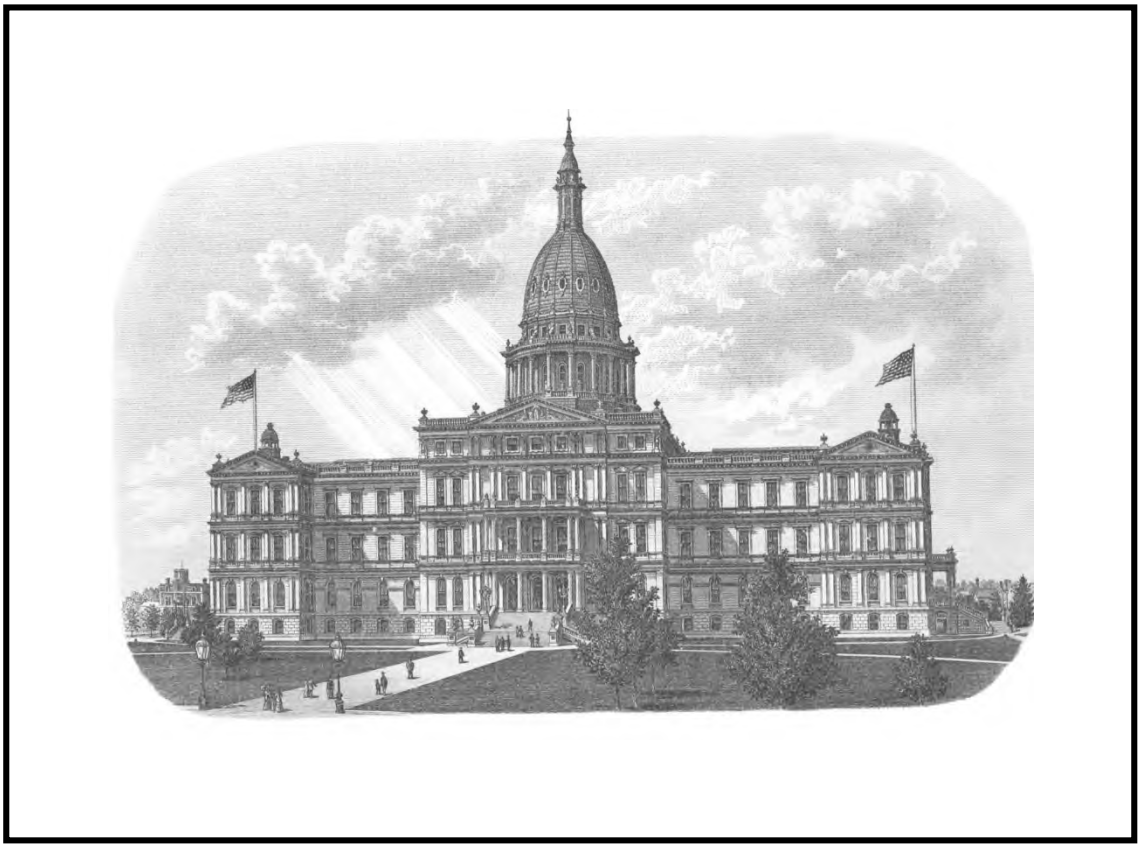
Michigan Register

Issue No. 11 – 2021 (Published July 1, 2021)



GRAPHIC IMAGES IN THE

MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

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

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

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

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

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

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

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
The Michigan Compiled Laws

Issue No. 11— 2021
(This issue, published July 1, 2021, contains
documents filed from June 1, 2021 to June 15, 2021)

Compiled and Published by the
Michigan Office of Administrative Hearings and Rules

Michigan Register (ISSN 0892-3124). Published twice per month, with a cumulative index, by the Michigan Office of Administrative Hearings and Rules, pursuant to §24.208 of the Michigan Compiled Laws. Subscription $400.00 per year, postpaid to points in the U.S. First class postage paid at Lansing, Michigan. Direct all mail concerning subscriptions to Michigan Office of Administrative Hearings and Rules, Ottawa Building – Second Floor, 611 W. Ottawa Street, Lansing, MI 48909.

Katherine Wienczewski, State Administrative Manager, Michigan Office of Administrative Hearings and Rules; Deidre O'Berry, Administrative Rules Specialist for Operations and Publications.

Gretchen Whitmer, Governor

Garlin Gilchrist, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Michigan Office of Administrative Hearings and Rules publishes the *Michigan Register*.

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

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

Sec. 8.

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

(a) Executive orders and executive reorganization orders.

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.

(d) Proposed administrative rules.

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

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

(g) Emergency rules filed with the secretary of state.

(h) Notice of proposed and adopted agency guidelines.

(i) Other official information considered necessary or appropriate by the office of regulatory reform.

(j) Attorney general opinions.

(k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

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

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

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

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

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

Sec. 203.

(1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.

(2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.

(3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.

(4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.

(5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.

(6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.

(7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).

(8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).

(9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2021 MR 1 refers to the year of issue (2021) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

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

The Michigan Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Michigan Office of Administrative Hearings and Rules, Ottawa Building – Second Floor, 611 W. Ottawa Street, Lansing, MI 48933.

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

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

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

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register,* a publication of the State of Michigan, is available for public subscription at a cost of $400.00 per year. Submit subscription requests to: Michigan Office of Administrative Hearings and Rules, Ottawa Building –Second Floor, 611 W. Ottawa Street, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the Michigan Office of Administrative Hearings and Rules (517) 335-2484.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the website of the Michigan Office of Administrative Hearings and Rules – Administrative Rules Division: www.michigan.gov/ard.

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

Executive Director,
Michigan Office of Administrative Hearings and Rules

2021 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2021	February 1, 2021
2	February 1, 2021	February 15, 2021
3	February 15, 2021	March 1, 2021
4	March 1, 2021	March 15, 2021
5	March 15, 2021	April 1, 2021
6	April 1, 2021	April 15, 2021
7	April 15, 2021	May 1, 2021
8	May 1, 2021	May 15, 2021
9	May 15, 2021	June 1, 2021
10	June 1, 2021	June 15, 2021
11	June 15, 2021	July 1, 2021
12	July 1, 2021	July 15, 2021
13	July 15, 2021	August 1, 2021
14	August 1, 2021	August 15, 2021
15	August 15, 2021	September 1, 2021
16	September 1, 2021	September 15, 2021
17	September 15, 2021	October 1, 2021
18	October 1, 2021	October 15, 2021
19	October 15, 2021	November 1, 2021
20	November 1, 2021	November 15, 2021
21	November 15, 2021	December 1, 2021
22	December 1, 2021	December 15, 2021
23	December 15, 2021	January 1, 2022
24	January 1, 2022	January 15, 2022

CONTENTS

ADMINISTRATIVE RULES FILED WITH SECRETARY OF STATE

PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

CERTIFICATION OF NEED REVIEW STANDARDS

CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

CUMULATIVE INDEX

BILLS SIGNED INTO LAW OR VETOED

ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE

MCL 24.208 states in part:

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

* * *

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

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION CODE

Filed with the secretary of state on June 4, 2021

These rules take effect 120 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by section 4 of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 2003-1, 2008-4, 2011-4, MCL 445.2011, 445.2025, and 445.2030)

R 408.30500, R 408.30504, R 408.30505, R 408.30506, and R 408.30513 of the Michigan Administrative Code are amended, R 408.30501b and R 408.30501c are added, and R 408.30512 and R 408.30514 are rescinded, as follows:

PART 5. RESIDENTIAL CODE

R 408.30500 Applicable code.

Rule 500. The provisions of the international residential code, 2018 edition, including appendices A, B, C, D, E, F, G, J, K, N, O, P, R, and S except for Sections R 104.2, R 104.3, R 104.5, R 104.7, R 104.8, R 104.8.1, R 105.3, R 105.3.1, R 105.3.2, R 105.6, R 105.9, R 108.3, R 108.4, R 108.5, R 108.6, R 109.1, R 112.2, R 112.3, R 112.4, R113.1 to R 113.3, R 113.4, R 114.1 and R 114.2, R 313.1.1 to R 313.2.1, R 602.11, R602.12, N 1102.3.2, tables R 507.2.3, N1101.12.3(3) and figure R 507.2.1(2), R 507.2.3(1), R 507.2.3(2), and R 507.2.4, sections M1411.8, G2411.1.1.1 to G2411.1.1.5, G2439.7.2, P2503.9, P2709.2.3, P2904.1.1 to P2904.8.2, P2905.1, P2905.2, figure P2904.2.4.2, table P2904.2.2, tables P2904.6.2(1) to P2904.6.2(9), P3009.1 to P3009.11.1, E3902.15, E3902.16, E3902.17, and AJ102.4, the IBC-2015, IECC-2015, IMC-2015, IPC-2015, NFPA 70-2014 listed in chapter 44 govern the construction, alteration, relocation, demolition, use, and occupancy of buildings and structures, and, with the exceptions noted, the international residential code is adopted by reference in these rules. All references to the International Building Code, International Residential Code, International Energy Conservation Code, National Electrical Code, International Existing Building Code, International Mechanical Code, and International Plumbing Code mean the Michigan Building Code, Michigan Residential Code, Michigan Energy Code, Michigan Electrical Code, Michigan Rehabilitation Code for Existing Buildings, Michigan Mechanical Code, and Michigan Plumbing Code, respectively. The code is available for inspection and purchase at the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, 611 W. Ottawa St., 1st Floor Ottawa Building, Lansing, Michigan 48933. The code may be purchased from the International Code Council, through the bureau's website at www.michigan.gov/bcc, at a cost as of the time of adoption of these rules of $118.00.

R 408.30501b Intent.

Rule 501b. Sections 101.3 and 101.4 of the code are amended to read as follows:

R101.3. Intent. The purpose of this code is to establish minimum requirements to safeguard the public safety, health, and general welfare through affordability, structural strength, means of egress facilities, stability, sanitation, light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, and to provide safety to fire fighters and emergency responders during emergency operations. The Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to MCL 125.1531 takes precedence over all provisions of this code.

R101.4. Severability. If any section, subsection, sentence, clause, or phrase of this code is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this code.

R 408.30501c Existing structures.

Rule 501c. Section 102.7 is amended to read as follows:

R102.7. Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the international property maintenance code, or the international fire code, or as allowed under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to MCL 125.1531.

R 408.30504 Duties and powers of building official.

Rule 504. Sections R104.6 of the code are amended to read as follows:

R104.6. Right of entry. If a building or premises is occupied, the code official shall present his or her credentials to the occupant and request entry. If a building or premises is unoccupied, the code official shall first make a reasonable effort to locate either the owner, the owner's authorized agent or other person having care or control of the building or premises and request entry. If entry is refused, the code official has recourse to every remedy provided by law to secure entry.

When a code official has first obtained a proper inspection warrant or other remedy provided by law to secure entry, the owner, owner's authorized agent or occupant or person having charge, care or control of the building or premises shall not fail or neglect, after a proper request is made as provided in this rule, to permit the code official prompt entry into the building or premises to inspect or examine the building or premises pursuant to this code.

R 408.30505 Work exempt from permit.

Rule 505. Section R105.2 of the code is amended to read as follows:

R105.2. Work exempt from permit. Exemption from the permit requirements of the code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the code or any other laws or ordinances of this jurisdiction. Permits are not required for any of the following:

(a) Building permits shall not be required for any of the following:

(i) One-story detached accessory structures, if the floor area does not exceed 200 square feet (18.58 m^2).

(ii) A fence that is not more than 7 feet (2 134 mm) high.

(iii) A retaining wall that is not more than 4 feet (1 219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.

(iv) A water tank supported directly upon grade if the capacity is not more than 5,000 gallons (18 927 L) and the ratio of height to diameter or width is not greater than 2 to 1.

(v) A sidewalk and driveway not more than 30 inches (762 mm) above adjacent grade and not over any basement or story below and not part of an accessible route.

(vi) Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.

(vii) A prefabricated swimming pool that is less than 24 inches (610 mm) deep, and not greater than 5,000 gallons (18 925 L), and is installed entirely above ground.

(viii) Swings and other playground equipment accessory to detached 1- or 2-family dwellings.

(ix) Window awnings in group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1 372 mm) from the exterior wall and do not require additional support, as applicable in Section 101.2 and group U occupancies.

(x) Decks, porches, patios, landings, or similar structures not exceeding 200 square feet (18.58 m^2) in area, that are not more than 30 inches (762 mm) above grade at any point as prescribed by Section R312.1.1, are not attached to a dwelling or its accessory structures, are not within 36 inches (914 mm) of a dwelling or its accessory structures, and do not serve any ingress or egress door of the dwelling or its accessory structures.

(b) Electrical permits shall not be required, as in accordance with the Michigan electrical code, R 408.30801 to R 408.30880, for any of the following:

(i) Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

(ii) Radio and television transmitting stations: The provisions of the code do not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for power supply and to the installation of towers and antennas.

(iii) Temporary testing systems: A permit is not required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

(c) Mechanical permits shall not be required for any of the following:

(i) A portable heating or gas appliance that has inputs of less than 30,000 BTU’s per hour.

(ii) Portable ventilation appliances and equipment.

(iii) A portable cooling unit.

(iv) Steam, hot water, or chilled water piping within any heating or cooling equipment or appliances regulated by this code.

(v) Replacement of any minor part that does not alter the approval of equipment or an appliance or make such equipment or appliance unsafe.

(vi) A portable evaporative cooler.

(vii) Self-contained refrigeration systems that contain 10 pounds (4.5 kg) or less of refrigerant, or that are actuated by motors of 1 horsepower (0.75kW) or less.

(viii) Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

(ix) An oil burner that does not require connection to a flue, such as an oil stove and a heater equipped with a wick.

(x) A portable gas burner that has inputs of less than 30,000 BTU’s per hour.

(xi) When changing or relocating a gas meter or regulator, a permit is not required

when installing gas piping which shall be limited to 10 feet (3 005 mm) in length and not more than 6 fittings.

(xii) When installing geothermal vertical closed loops under the supervision of a mechanical contractor licensed in HVAC as long as the company meets both the following:

(A) Has obtained a certificate of registration as a well drilling contractor pursuant to part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771.

(B) Has installed the geothermal vertical closed loops in accordance with the department of environment, Great Lakes, and energy's best practices regarding geothermal heat pump closed loops. Exemption from the permit requirements of this code shall not be deemed to grant authorization for work to be done in violation of the provisions of this code or other laws or ordinances of this jurisdiction.

(d) Plumbing permits shall not be required for either of the following:

(i) The stopping of leaks in drains, water, soil, waste or vent pipe. If any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, then the work is considered as new work and a permit shall be obtained and inspection made as provided in the code.

(ii) The clearing of stoppages or the repairing of leaks in pipes, valves, or fixtures, and the removal and reinstallation of water closets, if the repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

R 408.30506 Submittal documents.

Rule 506. Sections R 106.1.4 and R802.10.1 of the code are amended and Section R106.1.4 and figure 802.10.1 are added to the code to read as follows:

R106.1.4. Truss design data. As an alternative to the submission of truss design drawings, figure R802.10.1, the truss design data sheet, may be provided to the building official as part of the construction documents at the time of application. Truss design drawings shall be submitted to the building official prior to truss installation as required by Section R802.10.1.

R802.10.1 Truss design drawings. Truss design drawings, prepared in conformance with Section R802.10.1, shall be provided to the building official and approved prior to installation. The truss design data sheet, figure R802.10.1, may be provided to the building official at the time of permit application, as an alternative to design drawings as permitted in Section R106.1.4. Truss design drawings shall include, at a minimum, the information specified below. Truss design drawings shall be provided with the shipment of trusses delivered to the jobsite.

(1) Slope or depth, span, and spacing.

(2) Location of all joints.

(3) Required bearing widths.

(4) Design loads as applicable.

(a) Top chord live load (including snow loads).

(b) Top chord dead load.

(c) Bottom chord live load.

(d) Bottom chord dead load.

(e) Concentrated loads and their points of application.

(f) Controlling wind and earthquake loads.

(5) Adjustments to lumber and joint connector design values for conditions of use.

(6) Each reaction force and direction.

(7) Joint connector type and description (e.g., size, thickness, or gauge) and the

dimensioned location of each joint connector except where symmetrically located relative to the joint interface.

(8) Lumber size, species, and grade for each member.

(9) Connection requirements for the following:

(a) Truss to truss girder.

(b) Truss ply to ply.

(c) Field splices.

(10) Calculated deflection ratio and/or maximum description for live and total load.

(11) Maximum axial compression forces in the truss members to enable the building designer to design the size, connections, and anchorage of the permanent continuous lateral bracing. Forces shall be shown on the truss design drawing or on supplemental documents.

(12) Required permanent truss member bracing location.

R 408.30512 Rescinded.

R 408.30513 Definitions.

Rule 513. The definitions of attic and sunroom addition in Section R202 of the code are amended to read as follows:

R202. Definitions.

"Attic, uninhabitable with limited storage" means uninhabitable attics with limited storage where the minimum clear height between joists and rafters is 42 inches (1 063 mm) or greater or where there are not 2 or more adjacent trusses with web configurations capable of accommodating an assumed rectangle 42 inches (1 063 mm) high by 24 inches (610 mm) in width, or greater, within the plane of the trusses.

"Attic, uninhabitable without storage" means uninhabitable attics without storage where the maximum clear height between joists and rafters is less than 42 inches (1 063 mm), or where there are not 2 or more adjacent trusses with web configurations capable of accommodating an assumed rectangle 42 inches (1 063 mm) high by 24 inches (610 mm) in width, or greater, within the plane of the trusses.

" Building Inspector" means the individual who is responsible for the administration and enforcement of the construction of buildings, structures, or appurtenances under the state construction code specified in R 408.30499 and who is registered in compliance with 2016 PA 407, MCL 339.5101 to 339.6133.

"Building Official" means the person who is appointed and employed by a governmental subdivision, who is charged with the administration and enforcement of the state codes specified in R 408.30499, and who is registered in compliance with 2016 PA 407, MCL 339.5101 to 339.6133.

"Registered design professional" means an individual who is licensed under the occupational code, 1980 PA 299, MCL 339.101 to 339.2919.

" Registered inspector" means an individual who is licensed under the occupational code, 1980 PA 299, MCL 339.101 to 339.2919.

"Sunroom addition" means a new structure with glazing in excess of 40% of the gross area of the structure's exterior walls and roof added to an existing dwelling.

R 408.30514 Rescinded.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

ATHLETIC TRAINERS – GENERAL RULES

Filed with the secretary of state on June 4, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16145, 16148, 16178, 16186, 16204, 16205, 16215, 16287, 17904, and 17905 of the public health code, 1978 PA 368, MCL 333.16145, 333.16148, 333.16178, 333.16186, 333.16204, 333.16205, 333.16215, 333.16287, 333.17904, and 333.17905 and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.1301, R 338.1303, R 338.1309, R 338.1317, R 338.1321, R 338.1325, R 338.1345, R 338.1349, R 338.1354, R 338.1355, R 338.1357, R 338.1369, and R 338.1378 of the Michigan Administrative Code are amended, R 338.1302 is added, and R 338.1321a is rescinded, as follows:

PART 1. GENERAL PROVISIONS

R 338.1301 Definitions.

Rule 1. As used in these rules:

(a) "Board" means the Michigan athletic trainer board.

(b) “BOC” means the Board of Certification, Inc.

(c) "Code" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(d) "Department" means the department of licensing and regulatory affairs.

(e) “Emergency cardiac care” means training in the performance or use of adult cardiopulmonary resuscitation (CPR), pediatric CPR, second rescuer CPR, automated external defibrillator, airway management, and barrier devices.

R 338.1302 Telehealth services.

Rule 2. (1) Consent for treatment must be obtained before providing a telehealth service pursuant to section 16284 of the code, MCL 333.16284.

(2) Evidence of consent for treatment must be maintained in a client’s medical record.

(3) An athletic trainer providing any telehealth service shall do both of the following:

(a) Act within the scope of his or her practice.

(b) Exercise the same standard of care applicable to a traditional health care service.

PART 2. LICENSURE

R 338.1303 Training standards for identifying victims of human trafficking; requirements.

Rule 3. (1) Pursuant to section 16148 of the code, MCL 333.16148, an individual licensed or seeking licensure shall complete training in identifying victims of human trafficking that meets the following standards:

(a) Training content must cover all of the following:

(i) Understanding the types and venues of human trafficking in Michigan or the United States.

(ii) Identifying victims of human trafficking in health care settings.

(iii) Identifying the warning signs of human trafficking in health care settings for adults and minors.

(iv) Resources for reporting the suspected victims of human trafficking.

(b) Acceptable providers or methods of training include any of the following:

(i) Training offered by a nationally recognized or state-recognized, health-related organization.

(ii) Training offered by, or in conjunction with, a state or federal agency.

(iii) Training obtained in an educational program that has been approved by the board for initial licensure, or by a college or university.

(iv) Reading an article related to the identification of victims of human trafficking that meets the requirements of subdivision (a) of this subrule and is published in a peer review journal, health care journal, or professional or scientific journal.

(c) Acceptable modalities of training ~~may~~ include any of the following:

(i) Teleconference or webinar.

(ii) Online presentation.

(iii) Live presentation.

(iv) Printed or electronic media.

(2) The department may select and audit a sample of individuals and request documentation of proof of completion of training. If audited by the department, an individual shall provide an acceptable proof of completion of training, including either of the following:

(a) Proof of completion certificate issued by the training provider that includes the date, provider name, name of training, and individual's name.

(b) A self-certification statement by an individual. The certification statement must include the individual's name and either of the following:

(i) For training completed pursuant to subrule (1)(b)(i) to (iii) of this rule, the date, training provider name, and name of training.

(ii) For training completed pursuant to subrule (1)(b)(iv) of this rule, the title of article, author, publication name of peer review journal, health care journal, or professional or scientific journal, and date, volume, and issue of publication, as applicable.

(3) Pursuant to section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply to license renewals beginning 2019 and for initial licenses issued after April 22, 2021.

R 338.1309 Licensure by examination.

Rule 9. An applicant for an athletic trainer license by examination shall submit a completed application on a form provided by the department with the requisite fee. In addition to satisfying the requirements of the code, the applicant shall satisfy all of the following requirements:

(a) Have graduated from an athletic training program that satisfies the requirements of R 338.1354.

(b) Have passed the examination adopted in R 338.1325.

(c) Have successfully completed emergency cardiac care training from a program that satisfies the requirements of R 338.1355 within 3 years before licensure and hold an unexpired emergency cardiac care certification.

R 338.1317 Licensure by endorsement.

Rule 17. (1) An applicant for an athletic trainer license by endorsement shall submit a completed application on a form provided by the department with the requisite fee. In addition to satisfying the requirements of the code, the applicant shall satisfy all of the following requirements:

(a) Be licensed, registered, or certified as an athletic trainer in another state of the United States immediately preceding the application for licensure.

(b) Establish that he or she holds a current, valid BOC certification.

(c) Have successfully completed emergency cardiac care training from a program that satisfies the requirements of R 338.1355 within 3 years before licensure by endorsement and hold an unexpired emergency cardiac care certification.

(2) An applicant's license, registration, certification, or other athletic training professional endorsement recognized by the BOC must be verified by the licensing and regulatory agency of any state of the United States, province of Canada, or other country, in which the applicant holds or has ever held a license, registration, certification, or athletic training professional endorsement to practice as an athletic trainer or other athletic training professional recognized by the BOC for certification. Verification includes, but is not limited to, any disciplinary action taken against the license, registration, certification, or other athletic training professional endorsement.

R 338.1321 Licensure of foreign-trained applicants.

Rule 21. (1) If an applicant was foreign-trained and does not meet the requirements of R 338.1309 or R 338.1317, then the applicant shall satisfy all of the following requirements:

(a) Hold a national licensure, registration, certification, or other athletic training professional endorsement recognized by the BOC.

(b) Pass the examination adopted in R 338.1325.

(c) Be verified, on a form provided by the department, by the licensing or registration agency of any state of the United States, province of Canada, or other country in which the applicant holds a current license or registration or has ever held a license, registration, certification, or other athletic training professional endorsement to practice as an athletic trainer. This includes, but is not limited to, showing proof of any disciplinary action taken or pending disciplinary action imposed upon the applicant.

(d) Have successfully completed emergency cardiac care training from a program that satisfies the requirements of R 338.1355 within 3 years before licensure and hold an unexpired emergency cardiac care certification.

(2) If an applicant holds current certification by the BOC, the applicant is presumed to have satisfied the requirements of subrules (1)(a) and (1)(b) of this rule.

R 338.1321a Rescinded.

R 338.1325 Licensed athletic trainer examination; adoption; passing scores.

Rule 25. The board adopts the BOC athletic trainer credentialing examination that is scored by the Scantron Corporation or its successor organization. A passing score on the examination is the passing score determined by the BOC.

R 338.1345 Relicensure.

Rule 45. An applicant for relicensure whose Michigan license has lapsed, under the provisions of section 16201(3) or (4) of the code, MCL 333.16201, as applicable, may be relicensed by complying with the following requirements as noted by (√):

(1) For an applicant who has let his or her Michigan license lapse and who does not hold a current and valid license, registration,	Lapsed less than 3 years	Lapsed 3 years or more

	certification, or other athletic training professional endorsement recognized by the BOC to practice as an athletic trainer or other athletic training professional recognized by the BOC for certification in another state of the United States, province of Canada, or other country:		
(a)	Application and fee: Submit a completed application on a form provided by the department, together with the requisite fee.	√	√
(b)	Good moral character: Establish that he or she is of good moral character.	√	√
(c)	Fingerprints: Submit fingerprints as required in section 16174(3) of the code, MCL 333.16174.		√
(d)	BOC certification: Establish that he or she holds a current, valid BOC certification.	√	√
(e)	Training: Have successfully completed emergency cardiac care training from a program that satisfies the requirements of R 338.1355 within 3 years before relicensure and hold an unexpired emergency cardiac care certification.	√	√
(f)	Continuing education: Have completed 75 hours of approved CE credits, as provided under R 338.1357, during the 3 years immediately preceding relicensure.	√	√
(g)	Proof of license verification from another jurisdiction: An applicant's license, registration, certification, or other athletic training professional endorsement recognized by the BOC for certification must be verified by the licensing agency of any state or territory of the United States, province of Canada, or other country in which the applicant has ever held a license, registration, certification, or other athletic training professional endorsement recognized by the BOC to practice as an athletic trainer or other athletic training professional recognized by the BOC for certification. Verification must include the record of any disciplinary action taken or pending against the applicant.	√	√
(2)	For an applicant who has let his or her Michigan license lapse and who holds a current and valid license, registration, certification, or other athletic training professional endorsement recognized by the	Lapsed less than 3 years	Lapsed 3 years or more

	BOC to practice as an athletic trainer or other athletic training professional recognized by the BOC for certification in another state of the United States, province of Canada, or other country:		
(a)	Application and fee: Submit a completed application on a form provided by the department, together with the requisite fee.	√	√
(b)	Good moral character: Establish that he or she is of good moral character.	√	√
(c)	Fingerprints: Submit fingerprints as required in section 16174(3) of the code, MCL 333.16174~~(3)~~.		√
(d)	BOC certification: Establish that he or she holds a current, valid BOC certification.	√	√
(e)	Training: Have successfully completed emergency cardiac training from a program that satisfies the requirements of R 338.1355 within 3 years before relicensure and hold an unexpired emergency cardiac care certification.	√	√
(f)	Continuing education: Have completed 75 hours of approved CE credits, as provided under R 338.1357, during the 3 years immediately preceding relicensure.	√	√
(g)	Proof of license verification from another jurisdiction: An applicant's license, registration, certification, or other athletic training professional endorsement recognized by the BOC for certification must be verified by the licensing agency of any state or territory of the United States, province of Canada, or other country in which the applicant has ever held a license, registration, certification, or other athletic training professional endorsement recognized by the BOC to practice as an athletic trainer or other athletic training professional recognized by the BOC for certification. Verification must include the record of any disciplinary action taken or pending against the applicant.	√	√

R 338.1349 License renewal requirements.

Rule 49. (1) An applicant for license renewal shall satisfy both of the following requirements within the 3-year renewal cycle:

(a) Complete emergency cardiac care training from a program that satisfies the requirements of R 338.1355 and hold an unexpired emergency cardiac care certification.

(b) Before the expiration date of the license, complete a total of 75 hours of continuing education that comply with R 338.1357, including a minimum of 3 hours of continuing education hours in pain and symptom management, as required under section 16204 of the code, MCL 333.16204.

(2) Submission of an application for renewal of a license constitutes the applicant's certification of compliance with this rule.

(3) The board may require the licensee to submit evidence to demonstrate compliance with this rule.

(4) The licensee shall retain documentation of satisfying the requirements of this rule for a period of 4 years from the date of applying for license renewal.

(5) A request for a waiver under section 16205 of the code, MCL 333.16205, must be received by the department before the expiration date of the license.

PART 3. EDUCATIONAL AND TRAINING AND CERTIFICATION PROGRAMS

R 338.1354 Educational program standards; adoption by reference.

Rule 54. (1) The board adopts by reference the standards for accrediting athletic training programs adopted by the Commission on Accreditation for Athletic Training Education (CAATE) in the document entitled “Standards for the Accreditation of Professional Athletic Training Programs,” July 1, 2012, as revised February 16, 2018, which is available at no cost from the CAATE website, at http://www.caate.net. An athletic training program that is accredited by CAATE is approved by the board.

(2) The board adopts by reference the procedures and criteria for recognizing accrediting organizations of the Council of Higher Education Accreditation (CHEA), effective September 24, 2018, and the procedures and criteria for recognizing accrediting agencies of the United States Department of Education, effective July 1, 2010, as contained in 34 CFR part 602 (2010). The CHEA recognition standards may be obtained from CHEA, One Dupont Circle NW, Suite 510, Washington, DC 20036-1110, or from the council’s website at http://www.chea.org at no cost. The federal recognition criteria may be obtained at no cost from the United States Department of Education’s website at: http://www.ed.gov/about/offices/list/OPE/index.html.

(3) Copies of the standards and criteria adopted by reference in this rule are available for inspection and distribution at a cost of 10 cents per page from the Michigan Board of Athletic Trainers, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 W. Ottawa St., P.O. Box 30670, Lansing, Michigan 48909.

R 338.1355 Approved emergency cardiac care training.

Rule 55. (1) The board approves emergency cardiac care training offered or approved by the following organizations:

(a) American Red Cross.

(b) American Heart Association.

(c) National Safety Council.

(d) American Safety and Health Institute.

(e) Emergency Care and Safety Institute.

(2) The board adopts by reference the standards for certification in basic and advanced cardiac life support set forth by the American Heart Association in the standards and guidelines for cardiopulmonary resuscitation and emergency cardiac care for professional providers and published in "2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care ("Circulation," Volume 142, Issue 16 Supplement 2, October 20, 2020). A copy of the guidelines for

cardiopulmonary resuscitation and emergency cardiac care may be obtained from the American Heart Association, 7272 Greenville Avenue, Dallas, Texas 75231 or from the association's website at https://www.ahajournals.org/doi/epub/10.1161/CIR.0000000000000929 at no cost. A copy of this document is available for inspection and distribution at a cost of 10 cents per page from the Michigan Department Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 West Ottawa Street, P.O. Box 30670, Lansing, Michigan 48909.

(3) An organization that provides training that uses the standards specified in subrule (2) of this rule is considered an approved provider.

PART 4. CONTINUING EDUCATION

R 338.1357 Limitations for accumulating continuing education; approved continuing education.

Rule 57. (1) A licensee who accumulates the 75 hours of continuing education required pursuant to R 338.1349 for the renewal of an athletic trainer license is subject to all of the following limitations:

(a) A licensee may not accumulate more than 12 credit hours of continuing education during 1 24-hour period.

(b) A licensee may not carry forward the continuing education hours earned during 1 renewal cycle to the next renewal cycle.

(c) A licensee may not earn continuing education credit for completing a program or activity that is identical or substantially identical to a program or activity for which the licensee has already earned credit during the same renewal cycle.

(d) A licensee may not earn more than 50 hours of continuing education per renewal cycle for activities listed in subrule (5)(d) to (g) of this rule.

(2) Approved courses for accumulating continuing education hours in pain and symptom management, as required in R 338.1349(1)(b), include, but are not limited to, courses in behavior management, psychology of pain, pharmacology, behavior modification, stress management, clinical applications, and drug interventions as they relate to professional practice.

(3) The board approves and adopts by reference the standards of the BOC set forth in the publication entitled "Practice Analysis, 7th Edition, Outline: Domains and Tasks," effective for April 2017 exam and January 1, 2018 continuing education, available at https://bocatc.org/system/document_versions/versions/24/original/boc-pa7-content-outline-20170612.pdf?1497279231.

(4) Any continuing education program approved by the BOC is considered approved by the board.

(5) The board approves all of the following for continuing education credit:

Activity and Proof of Completion		Number of continuing education hours granted/permitted for each activity
(a)	Maintenance of BOC certification. If audited, the licensee shall provide evidence from the BOC that shows the time period that the licensee held a valid certification.	Twenty-five hours of continuing education are granted for each year that the licensee maintained BOC certification. A maximum of 75 hours of continuing education may be earned for this activity in each renewal cycle.
(b)	Attendance at or participation in a continuing education program or activity related to the practice of athletic training, which includes but is not limited to, live and in person programs; interactive or monitored teleconference, audio-conference, or web-based programs; online	The number of continuing education hours for a specific program or activity is the number of hours approved by the sponsor or the approving organization for the specific program or activity. A maximum of 75 hours of continuing

	programs; and journal articles or other self-study programs approved or offered by any of the following: • Another state or provincial board of athletic trainers. • A state or provincial board related to the practice of medicine, osteopathic medicine and surgery, or physical therapy. If audited, the licensee shall submit a copy of a letter or certificate of completion showing the licensee's name, number of continuing education hours earned, sponsor name or the name of the organization that approved the program or other activity for which the continuing education credit was given, and the date on which the program or activity was completed.	education credit may be earned for this activity in each renewal cycle.
(c)	Initial presentation of continuing education program related to the practice of athletic trainer to a state, regional, national, or international athletic training organization. To receive credit, the presentation must not be a part of the licensee's regular job description and must be approved or offered for continuing education credit by any of the following: • Another state or provincial board of athletic trainers. • A state or provincial board related to the practice of medicine, osteopathic medicine and surgery, or physical therapy. If audited, the licensee shall submit a copy of the presentation notice or advertisement showing the date of the presentation, the licensee's name listed as a presenter, and the name of the organization that approved or offered the presentation for continuing education credit.	Ten hours of continuing education credit are granted for each 50 to 60 minutes of presentation. No additional credit is granted for preparation of a presentation. A maximum of 50 hours of continuing education may be earned for this activity in each renewal cycle.
(d)	Initial presentation of a scientific exhibit, poster, scientific paper, or clinical demonstration to an athletic training	Ten hours of continuing education are granted for serving as a primary presenter. Five hours of continuing

	organization. To receive credit, the presentation must not be part of the licensee's regular job description or performed in the normal course of the licensee's employment. If audited, the licensee shall submit a copy of the document presented with evidence of presentation or a letter from the program sponsor verifying the length and date of the presentation.	education are granted for serving as a secondary presenter. No additional credit is granted for preparation of the presentation. The maximum number of credit hours permitted per renewal cycle for this activity is subject to subrule (1)(d) of this rule.
(e)	Initial publication of an article related to the practice of athletic training in a peer-reviewed journal. If audited, the licensee shall submit a copy of the publication that identifies the licensee as the author of the publication or an acceptance letter.	Fifteen hours of continuing education are granted for serving as a primary author. Ten hours of continuing education are granted for serving as a secondary author. The maximum number of credit hours permitted per renewal cycle for this activity is subject to subrule (1)(d) of this rule.
(f)	Initial publication of a chapter related to the practice of athletic training in any of the following: • A professional or health care textbook. • A peer-reviewed textbook. • A book related to the practice of athletic training. If audited, the licensee shall submit a copy of the publication that identifies the licensee as the author or a publication acceptance letter.	Ten hours of continuing education are granted for serving as a primary or contributing author. The maximum number of credit hours permitted per renewal cycle for this activity is subject to subrule (1)(d) of this rule.
(g)	Passing an academic course or residency program related to the practice of athletic training that is offered by either of the following: • An athletic training program that satisfies the standards adopted in R 338.1354(1). • A higher education institution accredited by an organization that satisfies the standards of R 338.1354(2). If audited, a licensee shall submit a copy of the transcript showing credit hours of the academic course related to athletic training.	Ten hours of continuing education are granted for each course. A maximum of 50 hours per renewal cycle may be earned for this activity.

PART 5. DELEGATION AND ADOPTION BY REFERENCE OF PROFESSIONAL STANDARDS

R 338.1369 Delegation and supervision; requirements.

Rule 69. (1) Pursuant to section 16215(1) of the code, MCL 333.16215, a licensee may delegate the performance of an athletic training act, task, or function if the licensee maintains a record of the name of the individual to whom the act, task, or function was delegated. The record must be maintained pursuant to section 16213 of the code, MCL 333.16213.

(2) A licensee who delegates an act, task, or function related to the practice of athletic training shall provide supervision as follows:

(a) If the delegatee is licensed under the code and the act, task, or function is within the delegatee's scope of practice, the supervision shall be general supervision as defined in section 16109(2) of the code, MCL 333.16109.

(b) If the delegatee is unlicensed or the act, task, or function does not fall within the delegatee's licensed scope of practice, the supervision shall be direct supervision. As used in this subdivision, "direct supervision" means the licensee is physically present and immediately available for face-to-face direction and supervision at the time the act, task, or function is performed and the licensee has direct contact with the individual upon whom the act, task, or function was performed.

(3) A licensee shall not delegate a job, task, or function to a secondary-school student that requires the secondary-school student to engage in the practice of athletic training.

(4) At any given time, the number of unlicensed individuals to whom a licensee may provide direct supervision must not exceed 8 individuals.

R 338.1378 Professional standards.

Rule 78. (1) The board adopts by reference the BOC's "Standards of Professional Practice" effective January 2021. The standards are available, free of charge on the agency's website at: https://bocatc.org/public-protection/standards-discipline/standards-discipline/standards-of-professional-practice, or a copy may be obtained at a cost of 10 cents per page, from the Board of Athletic Trainers, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 W. Ottawa St., P.O. Box 30670, Lansing, Michigan 48909.

(2) A licensee shall comply with the standards adopted in subrule (1) of this rule.

ADMINISTRATIVE RULES

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY AND HEALTH STANDARD

Filed with the secretary of state on June 4, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1019 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998)

R 408.41301 of the Michigan Administrative Code is amended, as follows:

PART 13. MOBILE EQUIPMENT

R 408.41301 Adoption and availability of standards.

Rule 1301. (1) The following federal Occupational Safety and Health Administration (OSHA) regulations, in 29 CFR part 1926, subpart O, "Motor Vehicles, Mechanized Equipment, and Marine Operations," are adopted by reference in these rules:

(a) 29 CFR 1926.600, "Equipment," effective August 9, 2010.

(b) 29 CFR 1926.601, "Motor vehicles," effective December 6, 2012.

(c) 29 CFR 1926.602, "Material handling equipment," effective December 1, 1998, including 29 CFR 1910.178, appendix A "Powered industrial trucks (non-mandatory)," effective November 18, 2016.

(d) 29 CFR 1926.603, "Pile driving equipment," effective January 19, 2005.

(e) 29 CFR 1926.604, "Site clearing," effective March 14, 2001.

(f) 29 CFR 1926.605, "Marine operations and equipment," effective July 22, 1977.

(g) 29 CFR 1926.606, "Definitions applicable to this subpart," effective March 14, 2001.

(2) The following OSHA regulations, in 29 CFR part 1926, subpart W, "Rollover Protective Structures; Overhead Protection," are adopted by reference in these rules:

(a) 29 CFR 1926.1000, "Scope," effective May 14, 2019.

(b) 29 CFR 1926.1001, "Minimum performance criteria for rollover protective structures for designated scrapers, loaders, dozers, graders, crawler tractors, compactors, and rubber-tired skid steer equipment," effective May 14, 2019.

(c) 29 CFR 1926.1002, "Protective frames (roll-over protective structures, known as ROPS) for wheel-type agricultural and industrial tractors used in construction," effective May 14, 2019.

(d) 29 CFR 1926.1003, "Overhead protection for operators of agricultural and industrial tractors used in construction," effective May 14, 2019.

(3) A reference to 1926.2 means MIOSHA Safety and Health Standard Part 12. "Variances."

(4) A reference to 29 CFR part 1926, subpart K, "Electrical," means all of the following:

(a) Construction Safety and Health Standard Part 10. "Cranes and Derricks."

(b) Construction Safety Standard Part 17. "Electrical Installations."

(5) The OSHA regulations adopted in these rules are available from the United States Department of Labor, Occupational Safety and Health Administration website: www.osha.gov, at no charge, as of the time of adoption of these rules.

(6) The standards adopted in these rules are available for inspection at the Department of Labor and Economic Opportunity, MIOSHA Standards and FOIA Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(7) The standards adopted in these rules may be obtained from the publisher or may be obtained from the Department of Labor and Economic Opportunity, MIOSHA Standards and FOIA Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in this rule, plus $20.00 for shipping and handling.

(8) The following Michigan occupational safety and health administration standards (MIOSHA) are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Labor and Economic Opportunity, MIOSHA Standards and FOIA Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, at the time of adoption of these rules, is 4 cents per page.

(a) Construction Safety and Health Standard Part 1. "General Rules," R 408.40101 to R 408.40134.

(b) Construction Safety and Health Standard Part 6. "Personal Protective Equipment," R 408.40601 to R 408.40660.

(c) Construction Safety and Health Standard Part 10. "Cranes and Derricks," R 408.41001 to R 408.41099a.

(d) Construction Safety Standard Part 15. "Excavators, Hoists, Elevators, Helicopters, and Conveyors," R 408.41501 to R 408.41595.

(e) Construction Safety Standard Part 17. "Electrical Installations," R 408.41701 to R 408.41734.

(f) MIOSHA Safety and Health Standard Part 12. "Variances," R 408.22201 to R 408.22251.

(g) General Industry Safety and Health Standard Part 21. "Powered Industrial Trucks," R 408.12101 to R 408.12193.

(h) Occupational Health Standard Part 504. "Diving Operations," R 325.50301 to R 325.50348.

(9) A reference to 29 CFR part 1926, subpart N, "Helicopters, Hoists, Elevators, and Conveyors," means this standard and both of the following:

(a) Construction Safety and Health Standard Part 10. "Cranes and Derricks."

(b) Construction Safety Standard Part 15. "Excavators, Hoists, Elevators, Helicopters, and Conveyors."

(10) A reference to 29 CFR part 1926, subpart W, "Rollover Protective Structures; Overhead Protection," means this standard and both of the following:

(a) Construction Safety and Health Standard Part 10. "Cranes and Derricks."

(b) Construction Safety Standard Part 15. "Excavators, Hoists, Elevators, Helicopters, and Conveyors."

(11) A reference to 29 CFR part 1910, subpart N, "Materials Handling and Storage," means General Industry Safety and Health Standard Part 21. "Powered Industrial Trucks."

(12) A reference to 29 CFR part 1910, subpart T, "Commercial Diving Operations," means Occupational Health Standard Part 504. "Diving Operations."

(13) The adopted federal regulations have the same force and effect as a rule promulgated under the Michigan occupational safety and health act (MIOSHA), 1974 PA 154, MCL 408.1001 to 408.1094.

ADMINISTRATIVE RULES

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY AND HEALTH STANDARD

Filed with the secretary of state on June 4, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of labor and economic opportunity by sections 14 and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014 and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001,-445.2011, 445.2025, 445.2030, and 125.1998)

R 325.62991, R 325.62992, R 325.62994, R 325.62995, and R 325.62996 of the Michigan Administrative Code are amended, as follows:

PART 665. UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR

R 325.62991 Underground construction; adoption of regulations by reference; exceptions.

Rule 1. (1) The federal Occupational-Safety and Health Administration's regulations on underground construction promulgated by the United States Department of Labor and codified at 29 CFR 1926.800, "Underground Construction," are adopted by reference in these rules as of, May 14, 2019, except for the following regulations and except as provided in subrule (2) of this rule:

(a) Section 1926.800(b)(1) to (3).
(b) Section 1926.800(c).
(c) Section 1926.800(d).
(d) Section 1926.800(e)(2).
(e) Section 1926.800(f)(1) to (5).
(f) Section 1926.800(g)(1) to (5).
(g) Section 1926.800(i)(4) and (5).
(h) Section 1926.800(j)(1)(viii) and (2)(iv) and (v).
(i) Section 1926.800(m)(1) to (8) and (10) to (12).
(j) Section 1926.800(n)(2).
(k) Section 1926.800(o)(1) and (2), (3)(i) to (iv), and (4)(i) and (ii).
(l) Section 1926.800(p).
(m) Section 1926.800(q).
(n) Section 1926.800(r)(1) to (3), (5), (6)(i)(A) and (C), (7) to (13)(i), and (14) to (17).
(o) Section 1926.800(s)(1) to (2).

(p) Section 1926.800(t)(1)(ii), (iv)(A) and (B), (vi), (2), (3)(i), (ii), (viii), (ix), (xi), (xviii) to (xxiii), and (4)(ii) to (iv) and (vii).

(2) The following references in 29 CFR 1926.800, "Underground Construction," have the following meanings:

(a) A reference to 29 CFR 1926.650 to 1926.652, subpart P, "Excavations," means Construction Safety Standard Part 9. "Excavation, Trenching, and Shoring," R 408.40901 to R 408.40953.

(b) A reference to 29 CFR 1926.950 to 1926.960, subpart V, "Electric Power Transmission and Distribution," means Construction Safety Standard Part 16. "Power Transmission and Distribution," R 408.41601 to R 408.41658.

(c) A reference to 29 CFR 1926.55, subpart D, "Gases, vapors, fumes, dusts, and mists," means Construction Safety and Health Standard Part 601. "Air Contaminants for Construction," R 325.60151 to R 325.60161.

(d) A reference to 29 CFR 1910.1020, "Access to employee exposure and medical records," means General Industry and Construction Safety and Health Standard Part 470. "Employee Medical Records and Trade Secrets," R 325.3451 to R 325.3476.

(e) A reference to 29 CFR 1926.65, "Hazardous waste operations and emergency response," means Construction Safety and Health Standard Part 632. "Hazardous Waste Operations and Emergency Response in Construction," R 325.63201.

(f) A reference to 29 CFR 1926.56, "Illumination," means Construction Safety and Health Standard Part 1. "General Rules," R 408.40101 to R 408.40134.

(g) A reference to 29 CFR 1926.150 to 1926.159, subpart F, "Fire Protection and Prevention," means Construction Safety Standard Part 18. "Fire Protection and Prevention," R 408.41801 to R 408.41884.

(h) A reference to 29 CFR 1926.350 to 1926.354, subpart J, "Welding and Cutting," means Construction Safety Standard Part 7. "Welding and Cutting," R 408.40701 to R 408.40762.

(i) A reference to 29 CFR 1926.400 to 449, subpart K, "Electrical," means Construction Safety Standard Part 17. "Electrical Installations," R 408.41701 to R 408.41734.

(j) A reference to 29 CFR 1926.550 to 1926.556, subpart N, "Helicopters, Hoists, Elevators, and Conveyors," means Construction Safety and Health Standard Part 10. "Cranes and Derricks," R 408.41001 to R 408.41099a.

(3) The adopted federal regulations have the same force and effect as a rule promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

R 325.62992 Caissons; adoption of regulations by reference.

Rule 2. (1) The federal Occupational Safety and Health Administration's regulations on caissons that have been promulgated by the United States Department of Labor and codified at 29 CFR 1926.801 are adopted by reference in these rules as of the effective date of these rules, except for the following sections:

(a) 1926.801(b).

(b) 1926.801(c).

(2) The adopted federal regulations have the same force and effect as a rule promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

R 325.62994 Compressed air; adoption of regulations by reference.

Rule 4. (1) The federal Occupational Safety and Health Administration's regulations on compressed air that have been promulgated by the United States Department of Labor and codified at 29 CFR 1926.803 are adopted by reference in these rules as of the effective date of these rules.

(2) The following references in 29 CFR 1926.803 have the following meanings:

(a) A reference to 29 CFR 1926.50 to 1926.66, subpart D, "Occupational Health and Environmental Controls," means occupational health construction standards.

(b) A reference to 29 CFR 1926.400 to 449, subpart K, "Electrical," means Construction Safety Standard Part 17. "Electrical Installations," R 408.41701 to R 408.41734.

(c) A reference to 29 CFR 1926.900 to 1926.914, subpart U, "Blasting and the Use of Explosives," means Construction Safety Standard Part 27. "Blasting and Use of Explosives," R 408.42701 to R 408.42799.

(d) A reference to 29 CFR 1926.500 to 1926.503, subpart M, "Fall Protection," means Construction Safety Standard Part 45. "Fall Protection," R 408.44501 to 408.44502.

(e) A reference to 29 CFR 1926.800 to 804, subpart S, "Underground Construction, Caissons, Cofferdams, and Compressed Air," means Construction Safety and Health Standard Part 14. "Tunnels, Shafts, Caissons, and Cofferdams," R 408.41401 to R 408.41483 and Construction Safety and Health Standard Part 665. "Underground Construction, Caissons, Cofferdams, and Compressed Air," R 325.62991 to R 325.62996.

(3) The adopted federal regulations have the same force and effect as a rule promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

R 325.62995 Definitions applicable to underground construction, caissons, cofferdams, and compressed air; adoption by reference.

Rule 5. (1) The federal Occupational Safety and Health Administration's definitions applicable to underground construction, caissons, cofferdams, and compressed air that have been promulgated by the United States department of labor and codified at 29 CFR 1926.804 are adopted by reference in these rules as of the effective date of these rules.

(2) The adopted federal regulations have the same force and effect as a rule promulgated under the Michigan occupational safety and health act, 1974 PA 154, ~~being~~ §MCL 408.1001 to 408.1094.

R 325.62996 Availability of documents.

Rule 6. (1) The federal regulations adopted by reference in these rules are available without cost as of the time of adoption of these rules from the United States Department of Labor, OSHA, via the internet at website: www.osha.gov, or from the Michigan Department of Labor and Economic Opportunity, MIOSHA Standards and FOIA Section, 530 W. Allegan Street, P.O. Box 30643, Lansing, Michigan 48909.

(2) The following Michigan occupational safety and health standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Labor and Economic Opportunity, MIOSHA, Standards and FOIA Section, 530 W. Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) Construction Safety and Health Standard Part 1. "General Rules," R 408.40101 to R 408.40134.

(b) Construction Safety Standard Part 7. "Welding and Cutting," R 408.40701 to R 408.40762.

(c) Construction Safety Standard Part 9. "Excavation, Trenching, and Shoring," R 408.40901 to R 408.40953.

(d) Construction Safety and Health Standard Part 10. "Cranes and Derricks," R 408.41001 to R 408.41099a.

(e) Construction Safety and Health Standard Part 14. Tunnels, Shafts, Caissons, and Cofferdams, R 408.41401 to R 408.41483.

(f) Construction Safety Standard Part 16. "Power Transmission and Distribution," R 408.41601 to R 408.41658.

(g) Construction Safety Standard Part 17. “Electrical Installations,” R 408.41701 to R 408.41734.

(h) Construction Safety Standard Part 18. “Fire Protection and Prevention,” R 408.41801 to R 408.41884.

(i) Construction Safety Standard Part 27. “Blasting and Use of Explosives,” R 408.42701 to R 408.42799.

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

(k) Construction Safety and Health Standard Part 632. “Hazardous Waste Operations and Emergency Response,” R 325.63201.

(l) General Industry and Construction Safety and Health Standard Part 470. “Employee Medical Records and Trade Secrets,” R 325.3451to R 325.3476.

(m) Construction Safety and Health Standard Part 601. “Air Contaminants for Construction,” R 325.60151 to R 325.60161.

ADMINISTRATIVE RULES

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

DIRECTOR'S OFFICE

GENERAL INDUSTRY AND CONSTRUCTION SAFETY AND HEALTH STANDARD

Filed with the secretary of state on June 4, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998)

R 325.52101 of the Michigan Administrative Code is amended, as follows:

PART 432. HAZARDOUS WASTE OPERATIONS AND EMERGENCY RESPONSE

R 325.52101 Scope, application, adoption, and availability of standards.

Rule 1. (1) These rules prescribe the requirements for safety and health programs, training, medical surveillance, control methods, sanitation, and personal protective equipment for employees who are involved in hazardous waste operations and response to chemical emergencies.

(2) The following federal Occupational Safety and Health Administration (OSHA) regulations are adopted by reference in these rules:

(a) 29 CFR 1910.120, “Hazardous waste operations and emergency response,” as amended May 14, 2019.

(b) 29 CFR 1910.120, appendix A “Personal protective equipment test methods,” as in effect as of the effective date of these rules.

(c) 29 CFR 1910.120, appendix B “General description and discussion of the levels of protection and protective gear,” as amended May 14, 2019.

(d) 29 CFR 1910.120, appendix C “Compliance guidelines,” as in effect as of the effective date of these rules.

(e) 29 CFR 1910.120, appendix D “References,” as in effect as of the effective date of these rules.

(f) 29 CFR 1910.120, appendix E “Training Curriculum Guidelines,” as amended February 8, 2013.

(3) A reference to the “Threshold Limit Values and Biological Exposure Indices for 1987-88,” dated 1987, means “Threshold Limit Values and Biological Exposure Indices for 1990-1991,” 1990 edition. The ACGIH publication is available from the American Conference of Governmental Industrial Hygienist, 1330 Kemper Meadow Drive, Cincinnati, Ohio 45240-4148, or via the internet at the following website: www.acgih.org, at a cost, as of the time of adoption of these rules, of $25.00.

(4) A reference to 29 CFR 1910.1200, means Occupational Health Standard Part 430. "Hazard Communication."

(5) A reference to 29 CFR part 1910, subpart G, means General Industry Safety and Health Standard Part 380. "Occupational Noise Exposure in General Industry."

(6) A reference to 29 CFR part 1910, subpart Z, means General Industry Safety and Health Standard Part 301. "Air Contaminants for General Industry."

(7) A reference to 29 CFR 1910.134, means General Industry and Construction Safety and Health Standard Part 451. "Respiratory Protection."

(8) A reference to 29 CFR part 1910, subpart I, means all of the following:

(a) Construction Safety and Health Standard Part 6. "Personal Protective Equipment."

(b) General Industry Safety and Health Standard Part 33. "Personal Protective Equipment."

(c) General Industry Safety and Health Standard Part 433. "Personal Protective Equipment."

(9) A reference to 29 CFR 1910. 38, 1910.156, 1910.165, and part 1910, subpart L, means all of the following:

(a) Construction Safety Standard Part 18. "Fire Protection and Prevention."

(b) General Industry Safety and Health Standard Part 6. "Fire Exits."

(c) General Industry Safety Standard Part 73. "Fire Brigades."

(10) A reference to 29 CFR 1910.141, means General Industry Safety and Health Standard Part 474. "Sanitation."

(11) A reference to 29 CFR 1910.1020, means General Industry and Construction Safety and Health Standard Part 470. "Employee Medical Records and Trade Secrets."

(12) A reference to 29 CFR part 1926, subpart P, means Construction Safety Standard Part 9. "Excavation, Trenching, And Shoring."

(13) The adopted federal regulations have the same force and effect as a rule promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(14) The OSHA regulations adopted in these rules are available from the United States Department of Labor, Occupational Safety and Health Administration website, www.osha.gov, at no charge, as of the time of adoption of these rules.

(15) The regulations adopted in these rules are available for inspection at the Department of Labor and Economic Opportunity, MIOSHA Standards and FOIA Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(16) The regulations adopted in these rules may be obtained from the publisher or the Department of Labor and Economic Opportunity, MIOSHA Standards and FOIA Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in this rule, plus $20.00 for shipping and handling.

(17) The following Michigan occupational safety and health administration (MIOSHA) standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Labor and Economic Opportunity, MIOSHA Standards and FOIA Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at the following website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) Construction Safety Standard Part 9. "Excavation, Trenching, And Shoring," R 408.40901 to R 408.40953.

(b) Construction Safety Standard Part 18. "Fire Protection and Prevention," R 408.41801 to R 408.41884.

(c) Construction Safety and Health Standard Part 6. "Personal Protective Equipment," R 408.40601 to R 408.40660.

(d) General Industry Safety Standard Part 73. "Fire Brigades," R 408.17301 to R 408.17322.

(e) General Industry Safety and Health Standard Part 6. “Fire Exits,” R 408.10601 to R 408.10697.

(f) General Industry Safety and Health Standard Part 33. “Personal Protective Equipment,” R 408.13301 to R 408.13398.

(g) General Industry Safety and Health Standard Part 301. “Air Contaminants for General Industry,” R 325.51101 to R 325.51108.

(h) General Industry Safety and Health Standard Part 380. “Occupational Noise Exposure in General Industry,” R 325.60101 to R 325.60128.

(i) General Industry Safety and Health Standard Part 433. “Personal Protective Equipment,” R 325.60001 to R 325.60013.

(j) General Industry Safety and Health Standard Part 474. “Sanitation,” R 325.47401 to R 325.47425.

(k) General Industry and Construction Safety and Health Standard Part 470. “Employee Medical Records and Trade Secrets,” R 325.3451 to R 325.3476.

(l) Occupational Health Standard Part 430. “Hazard Communication,” R 325.77001 to R 325.77004.

(m) General Industry and Construction Safety and Health Standard Part 451. “Respiratory Protection,” R 325.60051 to R 325.60052.

PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

MCL 24.242(3) states in part:

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

MCL 24.208 states in part:

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

* * *

(d) Proposed administrative rules.

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

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

~~BOARD OF~~ PHARMACY - ANIMAL EUTHANASIA AND SEDATION RULES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by **section** ~~sections~~ ~~16145(3) and~~ 7333~~(8)~~ of **the public health code,** 1978 PA 368, MCL ~~333.16145(3) and~~ 333.7333~~(8)~~ and Executive Reorganization Order ~~Numbers~~ **Nos.** ~~1996-1~~**1991-9**, 1996-2, 2003-1, and 2011-4, MCL ~~330.3101~~ **338.3501**, 445.2001, 445.2011, and 445.2030)

R 338.3501, R 338.3502, R 338.3503, R 338.3504, R 338.3505, R 338.3506, R 338.3507, R 338.3509, R 338.3510, R 338.3511, R 338.3512, R 338.3513, R 338.3514, R 335.3515, R 338.3516, R 338.3517, R 338.3518, R 338.3520, R 338.3521, R 338.3522, and R 338.3523 of the Michigan Administrative Code are amended, and R 338.3508 and R 335.3519 are rescinded, as follows:

~~Part 1. General Provisions~~ Part 1. GENERAL PROVISIONS

R 338.3501 Definitions.

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

~~(a) "Administrator" means the board of pharmacy or its designated or established authority, as defined in section 7103 of the code.~~

(a) "Animal control shelter" means a facility operated by a municipality for the impoundment and care of animals that are found in the streets or at large, animals that are otherwise held due to the violation of a municipal ordinance or state law, or animals that are surrendered to the animal control shelter that holds a current registration issued by the Michigan department of agriculture and rural development (MDARD).

(b) "Animal protection shelter" means a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization for the care of homeless animals that holds a current registration issued by MDARD.

(c) "Animal tranquilizer" means the term as defined in MCL 333.7333(20)(a), a commercially prepared solution of xylazine hydrochloride, a commercially prepared solution of ketamine, or a commercially prepared compound containing tiletamine and zolazepam.

~~(b)~~ **(d)** "Code" means **the public health code,** 1978 PA 368, MCL 333.1101 to 333.25211.

~~(c)~~ **(e)** "Department" means the department of licensing and regulatory affairs **(LARA)**.

(f) "Euthanasia" means a method of humane death that minimizes pain, distress, and anxiety experienced by the animal prior to loss of consciousness and causes rapid loss of consciousness followed by cardiac or respiratory arrest and death. The euthanasia training described in these

rules and euthanasia provided under these rules must comply with the American Veterinary Medical Association's guidelines for the euthanasia of animals.

~~(d)~~ **(g)** "Individual" means an animal control officer; law enforcement officer; a person who is under contract with an animal control shelter or an animal protection shelter; or~~,~~ a person who is currently employed by an animal control shelter, an animal protection shelter, or a class ~~b~~ **B** dealer, as used in these rules and ~~sections~~ **section** 7333~~(8)~~**(9)** to ~~7333(21)~~ **(19)** of the code**, MCL 333.7333**.

(h) "Sedation" of an animal means a state of central nervous system depression caused by the administration of an animal tranquilizer in which the animal is awake but calm, and with sufficient stimuli may be aroused. Sedation of an animal must be accompanied by the additional use of an anesthetic agent inducing unconsciousness in the animal before euthanasia via intracardiac injection is allowed.

(2) Unless otherwise defined in the rules, the terms defined in the code have the same meaning when used in these rules.

~~Part 2. Animal Euthanasia~~ PART 2. ANIMAL EUTHANASIA

R 338.3502 Animal euthanasia; **animal control shelters, animal protection shelters, class B dealers;** authorization to apply for permit.

Rule 2. **(1)** An animal control shelter**,** ~~or~~ animal protection shelter ~~registered by the Michigan department of agriculture and rural development pursuant to 1969 PA 287, MCL 287.331 to 287.340~~, or a class b dealer ~~licensed with the United States department of agriculture pursuant to 7 U.S.C. § 2134~~, may apply for a permit to **buy, possess,** store, handle, and ~~use~~ **administer animal tranquilizers in addition to xylazine hydrochloride for pre-euthanasia sedation or** a commercially prepared, pre-mixed solution of sodium pentobarbital to practice euthanasia on animals **pursuant to the training required in R 338.3507**.

(2) Beginning no later than January 1, 2022, an animal control shelter, animal protection shelter, and class B dealer shall meet the training requirements in R 338.3507 in order to administer an animal tranquilizer for pre-euthanasia sedation or a commercially prepared, premixed solution of sodium pentobarbital to perform euthanasia on animals.

R 338.3503 Animal euthanasia; application for permit~~; renewal~~.

Rule 3. (1) An animal control shelter**,** ~~or~~ animal protection shelter**,** ~~that holds a current registration issued by the Michigan department of agriculture and rural development~~ or ~~a~~ class ~~b~~ **B** dealer ~~licensed with the United States department of agriculture~~ shall apply **to the department for a permit under R 338.3502**, on a form provided by the ~~administrator~~ **department**, together with the requisite fee, ~~for a permit to store, handle, and use sodium pentobarbital. The application submitted to the administrator shall contain all of the~~ **which shall contain all of the** following information:

(a) The name, address, and ~~Michigan department of agriculture and rural development~~ **MDARD** registration number of the animal control shelter**,** ~~or~~ animal protection shelter, or the ~~U.S. department of agriculture~~ **USDA** license number of the class ~~b~~ **B** dealer.

(b) The name, address, and biographical data of the individual who is in charge of the day-to-day operation of the animal control shelter, animal protection shelter, or class ~~b~~ **B** dealer and who is responsible for the storage and recordkeeping of the **commercially prepared, pre-mixed solution of** sodium pentobarbital **and animal tranquilizers**.

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

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

(d) The name of the veterinarian who trained each individual.

(e) Beginning no later than January 1, 2022, or earlier, if a class B dealer chooses to administer an animal tranquilizer for pre-euthanasia sedation before that date, a class B dealer shall submit both of the following:

(i) The name and address of the class B dealer or an employee of the class B dealer and documentation from the trainer that he or she has completed the training required in R 338.3507.

(ii) The name of the individual in charge of the day-to-day operation of the class B dealer and documentation from the trainer that the individual received and can document completion of the training described in R 338.3507.

(f) Beginning no later than January 1, 2022, or earlier, if an animal control shelter or an animal protection shelter chooses to administer animal tranquilizers in addition to xylazine hydrochloride for pre-euthanasia sedation before that date, an animal control shelter or an animal protection shelter shall submit both of the following.

(i) The name and address of an employee and documentation from the trainer that the employee has completed the training required in R 338.3507.

(ii) The name of the individual in charge of the day-to-day operation and documentation from the trainer that the individual received and can document completion of the training described in R 338.3507.

(2) A permit issued under this rule is valid for 2 years and may be renewed upon application to the ~~administrator~~ **department** and payment of the requisite fee.

R 338.3504 Permit for animal euthanasia; form; non-transferable; change in responsible person.

Rule 4. A permit issued by the ~~administrator~~ **department** ~~shall~~ **must** show the name and address of the facility and the name of the individual in charge of the day-to-day operation. The permit is not transferable. The ~~administrator~~ **permit holder shall notify the department** ~~shall be notified~~, in writing, within ~~10~~ **30** days of a change in the individual in charge of the day-to-day operation.

R 338.3505 Registration with United States ~~department~~ **Department** of ~~justice~~ **Justice**.

Rule 5. The facility shall obtain a registration, ~~in accordance with~~ **pursuant to** 21 ~~C.F.R. part~~ **CFR** 1301.11 **(2009)**, from the United States ~~department of justice, drug enforcement administration~~**Department of Justice (DOJ) Drug Enforcement Administration (DEA)**, or its successor agency, before stocking, purchasing, or using **a controlled substance** ~~sodium pentobarbital~~ to practice euthanasia. Purchases ~~shall~~ **must** be made ~~in accordance with~~ **pursuant to** procedures established by the ~~drug enforcement administration~~ **DOJ DEA**.

R 338.3506 Animal euthanasia; trained personnel; notification of changes; documentation of training.

Rule 6. (1) If the animal control shelter, animal protection shelter, or class ~~b~~ **B** dealer has been issued a permit pursuant to **R 338.3502, R 338.3503, and** ~~section~~ **section** 7333~~(8)~~**(9) and (10)** of the code**, MCL 333.7333**, and does not employ an individual trained as described in **R 338.3507 and** ~~section~~ **section** 7333~~(8)~~**(9) and (10) of the code, MCL 333.7333**, **or does not have a manager in charge of the day-to-day operation that is trained pursuant to section 7333(9) and (10) of the code, MCL 333.7333,** then the animal control shelter, animal protection shelter, or class ~~b~~ **B** dealer shall immediately notify the ~~administrator~~ **department**, and shall securely store and cease to administer any commercially-prepared, pre-mixed solution of sodium pentobarbital-**or animal tranquilizer** until the ~~administrator~~ **department** is notified that ~~either~~ **both** of the following has occurred:

(a) ~~An individual trained as described in section 7333(8) of the code, has been hired by the facility.~~ **The individual in charge of the day-to-day operation has been trained as described in R 338.3507 and he or she has submitted documentation of the training to the department.**

(b) **An individual has been hired or** ~~An~~ **an** employee of the **animal control shelter, or animal protection shelter, or the class B dealer** ~~facility~~ has been trained as described in **R 338.3507 and** ~~section~~ **section** 7333~~(8)~~**(9) and (10)** of the code**, MCL 333.7333**.

(2) The ~~administrator~~ **permit holder** shall ~~be notified~~ **notify the department within 30 days** of any change in the name and address of the individual trained as described in ~~section~~ **section** 7333~~(8)~~**(9) and (10)** of the code**, MCL 333.7333** ~~within 10 days of this change~~.

(3) ~~A list of individuals certified as having received training and the veterinarians who trained them shall be updated in writing every 6 months, kept on site, and be available for inspection.~~ **A permit holder shall comply with all of the following:**

(a) Maintain a list of individuals who have received the training required in these rules.

(b) Maintain a list of the veterinarians who trained each individual.

(c) Update the lists required in this subrule every 6 months.

(d) Keep the lists required in this subrule on the site of the class B dealer, animal control shelter, or animal protection shelter.

(e) Make the lists required in this subrule available for inspection by the department or other authorized individual upon request.

R 338.3507 Animal euthanasia; training of personnel.

Rule 7. ~~(1) An employee of an animal control shelter, animal protection shelter, or class b dealer who practices euthanasia on animals shall document completion of a minimum of 8 hours of training given by a licensed veterinarian in the use of sodium pentobarbital.~~

~~(2) Training of the individual shall be under the instruction of a veterinarian who is currently licensed in this state and is in good standing. The training shall include both lecture and self-study instruction, and clinical experience. At a minimum, the individual shall demonstrate competency to give intercardial, intraperitoneal, and intravenous injections, in addition to making a positive determination of death.~~

An applicant for a permit pursuant to R 338.3501(1) shall comply with the following requirements:

(a) The applicant shall complete a training consistent with section 7333(9)(c) and (10)(c) of the code, MCL 333.7333.

(b) The applicant shall complete a training that has been approved by the state veterinarian.

(c) The applicant shall complete a training given by a veterinarian who is currently licensed in this state and is in good standing.

R 338.3508 ~~Animal euthanasia; notification of completion of training; issuance of permit.~~ **Rescinded.**

~~Rule 8. Upon receiving notification of an individual's successful completion of the minimum of 8 hours of training from a licensed veterinarian, the department shall issue a permit to the animal control shelter, animal protection shelter, or class b dealer where the individual is employed. An individual's proficiency in the use of sodium pentobarbital may be shown by completion of a self-assessment program or other evaluation approved by the board of veterinary medicine. A self-assessment program or other evaluation that examines an individual's proficiency in the use of sodium pentobarbital that has been approved by the Michigan department of agriculture and rural development is deemed approved by the Michigan board of veterinary medicine. The permit is subject to the provisions of section 7333 of the code.~~

R 338.3509 Animal euthanasia; establish and maintain written procedures; monitoring continued proficiency and compliance.

Rule 9. (1) An animal control shelter, animal protection shelter, or class ~~b~~ **B** dealer shall establish and maintain written procedures for the administration of a commercially prepared, pre-mixed solution of sodium pentobarbital **for euthanasia and animal tranquilizers for pre-euthanasia sedation**. These procedures ~~shall~~ **must** be kept on the ~~licensed~~ **permitted** premises and ~~shall~~ **must** be available for inspection **by the department**.

(2) An individual's continued proficiency and compliance with written procedures by an animal control shelter, an animal protection shelter, or a class ~~b~~ **B** dealer, in addition to compliance with all rules and regulations, may be monitored by the ~~administrator~~ **department** ~~or the board of veterinary medicine~~.

R 338.3510 Animal euthanasia; retention of records regarding **receipt and administration** ~~dispensation~~ of sodium pentobarbital **and animal tranquilizers**.

Rule 10. (1) **The permit holder shall maintain separate records** ~~Records~~ of the receipt **of commercially prepared, pre-mixed solution of sodium pentobarbital and animal tranquilizers** and ~~dispensation~~ **the administration** of **a commercially prepared, pre-mixed solution of** sodium pentobarbital ~~shall be maintained~~ **and animal tranquilizers** at the animal control shelter, animal protection shelter, or by the class ~~b~~ **B** dealer.

(2) These records ~~shall~~ **must** include all of the following information pertaining to the **receipt of commercially prepared, pre-mixed solution of** sodium pentobarbital **and animal tranquilizers**:

(a) The date of acquisition.

(b) The quantity acquired.

(c) The **name of the** drug ~~name~~.

(d) The trade name of the drug.

(e) The lot number and strength of a commercially prepared, pre-mixed solution of sodium pentobarbital **or animal tranquilizer**.

~~(f)~~ **(3)** ~~A complete record of the dispensation~~ **The records of the administration** of the **commercially prepared,** pre-mixed solution **of** sodium pentobarbital **or animal tranquilizer** for the purpose of practicing euthanasia, ~~that~~ **must include all of the following:**

(a) ~~shows the~~ **The** quantity used~~,~~**.**

(b) ~~the~~ **The** time and date it was **administered** ~~dispensed,~~**.**

(c) ~~and the~~ **The** name of the individual who administered the **animal tranquilizer or** pre-mixed solution of sodium pentobarbital.

(d) The full description of the animal to which the commercially prepared, pre-mixed solution of sodium pentobarbital or animal tranquilizer was administered, which includes all of the following and is recorded in the animal's medical or shelter record:

(i) The species of the animal.

(ii) The breed of the animal.

(iii) The sex of the animal.

(iv) The age of the animal.

(v) The approximate weight of the animal.

(vi) The number associated with the animal if a numbering system is used.

~~(2)~~ **(4) The permit holder shall record** ~~Records of~~ receipt ~~shall be kept~~ **of controlled substances** on ~~drug enforcement administration (~~ **DOJ** DEA~~)~~ order forms pursuant to 21 ~~C.F.R part~~ **CFR part** 1305 **(2019)**. ~~The Code of Federal Regulations, Title 21, Food and Drugs,~~ **21 CFR** part 1305 is available at no cost on the internet at https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=1305

~~http://www.access.gp.gov/nara/cfr~~. Printed copies of 21 ~~C.F.R.~~ **CFR** part 1305 are available for inspection and distribution at ~~cost~~ **10 cents per page** from the Michigan Board of Pharmacy, Department of Licensing and Regulatory Affairs, **Bureau of Professional Licensing,** 611 West Ottawa, **P.O. Box 30670,** Lansing, Michigan 48909.

~~(3)~~ **(5) The permit holder shall maintain records** ~~Records~~ of ~~dispensation~~ **administration** ~~shall be kept~~ **of controlled substances** pursuant to 21 ~~C.F.R. part~~ **CFR part** 1304 **(2019)**. ~~The Code of Federal Regulations, Title 21, Food and Drugs,~~ **21 CFR** part 1304 is available at no cost on the internet at https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=1304 ~~http://access.gpo.gov/nara/cfr~~. Printed copies of 21 ~~C.F.R.~~ **CFR** part 1304 also are available for inspection and distribution to the public at ~~cost~~ **10 cents per page** from the Michigan Board of Pharmacy, the Department of Licensing and Regulatory Affairs, **Bureau of Professional Licensing,** 611 West Ottawa, **P.O. Box 30670,** Lansing, Michigan 48909.

~~(4)~~ **(6) Permit holders shall keep** ~~Records shall be kept~~ **records** for a period of 2 years and shall **make them** ~~be~~ available for inspection by the department or other authorized individual **upon request**.

R 338.3511 Storage of ~~sodium pentobarbital~~ **drugs used for euthanasia on animals**.

Rule 11. An animal control shelter, an animal protection shelter, ~~or~~ **and** a class ~~b~~ **B** dealer shall store all ~~stocks of sodium pentobarbital~~ **drugs used for euthanasia on animals** in a securely locked, substantially constructed cabinet located in the facility, with access limited to the individuals described in R 338.3503(b) ~~and (d)~~**(e), and (f)**.

R 338.3512 Inspections.

Rule 12. The department may conduct an inspection of an animal control shelter, an animal protection shelter, or a class ~~b~~ **B** dealer before a permit is issued. The department or authorized individual may make periodic, additional, unannounced inspections.

PART ~~5~~ **3**. ANIMAL **FIELD** SEDATION

R 338.3513 Animal **field** sedation; authorization to apply for permit~~; renewal~~.

Rule 13. (1) An animal control shelter ~~or animal protection shelter registered by the Michigan department of agriculture and rural development pursuant to 1969 PA 287, MCL 287.331 to 287.340~~, may apply~~, on a form provided by the administrator, together with the requisite fee,~~ for a permit to **buy, possess,** store, handle, and **administer** ~~use a commercially-prepared and federally-approved~~ animal ~~tranquilizer~~ **tranquilizers** to sedate **or immobilize**~~, feral, wild, difficult to handle, or other animals for euthanasia, or to tranquilize~~ an animal running at large that is dangerous or difficult to capture **pursuant to the training required in R 338.3518**.

(2) Beginning no later than January 1, 2022, an individual in charge of the day-to-day operations of an animal control shelter shall meet the training requirements in R 338.3518 in order to administer any animal tranquilizers on animals running at large that are dangerous or difficult to capture.

~~(2)~~ **(3)** A permit issued under ~~this subrule (1) of~~ this rule is valid for 2 years and may be renewed upon application to the ~~administrator~~ **department** and payment of the requisite fee.

R 338.3514 Animal sedation; application for permit.

Rule 14. An animal control shelter ~~or animal protection shelter~~ ~~holding a current registration issued by the Michigan department of agriculture and rural development~~ shall apply, on a form provided by the ~~administrator~~ **department**, for a permit to **buy, possess.** store, handle, and ~~use~~ **administer** animal

tranquilizers. **to sedate or immobilize an animal, to the department, together with the requisite fee. The application must**
The application submitted to the administrator shall contain **contain** all of the following information:

(a) The name, address, and **MDARD** Michigan department of agriculture and rural development registration number of the animal control shelter or animal protection shelter.

(b) The name, address, and biographical data of the individual who is in charge of the day-to-day operation of the animal control shelter or animal protection shelter and who is responsible for the storage and recordkeeping of the animal tranquilizing drugs.

(c) The name, address, and biographical data of the individual responsible for designating employees who will practice tranquilizing pursuant to the act **code**.

(d) The name and address of each individual certified to have received a minimum of 16 hours of approved training, including 3 hours of practical training, in the use of animal tranquilizers to sedate feral, wild, difficult to handle, or other animal for euthanasia, or to tranquilize an animal running at large that is dangerous or difficult to capture, and the name of the veterinarian who trained each individual, as required under section 7333(14)(c) of the code.

(e) The name of the veterinarian who trained each employee.

(f) Beginning no later than January 1, 2022, or earlier, if the animal control shelter uses an animal tranquilizer other than xylazine hydrochloride to sedate or immobilize animals before that date, the name and address of the employee and documentation from the trainer that he or she has completed the training required in R 338.3518.

(g) Beginning no later than January 1, 2022, the name of the individual in charge of the day-to-day operation of the animal control shelter and documentation from the trainer that he or she has received and can document completion of the training described in R 338.3518.

(e) **(h)** If the trained individual is under contract with the shelter to perform tranquilizing services, all of the following shall **must** be provided:

(i) An application indicating that tranquilizing services are being performed under contract.

(ii) The name and address of the employment agency with whom the services are being offered under a contract.

(iii) The name of the individual responsible for each individual under contract with the shelter.

R 338.3515 Permit for animal sedation; form; non-transferable; change in responsible person.

Rule 15. A permit issued by the administrator **department** shall **must** show the name and address of the facility and the name of the person in charge of the day-to-day operation. This permit is not transferable. The administrator **permit holder** shall **notify the department** be notified, in writing, within 10 **30** days of a change in the person in charge of the day-to-day operation.

R 338.3516 Registration with United States department of justice.

Rule 16. The facility shall obtain a registration, in accordance with **pursuant to** 21 C.F.R. part **CFR** 1301.11 **(2009)**, from the United States department of justice, drug enforcement administration **DOJ DEA**, or its successor agency, when required by the drug enforcement agency **DOJ DEA**, before stocking, purchasing, and using animal tranquilizers **a controlled substance**. Purchases shall **must** be made in accordance with **pursuant to** procedures established by the drug enforcement administration **DOJ DEA**.

R 338.3517 Animal sedation; trained personnel; notification of changes; documentation of training.

Rule 17. (1) If an animal control shelter or animal protection shelter has been issued a permit pursuant to **R 338.3513, R 338.3514, and** section 7333(14) **(16)** and **to** (15) **(19)** of the code, **MCL 333.7333,** and does not employ an individual trained as described **in R 338.3518 and** in section 7333(14)(c) or

~~(15)(c)~~ **7333(16) to (19) of the code, MCL 333.7333**, then the animal control shelter ~~or animal protection shelter~~ shall immediately notify the ~~administrator~~ **department**, and shall securely store and cease to administer the animal tranquilizer until the ~~administrator~~ **department** is notified that ~~either~~ **both** of the following has occurred:

(a) An individual trained as described in section 7333~~(14)(c)~~ **16(c)** ~~or (15)(c)~~ of the code**, MCL 333.7333,** has been hired by the facility.

(b) ~~An employee~~ **The individual in charge of the day-to-day operation** of the facility has been trained as described in section 7333~~(14)(c)~~**(f)** ~~or (15)(c)~~ of the code **MCL 333.7333**.

(2) The **permit holder** ~~administrator~~ shall ~~be notified~~ **notify the department within 30 days** of any change in the name and address of the individual trained as described in section 7333~~(14)(c)~~ **16(c), (d),** or **(f)** ~~(15)(c)~~ of the ~~act~~ **code, MCL 333.7333** ~~within 10 days of training~~.

(3) **A permit holder shall comply with all of the following:**

(a) Maintain a ~~The~~ list of individuals ~~certified as having~~ **who have** received **the** training **required in these rules.**

(b) Maintain a list of ~~and~~ the ~~veterinarian or~~ veterinarians who trained ~~them,~~ **each individual.**

(c) ~~as well as~~ **Maintain** documentation that the training has been approved by the ~~Michigan board of veterinary medicine,~~ **state veterinarian.**

(d) ~~shall be updated in writing~~ **Update the lists required in this subrule** every 6 months~~,~~**.**

(e) ~~kept~~ **Keep the lists required in this subrule** on **the** site~~,~~ **of the animal control shelter.**

(f) Make the lists ~~and~~ **required in this section** available for inspection **by the department or other authorized individual upon request**.

R 338.3518 Animal sedation; training of personnel.

Rule 18. ~~(1) An individual who practices sedation on animals shall document completion of 16 hours of approved training, including 3 hours of practical training, in the use of animal tranquilizers given by a licensed veterinarian, as required under section 7333(14)(c) of the code .~~

~~(2) Training of the individual shall be under the instruction of a doctor of veterinary medicine currently licensed in this state and **is** in good standing. The training shall include all of the following:~~

~~(a) Lecture and clinical experience.~~

~~(b) Instruction about types of commercially-prepared, federally-approved animal tranquilizers currently available, as well as their drug reversals.~~

~~(c) Proper doses of tranquilizing drugs for each species for which the drugs are approved and drug dosage calculating.~~

~~(d) Administration techniques for the animal tranquilizers and their reversals.~~

~~(e) Drug contraindications and precautions.~~

~~(f) Animal monitoring techniques for tranquilized animals.~~

~~(g) Methods for identifying and handling drug-related emergencies.~~

~~(3) An outline of the training shall be presented to the Michigan board of veterinary medicine for written approval prior to the start of training. Training in the use of animal tranquilizers that has been approved by the Michigan department of agriculture and rural development is deemed approved by the Michigan board of veterinary medicine. Documentation that the individual's training has been approved by the Michigan department of agriculture and rural development shall be submitted to the Michigan Department of Licensing and Regulatory Affairs with the application for a permit.~~

An applicant for a permit pursuant to R 338.3513(1) shall comply with the following requirements:

(a) The applicant shall complete a training consistent with section 7333(16)(c) of the code, MCL 333.7333.

(b) The applicant shall complete a training that has been approved by the state veterinarian.

(c) The applicant shall complete a training given by a veterinarian who is currently licensed in this state and is in good standing.

R 338.3519 ~~Animal sedation; notification of completion of training; issuance of permit.~~ **Rescinded.** ~~Rule 19. Upon receiving notification of an individual's successful completion of the minimum 16 hours of approved training from a licensed veterinarian, the department shall issue a permit to the animal control shelter or the animal protection shelter. An individual's proficiency may be shown by completion of a self-assessment program or other evaluation by the board of veterinary medicine.~~

R 338.3520 Animal sedation; establish and maintain written procedures; monitoring continued proficiency and compliance.

Rule 20. (1) An animal control shelter ~~or animal protection shelter~~ shall establish and maintain written procedures for the administration of animal tranquilizers. These procedures ~~shall~~ **must** be kept on the ~~licensed~~ **permitted** premises and ~~shall~~ **must** be available for inspection **by the department**.

(2) An individual's continued proficiency and a shelter's compliance with written procedures, in addition to compliance with all rules and regulations, may be monitored by the ~~administrator~~ **department** ~~or the board of veterinary medicine~~.

R 338.3521 Animal sedation; retention of records for **receipt and administration** ~~dispensation~~ of tranquilizing drugs.

Rule 21. (1) ~~Records~~ **The permit holder shall maintain separate records** of the receipt **of animal tranquilizers** and ~~dispensation~~ **administration** of animal tranquilizers ~~shall be maintained~~ at the animal control shelter ~~or animal protection shelter~~.

(2) The **receipt of animal tranquilizer** records ~~shall~~ **must** include all of the following information pertaining to an animal tranquilizer:

(a) The date of acquisition.

(b) The quantity acquired.

(c) The drug name.

(d) The trade name **of the drug**.

(e) The lot number and strength of the animal tranquilizer.

~~(f)~~ **(3)** ~~A complete record of the~~ **The** ~~dispensation~~ **administration** of the animal tranquilizer **records must include all of the following:**

(a) ~~that shows the~~ **The** quantity used~~,~~**.**

(b) ~~the~~ **The** time and date it was **administered** ~~dispensed,~~**.**

(c) ~~the~~ **The** name of the **individual who administered the drug** ~~administering individual,~~**.**

(d) ~~and a~~ **The** full description of the animal to which the animal tranquilizer was administered**,** which includes all of the following **and is recorded in the animal's shelter or medical record**:

(i) The species of the animal.

(ii) The breed of the animal.

(iii) The sex of the animal.

(iv) The age of the animal.

(v) The approximate weight of the animal.

(vi) The number associated with the animal if a number system is used.

(4) The permit holder shall record receipt of controlled substances on DOJ DEA order forms pursuant to 21 CFR part 1305 (2019). 21 CFR part 1305 is available at no cost on the internet at https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=1305. Printed copies of 21 CFR part 1305 are available for inspection and distribution at 10 cents per

page from the Michigan Board of Pharmacy, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan 48909.

~~(2)~~ **(5)** ~~Records~~ **The permit holder shall maintain records** of ~~dispensation~~ **administration** for controlled ~~drugs~~ **substances** ~~shall be kept~~ pursuant to 21 ~~C.F.R. part~~ **CFR part** 1304 **(2019)**. The ~~code of federal regulations title~~ 21~~, food and drugs,~~ **CFR** part 1304 is available at no cost on the internet at https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=1304 ~~http://www.gpoaccess.gov/nara/cfr~~. Printed copies of 21 ~~C.F.R. part~~ **CFR part** 1304 are available for inspection and distribution at ~~cost~~ **10 cents per page** from the Michigan Board of Pharmacy, the Department of Licensing and Regulatory Affairs, **Bureau of Professional Licensing,** 611 West Ottawa, **P.O. Box 30670,** Lansing, ~~MI~~ **Michigan,** 48909.

~~(3)~~ **(6)** ~~Records~~ **Permit holders shall keep records** ~~shall be kept~~ for a period of 2 years and ~~shall be~~ **make them** available for inspection by the department or other authorized ~~official~~ **individual upon request**.

R 338.3522 Storage of animal tranquilizers.

Rule 22. All stocks of the ~~controlled and noncontrolled~~ animal tranquilizers ~~shall~~ **must** be stored in a securely locked, substantially constructed cabinet located in the facility, with access limited to the individuals described in R 338.3514(b)**, (f) and (g)** ~~and (d)~~.

R 338.3523 Inspections.

Rule 23. The department may conduct an inspection of an animal control shelter ~~or animal protection shelter~~ before a permit is issued. The department or other authorized official may periodically make additional, unannounced inspections.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
Administrative Rules for Board of Pharmacy- Animal Euthanasia and Sedation Rules
Rule Set 2019-86 LR

NOTICE OF PUBLIC HEARING
Friday, July 2, 2021
09:00 AM

The public hearing will be held virtually via Zoom to receive public comments while complying with measures designed to help prevent the spread of COVID-19 and the City of Lansing Resolution #2021-081. All members of the public may attend and participate in this meeting by visiting the following web link or dialing the number below at the time of the meeting. Web Link: https://us02web.zoom.us/j/81212334683?pwd=VGxZTjRCaUQ1clg4OXZnS0V1WklLUT09; Password for video connection: 910708; Phone number: 877-336-1831; Conference code for audio connection: 486917
Web Link: https://us02web.zoom.us/j/81212334683?pwd=VGxZTjRCaUQ1clg4OXZnS0V1WklLUT09

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Board of Pharmacy- Animal Euthanasia and Sedation Rules rule set.

The proposed rules will modify the regulatory mechanism for animal control shelters, animal protection shelters, and Class B dealers who administer tranquilizers and euthanize animals with the goal of more humanely handling animals to minimize pain and distress. The proposed rules will require managers and employees of animal control shelters, animal protection shelters, and Class B dealers who acquire, store, and administer tranquilizing or euthanizing drugs to receive additional training in administering tranquilizers and euthanizing animals. The proposed rules will require that the training be approved by the state veterinarian who has determined that the training must comply with the American Veterinary Medical Association's guidelines for euthanasia of animals. The proposed rules will require record keeping as the drugs used in these procedures are controlled substances.

By authority conferred on the Michigan Department of Licensing and Regulatory Affairs: MCL 333.16145, 333.16148, 333.7333, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, MCL 445.2001, MCL 445.2011, and MCL 445.2030. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 7/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: BPL_BoardSupport@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 7/2/2021 at 05:00PM.

Comments on the proposed rules may be presented in person at the public hearing. Written comments will also be accepted from date of publication until 5:00 p.m. on July 2, 2021.

Email: BPL_BoardSupport@michigan.gov

Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing – Boards and Committees Section, P.O. Box 30670, Lansing, MI 48909-8170, Attention: Policy Analyst

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

WORKERS' DISABILITY COMPENSATION AGENCY

WORKERS' DISABILITY COMPENSATION APPEALS COMMISSION

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the chair of the commission by section 274 of **the worker's disability compensation act of 1969,** 1969 PA 317, MCL 418.274, and Executive Reorganization Order Nos. 1996-2, 1999-3, 2002-1, 2003-1, and 2019-3, MCL 445.2001, 418.3, 445.2004, 445.2011, and 125.1998)

R 418.61, R 418.62, R 418.63, R 418.64, R 418.65, R 418.66, R 418.67, R 418.68, R 418.69, and R 418.70 of the Michigan Administrative Code are added, as follows:

R 418.61 Scope.

Rule 1. These rules apply to practice and procedure before the workers' disability compensation appeals commission, or any successor to that body, in appeals taken under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

R 418.62 Definitions.

Rule 2. As used in these rules:

(a) "Commission" means the workers' disability compensation appeals commission or any successor to that body.

(b) "Commissioner" means a member of the workers' disability compensation appeals commission or any successor to that body.

(c) "Director" means the director of the workers' disability compensation agency or any successor to that body. "Director" includes his or her duly authorized representative.

(d) "Electronic filing" means the process of submitting a document over the internet to the commission, including the State of Michigan File Transfer System (FTS), in accordance with the instructions available on the commission's website.

(e) "Electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(i) An electronic signature may be a graphic representation of the signature.

(ii) The following forms are acceptable: "/s/ John Smith" or "/s/ John Smith, Attorney."

(f) "State of Michigan File Transfer System" (FTS) is an electronic computer-based system that facilitates the transmission of a computer file through a communication channel provided by this state from 1 computer system to another.

R 418.63 Filings generally.

Rule 3. (1) All pleadings, transcripts, briefs, and other documents pertaining to an appeal must be filed with the commission. Each document must bear both of the following:

(a) The Board of Magistrate's case number or, if no case number has been assigned, the claimant's social security number with the first 5 digits redacted.

(b) The Commission's docket number, if assigned when the document is filed.

(2) Filing may be accomplished by any of the following:

(a) Hand delivery, mailing, or delivery service.

(b) Facsimile transmission.

(c) Any other means formally authorized by the commission, including electronic filing using the FTS.

(3) A document filed via facsimile transmission is deemed to have been filed on the day the document is received by the commission between 12:00:00 a.m. and 11:59:59 p.m. under then-prevailing time in Lansing, Michigan.

(4) A document filed via an approved electronic filing system is deemed to have been filed on the day the document is accepted by the system between 12:00:00 a.m. and 11:59:59 p.m. under then-prevailing time in Lansing, Michigan.

(5) Unless authorized by the commission pursuant to subrule (2)(c) of this rule, filing by e-mail is prohibited. Service on opposing counsel by e-mail is prohibited unless opposing counsel has agreed in advance, by written or e-mail correspondence, to accept such service.

(6) The commission shall recognize only 1 attorney for each party for the purpose of receiving correspondence and filing pleadings. The attorney for an appellant is the person signing the claim for review. The attorney for an appellee is the person who represented the appellee at the hearing or an attorney who first files an appearance for the appellee. Once an attorney is recognized in correspondence from the commission, a party may change the attorney by filing a stipulation between the current and the new attorney or by filing a motion.

(7) An attorney who has filed a claim for review or entered an appearance may withdraw only by order of the commission, upon motion filed and served upon all parties, including the client of the attorney seeking to withdraw.

(8) All parties representing themselves and all attorneys representing a party shall keep the commission informed of their current mailing addresses, telephone numbers, facsimile numbers, and email addresses.

(9) A required signature means a written signature, or an electronic signature.

R 418.64 Filing of claim for review.

Rule 4. (1) An appeal to the commission begins when a party files a claim for review. Any party filing a claim for review is an appellant. All other parties are appellees, but their filings may also make them an appellant, cross appellant, or cross appellee. An appellant shall provide copies of the filing to all other parties at the time of filing with the commission, and shall certify to the commission that the required copies have been provided.

(2) Unless otherwise provided by the provisions of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, a claim for review is timely if received by the commission as follows:

(a) Not later than 30 days after the mailing date stamped or designated by the workers' disability compensation agency on the appealed decision or order, in the case of an appeal from the order of a workers' compensation magistrate.

(b) Not later than 15 days from the mailing date stamped or designated by the workers' disability compensation agency on the appealed decision or order, in the case of an appeal from an order of the director.

(3) A party does not become an appellant or cross appellant by the party's own labeling of its filings. The commission will determine the status of an appeal in question.

(4) The commission may grant additional time in which to file a claim for review from a decision of a workers' compensation magistrate, for sufficient cause shown. A party requesting further time shall file a written "Motion for Delayed Appeal" complying with R 418.68, stating why the claim for review is late.

R 418.65 Cross appeals.

Rule 5. (1) A cross appeal must be received by the commission not later than 30 days after the cross appellant has first received a copy of an appellant's brief. A party filing a cross appeal is a cross appellant and all other parties are cross appellees. The cross appellant shall certify the date of first receipt of appellant's brief. The failure to so certify creates a rebuttable presumption that the cross appellant received the appellant's brief on the date the commission received that brief. The cross appellant shall provide all other parties with copies of the cross appeal at the time of filing with the commission, and shall certify to the commission that this has occurred.

(2) A cross appeal may not be filed before the cross appellant has received appellant's brief.

(3) A delayed cross appeal may not be filed. An extension of time to file a reply brief does not extend the time to file a cross appeal.

(4) The withdrawal or dismissal of the appellant's appeal extinguishes the cross appeal.

(5) A cross appeal must be filed on the claim for review form, and state that the cross appellant cross appeals the order from which an appellant has filed a claim for review.

(6) A document purporting to be a cross appeal that is not filed pursuant to the requirements of this rule is a claim for review.

R 418.66 Briefing deadlines without filing transcript.

Rule 6. (1) For purposes of briefing deadlines, a transcript is considered to be filed as follows:

(a) If a record was not made of the hearing, a transcript is considered to have been filed on the same day the claim for review is filed.

(b) If the commission accepts a stipulation of all parties to proceed without the filing of a transcript, a transcript is considered to have been filed on the date the commission accepts the stipulation.

(2) When no transcript is required pursuant to this rule, all parties are considered to have received the transcript on the date the claim for review is filed.

R 418.67 Briefs; titles; filing.

Rule 7. (1) A brief must be entitled "appellant's brief," "appellee's brief," "cross appellant's brief," or "cross appellee's brief," or must be otherwise appropriately designated.

(2) An appellant's brief must be filed with the commission not more than 30 days after the transcript is filed. Where there are multiple transcripts, the 30-day period begins to run on the date the commission receives the last transcript.

(3) A cross appellant's brief must be filed with the commission not more than 30 days after the cross appellant receives an appellant's brief and a copy of the transcript.

(4) An appellee or a cross appellee need not file a brief. If the appellee or cross appellee wishes to do so, that brief must be filed with the commission within 30 days after first receipt of the appellant's or cross appellant's brief, with certification of the date of receipt. The failure to so certify creates a rebuttable presumption that receipt of appellant's or cross-appellant's brief occurred on the date the commission received the original document.

(5) The commission, in its discretion and for sufficient cause shown, may grant further time in which to file any brief.

(6) The commission may allow a party to file a supplemental brief. A supplemental brief may not raise new issues.

(7) Any party filing any brief shall certify in writing to the commission that a copy of this brief has been served upon all parties or their counsel, and the date and manner of the service.

R 418.68 Motion practice.

Rule 8. (1) All motions must be in writing.

(2) A party filing a motion shall provide all other parties with a copy of the motion at the time of filing and shall certify to the commission that the party has done so.

(3) A party has 21 days from the date the motion was filed with the commission to file a response to the motion, and shall certify that a copy of the response has been provided to all other parties. The commission may consider a request to extend the time to file a response to a motion, if the request is filed before the motion is submitted to the panel for disposition. Such a request must be made in the form of a motion.

(4) After the expiration of the time for filing a response to a motion, the motion will be submitted to a panel for disposition.

(5) A motion or response to a motion representing the existence of facts not in the record or not within the personal knowledge of the signer of the motion or response must be supported by an affidavit signed by an individual with such personal knowledge, or those factual assertions may be disregarded.

R 418.69 Disqualification and recusal.

Rule 9. (1) A commissioner may be recused, or disqualified, from a case based on the existence of bias, prejudice, interest, or any other cause provided for in this rule.

(2) A commissioner may be recused in any proceeding in which the impartiality of the commissioner might reasonably be questioned, including, but not limited to, instances in which the commissioner:

(a) Has a personal bias or prejudice concerning a party or a party's attorney.

(b) Has personal knowledge of disputed evidentiary facts concerning the proceeding.

(c) Has been consulted or employed as an attorney in the matter in controversy.

(d) Is or was a party.

(e) Was, within the preceding 2 years, a partner of or in an employment relationship with a party.

(f) Was, within the preceding 2 years, attorney for a party or a member of a law firm representing a party.

(g) Has been a material witness concerning the matter in controversy.

(3) A commissioner may also be recused in any proceeding in which the commissioner, the commissioner's spouse, a person within the third degree of relationship to either of them, or the spouse of such a person is:

(a) A party to the proceeding, or an officer, director, or trustee of a party.

(b) Acting as a lawyer in the proceeding.

(c) Known by the commissioner to have a more than de minimis financial interest that could be substantially affected by the proceeding.

(d) To the commissioner's knowledge, likely to be a material witness in the proceeding.

(4) A commissioner may be disqualified for any other reason provided by law.

(5) A commissioner who would otherwise be recused under this rule may disclose to the parties in writing the basis of disqualification and may ask the parties and their attorneys to consider, outside the commissioner's presence, whether they wish to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, all parties agree that the commissioner should not be disqualified, the commissioner may participate in the proceeding. The existence of the agreement must be incorporated into the hearing record.

(6) Any party seeking to disqualify a commissioner shall so move within 30 days after receiving notice that the commissioner will participate in the proceeding or upon discovering facts establishing grounds for disqualification, whichever is later. A motion for recusal must be made in writing and accompanied by an affidavit setting forth definite and specific allegations demonstrating the facts upon which the motion for disqualification is based. An untimely motion may be granted for good cause shown. If a motion is not timely filed, the commission may consider the untimeliness in deciding whether to grant the motion.

(7) The challenged commissioner shall decide the motion. If the challenged commissioner denies the motion, the challenging party may, within 14 days, submit to the challenged commissioner or the commission chairperson a request that the motion be referred for decision to another commissioner assigned by the chairperson subject to the following:

(a) If the chairperson is the challenged commissioner or if the chairperson has an acknowledged conflict of interest, the commissioner whose participation is not being challenged shall decide the motion.

(b) If the challenged commissioner is the only commissioner with no acknowledged conflict of interest, the motion must be referred to the workers' compensation board of magistrates for decision by either the chairperson or another magistrate designated by the chairperson.

(c) Consideration of a referred motion shall be *de novo*.

R 418.70 Extensions of time to comply with rules.

Rule 10. The commission may grant extensions of time to a party to comply with any of these rules for sufficient cause shown, except as otherwise provided in these rules.

NOTICE OF PUBLIC HEARING

Department of Labor and Economic Opportunity
Workers' Compensation Agency
Administrative Rules for Workers' Disability Compensation Appeals Commission General Rules
Rule Set 2019-129 LE

NOTICE OF PUBLIC HEARING
Wednesday, July 7, 2021
11:15AM

Room L-150, Cadillac Place Bldg.
3026 W Grand Blvd, Detroit, MI

The Department of Labor and Economic Opportunity will hold a public hearing to receive public comments on proposed changes to the Workers' Disability Compensation Appeals Commission General Rules rule set.

The rules apply to the practice and procedures before the Workers' Disability Compensation Appeals Commission under the workers' disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941. The Request for Rules specifically references Part 13, Subpart B (R 792.11314 – R 792.11321) of the Michigan Administrative Hearing System, Administrative Hearing Rules, currently located within Licensing and Regulatory Affairs- Michigan Office Of Administrative Hearings and Rules. As a result of Executive Order 2019-13, Part 13, Subpart B will be rescinded by MOAHR, and promulgated by LEO, Workers' Disability Compensation Agency. Some of the specific rules in Part 13, Subpart B will be updated to reflect changes in process and procedure.

By authority conferred on the chair of the workers' disability compensation appeals commission Section 274 of 1969 PA 317, MCL 418.274; and Executive Reorganization Order Nos. 1996-2, 1999-3, 2002-1, 2003-1, and 2019-13, MCL 445.2001, 418.3, 445.2004, 445.2011 and 125.1998. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 7/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: campbelld5@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 7/7/2021 at 05:00PM.

David Campbell

Email: campbelld5@michigan.gov

2501 Woodlake Circle, Okemos, MI 48864

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 800-833-5833 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

WORKERS' DISABILITY COMPENSATION AGENCY

WORKERS' COMPENSATION BOARD OF MAGISTRATES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the workers' disability compensation agency by sections 205 and 213 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.205 and 418.213, section 33 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, and Executive Reorganization Order Nos. 1996-2, 1999-3, 2002-1, 2003-1, and 2019-3, MCL 445.2001, 418.3, 445.2004, 445.2011, and 125.1998)

R 418.81, R 418.82, R 418.83, R 418.84, R 418.85, R 418.86, R 418.87, R 418.88, R 418.89, R 418.90, R 418.91, R 418.92, R 418.93, R 418.94 R 418.95 R 418.96, R 418.97, R418.98, 418.99 of the Michigan Administrative Code are added, as follows:

PART 1. GENERAL

R 418.81 Definitions.

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

(a) "Act" means the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(b) "Board" means the workers' compensation board of magistrates.

(c) "JFPTC" means joint and final pretrial conference.

(d) "JFPTO" means joint and final pretrial order.

R 418.82 Scope.

Rule 2. (1) These rules apply to practice and procedures before the board.

(2) These procedural rules must be construed to secure a fair and impartial determination of the issues presented in contested cases consistent with due process.

R 418.83 Hearing district explained.

Rule 3. (1) A hearing district is an area of the state served by 1 or more magistrates as designated by the chairperson of the board.

(2) The assignment of magistrates is as required by caseload and determined by the chairperson of the board.

(3) The chairperson of the board is responsible for implementing hearing procedures and has general supervisory control of the board, consistent with section 213 of the act, MCL 418.213, and Executive Reorganization Order No. 2019-13, MCL 125.1998.

R 418.84 Computation of time.

Rule 4. (1) In computing any period of time prescribed or allowed by these rules, the time in which an act is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or state legal holiday, in which case the period will run until the end of the next day following the Saturday, Sunday or state legal holiday.

(2) Unless otherwise specified by the magistrate, rule, or statute, the date of receipt of a filing by the board is the date used to determine whether a pleading or other paper has been timely filed.

(3) Except where otherwise specified, a period of time in these rules means calendar days, not just business days.

R 418.85 Appearances.

Rule 5. (1) Unless otherwise indicated by the magistrate, the parties or their attorneys shall personally appear at facilitations, motions, pre-trials, redemptions, hearings on the merits, control dates, JFPTC, and any other types of hearings as may be scheduled.

(2) With prior approval of the magistrate, the parties or their attorneys may appear–by telephone, video conference, or other electronic means. The parties or their attorneys shall be ready to proceed as previously directed by the magistrate.

(3) Failure of the petitioner or the petitioner's attorney to appear in a timely manner and participate may subject the application for hearing to dismissal. If the respondent or the respondent's attorney fails to appear in a timely manner, then the magistrate may proceed in the absence of the respondent or the respondent's attorney.

R 418.86 Disqualification of magistrate.

Rule 6. (1) A party may bring a motion to disqualify a magistrate or a magistrate may raise the issue on his or her own initiative.

(2) A magistrate is disqualified when the magistrate cannot impartially hear a case. Circumstances that warrant disqualification include, but are not limited to, circumstances where the magistrate:

(a) Is interested as a party.

(b) Is personally biased or prejudiced for or against a party or attorney.

(c) Has been consulted or employed as counsel.

(d) Was a partner of a party, attorney for a party, or a member of a law firm representing a party within the preceding 2 years.

(e) Is within the third degree under civil law of consanguinity or affinity to a person acting as an attorney or within the sixth degree under civil law to a party.

(f) Owns, or his or her spouse or minor child owns, a stock, bond, security, or other legal or equitable interest of a corporation that is a party. This subdivision does not apply to any of the following:

(i) Investments in securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934, 15 USC 78a to 78pp.

(ii) Shares of an investment company registered under the Investment Company Act of 1940, 15 USC 80a-1to 80a-64.

(iii) Securities of a public utility holding company registered under the Public Utility Holding Company Act of 2005, 42 USC 16451(8).

(g) Is disqualified for any other reason by law.

(3) A party shall file a motion to disqualify within 30 days after the case has been assigned to a magistrate, or within 30 days after the movant discovers, or with reasonable diligence should have discovered, the information that is the basis of the motion, whichever is later.

(4) The motion for disqualification must set forth with particularity the factors that would be admissible as evidence to establish the grounds stated in the motion. An affidavit must accompany the motion.

(5) The challenged magistrate shall decide the motion. If the challenged magistrate denies the motion, then the challenging party may ask that the motion be referred for decision to the chairperson or, in the chairperson's discretion, the chairperson may assign the motion to another magistrate at a different hearing location for decision, except as provided in subrule (6) of this rule.

(6) If the motion is made after the trial has commenced, then the challenged magistrate shall rule upon the motion. If the motion is denied, then the trial magistrate shall continue the trial.

(7) When a magistrate is disqualified, the chairperson shall assign another magistrate to hear the case.

(8) The parties may waive actual, potential, or purported conflicts with a magistrate, and that magistrate may then process the claim as he or she deems fit.

R 418.87 Ex parte communications with a magistrate.

Rule 7. (1) Counsel or the parties may not engage in substantive ex parte communications with the magistrate concerning the action prior to the hearing. Routine communication about administrative tasks, such as scheduling hearings, is not prohibited.

(2) If a magistrate receives direct or indirect communication prohibited by subrule (1) of this rule, the magistrate shall promptly notify all parties or their attorneys of the receipt of such communication and its content. A record of the communication must be maintained in the agency file.

(3) Once a case has been referred to a magistrate for hearing, all communication related to the case of a substantive basis from any party should be administered through agency staff.

R 418.88 Case development docket.

Rule 8. (1) All cases are assigned to a magistrate on initial pre-trial date. Unless it is a 60-day case, the magistrate shall place the case on the case development docket and schedule an initial control date. 60-day cases, as provided in section 205 of the act, MCL 418.205, must be placed on the trial docket, and scheduled for a JFPTC and trial date in accordance with R 418.93. The petitioner in a 60-day case may waive that status and the case shall then be placed on the case development docket.

(2) Cases that are on the case development docket are assigned control dates at the discretion of the magistrate at such intervals and frequency as deemed appropriate. Appearance of the parties must comply with R 418.85.

R 418.89 Subpoena; provision to opposing party; submittal of subpoenaed records; disputes.

Rule 9. (1) A subpoena must be on an agency approved form and comply with the following:

(a) The party requesting the subpoena shall certify that the matter about which the subpoena is requested is pending before the agency.

(b) Magistrates or attorneys may sign subpoenas. A subpoena must be fully completed before submission to a magistrate for signing.

(c) The return date indicated on the subpoena must provide a reasonable time for compliance.

(d) Magistrates may sign a subpoena for a case assigned to another magistrate unless the assigned magistrate has refused to sign the subpoena.

(2) A copy of a subpoena issued by a magistrate or attorney pursuant to section 853 of the act, MCL 418.853, must be provided to all parties, or their legal counsel if known, at the time of issuance.

(3) All subpoenaed records must be returned directly to the party requesting the records. The charges for copying records are limited to the charges permitted by R. 418.10118(1).

(4) The party for whom a subpoena is issued shall immediately do either of the following:

(a) Provide a complete copy of the records to all parties when received.

(b) Make the records reasonably available for copying when received.

(5) Only those records admitted into evidence or offered and excluded by a magistrate at a hearing are placed in the agency file or maintained by the agency.

(6) Any dispute arising under this rule must be brought by motion before the assigned magistrate and have a copy of the subpoena attached. A copy of the motion and the subpoena must be served on all parties or their counsel, and proof of service filed with the agency. If a party claims certain subpoenaed records, or portions thereof, are protected from disclosure by a privilege, the magistrate assigned to the case shall assign another magistrate to hear the motion, review the records, and order production of the records, or portions thereof, not specifically protected by a privilege.

(7) A witness who attends any action or proceeding pending before a magistrate shall be paid a witness fee of $12.00 for each day and $6.00 for each half day. The traveling expenses are those authorized in the state standardized travel regulations.

R 418.90 Motion practice.

Rule 10. (1) All requests for action addressed to the magistrate, other than during a hearing, must be made in writing. Written requests for action must state specific grounds and describe the action or order sought. A copy of all written motions or requests for action must be served pursuant to R 408.36(c). All motions must be accompanied by a notice of hearing.

(2) All motions must be filed at least 14 days prior to the date set for hearing unless other scheduling provisions prevent compliance with this timeline or the need for the motion could not reasonably have been foreseen 14 days prior to the hearing.

(3) A response to a motion may be filed within 7 days after service of the written motion unless otherwise ordered by the magistrate. A party may request an expedited ruling.

(4) All motions and responses must include citations of supporting authority and, if germane, supporting affidavits and attachments to affidavits.

(5) A ruling on a motion must be on the record and memorialized in a written order, at the discretion of the magistrate or if requested by any party.

(6) Unless ordered by the magistrate or a tribunal of higher authority, a claim for review filed in response to a ruling issued under subrule (5) of this rule is not a stay of magistrate proceedings.

R 418.91 Discovery.

Rule 11. (1) Discovery provided in sections 222, 301, 401, and 853 of the act, MCL 418.222, 418.301, 418.401, and 418.853, and applicable caselaw, must be available under the supervision of the magistrate as set forth in this rule.

(a) The claimant shall provide the information and records required pursuant to section 222(3) of the act, MCL 418.222, including a completed WC-105A.

(b) The employer or carrier shall provide information and records required pursuant to sections 385 and 222(2) of the act, MCL 418.385 and 418.222, including a completed WC-105B.

(c) The parties shall reasonably supplement their responses to subdivisions (a) and (b) of this subrule as new information is obtained or records are received.

(d) Vocational consultant reports and the information contained therein must be provided to all parties within 21 days of receipt of the reports. Failure to observe the time periods in this subdivision may be raised by any party as a basis to exclude the report as evidence at the discretion of the magistrate. Any information in the report regarding available remunerative employment must include all of the following:

(i) The name, address, and phone number of the employer with available employment.

(ii) A job description outlining all of the functional requirements of the job.

(iii) Any other pertinent information necessary to apply for the employment.

(e) If an employer or carrier independently obtains information that remunerative employment is reasonably available to the injured employee, the employer or carrier shall, within a reasonable time, provide to the employee or his or her attorney all the information required in subdivision (d)(i), (ii), and (iii) of this subrule.

(f) To the extent relevant to the claim and the injury, and if not already provided by the employer pursuant to subdivision (1)(b) of this rule, employers, carriers, and claims administrators shall, upon written request, provide a complete copy of all employment and personnel records of the employee, including, but not limited to, electronically stored or communicated information. Records must include, but are not limited to, all of the following:

(i) Payroll records.

(ii) Records and values of all fringe or other benefits.

(iii) Injury reports.

(iv) Witness statements.

(v) First aid and other medical reports.

(vi) Group insurance records.

(vii) Material safety data sheets.

(viii) Air quality studies.

(ix) Occupational safety and health reports.

(x) Nurse case management records.

(xi) Non-privileged portions of the claims file.

(g) Upon request, an employee shall submit to an examination by a physician or surgeon authorized to practice medicine in this state. The magistrate may limit the time, place, manner, conditions, and scope of the examination. Other than as provided for in section 385 of the act, MCL 418.385, no person other than the employee may be present at the examination without the consent of the opposing party or by order of the magistrate for good cause shown.

(h) Upon the request of a defendant employer or carrier, an employee seeking wage loss benefits shall appear for an interview regarding his or her qualifications and training conducted by a qualified vocational rehabilitation consultant at a time and place convenient to the employee. The employee may appear with a person of the employee's choosing and record the interview at the employee's expense with the consent of the opposing party or by order of the magistrate for good cause shown.

(i) Additional discovery under section 853 of the act, MCL 418.853, may be made equally available to all parties at the discretion and supervision of the magistrate.

(j) For claims arising out of an employee's death, the employer or carrier shall, upon written request, provide the following to the claimant's attorney within 28 days:

(i) The names, addresses, and telephone numbers of all individuals with information about the employee's jobs duties and the events and circumstances surrounding the employee's injury or death.

(ii) Copies of all investigation or incident reports and witness statements in the employer's possession or control.

(iii) Copies of all electronically stored information, including video surveillance, that documents the employee's injury or death and the circumstances surrounding it.

(iv) Depending on the nature of the case and the issues involved, the magistrate may order other forms of discovery, upon request of a party and for good cause shown.

(v) The obligations set forth in subdivision (j)(i) and (ii) of this subrule apply equally to information possessed by claimants, their attorneys, and agents thereof.

(k) For claims arising out of an employee's cognitive or communicative incapacity, a magistrate may require the employer or carrier to provide the information set forth in subdivision (j) of this subrule upon a sufficient showing of such cognitive or communicative incapacity.

(l) Evidence exchanged pursuant to this rule shall not be provided to or maintained by the agency unless marked as an exhibit by a party.

(2) Upon finding the willful failure of a party to comply with this rule, the magistrate may exclude evidence or prohibit that party from proceeding under the act.

R 418.92 Exhibit admissibility hearing.

Rule 12. (1) After the parties have had a reasonable opportunity to gather and exchange existing medical and other documents upon stipulation of the parties, upon the motion of a party, or at the discretion of the magistrate, the magistrate may schedule, at a date, time, and place convenient to the parties, a hearing to determine admissibility at trial of any specific proposed exhibit.

(2) A party seeking to introduce any specific proposed exhibit under this rule shall provide a copy of such exhibit, unless previously furnished to all other parties, at least 14 days prior to the exhibit admissibility hearing.

(3) Any objections to the proposed exhibit must be made by the parties at or before the hearing and ruled upon by the magistrate consistent with R 418.97. Upon finding that a proposed exhibit under this rule is not authentic or was created specifically for purposes of the litigation, the magistrate may exclude the proposed exhibit. Any decision on any objections are subject to R 418.90(5) and (6).

(4) All exhibits found admissible by the magistrate must be identified with specificity in an order and admitted at the time of trial.

(5) A party may attempt to cure or remedy any sustained objections to the admission of exhibit raised by an opposing party at the exhibit admissibility hearing. This rule does not preclude a magistrate from subsequently admitting the proposed documents once the parties have had the opportunity to cure or remedy any objections raised. This rule does not preclude a party from offering other documentary evidence prior to the JFPTC or during trial.

(6) If an exhibit is found to be admissible, any party opposing admission of the exhibit may schedule the deposition of the person or entity that prepared the record at that party's expense. The magistrate may limit the physician charges for such cross examination to a reasonable fee under section 858 of the act, MCL 418.858. The party offering the evidence is entitled to examine the person or entity during such a deposition.

R 418.93 Joint final pre-trial conference.

Rule 13. (1) Records or other exhibits of any kind that any party intends to offer as evidence in the proceeding shall be exchanged between the parties no later than 14 days before the JFPTC. After the parties have gathered and exchanged the existing medical and other evidence, upon stipulation of the parties or at the discretion of the magistrate, there must be a JFPTC with the magistrate regarding admissibility of evidence or any other preliminary matters.

(2) The parties shall prepare and file a joint final pre-trial statement that lists issues for adjudication, stipulations, and any potential witnesses and exhibits that the parties intend to submit into evidence at the time of trial.

(3) Any objections to the proposed witnesses and exhibits shall be made by the parties and ruled upon by the magistrate. Upon finding that a proposed exhibit under this rule is not authentic or was created specifically for purposes of the litigation, the magistrate may exclude the proposed exhibit. Any decision on any objections is subject to R 418.90(5) and (6).

(4) All admissible exhibits must be listed in a JFPTO and admitted at the time of trial.

(5) After the completion of the JFPTC, the magistrate shall place the case on the trial docket and assign a trial date. The magistrate may schedule a subsequent JFPTC if necessary.

(6) The parties are bound by the stipulations listed on the JFPTO unless modified or withdrawn for good cause shown. If a stipulation is modified or withdrawn, the party proposing the stipulation may offer additional evidence, including testimony necessitated by the withdrawal or modification.

(7) The parties must be entitled to necessary rebuttal evidence and witnesses not listed on the JFPTO at the time of trial.

(8) While a case is pending on the trial docket, the parties may attempt to cure or remedy any objections raised by the opposing party at the JFPTC. The magistrate may make subsequent rulings as to admissibility once the parties have had the opportunity to cure or remedy any objections raised.

(9) At the discretion of the magistrate, a case may be returned to the case development docket after being placed on the trial docket if the circumstances require, to allow further development.

PART 2. HEARINGS

R 418.94 Hearing procedures.

Rule 14. (1) The party filing the application for mediation or hearing must first present evidence in support of the application.

(2) Unless the magistrate orders otherwise, only 1 attorney for each party may examine or cross-examine a witness.

(3) The magistrate may call witnesses, issue subpoenas, and order the production of books, records, accounts, and papers that are necessary for the purpose of making a decision. A magistrate may direct the attorneys to submit briefs.

(4) The magistrate may require such information from the parties as may be necessary to monitor the progress of the case, assist in the voluntary exchange of information between parties, and assist in the scheduling of cases.

(5) The hearing completion time shall be at the discretion of the magistrate, but it must not be more than 30 days after the date the hearing commenced unless the magistrate allows an extension beyond this time for good cause shown.

(6) Unless provided in accord with R 418.92 and R 418.93, all records or other exhibits of any kind that any party intends to offer as evidence in the proceeding must be exchanged between the parties no later than 14 days before the JFPTC.

(7) At their own expense, a party may schedule the cross-examination of the person or entity that prepared a proposed exhibit. The magistrate may limit the physician's charges for such cross-examination to a reasonable fee under section 858 of the act, MCL 418.858.

(8) This rule does not affect the magistrate's discretion to rule on newly discovered evidence.

(9) A case may be placed on the redemption docket upon request of the parties if it appears that the case will be resolved by way of redemption. The parties must be given necessary time to

resolve any issues regarding medical bills or liens; Medicare or Medicaid compliance; friend of the court liens; or any other such liens, claims, or issues that may arise. If the parties are ultimately unable to resolve the case by way of redemption, the case must be returned to the development or trial docket, at the discretion of the magistrate.

(10) Upon finding the willful failure of a party to comply with this rule, the magistrate may prohibit that party from proceeding under the act.

R 418.95 Stipulations.

Rule 15. In addition to stipulations in the JFPTO:

(1) The parties may agree upon facts, or any portion of facts, by written stipulation or by a statement entered into the record.

(2) Stipulations must be used as evidence at the hearing or subsequent proceedings.

(3) Stipulations are binding on the parties that have acknowledged acceptance of the stipulations.

(4) The parties may stipulate to limit the issues to be decided by the magistrate. The stipulation only applies to that issue and is not considered a waiver of any rights not addressed by the stipulation.

R 418.96 Record.

Rule 16. (1) The agency shall maintain an official record of each case or proceeding.

(2) The record must include all of the following:

(a) Notice of hearings and records of adjournments.

(b) JFPTO and any other prehearing orders.

(c) Motions, pleadings, briefs, applications, requests, opinions, and orders.

(d) Evidence admitted.

(e) Statements of matters officially noticed.

(f) Offers of proof, objections, and rulings.

(g) Clearly marked offered but rejected evidence.

(h) Recordings and transcripts of the proceedings before the magistrate that have been obtained by the parties.

(i) Written notations of any ex parte communications.

R 418.97 Evidence admissibility; objections, submission in written form.

Rule 17. (1) Except as provided in these rules, the Michigan rules of evidence, as applied in a civil case in circuit court, must be followed in all proceedings as far as practicable, but a magistrate may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(2) The following governs admissibility of medical records at trial:

(a) Absent an objection sustained by the magistrate, authenticated treating medical records, including bills, must be admitted.

(b) A report of an independent medical examiner under Section 385 of the act, MCL 418.385, shall be admitted into evidence if offered by the injured employee. A report by an independent medical examiner requested by the injured employee must be admitted into evidence if offered by defendant.

(c) Properly authenticated diagnostic reports must be admitted into evidence if prepared by treating medical providers and commonly relied upon by other treating physicians including, but not limited to, x-rays, MRI reports, CT scans, EMG's, nerve conduction studies, ultrasounds, and laboratory results.

(3) Expert testimony may be admitted without satisfying *Daubert v Merrell Dow Pharmaceuticals, Inc,* 509 US 579, 589; 113 S Ct 2786; 125 L Ed 2d 469 (1993).

(4) Effect is given to the rules of privilege recognized by law.

(5) A duly executed certificate on the agency subpoena form satisfies the authentication requirement for records.

(6) Objections to, and rulings on, offers of evidence must be made on the record.

R 418.98 Testimonial evidence.

Rule 18. (1) The testimony of all witnesses must be upon oath or affirmation.

(2) Witnesses must be sequestered at the request of a party or by the magistrate on his or her own initiative.

(3) Opposing parties are entitled to cross-examine witnesses subject to the provisions of R 418.94(2).

(4) The testimony of medical experts and vocational consultants may be taken by deposition. A party taking a deposition shall give reasonable notice to all parties. The magistrate may limit the time, manner, and place where the deposition occurs.

(5) At the discretion of the magistrate, other witnesses may testify by deposition before trial. The magistrate may limit the time, manner, and place where the deposition testimony occurs.

(6) At the discretion of the magistrate, and for good cause shown, the testimony of medical experts and vocational consultants not presented at the scheduled trial date may be taken by deposition after the conclusion of the lay testimony in accordance with the following:

(a) The plaintiff shall take such depositions within 42 days after the trial date.

(b) The defendants shall take such depositions within 56 days after the trial date.

(c) Transcripts must be filed with the magistrate within 72 days of the completion of lay testimony.

(7) All depositions taken in advance of the trial date must be filed with the magistrate on the trial date.

R 418.99 Case resolution by order and opinion; redemptions of liability; attorney briefs; correction of mistakes in order or opinion.

Rule 19. (1) A case that is assigned to a magistrate must be resolved by an order and, when applicable, an opinion. The order, and when applicable, the opinion, must be written within 42 days of the closing of the record, except under extenuating circumstances as determined by the chairperson of the board.

(2) Except under extenuating circumstances as determined by the chairperson of the board, all cases assigned to a magistrate that proceed to hearing must be resolved by opinion written within 42 days of closing the record and must be prepared for mailing.

(3) All redemption hearings agreements must be either approved or denied by the issuance of a redemption order.

(4) A reversionary interest clause contained in a redemption agreement must be clearly labeled and disclosed to the magistrate, who shall make an express finding as to whether the clause is in the best interests of the employee as required by section 836(1)(a) of the act, MCL 418.836.

(5) All lump sum applications must be either approved or denied by the issuance of an order.

(6) In cases that are resolved by voluntary payment, there must be a written voluntary pay agreement and an order dismissing the application.

(7) In cases that are resolved by voluntary withdrawal of an application, there must be a written order of dismissal.

(8) Within the appeal period provided, a magistrate may on his or her own initiative correct a mistake in the order or opinion. Parties may stipulate to the corrections pursuant to section 851 of the act, MCL 418.851. Any corrections require a corrected order or opinion, or both, and must specify the corrections made.

NOTICE OF PUBLIC HEARING

Department of Labor and Economic Opportunity
Workers' Compensation Agency
Administrative Rules for Workers' Compensation Board of Magistrates General Rules
Rule Set 2019-130 LE

NOTICE OF PUBLIC HEARING
Wednesday, July 7, 2021
12:05 PM

Room L-150, Cadillac Place Bldg.
3026 W Grand Blvd, Detroit, MI

The Department of Labor and Economic Opportunity will hold a public hearing to receive public comments on proposed changes to the Workers' Compensation Board of Magistrates General Rules rule set.

The Workers' Disability Compensation Board of Magistrates rules apply to practice and procedures before the board.
The Request for Rules specifically references Part 13 (R 792.11301 – R 792.11313) of the Michigan Administrative Hearing System, Administrative Hearing Rules, currently located within Licensing and Regulatory Affairs- Michigan Office Of Administrative Hearings and Rules. As a result of Executive Order 2019-13, Part 13 will be rescinded by MOAHR, and promulgated by LEO, Workers' Disability Compensation Agency. Some of the specific rules in Part 13 will be updated to reflect changes in process and procedure.

By authority conferred on the director of the workers' disability compensation agency by sections 205 and 213 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.205 and 418.213, section 33 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, and Executive Reorganization Order Nos. 1996-2, 1999-3, 2002-1, 2003-1, and 2019-3, MCL 445.2001, 418.3, 445.2004, 445.2011, and 125.1998. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 7/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: campbelld5@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 7/7/2021 at 05:00PM.

David Campbell

Email: campbelld5@michigan.gov

Workers' Disability Compensation Agency, 2501 Woodlake Circle, Okemos, MI 48864

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 800-833-5833 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

WORKERS' DISABILITY COMPENSATION AGENCY

WORKERS' COMPENSATION HEALTH CARE SERVICES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the workers' disability compensation agency by sections 205 and 315 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.205 and 418.315, section 33 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, and Executive Reorganization Order Nos. 1982-2, 1986-3, 1990-1, 1996-2, 2003-1, 2011-4, and 2019-13, MCL18.24, 418.1, 418.2, 445.2001, 445.2011, 445.2030, and 125.1998)

R 418.10101, R 418.10106, R 418.10107, R 418.10108, R 418.10116, R 418.10202, R 418.10207, R 418.10208, R 418.10901, R 418.10904, R 418.10926, R 418.101002, R 418.101003, R 418.101003a, R 418.101004, R 418.101010, R 418.101204, R 418.101206, and R 418.101303 of the Michigan Administrative Code are amended, as follows:

PART 1. GENERAL PROVISIONS

R 418.10101 Scope.

Rule 101. (1) These rules do all of the following:

(a) Establish procedures by which the employer shall furnish, or cause to be furnished, to an employee who receives a personal injury arising out of and in the course of employment, reasonable medical, surgical, and hospital services and medicines, or other attendance or treatment recognized by the laws of the state as legal, when needed. The employer shall also supply to the injured employee dental services, crutches, artificial limbs, eyes, teeth, eyeglasses, hearing apparatus, and other appliances necessary to cure, so far as reasonably possible, and relieve from the effects of the injury.

(b) Establish schedules of maximum fees by a health facility or health care provider for such treatment or attendance, service, device, apparatus, or medicine.

(c) Establish procedures by which a health care provider shall be paid.

(d) Provide for the identification of utilization of health care and health services above the usual range of utilization for such services, based on medically accepted standards, and provide for acquiring by a carrier and by the ~~workers' compensation~~ agency the necessary records, medical bills, and other information concerning any health care or health service under review.

(e) Establish a system for the evaluation by a carrier of the appropriateness in terms of both the level of and the quality of health care and health services provided to injured employees, based upon medically accepted standards.

(f) Authorize carriers to withhold ~~payment from,~~ or recover payment from~~,~~ health facilities or health care providers, **that**~~which~~ have made excessive charges or ~~which~~ **that** have required unjustified treatment, hospitalization, or visits.

(g) Provide for the review by the ~~workers' compensation~~ agency of the records and medical bills of any health facility or health care provider ~~which~~ **that** have been determined by a carrier not to ~~be in compliance~~ **comply** with the schedule of charges established by these rules or to ~~be requiring~~ **require** unjustified treatment, hospitalization, or office visits.

(h) Provide for the certification by the ~~workers' compensation~~ agency of the carrier's professional ~~utilization~~ **health care** review program.

(i) Establish that when a health care facility or health care provider provides health care or health care service that is not usually associated with, is longer in duration than, is more frequent than, or extends over a greater number of days than that health care or service usually does with the diagnosis or condition for which the patient is being treated, the health facility or health care provider may be required by the carrier to explain the necessity in writing.

(j) Provide for the interaction of the ~~workers' compensation~~ agency and the department ~~of licensing and regulatory affairs~~ for the utilization of departmental procedures for the resolution of workers' compensation disputes.

(k) Are intended for the implementation and enforcement of section 315(2) to (9) of the act, **MCL 418.315, and** provide for the implementation of the ~~workers' compensation~~ agency's review and decision responsibility vested in it by those statutory provisions. The rules and definitions are not intended to supersede or modify the workers' disability compensation act, the administrative rules of practice of the ~~workers' compensation~~ agency, or court decisions interpreting the act or the ~~workers' compensation~~ agency's administrative rules.

(2) An independent medical examination ~~shall be~~ **is** exempt from these rules and may be requested by a carrier or an employee. An independent medical examination, (IME), shall be conducted by a practitioner other than the treating practitioner. Reimbursement for the independent medical evaluation shall be based on a contractual agreement between the provider of the independent medical evaluation and the party requesting the examination.

(3) These rules and the fee schedule ~~shall~~ **do** not pertain to health care services ~~which~~ **that** are rendered by an employer to its employee in an employer-owned and employer-operated clinic.

(4) Payments made pursuant to a redemption order or a voluntary payment agreement signed by a magistrate, director, or director's representative ~~shall be~~ are subject to these rules and fee schedule.

(~~4~~**5**) If a carrier and a provider have a contractual agreement designed to reduce the cost of workers' compensation health care services below what would be the aggregate amount if the fee schedule were applicable, the contractual agreement shall be exempt from the fee schedule. The carrier shall ~~be required to~~ do both of the following:

(a) Perform technical and professional review procedures.

(b) Provide the annual medical payment report to the **agency's** health care services division**.** ~~of the workers' compensation agency.~~

R 418.10106 Procedure codes; relative value units; other billing information.

Rule 106. (1) Upon annual promulgation of R 418.10107, the health care services division of the ~~workers' compensation~~ agency shall provide separate from these rules a manual, tables, and charts containing all of the following information on the agency's website, www.michigan.gov/wca:

(a) All Current Procedural Terminology (CPT®) procedure codes used for billing health care services.

(b) Medicine, surgery, and radiology procedures and their associated relative value units.

(c) Hospital maximum payment ratios.

(d) Billing forms and instruction for completion.

(2) The procedure codes and standard billing and coding instructions for medicine, surgery, and radiology services is adopted from the most recent publication entitled "Current Procedural Terminology (CPT®)" as adopted by reference in R 418.10107. However, billing and coding guidelines published in the CPT codebook do not guarantee reimbursement. A carrier shall only reimburse medical procedures for a work-related injury or illness that are reasonable and necessary and are consistent with accepted medical standards.

(3) The formula and methodology for determining the relative value units is adopted from the "Medicare RBRVS: The Physicians Guide" as adopted by reference in R 418.10107 using geographical information for ~~the~~**this** state ~~of Michigan~~. The geographical information, (GPCI), for these rules is a melded average using 60% of the figures published for the city of Detroit added to 40% of the figures published for the rest of this state.

(4) The maximum allowable payment for medicine, surgery, and radiology services is determined by multiplying the relative value unit assigned to the procedure times the conversion factor listed in the reimbursement section, part 10, of these rules.

(5) Procedure codes from "HCPCS 20~~18~~**21** Level II Professional Edition," as adopted by reference in R 418.10107, shall be used to describe all of the following services:

(a) Ambulance services.

(b) Medical and surgical expendable supplies.

(c) Dental procedures.

(d) Durable medical equipment.

(e) Vision and hearing services.

(f) Home health services.

(6) Medical services **are** considered “By Report” (BR) if a procedure code listed in “HCPCS 20~~18~~**21** Level II Professional Edition” or “Current Procedural Terminology (CPT®) 20~~18~~**21** Professional Edition” as adopted by reference in R 418.10107 does not have an assigned value.

R 418.10107 Source documents; adoption by reference.

Rule 107. The following documents are adopted by reference in these rules and are available for distribution from the indicated sources, at the cost listed in subdivisions (a) to (h) of this rule:

(a) “Current Procedural Terminology (CPT®) 20~~18~~**21** Professional Edition,” published by the American Medical Association, P.O. Box 74008935, Chicago, ~~IL~~ **Illinois** 60674-8935, item #EP0541~~18~~**21**, 1-800-621-8335. The publication may be purchased at a cost of $~~6~~**121**.95 plus $16.95 shipping and handling as of the time of adoption of these rules. Permission to use this publication is on file in the workers' compensation agency.

(b) " HCPCS 20~~18~~**21** Level II Professional Edition,” published by the American Medical Association, P.O. Box 74008935, Chicago, ~~IL~~ **Illinois** 60674-8935, item #OP2315~~18~~**21**, customer service 1-800-621-8335. The publication may be purchased at a cost of $~~99.95~~**104.95**, plus $1~~1~~**6**.95 for shipping and handling, as of the time of adoption of these rules.

(c) "Medicare RBRVS 20~~18~~**21**: The Physicians' Guide," published by The American Medical Association, P.O. Box 74008935, Chicago, ~~IL~~ **Illinois** 60674-8935, item #OP0596~~18~~**21**, 1-800-621-8335. The publication may be purchased at a cost of $~~99~~**159**.95, plus $1~~1~~**9**.95 shipping and handling, as of the time of adoption of these rules.

(d) “International Classification of Diseases, ICD-10-CM 20~~18~~**21**: The Complete Official Codebook,” American Medical Association, P.O. Box 74008935, Chicago, ~~IL~~ **Illinois** 60674-8935, item #OP2014~~18~~**21**, 1-800-621-8335. The publication may be purchased at a cost of $~~4~~**110**.95, plus $16.95 shipping and handling, as of the time of adoption of these rules.

(e) “International Classification of Diseases, ICD-10-PCS 20~~18~~**21**: The Complete Official Codebook,” American Medical Association, P.O. Box 74008935, Chicago, ~~IL~~ **Illinois** 60674-8935, item #OP2011~~18~~**21**, 1-800-621-8335. The publication may be purchased at a cost of $**110**.95, plus $16.95 shipping and handling, as of the time of adoption of these rules.

(f) Red Book® ~~O~~**o**nline subscription service of IBM Watson Health, contact: ~~http://truvenhealth.com/products/micromedex/product-suites/clinical-knowledge/redbook~~ **https://www.ibm.com/products/micromedex-red-book or IBM Watson Health, 1 New Orchard Road, Armonk, New York 10504-1722, 1-800-525-9083**.

(g) Medi-Span® Drug Information Database, a part of Wolters Kluwer Health, contact: http://www.wolterskluwercdi.com **or 1-855-633-0577**.

(h) "Official UB-04 Data Specifications Manual 20~~19~~**21**, July 1, 20~~18~~**20**" adopted by the National Uniform Billing Committee, © Copyright 20~~18~~**20** American Hospital Association. As of the time of adoption of these rules, the cost of this eBook for a single user is $160.00 and is available at www.nubc.org.

R 418.10108 Definitions; A to I.

Rule 108. As used in these rules:

(a) "Act" means the worker’s disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(b) "Adjust" means that a carrier or a carrier's agent reduces a health care provider's request for payment to the maximum fee allowed by these rules, to a provider's usual and customary charge, or, when the maximum fee is by report, to a reasonable amount. "Adjust" also means when a carrier re-codes a procedure~~,~~ or reduces payment as a result of professional review.

(c) "Agency" means the workers' **disability** compensation agency**.** ~~in the department of licensing and regulatory affairs.~~

(d) "Ambulatory surgical center" (ASC) means an entity that operates exclusively for providing surgical services to patients not requiring hospitalization and has an agreement with the centers for Medicare and Medicaid services (CMS) to participate in Medicare.

(e) "Appropriate care" means health care that is suitable for a particular person, condition, occasion, or place.

(f) “Biologics” or “biologicals” include drugs or other products that are derived from life forms. Biologics are biology-based products used to prevent, diagnose, treat, or cure disease or other conditions in humans and animals. Biologics generally include products such as vaccines, blood, blood components, allergenics, somatic cells, genes, proteins, DNA, tissues, skin substitutes, recombinant therapeutic proteins, microorganisms, antibodies, immunoglobins, and others, including, but not limited to, those that are produced using biotechnology and are made from proteins, genes, antibodies, and nucleic acids.

(g) "BR" or "by report" means that the procedure is not assigned a relative value unit, (RVU) or a maximum fee and requires a written description.

(h) "Carrier" means an organization that transacts the business of workers' compensation insurance in Michigan and ~~which~~ **that** may be any of the following:

(i) A private insurer.

(ii) A self-insurer.

(iii) One of the funds in chapter 5 of the act, MCL 418.501 to **418.561**~~408.561~~.

(i) "Case" means a covered injury or illness that occurs on a specific date and is identified by the worker's name and date of injury or illness.

(j) "Case record" means the complete health care record that is maintained by a carrier and pertains to a covered injury or illness that occurs on a specific date.

(k) "Complete procedure" means a procedure that contains a series of steps that are not to be billed separately.

(l) "Covered injury or illness" means an injury or illness for which treatment is mandated by section 315 of the act, MCL 418.315.

(m) "Current ~~p~~**P**rocedural ~~t~~**T**erminology (CPT®)" means a listing of descriptive terms and identifying codes and provides a uniform nationally accepted nomenclature for reporting medical services and procedures. The CPT codebook provides instructions for coding and claims processing.

(n) "Custom compound" as used in these rules, means a customized topical medication prescribed or ordered by a duly licensed prescriber for the specific patient that is prepared in a pharmacy by a licensed pharmacist in response to a licensed practitioner's prescription or order, by combining, mixing, or altering of ingredients, but not reconstituting, to meet the unique needs of an individual patient.

(o) "Dispute" means a disagreement between a carrier or a carrier's agent and a health care provider on the application of these rules.

(p) "Durable medical equipment" means specialized equipment that is designed to stand repeated use, is used to serve a medical purpose, and is appropriate for home use.

(q) "Emergency condition" means that a delay in treating a patient would lead to a significant increase in the threat to the patient's life or to a body part.

(r) "Established patient" means a patient whose medical and administrative records for a particular covered injury or illness are available to the provider.

(s) "Expendable medical supply" means a disposable article that is needed in quantity on a daily or monthly basis.

(t) "Facility" means an entity licensed by the state pursuant to the public health code, 1978 PA 368, MCL 333.1101 to 333.25211. The office of an individual practitioner is not considered a facility.

(u) "Focused review" means the evaluation of a specific health care service or provider to establish patterns of use and dollar expenditures.

(v) "Follow-up days" means the days of care following a surgical procedure that are included in the procedure's maximum allowable payment, but does not include care for complications. The health care services division shall provide the follow-up days for surgical procedures separate from these rules on the agency's website, www.michigan.gov/wca.

(w) "Free standing outpatient facility" (FSOF) means a facility, other than the office of a physician, dentist, podiatrist, or other private practice, offering a surgical procedure and related care that in the opinion of the attending physician can be safely performed without requiring overnight inpatient hospital care.

(x) "Health care organization" means a group of practitioners or individuals joined together to provide health care services and includes any of the following:

(i) Health maintenance organization.

(ii) Industrial or other clinic.

(iii) Occupational health care center.

(iv) Home health agency.

(v) Visiting nurse association.

(vi) Laboratory.

(vii) Medical supply company.

(viii) Community mental health board.

(y) "Health care review" means the review of a health care case or bill, or both, by a carrier, and includes technical health care review and professional health care review.

(z) "Incidental surgery" means a surgery that is performed through the same incision, on the same day, by the same doctor of dental surgery, doctor of medicine, doctor of osteopathy, or doctor of podiatry and that is not related to diagnosis.

(aa) "Independent medical examination" means an examination and evaluation that is requested by a carrier or an employee and that is conducted by a different practitioner than the practitioner who provides care.

(bb) "Industrial medicine clinic," also referred to as an "occupational health clinic," means an organization that primarily treats injured workers. The industrial medicine clinic or occupational clinic may be a health care organization as defined by these rules or may be a clinic owned and operated by a hospital for the purposes of treating injured workers.

(cc) "Insured employer" means an employer who purchases workers' compensation insurance from an insurance company that is licensed to write insurance in this state.

R 418.10116 Provider responsibilities.

Rule 116. (1) When a licensed facility or practitioner licensed in this state treats an injured worker for a compensable work-related injury or illness and bills the workers' compensation carrier, the carrier shall reimburse the licensed provider or facility the maximum allowable payment, or the providers' usual and customary charge, whichever is less, ~~in accord with~~ **pursuant to** these rules. A provider shall do both of the following:

(a) Promptly bill the carrier or the carrier's designated agent after the date of service.

(b) Submit the bill for the medical services provided to treat an injured worker on the proper claim form, to the workers' compensation carrier or the carrier's designated agent and attach the documentation required in part 9 of these rules.

(2) If the provider has not received payment within 30 days of submitting a bill, then the provider shall resubmit the bill to the carrier and add a 3% late fee.

(3) Only the provider shall alter or change in any way the provider's original bill.

PART 2. MEDICINE

R 418.10202 Evaluation and management services.

Rule 202. (1) The evaluation and management procedure codes from "Current Procedural Terminology, CPT®", as adopted by reference in R 418.10107, shall be used on the bill to describe office visits, hospital visits, and consultations. These services are divided into subcategories of new patient and established patient visits. The services are also classified according to complexity of the services. For the purposes of workers' compensation, a treating practitioner, for each new case or date of injury, shall use a new patient visit to describe the initial visit. A treating physician may not use procedures 99450 **or 99455**-99456 to bill for services provided to an injured worker. When a practitioner applies a hot or cold pack during the course of the office visit, the carrier is not required to reimburse this as a separate charge.

(2) Minor medical and surgical supplies routinely used by the practitioner or health care organization in the office visit shall not be billed separately. The provider may bill separately for supplies, or other services, over and above those usually incidental to the evaluation and management service using appropriate CPT® or HCPCS procedure codes.

(3) When a specimen is obtained and sent to an outside laboratory, the provider may add 99000 to the bill to describe the handling/conveyance of the specimen. The carrier shall reimburse $5.00 for this service in addition to the evaluation and management service.

(4) Appropriate procedures from "Current Procedural Terminology, CPT®" or the HCPCS Level II codebook, as adopted by reference in R 418.10107, may be billed in addition to the evaluation and management service. If an office visit is performed outside of the provider's normal business hours, the provider may bill the add on procedure code, 99050, describing an office visit performed after hours or on Sundays or holidays and shall be reimbursed $12.00 in addition to the evaluation

and management. The carrier shall only ~~be required to~~ reimburse the miscellaneous add-on office procedures when the services are performed outside of the provider's normal hours of business.

(5) A procedure that is normally part of an examination or evaluation shall not be unbundled and billed independently. Range of motion shall not be reimbursed as a separate procedure in addition to the evaluation and management service unless the procedure is medically necessary and appropriate for the injured worker's condition and diagnosis.

(6) The maximum allowable payment for the evaluation and management service shall be determined by multiplying the relative value unit, RVU, assigned to the procedure code, times the conversion factor listed in the reimbursement section of these rules.

(7) The level of an office visit or other outpatient visit for the evaluation and management of a patient is not guaranteed and may change from session to session. The level of service shall be consistent with the type of presenting complaint and supported by documentation in the record.

(8) When a provider bills for an evaluation and management service, a separate drug-administration charge shall not be reimbursed by the carrier, since this is considered a bundled service inclusive with the visit. The drug administration charges may be billed and paid when the evaluation and management service is not performed and billed for a date of service. The provider shall bill the medication separate and be paid ~~in accordance with~~ **pursuant to** the reimbursement provisions of these rules. The provider shall use the NDC or national drug code for the specific drug and either 99070, the unlisted drug and supply code or the specific J-code listed in HCPCS to describe the medication administered.

(9) When a provider administers a vaccine during an evaluation and management service, both the vaccine and the administration of the vaccine are billed as separate service in addition to the evaluation and management visit according to language in CPT®. Both the administration of the vaccine and the vaccine shall be reimbursed ~~in accordance with~~ **pursuant to** the reimbursement provisions of these rules in addition to the visit.

(10) Procedure code 76140, x-ray consultation, shall not be paid to the provider in addition to the evaluation and management service, to review x-rays taken elsewhere. The carrier shall not pay for review of an x-ray by a practitioner other than the radiologist providing the written report or the practitioner performing the complete radiology procedure.

R 418.10207 Mental health services.

Rule 207. (1) A psychiatrist only, shall use procedure code 90792 to describe a psychiatric diagnostic evaluation with medical services, or shall use a new patient evaluation and management code instead of 90792 to describe a psychiatric diagnostic evaluation. A psychologist shall use procedure code 90791 to describe a diagnostic evaluation without medical services. Procedure codes 90791 and 90792 shall not be reported on the same day as a psychotherapy or evaluation and management service procedure code.

(2) A psychiatrist only, shall use add on procedure codes 90833, 90836 and 90838, which shall be reported in conjunction with an evaluation and management services code.

(3) An individual performing psychological testing shall report the services using procedure codes **96105-96146**~~96101-96127~~.

(4) Mental health providers shall use the following modifiers to describe the practitioner providing the health services:

(a) -AH, for services provided by a licensed psychologist.

(b) -AL, for services provided by a limited licensed psychologist.

(c) -AJ, for services provided by a certified social worker.

(d) -LC, for services provided by a licensed professional counselor.

(e) -CS, for services provided by a limited licensed counselor.

(f) -MF, for services provided by a licensed marriage and family therapist.

(g) -ML, for services provided by a limited licensed marriage and family therapist

R 418.10208 Vision services.

Rule 208. (1) A medical diagnostic eye evaluation by a practitioner is an integral part of all vision services.

(2) Intermediate and comprehensive ophthalmological services include medical diagnostic eye evaluation and services, such as slit lamp examination, keratometry, ophthalmoscopy, retinoscopy, ~~determination of refractive state,~~ tonometry, or motor evaluation. These procedures shall not be billed in conjunction with procedure codes 92002, 92004, 92012, and 92014.

(3) Only an ophthalmologist or a doctor of optometry shall use procedure codes 92002, 92004, 92012, and 92014.

~~(4) A doctor of optometry shall use procedure codes 92002-92287 to describe services.~~

(~~5~~**4**) An employer is not required to reimburse or cause to be reimbursed charges for an optometric service unless that service is included in the definition of practice of optometry under section 17401 of the public health code, 1978 PA 368, MCL 333.17401, as of May 20, 1992.

(~~6~~**5**) Suppliers of vision and prosthetic optical procedures shall use the appropriate procedure code V0000-V2999 listed in the HCPCS Level II codebook, as adopted by reference in 418.10107, to describe services provided.

(~~7~~**6**) Payment shall be made **as follows** for the following vision CPT codes:

(a) $50.00 for V2744, V2750, and V2760~~.;~~

(b) $25.00 for V2715~~.; and~~

(c) $160.00 for V2020.

PART 9. BILLING
SUBPART A. PRACTITIONER BILLING

R 418.10901 General information.

Rule 901. (1) All health care practitioners and health care organizations, as defined in these rules, shall submit charges on the proper claim form as specified in this rule. Copies of the claim forms and instruction for completion for each form shall be provided separate from these rules in a manual on the workers' compensation agency’s website at www.michigan.gov/wca. Charges shall be submitted as follows:

(a) A practitioner shall submit charges on the CMS1500 claim form.

(b) A doctor of dentistry shall submit charges on a standard dental claim form approved by the American Dental Association.

(c) A pharmacy, other than an inpatient hospital, shall submit charges on an invoice or an NCPDP Workers Compensation/Property & Casualty Universal Claim Form.

(d) A hospital-owned occupational or industrial clinic, or office practice shall submit charges on the CMS 1500 claim form.

(e) A hospital billing for a practitioner service shall submit charges on a CMS 1500 claim form.

(f) Ancillary service charges shall be submitted on the CMS 1500 claim form for durable medical equipment and supplies, L-code procedures, ambulance, vision, and hearing services. Charges for home health services shall be submitted on the UB-04 claim form.

(g) A shoe supplier or wig supplier shall submit charges on an invoice.

(2) A provider shall submit all bills to the carrier within 1 year of the date of service for consideration of payment, except in cases of litigation or subrogation.

(3) A properly submitted bill shall include all of the following appropriate documentation:

(a) A copy of the medical report for the initial visit.

(b) An updated progress report if treatment exceeds 60 days.

(c) A copy of the initial evaluation and a progress report every 30 days of physical treatment, physical or occupational therapy, or manipulation services.

(d) A copy of the operative report or office report if billing surgical procedure codes 10021-69990.

(e) A copy of the anesthesia record if billing anesthesia codes 00100-01999.

(f) A copy of the radiology report if submitting a bill for a radiology service accompanied by modifier -26. The carrier shall only reimburse the radiologist for the written report, or professional component, upon receipt of a bill for the radiology procedure.

(g) A report describing the service if submitting a bill for a "by report" procedure.

(h) A copy of the medical report if a modifier is applied to a procedure code to explain unusual billing circumstances.

(4) A health care professional billing for telemedicine services shall ~~only~~ utilize procedure codes **92507, 92521-92524, 97110, 97112, 97116, 97161-97168, 97530, 97535 or those** listed in Appendix P of the CPT codebook, as adopted by reference in R 418.10107, ~~to describe services provided,~~ excluding CPT codes 99241-99245 and 99251-99255. The provider shall append modifier -95 to the procedure code to indicate synchronous telemedicine services rendered via a real-time interactive audio and video telecommunications system with place of service code -02. All other applicable modifiers shall be appended in addition to modifier -95.

R 418.10904 Procedure codes and modifiers.

Rule 904. (1) A health care service shall be billed with procedure codes adopted from "Current Procedural Terminology (CPT®) 20~~18~~**21** Professional Edition" or "HCPCS 20~~18~~**21** Level II Professional Edition," as referenced in R 418.10107. Procedure codes from the CPT code set shall not be included in these rules, but shall be provided on the workers' compensation agency's website at www.michigan.gov/wca. Refer to "Current Procedural Terminology (CPT®) 20~~18~~**21** Professional Edition," as referenced in R 418.10107, for standard billing instructions, except where otherwise noted in these rules. A provider billing services described with procedure codes from "HCPCS 20~~18~~**21** Level II Professional Edition" shall refer to the publication as adopted by reference in R 418.10107 for coding information.

(2) The following ancillary service providers shall bill codes from "HCPCS 20~~18~~**21** Level II Professional Edition," as adopted by reference in R 418.10107, to describe the ancillary services:

(a) Ambulance providers.

(b) Certified orthotists and prosthetists.

(c) Medical suppliers, including expendable and durable equipment.

(d) Hearing aid vendors and suppliers of prosthetic eye equipment.

(e) A home health agency.

(3) If a practitioner performs a procedure that cannot be described by 1 of the listed CPT or HCPCS procedure codes, then the practitioner shall bill the unlisted procedure code. An unlisted procedure code shall only be reimbursed when the service cannot be properly described with a listed code and the documentation supporting medical necessity includes all of the following:

(a) Description of the service.

(b) Documentation of the time, effort, and equipment necessary to provide the care.

(c) Complexity of symptoms.

(d) Pertinent physical findings.

(e) Diagnosis.

(f) Treatment plan.

(4) The provider shall add a modifier code, found in Appendix A of the CPT codebook as adopted by reference in R 418.10107, following the correct procedure code describing unusual circumstances

arising in the treatment of a covered injury or illness. When a modifier code is applied to describe a procedure, a report describing the unusual circumstances shall be included with the charges submitted to the carrier.

(5) Applicable modifiers from table 10904 shall be added to the procedure code to describe the type of practitioner performing the service. The required modifier codes for describing the practitioner are as follows:

Table 10904 Modifier Codes

-AA Anesthesia services performed personally by anesthesiologist.

-AD When an anesthesiologist provides medical supervision for more than 4 qualified individuals being either certified registered nurse anesthetists, certified anesthesiologist assistants, or anesthesiology residents.

-AH When a licensed psychologist bills a diagnostic service or a therapeutic service, or both.

-AJ When a certified social worker bills a therapeutic service.

-AL A limited license psychologist billing a diagnostic service or a therapeutic service.

-CS When a limited licensed counselor bills for a therapeutic service.

-GF When a non-physician (nurse practitioner, advanced practice nurse, or physician assistant) provides services.

-LC When a licensed professional counselor performs a therapeutic service.

-MF When a licensed marriage and family therapist performs a therapeutic service.

-ML When a limited licensed marriage and family therapist performs a service.

-TC When billing for the technical component of a radiology service.

-QK When an anesthesiologist provides medical direction for not more than 4 qualified individuals being either certified registered nurse anesthetists, certified anesthesiologist assistants, or anesthesiology residents.

-QX When a certified registered nurse anesthetist or certified anesthesiologist assistant performs a service under the medical direction of an anesthesiologist.

-QZ When a certified registered nurse anesthetist performs anesthesia services without medical direction.

R418.10926 Billing for air **and ground** ambulance services.

Rule 926. (1) Air ambulance providers shall bill procedure codes A0430, A0431, A0435, and A0436 as appropriate from the HCPCS codebook, as adopted by reference in R 418.10107.

(2) Ground ambulance providers shall bill procedure codes A0425-A0429 and A0432-A0434 as appropriate from the HCPCS codebook, as adopted by reference in R 418.10107.

(~~2~~**3**) A hospital-owned air **or ground** ambulance provider billing with the same tax identification number as the hospital shall submit charges for ~~air~~ ambulance services on a UB-04 form. All other ~~air~~ ambulance providers shall submit charges for ambulance services on a CMS-1500 form.

(~~3~~**4**) Air ambulance services are considered reasonable when a medical condition, in whole or in part, is such that transportation by either basic or advanced life support ground ambulance would constitute a threat to the patient's life or seriously endanger the patient's health.

(5) Ground ambulance services are considered reasonable when a medical condition is such that use of other forms of transportation are contraindicated and would endanger the patient's health.

(~~4~~**6**) A properly submitted air **or ground** ambulance bill shall include documentation indicating the necessity of air **or ground** ambulance services.

(~~5~~**7**) An air ambulance service shall be covered only to the nearest facility capable of furnishing the required level and type of care for the injury or illness involved.

(~~6~~**8**) The ambulance point of pick up shall be reported by its 5-digit ZIP code. Charges for services and mileage shall be based on documented loaded patient mileage only. If the patient is pronounced dead by a legally authorized professional after the air ambulance has taken off **or the ground ambulance is dispatched**, but before being loaded onto the ambulance for transport, then the MAP is the appropriate base rate, with no amount allowed for mileage or for a rural adjustment.

(~~7~~**9**) Ambulance origin and destination modifiers listed in the HCPCS Level II codebook, as adopted by reference in R 418.10107, shall be used on the bill as appropriate and will be listed on the agency website at www.michigan.gov/wca.

(~~8~~**10**) All items and services associated with the ambulance transport are included in the maximum allowable payment and shall not be unbundled and billed separately.

(11) Ground ambulance services are reimbursed based on the level of services performed, not the type of vehicle responding.

PART 10. REIMBURSEMENT
SUBPART A. PRACTITIONER REIMBURSEMENT

R 418.101002 Conversion factors for practitioner services.

Rule 1002. (1) The ~~workers' compensation~~ agency shall determine the conversion factors for medicine, evaluation and management, physical medicine, surgery, pathology, and radiology procedures. The conversion factor shall be used by the ~~workers' compensation~~ agency for determining the maximum allowable payment for medical, surgical, and radiology procedures. The maximum allowable payment shall be determined by multiplying the appropriate conversion factor times the relative value unit assigned to a procedure. The relative value units are provided for the medicine, surgical, and radiology procedure codes separate from these rules on the agency's website, www.michigan.gov/wca. The relative value units shall be updated by the ~~workers' compensation~~ agency using codes adopted from "Current Procedural Terminology (CPT®)" as adopted by reference in R 418.10107(a). The ~~workers' compensation~~ agency shall determine the relative values by using information found in the "Medicare RBRVS: The Physicians' Guide" as adopted by reference in R 418.10107(c).

(2) The conversion factor for medicine, radiology, and surgical procedures shall be $47.66 for the year 20~~18~~**21** and shall be effective for dates of service on **or after** the effective date of these rules.

R 418.101003 Reimbursement for "by report" and ancillary procedures.

Rule 1003. (1) If a procedure code does not have a listed relative value, or is noted BR, then the carrier shall reimburse the provider's usual and customary charge or reasonable payment, whichever is less, unless otherwise specified in these rules.

(2) The following ancillary services are by report and the provider shall be reimbursed either at the practitioner's usual and customary charge or reasonable payment, whichever is less:

~~(a) Ground ambulance services.~~

(~~b~~**a**) Dental services.

(~~c~~**b**) Vision and prosthetic optical services.

(~~d~~**c**) Hearing aid services.

(~~e~~**d**) Home health services.

(3) Orthotic and prosthetic procedures, L0000-L9999, shall be reimbursed by the carrier at Medicare plus 5%. The health care services division shall provide maximum allowable payments for L-code procedures separate from these rules on the agency's website, www.michigan.gov/wca. Orthotic and prosthetic procedures with no assigned maximum allowable payment shall be considered by report procedures and require a written description accompanying the charges on the CMS-1500 claim form.

The report shall include date of service, a description of the service or services provided, the time involved, and the charge for materials and components.

R 418.101003a Reimbursement for dispensed medications.

Rule 1003a. (1) Prescription medication shall be reimbursed at the average wholesale price (AWP) minus 10%, as determined by Red Book or Medi-Span referenced in R 418.10107, plus a dispense fee. All of the following apply.

(a) The dispense fee for a brand name drug shall be $3.50 and shall be billed with WC700-B.

(b) The dispense fee for a generic drug shall be $5.50 and shall be billed with WC700-G.

(c) Reimbursement for repackaged pharmaceuticals shall be at a maximum reimbursement of AWP minus 10% based upon the original manufacturer's NDC number, as published by Red Book or Medi-Span, plus a dispensing fee of $3.50 for brand name and $5.50 for generic.

(d) All pharmaceutical bills submitted for repackaged products shall include the original manufacturer or distributer stock package national drug code or NDC number.

(e) When an original manufacturer's NDC number is not available in either Red Book or Medi-Span and a pharmaceutical is billed using an unlisted or "not otherwise specified code," the payer shall select the most closely related NDC number to use for reimbursement of the pharmaceutical.

(2) Over-the-counter drugs (OTC's), dispensed by a provider other than a pharmacy, shall be dispensed in 10-day quantities and shall be reimbursed at the average wholesale price, as determined by Red Book or Medi-Span or $2.50, whichever is greater.

(3) **All** ~~C~~**c**ommercially manufactured topical medications, ~~which are over-the-counter or contain over-the-counter ingredients and~~ **that** do not meet the definition of "custom compound" as defined in R 418.10108, dispensed by a pharmacy or a provider ~~other than a pharmacy,~~ shall ~~be dispensed in~~ **not exceed** a 30-day ~~or less~~ supply. Regardless of dispensing party, reimbursement shall be at a maximum of the acquisition cost ~~invoice~~, plus a single dispense fee. The single dispense fee shall be $8.50 and shall be billed with WC700-T**. A provider will only be reimbursed 1 dispense fee per topical medication in a 10-day period.**

R 418.101004 Modifier code reimbursement.

Rule 1004. (1) Modifiers may be used to report that the service or procedure performed has been altered by a specific circumstance but does not change the definition of the code. This rule lists procedures for reimbursement when certain modifiers are used. A complete listing of modifiers are listed in Appendix A of "Current Procedural Terminology CPT® 20~~18~~**21** Professional Edition," and the "HCPCS 20~~18~~**21** Level II Professional Edition" as adopted by reference in R 418.10107.

(2) When modifier code -25 is added to an evaluation and management procedure code, reimbursement shall only be made when the documentation provided supports the patient's condition required a significant separately identifiable evaluation and management service other than the other service provided or beyond the usual preoperative and postoperative care.

(3) When modifier code -26, professional component, is used with a procedure, the professional component shall be paid.

(4) If a surgeon uses modifier code -47 when performing a surgical procedure, then anesthesia services that were provided by the surgeon and the maximum allowable payment for the anesthesia portion of the service shall be calculated by multiplying the base unit of the appropriate anesthesia code by $42.00. No additional payment is allowed for time units.

(5) When modifier code -50 or -51 is used with surgical procedure codes, the services shall be paid according to the following as applicable:

(a) The primary procedure at not more than 100% of the maximum allowable payment or the billed charge, whichever is less.

(b) The secondary procedure and the remaining procedure or procedures at not more than 50% of the maximum allowable payment or the billed charge, whichever is less.

(c) When multiple injuries occur in different areas of the body, the first surgical procedure in each part of the body shall be reimbursed 100% of the maximum allowable payment or billed charge, whichever is less, and the second and remaining surgical procedure or procedures shall be identified by modifier code -51 and shall be reimbursed at 50% of the maximum allowable payment or billed charges, whichever is less.

(d) When modifier -50 or -51 is used with a surgical procedure with a maximum allowable payment of BR, the maximum allowable payment shall be 50% of the provider's usual and customary charge or 50% of the reasonable amount, whichever is less.

(6) The multiple procedure payment reduction shall be applied to the technical and professional component for more than 1 radiological imaging procedure furnished to the same patient, on the same day, in the same session, by the same physician or group practice. When modifier -51 is used with specified diagnostic radiological imaging procedures, the payment for the technical component of the procedure shall be reduced by 50% of the maximum allowable payment and payment for the professional component of the procedure shall be reduced to 75% of the maximum allowable payment. A table of the diagnostic imaging CPT procedure codes subject to the multiple procedure payment reduction shall be provided by the agency in a manual separate from these rules.

(7) When modifier code -TC, technical services, is used to identify the technical component of a radiology procedure, payment shall be made for the technical component only. The maximum allowable payment for the technical portion of the radiology procedure is designated on the agency’s website, www.michigan.gov/wca.

(8) When modifier -57, initial decision to perform surgery, is added to an evaluation and management procedure code, the modifier -57 shall indicate that a consultant has taken over the case and the consultation code is not part of the global surgical service.

(9) When both surgeons use modifier -62 and the procedure has a maximum allowable payment, the maximum allowable payment for the procedure shall be multiplied by 25%. Each surgeon shall be paid 50% of the maximum allowable payment times 25%, or 62.5 % of the MAP. If the maximum allowable payment for the procedure is BR, then the reasonable amount shall be multiplied by 25% and be divided equally between the surgeons.

(10) When modifier code -80 is used with a procedure, the maximum allowable payment for the procedure shall be 20% of the maximum allowable payment listed in these rules, or the billed charge, whichever is less. If a maximum payment has not been established and the procedure is BR, then payment shall be 20% of the reasonable payment amount paid for the primary procedure.

(11) When modifier code -81 is used with a procedure code that has a maximum allowable payment, the maximum allowable payment for the procedure shall be 13% of the maximum allowable payment listed in these rules or the billed charge, whichever is less. If modifier code -81 is used with a BR procedure, then the maximum allowable payment for the procedure shall be 13% of the reasonable amount paid for the primary procedure.

(12) When modifier -82 is used and the assistant surgeon is a licensed doctor of medicine, doctor of osteopathic medicine and surgery, doctor of podiatric medicine, or a doctor of dental surgery, the maximum level of reimbursement shall be the same as for modifier -80. If the assistant surgeon is a physician's assistant, the maximum level of reimbursement shall be the same as modifier -81. If a person other than a physician or a certified physician's assistant bills using modifier -82, then the charge and payment for the service is reflected in the facility fee.

(13) When modifier -GF is billed with evaluation and management or minor surgical services, the carrier shall reimburse the procedure at 85% of the maximum allowable payment, or the usual and customary charge, whichever is less.

(14) When modifier -95 is used with ~~a~~ procedure code **92507, 92521-92524, 97110, 97112, 97116, 97161-97168, 97530, 97535, or those** listed in Appendix P of the CPT codebook, as adopted by reference in R 418.10107, excluding CPT codes 99241-99245 and 99251-99255, the telemedicine services shall be reimbursed according to all of the following:

(a) The carrier shall reimburse the procedure code at the non-facility maximum allowable payment, or the billed charge, whichever is less.

(b) Supplies and costs for the telemedicine data collection, storage, or transmission shall not be unbundled and reimbursed separately.

(c) Originating site facility fees shall not be separately reimbursed.

R418.101010 Reimbursement for air **and ground** ambulance services.

Rule 1010. (1) Reimbursement for air **and ground** ambulance services, when not provided by a hospital owned air **or ground** ambulance provider billing with the same tax identification number as the hospital, shall be determined by using the reimbursement rate published by CMS. The formula for determining the maximum allowable paid (MAP) for ambulance services is determined by multiplying the (Medicare rate) X (1.40). The MAP shall be published in the health care services fee schedule and shall utilize the practice expense (PE) of the geographical information (GPCI), which shall be a melded average using 60% of the figures published for the city of Detroit added to 40% of the figures published for the rest of this state.

(2) The MAP for procedure codes **A0425,** A0430, A0431, A0435, and A0436 shall list 2 values for each procedure code, an urban and a rural MAP. Reimbursement is based on the zip code at the ambulance point of pick up and based on documented loaded patient mileage only. Urban or rural designations for each zip code shall be based on CMS and indicated on the agency website at www.michigan.gov.

(3) The MAP for procedure codes A0426-A0429 and A0432-A0434 shall list 3 values for each procedure code, an urban, a rural, and a super-rural MAP. Reimbursement is based on the zip code at the ambulance point of pick up and based on documented loaded patient mileage only. Urban, rural, and super-rural designations for each zip code shall be based on CMS definitions and indicated on the agency website at www.michigan.gov.

(~~3~~**4**) Mileage shall be reimbursed per documented loaded patient miles ~~flown~~ and is expressed in statute mile.

(a) For trips totaling up to 100 covered miles, the mileage shall be rounded up to the nearest tenth of a mile.

(b) For trips totaling 100 covered miles or greater, mileage shall be rounded up to the nearest whole number mile without use of a decimal.

(~~4~~**5**) If the patient was pronounced dead by a legally authorized professional after the air **or ground** ambulance was dispatched but before the ambulance arrived at the scene, reimbursement shall be made for a fixed wing**,** ~~or~~ rotary wing**, or basic life support ground ambulance** base rate, as applicable. Neither mileage nor a rural adjustment shall be paid. The base rate shall be indicated on the agency website at www.michigan.gov.

(~~5~~**6**) The MAP for procedure codes **A0425-A0436**~~A0430, A0431, A0435, and A0436~~ includes all items, services, and supplies associated with such transport, which shall not be unbundled and billed separately.

(~~6~~**7**) A hospital owned air **or ground** ambulance provider billing with the same tax identification number as the hospital shall be reimbursed based on the hospital's cost-to-charge ratio, which shall be

indicated on the agency website at ~~www.michigan.gov~~ **https://www.michigan.gov/leo/0,5863,7-336-94422_95508_26922---,00.html**.

PART 12. ~~Carrier's professional health care review program~~CARRIER'S PROFESSIONAL HEALTH CARE REVIEW PROGRAM

R 418.101204 Carrier's professional health care review program.

Rule 1204. (1) A carrier may have another entity perform professional health care review activities on its behalf.

(2) The ~~workers' compensation~~ agency shall certify a carrier's professional health care review program pursuant to R 418.101206.

(3) The carrier shall submit a completed form entitled "Application for Certification of the Carrier's Professional Health Care Review Program" to the agency. If the carrier is a self-insured employer or self-insured group fund, then the service company information shall be included on the form in addition to the carrier and review company information. In addition to the completed form, the carrier shall submit all of the following:

(a) The methodology used to perform professional review.

(b) A listing of the licensed, registered, or certified health care professionals reviewing the health care bills or establishing guidelines for technical review. In addition, the proof of current licensure and qualifications for the health care professionals shall be included with the completed application.

(c) A list of the carrier's peer review staff, including specialty.

(4) The workers' compensation carrier as defined by these rules maintains full responsibility for compliance with these rules.

(5) The carrier shall determine medical appropriateness for the services provided in connection with the treatment of a covered injury or illness, using published, appropriate standard medical practices and resource documents. Utilization review shall be performed using 1 or both of the following approaches:

(a) Review by licensed, registered, or certified health care professionals.

(b) The application by others of criteria developed by licensed, registered, or certified health care professionals.

(6) The licensed, registered, or certified health care professionals shall be involved in determining the carrier's response to a request by a provider for reconsideration of its bill.

(7) The licensed, registered, or certified health care professionals shall have suitable occupational injury or disease expertise, or both, to render an informed clinical judgment on the medical appropriateness of the services provided.

(8) When peer review is utilized, a health care professional of the same specialty type as the provider of the medical service shall perform the review.

R 418.101206 Certification of professional health care review program.

Rule 1206. (1) The ~~workers' compensation~~ agency shall certify the carrier's professional health care review program.

(2) A carrier, or the reviewing entity on behalf of the carrier, shall apply to the agency for certification of a carrier's professional health care review program in the manner prescribed by the ~~workers' compensation~~ agency.

(3) A carrier shall receive certification if the carrier or the carrier's review company provides to the agency a description of its professional health care review program and includes all of the information specified in R 418.101204. The ~~workers' compensation~~ agency shall send a copy of the certification of the carrier's review program to the carrier.

(4) The carrier shall submit **to the agency for approval** a copy of “The Carriers Explanation of Benefits" form utilized to notify providers of payment decisions.

R 418.101303 Provider's request for reconsideration of bill; carrier's response to provider's right to appeal.

Rule 1303. (1) Within 30 days of receipt of a provider’s request for reconsideration, the carrier shall notify the provider of the actions taken and provide a detailed statement of the reasons. The carrier’s notification shall include an explanation of the appeal process provided under these rules, including the fact that any requested administrative appeal hearing shall be conducted by a **director’s representative, a** magistrate**, or both.** ~~of the department of licensing and regulatory affairs.~~

(2) If a provider disagrees with the action taken by the carrier on the provider's request for reconsideration, then a provider may file an application for mediation or hearing with the ~~department of licensing and regulatory affairs~~ **agency**. A provider shall send its application for mediation or hearing to the agency within 30 days from the date of receipt of a carrier's denial of the provider's request for reconsideration. The provider shall send a copy of the application to the carrier.

(3) If, within 60 days of the provider's request for reconsideration, the provider does not receive payment for the adjusted or rejected bill or a portion of the bill, or a written detailed statement of the reasons for the actions taken by the carrier, then the provider may apply for mediation or hearing. The provider shall send the application for mediation or hearing to the agency and shall send a copy to the carrier.

NOTICE OF PUBLIC HEARING

Department of Labor and Economic Opportunity
Workers' Compensation Agency
Administrative Rules for Workers' Compensation Health Care Services (HCS)
Rule Set 2020-26 LE

NOTICE OF PUBLIC HEARING
Wednesday, July 7, 2021
11:00AM

Room L-150, Cadillac Place Bldg.
3026 W Grand Blvd, Detroit, MI

The Department of Labor and Economic Opportunity will hold a public hearing to receive public comments on proposed changes to the Workers' Compensation Health Care Services (HCS) rule set.

The HCS Rules are updated annually in order to provide the Agency's external customers with updated health care fee schedules for reimbursement to providers for treatment of injured workers, and to guide providers and payers on the scope of reimbursement. The HCS rules must maintain consistency with the most recent medical indexes, billing codes and fee schedules published by Medicare and other entities, in a timely fashion.

By authority conferred on the workers' disability compensation agency by sections 205 and 315 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.205 and 418.315, section 33 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, and Executive Reorganization Order Nos. 1982-2, 1986-3, 1990-1, 1996-2, 2003-1, 2011-4, and 2019-13, MCL18.24, 418.1,418.2,445.2001, 445.2011, 445.2030, and 125.1998. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 7/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: campbelld5@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 7/7/2021 at 05:00PM.

David Campbell

Email: campbelld5@michigan.gov

Workers' Disability Compensation Agency, 2501 Woodlake Circle, Okemos, MI 48864

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 800-833-5833 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

WORKERS' DISABILITY COMPENSATION AGENCY

GENERAL RULES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the workers' disability compensation agency by section 205 of **the worker's disability compensation act of 1969,** 1969 PA 317, MCL 418.205, and Executive Reorganization Order Nos. 1996-2, 1999-3, 2002-1, 2003-1, **and 2019-3,** MCL 445.2001, 418.3, 445.2004, 445.2011**, and 125.1998**)

R 408.31, R 408.31a, R 408.31b, R 408.32, R 408.32a, R 408.33, R 408.34, R 408.35, R 408.36, R 408.38, R 408.39, R 408.40a, R 408.40b, R 408.41, R 408.41a, R 408.41b, R 408.41c, R 408.42, R 408.42a, R 408.42b, R 408.43, R 408.43a, R 408.43b, R 408.43c, R 408.43d, R 408.43e, R 408.43f, R 408.43g, R 408.43h, R 408.43i, R 408.43j, R 408.43k, R 408.43m, R 408.43n, R 408.43q, R 408.43r, R 408.43s, R 408.44, R 408.45, R 408.46, R 408.47, and R 408.48 of the Michigan Administrative Code are amended, R 408.31b, R 408.45a, 408.45b, and R 408.49 are added, and R 408.59 is rescinded as follows~~:~~

PART 1. ~~RECORDS~~ DEFINITIONS

~~R 408.31 Report of injury; claim for compensation, additional reports; weekly rate of compensation.~~ **Definitions**.

~~Rule 1. (1) An employer shall report immediately, to the bureau, on form 100, all injuries, including diseases, which arise out of and in the course of the employment, or on which a claim is made, and result in any of the following:~~

~~(a) Disability extending beyond 7 consecutive days, not including the date of injury.~~

~~(b) Death.~~

~~(c) Specific losses.~~

~~(2) Any report of injury filed with the bureau by an employer that fails to meet the requirements of subrule (1) of this rule shall not be maintained as a record of the bureau unless filed with a form 107.~~

~~(3) An employer shall give a copy of the report of injury (form 100) to the injured employee immediately and in the case of death, to the dependent. Form 100 shall indicate compliance with this requirement. A delay in reporting shall not occur because of this requirement. In case of death, an employer shall also immediately file an additional report on form 106.~~

~~(4) An employee shall make a claim for compensation to the bureau on form 117.~~

~~The bureau shall mail a copy of form 117 to the employer.~~

~~(5) After an employee has given an employer the name of the physician with whom he or she intends to seek treatment and has commenced treatment with the physician under section 315 of the act, the~~

~~employee shall obtain and promptly furnish a report to the employer, insurance company, or self-insurers' security fund. The report shall set forth the history obtained, the diagnosis, the prognosis, and other information reasonably necessary to properly evaluate the injury, the disability, and the necessity for further rehabilitation or treatment. Thereafter, at reasonable intervals of not more than 60 days, an employee shall obtain and furnish a current medical report, paid for by the carrier, containing the same information, together with an itemized statement of charges for services rendered to date.~~

~~A self-insured employer, insurance company, or self-insurers' security fund is not required to make payment to the physician until the reports and itemized charges have been furnished to it.~~

~~Medical fees shall not exceed fees considered usual and reasonable for the services performed in accordance with the health care service rules.~~

~~(6) For a case that requires the payment of compensation, a carrier, the second injury fund, the self-insurers' security fund, and the silicosis, dust disease and logging industry compensation fund, shall file all of the following reports, notices, or statements as required by the bureau:~~

~~(a) Form 701 on the day after the first payment of compensation. The carrier or fund shall furnish a copy of form 701 to the employee.~~

~~(b) Form 701 on the day after the stopping of payment of compensation showing the amount of compensation paid in every case. Subject to R 408.40, when compensation is stopped on the basis that the employee has recovered from disability or that the employee is able to return to work, but has not done so, the medical report supporting this position shall be attached to form 701, or filed within 30 days thereafter. When a supplemental form 701 is filed, only that amount not previously reported shall be shown. In a case that requires the filing of form 701, the carrier and the funds shall, in writing, advise the injured employee whose benefits have stopped of the reasons for the action taken at the same time by furnishing a copy of the form 701 to the employee.~~

~~(c) The director may require a report showing the amount of compensation actually paid in cases where payment of compensation has not been previously stopped as of December 31 by the filing of form 701, for that calendar year, regardless of the length of time the case was open. If during the calendar year a form 701 had been previously filed, then only the payments made during the calendar year after the filing of form 701 shall be reported. The report shall be furnished to the bureau at a time and in a manner as the director may reasonably require.~~

~~(d) Immediate notification to the bureau of any change in the rate of compensation. The notice shall state the reason on form 701.The carrier or fund shall send a copy to the employee.~~

~~(e) A statement of the attending physician in every specific loss. The statement shall identify the date and extent of the loss.~~

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

(a) "Act" means Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(b) "Appearance" means participation in person, by telephone, video conference, or other electronic means, at any hearing or conference under this act.

(c) "Approved vocational rehabilitation provider" means any person, firm, partnership, corporation, or other legal entity that has submitted form WC-502, or its electronic equivalent, meets the minimum standards as prescribed by the agency for approval, and has been approved by the agency.

(d) "Debit card" means a stored value card issued by a federally insured financial institution that provides a claimant or the dependent of a claimant immediate access for withdrawal or transfer of the claimant's weekly compensation payments through a network of automatic teller machines. "Debit card" includes a card commonly known as a payroll debit card, payroll card, or paycard.

(e) "Electronic equivalent" means a record created, generated, sent, communicated, or received by electronic means

(f) "Electronic filing" means the process of submitting a document over the internet to the agency, including State of Michigan File Transfer System (FTS), in accordance with the instructions available on the agency's website.

(g) "Electronic service" means the serving of any document by e-mail or electronic file transfer.

(h) "Electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(i) An electronic signature may be a graphic representation of the signature.

(ii) The following forms are acceptable: "/s/ John Smith," "/s/ John Smith, Attorney," or "/s/ John Smith, Authorized Representative."

(i) "File Transfer Service" (FTS) means an electronic computer-based system that facilitates the transmission of a computer file through a communication channel provided by the State of Michigan from one computer system to another.

(j) "Forensic vocational evaluation" means an independent, individualized assessment and evaluation process involving the application of specialized knowledge and the use of scientific, technical, or other professional knowledge for the resolution or clarification of issues related to a claim, typically in a legal setting. This is not vocational evaluation as used in R 408.45a or mcl 418.319.

(k) "IWRP" means an individualized written rehabilitation plan. An IWRP is a document mutually developed by the vocational counselor and the employee that provides a detailed outline of goals, objectives, responsibilities, and services necessary for successful rehabilitation of the employee. The plan is specific to the individual, reviewed on a regular basis and updated as provided in R 408.45a(3)(a).

(l) "Return-to-work hierarchy" means a sequence of steps designed to assist an employee with returning to: a) same job, same employer; b) modified job, same employer; c) different job, same employer; d) same job, different employer; e) different job, different employer; f) self-employment. Remedial and retraining services can be applied at any level of the hierarchy to facilitate success.

(m) "Vocational evaluation" means the first step in the vocational rehabilitation process. It is a comprehensive process of gathering and analyzing relevant information such as educational, medical, and vocational history, interests, aptitudes, and vocational assessment results in order to develop recommendations and the IWRP. The vocational evaluation should include a face-to-face interview with the employee.

(n) "Week" as used under MCL 418.319 means a seven-day period during which the employee actually participates in vocational rehabilitation services that are part of an approved IWRP.

(2) Unless the context of the rule indicates otherwise, the terms "agency" and "director" shall have equivalent meaning.

(3) Terms defined in the act have the same meanings when used in these rules.

PART 2. ~~HEARINGS~~**RECORDS**

~~R 408.31a Computation of weeks and days.~~ **Report of injury; claim for compensation, additional reports; weekly rate of compensation.**

Rule 1a. (1) An employer shall report immediately, to the agency, on form WC-100, or its electronic equivalent, all injuries, including diseases, which arise out of and in the course of the employment, or on which a claim is made, and result in any of the following:

(a) Disability extending beyond 7 consecutive days, not including the date of injury.

(b) Death.

(c) Specific losses.

(2) Any report of injury filed with the agency by an employer that fails to meet the requirements of subrule (1) of this rule shall not be maintained as a record of the agency unless filed with a form WC-107, or its electronic equivalent.

(3) An employer shall give a copy of the report of injury form WC-100, or its electronic equivalent, to the injured employee immediately or, in the case of death, to the dependent(s). The employer or its carrier shall include a written notice to the injured employee or dependent(s) on a form prescribed by the director of the agency, advising of their rights under the act. Any filing required in this section shall indicate compliance with this requirement. A delay in reporting shall not occur because of this requirement. In case of death, an employer shall also immediately file an additional report on form WC-106, or its electronic equivalent.

(4) An employee shall make a claim for compensation to the bureau agency on form WC-117, or its electronic equivalent. The agency shall mail provide a copy of form WC-117, or its electronic equivalent, to the employer and carrier. The carrier shall respond to a form WC-117 in the same manner as a form WC-100.

(5) No later than 28 days following an injury, the employer or carrier shall deliver to the employee a form or its electronic equivalent, as prescribed by the director of the agency, describing the employer or carrier's obligation to furnish reasonable and necessary medical care for the work-related injury or disease. After an employee has given an employer the name of the physician with whom he or she intends to seek treatment and has commenced treatment with the physician under section 315 of the act, the employee shall obtain and promptly furnish a report to the employer, insurance company, private employer group self-insurers' security fund (PEGSISF), first responder presumed coverage fund, or self-insurers' security fund. The report shall set forth the history obtained, the diagnosis, the prognosis, and other information reasonably necessary to properly evaluate the injury, the disability, and the necessity for further rehabilitation or treatment. Thereafter, at reasonable intervals of not more than 60 days, an employee shall obtain and furnish a current medical report, paid for by the carrier, containing the same information, together with an itemized statement of charges for services rendered to date.

(a) A self-insured employer, insurance company, PEGSISF, first responder presumed coverage fund, or self-insurers' security fund is not required to make payment to the physician until the reports and itemized charges have been furnished to it.

(b) Medical fees shall not exceed the maximum allowable payment (MAP) established by the fees considered usual and reasonable for the services performed in accordance with the health care service rules or the provider's usual and customary charge, whichever is less.

(6) For a case that requires the payment of ~~compensation~~ benefits, a carrier, the second injury fund, the PEGSISF, the first responder presumed coverage fund, the self-insurers' security fund, and the silicosis, dust disease and logging industry compensation fund, shall file all of the following reports, notices, or statements in the format required by the agency:

(a) Form WC-701, or its electronic equivalent, on the day after the first payment of compensation. The carrier or fund shall furnish a copy of form 701 to the employee.

(b) Form WC-701, or its electronic equivalent, on the day after the stopping of payment of compensation, showing the amount of compensation paid in every case. ~~Subject to R 408.40, when compensation is stopped on the basis that the employee has recovered from disability or that the employee is able to return to work, but has not done so, the medical report supporting this position shall be attached to form 701, or filed within 30 days thereafter. When a supplemental form 701 is filed, only that amount not previously reported shall be shown. In a case that requires the filing of form 701, the~~

~~carrier and the funds shall, in writing, advise the injured employee whose benefits have stopped of the reasons for the action taken at the same time by furnishing a copy of the form 701 to the employee.~~

(c) ~~The director may require a report showing the amount of compensation actually paid in cases where payment of compensation has not been previously stopped as of December 31 by the filing of form 701, for that calendar year, regardless of the length of time the case was open. If during the calendar year a form 701 had been previously filed, then only the payments made during the calendar year after the filing of form 701 shall be reported. The report shall be furnished to the bureau~~ **agency** ~~at a time and in a manner as the director may reasonably require.~~ **Form WC-701, or its electronic equivalent, within 30 days from the annual anniversary of the date of injury on claims where the starting of weekly compensation benefits has been reported and weekly compensation benefits have not been stopped. The annual report shall include a weekly summary of wages earned when partial wage loss benefits pursuant to section 301(9)(c) are being paid or have stopped prior to the anniversary date if not already reported.**

(d) **Form WC-701, or its electronic equivalent, on the day after** ~~Immediate notification to the bureau of~~ any change in the rate of compensation. ~~The notice shall state the reason on form 701.The carrier or fund shall send a copy to the employee~~ **due to:**

(i) The application of section 301(8), 354, 357, 358, 401(6) or 827 of the act.

(ii) A change in the number of dependents.

(iii) Recoupment of an overpayment.

(iv) Reimbursement or adjustment resulting from involvement of a fund created under section 501 of the act.

(e) If benefits have been reduced to zero for 30 days or longer, a WC-701, or its electronic equivalent, shall be filed in accordance with subsection 408.31(b).

(f) The form WC-701 shall state the reason for any change and include the calculation applied.

(7) The carrier or fund shall send a copy of any WC-701 to the employee.

R 408.31b Computation of weeks and days.

Rule 1b. In computing periods of disability and of compensation, a week shall be computed as 7 days and a day as 1/7 of a week, without regard to Sundays, holidays, and working days.

R 408.32 Compensation supplement fund; "maximum benefit" defined.

Rule 2. (1) A carrier, second injury fund, **PEGSISF,** or self-insurers' security fund shall claim reimbursement from the compensation supplement fund for payments made in accordance with section 352 of the act. A carrier, second injury fund, **PEGSISF**, or self-insurers' security fund shall make a claim on ~~bureau~~ **the** form **WC**-114**, or its electronic equivalent,** application for reimbursement.

(2) A carrier, second injury fund, **PEGSISF,** or self-insurers' security fund shall make an initial application for reimbursement not later than 3 months after the end of the quarter for which the right to reimbursement first accrues. The right to reimbursement first accrues on the first day of the quarter following any quarter for which supplemental benefits are first paid or ordered to be paid.

(3) A carrier, second injury fund, **PEGSISF,** or self-insurers' security fund may make subsequent application for reimbursement quarterly, but not later than 1 year after the closing date of the quarter for which reimbursement is being requested.

(4) A carrier, second injury fund, **PEGSISF,** or self-insurers' security fund shall submit a separate form **WC**-114**, or its electronic equivalent,** for each quarter for which reimbursement is requested. A quarter, as used in this rule, is based on a calendar year as identified by the ~~bureau~~ **agency** on an annual basis.

(5) Upon a proper showing of a claim for reimbursement, the compensation supplement fund shall make payment within a reasonable time after the receipt of the claim. The compensation supplement

fund shall normally make reimbursement within 3 months after the receipt of form **WC-**114, **or its electronic equivalent,** unless a dispute arises.

(6) For the purpose of these rules, "maximum benefit" means the statutory maximum for the year of injury upon which benefits are based; 2/3 of the employee's average weekly wage on the date of injury; the minimum compensation rate in effect on the date of injury; or a maximum compensation rate established by ~~bureau~~ **agency** order. If an employee, or his or her dependents, is receiving maximum benefits as defined in this subrule, there will be a presumption that benefits are being paid under section 351 or 321 of the act.

(7) A compensation supplement shall not be paid for any of the following received by an eligible employee or dependent:

(a) Benefits received for any period of disability before January 1, 1982.

(b) Benefits received under an agreement to redeem the liability of the carrier.

(c) A lump sum payment for remarriage under section 335 of the act.

(d) Interest paid on benefits awarded by a magistrate.

(e) Partial compensation paid under section 361(1) of the act.

(8) In a case involving a lump sum advance payment, supplemental benefits shall not be part of the advance payment, but shall continue to be paid weekly.

(9) In a case involving the carrier's right to subrogation in a third-party recovery, the amount of supplemental benefits shall be based on the weekly compensation rate that the employee would have been receiving on January 1, 1982.

(10) If compensation supplement benefits have been paid and if the employee is later found to be entitled to total and permanent disability benefits, then the second injury fund shall reimburse the compensation supplement fund for the appropriate amount of benefits paid by the compensation supplement fund, and the second injury fund shall reimburse the carrier for the balance of benefits that would have otherwise been paid by the compensation supplement fund.

(11) If the second injury fund is paying differential benefits directly to the injured employee and if the amount of differential benefits increases, then the second injury fund either shall reimburse the compensation supplement fund for any overpayment of monies that the compensation supplement fund has already reimbursed the carrier or shall reimburse the carrier directly in cases where the compensation supplement fund has not yet reimbursed the carrier.

(12) If a case is on appeal over the issue of whether the injured employee is totally and permanently disabled and if the claimant is receiving 70% of the amount of differential benefits that would be owed if total and permanent disability is found to apply, the amount of supplement that is due may be reduced or offset by the 70% amount that is being paid.

(13) If the compensation supplement fund has reimbursed a carrier for the supplemental benefits paid, and if it is later found that the amount reimbursed included an overpayment, then the compensation supplement fund shall be entitled to recoupment of the overpayment from the carrier. The carrier is entitled to recoup the overpayment from the employee.

(14) Section 357 of the act shall not be applied when the amount of supplemental benefit, as provided for in section 352 of the act, is calculated for eligible employees whose date of personal injury is before July 1, 1968.

(15) After the supplemental benefit has been computed in accordance with section 352(1) of the act, based on the weekly compensation rate that the employee or dependent of a deceased employee is receiving or is entitled to receive on January 1, 1982, had the employee been receiving benefits at that time, the supplemental benefit shall not be reduced or increased by changes to the weekly compensation rate that occur after January 1, 1982, except as provided in section 352 and in this rule.

R 408.32a Medical benefits; reimbursement application.

Rule 2a. (1) To be reimbursed for payments made in accordance with the provisions of section 862(2) of the act, medical benefits shall have been required by the terms of an award and shall have been paid in accordance with section 315 of the act and the rules promulgated under section 315. In providing benefits as required by section 862(2) of the act, a carrier shall require that the employee and the provider comply with the requirements of section 315 of the act. ~~and the rules promulgated under section 315.~~

(2) Reimbursement shall apply only to cases for which an initial application for mediation or hearing is filed after March 31, 1986, under section 847 of the act. Claims shall be made on forms provided by and ~~sent~~ **submitted** to the ~~bureau~~ **agency.** ~~of workers' disability compensation.~~ If other insurance coverage is or was available to cover medical benefits paid under section 862(2) of the act, then the ~~bureau~~ **agency** will not make reimbursement.

(3) Applications for reimbursement from the ~~bureau~~ **agency** shall be made not less than 30 days after the benefit amount is reduced or rescinded by a final determination. An application for reimbursement shall be made not later than 1 year after a final determination is entered that reduces or rescinds benefits.

(4) Reimbursement from the ~~bureau~~ **agency** shall be consistent with benefits awarded in the magistrate's decision. Reimbursement will only be made for medical benefits that were provided between the ~~bureau~~ **agency** mailing date of the magistrate's award and the mailing date of the final determination of the appeal or for a shorter period as specified in the award. A copy of the magistrate's order and all subsequent appellate decisions shall accompany each request for reimbursement.

(5) A copy of the medical bills, proof of payment, and a medical report with sufficient documentation to demonstrate that the medical services provided fall within the provision of the magistrate's decision shall accompany each request for reimbursement. Proof of payment shall include certification from the carrier that it has paid the medical bills or, if requested by the ~~bureau~~ **agency**, shall include a receipt from the provider which shows that payment has been made.

(6) Reimbursement shall not be paid if the claim was redeemed before the final determination or if the carrier has not provided proper documentation.

(7) The ~~bureau~~ **agency** shall not pay interest on reimbursable amounts.

(8) If the ~~bureau~~ **agency** determines that all or part of the request for reimbursement is not proper, then the ~~bureau~~ **agency** shall notify the carrier in writing. If the carrier disputes the determination, then it may file an application for mediation or hearing.

R 408.33 Disputed claims; late payment penalty.

Rule 3. (1) On or before the fourteenth day after the employer has notice or knowledge of an alleged injury or death, the carrier**, PEGSISF,** and self-insurers' security fund shall notify the ~~bureau~~ **agency** on form **WC**-107, **or its electronic equivalent**, if the right of the injured or dependent to compensation is disputed. ~~If compensation thereafter is paid, report it on form 701.~~ A copy of **the** form **WC**-107, notice of dispute, shall be ~~mailed or given~~ **provided** to the injured employee.

(2) The following subdivisions govern the administration and enforcement of the penalty provisions under section 801 of the act:

(a) Under section 801(1) of the act, compensation shall be paid promptly and directly to the person entitled to compensation. Weekly benefits become due and payable on the fourteenth day after the employer has notice or knowledge of the disability or death. On that date, all compensation which has accrued shall be paid. If benefits are not paid within 30 days of becoming due and payable, then the carrier shall pay to the employee $50.00 per day for each day after 30 days that the benefits remain unpaid, not to exceed $1,500.00. **To avoid payment of penalties, an employer or carrier must demonstrate a good faith legal basis or actual facts supporting the dispute.**

(b) If a case is in litigation and the defendant agrees to pay benefits on a voluntary basis, then the magistrate shall specify the weekly compensation rate, the period of time for which accrued benefits

have become due, and which medical bills shall be paid by the carrier as a result of the injury or disability. If the benefits agreed to are not paid within 30 days of the date the agreement is formalized by the magistrate, then the carrier shall pay to the employee $50.00 per day for each day after 30 days that the benefits remain unpaid, not to exceed $1,500.00.

(c) Medical bills become due and payable on the day the carrier receives the bill. If there is a dispute resulting in a delay in paying the medical bills, then the carrier shall advise the employee and doctor of the reasons for the delay in writing. If there is no dispute and the bill remains unpaid 30 days **after the carrier has received notice of nonpayment by certified mail**, then the carrier shall pay to the employee $50.00 for each day after 30 days that the bill remains unpaid, not to exceed $1,500.00.

(d) The travel allowance for medical examination, treatment, or rehabilitation is provided in R 408.45. The employee shall be notified by **the carrier**, in writing, of any **dispute resulting in** a delay in paying travel allowance payments. If the expenses are not paid within 30 days of the date of the carrier's **receipt of notification of non-payment by certified mail** ~~notification,~~ and if the expenses are not disputed, then the carrier shall pay the employee $50.00 for each day after 30 days that the expenses remain unpaid, not to exceed $1,500.00.

(e) Under section 801(4) of the act, an employer may be liable for all or a portion of the penalty provided in section 801(2) of the act. If there is a dispute between an employer and insurance carrier as to who is liable for the payment of the penalty, the carrier shall be liable for paying the penalties, but may be entitled to reimbursement from the employer.

(f) Any employee who may be entitled to penalty payments under section 801 of the act and who has not received the payments may apply by notifying the ~~bureau~~ **agency** in writing. A copy of the request shall be forwarded to the carrier. In all cases, the ~~bureau~~ **agency** ~~of workers' disability compensation~~ shall respond within a reasonable period of time and shall act, as it deems appropriate, to resolve any disputes involving the penalty provisions of section 801 of the act. If a dispute continues beyond a determination by the ~~bureau~~ **agency** or if the director believes there is a question of compliance with the act, then the dispute may be set for a hearing under R 408.35. A party to a dispute may request a formal hearing before a magistrate.

(g) A carrier shall pay any penalty amounts due an injured employee as a result of the penalty provisions specified in section 801 of the act in a separate check. Penalty amounts are not a part of the basic benefits to which an employee is entitled for the purpose of loss or assessment.

(h) Benefits, allowances, or bills are presumed paid within 30 days if a check is mailed within 27 days of becoming due and payable under these rules.

PART ~~2~~**3**. ~~INSURANCE~~ **HEARINGS**

R 408.34 Applications for hearing; small disputes.

Rule 4. (1) In cases of dispute coming under the jurisdiction of the ~~bureau~~ **agency**, any party may ~~petition~~ **apply to** the ~~bureau~~ **agency** for relief. The complaining party shall file ~~his or her~~ **an application** ~~petition~~ **WC-**104**a**, **WC-**104b, or **WC-**104c**, or their electronic equivalent,** with the ~~bureau~~ **agency.** ~~at its Lansing office.~~ The ~~bureau~~ **agency** shall then serve the adverse party with a copy of the ~~petition~~ **application** and, at the same time, notify the parties of the time and place of the initial hearing. The adverse party shall file ~~his or her~~ **their** answer to the ~~petition~~ **application** with the ~~bureau~~ **agency** within 15 days after service and serve a copy of the answer on the complaining party.

(a) A form WC-104b without a corresponding WC-104a or WC-104c does not create an exception under section 230(3).

(2) In any case where the compensable disability of an injured employee is undisputed and involves 1 or more disputed injury dates during the course of employment with 1 or more employers, or during the course of employment with 1 employer who is insured by 1 or more insurance carriers, the ~~bureau~~

agency may direct compensation benefits to be paid at the maximum rate, as determined in section 351 of the act, with no dependents as provided in the schedule of benefits on the earliest or initial date of injury alleged. The self-insured employer or insurance carrier that has the risk on the earliest or initial date of injury shall make the payments. Payments shall continue through the mailing date of the decision of the magistrate and shall be adjusted in accordance with the decision unless an appeal is taken. If an appeal is taken section 862 of the act shall apply. The magistrate shall order reimbursement where appropriate.

(3) In apportionment cases that are tried involving a date of injury before January 1, 1981, the primary action is between the last employer and the injured employee. All other joined employers may appear, cross-examine witnesses, give evidence, and defend on the issue of liability. In setting trial dates for such cases, only the convenience of the plaintiff and the last employer, or their attorney, shall be considered.

(4) After attempting to resolve the dispute without ~~bureau~~ **agency** involvement, either party may request the director to schedule a conference or the director, on his or her own motion, may schedule a conference to resolve small disputes. Parties involved in such disputes shall attend the conference.

(5) Small claims matters submitted under section 841 of the act shall be heard by a magistrate. The parties may stipulate that any decision rendered shall be applicable only to the issues submitted and not res judicata in any other proceeding between the parties other than for enforcement of the determinations in the decision.

R 408.35 ~~Bureau~~ Agency compliance hearings.

Rule 5. (1) If the director believes that there has not been compliance with the act, then the director may, on his or her own motion, give notice to the parties and schedule a hearing for the purpose of determining compliance. The notice shall contain a statement of the matter to be considered.

(2) If a matter that is alleged to be grounds for a hearing in accordance with this rule is brought to the attention of the ~~bureau~~ **agency**, then the director or his or her authorized representative shall review the evidence of noncompliance with the act that is presented and, after making inquiries or investigations that he or she deems appropriate, determine if a hearing in accordance with this rule is necessary. The parties involved shall be notified within 30 days of a receipt of the request as to the time and date of hearing or the reasons for denial.

(3) The ~~bureau~~ **agency** shall schedule a hearing within a reasonable time, subject to the availability and schedules of hearing personnel and the parties involved. A request for a hearing under this rule shall, at a minimum, contain sufficient information to warrant investigation or inquiry into a matter. The request for hearing shall include, but is not limited to, all of the following information:

(a) Facts and law involved in the alleged failure to comply, including names, dates, amounts, or other pertinent information.

(b) A description of the redress or other specific action requested with specific references to sections of the act allegedly not complied with.

(4) The director shall issue an order on the hearing in which compliance may be ordered

(5) Any order of the director under this rule may be appealed to the board of magistrates within 15 days after the order is mailed to the parties. If the order is not appealed within 15 days after mailing, then the order of the director is final. The board of magistrates shall conduct a hearing on the appeal within 60 days of the date of appeal to the board of magistrates.

R 408.36 Service of papers and other pleadings; manner of service; date of service; statement or proof of service; filings.

Rule 6. **(1)** Service of all ~~petitions~~ **applications**, papers, notices, and orders shall be in accordance with the following:

(a) Service of all original ~~petitions~~ **applications** for hearing under R 408.34(1) shall be by the ~~bureau~~ **agency** on each named party to the case at the time service is made.

(b) Service of any subsequent ~~petitions~~ **applications** or motions filed on a pending contested case which may alter the parties to a case shall be by the ~~bureau~~ **agency**. The ~~bureau~~ **agency** shall serve all new parties but may serve only the attorney for each previously named party. Parties not represented by legal counsel shall be served directly. The ~~bureau~~ **agency** may request the necessary papers, notices, and postage to be provided by the moving party.

(c) Service of any subsequent ~~petitions~~ **applications** or motions filed on a pending contested case which do not alter the parties to a case may be made by the moving party upon the adverse party. The moving party shall only be required to serve the attorney for each previously named party. Any party not represented by legal counsel shall be served directly. The original petition or motion and proof of service shall be filed with the ~~bureau~~ **agency**.

(d) Notices mailed by the ~~bureau~~ **agency** after service of the original ~~petition~~ **application** for hearing shall be served upon the attorney for each named party. Any party not represented by legal counsel shall be served directly. If the notice requests or requires the appearance or action of a specific party, that party shall also be served.

(e) Decisions or orders issued by the ~~bureau~~ **agency** shall be ~~mailed to~~ **served on** all parties, **by mail, e-mail to the e-mail address on file, FTS,** or personally on the date of hearing. ~~all mailed decisions shall be served from the Lansing office or from such other bureau offices as designated by the director.~~ Upon mailing, **e-mailing, FTS** or personal service, the original order and copies shall show a mailed date or acknowledgement of personal service on their face, from which date the appropriate appeal period shall run. ~~The mailed or personal service date shall be considered the filed date for the order.~~

(f) Service of all other papers, unless otherwise directed by law, may be made by mail**, email or FTS** by the moving party upon the adverse party and proof of such mailing shall be prima facie evidence of such service. Proof of such service shall be filed with the ~~bureau~~ **agency**.

(g) Service of all papers under this rule upon employers whose liability under the act is not insured according to the records of the ~~bureau~~ **agency**, or who have not been granted the privilege of self-insurance, shall be by certified mail with a return receipt requested. Filing of the return receipt shall be prima facie proof of service.

(h) Service between the parties may be completed electronically if the parties agree to service by e-mail, or electronic file transfer subject to all of the following:

(i) The agreement for service by e-mail or electronic file transfer shall set forth the FTS mailbox or e-mail addresses of the parties or attorneys that agree to electronic service.

(ii) Parties and attorneys who have agreed to service by FTS under this subrule shall immediately notify all other parties if the party's or attorney's FTS mailbox or e-mail address changes.

(iii) Documents served electronically must be in pdf format or other agency-approved format that prevents the alteration of the document contents.

(iv) An electronic transmission sent after 5:00 p.m. Lansing, Michigan time, shall be deemed to be served on the next day that is not a Saturday, Sunday, or state holiday.

(v) The parties are not required to file a copy of the electronic service agreement with the agency unless a dispute arises as to service by electronic service.

(vi) The electronic sender shall maintain an archived record of sent items that shall not be purged until the conclusion of the contested proceedings, including the disposition of all appeals.

(2) The agency may serve documents on the parties, the parties' attorney, or the parties' authorized representative by mailing a copy, by FTS to the designated mailbox, by e-mail to the e-mail address on file, or by personal service.

(3) At the discretion of the director, the agency may use alternative service methods including:

(a) Transmitting by facsimile.

(b) Utilizing a commercial delivery service.

(c) Leaving a copy of the document at the residence, principal office, or place of business of the person or agency required to be served.

(4) Documents and pleadings may be filed in a proceeding by mailing, personal delivery, facsimile, FTS, or other agency-approved electronic filing system, if provided.

(5) All document filings must be formatted using a 12-point font on 8½ x 11 inch paper, unless filed electronically using an agency-approved electronic filing system.

(6) Documents and pleadings filed by mail, e-mail, an agency approved electronic filing system, personal delivery, or facsimile and received by the agency on or before 11:59 p.m. Lansing, Michigan time are considered filed on the same business day. If received on a weekend or holiday, they shall be considered received in the following business day.

(7) A required signature means a written signature, or an electronic signature as defined in R408.31(g).

R 408.38 Application for advance payment of compensation.

Rule 8. An applicant shall submit an application for advance payment of compensation on form **WC**-108**, or its electronic equivalent**. If the carrier, second injury fund, self-insurers' security fund, **PEGSISF,** or **first responder presumed coverage fund** ~~silicosis and dust disease fund~~ refuses to approve the application, then the matter shall be set for hearing to determine whether the application should be approved. A carrier, second injury fund, self- insurers' security fund, **PEGSISF,** or **first responder presumed coverage fund** ~~silicosis and dust disease fund~~ shall not approve, and a magistrate shall not order an advance payment of compensation to a minor dependent until a legal guardian has been appointed.

R 408.39 Redemptions.

Rule 9. **(1)** An agreement to redeem the liability of the carrier, second injury fund, self-insurers' security fund, **PEGSISF,** silicosis and dust disease fund, **or first responder presumed coverage fund** shall be submitted on form **WC**-556, **or its electronic equivalent**, agreement to redeem liability. The agreement shall be accompanied by a report~~, approved by the employee,~~ from a licensed medical provider or examiner. ~~physician stating, in detail, the findings of a recent examination~~.

(2) A request for review of an order of a workers' compensation magistrate entered under section 837(1) of the act must be filed in writing with the director. Filing may be accomplished by hand delivery, mailing, facsimile, or other electronic means as prescribed by the director.

(3) A request for review must be received by the director not later than 15 days after the service date that appears on the face of the redemption order.

(4) The party filing a request for review shall provide copies to all other parties at the time of filing with the director.

(5) The party filing a request for review shall file with the director a copy of the transcript of the redemption hearing within 30 days of filing the request for review. A copy of the transcript must be provided to all parties at the time of filing with the director. The director may grant extensions of time to comply with this requirement for sufficient cause shown.

(6) If the director requests review of the order of the workers' compensation magistrate, the director shall be responsible for adherence to these rules.

(7) Service of all filings made under this rule may be made upon a parties' attorney of record. A party not represented by an attorney shall be served personally or by mail.

(8) Proof of service shall be filed with the director with each filing and served upon all parties or their attorney.

(9) Failure to comply with these rules may result in dismissal of the request for review.

R 408.40a Stoppage, reduction, or suspension of compensation.

Rule 10a. (1) If compensation is being paid under an order or award of the magistrate, ~~or~~ workers' **disability** compensation ~~appellate~~ **appeals** commission, **or an appellate court,** then compensation shall not be discontinued or reduced without a further order or award, except as provided in subrules (3) and (4) of this rule and sections 301~~(5)(b)~~**(8), 401(6)** and ~~361(1)~~ **301(9)(c)** of the act. ~~A petition to stop compensation shall include both of the following:~~

~~(a) Proof of payment of compensation to within 15 days of the date of the filing of a petition to stop compensation.~~

~~(b) An affidavit stating that the employee has returned to gainful employment and substantially describing the nature of the employment, or a signed statement from a physician stating that the employee is able to return to employment.~~

(2) At the time of filing an application requesting a stoppage of compensation, the moving party shall provide to the claimant and counsel, if represented, both of the following:

(a) Proof of payment of compensation to within 15 days of the date of the filing of a petition to stop compensation.

(b) An affidavit stating that the employee has returned to gainful employment and substantially describing the nature of the employment, or a signed statement from a physician stating that the employee is able to return to unrestricted employment, or that the current wage loss is no longer related to the work injury.

(3) Upon receipt of an application requesting a stoppage of compensation, ~~the bureau~~ **the agency** shall schedule **a** hearing **with a magistrate** within ~~30 days~~ **60 days**. ~~of receiving a petition to stop compensation, and an order shall be entered under R 408.36.~~

(4) If a letter that carries a compensation check is returned by the United States post office unopened, and if a diligent search has been made for the party to whom compensation payment is due under the terms of an order or award, then the party liable for payment may suspend payment upon filing **with the agency** an affidavit that the check was returned and a diligent search was made to locate the party. The suspension shall not prejudice the reinstatement of suspended payments.

(5) Upon filing of the report required by R 408.31(6)(~~d~~**e**) and notification to an employee, compensation benefits may be reduced in accordance with the act for changes in dependency**, coordination of benefits, wages earned,** and age 65 reductions.

(6) Except as provided under section 354 of the act, where the carrier, PEGSISF, first responder presumed coverage fund, or self-insurers' security fund has voluntarily paid benefits or paid benefits pursuant to a voluntary pay agreement, no reimbursement of previously paid benefits may be ordered against the employee unless the employer or carrier establishes that the employee concealed post-injury earnings that, if reported, would have reduced the amount of wage loss benefits paid.

R 408.40b Appearances at ~~mediation~~ conferences.

Rule 10b. (1) In a contested case, in a hearing district designated by the director, the parties or their attorneys ~~shall~~ **may** appear ~~personally~~ before the ~~bureau~~ **agency** at a**ny** ~~conference or~~ **hearing or** ~~mediation~~ conference at a date and place scheduled by the director **in person, by telephone, video conference, or other electronic means.**~~.~~ Failure of ~~the petitioner~~ **any party** or his or her attorney to appear in a timely manner and participate in a ~~mediation~~ conference may result in the application for mediation or hearing being deemed to have been voluntarily withdrawn under section 205 of the act. Failure of the defendant or its attorney to appear in a timely manner and participate in a mediation conference may subject the defendant to being charged immediately under R 408.35 for noncompliance

with the act. A party that fails to appear and participate in a scheduled mediation conference shall obtain the dates for any future ~~mediation~~ conferences or hearings scheduled.

(2) The ~~bureau~~ **agency** may require any information from the parties that may be necessary to monitor the progress of the case, assist in the voluntary exchange of information between parties, and facilitate the scheduling of cases.

(3) If the parties agree to compromise the dispute by voluntary payment, the terms of such payment shall be specified on the voluntary payment form signed by both parties and the ~~mediator~~ **director or designated representative**. If the benefits agreed to are not paid within 30 days of the date the agreement is personally served or mailed by the ~~mediator~~ **agency**, then the carrier shall pay to the employee penalties in accordance with section ~~418.~~801 of the act.

R 408.41 Notice of insurance.

Rule 11. **(1)** Every notice of issuance of a workers' disability compensation insurance policy shall be reported to the ~~bureau~~ **agency** on form **WC**-400, **or its electronic equivalent,** insurer's notice of issuance of policy. If the employer is a partnership, the notice shall state the names and addresses of all the partners. If the employer is doing business under an assumed name, the notice shall state the assumed name and each Michigan location covered. If the employer is a corporation doing business through a number of divisions, the notice shall state the names of all the divisions of the corporation. The ~~bureau~~ **agency** shall be notified when any insurance company receives a change of address of an insured.

(2) A form WC-403, or its electronic equivalent, insurer's notice of name or address change, shall be filed when an employer is updating, adding or deleting information related to a business name, address, or division. Any changes shall be specific to the federal identification number noted on the form. Changes to business entities under different federal identification numbers will require separate forms for each number.

R 408.41a Termination of insurance.

Rule 11a. A notice of termination of the liability of an insurance company on a policy covering the risk of an employer under the act shall be reported to the ~~bureau~~ **agency** on form **WC**-401, **or its electronic equivalent,** notice of termination of liability. A copy of the notice shall be mailed to the employer. If the employer is a partnership, the notice shall state the names and addresses of all the partners. If the employer is doing business under an assumed name, the notice shall state the assumed name and the names of all parties doing business under the assumed name. If the employer is a corporation doing business under a number of divisions, the notice shall state the names of all the divisions of the corporation. If a business changes names notice shall be given stating both the new and former names. Notice of termination of a policy which has expired shall not be reported when the insurance carrier has accepted responsibility under a further or renewal policy, except for an assured's name change.

R 408.41b Notice of election to be excluded as employees under act.

Rule 11b. **(1)** A notice of election to be excluded under section 161(4)**(5)** of the act shall be reported to the ~~bureau~~ **agency** on form **WC**-337**, or its electronic equivalent**, notice of exclusion. The employer shall have the notice notarized. If the employer is a partnership or corporation, then the notice shall state the names of all the partners or corporate officers. If the employer is doing business under an assumed name, then the notice shall state the assumed name and each Michigan location covered.

(2) The employer shall certify that the employees signing the exclusion comprise all of the employees of the employer. The employer shall further certify that all employees are eligible to be excluded under section 161(2) or (3) of the act. Each employee shall furnish his or her social security number and certify

that the employee voluntarily signed the election to be excluded. The employer shall furnish its federal identification number. The employer shall furnish each employee with a copy of the completed exclusion form before filing the form with the ~~bureau~~ **agency**. The exclusion shall become effective upon receipt of the notice of exclusion by the ~~bureau~~ **agency**.

R 408.41c Notice of election to terminate exclusion as employees under act.

Rule 11c. **(1)** Every notice of election to terminate an exclusion from coverage previously filed under section 161(4)**(5)** of the act shall be reported to the ~~bureau~~ **agency** on form **WC**-338, **or its electronic equivalent,** notice to terminate exclusion. The employer shall have the notice notarized. The notice shall state the reason for terminating the exclusion. The notice to terminate exclusion shall certify that all employees and the employer signing the notice to terminate exclusion have received a copy of the completed notice to terminate exclusion before filing the notice with the ~~bureau~~ **agency**. The employer shall furnish its federal identification number.

(2) The termination of exclusion shall become effective not later than 20 days after the notice to terminate exclusion is received by the ~~bureau~~ **agency**. If a carrier is providing coverage at the time the notice to terminate exclusion is filed, or assumes coverage during the 20-day period, then the notice to terminate exclusion shall become effective on the date the carrier assumes coverage.

R 408.42 Application for specific risk insurance policy to cover specified construction site.

Rule 12. An applicant may make written application to the ~~bureau of workers' disability compensation~~ **agency** for permission to obtain a specific risk insurance policy to cover all employers on a specified construction site where the cost of construction will be more than $65,000,000.00 and the contemplated completion period will be 5 years or less. The application shall give sufficient detail to specify the location of the proposed construction site, a breakdown of the total cost, and the contemplated completion period for the construction. After considering the application and all supportive data, the ~~bureau~~ **agency** shall either grant approval or advise the owner of the requirements to be met before approval is granted. The applicant shall be given 30 days from the receipt of the ~~bureau~~ **agency**'s notice in which to comply with the requirements of the ~~bureau~~ **agency**. The approval for a specific risk policy is not effective until the ~~bureau~~ **agency** has received proof that all requirements of the ~~bureau~~ **agency** for issuance of a specific risk policy to cover a specified construction site have been met. The applicant, at the discretion of the director, may be granted additional time to meet the requirements for approval of a specific risk policy. A request for an extension of time shall be made in writing within the 30-day compliance period. If the ~~bureau~~ **agency** does not receive proof that all requirements for the approval of a specific risk policy for a specified construction site have been met within the time prescribed, then the application shall be considered withdrawn.

R 408.42a Notice of insurance; specified construction site insurance policy.

Rule 12a. If an insurance policy is issued to cover a specified construction site where the cost of the construction will be more than $65,000,000.00 and the contemplated completion period will be 5 years or less, then the insurers shall notify the ~~bureau~~ **agency** on a form **WC**-400~~a~~**A**, insurer's notice of issuance of specific risk policy, of the date upon which the employer became subject to the specific insurance policy. If the employer is a partnership, then the notice shall state the names and addresses of all the partners. If the employer is doing business under an assumed name, then the notice shall state the assumed name and the names of the parties doing business under the assumed name. If the employer is a corporation doing business through a number of divisions, then the notice shall state the name of the employer and the divisions that are covered under the specific risk policy. The specific risk carrier shall notify the ~~bureau~~ **agency** when the specific risk carrier receives a change of address for the employer.

R 408.42b Termination of insurance; specified construction site insurance policy.

Rule 12b. **(1)** A notice of termination for coverage of an employer under an insurance policy covering the specified construction where the cost of construction will be more than $65,000,000.00 and the contemplated completion period will be 5 years or less, shall be reported to the ~~bureau~~ **agency** on form **WC**-401~~a~~**A**, notice of termination of liability for employer under specific risk policy.

(2) The insurer shall mail a copy of the notice to the employer. If the employer is a partnership, then the notice shall state the names and addresses of all the partners. If the employer is doing business under an assumed name, then the notice shall state the assumed name and the names of all parties doing business under the assumed name. If the employer is a corporation doing business under a number of divisions, then the notice shall state the name of the employer and the divisions of the corporation covered by the termination. If the business changes names, then notice shall be given stating both the new and former names. Notice of termination of a policy which has expired shall not be reported when the specific risk carrier has accepted responsibility under a further or renewal policy, except for an assured's name change. The termination notice shall be filed with the ~~bureau of workers' disability compensation~~ **agency** at Lansing, Michigan, not less than 20 days before the effective date of any termination or cancellation of the policy with respect to the employer. The notice shall give the date of termination or cancellation of the contract or policy with respect to the employer. Termination or cancellation of the specific risk policy takes effect, with respect to the employees of the insured employer, 20 days after notice of a proposed termination or cancellation is received by the ~~bureau~~ **agency** ~~of workers' disability compensation~~.

R 408.43 Employer self-insured application; combinable entities.

Rule 13. (1) An employer who applies for the authority to become an individual self-insurer shall apply to the ~~bureau~~ **agency** on form **WC**-402**, or its electronic equivalent**.

(2) The initial and annual renewal application shall contain answers to all questions, shall include all requested supporting information, as directed, and shall be sworn to by an authorized representative of the employer whose signature is notarized.

(3) Separate legal entities may be self-insured under a single authority if they are majority-owned by the self-insured entity submitting the application or if the same person or group of persons owns a majority interest in each entity on a single application. "Majority interest" of a corporation means ownership of a majority of the voting stock or authority to appoint a majority of directors, if there is no voting stock. "Majority interest" of a partnership means majority partnership interest by the same person or group of persons. "Majority interest" in a limited liability company means majority member ownership by the same person or group of persons.

R 408.43a Employer individual self-insurer; surety bond or letter of credit; consideration of employer in business less than 5 years; excess liability insurance; required guaranties; claims service companies; self-administered claims.

Rule 13a. (1) A nonpublic self-insurer may be required to furnish a surety bond or letter of credit. The ~~bureau~~ **agency** will establish the amount of security at the time of initial application. The ~~bureau~~ **agency** shall review the adequacy of security periodically. The ~~bureau~~ **agency** shall prescribe the format and language of the bond or letter of credit. The ~~bureau~~ **agency** shall accept surety bonds only from a surety writer authorized to transact security bond business in Michigan. A surety bond shall provide for 60 days' notice of cancellation to the ~~bureau~~ **agency**. Letters of credit are administered under R 408.43q.

(2) An employer that is in business less than 5 years shall not be considered for self-insured authority unless its workers' disability compensation liability will be guarantied by a parent corporation or

combinable affiliated entity that has been in business not less than 5 years and that would qualify for self-insured authority in Michigan.

(3) The ~~bureau~~ **agency** shall require specific excess liability insurance, with policy limit and retention acceptable to the ~~bureau~~ **agency**, for every self-insured employer, unless the ~~bureau~~ **agency**, at its discretion, waives the requirement. The ~~bureau~~ **agency** may require aggregate excess liability insurance as a condition of approval for a self-insured employer. Specific and aggregate excess liability insurance policies are accepted under R 408.43k.

(4) Parent corporations shall guaranty all liability incurred by their self- insured subsidiaries under the workers' disability compensation act, unless the ~~bureau~~ **agency**, at its discretion, waives the requirement. The ~~bureau~~ **agency** shall prescribe the form and substance of the guaranties. The ~~bureau~~ **agency** may require employers, combinable under a single self-insured authority, to execute workers' disability compensation payment guaranties as a condition for approval of the self-insured authority. The ~~bureau~~ **agency** shall prescribe the form and substance of the guaranties.

(5) A self-insurer approved under section 418.611(1)(a) of the act shall contract with a claims service company approved by the ~~bureau~~ **agency** under R 408.43m. The ~~bureau~~ **agency** may approve a self-insurer to self-administer claims if the employer has all necessary systems, processes, and reporting capabilities and can demonstrate it has employed competent claims personnel with Michigan workers' compensation adjusting experience.

R 408.43b Employer individual self-insurer; compliance with ~~bureau~~ agency requirements; notice; additional time; certification; renewal application.

Rule 13b. (1) If the agency approves an initial application of an employer to be an individual self-insurer, then the approval shall be in writing. The approval letter shall contain the excess liability insurance terms, bond, letter of credit, and guaranties required by the agency as a condition of the self-insured authority. The employer has 30 days from the receipt of the agency's notice in which to comply with the requirements of the agency. The self-insured authority shall not become effective until the agency has received proof that all requirements of the agency for self- insured authority have been met.

(2) The employer may, at the discretion of the agency, be granted additional time to meet the requirements for the self-insured authority. An employer shall make a request for an extension of time in writing within the 30-day compliance period. If the agency does not receive proof that all requirements for the self-insured authority have been met within the time prescribed, then the application shall be considered withdrawn.

(3) The agency will issue a letter certifying self-insured authority to the employer when the employer meets the requirements of the agency. The self-insured authority for all approved employers expires on the designated renewal date, which shall not be more than 12 months from the effective date of the authority. A self-insured employer shall submit a renewal application (form **WC**-402R)**, or its electronic equivalent,** and requested documents, including a current financial statement and loss information, to the agency 30 days before the expiration of the self-insured authority. Upon receipt of a renewal application, the authority shall be extended until denied or approved for an additional 12 months.

R 408.43c Financial, loss experience and liability exposure analysis; notice of denial or termination.

Rule 13c. (1) The ~~bureau~~ **agency** may decline to approve an application for, or may terminate the self-insured authority if an employer is unable to demonstrate a position of reasonable solvency and the ability to pay benefits as prescribed in the act. The ~~bureau~~ **agency** analysis of each nonpublic employer application shall include a review of the employer's financial position and operating results. Standard financial ratio analysis and comparison to similar industry statistical data will be considered in the

financial position analysis. Other information relevant to the applicant's financial ability, including but not limited to the following, will be considered:

(a) The historical operating results.

(b) Evaluation of financial trends.

(c) Banking relations.

(d) Contingent liabilities.

(e) Pending litigation.

(f) Corporate guaranties.

(g) Management team continuity and experience.

(h) General and specific industry economic conditions.

(i) Legal structure.

(2) The ~~bureau~~ **agency**'s analysis of the employer's loss experience and liability exposure shall include but is not limited to the following:

(a) Claims for not less than 3 policy years broken down by paid, reserve, and total incurred amounts.

(b) Number of employees.

(c) Payroll code classifications.

(d) Excess liability insurance policy terms will be required and considered in the determination of financial ability.

(~~2~~**3**) The ~~bureau~~ **agency** shall mail notice of a denial or termination of self-insured authority to the employer. The notice shall include the grounds for denial or termination. The employer may request a hearing in accordance with section 418.611(5) of the act and R 408.43n.

R 408.43d Group self-insurers; application.

Rule 13d. Application for group coverage, as contemplated in section 611 of the act for the express purpose of establishing a group self-insurers' fund, to be administered under the direction of an elected board of trustees and to provide workers' compensation coverage for a group of private employers in the same industry or for public employers of the same type of unit, shall be made to the ~~bureau~~ **agency**. The application shall be made on a form prescribed by the ~~bureau~~ **agency** and shall contain answers to all questions. Answers shall be given under oath.

R 408.43e Group self-insurers; new and renewal application requirements.

Rule 13e. (1) A new application, as submitted by the initial board of trustees of the self-insurer's fund, shall be accompanied by all of the following:

(a) A copy of the approved bylaws of the proposed group self-insurers' fund.

(b) ~~An original signed~~ **A copy of the original** individual member application approved by the board of trustees for each member of the group applying for coverage in the fund.

(c) A current financial statement of each member of a private self-insurers' group that, taken collectively, shows both of the following:

(i) The combined net assets of all members applying for coverage on the inception date of the fund, which shall not be less than $1,000,000.00.

(ii) Working capital, which shall be in an amount that establishes the financial strength and liquidity of the business.

(d) A composite listing of the estimated standard premium to be developed by each member of the group individually and in total as a group.

(e) Proof of payment by each member of not less than 25% of the estimated annual standard premium into a designated depository.

(f) An excess insurance policy which is issued by an authorized carrier in an amount acceptable to the ~~bureau~~ **agency** and which is in compliance with the requirements set forth in R 408.43k.

(g) A copy of a signed service agreement that designates an approved service company.

(h) A copy of the current contract or agreement between the trustees and the administrator if one is used.

(i) Proof of a fidelity policy in a form and amount acceptable to the ~~bureau~~ **agency**.

(j) If required, a surety bond written by an authorized carrier or other security in a form and amount acceptable to the ~~bureau~~ **agency**.

(k) In the case of a private employer's group, an indemnity agreement jointly and severally binding the group and each member of the group to comply with the provisions of the act. The indemnity agreement shall conform to an indemnity agreement as approved by the ~~bureau~~ **agency**.

(l) A breakdown of all rates by code classification that will be used by the group fund to develop final audited premium, including an exhibit that shows all administrative expenses as a percentage of estimated final audited premium and loss fund developed under the aggregate excess contract as a percentage of final audited premium.

(m) The trustees shall provide proof, satisfactory to the ~~bureau~~ **agency**, that the annual gross premiums of the fund will be not less than $500,000.00.

The premium collected from each member shall be based upon applying the appropriate manual rates per payroll code classification as approved by the ~~bureau~~ **agency** and the excess carrier. The premium collected from each participant in a group self-insurance program shall be adjusted by an experience modification formula approved by the ~~bureau~~ **agency**.

The total premium collected from all participants shall be sufficient to fund the loss fund developed under the excess insurance contract and the total administrative expenses of the group fund. A written excess insurance policy shall confirm that the rate structure proposed by the aggregate excess insurer will be used by the group fund to develop the loss fund under the aggregate excess contract. The loss fund shall be 75% of final audited premium or as approved by the ~~bureau~~ **agency**.

(n) Proof, satisfactory to the ~~bureau~~ **agency**, shall be provided to prove that the fund has, within its own organization, ample facilities and competent personnel to service its own program with respect to underwriting matters and loss control services or the fund shall contract with an approved service company to provide the services. An approved service company shall be used to handle claims adjusting and reporting of loss data to the ~~bureau~~ **agency**.

(2) Each group fund shall submit a renewal application to the ~~bureau~~ **agency** 30 days before the expiration of the self-insurance privilege, together with the terms of renewal for the excess insurance contract. Upon receipt of the renewal application, the self-insurance privilege shall be extended until it has been acted upon by the director. The application shall be accompanied by all of the following:

(a) Evidence of the financial ability of the group to meet its obligations under the act.

(b) Confirmation of an excess insurance policy which is issued by an authorized carrier in an amount acceptable to the ~~bureau~~ **agency** and which is in compliance with the requirements set forth in R 408.43k. With the approval of the director and after meeting all requirements the director imposes, a group self-insurance fund may use a letter of credit in place of aggregate excess insurance if the fund gives the ~~bureau~~ **agency** 6 months' notice of its intent to use a letter of credit.

(c) A copy of a signed service contract which designates an approved service company, which provides for claims administration and reporting of loss data to the ~~bureau~~ **agency**, and which may include underwriting and loss control services, unless approval has been granted to self-administer claims.

(d) Proof of a fidelity policy in a form and amount acceptable to the ~~bureau~~ **agency**.

(e) A breakdown of all rates by code classification that will be used by the group fund to develop final audited premium. If aggregate excess insurance is required by the ~~bureau~~ **agency**, the rates

used by the fund to develop final audited premium shall be the rates used by the aggregate excess insurer and shall be included as an exhibit to the aggregate excess insurance policy. In addition, an exhibit that shows all administrative expenses as a dollar amount and a percentage of estimated final premium and the loss fund developed under the aggregate excess contract as a percentage of final audited premium shall be provided.

(f) A copy of the current contract or agreement between the trustees and the fund administrator, if one is used.

(g) Proof provided by the trustees that the premium collected from each member shall be based upon applying the appropriate manual rates per payroll code classification as approved by the ~~bureau~~ **agency** and the excess insurance carrier or consulting actuary. Each member's premium shall be experience rated. The experience modification formula shall be approved by the ~~bureau~~ **agency**. The total premium collected from all participants shall be sufficient to fund all administrative expenses and the estimated loss fund developed under the excess insurance contract. The loss fund shall be 75% of final audited premium or as approved by the ~~bureau~~ **agency**. If a letter of credit is used in place of aggregate excess insurance, the fund shall collect sufficient premiums to fund the ninetieth percentile confidence level of losses, as calculated by a consulting actuary, and all administrative expenses. If a public employer group fund operates with specific excess insurance only, the fund shall collect sufficient premiums to fund the ninetieth percentile confidence level of losses, as calculated by a consulting actuary, and all administrative expenses of the fund.

(h) If the fund intends to provide underwriting and loss control services, the fund shall provide proof that the fund has ample facilities and competent personnel to service the programs.

(i) If the fund requests approval to self-administer claims, then all of the following:

(i) Proof that the fund has been in operation not less than 5 years.

(ii) Proof that the fund has annual collected premium of more than $10,000,000.00.

(iii) A written document in which the fund agrees to all of the following provisions:

(A) The fund will demonstrate that the estimated cost of self-administration of the claims program will be fully funded by premium collections.

(B) The fund will demonstrate that it has ample facilities and competent staff, including licensed adjusters with workers' compensation qualifications under chapter 12 of Act No. 218 of the Public Acts of 1956, as **amended**, being **MCL 500**.1201 et seq. of the Michigan Compiled Laws, who will be handling the workers' compensation claims.

(C) That the claims-handling function will be subject to an annual independent audit of all established cases and operational processes. The independent auditor will meet guidelines established by the ~~bureau~~ **agency**.

(D) That annually, the fund administrator will provide a written assertion to the fund's independent certified public accountant that the fund's claim-paying function maintains an effective internal control structure over financial reporting as of the fund's fiscal year end. The fund's independent certified public accountant shall issue a report on the administrator's assertion in accordance with statements on standards for attestation engagements No. 2 (SSAE#2), as amended.

(E) The group fund will furnish loss data in a form acceptable to the ~~bureau~~ **agency** and the excess carrier.

(F) That failure to provide accurate and timely payment of claims or failure to meet the requirements of self-administered claims may result in termination of approval to self-administer claims.

(G) That the excess insurer will provide documentation of its approval of the group fund's self-administration of claims.

R 408.43f Group self-insurance; same industry requirement; approval; review; certificate.

Rule 13f. (1) After considering an application for group self-insurance and all supportive data, the ~~bureau~~ **agency** shall either grant approval or advise the trustees of the self-insurers' group of the requirements to be met before approval is granted. In determining whether private employers are in the same industry, the ~~bureau~~ **agency** may use the standard industrial classification codes assigned to each employer applying for membership in the group. The ~~bureau~~ **agency** shall also consider all information available on the nature of the business of each private employer and may require the group fund to present additional evidence, either oral or written, to verify that all employers applying for membership in the group fund meet the statutory requirement of being in the same industry. The group shall be given 30 days from the receipt of the ~~bureau's~~ **agency's** notice in which to comply with the requirements of the ~~bureau~~ **agency**. The self-insured authority shall not become effective until the ~~bureau~~ **agency** has received proof that all requirements of the ~~bureau~~ **agency** for self-insured approval have been met.

(2) The group may, at the discretion of the director, be granted additional time to meet the requirements for the self-insured program. A request for an extension of time shall be made in writing by the group within the 30-day compliance period. If the ~~bureau~~ **agency** does not receive proof that all requirements for the self-insured program have been met within the time prescribed, the application shall be considered withdrawn.

(3) On new and renewal applications, the ~~bureau~~ **agency** may require evidence that the proposed rate for each payroll classification is adequate to cover expected losses for that payroll classification and evidence that the experience rating formula will be actuarially sound. The ~~bureau~~ **agency** shall take all of the following factors into account before granting approval for a group self-insurance program:

(a) Past and anticipated losses.

(b) Proper reserves for reported and unreported losses.

(c) Past surplus and expected increase in benefit levels.

(d) Administrative costs.

The ~~bureau~~ **agency** may contract with a consulting actuary, at the expense of the group fund, to determine if the proposed group self-insurance program will be actuarially sound.

(4) Upon meeting the requirements of the ~~bureau~~ **agency**, the group shall receive a formal certificate approving its status as a self-insurer. The certificate shall expire 12 months after the effective date of approval.

R 408.43g Group self-insurers' admission of new members; termination of individual members; notice; records.

Rule 13g. (1) After the inception date of the fund, prospective new members of the fund shall submit an application for membership to the board of trustees, or its designated representative, on a form approved by the ~~bureau~~ **agency**. The board of trustees or its designated representative may approve the application for membership pursuant to the bylaws of the group self-insurers' fund. **A copy of** ~~T~~**t**he original signed application for membership shall then be filed with the ~~bureau~~ **agency** in Lansing. Membership shall take effect after approval by the ~~bureau~~ **agency**.

(2) After a group fund has completed 1 year of operation, application may be made to the director to authorize the group fund to accept new members without prior ~~bureau~~ **agency** approval. The application shall be submitted on forms provided by the ~~bureau~~ **agency** and shall define all businesses that will be accepted in the same industry within the group. The application shall define the financial standards that will be applied by the group in accepting new members.

(3) If approved, the group shall submit confirmation of membership to the ~~bureau~~ **agency** on form **WC**-650, **or its electronic equivalent,** group self-insurance fund notice of acceptance of membership, together with a copy of the individual membership application and the financial report

provided by the member. If the employer is a partnership, the notice shall state the names and addresses of all the partners. If the employer is doing business under an assumed name, the notice shall state the assumed name and each Michigan location covered. If the employer is a corporation doing business through a number of divisions, the notice shall state the names of all the divisions of the corporation. The ~~bureau~~ **agency** shall be notified when any group fund receives a change of address of a member.

(4) Individual members may elect to terminate their participation in a group self-insurers' program or be subject to cancellation by the group pursuant to the bylaws of the group fund. However, termination or cancellation shall take place not less than 20 days after the ~~bureau~~ **agency** has received notice of the termination or cancellation from the group fund reported to the ~~bureau~~ **agency** on form **WC**-651, **or its electronic equivalent,** group self-insurance fund notice of termination of membership. If the employer is a partnership, the notice shall state the names and addresses of all the partners. If the employer is doing business under an assumed name, the notice shall state the assumed name and the names of all parties doing business under the assumed name. If the employer is a corporation doing business under a number of divisions, the notice shall state the names of all the divisions of the corporation. If a business changes names, notice shall be given stating both the new and former names.

(5) The chairman of the board of trustees or, at the chairman's designation, the administrator shall be responsible for maintaining all records of the fund. The fund shall maintain all of the following documents**, or their electronic equivalents,** with respect to records:

(a) Forms **WC**-100, 101, 102, **WC**-701, and **WC**-107.

(b) Redemption papers.

(c) Excess workers' compensation policies.

(d) Spreadsheets containing premium audit summaries.

(e) Contracts with the group's claims service and administrator.

(f) A complete set of claim loss runs as of the end of each fiscal year.

(g) Certified audit reports.

(h) Minutes of trustee and annual meetings.

(i) Group renewal applications and related documents.

(j) Individual membership applications containing signed indemnity agreements.

The records shall be retained for not less than 30 years and the administrator or board of trustees shall know the location of the records at all times. All records of the fund are the property of the fund. If the records are held by the funds service company, the records shall immediately be surrendered to the fund upon the fund's request.

R 408.43h Group self-insurance; reports and filings.

Rule 13h. (1) The group shall make all reports and filings required of carriers by the act. In addition, the group fund shall comply with all of the following provisions:

(a) The financial position of the group fund shall be reported, by the trustees or their designated representative, on a quarterly basis for each open fund year. The report is due within 30 days after the quarter ends.

The format for the report may be prescribed by the ~~bureau~~ **agency**. A fund year shall be considered open as long as there are unsettled claims. The annual financial statements shall be audited by a certified public accountant and filed with the ~~bureau~~ **agency** within 180 days after the fund year ends.

If a fund ceases to provide coverage on an ongoing basis, annual audited financial statements shall be provided to the ~~bureau~~ **agency** within 180 days of the end of the fund's fiscal year.

(b) The fund shall file summary loss data, in a manner prescribed by the ~~bureau~~ **agency**, on each fund year within 30 days after the evaluation date. Losses shall be evaluated on a monthly basis or as required by the ~~bureau~~ **agency**.

(c) The fund shall file a copy of the minutes of all trustee meetings with the ~~bureau~~ **agency** within 30 days after the meeting.

(d) The fund shall provide reports or filings on payroll audits, investments, experience rating, or any other information concerning the group fund upon specific request of the ~~bureau~~ **agency**.

(e) An authorized representative of the fund shall sign A**a**ll financial reports and minutes submitted.

(2) A fund that fails or refuses to file the reports specified in this rule within the time limits prescribed may be notified that its authority to be self-insured will be terminated. If a fund's authority is terminated, then the fund shall be notified of the grounds for termination. The fund may request a hearing in accordance with R 408.43n.

R 408.43i Group self-insurer's fund; board of trustees' power and duties; investment restrictions.

Rule 13i. To ensure the financial stability of each group self-insurers' fund, a board of trustees of each fund shall be responsible for all operations of the fund. A board of trustees shall be a group of members elected by the membership of the fund for stated terms of office. The majority of the trustees shall be owners or employees of members of the self-insurers' fund, but a trustee shall not be an owner, officer, or employee of a service company. The board of trustees of each fund shall take all necessary precautions to safeguard the assets of the fund, including all of the following:

(a) Designate a trustee as administrator or, in the alternative, hire an employee or designate an individual to act as the group fund administrator. The trustees may delegate to the administrator the duties they determine proper. The duties may include, but are not limited to, advising the board with regard to any of the following:

(i) Contracting with a service company.

(ii) Determining the premium charged.

(iii) Investing surplus monies, subject to the restrictions set forth in this rule.

(iv) Accepting applications for membership. However, the board of trustees remains the responsible party for the operation of the fund. The duties delegated to the administrator and all compensation to be paid to the administrator shall be reduced to writing, and a copy shall be provided to the agency with each annual group renewal application. The group fund administrator shall not be an owner, officer, or employee of a service company. The trustees shall purchase a fidelity policy covering the fund trustees, administrator, employees of the fund, and the service company in an amount sufficient to protect the assets of the fund. A copy of the fidelity policy will be provided to the agency with each annual renewal.

(b) Limit disbursements to payment and expenses of handling claims and administrative expenses necessary for operating the fund. The board of trustees shall also establish necessary accounts and accounting procedures for control and accurate financial reporting. Established accounting procedures shall provide accurate financial information for each open year individually with respect to revenue and expense until the year is closed out. The board of trustees shall maintain, and be responsible for, all records and documents relating to the formation and ongoing operation of the group self-insurance fund. If the board of trustees does not maintain the records in a responsible manner and in accordance with these rules, then the self-insured approval of the fund may be terminated by the director.

(c) Audit the accounts and records of the fund annually or at any time required by the agency. Audits shall be made by certified public accountants or by authorized representatives of the agency. The agency reserves the right to prescribe the type of audits to be made and the uniform accounting system to be used by the self-insurers' fund to enable the agency to determine the solvency of the group self-insurers' fund. Copies of financial audits prepared by certified public accountants shall be filed with the agency in

Lansing within 180 days after the close of the fund year. Claim reserve audits used in support of surplus distribution requests shall be performed by auditors who meet the requirements of the agency relating to independence, report content, and timing.

(d) Not extend credit to individual members for payment of premium.

(e) Apply a penalty rate in excess of the normal premium to any risk that has unfavorable loss experience, if the member and the agency are notified in writing before the effective date of the change in rates.

(f) Not utilize any of the monies collected as premiums for any purpose unrelated to workers' compensation. Further, the board of trustees shall not borrow any monies from the fund or in the name of the fund without advising the agency of the nature and purpose of the loan and obtaining agency approval. The board of trustees may, at its discretion, invest any surplus monies not needed for immediate cash needs, but the investments shall be limited to United States government bonds, United States treasury notes, United States government agency issues, United States government-sponsored enterprises, investment share accounts in any savings and loan association and credit unions that have their deposits insured by a federal agency, and certificates of deposit issued by a duly chartered commercial bank. Deposits in savings and loan associations, credit unions, and commercial banks shall be limited to institutions in this state and shall not exceed the federally insured amount in any 1 account, except that the federally insured amount in any 1 account in a commercial bank may be exceeded if the account amount involved does not exceed either of the following factors:

(i) Five percent of the combination of surplus and undivided profits and reserves as currently reported for each bank in the state in the banking division annual report of the office of financial and insurance regulation.

(ii) Five hundred thousand dollars per institution. A group self-insurance fund shall not invest in mutual funds, except that investments in money market mutual funds of short-term duration which invest only in government agency issues, government-sponsored enterprises, and government bills, bonds, and notes will be allowed for short-term cash investment needs. As used in this paragraph, "short-term duration" means 180 days or less.

(g) The board of trustees of a group self-insurance fund, subject to the limitations set forth in subdivisions (h), (i), and (j) of this subrule, may, in its discretion, and upon contracting with a bank trust department or with a professional investment advisor registered with the securities and exchange commission under the investment advisors act of 1940, 15 U.S.C. '80B-3, invest monies not needed for immediate cash needs in corporate bonds and municipal bonds and common and preferred stock.

(h) Limit the combined holdings of corporate and municipal bonds to not more than 45% of the market value of the available investment portfolio. Corporate and municipal bonds must be (A) rated or better by at least 2 nationally recognized rating services. Holdings in any 1 corporation or municipality shall not be more than 5% of the total amount eligible for investment in corporate and municipal bonds as set forth in this subrule.

(i) Of the 45% of the market value of the investment portfolio available for investment in municipal or corporate bonds, 45% may be invested in common or preferred stocks. Common or preferred stocks shall be limited to publicly owned companies that trade on a United States regulated exchange. Mutual funds or bank pooled funds that invest in common or preferred stocks are permitted and shall be calculated as part of the percentage of market value available for investment in common and preferred stocks.

(j) Ensure that the professional investment advisor completes a compliance review of the investment portfolio on a quarterly basis. A copy of the investment review shall be provided to the fund and the agency within 30 days of the close of each quarter. The annual financial statements shall be audited by a certified public accountant and shall include a certification as to whether the fund has been in compliance with the requirements for investments. Failure to report on investments as required by this

rule may result in withdrawal of the authority to invest in corporate and municipal bonds and/or common and preferred stocks.

(k) Any group fund found to have investments in vehicles other than as provided by this rule shall be given 30 days or a time period approved by the director to divest themselves of the investments. Failure to meet the divestiture requirement may subject the fund to further sanction by the director.

R 408.43j Group self-insurers' funds; advance premium discounts; surplus monies; surplus investment income and premiums; unfunded claims.

Rule 13j. (1) The trustees of any group self-insurers' fund shall not authorize advance premium discounts to any member in excess of those authorized by the excess insurance underwriter and approved by the ~~bureau~~ **agency**. If discounts are approved by the excess carrier and the ~~bureau~~ **agency**, the excess carrier shall agree to base the loss fund on the premium collected after discount.

(2) Any surplus monies for a fund year in excess of the amount necessary to fulfill all obligations under the act for that fund year, including a provision for claims incurred but not reported, may be declared to be refundable by the trustees at any time, and the amount of the declaration shall be a fixed liability of the fund at the time of the declaration. The date of payment shall be as agreed to by the trustees and the ~~bureau~~ **agency**, except that monies not needed to satisfy the loss fund requirements, as established by the aggregate excess contract, may be refunded immediately after the end of the fund year with the approval of the ~~bureau~~ **agency**. The intent of this rule is to ensure that sufficient monies are retained so that total assets are greater than total liabilities for each fund year.

(3) If premiums collected and earned investment income associated with any fund year are insufficient to completely fund all reported claims and expenses for that year, unfunded amounts, by fund year, shall be reported immediately to the ~~bureau~~ **agency** with the proposed plan to achieve 100% funding. The plan to achieve 100% funding for all claims is subject to ~~bureau~~ **agency** approval. A plan may include, but is not limited to, all of the following:

(a) Use of premiums collected in other fund years, but not necessary for payment of claims or expenses in the year collected.

(b) Use of investment earnings associated with other fund years, but not necessary for payment of claims or expenses in the year in which associated.

(c) Assessment of members by order of the ~~bureau~~ **agency**.

(4) The ~~bureau~~ **agency** may allow investment income earned by a group self-insurance fund during a calendar year to be returned to the fund membership without prior ~~bureau~~ **agency** approval if the fund trustees provide all of the following documentation:

(a) Certification, to the ~~bureau~~ **agency**, in the form of a letter from a certified public accountant, attesting to the amount of investment income earned during the calendar year.

(b) Certification to the ~~bureau~~ **agency**, by the board of trustees, of the amount of the investment income and of the employers to whom the investment income is to be distributed.

(c) Certification by the board of trustees and the group's certified public accountant that, after the distribution of investment income, the aggregate retention in the current fund year, as determined by the group's excess insurance carrier, and all administrative expenses will be fully funded.

(d) If the fund operates with specific excess insurance only or a letter of credit in place of aggregate excess insurance, the board of trustees and the group's certified public accountant shall certify that, after the distribution of investment income, ultimate loss, as calculated by a certified actuary at a 90% confidence level, and all administrative expenses will be fully funded.

(e) Certification by the board of trustees and the fund's certified public accountant that the fund's financial statements are not discounted and do not consider the time value of money.

The information specified in subdivisions (a) to (e) of this **subrule** ~~rule~~ shall be received by the ~~bureau~~ **agency** not earlier than December 1, and not later than December 31, of the calendar year in

which the investment income is earned and is to be distributed. If the information specified in this rule is not received by the ~~bureau~~ **agency** in a timely manner, then the ~~bureau~~ **agency** may withdraw the fund's privilege of returning investment income to fund members without prior ~~bureau~~ **agency** approval.

R 408.43k Aggregate excess liability insurance; specific excess liability insurance; individual self-insurer; group self-insurer.

Rule 13k. The ~~bureau~~ **agency** shall not recognize a policy of aggregate or specific excess liability insurance in considering the ability of a self-insurer to fulfill its financial obligations under the act, unless the policy is issued by a casualty insurance company authorized, as defined in section 108 of PA 218, MCL 500.**108**. to transact such business in this state. The policy shall comply with all of the following provisions unless specifically waived by the ~~bureau~~ **agency**. Policies issued that do not comply with all provisions of this rule may be considered grounds for termination of the employer's self-insured authority.

(a) The policy shall not be cancelable or nonrenewable unless written notice, sent by courier, registered mail or certified mail, is given to the other party to the policy and to the ~~bureau~~ **agency** not less than 60 days before termination by the party desiring to cancel or not renew the policy.

(b) The policy shall contain no endorsements, provisions, or terms that increase the named insured or insureds retentions or increase the amount that must be paid by the named insured or insureds beyond the retentions reported on the declarations page of the policy and the Michigan certificate of specific/aggregate excess liability insurance. This provision does not apply to customary policy language that may call for increased payments by the insured or insureds for failure to act or abide by a policy provision.

(c) A policy that has any type of commutation clause shall provide that any commutation effected under the policy shall not relieve the casualty insurance company of further liability with respect to claims and expenses unknown at the time of the commutation or in regard to any claim apparently closed at the time of initial commutation that is subsequently reopened by or through a competent authority. If the casualty insurance company proposes to settle its liability for future payments payable as compensation for accidents occurring during the term of the policy by the payment of a lump sum to the employer, to be fixed as provided in the commutation clause of the policy, then the casualty insurance company or the company's agent shall give the ~~bureau~~ **agency** not less then 30 days' prior notice of the commutation. Notice shall be by courier, registered mail or certified mail. If any commutation is affected, then the ~~bureau~~ **agency** has the right to direct that the sum be placed in trust for the benefit of the injured employee or employees entitled to future payments of compensation.

(d) The policy shall state that if a private self-insured employer becomes insolvent and is unable to make compensation payments and the self-insurers' security fund may have responsibility for making payment under section 537 of the act, then the excess insurance carrier shall make, directly to the claimants or their authorized representatives, payments as would have been made by the excess insurance carrier to the employer after it has been determined that the retention level has been reached on the excess liability insurance policy.

(e) The policy shall state that 100% of the following payments shall be applied toward reaching the retention level in the specific and aggregate excess liability policy:

(i) Benefit payments made by the employer as required in the act.

(ii) Benefit payments, as required in the act that are due and owing to claimants of the employer.

(iii) Benefit payments made on behalf of the employer, as required in the act, by a surety under a bond or through the use of other security required by the director.

(iv) Payments made by the self-insurers' security fund.

(v) Usual and customary claims allocated loss adjustment expenses.

(vi) Payments made, as specified in paragraphs (i), (iii), (iv) and (v) of this subdivision, that are reimbursable by the specific excess liability policy shall not be considered in reaching the aggregate excess liability retention.

(f) The policy shall provide for 100% reimbursement of the following payments that exceed the retention levels as defined in the specific or aggregate excess liability policy:

(i) Benefit payments made by the employer as required in the act.

(ii) Benefit payments made on behalf of the employer as required in the act by a surety under a bond or through the use of other security required by the bureau **agency**.

(iii) Payments made by the self-insurers' security fund.

(iv) Usual and customary claims allocated loss adjustment expenses.

(g) Reimbursement shall be pro rata if multiple excess insurers insure the same self-insured for the same period. A request to waive a provision of this rule shall be in writing and approved by the ~~bureau~~ **agency** before a policy is issued. The carrier shall confirm issuance of an aggregate or specific excess liability policy on a form prescribed by the ~~bureau~~ **agency**.

R 408.43m Servicing self-insured employers or groups; application; requirements; noncompliance.

Rule 13m. (1) An individual, partnership, limited liability company, or corporation that desires to engage in the business of providing 1 or more services for an individual self-insurer or a self-insurers' group shall apply to the ~~bureau~~ **agency** before entering into a contract with the individual or group self-insurer**.** and shall satisfy the bureau that The service company must show that it has adequate facilities and competent staff with Michigan workers' compensation adjusting experience within the state to service a self-insured program in a manner that fulfills the employers' obligations under the act and the rules of the bureau. Workers' compensation claims of Michigan individual or group self-insured employers shall be handled within the state of Michigan by its staff, except that the director, at his or her discretion, may permit an approved service company to handle the claims of a Michigan individual self-insurer outside of this state upon specific written request by the individual self-insurer and the service company. The request for permission shall set forth documentation sufficient to the agency that claims will be handled pursuant to Michigan law, administrative rules, and agency policy. The director will respond to the request in writing, giving the reasons for denial, or if approved, the conditions of approval. The approval may be withdrawn by the director at any time based upon the failure of the service company and/or employer to comply with the conditions of the approval. Service may include claims adjusting, loss control services, underwriting, and the capacity to provide required reporting. Any individual, partnership, limited liability company, or corporation that provides claims adjusting or loss control services to an approved self-insured employer, where the self-insured employer has designated within its own organization an individual to be responsible to the ~~bureau~~ **agency** for its claims program or loss control services, or both, shall not be considered a service company for purposes of this rule.

(2) An applicant shall apply to the ~~bureau~~ **agency** for approval to act as a servicing company for self-insured employers or group funds on a form prescribed by the ~~bureau~~ **agency**. The application shall contain answers to all questions. An applicant shall give the answers under oath. The ~~bureau~~ **agency** shall approve the application prior to the service company entering into a contract with an approved self- insurer. Approval to act as a service company for self-insurers is granted for a period of 1 year and is subject to renewal annually.

(3) If a service company seeks approval to service claims for self-insurers, then it shall submit proof that it has, within its organization at least 1 person who has the knowledge and Michigan workers' compensation adjusting experience necessary to handle claims involving the act. The service company shall attach a resume covering the principal person's background to the application of the

service company. The principal individuals adjusting workers' compensation claims shall hold a current workers' disability compensation adjuster's license under chapter 12 of 1956 PA 218, MCL §500.1201.

(4) If a service company seeks approval to provide underwriting service to self-insurers, then it shall submit proof that it has, within its organization or under contract on a full-time basis, at least 1 person who has the knowledge and experience necessary to provide underwriting services for workers' compensation excess liability insurance coverage. The service company shall attach a resume detailing the principal person's background to the application of the service company.

(5) If a service company seeks approval to furnish loss control services to self-insurers, then it shall submit proof that it has, within its organization or under contract on a full-time basis, at least 1 person who has the knowledge and background necessary to adequately provide loss control and health services.

(6) A service company shall maintain adequate staff in the state. The service company shall authorize staff to act for the service company on all matters covered by the act and the rules of the bureau.

(7) A service company shall attach to the application a copy of its standard service agreement that it will enter into with self-insured employers or group funds. The service company shall certify, in writing, that the service agreement is in compliance with the act and these rules. The service company shall certify, and include a provision in its standard service contract which states, that the contract provides for the handling of all claims with dates of injury or disease within the contract until conclusion of the claims, unless the service company is relieved by the ~~bureau~~ **agency**, in writing, of the responsibility for handling claims. If the service contract calls for additional fees for any reason, then the service company shall clearly define the additional fees in the contract. For a service company to be relieved of the responsibility of handling claims to conclusion, the client, the previous service company, and the new service company shall sign a claims transfer agreement. The claims transfer agreement shall be completed on a form prescribed by the ~~bureau~~ **agency** and shall include a written request made by the previous service company to be relieved of its claims handling responsibilities to the ~~bureau~~ **agency**. A requesting company is relieved of its claims handling responsibility only after receiving a written response from the ~~bureau~~ **agency** approving a request. The service company shall certify that it will report to the specific excess insurance carrier or aggregate excess insurance carrier, or both, and put the specific excess insurance carrier or aggregate excess insurance carrier, or both, on notice of all claims as required by the self-insurers' or group self-insurers' insurance policies. The standard service contract filed with the ~~bureau~~ **agency** for approval and renewal of the service company authority shall include language specifically stating that the service company is responsible for reporting to the excess insurance carrier. The ~~bureau~~ **agency** may waive the reporting requirement upon written request to the ~~bureau~~ **agency**. Any dispute involving late reporting of excess liability insurance claims and potential penalties shall be reported to the bureau immediately.

(8) A service company shall certify, and provide for in all service contracts, that all documents generated or prepared by the service company for the group or the individual self-insurer or any materials relating to an individual or group self-insurer held by a service company are the property of the individual or group self-insurer and shall be surrendered to the individual or group self-insurer within 10 days of termination of the service contract, subject to written request by the individual or group self-insurer.

(9) Failure to comply with the provisions of the act constitutes good cause for withdrawal of the approval to act as a service company for self-insurers. The ~~bureau~~ **agency** shall give 30 days' notice of withdrawal. The ~~bureau~~ **agency** shall give the notice by certified or registered mail, **served** upon all interested parties.

R 408.43n Hearing before director; self-insured status, individual and group fund; group fund rates, membership applications, security requirements, and surplus refunds.

Rule 13n. (1) Upon receiving a notice of intent to deny or terminate self- insured status under section 611 of the act, a party may request a hearing before the director within 15 days of the mailing of the notice by the ~~bureau~~ **agency**.

Upon receiving a notice denying a request by a group fund for deviation from manual rates, denial of an individual membership application or security requirement, or a denial of a request for a refund of surplus, the group fund may request a hearing before the director within 15 days of the mailing of the notice by the ~~bureau~~ **agency**.

(2) The director shall, by certified or registered mail, notify the appealing party of the date, time, place, and reasons for holding the hearing. The director shall mail the notice not less than 15 days before the hearing. If the intent to terminate self-insured status is based on the self-insurer's failure to maintain existing security requirements, then the notice shall advise the self-insurer that proof of reinstatement of the security shall accompany the request for hearing or the director may make a final decision on the termination without further hearing.

(3) If an appearance is made at a hearing, then it shall be made in person by a duly authorized representative or by counsel.

(4) A person who has been served with a notice of hearing may, at his or her option, file a written statement before the date set for hearing or may appear at the hearing and present an oral statement and other evidence on the issues contained in the notice of hearing. When written briefs or arguments are presented, a copy shall be served upon the director and other interested parties not less than 5 days before the date set for the hearing.

(5) If the person or persons who have requested a hearing fail to appear at a noticed hearing, the director may consider the request for a hearing as having been abandoned or, in his or her discretion, may proceed with a hearing of the case and may, on the evidence presented, make a decision.

(6) A hearing shall not be adjourned or continued, except upon an order of the director.

R 408.43q Irrevocable letter of credit; acceptance; requirements; payment of surety bond or letter of credit.

Rule 13q. (1) An irrevocable letter of credit may be accepted by the ~~bureau~~ **agency** as other security for a self-insured program as provided by section 611(1)(a) of the act. The ~~bureau~~ **agency** will retain discretion in each particular case to determine if the letter of credit is acceptable and if its language and format are satisfactory.

(2) Irrevocable letters of credit shall be issued by a state-chartered bank, a federally chartered bank or foreign bank. Funds shall be immediately payable on demand. The director may require confirmation of acceptable letters of credit from any state, federally or foreign chartered bank without state operations or branch services within this state. If a confirmation is required, it shall be by a State of Michigan chartered bank or federally chartered bank with Michigan branch operations and state that the confirming bank is primarily obligated on the letter of credit.

(3) An employer who elects an irrevocable letter of credit as other security for a self-insured program shall furnish a memorandum of understanding with the letter of credit, on a form provided by the ~~bureau~~ **agency**, which affirms the employer's acceptance of all of the following requirements:

(a) A letter of credit is furnished to the ~~bureau~~ **agency** instead of a surety bond as one of the requirements for approval of a self-insured program.

(b) The employer understands that the letter of credit shall be deemed automatically extended without amendment for 1 year from the expiry date or any future expiry date unless, 60 days before any expiry

date, the ~~bureau~~ **agency** is notified, by courier, certified or registered mail, that the letter of credit shall not be renewed for any additional period.

(c) A policy of insurance or a surety bond of equal amount may be furnished at a later date as a substitute for the letter of credit if the policy of insurance or surety bond covers all claims that would have been covered by the letter of credit. All policies of insurance and surety bonds furnished as substitutes for letters of credit are subject to prior ~~bureau~~ **agency** approval.

(d) The employer shall affirm that the irrevocable letter of credit in the amount requested by the ~~bureau~~ **agency** is being offered with the understanding that if the ~~bureau~~ **agency** receives notice that the letter of credit will not be renewed, then the ~~bureau~~ **agency**, in its discretion, may, after 30 days from the date of receipt of the notice, call the proceeds of the letter of credit and deposit the proceeds in the state treasury. And further, if, in the judgment of the ~~bureau~~ **agency**, the letter of credit is needed to cover any worker's disability compensation claims, then the proceeds of the letter of credit shall be called immediately and deposited in the state treasury for such purpose.

(e) If legal proceedings are initiated by any party with respect to payment of any letter of credit, then the proceedings shall be subject to Michigan courts and law.

(4) The ~~bureau~~ **agency** shall not grant an effective date for a self-insured program until a completed letter of credit and the memorandum of understanding have been reviewed and accepted by the ~~bureau~~ **agency**.

(5) If it is necessary for the director, under statute and ~~bureau~~ **agency** rules, to call the bond or other security, then a trust shall be established with the funds, unless the provider of the bond or other security elects to handle the claims directly and the ~~bureau~~ **agency** approves. If a trust is established, the funds shall be deposited in the state treasury and the state treasurer, as provided by section 551~~(7)~~**(8)** of the act, shall be the custodian of the trust. The trustees of the trust shall be the trustees of the funds denominated in chapter 5 of the act and also those who are appointed as trustees under section 511 of the act. The service company of the self-insured employer, if any, shall continue to perform in accordance with the terms of the employer's contract with the service company.

R 408.43r Public employer group funds; waiver of requirement for excess insurance.

Rule 13r. A public employer group fund may request a waiver of the requirement for excess insurance. The director ~~shall~~ **may** waive the requirement for excess insurance for a public employer group fund if the fund demonstrates that it has sufficient financial strength and liquidity to assure that all obligations under the act shall be promptly met without the protection of an excess insurance policy.

R 408.43s Group funds; insufficient funding; creation of trust; appointment of trustees.

Rule 13s (1) If the plan to achieve full funding for payment of all claims and expenses of the self-insurers group pursuant to rule 408.43j is not approved by the ~~bureau~~ **agency**, then the ~~bureau~~ **agency** may order the board of trustees of the self-insurers group to immediately assess the employer members of the group for the full amount of the deficiency and/or order that any surplus funds distributed to group members during the previous 12 calendar months from the date of discovery of the funding deficiency by the group fund be immediately returned.

(2) If the ~~bureau~~ **agency** determines that the self-insurers group ceases to provide ongoing and active coverage to its members and/or the requirements of this rule are not sufficient to secure all future liability established by the workers disability compensation act of 1969, then the ~~bureau~~ **agency** may require additional assessment of the employer members of the group and request the director to create and establish the terms of a trust, at the expense of the self-insurers group, for the deposit and administration of any assessment received and/or all assets of the self-insurers group.

The trustees of the funds appointed under section 511 of the workers' disability compensation act shall be appointed trustees of the self-insurers group trust fund established under this rule.

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.

(2) ~~In a case tried to completion with proofs closed or compensation voluntarily paid, an attorney, before computing the fee, shall deduct from the accrued compensation the reasonable expenses incurred on plaintiff's behalf.~~

~~The fee that the magistrate may approve shall not be more than 30% of the balance.~~ **Reasonable expenses, as used in this rule, include all of the following:**

(a) Fees for reports and depositions of doctors, vocational experts, and other experts incurred in the prosecution of the claim.

(b) Medical examination fees and witness fees.

(c) Any other medical witness fee, including the cost of a subpoena.

(d) Costs of subpoenas, and costs to obtain and copy medical and other records.

(e) The costs of ~~a~~ court reporter services, transcripts, subpoena enforcement fees, and certified copies.

(f) Costs of travel to depose medical and vocational witnesses.

(g) Appeal costs.

(h) Other costs and/or expenses determined by a magistrate to be reasonable for the prosecution of the claim.

(3) ~~In a case involving a redemption of liability, the attorney, before computing the fee, shall deduct the reasonable expenses incurred on plaintiff's behalf from the total settlement. The fee that the magistrate may approve is as follows:~~

~~(a) Of the first $25,000.00, a fee of not more than 15%.~~

~~(b) Of any amount more than $25,000.00, a fee of not more than 10%.~~ **In computing the fee, the total settlement includes all sums paid, or to be paid, to satisfy lienholders, purchase annuities, and fund medical care set-aside accounts.**

(4) ~~In a case tried to completion with proofs closed but before a final order, after which there is a redemption of liability, the attorney, before computing the fee, shall deduct the reasonable expenses incurred on plaintiff's behalf from the total settlement. The total settlement in such redemptions shall be deemed to include the gross amounts of any partial payments made under section 862 of the act, if the redemption specifically includes a waiver of the right of reimbursement of such amounts from either the plaintiff or the second injury fund. The fee that the magistrate may approve shall not be more than 20% of the balance.~~ **In a case where benefits are being voluntarily paid at time of redemption, and no application for mediation or hearing (WC-104a) is pending, the magistrate may approve an attorney fee of 15%, or less if requested by the attorney, of the balance recovered for, or for the benefit of, the plaintiff as provided in section 858(2) of the act.**

(5) ~~Reasonable expenses, as used in this rule, include all of the following:~~

~~(a) Medical examination fee and witness fee.~~

~~(b) Any other medical witness fee, including the cost of a subpoena.~~

~~(c) The cost of a court reporter service.~~

~~(d) Appeal costs.~~ **In a case tried to completion with proofs closed or compensation voluntarily paid after an application for mediation or hearing is filed, an attorney, before computing the fee, shall deduct from the accrued compensation the reasonable expenses incurred on plaintiff's behalf as defined in subsection (2). The magistrate may approve an attorney fee of 30%, or less if**

requested by the attorney, of the balance recovered for, or for the benefit of, the plaintiff as provided in section 858(2) of the act.

(6) ~~Subrules (2) to (4) of this rule apply to a case with an injury date on or after September 1, 1965. The rule as to attorney fees in effect before September 1, 1965, applies to a case with an injury date before September 1, 1965.~~ **In a case involving a redemption of liability, where a form 104(a) is pending, the attorney before computing the fee shall deduct the reasonable expenses incurred on plaintiff's behalf from the total settlement. The fee that the magistrate may approve is as follows, or less if requested by the attorney:**

(a) In cases alleging dates of injury before September 1, 1965 shall be subject to the rule as to attorney fees in effect before September 1, 1965.

(b) In cases alleging dates of injury between September 1, 1965 and the effective date of this amendment shall be subject to the rule in effect on the date of injury.

(c) In cases alleging dates of injury after the effective date of this amendment may be subject to an attorney fee of:

(i) 20% of the first $100,000.

(ii) 15% of any amount more than $100,000.

(7) ~~In a case dismissed for lack of progress or prosecution or in which the petition for hearing is withdrawn for reasons other than voluntary payment or other meritorious reasons and further action is taken by the same attorney or law firm, the fee that the magistrate may approve in cases specified in subrule (2) of this rule shall be not more than 25% of the balance; in subrule (3) of this rule, of the first $25,000.00, not more than 12 1/2%, and of any amount more than $25,000.00, 10%; in subrule (4) of this rule, the fee shall be not more than 15% of the balance.~~ **In a case tried to completion with proofs closed but before a final order, after which there is a redemption of liability, the attorney, before computing the fee, shall deduct the reasonable expenses incurred on plaintiff's behalf as defined in subsection (2) from the total settlement. The total settlement in such redemptions shall be deemed to include the gross amounts of any partial payments made under section 862 of the act, if the redemption specifically includes a waiver of the right of reimbursement of such amounts from either the plaintiff or the second injury fund. The magistrate may approve an attorney fee of 20% of the balance, or less if requested by the attorney.**

(8) A group disability or hospitalization insurance company that enforces an assignment given to it as provided in the act shall pay a part of the fee of the attorney who secured the compensation recovery in the same proportion that the group insurance company payments bear to the total compensation recovery upon which the attorney's fee is based.

(9) In the computation of attorney fees in a case decided by the workers' compensation appellate commission, the fee shall be assessed on not more than 104 weeks of the period the matter was pending before the commission. All other weekly benefits due and owing for the period of appeal shall be fully paid to the plaintiff. The limitation of fee applies only to weekly compensation.

(10) ~~In a case where benefits are being voluntarily paid at time of redemption, and no application for mediation or hearing is pending, not more than 10% attorney fee will be allowed.~~ **Nothing in this rule precludes an award of attorney fees under section 315 of the act.**

(11) If agreed upon by the plaintiff, survivor, party in interest or dependents in writing, the fees specified in this rule may apply to cases with earlier dates of injury.

R 408.45 Medical examination **~~and~~** rehabilitation**~~.~~, and forensic vocational evaluation.**

Rule 15. (1) **Under circumstances prescribed by the director, a** ~~A~~ carrier**, PEGSISF, first responder presumed coverage fund, or** self-insurers' security fund shall report to the ~~bureau~~ **agency**

~~on form 110, report on rehabilitation, 3 months after the date of injury and after each subsequent 4 months, what evaluation and~~ what provision has been made for rehabilitation on all cases for which a final ~~form~~ **WC**-701, notice of compensation payments, has not been filed. ~~All reports shall be accompanied by a current medical report. In case of a specific loss where the injured employee has returned to work without rehabilitation before expiration of the specific loss period, a notation of the return to work shall be made on form 110, report on rehabilitation, and thereafter further reports shall not be necessary. Where rehabilitation has been undertaken in the form of favored work or on-the-job training by the employer, the rehabilitation shall be so identified in all reports.~~

(2) When an employee consents **to a request by the carrier, first responder presumed coverage fund, or a fund created in section 501 of the act**; or is ordered by the ~~bureau~~ **agency** to submit to a medical examination**, forensic vocational evaluation,** ~~or~~ rehabilitation; or undergoes any medical treatment related to the disability, the carrier**, first responder presumed coverage fund, or a fund created in section 501 of the act** shall pay the traveling expenses incidental to such examination, medical treatment, ~~or~~ **evaluation, or** rehabilitation. The employee shall notify the carrier, **first responder presumed coverage fund, or a fund created in section 501,** in writing, of the mileage involved and other expenses. When an employee is examined at the request of the carrier, **first responder presumed coverage fund, or a fund created in section 501** under the provisions of section 385 of the act, ~~MCL 418.385,~~ the expenses incidental to such examination **or evaluation** shall be paid in advance. The traveling expenses shall be those authorized in the state standardized travel regulations, except that when special transportation is medically required, payments shall be made at actual cost. **Reasonable transportation services may include those provided by an entity licensed under 2016 PA 345, MCL 257.2101 to 257.2153.** The allowance for other expenses, if any, shall be those allowed by this state. The provisions of this rule do not apply to the first examination requested by the employer or insurer if all of the following conditions exist:

(a) An application for hearing is filed upon which no payment of compensation or medical expense has been made for 1 year before the date of filing.

(b) The employee's home at the time of filing the application for hearing is outside of this state.

(c) The citation to appear for examination is at a time reasonably close to the date of hearing so as to obviate the necessity of an additional trip on the part of the employee to attend the hearing.

~~(3) Under section 319 of the act, MCL 418.319, the director may, on his or her own motion or upon receipt of an application from the employee or employer, refer the employee for an evaluation of the need for a rehabilitation program and the kind of rehabilitation program necessary to return the employee to work. If a hearing is requested, then all of the following provisions apply:~~

~~(a) When a request for rehabilitation service is made by the employee or employer, then the director or his authorized representative may schedule a hearing.~~

~~(b) If the director, on his or her own motion, orders a rehabilitation program, then he or she shall notify both parties and, if requested by either party within 15 days, shall schedule a hearing.~~

~~(c) A hearing shall be scheduled within a reasonable time, subject to the availability of the director or his or her representative and the parties involved. A request for a hearing shall, at a minimum, contain all of the following:~~

~~(i) A brief statement of the question concerning rehabilitation.~~

~~(ii) If requested by the employer, a citation of the specific instances of the employee's failure to cooperate in the rehabilitation program.~~

~~(iii) If requested by the employee, the type of program requested and the reason for it.~~

~~(d) Unless a request for review by the Michigan compensation appellate commission is filed by a party within 15 days after the order of the director is mailed, the order shall stand as the order of the bureau.~~

R 408.45a Vocational rehabilitation.

Rule 15a. (1) The agency shall issue vocational rehabilitation provider approval for a period of 3 years. To maintain approved status at the expiration of the provider approval period, a provider shall re-apply by submitting a new form WC-502, or its electronic equivalent, within 90 days before the expiration date of the approval.

(2) Agency-approved vocational rehabilitation providers shall deliver services in a manner that is consistent with agency standards and guidelines, and that are within their professional scope of practice, certification, and licensure. Failure to maintain these standards shall be grounds for denial or revocation of approval.

(3) Under section 319 of the act, the director may, on his or her own motion or upon receipt of an application from the employee or employer, refer the employee to an agency-approved vocational rehabilitation provider for an evaluation of the need for a vocational rehabilitation program and the kind of vocational rehabilitation program necessary to return the employee to a remunerative occupation commensurate with their prior wage earning capacity, which is the primary objective of vocational rehabilitation services. Vocational rehabilitation may include, but is not limited to, evaluation and assessment, counseling, development of the IWRP, job search, job development and placement, education, and retraining. Any expenses incurred under this rule shall be the responsibility of the carrier, PEGSISF, first responder presumed coverage fund, or self-insurers' security fund.

(4) A vocational evaluation by an agency-approved provider shall take place no later than 119 calendar days from the employee's last day worked, last day of employment, or when maximum medical improvement has been reached, whichever is later, except in cases where the employee is engaged in reasonable employment. The director may extend this time when there is medical documentation contraindicating the timing of the evaluation, an impending offer of reasonable employment, or other good cause shown by any party on an agency-approved form.

(5) Upon completion of the vocational evaluation, the vocational counselor shall submit an initial evaluation report to the parties within 14 calendar days. If the evaluation recommends initiation of vocational rehabilitation services, including job search activities, training, or both, the following actions shall take place:

(a) An IWRP shall be provided to all parties for review within 28 days of completion of the vocational evaluation. All plans shall be in accord with the agency's return-to-work hierarchy.

(b) In the absence of a dispute, the IWRP shall be implemented by the vocational counselor within 28 days after submission to the parties for review.

(c) The IWRP shall be reviewed and updated by the vocational counselor in concert with the injured worker every 91 days to determine completion status of short- and long-term objectives.

(6) The vocational counselor shall not implement IWRP recommendations beyond the initial evaluation without first securing funding for these services.

(7) When an employee consents to or is ordered by the agency to submit to a vocational rehabilitation evaluation, the carrier, PEGSISF, first responder presumed coverage fund, or self-insurers' security fund shall pay the traveling expenses incidental to such evaluation pursuant to rule 15(2). Subsequent expenses related to vocational rehabilitation services provided to meet the objectives of the IWRP shall also be the responsibility of the carrier, PEGSISF, first responder presumed coverage fund, or self-insurers' security fund.

R 408.45b Vocational rehabilitation rules disputes.

Rule 15b. Any party may request a vocational rehabilitation hearing before the director or his or her representative, on form WC-104a or form WC-104c, application for mediation or hearing, or an electronic equivalent, and all the following provisions shall apply:

(a) If the director, on his or her own motion, orders a rehabilitation program, then he or she shall notify all parties and, if requested by either party within 15 days, shall schedule a hearing.

(b) A hearing shall be scheduled within a reasonable time, subject to the availability of the director or his or her representative and the parties involved. A request for a hearing shall, at a minimum, contain all of the following:

(i) A brief statement of the question concerning rehabilitation.

(ii) If requested by the employer, a citation of the specific instances of the employee's failure to cooperate in the rehabilitation program.

(iii) If requested by the employee, the type of program requested and the reason for it.

(c) Unless a request for review by the workers' disability compensation appeals commission is filed by a party within 15 days after the order of the director is mailed, the order shall stand as the order of the agency.

R 408.46 Application for silicosis, dust disease, and logging industry compensation fund and second injury fund benefits.

Rule 16. (1) An application for reimbursement of benefits from the silicosis, dust disease and logging industry compensation fund and second injury fund shall be made on form **WC-**112**, or its electronic equivalent,** and sent to the principal office of the funds administrator.

(2) A carrier believing that reimbursement may be due from the second injury fund under section 372 of the act shall immediately notify the fund of the potential claim. The fund may then conduct an investigation of the personal injury and shall have reasonable time to schedule medical examinations. If a**n application** ~~petition~~ is filed with the ~~bureau~~ **agency**, then the carrier shall add the second injury fund and the fund shall have the same rights as any other party defendant. The magistrate shall enter an order determining the liability of the carrier and the fund.

(3) If an employee ~~petitions~~ **files an application** for a hearing under section 356(1) of the act, then the second injury fund shall be deemed a party in interest and shall be named on the ~~petition~~ **application** filed by the employee or added by the carrier when it has knowledge that a claim is being filed under section 356(1) of the act. The fund shall have the same rights as a carrier in the proceedings.

~~(4) Any stipulated order presented for entry which may affect the amount or duration of benefits or which involves a potential liability on any state fund created under chapter 5 of the act shall be presented to the magistrate for entry only after a party provides 10 days' notice of the date of hearing to all parties affected or potentially affected. A party shall file proof of service on the other parties before the hearing date. The magistrate may, at his or her discretion, require the presentment of proofs in support of the stipulation.~~

(~~5~~**4**) Reimbursement **pursuant to the second injury fund, dual employment provision** shall be made on a quarterly basis. ~~for the second injury fund's portion of the benefits due the employee~~ **Reimbursement payments from all other funds shall be made periodically every 6 months.**

R 408.47 Extensions of time granted by the director.

Rule 17. The director or his **or her** authorized representative may grant extensions of time in which to comply with any rule as the director deems reasonable.

R 408.48 Compensation payments; calculation; payment.

Rule 18. (1) Pursuant to section 313(1) of the act, the calculation of federal income tax, federal insurance contribution act tax, and state income tax shall be based on the federal income tax schedule, federal insurance contribution act tax, and state income tax rate in effect on the applicable July 1 for which the after-tax weekly wage is determined. The state law in effect on the applicable July 1 shall be conclusive in the determination of the after-tax weekly wage for that calendar year.

(2) Weekly payments shall be made payable by check and mailed or electronically transferred directly to the injured employee or the injured employee's dependent, pursuant to subrule (3) of this rule. When the claimant is represented by counsel, the accrued compensation shall be made payable by check to the person or persons entitled to compensation and mailed to the attorney representing the person or persons.

(3) Weekly compensation payments may be made by an electronic transfer when both of the following have occurred:

(a) The claimant consents to and authorizes in writing the use of electronic transfer payments. This authorization shall **be on a claim-by-claim basis**, and **shall** include acknowledgement by the claimant that any amount received through electronic transfer into the claimant's account or the account of the claimant's dependent at a financial institution may be subject to attachment or garnishment.

(b) The electronic transfer is made by 1 of the following methods:

(i) Direct deposit or electronic transfer to the claimant's account or the account of the claimant's dependent at a financial institution.

(ii) Issuance of a debit card to the claimant or the claimant's dependent provided that the financial institution complies with all of the following:

(A) Allows the claimant to receive immediate payment in full at no charge.

(B) Allows at least 1 additional free transaction per pay period for any amount up to the balance accessible through the card.

(C) Fully and prominently discloses any fees and charges.

(D) Prohibits changes in fees or terms of services, as specified in subrule(3)(b)(ii)(F) of this rule to subrule (3)(b)(ii)(G) of this rule. Any other changes to the fees or terms of service may occur when the claimant has received a written notice of these fees at least 21 days prior to the change and the claimant has consented in writing to the change.

(E) Provides a method for the claimant to make an unlimited number of balance inquiries electronically or by telephone and without charge.

(F) Prohibits a link to any form of credit, including a loan against future payments or a cash advance on future payments.

(G) Ensures that the debit card is negotiable at locations easily and readily accessible to the claimant.

(iii) Any other form of payments approved in advance by the director.

(4) A claimant, at any time, may make a request in writing to the employer to change the method of receiving weekly compensation payments established under this rule. The employer shall take no longer than 1 pay period to implement the change after he or she receives the request and any information necessary to implement the request.

R 408.49 Determination of an employee.

Rule 19. (1) If a business entity requests a determination by the director whether 1 or more individuals performing service for the entity in this state are in covered employment, under section 161(n) of the act, Executive Reorganization Order 2019-13(7)(l)(5), unless the issue is already pending before the Board of Magistrates, the director shall issue a determination of coverage of service performed by those individuals and any other individuals performing similar services under similar circumstances. The request shall include the names and addresses of all those known to be impacted by the determination. The agency shall provide written notice to all identified individuals and provide an opportunity to be heard prior to making a determination. The business entity seeking the determination shall prominently post, at the business site, notice of any hearing on the request. Any decision rendered pursuant to this rule shall not be binding on an individual who did not receive notice or was not performing services for the business entity at the time of the closing of proofs.

~~PART 6. DEFINITIONS~~

R 408.59 ~~**Definitions and use of terms.**~~ **Rescinded.**

~~Rule 29. (1) As used in these rules:~~

~~(a) "Act" means 1969 PA 317, MCL 418.101 to 418.941.~~

~~(b) “Debit card” means a stored value card issued by a federally insured financial institution that provides a claimant or the dependent of a claimant immediate access for withdrawal or transfer of the claimant’s weekly compensation payments through a network of automatic teller machines. “Debit card” includes a card commonly known as a payroll debit card, payroll card, or paycard.~~

~~(2) Unless the context of the rule indicates otherwise, the terms “agency” and “director” shall have equivalent meaning.~~

~~(3) Terms defined in the act have the same meanings when used in these rules.~~

NOTICE OF PUBLIC HEARING

Department of Labor and Economic Opportunity
Workers' Compensation Agency
Administrative Rules for Workers' Disability Compensation General Rules
Rule Set 2020-31 LE

NOTICE OF PUBLIC HEARING
Wednesday, July 7, 2021
12:30 PM

Room L-150, Cadillac Place Bldg.
3026 W Grand Blvd, Detroit, MI

The Department of Labor and Economic Opportunity will hold a public hearing to receive public comments on proposed changes to the Workers' Disability Compensation General Rules rule set.

The general purpose of these rules is to provide consumers with procedures and guidance for addressing workers' compensation claims, contested hearings, and workers' compensation insurance policies, in order to carry out the provisions of the Worker's Disability Compensation Act. The entire rule set will be updated for accuracy and procedural consistency. The rules will be revised to make necessary updates in order to facilitate the acceptance of electronic claims, insurance filings, and other reporting data, including use of secure and valid electronic signatures. Rules regulating attorney fees will be updated to reflect statutory changes in rate calculation and in response to case law. In addition, new rules will be added to this rule set to establish procedures for submitting and processing requests for review of redemption orders; provide procedures to implement requests under MCL 418.161(n); address issues raised by case law regarding overpayment reimbursement; require increased use of forms advising injured workers of rights and procedures. Rules regarding vocational rehabilitation will be updated to facilitate/provide for job search as required by statutory amendments and caselaw. Overall, language will be updated regarding the service of papers, vocational rehabilitation services, as well as general technical updates throughout.

By authority conferred on the director of the workers' disability compensation agency by section 205 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.205, and Executive Reorganization Order Nos. 1996-2, 1999-3, 2002-1, 2003-1, and 2019-3, MCL 445.2001, 418.3, 445.2004, 445.2011, and 125.1998. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 7/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: campbelld5@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 7/7/2021 at 05:00PM.

David Campbell

Email: campbelld5@michigan.gov

Workers' Disability Compensation Agency, 2501 Woodlake Circle, Okemos, MI 48864

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF ENVIRONMENT~~AL QUALITY~~**, GREAT LAKES, AND ENERGY**

REMEDIATION AND REDEVELOPMENT DIVISION

ENVIRONMENTAL CONTAMINATION RESPONSE ACTIVITY

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(~~6~~**9**) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the ~~D~~**d**epartment of ~~E~~**e**nvironment~~al Quality~~, **Great Lakes, and energy** by sections 20104~~(1)~~, and 20120a~~(18)~~ of **the natural resources and environmental protection act,** 1994 PA 451, MCL 324.20104~~(1),~~ and 324.20120a~~(18)~~)

R 229.**44**~~1, etc.~~ of the Michigan Administrative Code is amended**,** as follows:

CLEANUP CRITERIA REQUIREMENTS FOR RESPONSE ACTIVITY

R 299.44 Generic groundwater cleanup criteria.

Rule 44. The generic groundwater cleanup criteria for all categories are shown in table 1~~,~~ **and table 1a**.

TABLE 1. GROUNDWATER: RESIDENTIAL AND NONRESIDENTIAL
PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1 microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. When the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion (§324.20120a(10)). In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
Acenaphthene	83329	1,300	3,800	38	4,200 (S)	4,200 (S)	4,240	ID
Acenaphthylene	208968	52	150	ID	3,900 (S)	3,900 (S)	3,930	ID
Acetaldehyde (I)	75070	950	2,700	130	1.1E+6	2.3E+6	1.00E+9	8.9E+6
Acetate	71501	4,200	12,000	(G)	ID	ID	ID	ID
Acetic acid	64197	4,200	12,000	(G)	NLV	NLV	6.00E+9	1.0E+9 (D)
Acetone (I)	67641	730	2,100	1,700	1.0E+9 (D,S)	1.0E+9 (D,S)	1.00E+9	1.5E+7
Acetonitrile	75058	140	400	NA	2.4E+7	4.5E+7	2.00E+8	2.1E+7
Acetophenone	98862	1,500	4,400	ID	6.1E+6 (S)	6.1E+6 (S)	6.10E+6	ID
Acrolein (I)	107028	120	330	NA	2,100	4,200	2.10E+8	6.7E+6
Acrylamide	79061	0.5 (A)	0.5 (A)	10 (X)	NLV	NLV	2.20E+9	NA
Acrylic acid	79107	3,900	11,000	NA	1.2E+7	2.8E+7	1.00E+9	1.0E+9 (D)
Acrylonitrile (I)	107131	2.6	11	2.0 (M); 1.2	34,000	1.9E+5	7.50E+7	6.4E+6
Alachlor	15972608	2.0 (A)	2.0 (A)	11 (X)	NLV	NLV	1.83E+5	ID
Aldicarb	116063	3.0 (A)	3.0 (A)	NA	NLV	NLV	6.00E+6	ID
Aldicarb sulfone	1646884	2.0 (A)	2.0 (A)	NA	NLV	NLV	7.80E+6	ID
Aldicarb sulfoxide	1646873	4.0 (A)	4.0 (A)	NA	NLV	NLV	2.80E+7	ID
Aldrin	309002	0.098	0.4	0.01 (M); 8.7E-6	180 (S)	180 (S)	180	ID
Aluminum (B)	7429905	50 (V)	50 (V)	NA	NLV	NLV	NA	ID
Ammonia	7664417	10,000 (N)	10,000 (N)	(CC)	3.2E+6	7.1E+6	5.30E+8	ID
t-Amyl methyl ether (TAME)	994058	190 (E)	190 (E)	NA	2.6E+5	5.7E+5	2.64E+6	NA
Aniline	62533	53	220	4	NLV	NLV	3.60E+7	NA
Anthracene	120127	43 (S)	43 (S)	ID	43 (S)	43 (S)	43.4	ID
Antimony	7440360	6.0 (A)	6.0 (A)	130 (X)	NLV	NLV	NA	ID
Arsenic	7440382	10 (A)	10 (A)	10	NLV	NLV	NA	ID
Asbestos (BB)	1332214	7.0E MFL (A)	7.0E MFL (A)	NA	NLV	NLV	NA	NA
Atrazine	1912249	3.0 (A)	3.0 (A)	7.3	NLV	NLV	70,000	ID
Azobenzene	103333	23	94	ID	6,400 (S)	6,400 (S)	6,400	ID
Barium (B)	7440393	2,000 (A)	2,000 (A)	(G)	NLV	NLV	NA	ID

PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS;

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1 microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. When the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion (§324.20120a(10)). In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
Benzene (I)	71432	5.0 (A)	5.0 (A)	200 (X)	5,600	35,000	1.75E+6	68,000
Benzidine	92875	0.3 (M); 0.0037	0.3 (M); 0.015	0.3 (M); 0.073	NLV	NLV	5.20E+5	ID
Benzo(a)anthracene (Q)	56553	2.1	8.5	ID	NLV	NLV	9.4	ID
Benzo(b)fluoranthene (Q)	205992	1.5 (S,AA)	1.5 (S,AA)	ID	ID	ID	1.5	ID
Benzo(k)fluoranthene (Q)	207089	1.0 (M); 0.8 (S)	1.0 (M); 0.8 (S)	NA	NLV	NLV	0.8	ID
Benzo(g,h,i)perylene	191242	1.0 (M); 0.26 (S)	1.0 (M); 0.26 (S)	ID	NLV	NLV	0.26	ID
Benzo(a)pyrene (Q)	50328	5.0 (A)	5.0 (A)	ID	NLV	NLV	1.62	ID
Benzoic acid	65850	32,000	92,000	NA	NLV	NLV	3.50E+6	ID
Benzyl alcohol	100516	10,000	29,000	NA	NLV	NLV	4.40E+7	ID
Benzyl chloride	100447	7.7	32	NA	12,000	77,000	4.90E+5	NA
Beryllium	7440417	4.0 (A)	4.0 (A)	(G)	NLV	NLV	NA	ID
bis(2-Chloroethoxy)ethane	112265	ID	ID	ID	NLV	NLV	1.89E+7	ID
bis(2-Chloroethyl)ether (I)	111444	2	8.3	1.0 (M); 0.79	38,000	2.1E+5	1.72E+7	1.7E+7 (S)
bis(2-Ethylhexyl)phthalate	117817	6.0 (A)	6.0 (A)	25	NLV	NLV	340	NA
Boron (B)	7440428	500 (F)	500 (F)	7,200 (X)	NLV	NLV	NA	ID
Bromate	15541454	10 (A)	10 (A)	40 (X)	NLV	NLV	38,000	ID
Bromobenzene (I)	108861	18	50	NA	1.8E+5	3.9E+5	4.13E+5	ID
Bromodichloromethane	75274	80 (A,W)	80 (A,W)	ID	4,800	37,000	6.74E+6	ID
Bromoform	75252	80 (A,W)	80 (A,W)	ID	4.7E+5	3.1E+6 (S)	3.10E+6	ID
Bromomethane	74839	10	29	35	4,000	9,000	1.45E+7	ID
n-Butanol (I)	71363	950	2,700	9,800 (X)	NLV	NLV	7.40E+7	4.7E+7
2-Butanone (MEK) (I)	78933	13,000	38,000	2,200	2.4E+8 (S)	2.4E+8 (S)	2.40E+8	ID
n-Butyl acetate	123864	550	1,600	NA	6.7E+6 (S)	6.7E+6 (S)	6.70E+6	2.5E+6
t-Butyl alcohol	75650	3,900	11,000	NA	1.0E+9 (D,S)	1.0E+9 (D,S)	1.00E+9	6.1E+7
Butyl benzyl phthalate	85687	1,200	2,700 (S)	67 (X)	NLV	NLV	2,690	ID
n-Butylbenzene	104518	80	230	ID	ID	ID	NA	ID
sec-Butylbenzene	135988	80	230	ID	ID	ID	NA	ID
t-Butylbenzene (I)	98066	80	230	ID	ID	ID	NA	ID

TABLE 1. GROUNDWATER: RESIDENTIAL AND NONRESIDENTIAL
PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS;

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1 microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. When the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion (§324.20120a(10)). In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
Cadmium (B)	7440439	5.0 (A)	5.0 (A)	(G,X)	NLV	NLV	NA	ID
Camphene (I)	79925	ID	ID	NA	440	1,000	33,400	ID
Caprolactam	105602	5,800	17,000	NA	NLV	NLV	5.25E+9	NA
Carbaryl	63252	700	2,000	NA	ID	ID	1.26E+5	ID
Carbazole	86748	85	350	10 (M); 4.0	NLV	NLV	7,480	ID
Carbofuran	1563662	40 (A)	40 (A)	NA	NLV	NLV	7.00E+5	ID
Carbon disulfide (I,R)	75150	800	2,300	ID	2.5E+5	5.5E+5	1.19E+6	13,000
Carbon tetrachloride	56235	5.0 (A)	5.0 (A)	45 (X)	370	2,400	7.93E+5	ID
Chlordane (J)	57749	2.0 (A)	2.0 (A)	2.0 (M); 0.00025	56 (S)	56 (S)	56	ID
Chloride	16887006	2.5E+5 (E)	2.5E+5 (E)	(FF)	NLV	NLV	NA	ID
Chlorobenzene (I)	108907	100 (A)	100 (A)	25	2.1E+5	4.7E+5 (S)	4.72E+5	1.6E+5
p-Chlorobenzene sulfonic acid	98668	7,300	21,000	ID	ID	ID	NA	ID
1-Chloro-1,1-difluoroethane	75683	15,000	44,000	NA	3.9E+6 (S)	3.9E+6 (S)	3.90E+6	NA
Chloroethane	75003	430	1,700	1,100 (X)	5.7E+6 (S)	5.7E+6 (S)	5.74E+6	1.1E+5
2-Chloroethyl vinyl ether	110758	ID	ID	NA	ID	ID	1.50E+7	ID
Chloroform	67663	80 (A,W)	80 (A,W)	350	28,000	1.8E+5	7.92E+6	ID
Chloromethane (I)	74873	260	1,100	ID	8,600	45,000	6.34E+6	36,000
4-Chloro-3-methylphenol	59507	150	420	7.4	NLV	NLV	3.90E+6	ID
beta-Chloronaphthalene	91587	1,800	5,200	NA	ID	ID	6,740	ID
2-Chlorophenol	95578	45	130	18	4.9E+5	1.1E+6	2.20E+7	ID
o-Chlorotoluene (I)	95498	150	420	ID	2.2E+5	3.7E+5 (S)	3.73E+5	ID
Chlorpyrifos	2921882	22	63	2.0 (M); 0.002	2.9	6.6	1,120	ID
Chromium (III) (B,H)	16065831	100 (A)	100 (A)	(G,X)	NLV	NLV	NA	ID
Chromium (VI)	18540299	100 (A)	100 (A)	11	NLV	NLV	NA	ID
Chrysene (Q)	218019	1.6 (S)	1.6 (S)	ID	ID	ID	1.6	ID
Cobalt	7440484	40	100	100	NLV	NLV	NA	ID
Copper (B)	7440508	1,000 (E)	1,000 (E)	(G)	NLV	NLV	NA	ID
Cyanazine	21725462	2.3	9.4	56 (X)	NLV	NLV	1.70E+5	ID

TABLE 1. GROUNDWATER: RESIDENTIAL AND NONRESIDENTIAL
PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS;

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1 microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. When the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion (§324.20120a(10)). In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
Cyanide (P,R)	57125	200 (A)	200 (A)	5.2	NLV	NLV	NA	ID
Cyclohexanone	108941	33,000	94,000	NA	1,500	3,300	2.30E+7	NA
Dacthal	1861321	73	210	NA	NLV	NLV	500	ID
Dalapon	75990	200 (A)	200 (A)	NA	NLV	NLV	5.02E+8	ID
4-4'-DDD	72548	9.1	37	NA	NLV	NLV	90	ID
4-4'-DDE	72559	4.3	15	NA	NLV	NLV	120	ID
4-4'-DDT	50293	3.6	10	0.02 (M); 1.1E-5	NLV	NLV	25	NA
Decabromodiphenyl ether	1163195	30 (S)	30 (S)	NA	30 (S)	30 (S)	30	ID
Di-n-butyl phthalate	84742	880	2,500	9.7	NLV	NLV	11,200	NA
Di(2-ethylhexyl) adipate	103231	400 (A)	400 (A)	ID	NLV	NLV	471	ID
Di-n-octyl phthalate	117840	130	380	ID	NLV	NLV	3,000	ID
Diacetone alcohol (I)	123422	ID	ID	NA	NLV	NLV	1.00E+9	1.0E+9 (S)
Diazinon	333415	1.3	3.8	1.0 (M); 0.004	NLV	NLV	68,800	NA
Dibenzo(a,h)anthracene (Q)	53703	2.0 (M); 0.21	2.0 (M); 0.85	ID	NLV	NLV	2.49	ID
Dibenzofuran	132649	ID	ID	4	10,000 (S)	10,000 (S)	10,000	ID
Dibromochloromethane	124481	80 (A,W)	80 (A,W)	ID	14,000	1.1E+5	2.60E+6	ID
Dibromochloropropane	96128	0.2 (A)	0.2 (A)	ID	220	1,200 (S)	1,230	NA
Dibromomethane	74953	80	230	NA	ID	ID	1.10E+7	ID
Dicamba	1918009	220	630	NA	NLV	NLV	4.50E+6	ID
1,2-Dichlorobenzene	95501	600 (A)	600 (A)	13	1.6E+5 (S)	1.6E+5 (S)	1.56E+5	NA
1,3-Dichlorobenzene	541731	6.6	19	28	18,000	41,000	1.11E+5	ID
1,4-Dichlorobenzene	106467	75 (A)	75 (A)	17	16,000	74,000 (S)	73,800	NA
3,3'-Dichlorobenzidine	91941	1.1	4.3	0.3 (M); 0.2	NLV	NLV	3,110	ID
Dichlorodifluoromethane	75718	1,700	4,800	ID	2.2E+5	3.0E+5 (S)	3.00E+5	ID
1,1-Dichloroethane	75343	880	2,500	740	1.0E+6	2.3E+6	5.06E+6	3.8E+5
1,2-Dichloroethane (I)	107062	5.0 (A)	5.0 (A)	360 (X)	9,600	59,000	8.52E+6	2.5E+6
1,1-Dichloroethylene (I)	75354	7.0 (A)	7.0 (A)	130	200	1,300	2.25E+6	97,000
cis-1,2-Dichloroethylene	156592	70 (A)	70 (A)	620	93,000	2.1E+5	3.50E+6	5.3E+5

TABLE 1. GROUNDWATER: RESIDENTIAL AND NONRESIDENTIAL
PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS;

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. When the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion (§324.20120a(10)). In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
trans-1,2-Dichloroethylene	156605	100 (A)	100 (A)	1,500 (X)	85,000	2.0E+5	6.30E+6	2.3E+5
2,6-Dichloro-4-nitroaniline	99309	2,200	6,300	NA	NLV	NLV	7,000	ID
2,4-Dichlorophenol	120832	73	210	11	NLV	NLV	4.50E+6	ID
2,4-Dichlorophenoxyacetic acid	94757	70 (A)	70 (A)	220	NLV	NLV	6.80E+5	ID
1,2-Dichloropropane (I)	78875	5.0 (A)	5.0 (A)	230 (X)	16,000	36,000	2.80E+6	5.5E+5
1,3-Dichloropropene	542756	8.5	35	9.0 (X)	3,900	26,000	2.80E+6	1.3E+5
Dichlorovos	62737	1.6	6.7	NA	NLV	NLV	1.60E+7	NA
Dicyclohexyl phthalate	84617	ID	ID	NA	ID	ID	4,000	ID
Dieldrin	60571	0.11	0.43	0.02 (M); 6.5E-6	200 (S)	200 (S)	195	ID
Diethyl ether	60297	10 (E)	10 (E)	ID	6.1E+7 (S)	6.1E+7 (S)	6.10E+7	6.5E+5
Diethyl phthalate	84662	5,500	16,000	110	NLV	NLV	1.08E+6	NA
Diethylene glycol monobutyl ether	112345	88	250	NA	NLV	NLV	1.00E+9	ID
Diisopropyl ether	108203	30	86	ID	8,000 (S)	8,000 (S)	8,041	8,000 (S)
Diisopropylamine (I)	108189	5.6	16	NA	2.1E+7	3.7E+7 (S)	3.69E+7	4.6E+6
Dimethyl phthalate	131113	73,000	2.10E+05	NA	NLV	NLV	4.19E+6	NA
N,N-Dimethylacetamide	127195	180	520	4,100 (X)	NLV	NLV	1.00E+9	NA
N,N-Dimethylaniline	121697	16	46	NA	2.4E+5	1.3E+6 (S)	1.27E+6	NA
Dimethylformamide (I)	68122	700	2,000	NA	NLV	NLV	1.00E+9	ID
2,4-Dimethylphenol	105679	370	1,000	380	NLV	NLV	7.87E+6	ID
2,6-Dimethylphenol	576261	4.4	13	NA	NLV	NLV	6.14E+6	ID
3,4-Dimethylphenol	95658	10	29	25	NLV	NLV	4.93E+6	ID
Dimethylsulfoxide	67685	2.2E+5	6.3E+5	1.9E+5	NLV	NLV	1.66E+8	ID
2,4-Dinitrotoluene	121142	7.7	32	NA	NLV	NLV	2.70E+5	ID
Dinoseb	88857	7.0 (A)	7.0 (A)	1.0 (M); 0.48	NLV	NLV	52,000	ID
1,4-Dioxane (I)	123911	7.2 (II)	350	2,800 (X)	NLV	NLV	9.00E+8	1.4E+8
Diquat	85007	20 (A)	20 (A)	20 (M); 6.0	NLV	NLV	7.00E+5	ID
Dissolved oxygen (DO)	NA	ID	ID	(EE)	ID	ID	NA	NA
Diuron	330541	31	90	NA	NLV	NLV	37,300	ID

TABLE 1. GROUNDWATER: RESIDENTIAL AND NONRESIDENTIAL
PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS;

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1 microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. When the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion (§324.20120a(10)). In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
Endosulfan (J)	115297	44	130	0.03 (M); 0.029	ID	ID	510	ID
Endothall	145733	100 (A)	100 (A)	NA	NLV	NLV	1.00E+8	ID
Endrin	72208	2.0 (A)	2.0 (A)	ID	NLV	NLV	250	ID
Epichlorohydrin (I)	106898	5.0 (M); 2.0 (A)	5.0 (M); 2.0 (A)	NA	3.2E+5	6.3E+5	6.60E+7	4.7E+7
Ethanol (I)	64175	1.9E+6	3.8E+6	ID	NLV	NLV	1.00E+9	9.7E+7
Ethyl acetate (I)	141786	6,600	19,000	NA	6.4E+7 (S)	6.4E+7 (S)	6.40E+7	4.2E+6
Ethyl-tert-butyl ether (ETBE)	637923	49 (E)	49 (E)	ID	2.9E+6	5.6E+6 (S)	5.63E+6	ID
Ethylbenzene (I)	100414	74 (E)	74 (E)	18	1.1E+5	1.7E+5 (S)	1.69E+5	43,000
Ethylene dibromide	106934	0.05 (A)	0.05 (A)	5.7 (X)	2,400	15,000	4.20E+6	ID
Ethylene glycol	107211	15,000	42,000	1.9E+5 (X)	NLV	NLV	1.00E+9	NA
Ethylene glycol monobutyl ether	111762	3,700	10,000	NA	2.9E+6	6.5E+6	2.24E+8	NA
Fluoranthene	206440	210 (S)	210 (S)	1.6	210 (S)	210 (S)	206	ID
Fluorene	86737	880	2,000 (S)	12	2,000 (S)	2,000 (S)	1,980	ID
Fluorine (soluble fluoride) (B)	7782414	2,000 (E)	2,000 (E)	ID	NLV	NLV	NA	ID
Formaldehyde	50000	1,300	3,800	120	63,000	3.6E+5	5.50E+8	ID
Formic acid (I,U)	64186	10,000	29,000	ID	7.7E+6	1.5E+7	1.00E+9	1.0E+9 (D)
1-Formylpiperidine	2591868	80	230	NA	ID	ID	NA	ID
Gentian violet	548629	15	63	NA	NLV	NLV	1.00E+6	ID
Glyphosate	1071836	700 (A)	700 (A)	NA	NLV	NLV	1.16E+7	ID
Heptachlor	76448	0.4 (A)	0.4 (A)	0.01 (M); 0.0018	180 (S)	180 (S)	180	ID
Heptachlor epoxide	1024573	0.2 (A)	0.2 (A)	ID	NLV	NLV	200	ID
n-Heptane	142825	2,700 (S)	2,700 (S)	NA	2,700 (S)	2,700 (S)	2,690	200
Hexabromobenzene	87821	0.17 (S); 20	0.17 (S); 58	ID	ID	ID	0.17	ID
Hexachlorobenzene (C-66)	118741	1.0 (A)	1.0 (A)	0.2 (M); 0.0003	440	3,000	6,200	ID
Hexachlorobutadiene (C-46)	87683	15	42	0.053	1,600	3,200 (S)	3,230	ID
alpha-Hexachlorocyclohexane	319846	0.43	1.7	ID	2,000 (S)	2,000 (S)	2,000	ID
beta-Hexachlorocyclohexane	319857	0.88	3.6	ID	NLV	NLV	240	ID
Hexachlorocyclopentadiene (C-56)	77474	50 (A)	50 (A)	ID	130	420	1,800	ID

TABLE 1. GROUNDWATER: RESIDENTIAL AND NONRESIDENTIAL
PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS;

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1 microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. When the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion (§324.20120a(10)). In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
Hexachloroethane	67721	7.3	21	6.7 (X)	27,000	50,000 (S)	50,000	ID
n-Hexane	110543	3,000	8,600	NA	12,000 (S)	12,000 (S)	12,000	12,000 (S)
2-Hexanone	591786	1,000	2,900	ID	4.2E+6	8.7E+6	1.60E+7	NA
Indeno(1,2,3-cd)pyrene (Q)	193395	2.0 (M); 0.022 (S)	2.0 (M); 0.022 (S)	ID	NLV	NLV	0.022	ID
Iron (B)	7439896	300 (E)	300 (E)	NA	NLV	NLV	NA	ID
Isobutyl alcohol (I)	78831	2,300	6,700	NA	7.6E+7 (S)	7.6E+7 (S)	7.60E+7	ID
Isophorone	78591	770	3,100	1,300 (X)	NLV	NLV	1.20E+7	ID
Isopropyl alcohol (I)	67630	470	1,300	57,000 (X)	NLV	NLV	1.00E+9	6.0E+7
Isopropyl benzene	98828	800	2,300	28	56,000 (S)	56,000 (S)	56,000	29,000
Lead (B)	7439921	4.0 (L)	4.0 (L)	(G,X)	NLV	NLV	NA	ID
Lindane	58899	0.2 (A)	0.2 (A)	0.03 (M); 0.026	ID	ID	6,800	ID
Lithium (B)	7439932	170	350	440	NLV	NLV	NA	ID
Magnesium (B)	7439954	4.0E+5	1.1E+6	NA	NLV	NLV	NA	ID
Manganese (B)	7439965	50 (E)	50 (E)	(G,X)	NLV	NLV	NA	ID
Mercury (Total) (B,Z)	Varies	2.0 (A)	2.0 (A)	0.0013	56 (S)	56 (S)	56	ID
Methane	74828	ID	ID	NA	(K)	(K)	NA	(AA)
Methanol	67561	3,700	10,000	5.9E+5 (X)	2.9E+7 (S)	2.9E+7 (S)	2.90E+7	4.5E+6
Methoxychlor	72435	40 (A)	40 (A)	NA	ID	ID	45	ID
2-Methoxyethanol (I)	109864	7.3	21	NA	NLV	NLV	1.00E+9	ID
2-Methyl-4-chlorophenoxyacetic acid	94746	7.3	21	NA	NLV	NLV	9.24E+5	ID
2-Methyl-4,6-dinitrophenol	534521	20 (M); 2.6	20 (M); 7.3	NA	NLV	NLV	2.00E+5	ID
N-Methyl-morpholine (I)	109024	20	56	NA	NLV	NLV	1.00E+9	ID
Methyl parathion	298000	1.8	5.2	NA	NLV	NLV	50,000	ID
4-Methyl-2-pentanone (MIBK) (I)	108101	1,800	5,200	ID	2.0E+7 (S)	2.0E+7 (S)	2.00E+7	ID
Methyl-tert-butyl ether (MTBE)	1634044	40 (E)	40 (E)	7,100 (X)	4.7E+7 (S)	4.7E+7 (S)	4.68E+7	ID
Methylcyclopentane (I)	96377	ID	ID	NA	22,000	49,000	73,890	ID
4,4'-Methylene-bis-2- chloroaniline	101144	1.1	4.5	NA	NLV	NLV	14,000	ID
Methylene chloride	75092	5.0 (A)	5.0 (A)	1,500 (X)	2.2E+5	1.4E+6	1.70E+7	ID

TABLE 1. GROUNDWATER: RESIDENTIAL AND NONRESIDENTIAL
PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS;

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1 microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. When the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion (§324.20120a(10)). In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
2-Methylnaphthalene	91576	260	750	19	25,000 (S)	25,000 (S)	24,600	ID
Methylphenols (J)	1319773	370	1,000	30 (M); 25	NLV	NLV	2.80E+7	NA
Metolachlor	51218452	240	990	15	NLV	NLV	5.30E+5	ID
Metribuzin	21087649	180	520	NA	ID	ID	1.20E+6	ID
Mirex	2385855	0.02 (M); 6.8E-6 (S)	0.02 (M); 6.8E-6 (S)	0.02 (M); 6.8E-6 (S)	ID	ID	6.80E-6	NA
Molybdenum (B)	7439987	73	210	3,200 (X)	NLV	NLV	NA	ID
Naphthalene	91203	520	1,500	11	31,000 (S)	31,000 (S)	31,000	NA
Nickel (B)	7440020	100 (A)	100 (A)	(G)	NLV	NLV	NA	ID
Nitrate (B,N)	14797558	10,000 (A,N)	10,000 (A,N)	ID	NLV	NLV	NA	ID
Nitrite (B,N)	14797650	1,000 (A,N)	1,000 (A,N)	NA	NLV	NLV	NA	ID
Nitrobenzene (I)	98953	3.4	9.6	180 (X)	2.8E+5	5.5E+5	2.09E+6	NA
2-Nitrophenol	88755	20	58	ID	NLV	NLV	2.50E+6	ID
n-Nitroso-di-n-propylamine	621647	5.0 (M); 0.19	5.0 (M); 0.77	NA	NLV	NLV	9.89E+6	ID
N-Nitrosodiphenylamine	86306	270	1,100	NA	NLV	NLV	35,100	ID
Oxamyl	23135220	200 (A)	200 (A)	NA	NLV	NLV	2.80E+8	ID
Oxo-hexyl acetate	88230357	73	210	NA	ID	ID	NA	ID
Pendimethalin	40487421	280 (S)	280 (S)	NA	NLV	NLV	275	ID
Pentachlorobenzene	608935	6.1	17	5.0 (M); 0.019	ID	ID	650	ID
Pentachloronitrobenzene	82688	32 (S)	32 (S)	NA	32 (S)	32 (S)	32	ID
Pentachlorophenol	87865	1.0 (A)	1.0 (A)	(G,X)	NLV	NLV	1.85E+6	ID
Pentane	109660	ID	ID	NA	38,000 (S)	38,000 (S)	38,200	340
2-Pentene (I)	109682	ID	ID	NA	ID	ID	2.03E+5	ID
pH	NA	6.5 to 8.5 (E)	6.5 to 8.5 (E)	6.5 to 9.0	ID	ID	NA	NA
Phenanthrene	85018	52	150	2.0 (M); 1.4	1,000 (S)	1,000 (S)	1,000	ID
Phenol	108952	4,400	13,000	450	NLV	NLV	8.28E+7	NA
Phenytoin	57410	17	68	89 (X)	NLV	NLV	32,000	ID
Phosphorus (Total)	7723140	63,000	2.40E+05	(EE)	NLV	NLV	NA	ID
Phthalic acid	88993	14,000	40,000	NA	NLV	NLV	1.42E+7	ID

TABLE 1. GROUNDWATER: RESIDENTIAL AND NONRESIDENTIAL
PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS;

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1 microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. When the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion (§324.20120a(10)). In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
Phthalic anhydride	85449	15,000	44,000	NA	NLV	NLV	6.20E+6	NA
Picloram	1918021	500 (A)	500 (A)	46	NLV	NLV	4.30E+5	ID
Piperidine	110894	3.2	9.2	NA	NLV	NLV	1.00E+9	ID
Polybrominated biphenyls (J)	67774327	0.03	0.09	ID	NLV	NLV	1.66E+7	ID
Polychlorinated biphenyls (PCBs) (J,T)	1336363	0.5 (A)	0.5 (A)	0.2 (M); 2.6E-5	45 (S)	45 (S)	44.7	ID
Prometon	1610180	160	460	NA	NLV	NLV	7.50E+5	ID
Propachlor	1918167	95	270	NA	NLV	NLV	6.55E+5	ID
Propazine	139402	200	560	NA	NLV	NLV	8,600	ID
Propionic acid	79094	12,000	35,000	ID	NLV	NLV	1.00E+9	1.0E+9 (D)
Propyl alcohol (I)	71238	1,400	4,000	NA	NLV	NLV	1.00E+9	7.1E+7
n-Propylbenzene (I)	103651	80	230	ID	ID	ID	NA	ID
Propylene glycol	57556	1.5E+5	4.2E+5	2.9E+5	NLV	NLV	1.00E+9	ID
Pyrene	129000	140 (S)	140 (S)	ID	140 (S)	140 (S)	135	ID
Pyridine (I)	110861	20 (M); 7.3	21	NA	5,500	12,000	3.00E+5	81,000
Selenium (B)	7782492	50 (A)	50 (A)	5	NLV	NLV	NA	ID
Silver (B)	7440224	34	98	0.2 (M); 0.06	NLV	NLV	NA	ID
Silvex (2,4,5-TP)	93721	50 (A)	50 (A)	30	NLV	NLV	1.40E+5	ID
Simazine	122349	4.0 (A)	4.0 (A)	17	NLV	NLV	4,470	ID
Sodium	17341252	2.3E+S(HH)	3.5E+5	NA	NLV	NLV	NA	ID
Sodium azide	26628228	88	250	50 (M); 7.3	ID	ID	NA	ID
Strontium (B)	7440246	4,600	13,000	21,000	NLV	NLV	NA	ID
Styrene	100425	100 (A)	100 (A)	80 (X)	1.7E+5	3.1E+5 (S)	3.10E+5	1.4E+5
Sulfate	14808798	2.5E+5 (E)	2.5E+5 (E)	NA	NLV	NLV	NA	ID
Tebuthiuron	34014181	510	1,500	NA	NLV	NLV	2.50E+6	ID
2,3,7,8-Tetrabromodibenzo-p-dioxin (O)	50585416	(O)	(O)	(O)	NLV	NLV	0.00996	ID
1,2,4,5-Tetrachlorobenzene	95943	1,300 (S)	1,300 (S)	2.9 (X)	1,300 (S)	1,300 (S)	1,300	ID
2,3,7,8-Tetrachlorodibenzo-p-dioxin (O)	1746016	3.0E-5 (A)	3.0E-5 (A)	1.0E-5 (M); 3.1E-9	NLV	NLV	0.019	ID
1,1,1,2-Tetrachloroethane	630206	77	320	ID	15,000	96,000	1.10E+6	ID

PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS;

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1 microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. When the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion (§324.20120a(10)). In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
1,1,2,2-Tetrachloroethane	79345	8.5	35	78 (X)	12,000	77,000	2.97E+6	ID
Tetrachloroethylene	127184	5.0 (A)	5.0 (A)	60 (X)	25,000	1.7E+5	2.00E+5	ID
Tetrahydrofuran	109999	95	270	11,000 (X)	6.9E+6	1.6E+7	1.00E+9	60,000
Tetranitromethane	509148	ID	ID	NA	580	3,200	85,000	ID
Thallium (B)	7440280	2.0 (A)	2.0 (A)	3.7 (X)	NLV	NLV	NA	ID
Toluene (I)	108883	790 (E)	790 (E)	270	5.3E+5 (S)	5.3E+5 (S)	5.26E+5	61,000
p-Toluidine	106490	15	62	NA	NLV	NLV	7.60E+6	NA
Total dissolved solids (TDS)	NA	5.0E+5 (E)	5.0E+5 (E)	(EE)	ID	ID	NA	NA
Toxaphene	8001352	3.0 (A)	3.0 (A)	1.0 (M); 6.8E-5	NLV	NLV	740	ID
Triallate	2303175	95	270	NA	ID	ID	4,000	ID
Tributylamine	102829	10	29	ID	14,000	32,000	75,400	ID
1,2,4-Trichlorobenzene	120821	70 (A)	70 (A)	99 (X)	3.0E+5 (S)	3.0E+5 (S)	3.00E+5	NA
1,1,1-Trichloroethane	71556	200 (A)	200 (A)	89	6.6E+5	1.3E+6 (S)	1.33E+6	ID
1,1,2-Trichloroethane	79005	5.0 (A)	5.0 (A)	330 (X)	17,000	1.1E+5	4.42E+6	NA
Trichloroethylene	79016	5.0 (A)	5.0 (A)	200 (X)	2,200	4,900	1.10E+6	ID
Trichlorofluoromethane	75694	2,600	7,300	NA	1.1E+6 (S)	1.1E+6 (S)	1.10E+6	ID
2,4,5-Trichlorophenol	95954	730	2,100	NA	NLV	NLV	1.20E+6	ID
2,4,6-Trichlorophenol	88062	120	470	5	NLV	NLV	8.00E+5	ID
1,2,3-Trichloropropane	96184	42	120	NA	8,300	18,000	1.90E+6	NA
1,1,2-Trichloro-1,2,2-trifluoroethane	76131	1.7E+5 (S)	1.7E+5 (S)	32	1.7E+5 (S)	1.7E+5 (S)	1.70E+5	ID
Triethanolamine	102716	3,700	10,000	NA	NLV	NLV	1.00E+9	ID
Triethylene glycol	112276	4,300	12,000	NA	NLV	NLV	1.00E+6	ID
3-Trifluoromethyl-4-nitrophenol	88302	4,500	13,000	NA	NLV	NLV	5.00E+6	ID
Trifluralin	1582098	37	110	NA	ID	ID	8,100	ID
2,2,4-Trimethyl pentane	540841	ID	ID	NA	2,300 (S)	2,300 (S)	2,330	160
2,4,4-Trimethyl-2-pentene (I)	107404	ID	ID	NA	ID	ID	11,900	ID
1,2,4-Trimethylbenzene (I)	95636	63 (E)	63 (E)	17	56,000 (S)	56,000 (S)	55,890	56,000 (S)
1,3,5-Trimethylbenzene (I)	108678	72 (E)	72 (E)	45	61,000 (S)	61,000 (S)	61,150	ID

TABLE 1. GROUNDWATER: RESIDENTIAL AND NONRESIDENTIAL PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS;

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1 microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. When the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion (§324.20120a(10)). In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
Triphenyl phosphate	115866	1,200	1,400 (S)	NA	NLV	NLV	1,430	ID
tris(2,3-Dibromopropyl)phosphate	126727	10 (M); 0.71	10 (M); 2.9	ID	4,700 (S)	4,700 (S)	4,700	ID
Urea	57136	ID	ID	NA	NLV	NLV	NA	ID
Vanadium	7440622	4.5	62	27	NLV	NLV	NA	ID
Vinyl acetate (I)	108054	640	1,800	NA	4.1E+6	8.9E+6	2.00E+7	1.8E+6
Vinyl chloride	75014	2.0 (A)	2.0 (A)	13 (X)	1,100	13,000	2.76E+6	33,000
White phosphorus (R)	12185103	0.11	0.31	NA	NLV	NLV	NA	ID
Xylenes (I)	1330207	280 (E)	280 (E)	41	1.9E+5 (S)	1.9E+5 (S)	1.86E+5	70,000
Zinc (B)	7440666	2,400	5,000 (E)	(G)	NLV	NLV	NA	ID

TABLE 1a. PER- AND POLYFLUOROALKYL SUBSTANCES
GROUNDWATER: RESIDENTIAL AND NONRESIDENTIAL
PART 201 GENERIC CLEANUP CRITERIA AND SCREENING LEVELS

All criteria, unless otherwise noted, are expressed in units of parts per billion (ppb). One ppb is equivalent to 1 microgram per liter (ug/L). Criteria with 6 or more digits are expressed in scientific notation. For example, 200,000 is presented as 2.0E+5. A footnote is designated by a letter in parentheses and is explained in the footnote pages that follow the criteria tables. Pursuant to section 20120a(10) of the act, MCL 324.20120a, when the risk-based criterion is less than the target detection limit (TDL), the TDL is listed as the criterion. In these cases, 2 numbers are present in the cell. The first number is the criterion (i.e., TDL), and the second number is the risk-based or solubility value, whichever is lower.

Hazardous Substance	Chemical Abstract Service Number	Residential Drinking Water Criteria	Nonresidential Drinking Water Criteria	Groundwater Surface Water Interface Criteria	Residential Groundwater Volatilization to Indoor Air Inhalation Criteria	Nonresidential Groundwater Volatilization to Indoor Air Inhalation Criteria	Water Solubility	Flammability and Explosivity Screening Level
Hexafluoropropylene oxide dimer acid	13252136	0.37 (A)	0.37 (A)	NA	ID	ID	NA	NA
Perfluorobutane sulfonic acid	375735	0.42 (A)	0.42 (A)	NA	ID	ID	NA	NA
Perfluorohexane sulfonic acid	355464	0.051 (A)	0.051 (A)	NA	ID	ID	NA	NA
Perfluorohexanoic acid	307244	400 (A)	400 (A)	NA	ID	ID	NA	NA
Perfluorononanoic acid	375951	0.006 (A)	0.006 (A)	NA	ID	ID	NA	NA
Perfluorooctanoic acid (DD)	335671	0.008 (A)	0.008 (A)	12 (X)	ID	ID	9.50E+06	NA
Perfluorooctane sulfonic acid (DD)	1763231	0.016 (A)	0.016 (A)	0.012 (X)	NLV	NLV	3.1	NA

NOTICE OF PUBLIC HEARING

Department of Environment, Great Lakes and Energy
Remediation and Redevelopment Division
Administrative Rules for Cleanup Criteria Requirements for Response Activity
Rule Set 2020-130 EQ

NOTICE OF PUBLIC HEARING
Thursday, July 8, 2021
02:00 PM

The public hearing will be held virtually via Zoom to receive public comments while complying with measures designed to help prevent the spread of COVID-19 and the City of Lansing Resolution #2021-081.
https://us02web.zoom.us/webinar/register/WN_jmAlNyOiQdWwvY7dnMSQfQ

The Department of Environment, Great Lakes and Energy will hold a public hearing to receive public comments on proposed changes to the Cleanup Criteria Requirements for Response Activity rule set.

The proposed rule set (2020-130 EQ) will amend the current rules to add per- and polyfluoroalkyl substances (PFAS) generic cleanup criteria for groundwater used for drinking water to R 299.49.

These rules are promulgated by authority conferred on the Director of EGLE by Section 20104(1) of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.20104(1). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 7/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: EGLE-RRD@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 8/9/2021 at 05:00PM.

Kevin Schrems

Email: EGLE-RRD@michigan.gov

P.O. Box 30426 Lansing, Michigan 48909-7926
The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

OCCUPATIONAL CODE RENEWALS

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a~~(6)~~**(9)** of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 202 and 205 of the occupational code, 1980 PA 299, MCL 339.202 and 339.205, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 339.1001a, R 339.1002, R 339.1003, and R 339.1003a of the Michigan Administrative Code are amended, as follows:

PART 1. **DEFINITIONS** ~~LICENSE AND REGISTRATION RENEWALS~~

R 339.1001a Definitions.

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

(a) "Code" means the occupational code, 1980 PA 299, MCL 339.101 to 339.2677.

(b) "Department" means the department of licensing and regulatory affairs.

(c) "Issue date" means the date that the initial license or registration was granted to the licensee or registrant by the department.

(d) "Limitation" means a limitation relative to scope of practice as defined in section 105(3) of the code, MCL 339.105.

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

PART 2. LICENSE AND REGISTRATION RENEWALS

R 339.1002 Annual license renewal; expiration.

Rule 2. **(1)** The following licenses expire annually and must be renewed each year on or before the date indicated:

Appraisal management company……..7/31

Barber student instructor…….....Issue date.

~~Collection practices.....6/30.~~

Mortuary science trainees.....1/31.

~~Personnel agencies. .....12/31.~~

(2) Until 90 days after the effective date of these rules, the following licenses expire annually and must be renewed each year on or before the date indicated:

Collection practices.....6/30.

Personnel agencies……12/31.

R 339.1003 Biennial license or registration renewal; expiration.

Rule 3. (1) The following licenses and registrations expire biennially and must be renewed every 2 years on or before the date indicated:

Accountancy.....7/31.
Architects.....~~10/31~~**Issue date**.
Barbers.....Issue date.
Barber establishments and schools……...Issue date.
Cosmetology.....Issue date.
Cosmetology establishments and schools…….....Issue date.
Hearing aid dealers.....~~11/30~~ **Issue date**.
Landscape architects.....~~7/31~~ **Issue date**.
Mortuary science……10/31.
Professional engineers.....~~10/31~~ **Issue date**.
Professional surveyors.....~~10/31~~ **Issue date**.
Real estate appraisers.....7/31.

(2) A license or registration that has a limitation may be renewed for a term that is less than 2 years.

(3) For licenses that are to be renewed biennially, the department may initially renew half of the licenses for 1 year and half of the licenses for 2 years to provide equal numbers of renewals in each fiscal year.

R 339.1003a Triennial license renewal; expiration.

Rule 3a. (1) The following licenses expire triennially and must be renewed every 3 years on or before the date indicated:

Real estate brokers and salespersons.....~~10/31~~ **Issue date**.
Residential builder and maintenance and alteration contractor…….5/31.

(2) Beginning 90 days after the effective date of these rules, the following licenses expire triennially and must be renewed every 3 years on or before the date indicated:

Collection practices.....Issue date.
Personnel agencies……Issue date.

~~(2)~~ **(3)** A license that has a limitation may be renewed for a term that is less than 3 years.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
Administrative Rules for Occupational Code Renewals
Rule Set 2021-12 LR

NOTICE OF PUBLIC HEARING
Friday, July 2, 2021
09:00 AM

The public hearing will be held virtually via Zoom to receive public comments while complying with measures designed to help prevent the spread of Coronavirus Disease 2019 (COVID 19) and the City of Lansing Resolution #2021-081.
https://us02web.zoom.us/j/81212334683?pwd=VGxZTjRCaUQ1clg4OXZnS0V1WklLUT09, password 910708; Phone number: 877-336-1831, Conference code: 486917.

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Occupational Code Renewals rule set.

The proposed rules clarify the definitions for terms used in the rules. The proposed rules also add appraisal management companies to annual license renewals and phase out annual renewals for collection practices and personnel agencies. The licenses for collection practices and personnel agencies will be added to triennial license renewals 90 days after the effective date of the proposed rules. The renewal dates for architects, hearing aid dealers, landscape architects, professional engineers, professional surveyors, and real estate brokers and salespersons will be amended to the date that the initial license was issued.

By the authority conferred on the Department of Licensing and Regulatory Affairs by MCL 339.202 and MCL 339.205; and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501; MCL 445.2001; MCL 445.2011; and MCL 445.2030. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 7/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: BPL-BoardSupport@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 7/2/2021 at 05:00PM.

Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing – Boards and Committees Section

Email: BPL-BoardSupport@michigan.gov

P.O. Box 30670, Lansing, MI 48909-8170, Attention: Policy Analyst

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 711-to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF ATTORNEY GENERAL

PUBLIC ADMINISTRATION DIVISION

FINANCIAL EXPLOITATION PREVENTION ACT

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the department of attorney general by section 5 of the financial exploitation prevention act, 2020 PA 344, MCL 487.2085)

R 14.21, R 14.22, R 14.23, R 14.24, R 14.25, R 14.26, R 14.27, R 14.28, and R 14.29 are added to the Michigan Administrative Code, as follows:

R 14.21 Definitions.

Rule 21. As used in these rules:

(a) "Act" means the financial exploitation prevention act, 2020 PA 344, MCL 487.2081 to 487.2091.

(b) "County prosecutor" means the duly elected or appointed county prosecutor, or the county prosecutor's designee.

(c) Terms defined in the act have the same meanings when used in these rules.

R 14.22 Notification to county prosecutor by adult protective services; content.

Rule 22. The notification to the county prosecutor by adult protective services must:

(a) Be provided in writing.

(b) Be provided on a form titled "FEPA Adult Protective Services or Law Enforcement Notice to Prosecutor."

(c) Include a written report prepared by an adult protective services employee with the form.

(d) Include the name and contact information for the adult protective services employee in charge of the investigation.

(e) Include a copy of the financial institution's report submitted to or committed to written form by adult protective services.

(i) When the report from the financial institution is committed to written form by an adult protective services employee, the report from the financial institution may be contained within the report prepared by the adult protective services, and need not be submitted as an additional report.

(f) Include a description of the response to or actions taken by adult protective services based on the report from the financial institution.

(g) Include names and contact information of individuals that possess information about the alleged covered financial exploitation within a written report prepared by an adult protective services employee.

(h) Include a summary or brief description of the alleged covered financial exploitation if not contained in any report attached to the form titled "FEPA Adult Protective Services or Law Enforcement Notice to Prosecutor."

R 14.23 Notification to county prosecutor by law enforcement; content.

Rule 23. The notification to the county prosecutor by law enforcement must:

(a) Be provided in writing.

(b) Be provided on a form titled "FEPA Adult Protective Services or Law Enforcement Notice to Prosecutor."

(c) Include a written report prepared by a law enforcement officer.

(d) Include the name of the law enforcement agency and the name and contact information of the officer in charge of the investigation.

(e) Include a copy of the financial institution's report submitted to or committed to written form by the law enforcement agency.

(f) Include a description of the response to or actions taken by law enforcement based on the report from the financial institution.

(g) Include names and contact information of individuals that possess information about the alleged covered financial exploitation within a written report prepared by a law enforcement officer.

(h) Include a summary or brief description of the alleged covered financial exploitation if not contained in any report attached to the form titled "FEPA Adult Protective Services or Law Enforcement Notice to Prosecutor."

R 14.24 Notification to county prosecutor by financial institutions; content.

Rule 24. The notification to the county prosecutor by a financial institution must:

(a) Be provided in writing.

(b) Be submitted on a form titled "FEPA Financial Institution Notice to Prosecutor." Supporting documentation may be attached to the form by the financial institution.

(c) Include a description of efforts by the financial institution to contact law enforcement or adult protective services, and an indication of whether any contact has been made.

(d) Include a description of whether any contact has previously been made with the county prosecutor's office regarding this same matter.

(e) Indicate whether written notification was received from law enforcement or adult protective services stating whether the reported alleged covered financial exploitation is under investigation or has been referred to law enforcement, within 10 business days after a financial institution employee made a report of alleged covered financial exploitation to law enforcement or adult protective services.

(f) Include the name and contact information for the financial institution's designated contact for communication with the county prosecutor, law enforcement, or adult protective services.

(g) Include the name and contact information of the alleged perpetrator, if that information is known by the financial institution making the report.

(h) Include the name and contact information of the alleged victim, if known by the financial institution making the report.

(i) Include a description of the relationship between the alleged perpetrator and the victim, if known by the financial institution making the report.

R 14.25 Notification to county prosecutor; determining county of contact.

Rule 25. The financial institution shall use the following sequential steps to determine the appropriate prosecutor to contact:

(a) Contact adult protective services or law enforcement as follows:

(i) To contact adult protective services, a financial institution shall call the 24-hour intake telephone line maintained by the department of health and human services to contact adult protective services to

provide notification under the act. If adult protective services develops other contact methods, utilizing those contact methods complies with these rules.

(ii) To contact law enforcement, if the victim's county of residence is known, the financial institution shall contact law enforcement in the county of the victim's residence. If the victim's county of residence is unknown, the financial institution shall contact law enforcement in the county in which the alleged covered financial exploitation was observed, or in the county where the financial institution is located if the alleged covered financial exploitation took place in another state. The financial institution may also contact law enforcement in the county in which the alleged covered financial exploitation is observed, regardless of the victim's county of residence, if the alleged covered financial exploitation is actively taking place on-site at the financial institution.

(A) The financial institution shall contact law enforcement by calling the central dispatch office in the county in which law enforcement is to be notified, or by making a written report if the central dispatch office has the capability to accept written reports as follows:

(1) The financial institution shall dial 911 to contact central dispatch if the matter is determined to be an emergency by the financial institution, or if the alleged covered financial exploitation is actively taking place on-site at the financial institution at the time the contact is being made.

(2) If the matter is determined not to be an emergency by the financial institution and is not actively taking place on-site at the financial institution, the financial institution shall call the non-emergency telephone number for central dispatch or make a written report if the central dispatch office has the capability to accept written reports. If central dispatch has the capability to accept written reports, the financial institution may make the written report to central dispatch by emailing, faxing, or hand-delivering a written report.

(b) Contact the county prosecutor as follows:

(i) If the financial institution has been unable to contact adult protective services or law enforcement to provide notification under the act, the financial institution shall determine if the victim's county of residence is known and do 1 of the following:

(A) If the victim's county of residence is known, the financial institution shall contact the prosecutor in the county of the victim's residence.

(B) If the victim's county of residence is unknown, the financial institution shall contact the prosecutor in the county in which the alleged covered financial exploitation was observed, or in the county where the financial institution is located if the alleged covered financial exploitation took place in another state.

(ii) If the financial institution employee has contacted adult protective services, the financial institution shall contact the county prosecutor's office in the county in which the assigned adult protective services employee is stationed, if known by the financial institution. If the financial institution does not know where the adult protective services employee is stationed, the financial institution shall determine if the victim's county of residence is known and do 1 of the following:

(A) If the victim's county of residence is known, the financial institution shall contact the prosecutor in the county of the victim's residence.

(B) If the victim's county of residence is unknown, the financial institution shall contact the prosecutor in the county in which the alleged covered financial exploitation was observed, or in the county where the financial institution is located if the alleged covered financial exploitation took place in another state.

(iii) If the financial institution has contacted law enforcement, the financial institution shall contact the county prosecutor's office in the county in which the assigned law enforcement officer is stationed, if known by the financial institution. If the financial institution does not know where the law enforcement officer is stationed, the financial institution shall determine if the victim's county of residence is known and do 1 of the following:

(A) If the victim's county of residence is known, the financial institution shall contact the prosecutor in the county of the victim's residence.

(B) If the victim's county of residence is unknown or cannot be determined, the financial institution shall contact the prosecutor in the county in which the alleged covered financial exploitation was observed, or in the county where the financial institution is located if the alleged covered financial exploitation took place in another state.

R 14.26 Notification to county prosecutor by adult protective services, law enforcement, and financial institutions; obtaining contact information.

Rule 26. The contact information for the county prosecutor's office shall be obtained by adult protective services, law enforcement, and financial institutions by referencing an electronic directory compiled by the Prosecuting Attorneys Association of Michigan (PAAM) that is available on PAAM's website. This directory will include the name and contact information for the contact designated to receive notifications under the act at each county prosecutor's office, and the primary phone number for the county prosecutor's office. If unable to contact the specific employee listed in the directory, the financial institution should contact the office of the county prosecutor using the primary phone number for the office and request instruction for sending the written notification required under the act.

R 14.27 Notification to county prosecutor adult protective services, law enforcement, and financial institutions; method of contact.

Rule 27. The notifications under the act to the county prosecutor's office must be made as follows:

(a) Be in writing.

(b) Be made using the form referenced in these rules.

(c) Be delivered to the county prosecutor's office by email, fax, or by in-person delivery. If the contact is made by email or by fax, the agency or financial institution making the report shall request an acknowledgement of receipt.

(d) When notification is made to the county prosecutor's office by a law enforcement agency, reports should be made by any law enforcement agency that receives a copy of a notification of alleged covered financial exploitation by a financial institution under the act.

(e) When notification is made to the county prosecutor's office by the financial institution, a copy of the notification may, but is not required to be, sent by the financial institution to the department of attorney general.

R 14.28 Notification to county prosecutor by adult protective services or law enforcement; form.

Rule 28. The purpose of this rule is to prescribe the form of the notification to the county prosecutor by adult protective services or law enforcement as required by the act.

FEPA ADULT PROTECTIVE SERVICES
OR LAW ENFORCEMENT
NOTICE TO PROSECUTOR

In accordance with the Financial Exploitation Prevention Act (FEPA), MCL 400.1 et. seq

Date:

Agency & Contact Name:
Phone: Email:

Date financial institution gave notice of alleged covered financial exploitation:

Required Information

I attached the report prepared by a member of my agency.
The report contains names and contact information of individuals that possess information about the alleged covered activity reported by the financial institution.
I attached a copy of written report(s) submitted to my agency by the financial institution, or, I work for adult protective services and the attached agency report includes information provided by the financial institution.
Describe the response and actions taken by your agency after receiving notification from the financial institution (including a summary of alleged covered financial exploitation noted if not contained in any attached report):

Prosecutor Contact Information

I am using contact information from the PAAM directory.
I am sending this notification by: fax email hand-delivery (do not mail).
Note: If sending notification by fax or email, request the prosecutor's confirmation of receipt.

R 14.29 Notification to county prosecutor by financial institution; form.

Rule 29. The purpose of this rule is to prescribe the form of the notification to the county prosecutor by the financial institution as required by the act.

FEPA ADULT PROTECTIVE SERVICES
OR LAW ENFORCEMENT
NOTICE TO PROSECUTOR

In accordance with the Financial Exploitation Prevention Act (FEPA), MCL 400.1 et. seq

Date:

Agency & Contact Name:
Phone: **Email:**

Date financial institution gave notice of alleged covered financial exploitation:

Required Information

I attached the report prepared by a member of my agency.
The report contains names and contact information of individuals that possess information about the alleged covered activity reported by the financial institution.
I attached a copy of written report(s) submitted to my agency by the financial institution, or, I work for adult protective services and the attached agency report includes information provided by the financial institution.
Describe the response and actions taken by your agency after receiving notification from the financial institution (including a summary of alleged covered financial exploitation noted if not contained in any attached report):

Prosecutor Contact Information

I am using contact information from the PAAM directory.
I am sending this notification by: fax email hand-delivery (do not mail).
Note: If sending notification by fax or email, request the prosecutor's confirmation of receipt.

NOTICE OF PUBLIC HEARING

Department of Attorney General
Public Administration Division
Administrative Rules for Financial Exploitation Prevention Act
Rule Set 2021-34 AG

NOTICE OF PUBLIC HEARING
Wednesday, July 7, 2021
01:00 PM

Williams Building- 1st Floor Auditorium
Michigan Department of Attorney General, 525W. Ottawa Street, 1st floor, Lansing, MI 48933

The Department of Attorney General will hold a public hearing to receive public comments on proposed changes to the Financial Exploitation Prevention Act rule set.

The rules are designed to provide a standardized method for law enforcement, adult protective services, and financial institutions to provide notice of reports of suspected or detected covered financial exploitation made by financial institutions to the county prosecutor. The rules provide forms with a description of required content that shall be included in notifications to the county prosecutor and provide guidelines for financial institutions to determine in which county to contact the county prosecutor and how to obtain contact information for each prosecutor's office. They also seek to avoid confusion when multiple law enforcement agencies receive copies of a single notification from a financial institution by requiring each law enforcement agency that receives a copy to make a report to the county prosecutor's office. The rules are designed to create the least burdensome alternative for those required to comply, as the required notification forms are each only a single page which permits reports already required to be generated in the ordinary course of business by the agencies making the notifications as attachments.

By the authority conferred on the Department of Attorney General under § 5(5) and § 5(6) of the Financial Exploitation Prevention Act of 2020. § 5(5) states that if a law enforcement agency or adult protective services receives a report of suspected or detected covered financial exploitation from a financial institution, the agency receiving the report must provide notification to the county prosecutor within 10 days of receiving the report. § 5(6) states that if a financial institution that makes a report of suspected or detected covered financial exploitation is unable to communicate with law enforcement or adult protective services or does not receive required follow-up notifications from law enforcement or adult protective services, the financial institution may provide notification to the county prosecutor. Both § 5(5) and § 5(6) require that the manner of notification to the county prosecutor's office be made in a manner prescribed by the attorney general. MCL 487.2085(5); MCL 487.2085(6). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 7/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: AG-FEPA-Rules@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 7/7/2021 at 05:00PM.

AG-FEPA-Rules@michigan.gov

Email: AG-FEPA-Rules@michigan.gov

AAG Kristen Stineedurf, Financial Crimes Division, Michigan Department of Attorney General, P.O. Box 30755, Lansing, MI 48909

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-335-7431 to make arrangements.

CERTIFICATE OF NEED REVIEW STANDARDS

MCL 24.208 states in part:

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

* * *

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

MCL 24.207 states in part:

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

* * *

(l) All of the following, after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217:
(i) The designation, deletion, or revision of covered medical equipment and covered clinical services.
(ii) Certificate of need review standards
(iii) Data reporting requirements and criteria for determining health facility viability.
(iv) Standards used by the department of community health in designating a regional certificate of need review agency.
(v) The modification of the 100 licensed bed limitation for short-term nursing care programs set forth in section 22210 of the public health code, 1978 PA 368, MCL 333.22210.

CERTIFICATE OF NEED REVIEW STANDARDS

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

MAGNETIC RESONANCE IMAGING (MRI) SERVICES
Final Approval by the CON Commission 3/18/21 and Effective 5/28/21

The language changes include the following:

1. Section 2(1)(ll): Defines "Public Health Epidemic" - "PUBLIC HEALTH EPIDEMIC" MEANS AN EPIDEMIC IDENTIFIED AND CONTROLLED PURSUANT TO MCL 333.2253(1) OR MCL 333.2453(1), OR AN EPIDEMIC OR PANDEMIC AS DECLARED BY THE CENTERS FOR DISEASE CONTROL (CDC) OR THE WORLD HEALTH ORGANIZATION (WHO).

2. Section 4(5)(c): Allows for the annualizing of procedure data if the application is utilizing an MRI List where the reporting period is impacted by a public health epidemic when replacing an existing fixed MRI service and its unit(s) to a new site.

   Each existing MRI unit to be relocated performed at least the applicable minimum number of MRI adjusted procedures set forth in Section 14 based on the most recently published MRI Service Utilization List as of the date an application is deemed submitted by the Department unless one of the following requirements OF SUBSECTION (i), (ii), OR (iii) are met: IF THE APPLICATION IS UTILIZING AN MRI LIST WHERE THE DEPARMENT DETERMINES THAT THE REPORTING PERIOD IS IMPACTED BY A PUBLIC HEALTH EPIDEMIC AND THE FACILITY WAS PREVENTED BY LAW FROM OPERATING AT FULL CAPACITY DUE TO THE PUBLIC HEALTH EPIDEMIC, THE APPLICANT MAY ANNUALIZE THEIR MRI ADJUSTED PROCEDURES AND SHALL INCLUDE ONLY THOSE MONTHS AND PROCEDURES PERFORMED WHEN THE FACILITY WAS NOT PREVENTED BY LAW FROM OPERATING AT FULL CAPACITY DUE TO THE PUBLIC HEALTH EPIDEMIC. IF USING ANNUALIZED DATA, THE APPLICANT SHALL SUBMIT AN AFFIDAVIT CONFIRMING THE MONTHS THAT THE FACILITY WAS PREVENTED BY LAW FROM OPERATING AT FULL CAPACITY DUE TO THE PUBLIC HEALTH EPIDEMIC.

3. Section 5(2): Allows for the annualizing of procedure data if the application is utilizing an MRI List where the reporting period is impacted by a public health epidemic when expanding an MRI service.

   IF THE APPLICANT IS APPLYING FOR EXPANSION, AND THE APPLICATION IS UTILIZING AN MRI LIST WHERE THE DEPARMENT DETERMINES THAT THE REPORTING PERIOD IS IMPACTED BY A PUBLIC HEALTH EPIDEMIC, AND THE FACILITY WAS PREVENTED BY LAW FROM OPERATING AT FULL CAPACITY DUE TO THE PUBLIC HEALTH EPIDEMIC, THE APPLICANT MAY ANNUALIZE THEIR MRI ADJUSTED PROCEDURES AND SHALL INCLUDE ONLY THOSE MONTHS AND PROCEDURES PERFORMED WHEN THE FACILITY WAS NOT PREVENTED BY LAW FROM OPERATING AT FULL CAPACITY DUE TO THE PUBLIC HEALTH EPIDEMIC. IF USING ANNUALIZED DATA, THE APPLICANT SHALL SUBMIT AN AFFIDAVIT

CONFIRMING THE MONTHS THAT THE FACILITY WAS PREVENTED BY LAW FROM OPERATING AT FULL CAPACITY DUE TO THE PUBLIC HEALTH EPIDEMIC.

4. Section 6(4): Allows for the annualizing of procedure data if the application is utilizing an MRI List where the reporting period is impacted by a public health epidemic when acquiring an MRI service.

   IF THE APPLICANT IS APPLYING FOR ACQUISITION, AND THE APPLICATION IS UTILIZING AN MRI LIST WHERE THE DEPARMENT DETERMINES THAT THE REPORTING PERIOD IS IMPACTED BY A PUBLIC HEALTH EPIDEMIC, AND THE FACILITY WAS PREVENTED BY LAW FROM OPERATING AT FULL CAPACITY DUE TO THE PUBLIC HEALTH EPIDEMIC, THE APPLICANT MAY ANNUALIZE THEIR MRI ADJUSTED PROCEDURES AND SHALL INCLUDE ONLY THOSE MONTHS AND PROCEDURES PERFORMED WHEN THE FACILITY WAS NOT PREVENTED BY LAW FROM OPERATING AT FULL CAPACITY DUE TO THE PUBLIC HEALTH EPIDEMIC. IF USING ANNUALIZED DATA, THE APPLICANT SHALL SUBMIT AN AFFIDAVIT CONFIRMING THE MONTHS THAT THE FACILITY WAS PREVENTED BY LAW FROM OPERATING AT FULL CAPACITY DUE TO THE PUBLIC HEALTH EPIDEMIC.

5. Section 20(1): Update the dates.

Complete Standards

A complete set of the approved language can be found at http://www.michigan.gov/mdhhs/0,5885,7-339-71551_2945_5106-25558--,00.html. A hard copy may be obtained, for a fee, by sending a written request to:

Michigan Department of Health and Human Services
Policy and Planning
Office of Planning
P.O. Box 30195
Lansing, MI 48909
(517) 335-6708
Email address: MDHHS-ConWebTeam@michigan.gov

CERTIFICATE OF NEED REVIEW STANDARDS

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

PSYCHIATRIC BEDS AND SERVICES
Final Approval by the CON Commission 3/18/21 and Effective 5/28/21

The language changes include the following:

1. Section 3(1) of the Addendum: Update the base numbers based on the new percentages.

2. Section 17(1): Update the dates.

Complete Standards

A complete set of the approved language can be found at http://www.michigan.gov/mdhhs/0,5885,7-339-71551_2945_5106-25558--,00.html. A hard copy may be obtained, for a fee, by sending a written request to:

Michigan Department of Health and Human Services
Policy and Planning
Office of Planning
P.O. Box 30195
Lansing, MI 48909
(517) 335-6708
Email address: MDHHS-ConWebTeam@michigan.gov

CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

MCL 24.256(1) states in part:

"Sec. 56. (1) The Office of Regulatory Reform shall perform the editorial work for the Michigan register and the Michigan Administrative Code and its annual supplement. The classification, arrangement, numbering, and indexing of rules shall be under the ownership and control of the Office of Regulatory Reform, shall be uniform, and shall conform as nearly as practicable to the classification, arrangement, numbering, and indexing of the compiled laws. The Office of Regulatory Reform may correct in the publications obvious errors in rules when requested by the promulgating agency to do so…"

CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

June 8, 2021

Ms. Deidre O'Berry
The Michigan Office of Administrative Hearings and Rules
Ottawa Building, 2nd Floor
611 West Ottawa Street
Lansing, MI 48909

RE: Request for a correction of the Michigan Administrative Code
Athletic Trainers – General Rules
Filed with the Office of the Great Seal on June 4, 2021.

Dear Ms. O'Berry:

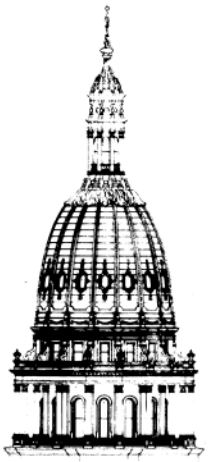
The Licensing and Regulatory Affairs Agency, Bureau of Professional Licensing, is writing to request that the Michigan Office of Administrative Hearings and Rules exercise its discretion to correct obvious errors in the Michigan Administrative Code, pursuant to Section 56(1), MCL 24.256, of the Administrative Procedures Act of 1969, 1969 PA 306, as amended.

The Agency requests the following corrections:

R 338.1303(1)(c) has the word "may" stricken. It is requested that it be removed so that the sentence reads:

Acceptable modalities of training include any of the following:

Please amend the rule set to reflect these corrections in both the *Michigan Register* and the Michigan Administrative Code.



CUMULATIVE INDEX

No-Fault Fee Schedule (2021-4*)
Surprise Medical Billing (2021-3*)

L

LABOR AND ECONOMIC OPPORTUNITY, DEPARTMENT OF
Emergency Rule
ERs - Coronavirus Disease 2019 (COVID-19) (2021-10)

Correction
General Industry Safety and Health Standard Part 307. Acrylonitrile (2021-6)

Construction Safety and Health Part 505. Coronavirus-19 (COVID-19) (2021-8*)
Construction Safety Standard Part. 1 General Rules (2021-9)
Construction Safety and Health Standard Part 6. Personal Protective Equipment (2021-5)
Construction Safety Standard Part 8. Handling and Storage of Materials (2021-6)
Construction and Safety Standard Part 13. Mobile Equipment (2021-11)
Construction Safety Standard Part 14. Tunnels, Shafts, Cofferdams, and Caissons (2021-4)
Construction Safety Standard Part 21. Walking and Working Areas (2021-6)
Construction Safety Standard Part 22. Signals, Signs, Tags, and Barricades (2021-6)
Construction Safety and Health Standard Part 602. Asbestos (2021-6)
Construction Safety and Health Standard Part 603. Lead (2021-6)
Construction Safety and Health Standards Part. 604 Chromium (VI) (2021-6)
Construction Safety and Health Standards Part. 605 Methylenedianiline (MDA) (2021-4)
Construction Safety and Health Standards Part 640. Beryllium in CS (2021-6)
Construction Safety Part 665. Underground Construction, Caissons, Cofferdams, and Compressed Air (2021-11)
General Industry Standard Part 49. Slings (2021-9)
General Industry Safety and Health Part 62 Plastic Molding (2021-6)
General Industry Safety and Health Standard Part 302. Vinyl Chloride (2021-8)
General Industry Safety and Health Standard Part 303. Methylenedianiline (2021-6)
General Industry Safety and Health Standard Part 304. Ethylene Oxide (2021-6)
General Industry Safety and Health Standard Part 306. Formaldehyde (2021-6)
General Industry Safety and Health Standard Part 307. Acrylonitrile (2021-6)
General Industry Safety and Health Standard Part 308. Inorganic Arsenic (2021-6)
General Industry Part 309. Cadmium in General Industry (2021-7)
General Industry Standard Part 310. Lead in GI (2021-7)
General Industry Safety and Health Standard Part 311. Benzene (2021-8)
General Industry Safety and Health Standard Part 312 1,3. Butadiene (2021-9)
General Industry Safety and Health Standard Part 313. Methylene Chloride (2021-6)
General Industry Safety and Health Standard Part 314. Coke Oven Emission (2021-7)
General Industry Part 315. Chromium (VI) in General Industry (2021-7)
General Industry Part 340. Beryllium in GI (2021-6)
GI and CS and Health Standard Pt 432. Hazardous Waste Operations and Emergency Response (2021-11)
General Industry and Construction Safety and Health Standard Part 451. Respiratory Protection (2021-8)
General Industry Part 472. Medical Services and First Aid (2021-6)
General Industry Safety and Health Standard Part.554 Bloodborne Infectious Diseases (2021-8)

General Industry Part 590. Silica (2021-6)
Safety and Health Standard Part 609. Cadmium (2021-4)
Workers' Compensation Board of Magistrates General Rules (2021-11*)
Workers' Compensation Health Care Services (HCS) (2021-11*)
Workers' Disability Compensation Appeals Commission General Rules (2021-11*)
Workers' Disability Compensation General Rules (2021-11*)

LICENSING & REGULATORY AFFAIRS
Correction
Audiology - General Rules (2021-10)
Athletic Training - General Rules (2021-11)

REPEAL
Liquor Control Commission Repeal MCL 436.1502 – R 436.1319 (2021-3)

Accountancy - General Rules (2021-9)
Acupuncture - General Rules (2021-7)
Athletic Training - General Rules (2021-11)
Audiology - General Rules (2021-8)
Board of Pharmacy - Animal Euthanasia and Sedation Rules (2021-11*)
Counseling - General Rules (2021-9)
Cosmetology -- General Rules (2021-8*)
Dentistry - General Rules (2021-8)
Fire Fighters Training Council (2021-3*)
Genetic Counseling - General Rules (2021-8)
Landscape Architects -- General Rules (2021-8)
Massage Therapy -- General Rules (2021-7)
Medicine - General Rules (2021-8)
Michigan Gas Safety Standards (2021-4*)
Nursing Home Administrators - General Rules (2021-8)
Occupational Code - Disciplinary Rules (2021-9)
Occupational Code Renewals (2021-11*)
Occupational Therapists - General Rules (2021-9)
Osteopathic Medicine and Surgery – General Rules (2021-8)
Part 5 Residential Code (2021-11)
Part 7 Plumbing Code Rules (2021-10)
Podiatric Medicine and Surgery - General Rules (2021-8*)
Podiatric Medicine and Surgery - General Rules (2021-6*)
Preservation of Electric, Gas, and Steam Utilities (2021-4*)
Public Health Code - General Rules (2021-10)
Real Estate Appraisers – General Rules (2021-10)
Real Estate Brokers and Salespersons – General Rules (2021-6)
Speech-Language Pathology – General Rules (2021-8)
Social Work - General Rules (2021-6)
Veterinary Medicine -- General Rules (2021-8)

S

STATE POLICE, DEPARTMENT OF

Correction
Criminal Justice Information Systems (2021-6)

Criminal Justice Information Systems (2021-5)

S

TREASURY, DEPARTMENT OF
Charitable Gaming (2021-7*)
Horse Racing General Rules (2012-6)
School Bond Qualification, Approval, And Loan Rules (2021-10*)

ADMINISTRATIVE RULES
ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2021 SESSION)

Mich. Const. Art. IV, §33 provides: "Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated."

Mich. Const. Art. IV, §27, further provides: "No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house."

MCL 24.208 states in part:

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

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year."

2021 Michigan
Public Acts Table

Legislative Service Bureau
Legal Division, Statutory Compiling and Law Publications Unit
124 W. Allegan, Lansing, MI 48909

June 17, 2021
Compiled through PA 29 of 2021

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0001		0030	Yes	3/2/2021	3/2/2021	3/2/2021	***Highways**; memorial*; portion of I-94 in Wayne County; designate as the "Firefighter Coleman A. Tate Memorial Highway". ***(Sen. Adam J. Hollier)***
0002	4047		Yes	3/9/2021	3/9/2021	3/9/2021 +	***Appropriations**; supplemental*; supplemental appropriations; provide for fiscal year 2020-2021. ***(Rep. Timothy Beson)***
0003	4048		Yes	3/9/2021	3/9/2021	3/9/2021 +	***School aid**; supplemental*; supplemental school funding; provide for. ***(Rep. Brad Paquette)***
0004		0186	Yes	3/24/2021	3/24/2021	3/24/2021	***Agriculture**; industrial hemp*; regulations for growing industrial hemp; modify. ***(Sen. Dan Lauwers)***
0005		0100	Yes	3/26/2021	3/26/2021	3/26/2021	***Children**; child care*; definition of foster care; provide for. ***(Sen. John Bizon, M.D.)***
0006	4126		Yes	4/8/2021	4/8/2021	4/8/2021	***Natural resources**; hunting*; pheasant stamp program; modify. ***(Rep. Gary Howell)***
0007	4569		Yes	4/22/2021	4/22/2021	4/22/2021	***Individual income tax**; city*; extension of 2020 city income tax filing deadline; allow. ***(Rep. Andrew Beeler)***
0008	4571		Yes	4/22/2021	4/22/2021	4/22/2021	***Individual income tax**; returns*; extension of filing deadline for 2020 income taxes; allow. ***(Rep. Tenisha Yancey)***

* - I.E. means Legislature voted to give the Act immediate effect.
** - Act takes effect on the 91st day after sine die adjournment of the Legislature.
*** - See Act for applicable effective date.
+ - Line item veto.
++ - Pocket veto.
# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0009	4469		Yes	5/6/2021	5/7/2021	5/7/2021	***Appropriations**; natural resources*; Michigan natural resources trust fund; provide appropriations for fiscal year 2021-2022. ***(Rep. Sue Allor)***
0010	4019		Yes	5/6/2021	5/7/2021	5/7/2021	***Appropriations**; zero budget*; multi-department supplemental appropriations; provide for fiscal year 2020-2021. ***(Rep. Thomas Albert)***
0011	4429		Yes	5/13/2021	5/13/2021	5/13/2021	***Highways**; memorial*; portion of US-2 and US-41; designate as the "Darryl M. Rantanen Memorial Highway". ***(Rep. Beau LaFave)***
0012	4067		No	5/13/2021	5/13/2021	**	***Health occupations**; dentists*; health profession specialty field license; expand to include other health profession specialty fields. ***(Rep. Ben Frederick)***
0013	4053		Yes	5/13/2021	5/13/2021	5/13/2021	***Highways**; memorial*; portion of M-120; designate as the "Deputy Ernest W. Heikkila Memorial Highway". ***(Rep. Greg VanWoerkom)***
0014		0016	Yes	5/19/2021	5/19/2021	8/17/2021	***Housing**; inspection*; change of ownership; exclude certain transfers. ***(Sen. Dale W. Zorn)***
0015		0118	Yes	5/19/2021	5/19/2021	5/19/2021	***School aid**; penalties*; penalties for prohibited conduct; modify. ***(Sen. Ed McBroom)***
0016		0141	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; spirits*; definition of mixed spirit drink; modify, and modify eligibility for direct shipper license and retailer delivery. ***(Sen. Wayne A. Schmidt)***
0017		0142	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; retail sales*; allowing in state and out-of-state mixed spirit drink manufacturers to deliver mixed spirit drink to retailers; provide for. ***(Sen. Winnie Brinks)***
0018		0143	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; spirits*; definition of mixed spirit drink; modify. ***(Sen. Jeremy Moss)***

* - I.E. means Legislature voted to give the Act immediate effect.
** - Act takes effect on the 91st day after sine die adjournment of the Legislature.
*** - See Act for applicable effective date.
+ - Line item veto.
++ - Pocket veto.
# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0019		0144	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; spirits*; definition of mixed spirit drink; modify. ***(Sen. Curtis S. VanderWall)***
0020		0049	Yes	6/3/2021	6/3/2021	6/3/2021	***Liquor**; permits*; an on-premises tasting room and an off-premises tasting room held at same location; allow under certain conditions. ***(Sen. Kimberly A. LaSata)***
0021	4043		No	6/8/2021	6/9/2021	**	***Mental health**; other*; information gathered by the electronic inpatient bed registry; require to be reported to the Michigan crisis and access line. ***(Rep. Mary Whiteford)***
0022	4044		No	6/8/2021	6/9/2021	**	***Mental health**; other*; state-operated registries related to mental health; require to report data to the Michigan crisis and access line. ***(Rep. Mary Whiteford)***
0023	4376		Yes	6/9/2021	6/9/2021	9/7/2021 #	***Occupations**; individual licensing and registration*; waiver of licensing fees for veterans, members of the armed forces, members of the uniformed forces, and their dependents; provide for. ***(Rep. Andrea Schroeder)***
0024	4377		Yes	6/9/2021	6/9/2021	9/7/2021	***Occupations**; individual licensing and registration*; licensing reciprocity for certain skilled trades for veterans, members of the armed forces, members of the uniformed services, and their dependents who hold an out-of-state license; provide for. ***(Rep. Sarah Anthony)***
0025		0157	Yes	6/9/2021	6/9/2021	9/7/2021	***Health occupations**; health professionals*; reciprocity for veterans, members of the armed forces, members of the uniformed services, and their dependents who hold an out-of-state license or registration; provide for. ***(Sen. John Bizon, M.D.)***
0026		0312	Yes	6/9/2021	6/9/2021	9/7/2021 #	***Occupations**; individual licensing and registration*; licensing reciprocity for certain occupations for veterans, members of the armed forces, members of the uniformed services, and their dependents who hold an out-of-state license; provide for. ***(Sen. Marshall Bullock)***
0027		0437	Yes	6/15/2021	6/15/2021	6/15/2021	***Michigan business tax**; credits*; time frame for completion of certain multiphase projects; modify. ***(Sen. Wayne A. Schmidt)***
0028	4325		No	6/15/2021	6/15/2021	**	***Senior citizens**; other*; criminal history check for employees, volunteers, or independent contractors of a local area agency on aging; require. ***(Rep. Matt Hall)***

* - I.E. means Legislature voted to give the Act immediate effect.
** - Act takes effect on the 91st day after sine die adjournment of the Legislature.
*** - See Act for applicable effective date.
+ - Line item veto.
++ - Pocket veto.
# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0029	4445		No	6/15/2021	6/15/2021	**	***Liquor***; *licenses*; minimum number of sporting events for a motor sports license; reduce. ***(Rep. Sarah Lightner)***
Veto	4049		No	No		3/9/2021	***Health***; *diseases*; authority to close certain schools to in-person instruction and prohibit certain sporting events in emergency orders issued in response to an epidemic; modify. ***(Rep. Pamela Hornberger)***
Veto		0001	No	No		3/24/2021	***Health***; *diseases*; time limits on emergency orders issued in response to an epidemic; provide for unless extension is approved by the legislature and require emergency order to include certain information. ***(Sen. Lana Theis)***
Veto		0029	No	No		3/26/2021	***Appropriations***; *supplemental*; supplemental appropriations for 2019-2020 and 2020-2021; provide for. ***(Sen. Jim Stamas)***
Veto		0114	No	No		3/26/2021	***Appropriations***; *zero budget*; multidepartment supplemental appropriations; provide for fiscal year 2020-2021. ***(Sen. Jim Stamas)***
Veto	4210		No	No		4/14/2021 #	***Property tax***; *utility property*; eligible broadband equipment; exempt from certain taxes. ***(Rep. Beth Griffin)***
Veto		0046	No	No		5/13/2021	***Property tax***; *exemptions*; eligible broadband equipment; exempt from personal property tax. ***(Sen. Aric Nesbitt)***
Veto		0017	No	No		5/19/2021	***Public employees and officers***; *other*; 1968 PA 317 regarding contracts of public servants with public entities; modify certain population thresholds. ***(Sen. Dale W. Zorn)***
Veto	4448		No	No		6/3/2021	***State financing and management***; *other*; suspension of freedom of information act requests in an executive order under the emergency management act; prohibit. ***(Rep. Steven Johnson)***
Veto	4728		No	No		6/3/2021	***Health***; *diseases*; exemption for high school commencement ceremonies from emergency orders issued to control an epidemic; provide for under certain circumstances. ***(Rep. Ann Bollin)***

* - I.E. means Legislature voted to give the Act immediate effect.
** - Act takes effect on the 91st day after sine die adjournment of the Legislature.
*** - See Act for applicable effective date.
+ - Line item veto.
++ - Pocket veto.
# - Tie bar.