ADMINISTRATIVE RULES IN MICHIGAN

A Manual of Style and Procedures

Legal Editing and Law Publications Division
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INTRODUCTION

The administrative rules procedure was established, in part, to prevent arbitrary decision making by state agencies delegated authority to implement and apply law. A procedural safeguard was needed to ensure that agencies observed certain minimum standards when issuing rules having the force and effect of law. Further, the procedure sought to facilitate public participation and enhance legislative oversight in the formulation of rules.

What is an administrative rule?

"Rule" Defined. The term "rule" is defined in section 7 of the Administrative Procedures Act of 1969 as ". . . an agency regulation, statement, standard, policy, ruling or instruction of general applicability that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure or practice of the agency . . . ," but excludes several types of statements that are not to be considered "rules." A "rule," therefore, either implements or applies law, or prescribes the organization, practice, or procedure of an agency, and, unless it falls into one of the exclusionary categories enumerated in section 7, is subject to the formal rule-making procedure outlined in Chapter 3 of the Administrative Procedures Act of 1969.

Guidelines. In addition to rules, an agency may adopt a "guideline," which is an agency statement or declaration of policy that the agency intends to follow, and, although it does not have the force or effect of law, it is binding on the agency which adopts it. A guideline is not binding, however, on the public, nor may it be enforced against the public. A guideline, when adopted, is also a public record.

The possibility that an agency might evade formal rule-making procedures by adopting rules in the form of guidelines is anticipated by §24.226 of the *Michigan Compiled Laws*, which reads: "An agency shall not adopt a guideline in lieu of a rule."

Pursuant to §24.227, a guideline is not valid unless processed in substantial compliance with §§24.224, 24.225, and 24.226 of the *Michigan Compiled Laws*. However, inadvertent failure to give notice to any person as required by §24.224 does not invalidate a guideline which was otherwise in substantial compliance with §§24.224, 24.225, and 24.226.

Authority to promulgate rules.

Generally. An executive agency must be authorized to promulgate rules that have the force and effect of law. This authority is normally conferred by a statutory or constitutional provision. However, an agency's authority to promulgate rules may be implied from the powers expressly granted to it and the character of the agency's regulatory functions.

Rule Making Authorized by Administrative Procedures Act of 1969. Apart from rules promulgated by an agency to administer, implement, or enforce law, an agency is required to promulgate rules describing its organization and stating the general course and method of its operations. An agency must also prescribe, by rule, the procedures available to the public and the methods by which the public may obtain information and submit requests. In addition, an agency must prescribe by rule the form for a declaratory ruling by the agency and procedure for its submission, consideration, and disposition.

An agency may promulgate rules prescribing procedures for contested cases.

Requests for Promulgation of Rules. Any person may request an agency to promulgate a rule. Within 90 days after filing of a request, the agency shall initiate the processing of a rule or issue a statement of the reasons for denying the request.

Processing administrative rules.

Introduction. The procedures adhered to in the processing of administrative rules are not all mandated by the Administrative Procedures Act of 1969. A number of the procedures have pragmatically evolved from such circumstances as necessity or convenience, and are observed by legislative and executive agencies through mutual agreement.

For example, the Administrative Procedures Act of 1969 does not require an executive agency to submit its rules to the Legislative Service Bureau for informal review; but, by so doing, the agency is assured that, when it submits a final draft of its rules for a certificate of approval from the Legislative Service Bureau, there will be

no delays caused by such improprieties as defective grammar, ambiguities, spelling errors, improper classification, incorrect R numbers, deficient authority to promulgate rules, and erroneous action statements.

Public Hearing and Notice of Public Hearing. After the rules are drafted by the agency authorized or directed to promulgate them, the agency schedules a public hearing to afford interested persons the opportunity to present data, views, and arguments concerning the rules. At a minimum, an agency must publish a notice of public hearing as required by an applicable statute, or if none, at least 10 days but not more than 60 days before the date of public hearing. The notice must appear in 3 newspapers of general circulation, 1 of which must be published in the Upper Peninsula. When notice is required, the agency purchases advertising space in the newspapers to publish the notice. The agency is also required to transmit copies of the notice to all persons who have requested the agency, in writing, for advance notice of proposed action which may affect them. In addition, copies of the notice must be transmitted to the Office of Regulatory Reform.

The agency must submit an additional copy of the notice to the Office of Regulatory Reform for publication in the *Michigan Register*. The notice must be published in the *Michigan Register* before the public hearing.

The head of the agency proposing rules or other designated persons who have knowledge of the subject matter of the proposed rules must be present at the public hearing and must participate in any discussion of the proposed rules.

A public hearing is not required when processing an emergency rule, an organizational rule, or an amendment or rescission of a rule which is obsolete or superseded, or which is required to accomplish a solely formal purpose, if a statement to that effect is included in the Legislative Service Bureau certificate of approval. If an agency requests the Legislative Service Bureau to approve a rule without a public hearing, the agency shall provide the Bureau with documentation to demonstrate that a rule is obsolete or superseded.

In addition, a public hearing is not required for a rule that is promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 et seq., that is substantially similar (identical, except for style and format differences), to an existing federal standard that has been adopted or promulgated under the occupational safety and health act of 1970, Public Law 91-596, 84 Stat. 1590. However, notice of such rule shall be published in the *Michigan Register* at least 35 days before submission of the rule to the Secretary of State under section 46(4). A reasonable period of not more than 21 days shall be provided for submitting written comments and views after publication in the *Michigan Register*.

Rules to Legislative Service Bureau for Informal Approval. Section 45 of Act No. 306 of the Public Acts of 1969, as amended, being §24.245 of the *Michigan Compiled Laws,* provide, in part: "The legislative service bureau promptly shall approve a proposed rule if it considers the proposed rule to be proper as to all matters of form, classification, and arrangement."

Executive agencies submit rough drafts of proposed rules to the Legislative Service Bureau on an informal basis, so that drafts may be edited before formal submission of the rules to the Bureau for certification. The drafts should appear in strike/cap form with deleted language lined out and new language in capital letters. Editing by the Bureau includes:

(a) Classification of rules.

(b) Arrangement or structuring of rules to achieve uniformity.

(c) Construction of headings, filing date and effective date lines, authority paragraphs, action statements, and catchlines.

(d) Review of style, syntax, spelling, and punctuation for compliance with legislative drafting practices.

In addition, the Bureau ensures that adoption by reference provisions conform to statutory requirements and decides whether public hearings on rules are required in certain instances.

The formal requirements for drafting and processing administrative rules are set out in this manual. The manual is designed to facilitate the preparation of administrative rules for approval by the Legislative Service Bureau and Joint Committee on Administrative Rules.

Though many of the drafting requirements set forth in this manual are mandatory, they are neither doctrinaire nor arbitrary in nature or in purpose. The goal of such requirements is, simply, to achieve clarity, order, uniformity, and consistency in the drafting and publication of Michigan administrative rules.

Rules to Legislative Service Bureau for Formal Approval. After the public hearing and upon receipt of the informally approved draft, the agency prepares and transmits 14 copies of the proposed rules to the Legislative Service Bureau for formal approval. The Bureau's Legal Editing staff attorneys, under the direction of the Bureau's Legal Editor, review and approve the rules as to form, classification, and arrangement, and the Bureau Director executes a certificate of approval.

Rules to Office of Regulatory Reform. When the rules have been formally approved by the Legislative Service Bureau, 9 copies are transmitted by the Bureau to the Office of Regulatory Reform for a certificate of approval as to legality. In certifying that proposed rules are legal, the Office of Regulatory Reform determines that the rules are legal.

Rules to Joint Committee on Administrative Rules. After an agency receives a copy of the rules from the Office of Regulatory Reform, with certificates of approval of the Legislative Service Bureau and the Office of Regulatory Reform attached, within 1 year after the date of the last public hearing on the proposed rule (unless the proposed rule is a resubmission under subsection (8) of §24.245a of the *Michigan Compiled Laws*), the agency submits a rules package to the Office of Regulatory Reform, which transmits the package to the Clerk of the Joint Committee on Administrative Rules, the body vested with the primary responsibility for legislative review of proposed rules. The package consists of:

(a) Letters of transmittal from the agency and the Office of Regulatory Reform.

(b) 1 copy of the certificates of approval from the Legislative Service Bureau and the Office of Regulatory Reform.

(c) 12 copies of the proposed rules.

(d) 12 copies of the agency report, containing a synopsis of the public hearing comments and a description of any changes made after the public hearing.

(e) 1 copy of the regulatory impact statement, as required by section 45(3) of the APA.

The submission of an incomplete report or impact statement, or failure to file the report or impact statement, may delay consideration of the rules by the Committee and its staff.

The Committee, which consists of an equal number of Senators and Representatives, meets during legislative sessions and at times designated by the chairperson when the Legislature is not in session. The Committee sends its members and members of standing committees that deal with the subject matter of a proposed rule various notices of rule related activities. These include a notice of request for rulemaking, notice of public hearing, notice of proposed draft rules, and a weekly list of rulemaking requests. The Committee may meet to consider the proposed rule, take testimony, and provide the agency with a response to the rule.

The Committee furnishes its members, members of standing committees that deal with the subject matter of the proposed rule, central Senate and House staff, and the Senate Fiscal Agency and the House Fiscal Agency with a proposed administrative rule package, which includes all of the following:

(a) A copy of the proposed rule.

(b) An agency public hearing report.

(c) A copy of the regulatory impact statement.

(d) Agency and Office of Regulatory Reform transmittal letters.

The Senate Fiscal Agency and the House Fiscal Agency analyze each proposed rule for possible fiscal implications which, if adopted, would result in additional appropriations in the current fiscal year, or commit the Legislature to an appropriation in a future fiscal year, and report their findings, in writing, to the Senate and House appropriations committees and the Committee before the date of consideration of the proposed rule by the Committee.

The Committee has 21 calendar days from receipt of the rule package to review proposed rules and to object by filing a notice of objection approved by a concurrent majority of Committee members. A notice of objection may be filed if any of the following conditions exist:

(a) The agency lacks statutory authority for the rule.

(b) The agency is exceeding the statutory scope of its rulemaking authority.

(c) There exists an emergency relating to the public health, safety, and welfare that would warrant disapproval of the rule.

(d) The rule conflicts with state law.

(e) A substantial change in circumstances has occurred since enactment of the law upon which the proposed rule is based.

(f) The rule is arbitrary or capricious.

(g) The rule is unduly burdensome to the public or a licensee licensed by the rule.

If the notice of objection is filed within the 21-day period for Committee consideration, the Committee chair, alternate chair, or a Committee member shall cause bills to be introduced in both houses of the legislature simultaneously. The bills must do one of the following:

(a) Rescind the rule on its effective date.

(b) Repeal the statutory provision under which the rule was authorized.

(c) Stay the rule's effective date for up to 1 year.

The legislature has the following time periods for consideration of the bills:

(a) Twenty-one calendar days, except as provided in (b) and (c).

(b) If both houses are not in session for more than 14 days but less than 21 consecutive days following filing of a notice of objection, the 21-day period for legislative consideration will be tolled with the remainder available for consideration upon the return of both houses. However, the total period shall not be more than 63 days.

(c) If both houses are not in session for more than 21 consecutive days following filing of notice of objection, the 21-day period for legislative consideration will be tolled with the remainder available for consideration upon the return of both houses.

The tolling provisions for consideration of a bill commence only after the filing of a notice of objection. During a long legislative recess, such as the summer recess, the 21-day review period for the Committee could expire and the rules could be filed. Therefore, the Committee would have to convene during a recess in order to enter a notice of objection and preserve the Legislature's ability to act on the rules.

Adoption of Rules by Agency. After the agency report is prepared, the agency may proceed to formally adopt the proposed rules and attach a notice or certificate indicating formal adoption of the rules.

Filing of Rules with Secretary of State. The Office of Regulatory Reform may promulgate the rules by filing 3 certificated copies of the rules with the Secretary of State. After promulgation, the rules take effect by their own terms and must be published pursuant to §§24.208 and 24.255 of the *Michigan Compiled Laws.*

The filing of rules raises a rebuttable presumption that the rules were duly adopted, filed, and made available for public inspection.

Effective Date of Rules. With the exception of an emergency rule, which takes effect on filing with the Secretary of State, a rule becomes effective on the date fixed in the rule, which cannot be earlier than 7 days after the date of its promulgation, or, if a date is not fixed in the rule, then on the date of the rule's publication in the *Michigan Administrative Code* or a supplement thereto.

In the majority of instances, however, a rule takes effect 7 days after filing with the Secretary of State. Courts are required to take judicial notice of a rule which becomes effective under the Administrative Procedures Act of 1969.

Conclusion. Among the formal rule-making procedures outlined above, those involving review of proposed rules are intended to anticipate the possibility that some agencies may inadvertently exceed the authority conferred on them by statute or may misconstrue the legislative intent in executing that authority. The review procedures ensure agency compliance with statutory authority and legislative intent. Moreover, the Administrative Procedures Act of 1969, by exposing rule making to close legislative and public scrutiny, also ensures that

administrative rules promulgated and published in Michigan achieve the highest standards of clarity, uniformity, quality, and consistency with existing laws.

Emergency rules.

If an agency finds that preservation of the public health, safety, or welfare requires the promulgation of an emergency rule, the agency may, if the Governor concurs in the finding of an emergency, omit the notice of public hearing and hearing procedures, as well as review by the Joint Committee on Administrative Rules. The Legislative Service Bureau and Office of Regulatory Reform, however, must approve the emergency rule prior to promulgation.

An emergency rule has the force and effect of law for 6 months, but may be extended once for not more than 6 months by filing a Governor's certificate of need for the extension with the office of the Secretary of State before the expiration of the emergency rule.

Emergency rules are not numbered and compiled in the *Michigan Administrative Code* but are noted in annual supplements to the Code and published in the *Michigan Register.*

Emergency rules promulgated pursuant to §24.248 of the *Michigan Compiled Laws* may, by concurrent resolution, be rescinded by the Legislature.

Publication of rules.

Michigan Register. *The Michigan Register,* which is published at least once each month by the Office of Regulatory Reform, contains the following:

- Administrative rules filed with the Secretary of State.
- Proposed administrative rules.
- Notices of public hearings on proposed administrative rules.
- Emergency rules filed with the Secretary of State.
- Enrolled senate and house bills signed into law.
- Enrolled senate and house bills vetoed by the governor.
- Executive orders and executive reorganization orders.
- Proposed and adopted agency guidelines.
- Attorney General opinions.

If publication of a proposed rule or guideline would be unreasonably expensive or lengthy, the Office of Regulatory Reform may publish a brief synopsis of the proposed rule or guideline, including information on how to obtain a complete copy of the proposed rule or guideline. In addition, the Office of Regulatory Reform may omit from the *Michigan Register* any promulgated rule, the publication of which would be unreasonably expensive or lengthy, if the rule, in printed or reproduced form, is made available on application to the promulgating agency, and if the *Michigan Register* contains a notice stating the general subject of the omitted rule and how a copy of the rule may be obtained.

The *Michigan Register* is cited by year and issue number. For example, 2002 MR 1 refers to the year of issue (2002) and the issue number (1), The Office of Regulatory Reform began publication of the Michigan Register twice a month beginning with the 2000 MR 3. Prior to that, the Register was published monthly and the issue numbers correspond to the months of publication.

State agencies are urged to note the following provision contained in §24.245 (2) of the *Michigan Compiled Laws:*

"(2) After publication of the proposed rule in the Michigan register and after notice is given as provided in this act and before the agency proposing the rule has formally adopted the rule, the agency shall transmit by letter to the committee copies of the rule bearing certificates of approval from the legislative service bureau and the Office of Regulatory Reform and copies of the rule without certificates."

This section clearly requires, as a condition precedent to review of the proposed rules by the Joint Committee on Administrative Rules, that the proposed rules be first published in the *Michigan Register.* Accordingly, when

forecasting dates by which adopted rules must be filed with the Secretary of State, state agencies may wish to consider the additional time required for publishing proposed rules in the *Michigan Register.*

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, which continue to be published, now include the full text of those permanent rules that appear in the 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.

Annual Administrative Code Supplement.

The *Annual Administrative Code Supplement* (AACS) is compiled and published at the end of each calendar year, and contains those permanent rules and notations of emergency rules and extensions of emergency rules which previously appeared in issues of the *Michigan Register* covering that calendar year. The annual supplement also contains R number references and source notes indicating the location in preceding annual supplements of all other permanent rules promulgated since the publication of the 1979 edition of the *Michigan Administrative Code.*

Uniform Numbering System: Under a uniform numbering system, each rule is assigned a compilation number, or "R" number, which appears in boldface type at the beginning of a rule. The system results in a sequential arrangement of rules by R number. The number to the left of the decimal point generally corresponds to the chapter of the *Michigan Compiled Laws* containing the statutory authority pursuant to which an agency promulgates rules.

Emergency rules and extensions of emergency rules, unless amendatory of existing rules, are not assigned R numbers, and are merely noted in the annual supplement.

R Numbers Containing 2 Decimal Points: Many of the rules promulgated by the Department of Agriculture and by the Department of Natural Resources exhibit R numbers containing 2 decimal points. In the case of the Department of Agriculture, the number between the 2 decimal points corresponds to a general regulation number assigned by that department. In the case of the Department of Natural Resources, the number between the 2 decimal points corresponds to a regulation number assigned each county by that department.

History Notes: The origin and amendments of each rule are indicated in a history note following the text of the rule. The effective date of each rule is also indicated in the history note. For example:

History: 1979 ACS 7, Eff. Aug. 4, 1981; 1979 ACS 14, Eff. Apr. 28, 1983.

The note informs users that the rule originated in 1979 Administrative Code Supplement Number 7 (or 1979 Quarterly Supplement No. 7) and became effective on August 4, 1981. The note further informs users that the rule was subsequently amended in 1979 Quarterly Supplement No. 14 and that the amendment became effective April 28, 1983.

Abbreviations: Principal abbreviations used in history notes, source notes, and editor's notes are as follows:

AC—Administrative Code
ACS—Administrative Code Supplement
AACS—Annual Administrative Code Supplement
MR—Michigan Register
Eff.—Effective

AC preceded by the year 1944, 1954, or 1979 indicates the 1944, 1954, or 1979 editions of the *Michigan Administrative Code.* ACS preceded by the year 1944, 1954, or 1979 indicates 1944, 1954, or 1979 Administrative Code Supplements (or Quarterly Supplements) to the 3 editions of the *Michigan Administrative Code.*

Other Editorial Features: Other editorial features include the appearance of uniform authority paragraphs at the beginning of each set of rules containing citations to acts authorizing promulgation of those rules; boldface

catchlines preceding each rule, indicating major topics covered in the rule; and editor's notes furnishing information considered helpful to the reader.

Basic finding devices.

Table of Contents: A table of contents appears at the beginning of each annual supplement. The table is arranged sequentially by R number, with principal executive departments highlighted in boldface capital letters, and reflects only those rules the full text of which appears in the annual supplement.

Indexes: Two indexes appear at the end of this Annual Supplement. The first index contains detailed index entries arranged alphabetically under principal executive department headings; the second contains detailed index entries arranged alphabetically under general subject matter headings. Cross references are liberally employed to aid the reading and minimize the unnecessary repetition of entries.

R Number Method: Users who know the R number of a rule—for example, R 325.10102—have only to open the latest Annual Supplement to any page and note the R number at the top of the page. Since R numbers progress sequentially in ascending numerical order, users must turn the pages of their supplement forward or backward to locate the desired R number. In this instance, the R number appears in the 1991 Annual Supplement on page 385. Below the rule is a history note which reads:

History: 1954 ACS 94, Eff. Jan. 12, 1978; 1979 AC; 1991 MR 11, Eff. Nov. 22, 1991.

This note informs users that the rule originated in 1954 Administrative Code Supplement Number 94 (or 1954 Quarterly Supplement No. 94), and that the rule took effect on Jan. 12, 1978. The rule subsequently appeared in the 1979 Administrative Code, was amended in Issue No. 11 of the 1991 Michigan Register and took effect on Nov. 22, 1991.

But suppose the R number being sought is R 325.14101 rather than R 325.10102. Proceeding as outlined above, users will find R 325.14101 on page 421 of the 1991 Annual Supplement as an R number reference line, with a source note below it reading:

Source: 1981 AACS.

This note informs users that the text of R 325.14101 appears in the 1981 Annual Supplement.

Users may wonder why the text of R 325.14101 wasn't simply carried forward into the subsequent Annual Supplements, thereby obviating a 2-step search. The reason is apparent when one holds the subsequent Annual Supplements together. Combining these annuals into a single, truly cumulative supplement would produce a publication not only unwieldy, but also impossible to bind as 1 volume.

Agency Method: Frequently, users of the annual supplement know the principal executive agency that promulgated the rule being sought, but not the R number. In this instance, they can refer to the index of rules by principal executive agency, locate the principal executive agency, and search under that heading for the rule number.

Subject Method: If users know the subject matter of the rule, but neither the R number nor the principal executive agency that promulgated the rule, they can refer to the subject matter index, locate the appropriate subject matter heading, and search under that heading for the rule number.

New developments.

With the advent of the *Michigan Register*, which succeeds the Administrative Code Supplements (Quarterly Supplements) as the official repository of administrative rules, users are now dealing with a new citation in history notes, which reads:

History: 1991 MR 1, Eff. Jan. 1, 1991.

When users see this citation under the text of a rule in an annual supplement, it informs them that the rule first appeared in Issue No. 1 of the 1991 *Michigan Register*, and that it took effect on January 1, 1991.

Michigan Administrative Code.

The 1979 edition of the *Michigan Administrative Code,* published under the direction of the Legislative Council pursuant to Act No. 193 of the Public Acts of 1970, being §§8.41 to 8.48 of the *Michigan Compiled Laws,* is the third in a series of compilations of Michigan administrative rules.

The administrative rules of Michigan were first compiled in 1944 under the supervision of the Secretary of State by authority of former Act No. 88 of the Public Acts of 1943. The rules were arranged in alphabetical order by promulgating agency and published in 1 volume entitled *Michigan Administrative Code.*

A second compilation of administrative rules was completed in 1954 by the Michigan Compilation Commission under the supervision of the Secretary of State, again by authority of former Act No. 88 of the Public Acts of 1943. The 1954 compilation, also published in 1 volume, contained the rules of the 1944 compilation as amended, added to, or rescinded by rules appearing in 39 quarterly supplements to the 1944 edition of the *Michigan Administrative Code.*

The 1979 edition of the *Michigan Administrative Code,* published in 3 volumes, includes rules contained in the 1954 edition as amended, added to, or rescinded by rules appearing in 101 quarterly supplements to the 1954 edition, covering the filing periods for administrative rules beginning October 1, 1954, and ending November 30, 1979.

The publication of a rule in the *Michigan Register,* the *Michigan Administrative Code,* or in an annual supplement to the code raises a rebuttable presumption that the rule was duly adopted, filed, and made available for public inspection; that the rule printed is a true and correct copy of the promulgated rule; and that all requirements of the Administrative Procedures Act of 1969 relative to such rule have been complied with.

Withdrawal of promulgated rule by agency.

Occasionally, an agency may, after processing a rule, determine that it does not want the rule to become effective. The agency may thereupon proceed to withdraw the promulgated rule by transmitting a written request to either the Secretary of State or the Secretary of State and the Office of Regulatory Reform. With the foregoing exception, an agency may abrogate its rule only by rescission.

Amendment or rescission of rules by legislature.

If the Joint Committee on Administrative Rules, a standing committee, or a member of the Legislature believes that a promulgated rule is unauthorized, is not within legislative intent, or is inexpedient, the committee or member may do either or both of the following:

(a) Introduce a concurrent resolution at a session of the Legislature expressing the determination of the Legislature that the rule should be amended or rescinded. Adoption of the concurrent resolution constitutes legislative disapproval of the rule, but has no legal effect. Rejection of the resolution does not constitute legislative approval of the rule.

(b) Introduce a bill at a regular session, or special session if included in a Governor's message, which in effect amends or rescinds the rule.

Suspension of rules by joint committee.

If authorized by concurrent resolution of the Legislature, the Joint Committee on Administrative Rules, acting between regular sessions, may suspend a rule, or any part thereof, promulgated during the interim between regular sessions. The committee shall notify the agency promulgating the rule, the Secretary of State, the Department of Management and Budget, the Legislative Service Bureau, and the Office of Regulatory Reform of any rule or part thereof it suspends, and the rule or part thereof shall not be published in the *Michigan Administrative Code* while so suspended. A rule suspended by the Committee continues to be suspended until the end of the next regular session.

Declaratory rulings and judgments.

Any interested person may request an agency to issue a declaratory ruling as to the applicability of an agency rule to an actual state of facts. A ruling so issued binds the agency and the person requesting it, unless it is altered or set aside by a court. Such rulings provide guidance and certainty to an individual whose proposed actions might involve him or her in a dispute with an agency.

If an agency denies, or fails to act expeditiously on, a request for a declaratory ruling, the validity or applicability of a rule may be determined in an action for declaratory judgment when the court finds that the rule, or its threatened application, interferes with or impairs, or imminently threatens to interfere with or impair, the legal rights or privileges of the person bringing the action.

CHAPTER 1. ORGANIZATION, DIVISION, AND LENGTH OF RULES

The aim of this chapter is to present basic guidelines for arranging administrative rules within a filing, organizing rules into parts, and dividing the text of individual rules into subrules, subdivisions, paragraphs, and subparagraphs.

Arrangement of rules.

Definitions. Definitions of terms or phrases that are applicable to an entire set of rules must appear in the first rule or rules of the filing. In a rule filing that is organized into parts, definitions that are applicable only to the rules in a particular part must appear in the first rule or rules of that part. See Chapter 6.

EXAMPLE 1-1

R 325.951 Definitions.

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

(a) "Board" means the anatomy board created by section 2651 of the code.

(b) "Body" means a dead human body, or part thereof, which is subject to these rules and which is located within this state.

(c) "Code" means 1978 PA 368, MCL 333.1101 et seq.

(d) . . .

(2) . . .

EXAMPLE 1-2

PART 5. FIRE SAFETY; CONGREGATE FACILITIES

R 400.2501 Definitions.

Rule 501. As used in this part:

(a) "Approved" means acceptable to the director.

(b) "Automatic fire detection system" means at least a local system incorporating labeled underwriters' laboratories, inc., control units, with audible signal . . .

Rescissions. A rule that rescinds existing rules must appear as the last rule in the filing and shall be assigned the last available R number in the allocated sequence. If the filing is organized into parts, the rescission rule should appear as the last rule of the first part, if the first part is entitled "Part 1. General Provisions," and shall be assigned the last available R number in the sequence allocated for the first part.

To preserve historical information, it is suggested that an agency not rescind a rescission rule.

EXAMPLE 1-3

R 325.929 Rescission.

Rule 9. R 325.981 to R 325.992 of the Michigan Administrative Code, are rescinded.

EXAMPLE 1-4

PART 1. GENERAL PROVISIONS

R 400.6101 . . .

R 400.6199 Rescission.

Rule 199. R 400.161 to R 400.173 of the Michigan Administrative Code, are rescinded.

PART 2. FOSTER HOME CARE

R 400.6201 Licensure or approval before placing children in foster family homes.

Rule 201. Before placing children in foster home care, an agency shall be licensed or approved by the department to receive children for placement in private foster homes.

In organizing the remaining rules in a filing, the drafter should be guided by the following general principles:

- Do not include Tables of Contents because of the difficulty in keeping the tables up-to-date.
- Rules related by subject matter should be grouped together.
- Rules should be arranged in logical order.

An example which illustrates these principles is the rules of the Department of State entitled "LOBBYIST REGISTRATION AND REPORTING," the catchlines and part headings for which are reproduced below:

EXAMPLE 1-5

PART 1. GENERAL PROVISIONS

R 4.411 Definitions.
R 4.412 Duties and prohibitions; commencement.
R 4.413 Declaratory rulings.
R 4.414 Interpretive statements.

PART 2. LOBBYISTS AND LOBBYIST AGENTS

R 4.421 Lobbyists; expenditures for lobbying.
R 4.422 Lobbyist agents; compensation and reimbursement for lobbying.
R 4.423 Employer and employee lobbyist agents distinguished.
R 4.424 Lobbyists and lobbyist agents; state executive departments.
R 4.425 Lobbyists and lobbyist agents; state level boards and commissions.

PART 3. RECORDS

R 4.431 Records; itemized accounts; accounting method; posting; allocation or proration.
R 4.432 Records; original source records; information.
R 4.433 Records; inspection by department.

PART 4. REGISTRATIONS

R 4.441 Registrations; format.
R 4.442 Registrations; identification symbol.

PART 5. STATEMENTS AND REPORTS

R 4.451 Statements and reports; filing; format.
R 4.452 Statements and reports; late reporting fees; computation; collection.
R 4.453 Statements and reports; late reporting fees; waiver.

Parts.

Organize an extensive number of rules which address a variety of major topics and which appear under a general subject matter heading, such as "GENERAL RULES" or "SAFETY STANDARDS," into parts. See *Example 1-5, supra.* Do not include a table of contents, consisting of part headings, at the beginning of a rule filing.

Subrules.

If it is necessary to incorporate a large amount of material into 1 rule, the drafter should consider dividing the material into subrules; that is, a series of independent statements numbered (1), (2), (3), and so on. For example, it is preferable to divide the text of a single rule that describes the steps in applying for a license into a series of subrules, with each subrule describing a separate step. Compare the following 2 examples:

EXAMPLE 1-6

R 338.1906 Application for license.

Rule 6. An applicant for a license shall submit to the board in Lansing an application on forms prepared and furnished by the department. An application shall be accompanied by the statutory fee and shall be made under oath. Each question shall be answered in its entirety. An incomplete application shall be completed and resubmitted to the board within 15 days after the date of the board's request. Failure to comply is grounds for denial of the application and forfeiture of application fees already paid.

EXAMPLE 1-7

R 338.1906 Applications.

Rule 6. (1) An applicant for a license shall submit to the board in Lansing an application on forms prepared and furnished by the department.

(2) An application shall be accompanied by the statutory fee and shall be made under oath. Each question shall be answered in its entirety.

(3) An incomplete application shall be completed and resubmitted to the board within 15 days after the date of the board's request.

(4) Failure to comply with subrule (3) is grounds for denial of the application and forfeiture of application fees already paid.

Example 1-7 is preferable to *Example 1-6* because the separate steps in the application process are more readily discernible. Note also that the problem of identifying the provision to which the phrase "failure to comply" in *Example 1-6* applies is eliminated in *Example 1-7* by adding a reference to the specific subrule with which compliance is required.

Occasionally several short, closely related provisions are drafted as individual rules when it is more appropriate to draft them as subrules of a single rule. Compare the following 2 examples:

EXAMPLE 1-8

R 125.1807 License; issuance generally.

Rule 807. A park license may be issued to a park operated by an individual, partnership, association, trust, or corporation, or any other legal entity, or combination thereof, which meets the requirements of the act and these rules.

R 125.1808 License; issuance to person under age 18 prohibited.

Rule 808. A mobile home park license shall not be issued to a person under the age of 18.

R 125.1809 License; issuance to limited partnership.

Rule 809. A mobile home park license shall not be issued to a limited partnership unless the person applying is a general partner.

EXAMPLE 1-9

R 125.1807 License; issuance.

Rule 807. (1) A park license may be issued to a park operated by an individual, partnership, association, trust, or corporation, or any other legal entity, or combination thereof, which meets the requirements of the act and these rules.

(2) A mobile home park license shall not be issued to a person under the age of 18.

(3) A mobile home park license shall not be issued to a limited partnership unless the person applying is a general partner.

Example 1-9 is preferable to *Example 1-8* because it combines in 1 rule all provisions related to the issuance of a license.

Subdivisions, paragraphs, and subparagraphs.

As noted above, a rule may be divided into a series of independent, numbered statements designated as subrules. A subrule may then be divided into subdivisions, paragraphs, and subparagraphs, all of which are statements that are dependent upon preceding material. These statements are designated as follows:

(1) *Subrule*—an independent statement.

(a) *Subdivision*—a statement dependent upon, and anticipated by, preceding material; preceded by a colon.

(i) *Paragraph*—a further division of a dependent statement; preceded by a colon.

(A) *Subparagraph*—a still further division of a dependent statement; preceded by a colon.

EXAMPLE 1-10

R 340.1786 Teachers of the mentally impaired; special requirements.

Rule 86. (1) The teacher education program for teachers of the mentally impaired shall include all of the following:

(a) Four semester hours of directed teaching credit in the field of the mentally impaired, except if it has been recommended that this requirement be waived by the training institution for experienced teachers when approved by the superintendent of public instruction.

(b) Twenty-four semester hours of credit in course work in special education and related subjects, distributed as follows:

(i) A minimum of 2 semester hours of credit for a course in the education of exceptional children.

(ii) A minimum of 2 semester hours of credit for a course in mental hygiene.

(iii) A minimum of 4 semester hours of credit for courses in arts and crafts.

(iv) A minimum total of 8 semester hours of credit for courses including those on the subjects of mental deficiency, problems of instruction and methods of teaching the mentally impaired person, problems of organization and curriculum in teaching the mentally impaired person, education and social control of mentally impaired, or equivalents.

(v) A minimum additional number of semester hours of credit in general and related courses, which, when added to the foregoing required courses, makes an accrued total of 24 semester hours of credit. The courses shall be selected from the following subjects or their equivalent:

(A) Mental and exceptional testing.

(B) Guidance and occupational information.

(C) Speech correction.

The designation of these statements should reflect the parallelism or subordination of ideas. Parallel ideas are expressed in the same form. For example:

Rule 2. (1) The director shall do all of the following:
(a) Designate a coordinator to implement the program. (Correct)
(b) Review eligibility criteria established by the coordinator. (Correct)
(c) *He may* reorganize the program at any time. (Incorrect)

Subdivision (c) is defective because it is not expressed in a form parallel to (a) and (b); that is, it does not begin with a verb that completes the introductory expression "The director shall . . . ". Subdivision (c), therefore, should properly be designated as subrule (2), as follows:

(2) The director may reorganize the program at any time.

Length of rules.

After the material is organized, individual rules may be drafted. Although there is no requirement that the average rule be limited to 1/3 to 1/2 of a page in length, there are several advantages for doing so: Shorter rules aid readability; it is less difficult to reference a specific provision; and the cost to the agency is less upon publication of an amendment to a shorter rule.

CHAPTER 2. STYLE

This chapter prescribes the rules of style for numerical references, inclusive references, abbreviations, capitalization, spelling, hyphenation, punctuation, tabular material, figures, schedules, and appendices that apply when drafting administrative rules.

Cardinal and ordinal numbers.

Express cardinal numbers as figures, except at the beginning of a sentence or a subrule, subdivision, paragraph, or subparagraph, in which case the number is spelled out.

EXAMPLE 2-1

R 397.67 High school equivalency.

Rule 67. *Three* years of high school plus *1* year of county normal school shall be considered the equivalent of *4* years of high school for purposes of qualifying for a certificate of library experience.

EXAMPLE 2-2

R 390.1133 State elementary and secondary *30*-hour continuing certificates.

Rule 33. (1) A state elementary or secondary continuing certificate is not required but is available to the teacher who qualifies and requests it.

(2) This certificate may be issued to an applicant who presents evidence that he has completed the following requirements:

(a) Taught successfully for *3* years, under the terms of his provisional, continuing or permanent certificate as determined by the state board upon recommendation of the sponsoring institution and the local school district.

(b) *Thirty* semester hours in a planned course of study beyond the bachelor's degree or that he holds a master's degree.

Spell out ordinal numbers.

EXAMPLE 2-3

R 327.9 Dental programs.

Rule 9. A department shall develop a dental program incorporating elements of prevention, including education, early detection, diagnosis, and treatment using all available local, state, and federal resources, including consultation and funding. It shall do all of the following:

(a) . . .

(b) . . .

(c) Provide or promote a summer or school year topical fluoride program for eligible preschool, *second, fifth,* and *eighth* grade children and a plaque control . . .

EXAMPLE 2-4

R 325.201 Rabies.

Rule 1. (1) All laboratories in the state of Michigan making examinations of specimens from dogs for rabies shall report on the *first* day of each month to the state commissioner of health the results of their examinations, the owner of the dog and his address, the name of the person who brought in the specimen and his address, and, if possible, the political subdivision in which the dog was resident.

However, if an ordinal number is followed by a month, such as "on the first day of May," convert the phrase to read "on May 1."

Fractions.

Express a fraction in figures, separated by a diagonal, unless the fraction appears at the beginning of a sentence or a designated statement, in which case the fraction is spelled out with a hyphen.

EXAMPLE 2-5

R 325.341 Plant specifications.

Rule 1. (1) The plant shall conform to the following specifications:

(a) . . .
(b) . . .
(c) It shall not be in a basement where more than ½ of the room height is below grade.
(d) *One-half* of the usable floor space may be on the second floor.

EXAMPLE 2-6

R 325.1972 Meals and special diets.

Rule 72. (1) Not less than 3 meals or their equivalent shall be served daily at regular times, with not more than a 14-hour span between a substantial evening meal and breakfast. If a substantial snack is served after the evening meal, this time span may be increased to *14¾* hours.

Monetary units.

Use figures to express amounts of money, except at the beginning of a sentence or a designated statement. Add 2 zeroes if there are no cents.

EXAMPLE 2-7

R 460.15033 Liability to third persons.

Rule 33. All carriers shall secure and keep in force a public liability and property damage insurance policy for the protection of persons other than its passengers in amounts ordered by the commission. The minimum amounts of the policy shall be as follows:

(a) *One hundred thousand dollars*—1 person liability.
(b) *Three hundred thousand dollars*—all persons liability.
(c) *Fifty thousand dollars*—property damage.

EXAMPLE 2-8

R 460.15043 Cards.

Rule 43. (1) A separate card shall be issued for each self-propelled motor vehicle covered by a certificate, permit, or registration. The card shall be carried with the vehicle for which it is issued to permit it to be easily inspected.

(2) In case of loss or destruction of a card, a substitute card may be obtained upon making proper application upon forms furnished by the commission and payment of a fee of *$1.00*.

For an amount less than $1.00, use figures and the word "cents," unless the amount appears at the beginning of a sentence or a designated statement.

Percentages.

To express a percentage, use figures and the symbol "%," unless the percentage occurs at the beginning of a sentence or a designated statement.

EXAMPLE 2-9

R 500.624 Separate accounts.

Rule 624. (1) . . .

(2) An insurer issuing contracts on a variable basis shall maintain in each separate account assets having a value equal to the reserves and other reasonable liabilities and obligations with respect to the account. If the securities and exchange commission requires that an account have a minimum balance before solicitation is permitted, the insurer may participate in the separate account in order to comply with the requirement, but the initial value of the amount so invested shall not exceed by more than *25%* the amount required by the securities and exchange commission, and the insurer shall redeem the units so purchased within 6 months after the account acquires other assets sufficient to satisfy the requirements of the securities and exchange commission.

EXAMPLE 2-10

R 500.803 Benefits unreasonable in relation to premiums.

Rule 3. (1) The policy or rate filings shall include an actuarial certification that the benefits provided are reasonable in relation to the premium charged and shall show the anticipated loss ratio. The benefits provided are presumed unreasonable in relation to the premiums charged if the anticipated loss ratio does not equal or exceed the following standards:

(a) *Sixty-five percent* for rated by age insurance.
(b) *Sixty percent* for collectively renewable insurance or optionally renewable insurance.

Time.

Express clock time in figures with a.m. or p.m.

EXAMPLE 2-11

R 440.4 Response to request for expediting; mailing or personal delivery; time.

Rule 4. (1) The response to a request for expediting received by the secretary of state before *11 a.m.* on a business day shall be available for mailing or personal delivery between *3 p.m.* and *4:30 p.m.* on the day the request is received.

Dates.

Express dates in figures.

EXAMPLE 2-12

R 325.81 Use of mercurial carrot prohibited.

Rule 81. Effective *December 1, 1941,* the use of mercurial carrot in the preparation of hatters' fur, or the use of mercurial carroted hatters' fur in the manufacture of hats, is prohibited. However, any hat manufacturer or fur cutter having mercurial carroted hatters' fur on hand *December 1, 1941,* may use the fur until it is consumed.

EXAMPLE 2-13

R 451.601.4 Broker-dealers' and agents' effective registration dates.

Rule 601.4. The initial registration of a broker-dealer or agent may become effective at any date during the year. A renewal registration is effective *July 1* of each year. All registrations expire on the *June 30* following effectiveness.

Measurement.

Express a unit of measurement in figures, unless the number occurs at the beginning of a sentence or a designated statement.

EXAMPLE 2-14

R 408.13847 Hot sticks.

Rule 3847. (1) The hot stick and any tool attached to it shall be wiped clean and inspected for damage before use on a job shift. A hot stick with a defect, such as a surface rupture, shall be repaired or replaced.

(2) A hot stick shall not be used in excess of its rated capacity.

(3) The minimum working distance and minimum clear hot stick distances prescribed in table 1, when using live-line tools, shall not be violated.

(4) A hot stick shall not be used unless it has been certified by the manufacturer to meet the following:

(a) Fiberglas, *100,000 volts* per foot of length for *5 minutes.*

(b) Wood, *75,000 volts* per foot of length for *3 minutes.*

EXAMPLE 2-15

R 408.16321 Illumination.

Rule 6321. (1) Natural or artificial lighting shall be furnished to provide the following:

(a) A minimum of *25 footcandles* intensity at the machine operator's work station.

(b) A minimum of *5 footcandles* along a means of egress.

(c) A minimum of *2 footcandles* in an inside active storage area.

EXAMPLE 2-16

R 408.10934 Hose.

Rule 934. Where a hose outlet is required for use of building occupants, the hose length shall not exceed *75 feet* of *1½-inch,* unlined, or *100 feet* of rubber lined, hose attached to the outlet. An employer having an organized and trained fire brigade may increase the *75-foot* limitation to *100 feet* of unlined hose.

EXAMPLE 2-17

R 408.11605 Definitions; F to H.

Rule 1605. (1) "Flammable liquid" . . .

(2) . . .

(3) . . .

(4) . . .

(5) "Highly toxic" means a substance which falls within any of the following categories:

(a) Produces death within *14 days* in ½ or more than ½ of a group of *10* or more laboratory white rats, each weighing between *200 and 300 grams,* at a single dose of *50 milligrams* or less per kilogram of body weight, when orally administered.

(b) Produces death within *14 days* in ½ or more than ½ of a group of *10* or more laboratory white rats, each weighing between *200 and 300 grams,* when inhaled continuously for a period of *1 hour* or less at an atmosphere concentration of *200 parts per million* by volume or less of gas or vapor or *2 milligrams per liter* by volume or less of mist or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner.

EXAMPLE 2-18

R 408.10924 Clearance to sprinkler deflectors.

Rule 924. The clearances between a ceiling type sprinkler deflector and the top of a stockpile shall be:

(a) *Thirty-six inches* where the top of solid piled stock is more than *15 feet* high or is more than *12 feet* in rack or palletized storage.

Temperature.

Spell out "Fahrenheit," "Celsius," and "degree." Do not use corresponding symbols "F," "C," and "°."

R 408.11205 Definitions; P to W.

Rule 1205. (1) . . .

(2) . . .

(3) . . .

(4) "Soldering" means a process of joining metals without melting them, using a filler metal melting at *800 degrees Fahrenheit, 427 degrees Celsius,* or below.

Inclusive references.

Do not use either of the following forms in a rule when referring to 2 or more consecutive rule or section numbers:

. . . shall comply with rules 4 *through* 8 of this part.

. . . shall be conducted pursuant to sections 14 *to* 20, *inclusive,* of the act.

Instead, use the following form when referring to 3 or more consecutive section or rule numbers:

. . . sections 1 *to* 10 of 1939 PA 280, MCL 400.1 *to* 400.10.

EXAMPLE 2-19

R 338.2763 Hearing procedure.

Rule 63. (1) A formal hearing in a contested case shall be conducted in accordance with sections 71 *to* 92 of 1969 PA 306, MCL 24.271 *to* 24.292.

EXAMPLE 2-20

R 285.148.312 Cripples and downers.

Rule 312. All seriously crippled animals and animals commonly termed "downers," if not marked "MDA condemned" as required elsewhere in these rules, shall be marked and treated as suspects in accordance with R 285.148.303 *to* R 285.148.307.

Abbreviations.

As a general rule, do not abbreviate a word or phrase in the text of a rule. The most common exceptions to this rule are as follows:

The word "number" is abbreviated "No." when it occurs as part of a citation.

Act No. 306 of the Public Acts of 1969.
Executive Reorganization Order No. 1973-1.

The name of certain law codes and legal publications is abbreviated when it occurs as part of a citation.

42 U.S.C. §3801 (United States Code)
20 C.F.R. §422.103 (Code of Federal Regulations)
38 F.R. §71.5, p. 10013 (April 23, 1973) (Federal Register)

The abbreviations "a.m." and "p.m." are used when expressing clock time.

2 a.m., 6:30 a.m.
4 p.m., 7:45 p.m.

The name of a national organization or association may be abbreviated when it is part of a citation to a standard adopted by reference.

ANSI A14.5.2-1972
NFPA Standard No. 70-1975
BOCA Code

Certain other terms, such as bushel (bu.), foot (ft.), and pounds per square inch (psi), may be abbreviated in tables, figures, schedules, and appendices.

Do not use the following abbreviations of non-English expressions in the text of a rule:

e.g.
etc.
viz.
i.e.

Capitalization.

Capitalize the first word of every sentence and the first word of every subrule, subdivision, paragraph, and subparagraph of a rule.

EXAMPLE 2-21

R 330.7251 Case records for patients in hospitals for mentally ill and psychiatric units.

Rule 7251. (1) *P*atient records shall be kept on the ward or unit in which a patient resides.

(2) *R*ecords shall include all of the following:

(a) *I*dentifying data, including legal status.

(b) *A* patient history, including:

(i) *F*amily data, educational background, and employment record.

(ii) *P*rior medical history, both physical and mental, including prior hospitalization and report of preadmission evaluation.

(c) *C*hief complaints of the patient and chief complaints of others regarding the patient.

As a general rule, do not capitalize a proper noun that can be used as a common noun. For example, in the name "state bar of Michigan," the word "Michigan" is never used as a common noun and is, therefore, capitalized; but the words "state" and "bar" can be used as common nouns in other instances and are, therefore, not capitalized. There are, however, a number of exceptions to the general rule, as follows:

Act No.
Celsius
C.F.R.—Code of Federal Regulations
Dominion of Canada
Executive Order)
Executive Reorganization Order) —when identifying a specific order
Extra Session
Fahrenheit
F.R.—Federal Register
First Extra Session

Great Lakes
Lake Erie
Lake Huron
Lake Michigan
Lake Ontario
Lake Superior
Lower Peninsula
Mackinac Island
Michigan Administrative Code
Michigan Compiled Laws
Public Acts
Public Law—when identifying a specific law
Second Extra Session
Upper Peninsula
U.S.C.—United States Code

Capitalize the substantive terms in an address or in the title of a publication enclosed in quotation marks.

EXAMPLE 2-22

R 408.42223 Traffic control.

Rule 2223. (1) When vehicular traffic creates a hazard to employees performing construction operations within a public right-of-way, traffic control devices shall be installed and maintained as prescribed in part 6 of the 1973 edition of the Michigan manual of uniform traffic control devices, as revised, in part, in 1976, which is incorporated herein by reference and may be inspected at the Lansing office of the department of labor. This manual may be purchased at a cost of $9.36 from the Department of State Highways and Transportation, Highway Bldg., Lansing, Michigan 48904, or from the Michigan Department of Labor, 7150 Harris Drive, Box 30015, Lansing, Michigan 48909.

Spelling.

Use *Webster's Third New International Dictionary* as the final authority for the correct spelling of words.

Punctuation.

Serial comma. If a series of 3 or more words, phrases, letters, or figures are joined by a single "and" or "or," use a comma after each item except the item following the conjunction.

EXAMPLE 2-23

R 285.148.214 Unsanitary testing and other practices.

Rule 214. Spitting on whetstones, spitting on the floor, placing skewers, tags, or knives in the mouth, inflating lungs or casings, or testing with air from the mouth such receptacles as tierces, kegs, casks, and the like containing any product, or intended as containers of any product, is prohibited. Only mechanical means may be used for testing.

EXAMPLE 2-24

R 325.1174 Records of bodies.

Rule 4. An institution shall keep complete records of bodies in its charge. The storing institution shall make records in triplicate, 1 for its own purposes and 1 for deposit with each other storing institution. Records shall be exchanged periodically. Records shall reflect date of receipt, identity, age, sex, race, religion, cause of death, whole or autopsied, physical condition, embalming, storage, location and manner of use, claiming status, and disposition. Accession numbers shall indicate by letter code the preparing and storing institution.

EXAMPLE 2-25

R 340.1785 Special education areas to which approvals apply.

Rule 85. R 340.1782, R 340.1783, and R 340.1784 apply to teachers in the specific special education areas of the mentally impaired, emotionally impaired, hearing impaired, visually impaired, physically and otherwise health impaired, speech and language impaired, homebound and

Parentheses. Set off a parenthetic expression with commas:

The department shall not approve a course *(other than one offered by an accredited educational institution)* that requires membership in an organization. (Incorrect)

The department shall not approve a course, *other than one offered by an accredited educational institution,* that requires membership in an organization. (Correct)

Colon. Place a colon after a clause containing an expression that anticipates or introduces a list of subdivisions, paragraphs, or subparagraphs:

EXAMPLE 2-26

R 388.221 Definitions.

Rule 1. *As used in these rules:*

(a) "Act" means 1972 PA 258, MCL 388.1101 et seq.

(b) "Basic cognitive skills" means communication skills and computational skills.

(c) "Lowest achievers in grades 2 to 6" means pupils identified by the procedures described in R 388.222(2).

(d) "Those with the lowest readiness for acquisition of basic cognitive skills" means K-1 pupils identified by the procedures described in R 388.222(3).

EXAMPLE 2-27

R 500.860 Separate accounts; allowable charges.

Rule 20. *The following apply* to allowable charges against a separate account for variable life insurance:

(a) The insurer may deduct *only the following* from the separate account:

(i) . . .

(ii) . . .

(iii) . . .

(iv) Charges for investment management expenses, including internal costs attributable to the investment management of assets of the separate account, not *exceeding the following* percentages, on an annual basis, of the average net asset value of the separate account as of the date of valuation under R 500.854(f):

(A) Three-quarters of 1% of that portion of separate account assets valued at or under $75,000,000.00.

(B) One-half of 1% of that portion of separate account assets valued in excess of $150,000,000.00 but less than $400,000,000.00.

(C) Four-tenths of 1% of that portion of separate account assets valued in excess of $150,000,000.00 but less than $400,000,000.00.

EXAMPLE 2-28

R 400.3538 Payment for emergency shelter or foster care for children.

Rule 38. (1) Payment may be made for emergency shelter or foster care for children to provide *1 of the following:*

(a) Room and board in a licensed foster home or the home of a relative other than the parents.

(b) Care in a private, nonprofit licensed institution or halfway house.

(2) These services are available to a child who meets *all of the following* requirements:

(a) Is under age 21.

(b) During the past 6 months, has lived with a relative specified in the aid to dependent children policy as contained in the assistance payments manual published by the department as DSS Manual 22 (1-74) and available from the department.

(c) If required to accept employment or training, has not refused without good cause to accept employment or training during the last 30 days.

EXAMPLE 2-29

R 400.3540 Payment for burial or cremation of deceased person.

Rule 40. (1) . . .

(2) Payment may be made for *any of the following:*

(a) Services of a funeral director, including a casket of minimum finish cloth cover with twill or equivalent interior and flat or oval top with handles, local removal up to 30 miles, preparation of the body for burial, use of the funeral director's facilities, and filing of legal papers.

(b) An outside receptacle when required by the cemetery and consisting of a metal or concrete rough box.

(c) A single burial space.

(d) Opening and closing the grave.

(e) Use of cemetery equipment.
(f) Transportation in excess of 30 miles.
(g) Clothing.
(h) Clergyman's honorarium.

EXAMPLE 2-30

R 408.8591 Hoisting chains.

Rule 591. (1) Only roller chain made of high quality alloy, heat-treated steel *with the following* characteristics is acceptable for hoisting chains:

(a) Prestressed.
(b) Shot peened.
(c) In-line blanking.
(d) Deep case hardening of pins and bushings.

Hyphen. Use *Webster's Third New International Dictionary* or an authoritative text on grammar, such as *The Gregg Reference Manual,* Fifth edition, Gregg Division, McGraw-Hill Book Company, as a guide in determining if compound words are hyphenated or written as single words or separate words.

Tabular material, figures, schedules, and appendices.

If a table, figure, schedule, or appendix is included in a set of rules, the table, figure, schedule, or appendix must appear as part of the rule and not as an independent item. The proper method for including a table, figure, schedule, or appendix in a rule is as follows:

EXAMPLE 2-31

R 408.4296 Bottom blowoffs or drain valves.

Rule 296. (1) Each boiler shall have a bottom blowoff or drain pipe connection fitted with a valve or cock connected with the lowest water space practicable, with the minimum size of blowoff piping and valves as shown in table 296:

TABLE 296

Size of Bottom Blowoff Piping and Valves

Minimum Required Safety or Relief Valve Capacity Lb. of Steam per Hour	Blowoff Valves Size, Inches
Up to 500	¾
501 to 1,250	1
1,251 to 2,500	1¼
2,501 to 6,000	1½
6,001 and larger	2

EXAMPLE 2-32

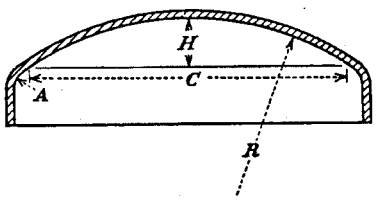
R 408.4393 Radius of a dished head.

Rule 393. (1) . . .

(2) The distance C in subrule (1) shall be taken as large as practicable, but not large enough to include any portion of the rounded surface at A between the flange and the dished portion of the head. See figure 1.

FIGURE 1

Method of Measuring the Radius of Dished Head



EXAMPLE 2-33

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) Alphaprodine.
(b) Anileridine.
(c) Bezitramide.
(d) Dihydrocodeine.
(e) Diphenoxylate.
(f) Fentanyl.
(g) Isomethadone.
(h) Levomethorphan.
(i) Levorphanol.
(j) Metazocine.

EXAMPLE 2-34

R 408.30497 Appendix B.

Rule 497. Appendix B, unclassified miscellaneous, is amended to read as follows:

Unclassified Miscellaneous

Basic Property Maintenance Code.....BOCA–1978
Building Materials and Equipment–
Coordination of Dimensions of .....ANSI A62.1–57

CHAPTER 3. CITATIONS

This chapter prescribes the correct form and style of citations to the constitution, statutes, executive reorganization orders, and administrative rules of the state of Michigan, and of citations to federal statutes and regulations.

State constitution of 1963.

When referring to the state constitution of 1963, cite the constitution as in the following example:

EXAMPLE 3-1

(By authority conferred on the civil rights commission by *Mich. Const., Art. V, §29)*

Michigan statutes.

When referring to an act in its entirety, cite to both the Public Acts and the Michigan Compiled Laws, as follows:

EXAMPLE 3-2

R 125.1903 Documents filed with department; form; copies.

Rule 903. A document filed with the department shall be typewritten. One copy of each exhibit or document shall be submitted; however, the department may require more than 1 copy of any exhibit or document. All documents filed pursuant to these rules shall be copies of the originals and shall become part of the department's records. All documents are subject to the provision of *1976 PA 442, MCL 15.231 et seq.*

When referring to a single chapter or article of an act, cite to the public acts by chapter or article number and to the Michigan Compiled Laws by section numbers, as follows:

EXAMPLE 3-3

R 257.1 Vision examinations.

Rule 1. A driver's license applicant and a licensed driver examined as required under *chapter 3 of 1949 PA 300, MCL 257.301 to 257.327,* in order to be licensed shall successfully pass a vision test authorized or administered by the department and meet other requirements of law.

EXAMPLE 3-4

R 37.25 Exemption from particular section of act; bona fide occupational qualification.

Rule 25. (1) A person subject to *article 2 of 1976 PA 453, MCL 37.2201 to 37.2211,* may apply to the commission for exemption from particular sections of *article 2 of 1976 PA 453, MCL 37.2201 to 37.2211,* on the basis that religion, national origin, age, height, weight, or sex is a bona fide occupational qualification. Applications may be obtained from, and may be submitted to, any office of the department, and the department shall transmit them to the commission.

To refer to a specific section or sections of an act, cite to the Public Acts and the Michigan Compiled Laws, as follows:

EXAMPLE 3-5

R 338.972 Official notice of facts; notice; objections.

Rule 22. (1) The administrative law examiner and the board or task force may take official notice of facts pursuant to *section 77 of 1969 PA 306, MCL 24.277,* upon request by a party or on its own motion in accordance with this rule.

EXAMPLE 3-6

(By authority conferred on the secretary of state by *sections 33 and 48 of 1969 PA 306, MCL 24.233 and 24.248)*

If referring to a specific subsection of a section, cite to the Public Acts and to the Michigan Compiled Laws, as follows:

EXAMPLE 3-7

R 206.3 Employer.

Rule 3. (1) The term "employer" is defined in *section 8(3) of 1967 PA 281, MCL 206.8(3).*

When referring to more than 1 act, cite to the Public Acts and to the Michigan Compiled Laws, as follows:

EXAMPLE 3-8

R 37.24 Record making and keeping; disclosure.

Rule 24. (1) . . .

(2) A person subject to *section 206 of 1976 PA 453, MCL 37.2206 and 1976 PA 220, MCL 37.1206,* shall, upon request of the department or commission, disclose information covered by the above sections and shall not thereby be in violation of those provisions. A person subject to the same sections may retain records and information previously and lawfully obtained from prospective employees, but shall not disclose that information, except as provided in this rule.

EXAMPLE 3-9

(By authority conferred on the commission of natural resources by *sections 2 and 3a of 1921 PA 17, MCL 299.2 and 299.3a and sections 9 and 252 of 1965 PA 380, MCL 16.109 and 16.352*)

If an act is referred to several times in the text of the rules, define the act in the "Definitions" rule and use the term "act" in place of the complete citation:

EXAMPLE 3-10

R 257.21 Definitions.

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

(a) "*Act*" means 1949 PA 300, MCL 257.1 et seq.

(b) "Field office" means an office of the secretary of state where a dealer . . .

R 125.1904 Preliminary plan; review by local agencies; notice of approval or deficiencies.

Rule 904. (1) A permit to construct a mobile home park shall not be issued until the approval by the county road commission, county drain commission, municipality, and local health department is obtained by the developer or the statutory time limit has expired pursuant to section 11(5) of the *act.*

Michigan administrative rules.

When referring to an administrative rule appearing elsewhere in the filing or in the Michigan Administrative Code, cite the rule by R number only.

EXAMPLE 3-11

R 325.51922 Protective work clothing and equipment; provision and use.

Rule 22. If an employee is exposed to lead above the permissible employee exposure limit prescribed by *R 325.51903,* without regard to the use of respirators, or if the possibility of skin or eye irritation exists, an employer shall provide, at no cost to the employee, and shall assure that the employee uses, appropriate protective work clothing and equipment, including all of the following:

(a) Coveralls or similar full-body work clothing.

(b) Gloves, hats, and shoes or disposable shoe coverings.

(c) Face shields, vented goggles, or other appropriate protective equipment which complies with *R 408.13501 to R 408.13569.*

To refer to a specific subrule, subdivision, paragraph, or subparagraph within a rule appearing elsewhere in the filing or in the Michigan Administrative Code, cite as follows:

EXAMPLE 3-12

R 325.51924 Protective work clothing and equipment; modification; labeling of containers.
Rule 24. (1) . . .
(2) . . .
(3) An employer shall assure that containers of contaminated protective clothing and equipment required pursuant to *R 325.51923(4)(b)* are labeled.

Use the following expressions for references to subrules, subdivisions, paragraphs, and subparagraphs that appear *in the same rule:*

. . . *subrule (1)(a)(ii)(A) of this rule*—in the same rule, but referring to another subrule.

. . . *subdivision (a)(ii)(A) of this subrule*—in the same subrule, but referring to another subdivision.

. . . *paragraph (ii)(A) of this subdivision*—in the same subdivision, but referring to another paragraph.

. . . *subparagraph (A) of this paragraph*—in the same paragraph, but referring to another subparagraph.

EXAMPLE 3-13

R 285.628.11 Grades and sizes.
Rule 11. (1) Except as provided in *subrules (2) and (3)(a)(iii) of this rule,* grades and sizes of premier foundation, foundation, and certified classes of seed shall conform to the United States standards for grades of seed potatoes effective April 28, 1972.

EXAMPLE 3-14

R 125.105 Income limitations.
Rule 105. (1) . . .
(a) . . .
(i) . . .
(ii) . . .
(b) . . .
(c) Not withstanding the provisions of *subdivisions (a) and (b) of this subrule,* a family may have a gross income up to that established pursuant to the following formula: $1.5 \times a \times 1.07^{m}$, where a is the median family income for the county in which . . .
(i) . . .
(ii) . . .
(iii) The housing shall be located in an area in a central city which meets the criterion set forth in *paragraph (ii) of this subdivision.*

Executive reorganization orders.

Cite an executive reorganization order as follows:

. . . Executive Reorganization Order No. 1973-1, as amended, being §247.821 of the Michigan Compiled Laws.

Federal statutes.

Cite a federal statute, by title and section number, to the United States Code. Include in the citation the popular name of the federal statute or its public law number.

EXAMPLE 3-15

R 451.603.5 Investment adviser; books and records.
Rule 603.5. (1) An investment adviser shall make and keep current such books and records relating to the investment adviser's business as are required by the securities and exchange commission to be made and kept current by registered investment advisers under the *investment advisers act of 1940, 15 U.S.C. §80b et seq.,* and such other books and records relating to the investment adviser's business as the administrator may reasonably require.

EXAMPLE 3-16

R 323.2208 Groundwater monitoring.

Rule 2208. (1) . . .

(2) . . .

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e) . . .

(f) "Liens" and "lienholders" do not include maritime liens or the holder therefor pursuant to *Public Law 69-806, 46 U.S.C. §971 et seq.*

Federal regulations.

Cite a federal regulation, by title and section number, to the Code of Federal Regulations (C.F.R.) if it appears in the C.F.R. and cite to the appropriate edition. If the subject matter of the regulation cannot be identified within the context of the sentence, add the name of the regulation to the citation.

EXAMPLE 3-17

R 338.3143 Storage of controlled substances.

Rule 43. (1) . . .

(2) . . .

(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, 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 *21 C.F.R. §§1301.71 to 1301.76 (1978).*

EXAMPLE 3-18

R 28.5103 Definitions; M to O.

Rule 103. As used in these rules:

(a) . . .

(b) . . .

(c) . . .

(d) "National crime information center," known as NCIC, means the nationwide criminal justice data center which is located in Washington, D.C., and which is administered by the U.S. department of justice. The authority for the NCIC program is derived from *28 C.F.R. §534 (1976).*

(e) "National law enforcement telecommunications system," known as NLETS, means a national computerized message delivery system located in Phoenix, Arizona.

(f) "NCIC advisory policy board" means that board established by *28 C.F.R. §20.25 (1976)* to make recommendations to the director of the federal bureau of investigation on general policy with respect to the philosophy, concept, and operational principles of NCIC.

CHAPTER 4. WORD USAGE: TENSE, VOICE, AND NUMBER OF VERBS

This chapter proscribes vague, ambiguous, or pleonastic terms and phrases and lists preferred alternatives. This part also deals with the tense, voice, and number of verbs.

Vague, ambiguous, or redundant terms and phrases.

Do not use any of the following vague or ambiguous terms to refer to specific rule provisions.

above	hereinabove
aforementioned	hereinafter
aforesaid	hereinbefore
foregoing	heretofore
hereafter	preceding
herein	

The preceding terms are not acceptable substitutes for specific references to rule provisions.

An applicant shall comply with all of the *foregoing* licensing requirements. (Unacceptable)

An applicant shall comply with the licensing requirements set forth in *R 338.2101 to R 338.2105.* (Acceptable)

All foods shall be packaged pursuant to the requirements established *herein.* (Unacceptable)

All foods shall be packaged pursuant to the requirements established in *subrules (2) and (3) of this rule.* (Acceptable)

Certain terms and phrases used frequently in drafting rules are pleonastic and imprecise. Several of these terms and phrases are also unnecessary variations of preferred terms. When drafting rules, review the following list to determine if terms or phrases in the left column are being used and, if so, decide whether the preferred alternative in the right column can be substituted.

Objectionable Term or Phrase	Preferred Term or Phrase
a person is prohibited from no person shall it shall be unlawful for a person to	a person shall not
will must should it is his duty to is required to is directed to is hereby authorized and it shall be his duty to is hereby vested with power and authority and it shall be his duty	shall
is permitted to is not prohibited from is empowered to is authorized to is hereby authorized to is entitled to shall have the power to	may
means and includes	(either word)

Objectionable Term or Phrase *(Cont.)*	Preferred Term or Phrase *(Cont.)*
shall be construed to mean is defined to mean shall mean	means
shall be deemed to be	is
subsequent to from and after	after
on or before prior to	before
whenever	when, if
in the event, in case	if
at the time at such time as	when
during such time as	while
until such time as	while
unless and until	(either word)
during the course of for the duration of	during
forthwith	immediately
deemed	considered
provided further provided however provided that	except but however or begin a new sentence
provided (conjunction)	if, but
under the provisions of	under
in accordance with	pursuant to, under
in lieu of	instead of, in place of
in order to	to
for the reason that	because
each and all	(either word)
each and every	(either word)
such said	the, that, this
same	it, he, him
party	person (unless referring to party to a suit or action)
and/or	A or B, or both
any	a, an, the
at least	not less than (when referring to 2 or more)

Tense, voice, and number of verbs.

Tense. Use the present tense of verbs.

EXAMPLE 4-1

R 325.5161 Applicability.

Rule 601. These rules *apply* to all occupational exposures to inorganic arsenic, except that they do not apply to employee exposures in agriculture or to exposures that result from pesticide application, the treatment of wood with preservatives, or the utilization of arsenically preserved wood. (Present tense)

EXAMPLE 4-2

R 408.44 Attorney fees.

Rule 14. (1) The limitation in this rule as to fees *applies* to plaintiff's attorneys, including combined charges of attorneys who combine their efforts toward the enforcement or collection of any compensation claim. (Present tense)

Voice. As a general rule, use the active voice rather than the passive voice.

EXAMPLE 4-3

R 28.5305 State funding of terminal installations generally.

Rule 305. (1) *The council shall approve* the installation of a LEIN terminal, consistent with the availability of state funds, if the applicant agency meets the minimum criteria as established by the council. (Active)

EXAMPLE 4-4

R 28.5304 Self-pay terminal installation application; council review; approval.

Rule 304. (1) An application for the installation of a self-pay terminal *shall be individually reviewed by the council* and shall not be compared with pending applications for state-funded terminals. (Passive)

Number. Use the singular rather than the plural whenever possible.

EXAMPLE 4-5

R 28.4303 Application for approval.

Rule 3. (1) A *college or university* shall submit a written request to establish a preservice basic training program. (Singular)

EXAMPLE 4-6

R 28.4304 Approved programs.

Rule 4. *Colleges and universities* approved by the council to establish a preservice basic training program shall do all of the following:

(a) Comply with the approved proposal.

(b) Utilize fully qualified and competent instructors in track courses.

(c) Comply with procedures established under authority of R 28.4308. (Plural)

CHAPTER 5. ADOPTION BY REFERENCE

This chapter restates the requirements set forth in section 32(4) of 1969 PA 306, MCL 24.232(4), for the adoption by reference, in rules, of a code, standard, or regulation which has been adopted by an agency of the United States or by a nationally recognized organization or association.

Adoption by reference.

Section 32(4) of 1969 PA 306, MCL 24.232(4), provides that an "agency may adopt, by reference in its rules and without publishing the adopted matter in full, all or any part of a code, standard, or regulation which has been adopted by an agency of the United States or by a nationally recognized organization or association."

In drafting a rule which adopts a code, standard, or regulation by reference, observe the following requirements:

(1) The reference in the rule to the matter being adopted shall *fully identify,* by date and otherwise, the adopted matter. If the matter being adopted is a federal regulation, a complete citation to the regulation, in the form prescribed in chapter 3, satisfies this requirement. If, however, the matter being adopted is a code, standard, or other item, the pertinent data used to identify it may vary widely. See *Examples 5-2 and 5-3.*

(2) The rule shall state *where* copies of the adopted matter are available from *both* of the following:

(a) The state agency adopting the code, standard, or regulation.

(b) The agency of the United States or national organization or association whose code, standard, or regulation is being adopted by the state agency.

(3) To satisfy the requirement in item (2), the reference must include the complete address of each agency. In this regard, the drafter should note that many federal documents are available from the Superintendent of Documents rather than the issuing or promulgating agency.

(4) The rule shall also state the cost of copies, as of the time the rules are adopted, from the agencies referred to in item (2).

When drafting an adoption by reference provision, be guided by the following examples:

EXAMPLE 5-1

R 28.5105 Adoption of federal standards.

Rule 105. The following standards are incorporated by reference in these rules:

(a) "Criminal Justice Information Systems," 28 C.F.R. part 20 (1976). Copies of these regulations may be inspected at the offices of the criminal justice data center, department of state police. Copies may be obtained without charge from the Federal Bureau of Investigation, Washington, D.C. 20535, and from the Department of State Police, 714 S. Harrison Road, E. Lansing, Michigan 48823.

(b) NCIC rules and procedures governing the utilization of the federal computerized criminal history programs, which are published in a department of justice document entitled, "Computerized Criminal History Program, Background, Concept, and Policy," dated June 14, 1979. This publication may be obtained without charge at the offices of the Criminal Justice Data Center, Department of State Police, 714 S. Harrison Road, E. Lansing, Michigan 48823, or from the National Crime Information Center Section, Federal Bureau of Investigation, Washington, D.C. 20535.

EXAMPLE 5-2

R 408.30801 National electrical code; adoption by reference; inspection; purchase.

Rule 801. Rules governing the installation, replacement, alteration, relocation, and use of electrical systems or material shall be those rules contained in the national electrical code, 1978 edition, as published by the national fire protection association, except as modified by these rules, with the exceptions noted. The national electrical code is adopted herein by reference and is available for inspection at the Lansing office of the department of labor, bureau of construction codes. The code may be purchased from the National Fire Protection Association, 470 Atlantic Ave., Boston, Mass. 02210, or from the Michigan Department of Labor, Bureau of Construction Codes, State Secondary Complex, 7150 Harris Drive, P.O. Box 30015, Lansing, Michigan 48909, at a cost as of the time of adoption of these rules of $6.25 each.

EXAMPLE 5-3

R 29.1115 Adoption by reference.

Rule 115. (1) Some of these rules refer to all or parts of the following codes, standards, or regulations of nationally recognized organizations or associations, which are adopted by reference and identified by date or otherwise:

(a) American gas association laboratories directory of certified appliances, July, 1978, available from the American Gas Association Laboratories, 8501 East Pleasant Valley Road, Cleveland, Ohio 44131. Single copies are available at $3.00.

(b) Fire resistance ratings, 1964 (amendments 1968, 1970, 1972); available from the American Insurance Association, 85 John Street, New York, New York 10038. Single copies are available at $3.00.

(c) The following publications, copies of which are available per single copy and at the prices specified from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103:

Fire Tests of Door Assemblies ASTM Standard No. E-152, 1976 ..... $1.75
Method of Test for Measuring the Density of Smoke from the Burning or Decomposition of Plastics ASTM Standard D-2843, 1976 ..... 1.75
Noncombustibility of Elementary Materials ASTM Standard E-136, 1973 ..... 1.75
Test for Deflection Temperature of Plastics Under Load ASTM Standard D-648, 1972 ..... 1.75

The drafter is reminded that a rule adopting a code, standard, or regulation by reference does *not* include subsequent amendments, rescissions, or editions of the code, standard, or regulation. If an agency wishes to incorporate subsequent amendments, rescissions, or editions, the agency must explicitly do so by amendment of its existing rules, or by rescinding its existing rules and promulgating new rules.

CHAPTER 6. ADMINISTRATIVE RULES FILED WITH SECRETARY OF STATE: FORMAL REQUIREMENTS

This chapter establishes the formal requirements for administrative rules processed pursuant to the Administrative Procedures Act of 1969. The model rule filing set forth on page 32 is in the correct form; that is, it satisfies all formal requirements. Each formal requirement illustrated in the model filing is identified by a circled number and explained at the corresponding number beginning on this page.

Corresponding numbers.

(1) **Paper.**
Use 8 1/2 x 11 inch, 20-pound white bond paper. Type on 1 side of page only.

(2) **Margins.**
Margins for rules shall be as follows:
Top margin: 1 inch.
Left margin: 1 1/4 inches.
Right margin: 1 inch.
Bottom margin: 1 inch.

(3) **Spacing.**
Exactly as shown in illustration on page 32.

(4) **Name of department.**
Use the name of the appropriate principal department as it appears in section 4 of 1965 PA 380, MCL 16.104. Center the name of the principal department and type the name in capital letters.

(5) **Name of subagency or division.**
Use the name of the agency (other than the department) that is specifically authorized to promulgate the rules or use the name of the department subdivision that is responsible for administering or enforcing the rules. Center the name of the agency or department subdivision on the second line and type the name in capital letters.

(6) **Subject matter heading.**
For new rules, provide a brief heading that indicates the general subject matter of the rules. Do not use the words "rules" or "regulations" in the subject matter heading; for example, "TUITION GRANT PROGRAM" is acceptable; "TUITION GRANT PROGRAM RULES" is not. Do not use the subject matter heading "GENERAL RULES" unless the scope of the rules includes an agency's entire rule-making authority. If proposed rules amend, rescind, or add to existing rules, use the same subject matter heading that appears in the original rules. Center the subject matter heading on the third line and type the heading in capital letters.

(7) **Filing date line.**
Indent 6 spaces and insert the following statement:

Filed with the Secretary of State on

The date the rules are filed with the Secretary of State is added by the Office of Regulatory Reform at the time the rules are published in a quarterly supplement to the Michigan Administrative Code.

(8) **Effective date line.**
Directly under the filing date line, insert, flush with the left margin, 1 of the following effective date lines:

(a) These rules take effect 7 days after filing with the Secretary of State

(b) These rules take effect 30 (60, 90, . . .) days after filing with the Secretary of State

(c) These rules take effect July 10, 1979 (or other specific date)

The specific date required by item (c) shall not be earlier than 15 days after the date of promulgation, the date of promulgation being the date the rules are filed with the Secretary of State. Because a rule cannot take effect earlier than 7 days after the date of promulgation, except for an emergency rule, use the alternative shown in item (a) in those instances where the earliest possible effective date is desired.

Model rule filing.

(17)

DEPARTMENT OF COMMERCE (4)

INSURANCE BUREAU (5)

NONPROFIT HOSPITAL SERVICE CORPORATION CONTRACT (6)

Filed with the Secretary of State on (7)
These rules take effect 7 days after filing with the Secretary of State (8)

(By authority conferred on the commissioner of insurance by section 9 of 1965 PA 380, MCL 16.109, section 33 of 1969 PA 306, MCL 24.233, and section 210 of 1956 PA 210, MCL 500.210) (9)

R 550.1, R 550.5, R 550.10, and R 550.15 of the Michigan Administrative Code are amended to read as follows: (10)

R 550.1 (11) Definitions. (12)

(2) Rule 1. (13) As used in these rules:

(a) "Act" means 1939 PA 109, MCL 550.501 et seq.

(14) (b) "Commissioner" means the commissioner of insurance.

(c) "Contract" means the agreement between the corporation and the participating hospitals currently in effect.

(d) "Corporation" means a nonprofit hospital service corporation established under the act.

(e) "Initial contract" means the contract between the corporation and the participating hospitals approved by the commissioner at the time of the corporation's incorporation.

R 550.5 Approval of contract changes.

Rule 5. A corporation shall submit to the commissioner for his approval a (15) replacement, revision, amendment, modification, or other change in the initial contract.

R 550.10 Cost containment contract provisions.

Rule 10. The contract shall include provisions which require that both the participating hospitals and the corporation engage in programs designed to limit, control, and contain increases in rates charged to subscribers by the corporation.

R 550.15 Cost containment provisions required by the commissioner.

Rule 15. (1) The commissioner, whenever he determines that it is necessary to do so in order to assure that rates to be charged to subscribers are fair and reasonable and that rates of payment to participating hospitals are not excessive, shall require that a specific cost containment area be addressed and made part of the contract.

(9) **Authority paragraph.**

Enclose in parentheses, flush with the left margin, a citation to the section of the act that specifically authorizes the agency or person to promulgate rules. If the act conferring authority to promulgate rules has been amended, insert "as amended" after the citation to the Public Acts. Do not add a period at the end of the authority paragraph.

(10) **Action statement.**

If proposed rules amend, add to, or rescind existing rules, construct a statement that describes this action. The statement shall list, by R number, the rules being amended, added, or rescinded. Indent 2 spaces and begin the action statement 2 line spaces under the authority paragraph.

Because the illustration on page 32 includes only amendments to existing rules, the action statement specifies just those rules being amended. If proposed rules include both added rules (for example, R 550.25 and R 550.30) and amendatory rules, construct the action statement as follows:

R 550.1, R 550.5, R 550.10, and R 550.15 of the Michigan Administrative Code are amended, and R 550.25 and R 550.30 are added to the Code, to read as follows:

Assume that, in addition to the action described immediately above, an existing rule (for example, R 550.21) is to be rescinded. In this case, construct the action statement as follows:

R 550.1, R 550.5, R 550.10, and R 550.15 of the Michigan Administrative Code are amended, and R 550.25 and R 550.30 are added to the Code, and R 550.210 of the Code is rescinded, as follows:

If the only action being taken with respect to a set of existing rules is the addition of rules (for example, R 323.3111 and R 323.3112 are to be added to an existing set of rules numbered R 323.3101 to R 323.3110), construct the action statement as follows:

R 323.3101 to R 323.3110 of the Michigan Administrative Code are amended by adding R 323.3111 and R 323.3112 to read as follows:

(11) **R numbers.**

If proposed rules are new, R numbers are assigned at the time the rules are submitted for informal review. If proposed rules amend existing rules, use the same R numbers for the proposed amendatory rules that are assigned to the existing rules. New R numbers cannot be assigned to existing rules (as a means of effecting their rearrangement) unless the existing rules are first rescinded and then repromulgated as "new" rules with the different R numbers. In other words, R numbers cannot be changed editorially.

Most R numbers consist of 2 numbers separated by a decimal point. Optimally, the digit or digits to the left of the point will be the same as the Michigan Compiled Laws chapter number of the statute that authorizes the agency or person to promulgate rules. The digit or digits to the right of the point correspond to the digit or digits in the rule number.

Leave a space between the "R" and the first digit of the R number. Do not add a period after the last digit of the R number.

(12) **Catchlines.**

Each proposed rule shall have a catchline. A catchline is not part of the rule, but is an editorial device designed to identify the major topics covered in the rule. In general, draft the catchline in the singular and do not use terms in the catchline that do not appear in the text of the rule. Begin the catchline 3 spaces after the last digit of the R number. If a catchline contains 2 or more lines, indent the second and subsequent lines 2 spaces.

(13) **Rule numbers.**

In a new rule filing that is not divided into parts, indent 2 spaces and number each rule consecutively beginning with "Rule 1." If the filing is divided into parts, the first rule number of each part must end with 1. For example:

PART 2. BOILERS

R 408.21 Definitions.
Rule 21. As used in this part:

PART 49. PIPE DESIGN

R 408.4901 Definitions.
Rule 4901. As used in this part:

(14) **Definitions.**

Generally, the first rule of a particular set defines certain terms or phrases that are used in the rules. In determining whether a given term or phrase should be defined, observe the following 4 guidelines:

Define a term or phrase that is an abridgement or an abbreviation of a longer term or a phrase. For example:

(a) "Act" means 1969 PA 306, MCL 24.201 et seq.
(b) "Bureau" means the insurance bureau.
(c) "Commission" means the commission of natural resources.
(d) "Department" means the department of labor.
(e) "Director" means the director of the department of commerce.
(f) "PCB" means the class of chlorinated biphenyl, terphenyl, higher polyphenyl, or mixtures of these compounds produced by replacing 2 or more hydrogen atoms on the biphenyl, terphenyl, or higher polyphenyl molecule with chlorine atoms. PCB shall not include chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures of these compounds that have functional groups attached other than chlorine, unless that functional group on the chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures thereof results in a compound which is determined to be dangerous to the public health, safety, and welfare under section 5 of the act.

Define a term if its intended meaning is different from its common meaning. For example, if the term "pond," as used in rules, means a small body of standing water that has a surface area of not more than 10 acres and is owned by a single individual or corporation, its intended meaning is different from its common meaning, which is a body of water usually smaller than a lake. Since the term is used in a narrower sense, it should be defined accordingly.

Define a term having several common meanings if only 1 of the common meanings is the intended meaning. For example, the term "rung" may mean a heavy staff, a spoke of a wheel, a crosspiece between the legs of a chair, or a crosspiece of a ladder. If the last definition is the intended meaning, define "rung" accordingly.

Do not repeat in the rule a definition that appears in the act under which the rules are being promulgated. Instead, add the following provision as subrule (2) of a "definitions" rule:

R 288.201 Definitions.
Rule 1. (1) As used in these rules:
(a) "Act" means . . .
(b) . . .
(c) . . .
(2) *A term defined in the act has the same meaning when used in these rules.*

List the defined terms in alphabetical order in 1 rule, preceded by the phrase "As used in these rules:". If the list of defined terms is lengthy, they may be arranged in more than 1 rule, as follows:

R 288.201 Definitions; A to F.
Rule 1. As used in these rules:
(a) "Act" means . . .
(b) . . .
(c) . . .
(d) . . .
(e) "Filly" means

R 288.202 Definitions; G to P.
Rule 2. As used in these rules:
(a) "Guard" means . . .
(b) . . .
(c) . . .
(d) . . .
(e) "Pit" means

If rules are divided into several parts, terms that are used exclusively in the rules of 1 part may be defined in the first rule of that part, as follows:

PART 22. CROSS-CONNECTIONS

R 318.2201 Definitions.

Rule 1. As used in this part:

(a) "Correction value" means . . .

(b) . . .

(c) . . .

Do not include a substantive provision in a definition. For example:

(a) "Director" means the director of the department of natural resources. The duties of the director are as follows:

(i) . . .

(ii) . . .

Because the provision relating to the duties of the director is substantive, it must not be included in the definition. Relocate substantive text to a rule elsewhere in the rule set.

If a term is defined, do not use synonyms for that term in the text of the rules.

(15) **Text of rule.**

If a rule is not divided into 2 or more subrules, begin the text of the rule 2 spaces after the rule number, as follows:

R 326.1054 Inspection of facilities.

Rule 4. The board may inspect the facilities at an institution.

If a rule is divided into 2 or more subrules, begin the text of each subrule 2 spaces after the subrule designation [(1), (2), (3) . . .]. Likewise, if a subrule is divided into subdivisions [(a), (b), (c) . . .], paragraphs [(i), (ii), (iii) . . .], and subparagraphs [(A), (B), (C) . . .], begin the text of each item 2 spaces after the subdivision, paragraph, or subparagraph designation, as follows:

R 381.1164 Director; powers and duties.

Rule 4. (1) The director may do all of the following:

(a) Issue permits to applicants.

(b) Grant variances to applicants.

(c) Designate either of the following to act as his or her representative:

(i) Deputy director.

(ii) Administrative secretary to the board.

(2) The director shall perform all of the following functions:

(a) . . .

(b) . . .

Double space between rules. Do not double space between the subrules, subdivisions, paragraphs, or subparagraphs of a rule.

(16) **Draft date.**

Insert the date of a draft in the lower right-hand corner of the first page. Do not date each page.

(17) **Page numbers.**

Number each page, except the first, at the top center of the page.

(18) **ORR draft number.**

Do not include the Office of Regulatory Reform draft number in the lower left corner of the first page or elsewhere.

Michigan Register.

Generally. Copies of administrative rules filed with the Secretary of State by executive agencies are transmitted by the Great Seal and Registration Unit directly to the Office of Regulatory Reform for publication in the *Michigan Register*.

Editorial Requirements. Administrative rules filed with the Secretary of State have been reviewed and formally approved by the Legal Editing Division of the Legislative Service Bureau pursuant to MCL 24.245(1) and therefore comply with the editorial requirements set forth in this publication.

CHAPTER 7. PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS: FORMAL REQUIREMENTS

Proposed administrative rules.

All administrative rules proposed by state agencies shall be drafted in compliance with the requirements of this publication, particularly Chapter 6 thereof, and submitted to the Legal Editing Division of the Legislative Service Bureau for review and approval pursuant to §24.245(1) of the *Michigan Compiled Laws*. This procedure is separate and distinct from the submission of proposed rules for publication in the *Michigan Register*.

If an agency elects to submit an unedited and unapproved version of its proposed rules for the *Michigan Register* in order to proceed to public hearing without delay, the rules will be accepted for publication if they contain all of the following information:

- Department, subagency, and subject matter headings.
- Filing date and effective date lines.
- Authority paragraph.
- Action statement if rules are amendatory.
- R numbers and catchlines for rules.

On the other hand, an agency may choose to submit for publication in the *Michigan Register* proposed rules which have been reviewed and approved by the Legislative Service Bureau pursuant to §24.245(1) of the *Michigan Compiled Laws*. Whichever procedure an agency elects to follow is totally within the discretion of the agency.

If the publication of proposed rules in the *Michigan Register* would be unreasonably expensive or lengthy, the Office of Regulatory Reform may publish a brief synopsis of the proposed rules, together with information on how and when to obtain the complete text of the proposed rules.

Notice of public hearing on proposed administrative rules.

Section 24.242(3) of the *Michigan Compiled Laws* provides that, in addition to the notice requirement of §24.242(1), an agency shall submit a copy of the notice of public hearing to the Office of Regulatory Reform for publication in the *Michigan Register*. This notice shall be submitted at the same time as the proposed rules to which the notice pertains are submitted for publication in the *Michigan Register*. This submission of notice is separate and distinct from the submission of notice mandated by §24.241(3) of the *Michigan Compiled Laws*.

Editorial Requirements. A notice of public hearing submitted for publication in the *Michigan Register* shall include the items specified in §24.241(2)(a), (b), and (c), as follows:

> "(a) A reference to the statutory authority under which the action is proposed.
>
> "(b) The time and place of the public hearing and a statement of the manner in which data, views, and arguments may be submitted to the agency at other times by a person.
>
> "(c) A statement of the terms or substance of the proposed rule, a description of the subjects and issues involved, and the proposed effective date of the rule."

If the information required above is included in the notice of public hearing, the notice will be accepted for publication, regardless of the format in which the notice is presented.

Editorial Requirements. Section 24.245 of the *Michigan Compiled Laws* provides:

"(3) Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the letter of transmittal a regulatory impact statement containing all of the following information:

"(a) A comparison of the proposed rule to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

"(b) An identification of the behavior and frequency of behavior that the rule is designed to alter.

"(c) An identification of the harm resulting from the behavior that the rule is designed to alter and the likelihood that the harm will occur in the absence of the rule.

"(d) An estimate of the change in the frequency of the targeted behavior expected from the rule.

"(e) An identification of the businesses, groups, or individuals who will be directly affected by, bear the cost of, or directly benefit from the rule.

"(f) An identification of any reasonable alternatives to regulation pursuant to the proposed rule that would achieve the same or similar goals.

"(g) A discussion of the feasibility of establishing a regulatory program similar to that proposed in the rule that would operate through market-based mechanisms.

"(h) An estimate of the cost of rule imposition on the agency promulgating the rule.

"(i) An estimate of the actual statewide compliance costs of the proposed rule on individuals.

"(j) An estimate of the actual statewide compliance costs of the proposed rule on businesses and other groups.

"(k) An identification of any disproportionate impact the proposed rule may have on small businesses because of their size.

"(*l*) An identification of the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule.

"(m) An analysis of the costs of compliance for all small businesses affected by the proposed rule, including costs of equipment, supplies, labor, and increased administrative costs.

"(n) An identification of the nature and estimated cost of any legal consulting and accounting services that small businesses would incur in complying with the proposed rule.

"(o) An estimate of the ability of small businesses to absorb the costs estimated under subdivisions (*l*) through (n) without suffering economic harm and without adversely affecting competition in the marketplace.

"(p) An estimate of the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

"(q) An identification of the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

"(r) A statement describing the manner in which the agency reduced the economic impact of the rule on small businesses or a statement describing the reasons such a reduction was not feasible.

"(s) A statement describing whether and how the agency has involved small businesses in the development of the rule.

"(t) An estimate of the primary and direct benefits of the rule.

"(u) An estimate of any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the rule.

"(v) An estimate of any increase in revenues to state or local governmental units as a result of the rule.

"(w) An estimate of any secondary or indirect benefits of the rule.

"(x) An identification of the sources the agency relied upon in compiling the regulatory impact statement.

"(y) Any other information required by the office of regulatory reform."

CHAPTER 8. EMERGENCY RULES AND EXTENSIONS OF EMERGENCY RULES FILED WITH SECRETARY OF STATE: FORMAL REQUIREMENTS

This chapter establishes the formal requirements for emergency administrative rules processed pursuant to the Administrative Procedures Act of 1969 insofar as such requirements differ from, or are in addition to, the formal requirements for permanent rules enumerated in Chapter 6. Each formal requirement applicable only to emergency rules is identified by a circled number on the model rule filing on page 39 and is explained at the corresponding number on this page.

Corresponding numbers.

The formal requirements for emergency rules are the same as those for permanent rules, with the following exceptions:

(1) **Emergency rules heading.**
Center the emergency rules heading on the fourth line and type the heading in capital letters.

(2) **Effective date line.**
Directly under the filing date line, insert the following effective date line flush with the left margin:

These rules take effect upon filing with the Secretary of State

An emergency rule is effective on filing and remains in effect until a date fixed in the rule or 6 months after the date of its filing, whichever is earlier. An emergency rule may be extended once for not more than 6 months.

(3) **Authority paragraph.**
For emergency rules, cite, in addition to the section of the act that specifically confers authority on the agency or person to promulgate rules, section 48 of 1969 PA 306, MCL 24.248.

(4) **Finding of emergency (heading).**
Center the heading "FINDING OF EMERGENCY" and type the heading in capital letters.

(5) **Finding of emergency (text).**
In paragraph form, state the reasons for the finding by the agency that the preservation of the public health, safety, or welfare requires promulgation of emergency rules without following the notice and participation procedures required by sections 41 and 42 of 1969 PA 306, MCL 24.241 and 24.242.

(6) **R numbers.**
Do not assign an R number to an emergency rule, unless the emergency rule is an amendment to an existing permanent rule that has an R number.

Michigan Register.

Section 24.248 of the *Michigan Compiled Laws* provides that, as of January 1984, emergency rules shall be published in the *Michigan Register* pursuant to §24.208 of the *Michigan Compiled Laws* and shall be noted in the *Annual Administrative Code Supplement* (AACS).

The extension of an emergency rule, effected by the filing of a governor's certificate of need for the extension with the Secretary of State before the expiration of the emergency rule, is not published in the *Michigan Register,* but only noted therein.

Emergency rules and extensions of emergency rules filed with the Secretary of State by executive agencies are transmitted by the Great Seal and Registration Unit to the Office of Regulatory Reform for publication in the *Michigan Register.*

Editorial Requirements. Emergency rules filed with the Secretary of State have been reviewed and formally approved by the Legal Editing Division of the Legislative Service Bureau pursuant to §§24.245(1) and 24.248 of the *Michigan Compiled Laws* and therefore comply with the editorial requirements set forth in this publication.

Model rule filing.

DEPARTMENT OF PUBLIC HEALTH

TOXIC SUBSTANCE LOAN COMMISSION

TOXIC SUBSTANCE LOAN PROGRAM

EMERGENCY RULES (1)

Filed with the Secretary of State on
These rules take effect upon filing with the Secretary of State (2)

(By authority conferred on the toxic substance loan commission by section 5 of 1978 PA 273, MCL 325.835 and section 48 of 1969 PA 306, MCL 24.248)

(3)

FINDING OF EMERGENCY (4)

These rules are promulgated by the toxic substance loan commission for the purpose of implementing 1978 PA 273 by describing certain standards and criteria relating to the making of loans under that act. The commission finds that persons have suffered serious financial losses as a result of contamination by toxic substances and the issuance of loans to such persons must be expedited in order to prevent even more serious losses. The commission therefore finds that the preservation of the public health, safety, and welfare requires promulgation of these standards and criteria as emergency rules without following the notice and participation procedures required by sections 41 and 42 of 1969 PA 306. (5)

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

(a) "Act" means 1978 PA 273, MCL 325.831 et seq.

(b) "Applicant" means a person applying for a loan under the act.

(c) "Contamination" means a condition indicated by either of the following:

(i) The quarantine of a farm or livestock by the department of agriculture for the presence of a toxic substance.

(ii) The presence of a toxic substance in livestock as determined by the commission based on evidence presented by the applicant, including, but not limited to, a toxic substance laboratory analysis.

(d) "Loan plan" means the plan made part of the application, which sets forth the items or purposes for which the loan will be used, detailed to the extent deemed necessary by the commission.

(2) A term defined in the act has the same meaning when used in these rules.

Rule 2. (1) To be considered eligible for a loan under the act, an applicant shall have met all of the following conditions:

(a) Been a Michigan resident at the time of the contamination or when the financial loss occurred.

(b) Owned or leased a farm in Michigan after January 1, 1970.

(c) Suffered a financial loss as a result of contamination on a farm after January 1, 1970.

3/16/78

CHAPTER 9. NOTICE OF PROPOSED AGENCY GUIDELINES

Michigan Register.

Generally. A "guideline" is defined as "an agency statement or declaration of policy which the agency intends to follow, which does not have the effect of law, and which binds the agency but does not bind any other person." Before an agency may adopt a guideline, it is required to give notice of the proposed guideline to the Joint Committee on Administrative Rules, the Office of Regulatory Reform, the Office of the Governor, and persons who have requested advance notice of such action. Notices of proposed guidelines must also be submitted for publication in the *Michigan Register.*

Editorial Requirements. Section 24.224 of the *Michigan Compiled Laws* provides that the notice of a proposed guideline shall include all of the following:

> "(a) A statement of the terms or substance of the proposed guideline, a description of the subjects and issues involved, and the proposed effective date of the guideline.
>
> "(b) A statement that the addressee may express any views or arguments regarding the proposed guideline or the guideline's effect on a person.
>
> "(c) The address to which written comments may be sent and the date by which comments shall be mailed, which date shall not be less than 35 days from the date of the mailing of the notice.
>
> "(d) A reference to the specific statutory provision about which the proposed guideline states a policy."

CHAPTER 10. NOTICE OF ADOPTED AGENCY GUIDELINES

Michigan Register.

Generally. When adopted, a guideline is a public record. Section 24.225 of the *Michigan Compiled Laws* provides that copies of adopted guidelines shall be sent to the Joint Committee on Administrative Rules, the Office of Regulatory Reform, and all persons who requested advance notice of proposed action. Additionally, §24.208 of the *Michigan Compiled Laws* requires that notices of adopted agency guidelines be published in the *Michigan Register.*

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