facility.

(b) This provision shall not apply to an addition to an existing room area unless automatic sprinklers are required by the type of room use.

12-3.5.5. The main sprinkler control valve or valves shall be electrically supervised so that at least a local alarm will sound at a constantly attended location when the valve is closed. Where a constantly attended location is not available, the local alarm may sound at a routinely monitored location when the valve is closed.

12-3.6.1. Corridors shall be separated from all other areas by partitions that are in compliance with sections 12-3.6.2 through 12-3.6.5 of the code.

Exception no. 1: Spaces may be unlimited in area and open to the corridor if all of the following provisions are satisfied:

(a) The spaces are not used for patient sleeping rooms, treatment rooms, or hazardous areas.

(b) The corridors onto which the spaces open in the same smoke compartment are protected by an electrically supervised automatic smoke detection system installed in accordance with section 12-3.4 of the code or the smoke compartment in which the space is located is protected throughout by quick-response sprinklers.

(c) The open space is protected by an electrically supervised automatic smoke detection system installed in accordance with section 12-3.4 of the code or the entire space is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.

(d) The space does not obstruct access to required exits.

Exception no. 2: Waiting areas may be open to the corridor if all of the following provisions are satisfied:
(a) The aggregate waiting area in each smoke compartment is not more than 600 square feet (55.7 square meters).
(b) Each area is protected by an electrically supervised automatic smoke detection system installed in accordance with section 12-3.4 of the code or each area is arranged and located to permit direct supervision by the facility staff from a nursing station or similar space.
(c) The area does not obstruct access to required exits.
Exception no. 3: A nursing and control station that is sufficient in size for the number of occupants served may be open to the corridor if all of the following provisions are satisfied:
(a) The station is staffed 24 hours a day.
(b) The station does not reduce the required corridor width.
(c) The station contains only communication and monitoring equipment, a desk or counter, seating, and a storage space for use in charting.
(d) Wall and ceiling interior finishes shall have a class A fire hazard classification. The permitted desk or counter and enclosed storage space shall not be constructed of materials that are more hazardous than class B for all exposed surfaces.
Exception no. 4: Gift shops which open to the corridor and which are protected in accordance with section 12-3.2.5 of the code.
Exception no. 5: In a limited care facility, group meeting or multipurpose therapeutic spaces shall be permitted to open to the corridor if all of the following provisions are satisfied:
(a) The space is not a hazardous area.
(b) The space is protected by an electrically supervised automatic smoke detection system installed in accordance with section 12-3.4 of the code or the space is arranged and located to permit direct supervision by the facility staff from the nursing station or similar location.
(c) The area does not obstruct access to required exits.
12-3.6.3.1. Doors protecting corridor openings shall be constructed to resist the passage of smoke.
Exception: Deleted.
12-3.6.3.2. Doors shall be provided with positive-latching hardware. Roller latches are prohibited.
Exception: Deleted.
12-3.6.4. Transfer grilles, whether or not protected by fusible link-operated dampers, shall not be used in corridor walls or doors.
Exception: Deleted.
12-3.8.1. Every patient sleeping room shall have an outside window or outside door arranged and located so that it can be opened from the inside to permit the venting of products of combustion and to permit any occupant to have direct access to fresh air in case of emergency. The maximum allowable sill height shall not be more than 36 inches (91 centimeters) above the floor. If windows require the use of tools or keys for operation, then the tools or keys shall be located at a prominent location accessible to staff on the floor where the windows are situated.
Exception no. 1: Deleted.
Exception no. 2: Rooms intended for occupancy for less than 24 hours.

Exception no. 3: Windows in atrium walls shall be considered outside windows for the purposes of this requirement.
Exception no. 4: Deleted.

PART 6. MOBILE AND TRANSPORTABLE UNIT HEALTH CARE STRUCTURES

R 29.1861 Requirements for new and existing mobile and transportable unit health care structures.

Rule 61. (1) This section applies to new and existing mobile and transportable unit health care structures.
(2) New and existing mobile and transportable unit health care structures shall be in compliance with all of the following provisions:
(a) If a dock seal-type connector is utilized between the mobile or transportable unit and the health care facility, then the dock seal manufacturer's specifications shall be submitted to the authority having jurisdiction for review and approval. The maximum length of a dock seal connector is 10 feet (3 meters).
(b) If conventional building construction is used for the connecting link between the unit and the health care facility, compliance, as applicable, with section 12-1.6.2 or 13-1.6.2 of the code is required.
(c) A unit shall be located not less than 10 feet (3 meters) from any unprotected building opening. Building openings include doors, windows, and louvers. A unit shall be located not less than 20 feet (6.1 meters) from a patient sleeping room window unless permitted by the department of consumer and industry services bureau of health systems.
(d) The unit shall be protected throughout by an approved fire suppression system that is installed, tested, and maintained in accordance with the manufacturer's requirements, applicable national fire protection association standards, and is in compliance with the act.
Exception: Existing units that do not have a fire suppression system may continue in use. Any major renovation to an existing unit shall require compliance with subsection (d) of this rule. Major renovation includes replacement of diagnostic or treatment equipment or changes to the interior of the unit that affects more than 50% of the square footage area of the unit.
(e) At least one portable fire extinguisher that is installed, tested, and maintained in accordance with the national fire protection association standard no. 10, 1994 edition, entitled "Standard for Portable Fire Extinguishers," as adopted in these rules, shall be provided in the control room or other staffed location within the unit.
(f) The administration of the health care facility shall provide a written plan and training to staff assigned to work in the unit that includes evacuation of patients, securing and separating the unit from the health care facility in the case of a fire or other emergency, and notification of appropriate emergency personnel. The written plan and documentation of training shall be made available to the authority having jurisdiction upon request.
(g) If the mobile or transportable unit is shared with other health care facilities, a fire pull station shall be installed in the docking area of each of the shared health care facilities. The pull station shall initiate the health care facility fire alarm system.

(h) If an overhead door is used for patient access between the unit and the building, then a side-hinged, swinging-type door that is a minimum 41.5 inches (105 centimeters) in clear width shall be provided on the unit.

Exception no. 1: If patients are transported onto the unit on a stretcher that is 28 inches (71.1 centimeters) or less in width, then a side-hinged door that is a minimum of 32 inches (81 centimeters) in clear width shall be permitted.

Exception no. 2: Existing swinging door installations that are less than 41.5 inches (105 centimeters) in clear width may continue to be used subject to the approval of the authority having jurisdiction.

(i) Interior finish materials shall be a minimum class C as defined in section 6-5 of the code.

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

PUBLIC SERVICE COMMISSION

GAS SAFETY

Filed with the Secretary of State on March 14, 2001.
This rule takes effect 7 days after filing with the Secretary of State

(By authority conferred on the public service commission by section 2 of 1969 PA 165, MCL 483.152)

R 460.20606 of the Michigan Administrative Code is amended as follows:

PART 6. ADOPTION OF STANDARDS

R 460.20606 Office of pipeline safety, research and special programs administration standards; adoption by reference.

Rule 906. (1) The following office of pipeline safety, research and special programs administration standard is adopted by reference in this rule and is available, from the entities designated in R 460.20601 and R 460.20602, at the price listed:
49 C.F.R. part 40, entitled "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," (1998 edition), at a cost as of the time of adoption of this rule of $31.00.
(2) The following office of pipeline safety, research and special programs administration standards are adopted by reference in this rule and are available, from the entities designated in R 460.20601 and R 460.20602, at a cost as of the time of adoption of this rule of $11.00 for a single volume that contains all of the standards:
(a) 49 C.F.R. part 191, entitled "Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-related Condition Reports," (1998 edition).
(b) 49 C.F.R. part 192, entitled "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," (1999 edition).
(c) 49 C.F.R. part 199, entitled "Drug and Alcohol Testing," (1998 edition).

ADMINISTRATIVE RULES

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

DIRECTOR'S OFFICE

OCCUPATIONAL HEALTH STANDARDS

Filed with the Secretary of State on March 8, 2001.
This rule takes effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by sections 14 and 24 of 1974 PA 154 and Executive Reorganization Orders Nos. 1996-1 and 1996-2, MCL 408.1014, 408.1024, 330.3101, and 445.2001)

R 325.70251 is added to the Michigan Administrative code as follows:

R 325.70251 Rescission of OH rule 3201.

Rule 51. OH rule 3201 which was incorporated by reference pursuant to section 14 of 1974 PA 154, MCL 408.1014, is rescinded.

PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

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."

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

DIRECTOR'S OFFICE

CONTROLLED SUBSTANCES

Filed with the Secretary of State on
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by sections 7201, 7301, 7333, and 16145 of Act No. 368 of the Public Acts of 1978, as amended, and Executive Reorganization Order No. 1996-2, MCL 333.7201, 333.7301, 333.7333, 333.16145, and 445.2001)

R 338.3101, R 338.3113, R 338.3113a, R 338.114a, R 338.3117, R 338.3119a, R 338.3120, R 338.3123, R 338.3125, R 338.3127, R 338.3132, R 338.3136, R 338.3138, R 338.3139, R 338.3141, R 338.3143, R 338.3145, R 338.3151, R 338.3152, R 338.3153, R 338.3153a, R 338.3154, R 338.3161, R 338.3162, R 338.3162a, R 338.3163, R 338.3167, R 338.3168, R 338.3169, R 338.3170 of the Michigan Administrative Code are amended, R 338.3121a and R 338.3126 are added to the Code, and R 338.3133 and R 338.3134 of the Code are rescinded as follows:

PART 1. GENERAL PROVISIONS

R 338.3101 Definitions; A to H.

Rule 1. As used in these rules:

(a) "Act" means 1978 PA 368, MCL 333.1101 et seq.

(b) "Deleterious drug" means a drug, other than a proprietary medicine, that is likely to be destructive to adult human life in quantities of 60 grains or less.

(c) “DEPARTMENT” MEANS THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES.

(D) “ELECTRONIC SIGNATURE” IS A UNIQUE IDENTIFIER PROTECTED BY APPROPRIATE SECURITY MEASURES SUCH THAT IT IS ONLY AVAILABLE FOR USE BY THE INTENDED INDIVIDUAL.

(E) "Hearing" means a hearing that is held pursuant to the grant, denial, revocation, or suspension of a license issued under the act.

PART 2. SCHEDULES

R 338.3113 Schedule 1; hallucinogenic substances.

Rule 13. Unless specifically excepted, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers when the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, is included in schedule 1:

(a) ALPHA-ETHYLTRYPTAMINE.
SOME TRADE OR OTHER NAMES:
ETRYPTAMINE.
MONASE.
~~a~~ETHYL- 1H-INDOLE-3-ETHANAMINE.
3-(2-AMINOBUTYL) INDOLE.
~~a~~ET; AND AET.
(B)//~~(a)~~// 4-bromo-2,5-dimethoxyamphetamine
Some trade or other names:
(i) 4-bromo-2,5 dimethoxy-alpha-methylphenethylamine.
(ii) 4-bromo-2,5-DMA.
(C)//~~(b)~~// 2,5-dimethoxyamphetamine.
Some trade or other names:
(i) 2,5-dimethoxy-alpha-methylphenethylamine.
(ii) 2,5-DMA.
(D) 4-BROMO-2,5-DIMETHOXPHENETHYLAMINE.
SOME TRADE OR OTHER NAMES:
(i) 2-(4-BROMO-2-5-DIMETHOXYPHENYL)-1-AMINOETHAE.
(ii) DESMETHYL DOB.
(iii) 2C-B, NEXUS.
(E)//~~(c)~~// 2,5-dimethoxy-4-ethylamphetamine.
A trade or other name:
DOET.
(F)~~//(d)~~// 4-methoxyamphetamine.
Some trade or other names:
(i) 4-methoxy-alpha-methylphenethylamine.
(ii) paramethoxyamphetamine.
(iii) PMA.
(G)//~~(e)~~// 5-methoxy-3,4-methylenedioxyamphetamine.
(H)//~~(f)~~// 4-methyl-2,5-dimethoxyamphetamine.
Some trade or other names:
(i) 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine.
(ii) DOM.
(iii) STP.
(I)~~//(g)~~// 3,4-methylenedioxyamphetamine.
(J)//~~(h)~~// 3,4-methylenedioxymethamphetamine(MDMA).

(K)//~~(i)~~// 3,4-methylenedioxy-n-ethylamphetamine.
(L)//~~(j)~~// N-hydroxy-3,4-methylenedioxyamphetamine.
(M)//~~(k)~~// 3,4,5-trimethoxyamphetamine.
(N)//~~(l)~~// Bufotenine.
Some trade or other names:
(i) 3-(beta-dimethylaminoethyl)-5-hydroxyindole.
(ii) 3-(2-dimethylaminoethyl)-5-indolol.
(iii) N,N-dimethyserotonin.
(iv) 5-hydroxy-N-N-dimethyltryptamine mappine.
(O)//~~(m)~~// Diethyltryptamine.
Some trade or other names:
(i) N,N-Diethyltryptamine.
(ii) DET.
(P)//~~(n)~~// Dimethyltryptamine.
A trade or other name:
DMT.
(Q)//~~(o)~~// Ibogaine.
Some trade or other names:
(i) 7-Ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,
9-methano-5H-pyrido.
(ii) [1',2':1,2]azepino[5,4-b] indole.
(iii) tabernanthe iboga.
(R)//~~(p)~~// Lysergic acid diethylamide.
(S)//~~(q)~~// Marihuana.
(T)//~~(r)~~// Mescaline.
(U)//~~(s)~~// Parahexyl.
Some trade or other names:
(i) 3-hexyl-l-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-
6H-dibenzo[b,d]pyran.
(ii) synhexyl.
(V)//~~(t)~~// Peyote.
(W)//~~(u)~~// N-ethyl-3-piperidyl benzilate.
(X)//~~(v)~~// N-methyl-3-piperidyl benzilate.
(Y)//~~(w)~~// Psilocybin.
(Z)//~~(x)~~// Psilocyn.
(AA)//~~(y)~~// Ethylamine analog of phencyclidine.
Some trade or other names:
(i) n-ethyl-l-phenylcyclohexylamine.
(ii) (l-phenylcyclohexyl) ethylamine.
(iii) n-(l-phenylcyclohexyl)ethylamine.
(iv) cyclohexamine.
(v) PCE.
(BB)//~~(z)~~// Pyrrolidine analog of phencyclidine.
Some trade or other names:
(i) 1-(l-phenylcyclohexyl)-pyrrolidine.

(ii) PCPy.
(iii) PHP.
(CC)//~~(aa)~~// Thiophene analog of phencyclidine.
Some trade or other names:
(i) 1-[l-(2-thienyl)-cyclohexyl]-piperidine.
(ii) 2-thienyl-analog of phencyclidine.
(iii) TPCP.
(iv) TCP.
(DD)//~~(bb)~~// 1-(l-(2-thienyl)cyclohexyl)pyrrolidine.
Another name:
TCPY.
For the purpose of this rule only, "isomer" includes the optical, position, and geometric isomers.

R 338.3113a Schedule 1; depressants.

Rule 13a. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation is included in schedule 1:
(a) GAMMA-HYDROXBUTYRIC ACID.
SOME OTHER NAMES:
(i) GHB.
(ii) GAMMA-HYDROXYBUTYRATE.
(iii) 4-HYDROXYBUTYRATE.
(iv) 4-HYDROXYBUTANOIC ACID.
(v) SODIUM OXYBATE.
(vi) SODIUM OXYBUTYRATE.
(B)~~(a)~~ Mecloqualone.
(C)~~(b)~~ Methaqualone.

R 338.3114a Schedule 1; stimulants.

Rule 14a. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers, is included in schedule 1:
(a) AMINOREX.
SOME OTHER NAMES:
(i) AMINOXAPHEN.
(ii) 2-AMINO-5-PHENYL-2-OXAZOLINE.
(iii) 4,5-DIHYDRO-5-PHENLY-2-OXAZOLAMINE.
(B)//~~(a)~~// Cathinone.
Some trade or other names:
(i) 2-amino-1-phenyl-1-propanone.
(ii) alpha-aminopropiophenone.

(iii) 2-aminopropiophenone.
(iv) norephedrone.
(C)//~~(b)~~// Methcathinone.
Some trade or other names:
(i) 2-methyiamino-l-phenylpropan-1-one.
(ii) CAT.
(iii) Ephedrone.
(D)//~~(c)~~// Fenethylline.
(E)//~~(d)~~// (±)cis-4-methylaminorex([(±)cis-4,5-dihydro-4-methyl-5phenyl-2-oxazolamine).
(F)//~~(e)~~// N-ethylamphetamine.
(G)//~~(f)~~// N,N-dimethylamphetamine.
Some trade or other names:
(i) N,N-alpha-trimethyl-benzeneethanimine.
(ii) N,N-alpha-trimethylphenethylamine.

R 338.3117 Schedule 2; opiates.

Rule 17. Unless specifically excepted, the following opiates, including their isomers, esters, and ethers, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation, are included in schedule 2:
(a) Alfentanil.
(b) Alphaprodine.
(c) Anileridine.
(d) Benzitramide.
(e) Bulk dextropropoxyphene (nondosage forms).
(f) Carfentanil.
(g) Dihydrocodeine.
(h) Diphenoxylate.
(i) Fentanyl.
(j) Isomethadone.
(k) Levo-alphacetylmethadol.
Some other names:
(i) Levo-alpha-acetylmethadol.
(ii) Levomethadyl Acetate.
(iii) LAAM.
(l) Levomethorphan.
(m) Levorphanol.
(n) Metazocine.
(o) Methadone.
(p) Methadone-Intermediate, 4 cyano-2-dimethylamino-4,4 diphenyl butane.
(q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid.
(r) Pethidine (meperidine).
(s) Pethidine-Intermediate-A, 4-cyano-1-1 methyl-4-phenylpiperidine.
(t) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
(u) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
(v) Phenazocine.

(w) Piminodine.
(x) Racemethorphan.
(y) Racemorphan.
(z) REMIFENTANIL.
(AA)//~~(z)~~// Sufentanil.

R 338.3119a Schedule 2; hallucinogenic substances.

Rule 19a. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity //~~of either~~// of NABILONE, //~~the following substances that have a hallucinogenic effect on the nervous system,~~// including its salts, isomers, and salts of isomers when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation, is included in schedule 2.
//~~(a) Dronbinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved drug product.~~
~~(b) Nabilone.~~//

R 338.3120 Schedule 3; stimulants; depressants; nalorphine.

Rule 20. (1) Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and the salts of such isomers, when the existence of such salts, isomers. and the salts of isomers is possible within the specific chemical designation, is included in schedule 3:
(a) Benzphetamine.
(b) Chlorphentermine.
(c) Clortermine.
(d) Phendimetrazine.
(2) Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and the salts of such isomers, when the existence of such salts, isomers, and the salts of isomers is possible within the specific chemical designation, is included in schedule 3:
(a) Chlorhexadol.
(B) ANY DRUG PRODUCT CONTAINING GAMMA HYDROXYBUTYRIC ACID, INCLUDING ITS SALTS, ISOMERS, AND SALTS OF ISOMERS, FOR WHICH AN APPLICATION IS APPROVED UNDER SECTION 505 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT OF 1938, 21 U.S.C. §301 ET SEQ.
(C) KETAMINE.
(D)//~~(b)~~// Lysergic acid.
(E)//~~(c)~~// Lysergic acid amide.
(F)//~~(d)~~// Methyprylon.
(G)//~~(e)~~// Pentazocine.
(H)//~~(f)~~// Sulfondiethylmethane.

(I)//~~(g)~~// Sulfonethylmethane.
(J)//~~(h) Sulforimethane~~// SULFONMETHANE.
(K)//~~(i)~~// Tiletamine-zolazepam.
(3) A compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or a salt thereof and 1 or more other active medicinal ingredients that are not listed in a schedule is included in schedule 3.
(4) A suppository dosage form which contains amobarbital, secobarbital, pentobarbital, or a salt of any of these drugs and which is approved by the food and drug administration for marketing only as a suppository is included in schedule 3.
(5) A substance that contains any quantity of a derivative of barbituric acid or any salt thereof is included in schedule 3.
(6) Nalorphine is included in schedule 3.

R 338.3121A SCHEDULE 3; HALLUCINOGENIC SUBSTANCES.

RULE 21A. UNLESS SPECIFICALLY EXCEPTED OR UNLESS LISTED IN ANOTHER SCHEDULE, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION WHICH CONTAINS ANY QUANTITY OF DRONABINOL (SYNTHETIC) IN SESAME OIL AND ENCAPSULATED IN A SOFT GELATIN CAPSULE IN A UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED DRUG PRODUCT AND THAT HAS A HALLUCINOGENIC EFFECT ON THE NERVOUS SYSTEM, INCLUDING ITS SALTS, ISOMERS, AND SALTS OF ISOMERS WHEN THE EXISTENCE OF THESE SALTS, ISOMERS, AND SALTS OF ISOMERS IS POSSIBLE WITHIN THE SPECIFIC CHEMICAL DESIGNATION, IS INCLUDED IN SCHEDULE 3.

R 338.3123 Schedule 4; depressants; drugs affecting the central nervous system; stimulants; exempt chemical preparations for industrial use; exceptions; narcotic drugs.

Rule 23. (1) Unless specifically excepted, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including its salts, isomers, and the salts of isomers when the existence of such salts, isomers, and the salts of isomers is possible within the specific chemical designation, is included in schedule 4:
(a) Alprazolam.
(b) Barbital.
(c) Bromazepam.
(d) Camazepan.
(e) Chloralbetaine.
(f) Chloral hydrate.
(g) Chlordiazepoxide.
(h) Clobazam.
(i) Clonazepam.
(j) Clorazepate.
(k) Clotiazepam.
(l) Cloxazolam.

(m) DICHLORALPHENAZONE.
(N) //~~(m)~~// Delorazepam.
(O) //~~(n)~~// Dextropropoxyphene.
(P) //~~(o)~~// Diazepam.
(Q) //~~(p)~~// Estazolam.
(R) MODAFINIL.
(S) //~~(q)~~// Ethchlorvynol.
(T) //~~(r)~~// Ethinamate.
(U) //~~(s)~~// Ethyl loflazepate.
(V) //~~(t)~~// Fludiazepam.
(W) //~~(u)~~// Flunitrazepam.
(X) //~~(v)~~// Flurazepam.
(Y) //~~(w)~~// Halazepam.
(Z) //~~(x)~~// Haloxazolam.
(AA) //~~(y)~~// Ketazolam.
(BB) //~~(z) Laprazolam~~// LOPRAZOLAM.
(CC) //~~(aa)~~// Lorazepam.
(DD) //~~(bb)~~// Lormetazepam.
(EE //~~(cc)~~// Mebutamate.
(FF) //~~(dd)~~// Medazepam.
(GG) //~~(ee)~~// Meprobamate.
(HH) //~~(ff)~~// Methohexital.
(II) //~~(gg)~~// Methylphenobarbital (mephobarbital)
(JJ) //~~(hh)~~// Midazolam.
(KK) //~~(ii)~~// Nimetazepam.
(LL) //~~(jj)~~// Nitrazepam.
(MM) //~~(kk)~~// Nordiazepam.
(NN) //~~(ll)~~// Oxazepam.
(OO) //~~(mm)~~// Oxazolam.
(PP) //~~(nn)~~// Paraldehyde.
(QQ) //~~(oo)~~// Petrichloral.
(RR) //~~(pp)~~// Phenobarbital.
(SS) //~~(qq)~~// Pinazepam.
(TT) //~~(rr)~~// Prazepam.
(UU) //~~(ss)~~// Quazepam.
(VV) //~~(tt)~~// Temazepam.
(WW) //~~(uu)~~// Tetrazepam.
(XX) //~~(vv)~~// Triazolam.
(YY) ZALEPLON.
(ZZ) //~~(ww)~~// Zolpidem.
(2) Unless specifically excepted, a material, compound, mixture, or preparation that contains any quantity of fenfluramine having a potential for abuse associated with an effect on the central nervous system, including its salts, isomers, whether optical, position, or geometric, and the salts of such isomers when the existence of such salts, isomers, and the salts of isomers is possible, is included in schedule 4.

(3) Unless specifically excepted, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including its salts, isomers, whether optical, position, or geometric, and the salts of such isomers when the existence of such salts, isomers, and the salts of isomers is possible within the specific chemical designation, is included in schedule 4:
(a) Cathine ((+)-norpseudoephedrine).
(b) DEXFENFLURAMINE.
(C)//(b)// Diethylpropion.
(D)//(c)// Fencamfamin.
(E)//(d)// Fenproporex.
(F)//(e)// Mazindol.
(G)//(f)// Mefenorex.
(H)//(g)// Phentermine.
(I)//(h)// Pemoline, including organometallic complexes and chelates thereof.
(J)//(i)// Pipradrol.
(K) SIBUTRAMINE.
(L)//~~(j)~~// SPA((-)-l-dimethylamino-1,2-diphenylethane).
(4) UNLESS SPECIFICALLY EXCEPTED OR UNLESS LISTED IN ANOTHER SCHEDULE, ANY NATURAL COMPOUND, MIXTURE, OR PRESCRIPTION WHICH CONTAINS BUTORPHANOL, INCLUDING ITS OPTICAL ISOMERS AND ITS SALTS, IS INCLUDED IN SCHEDULE 4.
(5) Chloral hydrate is designated as an exempt chemical preparation for industrial use when packaged in a sealed, oxygenfree environment under nitrogen pressure and safeguarded against exposure to air.
(6) Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation containing limited quantities of not more than 1 milligram of difenoxin and not less that 25 micrograms of atropine sulfate per dosage unit or any salts thereof is included in schedule 4.

R 338.3125 Schedule 5; narcotics added to nonnarcotic compounds.

Rule 25. (1) Schedule 5 includes the drug buprenophine by whatever official, common, usual, chemical, or brand name designated.
(2) A compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which includes 1 or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation a valuable medicinal quality other than that possessed by the narcotic drug alone, is included in schedule 5:
(a) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams, and not more than 10 milligrams per dosage unit.
(b) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams, and nor more than 4 milligrams per dosage unit.
(c) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams, and not more than 5 milligrams per dosage unit.

(d) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams, and nor more than 5 milligrams per dosage unit.
(e) //~~Not more than 100 milligrams of opium per 100 milliliters or per 100 grams, and not more than 5 milligrams per dosage unit.~~// NOT MORE THAN 2.5 MILLIGRAMS OF DIPHENOXYLATE AND NOT LESS THAN 25 MICROGRAMS OF ATROPINE SULFATE PER DOSAGE UNIT.
(F) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
(3) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of either of the following substances which have a stimulate effect on the central nervous system, including its salts, isomers, and salts of isomers, IS INCLUDED IN SCHEDULE 5.:
(a) Propylhexedrine.
(b) Pyrovalerone.

R 338.3126 SCHEDULE 5; EPHEDRINE; EXCEPTIONS.

RULE 26. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBRULE (2) OF THIS RULE, EPHEDRINE, A SALT OF EPHEDRINE, AN OPTICAL ISOMER OF EPHEDRINE, A SALT OF AN OPTICAL ISOMER OF EPHEDRINE, OR A COMPOUND, MIXTURE, OR PREPARATION CONTAINING EPHEDRINE, A SALT OF EPHEDRINE, AN OPTICAL ISOMER OF EPHEDRINE, OR A SALT OF AN OPTICAL ISOMER OF EPHEDRINE IS INCLUDED IN SCHEDULE 5.
(2) THE FOLLOWING ARE NOT INCLUDED IN SCHEDULE 5:
(A) A PRODUCT CONTAINING EPHEDRINE, A SALT OF EPHEDRINE, AN OPTICAL ISOMER OF EPHEDRINE, OR A SALT OF AN OPTICAL ISOMER OF EPHEDRINE IF THE DRUG PRODUCT MAY LAWFULLY BE SOLD OVER THE COUNTER WITHOUT A PRESCRIPTION UNDER FEDERAL LAW, IS LABELED AND MARKETED IN A MANNER CONSISTENT WITH THE PERTINENT OVER THE COUNTER TENTATIVE FINAL OR FINAL MONOGRAPH, IS MANUFACTURED AND DISTRIBUTED FOR LEGITIMATE MEDICAL USE IN A MANNER THAT REDUCES OR ELIMINATES THE LIKELIHOOD FOR ABUSE, AND IS NOT MARKETED, ADVERTISED, OR LABELED FOR AN INDICATION OF STIMULATION, MENTAL ALERTNESS, ENERGY, WEIGHT LOSS, APPETITE CONTROL, OR MUSCLE ENHANCEMENT AND IF THE DRUG PRODUCT IS 1 OF THE FOLLOWING:
(I) A SOLID DOSAGE FORM, INCLUDING BUT NOT LIMITED TO A SOFT GELATIN CAPLET, THAT COMBINES AS ACTIVE INGREDIENTS NOT LESS THAN 400 MILLIGRAMS OF GUAIFENESIN AND NOT MORE THAN 25 MILLIGRAMS OF EPHEDRINE PER DOSE, PACKAGED IN BLISTER PACKS WITH NOT MORE THAN 2 TABLETS OR CAPLETS PER BLISTER.
(II) AN ANORECTAL PREPARATION CONTAINING NOT MORE THAN 5% EPHEDRINE.
(B) A FOOD PRODUCT OR A DIETARY SUPPLEMENT CONTAINING EPHEDRINE, IF THE FOOD PRODUCT OR DIETARY SUPPLEMENT MEETS ALL OF THE FOLLOWING CRITERIA:

(I) IT CONTAINS, PER DOSAGE UNIT OR SERVING, NOT MORE THAN THE LESSER OF 25 MILLIGRAMS OF EPHEDRINE ALKALOIDS OR THE MAXIMUM AMOUNT OF EPHEDRINE ALKALOIDS PROVIDED IN APPLICABLE REGULATIONS ADOPTED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION AND CONTAINS NO OTHER CONTROLLED SUBSTANCE.
(II) IT DOES NOT CONTAIN HYDROCHLORIDE OR SULFATE SALTS OF EPHEDRINE ALKALOIDS.
(III) IT IS PACKAGED WITH A PROMINENT LABEL SECURELY AFFIXED TO EACH PACKAGE THAT STATES ALL OF THE FOLLOWING:
(A) THE AMOUNT IN MILLIGRAMS OF EPHEDRINE IN A SERVING OR DOSAGE UNIT.
(B) THE AMOUNT OF THE FOOD PRODUCT OR DIETARY SUPPLEMENT THAT CONSTITUTES A SERVING OR DOSAGE UNIT.
(C) THAT THE MAXIMUM RECOMMENDED DOSAGE OF EPHEDRINE FOR A HEALTHY ADULT HUMAN IS THE LESSER OF 100 MILLIGRAMS IN A 24-HOUR PERIOD OR THE MAXIMUM RECOMMENDED DOSAGE OR PERIOD OF USE PROVIDED IN APPLICABLE REGULATIONS ADOPTED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.
(D) THAT IMPROPER USE OF THE PRODUCT MAY BE HAZARDOUS TO A PERSON'S HEALTH.

R 338.3127 //~~Excluded substances.~~// EXCLUSIONS FOR NONNARCOTIC SUBSTANCES WHICH ARE NOT SCHEDULED.

Rule 27. (1) A nonnarcotic substance which, under the federal food, drug, and cosmetic act of 1938, 21 U.S.C. §301 et seq., may be lawfully dispensed without a prescription is excluded from all schedules pursuant to the provisions of section 7208(2) of the act. A substance which contains 1 or more controlled substances in such a proportion or concentration to vitiate the potential for abuse is AN excluded SUBSTANCE.
(2) ~~All of the following substances are excluded from all schedules of controlled substances:~~
~~(a) Bronkolixir.~~
~~(b) Bronkotabs.~~
~~(c) Primatene.~~
~~(d) Tedral.~~
~~(e) Tedral pediatric suspension.~~
~~(3) A preparation of similar quantitative composition or which is the same except that it contains a lesser quantity of a controlled substance or a substance which does not have a stimulant, depressant, or hallucinogenic effect and which may be dispensed without a prescription is excluded from all schedules.~~
~~(4)~~ An excluded substance is a deleterious drug AS DEFINED IN SECTION 7104(6) OF THE ACT and may only be manufactured, distributed, or dispensed by a person who is licensed to manufacture, distribute, or dispense a controlled substance under the act.

PART 3. LICENSES

R 338.3132 Activities requiring separate licenses.

RULE 32. //~~The following activities are deemed to be independent of each other and shall be conducted under separate licenses:~~

~~(a) Manufacturing and distributing a controlled substance.~~

~~(b) Dispensing a controlled substance listed in schedules 2 to 5.~~

~~(c) Conducting research and instructional activity with a controlled substance listed in schedule 1.~~

~~(d) Conducting research with a controlled substance listed in schedules 2 to 5.~~

~~(e) Conducting instructional activities with a controlled substance listed in schedules 2 to 5.~~

~~(f) PRESCRIBING, dispensing, or administering a controlled substance to a drug-dependent person in a drug treatment and rehabilitation program.~~

~~(g) Conducting chemical analysis with a controlled substance listed in any schedule.~~//

(1) THE FOLLOWING ACTIVITIES ARE DEEMED TO BE INDEPENDENT OF EACH OTHER AND SHALL BE CONDUCTED UNDER SEPARATE LICENSES, EXCEPT FOR THOSE ACTIVITIES LISTED, AND SHALL COMPLY WITH ALL OF THE REQUIREMENTS AND DUTIES PRESCRIBED BY LAW FOR PERSONS WHO ARE LICENSED TO ENGAGE IN SUCH COINCIDENTAL ACTIVITIES:

(A) MANUFACTURING AND DISTRIBUTING A CONTROLLED SUBSTANCE. A PERSON WHO IS LICENSED TO MANUFACTURE A CONTROLLED SUBSTANCE LISTED IN SCHEDULES 2 TO 5 MAY CONDUCT CHEMICAL ANALYSIS AND RESEARCH WITH A SUBSTANCE THAT IS LISTED IN THE SCHEDULES.

(B) DISPENSING A CONTROLLED SUBSTANCE LISTED IN SCHEDULES 2 TO 5. A PHYSICIAN WHO IS LICENSED TO PRESCRIBE OR DISPENSE CONTROLLED SUBSTANCES LISTED IN SCHEDULES 2 TO 5 MAY CONDUCT RESEARCH WITH THOSE SUBSTANCES.

(C) CONDUCTING RESEARCH AND INSTRUCTIONAL ACTIVITY WITH A CONTROLLED SUBSTANCE LISTED IN SCHEDULE 1 AS FOLLOWS:

(I) A PERSON WHO IS LICENSED TO CONDUCT RESEARCH WITH CONTROLLED SUBSTANCES LISTED IN SCHEDULE 1 MAY DO BOTH OF THE FOLLOWING:

(A) MANUFACTURE THE SUBSTANCES AS SET FORTH IN THE RESEARCH PROTOCOL THAT IS FILED AND APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION AND THE DRUG ENFORCEMENT ADMINISTRATION (DEA) AND SUBMITTED WITH THE APPLICATION FOR LICENSURE.

(B) DISTRIBUTE THE SUBSTANCES TO OTHER PERSONS WHO ARE LICENSED OR AUTHORIZED TO CONDUCT RESEARCH OR CHEMICAL ANALYSIS WITH THE SCHEDULE 1 SUBSTANCES.

(II) A LICENSED PHYSICIAN WHO IS AUTHORIZED TO CONDUCT RESEARCH WITH SCHEDULE 1 SUBSTANCES UNDER FEDERAL LAW MAY CONDUCT RESEARCH WITH THOSE SUBSTANCES, UPON FURNISHING THE ADMINISTRATOR WITH EVIDENCE OF THAT FEDERAL AUTHORIZATION. A SEPARATE LICENSE IS NOT REQUIRED FOR THIS RESEARCH ACTIVITY.

(D) CONDUCTING RESEARCH WITH A CONTROLLED SUBSTANCE LISTED IN SCHEDULES 2 TO 5. A PERSON WHO IS LICENSED OR AUTHORIZED TO CONDUCT RESEARCH WITH THE CONTROLLED SUBSTANCES LISTED IN SCHEDULES 2 TO 5 MAY CONDUCT CHEMICAL ANALYSIS WITH THE SUBSTANCES LISTED IN THOSE SCHEDULES, MANUFACTURE THE SUBSTANCES IF, AND TO THE EXTENT THAT, SUCH MANUFACTURE IS SET FORTH IN A STATEMENT FILED WITH THE APPLICATION FOR LICENSURE, DISTRIBUTE THE SUBSTANCES TO OTHER PERSONS WHO ARE LICENSED OR AUTHORIZED TO CONDUCT RESEARCH, CHEMICAL ANALYSIS, OR INSTRUCTIONAL ACTIVITY WITH THE SUBSTANCES, AND CONDUCT INSTRUCTIONAL ACTIVITIES WITH THE SUBSTANCES.

(E) CONDUCTING INSTRUCTIONAL ACTIVITIES WITH A CONTROLLED SUBSTANCE LISTED IN SCHEDULES 2 TO 5.

(F) PRESCRIBING, DISPENSING, OR ADMINISTERING A CONTROLLED SUBSTANCE TO A DRUG-DEPENDENT PERSON IN A DRUG TREATMENT AND REHABILITATION PROGRAM.

(G) CONDUCTING CHEMICAL ANALYSIS WITH A CONTROLLED SUBSTANCE LISTED IN ANY SCHEDULE. A PERSON WHO IS LICENSED OR AUTHORIZED TO CONDUCT CHEMICAL ANALYSIS WITH ALL CONTROLLED SUBSTANCES MAY MANUFACTURE SUCH SUBSTANCES FOR ANALYTICAL OR INSTRUCTIONAL PURPOSES, DISTRIBUTE THE SUBSTANCES TO OTHER PERSONS WHO ARE LICENSED OR AUTHORIZED TO CONDUCT CHEMICAL ANALYSIS, INSTRUCTIONAL ACTIVITY OR RESEARCH WITH THE SUBSTANCES, AND CONDUCT INSTRUCTIONAL ACTIVITIES WITH THE SUBSTANCES.

(2) A SEPARATE LICENSE IS REQUIRED FOR EACH PRINCIPAL PLACE OF BUSINESS OR PROFESSIONAL PRACTICE. A PRINCIPAL PLACE OF BUSINESS OR A PROFESSIONAL PRACTICE IS THE PHYSICAL LOCATION WHERE CONTROLLED SUBSTANCES ARE MANUFACTURED, GROWN, CULTIVATED, PROCESSED, OR BY OTHER MEANS PRODUCED OR PREPARED, DISTRIBUTED, PRESCRIBED, STORED, OR DISPENSED BY A LICENSEE.

R 338.3133 //~~Activities covered by single licenses.~~

~~Rule 33. Activities in each of the following subdivisions shall be conducted under a single license:~~

~~(a) A person who is licensed to manufacture a controlled substance listed in schedules 2 to 5 may conduct chemical analysis and research with a substance that is listed in the schedules.~~

~~(b) A person who is licensed to conduct research with controlled substances listed in schedule 1 may do both of the following:~~

~~(i) Manufacture the substances as set forth in the research protocol that is filed and approved by the federal food and drug administration and the drug enforcement administration (DEA) and submitted with the application for licensure.~~

~~(ii) Distribute the substances to other persons who are licensed or authorized to conduct research or chemical analysis with the schedule 1 substances.~~

~~(c) A person who is licensed or authorized to conduct chemical analysis with all controlled substances may manufacture such substances for analytical or instructional purposes, distribute the substances to other persons who are licensed or authorized to conduct chemical analysis or instructional activity or research with the substances, and conduct instructional activities with the substances.~~
~~(d) A person who is licensed or authorized to conduct research with the controlled substances listed in schedules 2 to 5 may conduct chemical analysis with the substances listed in those schedules, manufacture the substances if, and to the extent that, such manufacture is set forth in a statement filed with the application for licensure, distribute the substances to other persons who are licensed or authorized to conduct research, chemical analysis, or instructional activity with the substances, and conduct instructional activities with the substances.~~
~~(e) A physician who is licensed to prescribe or dispense controlled substances listed in schedules 2 to 5 may conduct research with those substances, and a licensed physician who is authorized to conduct research with schedule 1 substances under federal law may conduct research with those substances, upon furnishing the administrator with evidence of that federal authorization. A separate license is not required for this research activity.~~//
RESCINDED.

R 338.3134 //~~Licensure for groups of activities and locations.~~
~~Rule 34. (1) All persons, except for persons who are listed in R 338.3133, who engage in more than 1 group of independent activities shall obtain a separate license for each group of activities. Any person who is licensed to engage in the group of activities described in each subdivision in R 338.3133 may engage in the coincident activities described therein without a separate license if he or she complies with all of the requirements and duties prescribed by law for persons who are licensed to engage in such coincidental activities.~~
~~(2) A separate license is required for each principal place of business or professional practice. A principal place of business or a professional practice is the physical location where controlled substances are manufactured, grown, cultivated, processed, or by other means produced or prepared, distributed, prescribed, or dispensed by a licensee.~~//
RESCINDED.

R 338.3136 Information in applications.
Rule 36. (1) A researcher shall include, in his or her application for licensure, all of the following information:
(a) His or her credentials to conduct the proposed research.
(b) The protocol AND DESCRIPTION OF THE NATURE of the proposed research.
(c) A list of the controlled substances and doses to be used.
(2) A person who conducts instructional activity shall include, with his or her application for licensure, all of the following information:
(a) His or her credentials to conduct the proposed instructional activity.
(b) A course outline for the proposed instructional activity.
(c) A list of the controlled substances and doses to be used.

R 338.3138 Animal euthanasia; permit application; records; storage of pentobarbital; facility inspections; facility registration; personnel training; written administration procedures.

Rule 38. (1) A dog pound, CLASS B DEALER, or animal shelter licensed or registered by the Michigan department of agriculture pursuant to 1969 AP 287, MCL 287.331 et seq. of the Michigan Compiled Laws, may apply for a permit to store, handle, and use a COMMERCIALLY-PREPARED, PREMIXED SOLUTION OF sodium pentobarbital to practice euthanasia on animals.

(2) A dog pound, CLASS B DEALER, or animal shelter holding a current registration or license issued by the Michigan department of agriculture shall apply, on a form provided by the administrator, for a permit to store, handle, and use sodium pentobarbital. The application submitted to the administrator shall contain all of the following information:

(a) The name, address, and department of agriculture registration number of the dog pound, CLASS B DEALER or animal shelter.

(b) The name, address, and biographical data of the person who is in charge of the day-to-day operation of the dog pound, CLASS B DEALER, or animal shelter and who is responsible for the storage and recordkeeping of the sodium pentobarbital.

(c) The name, address, and biographical data of the person responsible for designating employees who will practice euthanasia pursuant to THE ACT.

(d) The name and address of each individual certified to have received a minimum of 8 hours of training in the use of sodium pentobarbital to practice euthanasia, and the name of the veterinarian who trained each individual.

(3) Records of the receipt and dispensation of sodium pentobarbital shall be maintained at the animal shelter or dog pound. These records shall indicate all of the following information:

(a) The date of acquisition.

(b) The quantity acquired.

(c) The trade name.

(d) The lot number and strength of a commercially prepared, pre-mixed solution of sodium pentobarbital.

(e) A complete record of the dispensation of the pre-mixed solution for the purpose of practicing euthanasia, showing the quantity used, time, date, and the name of the administering individual.

(4) Records of receipt shall be kept on drug enforcement administration (DEA) order forms pursuant to 21 C.F.R. part 1305.

(5) Records of dispensation shall be kept pursuant to 21 C.F.R. part 1304.

(6) Records shall be kept for a period of 2 years and shall be available for inspection by the department //~~of licensing and regulation~~//.

(7) The controlled substance covered by this permit shall be a commercially-prepared, pre-mixed solution of sodium pentobarbital.

(8) All stocks of the sodium pentobarbital shall be stored in a securely locked, substantially constructed cabinet located in the facility, with access limited to the persons described in subrule (2)(b) and (d) of this rule.

(9) An inspection of the facility //~~shall~~// MAY be conducted by the department //~~of licensing and regulation~~// before issuance of the permit. Unannounced additional inspections //~~shall~~// MAY be made from time to time thereafter.
(10) The permit issued by the administrator shall show the name and address of the facility and the name of the person in charge of the day-to-day operation. This permit is not transferable. The administrator shall be notified, in writing, within 10 days of a change in the person in charge of the day-to-day operation. //~~The permit shall be renewed by June 30 of each year.~~//
(11) The facility shall promptly obtain a registration from the U. S. department of justice, drug enforcement administration, or its successor agency, before stocking, purchasing, and using sodium pentobarbital to practice euthanasia. Purchases shall be made in accordance with procedures established by the drug enforcement agency.
(12) If the dog pound, CLASS B DEALER, or animal shelter issued a permit pursuant to section 7333//~~(5)~~// (8) of THE Act, does not have in its employ an individual trained as described in section //~~7333(5)(c)~~// 7333(8), THEN the dog pound, CLASS B DEALER, or animal shelter shall immediately notify the administrator and shall //~~cease to administer, and securely store,~~// SECURELY STORE, and CEASE TO ADMINISTER, any commercially-prepared, pre-mixed solution of sodium pentobarbital until the administrator //~~if~~// IS notified that either of the following has occurred:
(a) An individual trained as described in section //~~7333(5)(c)~~// 7333(8) of THE Act //~~No. 368 of the Public Acts of 1978, as amended~~//, has been hired by the facility.
(b) An employee of the facility has been trained as described in section //~~7333(5)(c)~~// 7333(8) of THE Act //~~No. 368 of the Public Acts of 1978, as amended~~//.
(13) The administrator shall be notified of any change in the name and address of the individual trained as described in section //~~7333(5)(c)~~// 7333(8) of THE Act //~~No. 368 of the Public Acts of 1978, as amended,with~~// WITHIN 10 days of such change.
(14) The list of persons certified to have received training and the veterinarians who trained them shall be updated in writing every 6 MONTHS, KEPT ON SITE AND AVAILABLE FOR INSPECTION.
(15) The dog pound, CLASS B DEALER or animal shelter shall establish and maintain written procedures for the administration of a commercially prepared, pre-mixed solution of sodium pentobarbital. These procedures shall be kept on the licensed premises and shall be available for inspection.

R 338.3139 Animal euthanasia; personnel training.

Rule 39. (1) An employee of a dog pound, CLASS B DEALER, or animal shelter who will practice euthanasia on animals shall be able to document completion of a minimum of 8 hours of training given by a licensed veterinarian in the use of sodium pentobarbital.
(2) Training of the individual shall be under the instruction of a doctor of veterinary medicine currently licensed in this state. The training shall include both lecture and self-study instruction and clinical experience. At a minimum, the individual shall demonstrate competency to give inter-cardial, intraperitoneal, and intravenous injections, in addition to making a positive determination of death.
(3) Upon receipt of notification of the individual's successful completion of the minimum 8 hours of training from the licensed veterinarian/instructor, the department //~~of licensing~~

~~and regulation~~// shall issue a permit to the dog pound or animal shelter. //~~The permit shall be renewed annually.~~// Proficiency may be shown by completion of a self-assessment program or other evaluation by the board of veterinary medicine. The permit is subject to the provisions of section //~~7311~~// 7334 of THE Act ~~//No. 368 of the Public Acts of 1978, as amended, being //§333.7311// §333.7334 of the Michigan Compiled Laws~~//.
(4) Continued proficiency and compliance with written procedures, in addition to compliance with all rules and regulations, may be monitored by the administrator or the board of veterinary medicine.

PART 4. SECURITY

R 338.3141 Thefts and diversions.

Rule 41. (1) An applicant or licensee shall provide effective controls against theft and diversion of controlled substances.
(2) A licensee shall determine that a person is licensed to possess a controlled substance before distributing the substance to the person.
(3) Within 10 days FOLLOWING DISCOVERY of a theft or loss of any controlled substance, a licensee shall notify the administrator of the theft or loss BY SUBMITTING //~~on~~// a United States drug enforcement administration theft and loss report form 106, A COPY THEREOF, OR EQUIVALENT DOCUMENT, whether or not the controlled substance is subsequently recovered or the responsible party is identified and action is taken against the party, AND WHETHER OR NOT IT IS ALSO REPORTED TO THE DEA.

R 338.3143 Storage of controlled substances.

Rule 43. (1) A controlled substance that is listed in schedule 1 of R 338.3111 to //~~R 338.3114~~// R 338.3114a shall be stored in a securely locked, substantially constructed cabinet that is anchored to a wall or the floor.
(2) A controlled substance that is listed in schedules 2, 3, 4, and 5 of R 338.3116 to R 338.3126 shall be stored in a securely locked, substantially constructed cabinet, ROOM, or cart. However, in a pharmacy, the controlled substances may be dispersed throughout the stock of noncontrolled substances in a manner to obstruct the theft or diversion of controlled substances.
(3) Parenteral dosage forms which contain amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and which are required by the federal food, drug, and cosmetic act of 1938, 21 U.S.C. §301 et seq., or by regulations promulgated thereunder, to be kept under refrigeration may be stored in compliance with the schedule III regulations set forth in the provisions of 21 C.F.R. §§1301.71 to 1301.76.
(4) This rule //~~also~~// applies to //~~a nonpractitioner who is authorized to conduct research, chemical analysis, or instructional activity under another license~~// ALL LICENSEES.

R 338.3145 Employees; disqualification.

Rule 45. (1) The following individuals shall not be employed or otherwise utilized, with or without compensation, by a person who is licensed by the administrator pursuant to section

7303, 17711, or 17748 of the act in any manner or capacity //~~which~~// THAT allows //~~those~~// THE individuals access to controlled substances:
(a) An individual who the licensee knows, or should reasonably know, to be a substance abuser as defined in section 6107 of the act. THIS SUBDIVISION DOES NOT APPLY TO A LICENSEE ENROLLED IN THE HEALTH PROFESSIONAL RECOVERY PROGRAM UNDER A CURRENT MONITORING AGREEMENT.
(b) //~~An individual who has had an application for a controlled substance license denied.~~
~~(c) An individual whose controlled substance license is under suspension~~.
~~(d)~~// An individual whose controlled substance license is SUSPENDED, revoked, OR DENIED.
(C) //~~(e)~~// An individual whose license issued by THIS STATE OR another state is under suspension or revoked in THIS STATE OR another state for a violation that involves controlled substances.
(D) //~~(f)~~// An individual who has been convicted of a crime that involves controlled substances AND WHO IS CURRENTLY UNDER SENTENCE FOR THAT CONVICTION.
(2) Delegation pursuant to section 16215 of the act shall not be made by a licensed person to a licensed or unlicensed individual unless the delegation is in compliance with this rule.

PART 5. RECORDS

R 338.3151 //~~Original inventories.~~// INVENTORIES.

Rule 51. (1) A licensee shall make and maintain a complete and accurate inventory of all stocks of controlled substances.
(2) The inventory shall contain a complete and accurate record of all controlled substances //~~on hand~~// IN THE POSSESSION OR CONTROL OF THE LICENSEE on the date the inventory is taken as follows:
(a) If the substance is listed in schedule 1 or 2, THEN the licensee shall make an exact count or measure of the contents.
(b) If the substance is listed in schedules 3, 4, or 5, THEN the licensee shall make an estimated count or measure of the contents, but if the container holds more than 1,000 dosage units, such as tablets or capsules, THEN the licensee shall make an accurate account of the contents.
(3) A licensee shall make a separate inventory for each licensed location on the date that he or she first engages in the activity covered by his or her license. The BEGINNING inventory record for a licensed location shall be kept at the licensed location and a copy shall be forwarded to the administrator upon request.
(4) A licensee shall indicate on the inventory record whether the inventory was taken as of the opening or closing of the day that the inventory is taken.
(5) A licensee shall maintain the inventory in a written, typewritten, or printed form. The inventory taken by use of an oral recording device shall be promptly transcribed.
(6) A licensee shall sign and date the inventory record.
(7) A LICENSEE'S PRINTED NAME, ADDRESS, AND DEA NUMBER SHALL BE RECORDED ON THE INVENTORY.
(8) SCHEDULE 2 DRUGS SHALL BE SEPARATED ON THE INVENTORY FROM ALL OTHER DRUGS.

R 338.3152 //~~New and~~// ANNUAL AND changed inventories.

Rule 52. (1) Pursuant to the provisions of section 7321 of the act, AN //~~new~~// inventory shall be taken annually of all stocks of controlled substances //~~on hand~~// IN THE POSSESSION OR CONTROL OF THE LICENSEE, in accordance with the requirements of R 338.3151.

(2) On the effective date of a rule by the administrator OR DEA adding a controlled substance to a schedule, which substance was not previously listed in any schedule, a licensee who possesses the substance shall take an inventory of all stocks of the substance on hand and incorporate it in the current inventory. Thereafter, the substance shall be included in each inventory taken.

R 338.3153 Invoices, //~~and~~// acquisition, dispensing, ADMINISTRATION, and distribution records.

Rule 53. (1) A licensee shall keep, and make available for inspection ALL RECORDS FOR CONTROLLED SUBSTANCES INCLUDING //~~all~~// invoices and other acquisition records. ACQUISITION RECORDS EXCEPT FOR EXECUTED DEA 222 ORDER FORMS //~~Records~~// may be kept at a central location, subject to the approval of the administrator. The approval shall specify the nature of the ACQUISITION records to be kept and the exact location where the ACQUISITION records will be kept. All records shall be readily retrievable within 48 hours.

(2) A licensee shall maintain acquisition records as follows:

(a) Invoices and other acquisition records of all controlled substances listed in schedules 1 and 2 of R 338.3111 to R 338.3119a shall be maintained in a separate file.

(b) Invoices and other acquisition records of all controlled substances listed in schedules 3, 4, and 5 of R 338.3120 to R 338.3126 shall be maintained in a separate file or in such form so that the information required is readily retrievable from the ordinary acquisition records maintained by the dispenser.

(3) A licensee shall initial the invoice and indicate the date that the controlled substances are received.

(4) A licensee shall keep a record of all controlled substances dispensed by him or her.

(5) A PRESCRIBER SHALL KEEP A RECORD SEPARATE FROM THE PATIENT CHART WHICH CONTAINS ALL OF THE FOLLOWING INFORMATION FOR CONTROLLED SUBSTANCES DISPENSED OR ADMINISTERED BY THE PRESCRIBER:

(A) NAME OF PATIENT.

(B) NAME OF SUBSTANCE AND STRENGTH.

(C) QUANTITY OF SUBSTANCE.

(D) DATE DISPENSED OR ADMINISTERED.

(E) NAME OF INDIVIDUAL WHO DISPENSED OR ADMINISTERED.

(6) //~~(5)~~// Except //~~for~~// in medical institutions, original prescriptions shall be SEQUENTIALLY NUMBERED AND maintained in chronological order as follows:

(a) A separate file shall be maintained for dispensed substances listed in schedule 2 of R 338.3116 to R 338.3119a.

(b) A separate file shall be maintained for dispensed substances listed in schedules 3, 4, and 5 of R 338.3120 to R 338.3126.
(7) //~~(6)~~// Records of controlled substances distributed to another licensee, SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION AND be maintained in the appropriate file described in subrule (2) of this rule or in a separate record that is available for inspection:
(A) NAME, ADDRESS, AND DEA NUMBER OF RECEIVER.
(B) NAME, ADDRESS, AND DEA NUMBER OF SUPPLIER.
(C) NAME AND QUANTITY OF CONTROLLED SUBSTANCES DISTRIBUTED.
(D) DATE DISTRIBUTED.
A DEA 222 ORDER FORM SHALL BE USED FOR SCHEDULE 2 DRUGS.
(8) //~~(7)~~// Complete controlled substances records shall be maintained or controlled by the licensee for 2 years, EXCEPT FOR CONTROLLED SUBSTANCE PRESCRIPTIONS, WHICH SHALL BE MAINTAINED FOR 5 YEARS.

R 338.3153a Medication orders FOR PATIENTS in medical institutions.

Rule 53a. (1) PRESCRIPTIONS //~~Orders~~// for controlled substance medications to be dispensed for //~~immediate~~// administration to an //~~ultimate user~~// INPATIENT IN A MEDICAL INSTITUTION shall contain all of the following information:
(a) The patient's name.
(b) The prescriber's name, address, and drug enforcement administration (DEA) number. In place of including the address and DEA number on each medication order, the pharmacy may maintain a separate list of authorized prescribers. The list shall contain the prescriber's name, address, and DEA number.
(c) The prescriber's signature. IF AN ELECTRONIC SIGNATURE OF THE PRESCRIBER IS UTILIZED, THEN SECURITY SYSTEMS SHALL BE IN PLACE TO ENSURE THAT ONLY THE PRESCRIBER MAY ELECTRONICALLY SIGN. THE PHARMACIST SHALL BE ABLE TO VERIFY THE ACCURACY AND AUTHENTICITY OF THE TRANSMITTED PRESCRIPTION WITH AN ELECTRONIC SIGNATURE.
(d) The name, dose, and frequency of administration of the medication.
(e) The date of the medication order.
(2) //~~If alternative therapy has been evaluated and the immediate administration of a schedule 2 substance is necessary for the proper treatment of a patient, a pharmacist from an off-site pharmacy may dispense a schedule 2 medication in emergency cases if all of the following conditions are satisfied:~~
~~(a) The pharmacist receives the oral order of medication on behalf of the prescriber directly from a nurse who communicated directly with the prescriber.~~
~~(b) The pharmacist promptly reduces the communication to writing and, within 24 hours, forwards a copy of the medication order dispensed designated "For your Information and Records" to the prescriber.~~
~~(c) The pharmacist makes another identical copy of the order a part of the patient's chart in the medical institution.~~
~~(d) On the oral order for medication and the information copies, the pharmacist shall indicate the name of the nurse who communicated to the pharmacist on behalf of the prescriber and the time when the order was received by the pharmacist.~~// IF

ALTERNATIVE THERAPY HAS BEEN EVALUATED AND THE IMMEDIATE ADMINISTRATION OF A CONTROLLED SUBSTANCE, INCLUDING A SCHEDULE 2 MEDICATION, IS NECESSARY FOR THE PROPER TREATMENT OF A PATIENT, THEN A PHARMACIST MAY DISPENSE THE CONTROLLED SUBSTANCE FOR ADMINISTRATION TO THE INPATIENT IF ALL OF THE FOLLOWING CONDITIONS ARE SATISFIED:

(A) THE ORAL ORDER OF THE PRESCRIBER IS COMMITTED TO A WRITTEN ORDER IN THE PATIENT CHART BY A NURSE LICENSED UNDER PART 172 OF THE ACT, A PHYSICIAN'S ASSISTANT LICENSED UNDER PART 170 OR 175 OF THE ACT, OR A PHARMACIST LICENSED UNDER PART 177 OF THE ACT WHO HAS COMMUNICATED DIRECTLY WITH THE PRESCRIBER.

(B) THE WRITTEN ORDER STATES THE NAME OF THE PRESCRIBER AND THE NAME OF THE NURSE, PHYSICIAN'S ASSISTANT, OR PHARMACIST WHO RECEIVED THE VERBAL ORDER.

(C) THE WRITTEN ORDER IS FORWARDED TO THE PHARMACY.

(D) THE PRESCRIBER SIGNS THE ORIGINAL WRITTEN ORAL ORDER AT THE TIME OF NEXT VISIT OR WITHIN 7 DAYS.

(3) Original orders shall be preserved for a period of 5 years and shall be readily retrievable for any specific time period. IF PATIENT RECORDS ARE KEPT ELECTRONICALLY, THEN A PRINTED COPY SHALL BE IMMEDIATELY AVAILABLE FOR A CURRENT INPATIENT AND WITHIN 48 HOURS UPON REQUEST OF AN AUTHORIZED AGENT OF THE BOARD FOR ANY PATIENT OF THE PREVIOUS 5 YEARS.

R 338.3154 Medication records in medical institutions.

Rule 54. (1) A patient's chart shall constitute a record of medications ordered for, and actually administered to, A patient OF MEDICAL INSTITUTIONS.

(2) Medication records are required for all controlled substances listed in schedules 2, 3, 4, and 5 of R 338.3116 to R 338.3126. At a minimum, these records shall include all of the following information:

(a) The number of doses of controlled substances purchased.

(b) The number of doses dispensed to individual patients or distributed to nursing stations OR BOTH.

(c) The number of doses administered.

(d) The number of doses dispensed, but not administered, to the patient.

(e) An annual physical inventory and status of any discrepancies between the inventory and the records of acquisition and the dispensing records.

(3) If the controlled substance is not dispensed to an individual patient, all of the following provisions shall be complied with:

(a) Medication records for those controlled substances in schedules 2, 3, 4, and 5 of R 338.3116 to R 338.3126 shall be maintained.

(b) Distribution of a controlled substance to a nursing unit shall not be more than 25 doses per container.

(c) A distribution record for each multiple of 25 doses shall be used to account for delivery to a nursing unit. The record shall include all of the following information:

(i) The name and dose of the controlled substance.

(ii) The quantity of the substance.
(iii) The date of delivery.
(iv) The location of the nursing unit.
(v) The name of the distributing pharmacy AND ADDRESS IF A DIFFERENT LOCATION FROM THE MEDICAL INSTITUTION.
(vi) NAME OF DISTRIBUTING PHARMACIST.
(VII) The name of the individual on the nursing unit who receives the substance.
(d) A proof of use record shall be maintained to account for all doses of an administered substance. The record shall include all of the following:
(i) The name of the substance.
(ii) The dose administered.
(iii) The date and time a dose was administered.
(iv) The name of the patient.
(v) The signature of the individual who administered the dose.
(4) IF A CONTROLLED SUBSTANCE IS DISPENSED FROM AN AUTOMATED DEVICE, THEN DOCUMENTATION AS TO THE TYPE OF EQUIPMENT, SERIAL NUMBERS, CONTENT, POLICIES, PROCEDURES, AND LOCATION WITHIN THE FACILITY SHALL BE MAINTAINED ON-SITE IN THE PHARMACY FOR REVIEW BY THE DEPARTMENT. THE DOCUMENTATION SHALL INCLUDE AT LEAST ALL OF THE FOLLOWING INFORMATION:
(A) NAME AND ADDRESS OF THE PHARMACY OR FACILITY RESPONSIBLE FOR THE OPERATION OF THE AUTOMATED DEVICE.
(B) MANUFACTURER NAME AND MODEL NUMBER.
(C) QUALITY ASSURANCE POLICY AND PROCEDURE TO DETERMINE CONTINUED APPROPRIATE USE AND PERFORMANCE OF THE AUTOMATED DEVICE.
(D) POLICY AND PROCEDURE FOR SYSTEM OPERATION THAT INCLUDES ALL OF THE FOLLOWING:
(I) SAFETY.
(II) SECURITY.
(III) ACCURACY.
(IV) PATIENT CONFIDENTIALITY.
(V) ACCESS.
(VI) CONTROLLED SUBSTANCES.
(VII) DATA RETENTION OR ARCHIVAL.
(VIII) DEFINITIONS.
(IX) DOWNTIME PROCEDURES.
(X) EMERGENCY PROCEDURES.
(XI) INSPECTION.
(XII) INSTALLATION REQUIREMENTS.
(XIII) MAINTENANCE.
(XIV) MEDICATION SECURITY.
(XV) QUALITY ASSURANCE.
(XVI) MEDICATION INVENTORY.
(XVII) STAFF EDUCATION AND TRAINING.

(XVIII) SYSTEM SET-UP AND MALFUNCTION.
(XIX) LIST OF MEDICATIONS QUALIFYING FOR EMERGENCY DOSE REMOVAL WITHOUT PHARMACIST PRIOR REVIEW OF THE PRESCRIPTION OR MEDICATION ORDER.
(5) AUTOMATED DEVICES SHALL HAVE ADEQUATE SECURITY SYSTEMS AND PROCEDURES, EVIDENCED BY WRITTEN PHARMACY POLICIES AND PROCEDURES THAT DOCUMENT ALL OF THE FOLLOWING INFORMATION:
(A) PREVENTION OF UNAUTHORIZED ACCESS OR USE.
(B) COMPLIANCE WITH ANY APPLICABLE FEDERAL AND STATE REGULATIONS.
(C) MAINTENANCE OF PATIENT CONFIDENTIALITY.
(6) RECORDS AND ELECTRONIC DATA KEPT BY AUTOMATED DEVICES SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:
(A) ALL EVENTS INVOLVING ACCESS TO THE CONTENTS OF THE AUTOMATED DEVICES SHALL BE RECORDED ELECTRONICALLY.
(B) RECORDS SHALL BE MAINTAINED BY THE PHARMACY AND SHALL BE READILY RETRIEVABLE. THE RECORDS SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION:
(I) THE UNIQUE IDENTITY OF DEVICE ACCESSED.
(II) IDENTIFICATION OF THE INDIVIDUAL ACCESSING THE DEVICE.
(III) THE TYPE OF TRANSACTION.
(IV) THE NAME, STRENGTH, DOSAGE FORM AND QUANTITY OF THE DRUG ACCESSED.
(V) THE NAME OF THE PATIENT FOR WHOM THE DRUG WAS ORDERED.
(VI) IDENTIFICATION OF THE PHARMACIST CHECKING FOR THE ACCURACY OF THE MEDICATIONS TO BE STOCKED OR RESTOCKED IN THE DEVICE.
(VII) IF THE PHARMACIST DELEGATES THE STOCKING OF THE DEVICE, THEN TECHNOLOGIES SHALL BE IN PLACE AND UTILIZED TO ENSURE THAT THE CORRECT DRUGS ARE STOCKED IN THEIR APPROPRIATE ASSIGNMENT UTILIZING A BOARD APPROVED ERROR PREVENTION TECHNOLOGY, SUCH AS BAR CODING AND IS IN COMPLIANCE WITH R 338.490.
(VIII) ADDITIONAL INFORMATION AS THE PHARMACIST-IN-CHARGE MAY DEEM NECESSARY.
(7) FOR MEDICATION REMOVED FROM THE SYSTEM FOR ON-SITE PATIENT ADMINISTRATION, THE SYSTEM SHALL DOCUMENT ALL OF THE FOLLOWING INFORMATION:
(A) THE NAME OF THE PATIENT.
(B) THE DATE AND TIME MEDICATION WAS REMOVED FROM THE DEVICE.
(C) THE NAME, INITIALS, OR OTHER UNIQUE IDENTIFIER OF THE PERSON REMOVING THE DRUG.
(D) THE NAME, STRENGTH, AND DOSAGE FORM OF THE DRUG. THE DOCUMENTATION MAY BE ON PAPER OR ELECTRONIC MEDIUM.
(8) THE AUTOMATED DEVICE SHALL PROVIDE A MECHANISM FOR SECURING AND ACCOUNTING FOR MEDICATIONS ONCE REMOVED FROM AND SUBSEQUENTLY RETURNED TO, THE AUTOMATED DEVICE RETURN BIN. NEITHER MEDICATION NOR A DEVICE MAY BE RETURNED DIRECTLY TO THE

SYSTEM FOR IMMEDIATE REISSUE OR REUSE. MEDICATION OR DEVICES ONCE REMOVED SHALL NOT BE REUSED OR REISSUED, EXCEPT AS INDICATED IN 338.486(7).

(9) THE AUTOMATED DEVICE SHALL PROVIDE A MECHANISM FOR SECURING AND ACCOUNTING FOR WASTED OR DISCARDED MEDICATIONS.

(10) THE INTERNAL QUALITY ASSURANCE DOCUMENTATION FOR THE USE AND PERFORMANCE OF THE AUTOMATED DEVICE SHALL INCLUDE AT LEAST ALL OF THE FOLLOWING:

(A) SAFETY MONITORS THAT INCLUDE WRONG MEDICATIONS REMOVED AND ADMINISTERED TO PATIENT.

(B) ACCURACY MONITORS THAT INCLUDE FILLING ERRORS AND WRONG MEDICATIONS REMOVED.

(C) SECURITY MONITORS THAT INCLUDE UNAUTHORIZED ACCESS, PATIENTS NOT IN THE SYSTEM, SYSTEM SECURITY BREACHES, AND CONTROLLED SUBSTANCE AUDITS.

(D) POLICIES THAT ESTABLISH CORRECTIVE MEASURES TAKEN TO ADDRESS THE PROBLEMS AND ERRORS IDENTIFIED IN THE INTERNAL QUALITY ASSURANCE PROGRAM AND ITS INTEGRATION TO THE OVERALL QUALITY ASSURANCE POLICIES.

(11) POLICY AND PROCEDURES FOR THE USE OF THE AUTOMATED DEVICE SHALL INCLUDE A REQUIREMENT FOR PHARMACIST REVIEW OF THE PRESCRIPTION OR MEDICATION ORDER BEFORE SYSTEM PROFILING OR REMOVAL OF ANY MEDICATION FROM THE SYSTEM FOR IMMEDIATE PATIENT ADMINISTRATION. THIS SUBRULE DOES NOT APPLY TO THE FOLLOWING SITUATIONS:

(A) THE SYSTEM IS BEING USED AS AN AFTER-HOURS CABINET FOR MEDICATION DISPENSING IN THE ABSENCE OF A PHARMACIST AS DEFINED IN R 338.486(4)(I).

(B) THE SYSTEM IS BEING USED IN PLACE OF AN EMERGENCY KIT AS DEFINED IN R 338.486(4)(C).

(C) THE SYSTEM IS BEING ACCESSED TO REMOVE MEDICATION REQUIRED TO TREAT THE EMERGENT NEEDS OF A PATIENT AS DEFINED IN R 338.486(4)(C). A SUFFICIENT QUANTITY TO MEET THE EMERGENT NEEDS OF THE PATIENT MAY BE REMOVED UNTIL A PHARMACIST IS AVAILABLE TO REVIEW THE MEDICATION ORDER.

(D) IN EACH OF THE SITUATIONS SPECIFIED IN SUBDIVISIONS (A) TO (C) OF THIS SUBRULE, A PHARMACIST SHALL REVIEW THE ORDERS AND AUTHORIZE ANY FURTHER DISPENSING WITHIN 48 HOURS.

(12) A COPY OF ALL PHARMACY POLICIES AND PROCEDURES RELATED TO THE USE OF AN AUTOMATED DEVICE SHALL BE MAINTAINED AT THE PHARMACY RESPONSIBLE FOR THE DEVICES SPECIFIC LOCATION AND BE AVAILABLE FOR BOARD OF PHARMACY REVIEW.

(13) //~~(4)~~// A controlled substance that is maintained at a nursing unit shall be stored in a securely locked cabinet or medication cart //~~which~~// THAT is accessible only to an individual who is responsible for the administration or distribution of the medication.

(14) //~~(5)~~// RECORDS AND DOCUMENTS REQUIRED UNDER THIS RULE shall be maintained or controlled by the pharmacist in charge for 2 years.
(15) //~~(6)~~// An individual who is responsible for administering a controlled substance or A portion thereof shall record the QUANTITY, disposition, and an explanation of the destruction of the CONTROLLED substance on the proper accountability record. IF THE INSTITUTION HAS A POLICY THAT REFLECTS CURRENT PRACTICE STANDARDS AND DELINEATES THE METHOD OF DESTRUCTION AN EXPLANATION WOULD ONLY BE REQUIRED IF POLICY WAS NOT FOLLOWED.

PART 6. DISPENSING AND ADMINISTERING PRESCRIPTIONS

R 338.3161 Prescriptions.

Rule 61. (1) A prescription that is issued for a controlled substance shall be dated and signed when issued and shall contain all of the following information:
(a) The full name and address of the patient for whom the substance is being prescribed.
(b) The prescriber's DEA registration number, printed name, //~~and~~// address, AND PROFESSIONAL DESIGNATION.
(c) The drug name, strength, and dosage form.
(d) The quantity prescribed. FOR A PRESCRIPTION RECEIVED IN WRITING, THE PRESCRIPTION SHALL CONTAIN THE QUANTITY IN BOTH WRITTEN AND NUMERICAL TERMS. A WRITTEN PRESCRIPTION IS IN COMPLIANCE IF IT CONTAINS PREPRINTED NUMBERS REPRESENTATIVE OF THE QUANTITY NEXT TO WHICH IS A BOX OR LINE THE PRESCRIBER MAY CHECK.
(e) The directions for use.
(f) In addition, if the prescription is for an animal, THEN the species of the animal and the full name and address of the owner.
(2) Where a written prescription is required, the prescription shall be written with ink OR an indelible pencil, or PREPARED USING A PRINTER //~~a typewriter~~// and shall be manually signed by the prescriber in the same manner as the prescriber would sign a check or legal document.
(3) A prescription may be prepared by aN //~~secretary or~~// agent OF THE PRESCRIBER for the signature of the prescriber, but, pursuant to the act, the prescriber is liable if the prescription does not conform to these rules. A pharmacist who dispenses a controlled substance pursuant to a prescription not prepared in the form required by these rules is liable pursuant to the act.
(4) IF THE CONTROLLED SUBSTANCE PRESCRIPTION IS ISSUED PURSUANT TO DELEGATION UNDER R 338.2304, R 338.2305, R 338.108A, OR R 338.108B THEN THE PRINTED NAME OF THE DELEGATEE, THE LICENSURE DESIGNATION, THE DELEGATING PRESCRIBER, AND THE SIGNATURE OF THE DELEGATEE SHALL BE ON THE WRITTEN PRESCRIPTION.
(5) //~~(4)~~// A prescription shall not be issued by a prescriber to obtain a stock of a controlled substance for the purpose of dispensing or administering the substance to patients.

R 338.3162 Dispensing by pharmacists.

Rule 62. (1) A controlled substance shall //~~only~~// be dispensed by a pharmacist or a pharmacy intern in the presence, and under the immediate supervision, of a pharmacist.
(2) Except as provided by //~~the provisions of~~// R 338.3162a, a pharmacist may dispense a controlled substance which is listed in schedules 3 to 5 and which is a prescription drug pursuant to the provisions of the federal food, drug, and cosmetic act of 1991, 21 U.S.C. §201.100(b)(i) et seq., only pursuant to a written, ELECTRONICALLY TRANSMITTED, or oral order of a prescriber that contains all of the required information //~~pursuant to the provisions of~~// UNDER R 338.3161, except that the signature of the prescriber is not required if the controlled substance is obtained pursuant to an oral order.
(3) IF AN ORAL ORDER FOR A CONTROLLED SUBSTANCE LISTED IN SCHEDULE 3 TO 5 IS TRANSMITTED BY THE PRESCRIBER'S AGENT UNDER DELEGATION THEN ALL OF THE FOLLOWING SHALL BE RECORDED ON THE PRESCRIPTION GENERATED AT THE PHARMACY:
(A) THE INFORMATION REQUIRED BY R 338.3161.
(B) THE TRANSMITTING AGENT'S IDENTITY.
(C) THE INDIVIDUAL WHO RECEIVED THE PRESCRIPTION AT THE PHARMACY.
(4) //~~(3)~~// Only an order that is issued in the usual course of professional treatment or in the course of legitimate and authorized research is a prescription.

R 338.3162a Electronic transmission of prescriptions; "electronically transmitted prescription drug order" //~~deemed~~// DEFINED.

Rule 62a. (1) As used in this rule, "electronically transmitted prescription drug order" means a prescription drug order that is communicated from the prescriber DIRECTLY to the pharmacy by electronic means, SO THAT THE DATA CAN NOT BE ALTERED, MODIFIED, EXTRACTED, VIEWED, OR MANIPULATED IN THE TRANSMISSION PROCESS.
(2) //~~Wholesale distributors, manufacturers, pharmacists, and pharmacies shall not supply electronic equipment to any prescriber for transmitting prescription drug orders.~~
(~~3~~)// An electronically transmitted prescription order shall be transmitted to the pharmacy of the patient's choice and shall occur only at the option of the patient.
//(~~4) A pharmacist shall not dispense a controlled substance that is listed in schedule 2 on an electronically transmitted prescription drug order.~~//
(3) //(~~5~~)// A pharmacist may dispense an electronically transmitted prescription drug order only if all of the following conditions are satisfied:
(a) The electronically transmitted prescription drug order includes all of the following information:
(i) The name and address of the prescriber.
(ii) The prescriber's telephone number for verbal confirmation of the order.
(iii) The time and date of the transmission.
(iv) The name of the pharmacy intended to receive the transmission.
(v) All other information that is required to be contained in a prescription //~~pursuant to~~// UNDER the provisions of R 338.3161.
(b) The order is transmitted by an authorized prescriber or his or her designated agent.

(c) The pharmacist exercises professional judgment regarding the accuracy or authenticity of the transmitted prescription. Technological devices shall not be used to circumvent any applicable prescription documentation and verification requirement.
(4) //(~~6~~)// An electronically transmitted prescription drug order that meets the requirements of subrule //(~~5~~)// (3) of this rule shall be deemed to be the original prescription.
(5) //(~~7~~)// This rule does not apply to the use of electronic equipment to transmit prescription orders within inpatient medical institutions.

R 338.3163 Drug-dependent person; prescribing, dispensing, and administering controlled substance.

Rule 63. (1) A prescription shall not be issued for a controlled substance nor shall a controlled substance be dispensed or administered to a drug dependent person for the purpose of continuing his OR HER drug dependency, except as follows:
(a) A prescriber, licensed in accordance with federal and state law to conduct the drug treatment of a drug dependent person in a program may prescribe a controlled substance for the purpose of legitimate treatment of the drug-dependent person.
(b) A controlled substance may be administered or dispensed, or both, by a dispenser, directly to a drug-dependent person for the purpose of continuing his OR HER dependence WHO IS ENROLLED in a drug treatment and rehabilitation program.
(2) A CONTROLLED SUBSTANCE MAY BE PRESCRIBED AND DISPENSED IN AN ACUTE CARE HOSPITAL TO CONTINUE MAINTENANCE TREATMENT FOR DRUG DEPENDENCY FOR A PATIENT WHOSE HOSPITALIZATION IS FOR TREATMENT OF A MEDICAL CONDITION OTHER THAN ADDICTION. THE ENROLLMENT OF THE PATIENT IN AN APPROVED MAINTENANCE TREATMENT PROGRAM SHALL BE VERIFIED.

R 338.3167 Dispensing schedule 5 substances without prescriptions.

Rule 67. (1) A pharmacist //~~or pharmacy intern in the presence and under the personal charge of a pharmacist~~// may, without a prescription, dispense a controlled substance listed in schedule 5 which is not a prescription medication as determined under the federal food, drug, and cosmetic act, 21 U.S.C. §§301 to 392, to an ultimate user if all of the following provisions are complied with:
(A) THE PHARMACIST HAS COMPLETED A COURSE OF STUDY REGARDING THE SAFETY AND EFFECTIVENESS OF SCHEDULE 5 MEDICATIONS.
(B) //(~~a~~)// The dispensing //~~is for a~~// PHARMACIST HAS DETERMINED IT IS TO BE USED FOR a medical purpose.
(C) //(~~b~~)// Not more than 240 cc (8 ounces) or 48 solid doses of a substance containing opium or more than 120 cc (4 ounces) or 24 solid doses of any other substance listed in schedule 5 is distributed at retail to the same purchaser in any single 48-hour period.
(D) //(~~c~~)// The purchaser is not less than 18 years of age.
(E) //(~~d~~)// The pharmacist //~~or pharmacy intern~~// requires a purchaser not known to the pharmacist //~~or pharmacy intern~~// to furnish suitable identification, including proof of age where appropriate.
(2) When a pharmacist or pharmacy intern dispenses a controlled substance listed in schedule 5, he or she shall affix to the container in which the substance is dispensed a label

showing the date, his or her own name, and the name and address of the place of practice in which the substance is dispensed.
(3) A //~~bound~~// record //~~book~~// of the dispensing of controlled substances listed in schedule 5 //~~other than by prescription~~// shall be maintained by the pharmacist. //~~or pharmacy intern~~.// The //~~book shall contain all of the following information~~// RECORD SHALL BE IMMEDIATELY RETRIEVABLE AND MAY BE MAINTAINED IN THE SAME MANNER AS REQUIRED FOR SCHEDULE 5 PRESCRIPTION MEDICATION. THE RECORD SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION:
(A) THE NAME AND ADDRESS OF THE PATIENT.
(B) //~~(a)~~// The name and address of the purchaser IF DIFFERENT FROM THE PATIENT.
(C) //~~(b)~~// The name and quantity of substance purchased.
(D) //~~(c)~~// The date purchased.
(E) //~~(d)~~// The name or initials of the pharmacist or pharmacy intern who dispensed the substance.

R 338.3168 Refilling of prescriptions.

Rule 68. (1) A prescription for a controlled substance listed in schedule 2 shall not be refilled.
(2) A prescription for a controlled substance listed in schedules 3 and 4 shall not be refilled more than 6 months after the issuance date of the prescription and shall not be refilled more than 5 times. Renewal of the prescription shall be effected and recorded in the same manner as an original prescription.
(3) A PARTIAL FILLING OF A CONTROLLED SUBSTANCE PRESCRIPTION IN SCHEDULES 3, 4, AND 5 IS PERMISSIBLE IF ALL OF THE FOLLOWING PROVISIONS ARE COMPLIED WITH:
(A) EACH PARTIAL FILLING IS RECORDED IN THE SAME MANNER AS A REFILLING.
(B) THE TOTAL QUANTITY DISPENSED IN ALL PARTIAL FILLINGS DOES NOT EXCEED THE TOTAL QUANTITY PRESCRIBED.
(C) NO DISPENSING OCCURS AFTER 6 MONTHS AFTER THE DATE ON WHICH THE PRESCRIPTION WAS ISSUED FOR SCHEDULES 3 AND 4.
(4)//~~(3)~~// A prescription for a controlled substance listed in schedule 5 may be refilled only as expressly authorized by the prescriber on the prescription; if no authorization is indicated, THEN the prescription //~~may~~// SHALL not be refilled.

R 338.3169 Labels.

Rule 69. //~~A dispenser dispensing a controlled substance listed in schedules 2 to 5 shall affix to the container a label showing the dispenser's name and address, the serial number, the date, the name of the patient, the name of the prescriber, the directions for use and any cautionary statement required by federal regulation, 21 C.F.R. §300. 290.5.~~// IN ADDITION TO ALL OTHER LABELING REQUIREMENTS, A PRACTITIONER WHO DISPENSES A CONTROLLED SUBSTANCE PRESCRIPTION SHALL AFFIX TO THE CONTAINER ANY CAUTIONARY STATEMENT REQUIRED BY 21 C.F.R. §290.5.

R 338.3170 Dispensing and administering controlled substances by prescribers.

Rule 70. (1) A prescriber in the course of his OR HER professional practice only, may dispense or administer, or both, a controlled substance listed in schedules 2 to 5 or he OR SHE may cause them to be administered by AN ASSISTANT //~~a nurse, physician assistant, or intern~~// under //~~his direction~~// PERSONAL CHARGE supervision.

(2) A prescriber may dispense or administer, or both, in the course of //~~his~~// professional practice, a controlled substance listed in schedules 2 to 5, directly to a drug-dependent person for the purpose of continuing //~~his~~// THE dependence in a drug treatment and rehabilitation program, IF THE PRESCRIBER IS APPROPRIATELY LICENSED UNDER FEDERAL AND STATE LAW TO TREAT A DRUG-DEPENDENT PERSON WITH CONTROLLED SUBSTANCES.

(3) A veterinarian, in the course of //~~his~~// professional practice only and not for use by a human being, may dispense or administer, or both, a controlled substance listed in schedules 2 to 5 or //~~he~~// may cause them to be administered by an assistant or orderly under his OR HER direction and PERSONAL CHARGE supervision.

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

Controlled Substances

(ORR#1996-148)

The Department of Consumer and Industry Services will hold a public hearing on April 23, 2001 from 9:00 a.m. until 11:00 a.m. at the Department of Consumer and Industry Services, North Ottawa Towers Building, 611 West Ottawa, UP Level, Conference Room 2, Lansing, Michigan.

The public hearing is being held to receive comments from interested persons concerning amendments to the Pharmacy Controlled Substance Rules. The amendments rescind and revise existing rules to reflect advances in the practice of pharmacy and to maintain consistency with updated federal law.

Hearing comments may be presented in person, with written comments available at the time of presentation. Written comments will be accepted at the following address or E-mail address until May 15, 2001 at 5:00 p.m. Address communications to:

Department of Consumer & Industry Services
Bureau of Health Services - Pharmacy Hearing
P. O. Box 30670
Lansing, MI 48909-8170
Attention: Melanie Brim, Director, Licensing Division
E-mail address: melanie.b.brim@cis.state.mi.us

All hearings are conducted in compliance with the 1990 Americans With Disabilities Act. Hearings are held in buildings that accommodate mobility-impaired individuals and accessible parking is available. A disabled individual requiring additional accommodations for effective participation in a hearing should call Flo Beasley at (517) 335-4013 (voice) or (517) 373-7489 (TTY) to make the necessary arrangements. To ensure availability of the accommodation, please call at least 1 week in advance.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF EDUCATION

STATE BOARD OF EDUCATION

SPECIAL EDUCATION PROGRAMS AND SERVICES

Filed with the Secretary of State on
These rules take effect on July 2, 2001

(By authority conferred on the state board of education by sections 1701 and 1703 1976 PA 451, MCL 380.1701 and 380.1703)

R 340.1701, R 340.1701a, R 340.1701b, R 340.1702, R 340.1705, R 340.1706, R 340.1707, R 340.1708, R 340.1709, R 340.1710, R 340.1711, R 340.1713, R 340.1714, R 340.1715, R 340.1721, R 340.1721a, R 340.1721b, R 340.1721c, R 340.1721d, R 340.1721e, R 340.1722, R 340.1722a, R 340.1722e, R 340.1723c, R 340.1724, R 340.1724a, R 340.1724d, R 340.1725e, R 340.1732, R 340.1733, R 340.1734, R 340.1745, R 340.1750, R 340.1751, R 340.1754, R 340.1755, R 340.1757, R 340.1771, R 340.1772, R 340.1781, R 340.1782, R 340.1783, R 340.1786, R 340.1787, R 340.1788, R 340.1792, R 340.1793, R 340.1795, R 340.1796, R 340.1797, R 340.1798, R 340.1799, R 340.1799a, R 340.1799b, R 340.1799c, R 340.1801, R 340.1802, R 340.1803, R 340.1808, R 340.1811, R 340.1812, R 340.1831, R 340.1832, R 340.1833, R 340.1835, R 340.1836, R 340.1837, R 340.1838, R 340.1839, R 340.1851, R 340.1852, R 340.1853 and R 340.1861 of the Michigan Administrative Code are amended; R 340.1703, R 340.1704, R 340.1722c, R 340.1722d, R 340.1722f, R 340.1723, R 340.1723a, R 340.1723b, R 340.1724b, R 340.1725, R 340.1725a, R 340.1725b, R 340.1725c, R 340.1725d, R 340.1736, R 340.1737, R 340.1738, R 340.1739, R 340.1740, R 340.1741, R 340.1742, R 340.1743, R 340.1744, R 340.1746, R 340.1747, R 340.1748, R 340.1749, R 340.1749a, R 340.1749b, R 340.1749c, R 340.1753, R 340.1756, R 340.1758, R 340.1773, R 340.1784, R 340.1785, R 340.1790, R 340.1791, R 340.1794, R 340.1799d, R 340.1805, R 340.1806, R 340.1809, R 340.1810, R 340.1834, R 340.1862, R 340.1863, R 340.1864, R 340.1865, R 340.1866, R 340.1867, R 340.1868, R 340.1869, R 340.1870, R 340.1871, R 340.1872, and R 340.1873 of the Code are rescinded; and R 340.1709a, R 340.1716, R 340.1717, R 340.1724c, R 340.1725f, R 340.1775, R 340.1883a, R 340.1793a, R 340.1799e, and R 340. 1799f are added to the Code as follows:

PART 1. GENERAL PROVISIONS

R 340.1701 Definitions; A to ~~E~~ D.

Rule 1. As used in these rules:

(a) "Adaptive behavior" means ~~an individual's~~ A STUDENT'S ability to perform the social roles appropriate for a person of his or her age and gender in a manner that meets the expectations of home, culture, school, neighborhood, and other relevant groups in which he or she participates.

(b) "Agency" means a public or private entity or organization, including the local educationAL agency, PUBLIC SCHOOL ACADEMY, intermediate school district, the department, and any other political subdivision of the state that is responsible for providing education or services to ~~persons who are disabled~~ STUDENTS WITH DISABILITIES.

~~(c) "Ancillary and other related services" means services that are specially designed to meet the unique needs of persons with disabilities to age 25, including all of the following:~~

~~(i) Audiological, medical, psychiatric, psychological, speech and language, or educational evaluation.~~

~~(ii) Occupational, physical, recreational, music, art, or other therapy.~~

~~(iii) Counseling services, including rehabilitation counseling, parent counseling and training, school health services, or recreation as defined in the individuals with disabilities education act of 1990, 20 U.S.C. §1400 et seq., and the regulations implementing the act, 34 C.F.R. §300.16 (1992).~~

~~(iv) Mobility and orientation services, and special education services provided by other nonteaching personnel.~~

~~(v) Transportation.~~

~~(vi) School psychological and school social work services.~~

~~(vii) Instruction provided to students with disabilities who are homebound, hospitalized, or placed in juvenile detention facilities.~~

~~(viii) Services to preprimary age children with disabilities, which include, where appropriate, evaluation, therapy, consultation with parents, and training activities.~~

~~(d) "Annual goals" means a set of general statements that represents expected achievement over a year's time for persons who are disabled who are enrolled in special education programs and services.~~

~~(e) "Approved program" means a program which is described in the intermediate school district plan and which is being operated in compliance with state and federal rules and regulations governing the provision of special education to eligible persons who are disabled.~~

~~(f) "Change in educational status" means a placement of a person who is disabled in regular education, special education programs and services, or from one type of special education program or service to another or termination of special education programs or services by placement, graduation, or expulsion. Any change in grade levels within an educational program level, such as preprimary, elementary, junior high, or senior high, shall not constitute a change in educational status, but a change from one educational program level to another constitutes a change in educational status.~~

~~(g)~~(C) "Complaint" means a specific written and signed allegation, ~~which~~ THAT includes the facts on which the allegation is based, by an individual or an organization that there is an uncorrected violation of any of the following:
(i) Any current provision of these rules.
(ii) ~~Act No. 451 of the Public Acts of 1976, as amended, being §380.1 et seq. of the Michigan Compiled Laws~~ 1976 PA 451, MCL 380.1 ET SEQ., as it pertains to special education programs and services.
(iii) The individuals with disabilities education act of ~~1990~~ 1997, 20 U.S.C., CHAPTER 33, §1400 et seq., and the regulations implementing the act, 34 C.F.R. part~~s~~ 300 ~~and 301 (1992)~~ (1999).
(iv) ~~The state board of education's special education plan or a~~An intermediate school district special education plan.
(v) An individualized education~~al planning committee~~ PROGRAM TEAM report, hearing officer decision, or court decision regarding special education programs or services.
(VI) THE STATE APPLICATION FOR FEDERAL FUNDS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.
~~(h) "Comprehensive evaluation" means an evaluation that is conducted for the purpose of determining eligibility for special education and related services and for determining the current level of educational performance. The multidisciplinary evaluation team, members of the team, the individualized educational planning committee, or a hearing officer shall determine the comprehensiveness of an evaluation based on individual needs.~~
~~(i) "Consent" means an agreement, in writing, that states all of the following:~~
~~(i) The parent has been fully informed, in his or her native language or through another mode of communication, of all information that is relevant to the activity for which consent is sought.~~
~~(ii) The parent understands and agrees to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records, if any, that will be released and to whom.~~
~~(iii) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.~~
~~(j)~~(D) "Department" means the state department of education.
~~(k)~~(E) "Departmentalize" means a ~~secondary level~~ delivery system in which 2 or more teachers teach groups of ~~special education~~ students WITH DISABILITIES by instructional content areas.
~~(l) "Destruction of records" means either the physical destruction of information or the removal of personal identifiers from information so that the information is not personally identifiable.~~
~~(m) "Education records" means those records which are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include any of the following:~~
~~(i) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker of the records and which are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs, on a temporary~~

~~basis, the duties of the individual who made the record, and does not refer to an individual who permanently succeeds the maker of the record in his or her position.~~
~~(ii) Records of a law enforcement unit of an educational agency or institution that are in compliance with all of the following conditions:~~
~~(A) The records are maintained apart from the records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution.~~
~~(B) The records are maintained solely for law enforcement purposes.~~
~~(C) The records are not disclosed to individuals other than law enforcement official of the same jurisdiction and education records that are maintained by the educational agency or institution are not disclosed to the personnel of the law enforcement unit.~~
~~(iii) Records which relate to an individual who is employed by an educational agency or institution and which are in compliance with all of the following conditions:~~
~~(A) The records are made and maintained in the normal course of business.~~
~~(B) The records relate exclusively to the individual in that individual's capacity as an employee.~~
~~(C) The records are not available for use for any other purpose. This paragraph does not apply to records relating to an individual who is in attendance at the agency or institution and who is employed as a result of his or her status as a student.~~
~~(iv) Records which relate to an eligible student and which are in compliance with all of the following conditions:~~
~~(A) The records are created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity or assisting in that capacity.~~
~~(B) The records are created, maintained, or used only in connection with the provision of treatment to the student.~~
~~(C) The records are not disclosed to anyone other than the individuals who provide the treatment. However, the records may be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the educational agency or institution.~~
~~(v) Records of an educational agency or institution that contain only information that relates to a person after that person was no longer a student at the educational agency or institution. An example would be information that is collected by an educational agency or institution pertaining to the accomplishments of its alumni.~~

R 340.1701a Definitions; ~~I~~ M to P.

Rule 1a. As used in these rules:

~~(a) "Independent educational evaluation" means an evaluation conducted by a qualified examiner or examiners who are not employed by the public agency responsible for the education of the student. A contracted agent for the purpose of conducting an independent evaluation is not considered an employee of the public agency.~~
~~(b) "Individualized educational planning committee" means persons appointed and invited by the superintendent to determine a person's eligibility for special education programs and services and, if eligible, to develop an individualized education program.~~

~~(c) "Individualized education program" means a program developed by an individualized educational planning committee which shall be reviewed annually. The components of the program are identified in R 340.1721e(3).~~
~~(d) "Instructional services" means services provided by teaching personnel which are specially designed to meet the unique needs of a handicapped person up to age 25. These may be provided by any of the following:~~
~~(i) A preprimary teacher pursuant to R 340.1755.~~
~~(ii) A teacher consultant pursuant to R 340.1749.~~
~~(iii) A teacher of the speech and language impaired pursuant to R 340.1745.~~
~~(iv) A teacher providing instruction to handicapped students who are homebound or hospitalized pursuant to R 340.1746.~~
~~(v) A teacher providing instruction to students who are placed in juvenile detention facilities pursuant to R 340.1757.~~
~~(e)~~(A) "Multidisciplinary evaluation team" means a minimum of 2 persons who are responsible for evaluating A student~~s~~ suspected of~~ being handicapped or handicapped persons being reevaluated pursuant to R 340.1722d~~ HAVING A DISABILITY. The team shall include at least 1 special education-approved teacher or other specialist ~~with~~ WHO HAS knowledge ~~in the area~~ of the suspected disability.
~~(f) "Native language," when referring to a person of limited English speaking ability, means the language or mode of communication normally used by that person.~~
~~(g)~~(B) "Normal course of study" means a ~~regular~~ GENERAL ~~education curriculum leading to a high school diploma,~~ or a special education curriculum ~~approved in the intermediate plan~~ leading to a high school diploma. ~~A special education curriculum shall include physical education, personal adjustment, and prevocational and vocational education.~~
~~(h) "Occupational therapy" means therapy provided by a therapist who has been registered by the American occupational therapy association or an occupational therapy assistant who has been certified by the American occupational therapy association and who provides therapy under the supervision of a registered occupational therapist.~~
~~(i) "Parent" means the mother, father, or legally designated guardian of the handicapped person. "Parent" also means the affected handicapped person when the person reaches 18 years of age, if a legal guardian has not been appointed by appropriate court proceedings.~~
~~(j)~~(C) "Parent advisory committee" means a committee of parents of ~~handicapped persons~~ STUDENTS WITH DISABILITIES of a particular intermediate school district appointed by the board of that district pursuant to R 340.1838.
~~(k) "Personal adjustment education" means instruction designed to assist the handicapped person to develop personal and social skills needed for adult independent living, including all of the following:~~
~~(i) Activities of daily living.~~
~~(ii) Homemaking.~~
~~(iii) Mobility.~~
~~(iv) Personal health and appearance.~~
~~(v) Recreation.~~
~~(vi) Use of prosthetic devices and sensory aids.~~
~~(l) "Personally identifiable" means that information which includes any of the following data:~~

~~(i) The legal name of the person, the person's parent, or other family member.~~
~~(ii) The address of the person.~~
~~(iii) A personal identifier, such as the person's social security number or student number.~~
~~(iv) A list of personal characteristics or other information which makes it possible to identify the person with reasonable certainty.~~
~~(m) "Physical therapy" means therapy prescribed by a physician and provided by a therapist who is licensed by the state of Michigan pursuant to Act No. 368 of the Public Acts of 1978, as amended, being §333.1101 et seq. of the Michigan Compiled Laws or a physical therapy assistant who provides therapy under the supervision of a licensed physical therapist.~~
~~(n) "Physical education" means the development of physical and motor fitness, fundamental motor skills and patterns, and skills in aquatics, dance, and individual and group games and sports, both intramural and lifetime. The term includes all of the following:~~
~~(i) Special physical education.~~
~~(ii) Adaptive physical education.~~
~~(iii) Movement education.~~
~~(iv) Motor development.~~
~~(o) "Prevocational education" means instruction needed as a prerequisite to vocational education, such as any of the following:~~
~~(i) Reading.~~
~~(ii) Writing.~~
~~(iii) Mathematics.~~
~~(iv) Knowledge of commonly used tools, utensils, and processes.~~
~~(v) Familiarity with the broad range of occupations for which special skills are required.~~
~~(vi) Common employment procedures and requirements.~~
~~(vii) Knowledge of the nature and extent of vocational limitations caused by a handicap.~~
~~(p) "Psychologist" means an approved Michigan A school psychologist or a Michigan fully licensed psychologist.~~
~~(q) "Public expense" means that the public agency either pays for the full cost of the evaluation, program, or services, including transportation and room or board, or else insures that such is provided at no cost to the parent.~~

R 340.1701b Definitions; ~~R~~ S to Y.

Rule 1b. As used in these rules:

~~(a) "Regular education" means education other than special education programs and services.~~
~~(b) "School social worker" means a social worker approved by the department pursuant to R 340.1012.~~
~~(c)~~(A) "Services" means ~~instructional~~ services PROVIDED BY A SPECIAL EDUCATION TEACHER or ~~ancillary and~~ other related services as defined in these rules. SERVICES DO NOT INCLUDE GRADING, GIVING CREDIT FOR, OR TEACHING A SUBJECT, CLASS, OR COURSE.
~~(d) "Short-term instructional objectives" means objectives written in measurable terms which relate to the annual goals and which represent expected achievement over several weeks or months, but not more than 1 year.~~

~~(e)~~(B) "Special education" INCLUDES ~~means specially designed instruction, at no cost to the parents, to meet the unique educational needs of the special education student and to develop the maximum potential of the special education student. All of the following are included in the definition of special education:~~
~~(i) Classroom instruction.~~
~~(ii) Instruction in physical education.~~
~~(iii) Instructional services defined in R 340.1701a(d).~~
~~(iv) Ancillary and other~~ related services. ~~where specially designed instruction is provided and as identified in R 340.1701(c)(ii), (iii), (IV), (v), (vi), and (vii), AND (VIII).~~
~~(f) "Special education advisory committee" means a committee appointed by the state board of education to advise the state board of education on matters related to the delivery of special education programs and services.~~
~~(g) "Special education classroom" means a classroom that is under the direction of an approved special education teacher and in which a person receives specially designed instruction. (h) "Specialized transportation" means transportation provided in an approved school vehicle in a regular seat, wheelchair, or an approved baby seat. This specifically excludes students who need ambulance service, a medical attendant, or other care outside the responsibility of the schools.~~
~~(I) "Superintendent" means the chief executive officer of the public agency or his or her designee.~~
~~(j) "Transition services" means a coordinated set of activities for a student which is designed within an outcome-oriented process and which promotes movement from school to post-school activities, including postsecondary education; vocational training; integrated employment, including supported employment; continuing and adult education; adult services; independent living; or community participation. The coordinated set of activities shall be based on the~~
~~individual student's needs, shall take into account the student's preferences and interests, and shall include needed activities in all of the following areas:~~
~~(i) Instruction.~~
~~(ii) Community experiences.~~
~~(iii) Development of employment and other post-school adult living objectives.~~
~~(iv) If appropriate, acquisition of daily living skills and functional vocational evaluation.~~
~~(k) "Vocational education" means vocational education as defined in section 7 of Act No. 451 of the Public Acts of 1976, as amended, being §380.7 of the Michigan Compiled Laws.~~
~~(l) "Vocational evaluation" means an evaluation conducted before vocational education, which shall include, at a minimum, an assessment of the student's personal adjustment skills, aptitudes, interests, and achievements and special information regarding the student's disabling condition.~~
~~(m) "Work activity center" means a program designed exclusively to provide therapeutic activities for persons who are disabled whose disabilities are so severe that their productive capacity is inconsequential. A work activity center may be operated in conjunction with a sheltered workshop licensed under the fair labor standards act of 1938, as amended, 29 U.S.C. §201 et seq.~~

~~(n)~~(C) "Youth placed in a juvenile detention facility" means ~~an individual~~ A STUDENT who is placed by the court in a detention facility for juvenile delinquents and who is not attending a regular school program due to court order.

R 340.1702 "~~Handicapped person~~ STUDENT WITH A DISABILITY" defined.

Rule 2. "~~Handicapped person~~ STUDENT WITH A DISABILITY" means a person ~~who is under 26 years of age and~~ who is determined by an individualized education~~al planning committee~~ PROGRAM TEAM or a hearing officer to HAVE 1 OR MORE OF THE IMPAIRMENTS DEFINED IN PART 1 OF THESE RULES that necessitates special education or ~~ancillary and other~~ related services, or both. ~~Determination of an impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~ THE STUDENT SHALL NOT BE MORE THAN 25 YEARS OF AGE AS OF SEPTEMBER 1 OF THE SCHOOL YEAR OF ENROLLMENT, SHALL NOT HAVE COMPLETED A NORMAL COURSE OF STUDY AND SHALL NOT HAVE GRADUATED FROM HIGH SCHOOL. A STUDENT REACHING THE AGE OF 26 YEARS AFTER SEPTEMBER 1 IS ENTITLED TO CONTINUE IN A SPECIAL EDUCATION PROGRAM OR SERVICE UNTIL THE END OF THAT SCHOOL YEAR.

R 340.1703 ~~Determination of severely mentally impaired.~~ RESCIND.

~~**Rule 3.(1) The severely mentally impaired shall be determined through manifestation of all of the following behavioral characteristics:**~~

~~(a) Development at a rate approximately 4 1/2 or more standard deviations below the mean as determined through intellectual assessment.~~

~~(b) Lack of development primarily in the cognitive domain.~~

~~(c) Impairment of adaptive behavior.~~

~~(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist.~~

~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

R 340.1704 ~~Determination of trainable mentally impaired.~~ RESCIND.

~~**Rule 4.(1) The trainable mentally impaired shall be determined through manifestation of all of the following behavioral characteristics:**~~

~~(a) Development at a rate approximately 3 to 4 1/2 standard deviations below the means as determined through intellectual assessment.~~

~~(b) Lack of development primarily in the cognitive domain.~~

~~(c) Impairment of adaptive behavior.~~

~~(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist.~~

~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

R 340.1705 ~~Determination of educable mentally impaired~~ COGNITIVE IMPAIRMENT DEFINED; DETERMINATION.

Rule 5. (1) ~~The educable mentally impaired~~ COGNITIVE IMPAIRMENT shall be determined through the manifestation of all of the following behavioral characteristics:

(a) Development at a rate AT OR BELOW approximately 2 ~~to 3~~ standard deviations below the mean as determined through intellectual assessment.

(b) Scores approximately within the lowest 6 percentiles on a standardized test in reading and arithmetic. This requirement ~~shall~~ WILL not apply if the ~~child~~ STUDENT is not OF AN age or grade OR MENTAL AGE appropriate for formal or standardized ~~testing~~ ACHIEVEMENT TESTS.

(c) Lack of development primarily in the cognitive domain.

(d) Impairment of adaptive behavior.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include a psychologist.

~~(3) A determination of impairment shall not be based solely on behaviors that relate to environmental, cultural, or economic differences.~~

R 340.1706 ~~Determination of emotionally impaired~~ EMOTIONAL IMPAIRMENT DEFINED; DETERMINATION.

Rule 6. (1) ~~The emotionally impaired~~ EMOTIONAL IMPAIRMENT shall be determined through manifestation of behavioral problems primarily in the affective domain, over an extended period of time, which adversely affect the ~~person's~~ STUDENT'S education to the extent that the ~~person~~ STUDENT cannot profit from ~~regular~~ learning experiences without special education support. The problems result in behaviors manifested by 1 or more of the following characteristics:

(a) Inability to build or maintain satisfactory interpersonal relationships within the school environment.

(b) Inappropriate types of behavior or feelings under normal circumstances.

(c) General pervasive mood of unhappiness or depression.

(d) Tendency to develop physical symptoms or fears associated with personal or school problems.

(2) ~~The term "emotionally impaired"~~ "STUDENTS WITH EMOTIONAL IMPAIRMENT" also includes ~~persons~~ STUDENTS who, in addition to the ~~above~~ characteristics SPECIFIED IN SUBRULE (1) OF THIS RULE, exhibit maladaptive behaviors related to schizophrenia or similar disorders. ~~The term "emotionally impaired" does not include persons who are socially maladjusted, unless it is determined that such persons are emotionally impaired.~~

(3) ~~The emotionally impaired~~ “STUDENTS WITH EMOTIONAL IMPAIRMENT” ~~shall~~ DOES not include ~~persons~~ STUDENTS whose behaviors are primarily the result of intellectual, sensory, or health factors.

(4) WHEN EVALUATING A STUDENT SUSPECTED OF HAVING AN EMOTIONAL IMPAIRMENT, THE MULTIDISCIPLINARY EVALUATION TEAM REPORT SHALL INCLUDE DOCUMENTATION OF ALL OF THE FOLLOWING:

(A) THE STUDENT'S PERFORMANCE IN THE EDUCATIONAL SETTING AND IN OTHER SETTINGS, SUCH AS ADAPTIVE BEHAVIOR WITHIN THE BROADER COMMUNITY.
(B) THE SYSTEMATIC OBSERVATION OF THE BEHAVIORS OF PRIMARY CONCERN WHICH INTERFERE WITH EDUCATIONAL AND SOCIAL NEEDS.
(C) THE INTERVENTION STRATEGIES USED TO IMPROVE THE BEHAVIORS, AND THE LENGTH OF TIME THE STRATEGIES WERE UTILIZED.
(D) RELEVANT MEDICAL INFORMATION, IF ANY.
~~(4)~~(5) A determination of impairment shall be based on data provided by a multidisciplinary EVALUATION team, which shall include a comprehensive evaluation by both of the following:
(a) A psychologist or psychiatrist.
(b) A school social worker.
~~(5) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

R 340.1707 ~~Determination of hearing impaired~~ HEARING IMPAIRMENT DEFINED; DETERMINATION.

Rule 7. (1) The term "hearing ~~impaired~~ IMPAIRMENT" is a generic term which includes both STUDENTS WHO ARE deaf ~~persons~~ and those who are hard of hearing and ~~which~~ refers to students with any type or degree of hearing loss that interferes with development or adversely affects educational performance ~~in a regular classroom setting~~. The term "deaf" refers to those ~~hearing impaired~~ students WITH HEARING IMPAIRMENT ~~whose~~ WHERE THE hearing loss is so severe that the auditory channel is not the primary means of developing speech and language skills. The term "hard of hearing" refers to ~~those hearing impaired~~ students WITH HEARING IMPAIRMENT ~~with~~ WHO HAVE permanent or fluctuating hearing loss which is less severe than the hearing loss of ~~deaf persons~~ STUDENTS WHO ARE DEAF and which generally permits the use of the auditory channel as the primary means of developing speech and language skills.
(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include an audiologist and an otolaryngologist or otologist.
~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences~~

R 340.1708 ~~Determination of visually impaired~~ VISUAL IMPAIRMENT DEFINED; DETERMINATION.

Rule 8. (1) ~~The visually impaired~~ VISUAL IMPAIRMENT shall be determined through the manifestation of both of the following:
(a) A visual impairment which interferes with development or which adversely affects educational performance.
(b) One or more of the following:
(i) A central visual acuity for near or far point vision of 20/70 or less in the better eye after routine refractive correction.
(ii) A peripheral field of vision restricted to not more than 20 degrees.

(iii) A diagnosed progressively deteriorating eye condition.
(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include an ophthalmologist or optometrist.
~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~
(3) IF A STUDENT IS TOO YOUNG TO BE TESTED ACCURATELY FOR ACUITY, THEN FUNCTIONAL VISUAL ASSESSMENTS CONDUCTED BY A TEACHER CERTIFIED IN VISUAL IMPAIRMENT MAY BE USED IN ADDITION TO THE MEDICAL EVALUATION FOR DETERMINATION OF IMPAIRMENT.
(4) FOR STUDENTS WITH VISUAL IMPAIRMENT WHO HAVE A VISUAL ACUITY OF 20/200 OR LESS AFTER ROUTINE REFRACTIVE CORRECTION, OR WHO HAVE A PERIPHERAL FIELD OF VISION RESTRICTED TO NOT MORE THAN 20 DEGREES, AN EVALUATION BY AN ORIENTATION AND MOBILITY SPECIALIST SHALL BE CONDUCTED. THE ORIENTATION AND MOBILITY SPECIALIST SHALL ALSO INCLUDE IN THE REPORT A SET OF RECOMMENDED PROCEDURES TO BE USED BY A MOBILITY SPECIALIST OR A TEACHER OF STUDENTS WITH VISUAL IMPAIRMENT IN CONDUCTING ORIENTATION AND MOBILITY TRAINING ACTIVITIES.

R 340.1709 ~~Determination of physically and otherwise health impaired.~~ "PHYSICAL IMPAIRMENT" DEFINED; DETERMINATION.

Rule 9. (1) ~~The physically and otherwise health impaired shall be determined through the manifestation of a physical or other health impairment which adversely affects educational performance and which may require physical adaptations within the school environment.~~ "PHYSICAL IMPAIRMENT" MEANS SEVERE ORTHOPEDIC IMPAIRMENT THAT ADVERSELY AFFECTS A STUDENT'S EDUCATIONAL PERFORMANCE.
(2) ~~Determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include 1 of the following:~~ A DETERMINATION OF DISABILITY SHALL BE BASED UPON A COMPREHENSIVE EVALUATION BY A MULTIDISCIPLINARY EVALUATION TEAM, WHICH SHALL INCLUDE ASSESSMENT DATA FROM 1 OF THE FOLLOWING PERSONS:
(a) An orthopedic surgeon.
(b) An internist.
(c) A neurologist.
(d) A pediatrician.
(e) A FAMILY PHYSICIAN OR ANY ~~Any~~ other approved physician as defined ~~in Act No. 368 of the Public Acts of 1978, as amended, being §~~ 1978 PA 368, MCL 333.1101 et seq. of the Michigan Compiled Laws.
~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

R 340.1709A "OTHER HEALTH IMPAIRMENT" DEFINED; DETERMINATION.

Rule 9A. (1) "OTHER HEALTH IMPAIRMENT" MEANS HAVING LIMITED STRENGTH, VITALITY, OR ALERTNESS, INCLUDING A HEIGHTENED ALERTNESS TO ENVIRONMENTAL STIMULI, WHICH RESULTS IN LIMITED ALERTNESS WITH RESPECT TO THE EDUCATIONAL ENVIRONMENT AND TO WHICH BOTH OF THE FOLLOWING PROVISIONS APPLY:

(a) IS DUE TO CHRONIC OR ACUTE HEALTH PROBLEMS SUCH AS ANY OF THE FOLLOWING:

(i) ASTHMA.

(ii) ATTENTION DEFICIT DISORDER.

(iii) ATTENTION DEFICIT HYPERACTIVITY DISORDER.

(iv) DIABETES.

(v) EPILEPSY.

(vi) A HEART CONDITION.

(vii) HEMOPHILIA.

(viii) LEAD POISONING.

(ix) LEUKEMIA.

(x) NEPHRITIS.

(xi) RHEUMATIC FEVER.

(xii) SICKLE CELL ANEMIA.

(b) THE IMPAIRMENT ADVERSELY AFFECTS A STUDENT'S EDUCATIONAL PERFORMANCE.

(2) A DETERMINATION OF DISABILITY SHALL BE BASED UPON A COMPREHENSIVE EVALUATION BY A MULTIDISCIPLINARY EVALUATION TEAM WHICH SHALL INCLUDE 1 OF THE FOLLOWING PERSONS:

(A) AN ORTHOPEDIC SURGEON.

(B) AN INTERNIST.

(C) A NEUROLOGIST.

(D) A PEDIATRICIAN.

(E) A FAMILY PHYSICIAN OR ANY OTHER APPROVED PHYSICIAN AS DEFINED IN 1978 PA 368, MCL.

R 340.1710 ~~Determination of~~ "speech and language ~~impaired~~ IMPAIRMENT" DEFINED; DETERMINATION.

Rule 10. (1) A "SPEECH AND LANGUAGE IMPAIRMENT" MEANS A COMMUNICATION DISORDER THAT ADVERSELY AFFECTS EDUCATIONAL PERFORMANCE, SUCH AS A LANGUAGE IMPAIRMENT, ARTICULATION IMPAIRMENT, FLUENCY IMPAIRMENT, OR VOICE IMPAIRMENT.

~~(1)~~ (2) ~~The speech and language impaired~~ A COMMUNICATION DISORDER shall be determined through the manifestation of 1 or more of the following ~~communication~~ SPEECH AND LANGUAGE impairments that adversely affects educational performance~~.~~:

(a) A LANGUAGE IMPAIRMENT WHICH INTERFERES WITH THE STUDENT'S ABILITY TO UNDERSTAND AND USE LANGUAGE EFFECTIVELY AND WHICH INCLUDES 1 OR MORE OF THE FOLLOWING AREAS:
(i) PHONOLOGY.
(ii) MORPHOLOGY.
(iii) SYNTAX.
(iv) SEMANTICS.
(v) PRAGMATICS, AS EVIDENCED BY BOTH OF THE FOLLOWING:
(A) A SPONTANEOUS LANGUAGE SAMPLE DEMONSTRATING INADEQUATE LANGUAGE FUNCTIONING.
(B) TEST RESULTS ON NOT LESS THAN 2 STANDARDIZED ASSESSMENT INSTRUMENTS OR 2 SUBTESTS DESIGNED TO DETERMINE LANGUAGE FUNCTIONING WHICH INDICATE INAPPROPRIATE LANGUAGE FUNCTIONING FOR THE STUDENT'S AGE.
~~(a)~~(b) Articulation impairment, including omissions, substitutions, or distortions of sound, persisting beyond the age at which maturation alone might be expected to correct the deviation.
~~(b) Voice impairment, including inappropriate pitch, loudness, or voice quality.~~
(c) Fluency impairment, including an abnormal rate of speaking, speech interruptions, and repetition of sounds, words, phrases, or sentences, that interferes with effective communication.
~~(d) One or more of the following language impairments as evidenced by a spontaneous language sample that demonstrates inadequate language functioning and test results, on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning that indicate inappropriate language functioning for the child's age:~~
~~(i) phonological.~~
~~(ii) morphological.~~
~~(iii) syntactic.~~
~~(iv) semantic.~~
~~(v) pragmatic use of aural/oral language.~~
(d) VOICE IMPAIRMENT, INCLUDING INAPPROPRIATE PITCH, LOUDNESS, OR VOICE QUALITY.
~~(2)~~(3) ~~Any student who is eligible for special education programs and services and who requires~~ A STUDENT WHO HAS A COMMUNICATION DISORDER, BUT WHOSE PRIMARY DISABILITY IS OTHER THAN speech and language, ~~services shall~~ MAY be eligible for speech and language services ~~pursuant to the provision of~~ UNDER R 340.1745(a).
~~(3)~~(4) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary EVALUATION team, which shall include a teacher OF STUDENTS WITH SPEECH AND LANGUAGE IMPAIRMENT OR A SPEECH AND LANGUAGE PATHOLOGIST QUALIFIED UNDER R 340.1792. ~~of the speech and language impaired.~~
~~(4) A determination of impairment shall not be based solely on behaviors that relate to environmental, cultural, or economic differences.~~

R 340.1711 "~~Preprimary impaired" defined.;~~ "EARLY CHILDHOOD DEVELOPMENTAL DELAY" DEFINED; DETERMINATION.

Rule 11. (1) ~~"Preprimary impaired"~~ "EARLY CHILDHOOD DEVELOPMENTAL DELAY" means a child through ~~5~~ 7 years of age whose primary ~~impairment~~ DELAY cannot be differentiated through existing criteria within ~~R 340.1703~~ R 340.1705 to R 340.1710 or R 340.1713 to ~~R 340.1715~~ R 340.1717 and who manifests ~~an impairment~~ A DELAY ~~in 1 or more areas of development~~ equal to or greater than ~~1/2~~ 1/4 of the expected development~~, for chronological age, as measured by more than 1 developmental scale which cannot be resolved by medical or nutritional intervention~~ IN 2 OR MORE AREAS OF DEVELOPMENT, INCLUDING: COGNITIVE DEVELOPMENT, PHYSICAL DEVELOPMENT, COMMUNICATION DEVELOPMENT, SOCIAL OR EMOTIONAL DEVELOPMENT, OR ADAPTIVE DEVELOPMENT, AS MEASURED BY MORE THAN 1 DEVELOPMENTAL SCALE IN EACH AREA OF DELAY. This definition ~~shall~~ DOES not preclude identification of a child through existing criteria within ~~R 340.1703~~ R 340.1705 to R 340.1710 or R 340.1713 to ~~R 340.1715~~ R 340.1717.

(2) A determination of ~~impairment~~ EARLY CHILDHOOD DEVELOPMENTAL DELAY shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team.

~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

R 340.1713 "Specific learning disability" defined; determination.

Rule 13. (1) "Specific learning disability" means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, ~~which~~ THAT may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain ~~disfunction~~ DYSFUNCTION, dyslexia, and developmental aphasia. The term does not include children who have learning problems ~~which~~ THAT are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, of autism, or of environmental, cultural, or economic disadvantage.

(2) The individualized education~~al planning committee~~ PROGRAM TEAM may determine that a child has a specific learning disability if the child does not achieve commensurate with his or her age and ability levels in 1 or more of the areas listed in this subrule, when provided with learning experiences appropriate for the child's age and ability levels, and if the multidisciplinary evaluation team finds that a child has a severe discrepancy between achievement and intellectual ability in 1 or more of the following areas:

(a) Oral expression.
(b) Listening comprehension.
(c) Written expression.
(d) Basic reading skill.
(e) Reading comprehension.
(f) Mathematics calculation.
(g) Mathematics reasoning.

(3) The individualized education~~al planning committee~~ PROGRAM TEAM shall not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of any of the following:
(a) A visual, hearing, or motor handicap.
(b) Mental retardation.
(c) Emotional disturbance.
(d) Autism.
(e) Environmental, cultural, or economic disadvantage.
(4) A determination of ~~impairment~~ LEARNING DISABILITY shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include at least both of the following:
(a) The child's regular teacher or, if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.
(b) At least 1 person qualified to conduct individual diagnostic examinations of children, such as a school psychologist~~, a teacher of speech and language impaired,~~ or a teacher ~~consultant~~.

R 340.1714 ~~Determination of severely multiply impaired~~ SEVERE MULTIPLE IMPAIRMENT DEFINED; DETERMINATION.

Rule 14. (1) Students with severe multiple impairments shall be determined through the manifestation of either of the following:
(a) Development at a rate of 2 to 3 standard deviations below the mean and 2 or more of the following conditions:
(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.
(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.
(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.
(iv) A health impairment so severe that the student is medically at risk.
(b) Development at a rate of 3 or more standard deviations below the mean or students for whom evaluation instruments do not provide a valid measure of cognitive ability and 1 or more of the following conditions:
(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.
(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.
(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.
(iv) A health impairment so severe that the student is medically at risk.
(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include a psychologist and, depending upon

the ~~handicaps~~ DISABILITIES in the physical domain, the multidisciplinary evaluation team participants required in R 340.1707, R 340.1708, or R 340.1709, OR R 340.1709A.
~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

R 340.1715 "Autism" defined; determination.

Rule 15. (1) "Autism" means a lifelong developmental disability ~~which~~ THAT is typically manifested before ~~30 months~~ 3 YEARS of age. ~~"Autism" is characterized by disturbances in the rates and sequences of cognitive, affective, psychomotor, language, and speech development.~~
(2) "AUTISM" IS CHARACTERIZED BY DISTURBANCES IN THE RATES AND SEQUENCES OF COGNITIVE, AFFECTIVE, PSYCHOMOTOR, LANGUAGE, AND SPEECH DEVELOPMENT, AND UNEVEN DEVELOPMENT IN THE COGNITIVE, AFFECTIVE, COMMUNICATION, OR PHYSICAL/MOTOR DOMAINS WITH SOME AREAS BEING HIGHER AND OTHERS BEING LOWER THAN EXPECTED FOR THE GENERAL DEVELOPMENTAL LEVEL.
~~(2)~~(3) The manifestation of the characteristics specified in subruleS (1) AND (2) of this rule and all of the following characteristics shall determine if a ~~person is autistic~~ STUDENT HAS AUTISM:
(a) Disturbance in the capacity to relate appropriately to people, events, and objects.
(b) Absence, disorder, or delay of language, speech, or meaningful communication.
(c) Unusual, or inconsistent response to sensory stimuli in 1 or more of the following:
(i) Sight.
(ii) Hearing.
(iii) Touch.
(iv) Pain.
(v) Balance.
(vi) Smell.
(vii) Taste.
(viii) The way a ~~child~~ STUDENT holds his or her body.
(d) Insistence on sameness as shown by stereotyped play patterns, repetitive movements, abnormal preoccupation, or resistance to change.
~~(3) To be eligible under this rule, there shall be an absence of the characteristics associated with schizophrenia, such as delusions, hallucinations, loosening of associations, and incoherence.~~
(4) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team. The team shall include, at a minimum, a psychologist or psychiatrist, a teacher of STUDENTS WITH speech and language ~~impaired~~ IMPAIRMENT, and a social worker.
~~(5) A determination of impairment shall not be based solely on, behaviors relating to environmental, cultural, or economic differences.~~

R 340.1716. “TRAUMATIC BRAIN INJURY” DEFINED.

RULE 16. (1) “TRAUMATIC BRAIN INJURY” MEANS AN ACQUIRED INJURY TO THE BRAIN WHICH IS CAUSED BY AN EXTERNAL PHYSICAL FORCE AND WHICH RESULTS IN TOTAL OR PARTIAL FUNCTIONAL DISABILITY OR PSYCHOSOCIAL IMPAIRMENT, OR BOTH, THAT ADVERSELY AFFECTS A STUDENT’S EDUCATIONAL PERFORMANCE. THE TERM APPLIES TO OPEN OR CLOSED HEAD INJURIES RESULTING IN IMPAIRMENTS IN 1 OR MORE OF THE FOLLOWING AREAS,

(a) COGNITION.
(b) LANGUAGE.
(c) MEMORY.
(d) ATTENTION.
(e) REASONING.
(f) BEHAVIOR.
(g) PHYSICAL FUNCTIONS.
(h) INFORMATION PROCESSING.
(i) SPEECH.

(2) THE TERM DOES NOT APPLY TO BRAIN INJURIES THAT ARE CONGENITAL OR DEGENERATIVE OR TO BRAIN INJURIES INDUCED BY BIRTH TRAUMA.

(3) A DETERMINATION OF DISABILITY SHALL BE BASED UPON A COMPREHENSIVE EVALUATION BY A MULTIDISCIPLINARY EVALUATION TEAM, WHICH SHALL INCLUDE ASSESSMENT FROM A FAMILY PHYSICIAN OR ANY OTHER APPROVED PHYSICIAN AS DEFINED 1978 PA 368, MCL 333.1101 ET SEQ.

R 340.1717 "DEAF-BLINDNESS" DEFINED; DETERMINATION.

RULE 17. (1) "DEAF-BLINDNESS" MEANS CONCOMITANT HEARING AND VISUAL IMPAIRMENTS SO SEVERE THAT BOTH OF THE FOLLOWING PROVISIONS APPLY:

(A) THE AUDITORY CHANNEL IS NOT THE PRIMARY MEANS OF DEVELOPING SPEECH AND LANGUAGE SKILLS.

(B) THE VISUAL CHANNEL IS NOT SUFFICIENT TO GUIDE INDEPENDENT MOBILITY OR ACCESS VISUAL INFORMATION, OR BOTH.

(2) THE COMBINATION OF THESE IMPAIRMENTS REQUIRES SUPPORT SERVICES FOR BOTH SENSORY MODES.

(3) THE IMPAIRMENT MUST ADVERSELY AFFECT THE STUDENT’S EDUCATIONAL PERFORMANCE.

(4) A DETERMINATION OF THE DISABILITY SHALL BE BASED UPON DATA PROVIDED BY A MULTIDISCIPLINARY EVALUATION TEAM WHICH SHALL INCLUDE ASSESSMENT DATA FROM THE FOLLOWING:

(A) AN AUDIOLOGIST AND OTOLARYNGOLOGIST, OR OTOLOGIST.

(B) AN OPHTHALMOLOGIST OR OPTOMETRIST.

(C) AT LEAST 1 OTHER SPECIALIST TRAINED TO EVALUATE THE STUDENT'S CURRENT LEVEL OF MOTOR FUNCTIONING, ABILITY LEVEL, OR PRE-ACADEMIC SKILLS OR ACADEMIC SKILLS, OR ALL OF THESE.

PART 2. EVALUATION, ELIGIBILITY, STUDENT ASSIGNMENT, AND DUE PROCESS PROCEDURES

R 340.1721 Parental consent for initial evaluation; contents of notice; refusal to consent or respond.

Rule 21. (1) Within 10 calendar days of receipt of a referral of a ~~person~~ STUDENT suspected of ~~being handicapped~~ HAVING A DISABILITY, and ~~prior to~~ BEFORE any formal evaluation designed to determine eligibility for special education programs and services, the public agency shall notify the parent ~~pursuant to R 340.1723a and R 340.1723b~~ and shall request written consent to evaluate. This written notice shall contain ~~all of the following:~~

~~(a) The reason or reasons an evaluation is sought and the nature of the evaluation.~~

~~(b) A full explanation of all the procedural safeguards available to the parent under part 2 of these rules.~~

~~(c)~~ A description of the types of special education programs and services currently available within the intermediate school district.

~~(d) A list of organizations, including their addresses and telephone numbers, available to help parents of handicapped persons understand the special education process.~~

~~(e) A statement of the parent's right to inspect and review all education records with respect to the identification, evaluation, program, educational placement, and the provision of a free appropriate public education to the suspected handicapped student pursuant to the provisions of R 340.1861 to R 340.1866.~~

~~(f) A statement of the parent's right to be accompanied to the individualized educational planning committee meeting by any person or persons the parent desires.~~

~~(g) A statement of the parent's right to obtain an independent evaluation if he or she disagrees with the evaluation conducted by the public agency.~~

~~(h) A statement of the opportunity for the parent to provide the multidisciplinary evaluation team with information about the suspected handicapped person and the opportunity to present information at the individualized educational planning committee meeting.~~

~~(2) If the parent refuses consent to evaluate or does not respond within 7 calendar days, then the public agency has the right to request a hearing in this matter pursuant to R 340.1723a(3).~~

R 340.l721a Evaluation procedure.

Rule 21a. (1) Each student suspected of ~~being handicapped~~ HAVING A DISABILITY shall be evaluated by a multidisciplinary evaluation team as defined in R 340.1701a~~(e)~~(A). ~~Members of the team may include other qualified personnel in areas related to the suspected disability, including, where appropriate, the following: health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor ability.~~ IF AN INITIAL EVALUATION REVIEW IS CONDUCTED BY

THE INDIVIDUALIZED EDUCATION PROGRAM TEAM, THEN THE MULTIDISCIPLINARY EVALUATION TEAM SHALL COMPLETE THE EVALUATION AS DETERMINED BY THE INDIVIDUALIZED EDUCATION PROGRAM TEAM.

(2) The multidisciplinary EVALUATION team shall DO BOTH OF THE FOLLOWING:

(A) ~~c~~Complete a diagnostic evaluation. ~~including~~

(B) MAKE a recommendation of eligibility~~,~~ and ~~shall~~ prepare a written report to be presented to the individualized education~~al planning committee~~ PROGRAM TEAM by the appointed multidisciplinary EVALUATION team member. The report shall include information needed to determine ~~eligibility and educational data which identifies the person's current~~ A STUDENT'S PRESENT level of educational performance AND EDUCATIONAL NEEDS OF THE CHILD. ~~Information presented to the individualized educational planning~~

~~committee shall be drawn from a variety of sources, including parent input, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, adaptive behavior, and other pertinent information. No single procedure shall be used as the sole criterion for determining an appropriate educational program for a person.~~

~~(3) When evaluating a person suspected of being handicapped, the public agency shall assure that tests and other evaluation materials used by members of the multidisciplinary team comply with all of the following provisions:~~

~~(a) Are administered by trained personnel in conformance with the instructions provided by their producer.~~

~~(b) Are validated for the specific purpose for which they are used.~~

~~(c) Are designed to assess specific areas of educational need and not merely to provide a general intelligence quotient.~~

~~(d) Are reflective of the person's aptitude or achievement or whatever other factors the test purports to measure rather than reflecting the person's impaired sensory, manual, or speaking skills, unless this is what the test is intended to measure.~~

~~(e) Are selected and administered so as not to be socially or culturally discriminatory.~~

~~(4) When evaluating a person suspected of having a specific learning disability, at least 1 team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting. In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.~~

~~(5) The multidisciplinary evaluation team evaluating a person suspected of having a specific learning disability shall complete a written report which shall include, at a minimum, all of the following:~~

~~(a) A recommendation of eligibility and the basis for making this recommendation.~~

~~(b) The relevant behavior noted during the observation of the child and the relationship of that behavior to the child's academic functioning.~~

~~(c) The educationally relevant medical findings, if any.~~

~~(d) Whether there is a severe discrepancy between achievement and ability which is not correctable without special education.~~

~~(e) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.~~
~~(f) Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member shall submit a separate statement presenting his or her conclusions.~~
~~(6) When evaluating a person suspected of being emotionally impaired, the multidisciplinary team report shall include documentation of all of the following:~~
~~(a) The person's performance in the educational setting and in other settings, such as adaptive behavior within the broader community.~~
~~(b) The systematic observation of the behaviors of primary concern which interfere with educational and social needs.~~
~~(c) The intervention strategies used to improve these behaviors, and the length of time these strategies were utilized.~~
~~(d) Relevant medical information, if any.~~
~~(7) For visually impaired students who have a visual acuity of 20/200 or less after routine refractive correction, or who have a peripheral field of vision restricted to not more than 20 degrees, an evaluation by an orientation and mobility specialist shall be conducted. The orientation and mobility specialist shall also include in the report a set of recommended procedures to be used by a mobility specialist or a teacher of the visually impaired in conducting orientation and mobility training activities.~~
~~(8) The parent or legal guardian shall inform the school district of the student's native language when giving consent to evaluate the student. Tests and other evaluation materials shall be provided and shall be administered in the student's native language, unless it is clearly unnecessary to do so. When evaluation in English is not feasible, the public agency shall do all of the following:~~
~~(a) Give first consideration to evaluative personnel who are competent in English and in the native language and culture of the student.~~
~~(b) When needing an interpreter, contract with a bilingual/bicultural psychologist trainee, an intern currently enrolled in a professional training program, or a person who is competent in English and in the native language and culture of the student.~~
~~(c) Provide interpreters for the deaf where appropriate.~~
~~(9) A vocational evaluation shall be conducted before a handicapped student receives vocational education. The evaluation shall be conducted by personnel qualified to administer and interpret the particular evaluations used.~~
~~(10)~~(3) Special education personnel who are authorized to conduct evaluations of students suspected of ~~being handicapped~~ HAVING A DISABILITY may provide ~~pre-referral~~ PREREFERRAL consultation INTERVENTIONS to ~~regular~~ GENERAL education personnel in accordance with procedures established by the department.

R 340.1721b Individualized educatio~~nal planning committee~~ PROGRAM TEAM participants.

Rule 21b. (1) The superintendent OR HIS OR HER DESIGNEE shall appoint participants to an individualized educatio~~nal planning committee~~ PROGRAM TEAM and shall invite the parents to be participants.

~~(2) Participants in an individualized educational planning committee meeting shall, at a minimum, include both of the following:~~
~~(a) A representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.~~
~~(b) The student's teacher or a teacher appropriate for the student's age and ability if the student is not previously enrolled by the public agency. If the child is enrolled in regular education, at least 1 of the participants shall be a regular full-time teacher to whom the child is assigned.~~
~~(3) At the initial individualized educational planning committee meeting and at the 3-year comprehensive evaluation review meeting, a member of the multidisciplinary team is required to be a participant and present the written team report. At subsequent individualized educational planning committee meetings, members of the team may participate at the request of the parent or public agency. However, 1 of the meeting participants shall present the disabled person's current level of educational performance.~~
~~(4)~~(2) ~~In addition to the parent, other persons, at the discretion of the parent or public agency, may be invited to attend, including the person who is disabled, if appropriate.~~ Upon request of the parent, a representative of the district of residence shall be invited to attend the individualized education~~al planning committee~~ PROGRAM TEAM meeting if the district of residence has authorized the operating district to conduct ~~the 3-year comprehensive evaluation review~~ individualized education~~al planning committee~~ PROGRAM TEAM meetingS.
~~(5) In each case, the superintendent shall give consideration to the appointment of professional ancillary and other related services personnel.~~
~~(6) If a purpose of the meeting is the consideration of transition services for a student, in addition to the parent, the student and a representative of any other agency that is likely to be responsible for providing or paying for transition services shall be invited to attend. The notice of the meeting shall indicate that a purpose of the meeting is to consider transition services, shall indicate that the student will be invited to attend, and shall identify any other agency that will be invited to send a representative. If the student does not attend, the public~~
~~agency shall take other steps to ensure that the student's preferences and interests are considered. If any other agency that was invited to send a representative to the meeting does not send a representative, the public agency shall take other steps to secure the participation of that agency in the planning of any transition services.~~

R 340.1721c Scheduling individualized education~~al planning committee~~ PROGRAM TEAM meeting; requesting parent participation.

Rule 21c. (1) The district of residence is responsible for conducting the initial individualized education~~al planning committee~~ PROGRAM TEAM meeting involving a student in its district and shall conduct, or authorize the operating district to conduct, each subsequent individualized education~~al planning committee~~ PROGRAM TEAM meeting at a mutually agreed ~~on~~ UPON time and place.
(2) The time from referral or from receipt of parental consent to an initial evaluation to the completion of the individualized educational program or the determination of ineligibility shall not exceed 30 school days. This time line begins upon receipt of the signed parental

consent by the public agency requesting it and may be extended if agreed to by the parent and public agency.

~~(3) The parent shall be contacted by professional personnel from the school district to explain the purpose of the meeting and the roles and responsibilities of each participant. If an operating district is convening a 3-year reevaluation individualized educational planning committee meeting, as authorized by the resident district, the parent shall be informed of the parent's right to invite a representative of the resident district to be present at the meeting.~~

~~(4) If neither parent can attend, the public agency shall use other methods to insure parent participation, including individual or conference telephone calls. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents to attend. In this case, the public agency shall have a record of its attempts to arrange a mutually agreed on time and place, including all of the following:~~

~~(a) Detailed records of telephone calls made or attempted and the results of these calls.~~

~~(b) Copies of correspondence sent to the parents and any responses received.~~

~~(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.~~

~~(5) The public agency shall take whatever action is necessary to insure that the parent understands the proceedings at the meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.~~

R 340.1721d Responsibilities of the individualized educatio~~nal planning committee~~ PROGRAM TEAM.

Rule 21d. ~~(1) Persons identified as being handicapped shall receive special education programs and services pursuant to the individualized educational planning committee program or pursuant to the final decision on an appeal.~~

~~(2) The individualized educational planning committee shall do all of the following:~~

~~(a) Determine the eligibility of persons suspected of being handicapped or review eligibility after the 3-year evaluation. A person is eligible, as a statutory right, for special education programs and services if the person is identified as having 1 or more of the impairments defined in part 1 of these rules, is not more than 25 years of age as of September of the school year of enrollment, has not completed a normal course of study, and has not graduated from high school. A person reaching the age of 26 years after September is entitled to continue in a special education program or service until the end of that school year.~~

~~(b) Consider the need for a change in the educational status for eligible handicapped persons.~~

~~(c) Develop, review, or revise each handicapped person's individualized education program annually.~~

~~(3) The~~ UPON COMPLETING THE INDIVIDUALIZED EDUCATION PROGRAM, THE individualized educatio~~nal planning committee~~ PROGRAM TEAM shall submit ~~its report~~ THE INDIVIDUALIZED EDUCATION PROGRAM to the superintendent ~~immediately upon completing the individualized educational program. The individualized educational planning committee may, after considering the least restrictive environment, recommend where the program and services may most appropriately be provided and may identify for~~

~~the superintendent the assignment options that were considered and the reasons why the recommended option was chosen.~~ The ~~report of the committee~~ INDIVIDUALIZED EDUCATION PROGRAM shall not be restricted to the programs and services available. ~~In addition, the individualized education program shall not determine how the programs and services shall be delivered, except where such is an integral part of the placement or service itself.~~

R 340.1721e Individualized educatio~~nal planning committee~~ PROGRAM TEAM meeting; determination of eligibility for special education programs and services; individualized education program.

Rule 21e. (1) The superintendent OR HIS OR HER DESIGNEE shall convene an individualized educatio~~nal planning committee~~ PROGRAM TEAM meeting.

~~(2) The participants shall determine if the student is eligible for special education programs or services, or both. Eligibility shall be determined by the committee after receipt and review of the multidisciplinary team report and recommendation, and after consideration of any additional information presented by the participants. If a student is determined to be disabled, the committee shall write an individualized education program or may reconvene for this purpose. In either event, the time line specified in R 340.1721c(2) shall apply.~~

~~(3) An individualized education program shall be based on all diagnostic, medical, and other evaluative information requested by the committee, or provided by the parent or person who is disabled. and shall include all of the following information, in writing:~~

~~(a) A statement of the person's present level of educational performance.~~

~~(b) A statement of annual goals, including short-term instructional objectives.~~

~~(c) Appropriate objective criteria and evaluation procedures and schedules for determining whether the instructional objectives are being achieved.~~

~~(d) The extent to which the person is able to participate in regular education programs.~~

~~(e) An identification of the least restrictive environment program and related service options which were considered, including the reasons why the options were accepted or rejected in making the decision or decisions required in subdivision (f) of this subrule.~~

~~(f) A statement of the specific special education or ancillary and other related services, or both, to be provided to the person, giving consideration to the accessibility of physical facilities; transportation, including the need, if any, for aids or restraints; and room and board.~~

~~(g) Beginning at age 12, a statement indicating committee consideration of prevocational/vocational education needs.~~

~~(h) Beginning not later than age 16, (or a younger age if determined appropriate, a statement of the needed transition services as defined in R 340.1701b(j)), including, if appropriate, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting. If the individualized educational planning committee determines that services are not needed in 1 or more of the areas specified in R 340.1701b(j), the individualized education program shall include a statement to that effect and the basis upon which the determination was made.;~~

~~(i) The projected dates for initiation of special education programs and services and the anticipated duration of the programs and services.~~

(2) THE INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL DETERMINE WHETHER THE STUDENT HAS A NEED FOR PLACEMENT WITH A SPECIAL EDUCATION TEACHER WHO IS ENDORSED IN A PARTICULAR DISABILITY CATEGORY.

~~(4)~~(3) Any participant in the ~~committee's~~ INDIVIDUALIZED EDUCATION PROGRAM TEAM'S deliberations who disagrees, in whole or in part, with the ~~committee's~~ TEAM'S determination may indicate the reasons therefor~~e~~ on the ~~committee's~~ TEAM'S individualized education program report or may submit a written statement to be attached to the report.

(4) THE MICHIGAN SCHOOL FOR THE DEAF SHALL BE CONSIDERED A PART OF THE TOTAL CONTINUUM OF SERVICES FOR STUDENTS WITH HEARING INPAIRMENT. THE RESIDENT DISTRICT SHALL CONDUCT THE INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING THAT INITIATES AN ASSIGNMENT INTO THE MICHIGAN SCHOOL FOR THE DEAF. REPRESENTATIVES OF THE INTERMEDIATE SCHOOL DISTRICT OF RESIDENCE AND THE MICHIGAN SCHOOL FOR THE DEAF SHALL BE INVITED TO PARTICIPATE IN THE INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING. THE STATE BOARD OF EDUCATION SHALL ADOPT PROCEDURES FOR PLACEMENT AT THE MICHIGAN SCHOOL FOR THE DEAF.

(5) THE MICHIGAN SCHOOL FOR THE BLIND SHALL BE CONSIDERED A PART OF THE TOTAL CONTINUUM OF SERVICES FOR STUDENTS WITH VISUAL IMPAIRMENT. THE RESIDENT DISTRICT SHALL CONDUCT THE INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING THAT INITIATES AN ASSIGNMENT INTO THE MICHIGAN SCHOOL FOR THE BLIND. REPRESENTATIVES OF THE INTERMEDIATE SCHOOL DISTRICT OF RESIDENCE AND THE MICHIGAN SCHOOL FOR THE BLIND SHALL BE INVITED TO PARTICIPATE IN THE INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING. THE STATE BOARD OF EDUCATION SHALL ADOPT PROCEDURES FOR PLACEMENT AT THE MICHIGAN SCHOOL FOR THE BLIND.

R 340.1722 Placement in special education programs and services.

Rule 22. ~~(1) The individualized educational planning committee determines the educational placement of a student with a disability in programs and services from a continuum of alternative placements, such as instruction in regular classes, special classes or special instruction in regular classes, special classes or special schools, home instruction in hospitals and institutions, resource rooms, or itinerant instruction with regular class placements, including the options which are specified in the provisions of 34 C.F.R. §300.17 (1992), and which are adopted in these rules by reference. Copies of the adopted regulations are available from the United States Office of Special Education Programs, 600 Maryland Avenue, S. W., Room 3618, Washington, D.C. 20202, or from the Michigan Department of Education, Office of Special Education Services, P.O. Box 30008, Lansing, Michigan 48909, at the cost of reproduction.~~

~~(2) Each public agency shall assure all of the following:~~

~~(a) That to the maximum extent appropriate, a person who has a disability, including a person who is assigned to a public or private institution or other care facility, is educated with persons who do not have disabilities.~~
~~(b) That placement of a person who has a disability in special classes, separate schools, or the removal of a person who has a disability from the regular education environment occurs only when the nature or severity of the disability is such that education in a regular class using supplementary aids and services cannot be satisfactorily achieved.~~
~~(c) That a person whose disability is such that he or she requires special classes or facilities shall be placed in programs or services as close as possible to his or her home.~~
~~(d) That in selecting the least restrictive environment, consideration shall be given to any potentially harmful effects to the student or the quality of services that the student needs.~~
~~(3) Each public agency shall assure that each qualified person who has a disability shall be given the opportunity to participate with persons who do not have disabilities in nonacademic and extracurricular activities and services to the maximum extent appropriate to the needs of the individual. Nonacademic and extracurricular activities and services may include, but are not limited to, the following:~~
~~(a) Meals.~~
~~(b) Recess periods.~~
~~(c) Counseling services.~~
~~(d) Athletics.~~
~~(e) Transportation.~~
~~(f) Health services.~~
~~(g) Recreational activities.~~
~~(h) Special interest groups or clubs sponsored by the public agency.~~
~~(i) Referrals to agencies that provide assistance to individuals with disabilities.~~
~~(j) Referrals to employment agencies.~~
~~(k) Referrals for employment within the local educational agency.~~
~~(l) Assistance in making outside employment available.~~
~~(m) Referrals to other agencies for services based on need.~~
~~(4)~~ The superintendent OR HIS OR HER DESIGNEE shall appoint a staff person to be responsible for the implementation of the individualized education program including services provided by other agencies. ~~This~~ THE person shall be either the principal of the building where the primary educational program is provided to the ~~person~~ STUDENT who has a disability or other staff person who is generally accessible to the staff and who will be working with the ~~person~~ STUDENT who has a disability.
~~(5) The superintendent of the operating district shall give the parent of a person who has a disability a copy of the individualized education program. Each participant on the individualized educational planning committee and all administrative and professional staff who will be directly involved in implementing the program shall have access to a copy of the individualized education program.~~

R 340.1722a Implementation of individualized education program.

Rule 22a. ~~(1) An individualized education program shall be in effect at the beginning of each school year for every person who has a disability and who is receiving special education and related services from a public agency. The program shall be in effect before special education and related services are provided to a person who has a disability.~~

~~(2)~~(1) The superintendent of the district of residence, upon receipt of the individualized education~~al planning committee's~~ PROGRAM, ~~report~~, shall, WITHIN 7 CALENDAR DAYS, either appeal UNDER R 340.1724~~ the eligibility decision or the determination of special education programs and services as specified in the individualized education program, or both, or within 7 calendar days~~ OR provide written notice to the parent AND OTHER PARTIES TO THE INDIVIDUALIZED EDUCATION PROGRAM of the agency's intent to implement special education programs and services. ~~pursuant to the provisions of R 340.1723a and R 340.1723b. This~~ THE notice shall identify where the programs and services are to be provided and when the individualized EDUCATION program ~~shall~~ beginS. ~~The 7-day notice does not abrogate the agency's right to request a due process hearing at any time.~~

~~(3)~~(2) The parent, upon receipt of notification from the superintendent, shall have the right, AT ANY TIME, to appeal the ~~individualized educational planning committee eligibility decision, the individualized education program, or the placement~~ decision~~ pursuant to~~ UNDER~~ the provisions of~~ R 340.1724. ~~The parent may request a due process hearing, at any time.~~ If the parent does not appeal, THEN the superintendent shall initiate the individualized education program as soon as possible, but not later than 15 school days after the parent has been notified. An initiation date may be later than 15 school days if clearly specified in the individualized education program; however, a projected initiation date shall not be used to deny or delay programs or services because they are not available and shall not be used for purposes of administrative convenience.

~~(4)~~(3) If ~~the person who has~~ A STUDENT WITH a disability is to be provided special education or ~~ancillary and other~~ related services for the first time, THEN the parent ~~shall have~~ HAS 10 calendar days after receipt of the notice from the superintendent to provide the public agency with written consent to provide special education programs and services. If the parent refuses consent or does not respond, then the public agency has the right to request a hearing ~~on this matter pursuant to the provisions of R 340.1723a(3)~~.

R 340.1722c ~~Post initial individualized educational planning committee meetings; participant responsibilities.~~ RESCIND.

~~Rule 22c. (1) An individualized education program shall be reviewed at least once every 12 months.~~

~~(2) The resident district superintendent shall convene, or authorize the operating district to convene, an individualized educational planning committee to review a handicapped person's individualized education program. Participants at a meeting for this purpose shall do all of the following:~~

~~(a) Review the person's level of educational performance.~~

~~(b) Review the appropriateness of the individualized education program content and determine if the annual goals, and the instructional objectives have been met.~~

~~(c) Recommend 1 or more of the following:~~

~~(i) Revision of the current individualized education program. Participants shall develop an individualized education program for the handicapped person, the components of which are identified in R 340.1721e(3).~~
~~(ii) Continuation of the current individualized education program.~~
~~(iii) Graduation.~~
~~(iv) Additional evaluation.~~

R 340.1722d ~~Three-year evaluation of eligible handicapped persons.~~ RESCIND

~~**Rule 22d.** (1) Each eligible student who has a disability shall be provided with a comprehensive evaluation as described in R 340.1721a at least once every 36 months. The evaluation shall be completed by a multidisciplinary evaluation team and the results shall be presented at an individualized educational planning committee meeting pursuant to R 340.1721d(2)(a). The evaluation requires that an assessment take place to make accurate and effective decisions. A student shall be assessed in all areas related to the suspected disability and provide information to determine all of the following:~~
~~(a) The continued need for special education services.~~
~~(b) The effectiveness of the student's educational plan.~~
~~(c) The current needs of the student.~~
~~(d) The student's eligibility for special education.~~
~~(2) Parent input shall be sought as part of the reevaluation process. Parent consent is encouraged, but is not necessary, for the comprehensive evaluation, unless medical or personality testing is required. The comprehensive 3-year reevaluation need not include a redetermination of the student's previously established medical condition if a physician, as required pursuant to R 340.1707, R 340.1708, R 340.1709, or R 340.1714, has provided a written statement to the school district that the student's medical condition is permanent. However, the medical condition shall be redetermined if requested by the student's parent or school personnel.~~

R 340.1722e Previous enrollment in special education.

Rule 22e. ~~If a student enrolled in a special education program in a school district or intermediate school district transfers to a new school district which necessitates a change in educational status, the student, with the written consent of the parent, shall be placed immediately in an appropriate special education program or service. for a period not to exceed 30 school days, during which time an individualized educational planning committee shall be convened by the new district of residence to review and possibly revise the person's individualized education program. This case shall have precedence over all other cases, except previous cases also being expedited under this rule.~~
(1) IF A STUDENT WHO CURRENTLY RECEIVES SPECIAL EDUCATION PROGRAMS OR SERVICES ENROLLS IN A NEW SCHOOL DISTRICT, THEN THE NEW DISTRICT SHALL DO EITHER OF THE FOLLOWING:
(A) WITH THE PARENT'S CONSENT, IMMEDIATELY IMPLEMENT THE STUDENT'S CURRENT INDIVIDUALIZED EDUCATION PROGRAM.
(B) WITH THE PARENT'S CONSENT, IMMEDIATELY PLACE THE STUDENT IN AN APPROPRIATE PROGRAM OR SERVICE AND CONVENE AN INDIVIDUALIZED

EDUCATION PROGRAM TEAM MEETING WITHIN 30 SCHOOL DAYS TO DEVELOP AN INDIVIDUALIZED EDUCATION PROGRAM.
(2) IF THE PARENT DOES NOT PROVIDE CONSENT FOR PLACEMENT, THEN THE DISTRICT WILL IMPLEMENT THE STUDENT'S CURRENT INDIVIDUALIZED EDUCATION PROGRAM TO THE EXTENT POSSIBLE AND AN INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING SHALL BE CONVENED TO DEVELOP A NEW INDIVIDUALIZED EDUCATION PROGRAM AS SOON AS POSSIBLE, BUT NOT LATER THAN 30 SCHOOL DAYS.

R 340.1722f ~~Time limitation~~. RESCIND

~~**Rule 22f.** Any time limitation in this part shall be construed and applied so as to do substantial justice and may be varied upon approval of the state board of education, or its designee, for good cause shown, in writing, by either the public agency or the parent. A copy of the request shall be sent by the superintendent or parent, as the case may be, to the other party, and the state board's response shall be directed to both the superintendent and the parent.~~

R 340.1723 ~~Right to examine records.~~ RESCIND

~~**Rule 23.** (1) The parents of a handicapped or suspected handicapped person shall have the right to inspect and review all educational records with respect to both of the following:~~
~~(a) The identification, evaluation, program, and educational placement of the person.~~
~~(b) The provision of a free appropriate public education to the person.~~
~~(2) Parents have the right to request a copy of any or all contents of their child's educational records subject to R 340.1866.~~

R 340.1723a ~~Prior notice; parental consent.~~ RESCIND

~~**Rule 23a.** (1) Written notice that meets the requirements of R 340.1723b shall be given to the parents of a person who is disabled or who is suspected to be disabled 10 calendar days before the public agency does either of the following:~~
~~(a) Proposes to initiate or change the identification, evaluation, special education program, educational placement of the person, or the provision of special education programs and services designed to develop the maximum potential of the person who is disabled.~~
~~(b) Refuses to initiate or change the identification, evaluation, special education program, educational placement of the person, or the provision of special education programs and services designed to develop the maximum potential of the person who is disabled.~~
~~(2) Parental consent shall be obtained before doing either of the following:~~
~~(a) Conducting a preplacement evaluation,~~
~~(b) Initially providing special education and related services to a person who is disabled.~~
~~(3) The public agency may use the hearing procedures in R 340.1724 to R 340.1724b to determine if the person may be evaluated or initially provided special education and related services without parental consent. If the hearing officer upholds the agency, the agency may evaluate or initially provide special education and related services to the person without the parent's consent, subject to the parent's rights under R 340.1725 and R 340.1725a.~~

R 340.1723b ~~Content of notice required pursuant to R 340.1723a.~~ RESCIND

~~**Rule 23b.** (1) The notice required in R 340.1723a shall include all of the following information:~~

~~(a) A full explanation of all of the procedural safeguards that are available to the parents under part 2 of these rules and the provisions of 34 C.F.R. §300.500 to 300.534 (1992).~~

~~(b) A description and explanation of the action proposed or refused by rule number and title of the program or service, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered, including the reasons why those options were considered or rejected.~~

~~(c) A description of each evaluation procedure, test, record, or report that the agency used as a basis for the proposal or refusal.~~

~~(d) A description of any other factors that are relevant to the agency's proposal or refusal.~~

~~(2) The notice shall be in compliance with both of the following requirements:~~

~~(a) It shall be written in language that is understandable to the general public.~~

~~(b) It shall be provided in the native language of the parent, unless it is clearly not feasible to do so.~~

~~(3) If the native language of the parent is not a written language, the agency shall take steps to insure all of the following:~~

~~(a) That the notice is translated orally or by other means to the parent in their native language.~~

~~(b) That the parent understands the content of the notice.~~

~~(c) That there is written evidence that the requirements in subdivisions (a) and (b) of this subrule have been met.~~

R 340.1723c Right to independent educational evaluation.

Rule 23c. ~~(1) The parents of a handicapped person or suspected handicapped person shall have the right pursuant to this part to obtain an independent educational evaluation, as defined in~~

~~R 340.1701a(a), pursuant to the provisions of this subrule and subrules (2) to (7) of this rule.~~

~~(2)~~(1) Each public agency shall provide parents with information about independent educational evaluations at public expense. The information shall include all of the following:

(a) Criteria regarding credentials for qualified examiners.

(b) Suggested sources and locations.

(c) Procedures for reimbursement.

(d) Reasonable expected costs.

(e) Notification that the parent is not restricted to choosing from sources suggested by the public agency.

~~(3)~~(2) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. The parent shall submit the parent's disagreement and request in written, signed, and dated form. However, the public agency may initiate a hearing ~~pursuant to the provisions of~~ UNDER R 340.1724 to show that its evaluation is appropriate. The public agency shall respond, in writing, to the request within 7 calendar days of its receipt by indicating the public agency's intention to honor the request or to initiate the hearing procedure ~~pursuant to the provisions of~~

UNDER R 340.1724. If the hearing officer determines that the evaluation is appropriate, THEN the parent still has the right to an independent educational evaluation, but not at public expense.

~~(4) If the parent obtains an independent evaluation at the parent's own expense, the results of the evaluation shall be considered by the public agency and the individualized educational planning committee in any decision made with respect to the provision of a free appropriate public education to the person and may be presented as evidence at a hearing.~~

~~(5) If a hearing officer orders an independent educational evaluation as part of a hearing, the cost of the evaluation so ordered shall be at public expense.~~

~~(6)~~(3) ~~When~~ IF an independent EDUCATIONAL evaluation is at public expense, including those instances when the parent elects to use sources other than those identified by the public agency, THEN the independent evaluator shall have the necessary credentials. ~~The criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria that the public agency uses when it initiates an evaluation.~~ The associated costs shall be reasonably in accord with those identified by the public agency ~~pursuant to~~ UNDER subrule ~~(2)~~(1) of this rule.

~~(7)~~(4) The school district shall disclose to the parent, before evaluation, whether the examiner who was contracted to provide an independent educational evaluation provides services to the public agency that are in addition to the independent EDUCATIONAL evaluation.

~~(8)~~(5) An independent EDUCATIONAL evaluation shall not be conducted by an examiner or examiners who otherwise or regularly contract with the public agency to provide services, unless the examiner or examiners are agreeable to the parent.

R 340.1724 Impartial due process hearing.

Rule 24. (1) A parent, the district of residence, the district of operation, THE MICHIGAN SCHOOLS FOR THE DEAF AND BLIND, or the department may initiate a hearing on any of the matters ~~described in R 340.1723a(1)(a) and (b) and (2).~~ PERTAINING TO THE IDENTIFICATION, EVALUATION, EDUCATIONAL PLACEMENT OF THE STUDENT, OR THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION. The party initiating a hearing shall notify the other parties, IN WRITING, of its intent to initiate the hearing.

(2) The hearing shall be arranged or conducted by the district of residence ~~of the person~~, and the district of residence shall pay all direct costs incurred by the school district as a result of arranging or conducting the hearing.

~~(3) The district of residence shall inform the parent, in writing, of any free or low-cost legal or other relevant services available in the area if the parent requests the information or if the parent or the agency initiates a hearing under this rule.~~

~~(4)~~(3) Before the appointment OR SELECTION of~~, or contracting with,~~ a hearing officer, the hearing ~~or procedure~~ may be ~~suspended,~~ delayed~~,~~ or terminated ~~at any point~~ upon written stipulation by the public agency and the parent ~~without approval by the department~~. THE AGENCY RESPONSIBLE FOR THE HEARING SHALL SUBMIT THE WRITTEN STIPULATION TO THE DEPARTMENT. After the appointment or ~~contract~~ SELECTION OF A HEARING OFFICER, the hearing may ~~still~~ be DELAYED

WITH THE APPROVAL OF THE HEARING OFFICER OR terminated UPON WRITTEN STIPULATION OF THE ~~by~~ public agency and THE parent ~~stipulation without approval of the department or hearing officer; however, delays, suspensions, or adjournments of the procedure require prior approval of the hearing officer~~. A copy of the stipulation to terminate shall be provided to the hearing officer AND TO THE DEPARTMENT.

~~(5) Interpreters shall be provided for persons of limited English-speaking ability and for the deaf.~~

~~(6) Each public agency responsible for arranging or conducting a hearing shall produce a written, verbatim transcript of the hearing, and, upon request of the hearing officer or any party to the hearing, shall provide the requester with a copy of the transcript within the period of time required for the written decision of the hearing officer.~~

~~(7)~~(4) Each public agency responsible for arranging or conducting a hearing shall immediately forward to the department 2 copies of the hearing decision; 1 with all personal identifiers pertaining to the student deleted and 1 with personal identifiers included.

~~(8) The department, upon receipt, shall transmit to the special education advisory committee, a copy of each hearing decision with personal identifiers deleted.~~

~~(9)~~ (5) The department shall send a copy of the decision to the intermediate school district with a notice to inform the department that the decision has been implemented ~~pursuant to R 340.1725b(8)~~.

(6) ANY PARTY WHO IS AGGRIEVED BY THE FINDINGS AND THE DECISION OF A HEARING CONDUCTED UNDER THIS RULE MAY APPEAL TO THE DEPARTMENT WITHIN 25 CALENDAR DAYS OF RECEIPT OF THE DECISION FOR A STATE REVIEW. THE APPEALING PARTY SHALL SEND A COPY OF THE PARTY'S APPEAL TO THE OTHER PARTY. THE DEPARTMENT OF EDUCATION SHALL ADOPT PROCEDURES FOR APPOINTMENT OF REVIEW OFFICERS AND AN APPEAL PROCESS.

(7) IN THE ABSENCE OF AN APPEAL, UNLESS OTHERWISE SPECIFIED IN THE HEARING OFFICER'S DECISION OR THE REVIEWING OFFICIAL'S DECISION, THE DECISION SHALL BE IMPLEMENTED BY THE PUBLIC AGENCY WITHIN 15 SCHOOL DAYS OF THE AGENCY'S RECEIPT OF THE DECISION.

R 340.1724a Impartial hearing officer; appointment.

Rule 24a. (1) The superintendent of the public agency shall contract for the services of an impartial hearing officer who is mutually agreeable to both parties or who has been appointed by the department. If the parent and the public agency cannot agree on a hearing officer WITHIN 14 CALENDAR DAYS FOLLOWING THE HEARING REQUEST, THEN the superintendent shall IMMEDIATELY request that the department appoint an impartial hearing officer ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT.

(2) A hearing shall not be conducted by ~~any of the following individuals:~~

~~(a) A person who is an employee of a public agency involved in the education or care of the person.~~

~~(b) Any person with a personal or professional interest which would conflict with the person's objectivity in the hearing.~~

~~(c) An~~ AN employee or board member of the involved local school district, of another local SCHOOL district within the same intermediate school district, OF A PUBLIC SCHOOL ACADEMY WITHIN THE SAME INTERMEDIATE SCHOOL DISTRICT, or of the intermediate school district of which the involved local SCHOOL district is a part.
~~(3) A person who qualifies to conduct a hearing under subrule (2) of this rule is not an employee of the agency solely because the person is contracted to serve as the hearing officer.~~
~~(4)~~(3) Each public agency shall keep a current department-developed and department-distributed list of the persons TRAINED AS HEARING OFFICERS ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT who serve as hearing officers. This list shall be provided to parents upon any request for a hearing. The list shall include a statement of qualifications of each of ~~those~~ THE LISTED persons.

R 340.1724b ~~Hearing rights.~~ RESCIND

~~**Rule 24b.** (1) Any party to a hearing has all of the following rights:~~
~~(a) The right to be represented, accompanied, and advised by counsel and by individuals who have special knowledge or training with respect to the problems of persons with disabilities.~~
~~(b) The right to present evidence and confront, cross-examine, and compel the attendance of witnesses.~~
~~(c) The right to prohibit the introduction of any evidence or the direct testimony of any witness if the evidence or testimony has not been disclosed to the party at least 5 calendar days before the hearing.~~
~~(d) The right to obtain a written or electronic verbatim record of the hearing.~~
~~(e) The right to obtain written findings of fact and decisions.~~
~~(2) The parent may request and obtain alternate forms of the verbatim record to be provided in the parent's native language.~~
~~(3) Parents who are involved in hearings have both of the following rights:~~
~~(a) The right to open the hearing to the public.~~
~~(b) The right to have the person who is the subject of the hearing present.~~
~~(4) The decision made by the hearing officer is final, unless a party appeals pursuant to the provisions of R 340.1725.~~

New Rule:
R 340.1724c ~~Rescinded.~~ EXPEDITED HEARINGS.

Rule 24c. (1) THE EXPEDITED HEARING PROCESS SHALL BE A 1-TIER HEARING PROCESS. THE SUPERINTENDENT OR CHIEF EXECUTIVE OFFICER OF EACH PUBLIC AGENCY SHALL CONTRACT FOR THE SERVICES OF A MUTUALLY AGREED UPON IMPARTIAL SPECIAL EDUCATION HEARING OFFICER WITHIN 5 BUSINESS DAYS OF RECEIPT OF A WRITTEN REQUEST FOR AN EXPEDITED HEARING.
(2) IF THE PARTIES TO AN EXPEDITED HEARING CANNOT MUTUALLY AGREE ON THE SELECTION OF AN IMPARTIAL SPECIAL EDUCATION HEARING OFFICER, THEN THE PUBLIC AGENCY SHALL REQUEST THE DEPARTMENT TO IMMEDIATELY APPOINT A SPECIAL EDUCATION HEARING OFFICER FROM THE

CURRENT DEPARTMENT-DEVELOPED AND DEPARTMENT-DISTRIBUTED LIST OF THE PERSONS WHO SERVE AS HEARING OFFICERS AS REQUIRED BY R 340.1724a(3).

(3) EXPEDITED HEARINGS SHALL ADDRESS ONLY THOSE ISSUES OF DISAGREEMENT RELATING TO ANY OF THE FOLLOWING:

(A) A DETERMINATION THAT A STUDENT'S BEHAVIOR WAS NOT A MANIFESTATION OF THE STUDENT'S DISABILITY.

(B) A DECISION REGARDING THE PROVISION OF AN APPROPRIATE INTERIM ALTERNATIVE EDUCATIONAL SETTING.

(C) SEEKING AN INTERIM ALTERNATIVE SETTING FOR NOT MORE THAN 45 DAYS FOR A STUDENT WHO MAY DEMONSTRATE POTENTIAL HARMFUL OR INJURIOUS BEHAVIOR TO HIMSELF, HERSELF, OR OTHERS.

(4) THE PARTIES TO AN EXPEDITED HEARING SHALL, WITHIN 5 BUSINESS DAYS BEFORE THE HEARING, PROVIDE TO THE OTHER PARTY WITH A LIST OF POTENTIAL WITNESSES, ANY DOCUMENTS TO BE USED AS EVIDENCE, INCLUDING, BUT NOT LIMITED TO, ANY PERTINENT EVALUATIONS AND RECOMMENDATIONS.

(5) THE SPECIAL EDUCATION HEARING OFFICER HAS THE AUTHORITY TO RULE ON A REQUEST TO BAR ANY EVIDENCE TO BE USED IN AN EXPEDITED HEARING NOT DISCLOSED TO THE OTHER PARTY AT LEAST 5 BUSINESS DAYS BEFORE THE EXPEDITED HEARING ONLY WHEN THE INTRODUCTION OF EVIDENCE IS DISPUTED BY THE OTHER PARTY.

(6) THE SPECIAL EDUCATION HEARING OFFICER SHALL RENDER AND MAIL A FINAL DECISION TO ALL PARTIES WITHIN 45 CALENDAR DAYS AFTER THE RECEIPT OF THE WRITTEN REQUEST FOR AN EXPEDITED HEARING FROM THE SUPERINTENDENT OR HIS OR HER DESIGNEE WITHOUT EXCEPTIONS OR TIME EXTENSIONS.

(7) ANY PARTY TO THE EXPEDITED HEARING WHO IS AGGRIEVED BY THE DECISION OF THE HEARING OFFICER MAY APPEAL THE DECISION TO A COURT OF COMPETENT JURISDICTION.

R 340.1724d Mediation.

Rule 24d. (1) ~~Any party to a hearing, before the hearing,~~ A PARENT OR AGENCY may request a mediation process in which the relief sought consists of a mutually agreeable settlement between the parties OF A DISPUTE THAT MIGHT BE THE SUBJECT OF A COMPLAINT UNDER PART 8 OF THE RULES OR A DUE PROCESS HEARING.

(2) The mediator shall be subject to mutual agreement by the parties.~~, except that the same person shall not mediate and hear the same dispute.~~

(3) ~~The mediation shall have no effect on the normal progress of the case toward a hearing, except in accordance with R 340.1724(4).~~ THE STATE BOARD SHALL APPROVE PROCEDURES REGARDING THE MEDIATION PROCESS.

~~(4) If all the parties accept the mediator's recommendations, the mediator shall submit the written report to all parties. Within 5 school days of receipt of the report, an individualized educational planning committee shall be convened to incorporate the agreement into the individualized education program.~~

~~(5) If any party rejects the mediator's recommendations, the case shall proceed to hearing in the normal fashion.~~

R 340.1725 ~~Administrative appeal; impartial review.~~ RESCIND

~~**Rule 25.** (1) Any party who is aggrieved by the findings and the decision of a hearing conducted pursuant to the provisions of R 340.1724 may appeal to the department within 25 calendar days of receipt of the decision for a state review. The appealing party shall send a copy of the party's appeal to the other party~~

~~(2) If there is an appeal, the department shall conduct an impartial review of the hearing. The official who conducts the review shall do all of the following:~~

~~(a) Examine the entire hearing record, which shall be provided to the state by the public agency in written verbatim form.~~

~~(b) Ensure that the procedures at the hearing were consistent with the requirements of due process.~~

~~(c) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights specified in R 340.1724b apply.~~

~~(d) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official.~~

~~(e) Make an independent decision on completion of the review. The reviewing officer may affirm, reverse, or modify the decision of the hearing officer.~~

~~(f) Give a copy of the written findings and the decision to the parties, subject to the provisions of R 340.1723b(2) and (3).~~

~~(g) Send a copy of the decision to the intermediate school district with a notice to inform the department when the decision has been implemented pursuant to the provisions of R 340.1725b(8).~~

~~(3) The decision made by the reviewing official is final, unless a party brings a civil action pursuant to the provisions of R 340.1725a.~~

R 340.1725a ~~Civil action.~~ RESCIND

~~**Rule 25a.** (1) Any party aggrieved by the findings and decision made in a hearing and who does not have the right to appeal under R 340.1725, and any party aggrieved by the decision of a reviewing officer under R 340.1725, shall have the right to bring a civil action with respect to the issue presented pursuant to this rule without regard to the amount in controversy. A civil action may be brought in any court of competent jurisdiction.~~

R 340.1725b ~~Time lines and convenience of hearings and reviews.~~ RESCIND

~~**Rule 25b.** (1) A hearing shall be scheduled not less than 15, nor more than 30, calendar days following receipt of the request from a parent or the public agency.~~

~~(2) The hearing officer shall, not later than 30 calendar days after the hearing, do both of the following:~~

~~(a) Reach a final decision regarding the hearing.~~

~~(b) Send a copy of the decision, by certified mail, receipt requested, to each of the parties and to the department.~~

~~(3) The total number of days stipulated in subrules (1) and (2) of this rule shall not be more than 45 calendar days.~~

~~(4) The department, upon receipt of a written request for a review, and upon the receipt of the transcripts and exhibits, shall insure that within 30 calendar days a final decision is reached in the review and a copy of the decision is sent, by certified mail, receipt requested, to each of the parties.~~
~~(5) Each hearing and each review involving oral arguments shall be conducted at a time and place reasonably convenient to the parties involved.~~
~~(6) In the absence of an appeal, unless otherwise specified in the hearing officer's decision or the reviewing official's decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.~~

R 340.1725c ~~Student's status during proceedings.~~ RESCIND
~~**Rule 25c.** (1) During the pendency of any administrative or judicial proceeding pertinent to this part, unless the public agency and the parents of the person agree otherwise, the person involved in the hearing shall remain in their present educational placement.~~
~~(2) If the hearing involves an application for initial admission to a public school, the person, with the consent of the parents, shall be placed in the public school program until the completion of all of the proceedings.~~

R 340.l725d ~~Protecting students' rights.~~ RESCIND
~~**Rule 25d**. Each public agency shall assure that handicapped persons under the age of 18 have a parent or legal guardian to represent their interests. If no parent or legal guardian, as defined in R 340.1701a(i) can be identified, or if the public agency, after reasonable effort, cannot discover the whereabouts of a parent or legal guardian, the public agency shall notify the court of jurisdiction and request the court to take action to assure that the person has a legal guardian.~~

R 340.1725e Hearing officer or state reviewing official; duties and authority.
Rule 25e. (1) ~~In addition to the authority implied by the hearing rights stipulated GRANTED PARTIES in R 340.1724b, t~~The hearing officer or state reviewing official has the authority to do all of the following:
(A) ADMINISTER OATHS AND AFFIRMATIONS.
(B) SIGN AND ISSUE SUBPOENAS REQUIRING THE ATTENDANCE AND GIVING OF TESTIMONY BY WITNESSES AND THE PRODUCTION OF DOCUMENTS.
(C) PROVIDE FOR THE TAKING OF TESTIMONY.
~~(a)~~ (D) Require a prehearing conference ~~to clarify matters pertaining to the hearing.~~, IF APPROPRIATE, TO CONSIDER AND TAKE ACTION REGARDING ANY OF THE FOLLOWING:
(I) THE FORMULATION AND SIMPLIFICATION OF THE ISSUES.
(II) ADMISSIONS OF FACT AND DOCUMENTS THAT WILL AVOID UNNECESSARY TESTIMONY.
(III) THE NEED AND SCHEDULING FOR THE FILING OF MOTIONS, BRIEFS, AND DATES FOR FURTHER CONFERENCES AND THE HEARING.
(IV) SETTLEMENT, WHICH MAY INCLUDE ENCOURAGING THE USE OF MEDIATION OR OTHER ALTERNATIVE DISPUTE RESOLUTION OPTIONS.
(V) THE FILING AND DISPOSITION OF REQUESTS OR MOTIONS.

(VI) ESTABLISHING A REASONABLE LIMIT ON THE TIME ALLOWED FOR PRESENTING EVIDENCE.
(VII) OTHER MATTERS AS MAY FACILITATE THE DISPOSITION OF THE HEARING.
~~(b) Specify those uncontested portions of the student's individualized educational program only if necessary to assure that the decision can be implemented.~~
~~(c)~~(E) Control the conduct of parties or participants in the hearing for the purpose of assuring an orderly procedure.
~~(d)~~(F) Grant a specific extension of time at the request of either party for good cause.
(2) The hearing officer shall disclose to both parties any relationship of a professional or personal nature that might have a bearing on the hearing officer's ability to conduct a fair hearing or render an impartial decision and shall consider motions to disqualify himself or herself.
(3) THE HEARING OFFICER MAY ADMIT AND CONSIDER EVIDENCE OF A TYPE COMMONLY RELIED UPON BY REASONABLY PRUDENT PERSONS IN THE CONDUCT OF THEIR AFFAIRS. IRRELEVANT, IMMATERIAL, AND UNDULY REPETITIOUS EVIDENCE MAY BE EXCLUDED. EFFECT SHALL BE GIVEN TO THE RULES OF PRIVILEGE RECOGNIZED BY LAW.

R 340.1725F SURROGATE PARENT.

RULE 25F. EACH PUBLIC AGENCY SHALL TRAIN PERSONS TO SERVE AS SURROGATE PARENTS AND APPOINT PERSONS TO SERVE AS SURROGATE PARENTS IN ACCORDANCE WITH PROCEDURES APPROVED BY THE STATE BOARD OF EDUCATION.

PART 3. ADMINISTRATION OF PROGRAMS AND SERVICES

R 340.1732 Designation of residency.

Rule 32.(1) ~~A handicapped person under 26 years of age as of September 1 who habitually sleeps, keeps personal effects and regularly lodges at a place not for the purpose of securing a suitable home but for an educational purpose, or who is lodged at a place as directed by an agency or institution under the auspices of a juvenile or probate court, the department of mental health, or the department of social services, such as a private home, group home, or a private or public institution, is a resident of the school district in which the person's parents reside, except in the following situations:~~
~~(a) The parents are legally separated or divorced, in which case the person is a resident of the district in which the parent having custody resides.~~
~~(b) A guardian has been appointed to provide the handicapped person with a suitable education, in which case the person is a resident of the district in which the guardian resides.~~
~~(c) The handicapped person, has no living parent or a guardian, or the parents reside out of the state, in which case the person is a resident of the district in which the probate court having control or custody is located.~~
~~(2) A handicapped person, who is not covered in subrule (1), of this rule and who is under 26 years of age as of September 1 is a resident of the school district in which the person~~

~~habitually sleeps, keeps personal effects, and has a regular place of lodging for the purpose of securing a suitable home and not solely for an educational purpose.~~

~~(3) Notwithstanding the provisions of subrules (1) and (2) of this rule, if the handicapped person placed under the order or direction of a court or child placement agency is lodged in a state institution, a licensed foster home, a licensed nursing home, or a licensed group residential facility, then the local school district in which the institution, home, or facility is located shall provide for the delivery of special education programs and services to the handicapped person pursuant to section 1751 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1751 of the Michigan Compiled laws. The handicapped person shall be deemed to be a resident of the local district for the purpose of record maintenance required by section 1757 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1757 of the Michigan Compiled Laws and for the purpose of providing for the delivery of special education programs and services; however, for all other purposes, including funding, the handicapped person's residence shall be determined pursuant to subrules (1) and (2) of this rule.~~

~~(4) Notice of a disagreement between 2 or more school districts as to the residency of a handicapped person shall be sent to the department by a school district involved. The notice shall include the names of all of the school districts allegedly involved and the name and address of the parent, the guardian, or the handicapped person if over 18 years of age. The department, or its representative, shall immediately notify the school districts allegedly involved and the parent, guardian, or handicapped person of the receipt of notice of a disagreement. Within 7 calendar days of receipt of notice, all parties shall provide the department with their position and appropriate facts in support thereof. The department, or its representative, within 14 calendar days of receipt of notice of a disagreement, shall investigate the matter, consider the information received from the parties involved, and make a determination as to the residency of the handicapped person. A copy of the department's determination shall be sent to each party involved. Upon demonstration, in writing, of just cause by any party involved, the state board of education or its designee may extend the time limits set forth in this subrule.~~

A STUDENT WITH A DISABILITY IS A RESIDENT OF ONE DISTRICT IN WHICH THE STUDENT HAS ENROLLED, AND IN WHICH AT LEAST 1 OF THE STUDENT'S PARENTS RESIDES. IF THE PARENTS ARE LEGALLY SEPARATED OR DIVORCED AND RESIDE IN DIFFERENT SCHOOL DISTRICTS, THEN THE STUDENT WITH A DISABILITY MAY ENROLL IN 1 OF THE DISTRICTS WHERE EITHER PARENT RESIDES, REGARDLESS OF THE DISTRICT OF RESIDENCE OF THE PARENT HAVING CUSTODY. THE DISTRICT IN WHICH THE STUDENT HAS ENROLLED REMAINS THE STUDENT'S RESIDENT DISTRICT EVEN WHEN EITHER OF THE FOLLOWING OCCURS:

(A) THE STUDENT WITH A DISABILITY SLEEPS, KEEPS PERSONAL EFFECTS, AND REGULARLY LODGES IN A DISTRICT OTHER THAN THE DISTRICT IN WHICH A PARENT RESIDES, FOR AN EDUCATIONAL PURPOSE, NOT FOR THE PURPOSE OF SECURING A SUITABLE HOME.

(B) THE STUDENT WITH A DISABILITY IS LODGED IN A DISTRICT OTHER THAN THE DISTRICT IN WHICH A PARENT RESIDES AS DIRECTED BY AN AGENCY OR INSTITUTION UNDER THE AUSPICES OF A COURT, DEPARTMENT OF

COMMUNITY HEALTH, OR BY THE FAMILY INDEPENDENCE AGENCY IN A FACILITY SUCH AS A PRIVATE HOME, GROUP HOME, OR A PRIVATE OR PUBLIC INSTITUTION.

(2) THE FOLLOWING SITUATIONS ARE EXCEPTIONS TO THE PROVISIONS OF SUBRULE (1) OF THIS RULE:

(A) WHEN A GUARDIAN HAS BEEN APPOINTED TO PROVIDE THE STUDENT WITH A DISABILITY WITH A SUITABLE EDUCATION, THE STUDENT IS A RESIDENT OF THE DISTRICT IN WHICH THE GUARDIAN RESIDES.

(B) WHEN THE STUDENT WITH A DISABILITY IS UNDER THE CONTROL OR CUSTODY OF THE FAMILY DIVISION OF CIRCUIT COURT AND IS A WARD OF THE STATE, HAS NO LIVING PARENT (OR GUARDIAN) OR THE PARENTS RESIDE OUT OF THE STATE, THEN THE STUDENT IS A RESIDENT OF THE DISTRICT IN WHICH THE FAMILY DIVISION OF CIRCUIT COURT IS LOCATED.

(3) A STUDENT WITH A DISABILITY WHO IS NOT COVERED IN SUBRULE (1) OR (2) OF THIS RULE IS A RESIDENT OF THE SCHOOL DISTRICT IN WHICH THE STUDENT HABITUALLY SLEEPS, KEEPS PERSONAL EFFECTS, AND HAS A REGULAR PLACE OF LODGING FOR THE PURPOSE OF SECURING A SUITABLE HOME AND NOT SOLELY FOR AN EDUCATIONAL PURPOSE.

(4) NOTWITHSTANDING THE PROVISIONS OF SUBRULES (1), (2), AND (3) OF THIS RULE, ALL OF THE FOLLOWING PROVISIONS APPLY WHEN THE STUDENT WITH A DISABILITY IS PLACED UNDER THE ORDER OR DIRECTION OF A COURT OR CHILD PLACEMENT AGENCY AND IS LODGED IN A STATE INSTITUTION, LICENSED FOSTER HOME, LICENSED NURSING HOME, OR LICENSED GROUP RESIDENTIAL FACILITY:

(A) THE LOCAL SCHOOL DISTRICT IN WHICH THE INSTITUTION, HOME, OR FACILITY IS LOCATED SHALL PROVIDE FOR THE DELIVERY OF SPECIAL EDUCATION PROGRAMS AND SERVICES TO THE STUDENT WITH A DISABILITY PURSUANT TO SECTION 1751 OF 1976 PA 451, MCL 380.1751.

(B) THE STUDENT WITH A DISABILITY SHALL BE DEEMED TO BE A RESIDENT OF THE LOCAL SCHOOL DISTRICT FOR THE PURPOSES OF RECORD MAINTENANCE REQUIRED BY SECTION 1757 1976 PA 451, MCL 380.1757.

(C) FOR ALL OTHER PURPOSES, INCLUDING FUNDING, THE STUDENT'S RESIDENCE SHALL BE DETERMINED UNDER SUBRULES (1), (2), AND (3) OF THIS RULE.

(5) WHEN A DISAGREEMENT OCCURS BETWEEN 2 OR MORE SCHOOL DISTRICTS AS TO THE RESIDENCY OF A STUDENT WITH A DISABILITY, THEN ALL OF THE FOLLOWING PROCEDURES APPLY:

(A) NOTICE SHALL BE SENT TO THE DEPARTMENT BY A SCHOOL DISTRICT INVOLVED. THE NOTICE SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION:

(I) THE NAMES OF ALL OF THE SCHOOL DISTRICTS ALLEGED AS RESIDENT.

(II) THE NAME OF THE STUDENT INVOLVED.

(III) THE NAME AND ADDRESS OF THE PARENT OR GUARDIAN, OR ADDRESS OF THE STUDENT IF THE STUDENT IS OVER 18 YEARS OF AGE.

(B) THE DEPARTMENT OR ITS REPRESENTATIVE SHALL IMMEDIATELY NOTIFY THE SCHOOL DISTRICTS INVOLVED AND THE PARENT, GUARDIAN, OR STUDENT OF THE RECEIPT OF NOTICE OF DISAGREEMENT.
(C) WITHIN 7 CALENDAR DAYS OF RECEIPT OF NOTICE FROM THE DEPARTMENT, ALL PARTIES SHALL PROVIDE THE DEPARTMENT WITH A WRITTEN STATEMENT OF THEIR POSITION AND SUPPORTING FACTS.
(D) WITHIN 14 CALENDAR DAYS OF THE RECEIPT OF A NOTICE OF A DISAGREEMENT FROM A DISTRICT, THE DEPARTMENT SHALL INVESTIGATE THE MATTER, CONSIDER INFORMATION RECEIVED FROM THE PARTIES INVOLVED, AND MAKE A DETERMINATION AS TO THE RESIDENCY OF THE STUDENT. A COPY OF THE DETERMINATION SHALL BE IMMEDIATELY SENT TO EACH PARTY INVOLVED.
(E) UPON A WRITTEN DEMONSTRATION OF JUST CAUSE BY ANY PARTY INVOLVED, THE STATE BOARD OF EDUCATION OR ITS DESIGNEE MAY EXTEND THE TIME LIMITS SET FORTH IN THIS SUBRULE.

R 340.1733 Program and service requirements; effective dates.

Rule 33. An intermediate school district, local SCHOOL district, PUBLIC SCHOOL ACADEMY, and any other agency shall adhere to ALL OF the following general requirements for all programs and services for ~~persons who are disabled~~ STUDENTS WITH DISABILITIES:
(a) Special education classrooms OR AREAS WHERE RELATED SERVICES ARE PROVIDED shall have at least the same average number of square feet per student, light, ventilation, and heat conditions as ~~regular~~ PROVIDED FOR GENERAL EDUCATION ~~classrooms~~ STUDENTS in the school district.
~~(b) Special education classrooms shall be located in schools housing regular education pupils of comparable age and grade level. Each person who is disabled shall be assigned to educational programs and services housed in buildings that allow persons who are disabled to participate fully in regular and special education programs, services, or extracurricular activities. Nothing in these rules shall prohibit special education programs, such as specialized vocational training or programs for more severely involved impairment areas, to be housed in places other than the schools with regular education programs, if such programs are set forth in the intermediate school district plan and are approved by the state board of education.~~
~~(c) Instructional and related service personnel shall have space which is appropriate for the kind of service being delivered and shall be designated on a scheduled basis in each building to afford individual and small group work. Light, ventilation, and heat conditions shall be the same as in classrooms within the building.~~
~~(d) Severely mentally impaired and severely multiply impaired special education classrooms with students under 16 years of age shall not exceed a 6-year age span at any one time. All other special education classrooms which have students under 16 years of age and which are operated in separate facilities shall not exceed a 4-year age span at any one time. The age span for students who are assigned to special education classrooms, except severely mentally impaired and severely multiply impaired, operated in elementary buildings attended by children who are nondisabled shall not exceed, at any one time, a 6-~~

~~year age span or the age span of the students who are nondisabled in the building, whichever is less. The age span for students who are assigned to special education classrooms, except severely mentally impaired and severely multiply impaired, operated in secondary buildings attended by students who are nondisabled shall not exceed, at any one time, the age span of the students who are nondisabled in the building, except in high school buildings where students up to 26 years of age may be served. The term "nondisabled" shall not include persons participating in adult education programs. All severely mentally impaired, severely multiply impaired, and trainable mentally impaired programs shall comply with this subdivision unless a program is operated in accordance with an approved intermediate school district plan where, due to the low incidence of eligible students, expanded age ranges may be necessary for programmatic feasibility and meeting the needs of students.~~

~~(e) The special education programs' and services' methods of instruction shall be consistent with the short-term instructional objectives written for each person who is disabled.~~

~~(f) The instructional program for a school day shall focus on the individual needs of each person who is disabled, as determined through the individualized education programs.~~

~~(g) Special education programs and services shall be provided for at least the minimum number of hours and days of teacher-pupil contact in conformance with the pupil accounting rules, being R 340.1 to R 340.12, but the number of hours and days for a special education program or service shall be not less than those required for regular education programs.~~

~~(h)~~(B) ~~Persons who are disabled~~ STUDENTS WITH DISABILITIES qualifying for special education programs and services shall be provided with supplies and equipment at least equal to those provided to other students in ~~regular~~ GENERAL education programs, in addition to those supplies and equipment necessary to ~~meet their defined short-term instructional objectives~~ IMPLEMENT A STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM.

~~(i) Physical therapy service shall be provided to a person who is disabled if prescribed by an appropriate medical authority and recommended by the individualized educational planning committee as an essential component of the educational program.~~

~~(j) Physical education services, specially designed if necessary, shall be made available to every student who is disabled. Each student who is disabled shall be afforded the opportunity to participate in the regular physical education program available to students who are nondisabled, unless the student is enrolled full-time in a separate facility or needs specially designed physical education as prescribed in the student's individualized education program.~~

~~(k) The expense of additional diagnostic services recommended by the individualized educational planning committee and required by the school district, including neurological, medical, psychiatric, and other professional services not provided by the school district or other public agencies nor covered by medical insurance, shall be borne by the disabled person's district of residence.~~

~~(l) Intermediate school districts or local districts may operate, or contract for, any of the following:~~

~~(i) Vocational evaluation services.~~

~~(ii) Work activity center services.~~

~~(iii) Ancillary and other related services.~~
~~(iv) Instructional services.~~
~~(m) Intermediate school districts or local districts, or a combination of such districts, shall provide work-study services and may assign special education personnel, such as a work-study coordinator, to supervise these services. A written work-study plan, signed by the parent, school, and employer, shall set forth all of the following information:~~
~~(i) Educational goals.~~
~~(ii) Job activities.~~
~~(iii) Related subjects.~~
~~(iv) Standards of attainment.~~
~~(v) Time and duration of the program.~~
~~(vi) Wages to be paid to the person who is disabled.~~
~~The superintendent of the district shall designate a staff member to visit the person and the person's supervisor at the job site at least once every 20 school days to check attendance, evaluate the disabled person's progress, and evaluate the placement in terms of the health, safety, and welfare of the person who is disabled. These services, if determined to be appropriate by the individualized educational planning committee, shall be available to each student who is disabled, regardless of disability, if personal adjustment training, prevocational education, and vocational education have been provided.~~
(C) INTERMEDIATE SCHOOL DISTRICTS, LOCAL SCHOOL DISTRICTS, PUBLIC SCHOOL ACADEMIES, OR A COMBINATION OF SUCH AGENCIES IN COOPERATION WITH PUBLIC AND PRIVATE ENTITIES, SHALL PROVIDE OR CONTRACT FOR THE PROVISION OF TRANSITION SERVICES. SPECIAL EDUCATION TEACHERS SHALL BE ASSIGNED TO SUPERVISE SUCH SERVICES. PROFESSIONAL SPECIAL EDUCATION PERSONNEL, A TRANSITION COORDINATOR, OR BOTH, SHALL COORDINATE TRANSITION SERVICES.
(i) FOR WORKSITE-BASED LEARNING, A WRITTEN AGREEMENT/PLAN IS REQUIRED AND SHALL BE DESIGNED BY THE STUDENT, PARENT, SCHOOL, AND WORKSITE REPRESENTATIVE. THE AGREEMENT SHALL SET FORTH ALL OF THE FOLLOWING INFORMATION.
(A) EXPECTATIONS AND STANDARDS OF ATTAINMENT.
(B) JOB ACTIVITIES.
(C) TIME AND DURATION OF THE PROGRAM.
(D) WAGES TO BE PAID TO THE STUDENT, IF APPLICABLE.
(E) RELATED INSTRUCTIONS, IF APPLICABLE.
(ii) THE SUPERINTENDENT OF THE SCHOOL DISTRICT SHALL DESIGNATE A STAFF MEMBER TO VISIT THE STUDENT'S WORKSITE AT LEAST ONCE EVERY 30 CALENDAR DAYS FOR THE DURATION OF THE PROGRAM TO CHECK ATTENDANCE, STUDENT PROGRESS, AND ASSESS THE PLACEMENT IN TERMS OF HEALTH, SAFETY, AND WELFARE OF THE STUDENT.
~~(n) Personnel development shall be conducted pursuant to findings of an annual needs assessment. The training shall be made available to both special and regular education personnel. The persons providing training, which may be district, university or agency, teacher center, or state department based, may include persons with disabilities and~~

~~parents of persons with disabilities, as well as special and regular education personnel. The training programs to be delivered shall include all of the following if appropriate:~~
~~(i) Requirements and procedures of state and federal mandatory education acts.~~
~~(ii) Placement and education of the person who is disabled in the regular education curriculum, including the various aids and supportive services related thereto.~~
~~(iii) Affective education involving the importance of interaction with persons who are disabled on a peer level.~~
~~(o) Substitute instructional aides specified in R 340.1738, R 340.1739, and R 340.1748 shall be provided when assigned instructional aides are absent. In addition, teacher aides specified in R 340.1739 and R 340.1740 shall be provided when assigned teacher aides are absent.~~
~~(p)~~(D) Secondary special education teachers shall teach either special education courses approved for graduation by the local educational agency or special education courses within an approved special education curriculum.
~~(q) When an individualized educational planning committee determines that a student necessitates a categorical special education program, the student shall be assigned to a categorical program that corresponds to his or her primary disability. The program designation shall correspond to the special education teacher's endorsement which serves as the basis for the district's reimbursement pursuant to Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws, and known as the state school aid act of 1979. Placement in a program other than that which corresponds to the student's eligibility category may occur when the individualized educational planning committee includes, within the individualized educational program, a rationale for its determination and the parent consents to the alternative program. The public agency may use the hearing procedures in R 340.1724 to R 340.1724b when the parent refuses to provide consent. If the hearing officer upholds the agency, the agency may proceed without the parents' consent, subject to the parents' rights under R 340.1725 and R 340.1725a.~~
~~(r) If a participating agency fails to provide agreed-upon transition services contained in the individualized education program of a student who has a disability, the public agency responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revising the student's individualized education program. Nothing in this part relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students who have disabilities and who meet the eligibility criteria of the agency.~~

R 340.1734 Deviations from rules.

Rule 34. (1) A deviation from these rules shall FOLLOW BOARD-APPROVED PROCEDURES AND be requested in writing from the state board of education or its designee by an intermediate SCHOOL DISTRICT, ~~or~~ local school district , OR PUBLIC SCHOOL ACADEMY that operates or contracts for special education programs and services. A copy of the request shall be filed concurrently with the intermediate school district in which affected ~~persons~~ STUDENTS with disabilities reside and all local constituent school districts in which the affected ~~persons~~ STUDENTS with disabilities reside. A copy of the request shall be filed concurrently with the parent advisory committee

of the intermediate school district that requests the deviation and the parent advisory committee of any intermediate school district in which affected ~~persons~~ STUDENTS with disabilities reside.

(2) Within 7 days of receipt of the request, the intermediate school district shall review and inquire into the request and shall file, with the department, its position regarding the appropriateness of the request and its objections to, or endorsement of, the request, together with the rationale regarding its position.

(3) The state board of education or its designee shall initiate action within 30 calendar days of receipt of the request. The board or designee may grant the request in writing for a period not to extend beyond the end of the current school year and upon such terms and conditions as it shall specify only when, in its judgment, the best interests of ~~those~~ THE ~~persons~~ STUDENTS with disabilities affected by the deviation are served and good cause is shown.

(4) A deviation shall not be granted when the intent of the deviation is to exclude a ~~person~~ STUDENT with a disability from, or deny a ~~person~~ STUDENT with a disability participation in, a special education program or service that is required.

(5) A program deviation that is granted by the state board of education or its designee is public information. The affected intermediate school districts, ~~and local~~ constituent LOCAL SCHOOL districts, OR PUBLIC SCHOOL ACADEMIES shall inform their involved personnel of granted deviations in any manner they deem appropriate. At a minimum, the parent advisory committee shall be informed of the disposition of the request.

(6) A deviation shall not be requested for the purpose of avoiding or postponing corrections directed by the department ~~pursuant to~~ UNDER part 8 of these rules.

(7) If a final decision to deny a deviation request is made, THEN the school district that makes the request shall correct the condition that precipitated the request and shall forward, to the department, office of special education AND EARLY INTERVENTION SERVICES, within 30 school days of the denial, its assurance that the matter is now in compliance with the respective rule.

(8) Nothing in this rule or any other provision of statute or regulation shall permit the state board of education to waive any of the requirements of Part B of the individuals with disabilities education act ~~of 1990~~, AS AMENDED, 20 U.S.C. §1400 et seq.

R 340.1736 ~~Paraprofessional personnel.~~ RESCIND

~~**Rule 36.** Paraprofessional personnel may be employed to assist special education professional personnel pursuant to the intermediate school district plan. Paraprofessional personnel include teacher aides, health care aides, bilingual aides, instructional aides, and program assistants in programs for the severely mentally impaired and the severely multiply impaired.~~

R 340.1737 ~~Additional requirements by handicapping condition.~~ RESCIND

~~**Rule 37.** Each type of handicapped person, as defined in part 1 of these rules shall be provided programs and services pursuant to the intermediate district plans and the specific requirements in R 340.1738 to R 340.1749 and R 340.1754 to R 340.1758, in addition to the programs generally provided to all handicapped children as described in R 340.1733.~~

R 340.1738 ~~Severely mentally impaired programs.~~ RESCIND.

~~**Rule 38.** Specific requirements for programs and services for the severely mentally impaired shall be as follows:~~

~~(a) An instructional unit for the severely mentally impaired shall consist of at least 1 teacher and 2 instructional aides for a maximum of 12 students. The maximum number of students may be extended to 15 if an additional instructional aide is assigned with the placement of the thirteenth student. At least 1 full-time teacher and 1 full-time aide shall be employed in every program for the severely mentally impaired.~~

~~(b) Severely mentally impaired programs shall consist of a minimum of 230 days and 1,150 clock hours of instruction. The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.~~

~~(c) Persons employed in a severely mentally impaired program shall have the following responsibilities:~~

~~(i) Teachers shall be responsible for the instructional program and shall coordinate the activities of aides and supportive professional personnel.~~

~~(ii) Instructional aides shall work under the supervision of the teacher and assist in the student's daily training program.~~

~~(iii) Program assistants may assist the teacher and the instructional aides in the feeding, lifting, and individualized care of severely mentally impaired students.~~

~~(d) Curriculum for severely mentally impaired programs shall include all of the following:~~

~~(i) Cognitive skills.~~

~~(ii) Social skills.~~

~~(iii) Activities of daily living.~~

~~(iv) Leisure education.~~

~~(v) Language and communication skills.~~

~~(vi) Prevocational and vocational activities.~~

~~(e) Instructional and ancillary and other related services performed by the following persons shall be available as determined appropriate for the student's needs:~~

~~(i) A physical therapist.~~

~~(ii) An occupational therapist.~~

~~(iii) A teacher of the speech and language impaired.~~

~~(iv) A teacher consultant.~~

~~(v) A psychologist.~~

~~(vi) A school social worker.~~

~~(f) A registered nurse shall be reasonably available.~~

R 340.1739 ~~Trainable mentally impaired programs.~~ RESCIND.

~~**Rule 39.** Specific requirements for programs and services for the trainable mentally impaired are as follows:~~

~~(a) After August 31, 1975, all classroom programs for the trainable mentally impaired shall be provided in buildings constructed or renovated for use as school facilities.~~

~~(b) A classroom unit for the trainable mentally impaired shall consist of either of the following:~~
~~(i) One teacher and 1 teacher aide for a maximum of 15 students.~~
~~(ii) One lead teacher with maximum of 3 instructional aides for a maximum of 30 students, with not more than 10 students for each aide.~~

R 340.1740 ~~Educable mentally impaired programs; number of students.~~ RESCIND.

~~**Rule 40.** (1) Elementary programs for the educable mentally impaired shall serve not more than 15 different students. When an elementary program for the educable mentally impaired has 12 or more students in the room at one time, an aide shall be assigned to the program.~~
~~(2) Secondary programs for the educable mentally impaired shall have not more than 15 different students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.~~

R 340.1741 ~~Emotionally impaired programs; number of students.~~ RESCIND.

~~**Rule 41.** Programs for the emotionally impaired shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.~~

R 340.1742 ~~Hearing impaired programs; effective dates.~~ RESCIND.

~~**Rule 42.** (1) Specific requirements for programs and services for hearing impaired persons are as follows:~~
~~(a) A special class with l teacher shall have an enrollment of not more than 7 students.~~
~~(b) Group amplification devices deemed necessary for instruction by the individualized educational planning committee shall be provided. The public agency shall insure that the amplification devices worn by hearing impaired children in school are functioning properly.~~
~~(c) Communication skills and language shall be emphasized as an integral part of the curriculum.~~
~~(2) The Michigan school for the deaf shall be considered a part of the total continuum of services for hearing impaired persons. The following procedures are necessary for admission:~~
~~(a) A request for assignment to the Michigan school for the deaf shall be submitted by the intermediate school district superintendent or designee to the superintendent of the Michigan school for the deaf.~~
~~(b) Before application, the person shall have been identified by the referring school district as hearing impaired pursuant to R 340.1707.~~
~~(3) The resident district shall conduct the individualized educational planning committee meeting which initiates an assignment into the Michigan school for the deaf. Representatives of the intermediate school district of residence and the Michigan school for the deaf shall be invited to participate in the individualized educational planning committee meeting. Subsequent individualized educational planning committee meetings shall be reconvened pursuant to R 340.1722c.~~

R 340.1743 ~~Visually impaired programs.~~ RESCIND

~~**Rule 43.** (1) Specific requirements for programs and services for the visually impaired are as follows:~~

~~(a) Class size shall be determined by the severity and multiplicity of the impairments of the visually impaired students. A special class with 1 teacher shall have an enrollment of not more than the equivalent of 8 full-time students, and the teacher shall be responsible for the educational programming for not more than 10 different students.~~

~~(b) The curriculum shall include instruction in orientation and mobility, assistance in early development of comprehensive communication skills, personal adjustment education, and prevocational and vocational experience. The public agency shall insure that low vision aids, excluding prescription eye glasses, are available and functioning properly.~~

~~(c) An agency operating special education programs and services for the visually impaired may also operate a program of transcription of education materials into braille pursuant to R 388.261 to R 388.265 of the Michigan Administrative Code.~~

~~(2) The Michigan school for the blind shall be considered a part of the total continuum of services for visually impaired persons. The following procedures are necessary for admission:~~

~~(a) A request for assignment to the Michigan school for the blind shall be submitted by the intermediate school district superintendent, or his or her designee, to the superintendent of the Michigan school for the blind.~~

~~(b) Before application, the person shall have been identified by the referring school district as visually impaired pursuant to R 340.1708.~~

~~(3) The resident district shall conduct the individualized educational planning committee meeting which initiates an assignment into the Michigan school for the blind. Representatives of the intermediate school district of residence and the Michigan school for the blind shall be invited to participate in the individualized educational planning committee meeting. Subsequent individualized educational planning committee meetings shall be reconvened pursuant to R 340.1722e.~~

R 340.1744 ~~Physically and otherwise health impaired programs.~~ RESCIND.

~~**Rule 44.** (1) Programs for the physically and otherwise health impaired shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.~~

~~(2) Adaptive devices deemed necessary for instruction by the individualized educational planning committee shall be provided.~~

~~(3) Special classroom units serving physically and otherwise health impaired shall provide not less than 60 square feet of floor space per person.~~

~~(4) Health care aides may be employed to serve in a supportive capacity to the nurse, physical therapist, or occupational therapist.~~

~~(5) Paraprofessionals may be employed to serve the program and may be assigned by the teacher to assist any of the following persons in a supportive capacity:~~

~~(a) A nurse.~~

~~(b) An occupational therapist.~~

~~(c) A physical therapist.~~

~~(d) A speech and language teacher.~~

R 340.1745 Speech and language impaired ~~instructional~~ serviceS.

Rule 45. ALL OF THE FOLLOWING PROVISIONS ARE S~~S~~pecific requirements for ~~instructional~~ services for the speech and language impaired: ~~are as follows:~~

(a) The ~~extent of instructional~~ SPEECH AND LANGUAGE services provided by ~~a teacher of the~~ AN AUTHORIZED PROVIDER OF speech and language impaired SERVICES ~~for persons determined to be eligible for special education in R 340.1703 to R 340.1715~~ shall be based on the ~~handicapped~~ NEEDS OF A STUDENT WITH A DISABILITY ~~person's needs~~ as determined by the individualized education~~al planning committee~~ PROGRAM TEAM after reviewing a diagnostic report provided by ~~a teacher of the~~ AN AUTHORIZED PROVIDER OF speech and language impaired SERVICES.

(b) The determination of caseload size for an individual ~~teacher of the~~ AUTHORIZED PROVIDER OF speech and language impaired SERVICES shall be made by the ~~teacher of the~~ AUTHORIZED PROVIDER OF speech and language impaired SERVICES in cooperation with the district director of special education, or his or her designee, and the building principal or principals of the school or schools in which the students are enrolled. Caseload size shall be based upon the severity and multiplicity of the ~~handicaps~~ DISABILITIES and the extent of the service defined in the collective individualized education programs of the students to be served, allowing time for all of the following:

(i) Diagnostics.

(ii) Report writing.

(iii) Consulting with parents and teachers.

(iv) Individualized education~~al planning committee~~ PROGRAM TEAM meetings.

(v) Travel.

(c) Individual ~~teacher~~ caseloads OF AUTHORIZED PROVIDERS OF SPEECH AND LANGUAGE IMPAIRED SERVICES shall not exceed 60 different persons and shall be adjusted based on factors identified in subdivision (b) of this rule. Students being evaluated shall be counted as part of the caseload.

(D) AN AUTHORIZED PROVIDER OF SPEECH AND LANGUAGE IMPAIRED SERVICES SHALL BE EITHER A TEACHER OF SPEECH AND LANGUAGE IMPAIRED UNDER R 340.1781, R 340.1782, AND R 340.1796, OR A PERSON WITH A MASTER'S DEGREE, AS QUALIFIED UNDER R 340.1792.

R 340.1746 ~~Homebound and hospitalized services.~~ RESCIND

~~**Rule 46.** Specific requirements for homebound and hospitalized services are as follows:~~

~~(a) Homebound services shall be initiated within 15 school days after verification, by a licensed physician, of a medical handicap which requires the eligible special education student to be confined to the home. Such verification shall indicate the anticipated duration of the required confinement.~~

~~(b) Hospital service shall be provided for eligible special education students who cannot attend school because of hospitalization for a physical or medical impairment. These services shall be initiated when determined medically feasible.~~

~~(c) A special education teacher employed for homebound or hospital services, or for a combination of these services, shall be assigned not more than 12 students at any one time.~~

~~(d) Progress reports for each person shall be recorded pursuant to the intermediate school district plan.~~
~~(e) Students receiving homebound or hospital services shall receive a minimum of 2 nonconsecutive hours of instruction per week. Related services personnel may supplement, but not substitute for, the teacher's instruction.~~
~~(f) It is the responsibility of the district in which the hospital is located to make homebound and hospital services available to eligible students. If the student is hospitalized outside of the district of residence, the district of residence is responsible for delivering services or for contracting with the operating district and making payment for the services.~~
~~(g) Homebound and hospitalized services shall not be substituted for special education programs AND RELATED SERVICES. Rather, the service provider shall endeavor, to the extent appropriate, to present curricular experiences which are being provided in the program where the student is currently enrolled.~~

R 340.1747 ~~Specific learning disabilities programs; number of students.~~ RESCIND.

~~**Rule 47.** Programs for the learning disabled shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.~~

R 340.1748 ~~Severely multiply impaired programs.~~ RESCIND.

~~**Rule 48.** Specific requirements for programs and services for the severely multiply impaired who are unable to function within other special education programs which deal with a single handicap are as follows:~~
~~(a) An instructional unit for the severely multiply impaired shall consist of at least 1 teacher and 2 instructional aides for a maximum of 9 students. At least 1 full-time teacher and 1 full-time aide shall be employed in every severely multiply impaired program.~~
~~(b) Severely multiply impaired programs shall consist of a minimum of 230 days and 1,150 clock hours of instruction. The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.~~
~~(c) The program for each student shall emphasize education relating to the multiple handicaps rather than education relating to a single handicap in isolation and shall encourage instructional or social experiences in programs for single disabilities for some portion of the instructional day. The individualized educational planning committee may recommend the portion of the day the student will spend in the experiences. An aide shall be available to meet the individual student's needs during this time, if necessary.~~
~~(d) Persons employed in severely multiply impaired programs shall have the following responsibilities:~~
~~(i) Teachers shall be responsible for the instructional program, shall coordinate the activities of instructional aides and other supportive personnel, and shall maintain a systematic method of home-school liaison.~~
~~(ii) Instructional aides shall work under the supervision of the teachers.~~

~~(iii) Program assistants shall be utilized where necessary and shall have the responsibilities indicated in R 340.1738 for program assistants in severely mentally impaired programs; otherwise, instructional aides shall have these responsibilities.~~
~~(e) Curriculum for severely multiply impaired programs shall include all of the following:~~
~~(i) Cognitive skills.~~
~~(ii) Social skills.~~
~~(iii) Activities of daily living.~~
~~(iv) Leisure education.~~
~~(v) Language and communication skills.~~
~~(vi) Prevocational and vocational activities.~~
~~(f) Instructional and ancillary and other related services performed by the following persons shall be available as determined appropriate for the student's needs:~~
~~(i) A physical therapist.~~
~~(ii) An occupational therapist.~~
~~(iii) A teacher of the speech and language impaired.~~
~~(iv) A teacher consultant.~~
~~(v) A psychologist.~~
~~(vi) A school social worker.~~
~~(g) A registered nurse shall be reasonably available.~~

R 340.1749 ~~Teacher consultant; caseload; responsibilities.~~ RESCIND.

~~**Rule 49.** (1) The teacher consultant for special education shall do 1 or more of the following:~~
~~(a) Provide instructional services to students who are enrolled in special education programs. Instructional services are supportive of the special education teacher. A teacher consultant shall not grade, give credit for, or teach a regular education or a special education subject, class, or course.~~
~~(b) Provide instructional services to a student whose handicap is such that the student may be educated effectively within a regular classroom if this service is provided to the student. Instructional services are supportive of the regular education teacher. The teacher consultant shall not grade, give credit for, or teach a regular education subject, class, or course.~~
~~(c) Provide consultation to education personnel on behalf of handicapped persons on the consultant's caseload.~~
~~(d) Work as a member of a multidisciplinary evaluation team to assist in the evaluation of the educational needs of persons suspected of being handicapped.~~
~~(2) The teacher consultant shall carry an active caseload of not more than 25 handicapped students. All students served under this rule shall be counted as part of the caseload. In establishing the caseload, consideration shall be given to time for all of the following:~~
~~(a) Instructional services.~~
~~(b) Evaluation.~~
~~(c) Consultation with special and regular education personnel.~~
~~(d) Report writing.~~
~~(e) Travel.~~
~~(3) The teacher consultant shall not serve in supervisory or administrative roles.~~

R 340.1749a ~~Elementary level resource program.~~ RESCIND.

~~**Rule 49a.** (1) A special education elementary level resource program may be provided by a special education teacher who has 2 years of teaching experience, 1 of which shall be in a special education classroom. This program is designed for eligible handicapped students who, through individualized educational planning committee determination, need 50% or less of their instructional school day in special education and who need 2 or less of the instructional content areas of language arts, mathematics, science, and social studies taught solely by the resource teacher.~~

~~(2) The elementary resource teacher shall serve not more than 10 students at any one time and not more than 18 different students and shall do either or both of the following:~~

~~(a) Provide direct instruction to students on the resource teacher's caseload and may assign grades or other evaluative measures for this instruction.~~

~~(b) Provide support to the regular education classroom teachers to whom special education students on the resource teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.~~

~~(3) The elementary resource teacher may provide supplemental instruction to students on his or her caseload.~~

~~(4) The elementary resource teacher may evaluate regular education students within the same building who are suspected of being handicapped and, therefore, may serve on the initial multidisciplinary evaluation team. The resource teacher shall be responsible for the evaluation of not more than 2 students at one time. Time shall be allocated to the resource teacher to carry out this responsibility.~~

~~(5) If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational planning committee shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.~~

R 340.1749b ~~Secondary level resource program.~~ RESCIND.

~~**Rule 49b.** (1) A special education secondary level resource program may be provided by a special education teacher who has 2 years of teaching experience, 1 of which shall be in a special education classroom. This program is designed for eligible handicapped students who, through individualized educational planning committee determination, need 3 periods or less of their instructional school day in special education and who need 2 or less of the instruction content areas of language arts, mathematics, science, and social studies taught solely by the resource teacher.~~

~~(2) A secondary resource teacher shall serve not more than 10 students at any one time and have a caseload of not more than 20 different students and shall do either or both of the following:~~

~~(a) Provide direct instruction for special education courses approved for graduation by the local educational agency. The teacher may assign grades or other evaluative measures for this instruction.~~

~~(b) Provide support to the regular education classroom teachers to whom special education students on the resource room teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.~~
~~(3) The secondary resource teacher may provide supplemental instruction to students on his or her caseload who are enrolled in regular education classes. The teacher shall not teach a class and offer tutorial assistance at the same time.~~
~~(4) If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational planning committee shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.~~
~~(5) Secondary schools with more than 1 resource program may departmentalize pursuant to R 340.1749c.~~

R 340.1749c ~~Departmentalization of secondary special education programs.~~ RESCIND.

~~**Rule 49c.** (1) A secondary school with more than 1 special education teacher may departmentalize.~~
~~(2) Each teacher shall teach only 1 local education agency approved special education course per period.~~
~~(3) Each teacher may serve more than the students assigned to his or her caseload; however, the total number of students served cannot exceed the combined caseloads of the participating teachers.~~
~~(4) Each teacher shall serve not more than an average of 10 students per class period per instructional day.~~

R 340.1750 Director of special education.

Rule 50. (1) Local SCHOOL districts OR PUBLIC SCHOOL ACADEMIES may employ, or contract for the services of~~,~~ a ~~full- or part-time, but~~ not less than half-time~~,~~ director of special education pursuant to the intermediate SCHOOL district plan.
(2) Each intermediate school district shall employ, or contract for the services of, a full-time director of special education. ~~For the intermediate school district to qualify for reimbursement, the intermediate school district director shall perform such full-time duties as the following:~~
~~(a) The development, organization, and administration of special education programs and services.~~
~~(b) The planning and conducting of inservice education programs.~~
~~(c) The development and maintenance of continuous evaluation procedures for special education.~~
~~(d) The liaison with school staff and the community.~~
~~(e) The preparation of special education reports.~~
~~(f) Other duties related to special education as assigned.~~

R 340.1751 Supervisor of special education

Rule 51. (1) Each school district may employ a supervisor of special education instructional programs. ~~Such supervisor shall perform in an administrative, supervisory, or consultative capacity for the instructional phases of specific areas of special education.~~ The person shall BE EMPLOYED ~~perform such full- or part-time, but~~ not less than half-time~~, duties as pursuant to the intermediate school district plan~~. ~~Duties include all of the following:~~

~~(a) Supervising and advising teachers providing instructional programs for the handicapped.~~

~~(b) Assisting in the planning and conducting of inservice education programs.~~

~~(c) Providing consultative services to the entire staff of the district and others concerning the instructional phases of specific areas of special education, including computer-aided instruction.~~

~~(d) Other administrative duties relating to special education, as assigned.~~

~~(2) While a supervisor's primary responsibility is the supervision of personnel providing special education, duties may also include the supervision of ancillary and other related service personnel.~~

R 340.1753 ~~Curriculum resource consultant.~~ RESCIND.

~~**Rule 53.** A curriculum resource consultant specializes in all of the following:~~

~~(a) The structure and planning of curriculum.~~

~~(b) Instructional materials and media, including computer assisted instruction.~~

~~(c) Inservice education.~~

~~(d) Adaptive technology.~~

~~(e) Needs assessment.~~

~~(f) The acquisition, categorization, evaluation, or distribution of materials.~~

R 340.1754 ~~Preprimary impaired classroom programs~~ EARLY CHILDHOOD SPECIAL EDUCATION PROGRAMS AND SERVICES.

Rule 54. ALL OF THE FOLLOWING PROVISIONS ARE S~~S~~pecific requirements for EARLY CHILDHOOD SPECIAL EDUCATION ~~classroom~~ programs AND SERVICES for ~~the preprimary impaired~~ YOUNG CHILDREN WITH DISABILITIES OR DEVELOPMENTAL DELAY: ~~are as follows:~~

(a) ~~A special education-approved, preprimary teacher shall be provided to children 3 through 5 years of age based upon the child's individual needs as specified by the individualized educational planning committee. Districts may include children through 2 years of age as specified by the individualized educational planning committee~~ AN EARLY CHILDHOOD SPECIAL EDUCATION PROGRAM WITH AN APPROVED EARLY CHILDHOOD SPECIAL EDUCATION TEACHER MAY BE PROVIDED TO YOUNG CHILDREN WITH DISABILITIES OR DEVELOPMENTAL DELAY AND WHO ARE 2 1/2 THROUGH 5 YEARS OF AGE BASED UPON THE CHILD'S INDIVIDUAL NEEDS AS SPECIFIED BY THE INDIVIDUALIZED EDUCATION PROGRAM TEAM. EARLY CHILDHOOD SPECIAL EDUCATION PROGRAMS MAY INCLUDE CHILDREN THROUGH 2 1/2 YEARS OF AGE AS SPECIFIED BY THE INDIVIDUALIZED EDUCATION PROGRAM TEAM.

(b) ~~The program shall be available for a minimum of 360 clock hours and 144 days of instruction~~ IF A PRESCHOOL AGED CHILD WITH A DISABILITY OR DEVELOPMENTAL DELAY IS PLACED IN A NON-SPECIAL EDUCATION PROGRAM, THEN THE INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL CONSIDER THE NEED FOR CONSULTATION BY AN EARLY CHILDHOOD SPECIAL EDUCATION TEACHER.

(c) ~~The program shall have not more than 12 students for 1 teacher and 1 aide at any one time, and the teacher shall have responsibility for the educational programming for not more than 24 different students~~ EARLY CHILDHOOD SPECIAL EDUCATION TEACHERS SHALL HAVE RESPONSIBILITY FOR TEACHING AND EDUCATIONAL PROGRAMMING FOR NOT MORE THAT 12 DIFFERENT STUDENTS IN A SINGLE EARLY CHILDHOOD SPECIAL EDUCATION PROGRAM; AT LEAST 1 CLASSROOM AIDE SHALL BE PROVIDED.

(d) ~~The~~ EARLY CHILDHOOD SPECIAL EDUCATION programS shall have a parent participation and education component.

R 340.1755 ~~Nonclassroom services to preprimary age children~~ EARLY CHILDHOOD SPECIAL EDUCATION HOME AND COMMUNITY PROGRAMS AND SERVICES.

Rule 55. BOTH OF THE FOLLOWING PROVISIONS ARE S~~S~~pecific requirements for ~~nonclassroom services for preprimary age impaired~~ EARLY CHILDHOOD SPECIAL EDUCATION SERVICES FOR YOUNG children WITH DISABILITIES OR DEVELOPMENTAL DELAY IN FAMILY AND COMMUNITY SETTINGS: ~~are as follows:~~

(a) Services shall be provided by aN ~~special education-~~approved~~, preprimary~~ EARLY CHILDHOOD SPECIAL EDUCATION teacher or approved ~~ancillary and other~~ related services staff to YOUNG children BIRTH through ~~2 years of~~ age 5 based upon the child's individual needs as specified by the individualized education~~al planning committee~~ PROGRAM OR THE COMBINED INDIVIDUALIZED EDUCATION/FAMILY SERVICE PLAN, AS APPROPRIATE. ~~Districts may include children through 5 years of age as determined by the individualized educational planning committee.~~ Approved ~~ancillary and other~~ related services staff shall work under the supervision of aN ~~certified~~ APPROVED EARLY CHILDHOOD SPECIAL EDUCATION teacher ~~approved pursuant to R 340.1795~~.

(b) ~~Nonclassroom s~~Services shall be provided for a minimum of ~~2~~ 1 hour~~s~~ per week~~, but not less than 72 clock hours within 180 school days~~ AND MAY INCLUDE CONSULTATION AND PARENT EDUCATION. Services may be provided in ~~a home or school setting~~ APPROPRIATE EARLY CHILDHOOD, COMMUNITY, AND FAMILY SETTINGS.

~~(c) A nonclassroom services unit for preprimary age children shall consist of 1 of the following:~~

~~(i) One teacher or approved preprimary ancillary and other related services staff for a maximum of 15 children.~~

~~(ii) One lead teacher or approved preprimary ancillary and other related services staff and 1 aide for a maximum of 22 children.~~

~~(iii) One lead teacher or approved preprimary ancillary and other related services staff and 2 aides for a maximum of 30 children.~~

~~(d) The program shall have a parent participation and education component.~~

R 340.1756. ~~Severely language impaired classroom programs.~~ RESCIND.

~~**Rule 56.** (1) A public agency may establish classroom programs for severely language impaired persons. Specific requirements for these programs are as follows:~~

~~(a) A severely language impaired classroom program conducted by a teacher of the speech and language impaired shall serve only the preprimary or elementary level severely language impaired.~~

~~(b) The program shall have not more than 10 students in the classroom at any one time, and the teacher shall have responsibility for the educational programming for not more than 15 different students.~~

~~(2) Speech and language impaired persons eligible for this program are those with a severe disability in the comprehension or expression of language as determined through the manifestation of all of the following characteristics which adversely affects educational performance:~~

~~(a) Demonstration of functioning within or above normal intellectual potential as measured by instruments that do not rely exclusively on oral direction or oral expression.~~

~~(b) Test results on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning which clearly show language functioning not appropriate for the person's mental age.~~

~~(c) Oral language at less than the expected level based on the person's mental age in not less than 2 of the following areas:~~

~~(i) Phonology.~~

~~(ii) Morphology.~~

~~(iii) Syntax.~~

~~(iv) Semantics.~~

~~(v) Pragmatics.~~

~~(3) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a teacher of the speech and language impaired and a psychologist.~~

~~(4) The severely language impaired program shall not include persons whose language impairment is primarily the result of autism or mental, emotional, hearing, visual, physical, or other health impairments as defined in part 1 of these rules.~~

R 340.1757 Other related educational services for ~~youth~~ STUDENTS placed in juvenile detention facilities.

Rule 57. ALL OF THE FOLLOWING PROVISIONS ARE S~~S~~pecific requirements for educational services conducted for ~~youth~~ STUDENTS placed in juvenile detention facilities: ~~are as follows:~~

(a) Programs shall be initiated within 5 calendar days after admission. If a ~~person~~ STUDENT placed in a juvenile detention facility is suspected of ~~being handicapped~~ HAVING A DISABILITY, THEN the procedure outlined in part 2 of these rules shall be immediately followed.

(b) Notification of educational placement shall be sent to the superintendent of the district of residence within 5 school days after the date of entry of a ~~person~~ STUDENT into the educational program in a juvenile detention facility.

(c) Education reports for each person educated in a juvenile detention facility shall be sent by certified mail to the superintendent of the district of residence, with the consent of the parent, within 5 school days from the date of release from the facility.
(d) Special education reimbursed personnel may provide educational services for ~~nonhandicapped persons~~ STUDENTS WHO DO NOT HAVE DISABILITIES AND WHO ARE placed in the facility, if the programs comply with both of the following PROVISIONS:
(i) They are under the supervision of a teacher approved in the area of ~~the~~ emotional~~ly impaired~~ IMPAIRMENT.
(ii) They have not more than 10 students in a class at any one time.

R 340.1758 ~~Classroom programs for the autistic impaired.~~ RESCIND.

~~**Rule 58.** (1) Specific requirements for programs for the autistic shall be provided using either of the following alternatives:~~
~~(a) Programs that consist of 1 classroom program for the autistic impaired shall not have more than 5 students and shall be served by a teacher of the autistic. However, programs that consist of more than 1 classroom may have more than 5 students in a classroom, if the average student-to-teacher-and-aide ratio does not exceed 5 students to 1 teacher and 1 aide. A classroom with 3 or more students shall have 1 aide.~~
~~(b) A special education program described in section 1.6(2) of the intermediate school district plan set forth in R 340.1832 and approved by the state board of education that assures the provision of educational programming for autistic students.~~
~~(2) Specific requirements for either program shall include, but not be limited to, all of the following:~~
~~(a) Language and communication development.~~
~~(b) Personal adjustment training.~~
~~(c) Prevocational education.~~

PART 4. QUALIFICATIONS OF DIRECTORS AND SUPERVISORS

R 340.1771 Director of special education; education and experience requirements.

Rule 71. (1) For full approval, a director of special education shall possess all of the following minimum qualifications:
(a) An earned master's degree or equivalent.
(b) Full approval in at least 1 area of special education.
(c) Three years of successful professional practice or administrative experience in special education, or combination ~~thereof~~ OF PRACTICE AND EXPERIENCE.
(d) Thirty semester or ~~45 term~~ EQUIVALENT hours of graduate credit and a successful 200-clock-hour practicum in special education administration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education and shall be distributed appropriately to assure knowledge and competency as related to special education in ALL OF the following areas:
(i) Program development and evaluation.
(ii) Personnel staffing, supervision, and evaluation.
(iii) Interpersonal relationships, communications, persuasion, and morale.

(iv) Evaluation of inservice organization and management.
(v) Budgeting, financing, and reporting.
(vi) Parent relationships.
(vii) School plant planning.
(viii) Consultation.
(ix) Research and grant writing.
(x) Office management, including office automation.
(xi) School-related legal activities and due process hearing.
(xii) Computer-assisted management.
(e) One year of successful experience as a special education director in an approved special education program.
(f) ~~Recommendation~~ VERIFICATION from a college or university approved for the preparation of special education directors which attests that the person has acquired the knowledge and competencies in subdivision (d) of this subrule and has demonstrated leadership ability and general knowledge of issues and problems in all disability areas of special education.
(2) A DIRECTOR OF SPECIAL EDUCATION PROGRAMS WHO HAS FULL APPROVAL STATUS SHALL MAINTAIN FULL APPROVAL STATUS INDEFINITELY.
~~(2)~~(3) For temporary approval, a director of special education shall possess all of the following minimum qualifications:
(a) An earned master's degree or equivalent.
(b) Full approval in at least 1 area of special education.
(c) Three years of successful professional practice or administrative experience in education, or combination ~~thereof~~ OF PRACTICE AND EXPERIENCE.
(d) Twelve semester or ~~18 term~~ EQUIVALENT hours of graduate credit and a successful 200-clock-hour practicum in special education administration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education and shall be distributed appropriately to assure knowledge and competency related to special education in the areas designated in subrule (1)(d) of this rule.
(e) ~~Recommendation from a~~ THE college or university approved for the preparation of special education directors SHALL VERIFY ENROLLMENT IN THE DIRECTOR OF SPECIAL EDUCATION PREPARATION PROGRAM AND THE COMPLETION OF THE PRACTICUM SPECIFIED IN SUBDIVISION (D) OF THIS SUBRULE.
~~(3)~~(4) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or ~~9 term~~ EQUIVALENT hours of required credit toward full approval before the beginning of the next school year.
~~(4)~~(5) Any person who has completed all course work and practicum requirements in effect before the effective date of these rules shall only be required to complete 1 year of successful experience as a director to gain full approval.

R 340.1772 Supervisor of special education; education and experience requirements.

Rule 72. (1) For full approval, a supervisor of special education shall possess all of the following minimum qualifications:
(a) An earned master's degree or equivalent.

(b) Full approval in at least 1 area of special education.
(c) Three years of successful experience in special education.
(d) Twelve semester or ~~18 term~~ EQUIVALENT hours of graduate credit in a college or university whose program has been approved by the state board of education. Graduate credit shall be distributed appropriately to assure knowledge and competency as related to special education in ALL OF the following areas:
(i) Systematic study of curriculum.
(ii) Administrative and supervisory procedures.
(iii) Evaluation methods and procedures.
(iv) Communication skills techniques.
(v) Inservice education.
(vi) Computer-aided instruction.
(e) One year of successful experience as a supervisor of special education in an approved special education program.
(f) ~~Recommendation~~ VERIFICATION from a college or university approved for the preparation of special education supervisors relative to leadership, knowledge, and competency in the areas listed in subdivision (d) of this subrule.
(2) A SUPERVISOR OF SPECIAL EDUCATION PROGRAMS WHO HAS FULL APPROVAL STATUS SHALL MAINTAIN FULL APPROVAL STATUS INDEFINITELY.
~~(2)~~(3) For temporary approval, a supervisor of special education shall possess all of the following minimum qualifications:
(a) An earned master's degree or equivalent.
(b) Full approval in at least 1 area of special education.
(c) Three years of successful experience in special education.
(d) ~~Recommendation from a~~ THE college or university approved by the state board of education for preparation of special education supervisors SHALL VERIFY ENROLLMENT IN THE SUPERVISOR OF SPECIAL EDUCATION PROGRAM.
~~(3)~~(4) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or ~~9 term~~ EQUIVALENT hours of required credit toward full approval before the beginning of the next school year.
~~(4)~~(5) Any person who has completed all course work and practicum requirements in effect before the effective date of these rules shall only be required to complete 1 year of successful experience as a supervisor to gain full approval.

R 340.1773 ~~Presently employed director or supervisor.~~ RESCIND

~~**Rule 73.** A director or supervisor of special education programs with full approval status on the date this rule becomes effective shall maintain full approval.~~

R 340.1774 OUT-OF-STATE APPLICANTS FOR SUPERVISOR OR DIRECTOR TEMPORARY APPROVAL

Rule 74. AN APPLICANT FOR TEMPORARY APPROVAL AS A SUPERVISOR OR DIRECTOR OF SPECIAL EDUCATION WHO HAS BEEN EDUCATED IN ANOTHER STATE SHALL PRESENT EVIDENCE OF FULFILLING ALL OF THE REQUIREMENTS ESTABLISHED FOR APPLICANTS WHO HAVE BEEN EDUCATED IN THE APPROVED MICHIGAN COLLEGES AND UNIVERSITIES. THE

DEPARTMENT SHALL ESTABLISH PROCEDURES FOR THE TEMPORARY APPROVAL OF OUT-OF-STATE APPLICANTS AS SUPERVISORS OR DIRECTORS OF SPECIAL EDUCATION.

PART 5. QUALIFICATIONS OF TEACHERS AND OTHER PERSONNEL

R 340.1781 Teachers of ~~the handicapped~~ STUDENTS WITH DISABILITIES; ~~approval generally~~ ENDORSEMENT REQUIREMENTS.

Rule 81. (1) ~~Beginning September 1, 1990, a~~ A teacher seeking AN ENDORSEMENT OR full approval by the state board of education or its designee shall meet ALL OF the following general skill requirements, in conjunction with those of R 340.1782 to R 340.1788, R 340.1795 to R 340.1797, and R 340.1799 to R 340.1799d, before being employed by an intermediate school district, ~~constituent~~ LOCAL SCHOOL district, PUBLIC SCHOOL ACADEMY, or other agency operating special education programs and services:

(a) Theoretical foundations as follows:

(i) Understanding of human growth and development, which shall include all of the following:

(A) Typical and atypical development.

(B) Stages from conception to death.

(C) Affective, language, cognitive, and sensorimotor areas.

(D) Factors influencing development, including physiological, social, physical environment, and psychological.

(ii) Understanding of learning and teaching theories.

(iii) Knowledge of construction, interpretation, application, and limitation of standardized and nonstandardized assessment procedures.

(iv) Knowledge of ~~handicapping conditions~~ DISABILITIES and their educational implications.

(b) Curriculum and instruction as follows:

(i) Understanding of curriculum design and instructional strategies.

(ii) Understanding of, and ability to adapt to, ~~regular~~ GENERAL and special curriculum and instructional strategies to meet individual learning styles.

(c) Special education instructional systems as follows:

(i) Knowledge of program delivery systems, including all levels of service.

(ii) Understanding of individual and group management structures.

(iii) Understanding of effective use of school and outside resources in creating a positive learning environment.

(iv) Understanding a variety of systems for reporting and evaluating the effectiveness of an individual student's program.

(v) Understanding of the child study/team planning process.

(vi) Ability to translate comprehensive assessment data reflecting the student's current level of functioning into an individualIZED education~~al plan~~ PROGRAM.

(vii) Understanding of how adaptive technology may be used to enhance the education of ~~handicapped~~ students WITH DISABILITIES.

(d) Communication/consultation as follows:

(i) Knowledge of institutional and administrative factors ~~which~~ THAT facilitate or impede delivery of services.
(ii) Ability to effectively communicate the needs and rights of ~~handicapped persons~~ STUDENTS WITH DISABILITIES.
(iii) Ability to use interpersonal skills when working with parents, professionals, agencies, students, and other persons or groups.
(iv) Understanding the roles and organizational structures of ~~regular~~ GENERAL and special education and the part they play in providing total service for the student.
(v) Ability to serve in a consultative capacity with individuals and groups, including parents and students.
(vi) Ability to supervise and work with teacher aides, volunteers, and paraprofessionals.
(e) Organizational, historical, and legal factors as follows:
(i) Knowledge of state and federal laws, rules, and regulations.
(ii) Understanding of due process and data privacy requirements.
(iii) Knowledge of historical and philosophical background of the education of ~~handicapped persons~~ STUDENTS WITH DISABILITIES and knowledge of attitudes toward ~~handicapped persons~~ STUDENTS WITH DISABILITIES.
(iv) Understanding of how to identify and access resources relevant to ~~handicapped~~ ~~persons~~ STUDENTS WITH DISABILITIES.
(f) Abilities basic to all special education preparation as follows:
(i) Ability to observe, analyze, and describe the instructional strategies being applied in an educational situation.
(ii) Ability to function as a member of a team in designing appropriate educational programs for ~~handicapped~~ students WITH DISABILITIES.
(iii) Ability to apply team-designed strategies in an educational setting.
(iv) Ability to design and apply instructional strategies in an educational setting, including time management techniques.
(v) Ability to identify and use nonschool resources relevant to ~~handicapped persons~~ STUDENTS WITH DISABILITIES.
(vi) Ability to assess results of instruction.
(vii) Understanding of personal adjustment, prevocational and vocational needs, and opportunity for ~~the handicapped~~ STUDENTS WITH DISABILITIES.
(viii) Ability to understand basic behavioral management concepts and demonstrate ability to develop, implement, and incorporate appropriate behavioral management techniques.
(ix) Understanding of preadolescent behavior.
(x) Understanding of adolescent behavior.
(2) Students completing special education teacher preparation training programs before September 1, 1990, shall be ENDORSED OR fully approved.

R 340.1782 ~~Fully approved~~ ENDORSED teachers of ~~the handicapped~~ STUDENTS WITH DISABILITIES; additional requirements.

Rule 82. ~~A fully approved~~ AN ENDORSED teacher of ~~the disabled~~ STUDENTS WITH DISABILITIES, in addition to meeting the specific requirements set forth ~~in R 340.1785 to R 340.1791~~ R 340.1786 TO R 340.1788, R 340.1795 to R 340.1797, and R 340.1799 to R 340.1799~~e~~C, shall comply with all of the following requirements:

(a) Possess a valid Michigan teacher's certificate.
(b) Possess a baccalaureate degree with a major in a specific special education area or have earned credit in course work equivalent to that required for a major.
(c) Possess an endorsement in special education that is valid in grades kindergarten through 12. Elementary or secondary endorsements in special education, earned ~~before or~~ after September 1, 1990, shall be valid in grades kindergarten through 12.
(d) Have completed directed student teaching of not less than 8 weeks~~'~~ duration in the specific area of impairment. Not less than a 180-hour practicum in the specific area of impairment is required for each additional endorsement.~~ Teachers who receive their approval pursuant to this rule after September 1, 1990, shall have completed directed student teaching of not less than 8 weeks' duration or an equivalent educational experience before being assigned to a classroom program for severely mentally impaired or the severely multiply impaired.~~
(e) Be recommended for a certificate or endorsement, or both, ~~constituting full approval~~ in a specific special education area by an institution of higher education signifying verification of completion of a teacher education program for the specific special education area, as approved by the state board of education. The recommendation shall verify that the teacher possesses all of the following in addition to having completed course work that includes the general skill requirements listed in R 340.1781:
(i) Personal maturity.
(ii) Emotional stability.
(iii) Ability to teach.
(iv) Other leadership capacities.
(v) Apparent potential for growth in creative teaching.
~~(f) Approved teacher education programs of each teacher training institution shall be reviewed at least once every 5 years by the department.~~
~~(g)~~(F) On the effective date of these rules, persons approved as special education teachers pursuant to this rule AND ~~teacher consultants pursuant to R 340.1790, curriculum resource consultants pursuant to R 340.1791,~~ teachers of preprimary-aged students pursuant to R 340.1795~~, and work- study coordinators pursuant to R 340.1792~~ shall maintain and continue to have their full approval status.

R 340.1783 Temporarily approved teachers of ~~the handicapped~~ STUDENTS WITH DISABILITIES.

Rule 83. ~~(1)~~ UNDER PROCEDURES ESTABLISHED BY THE DEPARTMENT, ~~T~~The department may grant temporary approval as a teacher of ~~the handicapped~~ STUDENTS WITH DISABILITIES to persons who~~,~~ HOLD A VALID MICHIGAN TEACHING CERTIFICATE. THE EMPLOYING SUPERINTENDENT SHALL CERTIFY THAT THE DISTRICT CONDUCTED A SEARCH FOR FULLY QUALIFIED PERSONNEL AND THAT NO CERTIFIED TEACHER WHO HOLDS FULL APPROVAL OR ENDORSEMENT FOR THE POSITION WAS AVAILABLE AT THE TIME OF THE ASSIGNMENT. ~~at a minimum, have completed 1/2 of the course requirements for a major in a specific impairment area.~~ Continuation of temporary approval shall be dependent upon the satisfactory completion of not less than 6 semester ~~or 9 term hours~~, or equivalent HOURS, of required credit toward full approval ~~before the beginning~~ BETWEEN AUGUST

31 OF THE CURRENT SCHOOL YEAR AND SEPTEMBER 1 of the next school year that the teacher is employed~~ in a special education area~~. THE SCHOOL DISTRICT IS NOT REQUIRED TO CONDUCT A SEARCH FOR A FULLY QUALIFIED TEACHER IN SUCCESSIVE SCHOOL YEARS IF THE CANDIDATE MEETS THESE REQUIREMENTS. THE DISTRICT IS NOT REQUIRED TO REMOVE A TEACHER UNDER TEMPORARY OR CONTINUING APPROVAL WHEN A FULLY APPROVED OR ENDORSED TEACHER BECOMES AVAILABLE.

~~(2) Special education teachers who would otherwise be laid off as a result of the application of R 340.1733(q) shall, if eligible, be granted temporary approval pursuant to this rule. Such teachers, if not eligible for temporary approval, shall be granted emergency approval on such terms and conditions as established by the state board, which may include the completion of continuing education units or experience. The availability of a fully approved teacher for the position shall not be a basis to deny, revoke, or fail to renew the teacher's temporary or emergency approval if the teacher remains in the special education program. This subrule shall not apply to teachers certified after December 30, 1990.~~

R 340.1783a EARLY CHILDHOOD SPECIAL EDUCATION TEACHER, FULL YEAR PERMIT.

RULE 83a. (1) THE DEPARTMENT MAY ISSUE A PERMIT WHEN A PROPERLY CERTIFICATED TEACHER, UNDER R 340.1795, IS UNAVAILABLE FOR A REGULAR TEACHING ASSIGNMENT FOR CHILDREN WITH DISABILITIES OR DEVELOPMENTAL DELAY, AS DEFINED IN R 340.1711.

(2) AN APPLICATION FOR A PERMIT SHALL CONTAIN EVIDENCE THAT THE CANDIDATE HAS COMPLETED 120 SEMESTER OR EQUIVALENT HOURS OF SATISFACTORY COLLEGE CREDIT, INCLUDING 15 SEMESTER OR EQUIVALENT HOURS OF APPROPRIATE PROFESSIONAL EDUCATION CREDIT.

(3) THE PERMIT IS EFFECTIVE THROUGH JUNE 30 OF THE SCHOOL YEAR FOR WHICH THE PERMIT IS ISSUED.

(4) THE PERMIT WILL BE RENEWED WHEN EVIDENCE IS PRESENTED THAT A PROPERLY CERTIFICATED TEACHER IS UNAVAILABLE FOR A REGULAR TEACHING ASSIGNMENT.

R 340.1784 ~~Special education intern teachers; approval.~~ RESCIND

~~**Rule 84.** The department may grant temporary approval to teachers who are currently enrolled in a university intern program approved by the state board of education with special emphasis on an internship experience, which is under the provisions of a university teacher preparation program approved by the state board of education. Special education teachers with full approval and with not less than 3 years of experience in teaching handicapped persons shall be employed to consult with intern teachers at least the equivalent of 1 full school day each week.~~

R 340.1785 ~~Special education areas to which approvals apply.~~ RESCIND

~~**Rule 85.** R 340.1781 through R 340.1784 apply to teachers in the following specific education areas:~~

~~(a) Autistic impaired.~~

~~(b) Mentally impaired.~~
~~(c) Emotionally impaired.~~
~~(d) Learning disabled.~~
~~(e) Hearing impaired.~~
~~(f) Visually impaired.~~
~~(g) Physically and otherwise health impaired, inclusive of homebound and hospitalized.~~
~~(h) Preprimary impaired.~~
~~(i) Speech and language impaired.~~

R 340.1786 Teachers of ~~the mentally impaired~~ STUDENTS WITH MENTAL IMPAIRMENT; special requirements.

Rule 86. (1) The teacher education program for teachers of ~~the mentally impaired~~ STUDENTS WITH MENTAL IMPAIRMENT shall include a minimum of 30 semester OR EQUIVALENT hours. ~~In addition to the requirements of R 340.1781, t~~The teacher education program for teachers of students with mental impairment~~s~~ shall include all of the following:
(a) A minimum of 12 semester OR EQUIVALENT hours of special skills and knowledge necessary for working with STUDENTS WITH mental~~ly impaired students~~ IMPAIRMENT, including all of the following:
(i) The nature of mental deficiency.
(ii) Differential curriculum development and teaching techniques.
(iii) Basic components of language development.
(iv) The basic sensory-neural system and its relationship to learning and development.
(v) Classroom management techniques.
(b) A minimum addition of 10 semester OR EQUIVALENT hours in the development of competency in the following areas:
(i) Ability to observe and assess students, including all of the following:
(A) The nature of mental deficiency.
(B) Differential curriculum.
(C) Development and teaching techniques.
(D) Basic components of language development.
(E) The basic sensory-neural system and its relationship to learning and development.
(F) Classroom management techniques.
(ii) Ability to provide instruction and guidance to STUDENTS WITH mental~~ly impaired students~~ IMPAIRMENT in all of the following areas:
(A) Self-help skills.
(B) Prevocational and vocational skill training.
(C) Recreation and leisure activities.
(iii) Ability to understand physical, sensory, and health-related problems and their impact on learning and development, including the understanding and appropriate use of medical information.
(iv) Ability to guide and counsel STUDENTS WITH mental~~ly impaired students~~ IMPAIRMENT regarding all of the following:
(A) Human sexuality.
(B) Home, family, and community living.

(C) Use of local, state, and national resources.
(v) Ability to understand and utilize basic behavioral management concepts and techniques to meet the unique needs of the STUDENT WITH mental~~ly impaired individual~~ IMPAIRMENT.
(vi) Ability to organize and manage an educational environment and schedule for a group of STUDENTS WITH mental~~ly impaired students~~ IMPAIRMENT, including the understanding of the functions and role of the teacher as educational team leader and the role and function of related services personnel and aides.
(vii) Ability to instruct and reinforce a program of communication skills and techniques, both verbal and nonverbal, as deemed appropriate for the student.
(viii) Ability to utilize community resources and a variety of community settings and activities in the planning and implementation of an educational program for A STUDENT WITH mental~~ly impaired students~~ IMPAIRMENT.
~~(c) Directed student teaching with mentally impaired students pursuant to R 340.1782(c).~~
~~(2) A teacher assigned as a lead teacher of the trainable mentally impaired shall comply with all of the following requirements:~~
~~(a) Meet certification and full approval requirements for teaching the mentally impaired, as required in R 340.1782.~~
~~(b) Have completed 2 years of successful teaching experience with the trainable mentally impaired.~~
~~(c) Be recommended by an administrator who has supervised the teachers professional activities with trainable mentally impaired persons for at least 1 year.~~
~~(d) Have demonstrated ability to work cooperatively and creatively with other professional and nonprofessional staff members.~~

R 340.1787 Teachers of ~~the~~ STUDENTS WITH emotional~~ly impaired~~ IMPAIRMENT; special requirements.

Rule 87. The teacher education program for teachers of ~~the~~ STUDENTS WITH emotional~~ly impaired~~ IMPAIRMENT shall include 30 semester OR EQUIVALENT hours in ALL OF the following areas:
(a) Four to 6 semester OR EQUIVALENT hours of child growth and learning theory, including dynamics of human behavior, individual differences, adolescent psychology, learning theory and psychological information, both individual and group.
(b) Four to 6 semester OR EQUIVALENT hours of environmental information, including sociological, cultural, economic information; special services and guidance programs in the school and community; organization of the school; characteristics of groups; and social organization and structure.
(c) Six to 10 semester OR EQUIVALENT hours of educational and special methods, including education of ~~children~~ STUDENTS with special problems, theory and methods of teaching social~~ly handicapped~~ SKILLS and STUDENTS WITH emotional~~ly impaired persons~~ IMPAIRMENT, reading methods, instructional materials, and creative and other activities especially adapted to the education of ~~persons~~ STUDENTS with psychological and physiological learning difficulties.
(d) Six to 12 semester OR EQUIVALENT hours of special skills and techniques in ALL OF THE FOLLOWING AREAS:

(i) U~~u~~nderstanding personality deviation~~,~~.
(ii) I~~i~~ncluding abnormal psychology~~,~~.
(iii)T~~t~~heory of maladjustment~~,~~.
(iv) C~~c~~ounseling and interview techniques~~,~~.
(v)I~~i~~nterpretation of psychological data~~,~~.
(vi) ~~and~~ W~~w~~ork in parent counseling.
(e) A minimum of 4 semester OR EQUIVALENT hours of credit in directed teaching with STUDENTS WITH emotional~~ly impaired persons~~ IMPAIRMENT in addition to the 30 semester OR EQUIVALENT hours required for a major.
(f) Six to 10 semester OR EQUIVALENT hours of application and experience, including supervised observation, with ~~the~~ STUDENTS WITH emotional~~ly impaired~~ IMPAIRMENT, ~~a practicum in a psychiatric setting,~~ a seminar in interdisciplinary approach, group dynamics, and interpretation of psychiatric techniques.
(g) Two to 4 semester OR EQUIVALENT hours in evaluation and research methods.

R 340.1788 Teachers of STUDENTS WITH learning ~~disabled~~ DISABILITIES; special requirements.

Rule 88. The teacher education program for teachers of STUDENTS WITH ~~the~~ learning ~~disabled~~ DISABILITIES shall include a minimum of ~~28~~ 30 semester OR EQUIVALENT hours relating to the following areas:
(a) Four semester OR EQUIVALENT hours of child growth and learning theory, including dynamics of human behavior, individual differences, adolescent or child psychology, learning theory and psychological information.
(b) Six semester OR EQUIVALENT hours of special skills and techniques in understanding learning problems, including development of language as it relates to reasoning, thinking, speaking, reading, writing, and spelling; remediation techniques for auditory and visual discrimination problems; development of perceptual skills; and understanding the dynamics of student-teacher relationships, environment, and program planning.
(c) Six semester OR EQUIVALENT hours in the development of competence in the following areas:
(i) Ability to carry out suitable procedures for assessment of the student's listening, thinking, talking, reading, spelling, writing, arithmetic, or other skill deficiencies.
(ii) Ability to specify in behavioral terms instructional objectives ~~which~~ THAT are appropriate to the skill needs and entry level characteristics of the individual student.
(iii) Ability to select systems of instruction and learning conditions ~~which~~ THAT are likely to be most effective for ameliorating the learning disabilities presented by each student.
(iv) Ability to set up and maintain conditions and procedures of instruction suitable to the learning goals set for the individual student.
(v) Ability to assess instructional outcomes in terms of the student's behavior change and use this data in formulation of an ongoing instructional plan adjusted to changed student conditions.
(vi) Ability to use appropriate techniques with the student to help develop the self-management skills required for constructive social participation and independent learning.
(vii)Ability to function as a member of interdisciplinary teams and maintain effective liaison with parents and others working with the student.

~~(d) Four semester hours practicum with learning disabled students.~~

R 340.1790 ~~Teacher consultants for handicapped persons; approval.~~ RESCIND.

~~**Rule 90.** In addition to meeting all of the requirements of R 340.1782, a teacher consultant shall meet all of the following requirements for full approval by the state board of education or its designee:~~

~~(a) Possess a master's degree in education or a field of study related to special education.~~

~~(b) Recommendation to the department, by letter, by the employing superintendent, or his or her designee, for approval as a teacher consultant. In requesting approval, the superintendent or designee shall provide satisfactory evidence that the teacher has demonstrated knowledge and competence in all of the following areas:~~

~~(I) Interpersonal relations.~~

~~(ii) Consultation skills.~~

~~(iii) Specialized instructional methods.~~

~~(iv) Effective time and classroom management techniques.~~

~~(v) Educational diagnostic techniques.~~

~~(vi) Problem solving/conflict resolution techniques.~~

~~(vii) Team planning and implementation processes.~~

~~(viii) Organizational theory and group dynamics.~~

~~(c) Show evidence of a minimum of 3 years of satisfactory teaching experience, not less than 2 years of which shall be in teaching handicapped persons in a special education classroom.~~

R 340.1791 ~~Curriculum resource consultant; approval.~~ RESCIND

~~**Rule 91.** A curriculum resource consultant employed in a special education program, in addition to meeting the specific requirements set forth in R 340.1782 and R 340.1790, shall, for approval by the state board of education or its designee, have completed 12 semester hours of credit, or a department-determined equivalent, in an educational program which insures competency in all of the following areas:~~

~~(a) Curriculum development and planning.~~

~~(b) Instructional materials and media, including computer-assisted technology.~~

~~(c) Inservice education, including needs assessment techniques.~~

~~(d) Acquisition, categorization, evaluation, and distribution of materials.~~

~~(e) Adaptive technology.~~

R 340.1792 Licensure, certification, or approval of ~~supportive~~ professional personnel.

Rule 92. ~~Supportive p~~Professional personnel employed or contracted with to provide ~~supportive~~ RELATED services to ~~handicapped persons~~ STUDENTS WITH DISABILITIES shall be licensed, certificated, or registered by a governmental agency ~~as a condition of practicing their profession, certified by~~ OR a legally recognized professional board or association as an indication of adequate preparation and training, or BE recommended by a college or university offering an appropriate training program as approved by the state board of education.

R 340.1793 Paraprofessional personnel; qualifications.

Rule 93. ~~(1)~~ Paraprofessional personnel employed in special education programs shall be qualified pursuant to requirements established by their respective intermediate school district plan. Paraprofessional personnel include, but are not limited to, teacher aides, health care aides, bilingual aides, AND instructional aides~~, and program assistants in programs for severely mentally and severely multiply impaired~~.

~~(2) An interpreter for the deaf shall be any of the following:~~

~~(a) A certified interpreter as defined in Act No. 204 of the Public Acts of 1982, being §393.501 et seq. of the Michigan Compiled Laws, and known as the deaf persons' interpreters act.~~

~~(b) A qualified interpreter as defined in Act No. 204 of the Public Acts of 1982, being §393.501 et seq. of the Michigan Compiled Laws, and known as the deaf persons' interpreters act who has been approved at quality assurance level II or III.~~

~~(c) A high school graduate, or equivalent, with advanced training in a community college, or degree-granting institution, whose training program has been approved by the department.~~

R 340.1793A INTERPRETERS FOR THE DEAF.

RULE 93A. AN INTERPRETER FOR THE DEAF SHALL BE ANY OF THE FOLLOWING:

(A) A CERTIFIED INTERPRETER AS DEFINED IN 1982 PA 204, MCL 393.501 ET SEQ., AND KNOWN AS THE DEAF PERSONS' INTERPRETERS ACT.

(B) A QUALIFIED INTERPRETER AS DEFINED IN 1982 PA 204, MCL 393.501 ET SEQ., AND KNOWN AS THE DEAF PERSONS' INTERPRETERS ACT, WHO HAS BEEN APPROVED AT QUALITY ASSURANCE LEVEL II OR III.

(C) A HIGH SCHOOL GRADUATE, OR EQUIVALENT, WITH ADVANCED TRAINING IN A COMMUNITY COLLEGE, AGENCY, OR DEGREE-GRANTING INSTITUTION. THE TRAINING PROGRAMS MUST BE APPROVED BY THE DEPARTMENT.

R 340.1794 ~~Instructional aides; qualifications.~~ RESCIND.

~~**Rule 94.** An instructional aide employed in programs for the severely multiply impaired, the severely mentally impaired and the trainable mentally impaired shall meet either of the following qualifications:~~

~~(a) Be a high school graduate, or equivalent, with a minimum of 2 years of successful experience as an aide in a day care training program or a trainable classroom, or equivalent experience, and be recommended by an administrator who has supervised the work of the aide for at least 1 year.~~

~~(b) Be a high school graduate, or equivalent, with advance training in a community college or degree-granting institution whose special education instructional aide training program has been approved by the department.~~

R 340.1795 ~~Teachers of the preprimary age impaired;~~ EARLY CHILDHOOD SPECIAL EDUCATION TEACHERS.; special requirements.

Rule 95. (1) ~~A fully approved teacher of preprimary age students, in addition to meeting the specific requirements set forth in R 340.1782, shall possess either of the following:~~ AN EARLY CHILDHOOD SPECIAL EDUCATION TEACHER FOR YOUNG CHILDREN WITH DISABILITIES OR DEVELOPMENTAL DELAY, IN ADDITION TO MEETING THE SPECIFIC REQUIREMENTS SET FORTH IN R 340.1782, SHALL POSSESS EITHER OF THE FOLLOWING:

~~(a) A major or minor in early childhood education or child growth and development, as recommended by an approved university.~~

~~(b)~~(A) The early childhood endorsement on the teaching certificate.

(B) A MAJOR OR MINOR IN EARLY CHILDHOOD EDUCATION OR CHILD GROWTH AND DEVELOPMENT AS RECOMMENDED BY AN APPROVED UNIVERSITY.

(2) ONLY CANDIDATES MEETING THE REQUIREMENTS UNDER SUBRULE (1) (B) OF THIS RULE ARE REQUIRED TO BE APPROVED BY THE DEPARTMENT.

~~(2)~~(3) ~~Certified staff who have been assigned to a program for preprimary age children pursuant to R 340.1738 to R 340.1744, R 340.1747 and R 340.1748, R 340.1756, and R 340.1758 within 3 years prior to the time this rule became effective shall have full approval.~~ AS OF THE EFFECTIVE DATE OF THESE RULES, A TEACHER WHO HAS RECEIVED FULL APPROVAL AS A TEACHER OF PREPRIMARY AGE IMPAIRED STUDENTS SHALL BE DEEMED TO HAVE FULL APPROVAL AS AN EARLY CHILDHOOD SPECIAL EDUCATION TEACHER, IF THE TEACHER POSSESSES A VALID MICHIGAN TEACHING CERTIFICATE.

R 340.1796 Teachers of the STUDENTS WITH speech and language ~~impaired~~ IMPAIRMENT; special requirements.

Rule 96. (1) A teacher of ~~the~~ STUDENTS WITH speech and language ~~impaired~~ IMPAIRMENT shall meet all of the following requirements:

(a) An earned master's degree in speech and language pathology.

(b) A minimum of 60 semester OR EQUIVALENT hours of academic credit in normal aspects of human communication, development thereof, and clinical techniques for evaluation and management of speech and language disorders distributed as follows:

(i) A minimum of 12 semester OR EQUIVALENT hours in courses pertaining to normal development of speech, language, and hearing.

(ii) A minimum of 30 semester OR EQUIVALENT hours in courses on communication disorders and evaluation and management of speech, language, and hearing disorders. Of these 30 semester OR EQUIVALENT hours, 24 hours shall be in speech and language pathology and 6 shall be in audiology. Not more than 6 of the 30 semester OR EQUIVALENT hours may be earned for clinical practicum.

(iii) A minimum of 30 semester OR EQUIVALENT hours that are acceptable on a graduate level, of which 21 hours shall be within the group specified under paragraph (ii) of this subdivision.

(c) A minimum of 300 clock hours of supervised practicum experience with ~~persons~~ STUDENTS who present a variety of communication disorders, to be acquired in

conjunction with academic training, 150 hours of which shall be obtained on the graduate level.

(2) The state board of education or its designee shall approve as a teacher of ~~the~~ STUDENTS WITH speech and language ~~impaired~~ IMPAIRMENT a person WHO IS employed or approved as a teacher of ~~the~~ STUDENTS WITH speech and language ~~impaired~~ IMPAIRMENT before the effective date of these rules.

~~(3) A teacher of the speech and language impaired serving the severely language impaired in a classroom program, as defined in R 340.1756, shall be certified at the elementary level.~~

R 340.1797 Teachers of physical education for ~~handicapped individuals~~ STUDENTS WITH DISABILITIES; ~~approval~~ SPECIAL REQUIREMENTS.

Rule 97. A teacher of physical education for ~~handicapped individuals~~ STUDENTS WITH DISABILITIES shall possess a valid Michigan teaching certificate with ~~approval~~ AN ENDORSEMENT in physical education, special education, or both, and shall complete all the following:

(a) A minimum of 9 semester OR EQUIVALENT hours ~~or 12 term hours~~ in special education courses leading to the acquisition of all of the following competencies:

(i) Knowledge of the causes of various ~~handicapping~~ DISABILITY conditions and the effects of those conditions on learning.

(ii) Ability to assess physical education skills of individuals exhibiting various ~~handicapping conditions~~ DISABILITIES.

(iii) Knowledge of special education teaching models ~~which~~ THAT employ assessment-prescriptive techniques.

(iv) Ability to use community and staff resources within the special education environment.

(b) A minimum of 9 semester OR EQUIVALENT hours ~~or 12 term hours~~ in special physical education courses leading to the acquisition of all of the following competencies:

(i) Ability to write in behavioral terms and assess instructional objectives for physical education for ~~the handicapped~~ STUDENTS WITH DISABILITIES.

(ii) Knowledge of motor characteristics, behaviors, and development sequences associated with various ~~handicapping conditions~~ DISABILITIES in relationship to normal motor development.

(iii) Knowledge of anatomy, kinesiology, and neurology ~~which~~ THAT pertains to normal and abnormal motor control and sensory motor integration for teaching physical education to STUDENTS WITH severe~~ly handicapped~~ DISABILITIES and STUDENTS WHO ARE nonambulatory ~~students~~.

(iv) Ability to adapt teaching methods, materials, and techniques for physical and motor fitness, gymnasium use, fundamental motor skills, aquatic skills, dance, individual and group games, and lifetime sports skills for the needs of ~~the handicapped~~ STUDENTS WITH DISABILITIES.

(v) Ability to analyze, adapt, and implement physical education curriculum in providing appropriate programs for a variety of ~~handicapping conditions~~ DISABILITIES.

(c) A directed field experience in teaching physical education IN A SCHOOL SETTING with ~~handicapped persons~~ STUDENTS WITH DISABILITIES ~~in a school setting~~.

(D) AS OF THE EFFECTIVE DATE OF THESE RULES, A TEACHER WHO HAS RECEIVED FULL APPROVAL AS A TEACHER OF PHYSICAL EDUCATION FOR

HANDICAPPED INDIVIDUALS SHALL BE DEEMED TO HAVE FULL APPROVAL AS A TEACHER OF PHYSICAL EDUCATION FOR STUDENTS WITH DISABILITIES, IF THE TEACHER POSSESSES A VALID MICHIGAN TEACHING CERTIFICATE.

R 340.1798 Teachers of physical education for ~~handicapped individuals~~ STUDENTS WITH DISABILITIES; role.

Rule 98. A special education-reimbursed teacher of physical education shall provide instruction in physical education to ~~special education~~ students WITH DISABILITIES whose disability~~y~~IES preclude~~s~~ integration into regular physical education classes. Teachers of physical education for ~~handicapped individuals~~ STUDENTS WITH DISABILITIES may provide supportive service to regular physical education teachers who have ~~handicapped~~ students WITH DISABILITIES integrated into their programs and to ~~special education classroom~~ teachers OF STUDENTS WITH DISABILITIES who are delivering physical education services.

R 340.1799 Teachers of ~~the autistic~~ STUDENTS WITH AUTISM; special requirements.

Rule 99. ~~(1) Full approval as a teacher of the autistic~~ THE TEACHER EDUCATION PROGRAM FOR TEACHERS OF STUDENTS WITH AUTISM shall ~~be granted to a person who meets both of the following requirements~~ INCLUDE A MINIMUM OF 30 SEMESTER OR EQUIVALENT HOURS RELATING TO ALL OF THE FOLLOWING AREAS:

~~(a) Successfully completes all requirements for temporary approval as a teacher of the autistic.~~

~~(b) Possesses 1 year of successful experience in an approved program for autistic persons.~~

~~(2) Temporary approval as a teacher of the autistic shall be granted to a person who meets both of the following requirements:~~

~~(a) Has full approval in 1 other area of special education as specified in R 340.1782.~~

~~(b) Is recommended by a college or university approved by the state board of education as having demonstrated knowledge and competency in all of the following areas:~~

(A) ~~(i)~~ Syndrome of autism, including its etiology.

(B) ~~(ii)~~ Child development, with special emphasis on language, communication, and cognitive development.

(C) ~~(iii)~~ Behavioral ~~management~~ INTERVENTION techniques.

(D) ~~(iv)~~ Systematic curriculum development, with special emphasis on personal adjustment and prevocational education.

(E) ~~(v)~~ Home/school interactions.

(F) ~~(vi)~~ Family and community support services.

~~(vii)Four-semester-hour practicum, or equivalent, with autistic persons.~~

~~(3) A teacher currently employed in a program specifically designed for autistic students, as authorized in the intermediate school district plan, shall be granted full approval on the date this rule takes effect. Verification by the district's superintendent or the program supervisor of the autistic impaired program that the teacher has demonstrated knowledge and competency in the areas listed in subrule (2) of this rule shall be submitted to the department.~~

R 340.1799a Teachers of STUDENTS WITH physical~~ly~~ IMPAIRMENT and STUDENTS WITH other~~wise~~ health ~~impaired~~ IMPAIRMENT; special requirements.

Rule 99a. The teacher education program for teachers of ~~the~~ STUDENTS WITH physical~~ly~~ IMPAIRMENT and STUDENTS WITH other~~wise~~ health ~~impaired~~ IMPAIRMENT shall include a minimum of 30 semester OR EQUIVALENT hours. ~~In addition to the requirements of R 340.1781, t~~The teacher education program for teachers of students with physical~~ly~~ IMPAIRMENT and STUDENTS WITH other~~wise~~ health impairment~~s~~ shall include all of the following:

(a) A minimum of 12 semester OR EQUIVALENT hours of special skills and techniques for working with STUDENTS WITH physical~~ly~~ IMPAIRMENT and STUDENTS WITH other~~wise~~ health ~~impaired students~~ IMPAIRMENT, including all of the following:

(i) Medical aspects of temporary and permanent physical disabilities of a wide variety.

(ii) Impact of neurological impairments and mental ~~retardation~~ IMPAIRMENTS on learning.

(iii) Equipment and techniques of physical management of STUDENTS WITH physical~~ly~~ IMPAIRMENT and STUDENTS WITH other~~wise~~ health ~~impaired students~~ IMPAIRMENT.

(iv) Methods and materials for training, observation, and assessment of STUDENTS WITH physical~~ly~~ IMPAIRMENT and STUDENTS WITH other~~wise~~ health ~~impaired students~~ IMPAIRMENT, including techniques for nonvocal communication.

(b) A minimum of 10 semester OR EQUIVALENT hours in the development of competence in ALL OF the following areas:

(i) Ability to work as a member of a multidisciplinary EVALUATION team which includes medical and paramedical personnel and to supervise paraprofessional personnel.

(ii) Ability to develop and implement an instructional plan for students, including those confined to home or a hospital.

(iii) Ability to explain the condition of the student and the condition's impact on learning and to serve as a resource person for STUDENTS WITH physical~~ly~~ IMPAIRMENT and STUDENTS WITH other~~wise~~ health ~~impaired students~~ IMPAIRMENT within ~~regular~~ GENERAL and special education classes.

(iv) Ability to counsel students regarding all of the following:

(A) Human sexuality.

(B) Home, family, and community living.

(C) Career selection.

(D) The use of local, state, and national resources.

(v) Ability to develop, implement, and reinforce special instruction in all of the following life skill areas:

(A) Self-help skills.

(B) Recreation and leisure time activities.

(C) Community transportation and mobility.

~~(D) Recruitment.~~

~~(E)~~(D) Use of personal aids.

(vi) Ability to understand the role and function of related service personnel and to work in conjunction with them in the development and implementation of special instructional programs or techniques necessary ~~to a~~ FOR STUDENTS WITH physical~~ly~~ IMPAIRMENT and STUDENTS WITH other~~wise~~ health ~~impaired individual~~ IMPAIRMENT.
(vii)Ability to observe and assess students with physical IMPAIRMENT and STUDENTS WITH other health impairment~~s~~ through the use of formal and informal tools and techniques.
(viii)Ability to work intensively and extensively with parents of students, both as a home instructor for infants and their parents and as a liaison between the educational agencies and the home.
~~(c) Directed student teaching with physically and otherwise health impaired students pursuant to R 340.1782(c).~~

R 340.1799b Teachers of ~~the~~ STUDENTS WITH visual~~ly~~ ~~impaired~~ IMPAIRMENT; special requirements.

Rule 99b. ~~In addition to the requirements listed in R 340.1781, t~~The teacher education program for teachers of ~~the~~ STUDENTS WITH visually ~~impaired~~ IMPAIRMENT shall include a minimum of 30 semester OR EQUIVALENT hours relating to the following areas:
(a) Twelve semester OR EQUIVALENT hours of special skills and techniques for working with the STUDENTS WITH visual~~ly impaired~~ IMPAIRMENT, including all of the following:
(i) Beginning and advanced braille.
(ii) Methods of teaching ~~the blind and partially sighted~~ STUDENTS WITH VISUAL IMPAIRMENT.
(iii) Special equipment and its use for ~~the~~ STUDENTS WITH visual~~ly impaired~~ IMPAIRMENT.
(b) Ten semester OR EQUIVALENT hours in the development of competence in ALL OF the following areas:
(i) Ability to work as a member of a multidisciplinary EVALUATION team which includes medical and technical personnel.
(ii) Ability to develop and implement a curriculum and an instructional program for a range of STUDENTS WITH visual~~ly impaired students~~ IMPAIRMENT.
(iii) Ability to implement and support a program of communication skills and techniques and to implement and support a program of orientation and mobility skills as deemed appropriate for the student.
(iv) Ability to explain the structure and function of the eye and the impact of vision impairment on learning and to serve as a resource person and consultant for STUDENTS WITH visual~~ly impaired students~~ IMPAIRMENT in ~~regular~~ GENERAL and special education classes.
(v) Ability to instruct STUDENTS WITH visual~~ly impaired students~~ IMPAIRMENT regarding all of the following:
(A) Human sexuality.
(B) Home, family, and community living.
(C) Career selection.
(D) The use of local, state, and national resources.

(vi) Ability to develop and implement special instruction in ALL OF the following life skill areas:
(A) Self-help skills.
(B) Recreation and leisure time activities.
(C) Community transportation and mobility.
~~(D) Recruitment.~~
~~(E)~~(D) Use of personal aids.
(vii)Ability to work intensively and extensively with parents of STUDENTS WITH visual~~ly impaired students~~ IMPAIRMENT, both as a home instructor for parents and as a liaison between the educational agencies and the home.
~~(c) Directed student teaching with visually impaired students pursuant to R 340.1782(c).~~

R 340.1799c Teachers of STUDENTS WITH hearing ~~impaired~~ IMPAIRMENT; special requirements.

Rule 99c. (1) The teacher education program for teachers of ~~the~~ STUDENTS WITH hearing ~~impaired~~ IMPAIRMENT shall include a minimum of 30 semester OR EQUIVALENT hours. ~~In addition to the requirements listed in R 340.1781, t~~ The teacher education program for teachers of the STUDENTS WITH hearing ~~impaired~~ IMPAIRMENT shall meet the council on education of the deaf standards or shall, at a minimum, include 30 semester OR EQUIVALENT hours relating to the following areas:
(a) Language and linguistics.
(b) Audiology and speech science.
(c) Psychology.
(d) Education.
(2) Students shall complete a program that is designed to develop the following competencies:
(a) Knowledge of linguistics, theories of language development, and the various special methods used to assess and develop language competence.
(b) Ability to utilize an individual diagnostic profile of the student's expressive and receptive language skills.
(c) Ability to integrate language development with the teaching of English, mathematics, social studies, science, and other academics.
(d) Ability to use various and combined modes, manual and oral, in both expressive and receptive communication with STUDENTS WITH hearing ~~impaired students~~ IMPAIRMENT.
(e) Knowledge of the anatomy, physiology, and pathology of the organs of speech and hearing.
(f) Knowledge of audiological assessment information and its application to the individualized education program of a STUDENT WITH hearing ~~impaired student~~ IMPAIRMENT.
(g) Knowledge of personal and group amplification systems, including their basic maintenance.
(h) Ability to incorporate and teach appropriate procedure to maximize the use of speech, speech reading, and auditory skills.

(i) Ability to use systematic observational techniques for establishing baseline data, evaluating problem areas, and for documenting and assessing progress.
(j) Knowledge of the psychological and sociological impact of severe/profound hearing impairment, including information about the ~~adult deaf~~ community/~~deaf~~ culture OF ADULT PERSONS WHO ARE DEAF.
(k) Ability to identify and use local, state, and national resources in support of STUDENTS WITH hearing ~~impaired students~~ IMPAIRMENT, their parents, and their educational program.
(l) Ability to orient parents, ~~regular~~ GENERAL school staff, and administrators to the unique needs and learning styles of ~~the hearing impaired~~ students WITH HEARING IMPAIRMENT.
(m) Ability to assess communication, academic, and social/emotional development of STUDENTS WITH hearing ~~impaired students~~ IMPAIRMENT.
(n) Ability to relate diagnostic information in functional terms to parents and support service specialists.
(o) Ability to design and implement an educational program appropriate to the individual student's communication, academic, prevocational, and social needs.
(p) Ability to modify and adapt procedures for teaching reading, math, and other academic subjects to STUDENTS WITH hearing ~~impaired students~~ IMPAIRMENT.
(3) Before assignment to directed student teaching, each student shall spend a minimum of 60 clock hours in programs utilizing various communication modes, both manual and oral.
~~(4) Students shall complete directed student teaching with hearing impaired students pursuant to R 340.1782(c).~~
(5) THE COUNCIL ON THE EDUCATION OF THE DEAF STANDARDS, AS CITED IN SUBRULE (1) OF THIS RULE, ARE AVAILABLE FROM THE COMMITTEE ON PROFESSIONAL PREPARATION AND CERTIFICATION, GALLAUDET UNIVERSITY, 800 FLORIDA AVENUE, N.E., WASHINGTON, D.C., 2002-3695, AND ALSO FROM THE DEPARTMENT AT NO COST FOR REPRODUCTION.

R 340.1799d ~~Work-study coordinators; approval.~~ RESCIND

~~**Rule 99d.** The work-study coordinator shall meet all of the following requirements for full approval by the state board of education or its designee:~~
~~(a) Full approval as a teacher in 1 or more areas of special education.~~
~~(b) A minimum of 3 years of satisfactory teacher experience in special education, with at least 1 year of teaching in a special education classroom at the secondary level.~~
~~(c) Recommendation to the department by a university or employing superintendent that the teacher has the following competencies as documented by course work, inservice training, or work experience:~~
~~(i) Knowledge of the effects of physical and mental impairment on the individual's learning and work potential.~~
~~(ii) A broad range of occupational information, including the ability to use the dictionary of occupational titles to relate specific skills and abilities to job titles.~~
~~(iii) Sufficient knowledge of the free enterprise system and business management to answer basic questions about the legal and economic impact of the work-study program.~~

~~(iv) The ability to interpret wage and hour, child labor, workers' compensation, and school laws to students and employers.~~
~~(v) The ability to do task analysis to identify prerequisite skills needed by the student before entry into the work station.~~
~~(vi) Ability to analyze performance problems needed to help students who are not meeting employer expectations.~~
~~(vii) Ability to write educational objectives in measurable terms for specific job tasks.~~
~~(viii) Knowledge of the role and function of all of the following:~~
~~(A) The county department of social service.~~
~~(B) Michigan employment security commission.~~
~~(C) Michigan rehabilitation services.~~
~~(D) Other agencies that may provide supportive services to handicapped persons.~~
~~(ix) Knowledge of survey research techniques used to identify community employment needs.~~
~~(x) Knowledge of skills taught in vocational education programs and the ability to relate vocational competencies to an employer's personal needs.~~

R 340.1799E "PSYCHOLOGIST"; DEFINED.

RULE 99E. "PSYCHOLOGIST" MEANS AN APPROVED MICHIGAN SCHOOL PSYCHOLOGIST WHO IS CERTIFIED BY THE DEPARTMENT OR WHO IS A FULLY LICENSED PSYCHOLOGIST.

R 340.1799F "SCHOOL SOCIAL WORKER"; DEFINED.

RULE 1799F. "SCHOOL SOCIAL WORKER" MEANS A SCHOOL SOCIAL WORKER WHO IS APPROVED BY THE DEPARTMENT.

PART 6. FINANCING

R 340.1801 Source of funds.

Rule 101. Funds for operating and housing special education programs and services operated by intermediate SCHOOL DISTRICTS, ~~and~~ constituent LOCAL school districts~~.~~, AND PUBLIC SCHOOL ACADEMIES shall be derived from federal appropriations; general and categorical appropriations in ~~Act No. 94 of the Public Acts of 1979, as amended, being §~~ 1979 PA 94, MCL 388.1601 et seq. ~~of the Michigan Compiled Laws~~, and known as the state school aid act of 1979; local general and specific property taxes, gifts, grants, bequests; ~~and tuition payments~~ OR PAYMENTS from a school district sending ~~handicapped persons~~ STUDENTS WITH DISABILITIES to another school district.

R 340.1802 Use of funds.

Rule 102. Funds available to intermediate SCHOOL DISTRICTS, ~~and~~ constituent school districts, AND PUBLIC SCHOOL ACADEMIES as provided in R 340.1801~~,~~ may be used for ANY OF THE FOLLOWING:
(a) T~~t~~he employment of teachers and other personnel~~;~~.
(b) T~~t~~ransportation of ~~handicapped persons~~ STUDENTS WITH DISABILITIES~~;~~.

(c) T~~t~~he purchase and maintenance of equipment and supplies~~;~~.
(d) T~~t~~he lease, purchase, construction, renovation, or acquisition of vehicles, sites, buildings or portions thereof, and equipment as deemed necessary for staff, programs, and services operated pursuant to the intermediate SCHOOL district plans as approved by the state board of education and other provisions of law.

R 340.1803 Building or purchasing facilities.

Rule 103. When facilities are purchased, constructed, or renovated, with funds acquired through sections 1722 to 1729 of ~~Act No. 451 of the Public Acts of 1976, as amended, being §§~~ 1976 PA 451, MCL 380.1722 to 380.1729 ~~of the Michigan Compiled Laws~~, for constituent SCHOOL districts, funds shall be used for contractual purposes which provide that the constituent SCHOOL district OR PUBLIC SCHOOL ACADEMY shall make that facility available for special education programs and services for a period of 25 years. Disbursement of such funds shall be made by the intermediate district board of education pursuant to the intermediate SCHOOL district plan.

R 340.1805 ~~Allowance for room, board, and transportation.~~ RESCIND

~~**Rule 105.** Room, board, and transportation costs for special education programs and services contracted for by the school district of residence shall be paid by that school district pursuant to the intermediate district plan. Parents of persons served shall not be responsible for the cost of room, board, and transportation.~~

R 340.1806 ~~Local school district contribution.~~ RESCIND

~~**Rule 106.** The contribution to be made by the resident school district, if a basic education program for persons is operated by another party to the contract under the provisions of section 1751 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1751 of the Michigan Compiled Laws, shall be the total cost of the education program for each person minus the gross state aid membership allowance, categorical aid, and the intermediate school district reimbursement for each person.~~

R 340.1808 Reporting costs.

Rule 108. An intermediate school district~~,~~ ~~establishing a program by contract with~~ A local school district~~s~~, OR A PUBLIC SCHOOL ACADEMY ~~or~~ operating a program under these rules shall submit, to the superintendent of public instruction, at the close of the fiscal year, an itemized report of the actual cost of operating the program, including the cost of transportation, on forms provided for that purpose. Reported actual costs for purposes of reimbursement shall include only those ~~which~~ THAT are reasonable and appropriate as determined by the superintendent of public instruction.

R 340.1809 ~~State aid to operating school districts.~~ RESCIND

~~**Rule 109.** The intermediate district and its local districts shall be entitled to receive reimbursement for special education programs and services that are in compliance with these rules and in accordance with the intermediate school district plan as approved by the state board of education and as prescribed in Act No. 94 of the Public Acts of 1979, as~~

~~amended, being §388.1601 et seq. of the Michigan Compiled Laws and known as the state school aid act of 1979.~~

R 340.1810 ~~Reimbursement of special education transportation.~~ RESCIND

~~**Rule 110.** Specialized transportation or additional transportation, or both, as required in the individualized education program for a handicapped person to receive a free appropriate public education in the least restrictive educational environment, shall be reimbursable as authorized by Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws and known as the state school aid act of 1979.~~

R 340.1811 Distribution of intermediate millage to THE INTERMEDIATE SCHOOL DISTRICT, ITS constituent SCHOOL districts AND PUBLIC SCHOOL ACADEMIES.

Rule 111. (1) Only those ~~constituent district~~ programs and RELATED services ~~under a~~ PROVIDED PURSUANT TO state board OF EDUCATION-approved~~,~~ intermediate school district special education plan and approved for reimbursement by the department shall be eligible for reimbursement from funds generated by adoption of millage under sections 1723 and 1724 of ~~Act No. 451 of the Public Acts of 1976, as amended, being §§~~1976 PA 451, MCL 380.1723 and 380.1724 ~~of the Michigan Compiled Laws~~.

~~(2) Determination of constituent district special education program and service costs shall be based solely upon costs as reported and allowed by the department which are in compliance with these rules. Costs of required transportation shall be included.~~

~~(3) All operational reimbursement claims shall be based upon the added cost system. Claims shall be calculated by subtracting from total special education program or service costs all state and federal reimbursements, including the gross state aid membership allowance and categorical aid. The net unreimbursed costs shall constitute the operational cost claim against intermediate school district special education tax funds.~~

~~(4)~~(2) ~~When~~ IF intermediate school district special education tax funds are insufficient to reimburse constituent claims in full, THEN a like percentage of the claim shall be paid for support of each program and service to each constituent district. Claims for operation of special education programs and services available to all constituent districts may be reimbursed in full before any prorated payment which may become necessary for other programs and services.

~~(5)~~(3) Current intermediate school district special education tax funds need not be used to offset operational claim deficits from prior years.

~~(6)~~(4) Amounts may be retained by the intermediate school district for required cash flow purposes not to exceed 1 year's operational expenses for the purpose of maintaining special education programs and services operated by the intermediate school district.

~~(7)~~(5) Intermediate school districts ~~desiring to distribute funds in a manner other than as set forth in subrules (2) to (4) of this rule and R 340.1812~~ shall submit the desired method FOR THE DISTRIBUTION OF FUNDS TO THE INTERMEDIATE SCHOOL DISTRICT, ITS CONSTITUENT SCHOOL DISTRICTS, AND PUBLIC SCHOOL ACADEMIES and the reasons therefore for approval as part of the intermediate school district plan required

under section 1711 of ~~Act No. 451 of the Public Acts of 1976, as amended, being §~~1976 PA 451, MCL 380.1711 ~~of the Michigan Compiled Laws~~.

R 340.1812 Intermediate school district's use of special education millage.

Rule 112. (1) Costs for the operation of special education programs and services by the intermediate school district, available to all constituent LOCAL SCHOOL districts AND PUBLIC SCHOOL ACADEMIES, may be reimbursed in full before the reimbursement of local districts from funds generated by adoption of millage under sections 1723 and 1724 of ~~Act No. 451 of the Public Acts of 1976, as amended, being §§~~1976 PA 451, MCL 380.1723 and 380.1724 ~~of the Michigan Compiled Laws~~.

(2) ~~When~~ IF intermediate school district special education personnel offer direct services to ~~handicapped persons~~ STUDENTS WITH DISABILITIES in some but not all constituent SCHOOL districts, and ~~when~~ IF prorated payment of constituent SCHOOL district operational claims is necessary, THEN the per capita deficit for each student served shall be paid by the district of residence or a direct charge shall be made to the local district based on the amount of deficit and the proportion of time the local SCHOOL district received the service from the intermediate SCHOOL district.

PART 7. DEVELOPMENT AND SUBMISSION OF INTERMEDIATE SCHOOL DISTRICTS' PLANS AND MONITORING

R 340.1831 Plan and modification submission.

Rule 131.(1) ~~On or before July 1 of 1986, on a cycle determined by the department, e~~Each intermediate school district board shall submit ~~its 3-year plan~~ AN INTERMEDIATE SCHOOL DISTRICT PLAN FOR SPECIAL EDUCATION to the state board of education or its designee to become effective ~~on July 1 of the following year~~ WHEN APPROVED BY THE STATE BOARD OF EDUCATION.

(2) Any ~~intervening~~ INTERMEDIATE SCHOOL DISTRICT PLAN FOR SPECIAL EDUCATION OR SUBSEQUENT modification APPROVED BY THE STATE BOARD OF EDUCATION ~~by the intermediate school district plan~~ shall be ~~directed~~ DISTRIBUTED BY THE INTERMEDIATE SCHOOL DISTRICT to each local school district superintendent, EACH CHIEF EXECUTIVE OFFICER OF A PUBLIC SCHOOL ACADEMY, and chairperson of the parent advisory committee within 7 calendar days of the intermediate school district'S ~~board~~ RECEIPT OF approval ~~of this modification~~ BY THE STATE BOARD OF EDUCATION.

(3) THE DEPARTMENT MAY REQUIRE AN INTERMEDIATE SCHOOL DISTRICT TO MODIFY ITS PLAN IF, AFTER THE EFFECTIVE DATE OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997, 20 U. S. C. §1400 ET SEQ., THE PROVISIONS OF EITHER THAT ACT, ITS REGULATIONS, 34 CFR 300.1, ET SEQ., THE SCHOOL CODE OF 1976 PA 451, MCL 380.1 ET SEQ., OR THESE RULES (R 340.1701 ET SEQ.) ARE AMENDED, OR THERE IS A NEW INTERPRETATION OF ANY OF THESE LAWS OR REGULATIONS BY AN AGENCY OR COURT, OR THE DEPARTMENT FINDS NONCOMPLIANCE.

(4) SUBJECT TO SUBRULE (3), A PLAN SUBMITTED BY AN INTERMEDIATE SCHOOL DISTRICT AND APPROVED BY THE STATE BOARD OF EDUCATION

SHALL REMAIN IN EFFECT UNTIL THE INTERMEDIATE SCHOOL DISTRICT SUBMITS TO THE DEPARTMENT OF EDUCATION MODIFICATIONS THAT THE INTERMEDIATE SCHOOL DISTRICT DEEMS NECESSARY AND THE MODIFICATIONS ARE APPROVED BY THE STATE BOARD OF EDUCATION.

R 340.1832 Content areas.

Rule 132. (1) An intermediate school district plan for ~~the delivery of~~ special education ~~programs and services~~, or any modification thereof, shall be an operational plan that sets forth ~~those~~ THE special education programs and RELATED services to be delivered ~~during the school year for which the plan was written~~. ~~The plan may also include any long-range plans for delivery of special education programs and services in future years.~~ The plan shall comply with THE SCHOOL CODE OF 1976 PA 451, MCL ~~(Act No. 451 of the Public Acts of 1976, as amended, being~~ §380.1 et seq. ~~of the Michigan Compiled Laws)~~, and these rules. ~~and~~ THE PLAN shall ALSO comply with the following format and include, at a minimum, ALL OF the following ~~content areas~~:

~~**INTERMEDIATE SCHOOL DISTRICT PLANS**~~

~~**Part 1. Comprehensive special education programs and services**~~

~~Section 1.1. Procedural safeguards.~~

(A) A DESCRIPTION OF ~~Describe any~~ THE ~~procedural safeguards~~ PROCEDURES ~~required~~ USED by the intermediate school district ~~that are necessary~~ to~~:~~ ~~accomplish the following:~~

~~(1) Insure confidentiality and the protection of records.~~

~~(2) Provide parent notice and secure written consent before preplacement evaluation, or placement of a handicapped student.~~

~~(3)~~ ~~A~~Advise and inform ~~handicapped persons~~ STUDENTS WITH DISABILITIES, their parents, and other members of the community of the special education opportunities required under the law; the obligations of the local SCHOOL DISTRICTS, PUBLIC SCHOOL ACADEMIES and intermediate school district; and the title, address, and telephone number of representatives of ~~both the local and intermediate school districts~~ THOSE AGENCIES who can provide information about the special education opportunities.

~~(4) Inform parents of their right to obtain an independent educational evaluation and due process hearing.~~

~~(5) Advise parents of the complaint process.~~

~~Section 1.2. Public awareness~~

(B) A DESCRIPTION OF ~~Describe~~ activities and outreach methods which are used to ~~insure~~ ENSURE that all citizens are aware of the availability of special education programs and services.

~~Section 1.3. Referral system.~~

~~Describe any procedures required by the intermediate school district for processing and reporting referrals for persons up to 25 years of age who are known to be, or suspected of being, handicapped.~~

~~Section 1.4. Diagnostic services.~~
(C) A DESCRIPTION OF ~~Describe~~ the type ~~and amount~~ of diagnostic AND RELATED services that are ~~directly operated~~ AVAILABLE, EITHER DIRECTLY OR AS A PURCHASED SERVICE, within the intermediate school district OR ITS CONSTITUENT LOCAL SCHOOL DISTRICTS OR PUBLIC SCHOOL ACADEMIES ~~and those purchased or contracted for from outside the intermediate school district~~.

~~Section 1.5. Individualized educational planning committee procedure.~~
~~(A) Describe the procedure for including eligible students on the intermediate central student registry.~~
~~(2) Describe any procedures required by the intermediate school district for both of the following:~~
~~(a) Determining eligibility, programs, and placement of handicapped students.~~
~~(b) Conducting and administering the individualized educational planning committee meeting.~~

~~Section 1.6. Continuum of special education programs and services.~~
~~(1)~~(D) A DESCRIPTION OF ~~Describe~~ the special education basic ~~programs and supportive services, including vocational training~~ programs designed to meet the educational needs of ~~handicapped persons~~ STUDENTS WITH DISABILITIES.
(E) WITHIN AN INTERMEDIATE SCHOOL DISTRICT, THE RATIO OF STUDENTS RECEIVING PROGRAMS OR SERVICES FROM A SPECIAL EDUCATION TEACHER IN THE 2001-2002 SCHOOL YEAR SHALL NOT EXCEED THE AVERAGE STUDENT/TEACHER RATIO COMPUTED FROM DATA COLLECTED ON THE DECEMBER 1, 2000, FEDERAL PUPIL COUNT DATE AND THE STATE AND FEDERAL COUNTS TAKEN IN THE SPRING AND FALL OF 2001. TEACHERS OF SPEECH AND LANGUAGE IMPAIRED WHO PROVIDE ONLY SERVICES UNDER R 340.1745 ARE EXCLUDED FROM THIS CALCULATION. ALL SPECIAL EDUCATION STUDENTS WHO RECEIVE PROGRAMS OR SERVICES FROM A SPECIAL EDUCATION TEACHER (AND FORMER TEACHER CONSULTANTS UNDER FORMER R 340.1749) ARE INCLUDED IN THIS CALCULATION, EXCEPT FOR STUDENTS WHO ONLY RECEIVE SERVICES UNDER R 340.1745.
(i) IN SUBSEQUENT SCHOOL YEARS, THE RATIO DETERMINED UNDER THIS SUBRULE SHALL REMAIN THE MAXIMUM RATIO (OR LESS) OF STUDENTS TO TEACHERS, UNLESS ALL OF THE FOLLOWING PARTIES AGREE TO AMEND THE RATIO:
(A) SUPERINTENDENTS OF INTERMEDIATE AND LOCAL SCHOOL DISTRICTS.
(B) CHIEF EXECUTIVE OFFICERS OF PUBLIC SCHOOL ACADEMIES.
(C) THE CHAIRPERSON OF THE INTERMEDIATE SCHOOL DISTRICT PARENT ADVISORY COMMITTEE.
(D) TEACHER BARGAINING UNITS.

(ii) ON THE SAME DATE THAT DATA ARE DUE TO THE STATE FOR STATE AND FEDERAL COUNTS, COUNT DATA INDICATING ALL INDIVIDUAL TEACHERS AND THEIR CASELOADS ARE ALSO DUE TO THE PARTIES LISTED IN THIS SUBDIVISION.
(iii) THE INTERMEDIATE SCHOOL DISTRICT PLAN FOR SPECIAL EDUCATION SHALL DESCRIBE THE PROCEDURES, AGREEMENTS, CONTRACTS, OR OTHER METHODS OF ACHIEVING THIS RATIO.
~~(2) Describe any additional programs or services, including summer school programs, work activity centers, specialized programs, nursing homes, state hospitals, and mental health, correctional, and child care facilities.~~
~~(3) List the constituent districts that have been approved to graduate handicapped persons who are so impaired that they cannot complete the regular education program.~~

~~Section 1.7. Community integration and follow-up.~~
~~(1) Describe the procedure used to assure integration of each handicapped person into the school and the community environment.~~
~~(2) Describe the means by which the local school district and the intermediate school district shall determine the effectiveness of special education programs and services and the educational plan for each handicapped person.~~
~~(3) Describe the procedure used to utilize the information gained from the 1 year follow-up to modify the delivery of special education programs and services. The follow-up system shall include a procedure used for determining the school-community adjustments of handicapped persons for at least 1 year following termination of their special education programs and services.~~

~~Part 2. Management of special education programs and services.~~
~~Section 2.1. Administration of programs and services.~~
~~(1)~~(F) ~~Identify~~ THE IDENTITY OF the full- or part-time LOCAL SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY ~~district~~ administrator who, by position, is responsible for the implementation of special education programs and services.
~~(4) Describe any administrative procedure required by the intermediate school district for requesting deviations, processing objections to the intermediate school district plan, and investigating complaints.~~

~~Section 2.2. Qualified personnel.~~
~~(1) Estimate the type of professional and paraprofessional personnel needed to provide the special education programs and services described in section 1.6.~~
~~(3) Describe the procedures required by the intermediate school district for determining the professional development needs of special education and general education staff and the plans for meeting these needs.~~
(G) THE INTERMEDIATE SCHOOL DISTRICT PLAN FOR SPECIAL EDUCATION SHALL DESCRIBE THE QUALIFICATIONS OF PARAPROFESSIONAL PERSONNEL.

~~Section 2.3. Facilities and transportation.~~

(H) A DESCRIPTION OF ~~Describe the type of facilities and~~ the transportation necessary to provide the special education programs and services described in SUBDIVISIONS (C) AND (D) OF THIS SUBRULE. ~~section 1.6.~~

~~Section 2.4. Instructional content.~~

~~(1) Describe procedures to be used by the intermediate district for approval of instructional content of special education programs and services.~~

~~(2) The instructional content shall, at a minimum, include personal adjustment, prevocational and vocational training, and physical education.~~

~~Section 2.5 1.2 Monitoring and evaluation.~~

~~Describe the method, timetable, and criteria for monitoring and evaluating state institutions and public school special education programs and services within the intermediate district.~~

~~Section 2.6. Federal funds.~~

~~Describe for each anticipated grant or entitlement of federal monies the source of the funds, the anticipated manner in which it shall be utilized, and the process of how such funds shall be distributed to, or on behalf of, local school districts. Such description shall specifically include rationale for the distribution of funds based on the special education program and service needs within the intermediate school district.~~

(I) FOR INTERMEDIATE SCHOOL DISTRICTS DISTRIBUTING FUNDS UNDER R 340.1811(7) A DESCRIPTION OF THE METHOD OF DISTRIBUTION IN THE INTERMEDIATE SCHOOL DISTRICT PLAN.

~~Part 3. Parent advisory committee.~~

~~Section 3.12.1. Organizational structure of the parent advisory committee.~~

~~(1)~~(J) A DESCRIPTION OF ~~Describe~~ HOW THE INTERMEDIATE SCHOOL DISTRICT WILL APPOINT THE PARENT ADVISORY COMMITTEE MEMBERS UNDER R 340.1838(1) AND (2). ~~the organizational structure of the committee, including officers and their responsibilities, meeting times, notice thereof, voting procedures, terms of office, and related matters.~~

~~Section 3.2. Role and responsibility of the parent advisory committee.~~

~~(1)~~ (K) A DESCRIPTION OF ~~Describe~~ the role and responsibilit~~y~~IES of the PARENT ADVISORY committee, including how it shall participate in the cooperative development of the plan, formulate objections thereto, if any, and related matters, such as the role and responsibility of the parent advisory committee in evaluating special education programs and services within the intermediate SCHOOL district.

~~(2)~~(L) A DESCRIPTION OF ~~Describe~~ the role and relationship of administrative and other school personnel, as well as representatives of other agencies, in assisting the PARENT ADVISORY committee in its responsibilities.

~~Section 3.2.3. Administrative support of the parent advisory committee.~~

(M) A DESCRIPTION OF ~~Describe~~ the fiscal and staff resources that shall be secured or allocated to the committee by the intermediate school district to make it efficient and effective in operation.

R 340.1833 Cooperative development and review.

Rule 133. (1) Intermediate school district plans, or any modification thereof, shall be developed in cooperation with local school districts, PUBLIC SCHOOL ACADEMIES, and the parent advisory committee.

~~(a) All plans shall be reviewed with the representatives of each local school district and the parent advisory committee, in whole or in part, at least quarterly each fiscal year.~~

(2) IF AN INTERMEDIATE SCHOOL DISTRICT'S PROCESS AS SET FORTH IN R 340.1832 DOES NOT RESULT IN AGREEMENT AMONG THE INTERMEDIATE SCHOOL DISTRICT, ITS CONSTITUENT LOCAL SCHOOL DISTRICTS, PUBLIC SCHOOL ACADEMIES, AND THE PARENT ADVISORY COMMITTEE, REGARDING ANY PROVISION OF THE PLAN, THEN THE INTERMEDIATE SCHOOL DISTRICT SHALL DETERMINE THE CONTENT OF THE PLAN SUBMITTED. ANY CONSTITUENT LOCAL SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR THE PARENT ADVISORY COMMITTEE MAY FILE AN OBJECTION UNDER R 340.1836.

R 340.1834 ~~Joint plans.~~ RESCIND

~~**Rule 134.** Two or more intermediate school districts lying within an educational planning area as designated by the state board of education may submit a plan for the delivery of special education programs and services upon approval by the state board of education.~~

R 340.1835 Plan signatures.

Rule 135. Each intermediate school district plan, or modification thereof, shall be signed by all of the following:

(a) The intermediate school district superintendent, signifying approval by the intermediate school district board.

(b) The superintendent of each constituent school district, THE CHIEF EXECUTIVE OFFICE OF EACH PUBLIC SCHOOL ACADEMY, AND THE CHAIRPERSON OF THE PARENT ADVISORY COMMITTEE, signifying ~~district~~ THEIR involvement in the development of the plan.

~~(c) The chairperson of the parent advisory committee, signifying committee involvement in the development of the plan.~~

R 340.1836 Objections to plan; procedures.

Rule 136. (1) ~~At the time the intermediate school district plan, or modification thereof, is submitted to the state board of education or its designee, a~~ Any constituent local school district, PUBLIC SCHOOL ACADEMY, or the parent advisory committee, may file WITH THE INTERMEDIATE SCHOOL DISTRICT, objections, IN WHOLE OR IN PART, to ~~the~~ AN APPROVED plan OR A PLAN MODIFICATION THAT HAS BEEN SUBMITTED TO THE STATE BOARD OF EDUCATION FOR APPROVAL ~~in whole or in part within 20 15 calendar days of receipt of a copy of the plan pursuant to R 340.1831~~. Copies of ~~the~~ AN objection to the plan shall, WITHIN 7 CALENDAR DAYS, be directed TO THE DEPARTMENT by the intermediate SCHOOL DISTRICT board of education AND to all constituent local school districts, PUBLIC SCHOOL ACADEMIES, and the parent advisory committee by certified mail, return receipt requested.

~~(2)~~ Objections filed shall specify the portions of the plan objected to, contain a specific statement of the reasons for objection, and shall propose alternative provisions.
~~(3) The intermediate school district, a constituent local school district, or the parent advisory committee may file with the department a response to the objections on or before 20 calendar days from the date of receipt of the objections.~~
~~(4)~~(2) ~~The intermediate school district or the objecting party shall have 7 calendar days from the date of receipt of the objections to direct to the department a written request for a hearing concerning the objections. If no request for hearing is made, The department may provide technical assistance to the involved parties or the state board of education may rule upon the plan based upon the objections and any answers or responses filed thereto. If a hearing is requested, a~~ A hearing officer SHALL BE designated by the department of education AND shall promptly give reasonable notice of the hearing. ~~and~~ THE HEARING shall begin ~~the hearing~~ not later than 30 calendar days from the date the request was filed with the department. THE HEARING SHALL BE CONDUCTED ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT. AFTER THE APPOINTMENT OF THE HEARING OFFICER, THE OBJECTION ~~The hearing~~ may be ~~adjourned~~ WITHDRAWN upon written stipulation of the intermediate school district and the objecting party.
(3) THE INTERMEDIATE SCHOOL DISTRICT, A CONSTITUENT LOCAL SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY, OR THE PARENT ADVISORY COMMITTEE MAY FILE, WITH THE DEPARTMENT, A RESPONSE TO THE OBJECTION BEFORE THE HEARING.
~~(5)~~(4) Within ~~15~~ 30 calendar days after the closing of the hearing, the hearing officer shall ~~make~~ REPORT findings of fact and conclusions of law and shall recommend to the state board of education whether the plan OR MODIFICATION TO THE PLAN should be approved as submitted, approved with such other modifications as deemed appropriate by the hearing officer, or the objections granted as submitted. ~~Such~~ THE findings and recommendations shall be immediately ~~served upon~~ MAILED BY the department ~~and~~ TO all parties ~~answering or responding~~ to the PLAN ~~objections~~. Any party may file written exceptions to ~~such~~ THE findings and recommendations with the state board of education within 20 calendar days of receipt of the findings and recommendations and direct copies of the exceptions to all other parties and the department. ~~Oral argument regarding such exceptions may be permitted with the consent of the state board of education.~~ The findings, and recommendations of the hearing officer, including any exceptions, shall be submitted to the state board of education with the plan. The state board of education shall render a final decision within 30 calendar days from the date the exceptions were to be filed.

R 340.1837 Approval of plans.

Rule 137. (1) Intermediate school district plans, or modification thereof, OR ANY CHANGES TO THEIR PLAN BASED ON AN OBJECTION TO THE PLAN, shall be approved by the state board of education ~~after the determination of any objections~~ ~~pursuant to~~ UNDER R 340.1836. ~~if such~~ THE plans OR MODIFICATIONS ~~are~~ SHALL BE in compliance with all of the following:
~~(a) The state plan for the delivery of special education programs and services~~

~~(b)~~(A) The provisions of sections 1701 to 1766 of ~~Act No. 451 of the Public Acts of 1976, as amended, being~~ §1976 PA 451, MCL 380.1701 to 380.1766 ~~of the Michigan Compiled Laws~~.
~~(c)~~(B) Michigan rules promulgated to implement statutory provisions for special education programs and services.
~~(d)~~(C) ~~Federal rules promulgated to implement statutory provisions for handicapped persons.~~ THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT, 20 U.S.C. §1400 ET SEQ., AND ITS IMPLEMENTING REGULATIONS, 34 C.F.R. §300.1 ET SEQ.
(2) Intermediate SCHOOL DISTRICT boards of education, constituent local school boards, PUBLIC SCHOOL ACADEMIES, and the parent advisory committee shall be advised by the state board of education or its designee as to whether the plan was approved. ~~on or before February 1 of the year in which the plan is to commence. Notification of disapproval of a plan, or modification thereof, shall state the reasons therefore and shall specify the action to be taken by the intermediate board of education, if any, and the date the plan is to be resubmitted.~~

R 340.1838 Parent advisory committee.

Rule 138. (1) A parent advisory committee shall be appointed by each intermediate school district board.
(a) The committee and its officers shall consist only of parents of ~~handicapped persons~~ STUDENTS WITH DISABILITIES with at least 1 parent from each constituent local school district AND PUBLIC SCHOOL ACADEMY.
(b) Each constituent local SCHOOL DISTRICT board of education AND EACH PUBLIC SCHOOL ACADEMY BOARD OF DIRECTORS shall nominate at least 1 parent.
(c) The intermediate school district board of education may nominate additional members not to exceed 33 1/3% of the total parent advisory committee membership.
(2) The intermediate SCHOOL DISTRICT board of education shall make every attempt to assure that all types of impairments and all identifiable organizationS of parents of ~~handicapped persons~~ STUDENTS WITH DISABILITIES within the intermediate school district are represented on the committee.
(3) The intermediate SCHOOL DISTRICT board of education may recommend operational procedures for committee review and adoption.
(4) The intermediate school district shall secure or allocate fiscal and staff resources to the committee to make it efficient and effective in operation.
(5) The parent advisory committee ~~shall have responsibility~~ IS RESPONSIBLE for determining and DOCUMENTING, IN WRITING, the organizational structure of the committee, including all of the following:
(a) Officers and their responsibilities.
(b) Meeting times.
(c) Notice of meeting times.
(d) Voting procedures.
(e) Terms of office.
(f) Related matters.
(6) The parent advisory committee shall participate in the development of the INTERMEDIATE SCHOOL district's plan OR ANY MODIFICATION OF THE PLAN for the delivery of special education programs and services as required by R 340.1833.

(7) The parent advisory committee may provide advisory input on any matters ~~which~~ THAT the committee deems appropriate to the improvement of special education services within the intermediate school district.

R 340.1839 Monitoring and program evaluation.

Rule 139. (1) The department shall establish, with approval of the state board of education, monitoring procedures, criteria, and evaluation activities to ~~insure~~ ENSURE that minimum standards are being achieved by all public agencies.

(2) Each intermediate school district shall implement monitoring procedures and evaluation methods developed by the department to ~~insure~~ ENSURE that the standards and criteria established are being achieved by the intermediate school district, ~~and~~ their constituent SCHOOL districts, AND THEIR PUBLIC SCHOOL ACADEMIES.

PART 8. COMPLAINTS

R 340.1851 Intermediate school district's responsibility for investigation of complaints; report.

Rule 151. (1) An intermediate school district, upon receipt of a complaint, shall investigate the complaint pursuant to these rules~~,~~ and the procedures approved by the state board of education. The investigation shall include direct communication with the complainant or the complainant's authorized representative. The complainant shall be informed of the specific procedures for conducting the investigation, filing reports, and appealing the conclusions contained in the investigation report. The investigation shall be completed and a report shall be filed by the intermediate school district within 21 calendar days after the date of receipt of the complaint. The report shall be filed with the complainant, THE local educational agency OR PUBLIC SCHOOL ACADEMY, if applicable, and the department. The report shall contain information as specified in procedures approved by the state board of education and shall contain notification of the complainant's right to appeal the conclusions of the investigation and to have the department review the intermediate school district's decision on the complaint.

(2) The intermediate school district may contract with an independent agent to conduct the investigation or shall appoint a person who is a member of the special education staff to be responsible for investigating complaints under part 8 of these rules. The person shall not have administrative authority over programs or services against which a complaint may be filed. Copies of part 8 of these rules, and applicable procedures shall be made available by the intermediate school district for distribution to its employees, the employees of constituent local educational agencies, THE EMPLOYEES OF CONSTITUENT PUBLIC SCHOOL ACADEMIES, the public, and other agencies operating special education programs and services.

(3) An intermediate school district receiving a complaint under its jurisdiction shall, during the pendency of any proceeding stipulated in this rule, require any agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint if, in its judgment, not doing so may constitute a violation of the student's due process protection or if so directed by the department.

R 340.1852 Department responsibilities for processing complaints and conducting state investigations.

Rule 152. (1) The department may, for good cause, investigate a signed written complaint pursuant to the procedures approved by the state board of education, regardless of the status of the investigation under R 340.1851.

(2) Upon receipt of a complainant's appeal for review of the intermediate school district'S decision on the complaint, the department, pursuant to the procedures approved by the state board of education, shall do all of the following:

(a) Carry out an independent on-site investigation if the department determines that an investigation is necessary.

(b) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

(c) Review all relevant information and make an independent determination as to whether the public educational agency is violating any of the provisions of law specified in the definition of "complaint" in R 340.1701(g).

(3) The department shall issue a written report to the complainant and to the educational agency against which the complaint was filed that addresses each allegation in the complaint and contains all of the following information:

(a) Findings of fact and conclusions.

(b) The reasons for the department's final decision.

(c) Procedures for effective implementation of the department's final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance.

(4) The intermediate school district is responsible for assisting the agency in violation, for monitoring progress of the corrective action, and for informing the department when the corrections have been completed.

(5) Proof of compliance shall be submitted by the educational agency that was in violation within the time line specified in the directive for correction.

(6) Upon failure of an educational agency to correct known violations of law, upon failure of the educational agency in violation to cooperate with the department or the intermediate school district during the conduct of its investigation, or upon known falsification of fact or continued repetition of similar violations, the state board of education shall do 1 or more of the following:

(a) If the educational agency in violation is a local school district OR A PUBLIC SCHOOL ACADEMY, THEN the state board of education shall direct the intermediate school board to provide complying programs and services as stipulated in section 1702 of 1976 PA 451, MCL ~~Act No. 451 of the Public Acts of 1976, as amended, being~~ §380.1702~~ of the Michigan Compiled Laws~~.

(b) If the agency in violation is an intermediate school ~~board~~ DISTRICT, the state board of education may withdraw the authority of the intermediate district to operate a program in noncompliance and simultaneously require the local district of residence to place the affected student or students in an appropriate program.

(c) Withhold federal funds ~~pursuant to the provisions of section 1414(b)(2)(a)~~ UNDER SECTION1413(D)(1) of the individuals with disabilities education act of ~~1990, 20 U.S.C. §1414(b)(2)(a)~~ 1997, 20 U.S.C. §1413(d)(1).
(d) Apply other penalties, as stipulated in ~~Act No. 451 of the Public Acts of 1976, as amended, being §~~ 1976 PA 451, MCL 380.1 et seq. ~~of the Michigan Compiled Laws~~.
(e) Withhold state funds UNDER ~~Act No. 94 of the Public Acts of 1979, as amended, being §~~ 1979 PA 94, MCL 388.1601 et seq~~. of the Michigan Compiled Laws~~, or any other governing statute.
(f) Withhold, withdraw, or suspend such endorsements, approvals, credentials, grants, or authorizations pertaining to special education personnel or projects that the state board of education or its designee had authority to grant as authorized by, and in accordance with, the procedures required by law.
(G) SEEK ENFORCEMENT IN A COURT OF APPROPRIATE JURISDICTION OF THE CORRECTIVE ACTION DETERMINED APPROPRIATE.
(7) The state board of education or its designee, during the pendency of any proceeding under part 8 of these rules, shall require any educational agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint if, in the judgment of the state board of education or its designee, not doing so constitutes a violation of the student's due process protections.
~~(8) The department shall notify the complainant and the public agency of the right to request the United States secretary of education to review the department's final decision.~~

R 340.1853 General responsibilities of all agencies for processing complaints and investigations.

Rule 153. (1) The term "complaint" is defined in R 340.1701(g). All public educational agencies shall receive allegations of violations of state or federal regulations pertaining to special education. If the allegation is made orally, the recipient agency may take formal or informal action as necessary to resolve the situation in compliance with applicable provisions of law, but, at a minimum, shall immediately do all of the following:
(a) Inform the person making the allegation that he or she has a right to file a written formal complaint with the appropriate intermediate school district or with the department and to have that complaint investigated in accord with part 8 of these rules and procedures approved by the state board of education.
(b) Inform the person making the allegation that if he or she wishes to delay filing a formal complaint so that an informal resolution may be attempted, he or she retains the right to file a formal complaint if the informal attempts to resolve the concern in a timely manner are unsuccessful.
(c) Provide the person making the allegation with a copy of part 8 of these rules and the state board of education's procedures pertaining to complaints, and offer to assist the person to file the complaint.
(2) A person claiming to be acting on behalf of a complainant may be required to provide evidence of that authority.
(3) Complaints are initially investigated by the intermediate school district. At its discretion, the department, for good cause shown, may initiate a complaint or may conduct

the initial investigation of the complaint instead of requiring the intermediate school district to investigate the complaint initially.
(4) A time limit of 60 calendar days after a complaint is filed is allotted for the intermediate school district to complete the investigation responsibilities under R 340.1851 and for the department to complete its review as specified in R 340.1852.
(5) An extension of time specified in part 8 of these rules may be granted by the department ~~for good cause shown~~ ONLY IF EXCEPTIONAL CIRCUMSTANCES EXIST. A denial of an extension request is final.

PART 9. RECORDS AND CONFIDENTIALITY

R 340.1861 Records; maintenance; content; transfer of records; release of records.

Rule 161. (1) A registry shall be maintained by intermediate school districts pursuant to PROCEDURES ESTABLISHED BY THE DEPARTMENT AND PURSUANT TO the provisions of section 1711 of ~~Act No. 451 of the Public Acts of 1976, as amended, being §~~ 1976 PA 451, MCL 380.1711 ~~of the Michigan Compiled Laws~~, for all ~~handicapped persons~~ STUDENTS WITH DISABILITIES ~~up to 25 years of age~~, as defined by ~~R 340.1703 to R 340.1715~~ R 340.1702, including ~~those persons~~ STUDENTS placed in state and privately operated facilities. The registry shall be an operational, active data base system with the capacity to provide up-to-date ~~pupil~~ STUDENT counts and other data requirements to the department on a timely basis. Each local school district, PUBLIC SCHOOL ACADEMY, or state agency shall provide the intermediate school district with a complete updated data record for each ~~handicapped~~ student WITH A DISABILITY. ~~This~~ THE updated record shall contain full-time equivalency data for each student enrolled in a special education program by the ~~unduplicated child~~ STUDENT count dateS REQUIRED IN THE STATE SCHOOL AID ACT and shall contain each student's data enrolled in programs and services by the ~~duplicated child~~ STUDENT count date REQUIRED BY THE REGULATIONS IMPLEMENTING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT, 34 C.F.R. §300.1 ET SEQ.
~~(2) Each record for the handicapped person shall include, at a minimum, all of the following:~~
~~(a) The name, date of birth, sex, and racial or ethnic group.~~
~~(b) Type of eligibility.~~
~~(c) Transportation required.~~
~~(d) Programs and services being rendered.~~
~~(e) Full-time equivalency in special education.~~
~~(f) Reason for leaving special education and anticipated service needs.~~
~~(g) District of residence.~~
~~(h) Program service code.~~
~~Each record may include other data needed by the district.~~
~~(3)~~(2) ~~When~~ IF the residency of a ~~handicapped person~~ STUDENT WITH A DISABILITY changes from one intermediate school district to another, THEN the intermediate school district of previous residence shall transfer the records maintained under this rule to the new intermediate school district upon written request of the intermediate school district of

~~residency~~ RESIDENCE and the parent of the ~~handicapped person~~ STUDENT WITH A DISABILITY for whom the record was maintained.

~~(4)~~(3) An intermediate school district shall request written consent of the parent of each ~~handicapped person~~ STUDENT WITH A DISABILITY, presently or hereinafter on its records, before providing any agency or entity approved by the state board of education with information on record with the district under subrule (2) of this rule. If consent is not obtained, THEN the district shall release the requested information to the agency or entity approved by the state board of education, except for the name of the ~~handicapped person~~ STUDENT WITH A DISABILITY and the name, address, and telephone number of the parent.

R 340.1862 ~~Access rights.~~ RESCIND

~~**Rule 162.** (1) Each participating agency shall permit parents to inspect and review any education records relating to their children which are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and within 45 calendar days after the request is made. Parents requesting records for use at an individualized educational planning committee meeting, a hearing, or an appeal shall be given access to their requested records immediately.~~

~~(2) The right to inspect and review education records under this rule includes all of the following:~~

~~(a) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records.~~

~~(b) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records.~~

~~(c) The right to have a representative of the parent inspect and review the records.~~

R 340.1863 ~~Record of access.~~ RESCIND

~~**Rule 163.** Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this part, except for access obtained by parents and authorized employees of the participating agency. Records of access shall include the name of the party, the date access is given, and the purpose for which the party is authorized to use the records.~~

R 340.1864 ~~Records on more than 1 person.~~ RESCIND

~~**Rule 164.** If any education record includes information on more than 1 person, the parent of each person shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.~~

R 340.1865 ~~List of types and locations of education records.~~ RESCIND

~~**Rule 165.** Each participating agency shall provide parents, upon request, with a list of the types and locations of education records collected, maintained, and used by the agency.~~

R 340.1866 ~~Fees~~. RESCIND

~~**Rule 166.** (1) A participating educationAL agency may charge a fee for copies of records made for the parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.~~

~~(2) A participating agency shall not charge a fee to search for or retrieve information under this part.~~

R 340.1867 ~~Amendment of records at parent's request~~. RESCIND

~~**Rule 167.** (1) A parent who believes that information in education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the handicapped or suspected handicapped person may request the participating agency that maintains the information to amend the information.~~

~~(2) The agency shall decide whether to amend the information pursuant to the request within a reasonable period of time from receipt of the request.~~

~~(3) If the agency decides to refuse to amend the information pursuant to the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under R 340.1868.~~

R 340.1868 ~~Opportunity for a hearing to challenge record information~~. RESCIND

~~**Rule 168.** The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the students.~~

R 340.1869 ~~Hearing Procedures~~. RESCIND

~~**Rule 169.** The hearing required to be held by R 340.1868 shall, at a minimum, be conducted according to the following procedures:~~

~~(a) The hearing shall be held within a reasonable period of time after the educational agency or institution has received the request, and the parent of the person or the eligible person shall be given notice of the date, place, and time reasonably in advance of the hearing.~~

~~(b) The hearing may be conducted by any party, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.~~

~~(c) The parent of the person or the eligible person shall be afforded a full and fair opportunity to present evidence relevant to the issues raised under R 340.1868 and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney.~~

~~(d) The educational agency or institution shall make its decision in writing within a reasonable period of time after the conclusion of the hearing.~~

~~(e) The decision of the agency or institution shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.~~

R 340.1870 ~~Hearing resulting in finding of violation; finding of no violation.~~ RESCIND

~~**Rule 170.** (1) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the person, the agency shall amend the information accordingly and shall inform the parent in writing of the amendment.~~

~~(2) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the person, it shall inform the parent of the right to place a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency in the records the agency maintains on the person.~~

~~(3) Any explanation placed in the records of the person under this rule shall be maintained by the agency as part of the records of the person as long as the record or contested portion is maintained by the agency. If the records of the person or the contested portion is disclosed by the agency to any party, the explanation shall also be disclosed to the party.~~

R 340.1871 ~~Parental consent for disclosure of personally identifiable information.~~ RESCIND

~~**Rule 171.** (1) Parental consent shall be obtained before personally identifiable information is disclosed to anyone other than officials of participating agencies collecting or using the information under this part or before being used for any other purpose other than meeting a requirement of this part.~~

~~(2) Parental consent shall not be required for disclosure of personally identifiable information from the education records of a student if the disclosure meets the requirements of 45 C.F.R. §99.31.~~

R 340.1872 ~~Confidentiality safeguards.~~ RESCIND

~~**Rule 172.** (1) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.~~

~~(2) One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information, including data stored in computers.~~

~~(3) All persons collecting or using personally identifiable information or using computer terminals or microcomputers shall receive training or instruction regarding the procedures required in safeguarding confidential material.~~

~~(4) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.~~

R 340.1873 ~~Destruction of information.~~ RESCIND

~~**Rule 173.** (1) The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the student.~~

~~(2) The information shall be destroyed at the request of the parents. However, a permanent student record of all of the following shall be maintained without time limitation:~~
~~(a) Name, address, and phone number.~~
~~(b) Grades.~~
~~(c) Attendance record.~~
~~(d) Classes attended.~~
~~(e) Grade level.~~
~~(f) Year of class completion.~~

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARINGS

DEPARTMENT OF EDUCATION

(ORR # 2000-021)

The Michigan Department of Education, Office of Special Education and Early Intervention Services (OSE/EIS) is making the following documents available for public comment and public hearings:

• Proposed Administrative Rules for Special Education at R340.1701 through R340.1873 of the Rules Relating to Education (The proposed changes will bring the state rules into alignment with federal law and regulations. The proposed changes will also offer flexibility in program design while meeting individual student needs.)

• Proposed Complaint Procedures under Part C of the Individuals with Disabilities Education Act

These documents are accessible at the Department of Education, at each intermediate school district and on the Internet at:
http://www.mde.state.mi.us/off/sped/PUBLICCOMMENT/PCIndex.html

You are invited to review these documents and submit your comments about them. All comments will be reviewed and considered in the final version of these documents. Written comments will be accepted by the OSE/EIS through 5:00 PM on April 16, 2001. Comments may be submitted via e-mail (see website), facsimile (517) 373-7504, or surface mail to: Mr. David Brock, Supervisor, Policy, Planning, and Compliance Program, Office of Special Education and Early Intervention Services, Michigan Department of Education, P. O. Box 30008, Lansing, Michigan 48909. These rules will be effective 7 days after the filing date.

Public hearings will be held by the Department to receive comment on these documents at:

Hotel St. Regis
3017 W. Grand Blvd
Detroit, Michigan 48202
April 4, 2001 - 6:30 pm - 9:00 pm
April 5, 2001 - 9:00 am - 11:30 am
(parking vouchers available)

Grand Rapids Hilton Airport
4747 28th Street, SE
Grand Rapids, Michigan 49512
April 4, 2001 - 6:30 pm - 9:00 pm
April 5, 2001 - 9:00 am - 11:30 am

Treetops Sylvan Resort
3962 Wilkinson Road
Gaylord, Michigan
April 11, 2001 – 6:30 pm – 9:00 pm
April 12, 2001 - 9:00 am – 11:30 am

Holiday Inn
1951 US 41 West
Marquette, Michigan 49855
April 11, 2001 – 6:30 pm – 9:00 pm
April 12, 2001 – 9:00 am 11:30 am

Holiday Inn West
7501 West Saginaw Highway
Lansing, Michigan 48917
April 10, 2001 - 6:30 pm – 9:00 pm
April 11, 2001 – 9:00 – 11:30 am

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

AIR POLLUTION CONTROL

Filed with the Secretary of State on
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of environmental quality by sections 5503 and 5512 of 1994 PA 451 and Executive Reorganization Order No. 1995-18, MCL 324.5503, 324.5512, and 324.99903)

R 336.1210, R 336.1211, R 336.1212, R 336.1213, R 336.1214, R336.1215, and R 336.1299 of the Michigan Administrative Code are amended to read as follows:

PART 2. AIR USE APPROVAL

R 336.1210 Renewable operating permits.

Rule 210. (1) A person shall not operate any ~~process or process equipment~~ EMISSION UNITS located at a stationary source required to obtain a renewable operating permit under R 336.1211, except in compliance with all applicable terms and conditions of a renewable operating permit, unless a timely and administratively complete application for a renewable operating permit has been received by the department in accordance with the following provisions of this rule. The ability to operate the ~~process and process equipment~~ EMISSION UNITS at a stationary source while a timely and administratively complete application is being reviewed and acted upon by the department shall be referred to as the "application shield." The application shield provided by this subrule shall not apply if an application submittal is not timely under the applicable provision of subrules (4) to (7) of this rule or administratively complete under subrule (2) of this rule or an additional information submittal is not timely or complete under subrule (3) of this rule. The loss of the application shield after the applicable time specified in this rule for a person to have filed a timely and administratively complete application for a renewable operating permit is grounds for enforcement action under the act. Any enforcement action pursuant to loss of the application shield shall consider the time period between the applicable deadline and when a person actually submits the required administratively complete application or additional information.

(2) An application submittal, including an application submittal for renewal or modification of a renewable operating permit, shall be considered an administratively complete

application if it contains reasonable responses to all requests for information in the permit application form required by the department and a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the application, INCLUDING THE INFORMATION REGARDING THE COMPLIANCE STATUS OF THE SOURCE WITH ALL APPLICABLE REQUIREMENTS AND THE STATEMENTS OF THE METHODS USED TO DETERMINE THAT STATUS, are true, accurate, and complete. The application form required by the department shall be consistent with the requirements of section 5507 of the act, except as provided for general renewable operating permits under R 336.1218. All of the following provisions apply to the administrative completeness of an application for a renewable operating permit:

(a) On and after November 1, 1995, the department shall notify the person who submitted the application for a renewable operating permit and the responsible official, in writing, regarding the administrative completeness of the application submittal. If the application submittal is considered not to be an administratively complete application by the department, then the notification shall specify the deficiency and all supplemental materials required for an administratively complete application. A person's response to a notification by the department of the incompleteness of an application shall include all of the supplemental materials requested by the department in the notification and a certification by the responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the response are true, accurate, and complete. All of the following provisions apply to department notification:

(i) If the department fails to notify a person that an application submittal, including the submittal of any supplemental materials requested by the department under this subdivision, is not administratively complete by the following deadlines, then the submittal shall be considered an administratively complete application as of the date the department received the submittal or the supplemental materials, whichever is later:

(A) By January 5, 1996, or within 60 days of the date the department receives the submittal, whichever is later, if the submittal is received on the paper forms specified by the department.

(B) By November 15, 1995, or within 15 days of the date the department receives the submittal, whichever is later, if the submittal is received in an electronic format specified by the department.

(ii) If a person submits all of the supplemental materials identified in a notification from the department under this subrule, then the application shall be considered administratively complete.

(iii) Except as provided in paragraph (i) of this subdivision, the date the department receives all information required for an administratively complete application, including all supplemental materials requested by the department under this subdivision, shall be the date of receipt of the administratively complete application.

(b) Any person who fails to submit any relevant facts or who has submitted incorrect information in an application for a renewable operating permit, including an application for renewal or modification of a renewable operating permit, shall, upon becoming aware of the failure or incorrect submittal, promptly submit all supplementary facts or corrected information. Each submittal of any relevant facts or corrected information shall include a

certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the submittal are true, accurate, and complete.

(c) A person shall promptly provide any additional information necessary for an administratively complete application for any applicable requirements to which the stationary source becomes subject after the date that the person submitted the administratively complete application, but before release of a draft renewable operating permit for public participation under R 336.1214(3). For administratively complete applications submitted under subrule (4)(e) or (f) of this rule, the information required by this subrule may be maintained by the person and submitted to the department in accordance with the following schedule, unless the department specifically requests that information by an earlier date under subrule (3) of this rule:

(i) By January 1, 1998, for all applications for a renewable operating permit required to be submitted under subrule (4)(e) of this rule and for all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from October 16, 1996, to December 15, 1996.

(ii) By January 1, 1999, for all applications for a renewable operating permit required to be submitted under subrule (4)(f) of this rule and for all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from December 16, 1996, to February 28, 1997.

Each submittal of any additional information shall include a certification by the responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the submittal are true, accurate, and complete.

(3) After an application for a renewable operating permit has been determined by the department to be administratively complete, the department may require additional information, including information that was not requested on the application form. For the purpose of this subrule, additional information means information necessary to evaluate or take final action on the application, information needed to determine the applicability of any lawful requirement, information needed to enforce any lawful requirement, information needed to address any applicable requirements to which the stationary source becomes subject after the date that the person submitted the administratively complete application, but before release of a draft renewable operating permit for public participation under R 336.1214(3), or information needed to evaluate the amount of the annual air quality fee for the stationary source. A person's response to a request for additional information by the department shall include all of the information requested by the department in the request and a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the response are true, accurate, and complete. The person who submitted the application for a renewable operating permit for a stationary source shall furnish, within 30 days of the date of the request, any additional information requested, in writing, by the department, except as follows:

(a) A 30-day extension for a response shall be granted if the person requests that extension, in writing, during the initial 30-day time period.

(b) The person may request a longer period of time, in writing, specifying the reasons why 60 days was not reasonable for submitting the requested information.

(c) The department shall provide written notice to the person of the date of expiration of any time period for submittal of all requested additional information as a part of any request for additional information or upon granting a request for an extension.

Failure to submit additional information that has been requested in writing by the department by the expiration of the time period specified for response results in the loss of the application shield specified in subrule (1) of this rule.

(4) For a stationary source that is defined as a major source under R 336.1211(1)(a) on the effective date of this rule, an administratively complete application for a renewable operating permit shall be considered timely if it is received by the department on or before the following deadlines:

(a) By February 29, 1996, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 0600-0999 (agricultural services), 1500-1799 (construction), 1800-1999, 2000-2039 (food), 2100-2399 (tobacco and textiles), 2400-2499 (lumber and wood), 2950-2999 (asphalt), 3270-3289 (concrete, lime and gypsum products), 5000-5499 (services), or 5600-7499 (services). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(b) By May 15, 1996, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 3000-3099 (rubber and miscellaneous plastic), 5500-5599 (auto dealers and gas service), or 7500-7599 (auto repair). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(c) By July 30, 1996, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 3400-3599 (fabricated metal). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(d) By October 15, 1996, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 1300-1399 (oil and gas), 2051-2099 (bakeries and food), 2500-2599 (furniture), 2650-2699 (paper products), 3600-3699 (electronic), 4000-4899 (transportation), 7600-7999 (services), 8100-9999 (services). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(e) By December 15, 1996, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 1000-1299 (mining), 1400-1499 (nonmetallic mineral mining), 2040-2050 (grain mills and cereal), 2700-2799 (printing), 3100-3199 (leather), 3200-3269 (stone, clay, and glass), 3290-3299 (nonmetallic mineral products), 3700-3710 (transportation equipment), 3714-3799 (transportation equipment), 3800-3999 (miscellaneous manufacturing), 4900-4999 (gas, electric and sanitary services), 8000-8099 (medical). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(f) By February 28, 1997, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 2600-2649 (paper mills), 2800-2899 (chemicals), 2900-2949 (petroleum refining), 3300-3399 (primary metal), 3711-3713 (automobile and truck assembly). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(g) Notwithstanding the deadlines specified in subdivisions (a) to (f) of this subrule, a person who owns or operates 2 or more stationary sources that are subject to the provisions of this rule may request, in writing, an alternate schedule for submittal of timely and administratively complete applications for renewable operating permits for those stationary sources. The proposed schedule shall provide that administratively complete applications for the stationary sources shall be submitted between the dates specified in subdivisions (a) to (f) of this subrule. If agreed to in writing by the department, the alternate schedule shall be the basis for determining whether an administratively complete application is timely pursuant to this rule.

(5) For a stationary source that becomes a major source, as defined by R 336.1211(1)(a), after the effective date of this rule, an administratively complete application shall be considered timely if it is received by the department not more than 12 months after the stationary source commences operation as a major source or by the applicable deadline specified in subrule (4)(a) to (f) of this rule, whichever is later. For the purposes of this subrule, commencing operation as a major source occurs upon commencement of trial operation of the new or modified ~~process or process equipment~~ EMISSION UNIT that increased the potential to emit of the stationary source to more than or equal to the applicable major source definition specified in R 336.1211(1)(a).

(6) For a stationary source that is an affected source under title IV of the clean air act, a complete permit application for an initial phase II acid rain permit shall be considered timely if it is submitted by January 1, 1996, for sulfur dioxide and January 1, 1998, for nitrogen oxides.

(7) For renewal of a renewable operating permit, an administratively complete application shall be considered timely if it is received by the department not more than 18 months, but not less than 6 months, before the expiration date of the current renewable operating permit.

(8) For a stationary source that is not a major source under R 336.1211(1)(a), but is otherwise subject to the requirements of this rule under R 336.1211(1), a complete application is considered timely if it is received by the department in accordance with the following provisions, as applicable:

(a) For an affected source under R 336.1211(1)(b), on or before October 1, 1997.

(b) For a solid waste incineration unit under R 336.1211(1)(c), within 12 months of the date of the promulgation of an applicable requirement under section 129(a) of the clean air act.

(c) For a municipal solid waste landfill under R 336.1211(1)(d), by whichever is the later of the following dates:

(i) November 1, 1998.

(ii) Within 21 months of the effective date of R 336.1931 for implementing the provisions of 40 C.F.R. part 60, subpart Cc.

(iii) Within 15 months of the date the landfill becomes subject to any of the provisions of 40 C.F.R. part 60, subpart WWW.

(9) For modifications to a renewable operating permit, an administratively complete application shall be considered timely if it is received by the department in accordance with the time frames specified in R 336.1216.

(10) Failure to operate in compliance with all terms and conditions of an operating permit is grounds for enforcement action under the act, permit revocation or revision, or denial of a permit renewal application.

(11) Failure to halt or reduce an activity when necessary to comply with an operating permit is grounds for enforcement action.

(12) Submittal of a complete application for a renewable operating permit does not supersede or affect any requirements to obtain a permit to install under R 336.1201.

(13) A person who submits information to the department as a part of an application for a renewable operating permit under a claim of confidentiality, consistent with the requirements of 1976 PA ~~Act No.~~ 442, MCL ~~of the Public Acts of 1976, as amended, being~~ §15.231 et seq. ~~of the Michigan Compiled Laws,~~ and known as the freedom of information act, shall submit a copy of the information directly to the United States environmental protection agency.

(14) Except as provided in this subrule, the department shall take final action on each administratively complete application for a renewable operating permit, including an application for permit renewal, within 18 months after the date of receipt by the department of an administratively complete application. The department shall take final action on each timely and administratively complete application for first time issuance of a renewable operating permit for major sources, submitted under subrule (4)(a) to (f) of this rule, in accordance with the following schedule:

(a) By February 28, 1997, for all applications for a renewable operating permit required to be submitted under subrule (4)(a) and (b) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date on or before May 15, 1996.

(b) By February 28, 1998, for all applications for a renewable operating permit required to be submitted under subrule (4)(c) and (d) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from May 16, 1996, to October 15, 1996.

(c) By February 28, 1999, for all applications for a renewable operating permit required to be submitted under subrule (4)(e) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from October 16, 1996, to December 15, 1996.

(d) By February 28, 2000, for all applications for a renewable operating permit required to be submitted under subrule (4)(f) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from December 16, 1996, to February 28, 1997.

R 336.1211 Renewable operating permit applicability.

Rule 211. (1) All of the following stationary sources are subject to the requirements of R 336.1210 to obtain, and only operate in compliance with, a renewable operating permit:

(a) Major sources as defined by any of the following criteria:

(i) A major source under section 112 of the clean air act, which is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to emit, in the aggregate, any of the following:

(A) Ten tons per year of any hazardous air pollutant that has been listed under section 112(b) of the clean air act.

(B) Twenty-five tons per year of any combination of hazardous air pollutants that have been listed under section 112(b) of the clean air act.

(C) A lesser quantity as the administrator of the United States environmental protection agency may establish by rule for any hazardous air pollutant listed under section 112(b) of the clean air act. The department shall maintain, and make available upon request, a list of the hazardous air pollutants for which a lesser quantity criteria has been established.

Emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not the units are in a contiguous area or under common control, to determine whether the units or stations are major sources under this paragraph. For the purpose of this paragraph, the potential to emit of a stationary source for hazardous air pollutants includes fugitive emissions, regardless of the category of the stationary source.

(ii) A stationary source that directly emits, or has the potential to emit, 100 tons per year or more of any of the following:

(A) Lead.

(B) Sulfur dioxide.

(C) Nitrogen oxides.

(D) Carbon monoxide.

(E) PM-10.

(F) Ozone.

(G) Volatile organic compounds.

(H) Any air contaminant regulated under section 111 of title I of the clean air act.

(I) Any class I and class II substances under title VI of the clean air act.

For the purpose of this paragraph, the fugitive emissions of a stationary source shall not be considered in determining whether the stationary source is a major source, unless the stationary source belongs to 1 of the categories listed in the definition of potential to emit in R 336.1116.

(iii) A major stationary source, as defined in part d of title I of the clean air act, including, for ozone nonattainment areas, stationary sources that have the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as marginal or moderate.

(b) Any affected source as defined in section 402 of the clean air act.

(c) Any solid waste incineration unit, as defined in section 129(g) of the clean air act, that is required to obtain a renewable operating permit under section 129(e) of the clean air act.

(d) Any municipal solid waste landfill that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters.
(e) Any stationary source in a source category designated by the administrator of the United States environmental protection agency under 40 C.F.R. §70.3.
(2) For the purposes of determining the applicability of R 336.1210, the potential to emit of a stationary source shall be the sum of the potential to emit of all process and process equipment located at the stationary source~~, including any process or process equipment listed under R 336.1212(2) and (3)~~.
(3) The following stationary sources are exempted from the obligation to obtain a renewable operating permit under R 336.1210:
(a) All stationary sources and source categories for which the person owning or operating the stationary source would be required to obtain a permit solely because the stationary source is subject to 40 C.F.R. part 60, subpart AAA, standards of performance for new residential wood heaters.
(b) All stationary sources and source categories for which the person owning or operating the stationary source would be required to obtain a permit solely because the stationary source is subject to 40 C.F.R. part 61, subpart M, national emission standard for hazardous air pollutants for asbestos, §61.145, standard for demolition and renovation.

R 336.1212 ~~Insignificant activities and exempt process and process equipment at major sources~~ ADMINISTRATIVELY COMPLETE APPLICATIONS; INSIGNIFICANT ACTIVITIES; STREAMLINING APPLICABLE REQUIREMENTS; EMISSIONS REPORTING AND FEE CALCULATIONS.

Rule 212. (1) A TIMELY AND ADMINISTRATIVELY COMPLETE APPLICATION FOR A STATIONARY SOURCE SUBJECT TO THE REQUIREMENTS OF R 336.1210 SHALL MEET THE REQUIREMENTS OF SUBRULE (2) OF R 336.1210 AND SHALL CONTAIN ALL INFORMATION THAT IS NECESSARY TO IMPLEMENT AND ENFORCE ALL APPLICABLE REQUIREMENTS THAT INCLUDE A PROCESS-SPECIFIC EMISSION LIMITATION OR STANDARD OR TO DETERMINE THE APPLICABILITY OF THOSE REQUIREMENTS.
~~(1)~~ (2) ~~For the purposes of determining whether a stationary source is a major source pursuant to R 336.1211(1)(a),~~ All of the following activities are considered to be insignificant activities at a stationary source and need not be included in an ADMINISTRATIVELY COMPLETE application for a renewable operating permit:
(a) Repair and maintenance of grounds and structures.
(b) All activities and changes pursuant to R 336.1285(a) ~~through~~ TO (f); HOWEVER, COMPLIANCE MONITORING REQUIREMENTS IN THE RENEWABLE OPERATING PERMIT SHALL BE REVIEWED AND UPDATED TO REFLECT ANY CHANGES MADE WITHOUT A PERMIT TO INSTALL.
(c) Use of office supplies.
(d) Use of housekeeping and janitorial supplies.
(e) Sanitary plumbing and associated stacks or vents.
(f) Temporary activities related to the construction or dismantlement of buildings, utility lines, pipelines, wells, earthworks, or other structures.

(g) Storage and handling of drums or other transportable containers that are sealed during storage and handling.
(h) Fire protection equipment, fire fighting and training in preparation for fighting fires. Prior approval by the department for open burning associated with training in preparation for fighting fires is required pursuant to R 336.1310.
(i) Use, servicing, and maintenance of motor vehicles, including cars, trucks, lift trucks, locomotives, aircraft, or watercraft, except where the activity is subject to an applicable requirement. The applicable requirement or the emissions of those air contaminants addressed by the applicable requirement shall be included in a timely and administratively complete application pursuant to R 336.1210. Examples of applicable requirements may include an applicable requirement for a fugitive dust control or operating program or an applicable requirement to include fugitive emissions pursuant to R 336.1211(1)(a)(ii). For the purpose of this subdivision, the maintenance of motor vehicles does not include painting or refinishing.
(j) Construction, repair, and maintenance of roads or other paved or unpaved areas, except where the activities are subject to an applicable requirement. The applicable requirement or the emissions of the air contaminants addressed by the applicable requirement shall be included in a timely and administratively complete application pursuant to R 336.1210. Examples of applicable requirements include an applicable requirement for a fugitive dust control or operating program or an applicable requirement to include fugitive emissions pursuant to R 336.1211(1)(a)(ii).
(k) Piping and storage of sweet natural gas, including venting from pressure relief valves and purging of gas lines.
~~Insignificant activities do not contribute to the actual emissions or the potential to emit of a stationary source.~~
~~(2)~~ (3) ~~Except as provided in subrule (4) of this rule, all of~~ The following process or process equipment ~~are exempt from the requirements of R 336.1210, including the requirement to calculate the actual emissions of fee-subject air pollutants resulting from the operation of the process or process equipment, if consistent with the provisions of subrule (6) of this rule~~ NEED NOT BE INCLUDED IN AN ADMINISTRATIVELY COMPLETE APPLICATION FOR A RENEWABLE OPERATING PERMIT, UNLESS THE PROCESS OR PROCESS EQUIPMENT IS SUBJECT TO APPLICABLE REQUIREMENTS THAT INCLUDE A PROCESS-SPECIFIC EMISSION LIMITATION OR STANDARD:
(a) All cooling and ventilation equipment listed in R 336.1280.
(b) Cleaning, washing, and drying equipment listed in R 336.1281(a) to (f) and (i).
(c) Electrically heated furnaces, ovens, and heaters listed in R 336.1282(a).
(d) All ~~processes and process equipment and~~ other equipment listed in R 336.1283.
(e) Containers listed in R 336.1284(a), (c), (d), (h), AND (j)~~, and (k)~~ TO (m).
(f) Miscellaneous ~~process or process~~ equipment listed in R 336.1285~~(e) to (m), (o) to (q), and (s) to (z)~~(H) TO (P), (R) TO (T), AND (V) TO (II), except for externally vented ~~process~~ equipment listed in R 336.1285~~(i)~~(l)(vi).
(g) All plastic processing equipment listed in R 336.1286.
(h) Surface coating equipment listed in R 336.1287(b), (d), (e), (i), (j), and (k).
(i) All oil and gas processing equipment listed in R 336.1288.
(j) All asphalt and concrete production equipment listed in R 336.1289.

~~(3) Except as provided in subrules (4) and (5) of this rule, all of the following process or process equipment is exempt from the requirements of R 336.1210, including the requirement to calculate the actual emissions of fee-subject air pollutants resulting from the operation of the process or process equipment, if consistent with the provisions of subrule (6) of this rule:~~(4) UNLESS SUBJECT TO A PROCESS-SPECIFIC EMISSION LIMITATION OR STANDARD, ALL OF THE FOLLOWING PROCESS OR PROCESS EQUIPMENT NEED ONLY BE LISTED IN AN ADMINISTRATIVELY COMPLETE APPLICATION FOR A RENEWABLE OPERATING PERMIT. THIS LIST SHALL INCLUDE A DESCRIPTION OF THE PROCESS OR PROCESS EQUIPMENT, INCLUDING ANY CONTROL EQUIPMENT PERTAINING TO THE PROCESS OR PROCESS EQUIPMENT, THE SOURCE CLASSIFICATION CODE (SCC), AND A REFERENCE TO THE SUBDIVISION OF THIS SUBRULE THAT IDENTIFIES THE PROCESS OR PROCESS EQUIPMENT:(a) Cleaning, washing, and drying equipment listed in R 336.1281(g) and (h).

(b) Fuel-burning furnaces, ovens, and heaters listed in R 336.1282.

(c) Containers listed in R 336.1284(b), (e), (f), (g), and (i).

(d) Miscellaneous process or process equipment listed in R 336.1285~~(d), (n), and (r)~~(G), (Q), AND (U) and externally vented process equipment listed in R 336.1285~~(i)~~(l)(vi).

(e) Surface-coating equipment listed in R 336.1287(a) and (c).

(f) Process or process equipment which has limited emissions and which is listed in R 336.1290.

~~(4) Notwithstanding the exemptions provided in subrules (2) and (3) of this rule, a timely and administratively complete application for a stationary source subject to the requirements of R 336.1210 shall contain all information that is necessary to implement and enforce all applicable requirements that include a process-specific emission limitation or standard or to determine the applicability of those requirements.~~

~~(5) An administratively complete application for a renewable operating permit pursuant to R 336.1210 shall include a list of all process or process equipment that qualifies under this rule as exempt pursuant to subrule (3) of this rule. The list shall include the information specified in both of the following provisions:~~

~~(a) A description of the process or process equipment, including any control equipment pertaining to the process or process equipment and the source classification code (scc).~~

~~(b) A reference to the subdivision of subrule (3) of this rule that exempts the process or process equipment.~~

~~(6)~~ (5) As a part of an application for a renewable operating permit, a person may seek to establish that certain terms or conditions of a permit to install, permit to operate, or order entered pursuant to the act are not appropriate to be incorporated into the renewable operating permit or should be modified to provide for consolidation or clarification of the applicable requirements. An application for a renewable operating permit may include information necessary to demonstrate any of the following:

(a) That a term or condition of a permit to install, permit to operate, or order entered pursuant to the act is no longer an applicable requirement.

(b) That a term or condition of a permit to install, permit to operate, or order entered pursuant to the act should be modified to provide for consolidation or clarification of the applicable requirement. A person shall demonstrate that the modification results in

enforceable applicable requirements which are equivalent to the applicable requirements contained in the original permit or order and that the equivalent requirements do not violate any other applicable requirement.

(c) That the ~~process~~ equipment should be combined into ~~processes~~ EMISSION UNITS different from the ~~processes~~ EMISSION UNITS contained in a permit to install, permit to operate, or order entered pursuant to the act to provide for consolidation or clarification of the applicable requirement. A person shall demonstrate that the realignment of the ~~processes~~ EMISSION UNITS results in enforceable applicable requirements which are equivalent to the applicable requirements contained in the original permit or order and that the equivalent requirements do not violate any other applicable requirement.

~~(7)~~ (6) Beginning with the annual report of emissions required pursuant to R 336.202 and section 5503(k) of the act for calendar year 1995, or the first calendar year after a stationary source becomes a major source as defined by R 336.1211(1)(a), whichever is later, each stationary source subject to the requirements of this rule shall report the emissions, or the information necessary to determine the emissions, of each regulated air pollutant. The information shall be submitted utilizing the emissions inventory forms provided by the department. For the purpose of this subrule, "regulated air pollutant" means all of the following:

(a) Nitrogen oxides or any volatile organic compound.

(b) A pollutant for which a national ambient air quality standard has been promulgated under the clean air act.

(c) A pollutant that is subject to any standard promulgated under section 111 of the clean air act.

(d) A class I or II substance that is subject to a standard promulgated under or established by title VI of the clean air act.

(e) A pollutant that is subject to a standard promulgated under section 112 or other requirements established under section 112 of the clean air act, except for pollutants regulated solely pursuant to section 112(r) of the clean air act. Pollutants subject to a standard promulgated or other requirements established under section 112 of the clean air act include both of the following:

(i) A pollutant that is subject to requirements under section 112(j) of the clean air act. If the administrator of the United States environmental protection agency fails to promulgate a standard by the date established pursuant to section 112(e) of the clean air act, any pollutant for which a stationary source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the clean air act.

(ii) A pollutant for which the requirements of section 112(g)(2) of the clean air act have been met, but only with respect to the specific stationary source that is subject to the section 112(g)(2) requirement.

~~(8)~~ (7) For the purpose of calculating the annual air quality fee pursuant to section 5522 of the act, the actual emissions of a fee-subject air pollutant from process or process equipment listed pursuant to subrules (2) ~~and (3)~~ TO (4) of this rule need not be calculated if there is no applicable requirement THAT INCLUDES A PROCESS-SPECIFIC EMISSION LIMITATION OR STANDARD for the specific fee-subject air pollutant and if the actual emissions from the process or process equipment do not exceed 10% of significant, as defined

in R 336.1119(e), for that air pollutant. Otherwise, the quantity of the actual emissions of fee-subject air pollutants from all process or process equipment at a stationary source subject to the requirements of R 336.1210 shall be determined for the purpose of calculating the annual air quality fee.

R 336.1213 Content of a renewable operating permit.

Rule 213. (1) Each renewable operating permit shall include all of the following general provisions:

(a) A person shall comply with all conditions of the renewable operating permit. Any permit noncompliance constitutes a violation of the act and is grounds for enforcement action, for permit revocation or revision, or for denial of the renewal of a renewable operating permit. All terms and conditions of a renewable operating permit that are designated in the permit as federally enforceable pursuant to subrule (5) of this rule, are enforceable by the administrator of the United States environmental protection agency and by citizens under the provisions of the clean air act.

(b) It shall not be a defense for a person in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(c) The renewable operating permit may be modified, revised, or revoked for cause. The filing of a request by a person for a permit modification, revision, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. This does not supersede or affect the ability of a person to make changes, at the person's own risk, pursuant to R 336.1215 and R 336.1216.

(d) A person shall allow the department or an authorized representative of the department, upon presentation of credentials and other documents as may be required by law and upon stating the authority for and purpose of the investigation, to perform any of the following activities:

(i) Enter, at reasonable times, a stationary source or other premises where emissions-related activity is conducted or where records must be kept under the conditions of the permit.

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit.

(iii) Inspect, at reasonable times, any of the following:

(A) Any stationary source.

(B) Any ~~process~~ EMISSION UNIT.

(C) Any ~~process~~ equipment, including monitoring and air pollution control equipment.

(D) Any work practices or operations regulated or required under the renewable operating permit.

(iv) As authorized by section 5526 of the act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(e) A person shall furnish to the department, within a reasonable time, any information that the department may request, in writing, to determine whether cause exists for modifying, revising, or revoking the permit or to determine compliance with the permit. Upon request, a person shall also furnish to the department copies of any records that are

required to be kept as a term or condition of the renewable operating permit. For information which is claimed by the person to be confidential, consistent with the requirements of 1976 PA ~~Act No.~~ 442, MCL ~~of the Public Acts of 1976, as amended, being~~ ~~§~~15.231 et seq. ~~of the Michigan Compiled Laws,~~ and known as the freedom of information act, the person may also be required to furnish the records directly to the United States environmental protection agency together with a claim of confidentiality.

(f) A challenge by any person, the administrator of the United States environmental protection agency, or the department to a particular condition or a part of a renewable operating permit shall not set aside, delay, stay, or in any way affect the applicability or enforceability of any other condition or part of the renewable operating permit.

(g) A person shall pay fees consistent with the fee schedule and requirements pursuant to section 5522 of the act.

(h) The renewable operating permit does not convey any property rights or any exclusive privilege.

(i) FEDERALLY ENFORCEABLE PERMIT TO INSTALL TERMS AND CONDITIONS INCORPORATED INTO THE RENEWABLE OPERATING PERMIT ARE IDENTIFIED AS A FEDERALLY ENFORCEABLE PERMIT TO INSTALL WITHIN THE RENEWABLE OPERATING PERMIT.

(2) Each renewable operating permit shall contain emission limits and standards, including operational requirements and limits that ensure compliance with all applicable requirements at the time of permit issuance. IN ADDITION, EACH RENEWABLE OPERATING PERMIT MAY CONTAIN LIMITS THAT ARE AGREEABLE TO BOTH THE APPLICANT AND THE DEPARTMENT. The following provisions apply to emission limits and standards:

(a) The renewable operating permit shall specify and reference the underlying applicable requirement for each term or condition and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(b) The renewable operating permit shall state that, where an applicable requirement is more stringent than an applicable requirement of regulations promulgated for affected sources under title IV of the clean air act, both provisions shall be incorporated into the permit.

(c) If the state implementation plan allows for an alternative emission limit that is equivalent to the limit contained in the state implementation plan, any renewable operating permit containing the equivalent alternative emission limit shall contain terms and conditions to ensure that any such emission limit is quantifiable, accountable, enforceable, and based on replicable procedures.

(d) ANY TERM OR CONDITION ESTABLISHED AS A LIMIT ON THE POTENTIAL TO EMIT OF THE STATIONARY SOURCE SHALL BE CONSISTENT WITH THE REQUIREMENTS OF R 336.1205(1)(A). FOR EACH SUCH LIMIT ON THE POTENTIAL TO EMIT OF THE STATIONARY SOURCE, THE PERMIT SHALL SPECIFY AND REFERENCE ANY REQUIREMENTS THAT WOULD OTHERWISE BE APPLICABLE TO THE SOURCE OR EMISSION UNIT.

(3) The renewable operating permit shall contain terms and conditions necessary to ensure that sufficient testing, monitoring, recordkeeping, reporting, and compliance evaluation activities will be conducted to determine the status of compliance of the stationary source

with the emission limitations and standards contained in the renewable operating permit. The following provisions apply to testing, monitoring, recordkeeping, reporting, and compliance evaluation activities:

(a) With respect to testing and monitoring, each renewable operating permit shall contain terms and conditions necessary to ensure compliance with all of the following:

(i) The use of all emissions monitoring and analysis procedures or test methods required by the applicable requirements, including 40 C.F.R. PART 64 AND any OTHER procedures and methods promulgated pursuant to sections 504(b) or 114(a)(3) of the clean air act. TITLE 40 C.F.R. PART 64 IS ADOPTED BY REFERENCE IN R 336.1299. IF MORE THAN 1 MONITORING OR TESTING REQUIREMENT APPLIES, THE PERMIT MAY SPECIFY A STREAMLINED SET OF MONITORING OR TESTING REQUIREMENTS, PROVIDED THE SPECIFIED MONITORING OR TESTING IS ADEQUATE TO ASSURE COMPLIANCE AT LEAST TO THE SAME EXTENT AS THE MONITORING OR TESTING APPLICABLE REQUIREMENTS THAT WERE NOT INCLUDED IN THE PERMIT AS A RESULT OF SUCH STREAMLINING.(ii) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring, which may consist of recordkeeping designed to serve as monitoring, the use of periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the stationary source's compliance with the permit, as reported pursuant to subrule (3)(c) of this rule. The monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions shall be sufficient to meet the requirements of subrule (3)(b) of this rule.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(b) With respect to recordkeeping, each renewable operating permit shall contain terms and conditions necessary to ensure compliance with the recordkeeping requirements specified in the applicable requirements. Each renewable operating permit shall also contain terms and conditions that require, where appropriate, both of the following:

(i) Records of any periodic emission or parametric monitoring that include all of the following information:

(A) The date, location, time, and method of sampling or measurements.

(B) The dates analyses of the samples were performed.

(C) The company or entity that performed the analyses of the samples.

(D) The analytical techniques or methods used.

(E) The results of the analyses.

(F) The related ~~process~~ operating conditions or parameters that existed at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of not less than 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings, or other original data records, for continuous monitoring instrumentation and copies of all reports required by the renewable operating permit.

(c) With respect to reporting and the certification of reports, each renewable operating permit shall contain terms and conditions necessary to insure compliance with the

reporting requirements specified in the applicable requirements. Except as provided subdivision (iii)(B) of this subdivision, any document, including reports, required to be submitted to the department as a term or condition of a renewable operating permit shall ~~contain~~ INCLUDE a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. Each renewable operating permit shall also contain terms and conditions for all of the following:

(i) The submittal of reports of any required monitoring at least once every 6 months. All instances of deviations from permit requirements during the reporting period shall be clearly identified in the reports. Each report submitted pursuant to this subdivision shall ~~contain~~ INCLUDE a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(ii) The prompt reporting of deviations from permit requirements. Prompt reporting shall be defined as follows, unless otherwise provided in the renewable operating permit:

(A) For deviations that exceed the emissions allowed under the renewable operating permit, prompt reporting means reporting consistent with the requirements of R 336.1912. All reports submitted pursuant to this paragraph shall be promptly certified as specified in paragraph (iii) of this subdivision.

(B) For deviations which exceed the emissions allowed under the renewable operation permit and which are not reported pursuant to R 336.1912 due to the duration of the deviation, prompt reporting means the reporting of all deviations in the reports required by paragraph (i) of this subdivision. The report shall describe reasons for each deviation and the actions taken to minimize or correct each deviation.

(C) For deviations that do not exceed the emissions allowed under the renewable operating permit, prompt reporting means the reporting of all deviations in the reports required by paragraph (i) of this subdivision. The report shall describe the reasons for each deviation and the actions taken to minimize or correct each deviation.

(iii) For reports required pursuant to paragraph (ii) of this subdivision, prompt certification of the reports means either of the following:

(A) Submitting a certification by a responsible official with each report which states that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(B) Submitting, within 30 days following the end of a calendar month during which 1 or more prompt reports of deviations from the emissions allowed under the permit were submitted to the department pursuant to paragraph (ii) of this subdivision, a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information contained in each of the reports submitted during the previous month were true, accurate, and complete. The certification shall include a listing of the reports that are being certified. Any report submitted pursuant to paragraph (ii) of this subdivision that will be certified on a monthly basis pursuant to this paragraph shall include a statement that certification of the report will be provided within 30 days following the end of the calendar month.

(4) With respect to compliance, each renewable operating permit shall contain terms and conditions necessary to ensure each of the following:

(a) Incorporation into the renewable operating permit of a schedule of compliance.
(b) For a stationary source that is not in compliance with all applicable requirements at the time of issuance of a renewable operating permit, the submission of progress reports to the department, consistent with an applicable schedule of compliance, at least semiannually or more frequently if specified in an applicable requirement or by the department in the permit. Progress reports shall contain the information specified in both of the following provisions:
(i) The date or dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and the date or dates when the activities, milestones, or compliance were achieved.
(ii) An explanation of why any dates in the schedule of compliance were not or will not be met and a description of any preventive or corrective measures adopted.
(c) A requirement that, at least annually, or more frequently if specified in an applicable requirement or by the department in the renewable operating permit, the responsible official shall certify, in writing, to the department and to the United States environmental protection agency, that the stationary source is and has been in compliance with all terms and conditions contained in the renewable operating permit, except for any deviations from compliance that have been or are being reported to the department. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the certification are true, accurate, and complete. Each certification of compliance shall include all of the following information:
(i) The identification of each term or condition of the permit that is the basis of the certification.
(ii) The compliance status of the stationary source with respect to each identified term or condition.
(iii) Whether compliance was continuous or intermittent.
(iv) The methods used for determining the compliance status of the stationary source, currently and over the reporting period consistent with subrules (3)(a), (b), and (c) of this rule.
(v) Other facts as the department may require in the permit that are necessary to determine the compliance status of the stationary source.
(5) EACH RENEWABLE OPERATING PERMIT SHALL PROVIDE FOR THE FOLLOWING:
(a) Each renewable operating permit shall specifically designate as not being enforceable under the clean air act any terms and conditions included in the permit that are not required under the clean air act or under any of its applicable requirements. Terms and conditions so designated are not subject to the requirements for review by the United States environmental protection agency or affected states under R 336.1214.
(b) EACH RENEWABLE OPERATING PERMIT SHALL SPECIFICALLY DESIGNATE EACH FEDERALLY ENFORCEABLE APPLICABLE REQUIREMENT PREVIOUSLY ESTABLISHED IN A PERMIT TO INSTALL.
(6) Both of the following provisions apply to permit shields:
(a) Except as provided in subdivision (b) of this subrule, each renewable operating permit shall include a permit shield provision stating that compliance with the conditions of the

permit shall be considered compliance with any applicable requirements as of the date of permit issuance, if either of the following provisions is satisfied:
(i) The applicable requirements are included and are specifically identified in the permit.
(ii) The permit includes a determination or a concise summary of the determination by the department that other specifically identified requirements are not applicable to the stationary source.
(b) Nothing in this subrule or in any renew~~a~~ble operating permit shall alter or affect any of the following:
(i) The provisions of section 303 of the cle~~a~~n air act, emergency orders, including the authority of the administrator of the United States environmental protection agency under that section.
(ii) The liability of an owner or operator of a stationary source for any violation of applicable requirements before or at the time of permit issuance.
(iii) The applicable requirements of the acid rain program, consistent with section 408(a) of the clean air act.
(iv) The ability of the United States environmental protection agency to obtain information from a stationary source pursuant to section 114 of the clean air act.
(7) Each renewable operating permit shall be issued for a fixed term of not more than 5 years. Renewable operating permits that have terms of less than 5 years may be issued with the agreement of the department and the permit applicant. The terms and conditions of a renewable operating permit for affected sources under title IV of the clean air act that address the requirements of title IV shall be issued for a term of 5 years. The date of expiration of the renewable operating permit shall be specified in the permit.
(8) A renewable operating permit shall include terms and conditions that allow a stationary source to switch its operation between reasonably anticipated operating scenarios if the scenarios have been identified by the stationary source in its application and found to be approvable by the department. The terms and conditions shall provide for all of the following:
(a) Require the stationary source, contemporaneously with making a change from one operating scenario to another, to record, in a log at the stationary source, a record of the scenario under which the source is operating.
(b) Extend the permit shield described in subrule (6) of this rule to all terms and conditions under each approved operating scenario.
(c) Ensure that the terms and conditions of each approved alternative scenario meet all applicable requirements.
(9) A renewable operating permit shall include terms and conditions for the trading of emissions increases and decreases among process ~~and process equipment~~ EMISSION UNITS within the stationary source solely for the purpose of complying with an emissions cap that is established in the permit independent of otherwise applicable requirements, if the terms and conditions have been requested by a person in an application for a renewable operating permit. If a person wishes to include the terms and conditions in a renewable operating permit, the permit application shall include proposed replicable procedures and permit terms that the person believes ensure the emissions trades are quantifiable and enforceable. The terms and conditions shall include those necessary to meet the requirements of subrules (2) to (4) of this rule. The department shall not be required to

include in the emissions trading provisions any ~~process or process equipment~~ EMISSION UNITS for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. Both of the following provisions apply to the trading of emissions increases and decreases among ~~process and process equipment~~ EMISSION UNITS solely for the purpose of complying with an emissions cap:

(a) A written notification to the department and the United States environmental protection agency is required 7 days in advance of any emissions trade under this subrule. The notice shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

(b) The permit shield described in subrule (6) of this rule shall extend to terms and conditions that allow the increases and decreases in emissions.

(10) In addition to the other requirements of this rule, each renewable operating permit for an affected source under title iv of the clean air act shall include a permit condition prohibiting emissions exceeding any allowances that an affected source lawfully holds as of the allowance transfer deadline pursuant to R 336.1299(d) and 40 C.F.R. §72.9(c)(1)(i). All of the following apply to allowances:

(a) A permit revision shall not be required for increases in emissions that are authorized by allowances acquired pursuant to title IV of the clean air act if the increases do not require a permit revision under any other applicable requirement.

(b) A limit shall not be placed on the number of allowances held by the affected source. The affected source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(c) Any allowance shall be accounted for according to the procedures established in regulations promulgated under title IV of the clean air act.

(11) A renewable operating permit for a temporary source may authorize emissions from a stationary source at multiple temporary locations. An affected source under title IV of the clean air act shall not be permitted as a temporary source. In addition to the other requirements of this rule, permits for temporary sources shall include all of the following provisions:

(a) Conditions that will assure compliance with all applicable requirements at all authorized locations.

(b) Requirements that the owner or operator notify the department not less than 10 days in advance of each change in location.

(c) Conditions that assure compliance with all other provisions of this rule.

(12) A RENEWABLE OPERATING PERMIT SHALL CONTAIN TERMS AND CONDITIONS ALLOWING FOR EMISSION AVERAGING AND EMISSION REDUCTION CREDIT TRADING PURSUANT TO ANY APPLICABLE INTERSTATE OR REGIONAL EMISSIONS TRADING PROGRAM THAT HAS BEEN APPROVED BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS A PART OF MICHIGAN'S STATE IMPLEMENTATION PLAN, INCLUDING THE R 336.2201 ET SEQ.

R 336.1214 Approval of a renewable operating permit.

Rule 214. (1) After the department has received an administratively complete application and all additional information requested by the department pursuant to R 336.1210(3) for a renewable operating permit, significant modification to a renewable operating permit, or the renewal of a renewable operating permit, the department shall prepare a draft permit and a report that sets forth the applicable requirements and factual basis for the draft permit terms and conditions. The report shall include citations of the applicable requirements, an explanation of any equivalent requirements or other changes included in the draft permit pursuant to R 336.1212(6), and any determination made pursuant to R 336.1213(6)(a)(ii) regarding requirements that are not applicable to the stationary source where the draft permit contains only a summary of the determination.

(2) The person who applied for the renewable operating permit shall be provided with a reasonable period of time, but not less than 7 days nor more than 30 days, to review and comment on the draft renewable operating permit, draft renewable operating permit significant modification, or draft renewable operating permit renewal before the start of the public participation procedure specified in subrule (3) of this rule. If the person and the department cannot agree on the terms and conditions of the draft renewable operating permit, the terms and conditions that the department believes are necessary to comply with the requirements of R 336.1213 shall be incorporated into the draft renewable operating permit and the report required by subrule (1) of this rule shall include a discussion of the person's objections.

(3) Except for modifications qualifying for administrative permit amendment procedures pursuant to R 336.1216(1) or minor permit modification procedures pursuant to R 336.1216(2), the draft renewable operating permit, draft renewable operating permit modification, or the draft renewable operating permit renewal shall be subjected to the following public participation procedure before the department submits a proposed renewable operating permit to the United States environmental protection agency for review pursuant to subrule (6) of this rule:

(a) The department shall provide public notice by publication in a newspaper of general circulation in the area where the stationary source is located or in a state publication designed to give general public notice. Notice shall also be provided to persons on a mailing list maintained by the department, including persons who request, in writing, to be on that list, and to any person who requests, in writing, to be notified of a permit action involving a specific stationary source.

(b) The notice shall set forth all of the following information:

(i) The name of the stationary source.

(ii) The name and mailing address of the responsible official.

(iii) The mailing address of the department.

(iv) The activity or activities involved in the proposed permit action.

(v) The emissions change involved in any permit modification.

(vi) The name, address, and telephone number of a representative of the department from whom interested persons may obtain additional information, including copies of the draft permit, the report required under subrule (1) of this rule, and, to the extent provided by ~~Act No.~~ 1976 PA 442, MCL ~~of the Public Acts of 1976, as amended, being~~ §15.231 et seq. ~~of the~~

~~Michigan Compiled Laws,~~ and known as the freedom of information act, the application and any other materials available to the department that are relevant to the permit decision.
(vii) A brief description of the procedures to submit comments.
(viii) The time and place of any hearing that may be held, including a statement of the procedures to request a hearing, unless a hearing has already been scheduled.
(c) The department shall provide not less than 30 days for public comment and shall give notice of any public hearing not less than 30 days in advance of the hearing.
(d) The department shall keep a record of the commenters and the issues raised during the public participation process and the records shall be available to the public.
(4) The department shall give notice of each draft permit to any affected state on or before the time that the department provides notice to the public pursuant to subrule (3) of this rule, unless R 336.1216(2) requires the timing of the notice to be different. The department shall notify the administrator of the United States environmental protection agency and any affected state, in writing, of any refusal by the department to accept all recommendations for the proposed permit that the affected state submitted during the public comment period specified in subrule (3)(c) of this rule. The notice shall include the department's reasons for not accepting any recommendation. The department is not required to accept recommendations that are not based on applicable requirements.
(5) After the completion of the public participation procedure specified in subrule (3) of this rule and the review by affected states specified in subrule (4) of this rule, the department shall prepare a proposed renewable operating permit, proposed renewable operating permit significant modification, or proposed renewable operating permit renewal. If the proposed renewable operating permit differs from the draft renewable operating permit in response to substantial and relevant comments from the public or affected states, the person who applied for the renewable operating permit shall be provided with a reasonable period of time, but not less than 7 days nor more than 30 days, to review and comment on the changes before the transmittal of the proposed renewable operating permit to the United States environmental protection agency for review. If the person and the department cannot agree on the changes to the proposed renewable operating permit, the changes that the department believes are necessary to comply with the requirements of R 336.1213 shall be incorporated into the proposed renewable operating permit and the person's objections shall be included in the information transmitted to the United States environmental protection agency for review.
(6) Except as provided in 40 C.F.R. §70.8(a)(1) and (2) and as provided in R 336.1210(13), the department shall transmit a copy of each administratively complete application for a renewable operating permit, including any application for a significant modification to a renewable operating permit or for renewal of a renewable operating permit, all additional information submitted pursuant to R 336.1210(3), the report prepared pursuant to subrule (1) of this rule, and the proposed renewable operating permit to the United States environmental protection agency. The department shall not take a final action to issue a renewable operating permit until 45 days after the United States environmental protection agency has received all the information specified in this subrule and subrule (4) of this rule. If the administrator of the United States environmental protection agency objects, in writing, to the renewable operating permit before the end of the 45-day review period specified in this subrule, the department shall not issue the renewable operating permit

until the administrator's objection has been resolved. The department shall follow the procedure specified in 40 C.F.R. §70.8(c) to resolve the objection. The application shield provided by R 336.1210(1) shall continue to apply to the stationary source, consistent with the provisions of R 336.1210, until the department takes final action on the renewable operating permit.

(7) The department shall make a final decision to issue or deny a renewable operating permit, a significant modification to a renewable operating permit, or the renewal of a renewable operating permit after completion of the review by the United States environmental protection agency specified in subrule (6) of this rule. The final renewable operating permit shall contain all terms and conditions determined by the department to be necessary pursuant to R336.1213, after consideration of all comments received during public participation pursuant to subrule (3) of this rule and affected state review pursuant to subrule (4) of this rule, including any terms and conditions necessary to resolve any objection by the administrator of the United States environmental protection agency pursuant to subrule (6) of this rule. The department shall transmit a copy of each final renewable operating permit to the United States environmental protection agency. A person aggrieved by the issuance, denial, modification, or renewal of a renewable operating permit may appeal the final decision as provided in section 5506(14) of the act. ~~Upon the effective date of the renewable operating permit, all permits to install and permits to operate that were included in the application for the renewable operating permit shall become void, except as provided by section 91(2) of Act No. 306 of the Public Acts of 1969, as amended, being §24.291(2) of the Michigan Compiled Laws, and known as the administrative procedures act.~~

(8) Any person may petition the administrator of the United States environmental protection agency to make an objection regarding a renewable operating permit pursuant to 40 C.F.R. §70.8(d). The petition shall be filed within 60 days after the expiration of the administrator's 45-day review period specified in subrule (6) of this rule and 40 C.F.R. §70.8(c). The petition shall be based only on an objection to the renewable operating permit that was raised with reasonable specificity during the public comment period provided for in subrule (3)(c) of this rule, unless the petitioner demonstrates that it was impracticable to raise the objection during the public comment period or unless the grounds for the objection arose after the public comment period. A petition for review does not stay the effectiveness of a renewable operating permit or its requirements if the renewable operating permit was issued after the end of the 45-day review period and before the department received an objection by the administrator. If the administrator of the United States environmental protection agency objects to the renewable operating permit as a result of a petition filed pursuant to 40 C.F.R. §70.8(d) before the department has issued the renewable operating permit, the department shall not issue the renewable operating permit until the administrator's objection has been resolved. The application shield provided by R 336.1210(1) shall continue to apply to the stationary source, consistent with the provisions of R 336.1210, until the department takes final action on the renewable operating permit. If the administrator of the United States environmental protection agency objects to the renewable operating permit as a result of a petition filed pursuant to 40 C.F.R. §70.8(d) after the department has issued the renewable operating permit, the

department shall follow the procedure specified in 40 C.F.R. §70.7(g) to resolve the objection.

R 336.1215 Operational flexibility ~~under~~ EMISSIONS TRADING ACTIVITIES BETWEEN STATIONARY SOURCES, OFF-PERMIT CHANGES, AND INSIGNIFICANT CHANGES FOR a renewable operating permit.

Rule 215. ~~(1) A person may operate process and process equipment at a stationary source and make changes at a stationary source that are consistent with, and not constrained by, the terms and conditions of the renewable operating permit or by any applicable requirement. The changes include any changes that do not contravene a term or condition of the renewable operating permit, changes that do not alter or affect the applicability of any applicable requirement, and changes that are otherwise not regulated by any applicable requirement.~~

~~(2)~~ (1) THE FOLLOWING PROVISIONS APPLY TO OPERATIONAL FLEXIBILITY WITHIN A STATIONARY SOURCE. AS PROVIDED IN 40 C.F.R. §70.4(B)(12), a person may make either of the following changes to process or process equipment ~~at~~ WITHIN a stationary source covered by a renewable operating permit without a revision to that permit, if the changes are not a modification under any applicable provision of title I of the clean air act and the ~~actual emissions resulting from the~~ changes do not exceed the emissions ~~allowed~~ ALLOWABLE under the renewable operating permit, WHETHER EXPRESSED THEREIN AS A RATE OF EMISSIONS OR IN THE TERMS OF TOTAL EMISSIONS, IF THE PERSON PROVIDES WRITTEN NOTIFICATION TO THE DEPARTMENT AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AT LEAST 7 DAYS PRIOR TO THE CHANGE. THE PERMITTEE AND THE DEPARTMENT SHALL ATTACH EACH SUCH NOTICE TO THEIR COPY OF THE RELEVANT PERMIT:

(A) AS PROVIDED IN 40C.F.R. §70.2 AND 40 C.F.R. §70.4(B)(12)(i), a person may make ~~a change~~ CHANGES that ~~contravenes~~ CONTRAVENE a specific permit condition, if ~~the person submits written notification of the change and the notification is received by the department and the United States environmental protection agency 7 days in advance of the change. The notification shall include a brief description of the change and shall identify the date on which the change will occur, any change in emissions that will occur as a result of the change, and any permit term or condition that will no longer be applicable as a result of the change. A change made pursuant to this subdivision shall not violate any applicable requirement, including any applicable requirement for monitoring, recordkeeping, reporting, or compliance certification.~~ THE CHANGES ARE NOT MODIFICATIONS UNDER ANY PROVISION OF TITLE I OF THE CLEAN AIR ACT AND THE CHANGES DO NOT EXCEED THE EMISSIONS ALLOWABLE UNDER THE RENEWABLE OPERATING PERMIT, WHETHER EXPRESSED THEREIN AS A RATE OF EMISSIONS OR IN TERMS OF TOTAL EMISSIONS. SUCH CHANGES DO NOT INCLUDE CHANGES THAT WOULD VIOLATE APPLICABLE REQUIREMENTS OR CONTRAVENE FEDERALLY ENFORCEABLE PERMIT TERMS AND CONDITIONS THAT ARE MONITORING, INCLUDING TEST METHODS, RECORDKEEPING, REPORTING, OR COMPLIANCE CERTIFICATION REQUIREMENTS. FOR EACH

SUCH CHANGE, THE WRITTEN NOTIFICATION REQUIRED IN THIS SUBRULE SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION:
(I) A BRIEF DESCRIPTION OF THE CHANGE WITHIN THE STATIONARY SOURCE.
(II) THE DATE ON WHICH THE CHANGE WILL OCCUR.
(III) ANY CHANGE IN EMISSIONS.
(IV) ANY PERMIT TERM OR CONDITION THAT IS NO LONGER APPLICABLE AS A RESULT OF THE CHANGE.
EMISSIONS ALLOWABLE UNDER THE RENEWABLE OPERATING PERMIT MEANS A PERMIT TERM OR CONDITION DETERMINED AT PERMIT ISSUANCE TO BE REQUIRED BY AN APPLICABLE REQUIREMENT THAT ESTABLISHES AN EMISSIONS LIMIT, INCLUDING A WORK PRACTICE STANDARD, OR AN EMISSIONS CAP THAT THE STATIONARY SOURCE HAS ASSUMED TO AVOID AN APPLICABLE REQUIREMENT TO WHICH THE STATIONARY SOURCE WOULD OTHERWISE BE SUBJECT.
(b) AS PROVIDED IN 40 C.F.R. §70.4(B)(12)(ii), a person may TRADE INCREASES AND DECREASES IN EMISSIONS WITHIN THE STATIONARY SOURCE ACCORDING TO PROCEDURES SPECIFIED IN R 336.2201 ET SEQ. ~~make any changes allowed by an applicable emissions trading program, including any changes allowed by an applicable interstate or regional emissions trading program that has been approved by the administrator of the United States environmental protection agency as a part of Michigan's state implementation plan,~~ if the person ~~notifies~~ HAS PROVIDED WRITTEN NOTIFICATION TO the department and the United States environmental protection agency of the changes AT LEAST 7 DAYS PRIOR TO THE ACTIVITY TAKING PLACE ~~consistent with the requirements of the emissions trading program.~~
~~The emissions allowed under the renewable operating permit include any emission limitation, standard, or condition, including a work practice standard, that is required by an applicable requirement or any emission limitation, standard, or condition, including a work practice standard, that establishes an emissions cap which the source has assumed to avoid an applicable requirement~~.
(i) THE WRITTEN NOTIFICATION REQUIRED IN THIS SUBDIVISION SHALL INCLUDE ALL INFORMATION REQUIRED BY R 336.2201 ET SEQ., INCLUDING AT A MINIMUM, ALL OF THE FOLLOWING INFORMATION:
(A) WHEN THE PROPOSED CHANGE WILL OCCUR.
(B) A DESCRIPTION OF EACH SUCH CHANGE.
(C) ANY CHANGE IN EMISSIONS.
(D) THE PERMIT REQUIREMENTS WITH WHICH THE STATIONARY SOURCE WILL COMPLY USING THE EMISSIONS TRADING PROVISIONS OF R 336.2201 ET SEQ. FOR TRADING WITHIN A STATIONARY SOURCE.
(E) THE POLLUTANTS EMITTED SUBJECT TO THE EMISSIONS TRADE.
(F) THE PROVISIONS OF R 336.2201 ET SEQ. WITH WHICH THE STATIONARY SOURCE WILL COMPLY AND WHICH PROVIDE FOR THE EMISSIONS TRADE WITHIN THE STATIONARY SOURCE.
(II) COMPLIANCE WITH THE PERMIT REQUIREMENTS THAT THE STATIONARY SOURCE WILL MEET USING THE EMISSIONS TRADE SHALL BE DETERMINED

ACCORDING TO THE REQUIREMENTS OF R 336.2201 ET SEQ. AUTHORIZING THE EMISSIONS TRADE WITHIN THE STATIONARY SOURCE.

(2) THE FOLLOWING PROVISIONS APPLY TO EMISSION REDUCTION CREDITS TRADING BETWEEN STATIONARY SOURCES. AS PROVIDED IN 40 C.F.R. §70.6(A)(8), A PERSON MAY MAKE ANY CHANGES WITHOUT REVISION TO THE RENEWABLE OPERATING PERMIT WHERE PROVIDED FOR IN THE RENEWABLE OPERATING PERMIT AND ALLOWED BY AN APPLICABLE INTERSTATE OR REGIONAL EMISSIONS TRADING PROGRAM THAT HAS BEEN APPROVED BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, INCLUDING R 336.2201 ET SEQ. THE PERSON SHALL PROVIDE WRITTEN NOTIFICATION TO THE DEPARTMENT AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OF THE CHANGES AT LEAST 7 DAYS PRIOR TO THE ACTIVITY TAKING PLACE. THE PERMITTEE AND THE DEPARTMENT SHALL ATTACH EACH SUCH NOTICE TO THEIR COPY OF THE RELEVANT PERMIT. THE WRITTEN NOTIFICATION SHALL INCLUDE ALL INFORMATION REQUIRED BY R 336.2201 ET SEQ., INCLUDING AT A MINIMUM, ALL OF THE FOLLOWING INFORMATION:

(A) WHEN THE PROPOSED CHANGE WILL OCCUR.

(B) A DESCRIPTION OF EACH SUCH CHANGE.

(C) ANY CHANGE IN EMISSIONS.

(D) THE PERMIT REQUIREMENTS WITH WHICH THE STATIONARY SOURCE WILL COMPLY USING THE EMISSIONS TRADING PROVISIONS OF PART 12 OF THESE RULES.

(E) THE POLLUTANTS EMITTED SUBJECT TO THE EMISSIONS TRADE.

(F) THE PROVISIONS WITH WHICH THE STATIONARY SOURCE WILL COMPLY WITH R 336.2201 ET SEQ. AND THAT PROVIDE FOR THE EMISSIONS TRADE.

COMPLIANCE WITH THE PERMIT REQUIREMENTS THAT THE STATIONARY SOURCE WILL MEET USING THE EMISSIONS TRADE SHALL BE DETERMINED ACCORDING TO THE REQUIREMENTS OF R 336.2201 ET SEQ. AUTHORIZING THE EMISSIONS TRADE.

(3) THE FOLLOWING PROVISIONS APPLY TO OFF-PERMIT CHANGES. AS PROVIDED IN 40 C.F.R. §70.4(B)(14) AND (15), a person may make a change at a stationary source covered by a renewable operating permit that is not ~~specifically~~ addressed or prohibited by the renewable operating permit without a revision to the renewable operating permit, if all of the following provisions are met:

(a) The change complies with all applicable requirements and is not a modification under any applicable provision of title I of the clean air act.

(b) If the stationary source is an affected source under title IV of the clean air act, the change is not contrary to any applicable requirement of title IV of the clean air act.

(c) EXCEPT FOR A CHANGE MADE PURSUANT TO SUBRULE (1), (2), OR (4) OF THIS RULE, the person shall provide contemporaneous written notification to the department and the United States environmental protection agency of each change~~, except for a change made pursuant to subrules (1) or (4) of this rule~~. The written notice shall describe the change, including all of the following information:

(i) The date of the change.

(ii) Any change in emissions.
(iii) Any pollutants emitted.
(iv) Any applicable requirement that would apply as a result of the change.
(v) A statement that the notification is being provided pursuant to this subrule.
(d) The person shall keep a record describing changes made at the stationary source that result in emissions of an air contaminant which are subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from the changes.
(4) THE FOLLOWING PROVISIONS APPLY TO INSIGNIFICANT CHANGES. A person may make a change at a stationary source covered by a renewable operating permit that involves the insignificant activities listed pursuant to R 336.1212~~(1)~~(2) or that involves the installation, construction, reconstruction, relocation, alteration, or modification of any ~~exempt~~ process or process equipment listed pursuant to R336.1212~~(2) and~~(3) AND (4) without a revision to the renewable operating permit, if none of the following provisions apply to the change:
(a) The change would result in a violation of any applicable requirement.
(b) The change would require or modify any of the following:
(i) A case-by-case determination of an emission limitation or other standard.
(ii) For temporary sources, a source-specific determination of ambient air impacts.
(iii) A visibility or increment analysis.
(c) The change would seek to establish or modify an emission limit, standard, or other condition of the renewable operating permit that the STATIONARY source has assumed to avoid an applicable requirement to which the STATIONARY source would otherwise be subject.
(d) The change is a major offset modification or a modification under any applicable requirement of section 111, section 112, or part C of title I of the clean air act.
Changes made pursuant to this rule do not qualify for the permit shield provided by R 336.1213(6).

R 336.1299 Adoption of standards by reference.

Rule 299. The following standards are adopted IN THESE RULES by reference and are available as noted:
(a) "1996 TLVs and BEIs. Threshold Limit Values for Chemical Substances and Physical Agents. Biological Exposure Indices," American conference of governmental industrial hygienists. For the purposes of R 336.1232, the chemical names and threshold limit values are adopted by reference. A copy may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of $11.00, or from the American Conference of Governmental Industrial Hygienists, 6500 Glenway Avenue, Building D-7, Cincinnati, Ohio 45211-4438, at a cost as of the time of adoption of these rules of $11.00.
(b) "NIOSH Pocket Guide to Chemical Hazards," national institute for occupational safety and health, June 1994. For the purposes of R 336.1232, the chemical names and NIOSH-recommended exposure levels are adopted by reference. A copy may be inspected at the

Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of $14.00, or from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, NTIS document PB95-100368, at a cost as of the time of adoption of these rules of $14.00.

(c) "Guidelines for Carcinogen Risk Assessment," 1986, United States environmental protection agency, 51 F.R. pp. 33992 to 34003. Copies may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at no cost, or from CERI, Office of Resource Information, United States Environmental Protection Agency, 26 Martin Luther King Drive, Cincinnati, Ohio 45268, EPA document no. EPA 600/8-87/045, at no cost.

(d) The federal acid rain program. The department adopts by reference in these rules the provisions of 40 C.F.R. §§72.1 to ~~72.94, in effect on July 31, 1993~~ 72.96 (2000), 40 C.F.R. §§74.1 TO 74.61 (2000), AND 40 C.F.R. §§76.1 TO 76.15 (2000). When used in these federal regulations, the term "permitting authority" shall mean the department and the term "administrator" shall mean the administrator of the United States environmental protection agency. If the provisions or requirements of 40 C.F.R. §§72.1 to ~~72.94~~72.96, 40 C.F.R. §§74.1 TO 74.61, OR 40 C.F.R. §§76.1 TO 76.15 conflict with, or are not included in, R 336.1210 to R 336.1218, then the 40 C.F.R. §§72.1 to ~~72.94~~72.96 AND 40 C.F.R. §§76.1 TO 76.15 provisions and requirements shall apply and take precedence. A copy of these regulations may be inspected at the Lansing office of the air quality division of the department of environmental quality. Copies of ~~these regulations~~ 40 C.F.R., PARTS 72-80, may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of ~~$41.00~~ $47.00; from the Superintendent of Documents, GOVERNMENT PRINTING OFFICE, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost as of the time of adoption of these rules of ~~$41.00~~ $47.00; OR ON THE UNITED STATES GOVERNMENT PRINTING OFFICE INTERNET WEB SITE AT HTTP://WWW.ACCESS.GPO.GOV.

(e) The federal hazardous air pollutant regulations governing constructed or reconstructed major sources. The department adopts by reference in these rules the provisions of 40 C.F.R. §§63.40 to 63.44, in effect on January 27, 1997. When used in these federal regulations, the term “permitting authority” shall mean the department and the term “administrator” shall mean the administrator of the United States environmental protection agency. A copy of these regulations may be inspected at the Lansing office of the air quality division of the department of environmental quality. Copies of these regulations may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of $47.00, or from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost as of the time of adoption of these rules of $47.00, or on the United States environmental protection agency internet web site at http://www.epa.gov/oar.

(F) THE FEDERAL COMPLIANCE ASSURANCE MONITORING REGULATIONS. THE DEPARTMENT ADOPTS BY REFERENCE IN THESE RULES THE PROVISIONS OF 40 C.F.R. §§64.1 TO 64.10 (2000). WHEN USED IN THESE FEDERAL

REGULATIONS, THE TERM "PERMITTING AUTHORITY" SHALL MEAN THE DEPARTMENT, AND THE TERM "ADMINISTRATOR" SHALL MEAN THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. A COPY OF THESE REGULATIONS MAY BE INSPECTED AT THE LANSING OFFICE OF THE AIR QUALITY DIVISION OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY. COPIES OF 40 C.F.R., PARTS 64-71, MAY BE OBTAINED FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY, AIR QUALITY DIVISION, P.O. BOX 30260, LANSING, MICHIGAN 48909-7760, AT A COST AS OF THE TIME OF ADOPTION OF THESE RULES OF $12.00; FROM THE SUPERINTENDENT OF DOCUMENTS, P.O. BOX 371954, PITTSBURGH, PENNSYLVANIA 15250-7954, AT A COST AS OF THE TIME OF ADOPTION OF THESE RULES OF $12.00; OR ON THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY INTERNET WEB SITE AT HTTP://WWW.ACCESS.GPO.GOV.

NOTICE OF PUBLIC HEARING

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

(ORR # 1998-036)

The Michigan Department of Environmental Quality (DEQ), Air Quality Division, will conduct a public hearing on proposed administrative rules promulgated pursuant to Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451); R 336.1210 through R 336.1215 and R 336.1299. This proposed rules package includes proposed changes intended to address all outstanding regulatory issues identified in the U.S. Environmental Protection Agency's Title V Interim Approval notice for Michigan's Renewable Operating Permit Program. The rules package also includes several provisions intended to increase operational flexibility at a permitted facility.

The public hearing will be held on April 9, 2001, at 10:00 a.m., in the AQD Conference Room, Hollister Building, 4th floor, 106 West Allegan Street, Lansing, Michigan.

Copies of the proposed rules (ORR 1998-036EQ) are available for inspection at all Air Quality Division offices or on the Internet at http://www.deq.state.mi.us/aqd. These rules can also be downloaded from the Internet through the Office of Regulatory Reform at http://www.state.mi.us/orr. Copies of the rules may also be obtained by contacting the Lansing office at:

Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan 48909-7760
Phone: 517-373-7045
Fax: 517-373-1265
E-Mail: halbeism@state.mi.us

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to the address above. Written comments must be received by April 9, 2001.

Persons needing accommodations for effective participation in the meeting should contact the Air Quality Division at 517-373-7045 one week in advance to request mobility, visual, hearing, or other assistance.

This notice of public hearing is given in accordance with Sections 41 and 42 of Michigan's Administrative Procedures Act, 1969 PA 306, as amended, being Sections 24.241 and 24.242 of the Michigan Compiled Laws. Administration of the rules is by authority conferred on the Director of the DEQ by Sections 5503 and 5512 of Act 451, being subsections 324.5503 and 324.5512 of the Michigan Compiled Laws, and Executive Order 1995-18. These rules will become effective seven days after filing with the Secretary of State.

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Dennis M. Drake, Chief
Air Quality Division

OPINIONS OF THE ATTORNEY GENERAL

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. "

OPINIONS OF THE ATTORNEY GENERAL

APPROPRIATIONS:

COUNTIES:

OFFICERS AND EMPLOYEES:

PUBLIC MONEY:

REGISTER OF DEEDS:
Receipt of additional compensation by county register of deeds for serving as county grant administrator

A county register of deeds, if authorized by the county board of commissioners, may receive additional compensation for serving as the appointed county grant administrator for the county survey and remonumentation program.

Opinion No. 7076 March 02, 2001

Mr. Larry J. Burdick
Isabella County Prosecuting Attorney
200 North Main Street
Mt. Pleasant, MI 48858

You have asked if a county register of deeds, if authorized by the county board of commissioners, may receive additional compensation for serving as the appointed county grant administrator for the county survey and remonumentation program.

The office of county register of deeds is an elective office. Const 1963, art 7, § 4, states that the powers and duties of the office are those that "shall be provided by law."

1919 PA 237, MCL 45.401 *et seq*; MSA 5.911 *et seq*, authorizes the payment of salaries, in lieu of fees, to county registers of deeds and other county officers. Section 1(1)[1]

[1] Some counties may have a county officers compensation commission. See section 1(2) of 1919 PA 237.

authorizes a county board of commissioners to compensate the register of deeds with salary as the board considers proper. A county register of deeds who receives a salary authorized under 1919 PA 237 may not retain any of the fees collected by his or her office. OAG, 1963-1964, No 4270, p 306 (March 2, 1964). The register must remit all fees collected by his or her office on a monthly basis to the county treasurer. 1919 PA 237, section 2.

The State Survey and Remonumentation Act (Survey Act), 1990 PA 345, MCL 54.261 *et seq*; MSA 5.1035(261) *et seq*, authorizes a county monumentation program providing for the monumentation[2] or remonumentation of all property controlling corners originally established by the United States land surveys. Sections 8(1) and 14(1)(b) of the Survey Act require counties to adopt county plans as a prerequisite to receiving state grants.

Sec. 8. (1) Each county shall establish a county monumentation and remonumentation plan. Not later than 1 year after the effective date of this act, the commission[3] shall create and distribute a model county plan that may be adopted by a county with any changes appropriate for that county. . . .

* * *

Sec. 14. (1) The commission shall not make a grant . . . [to a county or counties] unless all of the following conditions are met:

* * *

(b) The applicant has established a county plan or a multicounty plan that has been approved by the commission on or before December 31 of the calendar year immediately preceding the year in which the grant is made.

The county plan adopted by each county and approved by the State Commission or Director requires the county board of commissioners to appoint a county grant administrator. This is:
[A] person appointed by the County Board of Commissioners as the individual responsible for completing and submitting the annual Application for a Survey and Monumentation

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[2] The monumentation program provides, among other things, for the proper marking (monumentation) of all property controlling corners. These corners were originally established by the United States in surveys of the public domain, before conveyance of the lands by patent to private individuals. These original corners control the proper description or location of all parcels of land in Michigan. The program provides for the proper monumentation of these corners, including the substantial number of them that have been "lost" or "obliterated."

[3] Executive Order No 1996-2 abolishes the commission. The powers and duties of the commission were transferred to the Director, Michigan Department of Consumer and Industry Services. MCL 445.2001; MSA 3.29(224).

Grant to the State of Michigan, and the administering of the approved annual grant. . . . [Model County Plan, Section II.]

This plan has, with slight modifications, been adopted by each of Michigan's 83 counties.

The county grant administrator's duties include: (a) annually submitting a grant application and supporting documents to the Commission by December 31; (b) selecting monumentation surveyors in compliance with qualification-based selection (QBS) as set forth in House Concurrent Resolution 206 (June 1987); (c) submitting proposed county/monumentation-surveyor contracts to the board of county commissioners for its approval and its authorization for execution; (d) recommending payment to the monumentation surveyor as provided by the
contract; and (e) submitting other documentation as required by the Commission. Model County Plan, Section IV.

My staff is advised that in some counties, the county board of commissioners has appointed a county register of deeds to also serve as the county grant administrator. If a county register of deeds accepts the appointment,[4] there is no constitutional or statutory bar to the county board of commissioners providing reasonable compensation to the appointee for services rendered. The salary fixed for the register of deeds in section 1(1) of 1919 PA 237 is "compensation in full for all services performed by the . . . register of deeds." But services rendered as a county grant administrator are not rendered as a county register of deeds. The compensation provided to a county grant administrator is likewise not for services rendered as a county register of deeds. A review of the many statutory duties of the office of register of deeds discloses no duties concerning a county monumentation program. Since the duties imposed upon the register of deeds as county grant administrator are foreign to the office of register of deeds, the performance of grant administration duties may be separately compensated. See *Grosbeck v Auditor General*, 216 Mich 243, 250; 184 NW 870 (1921), holding that state officers performing duties foreign to their respective offices are permitted to receive compensation for those duties, in addition to their constitutionally prescribed salaries for performing the duties of their respective offices.

1851 PA 156, MCL 46.1 *et seq*; MSA 5.321 *et seq*, defines the powers and duties of county boards of commissioners. Section 11(g) of this act expressly authorizes county boards of commissioners to: "Prescribe and fix the salaries and compensation of employees of the county if not fixed by law. . . ." These prescribed compensation payments need not be made from a county's general funds. The payments may be paid from a line item in the county monumentation budget approved by the state as part of the annual monumentation grant. Payment of this compensation is analogous to compensation lawfully paid to a county treasurer for services rendered as a member of the county tax commission (OAG,

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[4] The county board of commissioners has no authority to impose upon the register of deeds duties or responsibilities that are in addition to those imposed by law. OAG, 1975-1976, No 4924, p 270 (January 27, 1976).

1933-1934, p 288 (July 13, 1933)), and to compensation lawfully paid to a county register of deeds for services rendered as a county abstractor, thus performing additional duties not germane to the office of register of deeds (OAG, 1945-1946, 0-4237, p 558 (December 27, 1945)).

It is my opinion, therefore, that a county register of deeds, if authorized by the county board of commissioners, may receive additional compensation for serving as the appointed county grant administrator for the county survey and remonumentation program.

JENNIFER M. GRANHOLM
Attorney General

OPINIONS OF THE ATTORNEY GENERAL

CHILDREN AND MINORS:

HOSPITALS:

PHYSICIANS AND SURGEONS:

PUBLIC HEALTH:

PUBLIC MONEY:

Use of mifepristone (RU-486) as constituting an abortion

The intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under section 109a of the Social Welfare Act.

The intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under the Parental Rights Restoration Act.

The intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under section 17015 of the Public Health Code.

Opinion No. 7077 March 13, 2001

Mr. James K. Haveman, Jr., Director
Department of Community Health
Lewis Cass Building
Lansing, MI 48913

You have asked whether the administration of the drug mifepristone, sometimes called RU-486, to terminate a woman's pregnancy constitutes an "abortion" under three statutes that regulate abortion in Michigan.

On September 28, 2000, the U.S. Food and Drug Administration (FDA) approved the drug mifepristone (trade name Mifeprex), to be used with misoprostol, a prostaglandin, for the medical termination of a confirmed early intrauterine pregnancy. 21 CFR 314.520. The FDA defines "early" pregnancy as one being 49 days or less, counting from the beginning of the last menstrual period. Under the terms of the FDA's approval, mifepristone will be distributed to physicians who can accurately determine the duration of a patient's pregnancy and detect an ectopic (or tubal) pregnancy. Physicians who prescribe mifepristone must also be able to provide surgical intervention in cases of incomplete abortion or severe bleeding--or they must have made plans in advance to provide such care through others. *Id*.

Your first question asks if the use of mifepristone to terminate a woman's pregnancy constitutes an "abortion" under section 109 of the Social Welfare Act.

The Social Welfare Act (Act), 1939 PA 280, MCL 400.1 *et seq*; MSA 16.401 *et seq*, is an act to provide hospital and medical care for poor persons. Section 109a specifies that "an abortion shall not be a service provided with public funds to a recipient of welfare benefits . . . unless the abortion is necessary to save the life of the mother." Section 109e(1)(a) of the Act defines the term "abortion" as follows:

"Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

The drug mifepristone, when intentionally used to terminate a woman's pregnancy for a purpose other than the limited purposes specified above and not as a contraceptive, clearly falls within the Social Welfare Act's definition of "abortion." Courts must adhere to those definitions supplied by statute. *Arrigo's Fleet Service Inc v Michigan*, 125 Mich App 790, 792; 337 NW2d (1983) (citations omitted). Clear and unambiguous statutory language must be applied by the court as written according to its plain meaning. *Dean v Dep't of Corrections*, 453 Mich 448, 454; 556 NW2d 458 (1996); *Bannan v City of Saginaw*, 420 Mich 376, 390; 362 NW2d 668 (1984), reh den 421 Mich 1202 (1985).

It is my opinion, therefore, in answer to your first question, that the intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under section 109a of the Social Welfare Act.

Your second question asks if the use of mifepristone to terminate a woman's pregnancy constitutes an "abortion" under the Parental Rights Restoration Act.

The Parental Rights Restoration Act (PRRA), 1990 PA 211, MCL 722.901 *et seq*; MSA 25.248(101) *et seq*, is a voter-initiated act requiring, with limited exceptions, parental consent for abortions performed on unemancipated minors. Section 2(a) of the PRRA defines the term "abortion" as follows:

"Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

The drug mifepristone, when intentionally used to terminate a woman's pregnancy for a purpose other than the limited purposes specified above and not as a contraceptive, clearly falls within the PRRA's definition of "abortion."

It is my opinion, therefore, in answer to your second question, that the intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under the Parental Rights Restoration Act.

Your third question asks if the use of mifepristone to terminate a woman's pregnancy constitutes an "abortion" under section 17015 of the Public Health Code.

The Public Health Code (Code), 1978 PA 368, MCL 333.1101 *et seq*; MSA 14.15(1101) *et seq*, is an act to protect the public health and to regulate occupations, facilities, and agencies affecting the public health. Section 17015 of the Code, added by 1993 PA 133, requires informed written consent by the patient before an abortion and requires that a physician make certain disclosures to the patient before performing an abortion. Subsection 2(a) of Code section 17015 defines the term "abortion" as follows:

"Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

The drug mifepristone, when intentionally used to terminate a woman's pregnancy for a purpose other than the limited purposes specified above and not as a contraceptive, clearly falls within the Code's definition of "abortion."

It is my opinion, therefore, in answer to your third question, that the intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under section 17015 of the Public Health Code.

JENNIFER M. GRANHOLM
Attorney General

ENROLLED SENATE AND HOUSE BILLS SIGNED INTO LAW OR VETOED (2001 SESSION)

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."

ENROLLED SENATE AND HOUSE BILLS SIGNED INTO LAW OR VETOED (2001 SESSION)

No enrolled senate and house bills have been signed into law or vetoed for the 2001 session. Therefore, Michigan Register 2001 MR 5 does not contain a table of enrolled senate and house bills.

MICHIGAN ADMINISTRATIVE CODE TABLE
(2001 SESSION)

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
(2001 RULE FILINGS)

R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number
29.601	r	5	29.1505	a	5	29.1831	a	5
29.602	r	5	29.1507	a	5	29.1832	a	5
29.604	r	5	29.1508	a	5	29.1841	a	5
29.605	r	5	29.1509	a	5	29.1842	a	5
29.621	r	5	29.1701	a	5	29.1851	a	5
29.622	r	5	29.1702	a	5	29.1852	a	5
29.1001	r	5	29.1703	a	5	29.1861	a	5
29.1002	r	5	29.1704	a	5	29.1723	a	5
29.1003	r	5	29.1705	a	5	29.1731	a	5
29.1004	r	5	29.1706	a	5	29.1732	a	5
29.1005	r	5	29.1707	a	5	29.1733	a	5
29.1006	r	5	29.1708	a	5	324.102	*	2
29.1007	r	5	29.1710	a	5	324.416	*	2
29.1008	r	5	29.1711	a	5	324.504	*	2
29.1009	r	5	29.1721	a	5	324.1008	*	2
29.1021	r	5	29.1722	a	5	324.1012	*	2
29.1022	r	5	29.1801	a	5	324.1103	*	2
29.1023	r	5	29.1802	a	5	324.1105	*	2
29.1024	r	5	29.1803	a	5	324.1110	*	2
29.1031	r	5	29.1804	a	5	324.1113	*	2
29.1032	r	5	29.1805	a	5	324.1122	*	2
29.1041	r	5	29.1806	a	5	324.1125	*	2
29.1042	r	5	29.1807	a	5	324.1129	*	2
29.1051	r	5	29.1808	a	5	324.1130	a	2
29.1052	r	5	29.1809	a	5	324.8915	a	2
29.1053	r	5	29.1810	a	5	325.2111	*	2
29.1501	a	5	29.1821	a	5	325.2113	*	2
29.1502	a	5	29.1822	a	5	325.2113a	a	2
29.1503	a	5	29.1823	a	5	325.2114	*	2
29.1504	a	5	29.1824	a	5	325.2115	*	2

(***** Amendment to Rule, **a** Added Rule, **n** New Rule, **r** Rescinded Rule)

R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number
325.2116	*	2	325.2154	*	2	421.112	*	2
325.2117	*	2	325.2155	*	2	421.162	*	2
325.2118	*	2	325.2156	*	2	421.205	*	2
325.2118a	*	2	325.2157	*	2	421.208	*	2
325.2118b	*	2	325.2158	*	2	421.210	*	2
325.2121	*	2	325.2159	*	2	421.216	*	2
325.2122	*	2	325.2161	*	2	421.269	a	2
325.2123	*	2	325.2163	*	2	421.270	*	2
325.2124	a	2	325.2165	*	2	460.20606	*	5
325.2125	*	2	325.2171	*	2	560.401	*	2
325.2126	*	2	325.2174	*	2	560.402	*	2
325.2127	*	2	325.2175	*	2	560.403	*	2
325.2128	*	2	325.2176	*	2	560.404	*	2
325.2129	*	2	325.2178	*	2	560.405	*	2
325.2129a	a	2	325.2179	a	2	560.406	a	2
325.2131	*	2	325.2181	*	2	560.407	a	2
325.2132	*	2	325.2182	a	2	560.408	a	2
325.2133	*	2	325.2183	a	2	560.409	a	2
325.2134	*	2	325.2184	a	2	560.410	a	2
325.2135	a	2	325.2191	*	2	560.411	a	2
325.2136	*	2	325.2192	*	2	560.412	a	2
325.2137	*	2	325.2193	*	2	560.413	a	2
325.2138	*	2	325.2194	*	2	560.414	a	2
325.2141	*	2	325.2194a	a	2	560.415	a	2
325.2142	*	2	325.2195	*	2	560.416	a	2
325.2143	*	2	325.2196	*	2	560.417	a	2
325.2143a	a	2	325.2197	*	2	560.418	a	2
325.2144	*	2	325.2198	*	2	560.419	a	2
325.2145	*	2	325.2199	*	2	560.420	a	2
325.2146	*	2	325.70251	a	5	560.421	a	2
325.2151	*	2	338.81	a	4	560.422	a	2
325.2152	*	2	408.4031	*	4	560.423	a	2
325.2153	*	2	408.4038	*	4	560.424	a	2

(***** Amendment to Rule, **a** Added Rule, **n** New Rule, **r** Rescinded Rule)

R Number	Action	2001 MR Issue Number
560.425	a	2
560.426	a	2
560.427	a	2
560.428	a	2

(***** Amendment to Rule, **a** Added Rule, **n** New Rule, **r** Rescinded Rule)

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