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)
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Scott Hiipakka, Executive Director, Office of Performance and Transformation; 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 Office of Regulatory Reform publishes the *Michigan Register*.

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

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

Sec. 8.

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

(a) Executive orders and executive reorganization orders.

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

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

(d) Proposed administrative rules.

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

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

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

(h) Notice of proposed and adopted agency guidelines.

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

(j) Attorney general opinions.

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

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

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

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

(5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.
4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.

Sec. 203.

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

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

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

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

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

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

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

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

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

**CITATION TO THE MICHIGAN REGISTER**

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

**CLOSING DATES AND PUBLICATION SCHEDULE**

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

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

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reinvention, Romney Building – Eight Floor, 111 S. Capitol, Lansing, MI 48909.
RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE
The Michigan Administrative Code (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

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

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INTERNET ACCESS
The Michigan Register can be viewed free of charge on the Internet web site of the Office of Regulatory Reinvention: www.michigan.gov/orr.

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

Executive Director,
Office of Performance and Transformation
<table>
<thead>
<tr>
<th>Issue No.</th>
<th>Closing Date for Filing or Submission</th>
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<tbody>
<tr>
<td>1</td>
<td>January 15, 2019</td>
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</tr>
<tr>
<td>24</td>
<td>January 1, 2020</td>
<td>January 15, 2020</td>
</tr>
</tbody>
</table>
CONTENTS

ADMINISTRATIVE RULES FILED
WITH SECRETARY OF STATE

Department of Licensing and Regulatory Affairs
Corporations, Securities, & Commercial Licensing (2015-027)
   Securities ........................................................................................................................... 2-45

Department of Natural Resources
Office of Minerals Management (2016-051)
   Nonmetallic Minerals Leased on State Lands ................................................................. 46-50

Department of Licensing and Regulatory Affairs
Public Service Commission (2016-057)
   Michigan Gas Safety Standards ..................................................................................... 51-60

Department of Licensing and Regulatory Affairs
Bureau of Construction Codes (2017-001)

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2017-002)
   Board of Acupuncture - General Rules ....................................................................... 68-71

Department of Environmental Quality
Air Quality Division (2017-006)
   Part 9. Emission Limitations and Prohibitions--Miscellaneous ..................................... 72-81

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2017-019)
   Board of Veterinary Medicine - General Rules ............................................................. 82-88

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2017-020)
   Veterinary Technician Licensure ................................................................................... 89-95

Department of Environmental Quality
Air Quality Division (2017-068)
   Part 2. Air Use Approval ............................................................................................... 96-107

Department of Environmental Quality
Air Quality Division (2017-070)
Department of Environmental Quality
Air Quality Division (2017-070)
    Part 19. New Source Review for Major Sources Impacting Nonattainment Areas........133-156

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2017-086)
    Board of Massage Therapy – General Rules .................................................................157-168

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2017-087)
    Residential Builders and Maintenance and Alteration Contractors.........................169-175

Department of Licensing and Regulatory Affairs
Public Service Commission (2017-091)
    Technical Standards for Electric Service.................................................................176-186

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2017-094)
    Board of Social Work - General Rules .................................................................187-199

Department of Licensing and Regulatory Affairs
Public Service Commission (2018-001)
    Consumer Standards and Billing Practices for Electric and Gas Residential Service......200-202

Department of Licensing and Regulatory Affairs
Public Service Commission (2018-002)
    Code of Conduct .................................................................................................203-208

Military and Veteran Affairs
Veterans' Trust Fund board of Trustees (2018-008)
    State Homes for Veterans ......................................................................................209-213

Department of Transportation
Bureau of Urban and Public Transportation (2018-010)
    Motor Bus Transportation Rules ..............................................................................214-216

Department of Licensing and Regulatory Affairs
Bureau of Construction Codes (2018-011)
    Survey and Remonumentation Commission - General Rules ....................................217-218

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2018-015)
    Audiology - General Rules ......................................................................................219-228

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2018-016)
    Board of Chiropractic - General Rules ....................................................................229-237
Department of Licensing and Regulatory Affairs
Workers' Compensation Agency (2018-017)
Workers' Compensation Health Care Services Rules ....................................................... 238-247

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2018-019)
Behavior Analysts – General Rules .................................................................................. 248-252

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2018-020)
Board of Pharmacy - Controlled Substances .................................................................... 253-256

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2018-024)

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2018-025)
Accountancy – General Rules ............................................................................................ 258-268

Department of Licensing and Regulatory Affairs
Public Service Commission (2018-027)
Unbundled Network Element and Local Interconnection Services .................................. 269-270

Department of Licensing and Regulatory Affairs
Public Service Commission (2018-030)
Basic Local Exchange Service Customer Migration ........................................................ 271-277

Department of Insurance and Financial Services
Insurance Bureau (2018-056)
Credit for Reinsurance ...................................................................................................... 278-294

PROPOSED ADMINISTRATIVE RULES,
NOTICES OF PUBLIC HEARINGS

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2018-023)
Board of Physical Therapy - General Rules ................................................................. 296-315
Public Hearing Notice .................................................................................................... 316-317

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2018-041)
Board of Respiratory Care ................................................................................................ 318-324
Public Hearing Notice .................................................................................................... 325-326
Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing (2018-041)
Task Force on Physician’s Assistants – General Rules .................................................... 327-330
Public Hearing Notice ....................................................................................................... 331-332

CERTIFICATION OF NEED REVIEW STANDARDS

Department of Health and Human Services
Certificate of Need Review Standards Synopsis for Publication in the Michigan Register for Cardiac Catheterization Services ...................................................................................... 334-339

Department of Health and Human Services
Certificate of Need Review Standards Synopsis for Publication in the Michigan Register for Open Heart Surgery (OHS) Services ................................................................................ 340-341

CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

Department of Treasury
Bureau of Tax Policy (2014-075)
Taxpayers Bill of Rights ................................................................................................. 343-343

Department of Licensing and Regulatory Affairs
Public Service Commission (2016-057)
Michigan Gas Safety Standards ...................................................................................... 344-345

Department of Environmental Quality
Air Quality Division (2017-006)
Part 9. Emission Limitations and Prohibitions--Miscellaneous ..................................... 346-347

Department of Environmental Quality
Air Quality Division (2017-068)
Part 2. Air Use Approval ................................................................................................. 348-349

Department of Environmental Quality
Air Quality Division (2017-070)
Part 18. Prevention of Significant Deterioration of Air Quality ..................................... 350-352

Department of Environmental Quality
Air Quality Division (2017-071)
Part 19. New Source Review For Major Sources Impacting Nonattainment Areas ....... 353-354
AG Opinion No. 7308
Constitutionality of State Housing Development Authority’s
Equal Employment Opportunity policy .................................................................356-367

MICHIGAN ADMINISTRATIVE CODE TABLE
Table (2019 Session) ............................................................................................369-372

CUMULATIVE INDEX
Cumulative Index (2019) .......................................................................................373-375

BILLS SIGNED INTO LAW OR VETOED
Appendix Table 1 (2018 Session) (Legislative Service Bureau Pages (1-37)) ........376-376
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.”
These rules become effective 180 days after filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 451.602.1 Rescinded.
R 451.602.2 Rescinded.
R 451.602.3 Rescinded.
R 451.602.4 Rescinded.
R 451.602.6 Rescinded.
R 451.602.7 Rescinded.
R 451.602.8 Rescinded.
R 451.603.1 Rescinded.
PART 1. DEFINITIONS

R 451.603.2 Rescinded.
R 451.603.5 Rescinded.
R 451.604.1 Rescinded.
R 451.604.2 Rescinded.
R 451.604.3 Rescinded.
R 451.704.1 Rescinded.
R 451.704.2 Rescinded.
R 451.705.4 Rescinded.
R 451.705.6 Rescinded.
R 451.706.1 Rescinded.
R 451.706.2 Rescinded.
R 451.706.4 Rescinded.
R 451.706.8 Rescinded.
R 451.706.24 Rescinded.
R 451.706.26 Rescinded.
R 451.801.3 Rescinded.
R 451.801.4 Rescinded.
R 451.802.2 Rescinded.
R 451.803.3 Rescinded.
R 451.803.5 Rescinded.
R 451.803.8 Rescinded.
R 451.803.10 Rescinded.
R 451.803.11 Rescinded.
R 451.1.1 Definitions.

Rule 1.1. As used in these rules and in the act, if applicable:

(a) “3(c)(1) fund” means a qualifying private fund that is eligible for the exclusion from the definition of an investment company under section 3(c)(1) of the investment company act of 1940, 15 U.S.C. §80a-3(c)(1).


(c) “Agency cross transaction for an advisory client” means a transaction in which a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlling, controlled by, or under common control with such investment adviser, including an investment adviser representative, acts as a broker-dealer for both the advisory client and another person on the other side of the transaction.

(d) “Impersonal advisory services” means any contract relating solely to the provision of investment advisory services under any of the following:

(i) By means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts.

(ii) Through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security.

(iii) Any combination of the services in subdivision (d)(i) and (ii) of this rule.

(c) “Control” means the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company. Any person who owns beneficially, either directly or through 1 or more controlled companies, more than 25% of the voting securities of a company is presumed to control that company.

(f) “CRD” means the central registration depository operated by FINRA.

(g) “Discretionary authority” does not include discretion as to the price at which or the time when a transaction is or is to be effected, if, before the order is given by the investment adviser, the client has directed or approved the purchase or sale of a definite amount of the particular security.

(h) “EDGAR” means the electronic data gathering, analysis, and retrieval system operated by the SEC.

(i) “EFD” means the electronic filing depository operated by the North American Securities Administrators Association, Inc.

(j) “Entering into”, in reference to an investment advisory contract, does not include an extension or renewal without material change of any contract that is in effect immediately prior to an extension or renewal.


(l) “FINRA” means the financial industry regulatory authority.

(m) “Form ADV” means the uniform application for investment adviser registration.

(n) “Form ADV-W” means the notice of withdrawal from registration as investment adviser.

(o) “Form BD” means the uniform application for broker-dealer registration.

(p) “Form BDW” means the uniform request for broker-dealer withdrawal.

(q) “Form U4” means the uniform application for securities industry registration or transfer.

(r) “Form U5” means the uniform termination notice for securities industry registration.

(s) “Form U-7” means the small company offering registration form.

(t) “IARD” means the Investment Adviser Registration Depository operated by FINRA.

(u) “Investment supervisory services” means giving of continuous advice about the investment of funds on the basis of the individual needs of each client.

(v) “NASAA” means the North American Securities Administrators Association, Inc.
(w) “NASDAQ” means the NASDAQ Stock Market, LLC (formerly an acronym for the national association of securities dealers automated quotations system).

(x) “Private fund adviser” means an investment adviser who provides advice solely to 1 or more qualifying private funds.

(y) “Qualifying private fund” means a private fund that meets the definition of a qualifying private fund in SEC rule 203(m)-1, 17 C.F.R. §275.203(m)-1.

(z) “SCOR” means a small corporate offering registration.


R 451.1.2 Broker-dealer definition exclusion.

Rule 1.2. As used in these rules and in the act, if applicable, “broker-dealer” does not include any of the following:

(a) A “finder” as that term is defined by section 102(i) of the act, MCL 451.2102(i).

(b) A person whose participation in an offer or sale of securities, for direct or indirect compensation, is limited to introducing 1 or more accredited investors, as that term is defined in SEC rule 501, 17 C.F.R. § 230.501, who are residents of this state to an issuer incorporated or organized in this state, or introduces an issuer incorporated or organized in this state to 1 or more accredited investors who are residents of this state, solely for the purpose of a potential offer or sale of the issuer’s securities in an issuer transaction in this state, and who complies with all of the following:

   (i) The person shall not engage in any of the following activities:

      (A) Provide introductions to an issuer for a transaction or a series of related transactions in connection with the offer or sale of the issuer’s securities that exceeds a purchase price of $15,000,000.00 in the aggregate.

      (B) Participate in negotiating any of the terms of the offer or sale of the securities.

      (C) Advise any party to the transaction regarding the value of the securities or the advisability of investing in, purchasing, or selling the securities.

      (D) Participate in the preparation, delivery, or execution of the issuer’s disclosure documents, offering circulars, contracts, or other documents related to the transaction except as provided for in subrule (b)(iii) of this rule.

      (E) Conduct any due diligence on behalf of an issuer or on behalf of a potential purchaser of an issuer’s securities.

      (F) Sell or offer to sell in connection with the issuer transaction any securities of the issuer that are owned, directly or indirectly, by the person.

      (G) Receive, directly or indirectly, possession or custody of any funds or securities in connection with an issuer transaction for which the person is engaged.

      (H) Receive compensation in connection with any introduction that results in the offer or sale of securities without reasonable grounds to believe the offer or sale complies with section 301 of the act, MCL 451.2301.

   (ii) The person and the issuer shall enter into a written agreement before any introduction facilitated by the person in connection with the potential offer or sale of the issuer’s securities. The agreement must include the following:

      (A) The type and amount of compensation that has been or will be paid to the person in connection with the introduction and the conditions for payments of that compensation.

      (B) That the person is not providing advice to the issuer or any person introduced by the person to the issuer as to the value of the securities or the advisability of investing in, purchasing, or selling the securities.
(C) Whether the person, a related person, or a member of the person’s immediate family, has any beneficial interest in the securities being offered or sold by the issuer.

(D) Any actual or potential conflict of interest in connection with the person’s participation in the potential securities transaction.

(iii) The person shall provide a copy of the written agreement required by subdivision (b)(ii) of this rule to any potential purchaser of securities before making any introductions in reliance on this rule, and receive written acknowledgement from the potential purchaser of delivery of the written agreement.

(iv) Copies of all written agreements and acknowledgements required by subdivision (b)(ii) and (iii) of this rule entered into by the person must be maintained by the person for a period of 5 years from the date the agreement or acknowledgement is signed by all parties, and must be provided to the administrator upon the administrator’s request.

PART 2. EXEMPTIONS FROM REGISTRATION OF SECURITIES

R 451.2.1 Not-for-profit securities.

Rule 2.1. (1) The offer or sale of a note, bond, debenture, or other evidence of indebtedness by a person described in section 201(g) of the act, MCL 451.2201(g), qualifies for the self-executing exemption set forth in section 201(g), MCL 451.2201(g) only if the aggregate sales price of the issuance of the securities is $500,000.00 or less, and sold to a bona fide member of the issuing organization without payment of a commission or consulting fee.

(2) The offer or sale of a note, bond, debenture, or other evidence of indebtedness that does not qualify for the self-executing exemption described in subrule (1) of this rule shall file with the administrator a request for exemption pursuant to section 201(g) of the act, MCL 451.2201(g), and shall comply with subrules (6) to (10) of this rule.

(3) The administrator shall apply the applicable statement of policy adopted by NASAA as listed in subrule (2) of this rule when reviewing requests for exemption authorization pursuant to section 201(g) of the act, MCL 451.2201(g).

(4) The following statements of policy are adopted by reference:

(a) “Church Bonds” as adopted by NASAA on April 14, 2002. A copy of this policy can be obtained from NASAA, 750 First Street, NE, Suite 1140, Washington, DC 20002, and is available for free online at http://www.nasaa.org, or from the Michigan department of licensing and regulatory affairs, corporations, securities, and commercial licensing bureau, P.O. Box 30018, Lansing, MI 48909 for a cost as prescribed in R 451.6.2.

(b) “Church Extension Fund Securities” as amended and published by NASAA on April 18, 2004. A copy of this policy can be obtained from NASAA, 750 First Street, NE, Suite 1140, Washington, DC 20002, and is available for free online at http://www.nasaa.org, or from the Michigan department of licensing and regulatory affairs, corporations, securities, and commercial licensing bureau, P.O. Box 30018, Lansing, MI 48909 for a cost as prescribed in R 451.6.2.

(5) The administrator may require a cross-reference table be included in a request for exemption authorization to indicate compliance with, or deviation from, the various sections of the applicable NASAA statement of policy.

(6) The request for exemption authorization for an offering of church bonds shall include the documents listed in section II.A.3. of the NASAA statement of policy “Church Bonds”.

(7) All sales and advertising literature must be filed with the administrator prior to use and must comply with the applicable NASAA statement of policy.

(8) Each request for exemption under section 201(g) of the act, MCL 451.2201(g), must include a nonrefundable filing fee of $250.00.
(9) The securities that qualify for an exemption under subrule (2) of this rule are exempt when ordered by the administrator, and the exemption is effective for 1 year from the date that the securities were ordered exempt.

(10) If the securities offering is not completed during the effective period, an issuer may renew the exemption by submitting to the administrator a written request for renewal that includes any amendments to the documents filed with the initial request for exemption and a nonrefundable filing fee of $250.00. The issuer shall file the written request for renewal with the administrator within 30 days before the end of the 1 year effective date. With each renewal, the administrator may require a cross-reference sheet to demonstrate compliance with the applicable NASAA statement of policy.

R 451.2.2 Recognized securities manuals.

Rule 2.2. The administrator recognizes the following securities manuals under section 202(1)(b)(iv) of the act, MCL 451.2202(1)(b)(iv):

(a) Standard & poor’s standard corporation descriptions.
(b) Mergent’s industrial manual and news reports.
(c) Mergent’s transportation manual and news reports.
(d) Mergent’s public utility manual and news reports.
(e) Mergent’s bank and finance manual and news reports.
(f) Mergent’s municipal and government manual and news reports.
(g) Mergent’s international manual and news reports.
(h) Fitch’s individual stock bulletin.
(i) Best’s insurance reports life-health.
(j) Moody’s OTC industrial manual.
(k) OTC Markets Group, Inc.’s OTCQX market.
(l) OTC Markets Group, Inc.’s OTCQB market.

(m) Any other securities manual determined by the administrator to be a nationally recognized securities manual that requires the continuous disclosure by any issuer relying on the manual for the registration exemption.

R 451.2.3 Bad actor disqualification.

Rule 2.3. (1) Exemptions available at section 201(g), MCL 451.2201(g), section 202(1)(k), MCL 451.2202(1)(k), section 202(1)(n), MCL 451.2202(1)(n), section 202(1)(t), MCL 451.2202(1)(t), and section 202a, MCL 451.2202a, are not available for an offer or sale of securities if the issuer; any predecessor of the issuer; any affiliated issuer; any director, executive officer, other officer participating in the offering, general partner or managing member of the issuer; any beneficial owner of 20% or more of the issuer’s outstanding voting equity securities, calculated on the basis of voting power; any promoter connected with the issuer in any capacity at the time of such sale; any investment manager of an issuer that is a pooled investment fund; any person that has been or will be paid, directly or indirectly, remuneration for solicitation of purchasers in connection with such sale of securities; any general partner or managing member of any such investment manager or solicitor; or any director, executive officer or other officer participating in the offering of any such investment manager or solicitor or general partner or managing member of such investment manager or solicitor is subject to either of the following:

(a) Disqualification as described in SEC rule 506(d) of SEC regulation D, 17 C.F.R. §230.506(d).
(b) Disqualification as described in SEC rule 262 of Regulation A, 17 C.F.R. §230.262.

(2) Subrule (1) of this rule does not apply under any of the following conditions:

(a) With respect to any conviction, order, judgment, decree, suspension, expulsion, or bar that occurred or was issued before September 23, 2013. Issuers relying on this subrule shall furnish to each offeree
and purchaser, a reasonable time prior to sale, a description in writing of any matters that would cause a disqualification under subrule (1) of this rule, but which occurred before September 23, 2013.

(b) Upon a showing of good cause and without prejudice to any other action by the administrator, if the administrator determines that it is not necessary under the circumstances that an exemption be denied. Requests for a determination by the administrator under this subsection must be made in writing.

(c) If, before the relevant sale, the court or regulatory authority that entered the relevant order, judgment, or decree advises in writing, whether contained in the relevant order, judgment, or decree, or separately to the administrator or its staff, that disqualification under subrule (1) of this rule should not arise as a consequence of such order, judgment, or decree.

(d) If the issuer establishes that it did not know and, in the exercise of reasonable care, could not have known, that a disqualification existed under subrule (1) of this rule. For purposes of this subrule, an issuer shall not be able to establish that it has exercised reasonable care unless it has made, in light of the circumstances, factual inquiry into whether any disqualifications exist. The nature and scope of the factual inquiry shall vary based on the facts and circumstances concerning, among other things, the issuer and the other offering participants.

R 451.2.4 Intra-industry exemption for persons engaged in oil, gas, and mineral business.

Rule 2.4. (1) Pursuant to section 203 of the act, MCL 451.2203, sales of certificates of interest; participation in oil, gas, or mining titles or leases; payments out of production under such titles or leases; or of other securities relating to oil, gas, or mining ventures are exempt from registration requirements of section 301 of the act, MCL 451.2301, when the offers or sales are made to any of the following:

(a) Persons who are engaged on a full-time basis in the business of exploring for, or the producing, transporting, or refining of, oil, gas, or other minerals; buying, selling, and trading oil, gas, or mining titles or leases; payments out of production under such titles or leases; or in any combination of the foregoing businesses and who have at least 3 years of experience in any such business or combination thereof.

(b) Corporations or any subsidiaries of such corporations, any of the stock of which is listed on the New York stock exchange or the American stock exchange, that are engaged in any business specified in subdivision (a) of this subrule, or combination thereof, as a principal line of business.

(2) As used in this rule, "engaged on a full-time basis," when applied in relation to the business of exploring for, or the producing, transporting, or refining of, oil, gas, or other minerals; buying, selling, and trading oil, gas, or mining titles or leases; payments out of production under such titles or leases; or any combination of the foregoing businesses means that the person is engaged in such business as his or her principal business activity and, in the case of an individual, that the person is engaged in any such business in a management capacity and either maintains an office for the conduct of such business or is employed by a person maintaining such office.

(3) For the purpose of this rule, a person is deemed to have had 3 years of experience in the business of exploring for, or the producing, transporting, or refining of, oil, gas, or other minerals; buying, selling, and trading oil, gas, or mining titles or leases; or payments out of production under such titles or leases, if such person was engaged in any such business, or combination thereof, on a full-time basis during the period in question. However, a corporation, partnership, association, or other business entity that was engaged in any such business on a full-time basis during the period in question is nonetheless deemed to have had 3 years of experience in any such business or combination thereof, if such entity had at least 1 officer or partner, or person of similar status, who was engaged in any such business, or combination thereof, on a full-time basis during the period in question.

R 451.2.5 Purchaser.
Rule 2.5. For purposes of section 202(1)(n) of the act, MCL 451.2202(1)(n), a natural person, spouse, and minor children residing in the same household, together with any revocable grantor trusts, individual retirement accounts, health savings accounts, or similar accounts for which any of them is the grantor, trustee, or sole beneficiary, is considered as 1 purchaser.

PART 3. REGISTRATION OF SECURITIES AND NOTICE FILINGS OF FEDERAL COVERED SECURITIES

R 451.3.1 Notice filing.
Rule 3.1. A notice filing for a security issued by an investment company that is a federal covered security as defined in section 18(b)(2) of the securities act of 1933, 15 U.S.C. §77r, that is not otherwise exempt under sections 201 to 203 of the act, MCL 451.2201 to 451.2203, includes the following, as applicable:
(a) Before the initial offer of a federal covered security in this state all of the following:
   (i) All records that are part of a federal registration statement filed with the SEC under the securities act of 1933, 15 U.S.C. § 77a et seq.
   (ii) NASAA form U-2 consent to service of process signed by the issuer.
   (iii) NASAA form NF uniform investment company notice filing form.
   (iv) A nonrefundable filing fee of $500.00.
(b) After the initial offer of sale, if the issuer files an amendment to its registration statement with the SEC, the issuer shall file a copy of the amendment with the administrator.

R 451.3.2 State securities registrations and notice filings.
Rule 3.2. (1) Pursuant to section 302 of the act, MCL 451.2302, the administrator designates the EFD to be authorized pursuant to subrule (2) of this rule to receive and store securities registrations, exemptions, notice filings, and amendments and collect related fees on behalf of the administrator.
(2) Unless otherwise provided, upon notice under subrule (3) of this rule, filings and related fees shall be filed electronically with and transmitted to the EFD. This requirement may be waived by the administrator.
(3) Notwithstanding subrule (2) of this rule, the electronic filing of documents and the collection of related processing fees is not required until such time as the EFD provides for receipt of such filings and fees and 30 days’ notice is provided by the administrator. Any documents or fees required to be filed with the administrator that are not permitted to be filed with, or cannot be accepted by, the EFD system must be filed directly with the administrator, or the administrator’s designee.
(4) A duly authorized person of the issuer shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to EDGAR. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individual whose name is typed on the filing.

R 451.3.3 Small corporate offering registration, SCOR.
Rule 3.3. (1) This rule offers issuers an optional method of registration pursuant to the provisions of section 304 of the act, MCL 451.2304, for corporations or manager-managed limited liability companies issuing securities that are exempt from registration under the federal exemption, regulation D, 17 C.F.R. §230.504, or pursuant to the provisions of section 3(a)(11) of the securities act of 1933, 15 U.S.C. §77c(a)(11). Issuers eligible for this method of registration shall use Form U-7 as the disclosure document for the offering. This method of registration is known as SCOR, as defined in R 451.1.1(z).
(2) Both of the following provisions apply to SCOR applications:
   (a) Applications must be in compliance with the provisions of this rule; however, the provisions of this rule may be modified or waived by the administrator.
   (b) Where individual characteristics of specific offerings warrant modification from the provisions of this rule, they must be accommodated, insofar as possible, while still being consistent with the intent of this rule.

(3) All of the following provisions apply to the availability of SCOR:
   (a) SCOR is intended to allow small corporations or manager-managed limited liability companies to conduct limited offerings of securities. SCOR uses a simplified offering format designed to provide adequate disclosure to investors concerning the issuer, the securities offered, and the offering itself. Certain issuers may not be able to make adequate disclosure using the SCOR format and shall, therefore, be unable to utilize SCOR. SCOR shall not be utilized by the following issuers and programs unless written permission is obtained from the administrator based upon a showing that adequate disclosure can be made to investors using the SCOR format:
      (i) Holding companies, companies that have a principal purpose of owning stock in, or supervising the management of, other companies.
      (ii) Portfolio companies, such as real estate investment trusts.
      (iii) Issuers with complex capital structures.
      (iv) Commodity pools.
      (v) Equipment leasing programs.
      (vi) Real estate programs.
   (b) SCOR is available only to the issuer of the securities and not to any affiliate of that issuer or to any other person for resale of the issuer’s securities. In addition, all of the following requirements must be met:
      (i) The issuer is a corporation or manager-managed limited liability company that is organized under the laws of the United States or Canada, or any state, province, or territory or possession thereof, or the District of Columbia.
      (ii) The issuer does not engage in petroleum exploration or production or mining or other extractive industries.
      (iii) The offering is not a blind pool or other offering for which the specific business to be engaged in or property to be acquired by the issuer cannot be specified.
      (iv) The offering price for common stock or common ownership interests, collectively referred to as “common stock”; the exercise price if the securities offered are options, warrants, or rights for common stock; and the conversion price if the securities are convertible into common stock is equal to or more than $5.00 per share.
      (v) The aggregate offering price of the securities offered, within or outside this state, is not more than $5,000,000.00, less the aggregate offering price of all securities sold within the 12 months before the start of and during the offering of the securities under federal exemption, regulation D, 17 C.F.R. §230.504, in reliance on any exemption pursuant to the provisions of section 3(a)(11) and (b) of the securities act of 1933, 15 U.S.C. §77c(a)(11) and (b) or in violation of section 5(a) of the securities act of 1933, 15 U.S.C. §77e(a).
   (c) SCOR is not available to investment companies that are subject to the investment company act of 1940, 15 U.S.C. §80(a) et seq., or to issuers that are subject to the reporting requirements of section 13 or section 15(d) of the securities exchange act of 1934, 15 U.S.C. §78m and §78o(d).
   (d) SCOR is available for registration of debt offerings only if the issuer can demonstrate a reasonable ability to service its debt.
(4) SCOR is not available for the securities of any issuer if any of the following provisions applies to that issuer or any of its officers, directors, 10% stockholders, unitholders, promoters, or any selling agents of the securities to be offered or any officer, director, or partner of such selling agent:

(a) The individual has filed a registration statement that is the subject of a current registration stop order entered pursuant to any federal or state securities law within 5 years before the filing of the SCOR application.

(b) The individual has been convicted, within 5 years before the filing of the SCOR application, of any felony or misdemeanor in connection with the offer, purchase, or sale of any security or any felony involving fraud or deceit, including any of the following:

(i) Forgery.

(ii) Embezzlement.

(iii) Obtaining money under false pretenses.

(iv) Larceny.

(v) Conspiracy to defraud.

(c) The individual is currently subject to any state administrative enforcement order or judgment entered by any state securities administrator or the SEC within 5 years before the filing of the SCOR application or is subject to any federal or state administrative enforcement order or judgment in which fraud or deceit, including making untrue statements of material facts or omitting to state material facts, was found and the order or judgment was entered within 5 years before the filing of the SCOR registration application.

(d) The individual is subject to any federal or state administrative enforcement order or judgment that prohibits, denies, or revokes the use of any exemption for registration in connection with the offer, purchase, or sale of securities.

(e) The individual is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminarily, or permanently restraining or enjoining such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with any state or with the SEC entered within 5 years before the filing of the SCOR application. However, the prohibition of this subdivision and subdivisions (a), (b), and (c) of this subrule do not apply if the person who is subject to the disqualification is duly licensed or registered to conduct securities-related business in the state in which the administrative order or judgment was entered against the person or if the broker-dealer who employs the person is licensed or registered in this state and the form BD that is filed in this state discloses the order, conviction, judgment, or decree relating to the person. A person who is disqualified pursuant to the provisions of this subdivision shall not act in any capacity other than that for which the person is licensed or registered. Any disqualification pursuant to the provisions of this subdivision is automatically waived if the state securities administrator or other state or federal agency that created the basis for disqualification determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied.

(5) By filing for SCOR in this state, the registrant agrees with the administrator that the registrant shall not split its common stock or declare a stock dividend for 2 years after the effectiveness of the registration without the prior written approval of the administrator.

(6) In addition to filing a properly completed form and filing fee required pursuant to the provisions of section 305(2) of the act, MCL 451.2305(2), an applicant for SCOR shall file all of the following exhibits with the administrator:

(a) The form of selling agency agreement.

(b) The issuer's articles of incorporation or other charter documents and all amendments to those documents.

(c) The issuer's bylaws or operating agreement, as amended to date.
(d) Copies of any resolutions by directors setting forth terms and provisions of capital stock or units to be issued.
(e) Any indenture, form of note, or other contractual provision containing terms of notes or other debt or of options, warrants, or rights to be offered.
(f) A specimen of the security to be offered, including any legend restricting resale.
(g) Consent to service of process accompanied by an appropriate corporate resolution.
(h) Copies of all advertising or other material that is directed, or to be furnished, to investors in the offering.
(i) The form of escrow agreement for escrow of proceeds.
(j) Consent to inclusion in disclosure document of accountant's report.
(k) Consent to inclusion in disclosure document of tax advisor's opinion or description of tax consequences.
(l) Consent to inclusion in disclosure document of any evaluation of litigation or administrative action by counsel.
(m) The form of any subscription agreement for the purchase of securities in the offering.
(n) An opinion of an attorney who is licensed to practice in a state or territory of the United States that the securities to be sold in the offering have been duly authorized and, when issued upon payment of the offering price, shall be legally and validly issued, fully paid and nonassessable, and binding on the issuer pursuant to their terms.
(o) A schedule of residential street addresses of officers, directors, and principal stockholders.
(p) Additional information as the administrator requires by rule or order.

R 451.3.4 Registration by qualification; prospectus.

Rule 3.4. (1) As a condition of registration by qualification, a prospectus containing the information and records specified in section 304(2) of the act, MCL 451.2304(2), must be sent or given by the issuer to each person to whom an offer is made, before or concurrently, with the earliest of any of the following:
(a) The first offer made in a record to the person other than by means of a public advertisement, by or for the account of the issuer or another person on whose behalf the offering is being made, or by an underwriter or broker-dealer that is offering part of an unsold allotment or subscription taken by the person as a participant in the distribution.
(b) The confirmation of a sale made by or for the account of the person.
(c) Payment pursuant to the sale.
(d) Delivery of the security pursuant to the sale.
(2) If the prospectus, or any part of it, becomes misleading as to any material fact, or facts, or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, it must be revised or supplemented, and the revision or supplementation must be submitted to the administrator prior to use. A prospectus must not be used if the administrator has informed the registrant of an objection to the prospectus.
(3) An issuer shall not use a prospectus without revision or supplementation for more than 13 months from its first use.
(4) Every submitted prospectus must carry the following legend displayed in a prominent manner: “THESE SECURITIES ARE OFFERED PURSUANT TO A REGISTRATION ORDER ISSUED BY THE STATE OF MICHIGAN. THE STATE OF MICHIGAN DOES NOT RECOMMEND OR ENDORSE THE PURCHASE OF ANY SECURITIES, NOR DOES IT PASS UPON THE TRUTH, MERITS, OR COMPLETENESS OF ANY PROSPECTUS OR ANY
OTHER INFORMATION FILED WITH THIS STATE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

R 451.3.5 Registration by qualification; reports and investigations.

Rule 3.5. (1) As a condition of registration by qualification, the administrator may require that a report by an accountant, engineer, appraiser or other professional person be filed, and may require that the estimated cost of such report be deposited in advance by the registrant in an escrow account.

(2) The administrator may designate 1 or more employees to investigate the books, records, and affairs of any applicant for registration by qualification and may require the estimated cost of the investigation to be deposited in advance by the applicant in an escrow account.

(3) Unless waived by the administrator in writing, a registrant by qualification shall submit a complete audit report of the issuer covering the last fiscal year that is certified by an independent or certified public accountants.

R 451.3.6 Adoption by reference; statements of policy.

Rule 3.6. (1) Unless waived by the administrator, the administrator shall apply the applicable statement of policy adopted by NASAA when conducting a merit review to determine whether an offering is fair, just, and equitable.

(a) The following statements of policy are incorporated by reference in these rules and made a part of this rule as published by NASAA, 750 First Street, NE, Suite 1140, Washington, DC 20002, and is available for free online at http://www.nasaa.org, or from the Michigan department of licensing and regulatory affairs, corporations, securities, and commercial licensing bureau, P.O. Box 30018, Lansing, MI 48909 for a cost as prescribed in R 451.6.2:

(v) “Promoter’s Equity Investment”, as amended by NASAA on March 31, 2008.
(xii) “Registration of Asset-Backed Securities”, as amended by NASAA on May 6, 2012.
(xiv) “Real Estate Programs”, as amended by NASAA on May 7, 2007.
(xvi) “Registration of Oil and Gas Programs”, as amended by NASAA on May 6, 2012.
(xviii) “Commodity Pool Programs”, as amended by NASAA on May 6, 2012.
(xix) “Cattle-Feeding Programs”, as adopted by NASAA on September 17, 1980.
(b) The “Omnibus Guidelines” shall be applied to limited partnerships programs or other entities in which more specific statements of policy have not been adopted by NASAA.
(2) If requested by the administrator, a registration statement to register securities must include a cross-reference table to indicate compliance with, or deviation from, the applicable statement of policy.

(3) In establishing standards of fairness and equity, the administrator establishes the following investor suitability standards for direct participation programs registered under the act:
   (a) A gross income of $70,000.00 and a net worth of $70,000.00, exclusive of home, home furnishings, and automobiles, or a net worth of $250,000.00, exclusive of home, home furnishings, and automobiles.
   (b) No more than 10% of any 1 Michigan investor’s liquid net worth shall be invested in the securities being registered with the administrator.

(4) The administrator may establish higher or lower suitability standards as a condition of registration.

(5) The suitability standards must be disclosed in the prospectus.

R 451.3.7 Abandonment of registration statement.

Rule 3.7. The administrator may begin proceedings to deny effectiveness of a registration statement under section 306(1) of the act, MCL 451.2306(1), if the applicant fails to complete or withdraw the application within 7 months after the date the application for registration is filed.

PART 4. BROKER-DEALERS, AGENTS, INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES, AND FEDERAL COVERED INVESTMENT ADVISERS

R 451.4.1 Broker-dealer; Canadian exemption.

Rule 4.1. (1) A broker-dealer that is registered as a broker-dealer in 1 or more Canadian provinces and that does not have a place of business in this state may effect transactions in securities with or for, or attempt to effect the purchase or sale of any securities by, any of the following:
   (a) A resident of Canada who is temporarily present in this state and with whom the broker-dealer had a bona fide customer relationship before the individual entered the United States.
   (b) A resident of Canada who is present in this state and whose transactions are in a self-directed, tax-advantaged retirement plan of which the individual is the holder or contributor in Canada.
   (c) An individual who is present in this state, with whom the broker-dealer customer relationship arose while the individual was temporarily or permanently a resident of Canada.

(2) An agent who represents a broker-dealer that is exempt under subrule (1)(a) of this rule, may effect transactions in securities or attempt to effect the purchase or sale of any securities in this state as permitted for a broker-dealer described in subrule (1)(a) of this rule.

R 451.4.2 Merger and acquisition broker exemption.

Rule 4.2. (1) The following definitions apply for purposes of this rule:
   (a) “Control” means the power to directly or indirectly direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. There is a presumption of control for a person who meets any of the following:
      (i) Is a director, general partner, member, or manager of a limited liability company, or officer exercising executive responsibility, or has similar status or functions.
      (ii) Has the right to vote 20% or more of a class of voting securities or the power to sell or direct the sale of 20% or more of a class of voting securities.
      (iii) In the case of a partnership or limited liability company, has the right upon dissolution to receive, or has contributed, 20% or more of the capital.
   (b) “Eligible privately held company” means a company meeting both of the following conditions:
      (i) The company does not have any class of securities registered or required to be registered with the SEC pursuant to section 12 of the securities exchange act of 1934, 15 U.S.C. 78l; or, with respect to
which the company files, or is required to file, periodic information, documents, and reports pursuant to section 15(d) of the securities exchange act of 1934, 15 U.S.C. 78o(d).

(ii) In the fiscal year ending immediately before the fiscal year in which the services of the merger and acquisition broker are initially engaged with respect to the securities transaction, the company meets either or both of the following conditions:

(A) The earnings of the company before interest, taxes, depreciation, and amortization are less than $25,000,000.00.

(B) The gross revenues of the company are less than $250,000,000.00.

c) “Merger and acquisition broker” means a broker and a person associated with a broker engaged in the business of effecting securities transactions solely in connection with the transfer of ownership of an eligible privately held company, regardless of whether the broker acts on behalf of a seller or buyer, through the purchase, sale, exchange, issuance, repurchase or redemption of, or, a business combination involving securities or assets of the eligible privately held company if both of the following are true:

(i) If the merger and acquisition broker reasonably believes that upon consummation of the transaction, all persons acquiring securities or assets of the eligible privately held company, acting alone or in concert, will control and be active in the management of the eligible privately held company or the business conducted with the assets of the eligible privately held company.

(ii) If a person is offered securities in exchange for securities or assets of the eligible privately held company, then before becoming legally bound to consummate the transaction, the person will receive or have reasonable access to the most recent fiscal year-end financial statements of the issuer of the securities as customarily prepared by its management in the normal course of operations and, if the financial statements of the issuer are audited, reviewed, or compiled, any related statement by the independent accountant; a balance sheet dated not more than 120 days before the date of the exchange offer; and, information pertaining to the management, business, results of operations for the period covered by the foregoing financial statements, and any material loss contingencies of the issuer.

d) “Public shell company” is a company that at the time of a transaction with an eligible privately held company meets all of the following:

(i) Has any class of securities registered or required to be registered with the SEC pursuant to section 12 of the securities exchange act of 1934, 15 U.S.C. 78l; or, with respect to which the company files or is required to file periodic information, documents, and reports pursuant to section 15(d) of the securities exchange act of 1934, 15 U.S.C. 78o(d).

(ii) Has no or nominal operations.

(iii) Has no or nominal assets; assets consisting solely of cash and cash equivalents; or, assets consisting of any amount of cash and cash equivalents and nominal other assets.

(2) A merger and acquisition broker is exempt from registration as a broker-dealer pursuant to section 401 of the act, MCL 451.2401, except as provided in subrules (3) and (4) of this rule.

(3) A merger and acquisition broker is not exempt from registration pursuant to this rule if the merger and acquisition broker does any of the following:

(a) Directly or indirectly, in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction.

(b) Engages on behalf of an issuer in a public offering of any class of securities that is registered or required to be registered with the SEC pursuant to section 12 of the securities exchange act of 1934, 15 U.S.C. 78l; or, with respect to which the issuer files or is required to file periodic information, documents, and reports pursuant to section 15(d) of the securities exchange act of 1934, 15 U.S.C. 78o(d).

(c) Engages on behalf of any party in a transaction involving a public shell company.
(4) A merger and acquisition broker is not exempt from registration pursuant to this paragraph if the merger and acquisition broker is subject to any of the following:
(a) Suspension or revocation of registration pursuant to section 15(b)(4) of the securities exchange act of 1934, 15 U.S.C. 78o(b)(4).
(c) A disqualification as described in SEC rule 506(d) of SEC regulation D, 17 C.F.R. §230.506(d).
(d) A final order described in paragraph (4)(H) of section 15(b) of the securities exchange act of 1934, 15 U.S.C. 78o(b)(4)(H).
(5) Nothing in this rule shall be construed to limit the authority of the administrator to exempt a person or class of persons from the provisions of the act or rules or orders promulgated pursuant to the act.
(6) On the date that is 5 years after the date of the enactment of this rule, and every 5 years after that date, each dollar amount in subrule (1)(b)(ii) may be adjusted pursuant to all of the following:
(a) Dividing the annual value of the Detroit consumer price index for the calendar year preceding the calendar year in which the adjustment is being made by the annual value of such index for the calendar year ending December 31, 2012. As used in this subrule, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area by the Bureau of Labor Statistics of the United States Department of Labor.
(b) Multiplying such dollar amount by the quotient obtained pursuant to subdivision (a) of this subrule.
(c) Each dollar amount determined pursuant to this subrule shall be rounded to the nearest multiple of $100,000.00.

R 451.4.3 Electronic filing; designated entities.
Rule 4.3. (1) The administrator designates both of the following:
(a) The CRD to receive and store filings and collect fees from broker-dealers and agents representing broker-dealers on behalf of the administrator.
(b) The IARD to receive and store filings and collect fees from investment advisers, investment adviser representatives, and federal covered investment advisers on behalf of the administrator.
(2) Unless otherwise provided, all applications, amendments, reports, notices, related filings, and fees required to be filed with the administrator pursuant to the act or rules adopted under the act, shall be filed electronically with and transmitted to 1 of the following:
(a) The CRD, when the filing is required for the registration of a broker-dealer or agent representing a broker-dealer.
(b) The IARD, when the filing is required for the registration or notice filing of a federal covered investment adviser, an investment adviser, or investment adviser representative.
(3) When a signature, or signatures, are required by the particular instructions of any filing to be made electronically through the CRD or the IARD, the applicant or a duly authorized officer of the applicant, as required, shall affix his or her electronic signature to the applicable form by typing his or her name in the appropriate fields and submitting the filing electronically to the CRD or the IARD. Submission of a filing in this manner constitutes irrefutable evidence of legal signature by any individual whose name is typed on the filing.
(4) Solely for purposes of document submissions made electronically through the CRD or the IARD, a document is considered filed with the administrator when all fees are received and the filing is accepted by the CRD or the IARD on behalf of the state.
(5) Any documents or fees required to be filed with the administrator that are not permitted to be filed with, or cannot be accepted electronically by the CRD or the IARD, must be filed directly with the administrator.
R 451.4.4  Electronic signatures.

Rule 4.4. (1) As used in this rule “electronic agent” means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances, in whole or in part, without review or action by an individual at the time of the action or response.

(2) Electronic signatures may be used or accepted, or both, for investment securities if the legal effect, validity, or enforceability of contracts or other records are consistent with ESIGN.

(3) This rule does not require a record or signature be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(4) This rule applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct transactions by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(5) If a party agrees to conduct a transaction by electronic means, this rule does not prohibit the party from refusing to conduct other transactions by electronic means. This subrule may not be modified by agreement.

(6) Whether an electronic record or electronic signature has legal effect is determined by this rule and other applicable law.

(7) A signature may not be denied legal effect solely because the record or signature is in electronic form.

(8) A contract may not be denied legal effect solely because an electronic record was used in the contract's formation.

(9) If a law requires a record to be in writing, an electronic record satisfies the law.

(10) If a law requires a signature, an electronic signature satisfies the law.

(11) If parties have agreed to conduct transactions by electronic means, and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender, or the sender's information processing system, inhibits the ability of the recipient to print or store the electronic record.

(12) If a sender's information processing system inhibits the ability of a recipient to print or store an electronic record, the electronic record is not enforceable against the recipient.

(13) An electronic record, or electronic signature, is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record, or electronic signature, was attributable.

(14) The effect of an electronic record, or electronic signature, attributed to a person is determined from the context and surrounding circumstances at the time of the record's or signature's creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

(15) If a change or error in an electronic record occurs in a transmission between parties to a transaction, both of the following apply:

(a) If the parties have agreed to use a security procedure to detect changes or errors, and 1 party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(b) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual does all of the following:
(i) Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person.

(ii) Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record.

(iii) Has not used or received any benefit or value from the consideration, if any, received from the other person.

(16) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record that does both of the following:

(a) Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise.

(b) Remains accessible for later reference.

(17) If a law requires a record to be presented or retained in the record's original form, or provides consequences if the record is not presented or retained in the record's original form, that law is satisfied by an electronic record retained in accordance with subrule (16) of this rule.

(18) In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

(19) In an automated transaction, all of the following apply:

(a) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows, or has reason to know, shall cause the electronic agent to complete the transaction or performance.

(b) The terms of the contract are determined by the substantive law applicable to the contract.

(20) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when the record meets all of the following:

(a) Is addressed properly, or otherwise directed properly, to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent, and from which the recipient is able to retrieve the electronic record.

(b) Is in a form capable of being processed by that system.

(c) Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(21) Unless otherwise agreed between a sender and the recipient, an electronic record is received when both of the following apply:

(a) The record enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent, and from which the recipient is able to retrieve the electronic record.

(b) Is in a form capable of being processed by that system.

(22) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business.

(23) If the sender or recipient has more than 1 place of business, the place of business of that person is the place having the closest relationship to the underlying transaction. If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence.

(24) Receipt of an electronic acknowledgment from an information processing system establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.
R 451.4.5 Registration exemption for investment advisers to private funds.

Rule 4.5. (1) This rule takes effect 365 days after the rule set has been filed with the secretary of state.

(2) As used in this rule, “venture capital fund” means a private fund that meets the definition of a venture capital fund in SEC rule 203(l)-1, 17 C.F.R. §275.203(l)-1.

(3) Subject to the additional requirements of subrule (4) of this rule, a private fund adviser formed or domiciled in this state, and a private fund adviser not domiciled in this state but offering its fund securities to Michigan residents, is exempt from the registration requirements of section 403 of the act, MCL 451.2403, if the private fund adviser satisfies both of the following conditions:

(a) Neither the private fund adviser nor any of its advisory affiliates are subject to a disqualification as described in SEC rule 506(d)(1) of SEC regulation D, 17 C.F.R. §230.506(d)(1).

(b) The private fund adviser files with the state each report, and amendments to each report if applicable, that an exempt reporting adviser is required to file with the SEC pursuant to SEC rule 204-4, 17 C.F.R. §275.204-4.

(4) In order to qualify for the exemption described in subrule (3) of this rule, a private fund adviser who advises at least one 3(c)(1) fund that is not a venture capital fund, shall, in addition to satisfying each of the conditions specified in subrule (3) of this rule, comply with all of the following requirements:

(a) The private fund adviser shall advise only those 3(c)(1) funds, other than venture capital funds, whose outstanding securities, other than short-term paper, are beneficially owned entirely by persons who each meet the definition of a qualified client in SEC rule 205-3, 17 C.F.R. §275.205-3, or an accredited investor in SEC rule 501, 17 C.F.R. § 230.501, at the time the securities are purchased from the issuer.

(b) At the time of the purchase, the private fund adviser shall disclose all of the following in writing, to each beneficial owner of a 3(c)(1) fund that is not a venture capital fund:

(i) All services, if any, to be provided to individual beneficial owners.

(ii) All duties, if any, the investment adviser owes to the beneficial owners.

(iii) Any other material information affecting the rights or responsibilities of the beneficial owners.

(c) The private fund adviser shall obtain, on an annual basis, audited financial statements for each 3(c)(1) fund that is not a venture capital fund, and shall deliver a copy of such audited financial statements to each beneficial owner of the fund.

(d) Subrule (4)(c) of this rule does not apply to a 3(c)(1) fund with respect to any annual period if both of the following are true:

(i) Each beneficial owner is a qualified client.

(ii) The private fund adviser has provided to each beneficial owner a written disclosure explaining that the private fund will not provide audited financial statements to investors annually, but that other similarly-situated funds may provide audited financial statements to their investors.

(5) If a private fund adviser is registered with the SEC, the investment adviser shall not be eligible for the exemption in subrule (3) of this rule, and shall comply with the state notice filing requirements applicable to federal covered investment advisers in section 405 of the act, MCL 451.2405.

(6) A person is exempt from the registration requirements of section 404 of the act, MCL 451.2404, if he or she is employed by, or associated with, an investment adviser that is exempt from registration in this state pursuant to this rule and does not otherwise act as an investment adviser representative outside of the scope of his or her employment.

(7) The report filings described in subrule (3)(b) of this rule must be made electronically through the IARD. A report is deemed filed when the report is filed and accepted by the IARD on the state’s behalf.

(8) An investment adviser who becomes ineligible for the exemption provided by this rule shall comply with all applicable laws and rules requiring registration or notice filing within 90 days from the date the investment adviser’s eligibility for this exemption ceases.
(9) An investment adviser to a 3(c)(1) fund, other than a venture capital fund, that has 1 or more beneficial owners who are not qualified clients or accredited investors as described in subrule (4)(a) of this rule is eligible for the exemption contained in subrule (3) of this rule, if all of the following conditions are satisfied:

(a) The subject fund existed prior to the effective date of this regulation.
(b) As of the effective date of this rule, the subject fund ceases to accept beneficial owners who are not qualified clients or accredited investors, as described in subrule (4)(a) of this rule.
(c) The investment adviser discloses, in writing, the information described in subrule (4)(b) of this rule to all beneficial owners of the fund.
(d) As of the effective date of this rule, the investment adviser delivers financial statements as required by subrule (4)(c) of this rule, unless subrule (4)(d) applies to the private fund adviser.

(10) Subrule (3)(a) of this rule does not apply upon a showing of good cause and without prejudice to any other action of the administrator, if the administrator determines that it is not necessary under the circumstances that an exemption be denied.

R 451.4.6 Notice filing requirements for federal covered investment advisers.

Rule 4.6. (1) Pursuant to section 405 of the act, MCL 451.2405, the notice filing for a federal covered investment adviser must be filed electronically with IARD on an executed Form ADV. A notice filing of a federal covered investment adviser is deemed filed when the fee required by section 410(5) of the act, MCL 451.2410(5), and the Form ADV are filed electronically with and accepted by IARD on behalf of this state.

(2) Pursuant to section 405 of the act, MCL 451.2405, the annual renewal of the notice filing for a federal covered investment adviser must be filed electronically with IARD. The renewal of the notice filing for a federal covered investment adviser is deemed filed when the fee required by section 410(5) of the act, MCL 451.2410(5), is filed with and accepted by IARD on behalf of the state.

(3) A federal covered investment adviser shall file electronically with IARD, pursuant to the instructions in the Form ADV, any amendments to the federal covered investment adviser’s Form ADV.

R 451.4.7 Application for registration by broker-dealers and agents representing broker-dealers.

Rule 4.7. (1) The application for initial registration of a broker-dealer pursuant to section 406 of the act, MCL 451.2406, must be made by completing Form BD pursuant to the form’s instructions and by filing the form electronically with CRD. The application for initial registration must also include both of the following:

(a) Proof of compliance by the broker-dealer with the examination requirements of R 451.4.9.
(b) The fee required by section 410 of the act, MCL 451.2410.

(2) Pursuant to section 406 of the act, MCL 451.2406, the application for initial registration of agents representing a broker-dealer must be made by completing Form U4 pursuant to the form’s instructions and by filing the form electronically with CRD, except that a paper filing may be accepted by the administrator for a broker-dealer that does not register with FINRA, for an agent who is associated with a broker-dealer that does not register with FINRA, and for an agent who is associated solely with an issuer. The application for initial registration must also include both of the following:

(a) Proof of compliance by the agent representing a broker-dealer with the examination requirements of R 451.4.9.
(b) The fee required by section 410 of the act, MCL 451.2410.

(3) To renew a registration as a broker-dealer, or an agent representing a broker-dealer, the registrant shall submit to CRD the fee required by section 410 of the act, MCL 451.2410.

(4) A broker-dealer shall, within 30 days of any event requiring an amendment, file electronically with CRD any amendments to the broker-dealer’s Form BD pursuant to the form’s instructions.
(5) An agent representing a broker-dealer shall, within 30 days of any event requiring an amendment, file electronically with CRD any amendments to the agent’s Form U-4 pursuant to the form’s instructions.

(6) An application for initial or renewal registration is not considered filed for purposes of section 406 of the act, MCL 451.2406, until the required fee and all required documents have been filed with the administrator.

R 451.4.8 Application for registration of Michigan investment market.

Rule 4.8. In addition to the requirements of section 455 of the act, MCL 451.2455, an application for registration of a Michigan investment market must include all of the following:

(a) The applicant’s primary street address.
(b) The name, title, and telephone number of a contact employee.
(c) The name and address of counsel for the applicant.
(d) The date the applicant’s fiscal year ends.
(e) The applicant’s form of incorporation or organization, for example, corporation, limited liability company, or partnership; and, a certificate of good standing from the jurisdiction in which the applicant is incorporated or organized.
(f) A copy of the constitution, articles of incorporation or organization with all subsequent amendments and existing bylaws.
(g) A copy of the corresponding rules of the Michigan investment market. Rules drafted pursuant to this subrule must address, at a minimum, price transparency across all trading platforms upon which a security is traded, assurance of best price execution, clearance and settlement of transactions, custody of funds and securities, cybersecurity, business continuity, and safekeeping of issuer and customer information.
(h) A copy of all written rulings, settled practices having the effect of rules, and interpretations of the governing board or other committee of the applicant in respect of any provisions of the constitution, bylaws, rules, or trading practices of the applicant which are not included in subdivision (g) of this rule.
(i) Proof of compliance with sections 5, 6, and 15 of the securities exchange act of 1934, 15 U.S.C. §78a, et seq., such as an SEC no-action letter.
(j) For each subsidiary or affiliate of the applicant, and for any entity with whom the applicant has contractual or other agreement relating to the operation of an electronic trading system to be used to effect transactions on the Michigan investment market, all of the following must be submitted:
(i) Name and address of organization.
(ii) Form of organization, for example, corporation, limited liability company, or limited partnership.
(iii) Name of the state in which the organization was formed, and the date of formation.
(iv) Brief description of the nature and extent of the affiliation.
(v) Brief description of the business or functions. The description should include responsibilities with respect to operation of the Michigan investment market, the execution, reporting, clearance, or settlement of transactions in connection with operation of the Michigan investment market, or both.
(vi) A copy of the constitution.
(vii) A copy of the articles of incorporation or organization, including all amendments.
(viii) A copy of existing bylaws or corresponding rules or instruments.
(ix) The name and title of the present officers, governors, members of all standing committees, or persons performing similar functions.
(x) An indication of whether such business or organization ceased to be associated with the applicant during the previous year, and a brief statement of the reasons for termination of the association.
(k) For each subsidiary or affiliate of the Michigan investment market, provide unconsolidated financial statements for the latest fiscal year. Such financial statements must consist, at a minimum, of a
balance sheet and an income statement of such footnotes and other disclosures as are necessary to avoid rendering the financial statements misleading. If an affiliate or subsidiary is required by another rule to submit annual financial statements, a statement to that effect, with a citation to the other rule, may be provided instead of the financial statements required in this subdivision.

(l) A description of the manner of operation of the Michigan investment market. The description must include all of the following:
   (i) The means of access to the Michigan investment market.
   (ii) Procedures governing entry and display of quotations and orders in the Michigan investment market.
   (iii) Procedures governing the execution, reporting, clearance, and settlement of transactions in connection with the Michigan investment market.
   (iv) Proposed fees.
   (v) Procedures for ensuring compliance with the Michigan investment market usage guidelines.
   (vi) The hours of operation of the Michigan investment market, and the date on which the applicant intends to commence the operation.
   (vii) A copy of the users’ manual.
   (viii) If the applicant proposes to hold funds or securities on a regular basis, the applicant shall provide a description of the controls that will be implemented to ensure safety of those funds or securities.

(m) A complete set of forms pertaining to all of the following:
   (i) Application for membership, participation, or subscription to the entity.
   (ii) Application for approval as a person associated with a user, participant, or subscriber of the entity.
   (iii) Any other similar materials.

(n) A complete set of forms of financial statements, reports, or questionnaires required of members, participants, subscribers, or any other users relating to financial responsibility or minimum capital requirements for such members, participants, or any other users.

(o) A complete set of documents comprising the applicant’s listing applications, including any agreements required to be executed in connection with listing and a schedule of listing fees. If the applicant does not list securities, the applicant shall provide a brief description of the criteria used to determine what securities may be traded on the exchange.

(p) For the latest fiscal year of the applicant, audited financial statements that are prepared pursuant to, or in the case of a foreign applicant, reconciled with, United States generally accepted accounting principles, and are covered by a report prepared by an independent public accountant. If an applicant has no consolidated subsidiaries, the applicant shall file audited financial statements alone and need not file a separate unaudited financial statement for the applicant.

(q) A list of the officers, governors, members of all standing committees, or persons performing similar functions, who presently hold or have held their offices or positions during the previous year indicating the following for each:
   (i) Name.
   (ii) Title.
   (iii) Dates of commencement and termination of terms of office or position.
   (iv) Type of business in which each is primarily engaged, for example, floor broker, specialist, and odd lot dealer.

(r) A description of the Michigan investment market’s criteria for membership, including a description of conditions under which users may be subject to suspension or termination with regard to access to the Michigan investment market, and a description of any procedures that will be involved in the suspension or termination of a user.

(s) An alphabetical list of all members, participants, subscribers, or other users, including all of the following information:
(i) Name.
(ii) Date of election to membership or acceptance as a participant, subscriber, or other user.
(iii) Principal business address and telephone number.
(iv) If a member, participant, subscriber, or other user is an individual, the name of the entity with which such individual is associated and the relationship of such individual to the entity, for example, partner, officer, director, and employee.
(t) A description of the type of activities primarily engaged in by the member, participant, subscriber, or other user. A person is “primarily engaged” in an activity or function for purposes of this subdivision when that activity or function is the one in which that person is engaged for the majority of that person’s time.
(u) The class of membership, participation, or subscription or other access.
(v) A schedule for the securities listed in the Michigan investment market, indicating for each, the name of the issuer and a description of the security.

R 451.4.9 Broker-dealer and agents representing broker-dealers examination requirements.

Rule 4.9. (1) Unless waived by the administrator, a natural person applicant for initial registration as a broker-dealer or agent shall take and pass, within 2 years immediately preceding the filing date of the application, and as reflected on the records of CRD, both of the following:
(a) Either the uniform securities agent state law examination (S63) or the uniform combined state law examination (S66).
(b) The general securities business examination set forth in paragraph (i) of this subdivision, unless the applicant’s proposed securities activities will be restricted, in which case the applicant shall be required to take and pass each examination in paragraphs (ii) to (viii) of this subdivision that relates to the applicant’s proposed securities activities:
(i) The general securities representative examination (S7).
(ii) The investment company products/variable contracts representative examination (S6).
(iii) The direct participation programs representative examination (S22).
(iv) The municipal securities representative examination (S52).
(v) The corporate securities limited representative examination (S62).
(vi) The registered options representative examination (S42).
(vii) The government securities representative examination (S72).
(viii) The private placement representative examination (S82).
(ix) Other examinations as may be applicable to an associated person and his or her activities according to FINRA rules.
(2) An applicant for registration as a broker-dealer or agent is not required to take the examinations required by subrule (1) of this rule if the applicant was registered or licensed as a broker-dealer or agent in Michigan or another state with the same examination requirements as those identified in subrule (1) of this rule within the 2 years preceding the date the application was filed.

R 451.4.10 Application for investment adviser registration.

Rule 4.10. (1) The application for initial registration as an investment adviser pursuant to section 406 of the act, MCL 451.2406, must be made by completing Form ADV pursuant to the form instructions and by filing the form electronically with IARD. The application for initial registration must also include all of the following:
(a) Proof of compliance by the investment adviser with the examination requirements of R 451.4.12.
(b) A copy of the balance sheet for the last fiscal year, and if such balance sheet is as of a date more than 45 days from the date of filing of the application, a balance sheet prepared as set forth in R 451.4.18.
R 451.4.11 Application for investment adviser representative registration.

Rule 4.11. (1) Pursuant to section 406 of the act, MCL 451.2406, the application for initial registration as an investment adviser representative must be made by completing Form U4 pursuant to the form instructions and by filing the Form U4 electronically with IARD. The application for initial registration must also include both of the following:
(a) Proof of compliance by the investment adviser representative with the examination requirements of R 451.4.12.
(b) The fee required by section 410 of the act, MCL 451.2410.
(2) The application for annual renewal registration as an investment adviser representative must be filed electronically with IARD. The application for annual renewal registration must include the fee required by section 406 of the act, MCL 451.2406.
(3) The investment adviser representative is under a continued obligation to update information required by Form U4 as changes occur.
(4) An investment adviser representative and the investment adviser shall, within 30 days of any event requiring an amendment, file electronically with IARD any amendments to the representative’s Form U4.
(5) An application for initial or renewal registration is not considered filed for purposes of section 406 of the act, MCL 451.2406, until the required fee and all required documents have been received by the administrator.

R 451.4.12 Investment adviser and investment adviser representative examination requirements.

Rule 4.12. (1) Unless otherwise waived by the administrator, a natural person investment adviser or investment adviser representative shall take and pass within 2 years immediately preceding the date of the application, as reflected on the records of IARD, either of the following:
(a) The uniform investment adviser state law examination (S65).
(b) The uniform combined state law examination (S66) and the general securities representative examination (S7).
(2) Any person who has been registered as an investment adviser or an investment adviser representative in any state that requires the licensing, registration, or qualification of investment advisers or investment adviser representatives within the 2 years immediately preceding the date of filing an application shall not be required to comply with the examination requirement in subrule (1) of this rule.
(3) Compliance with subrules (1) and (2) of this rule is waived if the applicant has been awarded any of the following designations and at the time of filing an application the designation is current and in good standing:

(a) Certified financial planner awarded by the certified financial planners board of standards.
(b) Chartered financial consultant or masters of science and financial services awarded by the American College, in Bryn Mawr, Pennsylvania.
(c) Chartered financial analyst awarded by the Institute of Chartered Financial Analysts.
(d) Personal financial specialists awarded by the American Institute of Certified Public Accountants.
(e) Chartered investment counselor awarded by the Investment Adviser Association.

(4) An applicant who has taken and passed the uniform investment adviser law examination (S65) within 2 years immediately preceding the date the application is filed with the administrator, or at any time if the applicant has been registered or licensed as an investment adviser or investment adviser representative within the 2 years immediately preceding the date the application is filed with the administrator, shall not be required to take and pass the uniform investment adviser law examination again.

(5) An applicant who is an agent for a broker-dealer and an investment adviser and who is not required by the agent’s home jurisdiction to make a separate filing on CRD as an investment adviser representative, but who has previously met the examination requirement in subrule (1) of this rule necessary to provide advisory services on behalf of the broker-dealer or the investment adviser, shall not be required to again take and pass the exams in subrule (1) of this rule.

R 451.4.13 Custody prohibitions, limits, and conditions.

Rule 4.13. (1) For purposes of this rule, the following definitions apply:

(a) “Custody” means holding, directly or indirectly, client funds or securities, or having any authority to obtain possession of them or the ability to appropriate them. “Custody” includes, but is not limited to, the following circumstances:

(i) Possession of client funds or securities unless received inadvertently and returned to the sender promptly, but in any case within 3 business days of receiving the funds or securities.
(ii) Any arrangement, including a general power of attorney, under which an investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser’s instruction to the custodian.
(iii) Any arrangement that gives an investment adviser or its supervised person legal ownership of or access to client funds or securities, which may include an arrangement in which the investment adviser or its supervised person is the trustee of a trust, the general partner of a limited partnership, the managing member of a limited liability company, or a comparable position for a pooled investment vehicle.

(b) “Custody” does not include the receipt of checks drawn by clients and made payable to unrelated third parties and shall not meet the definition of custody if forwarded to the third party by close of business on the first business day after the date of receipt by the investment adviser.

(2) It is unlawful and deemed to be a fraudulent, deceptive, or manipulative act, practice, or course of business for an investment adviser who is registered or required to be registered to have custody of client funds or securities unless both of the following are true:

(a) The investment adviser maintains custody or possession pursuant to the requirements set forth in SEC rule 206(4)-2, 17 C.F.R. §275.206(4)-2.
(b) All items required to be filed with the SEC under SEC rule 206(4)-2, 17 C.F.R. §275.206(4)-2, are filed, through the IARD System, with the administrator.

(3) Investment advisers who are registered, or required to be registered, may have custody or possession of securities or funds of a client if the investment adviser is otherwise permitted by rule or
order of the administrator to maintain custody or possession of client funds or securities and complies with such rule or order.

R 451.4.14  Bonding requirement for certain investment advisers.
   Rule 4.14.  (1) For purposes of this rule, “custody” is defined in R 451.4.13(1)(a) and (b).
   (2) Any bond required by this rule must be issued by a company qualified to do business in this state in the form determined by the administrator and shall be subject to the claims of all clients of such investment adviser regardless of the client’s state of residence. Both of the following apply:
      (a) Every investment adviser registered or required to be registered under the act having custody of or discretionary authority over client funds or securities shall be bonded in an amount determined by the administrator based upon the number of clients and the total assets under management of the investment adviser.
      (b) Every investment adviser registered or required to be registered under the act who has custody or discretion of client funds or securities who does not meet the minimum net worth standard in R 451.4.17 shall be bonded in the amount of the net worth deficiency rounded up to the nearest $5,000.00.
   (3) An investment adviser that has its principal place of business in a state other than this state is exempt from the requirements of subrule (2)(a) of this rule, provided that the investment adviser is registered or licensed as an investment adviser in the state where it has its principal place of business and is in compliance with such state’s requirements relating to bonding.

R 451.4.15  Minimum financial requirements for broker-dealers.
   Rule 4.15.  (1) A broker-dealer registered or required to be registered under the act, shall maintain net capital in such minimum amounts as are designated in SEC rule 15c3-1, 17 C.F.R. §240.15c3-1, promulgated under the securities exchange act of 1934, 15 U.S.C. §78o, for the activities the broker-dealer shall engage in this state.
   (2) The aggregate indebtedness of a broker-dealer to all other persons must not exceed the levels prescribed under SEC rule 15c3-1, 17 C.F.R. §240.15c3-1, promulgated under the securities exchange act of 1934, 15 U.S.C. §78o.
   (3) If a broker-dealer is an individual, the person shall segregate from personal capital an amount sufficient to satisfy the net capital requirement. The amount so segregated must be utilized solely for the business for which the broker-dealer or Michigan investment market is registered.

R 451.4.16  Minimum financial requirements for Michigan investment markets.
   Rule 4.16.  (1) A Michigan investment market, registered or required to be registered under the act, shall maintain net capital in such minimum amounts as are designated in SEC rule 15c3-1, 17 C.F.R. §240.15c3-1, promulgated under the securities exchange act of 1934, 15 U.S.C. §78o, for the activities the Michigan investment market shall engage in this state.
   (2) The aggregate indebtedness of a Michigan investment market to all other persons must not exceed the levels prescribed under SEC rule 15c3-1, 17 C.F.R. §240.15c3-1, promulgated under the securities exchange act of 1934, 15 U.S.C. §78o.
   (3) If a Michigan investment market is an individual, the person shall segregate from personal capital, an amount sufficient to satisfy the net capital requirement. The amount so segregated must be utilized solely for the business for which the Michigan investment market is registered.

R 451.4.17  Minimum financial requirements for investment advisers.
   Rule 4.17.  (1) For purposes of this rule “net worth” means an excess of assets over liabilities, as determined by generally accepted accounting principles, but does not include as assets any of the following: prepaid expenses, except as to items properly classified assets under generally accepted
accounting principles; deferred charges; goodwill; franchise rights; organizational expenses; patents; copyrights; marketing rights; unamortized debt discount and expense; all other assets of intangible nature; home; home furnishings; an automobile or automobiles; any other personal items not readily marketable in the case of an individual; advances or loans to stockholders and officers in the case of a corporation; and, advances or loans to partners in the case of a partnership.

(2) An investment adviser registered, or required to be registered, under the act who has custody of client funds or securities shall maintain at all times a minimum net worth of $35,000.00 except for the following circumstances:
   (a) An investment adviser having custody solely due to direct fee deduction and complying with the terms described under R 451.4.13 and related books and records, as described in R 451.4.24, is not required to comply with the net worth or bonding requirements of this rule.
   (b) An investment adviser having custody solely due to advising pooled investment vehicles and complying with the terms described under R 451.4.13 and related books and records, as described in R 451.4.24 is not required to comply with the net worth or bonding requirements of this rule.

(3) An investment adviser, registered or required to be registered, under the act who has discretionary authority over client funds or securities but does not have custody of client funds or securities shall maintain at all times a minimum net worth of $10,000.00.

(4) An investment adviser registered, or required to be registered, under the act who accepts prepayment of more than $500.00 per client and 6 or more months in advance shall maintain at all times a positive net worth.

(5) Unless otherwise exempted, as a condition of the right to transact business in this state, every investment adviser registered, or required to be registered, under the act shall by the close of business on the next business day notify the administrator if such investment adviser’s net worth is less than the minimum required. After transmitting such notice, each investment adviser shall file by the close of business on the next business day a report with the administrator of its financial condition, including all of the following:
   (a) A trial balance of all ledger accounts.
   (b) A statement of all client funds or securities that are not segregated.
   (c) A computation of the aggregate amount of client ledger debit balances.
   (d) A statement as to the number of client accounts.

(6) An investment adviser is not exercising discretion when it places trade orders with a broker-dealer pursuant to a third party trading agreement if all of the following have occurred:
   (a) The investment adviser has executed with its client a separate investment adviser contract that acknowledges that a third party trading agreement must be executed to allow the investment adviser to effect securities transactions for the client in the client’s broker-dealer account.
   (b) The investment adviser contract specifically states that the client does not grant discretionary authority to the investment adviser and the investment adviser, in fact, does not exercise discretion with respect to the account.
   (c) A third party trading agreement is executed between the client and a broker-dealer that specifically limits the investment adviser’s authority in the client’s broker-dealer account to the placement of trade orders and deduction of investment adviser fees.

(7) The administrator may require that a current appraisal be submitted in order to establish the worth of any asset.

(8) An investment adviser that has its principal place of business in a state other than this state shall maintain only such minimum net worth as required by the state in which the investment adviser maintains its principal place of business, provided the investment adviser is registered or licensed in such state and is in compliance with such state’s minimum capital requirements.
R 451.4.18   Financial statements.

Rule 4.18. (1) Subject to subrule (4) of this rule, financial statements, when they are required to be filed with the administrator pursuant to the act, an administrative rule, or order of the administrator, must consist of a balance sheet, a statement of cash flows, an income statement, and a statement of all shareholders or members equity.

(2) Subject to subrule (4) of this rule, any financial statements required to be filed with the administrator pursuant to any provision of the act, administrative rule, or order of the administrator, must be prepared in accordance with generally accepted accounting principles.

(3) Financial statements must be prepared on a consolidated basis unless otherwise required by the administrator or its designee.

(4) A filer of financial statements may request in writing to be exempt from the requirements of subrules (1), (2), and (3) of this rule. The administrator, upon good cause shown in a request made pursuant to this subrule, may issue an order exempting a filer from the requirements of subrules (1), (2), and (3) of this rule.

(5) The administrator may in its discretion require a filer of financial statements to submit financial statements that have been audited by an independent certified public accountant who shall also issue an opinion on the financial statements.

R 451.4.19   Investment adviser brochure.

Rule 4.19. (1) Unless otherwise provided in this rule, an investment adviser that is registered, or required to be registered, pursuant to section 403 of the act, MCL 451.2403, shall, pursuant to the provisions of this subrule, furnish each advisory client and prospective advisory client with the following:

(a) A brochure which may be a copy of part 2A of its Form ADV or written documents containing the information required by part 2A of Form ADV; a copy of its part 2B brochure supplement for each individual providing investment advice and having direct contact with clients in this state, or exercising discretion over assets of clients in this state, even if no direct contact is involved; a copy of its part 2A appendix 1 wrap fee brochure if the investment adviser sponsors or participates in a wrap fee account; a summary of material changes, which may be included in part 2 of Form ADV or given as a separate document; and such other information as the administrator may require. If investment advice for a client is provided by more than 5 supervised persons, a part 2B brochure supplement for only the 5 supervised persons with the most significant responsibility day-to-day advice to the client must be provided.

(b) The brochure must comply with the language, organizational format, and filing requirements specified in the instructions to part 2 of Form ADV.

(2) An investment adviser, except as provided in subrule (5) of this rule, shall deliver the part 2A brochure and any brochure supplements required by this rule to a prospective advisory client before or at the time an investment advisory contract with that client is formed.

(3) An investment adviser, except as provided in subrule (5) of this rule, shall do either of the following:

(a) Deliver, within 120 days of the end of its fiscal year, a free, updated brochure and related brochure supplements which include or are accompanied by a summary of material changes.

(b) Deliver, within 120 days of the end of its fiscal year, a free summary of material changes that includes an offer to provide a copy of the updated brochure and supplements and information on how the client may obtain a copy of the brochure and supplements. Advisers are not required to deliver a summary of material changes or a brochure to clients if no material changes have taken place since the last summary and brochure delivery.

(4) An investment adviser shall, within 30 days of disclosing an event in response to item 9 of Part 2A of Form ADV or Item 3 of Part 2B of Form ADV, deliver to clients the amended brochure or brochure
supplement, as applicable, with a written statement describing the material facts relating to the amendment to Part 2A of Form ADV or Item 3 of Part 2B of Form ADV.

(5) Delivery of the brochure and related brochure supplements required by subrules (2)-(4) of this rule do not need to be made to any of the following:
   (a) Clients who receive only impersonal advice and who pay less than $500.00 in fees per year.
   (b) An investment company registered under the investment company act of 1940, 15 U.S.C. §80(a) et seq.
   (c) A business development company as defined in the investment company act of 1940, 15 U.S.C. §80(a) et seq., and whose advisory contract meets the requirements of section 15c of that act, 15 U.S.C. §80(a)-15c.

(6) Delivery of the brochure and related supplements may be made electronically if the investment adviser does all of the following:
   (a) In the case of an initial delivery to a potential client, obtains verification that a readable copy of the brochure and supplements were received by the client. The verification required by this subrule may be in the client contract required by rule 451.4.26 or other documents signed by the client.
   (b) In the case of other than initial deliveries, obtains each client’s prior consent to provide the brochure and supplements electronically. The consent required by this subrule may be in the client contract required by rule 451.4.26 or other documents signed by the client.
   (c) Prepares the electronically delivered brochure and supplements in the format prescribed in subrule (1) of this rule and instructions to part 2 of Form ADV.
   (d) Delivers the brochure and supplements in a format that can be retained by the client in either electronic or paper form.
   (e) Establishes procedures to supervise personnel transmitting the brochure and supplements and prevent violations of this rule.

(7) Nothing in this rule relieves any investment adviser from any obligation required under the act or a rule promulgated under the act or other federal or state law to disclose any information to its advisory clients or prospective advisory clients not specifically required by this rule.

R 451.4.20 Proxy voting.
Rule 4.20. It is a fraudulent, deceptive, or manipulative act, for an investment adviser registered, or required to be registered, under section 406 of the act, MCL 451.2406, to exercise voting authority with respect to client securities, unless the adviser does all of the following:
   (a) Adopts and implements written policies and procedures that are reasonably designed to ensure that the investment adviser votes client securities in the best interest of clients, which procedures must include how the investment adviser will address material conflicts that may arise between the investment adviser and its clients.
   (b) Discloses to clients how they may obtain information from the investment adviser about how the investment adviser voted with respect to the client’s securities.
   (c) Describes to clients the investment adviser’s proxy voting policies and procedures and, upon request, furnishes a copy of the policies and procedures to the requesting client.

R 451.4.21 Business continuity and succession planning.
Rule 4.21. An investment adviser shall establish, implement, and maintain written procedures relating to a business continuity and succession plan. The plan must be based upon the facts and circumstances of the investment adviser’s business model including the size of the firm, type or types of services provided, and the number of locations of the investment adviser. The plan shall provide for at least all of the following:
   (a) The protection, backup, and recovery of books and records.
(b) Alternate means of communications with customers, key personnel, employees, vendors, service providers, third-party custodians, and regulators, including, but not limited to, providing notice of a significant business interruption or the death or unavailability of key personnel or other disruptions or cessation of business activities.

(c) Office relocation in the event of temporary or permanent loss of a principal place of business.

(d) Assignment of duties to qualified responsible persons in the event of the death or unavailability of key personnel.

(e) Steps and methods reasonably designed to minimize service disruptions and client harm that could reasonably be anticipated to result from a sudden, significant business interruption.

R 451.4.22 Records required to be maintained by broker-dealers.

Rule 422. A broker-dealer registered, or required to be registered, under the act, shall make, maintain, and preserve records in compliance with SEC rule 17a-3, 17 C.F.R. §240.17a-3, and SEC rule 17a-4, 17 C.F.R. §240.17a-4.

R 451.4.23 Records required to be maintained by Michigan investment markets.

Rule 423. A Michigan investment market registered or required to be registered under the act, shall make, maintain, and preserve records in compliance with SEC rule 17a-3, 17 C.F.R. §240.17a-3, and SEC rule 17a-4, 17 C.F.R. §240.17a-4.

R 451.4.24 Records to be maintained by investment advisers.

Rule 424. (1) For the purposes of this rule, "access person" means when used in connection with a company primarily engaged in a business or businesses other than advising investment advisory clients, a person who has access to nonpublic information regarding any client’s purchase or sale of securities, or nonpublic information regarding the portfolio holdings of any reportable fund, and any person who is involved in making securities recommendations to clients, or who has access to such recommendations that are nonpublic, and any partner, officer, or director of the investment adviser.

(2) Every investment adviser registered, or required to be registered, under the act shall make and keep true, accurate, and current all of the following books, ledgers, and records:

(a) A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger.

(b) General and auxiliary ledgers, or other comparable records, reflecting asset, liability, reserve, capital, income, and expense accounts.

(c) A record of each order given by the investment adviser for the purchase or sale of a security, of any instruction received by the investment adviser from the client concerning the purchase, sale, receipt, or delivery of a particular security, and of a modification or cancellation of any such order or instruction. The record must do all of the following: show the terms and conditions of the order, instruction, modification, or cancellation; identify the person connected with the investment adviser who recommended the transaction to the client and the person who placed the order; and show the account for which entered, the date of entry, and the bank, broker-dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power must be so designated.

(d) All checkbooks, bank statements, canceled checks, and cash reconciliations of the investment adviser.

(e) All bills or statements, or copies of, paid or unpaid, relating to the investment adviser's business.
(f) All trial balances, financial statements, and internal audit working papers relating to the investment adviser's business.

(g) Copies of all written communications received and sent by the investment adviser relating to all of the following:

(i) Any recommendation made or proposed to be made and any advice given or proposed to be given.

(ii) Any receipt, disbursement, or delivery of funds or securities.

(iii) The placing or execution of any order to purchase or sell any security.

(iv) The investment adviser shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment adviser.

(v) If the investment adviser sends a notice, circular, or other advertisement offering a report, analysis, publication, or other investment advisory service to more than 10 persons, the investment adviser shall not be required to keep a record of the names and addresses of the persons to whom the notice, circular, or advertisement was sent. If the notice, circular, or advertisement is distributed to persons named on a list, the investment adviser shall retain with the copy of the notice, circular, or advertisement a memorandum describing the list and its source.

(h) A list or other record of all accounts that identifies the accounts in which the investment adviser is vested with any discretionary power with respect to the funds, securities, or transactions of a client.

(i) A copy of all powers of attorney and other evidences of the granting of any discretionary authority by a client to the investment adviser.

(j) A copy in writing of each agreement entered into by the investment adviser with a client, and all other written agreements otherwise relating to the investment adviser's business as an investment adviser.

(k) A copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media that the investment adviser directly or indirectly circulates or distributes to 10 or more persons, other than persons connected with the investment adviser. If the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication recommends the purchase or sale of a specific security and does not state the reasons for the recommendation, a memorandum of the investment adviser indicating the reasons for the recommendation shall be kept.

(l) A record of every transaction in a security in which the investment adviser or any access person of the investment adviser has, or by reason of any transaction acquires, any direct or indirect beneficial ownership. The record must state the title and amount of the security involved; the date and nature of the transaction, for example the purchase, sale, or other acquisition or disposition; the price at which it was effected; and, the name of the broker-dealer or bank with or through whom the transaction was effected. A record under this subrule does not need to be kept for a transaction in a security involving any of the following:

(i) Direct obligations of the government of the United States.

(ii) Bankers' acceptances, bank certificates of deposit, commercial paper, and high quality short-term debt instruments, including repurchase agreements.

(iii) Shares issued by money market funds.

(iv) Shares issued by open-end funds other than reportable funds.

(v) Shares issued by unit investment trusts that are invested exclusively in 1 or more open-end funds, none of which are reportable funds.

(m) The record may also contain a statement declaring that the reporting or recording of any transaction is not as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security.

(n) A transaction must be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.
(o) A record is not required for either transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; or for transactions in securities that are direct obligations of the United States.

(p) An investment adviser shall not be deemed to have violated the provisions of this subdivision because of the failure to record securities transactions of any advisory representative if the investment adviser establishes that it instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

(q) Notwithstanding the provisions of subdivision (l) of this subrule, where the investment adviser is primarily engaged in a business or businesses other than advising investment advisory clients, a record must be maintained of every transaction in a security in which the investment adviser or any access person of the investment adviser has, or by reason of any transaction acquires, any direct or indirect beneficial ownership. The record must state all of the following:
   (i) The title and amount of the security involved.
   (ii) The date and nature of the transaction, for example purchase, sale, or other acquisition or disposition.
   (iii) The price at which it was effected.
   (iv) The name of the broker-dealer or bank with or through whom the transaction was effected.
   (v) The record may also contain a statement declaring that the reporting or recording of any transaction is not an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security.
   (vi) A transaction must be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.
   (vii) A record is not required for either of the following:
      (A) Transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control.
      (B) Transactions in securities that are direct obligations of the United States.

(viii) An investment adviser is deemed to be “primarily engaged in a business or businesses other than advising investment advisory clients” if, for each of its most recent 3 fiscal years or for the period of time since organization, whichever is less, the investment adviser derived, on an unconsolidated basis, more than 50% of total sales and revenues, and more than 50% of income or loss before income taxes and extraordinary items, from other business or businesses that did not primarily involve the giving of investment advice.

(ix) An investment adviser is not deemed to have violated the provisions of this subdivision because of the failure to record securities transactions of an advisory representative if the investment adviser establishes that it instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

(r) A copy of each written statement and each amendment or revision, given or sent to any client or prospective client of the investment adviser pursuant to the provisions of R 451.4.19; summary of material changes that is required by part 2 of Form ADV but is not contained in the written statement; and a record of the dates that each written statement, including an amendment or revision to the written statement, and a summary of material changes was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

(s) All accounts, books, internal working papers, and any other records or documents that are necessary to form the basis for or demonstrate the calculation of the performance or rate of return of all managed accounts or securities recommendations in any notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication that the investment adviser circulates or distributes to 2 or more persons, other than persons connected with the investment adviser. With respect to the performance of managed accounts only, the retention of all account statements, reflecting all debits,
credits, and other transactions in a client's account for the period of the statement, and all worksheets necessary to demonstrate the calculation of the performance or rate of return of all managed accounts is deemed to satisfy the requirements of this paragraph.

(i) A file containing a copy of all written communications received or sent regarding any litigation involving the investment adviser or an investment adviser’s representative or employee and regarding any customer or client complaint.

(u) Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to such client.

(v) Written procedures regarding the supervision of employees and investment adviser representatives that are reasonably designed to achieve compliance with the act and rules promulgated under the act, and federal laws and rules.

(w) A copy of each document, other than any notices of general dissemination, that was filed with or received from any state or federal agency or self-regulatory organization and that pertains to the registrant or its investment adviser representatives which file should contain, but is not limited to, all applications, amendments, renewal filings, and correspondence.

(x) A record with original signatures of the investment adviser’s appropriate signatory and the investment adviser representative, of each initial Form U4 and each amendment to the disclosure reporting pages.

(y) If an investment adviser inadvertently holds or obtains a client’s securities or funds and returns them within 3 business days, the investment adviser shall keep a copy of each such financial instrument and a ledger or other listing of all securities or funds received, including all of the following information:

(i) Issuer, payor, or maker, as may be applicable.
(ii) Type of security and series.
(iii) Date of issue.
(iv) For debt instruments, the denomination, interest rate, and maturity date.
(v) Certificate number, including alphabetical prefix or suffix.
(vi) Name in which registered.
(vii) Date given to the investment adviser.
(viii) Date sent to client or sender.
(ix) Form of delivery to client or sender, or copy of the form of delivery to client or sender.
(x) Mail confirmation or courier tracking number, if applicable, or confirmation by client or sender of the fund’s or security’s return.

(z) If an investment adviser obtains possession of securities that are acquired from the issuer in a transaction or chain of transactions not involving any public offering that meet the exception from custody under R 451.4.13, the investment adviser shall keep both of the following records:

(i) A record showing the issuer or current transfer agent’s name, address, phone number, and other applicable contact information pertaining to the party responsible for recording client interests in the securities.
(ii) A copy of any legend, shareholder agreement or other agreement providing that those securities are transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

(aa) An investment adviser that exercises voting authority with respect to client securities shall, with respect to those clients, make and retain all of the following:

(i) Copies of all policies and procedures required by R 451.4.20.
(ii) A copy of each proxy statement that the investment adviser receives regarding client securities. An investment adviser may satisfy this requirement by relying on a third party to make and retain, on the investment adviser’s behalf, a copy of a proxy statement, provided that the adviser has obtained an
undertaking from the third party to provide a copy of the proxy statement promptly upon request, or may rely on obtaining a copy of a proxy statement from the EDGAR system.

(iii) A record of each vote cast by the investment adviser on behalf of the client. An investment adviser may satisfy this requirement by relying on a third party to make and retain, on the investment adviser’s behalf, a record of the vote cast, provided that the adviser has obtained an undertaking from the third party to provide a copy of the record promptly upon request.

(iv) A copy of any document created by the adviser that was material to making a decision how to vote proxies on behalf of a client or that memorializes the basis for that decision.

(v) A copy of each written client request for information on how the adviser voted proxies on behalf of the client, and a copy of any written response by the investment adviser to any written or oral client request for information on how the adviser voted proxies on behalf of the requesting client.

(3) If an investment adviser has custody, the records required to be made and kept under subrule (2) of this rule must include all of the following:

(a) A copy of all documents executed by a client, including a limited power of attorney, under which the investment adviser is authorized or permitted to withdraw a client’s funds or securities maintained with a custodian upon the investment adviser’s instruction to the custodian.

(b) A journal or other record showing all purchases, sales, receipts and deliveries of securities, including certificate numbers, for all accounts and all other debits and credits to the accounts.

(c) A separate ledger account for a client showing all purchases, sales, receipts and deliveries of securities, the date and price of each purchase and sale, and all debits and credits.

(d) Copies of confirmations of all transactions effected by or for the account of a client.

(e) A record for each security in which a client has a position. This record must show at a minimum the name of each client having any interest in each security, the amount of interest of each client, and the location of each security.

(f) A copy of the client’s monthly or quarterly account statements, as may be applicable, as generated and delivered by the qualified custodian. If the investment adviser also generates a statement that is delivered to the client, the investment adviser shall also maintain copies of such statements along with the date such statements were sent to the client.

(g) If applicable to the investment adviser’s situation, a copy of the special examination report verifying the completion of the examination by an independent certified public accountant and describing the nature and extent of the examination.

(h) A record of any finding by the independent certified public accountant of any material discrepancies found during the examination.

(i) If applicable, evidence of the client’s designation of an independent representative.

(4) If an investment adviser has custody because it advises a pooled investment vehicle, the investment adviser shall also keep in addition to any other applicable record retention requirements, the following records:

(a) True, accurate, and current account statements.

(b) Where the investment adviser complies with the exception found in 17 C.F.R. §275.206(4)-2(b)(4), the records required to be made and kept must include all of the following:

(i) The date or dates of the audit.

(ii) A copy of the audited financial statements.

(iii) Evidence of the mailing of the audited financial statements to all limited partners, members, or other beneficial owners within 120 days of the end of its fiscal year.

(5) An investment adviser subject to subrule (2) of this rule who renders any investment supervisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment adviser, make and keep true, accurate, and current both of the following:
(a) Records showing separately for each client the securities purchased and sold, and the date, amount, and price of each purchase and sale.

(b) For each security in which any client has a current position, information from which the investment adviser can promptly furnish the name of each the client, and the current amount or interest of the client.

(6) Any books or records required by this rule may be maintained by the investment adviser in such manner that the identity of any client to whom the investment adviser renders investment supervisory services is indicated by numerical or alphabetical code or some similar designation.

(7) Every investment adviser subject to subrule (2) of this rule shall preserve all of the following records in the following manner:
(a) All books and records required to be made under the provisions of subrules (2) to (3)(a) of this rule, except for books and records required to be made under the provisions of subrule (2)(k) and (s) of this rule, must be maintained and preserved in an easily accessible place for a period of not less than 5 years from the end of the fiscal year during which the last entry was made on record, the first 2 years in the principal office of the investment adviser.

(b) Partnership agreements, limited liability company articles of organization, operating agreements, articles of incorporation, charters, and similar business formation documents, any amendments to such documents, minute books, and stock ledgers of the investment adviser and of any predecessor, must be maintained in the principal office of the investment adviser and preserved until at least 3 years after termination of the enterprise.

(c) Books and records required to be made under the provisions of subrules (1)(s) and (2)(k) of this rule, must be maintained and preserved in an easily accessible place for a period of not less than 5 years, the first 2 years in the principal office of the investment adviser, from the end of the fiscal year during which the investment adviser last published or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media.

(d) Books and records required to be made under the provisions of subrule (2)(t) to (y) of this rule, must be maintained and preserved in an easily accessible place for a period of not less than 5 years from the end of the fiscal year during which the last entry was made on such record, the first 2 years in the principal office of the investment adviser, or for the time period during which the investment adviser was registered or required to be registered in the state, if less.

(e) Notwithstanding other record preservation requirements of this rule, all of the following records or copies must be maintained at the business location of the investment adviser from which the customer or client is being provided or has been provided with investment advisory services:

(i) Records required to be preserved under subrules (2)(c), (g) to (j), (r), (t) to (v), (3) and (4) of this rule.

(ii) Records or copies required under the provision of subrule (2)(k) and (s) of this rule which records or related records identify the name of the investment adviser representative providing investment advice from that business location, or which identify the business locations’ physical address, mailing address, electronic mailing address, or telephone number.

(8) An investment adviser subject to subrule (2) of this rule, that ceases to conduct or discontinues business as an investment adviser shall arrange for and be responsible for the retention of the books and records required to be maintained and preserved under this rule for the remainder of the period specified in this rule, and shall notify the administrator in writing prior to ceasing to conduct or discontinuing business of the exact address where the books and records are maintained.

(9) Pursuant to subrule (6) of this rule, the records required to be maintained and preserved may be immediately produced or reproduced, and maintained and preserved for the required time, by an investment adviser on any of the following:
(a) Paper or hard copy form, as those records are kept in their original form.
(b) Micrographic media, including microfilm, microfiche, or any similar medium.
(c) Electronic storage media, including any digital storage medium or system that meets the terms of this rule.

(10) Pursuant to subrule (6) of this rule, the investment adviser shall do both of the following:
(a) Arrange and index the records in a way that permits easy location, access, and retrieval of any particular record.
(b) Provide promptly any of the following that the administrator, by its examiners or other representatives, may request:
   (i) A legible, true, and complete copy of the record in the medium and format in which it is stored.
   (ii) A legible, true, and complete printout of the record.
   (iii) Means to access, view, and print the records.

(11) Pursuant to subrule (6) of this rule, in the case of records created or maintained on electronic storage media, the investment adviser shall establish and maintain procedures to do all of the following:
(a) Maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, or destruction.
(b) Limit access to the records to properly authorized personnel and the administrator, including its examiners and other representatives.
(c) Reasonably ensure that any reproduction of a non-electronic original record on electronic storage media is complete, true, and legible when retrieved.
(d) Separately store, for the time required for preservation of the original record, a duplicate copy of the record on any medium allowed by this rule.

(12) A book or other record made, kept, maintained, and preserved in compliance with rules 17a-3 and 17a-4 under the securities exchange act of 1934, 17 C.F.R. §240.170a-3 and 17 C.F.R. §240.170a-4 which is substantially the same as the book or other record required to be made, kept, maintained, and preserved under this rule, must be made, kept, maintained, and preserved in compliance with this rule.

(13) An investment adviser registered, or required to be registered, in this state and that has its principal place of business in a state other than this state is exempt from the requirements of this rule, provided the investment adviser is registered or licensed in such state and is in compliance with such state's recordkeeping requirements.

R 451.4.25 Prohibited practices of investment advisers and investment adviser representatives.
Rule 4.25. (1) For purposes of subrule (2)(l) of this rule, the following definitions apply:
(a) “Publicly distributed written materials” means written materials that are distributed to 35 or more persons who pay for those materials.
(b) “Publicly made oral statements” means oral statements made simultaneously to 35 or more persons who pay for access to those statements.

(2) A person who is an investment adviser or an investment adviser representative is a fiduciary and has a duty to act primarily for the benefit of its clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment adviser or an investment adviser representative and its clients and the circumstances of each case, an investment adviser or an investment adviser representative shall not engage in fraudulent, deceptive, or manipulative conduct, including but not limited to, the following:
(a) Recommending to a client to whom investment adviser services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client’s investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative.
(b) Exercising any discretionary authority in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary authority relates solely to the price at which, or the time when, an order involving a definite amount of a specified security must be executed, or both.

(c) Inducing trading in a client’s account that is excessive in size or frequency in view of the financial resources, investment objectives, and character of the account.

(d) Placing an order to purchase or sell a security for the account of a client without authority to do so.

(e) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party trading authorization from the client.

(f) Borrowing money or securities from a client unless 1 of the following is true:
   
   (i) The client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds.

   (ii) The client is the investment adviser’s or investment adviser representative’s parent, parent-in-law, spouse, child, child-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or cousin, including any step-family or adoptive relationship and all of the following are true:

       (A) The borrowing arrangement is permitted by the investment adviser’s written policies and procedures.

       (B) The investment adviser or investment adviser representative has written permission from the investment adviser to enter the borrowing arrangement.


   (g) Loaning money or securities to a client unless 1 of the following is true:

   (i) The investment adviser is a broker-dealer, bank, or other financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser.

   (ii) The client is the investment adviser’s or investment adviser representative’s parent, parent-in-law, spouse, child, child-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or cousin, including any step-family or adoptive relationship and all of the following are true:

       (A) The lending arrangement is permitted by the investment adviser’s written policies and procedures.

       (B) The investment adviser or investment adviser representative has written permission from the investment adviser to enter the lending arrangement.


   (h) Misrepresenting to any client, or prospective client, the qualifications of the investment adviser, investment adviser representative, or any employee, or person affiliated with the investment adviser or investment adviser representative, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

   (i) Providing a report or recommendation to any client prepared by someone other than the investment adviser or investment adviser representative without disclosing the identity of the person who prepared the report or recommendation. This prohibition does not apply to a situation where the investment adviser or investment adviser representative uses published research reports or statistical analyses to render advice or where an investment adviser or investment adviser representative orders such a report in the normal course of providing service.

   (j) Charging a client an unreasonable advisory fee.

   (k) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment adviser or investment adviser representative, or any of its employees,
or affiliated persons that could reasonably be expected to impair the rendering of unbiased and objective advice, including but not limited to, the following:

(i) Compensation arrangements connected with investment adviser services to clients that are in addition to compensation from such clients for such services.

(ii) Charging a client an investment adviser fee for rendering investment advice when compensation for effecting securities transactions pursuant to such advice is received by the investment adviser or investment adviser representative or its employees, or affiliated persons.

(i) While acting as principal for an advisory account of the investment adviser or investment adviser representative, to knowingly sell any security to or purchase any security from a client, or while acting as broker-dealer for a person other than the client, to knowingly effect any sale or purchase of any security for the account of the client, without disclosing to the client in writing before the completion of the transaction the capacity in which the investment adviser or investment adviser representative is acting and obtaining the consent of the client to the transaction. The prohibitions of this subdivision do not apply to either of the following:

(i) A transaction with a customer of a broker-dealer if the broker-dealer is not acting as an investment adviser in relation to the transaction.

(ii) A transaction with a customer of a broker-dealer if the broker-dealer acts as an investment adviser solely by any of the following methods:

(A) By means of publicly distributed written materials or publicly made oral statements.

(B) By means of written materials or oral statements not purporting to meet the objectives or needs of specific individuals or accounts.

(D) Through the issuance of statistical information containing no expressions of opinion as to the investment merits of a particular security.

(D) Any combination of the services in this subparagraph.

(m) Guaranteeing a client that a specific result shall be achieved with advice rendered.

(n) Publishing, circulating, or distributing any advertisement that directly or indirectly does not comply with rule 206(4)-1 under the investment advisers act of 1940.

(o) Making, in the solicitation of clients, any untrue statement of a material fact, or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which they are made, not misleading.

(p) Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information contrary to the provisions of sections 204A of the investment advisers act of 1940, 17 C.F.R. §275.204A-1.

(q) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser has custody or possession of such securities or funds when the action of the investment adviser or investment adviser representative is subject to and does not comply with the requirements of R 451.4.13.

(r) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the act or any rule or regulation thereunder.

(3) Publicly distributed written materials or publicly made oral statements must disclose that, if the purchaser of the advisory communication uses the investment adviser’s services in connection with the sale or purchase of a security which is a subject of the communication, the investment adviser may act as a principal for its own account or as agent for another person. Compliance by the investment adviser with the foregoing disclosure requirement does not relieve it of any other disclosure obligations under the act.

(4) The prohibition on agency cross transactions does not apply if all of the following conditions are met:
(a) The advisory client executes a written consent prospectively authorizing the investment adviser to effect agency cross transactions for such client.

(b) Before obtaining such written consent from the client, the investment adviser makes full written disclosure to the client that, with respect to agency cross transactions, the investment adviser will act as a broker-dealer for, receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding both parties to the transactions.

(c) At or before the completion of each agency cross transaction, the investment adviser or any other person relying on this rule sends the client a written confirmation. The written confirmation must include all of the following:

(i) A statement of the nature of the transaction.

(ii) The date the transaction took place.

(iii) An offer to furnish, upon request, the time when the transaction took place.

(iv) The source and amount of any other remuneration the investment adviser received or shall receive in connection with the transaction. In the case of a purchase, if the investment adviser was not participating in a distribution, or, in the case of a sale, if the investment adviser was not participating in a tender offer, the written confirmation may state whether the investment adviser has received or shall receive any other remuneration and that the investment adviser shall furnish the source and amount of such remuneration to the client upon the client’s written request.

(5) At least annually, with or as part of any written statement or summary of the account from the investment adviser, the investment adviser or any other person relying on this rule to conduct agency cross transactions shall send each client a written disclosure statement identifying both of the following:

(a) The total number of agency cross-transactions during the period for the client since the date of the last such statement or summary.

(b) The total amount of all commissions or other remuneration the investment adviser received or shall receive in connection with agency cross transactions for the client during the period.

(6) Each written disclosure and confirmation must include a conspicuous statement that the client may revoke the written consent required by this rule at any time by providing written notice to the investment adviser.

(7) No agency cross transaction may be effected in which the same investment adviser recommended the transaction to both any seller and any purchaser.

(8) Nothing in this rule shall be construed to relieve an investment adviser or investment adviser representative from acting in the best interests of the client, including fulfilling a duty with respect to the best price and execution for the particular transaction for the client, nor does it relieve any investment adviser or investment adviser representative of any other disclosure obligations imposed by the act or rules.

(9) For the purposes of this rule, the term investment adviser representative must exclude a supervised person of a federal covered investment adviser as that term is defined in section 202(a)(25) of the Investment Advisers Act of 1940, 17 C.F.R. §275.203A-3.

R 451.4.26 Investment adviser contracts.

Rule 4.26. (1) For purposes of this rule, the following definitions apply:

(a) “Assignment,” as used in subrule (3)(b) of this rule, includes, but is not limited to, a transaction or event that results in a change to the individuals or entities with the power, directly or indirectly, to direct the management or policies of, or to vote more than 50% of any class of voting securities of, the investment adviser as compared to the individuals or entities that had such power as of the date when the contract was first entered into, extended, or renewed.
(b) “Private investment company” means a company that is defined as an investment company under section 3(a) of the Investment Company Act of 1940, 15 U.S.C. §80a-3(a), but for the exception provided from that definition by section 3(c)(1) of the Investment Company Act of 1940, 15 U.S.C. §80A-3.

(2) This rule applies to federal covered investment advisers to the extent that the conduct alleged is fraudulent, deceptive, or as otherwise permitted by the National Securities Markets Improvement Act of 1996, 15 U.S.C. §78a et seq.

(3) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing all of the following:

(a) The services to be provided; the term of the contract if the contract has a specific term, otherwise it should describe how the contract may be terminated by either party; the investment advisory fee; the formula for computing the fee; the amount of prepaid fee to be returned in the event of termination or non-performance of the contract; and, any grant of discretionary power to the investment adviser or any of its investment adviser representatives.

(b) That no direct or indirect assignment or transfer of the contract may be made by the investment adviser without the consent of the client or other party to the contract. Unless prohibited by contract, a client’s consent may be implied with at least 30 days’ prior written notice of an anticipated change of control, followed by written notice of the consummation of the change of control, provided that the client is both notified and permitted to discontinue services and terminate the contract within 30 days without cost or penalty.

(c) That the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client.

(d) That the investment adviser, if a partnership or limited liability company, shall notify the client or other party to the investment contract of any change in the membership of the partnership within a reasonable time after the change.

(4) It is unlawful for any investment adviser, investment adviser representative, or federal covered investment adviser to do any of the following:


(b) Enter into, extend, or renew any advisory contract contrary to the provisions of section 205 of the Investment Advisers Act of 1940, 15 U.S.C. §80b-5. This provision applies to all advisers and investment adviser representatives registered or required to be registered under the act, notwithstanding whether such adviser or representative would be exempt from federal registration pursuant to section 203(b) of the Investment Advisers Act of 1940, 15 U.S.C. §80b-3.

(5) Notwithstanding subrules (3)(c) and (4)(b) of this rule, an investment adviser may enter into, extend, or renew an investment advisory contract that provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds, or any portion of the funds, of the client if either of the following occur:

(a) The investment adviser is not registered and is not required to be registered pursuant to section 403 of the act, MCL 451.2403; or

(b) All of the following conditions are met:

(i) The client entering into the contract is a “qualified client”, as defined by rule 205-3 under the Investment Advisers Act of 1940, 17 C.F.R. §275.205-3.

(ii) To the extent not otherwise disclosed on part 2 of Form ADV, the investment adviser shall disclose in writing to the client all material information concerning the proposed advisory arrangement, including all of the following:
(A) That the fee arrangement may create an incentive for the investment adviser to make investments that are riskier or more speculative than would be the case in the absence of a performance fee.

(B) Where relevant, that the investment adviser may receive increased compensation with regard to unrealized appreciation as well as realized gains in the client’s account.

(C) The periods that will be used to measure investment performance throughout the contract and their significance in the computation of the fee.

(D) The nature of any index that will be used as a comparative measure of investment performance, the significance of the index, and the reason the investment adviser believes that the index is appropriate.

(E) Where the investment adviser’s compensation is based in part on the unrealized appreciation of securities for which market quotations are not readily available within the meaning of rule 2a-4(a)(1) under the investment company act of 1940, 17 C.F.R. §270.2a-4(a)(1), how the securities will be valued and the extent to which the valuation will be independently determined.

(6) In the case of a private investment company, an investment company registered under the investment company act of 1940, 15 U.S.C. §§ 80a-1, et seq. or a business development company, as defined in section 202(a)(22) of the investment advisers act of 1940, 15 U.S.C. §80b-2(a)(22), each equity owner of any such company, except for the investment adviser entering into the contract and any other equity owners not charged a fee on the basis of a share of capital gains or capital appreciation, shall be considered a client for purposes of subrules (3)(c) and (5) of this rule.

R 451.4.27 Dishonest or unethical business practices of broker-dealers and agents.

Rule 4.27. (1) “Dishonest or unethical practices” for purposes of section 412(4)(m) of the act, MCL 451.2412(4)(m), includes the conduct prohibited in this rule. The conduct specified in subrules (2) and (3) of this rule is not all inclusive. Engaging in other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall also be grounds for denial, suspension, or revocation of registration.

(2) Prohibited conduct of broker-dealers registered, or required to be registered, under the act includes, but is not limited to, the following:

(a) Engaging in unreasonable and unjustifiable delaying or failing to execute orders, liquidate customer’s account or in the delivery of securities purchased by any of its customers or in the payment upon request, free credit balances reflecting completed transactions of any of its customers.

(b) Inducing trading in a customer’s account that is excessive in size or frequency in view of the financial resources and character of the account.

(c) Recommending to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer’s investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer.

(d) Executing a transaction on behalf of a customer without authorization to do so.

(e) Exercising any discretionary power in effecting a transaction for a customer’s account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time, price, or both for executing of orders.

(f) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account.

(g) Failing to segregate customer’s free securities or securities held in safekeeping.

(h) hypothe...
(j) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus or making oral or written statements contrary to or inconsistent with the disclosures contained in the prospectus.

(k) Charging unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business.

(l) Offering to buy from or sell to any person any security at a stated price unless such broker-dealer is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell.

(m) Representing that a security is being offered to a customer “at the market” or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe a market for such security exists other than that made, created, or controlled by such broker-dealer, or by any such person from whom he or she is acting or with whom he or she is associated in such distribution, or any person controlled by, controlling, or under common control with such broker-dealer.

(n) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, which may include but not be limited to the following:

(i) Effecting any transaction in a security which involves no change in the beneficial ownership of the security.

(ii) Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered for the purpose of creating a false or misleading appearance of active trading the security or a false or misleading appearance with respect to the market for the security; provided; however, nothing in this subdivision prohibits a broker-dealer from entering a bona fide agency cross transaction for its customers.

(iii) Effecting, alone or with 1 or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.

(iv) Guarantying a customer against loss in any securities account of such customer or in any securities transaction effected by the broker-dealer with or for such customer.

(v) Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind that purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale or such security; or that purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security.

(vi) Using any advertising or sales presentation in such a fashion as to be deceptive or misleading including, but not limited to, distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions in any brochure, flyer, or display by words, picture, graphs or other medium designed to supplement, detract from, supersede, or defeat the purpose or effect of any prospectus or disclosure.

(vii) Failing to disclose that the broker-dealer is controlled by, controlling, affiliated with, or under common control with the issuer of any security that is offered or sold to the customer. The existence of any control or affiliation must be disclosed to the customer in writing prior to completion of the transaction.
(viii) Failing to make a public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member, by engaging in conduct including both of the following:
   (A) Parking or withholding securities.
   (B) Transferring securities to a customer, another broker-dealer, or a fictitious account with the understanding that those securities must be returned to the broker-dealer, or the broker-dealer’s nominee.

(ix) Failing or refusing to furnish a customer, upon reasonable request, information to which the customer is entitled, or to respond to a formal written request or complaint.

(x) Marking any order tickets or confirmation as unsolicited when the transaction is solicited.

(xi) Failing to comply with any applicable provision of the FINRA conduct rules or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization approved by the SEC.

(xii) In connection with the solicitation of a sale or purchase of an “Over the Counter” non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under section 13 of the securities exchange act of 1934, 15 U.S.C. §78m, when requested to do so by a customer.

3) Prohibited conduct of agents registered or required to be registered under the act include any of the following:
   (a) Lending money or securities to or borrowing money or securities from a customer, or acting as a custodian for money, securities, or an executed stock power of a customer, unless all of the following are true:
      (i) The broker-dealer that employs the agent has written procedures allowing the lending or borrowing of money or securities from a customer, or acting as a custodian for money, securities, or an executed stock power of a customer.
      (ii) The arrangement is with the agent’s parent, parent-in-law, spouse, child, child-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or cousin, including any step-family or adoptive relationship.
      (iii) The arrangement is approved in writing by the broker-dealer that employs the agent.
      (iv) The broker-dealer that employs the agent maintains a written copy of the lending arrangement, borrowing arrangement, or custodial agreement until the agent’s obligations under the arrangement are satisfied.
   (b) Effecting securities transactions not recorded on the regular books or records of the broker-dealer that the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction.
   (c) Establishing or maintaining an account containing fictitious information in order to execute transactions that would otherwise be prohibited.
   (d) Sharing, directly or indirectly, in profits or losses in the account of a customer without the written authorization of the customer and the broker-dealer that the agent represents.
   (e) Dividing or otherwise splitting the agent’s commissions, profits, or other compensation from the purchase or sale of securities with a person not also registered as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control.
   (f) Engaging in conduct specified in subrule (2)(a), (b), (c), (d), (e), (f), (i), (j) and (n)(iv), (v), (vi), (x), (xi), and (xii).

R 451.4.28 Use of senior-specific certifications and professional designations.
   Rule 4.28.  (1) The use of a senior-specific certification or designation by a person in connection with the offer, sale, or purchase of securities, or the provision of advice as to the value of or the advisability
of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees, in such a way as to mislead a person is a dishonest and unethical practice in the securities, commodities, investment, franchise, banking, finance, or insurance business within the meaning of the act. The prohibited use of such certifications or professional designation includes, but is not limited to, the following:

(a) Use of a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation.

(b) Use of a nonexistent or self-conferred certification or professional designation.

(c) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have.

(d) Use of a certification or professional designation that was obtained from a designating or certifying organization that meets any of the following:

   (i) Is primarily engaged in the business of instruction in sales or marketing, or both.

   (ii) Does not have reasonable standards or procedures for assuring the competency of its designees or certificants.

   (iii) Does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct.

   (iv) Does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

(2) There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of subrule (1)(d) of this rule when the organization has been accredited by any of the following:

(a) The American national standards institute.

(b) The national commission for certifying agencies.

(c) An organization that is on the United States Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes” and the designation or credential issued does not primarily apply to sales or marketing, or both.

(3) In determining whether a combination of words, or an acronym standing for a combination of words, constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered must include both of the following:

(a) Use of 1 or more words, such as senior, retirement, elder, or similar words, combined with 1 or more words, such as certified, registered, chartered, adviser, specialist, consultant, planner, or similar words in the name of the certification or professional designation.

(b) The manner in which those words are combined.

(4) For purposes of this rule, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title does any of the following:

(a) Indicates seniority or standing within the organization.

(b) Specifies an individual’s area of specialization within the organization.

(c) For purposes of this subrule, financial services regulatory agency includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under the investment company act of 1940, 15 U.S.C. §80a-3.

PART 6. ADMINISTRATION AND JUDICIAL REVIEW
R 451.6.1 Interpretative opinions.

Rule 6.1. (1) An interpretative opinion may be issued pursuant to section 605(4) of the act, MCL 451.2605(4); however, the administrator may refuse to issue an interpretative opinion.

(2) An interpretative opinion issued by the administrator is an informal position and is not a declaratory ruling or a formal order. An interpretative opinion does not have quasi-judicial force or effect and is not subject to judicial review.

(3) A person who is interested in receiving an interpretative opinion shall submit an interpretative opinion request that must comply with all of the following:

(a) An original and 1 copy of each request must be submitted to the administrator. Two copies of all relevant documents, including offering materials, contracts, and agreements, must be submitted as attachments to the request.

(b) Immediately below the inside address of the letter of request the specific section or sections of the act must be stated. If the request involves more than 1 section or subsection of a statute each section must be specifically indicated and explained to permit the administrator to reasonably ascertain the nature of the request.

(c) The fact situation underlying the request must be stated completely and accurately. A concise statement of the issues presented must be included in the request.

(d) The request must contain an analysis by the requestor's legal counsel of the issues presented and legal counsel's conclusion.

(e) As an alternative to subdivision (d) of this subrule, if private legal counsel has not stated an opinion, the request must contain the requestor's analysis of the issues presented and the requestor's conclusion. The requestor shall state why a problem exists, the requestor's opinion on the matter, and the basis for the requestor's opinion.

(4) A request must state the names of all persons involved in the request and must not relate to hypothetical fact situations. A request must be confined to the particular fact situation at hand and shall not attempt to include every possible type of situation which may arise in the future.

(5) Failure to follow the procedure and requirements of this rule may result in the return of the request for compliance or in a denial of the request.

R 451.6.2 Copy and certification fees.

Rule 6.2.

(1) The administrator shall charge the following fees for furnishing records:

(a) Minimum fee for uncertified copies, up to 6 pages $10.35

(b) Copy fee per page $ 1.75

(c) Certification fee $17.25

(d) Certificate of fact or other detailed certificate $34.50

(2) The administrator may adjust copy and certification fees specified in subrule (1) of this rule every 2 years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index in the preceding 2-year period and rounded to the nearest dollar. As used in this rule, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area by the Bureau of Labor Statistics of the United States Department of Labor.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the department of natural resources by sections 502 and 504 of 1994 PA 451, MCL 324.502 and 324.504)

R 299.4021, R 299.4022, R 299.4023, R 299.4024, R 299.4025, R 299.4026, and R 299.4027 of the Michigan Administrative Code are amended as follows:

R 299.4021 Definitions.

Rule 1. As used in these rules:

(a) "Auction lease" means a lease issued as the result of competitive bidding at public auction that grants the lessee the exclusive right to pursue exploration, mining, or production of the leased nonmetallic mineral rights.

(b) "Bonus" means a payment by the proposed lessee to the department at the time of leasing as part of the consideration for acquisition of a nonmetallic minerals lease.

(c) "Department" means the Michigan department of natural resources.

(d) “Development lease” means an auction lease or a direct lease that allows nonmetallic minerals exploration, mining, or production on the surface of the leased land in compliance with the department’s standard nonmetallic minerals lease terms.

(e) "Direct lease" means a lease issued as the result of individual negotiations with the department that grants the lessee the exclusive right to pursue exploration, mining, or production of the leased nonmetallic mineral rights.

(f) “Director” means the director of the Michigan department of natural resources or the director’s designee.

(g) “Hold action list” means a list generated by the department containing persons and entities not in compliance with lease terms or lease rules.

(h) "Land" means any property in which the state owns any nonmetallic mineral rights.

(i) "Development with restrictions lease" means an auction lease or a direct lease that allows nonmetallic minerals exploration, mining, or production on the surface of the leased land in compliance with the department’s standard nonmetallic minerals lease terms and subject to special lease restrictions.

(j) "Lessee" means the person or entity that is responsible for all covenants, express or implied, in the lease regardless of any partial interest assignments.
(k) “Nondevelopment lease” means an auction lease or a direct lease that does not allow nonmetallic minerals exploration, mining, or production on the surface of the leased land without separate authorization from the department.

(l) "Nonleasable lands" means lands that will not be leased for nonmetallic minerals exploration, mining, or production.

(m) "Nonmetallic minerals" or "nonmetallic mineral products" include any of the following:

(i) Andalusite.
(ii) Anhydrite.
(iii) Asbestos.
(iv) Barite.
(v) Celestite.
(vi) Clay.
(vii) Coal.
(viii) Feldspar.
(ix) Garnet.
(x) Gem stones, excluding diamonds.
(xi) Graphite.
(xii) Gypsum.
(xiii) Kyanite.
(xiv) Limestone or dolomite.
(xv) Marl.
(xvi) Mica.
(xvii) Natural salines, including iodine, bromine, calcium, and magnesium compounds.
(xviii) Potash salts.
(xix) Salt.
(xx) Sand and gravel, both construction and industrial.
(xxi) Sandstone.
(xxii) Shale.
(xxiii) Sillimanite.
(xxiv) Slate.
(xxv) Miscellaneous stone, both crushed and dimension.
(xxvi) Sulphur.
(xxvii) Talc.

(n) "Performance bond" means a surety bond, irrevocable letter of credit, certificate of deposit, or cash to guarantee that the lessee and the lessee's heirs, executors, administrators, successors, and assigns shall faithfully perform the covenants, conditions, and agreements specified in the lease and the laws and rules of this state.

(o) "Qualified party" means an individual of the age of majority or a copartnership, corporation, or other legal entity qualified to do business in this state.

R 299.4022 Lease applications; classifications for leasing; manner of leasing approved lands.

Rule 2. (1) Any party may submit applications identifying state lands requested for nonmetallic minerals leasing. The department may also identify and nominate lands available for nonmetallic minerals leasing.

(2) Applications for state lands requested for leasing shall be in writing on a form designated by the department and shall be submitted to the department at the address listed on the form. An application fee shall accompany the application and shall be in accordance with the fee schedule approved by the department.
(3) The department shall do both of the following:
   (a) Identify all available lands requested for leasing and
   (b) Recommend to the director classifications for leasing as development, nondevelopment, nonleasable, or development with restrictions.

(4) The department may offer lands approved by the director for leasing at public auction, open oral or sealed bid, or may enter direct leases under R 299.4025.

R 299.4023 Notice; list of lands offered for leasing.
Rule 3. (1) For a lease auction, the department shall publish a public notice of the lease auction. The public notice shall be published at least once in a newspaper, as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, in the county where the lands are situated not less than 30 days before the lease auction; describe the general location of lands to be offered for lease; and provide the date, time, and place of the lease auction. If a newspaper is not published in the county where the lands are situated, the department shall publish the public notice of the lease auction in a newspaper that publishes in a county adjoining the county where the lands are situated. If no newspaper publishes in the adjoining county, the department shall publish the public notice of the lease auction electronically.

(2) For a direct lease request, the applicant shall publish a public notice of the direct lease request. The public notice shall be published at least once in a newspaper, as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, in the county where the lands are situated not less than 30 days before the decision is made for the direct lease request and describe the general location of lands to be offered for lease. If a newspaper is not published in the county where the lands are situated, the applicant shall publish the public notice of the direct lease request in a newspaper that publishes in a county adjoining the county where the lands are situated. If no newspaper publishes in the adjoining county, the applicant shall publish the public notice of the direct lease request electronically.

(3) Any party may request from the department the form of lease to be used and a list of lands where nonmetallic mineral rights are being offered for leasing at public auction or considered for direct lease. If a lease auction, the list shall include all the following information:
   (a) The date, time, and place of lease auction.
   (b) The conditions of lease auction.

R 299.4024 Offer at public lease auction; procedure.
Rule 4. (1) Nonmetallic mineral lease rights may be offered at public lease auction.

(2) The director shall stipulate the terms and conditions under which the nonmetallic mineral lease rights may be offered for lease auction.

(3) Any qualified party may make a bid on any nonmetallic mineral rights offered for lease unless the bidding party has an outstanding balance owed to the department or is on the hold action list.

(4) For open oral lease auctions, the full amount of the bonus and the first year’s rental or the minimum royalty, as applicable, shall be paid to the department on the same day when the lease rights are bid. For sealed bid lease auctions, successful bidders shall pay the full amount of the bonus and the first year’s rental or the minimum royalty, as applicable, within 10 business days from the date the department notifies the successful bidder. Bidders who have an established credit rating with the department through prior leasing activity, or units of government, may pay the total amount due by cash, certified check, personal check, or company check. Bidders may also establish a credit rating with the department by filing 3 acceptable credit references with the department, 1 of which shall be from a bank. Bidders who do not have an established credit rating with the department shall pay the entire amount due by cash or certified check.
(5) Failure of the successful bidder to pay the total bonus and the first year’s rental or the minimum royalty, as applicable, by the close of open oral lease auctions or within 10 business days from the date the successful bidder is notified by the department for sealed bid lease auctions may result in the forfeiture of the lease rights to the lands involved and may result in the bidder being placed on the hold action list. Placement on the hold action list may bar the bidder from any further leases, assignments, easements, extensions, or other discretionary approvals requested of the department. Lands on which lease rights have been forfeited may be offered to the back-up bidder at the department’s sole discretion.

(6) The department may reject any bid or stop the auction of any offered lease rights at any time in the department’s sole discretion.

R 299.4025  Direct nonmetallic minerals leases.

Rule 5. The department may enter direct nonmetallic mineral leases.

R 299.4026  Awarding of leases.

Rule 6. (1) Department approval is required before any lease is issued.

(2) The department may group approved lease rights into 1 or more leases, depending on the location of the lease rights and any special lease conditions.

(3) Before a lease shall be executed for any approved lease rights, the successful bidder shall file with the department a performance bond acceptable to the department. The department shall specify the amount of performance bond, maximum acreage covered, and when and how the bond may be drawn upon.

(4) The department shall provide the original lease instrument to the proposed lessee for signature. Unless otherwise agreed to in writing by the department, the proposed lessee shall return the properly executed lease instrument and, for direct leases, the bonus and rental due or the minimum royalty, as applicable, within 30 calendar days from the date the department sent the lease instrument.

(5) If the proposed lessee is unable to return the lease instrument and amount due within the time specified, the department may, upon request of the proposed lessee, authorize additional time if the department determines the delay is not the fault of the proposed lessee. Failure of the proposed lessee to comply within time limits authorized shall result in forfeiture of the entire bonus and first year’s rental or the minimum royalty, as applicable. Lands on which lease rights are forfeited may be offered to the back-up bidder at the department’s sole discretion.

(6) The department shall return the properly executed lease instrument to the lessee and retain a copy of the lease instrument.

(7) The lessee shall not conduct operations on any leased lands until the lessee receives both of the following:

(a) A fully executed lease.

(b) All necessary separate written permissions required by the department or any other local, state, or federal government agency.

(8) All leases are subject to all federal, state, and local laws.

(9) The department may require any proposed lessee, bidder, or proposed assignee for a nonmetallic minerals lease to submit all the following information to verify that the proposed lessee, bidder, or proposed assignee is qualified to conduct business in this state:

(a) If an individual, proof of attainment of legal age.

(b) If a copartnership, a copy of the “Certificate of Copartnership” or “Certificate of Persons Conducting Business Under Assumed Name” approved by the county clerk in the county where the leased lands are located.
(c) If a corporation or other legal entity, documentation demonstrating the entity's qualifications to conduct business in this state.

(d) If a sole proprietor doing business under an assumed name, copy of the “Certificate of Persons Conducting Business Under Assumed Name” approved by the county clerk in the county where the leased lands are located.

R 299.4027 Lease form; department to determine terms; issuance in name of proposed lessee; responsibility for compliance with terms of lease.

Rule 7. (1) A lease shall be on a form prescribed by the director.

(2) The department shall determine the royalty and rental rates, minimum bonus, primary lease term, and other lease terms.

(3) A lease for nonmetallic mineral rights shall be issued in the name of the proposed lessee designated at the time of the public lease auction or listed on the direct lease application.

(4) The lessee and the department are responsible for compliance with all terms and conditions of the lease.
PART 2. SAFETY STANDARDS AND TESTING REQUIREMENTS

R 460.20201 Pipeline safety standards; adoption by reference.

Rule 201(1) Except for 49 C.F.R. §192.1, an operator shall ensure that a gas pipeline is in compliance with all of the minimum safety standards contained in 49 C.F.R. part 192 entitled “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” which are adopted by reference in R 460.20606.

(2) An operator shall ensure that a pipeline that is subject to the standards specified in subrule (1) of this rule is also in compliance with all of the additional safety standards contained in R 460.20301 to R 460.20338.

(3) In addition to the requirements imposed by subrules (1) and (2) of this rule, an operator shall ensure that a pipeline which transports sour gas is also in compliance with the additional safety standards contained in R 460.20401 to R 460.20431.

PART 3. ADDITIONAL MINIMUM SAFETY STANDARDS

R 460.20304 Welding procedures.

Rule 304. In addition to the requirements contained in 49 C.F.R. §192.225, which is adopted by reference in R 460.20606, an operator shall ensure that a welding procedure meets all of the following requirements:

(a) Is qualified under section IX of the ASME boiler and pressure vessel code, which is adopted.
by reference in R 460.20604, or section 5, section 12, or appendix A of API standard 1104, which is
adopted by reference in R 460.20603, whichever is appropriate to the function of the weld.
(b) Is qualified under appendix B of API standard 1104, which is adopted by reference in R
460.20603, for pipelines operating at greater than 60 psig.
(c) A copy of the welding procedure being followed is on the jobsite when welding is performed.

R 460.20306 Nondestructive testing.
   Rule 306. (1) In addition to the nondestructive testing required under 49 C.F.R. §192.243(d), which is
adopted by reference in R 460.20606, an operator shall also ensure that 100% of each day’s field butt
welds are nondestructively tested over their entire circumferences in the following locations:
   (a) Regulating stations.
   (b) Measuring stations.
   (c) Compressor stations.
(2) If it is not practical to test 100% of each day’s field butt welds as required by subrule (1) of this
rule, then an operator shall nondestructively test at least 90% of each day’s field butt welds selected at
random at the locations specified in subrule (1) of this rule.

R 460.20308 Customer meters and regulators; location.
   Rule 308. The requirements contained in 49 C.F.R. §192.353, which is adopted by reference in R
460.20606, are superseded by all of the following provisions:
   (a) An operator shall install a customer’s meter and regulator outside the building, unless any of the
following apply:
      (i) The distribution system operates at 10 psig or less and an outside meter set assembly is not
practical.
      (ii) A commercial building, industrial building, or apartment building if an outside meter set assembly
is not practical.
      (iii) Row-type houses or houses where the proximity of adjoining buildings makes outside meter set
assemblies impractical.
   (b) A service line excluded under subdivision (a) of this rule must include an outside above grade
riser, if practical.
   (c) If an outside meter set assembly or an outside above grade riser is installed, then the above grade
piping shall be designed to prevent an external force applied to the service line from being transferred to
and damaging the inside piping.
   (d) An operator shall install a meter and service regulator, whether inside or outside of a building, in a
readily accessible location and shall protect the meter and regulator from corrosion and other damage.
An operator shall not install a meter in a bedroom, closet, bathroom, under a combustible stairway, or in
an unventilated or inaccessible place.
   (e) An operator shall ensure that a service regulator installed inside a building is located as near as
practical to the point of service line entrance.
   (f) An operator shall ensure that a meter installed inside a building is located in a ventilated place not
less than 3 feet from a source of ignition or heat that might damage the meter.
   (g) An operator shall ensure that the upstream regulator in a series is located outside of a building
unless it is located in a separate metering or regulating building.

R 460.20310 Galvanized or aluminum pipe prohibited for direct burial or submerged use.
Rule 310. (1) In addition to the requirements contained in 49 C.F.R. §192.461, which is adopted by reference in R 460.20606, an operator shall not utilize galvanized pipe for direct burial or submerged use.

(2) The requirements contained in 49 C.F.R. §192.455(e), which is adopted by reference in R 460.20606, are superseded by the requirement that an operator shall not utilize aluminum pipe for direct burial or submerged use.

R 460.20312 Test requirements; service lines other than plastic.

Rule 312. The requirements contained in 49 C.F.R. §192.511(b) and (c), which are adopted by reference in R 460.20606, are superseded by the requirement that an operator shall test all service lines, other than plastic service lines, to a minimum pressure of 90 psig, but not less than 150% of the maximum allowable operating pressure, for not less than 10 minutes. Each segment of a steel service line stressed to 20% or more of specified minimum yield strength must still be tested in accordance with 49 C.F.R. § 192.507, which is adopted by reference in R 460.20606.

R 460.20313 Minimum test duration; plastic pipelines.

Rule 313. In addition to the requirements contained in 49 C.F.R. §192.513, which is adopted by reference in R 460.20606, an operator shall test plastic pipelines according to all the following:

(a) Except for plastic service lines, the test must be maintained at or above the pressure requirement for not less than one hour. However, an operator may test a relatively short segment for not less than 30 minutes.

(b) All plastic service lines must be pressure tested for not less than 10 minutes.

R 460.20314 Test records.

Rule 314. In addition to the requirements contained in 49 C.F.R. §192.517(a), which is adopted by reference in R 460.20606, an operator shall retain the following test record information:

(a) The proposed maximum allowable operating pressure of the pipeline.

(b) Except for distribution facilities, the existing class location of the area in which the pipeline will be installed.

(c) The date the test was performed.

R 460.20316 Leakage survey and repair requirement before uprating.

Rule 316. (1) In addition to the requirements contained in 49 C.F.R. §192.555(b)(2) which is adopted by reference in R 460.20606, an operator shall conduct a leakage survey and repair all leaks found before the operator begins uprating any segment of a steel pipeline to an operating pressure that will produce a hoop stress of 30% or more of the specified minimum yield strength for the pipeline.

(2) The provisions contained in 49 C.F.R. §192.557(b)(2), which is adopted by reference in R 460.20606, are superseded by the requirement that before an operator begins uprating any segment of a steel pipeline to an operating pressure that will produce a hoop stress of less than 30% of the specified minimum yield strength, a leakage survey must be conducted and all leaks found shall be repaired.

R 460.20317 Rescinded.

Rule 317.

R 460.20319 Filing of operation and maintenance manual with commission staff required.

Rule 319. In addition to the requirements contained in 49 C.F.R. §192.605, which is adopted by reference in R 460.20606, an operator shall file the operation and maintenance manual required by 49
C.F.R. §192.605 with the commission staff in paper or electronic form. The operation and maintenance manual must include procedures that address both the federal rules and the rules contained in the Michigan gas safety standards. An operator shall file a change in the operation and maintenance manual with the commission staff within 90 calendar days after the change is made. An operator shall identify the specific changes.

R 460.20326 Transmission lines; permanent field repair of leaks.

Rule 326. (1) The requirements contained in 49 C.F.R. §192.717(b)(3), which is adopted by reference in R 460.20606, are superseded by the requirement that an operator shall not repair a transmission pipeline through the use of a welded patch.

(2) The requirements of 49 C.F.R. §192.711(c) are superseded by the requirement that an operator shall not repair a leak through the use of a welded patch.

R 460.20331 Caulked bell and spigot joints.

Rule 331. The requirements contained in 49 C.F.R. §192.753(a), which is adopted by reference in R 460.20606, are superseded by the following:

(a) An operator shall seal a cast-iron, caulked bell and spigot joint subject to pressures of more than 10 psig with either of the following:
   (i) A mechanical leak clamp.
   (ii) A material or device that has all of the following characteristics:

   (A) Does not reduce the flexibility of the joint.
   (B) Permanently bonds, either chemically or mechanically, or both, with the bell and spigot metal surfaces or adjacent pipe metal surfaces.
   (C) Seals and bonds in a manner that meets the strength, environmental, and chemical compatibility requirements of 49 C.F.R. §192.53 and 49 C.F.R. §192.143, which are adopted by reference in R 460.20606.

R 460.20332 Discontinuation of inactive service lines.

Rule 332. (1) In addition to complying with the requirements contained in 49 C.F.R. §192.727, which is adopted by reference in R 460.20606, an operator shall, within 9 months after a service line becomes inactive, discontinue gas service for any inactive service line with components located inside a structure pursuant to the methods specified in either of the following regulations:

   (i) In accordance with 49 C.F.R. §192.727(d)(1) and (d)(2).
   (ii) In accordance with 49 C.F.R. §192.727(d)(3) by physically disconnecting the service line outside the building.

(2) As used in subrule (1) of this rule, “inactive service line” means a service line where there has been no customer of record for a continuous 24-month period and gas service to the premises has not been discontinued.

R 460.20335 Master meter systems.

Rule 335. (1) The definition of “master meter system” contained in 49 C.F.R. §191.3, which is adopted by reference in R 460.20606, is superseded by the following:

(a) As used in these rules, “master meter system” means a distribution pipeline system that receives metered gas from an outside source and that is used for distributing gas within a definable area, including but not limited to, a mobile home park, vacation rental housing complex, apartment complex, college campus, or prison. The master meter system supplies the ultimate consumer of the gas whether the gas is purchased or supplied at no cost.
(b) As used in this rule, “distribution pipeline system” means a system of main and service lines including all parts of those physical facilities through which gas moves in transportation, including but not limited to, pipe, valves, and other appurtenance attached to pipe, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies. The distribution pipeline system ends at the outlet of the sub-meter, the outlet of the service regulator, or the building wall, whichever is furthest downstream.

(c) As used in this rule, “ultimate consumer” means a third-party end-user occupying an area containing distribution piping from the distribution pipeline system who routinely consumes gas from the system.

(d) As used in this rule, “sub-meter” means 1 of 2 or more meters for measuring different sections of gas supply that is located downstream from a master meter.

(2) An operator shall not supply gas to any new master meter system established on or after January 1, 2019 unless the commission has provided a waiver.

(3) The design, construction, inspection, and testing of additions to existing master meter systems are the responsibility of the operator with the direct costs paid by the owner, unless the commission has provided a waiver.

(4) Unless the commission has provided a waiver, for master meter systems that were established before January 1, 2019, an operator shall make efforts to negotiate an operations and maintenance agreement with the master meter system owner that ensures compliance with all applicable requirements of the gas safety standards for that system. The direct cost to the operator for services performed under this agreement, including an appropriate administrative overhead, may be charged to the owner of the master meter system. The monthly charge per service line must not exceed the residential meter charge or customer charge included in the operator’s tariffs on January 1, 2018. An operator shall apply for any necessary waivers under this subrule by January 1, 2020.

(5) Beginning March 15, 2019, all operators shall provide an annual report to the commission describing the location, type of facility served, number of services at each known master meter system in service at the end of the previous calendar year, and the names and contact information for all known master meter system owners with whom the operator is unable to execute an operations and maintenance contract.

R 460.20338 Farm taps.

Rule 338. (1) As used in this rule, “farm tap” means a distribution line directly connected to a production, gathering, or transmission pipeline not operated as part of a distribution system, or to a natural gas producing well, compressor station, or gas processing facility that delivers gas to a landowner or occupant other than the operator.

(2) Effective January 1, 2019, an operator shall not construct any new farm taps unless all of the following apply:

(a) The operator is a public utility as defined in section 1 of 1972 PA 299, MCL 460.111.

(b) The farm tap complies with all of the requirements of the gas safety standards, and

(c) The gas supplied meets the requirements for gas quality set forth in part 8 of the technical standards for gas service, R 460.2381 and R 460.2382.

(3) This rule does not apply to domestic wells. As used in this rule, “domestic well” means a well that produces gas and that is owned by the owner of the surface estate on which the well is located and that is used only to provide gas for the owner’s domestic use.

(4) Beginning March 15, 2019, all operators supplying gas to 1 or more farm taps shall provide an annual report on the status of farm taps connected to the operator’s facilities. The report must include the location of each farm tap connection, safety equipment installed on each connection, and the source
of gas supply. This reporting requirement does not apply to farm taps connected to transmission pipelines operated by distribution utilities.

PART 4. SOUR GAS PIPELINES

R 460.20407 Sectionalizing block valves.

Rule 407. In addition to the requirements in 49 C.F.R. §192.179, which is adopted by reference in R 460.20606, an operator of pipeline facilities used in the transportation of sour gas shall comply with all of the following requirements for any portion of the pipeline that contains more than 10 pounds of H2S per mile, with the weight calculated according to the formula:

\[ W = \frac{P \times V \times M \times H}{9.318 \times 10^{-8} \times T} \]

Where:
- \( W \) = Weight of H2S in pounds per mile of pipe,
- \( P \) = Absolute pressure in pounds per square inch,
- \( V \) = Volume of one mile of pipe in cubic feet,
- \( M \) = Molecular weight of the gas in grams per mole,
- \( H \) = Quantity of H2S in the gas in parts per million,
- \( T \) = Temperature in degrees Rankine.

(a) Sectionalizing block valves must be installed and located so that each point on the pipeline is within 3 miles of a sectionalizing block valve with a block valve located at each end of the pipeline.

(b) A pipeline must incorporate block valve automation so that block valves will automatically close upon the registering of low pressure readings. The system must be designed to operate even in the event of a power failure or malfunction of electronic devices and must be designed to fail in a closed position.

(c) A pipeline must incorporate a supervisory control and data acquisitions (SCADA) system that complies with all of the following provisions:
   (i) Is monitored by the operator to ensure appropriate response to emergencies.
   (ii) Is programmed to automatically close block valves based on operating data gathered at each metering site and at each automated block valve.
   (iii) Automatically closes the upstream and downstream sectionalizing block valves surrounding any sectionalizing block valve that is in an alarm condition.
   (iv) Allows the operator monitoring the SCADA system to close, but not open, any or all of the block valves and metering points.

(d) H2S sensors must be located at all sectionalizing block valve sites. The sensors must provide a warning to the SCADA system at H2S levels of 10 ppm and shall close the block valve at H2S levels of 30 ppm.

(e) Control valves must be installed at appropriate locations at well sites or laterals to automatically shut off the flow of gas into the pipeline in the event of a line break or over pressure conditions.

R 460.20409 Inspection and testing of welds.

Rule 409. In addition to the requirements set forth in 49 C.F.R.§192.241(b), which is adopted by reference in R 460.20606, an operator of pipeline facilities used in the transportation of sour gas shall engage in nondestructive testing of 100% of all girth butt welds. Nondestructive testing of welds shall be performed by any process that clearly indicates all defects in the welds.
PART 5. RECORDS AND REPORTS

R 460.20501 Records.
(1) An operator shall maintain the information generated by any recordkeeping requirement in these rules within the state at the operating headquarters office of each service area and shall make the information available to the commission and its staff for inspection and copying upon request.
(2) An operator shall maintain all of the following additional records:
   (a) Maps and records showing the locations of pipelines and service lines, including lines that have been abandoned but not removed.
   (b) An up-to-date schematic drawing of station piping, which shall be available at each aboveground pressure-regulating station containing buried station components.
(3) In addition to the requirements contained in 49 C.F.R. §192.603(b), which is adopted by reference in R 460.20606, an operator shall establish and maintain records, make reports, and record such information as may be reasonably required to demonstrate that the operator has acted or is acting in compliance with these rules and 49 C.F.R. Part 192. The operator shall maintain these records and reports for the time periods prescribed in 49 C.F.R. Part 192; for a minimum of 2 inspection cycles, if applicable; or for a minimum of 5 years, whichever is longer.

R 460.20502 Construction filings and reports.
Rule 502. (1) In addition to the requirements contained in 49 C.F.R. § 191.22, which is adopted by reference in R 460.20606, an operator or other person proposing to construct a gas pipeline or gas pipeline facility shall notify the commission staff not less than 60 days before of the following begins:
   (a) Construction or any planned rehabilitation, replacement, modification, upgrade, uprate, or update of a facility, other than a section of line pipe, that costs $1 million or more.
   (b) Construction of any of the following gas facilities connected to a transmission pipeline system:
      (i) Metering station.
      (ii) Regulating station.
      (iii) Treatment plant.
      (iv) Production plant.
      (v) Compressor unit.
   (c) Construction of a gas transmission pipeline wherein the maximum allowable operating pressure will result in a hoop stress of 30% or more of the specified minimum yield strength.
   (d) Construction of 1 or more miles of contiguous new or replacement pipeline, excluding the length associated with service lines.
(2) As part of the notification required under subrule (1)(a) to (c) of this rule, an operator or other person proposing to construct a gas pipeline or gas pipeline facility shall file all of the following before construction begins:
   (a) A facility schematic or map showing the proposed route of the line on a scale not less than 3/8 of an inch to 1 mile.
   (b) Engineering specifications covering design, construction, materials, and testing and operating pressures.
   (c) Certification that the facilities will be in compliance with these rules.
(3) As part of the notification required under subrule (1)(d) of this rule, an operator or other person proposing to construct a gas pipeline shall comply with the requirements in subrule (2) upon request.
(4) An application filed under 1929 PA 9, MCL 483.101 to 483.120, 1929 PA 69, MCL 460.501 to 460.506, 1923 PA 238, MCL 486.251 to MCL 486.255, or pursuant to a commission order meets the requirements of subrules (1) and (2) of this rule.

(5) Except for distribution facilities, within 60 days following the completion of construction and testing of facilities covered by subrules (1), (2), and (3) of this rule, an operator shall file a report with the commission containing the information required under 49 C.F.R. § 192.517, adopted by reference in R 460.20606 of these rules, and R 460.20314, and a route map of the as-built pipeline.

(6) If notification under subrule (1) of this rule is not possible due to an emergency, an operator shall notify the commission staff as soon as feasible.

R 460.20503 Reports of incidents; telephonic notice to the commission staff.

Rule 503. (1) At the earliest practicable moment following discovery, an operator shall give notice to the commission staff of any of the following situations:

(a) An incident that is reportable pursuant to 49 C.F.R. §191.5, which is adopted by reference in R 460.20606.

(b) An event resulting in estimated property damage of $10,000.00 or more including loss to the operator and others, or both, but excluding the cost of gas lost. As used in this subdivision, an “event” means on or relating to an operator’s facilities that may or may not involve a release of gas.

(c) An event resulting in the loss of service to more than 100 customers.

(d) An event involving a customer's gas facility that results in a fatality or an explosion causing structural damage.

(e) An event resulting in an unintentional release of gas estimated by the operator to be 1 million cubic feet or more or an unintentional activation of an emergency shutdown system of any portion of a compressor station involving the release of gas.

(f) An event that causes the pressure of any portion of a distribution system to rise above its maximum allowable operating pressure plus the build-up allowed for operation of pressure limiting or control devices.

(g) An event that receives or is likely to receive extensive news coverage or is significant in the judgment of the operator, even though it did not meet the criteria of subdivision (a), (b), (c), (d), (e) or (f) of this subrule. This subdivision is not subject to the penalty provisions of section 11 of 1969 PA 165, MCL 483.161.

(2) If additional information is received by the operator after the initial report that indicates a different cause, more serious injury, or more serious property damage than was initially reported, then the operator shall make a supplemental telephone report to the commission staff as soon as practicable.

(3) When requested by the commission staff, an operator shall supplement a report made in accordance with subrule (1) of this rule within a reasonable time, with a written report giving full details, such as the cause of the incident or occurrence, the extent of injuries or damage, and the steps taken, if any, to prevent a recurrence of the incident or occurrence.

R 460.20504 Reports.

Rule 504. (1) An operator shall concurrently submit a written report that is required to be filed with any federal agency by 49 C.F.R. §191, which is adopted by reference in R 460.20606, to the commission at P.O. Box 30221, Lansing, Michigan 48909-0221 or at MPSC-Operations@michigan.gov.

(2) An operator required to submit an annual report in accordance with 49 C.F.R. §191.11 and 49 C.F.R. §191.17, which are adopted by reference in R 460.20606 of these rules, shall also submit a supplemental report to the commission staff. In the supplemental report, the operator shall subdivide the information in the reports required under 49 C.F.R. §191.11 and 49 C.F.R. §191.17 into specific regions
identified by the commission staff. The staff shall identify and communicate these regions to the operator by the end of the calendar year for which the reports are being submitted. For the purpose of this rule, “regions” are defined as geographical, operational, or functional areas of the operator’s system. These supplemental reports are to be submitted no later than the dates required in 49 C.F.R. §191.11 and 49 C.F.R. §191.17 and in a similar format.

PART 6. ADOPTION OF STANDARDS

R 460.20601 Adoption by reference.

Rule 601. (1) The publications listed in R 460.20603 to R 460.20606 are adopted by reference and are a part of these rules, except where they are inconsistent with these rules. Publications identified as published by a specific organization are available from the organization at the addresses specified in R 460.20602. The public service commission also has copies of the publications available for inspection and distribution at cost at its offices located 7109 W. Saginaw Hwy., Lansing, Michigan 48917-1120. The mailing address is Michigan Public Service Commission, P.O. Box 30221, Lansing, Michigan 48909-0221.

(2) The numbers in parentheses following the publications adopted by reference indicate the applicable editions.

R 460.20602 Names, addresses, and phone numbers of organizations.

Rule 602. The names, addresses, and phone numbers of organizations that sponsor or publish documents that have been adopted by reference in these rules are as follows:

(a) American Petroleum Institute (API), 1220 L Street, NW, Washington, DC 20005, (202-682-8000).

(b) American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, New York, 10016-5990, (212-591-7000) or (800-843-2763), or contact its publishing division, 22 Law Drive, P.O. Box 2900, Fairfield, New Jersey, 07007, (973-882-1167).

(c) National Association of Corrosion Engineers International (NACE), 1400 South Creek Drive, Houston, Texas 77084-4906, (281-228-6200) or 800-797-6223).


R 460.20603 American petroleum institute standard; adoption by reference.

Rule 603. The following American petroleum institute standard is adopted by reference in these rules and is available at the price listed:

API standard 1104 titled “Welding of Pipelines and Related Facilities,” (20th edition, October 2005, including errata 1 (2007) and errata 2 (2008)), at a cost as of the time of adoption of these rules of $345.00. Registered and authorized representatives of regulated pipeline operators may also view this edition of API standard 1104 without charge on the API website at www.api.org.

R 460.20604 American society of mechanical engineers standard; adoption by reference.

Rule 604. The following American society of mechanical engineers standard is adopted by reference in these rules and is available at the price listed:
ASME boiler and pressure vessel code, section IX, titled “Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators” (2007 edition, July 1, 2007), at a cost as of the time of adoption of these rules of $495.00.

R 460.20605 National association of corrosion engineers international standard; adoption by reference.

Rule 605. The following national association of corrosion engineers international standard is adopted by reference in these rules and is available at the price listed:
NACE MR0175/ISO 15156, 2015, titled “Petroleum and natural gas industries –Materials for use in H2S-containing environments in oil and gas production” at a cost as of the time of adoption of these rules of $255.00.

R 460.20606 Pipeline and hazardous materials safety administration standards; adoption by reference.

Rule 606. (1) The following pipeline and hazardous materials safety administration standard is adopted by reference in these rules and may be ordered from the U.S. government printing office via the internet at http://bookstore.gpo.gov at a cost at the time of adoption of these rules at the price listed. The standard is also available for public inspection and distribution at the price listed from the Michigan Public Service Commission, 7109 W. Saginaw Highway, Lansing, MI 48917: 49 C.F.R. part 40 entitled “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” (October 1, 2017 edition), at a cost as of the time of adoption of these rules of $66.00.

(2) The following office of pipeline and hazardous materials safety administration standards are adopted by reference in these rules and may be ordered from the U.S. government printing office via the internet at http://bookstore.gpo.gov at a cost at the time of adoption of these rules of $70.00 for a single volume that contains all of the standards. The standards are also available for public inspection and distribution at the price listed from the Michigan Public Service Commission, 7109 W. Saginaw Highway, Lansing, MI 48917:

   (a) 49 C.F.R. part 191 entitled “Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-related Condition Reports,” (October 1, 2017 edition).


PART 8. ELECTRICAL CODE

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

Rule 801. (1) The standards contained in the national electrical code 2017 edition, including Annex H, except sections 80.2, 80.5, 80.15, 80.21, 80.27, 80.29, 80.31, 80.33, 80.35, 90.6, and 547.1 to 547.10, as published by the national fire protection association (NFPA), shall govern the installation, replacement, alteration, relocation, and use of electrical systems or material. With the exceptions noted, the national electrical code is adopted in these rules by reference.

(2) All references to the ANSI/ASME A17.1-2013, safety code for elevators and escalators mean the Michigan elevator code and all references to the national electrical code mean the Michigan electrical code.

(3) NFPA 110, standard for emergency and standby power systems, 2013 edition and NFPA 111, standard on stored electrical energy emergency and standby power systems, 2013 edition, are adopted by reference in these rules.

(4) The codes are available for inspection at the Lansing office of the Michigan department of licensing and regulatory affairs, bureau of construction codes.

(5) The National Electrical Code, NFPA 110 and NFPA 111 may be purchased from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, or through the bureau's website at www.michigan.gov/bcc, at a cost as of the time of adoption of these rules of $98.00, $47.50, and $47.50 each, respectively.

R 408.30805 Rescinded.
R 408.30806 Rescinded.

R 408.30807 Title.
   Rule 807. Section 80.7 is amended to the code to read as follows:
   80.7. Title. These rules shall be known as the Michigan electrical code, hereinafter referred to as "the code."

R 408.30808 Scope.
   Rule 808. Sections 80.1 is amended, and 80.1.1, is added to the code to read as follows:
   80.1. Scope. The following are covered:
   (1) The inspection of electrical installations as covered by 90.2.
   (2) The review of construction plans, drawings, and specifications for electrical systems.
   (3) The design, alteration, modification, construction, maintenance, and testing of electrical systems and equipment.
   (4) The regulation and control of electrical installations at special events, including, but not limited to, exhibits, trade shows, amusement parks, and other similar special occupancies.
   80.1.1. Severability. If a section, subsection, sentence, clause, or phrase of the code is, for any reason, held to be unconstitutional, this decision shall not affect the validity of the remaining portions of the code.

R 408.30809 Rescinded.

R 408.30810 Authority.
   Rule 810. Section 80.13 is added to the code to read as follows:
   80.13. Authority. Where used in this article, the term authority having jurisdiction shall include the chief electrical inspector or other individuals designated by the governing body. This code shall be administered and enforced by the authority having jurisdiction designated by the governing authority as follows:
   (1) When the use of any electrical equipment or its installations is found to be dangerous to human life or property, the authority having jurisdiction may have the premises disconnected from its source of electric supply, as established by the board. When this equipment or installation has been condemned or disconnected, a notice shall be placed on the equipment or installation listing the causes for the condemnation, or the disconnection, or both, and the penalty for the unlawful use of the equipment or installation. Written notice of this condemnation or disconnection and the causes of it shall be given within 24 hours to the owners, or the occupant, or both, of the building, structure, or premises. It is unlawful for any person to remove this notice, to reconnect the electrical equipment to its source of electric supply, or to use or permit to be used electric power in any electrical equipment until the causes for the condemnation or disconnection have been remedied to the satisfaction of the inspection authorities.
   (2) The authority having jurisdiction may delegate to other qualified individuals the powers as necessary for the proper administration and enforcement of this code.
   (3) Police, fire, and other enforcement agencies may render necessary assistance in the enforcement of this code when requested to do so by the authority having jurisdiction.
(4) The authority having jurisdiction may order any person or persons to remove or remedy the dangerous or hazardous condition or conditions or equipment. Any person or persons who fail to comply with this order are in violation of this code.

(5) Where the authority having jurisdiction deems that conditions hazardous to life and property exist, he or she may require that the hazardous conditions in violation of this code be corrected.

(6) Persons shall not use a badge, uniform, or other credentials to impersonate the authority having jurisdiction.

(7) The authority having jurisdiction may require plans and specifications to ensure compliance with this code.

(8) Whenever any installation is subject to inspection prior to use is covered or concealed without having first been inspected, the authority having jurisdiction may require that this work be exposed for inspection. Neither the code official nor the jurisdiction is liable for expense entailed in the removal or replacement of any material required to allow inspection. The authority having jurisdiction shall be notified when the installation is ready for inspections.

R 408.30811 Duties and powers of code official.

Rule 811. Section 80.14 is added to the code to read as follows:

80.14. Duties and powers of the code official. The code official is authorized and directed to enforce the provisions of this code. The code official may render interpretations of this code and adopt policies and procedures in order to clarify the application of its provisions. These interpretations, policies, and procedures shall be in compliance with the intent and purpose of this code. These policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

R 408.30812 Rescinded.

R 408.30813 Rescinded.

R 408.30814 Rescinded.

R 408.30817 Rescinded.

R 408.30818 Permits and certificates.

Rule 818. Section 80.19, is added to the code to read as follows:

80.19. Permits and approvals. Permits and approvals shall conform to (a) to (e).

(a) Application. A copy of the permit shall be posted or otherwise readily accessible at each work site or carried by the permit holder as specified by the authority having jurisdiction.

(b) Issuance of Permits. The authority having jurisdiction shall be authorized to establish and issue permits, certificates, notices, and approvals, or orders pertaining to electrical safety hazards, except that no permit shall last longer than 180 days, or be required to execute any of the classes of electrical work specified in the following:

1. Installation or replacement of equipment such as lamps and of electric utilization equipment approved for connection to suitable permanently installed receptacles.

2. Replacement of flush or snap switches, fuses, lamp sockets, and receptacles, and other minor maintenance and repair work, such as replacing worn cords and tightening connections on a wiring device and minor repair work as defined in skilled trades regulation act, 2016 PA 407, MCL 339.5101 to 339.6133.
(3) The process of manufacturing, testing, servicing, or repairing electrical equipment or apparatus.
(4) Installations that are referred to in section 737(3)(a), (b), (c), (d), (f), (h), (l), and (m) of the skilled trades regulations act, 2016 PA 407, MCL 339.5737.
(c) Annual permits. In lieu of an individual permit for each installation or alteration, an annual permit shall, upon application, be issued to any person, firm, or corporation regularly employing 1 or more employees for the installation, alteration, and maintenance of electrical equipment in or on buildings or premises owned or occupied by the applicant for the permit. Upon application, an electrical contractor as an agent for the owner or tenant shall be issued an annual permit. The applicant shall keep records of all work done, and the records shall be transmitted periodically to the electrical inspector.
(d) Inspection and approvals.
(1) Upon the completion of any installation of electrical equipment that has been made under a permit, the person, firm, or corporation making the installation shall notify the electrical inspector having jurisdiction.
(2) Where the inspector finds the installation to be in conformity with the code, state statutes, rules and, if applicable, local ordinances, the inspector shall issue to the person, firm, or corporation making the installation a final approval, or certificate of approval provided payment has been made, which authorizes the connection into the supply of electricity.
(3) When any portion of the electrical installation within the jurisdiction of an electrical inspector is to be hidden from view by the permanent placement of parts of the building, the person, firm, or corporation installing the equipment shall notify the electrical inspector, and the equipment shall not be concealed until it has been approved by the electrical inspector. Neither the code official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.
(e) Applications and extensions. The authority having jurisdiction may grant 1 180-day extension of the original permit time period of 180 days, upon presentation of the permittee of a satisfactory reason for failure to start or complete the work or activity authorized by the permit.

R 408.30819 Plans and specifications.
Rule 819. Sections 80.21, 80.21.1, 80.21.2, and 80.21.3 are added to the code to read as follows:
80.21. Plans and specifications. An applicant shall submit a detailed set of plans and specifications with the application for an electrical permit for any wiring or alteration to an electrical system if the system requires installation of electrical equipment that has an ampacity of more than 400 amperes for the service or feeder and if the calculated floor area in a building is more than 3,500 square feet. The enforcing agency may request plans for projects that include an unusual design. The electrical drawings shall include all of the following details:
(a) Lighting layout.
(b) Circuiting.
(c) Switching.
(d) Conductor and raceway sizes.
(e) Wattage schedule.
(f) Service location and riser diagram.
(g) Load calculations and available fault current calculations.
(h) A proposed method of construction that is drawn with symbols of a standard form.
All conductors are assumed to be copper unless otherwise stated in the plan. Specifications, when provided, shall also include the information listed in this rule. The selection of suitable disconnect and overcurrent devices to provide proper coordination and interrupting capacity for a wiring system is the responsibility of the designer. The enforcing agency, when approving electrical plans, does not assume responsibility for the design or for any deviations from any electrical drawings. The permit holder shall
ensure that the plans and specifications approved by the enforcing agency, or a certified copy of the plans and specifications, where required, are available on the jobsite for the use of the enforcing agency.

80.21.1. Application and permits. Work shall be installed pursuant to the code and approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

80.21.2 Previous approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been previously issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

80.21.3. Information on construction documents. Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents may be submitted when approved by the enforcing agency. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules, and regulations as determined by the enforcing agency.

R 408.30820 Representative on jobsite.

Rule 820. Section 80.20 is added to the code to read as follows:

80.20. Representative on jobsite. The enforcing agency reserves the right to require a representative of the permit holder to be on the job when an inspection is made.

R 408.30821 Rescinded.

R 408.30822 Rescinded.

R 408.30823 Connection to electricity supply.

Rule 823. Section 80.25 is amended to the code to read as follows:

80.25. Connection to electricity supply. Connections to the electric supply shall conform to (a) and (b).

(a) Except where work is done under an annual permit and except as otherwise provided in section 80.25, it is unlawful for any person, firm, or corporation to make connection to a supply of electricity or to supply electricity to any electrical equipment installation for which a permit is required or that has been disconnected or ordered to be disconnected.

(b) The governing utility may reconnect the electrical service, prior to approval by the enforcing agency, following emergency repairs performed by an electrical contractor licensed pursuant to the skilled trades regulation act, 2016 PA 407, MCL 339.5701 to 339.5739. The electrical contractor shall secure a permit by the next business day after the work is completed. This requirement is not applicable to new service connections, upgrades, structural fires, or other planned modifications.

R 408.30824 Rescinded.

R408.30826 Violations.

Rule 826. Section 80.23 is amended to the code to read as follows:

80.23. Violations. Whenever the authority having jurisdiction determines that there are violations of this code, a written notice shall be issued to the permit holder to confirm such findings. Notice of violation shall be sent to the permit holder in writing.

R 408.30827 Service equipment.
Rule 827. Section 80.26 is added to the code to read as follows:  
80.26. Service equipment. The enforcing agency shall approve service equipment installed, altered, or repaired before the load side of the meter is energized.

R 408.30828 Definitions.
Rule 828. The definition of is added to article 100 of the code to read as follows: “Act” means 1972 PA 230, MCL 125.1501 to 125.1531 and known as the Stille-DeRossett-Hale single state construction code act.

R 408.30829 Rescinded.

R 408.30834 Rescinded.

R 408.30835 Rescinded.

R 408.30867 Rescinded.

R 408.30868 Rescinded.

R 408.30869 Rescinded.

R 408.30870 Rescinded.

R 408.30871 Bonding other metal piping.
Rule 871. Section 250.104(B) of the code is amended to read as follows:
250.104(B). Bonding other metal piping. (1) Other metal piping. If installed in or attached to a building or structure, a metal piping system, including gas piping, capable of becoming energized shall be bonded to any of the following:
(a) Equipment grounding conductor for the circuit that is likely to energize the piping system.
(b) Service equipment enclosure.
(c) Grounded conductor at the service.
(d) Grounding electrode conductor, if of sufficient size.
(e) One or more grounding electrodes used, if the grounding electrode conductor or bonding jumper to the grounding electrode is of sufficient size.
The bonding conductor or conductors, or the jumper or jumpers shall be sized in accordance with table 250.122, and equipment grounding conductors shall be sized in accordance with table 250.122 using the rating of the circuit that is likely to energize the piping system or systems. The points of attachment of the bonding jumper or jumpers shall be accessible.
(2) Corrugated stainless steel tubing (CSST). Listed corrugated stainless steel tubing gas piping systems shall be bonded to the electrical service grounding electrode system. The bonding jumper shall connect to a metallic pipe or fitting between the point of delivery and the first downstream CSST fitting. The bonding jumper shall be not smaller than 6 AWG copper wire or equivalent. A gas piping system that is bonded pursuant to this section shall be considered effectively bonded regardless of the amount of CSST in the system.
Exception: Listed CSST piping systems approved for installation without additional bonding by the manufacturer.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section MCL 24.233, 24.244, or 24.245a(6). Rules adopted under these sections become effective seven days after filing with the Secretary of State.


R 338.13001 Definitions.  
Rule 1. As used in these rules:  
(a) "Board" means the Michigan board of acupuncture created under section 16521 of the code, MCL 333.16521.  
(b) "Code" means public health code 1978 PA 368, MCL 333.1101 to 333.25211.  
(c) "Department" means the department of licensing and regulatory affairs.

R 338.13002 Training standard for identifying victims of human trafficking; requirements.  
Rule 2. (1) Pursuant to section 16148 of the code, MCL 333.16148, an individual seeking registration or registered shall complete training in identifying victims of human trafficking that meets the following standards:  
(a) Training content shall cover all of the following:  
   (i) Understanding the types and venues of human trafficking in 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 registration, 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 shall 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 registration renewals beginning July 2, 2018 and for initial registrations beginning April 22, 2021.

R 338.13003  Rescinded.

R 338.13004  Professional certification organizations.

Rule 4. The board approves the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM), or its successor organization, as a professional acupuncture certification organization.

R 338.13005  Application for acupuncturist registration; requirements.

Rule 5. An applicant for registration as an acupuncturist, in addition to meeting all the requirements of the code, shall comply with all of the following provisions:
   (a) Submit a completed application on a form provided by the department, together with the requisite fee.
   (b) Have completed an educational program that satisfies the requirements of R 338.13030.
   (c) Possess a current certification in acupuncture or in oriental medicine granted by an organization approved under R 338.13004.

R 338.13010  Application for acupuncturist by endorsement; requirements.

Rule 10. (1) An applicant for an acupuncturist registration by endorsement, in addition to meeting all the requirements of the code, shall submit a completed application on a form provided by the department, together with the requisite fee.
   (2) An applicant shall be actively licensed or registered in another state of the United States immediately preceding the date of filing an application for this state’s registration. The applicant’s license or registration shall be verified, on a form provided by the department, by the licensing or registration agency of any state of the United States in which the applicant holds an active license or
registration or ever held a license or registration as an acupuncturist. Verification includes providing documentation of any disciplinary action taken or pending against the applicant.

(3) An applicant shall satisfy either of the following:

   (a) Possess current certification in acupuncture or in oriental medicine from an organization approved under R 338.13004.

   (b) Possess an active license or registration from another state of the United States with licensure or registration requirements that are equivalent to the standards for acupuncture or oriental medicine certification from an organization approved under R 338.13004.

R 338.13015 Applicant with nonaccredited training; requirements.

   Rule 15. (1) An applicant who has completed training from a program that does not meet the program accreditation standards adopted under R 338.13030 shall satisfy the following requirements:

      (a) Submit a completed application on a form provided by the department, together with the requisite fee.

      (b) Submit documentation that verifies he or she possesses current certification in acupuncture or in oriental medicine from an organization approved under R 338.13004.

      (c) Demonstrate a working knowledge of the English language by obtaining a score of not less than 80 on the Test of English as a Foreign Language Internet-Based Test (TOEFL-iBT) administered by the Educational Testing Service.

      (2) The requirement of subrule (1)(c) of this rule is satisfied if the applicant’s educational program was taught in English.

R 338.13020 Renewal of acupuncturist registration; requirements.

   Rule 20. (1) An applicant for renewal of a registration who has been registered for the 2-year period immediately preceding the expiration date of the registration shall satisfy 1 of the following:

      (a) Have maintained certification in acupuncture or in oriental medicine from an organization approved under R 338.13004, during the 2 years immediately preceding an application for renewal.

      (b) Possess an active license or registration from another state of the United States with licensure or registration requirements that are equivalent to the standards for acupuncture or oriental medicine certification from an organization approved under R 338.13004.

      (3) Submission of an application for renewal shall constitute the applicant's certification of compliance with this rule. The board may require an applicant to submit evidence to demonstrate compliance with this rule. An applicant for renewal shall retain documentation of satisfying the requirements of this rule for a period of 4 years from the date of applying for renewal of a registration. Failure to comply with this rule shall be a violation of section 16221(h) of the code, MCL 333.16221(h).

R 338.13025 Application for acupuncturist reregistration; requirements.

   Rule 25. (1) An applicant whose registration has lapsed for less than 3 years immediately preceding the date of application for reregistration may be reregistered under section 16201(3) of the code, MCL 333.16201(3), by satisfying the following requirements:

      (a) Submits the required fee and a completed application on a form provided by the department.

      (b) Establishes that he or she is of good moral character as defined under section 1 of 1974 PA 381, MCL 338.41.

      (c) Complies with either of the following:

         (i) Submits evidence of current certification in acupuncture or oriental medicine from an organization approved under R 338.13004.
(ii) Submits evidence that he or she possesses an active license or registration from another state of the United States with licensure or registration requirements that are equivalent to the standards for acupuncture or oriental medicine certification from an organization approved under R 338.13004.

(2) An applicant whose registration has lapsed for 3 years or more immediately preceding the date of application for reregistration may be reregistered under section 16201(4) of the code, MCL 333.16201(4), by satisfying the following requirements:
   (a) Submits the required fee and a completed application on a form provided by the department.
   (b) Establishes that he or she is of good moral character as defined under section 1 of 1974 PA 381, MCL 338.41.
   (c) Submits fingerprints pursuant to section 16174(3) of the code, MCL 333.16174(3).
   (d) Complies with either of the following:
      (i) Submits evidence of current certification in acupuncture or oriental medicine from an organization approved under R 338.13004.
      (ii) Possess an active license or registration from another state of the United States with licensure or registration requirements that are equivalent to the standards for acupuncture or oriental medicine certification from an organization approved under R 338.13004.

(3) A license, registration, or certification shall be verified by the registration or licensing agency of any state of the United States in which the applicant holds or has ever held a registration or license as an acupuncturist. Verification includes providing documentation of any disciplinary action taken or pending against the applicant.

R 338.13030  Educational program standards; adoption by reference.
   Rule 30. The board approves and adopts by reference in these rules the standards for accrediting programs in acupuncture and oriental medicine adopted by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), which are set forth in the publication entitled “ACAOM Comprehensive Standards and Criteria for Master’s Level Programs and Professional Doctorate Programs” May 16, 2018. Copies of these standards may be obtained at no cost from the commission's website at www.acaom.org and at Accreditation Commission for Acupuncture and Oriental Medicine, 8941 Aztec Dr. Suite 2, Eden Prairie MN 55347. Copies are available for inspection and distribution at cost from the Michigan Board of Acupuncture, Bureau of Professional Licensing, Michigan Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909.

R 338.13035  Delegation; supervision.
   Rule 35. An acupuncturist shall practice under the delegation of an allopathic physician or osteopathic physician and surgeon in accordance with sections 16104, 16109, and 16215(3) of the code, MCL 333.16104, 333.16109, and 333.16215(3).

R 338.13040  Rescinded.

R 338.13045  Rescinded.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45(a)(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of environmental quality by sections 5503 and 5512 of 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order Nos. 1995-16, 2009-31, and 2011-1, MCL 324.99903, 324.99919, and 324.99921)

R 336.1902, R 336.1971, R 336.1973 of the Michigan Administrative Code are amended, and R 336.1974 is added to the Code, to read as follows:

PART 9. EMISSION LIMITATIONS AND PROHIBITIONS - MISCELLANEOUS

R 336.1902 Adoption of standards by reference.

Rule 902. (1) The following standards are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules (AQD price). Copies may also be obtained from the U.S. Government Publishing Office, 732 North Capitol Street, NW, Washington, DC 20401, or by accessing their online bookstore at http://www.ecfr.gov at a cost as of the time of adoption of these rules (GPO price). The standards can also be viewed and/or printed free of charge at http://bookstore.gpo.gov.

(a) “National Primary and Secondary Ambient Air Quality Standards,” 40 C.F.R. Part 50 (2017), AQD price $61.00/$51.00 GPO price for Part 50 through Part 51.

(b) The following sections of “Requirements for Preparation, Adoption, and Submittal of Implementation Plans,” 40 C.F.R. Part 51 (2015), AQD price $61.00/$51.00 GPO price for Part 50 through Part 51:

(i) “Definitions,” 40 C.F.R. §51.100.
(iii) “Permit requirements,” 40 C.F.R. §51.165.
(iv) “Prevention of significant deterioration of air quality,” 40 C.F.R. §51.166.
(v) “Protection of Visibility,” 40 C.F.R. §51.301 through §51.309.
(vi) “Sources That Would Locate in a Designated Nonattainment Area,” Appendix S.
(vii) “Recommended Test Methods for State Implementation Plans,” Appendix M.
(viii) “Guideline on Air Quality Models,” Appendix W.
(ix) “Guidelines for BART Determinations under the Regional Haze Rule,” Appendix Y.
(c) “Prevention of Significant Deterioration of Air Quality,” 40 C.F.R. §52.21 (2017); AQD price $74.00/$64.00 GPO price for Part 52 (52.01 through 52.1018).

(d) “Quality Assurance Requirements for Prevention of Significant Deterioration Air Monitoring,” 40 C.F.R. §58, Appendix B (20157); AQD price $46.00/$36.00 GPO price for Part 53 through Part 59.

(e) “Standards of Performance for New Stationary Sources,” 40 C.F.R. Part 60, except 40 C.F.R. Part 60, Subpart AAA, “Standards of Performance for New Residential Wood Heaters” (2017); AQD price $74.00/$64.00 GPO price for Part 60 (60.1 to end).

(f) 40 C.F.R. Part 60 Appendices A, B, and F (2017); AQD price $73.00/$63.00 GPO price for Part 60 Appendices.

(g) “National Emission Standards for Hazardous Air Pollutants,” 40 C.F.R. Part 61 (2017); AQD price $61.00/$51.00 GPO price for Part 61 through Part 62.

(h) “National Emission Standards for Hazardous Air Pollutants for Source Categories,” 40 C.F.R. Part 63, Subpart A to Z (2017); AQD price $74.00/$64.00 GPO price.

(i) “National Emission Standards for Hazardous Air Pollutants for Source Categories (Continued),” 40 C.F.R. Part 63, Subpart AA to DDD (2017); AQD price $63.00/$53.00 GPO price.

(j) “National Emission Standards for Hazardous Air Pollutants for Source Categories (Continued),” 40 C.F.R. Part 63, Subpart EEE to PPP (2017); AQD price $66.00/$56.00 GPO price.

(k) “National Emission Standards for Hazardous Air Pollutants for Source Categories (Continued),” 40 C.F.R. Part 63, Subpart QQQ to YYYY (2017); AQD price $47.00/$37.00 GPO price.


(m) “National Emission Standards for Hazardous Air Pollutants for Source Categories (Continued),” 40 C.F.R. Part 63, Subpart NNNNN to end (2017); AQD price $50.00/$40.00 GPO price.

(n) “Compliance Assurance Monitoring,” 40 C.F.R. Part 64 (2017); AQD price $44.00/$34.00 GPO price for Part 64 through Part 71.

(o) The following sections of “State Operating Permit Programs,” 40 C.F.R. Part 70 (2017); AQD price $44.00/$34.00 GPO price for Part 64 through Part 71:

(i) “Definitions,” 40 C.F.R. §70.2.

(ii) “State program submittals and transition,” 40 C.F.R. §§70.4(b)(12), (14), and (15).

(iii) “Permit content,” 40 C.F.R. §70.6(a)(8).

(iv) “Re-openings for cause by EPA,” 40 C.F.R. §70.7(g).

(v) “Transmission of information to the Administrator,” 40 C.F.R. §70.8(a)(1) and (2).

(vi) “EPA objection,” 40 C.F.R. §70.8(c).

(vii) “Public petitions to the Administrator,” 40 C.F.R. §70.8(d).

(p) “Permit Regulations,” 40 C.F.R. Part 72 (2017); AQD price $78.00/$68.00 GPO price for Part 72 through Part 80.

(q) “Sulfur Dioxide Opt-Ins,” 40 C.F.R. Part 74 (2017); AQD price $78.00/$68.00 GPO price for Part 72 through Part 80.

(r) “Continuous Emission Monitoring,” 40 C.F.R. Part 75 (2017); AQD price $78.00/$68.00 GPO price for Part 72 through Part 80.

(s) “Acid Rain Nitrogen Oxides Emission Reduction Program,” 40 C.F.R. Part 76 (2017); AQD price $78.00/$68.00 GPO price for Part 72 through Part 80.

(t) “NOx Budget Trading Program and CAIR NOx and SO2 Trading Programs for State Implementation Plans,” 40 C.F.R. Part 96 §§96.1 through §96.88 (2017); AQD price $76.00/$66.00 GPO price for Part 96 through Part 99.

(u) “Federal NOx Budget Trading Program, CAIR NOx and SO2 Trading Programs, and CSAPR NOx and SO2 Trading Programs,” 40 C.F.R. Part 97 (2017); AQD price $76.00/$66.00 GPO price for Part 96 through Part 99.
(2) The following United States Environmental Protection Agency (U.S. EPA) documents are adopted by reference in these rules. A copy is available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, Lansing, MI 48909-7760, at a cost as of the time of adoption of these rules of $20.00 each. A copy may also be obtained from the U.S. EPA, Office of the Science Advisor, 1200 Pennsylvania Avenue, NW, Washington, DC 20460 or on the U.S. EPA website, www.epa.gov, free of charge as of the time of adoption of these rules.

(a) “Advances in Inhalation Gas Dosimetry for Derivation of a Reference Concentration (RfC) and Use in Risk Assessment,” EPA/600/R-12/044, September 2012.


(c) “Benchmark Dose Technical Guidance,” EPA/100/R-12/001, June 2012.


(3) The following Federal Register documents are adopted by reference in these rules. A copy is available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, Lansing, MI 48909-7760, at a cost as of the time of adoption of these rules of $10.00 each:


(b) U.S. EPA Recommended Policy on Control of Volatile Organic Compounds, Table 1, 42 FR 35314, July 8, 1977.

(4) The following standards are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, Lansing, Michigan 48909-7760, at the cost as of the time of adoption of these rules (AQD price). Copies may also be obtained from ASTM International, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959 or on the ASTM website, www.astm.org, at a cost as of the time of adoption of these rules (ASTM price):

(a) Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure, ASTM method D86, 2012; AQD price $74.00/$64.00 ASTM price.

(b) Standard Test Method for Pour Point of Petroleum Products, ASTM D97, 2015; AQD price $54.00/$44.00 ASTM price.

(c) Standard Test Method for Vapor Pressure of Petroleum Products, ASTM D323, 2015; AQD price $60.00/$50.00 ASTM price.

(d) Standard Specification for Fuel Oils, ASTM D396, 2015; AQD price $60.00/$50.00 ASTM price.


(f) Standard Specification for Aviation Gasolines, ASTM D910, 2015; AQD price $54.00/$44.00 ASTM price.

(g) Standard Specification for Diesel Fuel Oils, ASTM D975, 2015; AQD price $74.00/$64.00 ASTM price.

(h) Standard Specification for Aviation Turbine Fuels, ASTM D1655, 2015; AQD price $60.00/$50.00 ASTM price.
(i) Standard Specification for Gas Turbine Fuel Oils, ASTM D2880, 2015; AQD price $54.00/$44.00 ASTM price.

(j) Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels, ASTM D6751, 2015; AQD price $54.00/$44.00 ASTM price.

(k) Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method), ASTM D6784, 2002; AQD price $70.00/$60.00 ASTM price.


(m) Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20), ASTM D7467, 2015; AQD price $74.00/$64.00 ASTM price.

(n) Standard Practices for General Techniques of Infrared Quantitative Analysis, ASTM E168, 2006; AQD price $70.00/$60.00 ASTM price.

(o) Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis, ASTM E169, 2014; AQD price $54.00/$44.00 ASTM price.

(p) Standard Practice for Packed Column Gas Chromatography, ASTM E260, 2011; AQD price $60.00/$50.00 ASTM price.

(5) The following standards are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, Lansing, Michigan 48909-7760, at the cost as of the time of adoption of these rules (AQD price). Copies may also be obtained from the American Association of State Highway and Transportation Officials, AASHTO Publication Order Department, P.O. Box 933538, Atlanta, Georgia, 31193-3538, or from their website http://www.techstreet.com/products, at a cost as of the time of adoption of these rules (AASHTO price):

(a) Standard Method of Test for Emulsified Asphalts, AASHTO T59, 2013; AQD price $86.00/$76.00 AASHTO price.

(b) Standard Method of Test for Cutback Asphalt Products, AASHTO T78, 2005; AQD price $60.00/$50.00 AASHTO price.

(6) The following standards are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, Lansing, Michigan 48909-7760, at the cost as of the time of adoption of these rules (AQD price). Copies may also be obtained from the National Technical Information Service, U.S. Department of Commerce, 5301 Shawnee Road, Alexandria, Virginia, 22312 (NTIS price), or from their website http://ntrl.ntis.gov/NTRL/ for free:

(a) PB95-196028, “Compilation of Air Pollution Emission Factors. Volume 1. Stationary Point and Area Sources,” (1995); AQD price $290.00/NTIS price $41.00.

(b) PB94-183522, “Alternative Control Techniques Document: NOx Emissions from Cement Manufacturing,” (1994); AQD price $148.00/NTIS price $35.00.

(c) PB203-060, “Construction Details of Isokinetic Source Sampling Equipment,” (1971); AQD price $46.00/NTIS price $26.00.

(d) PB209-022, “Maintenance, Calibration, and Operation of Isokinetic Source-Sampling Equipment,” (1972); AQD price $52.00/NTIS price $20.00.

(7) “TLVs and BEIs. Threshold Limit Values for Chemical Substances and Physical Agents, and Biological Exposure Indices,” 2014 is adopted by reference in these rules. A copy is available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, Lansing, MI 48909-7760, at a cost as of the time of adoption of these rules of $69.95. A copy may also be obtained from the American Conference of Governmental Industrial Hygienists, 1330
R 336.1971 Best available retrofit technology or BART program.

Rule 971. (1) The department shall determine applicability of best available retrofit technology based on the provisions of 40 C.F.R. §51.301 and Appendix Y to Part 51, adopted by reference in R 336.1902.

(2) The owner or operator of a unit subject to BART must perform an engineering analysis as described in the provisions of 40 C.F.R. §51.301 and Appendix Y to Part 51 and must provide the results of the analysis to the department within 60 days of the effective date of this rule.

(3) If an electric generating unit (EGU) subject to BART is subject to the trading programs of the Clean Air Interstate Rule under 40 C.F.R. Part 97, the owner or operator of the EGU is not required to conduct a BART analysis for sulfur dioxide and oxides of nitrogen emissions under this rule.

(4) An engineering analysis required by subrule (2) of this rule must be submitted to the department and is subject to review and approval by the department. If the department determines additional information is required, the department shall provide to the owner or operator additional information requests and comments in writing. The owner or operator shall provide the requested information within 60 days from receipt of written requests and comments from the department. The department may determine that more than 60 days will be allowed.

(5) The department shall determine the BART level of control for each unit subject to BART based on the engineering analysis referenced in subrule (2) of this rule, the provisions of 40 C.F.R. §51.301 and Appendix Y to Part 51, and other information which the department determines to be relevant.

(6) The owner or operator of a unit subject to BART shall enter into a permit to install or consent order with the department to make the BART provisions legally enforceable within 90 days of the department's approval of the engineering analysis, unless the department determines that more than 90 days will be allowed. BART controls must be in place and operating not later than 1 year from an approved engineering analysis.

(7) An owner or operator subject to this rule shall measure oxides of nitrogen and sulfur dioxide emissions with 1 or more of the following:

(a) A continuous emission monitoring system.
(b) An alternate method as described in 40 C.F.R. Part 60 or 75, adopted by reference in R 336.1902, as applicable and acceptable to the department.

(c) A method currently in use or a future method developed for use and acceptable to the department, including methods contained in existing permit conditions.

(8) An owner or operator of an emission unit that measures oxides of nitrogen or sulfur dioxide emissions by a continuous emission monitoring system shall do either of the following:

(a) Use procedures set forth in 40 C.F.R. Part 60, Subpart A and appendix B, and comply with the quality assurance procedures in appendix F, adopted by reference in R 336.1902, as applicable and acceptable to the department.

(b) Use procedures set forth in 40 C.F.R. Part 75, and associated appendices, adopted by reference in R 336.1902, as applicable and acceptable to the department.

(9) An owner or operator of an emission unit who uses a continuous emission monitoring system to demonstrate compliance with this rule and who has already installed a continuous emission monitoring system for oxides of nitrogen or sulfur dioxide pursuant to other applicable federal, state, or local rules shall meet the installation, testing, operation, quality assurance, and reporting requirements specified by the department.

(10) An owner or operator of an emission unit that is subject to this rule and has a permit or consent order issued under subrule (6) of this rule must submit at a minimum semi-annual summary reports, in an acceptable format, to the department by March 15 for the reporting period July 1 to December 31 and September 15 for the reporting period January 1 to June 30 of each calendar year. The reports must include all of the following information:

(a) The date, time, magnitude of emissions, and emission rates where applicable, of the specified emission unit or utility system.

(b) If emissions or emission rates exceed the emissions or emission rates allowed by the applicable emission limit, the cause, if known, and any corrective action taken.

(c) The total operating time of the emission unit during the time period.

(d) For continuous emission monitoring systems, system performance information must include the date and time of each period during which the continuous monitoring system was inoperative, except for zero and span checks, and the nature of the system repairs or adjustments. When the continuous monitoring system has not been inoperative, repaired, or adjusted, the information must be stated in the report.

(11) Quarterly summary reports, if required by the department pursuant to R 336.1213, must be submitted within 30 days following the end of the calendar quarter and may be used in place of the semi-annual reports required pursuant to subrule (10) of this rule.

R 336.1973 Standards for existing large municipal waste combustors.

Rule 973 (1) This rule applies to all existing large municipal waste combustors (LMWC) and air curtain incinerators that have a combustion capacity greater than 250 tons per day of municipal solid waste, commenced construction by September 20, 1994.

(2) LMWCs defined under 40 C.F.R. §60.32b(b), (d) to (i), and (l) to (n), adopted by reference in R 336.1902, are exempt from this rule if the owner or operator notifies the department that the LMWC qualifies for the exemption and any applicable requirements listed in 40 C.F.R. §60.32b are followed.

(3) A LMWC remains subject to this rule if any physical or operational changes are made primarily for the purpose of complying with this rule. Those changes cannot be considered in determining modification or reconstruction under 40 C.F.R. Part 60, subparts Ea or Eb.

(4) Owners and operators of LMWCs shall submit documentation to the department, within 90 days of state plan approval, that the unit is operating under a fully trained LMWC operator required under
40 C.F.R. §60.35b, adopted by reference in R 336.1902, and that the LMWC is in compliance with the emission and operating limits in subrules (5) and (6) of this rule.

(5) Owners and operators of LMWCs shall comply with the following emission limits in 40 C.F.R. Part 60, Subparts Cb and Eb, adopted by reference in R 336.1902:
   (a) Carbon monoxide limits in Table 3 in Subpart Cb,
   (b) Fugitive ash emission limits in 40 C.F.R. §60.55b,
   (c) Nitrogen oxide limits in Tables 1 and 2 in Subpart Cb,
   (d) Other emission limits listed in Table 973:
Table 973

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Emission Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cadmium in 40 C.F.R. §60.33b(a)(2)(i)</td>
<td>35 µg/dscm+</td>
</tr>
<tr>
<td>Dioxin/furan in 40 C.F.R. §60.33b(c)</td>
<td>IF electrostatic precipitator, then 35 ng/dscm+ (total mass)</td>
</tr>
<tr>
<td></td>
<td>IF no electrostatic precipitator, then 30 ng/dscm+ (total mass)</td>
</tr>
<tr>
<td>Hydrogen Chloride in 40 C.F.R. §60.33b(b)(3)</td>
<td>29 ppm per volume OR 5% of the potential hydrogen chloride emission concentration (95% reduction by weight or volume), whichever is less stringent*</td>
</tr>
<tr>
<td>Lead in 40 C.F.R. §60.33b(a)(4)</td>
<td>400 µg/dscm+</td>
</tr>
<tr>
<td>Mercury in 40 C.F.R. §60.33b(a)(3)</td>
<td>50 µg/dscm OR 15% of the potential mercury emission concentration (85% reduction by weight), whichever is less stringent+</td>
</tr>
<tr>
<td>Opacity in 40 C.F.R. §60.33b(a)(1)(iii)</td>
<td>10% (6 minute average)</td>
</tr>
<tr>
<td>Particulate Matter in 40 C.F.R. §60.33b(a)(1)(i)</td>
<td>25 mg/dscm+</td>
</tr>
<tr>
<td>Sulfur Dioxide in 40 C.F.R. §60.33b(b)(3)</td>
<td>29 ppm by volume OR 25% of the potential sulfur dioxide emission concentration (75% reduction by weight or volume), whichever is less stringentº</td>
</tr>
</tbody>
</table>

*Corrected to 7% oxygen, dry basis
+ Corrected to 7% oxygen
º Based on 24-hour daily geometric mean

(6) To comply with the nitrogen oxide emission limit in subrule (5) of this rule, owners or operators of a LMWC may average nitrogen oxide emissions as stated in 40 CFR §60.33b(d)(1)(i) to (v), adopted by reference in R 336.1902.

(7) Owners and operators of LMWCs shall comply with the following sections of 40 CFR Part 60, Subparts Cb and Eb, adopted by reference in R 336.1902:
   (a) Definitions in 40 C.F.R. §60.31b and §60.51b.
   (b) Operating practices in 40 C.F.R. §60.53b(b) and (c).
   (c) Compliance and performance testing in 40 C.F.R. §60.58b, except as provided in §60.24(b)(2), and LMWC with a dioxin/furan emission level less than or equal to 15 nanograms per dry cubic meter total mass, corrected to 7 percent oxygen, may use the alternative performance testing schedule for dioxins/furans specified in 40 C.F.R. §60.58b(g)(5)(iii).
   (d) Compliance dates in 40 C.F.R. §60.39b(h).
   (e) Recordkeeping and reporting requirements in 40 C.F.R. §60.59b, except those in §60.59b(a), (b)(5), and (d)(11).
   (f) Operator training and certification requirements listed in 40 C.F.R. §60.54b, submitted within 12 months after state plan approval according to 40 C.F.R. §60.59b(j) if applicable.
(8) For the purposes of this rule, the terms “administrator” and “EPA” as used in 40 C.F.R. Part 60 and Subparts Cb and Eb, mean the department, except in the authorities retained by the U.S. EPA in 40 C.F.R. §60.30b(b).

R 336.1974 Emissions standards for existing commercial and industrial solid waste incinerators.

Rule 974. (1) This rule applies to all existing Commercial and Industrial Solid Waste Incinerator (CISWI) units, defined under 40 C.F.R. §60.2875, adopted by reference in R 336.1902. For purposes of this rule CISWI unit also includes “air curtain incinerators” defined under 40 C.F.R. §60.2875.

(2) CISWI units that commenced construction by November 30, 1999 must comply with this rule according to 40 C.F.R. §60.2535(a)(1) and (2), adopted by reference in R 336.1902, or date of promulgation of this rule, whichever is later.

(3) The following CISWI units must comply with this rule according to 40 C.F.R. §60.2535(b), adopted by reference in R 336.1902, or date of promulgation of this rule, whichever is later:
   (a) Units in the incinerator or air curtain subcategory that commenced construction between November 30, 1999 and June 4, 2010,
   (b) Units in the incinerator or air curtain subcategory that commenced reconstruction or modification between June 1, 2001 and August 7, 2013,
   (c) Units in the small remote incinerator, energy recovery, or waste-burning kiln subcategories that commenced construction before June 4, 2010.

(4) CISWI units that are exempt under 40 C.F.R. §60.2555(a) to (h) and §60.2555(m) to (o), adopted by reference in R 336.1902, are exempt from this rule if the applicable requirements listed in §60.2555 are followed.

(5) Owners or operators of CISWI units shall submit a notice of closure to the department if the unit will close rather than comply with this rule.

(6) A CISWI unit is still subject to this rule, and not 40 C.F.R. Part 60, Subpart CCCC, if the owner or operator makes physical or operational changes primarily to comply with this rule. However, modification or reconstruction of a CISWI unit made after August 7, 2013 makes that unit subject to 40 C.F.R. Part 60, Subpart CCCC, and not this rule.

(7) Owners or operators of CISWI units subject to this rule must sign and submit to the department a waste management plan and documentation of a current Title V operating permit.

(8) Owners and operators of CISWI units subject to this rule must comply with the following reporting requirements of 40 C.F.R. Part 60, Subpart DDDD, “Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units”, adopted by reference in R 336.1902, listed in table 974:
<table>
<thead>
<tr>
<th>Reporting Requirement</th>
<th>Required Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Test Report in 40 C.F.R. §60.2760</td>
<td>60 days after the initial performance test</td>
</tr>
<tr>
<td>Annual Report in 40 C.F.R. §60.2765 and §60.2770</td>
<td>12 months after the initial test report; every 12 months thereafter</td>
</tr>
<tr>
<td>Emission limitation and operating limit deviation report in 40 C.F.R. §60.2775 and</td>
<td>August 1, for the data collected from January 1 to June 30 of that year; February</td>
</tr>
<tr>
<td>§60.2780</td>
<td>1, for data collected from July 1 to December 31 of the previous year.</td>
</tr>
<tr>
<td>Qualified Operator Deviation Notification in 40 C.F.R. §60.2785(a)(1)</td>
<td>Within 10 days of deviation</td>
</tr>
<tr>
<td>Qualified Operator Deviation Status Report in 40 C.F.R. §60.2785(a)(2)</td>
<td>Every 4 weeks following deviation</td>
</tr>
<tr>
<td>Qualified Operator Deviation Notification of Resumed Operation in 40 C.F.R. §60.2785(b)</td>
<td>Prior to resuming operation</td>
</tr>
<tr>
<td>Notification of continued operation with waste-to-fuel switch in 40 C.F.R. §60.2790(b)</td>
<td>30 days prior to the fuel switch</td>
</tr>
</tbody>
</table>

(9) Owners and operators of CISWI units subject to this rule must comply with the following sections of 40 C.F.R. Part 60, Subpart DDDD, adopted by reference in R 336.1902:
(a) Closing or reopening of unit in 40 C.F.R. §60.2610 and §60.2615.
(b) Waste management plan in 40 C.F.R. §60.2620 to 60.2630.
(c) Operator training and qualifications in 40 C.F.R. §60.2635 to §60.2665.
(d) Emission and operating limits in 40 C.F.R. §60.2670 to §60.2680 and Tables 2 to 3 and 6 to 9.
(e) Performance testing in 40 C.F.R. §60.2690 to §60.2695.
(f) Inspection of control equipment in 40 C.F.R. §60.2706 and §60.2710(k).
(g) Initial and continuous compliance in 40 C.F.R. §60.2700 to §60.2725 and §60.7 (40 C.F.R. §60.7 is adopted by reference in R 336.1902).
(h) Monitoring in 40 C.F.R. §60.2730 to §60.2735.
(i) Recordkeeping in 40 C.F.R. §60.2740 to §60.2745.
(j) Title V Operating Permit requirements in 40 C.F.R. §60.2805.
(k) Toxic Equivalency Factors in Table 4.
(l) Definitions in 40 C.F.R. §60.2875.
(m) Reporting formats and date changes in 40 C.F.R. §60.2795 and §60.2800.

(10) For the purposes of this rule, the terms “administrator” and “EPA” as used in 40 C.F.R. Part 60, Subpart DDDD, mean the department, except in the authorities retained by the U.S. EPA in 40 C.F.R. §60.2030(c).
ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

VETERINARY MEDICINE - GENERAL RULES

Filed with the Secretary of State on January 4, 2019

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


R 338.4902, R 338.4903, R 338.4906, R 338.4908, R 338.4914a, and R 338.4915 of the Michigan Administrative Code are amended, and R 338.4931 and R 338.4933 are added to the Code, to read as follows:

PART 1. GENERAL PROVISIONS

R 338.4902 Licensure by examination; requirements.

Rule 2. An applicant for a Michigan veterinary license by examination shall submit a completed application on a form provided by the department, together with the required fee. In addition to meeting the requirements of the code, and the administrative rules promulgated under the code, an applicant shall satisfy both of the following requirements:

(a) Have satisfied 1 of the following educational requirements:
   (i) Graduated from a veterinary college that satisfies the requirements of R 338.4908.
   (ii) Obtained a certificate from the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical Association.
   (iii) Obtained a certificate from the Program for the Assessment of Veterinary Education Equivalence from the American Association of Veterinary State Boards (AAVSB).

(b) Have achieved a passing score on the examination adopted in R 338.4903.

R 338.4903 Examination; approval and adoption.

Rule 3. The board approves and adopts the North American Veterinary Licensing Examination (NAVLE) developed by the International Council for Veterinary Assessment or its predecessor organization.

R 338.4906 Licensure by endorsement; requirements.

Rule 6. (1) An applicant for a Michigan veterinary license by endorsement shall submit a completed application on a form provided by the department together with the required fee. An applicant shall meet
the requirements of the code, and the administrative rules promulgated under the code, and shall satisfy the following requirements:

(a) Possess current licensure as a veterinarian in another state of the United States.
(b) Have achieved a passing score on the examination adopted under R 338.4903 if the applicant has not been licensed as a veterinarian in another state for a minimum of 5 years.
(c) Have satisfied 1 of the following requirements:
   (i) Graduated from a veterinary college that satisfies R 338.4908.
   (ii) Obtained a certificate from the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical Association.
   (iii) Obtained a certificate from the Program of the Assessment of Veterinary Education Equivalence from the AAVSB.

(2) The applicant's license must be verified, on a form provided by the department, by the licensing agency of any state of the United States in which the applicant holds a current license or ever held a license as a veterinarian. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending disciplinary action imposed against the applicant.

R 338.4908 Approval of veterinary colleges; adoption of standards.


(2) The standards for Accrediting Colleges of Veterinary Medicine adopted by the American Veterinary Medical Association Council on Education may be obtained, at no cost, from the American Veterinary Medical Association, 1931 North Meacham Road, Suite 100, Schaumburg, IL 60173 or at the association's website at http://www.avma.org. A copy of the handbook is available for inspection and distribution at cost from the Board of Veterinary Medicine, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.

R 338.4914a Educational limited licenses.

Rule 14a. (1) An applicant for an educational limited license shall submit a completed application on a form provided by the department, together with the required fee. In addition to satisfying the requirements of the code, and the administrative rules promulgated under the code, an applicant shall satisfy both of the following requirements:

(a) Have achieved a passing score on the examination adopted in R 338.4903.
(b) Be admitted as a student to a post-DVM training program at a college of veterinary medicine that satisfies R 338.4908.

(2) The holder of an educational limited license shall not do either of the following:

(a) Engage in the practice of veterinary medicine outside of his or her postgraduate training program in the college of veterinary medicine approved by the board for the training.
(b) Hold himself or herself out to the public as being engaged in the private practice of veterinary medicine.

R 338.4915 Relicensure.
Rule 15. (1) An applicant for relicensure, whose license has been lapsed for less than 3 years preceding the date of application for relicensure, may be relicensed if the applicant satisfies all of the following requirements:
   (a) Submits the required fee and a completed application on a form provided by the department.
   (b) Establishes that he or she is of good moral character.
   (c) Submits proof to the department of accumulating not less than 45 hours of continuing education that satisfy the requirements of R 338.4933.

   (2) An applicant for relicensure whose license has been lapsed for 3 years or more preceding the date of application for relicensure may be relicensed if the applicant satisfies all of the following requirements:
   (a) Submits the required fee and a completed application on a form provided by the department.
   (b) Establishes that he or she is of good moral character.
   (c) Submits fingerprints as set forth in section 16174(3) of the code, MCL 333.16174(3).
   (d) Satisfies either of the following requirements:
      (i) Achieves a passing score on the examination adopted in R 338.4903 within 3 years preceding the application for relicensure.
      (ii) Satisfies both of the following requirements:
          (A) Presents evidence to the department that he or she held an active veterinarian license in another state at any time during the 3-year period immediately preceding the application for relicensure.
          (B) Submits proof to the department of accumulating not less than 45 hours of continuing education that satisfy the requirements of R 338.4933.

   (3) An applicant shall have his or her license verified by the licensing agency of any state of the United States in which the applicant holds or has ever held a license as a veterinarian. Verification includes, but is not limited to, the record of any disciplinary action taken or pending against the applicant.

R 338.4931 License renewal; continuing education.
   Rule 31. (1) This rule applies to an application for renewal of a veterinarian license that is filed for the renewal cycle beginning January 1, 2020.
   (2) An applicant for license renewal who has been licensed for the 3-year period immediately preceding the application for renewal shall have completed at least 45 hours of continuing education that satisfy the requirements of R 338.4933 in the 3 years preceding the application for renewal.
   (3) Submission of an application for renewal constitutes the applicant’s certification of compliance with the requirements of this rule. The department may require a 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. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221(h).

R 338.4933 Acceptable continuing education; requirements; limitations.
   Rule 33. (1) The 45 hours of continuing education required pursuant to R 338.4931(2) for the renewal of a veterinarian license must satisfy all of the following:
      (a) No more than 12 hours are earned during one 24-hour period.
      (b) Credit for a continuing education program or activity that is identical or substantially identical to a program or activity for which the licensee has already earned credit during the renewal period is not granted.
(c) A minimum of 30 hours of continuing education is scientific in nature. Scientific in nature includes the science of diagnosis, treatment, and prevention of disease as it relates directly to a patient or topics such as public veterinary practice, epidemiology, food safety, public health, animal welfare, or antimicrobial stewardship.

(d) A minimum of 1 hour shall relate to medical records.

(e) A minimum of 1 hour shall relate to state veterinary law and/or federal or state controlled substance laws.

(f) A minimum of 10 hours shall be completed live and in person.

(g) No more than 15 hours shall be earned collectively for activities (2)c-h.

(2) The following is acceptable continuing education:

<table>
<thead>
<tr>
<th>Activity Code</th>
<th>Activity and Proof of Completion</th>
<th>Number of continuing education hours granted/permited</th>
</tr>
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<tbody>
<tr>
<td>a</td>
<td>Attendance at or participation in a continuing education program or activity related to the practice of veterinary medicine or any non-clinical subject relevant to the practice of veterinary medicine, education, administration, management, or science which includes, but is not limited to, live, in-person programs; interactive or monitored teleconferences; audio-conferences; web-based programs; online programs; or journal articles or other self-study programs approved or offered by any of the following:</td>
<td>The number of continuing education hours for a specific program or activity is the number of hours approved by the sponsor or approving organization for the specific program or activity.</td>
</tr>
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<td></td>
<td>• AAVSB Registry of Continuing Education (RACE).</td>
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<td></td>
<td>• American Veterinary Medical Association (AVMA).</td>
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<td></td>
<td>• World Veterinary Association (WVA).</td>
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<td></td>
<td>• Michigan Veterinary Medical Association (MVMA).</td>
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<td></td>
<td>• A state veterinary board of another state.</td>
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<td></td>
<td>• Local, state, or regional professional organization.</td>
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<td></td>
<td>• Member institution of the Association of the American Veterinary Medical Colleges (AAVMC).</td>
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<tr>
<td></td>
<td>• AVMA constituent allied organizations and recognized veterinary specialty organizations.</td>
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<tr>
<td></td>
<td>• Centers for Disease Control &amp; Prevention (CDC).</td>
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</table>

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, the sponsor’s name or the name organization that approved the activity, and the
<table>
<thead>
<tr>
<th>b</th>
<th>Attendance at or participation in a continuing education program or activity related to the practice of veterinary profession which includes but is not limited to: live, in-person programs; interactive or monitored teleconferences; audio-conferences; web-based programs; online programs; and journal articles or other self-study programs, approved or offered by any of the following:</th>
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<tbody>
<tr>
<td></td>
<td>• American Medical Association.</td>
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<tr>
<td></td>
<td>• Michigan State Medical Society.</td>
</tr>
<tr>
<td></td>
<td>• Accreditation Council for Continuing Medical Education.</td>
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<tr>
<td></td>
<td>• American Osteopathic Association.</td>
</tr>
<tr>
<td></td>
<td>• Michigan Osteopathic Association.</td>
</tr>
<tr>
<td></td>
<td>• Michigan Pharmacy Association.</td>
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<tr>
<td></td>
<td>• Educational courses offered by regionally accredited colleges and universities relating to the husbandry of food producing animals.</td>
</tr>
<tr>
<td></td>
<td>• Accreditation Council for Pharmacy Education.</td>
</tr>
<tr>
<td></td>
<td>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, the sponsor’s name or the name of the organization that approved the activity, and the date on which the program was held or the activity completed.</td>
</tr>
<tr>
<td>c</td>
<td>Initial presentation of a continuing education program related to the veterinary profession.</td>
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<td></td>
<td>To receive credit, the presentation must not be part of the licensee’s regular job description and must be approved or offered for continuing education by any of the following:</td>
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<td></td>
<td>• AAVSB – RACE.</td>
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<td></td>
<td>• AVMA.</td>
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<td></td>
<td>• WVA.</td>
</tr>
<tr>
<td></td>
<td>• MVMA.</td>
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<tr>
<td></td>
<td>• A state veterinary board of another state.</td>
</tr>
<tr>
<td></td>
<td>• American Medical Association.</td>
</tr>
<tr>
<td></td>
<td>• Michigan State Medical Society.</td>
</tr>
<tr>
<td></td>
<td>Two hours of continuing education is granted for each 50 to 60 minutes of presentation. No additional credit is granted for the preparation of the presentation. A maximum of 6 hours of continuing education may be earned for this activity in each renewal period.</td>
</tr>
</tbody>
</table>
- Accreditation Council for Continuing Medical Education.
- Member institution of the AAVMC.
- AVMA constituent allied organizations and recognized veterinary specialty organizations.
- Educational courses offered by regionally accredited colleges and universities relating to the husbandry of food producing animals.
- CDC.

Initial presentation of a scientific exhibit, poster, paper, or clinical demonstration to a veterinary medicine or veterinary technician program.

To receive credit, the presentation must not be part of the licensee’s regular job description.

If audited, the licensee shall submit a copy of the document presented with evidence of the presentation or a letter from the program sponsor verifying the length and date of the presentation.

<table>
<thead>
<tr>
<th>d</th>
<th>Initial publication of an article related to the practice of veterinary profession in a peer-reviewed journal.</th>
<th>Five hours of continuing education is granted for serving as the primary author. Two hours of continuing education is granted for serving as the secondary author. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>If audited, the licensee shall submit a copy of the publication that identifies the licensee as the author or a publication acceptance letter.</td>
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</table>

<table>
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<tr>
<th>e</th>
<th>Initial publication of a chapter related to the practice of veterinary profession in a professional or peer-reviewed text book.</th>
<th>Five hours of continuing education is granted for serving as the primary author. Two hours of continuing education is granted for serving as a secondary author. A maximum of 15 hours of continuing education may be earned for this activity in each renewal period.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>If audited, the licensee shall submit a copy of the publication that identifies the licensee as the author or a publication acceptance letter.</td>
<td></td>
</tr>
</tbody>
</table>
|   | Service as a clinical instructor for veterinary students engaged in an educational program that satisfies the requirements of R 338.4908.  
To receive credit, the clinical instructorship must not be the licensee’s primary employment function.  
If audited, the licensee shall submit proof of scheduled instructional hours and a letter from the program director verifying the licensee’s role. | Two hours of continuing education is granted for each 50 to 60 minutes of scheduled instruction. Additional credit for preparation of a lecture is not to be granted. A maximum of 15 hours may be earned for this activity in each renewal period. |
|---|---|---|
| g | Participation on a state or national committee, board, council, or association related to the veterinary profession. A committee, board, council, or association is considered acceptable by the board if it enhances the participant’s knowledge and understanding of the practice of veterinary medicine.  
If audited, the licensee shall submit documentation verifying the licensee’s participation in at least 75% of the regularly scheduled meetings of the committee, board, council, or association. | Two hours of continuing education is granted for each committee, board, council, or association. A maximum of 2 hours of continuing education may be earned for this activity in each renewal period. |
| h | Provide individual supervision to a disciplinarily limited veterinarian.  
If audited, the licensee shall provide documentation from the department confirming the number of hours and the dates that the licensee spent supervising the disciplinarily limited veterinarian. | One hour of continuing education credit is granted for each 50 to 60 minutes of supervision provided. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period. |
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45(a) of the 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 338.4972, R 338.4976, R 338.4978, and R 338.4982 of the Michigan Administrative Code are amended, and R 338.4991 and R 338.4993 are added to the Code, and R 338.4973 of the Code is rescinded, as follows:

R 338.4972 Licensure by examination; requirements.
   Rule 2. An applicant for a Michigan veterinary technician license by examination shall submit a completed application on a form provided by the department, together with the required fee. In addition to meeting the requirements of the code an applicant shall satisfy both of the following requirements:
   (a) Have graduated from a program for training veterinary technicians that satisfies R 338.4978.
   (b) Have achieved a passing score on the veterinary technician national examination developed by the American Association of Veterinary State Boards (AAVSB) or its successor organization.

R 338.4973 Rescinded.

R 338.4976 Licensure by endorsement; requirements.
   Rule 6. (1) An applicant for a Michigan veterinary technician license by endorsement shall submit a completed application on a form provided by the department, together with the required fee. In addition to satisfying the requirements of the code, an applicant shall satisfy both of the following requirements:
   (a) Have achieved a passing score on the veterinary technician national examination developed by the AAVSB.
   (b) Hold a current license, registration, or certification to practice as a veterinary technician in another state.
   (2) An applicant's license shall be verified, on a form provided by the department, by the licensing agency of any state of the United States in which the applicant holds a current license, registration, or certificate, or ever held a license, registration, or certificate as a veterinary technician. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending disciplinary action imposed against the applicant.
R 338.4978 Approval of veterinary technician training programs; standards adopted by reference.

Rule 8. (1) The board approves and adopts by reference the standards for accrediting programs for training veterinary technicians adopted by the American Veterinary Medical Association Committee on Veterinary Technician Education and Activities (CVTEA) entitled "Accreditation Policies and Procedures of the AVMA Committee on Veterinary Technician Education and Activities," March 2018.

(2) The standards for accrediting programs for training veterinary technicians adopted by the CVTEA are available at no cost from the American Veterinary Medical Association, 1931 N. Meacham Road, Suite 100, Schaumburg, IL 60173 or at the association's website at http://www.avma.org. A copy of the standards is available for inspection or distribution at cost from the Board of Veterinary Medicine, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.

R 338.4982 Relicensure.

Rule 12. (1) An applicant for relicensure whose license has been lapsed for less than 3 years preceding the date of application for relicensure may be relicensed if the applicant satisfies all of the following requirements:

(a) Submits the required fee and a completed application on a form provided by the department.
(b) Be of good moral character.
(c) Submits proof to the department of accumulating not less than 15 hours of continuing education that satisfy the requirements of R 338.4993.

(2) An applicant for relicensure whose license has been lapsed for 3 years or more preceding the date of application for relicensure may be relicensed if the applicant satisfies all of the following requirements:

(a) Submits the required fee and a completed application on a form provided by the department.
(b) Be of good moral character.
(c) Submits fingerprints as set forth in section 16174(3) of the code, MCL 333.16174(3).
(d) Satisfies either of the following requirements:
   (i) Has successfully passed the Veterinary Technician National Examination developed by the AAVSB or its successor organization within the 3-year period immediately preceding the date of the application for relicensure.
   (ii) Satisfies both of the following requirements:
      (A) Presents evidence to the department that he or she was licensed as a veterinary technician in another state at any time during the 3-year period immediately preceding the application for relicensure.
      (B) Submits proof to the department of accumulating not less than 15 hours of continuing education that satisfy the requirements of R 338.4993.

(3) An applicant shall have his or her license, registration, or certificate verified by the licensing agency of any state of the United States in which the applicant holds or has ever held a license, registration, or certificate as a veterinary technician. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.

R 338.4991 License renewals; continuing education.

Rule 91. (1) This rule applies to an application for renewal of a veterinary technician license that is filed for the renewal cycle after January 1, 2020.

(2) An applicant for license renewal who has been licensed for the 3-year period immediately preceding the application date for renewal shall have completed at least 15 hours of continuing education that satisfies the requirements of R 338.4993 in the 3 years immediately preceding the application of the renewal.
(3) Submission of an application for renewal shall constitute the applicant’s certification of compliance with the requirements of this rule. The department may require a 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. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221(h).

R 338.4993 Acceptable continuing education; requirements; limitations.

Rule 93. (1) The 15 hours of continuing education required pursuant to R 338.4991(2) for the renewal of a veterinary technician license must satisfy all of the following:

(a) No more than 12 hours are earned during one 24-hour period.

(b) Credit for a continuing education program or activity that is identical or substantially identical to a program or activity for which the licensee has already earned credit during the renewal period is not granted.

(c) A minimum of 10 hours of continuing education is scientific in nature. Scientific in nature includes: the science of diagnosis, treatment, and prevention of disease as it relates directly to a patient or topics of public veterinary practice, epidemiology, food safety, public animal health, animal welfare, or antimicrobial stewardship.

(d) A minimum of 5 hours shall be completed live and in-person.

(e) No more than 5 hours shall be earned collectively for activities (2)c-g.

(2) The board considers any of the following as acceptable continuing education:

<table>
<thead>
<tr>
<th>Activity Code</th>
<th>Activity and Proof of Completion</th>
<th>Number of continuing education hours granted/permit for activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Attendance at or participation in a continuing education program or activity related to practice as a veterinary technician or any nonclinical subject relevant to practice as a veterinary technician in a veterinary practice, education, administration, management, or science which includes, but is not limited to, live, in-person programs; interactive or monitored teleconferences, audio-conferences, or web-based programs; online programs; and journal articles or other self-study programs approved or offered by any of the following:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• American Association of Veterinary State Board (AAVSB) Registry of Continuing Education (RACE).</td>
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<tr>
<td></td>
<td>• American Veterinary Medical Association (AVMA).</td>
<td></td>
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<td></td>
<td>• World Veterinary Association (WVA).</td>
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</tbody>
</table>

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.
- Michigan Veterinary Medical Association (MVMA).
- Michigan Association of Veterinary Technicians (MAVT).
- A state veterinary board of another state.
- Local, state or regional professional organization.
- Member institution of the Association of American Veterinary Medical Colleges (AAVMC).
- All AVMA constituent allied organizations and recognized veterinary specialty organizations.
- AVMA accredited veterinary technician program.

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, the sponsor’s name or the name of the organization that approved the activity for continuing education credit, the name of the program or activity, and the date on which the program was held or the activity completed.

<table>
<thead>
<tr>
<th>b</th>
<th>Attendance at or participation in a continuing education program or activity related to practice as a veterinary technician which includes, but is not limited to: live-in person programs; interactive or monitored teleconferences; web-based programs; online programs; and journal articles or other self-study programs approved by or offered by any of the following:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- American Medical Association.</td>
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<tr>
<td></td>
<td>- Michigan State Medical Society.</td>
</tr>
<tr>
<td></td>
<td>- Accreditation Council for Continuing Medical Education.</td>
</tr>
<tr>
<td></td>
<td>- Educational courses offered by regionally accredited colleges and universities relating to the husbandry of</td>
</tr>
</tbody>
</table>

The number of continuing education hours for a specific activity or program is the number of hours approved by the sponsor or approving organization for the specific program or activity. A maximum of 2 hours of continuing education may be earned for this activity in each renewal period.
food producing animals.

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, the sponsor’s name or the name of the organization that approved the activity, and the date on which the program was held or the activity completed.

c Initial presentation of a continuing education program related to practice as a veterinarian technician provided to a state, regional, national, or international veterinary medicine organization.

To receive credit, the presentation must not be part of the licensee’s regular job description and must be approved or offered for continuing education credit by any of the following:

- AAVSB-RACE.
- AVMA.
- WVA.
- MVMA.
- MAVT.
- A state veterinary board of another state.
- American Medical Association.
- Michigan State Medical Society.
- Accreditation Council for Continuing Medical Education.
- Member institution of the AAVMC.
- All AVMA constituent allied organizations and recognized veterinary specialty organizations.
- Educational courses offered by regionally accredited colleges and universities relating to the husbandry of food producing animals.

If audited, the licensee shall submit a copy of the presentation notice or advertisement showing the date of the presentation, the

Two hours of continuing education is granted for each 50 to 60 minutes of presentation. No additional credit is granted for preparation of the presentation. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period.
<p>| | | |</p>
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</table>
| licensee’s name listed as presenter, and the name of the organization that approved or offered the presentation for continuing education credit. | d | Initial publication of an article related to practice as a veterinary technician in a peer-reviewed journal. 

If audited, the licensee shall submit a copy of the publication that identifies the licensee as the author or a publication acceptance letter. | Five hours of continuing education is granted for serving as the primary author. Two hours of continuing education is granted for serving as the secondary author. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period. |
| e | Initial publication of a chapter related to practice as a veterinary technician in a professional or peer-reviewed text book. 

If audited, the licensee shall submit a copy of the publication that identifies the licensee as the author or a publication acceptance letter. | Five hours of continuing education is granted for serving as the primary author. Two hours of continuing education is granted for serving as the secondary author. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period. |
| f | Service as a clinical instructor for veterinary technician students engaged in an educational program that satisfies the requirements of R 338.4978. 

To receive credit, the clinical instructorship shall not be licensee’s primary employment function. 

If audited, the licensee shall submit proof of scheduled instructional hours and a letter from the program director verifying the licensee’s role. | Two hours of continuing education is granted for each 50 to 60 minutes of scheduled instruction. Additional credit for preparation of a lecture is not to be granted. A maximum of 5 hours may be earned for this activity in each renewal period. |
| g | Participation on a state or national committee, board, council, or association related to practice as a veterinary technician. A committee, board, council, or association is considered acceptable by the board if it enhances the participant’s knowledge and understanding of practice as a veterinary technician. 

If audited, the licensee shall submit | Two hours of continuing education is granted for each committee, board, council, or association. A maximum of 2 hours of continuing education may be earned for this activity in each renewal period. |
| documentation verifying the licensee’s participation in at least 75% of the regularly scheduled meetings of the committee, board, council, or association. |
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of environmental quality by sections 5503 and 5512 of 1994 PA 451, MCL 324.5503 and 324.5512.

R 336.1212, R 336.1224, R 336.1226, and R 336.1285 of the Michigan Administrative Code are amended as follows:

PART 2.  AIR USE APPROVAL

R 336.1212  Administratively complete applications; insignificant activities; streamlining applicable requirements; emissions reporting and fee calculations.

Rule 212.  (1) A timely and administratively complete application for a stationary source subject to the requirements of R 336.1210 shall meet the requirements of R 336.1210(2) and shall contain all information that is necessary to implement and enforce all applicable requirements that include a process-specific emission limitation or standard or to determine the applicability of those requirements.

(2) All of the following activities are considered to be insignificant activities at a stationary source and need not be included in an administratively complete application for a renewable operating permit:

(a) Repair and maintenance of grounds and structures.
(b) All activities and changes pursuant to R 336.1285(2)(a) to (f); however, if any compliance monitoring requirements in the renewable operating permit would be affected by the change, then application shall be made to revise the permit pursuant to R 336.1216.
(c) All activities and changes pursuant to R 336.1287(2)(f) to (h); however, if any compliance monitoring requirements in the renewable operating permit would be affected by the change, then application shall be made to revise the permit pursuant to R 336.1216.
(d) Use of office supplies.
(e) Use of housekeeping and janitorial supplies.
(f) Sanitary plumbing and associated stacks or vents.
(g) Temporary activities related to the construction or dismantlement of buildings, utility lines, pipelines, wells, earthworks, or other structures.
(h) Storage and handling of drums or other transportable containers that are sealed during storage and handling.
(i) Fire protection equipment, firefighting and training in preparation for fighting fires, pursuant to R 336.1310.
(j) Use, servicing, and maintenance of motor vehicles, including cars, trucks, lift trucks, locomotives, aircraft, or watercraft, except where the activity is subject to an applicable requirement. The applicable requirement or the emissions of those air contaminants addressed by the applicable requirement shall be included in a timely and administratively complete application pursuant to R 336.1210. Examples of applicable requirements may include an applicable requirement for a fugitive dust control or operating program or an applicable requirement to include fugitive emissions pursuant to R 336.1211(1)(a)(ii). For the purpose of this subdivision, the maintenance of motor vehicles does not include painting or refinishing.

(k) Construction, repair, and maintenance of roads or other paved or unpaved areas, except where the activities are subject to an applicable requirement. The applicable requirement or the emissions of the air contaminants addressed by the applicable requirement shall be included in a timely and administratively complete application pursuant to R 336.1210. Examples of applicable requirements include an applicable requirement for a fugitive dust control or operating program or an applicable requirement to include fugitive emissions pursuant to R 336.1211(1)(a)(ii).

(l) Piping and storage of sweet natural gas, including venting from pressure relief valves and purging of gas lines.

(3) The following process or process equipment need not be included in an administratively complete application for a renewable operating permit, unless the process or process equipment is subject to applicable requirements that include a process-specific emission limitation or standard:

(a) Cooling and ventilation equipment listed in R 336.1280(2)(b) to (e).

(b) Cleaning, washing, and drying equipment listed in R 336.1281(2)(a) to (f) and (i) to (k).

(c) Electrically heated furnaces, ovens, and heaters listed in R 336.1282(2)(a) and equipment listed in R 336.1282(2)(c) to (f).

(d) Process and process equipment and other equipment listed in R 336.1283 not excluded in R 336.1283(3).

(e) Containers listed in R 336.1284(2)(a), (c), (d), (h), and (k) to (m).

(f) Miscellaneous equipment listed in R 336.1285(2)(h), (i), (k) to (t), (v) to (ii), (kk), and (ll) except for equipment listed in R 336.1285(2)(l)(vi)(C), (r)(iv), and (dd)(iii).

(g) Surface-coating equipment listed in R 336.1287(2)(a) and (c).

(h) Concrete batch production equipment listed in R 336.1289(2)(a) to (c).

(i) Emission units that have limited emissions and meet the criteria in R 336.1290.

(j) Emission units that have limited emissions and meet the criteria in R 336.1291.
(5) As a part of an application for a renewable operating permit, a person may seek to establish that certain terms or conditions of a permit to install, permit to operate, or order entered pursuant to the act are not appropriate to be incorporated into the renewable operating permit or should be modified to provide for consolidation or clarification of the applicable requirements. An application for a renewable operating permit may include information necessary to demonstrate any of the following:

(a) That a term or condition of a permit to install, permit to operate, or order entered pursuant to the act is no longer an applicable requirement.

(b) That a term or condition of a permit to install, permit to operate, or order entered pursuant to the act should be modified to provide for consolidation or clarification of the applicable requirement. A person shall demonstrate that the modification results in enforceable applicable requirements that are equivalent to the applicable requirements contained in the original permit or order and that the equivalent requirements do not violate any other applicable requirement.

(c) That the equipment should be combined into emission units different from the emission units contained in a permit to install, permit to operate, or order entered pursuant to the act to provide for consolidation or clarification of the applicable requirement. A person shall demonstrate that the realignment of the emission units results in enforceable applicable requirements which are equivalent to the applicable requirements contained in the original permit or order and that the equivalent requirements do not violate any other applicable requirement.

(6) Beginning with the annual report of emissions required pursuant to R 336.202 and section 5503(k) of the act for the first calendar year after a stationary source becomes a major source as defined by R 336.1211(1)(a), each stationary source subject to the requirements of this rule shall report the emissions, or the information necessary to determine the emissions, of each regulated air pollutant. The information shall be submitted utilizing the emissions inventory forms provided by the department. For the purpose of this subrule, "regulated air pollutant" means all of the following:

(a) Nitrogen oxides or any volatile organic compound.

(b) A pollutant for which a national ambient air quality standard has been promulgated under the clean air act.

(c) A pollutant that is subject to any standard promulgated under section 111 of the clean air act.

(d) A class I or II substance that is subject to a standard promulgated under or established by title VI of the clean air act.

(e) A pollutant that is subject to a standard promulgated under section 112 or other requirements established under section 112 of the clean air act, except for pollutants regulated solely pursuant to section 112(r) of the clean air act. Pollutants subject to a standard promulgated or other requirements established under section 112 of the clean air act include both of the following:

(i) A pollutant that is subject to requirements under section 112(j) of the clean air act. If the administrator of the United States environmental protection agency fails to promulgate a standard by the date established pursuant to section 112(e) of the clean air act, any pollutant for which a stationary source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the clean air act.

(ii) A pollutant for which the requirements of section 112(g)(2) of the clean air act have been met, but only with respect to the specific stationary source that is subject to the section 112(g)(2) requirement.

(7) For the purpose of calculating the annual air quality fee pursuant to section 5522 of the act, the actual emissions of a fee-subject air pollutant from all process or process equipment shall be determined. However, the actual emissions of a fee-subject air pollutant from process or process equipment listed pursuant to subrules (2) to (4) of this rule need not be calculated unless either of the following provisions are met:
(a) The process or process equipment is subject to a process-specific emission limitation or standard for the specific fee-subject air pollutant.

(b) The actual emissions from the process or process equipment exceed 10% of significant, as defined in R 336.1119(e), for that air pollutant.

R 336.1224 Best available control technology for toxics (T-BACT); requirements for new and modified sources of air toxics; exemptions.

Rule 224. (1) A person who is responsible for any proposed new or modified emission unit or units for which an application for a permit to install is required by R 336.1201 and which emits a toxic air contaminant shall not cause or allow the emission of the toxic air contaminant from the proposed new or modified emission unit or units in excess of the maximum allowable emission rate based on the application of best available control technology for toxics (T-BACT), except as provided in subrule (2) of this rule.

(2) The requirement for T-BACT in subrule (1) of this rule does not apply to any of the following:

(a) An emission unit or units for which standards have been promulgated under section 112(d) of the clean air act or for which a control technology determination has been made under section 112(g) or 112(j) for any of the following:
   (i) The hazardous pollutants listed in section 112(b) of the clean air act.
   (ii) Other toxic air contaminants that are volatile organic compounds, if the standard promulgated under section 112(d) of the clean air act or the determination made under sections 112(g) or 112(j) controls similar compounds that are also volatile organic compounds.
   (iii) Other toxic air contaminants that are particulate matter, if the standard promulgated under section 112(d) of the clean air act or the determination made under section 112(g) or 112(j) controls similar compounds that are also particulate matter.

(b) An emission unit or units that is in compliance with all of the following:
   (i) The maximum allowable emissions of each toxic air contaminant from the proposed new or modified emission unit or units is 0.1 pound per hour or less for a carcinogen or 1.0 pound per hour or less for any other toxic air contaminant.
   (ii) The applicable initial threshold screening level for the toxic air contaminant is more than 200 micrograms per cubic meter.
   (iii) The applicable initial risk screening level is more than 0.1 micrograms per cubic meter.

(c) An emission unit or units which only emits toxic air contaminants that are particulates or volatile organic compounds and which is in compliance with best available control technology requirements, including R 336.1702, or lowest achievable emission rate requirements for particulates and volatile organic compounds.

(d) Engines, turbines, boilers and process heaters burning solely natural gas, diesel fuel (No. 2 fuel oil), or biodiesel, of up to 100 MMBTU per hour, provided that the effective stack is vertical and unobstructed and is at least 1.5 times the building height, and the building setback is at least 100 feet from the property line.

(e) Natural gas fuel burning equipment or natural gas fired equipment that meet all the following:
   (i) A maximum natural gas usage rate of 50,000 cubic feet per hour or less.
   (ii) Emissions from the source are discharged from an unobstructed stack oriented vertically upwards.

(f) Air pollution control equipment that combusts only natural gas as fuel.
Rule 226. The health-based screening level requirement provided in R 336.1225(1) does not apply to any of the following:

(a) Emissions of a toxic air contaminant that meet both of the following requirements:
   (i) The emission rate is less than 10 pounds per month and 0.14 pound per hour.
   (ii) The toxic air contaminant is not a carcinogen or a high concern toxic air contaminant listed in Table 20.

Table 20. List of High Concern Toxic Air Contaminants

<table>
<thead>
<tr>
<th>CHEMICAL NAME</th>
<th>CAS NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,4,6-trinitrotoluene (TNT)</td>
<td>118-96-7</td>
</tr>
<tr>
<td>2-diethylaminoethanol</td>
<td>100-37-8</td>
</tr>
<tr>
<td>Acrolein</td>
<td>107-02-8</td>
</tr>
<tr>
<td>allyl chloride</td>
<td>107-05-1</td>
</tr>
<tr>
<td>alpha chloroacetophenone</td>
<td>532-27-4</td>
</tr>
<tr>
<td>alpha-amylase</td>
<td>9000-90-2</td>
</tr>
<tr>
<td>antimony compounds</td>
<td></td>
</tr>
<tr>
<td>Arsine</td>
<td>7784-42-1</td>
</tr>
<tr>
<td>barium compounds</td>
<td></td>
</tr>
<tr>
<td>Biphenyl</td>
<td>92-52-4</td>
</tr>
<tr>
<td>Bromine</td>
<td>7726-95-6</td>
</tr>
<tr>
<td>chlorine dioxide</td>
<td>10049-04-4</td>
</tr>
<tr>
<td>chlormadinone acetate</td>
<td>302-22-7</td>
</tr>
<tr>
<td>chloryprifos</td>
<td>2921-88-2</td>
</tr>
<tr>
<td>cobalt compounds</td>
<td></td>
</tr>
<tr>
<td>Colophony</td>
<td>8050-09-7</td>
</tr>
<tr>
<td>dibromochloropropane</td>
<td>96-12-8</td>
</tr>
<tr>
<td>dibutyltin oxide</td>
<td>818-08-6</td>
</tr>
<tr>
<td>Dichlorvos</td>
<td>62-73-7</td>
</tr>
<tr>
<td>diisocyanate compounds</td>
<td></td>
</tr>
<tr>
<td>dimethyl sulfate</td>
<td>77-78-1</td>
</tr>
<tr>
<td>glutaraldehyde</td>
<td>111-30-8</td>
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<tr>
<td>halogenated dimethylhydantoin compounds</td>
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<tr>
<td>isocyanate compounds</td>
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<tr>
<td>maleic anhydride</td>
<td>108-31-6</td>
</tr>
<tr>
<td>manganese compounds</td>
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<tr>
<td>melengesterol acetate</td>
<td>2919-66-6</td>
</tr>
<tr>
<td>mercury compounds</td>
<td></td>
</tr>
<tr>
<td>octachlorostyrene</td>
<td>29082-74-7</td>
</tr>
<tr>
<td>osmium tetroxide</td>
<td>20816-12-0</td>
</tr>
<tr>
<td>pentachlorobenzene</td>
<td>608-93-5</td>
</tr>
<tr>
<td>platinum soluble salt</td>
<td>7440-06-4</td>
</tr>
<tr>
<td>selenium compounds</td>
<td></td>
</tr>
<tr>
<td>Subtilisins (proteolytic enzymes)</td>
<td></td>
</tr>
<tr>
<td>sulfuric acid (including sulfur trioxide and oleum)</td>
<td>7664-93-9</td>
</tr>
</tbody>
</table>
CHEMICAL NAME | CAS NUMBER
--- | ---
tetrachlorobenzene compounds\(^6\) |  
thallium compounds\(^1\) |  
Vanadium pentaoxide | 1314-62-1

\(^1\) These listings include any unique chemical substance that contains the named chemical (for example, antimony, barium, cobalt, diisocyanate, isocyanate, manganese, mercury, selenium, and thallium) as part of the chemical structure.

\(^2\) Diisocyanate compounds include compounds with 2 of the isocyanate functional groups (\(-CNCO\)).

\(^3\) Halogenated dimethylhydantoin compounds include those compounds with a hydantoin infrastructure (NHCONHCOCH\(_2\)) substituted by 2 methyl groups at the 5 position on the ringed structure and halogens at the 1 or 3 position or the 1 and 3 position.

\(^4\) Isocyanate compounds include compounds with 1 or more of the isocyanate functional groups (\(CNCO\)).

\(^5\) Subtilisins (proteolytic enzymes) includes any members of the group of proteolytic enzymes derived from *Bacillus subtilis* or closely related organisms.

\(^6\) Tetrachlorobenzenes includes compounds that consist of a benzene ring substituted with 4 chlorine atoms.

(b) An emission unit or units for which standards have been promulgated under section 112(f) of the clean air act for hazardous air pollutants listed under section 112(b) of the clean air act.

c) Air contaminants and emission units that are regulated by the following national emission standards for hazardous air pollutants, 40 C.F.R. part 61:

(i) Subpart B, National emission standard for radon emissions from underground uranium mines.

(ii) Subpart C, National emission standards for beryllium.

(iii) Subpart D, National emission standard for beryllium rocket motor firing.

(iv) Subpart E, National emission standard for mercury.

(v) Subpart F, National emission standard for vinyl chloride.

(vi) Subpart H, National emission standard for emissions of radionuclide from department of energy facilities.

(vii) Subpart I, National emission standard for radionuclide emissions from federal facilities other than nuclear regulatory commission licensees and not covered by subpart H.

(viii) Subpart J, National emission standard for equipment leaks (fugitive emission sources) of benzene.

(ix) Subpart K, National emission standard for radionuclide emissions from elemental phosphorus plants.

(x) Subpart L, National emission standard for benzene emissions from coke by-product recovery plants.

(xi) Subpart M, National emission standard for asbestos.

(xii) Subpart N, National emission standard for inorganic arsenic emissions from glass manufacturing plants.

(xiii) Subpart O, National emission standard for inorganic arsenic emissions from primary copper smelters.

(xiv) Subpart P, National emission standard for inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities.

(xv) Subpart V, National emission standard for equipment leaks (fugitive emission sources).

(xvi) Subpart W, National emission standard for radon emissions from licensed uranium mill tailings.
(xvii) Subpart Y, National emission standard for benzene emissions from benzene storage vessels.
(xviii) Subpart BB, National emission standards for benzene emissions from benzene transfer operations.
(xix) Subpart FF, National emission standards for benzene waste operations.
(d) Emissions of a toxic air contaminant if it is demonstrated, on a case-by-case basis, to the satisfaction of the department, that the proposed new or modified emission unit or units will not cause or contribute to a violation of the provisions of R 336.1901. The demonstration shall include all relevant scientific information such as the following:
   (i) All available information on the health effects of the toxic air contaminant.
   (ii) The levels at which adverse health or environmental effects have occurred.
   (iii) Net air quality benefits that would occur as a result of replacing an existing facility.
   (iv) Actual exposure levels and duration of exposure.
   (v) The uncertainty in data or analysis.
   (vi) Other supporting information requested by the department.
(e) Engines, turbines, boilers, and process heaters burning solely natural gas, diesel fuel (No. 2 fuel oil), or biodiesel, of up to 100 MMBTU per hour, provided that the effective stack is vertical and unobstructed and is at least 1.5 times the building height, and the building setback is at least 100 feet from the property line.
(f) Natural gas fuel burning equipment or natural gas fired equipment that meet all the following:
   (i) A maximum natural gas usage rate of 50,000 cubic feet per hour or less,
   (ii) Emissions from the source are discharged from an unobstructed stack oriented vertically upwards.
   (iii) With a stack height at least 1.5 times the height of the building most influential in determining the predicted ambient impacts of the emissions.
(g) Air pollution control equipment that combusts only natural gas as fuel.

R 336.1285 Permit to install exemptions; miscellaneous.
   Rule 285. (1) This rule does not apply if prohibited by R 336.1278 and unless the requirements of R 336.1278a have been met.
   (2) The requirement of R 336.1201(1) to obtain a permit to install does not apply to any of the following:
      (a) Routine maintenance, parts replacement, or other repairs that are considered by the department to be minor, or relocation of process equipment within the same geographical site not involving any appreciable change in the quality, nature, quantity, or impact of the emission of an air contaminant therefrom. Examples of parts replacement or repairs considered by the department to be minor include the following:
         (i) Replacing bags in a baghouse.
         (ii) Replacing wires, plates, rappers, controls, or electric circuitry in an electrostatic precipitator that does not measurably decrease the design efficiency of the unit.
         (iii) Replacement of fans, pumps, or motors that does not alter the operation of a source or performance of air pollution control equipment.
         (iv) Boiler tubes.
         (v) Piping, hoods, and ductwork.
         (vi) Replacement of engines, compressors, or turbines as part of a normal maintenance program.
      (b) Changes in a process or process equipment which do not involve installing, constructing, or reconstructing an emission unit and which do not involve any meaningful change in the quality and nature or any meaningful increase in the quantity of the emission of an air contaminant therefrom.
(i) Examples of such changes in a process or process equipment include, but are not limited to, the following:

(A) Change in the supplier or formulation of similar raw materials, fuels, or paints and other coatings.

(B) Change in the sequence of the process.

(C) Change in the method of raw material addition.

(D) Change in the method of product packaging.

(E) Change in temperature, pressure, or other similar operating parameters that do not affect air cleaning device performance.

(F) Installation of a floating roof on an open top petroleum storage tank.

(G) Replacement of a fuel burner in a boiler with an equally or more thermally efficient burner.

(H) Lengthening a paint drying oven to provide additional curing time.

(c) Changes in a process or process equipment that do not involve installing, constructing, or reconstructing an emission unit and that involve a meaningful change in the quality and nature or a meaningful increase in the quantity of the emission of an air contaminant resulting from any of the following:

(i) Changes in the supplier or supply of the same type of virgin fuel, such as coal, no. 2 fuel oil, no. 6 fuel oil, or natural gas.

(ii) Changes in the location, within the storage area, or configuration of a material storage pile or material handling equipment.

(iii) Changes in a process or process equipment to the extent that such changes do not alter the quality and nature, or increase the quantity, of the emission of the air contaminant beyond the level which has been described in and allowed by an approved permit to install, permit to operate, or order of the department.

(d) Reconstruction or replacement of air pollution control equipment with equivalent or more efficient equipment.

(e) Installation, construction, or replacement of air pollution control equipment for an existing process or process equipment for the purpose of complying with the national emission standards of hazardous air pollutants regulated under section 112 of the clean air act.

(f) Installation or construction of air pollution control equipment for an existing process or process equipment if the control equipment itself does not actually generate a significant amount of criteria air contaminants as defined in R 336.1119(e) or a meaningful increase in the quantity of the emissions of toxic air contaminants or a meaningful change in the quality and nature of toxic air contaminants.

(g) Internal combustion engines that have less than 10,000,000 Btu/hour maximum heat input.

(h) Vacuum pumps in laboratory or pilot plant operations.

(i) Brazing, soldering, welding, or plasma coating equipment.

(j) Portable torch cutting equipment that does not cause a nuisance or adversely impact surrounding areas and is used for either of the following:

(i) Activities performed on a non-production basis, such as maintenance, repair, and dismantling.

(ii) Scrap metal recycling and/or demolition activities that have emissions that are released only into the general in-plant environment and/or that have externally vented emissions equipped with an appropriately designed and operated enclosure and fabric filter.

(k) Grain, metal, or mineral extrusion presses.

(l) The following equipment and any exhaust system or collector exclusively serving the equipment:

(i) Equipment used exclusively for bending, forming, expanding, rolling, forging, pressing, drawing, stamping, spinning, or extruding either hot or cold metals.

(ii) Die casting machines.
(iii) Equipment for surface preparation of metals by use of aqueous solutions, except for acid solutions.

(iv) Atmosphere generators used in connection with metal heat treating processes.

(v) Equipment used exclusively for sintering of glass or metals, but not exempting equipment used for sintering metal-bearing ores, metal scale, clay, flyash, or metal compounds.

(vi) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, sand blast cleaning, shot blasting, shot peening, or polishing ceramic artwork, leather, metals, graphite, plastics, concrete, rubber, paper board, wood, wood products, stone, glass, fiberglass, or fabric which meets any of the following:
   (A) Equipment used on a nonproduction basis.
   (B) Equipment that has emissions that are released only into the general in-plant environment.
   (C) Equipment that has externally vented emissions controlled by an appropriately designed and operated fabric filter collector that, for all specified operations with metal, is preceded by a mechanical precleaner.

(vii) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, including any of the following:
   (A) Blueprint machines.
   (B) Photocopiers.
   (C) Mimeograph machines.
   (D) Photographic developing processes.
   (E) Microfiche copiers.

(viii) Battery charging operations.

(ix) Pad printers.

(m) Lagoons, process water treatment equipment, wastewater treatment equipment, and sewage treatment equipment, except for any of the following:
   (i) Lagoons and equipment primarily designed to treat volatile organic compounds in process water, wastewater, or groundwater, unless the emissions from the lagoons and equipment are only released into the general in-plant environment.
   (ii) Sludge incinerators and dryers.
   (iii) Heat treatment processes.

(n) Livestock and livestock handling systems from which the only potential air contaminant emission is odorous gas.

(o) Equipment for handling and drying grain on a farm.

(p) Commercial equipment used for grain unloading, handling, cleaning, storing, loading, or drying in a column dryer that has a column plate perforation of not more than 0.094 inch or a rack dryer in which exhaust gases pass through a screen filter no coarser than 50 mesh.

(q) Portable steam deicers that have a heat input of less than 1,000,000 Btu's per hour.

(r) Equipment used for any of the following metal treatment processes if the process emissions are only released into the general in-plant environment:
   (i) Surface treatment.
   (ii) Pickling.
   (iii) Acid dripping.
   (iv) Cleaning.
   (v) Etching.
   (vi) Electropolishing.
   (vii) Electrolytic stripping or electrolytic plating.

(s) Emissions or airborne radioactive materials specifically authorized pursuant to a United States nuclear regulatory commission license.
(t) Equipment for the mining, loading, unloading, and screening of uncrushed sand, gravel, soil, and other inorganic soil-like materials.

(u) Solvent distillation and antifreeze reclamation equipment that has a rated batch capacity of not more than 55 gallons.

(v) Any vapor vacuum extraction soil remediation process where vapor is treated in a control device and all of the vapor is reinjected into the soil such that there are no emissions to the atmosphere during normal operation.

(w) Air strippers controlled by an appropriately designed and operated dual stage carbon adsorption or incineration system that is used exclusively for the cleanup of gasoline, fuel oil, natural gas condensate, and crude oil spills, provided the following conditions are met:

(A) For dual stage carbon adsorption, the first canister of the dual stage carbon adsorption is monitored for breakthrough at least once every 2 weeks and replaced if breakthrough is detected.

(B) For incineration, a thermal oxidizer (incinerator) is operated at a minimum temperature of 1,400 degrees Fahrenheit in the combustion chamber and a catalytic oxidizer is operated at a minimum temperature of 600 degrees Fahrenheit at the inlet of the catalyst bed. A temperature indication device which continually displays the operating temperature of the oxidizer must be installed, maintained, and operated in accordance with the manufacturer’s specifications.

(x) Any asbestos removal or stripping process or process equipment.

(y) Ozonization process or process equipment.

(z) Combustion of boiler cleaning solutions that were solely used for or intended for cleaning internal surfaces of boiler tubes and related steam and water cycle components if the solution burned is not designated, by listing or specified characteristic, as hazardous pursuant to federal regulations or state rules.

(aa) Landfills and associated flares and leachate collection and handling equipment.

(bb) A residential, municipal, commercial, or agricultural composting process or process equipment.

(cc) Gun shooting ranges controlled by appropriately designed and operated high-efficiency particulate filters.

(dd) Equipment for handling, conveying, cleaning, milling, mixing, cooking, drying, coating, and packaging grain-based food products and ingredients which meet any of the following:

(i) Equipment is used on a nonproduction basis.

(ii) Equipment has emissions that are released only into the general in-plant environment.

(iii) Equipment has externally vented emissions controlled by baghouse, cyclone, rotoclone, or scrubber which is installed, maintained, and operated in accordance with the manufacturer’s specifications or the owner or operator shall develop a plan that provides to the extent practicable for the maintenance and operation of the equipment in the manner consistent with good air pollution control practices for minimizing emissions. The air cleaning device shall be equipped with a device to monitor appropriate indicators of performance, for example, static pressure drop, water pressure, and water flow rate.

(ee) Open burning as specified in R 336.1310.

(ff) Fire extinguisher filling, testing, spraying, and repairing.

(gg) Equipment used for chipping, flaking, or hogging wood or wood residues that are not demolition waste materials.

(hh) A process that uses only hand-held aerosol spray cans, including the puncturing and disposing of the spray cans.

(ii) Fuel cells that use phosphoric acid, molten carbonate, proton exchange membrane, or solid oxide or equivalent technologies.

(jj) Any vacuum truck used at a remediation site as a remedial action method, such as non-emergency response, used in a manner described by any of the following:
(i) It is not used more than 2 days in a month without organic compound emission control.
(ii) It is not used more than 6 days in a month and organic compound emissions are controlled with at least 90% efficiency.
(iii) The composition of the material being removed is greater than 90% water.
(kk) Air sparging systems where the sparged air is emitted back to the atmosphere only by natural diffusion through the contaminated medium and covering soil or other covering medium.
(ii) Air separation or fractionation equipment used to produce nitrogen, oxygen, or other atmospheric gases.
(mm) Routine and emergency venting of natural gas from transmission and distribution systems or field gas from gathering lines which meet any of the following:
   (i) Routine or emergency venting of natural gas or field gas in amounts less than or equal to 1,000,000 standard cubic feet per event. For purposes of this rule, an emergency is considered an unforeseen event that disrupts normal operating conditions and poses a threat to human life, health, property or the environment if not controlled immediately.
   (ii) Venting of natural gas in amounts greater than 1,000,000 standard cubic feet for routine maintenance or relocation of transmission and distribution systems provided that both of the following requirements are met:
      (A) The owner or operator notifies the department prior to a scheduled pipeline venting.
      (B) The venting includes, at a minimum, measures to assure safety of employees and the public, minimize impacts to the environment, and provide necessary notification in accordance with the Michigan gas safety standards, the federal pipeline and hazardous materials safety administration standards, and the federal energy regulatory commission standards, as applicable.
   (iii) Venting of field gas in amounts greater than 1,000,000 standard cubic feet for routine maintenance or relocation of gathering pipelines provided that both of the following are met:
      (A) The owner or operator notifies the department prior to a scheduled pipeline venting.
      (B) The venting includes, at a minimum, measures to assure safety of employees and the public, minimize impacts to the environment, and provide necessary notification in accordance with the Michigan department of environmental quality, office of oil, gas and minerals, and the Michigan public service commission standards, as applicable.
   (iv) Emergency venting of natural gas or field gas in amounts greater than 1,000,000 standard cubic feet per event, provided that the owner or operator notifies the pollution emergency alert system within 24 hours of an emergency pipeline venting. For purposes of this rule, an emergency is considered an unforeseen event that disrupts normal operating conditions and poses a threat to human life, health, property or the environment if not controlled immediately.
(nn) Craft distillery operations if all of the following are met:
   (i) Production of all spirits does not exceed 1,500 gallons per month, as produced.
   (ii) Monthly production records are maintained on file for the most recent 5-year period and are made available to the department upon request.
(oo) Equipment or systems, or both, used exclusively to mitigate vapor intrusion of an indoor space that is not on the property where the release of the hazardous substance occurred, and which has an exhaust that meets all of the following requirements:
   (i) Unobstructed vertically upward.
   (ii) At least 12 inches above the nearest eave of the roof or at least 12 inches above the surface of the roof at the point of penetration.
   (iii) More than 10 feet above the ground.
   (iv) More than 2 feet above or more than 10 feet away from windows, doors, other buildings, and other air intakes.
(3) For the purposes of this rule, “meaningful” with respect to toxic air contaminant emissions is defined as follows:

(i) “Meaningful change in the quality and nature” means a change in the toxic air contaminants emitted that results in an increase in the cancer or non-cancer hazard potential that is 10% or greater, or which causes an exceedance of a permit limit. The hazard potential is the value calculated for each toxic air contaminant involved in the proposed change, before and after the proposed change, and it is the potential to emit (hourly averaging time) divided by the initial risk screening level or the adjusted annual initial threshold screening level (ITSL), for each toxic air contaminant and screening level involved in the proposed change. The adjusted annual ITSL is the ITSL that has been adjusted as needed to an annual averaging time utilizing averaging time conversion factors in accordance with the models and procedures in 40 C.F.R §51.160(f) and Appendix W, adopted by reference in R 336.1902. The percent increase in the hazard potential is determined from the highest cancer and non-cancer hazard potential before and after the proposed change. The potential to emit before the proposed change is the baseline potential to emit established in an approved permit to install application on or after April 17, 1992, that has not been voided or revoked, unless it has been voided due to incorporation into a renewable operating permit.

(ii) “Meaningful increase in the quantity of the emission” means an increase in the potential to emit (hourly averaging time) of a toxic air contaminant that is 10% or greater compared to a baseline potential to emit, or which results in an increase in the cancer or non-cancer hazard potential that is 10% or greater, or which causes an exceedance of a permit limit. The baseline is the potential to emit established in an approved permit to install application on or after April 17, 1992 that has not been voided or revoked, unless it has been voided due to incorporation into a renewable operating permit.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of environmental quality by MCL 324.5503 and MCL 324.5512)

R 336.2801, R 336.2802, R 336.2807, R 336.2809, R 336.2810, R 336.2813, R 336.2816, and R 336.2823 of the Michigan Administrative Code are amended, and R 336.2801a of the Code is rescinded, as follows:

PART 18. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY

R 336.2801  Definitions.

Rule 1801. The following definitions apply to terms used in this part. If a term defined in this part is also defined elsewhere in the rules, then the definition contained here applies for this part only.

(a) “Actual emissions” means the actual rate of emissions of a regulated new source review pollutant from an emissions unit, as determined under R 336.1101(b), except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a plant wide applicability limit under R 336.2823. Instead, the terms “projected actual emissions” and “baseline actual emissions” shall apply for those purposes.

(b) “Baseline actual emissions” means the rate of emissions, in tons per year, of a regulated new source review pollutant, as determined by the following:

(i) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. All of the following provisions apply:

(A) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(B) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.
(C) For a regulated new source review pollutant, if a project involves multiple emissions units, then only 1 consecutive 24-month period shall be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period may be used for each regulated new source review pollutant.

(D) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (i)(B) of this subdivision.

(ii) For an existing emissions unit, other than an electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the department for a permit required by R 336.1201, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990. All of the following provisions apply:

(A) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(B) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(C) The average rate shall be adjusted downward to exclude emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the United States environmental protection agency proposed or promulgated under 40 C.F.R. part 63, adopted by reference in R 336.1902, then the baseline actual emissions need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or maintenance plan submitted to the U.S. environmental protection agency.

(D) For a regulated new source review pollutant, if a project involves multiple emissions units, then only 1 consecutive 24-month period shall be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period may be used for each regulated new source review pollutant.

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subparagraphs (B) and (C) of this paragraph.

(iii) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(iv) For a plant wide applicability limit for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units under paragraph (i) of this subdivision, for other existing emissions units under paragraph (ii) of this subdivision, and for a new emissions unit under paragraph (iii) of this subdivision.

(c) “Baseline area” means all of the following:

(i) Any intrastate area, and every part thereof, designated as attainment or unclassifiable under section 107(d)(1) (D) or (E) of the clean air act in which the major source or major modification establishing the minor source baseline date would construct or would have an annual average air quality impact equal to or greater than 1 microgram per cubic meter for sulfur dioxide, oxides of nitrogen, or PM-10, or 0.3 microgram per cubic meter for PM 2.5 of the pollutant for which the minor source baseline date is established.
(ii) Area redesignations under section 107(d)(1) (D) or (E) of the clean air act shall not intersect or be smaller than the area of impact of any major stationary source or major modification which does either of the following:
   (A) Establishes a minor source baseline date.
   (B) Is subject to PSD regulations or new source review for major sources in nonattainment areas regulations.
(iii) Any baseline area established originally for the total suspended particulates increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that the baseline area shall not remain in effect if the department rescinds the corresponding minor source baseline date under subdivision (bb)(iv) of this rule.
(d) “Baseline concentration” means the value derived using the following procedures:
   (i) The ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include both of the following:
      (A) The actual emissions representative of sources in existence on the applicable minor source baseline date.
      (B) The allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.
   (ii) The following shall not be included in the baseline concentration and shall affect the applicable maximum allowable increase:
      (A) Actual emissions from any major stationary source on which construction commenced after the major source baseline date.
      (B) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.
(e) “Begin actual construction” means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. “A change in method of operation” refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.
(f) “Best available control technology” or “BACT” means an emissions limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated new source review pollutant, which would be emitted from any proposed major stationary source or major modification which the department -- on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs -- determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of the pollutant. Application of best available control technology shall not result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 C.F.R. parts 60 and 61, adopted by reference in R 336.2801a. If the department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, then a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. The standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of the design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.
(g) “Building, structure, facility, or installation” means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on 1 or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control, except the activities of any
vessel. Pollutant-emitting activities are part of the same industrial grouping if they have the same 2-digit major group code associated with their primary activity. Major group codes and primary activities are described in the standard industrial classification manual, 1987. For assistance in converting north American industrial classification system codes to standard industrial classification codes see http://www.census.gov/epcd/naics02/.

(h) “Clean coal technology” means any technology, including technologies applied at the pre-combustion, combustion, or post-combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

(i) “Clean coal technology demonstration project” means a project using funds appropriated under the heading "Department of Energy -- Clean Coal Technology," up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the United States Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

(j) [Reserved]

(k) “Commence,” as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and has done either of the following:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time.

(ii) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(l) “Complete” means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the department from requesting or accepting additional information.

(m) “Construction” means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, that would result in a change in emissions.

(n) “Continuous emissions monitoring system” or “CEMS” means all of the equipment that may be required to meet the data acquisition and availability requirements of these rules, to sample, condition if applicable, analyze, and provide a record of emissions on a continuous basis.

(o) “Continuous emissions rate monitoring system” or “CERMS” means the total equipment required for the determination and recording of the pollutant mass emissions rate in terms of mass per unit of time.

(p) “Continuous parameter monitoring system” or “CPMS” means all of the equipment necessary to meet the data acquisition and availability requirements of these rules, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, oxygen or carbon dioxide concentrations), and to record average operational parameter value or values on a continuous basis.

(q) “Electric utility steam generating unit” means any steam electric generating unit that is constructed for supplying more than 1/3 of its potential electric output capacity and more than 25 megawatt electrical output to any utility power distribution system for sale. Steam supplied to a steam distribution system for providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.
“Emissions unit” means any part of a stationary source that emits or would have the potential to emit any regulated new source review pollutant and includes an electric utility steam generating unit. Both of the following are types of emissions units:

(i) A new emissions unit is any emissions unit that is, or will be, newly constructed and that has existed for less than 2 years from the date the emissions unit first operated.

(ii) An existing emissions unit is any emissions unit that does not meet the definition of a new emissions unit. A replacement unit is an existing emissions unit and no creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced. A replacement unit shall meet all of the following criteria:

(A) The emissions unit is a reconstructed unit if the replacement of components of an existing facility is to such an extent that the fixed capital cost of the new components exceeds 50% of the fixed capital cost that would be required to construct a comparable entirely new facility or the emissions unit completely takes the place of an existing emissions unit.

(B) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(C) The replacement does not alter the basic design parameters of the process unit.

(D) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

“Federal land manager” means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

“High terrain” means an area having an elevation 900 feet or more above the base of the stack of a source.

“Hydrocarbon combustion flare” means either a flare used to comply with an applicable new source performance standard or maximum achievable control technology standard, including uses of flares during startup, shutdown, or malfunction permitted under such a standard, or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing not more than 230 milligrams per dry standard cubic meter hydrogen sulfide.

“Indian reservation” means any federally recognized reservation established by treaty, agreement, executive order, or act of congress.

“Indian governing body” means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

“Innovative control technology” means any system of air pollution control that has not been adequately demonstrated in practice, but may have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

“Lowest achievable emission rate” or “LAER,” for any source, means the more stringent rate of emissions based on R 336.1112(f).

“Major modification” means any of the following:

(i) Physical change in or change in the method of operation of a major stationary source that would result in both of the following:

(A) A significant emissions increase of a regulated new source review pollutant.

(B) A significant net emissions increase of that pollutant from the major stationary source.
(ii) A significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds or oxides of nitrogen shall be considered significant for ozone.

(iii) Physical change or change in the method of operation shall not include any of the following:

(A) Routine maintenance, repair, and replacement.

(B) Use of an alternative fuel or raw material by reason of any order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 or by reason of a natural gas curtailment plan under the Federal Power Act.

(C) Use of an alternative fuel by reason of an order or rule under section 125 of the clean air act.

(D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(E) Use of an alternative fuel or raw material by a stationary source which meets either of the following:

(1) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, under PSD regulations or R 336.1201(1)(a).

(2) The source is approved to use under any permit issued under PSD regulations or under R 336.1201(1)(a).

(F) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, under PSD regulations or R 336.1201(1)(a).

(G) Any change in ownership at a stationary source.

(H) [Reserved]

(I) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with both of the following:

(1) The state implementation plan.

(2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.

(J) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

(K) The reactivation of a very clean coal-fired electric utility steam generating unit.

(iv) This definition shall not apply with respect to a particular regulated new source review pollutant when the major stationary source is complying with the requirements for an actuals PAL for that pollutant. Instead, the definition of PAL major modification in R 336.2823 shall apply.

(bb) All of the following apply to major and minor source baseline dates:

(i) “Major source baseline date” means all of the following:

(A) January 6, 1975, for particulate matter and sulfur dioxide.

(B) February 8, 1988, for nitrogen dioxide.

(C) October 20, 2010 for PM 2.5

(ii) “Minor source baseline date” means the earliest date after the trigger date on which a major stationary source or a major modification subject to PSD regulations submits a complete application under the relevant regulations. The trigger date is all of the following:

(A) August 7, 1977, for particulate matter and sulfur dioxide.

(B) February 8, 1988, for nitrogen dioxide.

(C) October 20, 2011 for PM 2.5
(iii) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if both of the following occur:

(A) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(i) (D) or (E) of the clean air act for the pollutant on the date of its complete application under R 336.1201 and PSD regulations.

(B) If a major stationary source, the pollutant would be emitted in significant amounts, or, if a major modification, there would be a significant net emissions increase of the pollutant.

(iv) Any minor source baseline date established originally for the total suspended particulates increments shall remain in effect and shall apply for determining the amount of available PM-10 increments, except that the department may rescind any minor source baseline date where it can be shown, to the satisfaction of the department, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM-10 emissions.

(cc) “Major stationary source” means any of the following:

(i) Any of the following stationary sources of air pollutants which emit, or has the potential to emit, 100 tons per year or more of a regulated new source review pollutant:

(A) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.

(B) Coal cleaning plants with thermal dryers.

(C) Kraft pulp mills.

(D) Portland cement plants.

(E) Primary zinc smelters.

(F) Iron and steel mill plants.

(G) Primary aluminum ore reduction plants.

(H) Primary copper smelters.

(I) Municipal incinerators capable of charging more than 250 tons of refuse per day.

(J) Hydrofluoric, sulfuric, and nitric acid plants.

(K) Petroleum refineries.

(L) Lime plants.

(M) Phosphate rock processing plants.

(N) Coke oven batteries.

(O) Sulfur recovery plants.

(P) Carbon black plants (furnace process).

(Q) Primary lead smelters.

(R) Fuel conversion plants.

(S) Sintering plants.

(T) Secondary metal production plants.

(U) Chemical process plants. The term chemical process plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industrial Classification System codes 325193 or 312140.

(V) Fossil fuel boilers, or combinations thereof, totaling more than 250 million British thermal units per hour heat input.

(W) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.

(X) Taconite ore processing plants.

(Y) Glass fiber processing plants.

(Z) Charcoal production plants.

(ii) Any stationary source not listed in the previous subdivision which emits, or has the potential to emit, 250 tons per year or more of a regulated new source review pollutant.
(iii) Any physical change that would occur at a stationary source not otherwise qualifying under subdivision (cc) of this subrule, as a major stationary source if the change would constitute a major stationary source by itself.

(iv) A major source that is major for volatile organic compounds or oxides of nitrogen shall be considered major for ozone.

(v) The fugitive emissions of a stationary source shall not be included in determining, for any of the purposes of this rule, whether it is a major stationary source, unless the source belongs to 1 of the categories of stationary sources listed is paragraph (i) of this subdivision.

(dd) “Necessary preconstruction approvals or permits” means a permit issued under R 336.1201(1)(a) that is required by R 336.2801 to R 336.2819, R 336.2823, and R 336.2830 or R 336.1220.

(ee) “Net emissions increase” means all of the following:

(i) For any regulated new source review pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(A) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated under R 336.2802(4).

(B) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph shall be determined as provided in the definition of baseline actual emissions, except that paragraphs (b)(i)(C) and (b)(ii)(D) of this rule shall not apply.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the following:

(A) The date 5 years before construction on the particular change commences.

(B) The date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if the department has not relied on it in issuing a permit under R 336.1201(1)(a) or R 336.1214a, which permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or oxides of nitrogen that occurs before the applicable minor source baseline date is creditable only if it is required in calculating the amount of maximum allowable increases remaining available.

(v) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(vi) A decrease in actual emissions is creditable only to the extent that it meets all of the following criteria:

(A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.

(B) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins.

(C) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(vii) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. A replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(viii) The definition of actual emissions in R 336.1101(b) shall not apply for determining creditable increases and decreases after a change, instead the definitions of the terms “projected actual emissions” and “baseline emissions” shall be used.

(ff) [Reserved]
(gg) “Pollution prevention” means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants, including fugitive emissions, and other pollutants to the environment before recycling, treatment, or disposal. Pollution prevention does not mean recycling, other than certain "in-process recycling" practices, energy recovery, treatment, or disposal.

(hh) “Potential to emit” means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. A physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally enforceable and enforceable as a practical matter by the state, local air pollution control agency, or United States environmental protection agency. Secondary emissions do not count in determining the potential to emit of a stationary source.

(ii) “Predictive emissions monitoring system” or “PEMS” means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, oxygen or carbon dioxide concentrations), and calculate and record the mass emissions rate (for example, pounds per hour) on a continuous basis.

(jj) “Prevention of significant deterioration” or “PSD” program means the major source preconstruction permit program required by 40 C.F.R. §52.21, adopted by reference in R 336.1902. A permit issued under this program is a major NSR permit.

(kk) “Project” means a physical change in, or change in method of operation of, an existing major stationary source.

(ll) “Projected actual emissions” means all of the following:

(i) The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated new source review pollutant in any 1 of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any 1 of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated new source review pollutant, and full utilization of the unit would result in a significant emissions increase, or a significant net emissions increase at the major stationary source.

(ii) In determining the projected actual emissions, before beginning actual construction, the owner or operator of the major stationary source shall do all of the following:

(A) Consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity, and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the state implementation plan.

(B) Include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions.

(C) Exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth.

(iii) The owner or operator of a major stationary source may use the emissions unit's potential to emit, in tons per year, instead of calculating projected actual emissions.

(mm) “Reactivation of a very clean coal-fired electric utility steam generating unit” means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit meets all of the following criteria:
(i) The unit was not in operation for the 2-year period before the enactment of the clean air act amendments of 1990, and the emissions from the unit continue to be carried in the department’s emissions inventory at the time of enactment.

(ii) The unit was equipped before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of not less than 85% and a removal efficiency for particulates of not less than 98%.

(iii) The unit was equipped with low-oxides of nitrogen burners before the time of commencement of operations following reactivation.

(iv) The unit otherwise complies with the requirements of the clean air act.

(nn) “Regulated new source review pollutant,” for purposes of this rule, means all of the following:

(i) A pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for the pollutants identified by the United States environmental protection agency. For example, volatile organic compounds and oxides of nitrogen are precursors for ozone, and oxides of nitrogen and sulfur dioxide are precursors for PM 2.5.

(ii) A pollutant that is subject to any standard promulgated under section 111 of the clean air act.

(iii) A class I or II substance subject to a standard promulgated under or established by title VI of the clean air act.

(iv) A pollutant that otherwise is subject to regulation under the clean air act; except that any or all hazardous air pollutants either listed in section 112 of the clean air act or added to the list under section 112(b)(2) of the clean air act, which have not been delisted under section 112(b)(3) of the clean air act, are not regulated new source review pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the clean air act.

(oo) “Repowering” means all of the following:

(i) Replacement of an existing coal-fired boiler with 1 of the following clean coal technologies:

(A) Atmospheric or pressurized fluidized bed combustion.

(B) Integrated gasification combined cycle.

(C) Magneto hydrodynamics.

(D) Direct and indirect coal-fired turbines.

(E) Integrated gasification fuel cells.

(F) A derivative of 1 or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990, as determined by the United States environmental protection agency, in consultation with the Secretary of Energy.

(ii) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the United States Department of Energy.

(iii) The department shall give expedited consideration to permit applications for any source that satisfies the definition of repowering and is granted an extension under section 409 of the clean air act.

(pp) “Secondary emissions” means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For this rule, secondary emissions shall be specific, well defined, quantifiable, and impact the same general areas the stationary source modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(qq) “Significant” means:
(i) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following pollutant emission rates:

(A) Carbon monoxide: 100 tons per year.
(B) Oxides of nitrogen: 40 tons per year.
(C) Sulfur dioxide: 40 tons per year.
(D) Particulate matter: 25 tons per year of particulate matter emissions.
(E) PM-10: 15 tons per year of PM-10 emissions.
(F) PM 2.5: 10 tons per year of PM 2.5 emissions; 40 tons per year of sulfur dioxide emissions; 40 tons per year of oxides of nitrogen emissions.
(G) Ozone: 40 tons per year of volatile organic compounds or oxides of nitrogen.
(H) Lead: 0.6 tons per year.
(I) Fluorides: 3 tons per year.
(J) Sulfuric acid mist: 7 tons per year.
(K) Hydrogen sulfide: 10 tons per year.
(L) Total reduced sulfur, including hydrogen sulfide: 10 tons per year.
(M) Reduced sulfur compounds, including hydrogen sulfide: 10 tons per year.
(N) Municipal waste combustor organics, measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans: $3.2 \times 10^{-6}$ megagrams per year or $3.5 \times 10^{-6}$ tons per year.
(O) Municipal waste combustor metals, measured as particulate matter: 14 megagrams per year or 15 tons per year.
(P) Municipal waste combustor acid gases, measured as sulfur dioxide and hydrogen chloride: 36 megagrams per year or 40 tons per year.
(Q) Municipal solid waste landfill emissions, measured as nonmethane organic compounds: 45 megagrams per year or 50 tons per year.

(ii) In reference to a net emissions increase or the potential of a source to emit a regulated new source review pollutant not listed in this definition, any emissions rate.

(iii) Any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a class I area, and have an impact on such area equal to or greater than 1 microgram per cubic meter (24-hour average).

(rr) “Significant emissions increase” means, for a regulated new source review pollutant, an increase in emissions that is significant for that pollutant.

(ss) “Stationary source” means any building, structure, facility, or installation which emits or may emit a regulated new source review pollutant.

(tt) “Temporary clean coal technology demonstration project” means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the state implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated.

R 336.2801a Rescinded.

R 336.2802 Applicability.

Rule 1802. (1) This part applies to the construction of a new major stationary source or a project at an existing major stationary source in an area designated as attainment or unclassifiable under sections 107(d)(1)(A)(ii) or (iii) of the clean air act.

(2) The requirements of R 336.2810 to R 336.2818 apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this rule otherwise provides.
(3) No new major stationary source or major modification to which R 336.2810 to R 336.2818(2) apply shall begin actual construction without a permit to install issued under R 336.1201(1)(a) that states that the major stationary source or major modification will meet those requirements.

(4) This part applies to the construction of new major sources and major modifications to existing major sources in the following manner:
   (a) Except as otherwise provided in subrule (5) of this rule, and consistent with the definition of major modification, a project is a major modification for a regulated new source review pollutant if it causes both of the following types of emissions increases:
      (i) A significant emissions increase.
      (ii) A significant net emissions increase.
   The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.
   (b) The procedure for calculating whether a significant emissions increase will occur depends upon the type of emissions units being modified. The procedure for calculating whether a significant net emissions increase will occur at the major stationary source is contained in the definition of net emissions increase. Regardless of preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.
   (c) The actual-to-projected-actual applicability test may be used for projects that only involve existing emissions units. A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions for each existing emissions unit equals or exceeds the significant amount for that pollutant.
   (d) The actual-to-potential test may be used for projects that involve construction of new emission units or modification of existing emission units. A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum of the difference between the potential to emit from each new or modified emission unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.
   (e) The hybrid test may be used for projects that involve multiple types of emissions units. A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the appropriate methods specified in this subrule as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant.

(5) For any major stationary source with a plant wide applicability limit for a regulated new source review pollutant, the major stationary source shall comply with R 336.2823.

R 336.2807 Redesignation.

Rule 1807. (1) All areas of the state, except those designated as class I pursuant to R 336.2805 are designated as class II. Redesignation, except as otherwise precluded by R 336.2805, may be proposed by the department, as provided in subrule (2) of this rule, subject to approval by the United States environmental protection agency as a revision to the state implementation plan.

(2) The department may submit to the United States environmental protection agency a proposal to redesignate areas of the state class I or class II, based on all of the following:
   (a) At least 1 public hearing has been held under MCL 324.5511.
   (b) Other states, Indian governing bodies, and federal land managers whose lands may be affected by the proposed redesignation were notified at least 30 days before the public hearing.
   (c) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed
redesignation, was prepared and made available for public inspection at least 30 days before the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion.

(d) Before the issuance of notice respecting the redesignation of an area that includes any federal lands, the department has provided written notice to the appropriate federal land manager and afforded adequate opportunity, not more than 60 days, to confer with the department respecting the redesignation and to submit written comments and recommendations. In redesignating an area with respect to which a federal land manager had submitted written comments and recommendations, the department shall have published a list of any inconsistency between the redesignation and comments and recommendations, together with the reasons for making the redesignation against the recommendation of the federal land manager.

(e) The department has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

R 336.2809 Exemptions.

Rule 1809. (1) The requirements of R 336.2810 to R 336.2818 do not apply to a particular major stationary source or major modification if either of the following occurs:

(a) The major stationary source would be a nonprofit health or nonprofit educational institution or a major modification that would occur at such an institution.

(b) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source is not required to include fugitives in its potential to emit under R 336.2801(cc)(v).

(c) The source or modification is a portable stationary source which has previously received a permit under R 336.2810 to R 336.2818, if all of the following occur:

(i) The source proposes to relocate and emissions of the source at the new location would be temporary.

(ii) The emissions from the source would not exceed its allowable emissions.

(iii) The emissions from the source would not impact a class I area or an area where an applicable increment is known to be violated.

(iv) Reasonable notice is given to the department before the relocation identifying the proposed new location and the probable duration of operation at the new location. Notice shall be given to the department not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the department.

(2) The requirements of R 336.2810 to R 336.2818 do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is subject to new source review for major sources in nonattainment areas regulations.

(3) The requirements of R 336.2811, R 336.2813, and R 336.2815 do not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and would not impact a class I area or an area where an applicable increment is known to be violated.

(4) The requirements of R 336.2811, R 336.2813, and R 336.2815, as they relate to any maximum allowable increase for a class II area, do not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated new source review pollutant from the modification after the application of best available control technology would be less than 50 tons per year.
(5) The department may exempt a proposed major stationary source or major modification from R 336.2813, with respect to monitoring for a particular pollutant, if any of the following occur:

(a) The emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

(i) Carbon monoxide -- 575 micrograms per cubic meter, 8-hour average.
(ii) Nitrogen dioxide -- 14 micrograms per cubic meter, annual average.
(iii) Particulate matter -- 10 micrograms per cubic meter of PM-10, 24-hour average. 0 micrograms per cubic meter of PM 2.5, 24-hour average.
(iv) Sulfur dioxide -- 13 micrograms per cubic meter, 24-hour average.
(v) Ozone – There is no de minimis air quality level for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds or oxides of nitrogen subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

(b) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in subdivision (a) of this subrule.

(c) The pollutant is not listed in subdivision (a) of this subrule.

R 336.2810 Control technology review.

Rule 1810. (1) A major stationary source or major modification shall meet each applicable emissions limitation under the state implementation plan and each applicable emission standards and standard of performance under 40 C.F.R. parts 60 and 61, adopted by reference in R 336.1902.

(2) A new major stationary source shall apply best available control technology for each regulated new source review pollutant that it would have the potential to emit in significant amounts.

(3) A major modification shall apply best available control technology for each regulated new source review pollutant for which it would be a significant net emissions increase at the source. This subrule applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs not later than 18 months before commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

R 336.2813 Air quality analysis.

Rule 1813. (1) Pre-application analysis includes all of the following:

(a) Any application for a permit under this rule shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(i) For the major source, each pollutant that it would have the potential to emit in a significant amount.

(ii) For the modification, each pollutant for which it would result in a significant net emissions increase.
(b) For a pollutant for which a national ambient air quality standard does not exist, the analysis shall contain air quality monitoring data required by the department to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(c) For a pollutant, other than nonmethane hydrocarbons, for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(d) The continuous air monitoring data that is required shall have been gathered over a period of 1 year and shall represent the year preceding receipt of the application, except that, if the department determines that a complete and adequate analysis may be accomplished with monitoring data gathered over a period less than 1 year, but not less than 4 months, the data that is required shall have been gathered over at least that shorter period.

(e) The owner or operator of a proposed major stationary source or major modification of volatile organic compounds who satisfies all conditions of 40 C.F.R. part 51, appendix S, section IV, may provide post-approval monitoring data for ozone instead of providing preconstruction data as otherwise required by this rule. The provisions of 40 C.F.R., part 51, appendix S, section IV, are adopted by reference in R 336.1902.

(2) For post-construction monitoring, the owner or operator of a major stationary source or major modification shall, after construction of the major stationary source or major modification, conduct such ambient monitoring as the department requires to determine the effect emissions from the major stationary source or major modification may have, or are having, on air quality in any area.

(3) For operation of monitoring stations, the owner or operator of a major stationary source or major modification shall meet the requirements of 40 C.F.R. part 58, appendix B, during the operation of monitoring stations for purposes of satisfying this rule. The provisions of 40 C.F.R., part 58, appendix B, are adopted by reference in R 336.1902.

R 336.2816 Sources impacting federal class I areas; additional requirements.

Rule 1816. (1) The department shall transmit to the United States environmental protection agency a copy of each permit application relating to a major stationary source or major modification and provide notice to the United States environmental protection agency of every action related to the consideration of the permit.

(2) If an applicant submits a permit application to the department for a proposed major stationary source or major modification that affects a federal class I area, the applicant must submit to the department and the federal land manager charged with direct responsibility for management of class I lands a demonstration of the impact the emissions from the proposed source or modification would have on the air quality related values of class I lands, including visibility. The department shall be available to consult with and provide additional information to the federal land manager during the federal land manager’s review of the demonstration submitted by the applicant, if necessary, to complete the review of the demonstration.

(3) If the federal land manager’s review of the applicant’s demonstration results in a finding that the emissions from the proposed major source or major modification would have an adverse impact on the air quality related values of class I areas, including visibility, notwithstanding that the change in air quality resulting from emissions from a major source or major modification would not cause or contribute to concentrations that would exceed the maximum allowable increases for a class I area, and if the department concurs with such finding, then the department shall not approve the permit application.

(4) If the department determines that the emissions from a proposed major source or major modification would cause or contribute to concentrations which would exceed the maximum allowable
increases for a class I area, the department shall not approve a permit application unless the applicable requirements of Michigan’s state implementation plan are otherwise met and 1 of the following occurs:

(a) The applicant submits a written certification that the applicant has demonstrated to the federal land manager that the emissions from the proposed major source or major modification would have no adverse impact on the air quality related values of class I lands, including visibility, notwithstanding that the change in air quality resulting from emissions from a major source or major modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a class I area. The department may then, provided that applicable requirements are otherwise met, issue the permit with emission limitations to assure that emissions of sulfur dioxide, particulate matter, and oxides of nitrogen would not exceed the following maximum allowable increases over minor source baseline concentration for the pollutants:

Table 183
Maximum allowable increases over minor source baseline concentrations

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Maximum Allowable Increase (micrograms per cubic meter)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Particulate matter:</td>
<td></td>
</tr>
<tr>
<td>PM-10, annual arithmetic mean</td>
<td>17</td>
</tr>
<tr>
<td>PM-10, 24-hour maximum</td>
<td>30</td>
</tr>
<tr>
<td>PM 2.5, annual arithmetic mean</td>
<td>4</td>
</tr>
<tr>
<td>PM 2.5, 24-hour maximum</td>
<td>9</td>
</tr>
<tr>
<td>Sulfur dioxide:</td>
<td></td>
</tr>
<tr>
<td>Annual arithmetic mean</td>
<td>20</td>
</tr>
<tr>
<td>24-hour maximum</td>
<td>91</td>
</tr>
<tr>
<td>3-hour maximum</td>
<td>325</td>
</tr>
<tr>
<td>Nitrogen dioxide:</td>
<td></td>
</tr>
<tr>
<td>Annual arithmetic mean</td>
<td>25</td>
</tr>
</tbody>
</table>

(b) If the department cannot approve the permit application under R 336.2816(4)(a) due to sulfur dioxide emissions resulting in increases greater than those specified in table 183 for periods of 24 hours or less, the applicant may obtain approval by providing a written certification that the applicant has demonstrated to the federal land manager that the emissions from the proposed major source or major modification would have no adverse impact on the air quality related values of class I lands, including visibility, and that both the governor and the federal land manager have granted a sulfur dioxide variance for the federal class I area on which variance the public has received notice and opportunity for public hearing.

(c) If the department cannot approve the permit application under R 336.2816(4)(a) due to sulfur dioxide emissions resulting in increases greater than those specified in table 183 for periods of 24 hours or less, and the department cannot approve the permit application under R 336.2816(4)(b) because the federal land manager does not concur with the governor’s issuance of a sulfur dioxide variance that is otherwise consistent with R 336.2816(4)(b), the applicant may obtain approval by providing a written certification that the applicant has demonstrated to the president that a sulfur dioxide variance is in the national interest and the president concurs with the issuance of the sulfur dioxide variance by the governor. The applicant shall transfer the recommendations of the governor and the federal land
manager to the president in any case where the governor recommends a variance in which the federal land manager does not concur.

(5) The department will not issue a permit affecting a class I area in which a sulfur dioxide variance was granted under R 336.2816(4)(b) or (c), unless the permit includes emission limitations necessary to assure that emissions of sulfur dioxide from the major source or major modification would not, during any day on which the otherwise applicable maximum allowable increases are exceeded, cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period.

Table 184
Maximum Allowable Sulfur Dioxide Increments

<table>
<thead>
<tr>
<th>Period Of Exposure</th>
<th>Maximum Allowable Increase (Micrograms Per Cubic Meter)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Terrain Areas</td>
</tr>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td>24-hour maximum</td>
<td>36</td>
</tr>
<tr>
<td>3-hour maximum</td>
<td>130</td>
</tr>
</tbody>
</table>

R 336.2823 Actuals plantwide applicability limits (PALs).

Rule 1823. (1) The following definitions apply to the use of actuals PALs consistent with this rule. If a term is not defined in these paragraphs, it shall have the meaning given in R 336.2801 or R 336.1101 to R 336.1127.

(a) "Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions of all emissions units at the major source that emit or have the potential to emit the PAL pollutant.

(b) "Allowable emissions" means allowable emissions as defined in R 336.2801, except as this definition is modified by the following:

(i) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(ii) An emissions unit's potential to emit shall be determined using the definition in R 336.2801, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

(c) "Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in R 336.2801 or in the clean air act, whichever is lower.

(d) "Major emissions unit" means either of the following:

(i) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area.

(ii) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the clean air act for nonattainment areas.

(e) "Plantwide applicability limitation" or "PAL" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with this rule.
(f) "PAL effective date" means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(g) "PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.

(h) "PAL major modification" means, notwithstanding the definitions for major modification and net emissions increase, any physical change in or change in the method of operation of the PAL major source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(i) "PAL permit" means the permit to install issued under R 336.1201(1)(a) or R 336.1214a that establishes a PAL for a major stationary source.

(j) "PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

(k) "Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level, as defined in R 336.2801 or in the clean air act, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

(2) The following provisions describe the applicability of other federal regulations to major sources with PALs:

(a) The department may approve the use of an actuals PAL for any existing major stationary source if the PAL meets all of the requirements of this rule. The term "PAL" shall mean "actuals PAL" in this rule.

(b) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of this rule, and complies with the PAL permit. If the change complies with the PAL permit, then the following statements apply:

   (i) The change is not a major modification for the PAL pollutant.

   (ii) The change does not have to otherwise be approved under prevention of significant deterioration of air quality regulations or new source review for major sources in nonattainment areas regulations.

   (iii) The change is not subject to R 336.2818(2), restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major new source review program.

(c) Except as provided under subdivision (b)(iii) of this subrule, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established before the effective date of the PAL.

(3) As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the department for approval:

(a) A list of all emissions units at the major source designated as small, significant, or major based on their potential to emit. In addition, the owner or operator of the major source shall indicate which, if any, federal or state applicable requirements, emission limitations, and work practice requirements that were established before the effective date of the PAL.

(b) Calculations of the baseline actual emissions with supporting documentation. Baseline actual emissions shall include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.

(c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subrule (13)(a) of this rule.

(4) The following requirements establish PALs:

(a) The department may establish a PAL at a major stationary source, provided that, at a minimum, the following requirements are met:
(i) The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL, a 12-month average rolled monthly. For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(ii) The PAL shall be established in a PAL permit that meets the public participation requirements in subrule (5) of this rule.

(iii) The PAL permit shall comply with subrule (7) of this rule.

(iv) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(v) Each PAL shall regulate emissions of only 1 pollutant.

(vi) Each PAL shall have a PAL effective period of 10 years.

(vii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in subrules (12) to (14) of this rule for each emissions unit under the PAL through the PAL effective period.

(b) Emissions reductions of a PAL pollutant that occur during the PAL effective period are not creditable as decreases for emissions offsets unless the level of the PAL is reduced by the amount of the emissions reductions and the reductions would be creditable in the absence of the PAL.

(5) PALs for existing major stationary sources shall be established, renewed, or increased, through a permit to install issued under R 336.1201(1)(a). The department shall provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The department shall address all material comments before taking final action on the permit.

(6) The following apply to setting the 10-year actuals PAL level:

(a) Except as provided in subdivision (b) of this subrule, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the major source; plus an amount equal to the applicable significant level for the PAL pollutant as defined in R 336.2801 or the clean air act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only 1 consecutive 24-month period shall be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period shall be subtracted from the PAL level. The department shall specify a reduced PAL level, in tons per year, in the PAL permit to become effective on the future compliance dates of any applicable federal or state regulatory requirement before issuance of the PAL permit. For example, if the major source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 parts per million oxides of nitrogen to a new rule limit of 30 parts per million, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of the units.

(b) For newly constructed units, which do not include modifications to existing units, on which actual construction began after the 24-month period, instead of adding the baseline actual emissions as specified in subdivision (a) of this subrule, the emissions shall be added to the PAL level in an amount equal to the potential to emit of the units.

(7) The PAL permit shall contain, at a minimum, all of the following information:

(a) The PAL pollutant and the applicable source-wide emission limitation in tons per year.

(b) The PAL permit effective date and the expiration date of the PAL (PAL effective period).
(c) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL under subrule (10) of this rule before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the department.

(d) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions.

(e) A requirement that, once the PAL expires, the major stationary source is subject to subrule (9) of this rule.

(f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subrule (3)(a) of this rule.

(g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under subrule (13) of this rule.

(h) A requirement to retain the records required under subrule (13) of this rule on site. The records may be retained in an electronic format.

(i) A requirement to submit the reports required under subrule (14) of this rule by the required deadlines.

(j) Any other requirements that the department determines necessary to implement and enforce the PAL.

(8) All of the following apply to the PAL effective period and reopening of the PAL permit:

(a) The department shall specify a PAL effective period of 10 years.

(b) All of the following apply to reopening of the PAL permit:

(i) During the PAL effective period, the department shall reopen the PAL permit to do any of the following:

   (A) Correct typographical and calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL.

   (B) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under new source review for major sources in nonattainment areas regulations.

   (C) Revise the PAL to reflect an increase in the PAL as provided under subrule (11) of this rule.

   (ii) The department may reopen the PAL permit to accomplish any of the following:

   (A) Reduce the PAL to reflect newly applicable federal requirements with compliance dates after the PAL effective date.

   (B) Reduce the PAL consistent with any other requirement that is enforceable as a practical matter and that the state may impose on the major stationary source under the state implementation plan.

   (C) Reduce the PAL if the department determines that a reduction is necessary to avoid causing or contributing to a national ambient air quality standard or PSD increment violation, or to an adverse impact on an air quality related value that has been identified for a federal class I area by a federal land manager and for which information is available to the general public.

   (iii) Except for a permit reopening for the correction of typographical and calculation errors that do not increase the PAL level, all reopenings shall be carried out in accordance with the public participation requirements of subrule (5) of this rule.

(9) Any PAL that is not renewed in accordance with subrule (10) of this rule shall expire at the end of the PAL effective period, and the following requirements shall apply:

(a) Each emissions unit, or each group of emissions units, that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to both of the following:
(i) Within the time frame specified for PAL renewals in subrule (10)(b) of this rule, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit, or each group of emissions units, if such a distribution is more appropriate as determined by the department, by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under subrule (10)(e) of this rule, the distribution shall be made as if the PAL had been adjusted.

(ii) The department shall determine whether and how the PAL allowable emissions shall be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the department determines is appropriate.

(b) Each emissions unit shall comply with the allowable emission limitation on a 12-month rolling basis. The department may approve the use of monitoring systems, such as source testing and emission factors, other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emission limitation.

(c) Until the department issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subrule (9)(a)(ii) of this rule, the major source shall continue to comply with a source-wide, multiunit emissions cap equivalent to the level of the PAL emission limitation.

(d) Any physical change or change in the method of operation at the major stationary source shall be subject to major new source review requirements if such change meets the definition of major modification in R 336.2801.

(e) The major stationary source owner or operator shall continue to comply with any state or federal applicable requirements that may have applied either during the PAL effective period or before the PAL effective period, except for those emission limitations that had been established under R 336.2818(2), but were eliminated by the PAL under subrule (2)(b)(iii) of this rule.

(10) All of the following apply to renewal of a PAL:

(a) The department shall comply with subrule (5) of this rule in approving any request to renew a PAL for a major stationary source and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During public review, any person may propose a PAL level for the major source for consideration by the department.

(b) A major stationary source owner or operator shall submit a timely application to the department to request renewal of a PAL. A timely application is one that is submitted at least 6 months before, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

c) The application to renew a PAL permit shall contain all of the following information:

(i) The information required in subrule (3)(a) to (c) of this rule.

(ii) A proposed PAL level.

(iii) The sum of the potential to emit of all emissions units under the PAL, with supporting documentation.

(iv) Any other information the owner or operator requests the department to consider in determining the appropriate level for renewing the PAL.

(d) In determining whether and how to adjust the PAL, the department shall consider the following:

(i) If the emissions level calculated in accordance with subrule (6) of this rule is equal to or greater than 80% of the PAL level, the department may renew the PAL at the same level without considering the factors in subrule (10)(d)(ii) of this rule.
(ii) The department may set the PAL at a level that it determines to be more representative of the major source's baseline actual emissions, or that it determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the major source's voluntary emissions reductions, or other factors as specifically identified by the department in its written rationale.

(iii) Notwithstanding subrule (10)(d)(i) and (ii) of this rule, both of the following shall apply:

(A) If the potential to emit of the major stationary source is less than the PAL, then the department shall adjust the PAL to a level not greater than the potential to emit of the major source.

(B) The department shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with subrule (11) of this rule.

(e) If the compliance date for a state or federal requirement that applies to the PAL major source occurs during the PAL effective period, and if the department has not already adjusted for the requirement, then the PAL shall be adjusted at the time of PAL permit renewal or renewable operating permit renewal, whichever occurs first.

(11) The following shall apply to increasing a PAL during the PAL effective period:

(a) The department may increase a PAL emission limitation only if the major stationary source complies with the following provisions:

(i) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. The application shall identify the emissions units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units, exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(iii) The owner or operator obtains a major new source review permit for all emissions units identified in subrule (11)(a)(i) of this rule, regardless of the magnitude of the emissions increase resulting from them, that is, no significant levels apply. These emissions units shall comply with any emissions requirements resulting from the major new source review process, even though they have also become subject to the PAL or continue to be subject to the PAL.

(iv) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(b) The department shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT equivalent controls as determined under subdivision (a)(ii) of this subrule, plus the sum of the baseline actual emissions of the small emissions units.

(c) The PAL permit shall be revised to reflect the increased PAL level under the public notice requirements of subrule (5) of this rule.

(12) The following are monitoring requirements for PALs:

(a) All of the following general provisions are required:
(i) Each PAL permit shall contain enforceable requirements for the monitoring system that accurately determine plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit shall be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by the system shall meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(ii) The PAL monitoring system shall employ 1 or more of the 4 general monitoring approaches in subdivision (b) of this subrule and shall be approved by the department.

(iii) Notwithstanding paragraph (ii) of this subdivision, the PAL may also employ an alternative monitoring approach that meets paragraph (i) of this subdivision if approved by the department.

(iv) Failure to use a monitoring system that meets the requirements of this rule renders the PAL invalid.

(b) The following are acceptable general monitoring approaches when conducted in accordance with subdivisions (c) to (i) of this subrule:

(i) Mass balance calculations for activities using coatings or solvents.

(ii) CEMS.

(iii) CPMS or PEMS.

(iv) Emission factors.

(c) An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet all of the following requirements:

(i) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit.

(ii) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process.

(iii) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, then the owner or operator shall use the highest value of the range to calculate the PAL pollutant emissions unless the department determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(d) An owner or operator using CEMS to monitor PAL pollutant emissions shall meet both of the following requirements:

(i) CEMS shall comply with applicable performance specifications found in 40 C.F.R. part 60, appendix B, adopted by reference in R 336.1902.

(ii) CEMS shall sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

(e) An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet both of the following requirements:

(i) The CPMS or the PEMS shall be based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit.

(ii) Each CPMS or PEMS shall sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the department, while the emissions unit is operating.

(f) An owner or operator using emission factors to monitor PAL pollutant emissions shall meet all of the following requirements:

(i) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development.

(ii) The emissions unit shall operate within the designated range of use for the emission factor, if applicable.
(iii) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the department determines that testing is not required.

(g) A major source owner or operator shall record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(h) Notwithstanding the requirements in subdivisions (c) to (g) of this subrule, if an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, then the department shall do either of the following at the time of permit issuance:

(i) Establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at each unmonitored operating point.

(ii) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.

(i) All data used to establish the PAL pollutant shall be revalidated through performance testing or other scientifically valid means approved by the department. Testing shall occur at least once every 5 years after issuance of the PAL.

(13) The PAL permit shall require the following recordkeeping requirements:

(a) Require an owner or operator to retain a copy of all records necessary to determine compliance with this rule and the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

(b) Require an owner or operator to retain a copy of all of the following records, for the duration of the PAL effective period plus 5 years:

(i) A copy of the PAL permit application and any applications for revisions to the PAL.

(ii) Each annual certification of compliance under the renewable operating permit and the data relied on in certifying compliance.

(14) The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the department in accordance with the applicable renewable operating permit program. The reports shall meet the following requirements:

(a) The semiannual report shall be submitted to the department concurrently with the semiannual report required by the renewable operating permit for the stationary source. The report shall contain all of the following information:

(i) The identification of owner and operator and the permit number.

(ii) Total annual emissions in tons per year based on a 12-month rolling total for each month in the reporting period recorded under subrule (13)(a) of this rule.

(iii) All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions.

(iv) A list of emissions units modified or added to the major stationary source during the preceding 6-month period.

(v) The number, duration, and cause of deviations or monitoring malfunctions, other than the time associated with zero and span calibration checks, and any corrective action taken.

(vi) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by subrule (12)(g) of this rule.
(vii) A signed statement by the responsible official, as defined by the applicable renewable operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

(b) The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where monitoring is not available. A report submitted under R 336.1213(3)(c) shall satisfy the reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the major source's renewable operating permit. The reports shall contain all of the following information:
   (i) The identification of owner and operator and the permit number.
   (ii) The PAL requirement that experienced the deviation or that was exceeded.
   (iii) Emissions resulting from the deviation or the exceedance.
   (iv) A signed statement by the responsible official, as defined by the renewable operating permit, certifying the truth, accuracy, and completeness of the information provided in the report.

(c) The owner or operator shall submit to the department the results of any revalidation test or method within 3 months after completion of the test or method.

(15) The owner or operator of a facility complying with an actuals PAL may install a new emissions unit without first obtaining a permit to install under R 336.1201, if the following requirements are met:
   (a) The new emissions unit will not cause a meaningful change in the nature or quantity of toxic air contaminants emitted from the major stationary source, unless the new emissions unit is otherwise exempt under R 336.1278 to R 336.1290. In determining whether the new emissions unit will cause a meaningful change in the nature or quantity of toxic air contaminants, the following shall apply:
      (i) The owner or operator shall demonstrate to the department that a meaningful change in the nature or quantity of toxic air contaminants has not occurred. The owner or operator may devise its own method to perform this demonstration subject to approval by the department. However, if the applicant demonstrates that all toxic air contaminant emissions from a new emissions unit are within the levels specified in R 336.1226 or R 336.1227, then a meaningful change in toxic air contaminants has not occurred.
      (ii) If, using the methods described in paragraph (i) of this subdivision, the owner or operator determines that the installation of new emission units will cause a meaningful change in the nature or quantity of toxic air contaminant emissions, then the owner or operator shall obtain a state-only enforceable permit to install under R 336.1201(1)(b).
      (iii) A copy of the demonstration required by paragraph (i) of this subdivision shall be kept on site for the life of the new emissions unit and made available to the department upon request.
   (b) The new emissions unit will not emit a regulated new source review pollutant that is not subject to a PAL, unless the new emissions unit is eligible for an exemption listed in R 336.1201 to R 336.1290.
   (c) The new emissions unit will not be a newly constructed or reconstructed major source of hazardous air pollutants.
   (d) The installation of the new emissions unit will not cause the violation of any other applicable requirement.
   (e) The owner or operator shall notify the department of the installation of a new emissions unit using the procedure specified in R 336.1215(3)(c).
PART 19. NEW SOURCE REVIEW FOR MAJOR SOURCES IMPACTING NONATTAINMENT AREAS

Filed with the Secretary of State on January 2, 2019

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

(By authority conferred on the director of environmental quality by Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.5501 to 324.5542)

R 336.2901, R 336.2902, R 336.2907, and R 336.2908 of the Michigan Administrative Code are amended, and R 336.2901a of the Code is rescinded as follows:

R 336.2901 Definitions.

Rule 1901. The following definitions apply to terms used in this part. If a term defined here is also defined elsewhere in these rules, then the definition contained here supersedes for this part only:

(a) “Actual emissions” means the actual rate of emissions of a regulated new source review pollutant from an emissions unit, as determined under R 336.1101(b), except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a plant wide applicability limit under R 336.2907. Instead, the terms “projected actual emissions” and “baseline actual emissions” shall apply for those purposes.

(b) “Baseline actual emissions” means the rate of emissions, in tons per year, of a regulated new source review pollutant, as determined by the following:

(i) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. The following shall apply:

(A) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(B) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
(C) For a regulated new source review pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period may be used for each regulated new source review pollutant.

(D) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (i)(B) of this subdivision.

(ii) For an existing emissions unit, other than an electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the department for a permit required under R 336.1201, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990. All of the following shall apply:

(A) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(B) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had the major stationary source been required to comply with the limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the United States environmental protection agency proposed or promulgated under 40 C.F.R. part 63, adopted by reference in R 336.1902, then the baseline actual emissions need only be adjusted if the department has taken credit for such emissions reductions in an attainment demonstration or maintenance plan.

(D) For a regulated new source review pollutant, when a project involves multiple emissions units, only 1 consecutive 24-month period shall be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period may be used for each regulated new source review pollutant.

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subparagraphs (B) and (C) of this paragraph.

(iii) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(iv) For a plant wide applicability limit for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units under paragraph (i) of this subdivision, for other existing emissions units under paragraph (ii) of this subdivision, and for a new emissions unit under paragraph (iii) of this subdivision.

(c) “Begin actual construction” means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. “A change in method of operation” refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(d) “Best available control technology” or “BACT” means an emissions limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated new source review
pollutant which would be emitted from any proposed major stationary source or major modification which the department, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. Application of best available control technology shall not result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 C.F.R. part 60 or 61, adopted by reference in R 336.1902. If the department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, then a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. The standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of the design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

(e) “Building, structure, facility, or installation” means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on 1 or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control, except the activities of any vessel. Pollutant-emitting activities are part of the same industrial grouping if they have the same 2-digit major group code associated with their primary activity. Major group codes and primary activities are described in the standard industrial classification manual, 1987. For assistance in converting North American industrial classification system codes to standard industrial classification codes see http://www.census.gov/epcd/naics02/.

(f) “Clean coal technology” means any technology, including technologies applied at the precombustion, combustion, or post-combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

(g) “Clean coal technology demonstration project” means a project using funds appropriated under the heading "department of energy-clean coal technology," up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the United States environmental protection agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

(h) [Reserved]

(i) “Commence” as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and has either of the following:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time.

(ii) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(j) “Construction” means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, that would result in a change in emissions.

(k) “Continuous emissions monitoring system” or “CEMS” means all of the equipment that may be required to meet the data acquisition and availability requirements of this rule, to sample, condition, if applicable, analyze, and provide a record of emissions on a continuous basis.
(l) “Continuous emissions rate monitoring system” or “CERMS” means the total equipment required for the determination and recording of the pollutant mass emissions rate, in terms of mass per unit of time.

(m) “Continuous parameter monitoring system” or “CPMS” means all of the equipment necessary to meet the data acquisition and availability requirements of this rule, to monitor process and control device operational parameters and other information, and to record average operational parameter values on a continuous basis.

(n) “Electric utility steam generating unit” means any steam electric generating unit that is constructed for the purpose of supplying more than 1/3 of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(o) “Emissions unit” means any part of a stationary source that emits or would have the potential to emit any regulated new source review pollutant. The term emissions unit includes an electric steam generating unit. Each emissions unit can be classified as either new or existing based on the following:

(i) A new emissions unit is any emissions unit that is, or will be, newly constructed and that has existed for less than 2 years from the date the emissions unit first operated.

(ii) An existing emissions unit is any emissions unit that does not meet the definition of a new emissions unit. A replacement unit is an existing emissions unit and no creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced. Replacement unit means all of the following:

(A) The emissions unit is a reconstructed unit as defined within R 336.1118(b) or the emissions unit completely takes the place of an existing emissions unit.

(B) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(C) The replacement does not alter the basic design parameters of the process unit.

(D) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(p) “Federal land manager” means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

(q) “Functionally equivalent component” means a component that serves the same purpose as the replaced component.

(r) "Hydrocarbon combustion flare" means either a flare used to comply with an applicable new source performance standard or maximum achievable control technology standard, including uses of flares during startup, shutdown, or malfunction permitted under such a standard, or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing not more than 230 milligrams per dry standard cubic meter hydrogen sulfide.

(s) “Lowest achievable emission rate” or “LAER” means, for any source, the more stringent rate of emissions based on either of the following:

(i) The most stringent emissions limitation that is contained in the implementation plan of any state for the same class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that the limitations are not achievable.

(ii) The most stringent emissions limitation that is achieved in practice by the same class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. Application of the
term shall not permit a proposed new or modified stationary source to emit any pollutant in excess of the
amount allowable under an applicable new source performance standard.

(t) “Major modification” means the following:
(i) Any physical change in or change in the method of operation of a major stationary source that would
result in both of the following:
(A) A significant emissions increase of a regulated new source review pollutant.
(B) A significant net emissions increase of that pollutant from the major stationary source.
(ii) Any significant emissions increase from any emissions units or net emissions increase at a major
stationary source that is significant for volatile organic compounds shall be considered significant for
ozone.
(iii) A physical change or change in the method of operation shall not include any of the following:
(A) Routine maintenance, repair, and replacement.
(B) Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the
energy supply and environmental coordination act of 1974, 15 U.S.C. §792 et seq., or any superseding
legislation, or by reason of a natural gas curtailment plan under the federal power act of 1995, 16 U.S.C.
§791-828c et seq.
(C) Use of an alternative fuel by reason of an order or rule under section 125 of the clean air act.
(D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from
municipal solid waste.
(E) Use of an alternative fuel or raw material by a stationary source which meets either of the
following:
(1) The source was capable of accommodating before December 21, 1976, unless the change would be
prohibited under any federally enforceable permit condition that was established after December 12,
1976, under prevention of significant deterioration of air quality regulations or new source review for
major sources in nonattainment areas regulations.
(2) The source is approved to use under any permit issued under R 336.1201(1)(a).
(F) An increase in the hours of operation or in the production rate, unless such change is prohibited
under any federally enforceable permit condition that was established after December 21, 1976, under R
336.1201(1)(a).
(G) Any change in ownership at a stationary source.
(H) [Reserved]
(I) The installation, operation, cessation, or removal of a temporary clean coal technology
demonstration project, provided that the project complies with both of the following:
(1) The state implementation plan.
(2) Other requirements necessary to attain and maintain the national ambient air quality standard during
the project and after it is terminated.
(iv) This definition shall not apply with respect to a particular regulated new source review pollutant
when the major stationary source is complying with the requirements of R 336.2907 for a plant wide
applicability limit for that pollutant. Instead, the definition in R 336.2907(1)(h) shall apply.
(v) For the purposes of applying the requirements of R 336.2902(8) to modifications at major stationary
sources of nitrogen oxides located in ozone nonattainment areas or in ozone transport regions, whether
or not subject to subpart 2, part D, title 1 of the clean air act, any significant net emissions increase of
nitrogen oxides is considered significant for ozone.
(vi) Any physical change in, or change in the method of operation of, a major stationary source of
volatile organic compounds that results in any increase in emissions of volatile organic compounds from
any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be
considered a significant net emissions increase and a major modification for ozone, if the major
stationary source is located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title 1 of the clean air act.

(u) “Major stationary source” means all of the following:

(i) Any of the following:

(A) Any stationary source of air pollutants that emits or has the potential to emit 100 tons per year or more of any regulated new source review pollutant, except that lower emissions thresholds shall apply in areas subject to subpart 2, subpart 3, or subpart 4 of part D, title 1 of the clean air act, according to the following:

(1) In any serious ozone nonattainment area, 50 tons per year of volatile organic compounds.
(2) In an area within ozone transport region except for any severe or extreme ozone nonattainment area, 50 tons per year of volatile organic compounds.
(3) In any severe ozone nonattainment area, 25 tons per year of volatile organic compounds.
(4) In any extreme ozone nonattainment area, 10 tons per year of volatile organic compounds.
(5) In any serious nonattainment area for carbon monoxide, where the department has determined that stationary sources contribute significantly to carbon monoxide levels in the area, 50 tons per year of carbon monoxide.
(6) In any serious nonattainment area for PM-10, 70 tons per year of PM-10.

(B) For the purposes of applying the requirements of R 336.290 2(8) to stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, any stationary source which emits, or has the potential to emit, 100 tons per year or more of nitrogen oxide emissions, except that the following emission thresholds shall apply in areas subject to subpart 2 of part D, title 1 of the clean air act:

(1) In any ozone nonattainment area classified as marginal or moderate, 100 tons per year or more of nitrogen oxides.
(2) In any ozone nonattainment area classified as a transitional, submarginal, or incomplete or no data area, when such area is located in an ozone transport region, 100 tons per year or more of nitrogen oxides.
(3) In any area designated under section 107(d) of the clean air act as attainment or unclassifiable for ozone that is located in an ozone transport region, 100 tons per year or more of nitrogen oxides.
(4) In any serious nonattainment area for ozone, 50 tons per year or more of nitrogen oxides.
(5) In any severe nonattainment area for ozone, 25 tons per year or more of nitrogen oxides.
(6) In any extreme nonattainment area for ozone, 10 tons per year or more of nitrogen oxides.

(C) Any physical change that would occur at a stationary source not qualifying under R 336.2901(u)(i)(A) or (B) as a major stationary source, if the change would constitute a major stationary source by itself.

(ii) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(A) Coal cleaning plants, with thermal dryers.
(B) Kraft pulp mills.
(C) Portland cement plants.
(D) Primary zinc smelters.
(E) Iron and steel mills.
(F) Primary aluminum ore reduction plants.
(G) Primary copper smelters.
(H) Municipal incinerators capable of charging more than 250 tons of refuse per day.
(I) Hydrofluoric, sulfuric, or nitric acid plants.
(J) Petroleum refineries.
(K) Lime plants.
(L) Phosphate rock processing plants.
(M) Coke oven batteries.
(N) Sulfur recovery plants.
(O) Carbon black plants, furnace process.
(P) Primary lead smelters.
(Q) Fuel conversion plants.
(R) Sintering plants.
(S) Secondary metal production plants.
(T) Chemical process plants. The term chemical process plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industrial Classification System codes 325193 or 312140.
(U) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input.
(V) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
(W) Taconite ore processing plants.
(X) Glass fiber processing plants.
(Y) Charcoal production plants.
(Z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.
(AA) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the clean air act.
(v) “Necessary preconstruction approvals or permits” mean a permit issued under R 336.1201(1)(a) that is required by R 336.2802 or R 336.2902.
w) “Net emissions increase” means all of the following:
i) With respect to any regulated new source review pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:
(A) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated under R 336.2902(2).
(B) Any other increases and decreases in actual emissions at the major stationary source that occur within the contemporaneous period and are otherwise creditable.
(ii) The contemporaneous period must meet all of the following:
(A) Begins on the date 5 years before construction on the particular change commences.
(B) Ends on the date that the increase from the particular change occurs.
(iii) An increase or decrease in actual emissions is creditable only if the department has not relied on it in issuing a permit under R 336.1201(1)(a) or R 336.1214a, which permit is in effect when the increase in actual emissions from the particular change occurs.
(iv) The magnitude of a creditable, contemporaneous increase in actual emissions is determined by the amount that the allowable emissions following the increase exceeds the emissions unit’s baseline actual emissions prior to the increase. This means allowable emissions and baseline actual emissions are determined from the date of the contemporaneous increase. Baseline actual emissions shall be determined as provided in the definition of baseline actual emissions, except that paragraphs (b)(i)(C) and (b)(ii)(D) of this subdivision shall not apply.
(v) A contemporaneous decrease in actual emissions is creditable only to the extent that all of the following occur:
(A) The magnitude of a creditable contemporaneous decrease is determined by the lower of the following:
(1) The amount by which the emission unit’s baseline actual emissions prior to the decrease exceed the level of allowable emissions following the decrease.
(2) The amount by which the emission unit’s allowable emissions prior to the decrease exceed the level of allowable emissions following the decrease.
(3) In determining the magnitude of a creditable contemporaneous decrease, allowable emissions and baseline actual emissions are determined from the date of the contemporaneous decrease. Baseline actual emissions shall be determined as provided in the definition of baseline actual emissions except that paragraphs (b)(i)(C) and (b)(ii)(D) of this subdivision shall not apply.
(B) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins.
(C) The department has not relied on it in issuing any permit under R 336.1201(1)(a) or R 336.1214a.
(D) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
(vi) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
(vii) The definition of actual emissions in R 336.1101(b) shall not apply for determining creditable increases and decreases after a change, instead the definitions of the terms “projected actual emissions” and “baseline actual emissions” shall be used.
(x) “Nonattainment major new source review” or “NSR” program means the requirements of this rule, R 336.1220, or R 336.1221. A permit issued under any of these rules is a major new source review permit.
(y) [Reserved]
(z) “Potential to emit” means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally legally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.
(aa) “Predictive emissions monitoring system” or “PEMS” means all of the equipment necessary to monitor process and control device operational parameters and other information and calculate and record the mass emissions rate on a continuous basis.
(bb) “Prevention of significant deterioration” or “PSD” permit means any permit that is issued under R 336.2802 or the prevention of significant deterioration of air quality regulations or under 40 C.F.R. §52.21, adopted by reference in R 336.1902.
(cc) “Process Unit” means any collection of structures and/or equipment that processes, assembles, applies, blends, or otherwise uses material inputs to produce or store an intermediate or a completed product. A single stationary source may contain more than one process unit, and a process unit may contain more than one emissions unit.
(i) Pollution control equipment is not part of the process unit, unless it serves a dual function as both process and control equipment. Administrative and warehousing facilities are not part of the process unit.
(ii) For replacement cost purposes, components shared between two or more process units are proportionately allocated based on capacity.
(iii) The following list identifies process units at specific categories of stationary sources.

(A) For a steam electric generating facility, the process unit consists of those portions of the plant that contribute directly to the production of electricity. For example, at a pulverized coal-fired facility, the process unit would generally be the combination of those systems from the coal receiving equipment through the emission stack (excluding post-combustion pollution controls), including the coal handling equipment, pulverizers or coal crushers, feedwater heaters, ash handling, boiler, burners, turbine-generator set, condenser, cooling tower, water treatment system, air preheaters, and operating control systems. Each separate generating unit is a separate process unit.

(B) For a petroleum refinery, there are several categories of process units: those that separate and/or distill petroleum feedstocks; those that change molecular structures; petroleum treating processes; auxiliary facilities, such as steam generators and hydrogen production units; and those that load, unload, blend or store intermediate or completed products.

(C) For an incinerator, the process unit would consist of components from the feed pit or refuse pit to the stack, including conveyors, combustion devices, heat exchangers and steam generators, quench tanks, and fans.

(dd) “Project” means a physical change in, or change in the method of operation of, an existing major stationary source.

(ee) “Projected actual emissions” means the following:

(i) The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated new source review pollutant in any one of the 5 12-month periods following the date the unit resumes regular operation after the project, or in any 1 of the 10 12-month periods following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated new source review pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

(ii) In determining the projected actual emissions before beginning actual construction, the owner or operator of the major stationary source shall do the following:

(A) Consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity, and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved state implementation plan.

(B) Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(C) Exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions of this rule and that are also unrelated to the particular project, including any increased utilization due to product demand growth.

(D) Elect to use the emissions unit's potential to emit in tons per year instead of calculating projected actual emissions.

(ff) “Regulated new source review pollutant” means any of the following:

(i) Oxides of nitrogen or any volatile organic compounds.

(ii) Any pollutant for which a national ambient air quality standard has been promulgated.

(iii) Any pollutant that is a constituent or precursor of a general pollutant listed under paragraphs (i) or (ii) of this subdivision, provided that a constituent or precursor pollutant may only be regulated under new source review as part of regulation of the general pollutant.

(gg) “Secondary emissions” means emissions that would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary
source or major modification itself. For the purpose of this rule, secondary emissions shall be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility that would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions that come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or a vessel.

(hh) “Significant” means all of the following:
(i) “Significant” means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants at a rate of emissions that would equal or exceed any of the following pollutant emission rates:
(A) Carbon monoxide: 100 tons per year.
(B) Nitrogen oxides: 40 tons per year.
(C) Sulfur dioxide: 40 tons per year.
(D) Ozone: 40 tons per year of volatile organic compounds or of nitrogen oxides.
(E) Lead: 0.6 tons per year.
(F) PM-10: 15 tons per year of PM-10.
(G) PM 2.5: 10 tons per year of PM 2.5; 40 tons per year of sulfur dioxide emissions; 40 tons per year of nitrogen oxide emissions.
(ii) Notwithstanding the significant emissions rate for ozone in R 336.2901(hh)(i)(D), significant means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of volatile organic compounds that would result from any physical change in, or change in the method of operation of, a major stationary source located in a serious or severe ozone nonattainment area that is subject to subpart 2, part D, title 1 of the clean air act, if such emissions increase of volatile organic compounds exceeds 25 tons per year.
(iii) For the purposes of applying the requirements of R 336.2902(8) to modifications at major stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, the significant emission rates and other requirements for volatile organic compounds in R 336.2901(hh)(i)(D), R 336.2901(hh)(ii) and R 336.2901(hh)(v) shall apply to nitrogen oxides emissions.
(iv) Notwithstanding the significant emissions rate for carbon monoxide in R 336.2901(hh)(i)(A), significant means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of carbon monoxide that would result from any physical change in, or change in the method of operation of, a major stationary source in a serious nonattainment area for carbon monoxide if such increase equals or exceeds 50 tons per year, provided that the United States environmental protection agency has determined that the stationary sources contribute significantly to carbon monoxide levels in that area.
(v) Notwithstanding the significant emissions rates for ozone in R 336.2901(hh)(i)(D) and R 336.2901(hh)(ii), any increase in actual emissions of volatile organic compounds from any emissions unit at a major stationary source of volatile organic compounds located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title 1 of the clean air act shall be considered a significant net emissions increase.
(ii) “Significant emissions increase” means, for a regulated new source review pollutant, an increase in emissions that is significant for that pollutant.
(jj) “Stationary source” means any building, structure, facility, or installation which emits or may emit a regulated new source review pollutant.
(kk) “Temporary clean coal technology demonstration project” means a clean coal technology demonstration project that is operated for a period of 5 years or less, and that complies with the state implementation plan and other requirements necessary to attain and maintain the national ambient air
quality standards during the project and after it is terminated.

R 336.2901a Rescinded.

R 336.2902 Applicability.
Rule 1902. (1) This part applies to the construction of each new major stationary source or major modification that is both of the following:
(a) Located in a nonattainment area.
(b) Major for the pollutant for which the area is designated nonattainment.
For areas designated as nonattainment for ozone, this part shall apply only to any new major stationary source or major modification that is major for volatile organic compounds or nitrogen oxides.
(2) This part applies to the construction of new major sources and major modifications to existing major sources as follows:
(a) Except as otherwise provided in subrule (3) of this rule, and consistent with the definition of major modification, a project is a major modification for a regulated new source review pollutant if it causes both of the following emissions increases:
(i) A significant emissions increase.
(ii) A significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.
(b) The procedure for calculating whether a significant emissions increase will occur depends upon the type of emissions units being modified. The procedure for calculating whether a significant net emissions increase will occur at the major stationary source is contained in the definition of net emissions increase. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.
(c) The actual-to-projected-actual applicability test may be used for projects that only involve existing emissions units. A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.
(d) The actual-to-potential test may be used for projects that involve construction of new emissions units or modification of existing emissions units. A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum of the difference between the potential to emit from each new or modified emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.
(e) The hybrid test may be used for projects that involve multiple types of emissions units. A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the appropriate methods specified above in this subrule as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant.
(3) Any major stationary source for a plant wide applicability limit for a regulated new source review pollutant shall comply with R 336.2907.
(4) The provisions of this rule do not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions to the extent quantifiable are considered in
calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:
(a) Coal cleaning plants, with thermal dryers.
(b) Kraft pulp mills.
(c) Portland cement plants.
(d) Primary zinc smelters.
(e) Iron and steel mills.
(f) Primary aluminum ore reduction plants.
(g) Primary copper smelters.
(h) Municipal incinerators capable of charging more than 250 tons of refuse per day.
(i) Hydrofluoric, sulfuric, or citric acid plants.
(j) Petroleum refineries.
(k) Lime plants.
(l) Phosphate rock processing plants.
(m) Coke oven batteries.
(n) Sulfur recovery plants.
(o) Carbon black plants, furnace process.
(p) Primary lead smelters.
(q) Fuel conversion plants.
(r) Sintering plants.
(s) Secondary metal production plants.
(t) Chemical process plants.
(u) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input.
(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
(w) Taconite ore processing plants.
(x) Glass fiber processing plants.
(y) Charcoal production plants.
(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.
(aa) Any other stationary source category which, as of August 7, 1980, is regulated under section 111 or 112 of the clean air act.
(5) The following additional construction and permitting requirements apply:
(a) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with any other applicable requirements and any other requirements under local, state, or federal law.
(b) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation that was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of R 336.2908 shall apply to the source or modification as though construction had not yet commenced on the source or modification.
(6) The following provisions apply to projects at existing emissions units at a major stationary source that is subject to either prevention of significant deterioration of air quality regulations or new source review for major sources in nonattainment areas regulations in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method in R 336.2901(dd) or R 336.2801(ll) for calculating projected actual emissions:
(a) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:
(i) A description of the project.
(ii) Identification of the emissions units whose emissions of a regulated new source review pollutant may be affected by the project.
(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated new source review pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under R 336.2901(dd)(ii)(C) and an explanation for why such amount was excluded, and any netting calculations, if applicable.
(b) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information required by subdivision (a) of this subrule to the department. This subdivision does not require the owner or operator of such a unit to obtain any determination from the department before beginning actual construction.
(c) The owner or operator shall monitor the emissions of any regulated new source review pollutant that could increase as a result of the project and that is emitted by any emissions units identified under subdivision (a)(ii) of this subrule and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated new source review pollutant at the emissions unit.
(d) If the unit is an existing electric utility steam generating unit, then the owner or operator shall submit a report to the department within 60 days after the end of each year during which records shall be generated under subdivision (c) of this subrule setting out the unit's annual emissions during the year that preceded submission of the report.
(e) If the unit is an existing unit other than an electric utility steam generating unit, then the owner or operator shall submit a report to the department if the annual emissions, in tons per year, from the project identified pursuant to this subrule exceed the baseline actual emissions by a significant amount for that regulated new source review pollutant, and if such emissions differ from the preconstruction projection. The report shall be submitted to the department within 60 days after the end of such year. The report shall contain all of the following information:
(i) The name, address and telephone number of the major stationary source.
(ii) The annual emissions as calculated under subdivision (c) of this subrule.
(iii) Any other information that the owner or operator wishes to include in the report, for example, an explanation as to why the emissions differ from the preconstruction projection.
(f) A reasonable possibility that a project may result in a significant emissions increase occurs when the project is subject to R 336.1201(1)(a) and is not exempted from the requirement to obtain a permit to install by R 336.1278 to R 336.1290. If the owner or operator determines that the project is exempted by R 336.1278 to R 336.1290, then the owner or operator may proceed with the project without obtaining a permit to install. If an owner or operator develops calculations for the project pursuant to R 336.2901(dd) or R 336.2801(ll), the calculations may be used for the purpose of demonstrating compliance with R 336.1278a(1)(c).
(7) The owner or operator of the source shall make the information required to be documented and maintained under this rule available for review upon a request for inspection by the department, or the general public under section 5516(2) of the act, MCL 324.5516(2).
(8) The requirements of this part that apply to major stationary sources and major modifications of volatile organic compounds shall also apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in ozone nonattainment areas or portions of an ozone transport region where the United States environmental protection agency has granted a NOx waiver applying the standards set forth under section 182(f) of the clean air act and the waiver continues to apply.
Rule 1907. (1) The following definitions apply to the use of actuals PALs. If a term is not defined in these paragraphs, then it shall have the meaning given in R 336.2901:

(a) "Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions of all emissions units at the source that emit or have the potential to emit the PAL pollutant.

(b) "Allowable emissions" means allowable emissions as defined in R 336.1101(k), except this definition is modified in the following manner:

(i) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(ii) An emissions unit's potential to emit shall be determined using the definition in R 336.2901(z), except that the words "or enforceable as a practical matter" shall be added after "legally enforceable."

(c) "Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant.

(d) "Major emissions unit" means either of the following:

(i) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area.

(ii) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the clean air act for nonattainment areas. For example, in accordance with the definition of major stationary source in section 182(c) of the clean air act, an emissions unit is a major emissions unit for volatile organic compounds if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of volatile organic compounds per year.

(e) "Plant wide applicability limitation" or "PAL" means an emission limitation, expressed in tons per year, for a pollutant at a major stationary source that is enforceable as a practical matter and established source-wide in accordance with this rule.

(f) "PAL effective date" generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(g) "PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.

(h) "PAL major modification" means, notwithstanding R 336.2901(s) and (v), the definitions for major modification and net emissions increase, any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(i) "PAL permit" means the permit to install that establishes a PAL for a major stationary source.

(j) "PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

(k) "Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

(2) The following requirements pertain to applicability:

(a) The department may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements of this rule. "PAL" means "actuals PAL" in this rule.

(b) The department shall not allow an actuals PAL for volatile organic compounds or nitrogen oxides for any major stationary source located in an extreme ozone nonattainment area.

(c) For physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of this rule, and complies with the PAL permit, all of the following shall apply:
(i) Is not a major modification for the PAL pollutant.
(ii) Does not have to be approved through the permitting requirements of this rule.
(iii) Is not subject to the provisions in R 336.2902(5)(b), restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the nonattainment major new source review program.
(d) Except as provided under subdivision (c)(iii) of this subrule, a major stationary source shall continue to comply with all applicable federal, state, or local requirements, emission limitations, and work practice requirements that were established before the effective date of the PAL.
(3) As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit all of the following information to the department for approval:
(a) A list of all emissions units at the source designated as small, significant, or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal, state, or local applicable requirements, emission limitations, or work practices apply to each unit.
(b) Calculations of the baseline actual emissions with supporting documentation. Baseline actual emissions shall include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.
(c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subrule (13)(a) of this rule.
(4) The following general requirements apply for establishing PALs:
(a) The department may establish a PAL at a major stationary source, provided that, at a minimum, all the following requirements are met:
(i) The PAL shall impose an annual emission limitation in tons per year, which is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month total, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.
(ii) The PAL shall be established in a permit to install that meets the public participation requirements in subrule (5) of this rule.
(iii) The PAL permit to install shall contain all the requirements of subrule (7) of this rule.
(iv) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.
(v) Each PAL shall regulate emissions of only one pollutant.
(vi) Each PAL shall have a PAL effective period of 10 years.
(vii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in subrules (12) to (14) of this rule for each emissions unit under the PAL through the PAL effective period.
(b) At no time, during or after the PAL effective period, are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under R 336.2908(5) unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.
(5) PALs for existing major stationary sources shall be established, renewed, or increased through a permit to install issued under R 336.1201(1)(a). The department shall provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The department shall address all material comments before taking final action on the permit.
(6) The following apply to setting the 10-year actuals PAL level.
(a) Except as provided in subdivision (b) of this subrule, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period shall be subtracted from the PAL level. The department shall specify a reduced PAL level, in tons per year, in the PAL permit to become effective on the future compliance date of any applicable federal or state regulatory requirements before issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 parts per million nitrogen oxides to a new rule limit of 30 parts per million, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit.

(b) For newly constructed units, which do not include modifications to existing units, on which actual construction began after the 24-month period, instead of adding the baseline actual emissions as specified in subdivision (a) of this subrule, the emissions shall be added to the PAL level in an amount equal to the potential to emit of the units.

(7) The PAL permit shall contain, at a minimum, all of the following information:
(a) The PAL pollutant and the applicable source-wide emission limitation in tons per year.
(b) The PAL permit effective date and the expiration date of the PAL (PAL effective period).
(c) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL under subrule (10) of this rule before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. The PAL shall remain in effect until a revised PAL permit is issued by the department.
(d) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions.
(e) A requirement that, once the PAL expires, the major stationary source is subject to subrule (9) of this rule.
(f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subrule (13)(a) of this rule.
(g) A requirement that the major stationary source owner or operator monitor all emissions units under subrule (12) of this rule.
(h) A requirement to retain on-site the records required under subrule (13) of this rule. The records may be retained in an electronic format.
(i) A requirement to submit the reports required under subrule (14) of this rule by the required deadlines.
(j) Any other requirements that the department determines necessary to implement and enforce the PAL.

(8) The following shall apply to the PAL effective period and reopening of the PAL permit:
(a) The department shall specify a PAL effective period of 10 years.
(b) The following shall apply to reopening of the PAL permit:
(i) During the PAL effective period, the department shall reopen the PAL permit to do any of the following:
(A) Correct typographical or calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL.
(B) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under R 336.2908(5)(b) through (h).

(C) Revise the PAL to reflect an increase in the PAL as provided under subrule (11) of this rule.

(ii) The department may reopen the PAL permit for any of the following:

(A) Reduce the PAL to reflect newly applicable federal requirements with compliance dates after the PAL effective date.

(B) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the department may impose on the major stationary source under the state implementation plan.

(C) Reduce the PAL if the department determines that a reduction is necessary to avoid causing or contributing to a national ambient air quality standard or PSD increment violation, or to an adverse impact on an air quality related value that has been identified for a federal class I area by a federal land manager and for which information is available to the general public.

(iii) Except for a permit reopening for the correction of typographical or calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of subrule (5) of this rule.

(9) Any PAL, which is not renewed in accordance with the procedures in subrule (10) of this rule, shall expire at the end of the PAL effective period, and the following requirements of this paragraph shall apply:

(a) Each emissions unit, or each group of emissions units, that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following procedures:

(i) Within the time frame specified for PAL renewals in subrule (10)(b) of this rule, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit, or each group of emissions units, if such a distribution is more appropriate as determined by the department, by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under subrule (10)(e) of this rule, then the distribution shall be made as if the PAL had been adjusted.

(ii) The department shall determine whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the department determines is appropriate.

(b) Each emissions unit shall comply with the allowable emission limitation on a 12-month rolling basis. The department may approve the use of monitoring systems other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emission limitation.

(c) Until the department issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(d) Any physical change or change in the method of operation at the major stationary source shall be subject to the nonattainment major new source review requirements if the change meets the definition of major modification in R 336.2901(s).

(e) The major stationary source owner or operator shall continue to comply with all state, federal, or local applicable requirements that may have applied either during the PAL effective period or before the PAL effective period, except for those emission limitations that were eliminated by the PAL under subrule (2)(c)(iii) of this rule.

(10) The following shall apply to renewal of a PAL:

(a) The department shall follow the procedures specified in subrule (5) of this rule in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level
and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the department.  

(b) A major stationary source owner or operator shall submit a timely application to the department to request renewal of a PAL. A timely application is one that is submitted at least 6 months before, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.  

(c) The application to renew a PAL permit shall contain all of the following information:  

(i) The information required in subrule (3) of this rule.  

(ii) A proposed PAL level.  

(iii) The sum of the potential to emit of all emissions units under the PAL with supporting documentation.  

(iv) Any other information the owner or operator wishes the department to consider in determining the appropriate level for renewing the PAL.  

(d) In determining whether and how to adjust the PAL, the department shall consider either of the options outlined in paragraphs (i) and (ii) of this subdivision. The adjustment shall comply with paragraph (iii) of this subdivision.  

(i) If the emissions level calculated in accordance with subrule (6) of this rule is equal to or greater than 80% of the PAL level, the department may renew the PAL at the same level without considering the factors in paragraph (ii) of this subdivision.  

(ii) The department may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the department in its written rationale.  

(iii) Notwithstanding paragraphs (i) and (ii) of this subdivision, both of the following shall apply:  

(A) If the potential to emit of the major stationary source is less than the PAL, then the department shall adjust the PAL to a level not greater than the potential to emit of the source.  

(B) The department shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with subrule (11) of this rule.  

(e) If the compliance date for a state, federal, or local requirement that applies to the PAL source occurs during the PAL effective period, and if the department has not already adjusted for such requirement, then the PAL shall be adjusted at the time of PAL permit renewal or renewable operating permit renewal, whichever occurs first.  

(11) The following shall apply to increasing a PAL during the PAL effective period:  

(a) The department may increase a PAL emission limitation only if the major stationary source complies with the following provisions:  

(i) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. The application shall identify the emissions units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.  

(ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the
application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit shall currently comply.

(iii) The owner or operator obtains a major new source review permit for all emissions units identified in paragraph (i) of this subdivision, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions units shall comply with any emissions requirements resulting from the nonattainment major new source review program process (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

(iv) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(b) The department shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT equivalent controls as determined in subdivision (a)(ii) of this subrule, plus the sum of the baseline actual emissions of the small emissions units.

(c) The PAL permit shall be revised to reflect the increased PAL level under the public notice requirements of subrule (5) of this rule.

(12) The following shall apply to monitoring requirements for PALs:

(a) The following general requirements shall apply:

(i) Each PAL permit shall contain enforceable requirements for the monitoring system that accurately determines plant wide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit shall be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by the system shall meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(ii) The PAL monitoring system shall employ one or more of the 4 general monitoring approaches meeting the minimum requirements set forth in subdivision (b) of this subrule and shall be approved by the department.

(iii) Notwithstanding paragraph (ii) of this subdivision, an owner or operator may also employ an alternative monitoring approach that meets paragraph (i) of this subdivision if approved by the department.

(iv) Failure to use a monitoring system that meets the requirements of this rule renders the PAL invalid.

(b) Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subdivisions (c) to (i) of this subrule:

(i) Mass balance calculations for activities using coatings or solvents.

(ii) CEMS.

(iii) CPMS or PEMS.

(iv) Emission factors.

(c) An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet all of the following requirements:

(i) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit.

(ii) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process.
(iii) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, then the owner or operator shall use the highest value of the range to calculate the PAL pollutant emissions unless the department determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(d) An owner or operator using CEMS to monitor PAL pollutant emissions shall meet both of the following requirements:

(i) CEMS shall comply with applicable performance specifications found in 40 C.F.R. part 60, appendix B, adopted by reference in R 336.1902.

(ii) CEMS shall sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

(e) An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet both of the following requirements:

(i) The CPMS or the PEMS shall be based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit.

(ii) Each CPMS or PEMS shall sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the department, while the emissions unit is operating.

(f) An owner or operator using emission factors to monitor PAL pollutant emissions shall meet all of the following requirements:

(i) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development.

(ii) The emissions unit shall operate within the designated range of use for the emission factor, if applicable.

(iii) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the department determines that testing is not required.

(g) A source owner or operator shall record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(h) Notwithstanding the requirements in subdivision (c) to (g) of this subrule, if an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, then the department shall, at the time of permit issuance do either of the following:

(i) Establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating points.

(ii) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.

(i) All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the department. Testing shall occur at least once every 5 years after issuance of the PAL.

(13) All of the following recordkeeping requirements shall apply:

(a) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with this rule and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of the record.

(b) The PAL permit shall require an owner or operator to retain a copy of all of the following records for the duration of the PAL effective period plus 5 years:
(i) A copy of the PAL permit application and any applications for revisions to the PAL.
(ii) Each annual certification of compliance pursuant to renewable operating permit and the data relied on in certifying the compliance.

(14) The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the department in accordance with the source's renewable operating permit. The reports shall meet all of the following requirements:

(a) The semiannual report shall be submitted to the department within 30 days of the end of each reporting period. This report shall contain all of the following information:

(i) The identification of owner and operator and the permit number.

(ii) Total annual emissions, tons per year, based on a 12-month rolling total for each month in the reporting period recorded under subrule (13)(a) of this rule.

(iii) All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions.

(iv) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.

(v) The number, duration, and cause of any deviations or monitoring malfunctions, other than the time associated with zero and span calibration checks, and any corrective action taken.

(vi) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by subrule (12)(g) of this rule.

(vii) A signed statement by the responsible official, as defined by the applicable renewable operating permit, certifying the truth, accuracy, and completeness of the information provided in the report.

(b) The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted under R 336.1213(3)(c)(ii) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the source's renewable operating permit. The reports shall contain all of the following information:

(i) The identification of owner and operator and the permit number.

(ii) The PAL requirement that experienced the deviation or that was exceeded.

(iii) Emissions resulting from the deviation or the exceedance.

(iv) A signed statement by the responsible official, as defined by the source's renewable operating permit, certifying the truth, accuracy, and completeness of the information provided in the report.

(c) The owner or operator shall submit to the department the results of any re-validation test or method within 3 months after completion of the test or method.

R 336.2908 Conditions for approval of a major new source review permit in a nonattainment area.

Rule 1908. (1) The department may only issue a permit approving the construction of a new major stationary source or major modification in a nonattainment area if the department has determined that the owner or operator of the major stationary source or major modification will comply with all of the provisions of this rule.

(2) The owner or operator of the proposed major stationary source or major modification shall provide an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed major stationary source or major modification which demonstrates that the benefits of the
proposed major stationary source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(3) The major stationary source or major modification shall comply with the lowest achievable emissions rate for each regulated new source review pollutant for which the area is designated as nonattainment.

(4) All stationary sources which have a potential to emit 100 or more tons per year of any air contaminant regulated under the clean air act, which are located in the state, and which are owned or controlled by the owner, operator, or an entity controlling, controlled by, or under common control with, the owner or operator of the proposed major stationary source or major modification shall be in compliance with all applicable local, state, and federal air quality regulations or and shall be in compliance with a legally enforceable permit condition or order of the department specifying a plan and timetable for compliance.

(5) Before the start-up of the new major stationary source or major modification, an emission reduction offset for each major nonattainment air contaminant shall be provided consistent with the following provisions:

(a) The baseline for determining credit for emissions reductions is the emissions limit under the state implementation plan in effect at the time the application to construct is filed, except that the offset baseline shall be the actual emissions of the source from which offset credit is obtained where either of the following occurs:

(i) The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within the nonattainment area.

(ii) The state implementation plan does not contain an emissions limitation for that source or source category.

(b) The following requirements apply to emissions offset credits:

(i) Where the allowable emissions are greater emissions than the potential to emit of the source, emissions offset credit shall be allowed only for control below this potential.

(ii) For an existing fuel combustion source, credit shall be based on the source’s allowable emissions for the type of fuel being burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date, then emissions offset credit based on the allowable, or actual, emissions for the fuels involved is not acceptable, unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date. The department shall ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches.

(c) An emission reduction credit shall not be creditable as an emission offset unless it meets the following requirements:

(i) Emissions reductions that have been achieved by shutting down an existing emission unit or curtailing production or operating hours may be generally credited for offsets only if they meet all of the following requirements:

(A) The reductions are surplus, permanent, quantifiable and federally enforceable.

(B) The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. The department may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes emissions from such previously shutdown or curtailed emission units. However, credit shall not be given for shutdowns that occurred before August 7, 1977.

(ii) Emissions reductions that are achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements of R 336.2908(5)(c)(i)(A)(B) may be generally credited only if they meet either of the following:
(A) The shutdown or curtailment occurred on or after the date the construction permit application is filed.
(B) The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions are surplus, permanent, quantifiable and federally enforceable.
(d) Emissions credit shall not be allowed for replacing 1 hydrocarbon compound with another of lesser reactivity, except for those compounds listed in table 1 of the United States environmental protection agency's "Recommended Policy on Control of Volatile Organic Compounds," 42 FR 35314, adopted by reference in R 336.1902.
(e) All emission reductions claimed as offset credit shall be federally enforceable.
(f) Offsets shall be obtained from the same nonattainment area as the proposed major source or major modification, except another nonattainment area may be used if both of the following conditions are met:
(i) The other area has an equal or higher nonattainment classification than the area in which the proposed source is located.
(ii) Nonattainment air contaminant emissions from the other area contribute to a violation of a national ambient air quality standard in the nonattainment area in which the proposed major source or major modification would be located.
(g) Credit for an emissions reduction may be claimed to the extent that the reviewing authority has not relied on it in issuing any permit required by R 336.1220 or R 336.2902 and the department has not relied on it in demonstrating attainment or reasonable further progress.
(h) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit. Unless specified otherwise in this rule, the offset ratio for each nonattainment air pollutant that will be emitted in significant amounts from a new major source or major modification located in a nonattainment area that is subject to subpart 1, part D, title 1 of the clean air act shall be at least 1:1.
(i) The provisions of this subrule do not apply to emissions resulting from proposed major sources or major modifications to the extent that the emissions are temporary and will not prevent reasonable further progress towards attainment of any applicable standard. Examples of temporary emissions include emissions from all of the following:
(i) Pilot plants.
(ii) Portable facilities which will be relocated outside the nonattainment area within 18 months.
(iii) The construction phase of a new major stationary source or major modification.
(6) For facilities meeting the emissions offset requirements of R 336.2908(5) for ozone nonattainment areas that are subject to subpart 2, part D, title 1 of the clean air act, the facility must meet the following requirements:
(a) The ratio of total actual emissions reductions of Volatile Organic Compound (VOC) or Oxides of Nitrogen (NOx) to the emissions increase of VOC or NOx shall be as follows:
(i) In any marginal nonattainment area for ozone, the ratio shall be 1.1:1.
(ii) In any moderate nonattainment area for ozone, the ratio shall be 1.15:1.
(iii) In any serious nonattainment area for ozone, the ratio shall be 1.2:1.
(iv) In any severe nonattainment area for ozone, the ratio shall be 1.3:1, except that the ratio may be 1.2:1 if all existing major sources in the severe nonattainment area use BACT for the control of VOC.
(v) In any extreme nonattainment area for ozone, the ratio shall be 1.5:1, except that the ratio may be 1.2:1 if all existing major sources in the extreme nonattainment area use BACT for the control of VOC.
(b) Notwithstanding the requirements of R 336.2908(6)(a) for meeting the requirements of R 336.2908(5), the ratio of total actual emissions reductions of VOC to the emissions increase of VOC
shall be 1.15:1 for all areas within an ozone transport region that is subject to subpart 2, part D, title 1 of the clean air act except for serious, severe, and extreme ozone nonattainment areas that are subject to subpart 2, part D, title 1 of the clean air act.

(c) For each facility meeting the emissions offset requirements of R 336.2908(5) for ozone nonattainment areas that are subject to subpart 2, part D, title 1 of the clean air act but are not subject to subpart 2, part D, title 1 of the clean air act, including 8-hour ozone nonattainment areas subject to 40 C.F.R. 51.902(b), adopted by reference in R 336.1902, the ratio of total actual emissions reductions of VOC to the emissions increase of VOC shall be 1:1.

(7) The requirements of this section that apply to major stationary sources and major modifications of PM-10 and PM 2.5 shall also apply to major stationary sources and major modifications of PM-10 and PM 2.5 precursors, except when the department determines that such sources do not contribute significantly to PM-10 and PM 2.5 levels that exceed the PM-10 and PM 2.5 ambient standards in the area.
ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR’S OFFICE

MASSAGE THERAPY - GENERAL RULES

Filed with the Secretary of State on January 10, 2019

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


PART 1. GENERAL PROVISIONS

R 338.701 Definitions.

Rule 1. (1) As used in these rules:
(a) "Board" means the Michigan board of massage therapy created under section 17955 of the code, MCL 333.17955.
(b) “Classroom instruction” means 50 to 60 minutes of educational instruction, which constitutes 1 hour of classroom instruction, and meets either of the following:
(i) Is provided at a physical location where the students and an instructor are present.
(ii) Is provided by distance education.
(c) "Code" means 1978 PA 368, MCL 333.1101 et seq.
(d) "Department" means the department of licensing and regulatory affairs.
(e) “Distance education” means the same as defined under section 17959 of the code, MCL 333.17959.
(f) "Endorsement" means the acknowledgement that the licensing criteria in 1 jurisdiction is substantially equivalent to the criteria established and described in section 16186 of the code, MCL 333.16186.
(g) “Members of the public” mean individuals who are not currently enrolled in the massage therapy student’s supervised curriculum.
(h) “Supervised curriculum” means a massage therapy curriculum that meets the requirements of R 338.722 and is taught in a school as defined in section 17951(1)(e) of the code, MCL 333.17951(1)(e).
(i) “Supervised student clinic” means practical instruction required as part of a supervised curriculum that consists of a student providing massages under the supervision of a licensed massage therapist to members of the public.

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

R 338.704 Rescinded.

R 338.705 Rescinded.

R 338.707 Rescinded.

R 338.709 Rescinded.

R 338.711 Rescinded.

R 338.713 Rescinded.

R 338.715 Rescinded.

R 338.717 Rescinded.

R 338.719 Rescinded.

PART 2. EDUCATION

R 338.722 Supervised curriculum; massage therapists; requirements.

Rule 22. (1) For students enrolled before August 1, 2017, a supervised curriculum shall include, at a minimum, 500 hours of courses or coursework, and both of the following:

(a) Classroom instruction as defined in R 338.701(1)(b)(i), including both of the following:
   (i) Forty hours performing massage therapy services in a student clinic that are supervised by a licensed massage therapist and meet the requirements under R 338.724.
   (ii) Two hundred hours of massage and bodywork assessment, theory, and application instruction.

(b) Classroom instruction as defined in R 338.701(1)(b)(i) or (ii), including all of the following:
   (i) One hundred twenty-five hours of instruction on the body systems that include anatomy, physiology, and kinesiology.
   (ii) Forty hours of pathology.
   (iii) Ten hours of business, professional practice, or ethics instruction with a minimum of 6 hours in ethics.
   (iv) Eighty-five hours of instruction in an area or related field, as determined by the school, that complete the massage therapy program of study.

(2) For students enrolled 1 year after promulgation of this rule, a supervised curriculum shall meet both of the following:

(a) The requirements of R 338.726.

(b) A minimum of 625 hours of courses or coursework including both of the following:
   (i) Classroom instruction as defined in R 338.701(1)(b)(i), including both of the following:
      (A) Seventy-five hours performing massage therapy services in a student clinic that is supervised by a licensed massage therapist and meets the requirements under R 338.724.
(B) Two hundred hours of massage and bodywork assessment, theory, and application instruction.
   (ii) Classroom instruction as defined in R 338.701(1)(b)(i) or (ii), including all of the following:
   (A) One hundred twenty-five hours of instruction on the body systems that include anatomy, physiology, and kinesiology.
   (B) Forty hours of pathology.
   (C) Twenty-five hours of business, professional practice, or ethics instruction with a minimum of 10 hours in ethics.
   (D) One hundred sixty hours of instruction in an area or related field, as determined by the school, that complete the massage therapy program of study.

R 338.723 Rescinded.

R 338.724 Supervised student clinic; requirements.
   Rule 24. (1) Before beginning the supervised student clinic required under R 338.722, a student shall complete not less than 20 hours of courses or coursework in pathology.
   (2) A supervised student clinic shall satisfy all of the following requirements:
      (a) A minimum of 55 supervised clinic hours shall be held on school premises. A maximum of 20 supervised clinic hours may be held off school premises.
      (b) The clinic shall be supervised by a licensed massage therapist who is a faculty member of the school offering the supervised curriculum. The supervising massage therapist shall be present on the premises and be readily accessible to the students at all times during the clinic.
      (c) The ratio of students to supervising massage therapists shall not exceed 15 students to 1 supervising massage therapist.
   (3) A supervising massage therapist shall ensure that a student possesses the appropriate education, experience, and skills before allowing the student to provide a massage to any member of the public during a supervised student clinic.

R 338.726 Accreditation; standards; adoption by reference.
   Rule 26. The board shall approve a massage therapy supervised curriculum that meets the requirements of R 338.722(2) and complies with 1 of the following:
      (a) Is a national certification board for therapeutic massage and bodywork’s (ncbtmb) assigned school that is researched and approved by the ncbtmb and meets ncbtmb’s minimum curriculum requirements.
      (b) Is accredited by the accrediting body of the region in which the institution is located and the accrediting body meets either the recognition standards and criteria of the council for higher education accreditation (chea) or the recognition procedures and criteria of the United States department of education. The board adopts by reference the procedures and criteria for recognizing accrediting agencies of the United States department of education, effective July 1, 2000, as contained in title 34, part 602 of the code of federal regulations, and the policies and procedures for recognition of accrediting organizations of chea, effective June 28, 2010. Copies of the standards and criteria of chea accreditation and the United States department of education are available for inspection and distribution at cost from the Board of Massage Therapy, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909. Chea recognition standards may also be obtained at no cost from the council’s website at http://www.chea.org. The federal recognition criteria may also be obtained at no cost from the website for the United States department of education office of postsecondary education, at http://www.ed.gov/about/offices/list/OPE/index.html.

R 338.727 Rescinded.
PART 3. LICENSURE

R 338.731 Rescinded.

R 338.732 Training standards for identifying victims of human trafficking; requirements.

Rule 32. (1) Pursuant to sections 16148 and 17060 of the code, MCL 333.16148 and MCL 333.17060, an individual who is licensed or seeking licensure shall complete training in identifying victims of human trafficking that meets the following standards:
   (a) Training content that covers all of the following:
       (i) Understanding the types and venues of human trafficking in 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) Identifying 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 shall 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 for license renewals beginning with the 2017 renewal cycle and for initial licenses issued after March 14, 2022.

R 338.733 Rescinded.

R 338.734 Examinations; passing scores.

Rule 34. An applicant for licensure shall pass either of the following:
(a) The massage and bodywork licensure examination (mblex), or its replacement, offered by the federation of state massage therapy boards (fsmtb). The passing score for the mblex examination is the passing score recommended by the fsmtb.

(b) The national certification examination for therapeutic massage and bodywork (ncetmb) offered by the national certification board for therapeutic massage and bodywork (ncbtmb), if taken prior to November 1, 2014. The passing score for the ncetmb examination is the passing score recommended by ncbtmb. Ncetmb examination scores will be accepted by the department.

R 338.735 Licensure; massage therapist; requirements.

Rule 35. An applicant for a massage therapist license by examination shall submit the required fee and a completed application on a form provided by the department. In addition to satisfying the requirements of the code and these rules, the applicant shall satisfy both of the following requirements:

(a) Have successfully completed a supervised curriculum that satisfies the requirements in R 338.722.

(b) Pass an examination required under R 338.734.

R 338.736 Foreign-trained applicants; licensure; requirements.

Rule 36. An applicant for a massage therapist license who completed a massage therapy curriculum outside of the United States shall submit the required fee and a completed application on a form provided by the department. In addition to satisfying the requirements of the code and these rules, the applicant shall satisfy all of the following requirements:

(a) Have successfully completed a massage therapy curriculum that is substantially equivalent to a supervised curriculum that meets the requirements in R 338.722. Evidence of having completed a massage therapy curriculum that is substantially equivalent to a supervised curriculum includes an evaluation of the applicant’s education by a recognized and accredited credential evaluation agency that is a member of the national association of credential evaluation services.

(b) Pass an examination required under R 338.734.

(c) Demonstrate a working knowledge of the English language if the applicant’s massage therapy curriculum was taught in a language other than English. To demonstrate a working knowledge of the English language, the applicant shall establish that he or she has obtained a total score of not less than 80 on the test of English as a foreign language internet-based test (toefl-ibt) administered by the educational testing service.

R 338.737 Licensure by endorsement; requirements.

Rule 37. (1) An applicant for a license by endorsement as a massage therapist shall submit the required fee and a completed application on a form provided by the department. In addition to meeting the requirements of the code and these rules, an applicant who satisfies the requirements of the code and this rule, is presumed to satisfy the requirements of section 16186 of the code, MCL 333.16186.

(2) An applicant who was first registered or licensed as a massage therapist in another state of the United States for 5 years or more immediately preceding the date of filing an application for a Michigan massage therapist license shall have passed an examination required under R 338.734.

(3) An applicant who was first registered or licensed as a massage therapist in another state of the United States for less than 5 years immediately preceding the date of filing an application for a Michigan massage therapist license shall satisfy all of the following requirements:

(a) Have successfully completed a supervised curriculum that meets the requirements in R 338.722 or R 338.736(a).

(b) Have passed an examination required under R 338.734.

(c) Meet the requirements in R 338.736(c) if the applicant’s educational curriculum was taught in a language other than English.
(4) An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state in which the applicant holds a current license, certification, or registration or has ever held a license, certification, or registration as a massage therapist. If applicable, verification shall include the record of any disciplinary action taken or pending against the applicant.

R 338.738 Relicensure.
Rule 38. (1) An applicant whose license has lapsed for less than 3 years preceding the date of application for relicensure may be relicensed under section 16201(3) of the code, MCL 333.16201(3), if the applicant satisfies all of the following requirements:
(a) Submits the required fee and a completed application on a form provided by the department.
(b) Establishes that he or she is of good moral character as defined under sections 1 to 7 of 1974 PA 381, MCL 338.41 to MCL 338.47.
(c) Submits proof to the department of accumulating not less than 18 hours of continuing education credit that meets the requirements of R 338.739 and R 338.741 during the 3 years immediately preceding the application for relicensure.
(2) An applicant whose license has lapsed for 3 years or more preceding the date of application for relicensure may be relicensed under section 16201(4) of the code, MCL 333.16201(4), if the applicant satisfies all of the following requirements:
(a) Submits the required fee and a completed application on a form provided by the department.
(b) Establish that he or she is of good moral character as defined under sections 1 to 7 of 1974 PA 381, MCL 338.41 to MCL 338.47.
(c) Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174(3).
(d) Does either of the following requirements:
   (i) Passes an examination required under R 338.734.
   (ii) Submits evidence to the department that he or she was registered or licensed as a massage therapist in another state during the 3-year period immediately preceding the application for relicensure.
(3) An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or has ever held a license, certification, or registration as a massage therapist. If applicable, verification shall include the record of any disciplinary action taken or pending against the applicant.

R 338.739 License renewals; massage therapist; requirements; applicability.
Rule 39. (1) This rule applies to applications for renewal of a massage therapist license under sections 16201 and 17965 of the code, MCL 333.16201 and MCL 333.17965, which are renewed beginning with the 2018 renewal cycle.
(2) An applicant for license renewal who has been licensed for the 3-year period immediately preceding the expiration date of the license shall accumulate not less than 18 hours of continuing education in activities approved by the board under these rules during the 3 years immediately preceding the application for renewal.
(3) Submission of an application for renewal shall constitute the applicant’s certification of compliance with the requirements of this rule. A licensee shall retain documentation of meeting the requirements of this rule for a period of 4 years from the date of applying for license renewal. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221(h).
(4) The requirements of this rule do not apply to a licensee during his or her initial licensure cycle.

PART 4. CONTINUING EDUCATION

R 338.741 Acceptable continuing education; requirements; limitations.
Rule 41. (1) The 18 hours of continuing education required pursuant to R 338.739(2) for the renewal of a massage therapy license shall comply with the following:
   (a) Not more than 12 hours of continuing education shall be earned during a 24-hour period.
   (b) A licensee shall not earn credit for a continuing education program or activity that is identical or substantially identical to a program or activity the licensee has already earned credit for during that renewal period.
   (c) A licensee shall not earn credit for continuing education programs or activities that primarily focus on practices excluded from licensure under section 17957 of the code, MCL 333.17957.
   (d) Pursuant to section 16204 of the code, MCL 333.16204, at least 1 hour of continuing education shall be earned in the area of pain and symptom management. Continuing education hours in pain and symptom management may include, but are not limited to, courses in behavior management, behavior modification, stress management, and clinical applications, as they relate to professional practice.
   (e) At least 2 hours of continuing education shall be earned in the area of professional ethics or boundaries.

(2) The board shall consider any of the following as acceptable continuing education:

### ACCEPTABLE CONTINUING EDUCATION ACTIVITIES

<table>
<thead>
<tr>
<th>Activity Code</th>
<th>Activity and Proof Required</th>
<th>Number of continuing education hours granted/perm. per activity</th>
</tr>
</thead>
</table>
| 1             | Attendance at or participation in a continuing education program or activity related to the practice of massage therapy, or any non-clinical subject relevant to massage therapy practice, education, administration, management, or science, which includes, but is not limited to, live, in-person programs; interactive or monitored teleconference, audio-conference, or web-based programs; online programs; and journal articles or other self-study programs approved or offered by any of the following:  
  - The ncbtmb, or a sponsor approved by the ncbtmb.  
  - The fsmtb, or a sponsor approved by the fsmtb.  
  - A school as defined in section 17951(1)(e) of the code, MCL 333.17951(1)(e), which meets the supervised curriculum requirements of R 338.722 and defined in R 338.701(h).  
  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 activity for continuing education credit, and the date on which the program was held or activity completed. | The number of continuing education hours granted shall be the number of hours approved by the sponsor or the approving organization for the specific program or activity. A maximum of 18 hours of continuing education may be earned for this activity in each renewal period. |
| 2             | Initial presentation of a continuing education program related to the practice of massage therapy provided to a state, regional, national, or international massage therapy | Two hours of continuing education shall be granted for each 50 to 60 |
organization.

To receive credit, the presentation shall not be a part of the licensee’s regular job description and shall be approved or offered for continuing education credit by any of the following:

- The ncbtmb, or a sponsor approved by the ncbtmb.
- The fsmtb, or a sponsor approved by the fsmtb.
- A school as defined in section 17951(1)(e) of the code, MCL 333.17951(1)(e), which meets the supervised curriculum requirements of R 338.722 and defined in R 338.701(h).

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.

<table>
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<tr>
<th>3</th>
<th>Initial presentation of a scientific exhibit, poster, scientific paper, or clinical demonstration to a massage therapy organization.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Two hours of continuing education shall be granted for each 50 to 60 minutes of presentation. No additional credit shall be granted for preparation of a presentation. A maximum of 6 hours of continuing education may be earned for this activity in each renewal period. Pursuant to R 338.741(1)(c), credit for a presentation shall be granted once per renewal period.</td>
</tr>
</tbody>
</table>

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<tr>
<th>4</th>
<th>Initial publication of an article related to the practice of massage therapy in a non-peer reviewed journal or newsletter.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>One hour of continuing education shall be granted for each article. A maximum of 6 hours of continuing education may be earned for this activity in each renewal period. Pursuant to R 338.741(1)(c), credit for publication shall be granted once per renewal period.</td>
</tr>
</tbody>
</table>

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<tr>
<th>5</th>
<th>Initial publication of a chapter related to the practice of massage therapy in a non-peer reviewed journal or newsletter.</th>
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<tbody>
<tr>
<td></td>
<td>Five hours of continuing education shall be granted for each chapter. A maximum of 6 hours of continuing education may be earned for this activity in each renewal period. Pursuant to R 338.741(1)(c), credit for publication shall be granted once per renewal period.</td>
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<td></td>
<td>Identifying, researching, and resolving an event or issue related to clinical or professional practice.</td>
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<tr>
<td>6</td>
<td>If audited, the licensee shall submit a completed experiential activity form approved provided by the department for each issue or event.</td>
</tr>
<tr>
<td>7</td>
<td>Participating on a state or national committee, board, council, or association related to the field of massage therapy. A committee, board, council, or association is considered acceptable by the board if it enhances the participant’s knowledge and understanding of the field of massage therapy.</td>
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<tr>
<td></td>
<td>If audited, the licensee shall submit documentation verifying the licensee’s participation in at least 50% of the regularly scheduled meetings of the committee, board, council, or association.</td>
</tr>
</tbody>
</table>
| 8 | Participating on any of the following:  
  - A peer review committee dealing with quality patient care as it relates to the practice of massage therapy.  
  - A committee dealing with utilization review as it relates to the practice of massage therapy.  
  - A health care organization committee dealing with patient care issues related to the practice of massage therapy. | Five hours of continuing education shall be granted for participating on a committee. A maximum of 10 hours of continuing education may be earned for this activity in each renewal period. |
<p>|   | If audited, the licensee shall submit a letter from an organization official verifying the licensee’s participation on the committee. |                                                                                                                                                                                                  |</p>
<table>
<thead>
<tr>
<th>9</th>
<th>Providing clinical supervision for students at a supervised student clinic as set forth in R 338.701(i).</th>
<th>One hour of continuing education shall be granted for each 50 to 60 minutes of supervision provided. A maximum of 4 hours of continuing education may be earned for this activity in each renewal period.</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Participating in peer supervision or consultation with professional colleagues.</td>
<td>One hour of continuing education shall be granted for each 50 to 60 minutes of participation. A maximum of 6 hours of continuing education may be earned for this activity in each renewal period.</td>
</tr>
<tr>
<td>11</td>
<td>Participating in case conferences, including multidisciplinary conferences, for training purposes.</td>
<td>One hour of continuing education shall be granted for each 50 to 60 minutes of participation. A maximum of 4 hours of continuing education may be earned for this activity in each renewal period.</td>
</tr>
<tr>
<td>12</td>
<td>Providing individual supervision for a student in supervised curriculum beyond the hours required by R 338.722. Supervision provided as part of a disciplinary sanction may be included under this activity.</td>
<td>One hour of continuing education shall be granted for each 50 to 60 minutes of supervision provided beyond the hours of supervision required per month. A maximum of 6 hours of continuing education may be earned for this activity in each renewal period.</td>
</tr>
<tr>
<td>13</td>
<td>Participation in a panel discussion relevant to the practice of massage therapy in an approved continuing education program or an organized health care setting.</td>
<td>One hour of continuing education shall be granted for each 50 to 60 minutes spent participating in the panel discussion. A maximum of 4 hours of continuing education may be earned for this activity in each renewal period.</td>
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</table>
renewal period.

| 14 | Maintenance of a current cardiopulmonary resuscitation (cpr) card. If audited, the licensee shall submit a copy of a certificate of completion showing the licensee’s name, number of continuing education hours earned, sponsor name, and the date on which the program was held or activity completed. | One hour of continuing education shall be granted for each 50 to 60 minutes of participation. A maximum of 4 hours of continuing education may be earned for this activity in each renewal period. |

PART 5. STANDARDS OF PRACTICE

R 338.751 Prohibited conduct.

Rule 51. Prohibited conduct includes, but is not limited to, the following acts or omissions by an individual licensed under these rules:

(a) Practicing outside of the boundaries of professional competence, based on education, training, and experience. This includes, but is not limited to, providing massage therapy services without ensuring the safety, comfort, and privacy of the client.

(b) Engaging in harassment or unfair discrimination based on age, gender, gender identity, race, ethnicity, national origin, religion, sexual orientation, disability, or any basis proscribed by law. This requirement does not prevent a licensee from terminating a massage therapy session with someone or refusing to treat any person who suggests or requests that the licensee engage in conduct that is inappropriate, unsafe, or unethical.

(c) Soliciting or engaging in a sexual relationship with a current client, supervisee, or student.

(d) Exploiting a current or former client, supervisee, or student to further the licensee’s personal, religious, political, business, or financial interests.

R 338.752 Client records.

Rule 52. (1) A licensee shall maintain a legible client record for each client, which accurately reflects the licensee’s assessment and treatment of the client. Entries in the client record shall be made in a timely fashion.

(2) The client record shall contain all of the following information:

(a) The name of the massage therapist providing treatment.

(b) The client’s full name, address, date of birth, gender, and other information sufficient to identify the client.

(c) If the client is less than 18 years of age, written permission of either a parent or guardian for the minor client’s receipt of massage therapy.

(d) Information identifying any pre-existing conditions the client may have or verification that the client has no pre-existing conditions.

(e) Dates of service and date of entry in the client record.

(f) A client record entry for an initial client visit that includes all of the following:

(i) History, including description of presenting condition.

(ii) Therapeutic assessment, if applicable.

(iii) Treatment or care provided, if applicable. Outcome, if available.

(g) A client record entry for subsequent assessments, treatments, or care provided that includes all of the following:
(i) Change in condition.
(ii) Therapeutic assessment, if applicable.
(iii) Treatment or care provided, if applicable. Outcome, if available.
(h) If applicable, a referral to another health care provider.
(3) For massage therapy treatment provided at a special event, a licensee shall maintain a client record that satisfies the requirements of subrules (1) and (2) of this rule or an abbreviated client record, as specified in subrule (4) of this rule. For purposes of this subrule, “special event” means any of the following:
   (a) A charitable, community, or sporting events.
   (b) One-time events.
   (c) Massages performed at any location that are 20 minutes or less in duration.
(4) An abbreviated client record allowed under subrule (3) of this rule shall consist of, at a minimum, a completed intake form that contains all of the following information:
   (a) The client’s full name, date of birth, and an address or telephone number where the client can be contacted.
   (b) The information listed in subrule (2)(a), (c), (d) and (e) of this rule.
(5) In addition to complying with the requirements of this rule, a licensee shall retain client records as required under section 16213 of the code, MCL 333.16213.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 338.1551, R 338.1560, and R 338.1564 of the Michigan Administrative Code are amended, R 338.1565 is added to the Code, and R 338.1555 is rescinded as follows:

PART 1. GENERAL

R 338.1551 Complaints; filing.

Rule 51. (1) A complaint must be submitted in a form specified by the department.

(2) Upon receipt of a valid and written complaint, the department shall assign a complaint number, acknowledge the complaint, and forward a copy of the complaint to the licensee. The licensee shall reply to the department within 15 days from receipt of the complaint and shall confirm or deny the justification for the complaint. If a complaint or a portion of the complaint is not acknowledged by the licensee as being justified, then the department shall notify the complainant of the area of disagreement.

(3) If the complaint or the information submitted by the complaining party is incomplete or disputed by the licensee, the department may require the complaining party to furnish additional information. The report must indicate what steps, if any, have been taken by the complaining party, including involvement by any other governmental agency, or any other pertinent information regarding the subject matter of the complaint. Before the department takes any further action, it may obtain a report from local building officials or proper local authorities, and if the department cannot obtain a report from the local building official or proper local authorities, then a person authorized by the department may make an inspection to determine if the complaint is justified.

(4) Failure or refusal by the licensee to correct a structural matter that is materially deficient, dangerous, or hazardous to the owners is presumed to be dishonest or unfair dealing.

(5) All construction, renovations, alterations, or repairs must comply with the Michigan construction code.

R 338.1555 Rescinded.

PART 6. EDUCATION
R 338.1560  Instructor qualifications.

Rule 60. (1) An instructor of prelicensure courses shall possess either of the following qualifications:
   (a) Be qualified under the requirements of section 2404b(4) of the Occupational Code, MCL 339.2404b(4).
   (b) Be qualified by experience, education, or both, to supervise and instruct a prelicensure course required under MCL 339.2404b, including at least 1 of the following:
      (i) Properly licensed, certified, or approved instructor at a high school, intermediate school district, community college, university, the bureau of construction codes, the Michigan occupational safety and health administration, other government agency, or a proprietary school licensed by the department.
      (ii) Currently licensed as a residential builder or maintenance and alteration contractor with at least 3 years of experience in the subject matter being taught.
      (iii) Possess equivalent qualifications or relevant expertise in the subject matter being taught.
   (2) An individual seeking approval as a prelicensure course instructor shall submit to the department an application on a form provided by the department. In order for the applicant to be approved as a prelicensure course instructor, the application must be approved by the department.

R 338.1564. Continuing competency; activities; courses; alternate activities; proof of compliance.

Rule 64. (1) Activities demonstrating continuing competency as required under section 2404b of the Occupational Code, MCL 339.2404b, such as courses and alternate activities, may include any of the following:

<table>
<thead>
<tr>
<th>Activity and Proof Required</th>
<th>Number of Hours Earned for Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Completing any construction code update course approved by the bureau of construction codes and any fire safety or workplace safety course approved or sponsored by the department, and any continuing competency course or activity, regardless of the format in which it is offered, if it is approved or offered for continuing competency credit by either of the following:</td>
<td></td>
</tr>
<tr>
<td>· Another state board of residential builders or alteration and maintenance contractors, other than this state.</td>
<td></td>
</tr>
<tr>
<td>· Any national, regional or local home builder association or home builder professional organization.</td>
<td></td>
</tr>
<tr>
<td>If audited, a licensee shall submit a copy of a letter or a certificate of completion issued by the course or activity sponsor or organization</td>
<td>One continuing competency hour may be earned for each qualifying hour of attendance satisfactorily documented by the sponsor or organization.</td>
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<tr>
<td><strong>b. Successful completion of a college or university course.</strong></td>
<td>A minimum of 15 continuing competency hours may be earned for each semester credit hour earned and a minimum of 12 continuing competency hours earned for each quarter credit hour earned.</td>
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<tr>
<td>If audited, a licensee shall submit a copy of the transcript issued by the college or university showing the number of completed credit hours for the academic course.</td>
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<tr>
<td><strong>c. Successful completion of a comprehensive examination being administered by the department or by a third party under contract with the department to offer prelicensure examinations.</strong></td>
<td>Five continuing competency hours may be earned for proof of a passing score on the examination.</td>
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<tr>
<td>If audited, a licensee shall submit proof of a passing score on the examination.</td>
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<tr>
<td><strong>d. Participation in a school-sponsored mentoring program.</strong></td>
<td>Two continuing competency hours may be earned for each qualifying hour of attendance satisfactorily documented by the sponsor or organization.</td>
</tr>
<tr>
<td>If audited, a licensee shall submit a copy of a letter or a certificate of completion issued by the school showing the licensee’s name, name of the school, the date or dates on which the mentoring program was held and attended by the licensee.</td>
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<tr>
<td><strong>e. Presenting or attending a seminar, in-house course, workshop, or technical presentation made at a meeting, convention, or conference by a trade association, research institute, risk management entity, manufacturer, supplier, governmental agency, consulting agency, or other entity.</strong></td>
<td>One continuing competency hour may be earned for each qualifying hour of attendance satisfactorily documented by the sponsor or organization.</td>
</tr>
<tr>
<td>If audited, a licensee shall submit a copy of a letter or a certificate of completion issued by the sponsor or organizer of the seminar, in-house</td>
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</tbody>
</table>

showing the licensee’s name, number of hours attended, sponsor name, or the name of the organization that approved the continuing competency course or activity, and the date or dates on which the course was held or the activity completed.
course, workshop, or technical presentation made at a meeting, convention or conference showing the licensee’s name, sponsor name, or the name of the organization, and the date or dates on which the activity was held and attended by the licensee.

<table>
<thead>
<tr>
<th>f.</th>
<th>Successfully completing a distance learning course, consistent with the requirements of R 338.1566.</th>
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<tbody>
<tr>
<td></td>
<td>If audited, a licensee shall submit a copy of a letter or a certificate of completion issued by the sponsor or organization of the distance learning course, showing the licensee’s name, number of hours attended, sponsor name or the name of the organization that approved the distance learning course, and the date or dates on which the course was held, or the course was completed by the licensee.</td>
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<td>One continuing competency hour may be earned for each qualifying hour of attendance satisfactorily documented by the sponsor or organization.</td>
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<th>g.</th>
<th>Teaching, instructing, or presenting a department approved prelicensure course or other course approved under this rule, which is not a part of the licensee’s regular job description.</th>
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<td>If audited, a licensee shall submit a letter issued by the course or activity sponsor or organization confirming a licensee as the teacher, instructor, or presenter of a course, together with a copy of the course syllabus, or other program documentation, showing that licensee is the instructor, the name of the course, and the date or dates the course took place.</td>
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<td>One continuing competency hour may be earned for each qualifying hour of attendance satisfactorily documented by the sponsor or organization.</td>
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<td>h.</td>
<td>Publication of an article in a trade journal or a regional magazine as an expert in the field.</td>
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<td>If audited, a licensee shall submit a copy of the publication that identifies the licensee as the author of the publication and the publication acceptance letter showing licensee’s name, article name, and date of publication.</td>
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<td>i.</td>
<td>Active participation in an occupational or technical society, state advisory, or review committee.</td>
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<td>If audited, a licensee shall submit documentation, satisfactory to the department, verifying the licensee’s active participation at the meeting.</td>
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<td>j.</td>
<td>Serving as a member or attending a state residential builders and maintenance and alteration contractors board meeting.</td>
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<td>If audited, a licensee shall submit documentation, satisfactory to the department, verifying the licensee’s attendance at the board meeting.</td>
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<td>k.</td>
<td>Serving as a member or attending a state construction code commission meeting.</td>
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<td>If audited, a licensee shall submit documentation, satisfactory to the department, verifying the licensee’s attendance at the commission meeting.</td>
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<td>l.</td>
<td>Participating in a company-sponsored seminar or training that is designed to enhance professional development in the licensee’s area of professional practice.</td>
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<td>If audited, a licensee shall submit a copy of a letter or a certificate of completion issued by the company or organization presenting the seminar or training on its behalf, showing the licensee’s name, company name or the</td>
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name of the organization presenting the seminar or training on behalf of the company, subject of the seminar or training, and the date or dates on which the above-referenced seminar or training was held and completed by the licensee.

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<tr>
<th>m. Participating in research conducted in conjunction with a college or university, trade association, or manufacturer.</th>
<th>One continuing competency hour may be earned for each qualifying hour of attendance certified by the sponsor or organization.</th>
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<tr>
<td>If audited, a licensee shall submit documentation, satisfactory to the department, verifying the licensee’s participation in research conducted in conjunction with a college or university, trade association, or manufacturer.</td>
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<th>n. Participating in a code hearing conducted by the International Code Council or bureau of construction codes.</th>
<th>One continuing competency hour may be earned for each qualifying hour of attendance at the code hearing.</th>
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<td>If audited, a licensee shall submit documentation, satisfactory to the department, verifying the licensee’s participation in the code hearing.</td>
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(2) The subject matter of courses and alternate activities chosen by a licensee must meet the minimum requirements of section 2404b(2) of the Occupational Code, MCL 339.2404b(2), and must be relevant to the licensed occupation, and may include any of the following:

(a) Prelicensure courses in the areas of competency listed in section 2404b(1)(c) of the Occupational Code, MCL 339.2404b(1)(c).

(b) The residential maintenance and alteration contractor crafts and trades listed in section 2404(3) of the Occupational Code, MCL 339.2404(3).

(c) Accounting and safekeeping for monies received from a customer, including requirements of section 1 of 1931 PA 259, MCL 570.151, regarding building contract fund.

(d) Accounting, finance, and taxes.

(e) Personnel management.

(f) Communication and customer service.

(g) Environmental or land use analysis.

(h) Life safety.

(i) Green or sustainable building practices; the practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's life-cycle from siting to design, which may include construction, operation, maintenance, renovation and deconstruction.

(j) Zoning and governance policies and procedures.

(k) Mold, lead, asbestos, or other hazardous material mitigation.
(3) Under section 2404(6) of the Occupational Code, MCL 339.2404(6), the licensee shall maintain documentation that is sufficient to verify participation in a course or activity, and time spent in meeting the continuing competency requirements under the act.

(4) Unless otherwise specified in the rules, the department shall give continuing competency credit based on the length of a qualifying program, with 50 minutes of continuous instruction constituting 1 qualifying hour. One-half-credit of continuing competency will be granted for every additional 25 minutes of instruction, after the first hour of credit is earned. As used in this subrule, "continuous instruction" means education time, not including breakfast, lunch, or dinner periods, coffee breaks, or any other breaks in the program.

R 338.1565 Waiver of continuing competency.

Rule 65. A request for waiver of continuing competency pursuant to section 204(2) of 1980 PA 299, MCL 339.204(2), must be received by the department prior to the expiration date of the license cycle.
ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

PUBLIC SERVICE COMMISSION

TECHNICAL STANDARDS FOR ELECTRIC SERVICE

Filed with the secretary of state on January 9, 2019

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 460.3101, R 460.3102, R 460.3204, R 460.3303, R 460.3304, R 460.3308, R 460.3309, R 460.3409, R 460.3605, R 460.3606, R 460.3608, R 460.3613, R 460.3615, and R 460.3703 of the Michigan Administrative Code are amended, and R 460.3205 is added to the Code, as follows:

PART 1. GENERAL PROVISIONS

R 460.3101 Applicability; purpose; modification; adoption of rules and regulations by utility.

Rule 101. (1) These rules apply to utility service that is provided by electric utilities that are subject to the jurisdiction of the public service commission.

(2) These rules are intended to promote safe and adequate service to the public and to provide standards for uniform and reasonable practices by utilities.

(3) These rules do not relieve a utility from any of its duties under the laws of the state of Michigan. (See R 460.1601(3).)

(4) Each utility may adopt reasonable rules and regulations governing its relations with customers which it finds necessary and which are not inconsistent with these rules for electric service. Adopted rules and regulations must be filed with, and approved by, the commission.

(5) An electric utility may petition the commission for a permanent or temporary waiver or exception from these rules for good cause shown provided that the waiver or exception is consistent with the purpose of these rules.

R 460.3102 Definitions.

Rule 102. As used in these rules:

(a) “Approved by the commission” means that a commission order has been issued.

(b) “Commission” means the Michigan public service commission.

(c) “Customer” means an account holder who purchases electric service from a utility. An individual who is a customer must be at least 18 years of age or an emancipated minor.
(d) “Electric plant” means all real estate, fixtures, or property that is owned, controlled, operated, or managed in connection with, or to facilitate the production, transmission, and delivery of, electric energy.

(e) “Electricity meter” means a device that measures and registers the integral of an electrical quantity with respect to time.

(f) “Electro-mechanical meter” means a meter in which currents in fixed coils react with the currents induced in the conducting moving element, generally a disk or disks, which causes their movement proportional to the energy to be measured. This meter may also be called an induction watthour meter.

(g) “File” means to deliver to the commission’s executive secretary.

(h) “Meter” or “watthour meter” means an electricity meter that measures and registers the integral with respect to time of the active power of the circuit in which it is connected. The unit by which this integral is measured is usually the kilowatt-hour.

(i) “Meter error” means a failure to accurately measure and record all of the electrical quantities used that are required by the applicable rate or rates.

(j) “Meter shop” means a shop where meters are inspected, repaired, and tested. A meter shop may be at a fixed location or may be mobile.

(k) “Premises” means an undivided piece of land that is not separated by public roads, streets, or alleys.

(l) “Solid state meter” means a meter in which current and voltage act on electronic (solid state) elements to produce an output proportional to the energy to be measured.

(m) “Submit” means to deliver to the commission’s designated representative.

(n) “Utility” means a firm, corporation, cooperative, association, or other legal entity that is subject to the jurisdiction of the commission and that distributes, sells, or provides electric service.

PART 2. RECORDS AND REPORTS

R 460.3204 Customer records; retention period; content.

Rule 204. (1) The utility shall retain, either within the utility or as contracted through a third party with access by the utility, customer records as necessary to comply with R 460.3309. The utility shall retain the records for not less than 3 years.

(2) Records for customers must show, if applicable, all of the following information:

(a) Kilowatt-hour meter reading.

(b) Metered kilowatt-hour consumption.

(c) Kilowatt, kilovolt ampere, and kilovar meter reading.

(d) Kilowatt, kilovolt ampere, and kilovar measured demand.

(e) Kilowatt, kilovolt ampere, and kilovar billing demand.

(f) Total amount of bill.

R 460.3205 Security reporting.

Rule 205. (1) To inform the commission regarding matters that may affect the security or safety of persons or property, whether public or private, an electric provider must do both of the following:

(a) Provide a written or oral annual report, individually or jointly with other electric providers, to designated members of the commission staff regarding the electric provider’s cybersecurity program and related risk planning. This report on the threat assessment and preparedness strategy must contain all of the following information:

(i) An overview of the program describing the electric provider’s approach to cybersecurity awareness and protection.
(ii) A description of cybersecurity awareness training efforts for the electric provider’s staff members, specialized cybersecurity training for cybersecurity personnel, and participation by the electric provider’s cybersecurity staff in emergency preparedness exercises in the previous calendar year.

(iii) An organizational diagram of the electric provider’s cybersecurity organization, including positions and contact information for primary and secondary cybersecurity emergency contacts.

(iv) A description of the electric provider’s communications plan regarding unauthorized actions that result in loss of service, financial harm, or breach of sensitive business or customer data, including the electric provider’s plan for notifying the commission and customers.

(v) A redacted summary of any unauthorized actions that resulted in material loss of service, financial harm, or breach of sensitive business or customer data, including the parties that were notified of the unauthorized action and any remedial actions undertaken.

(vi) A description of the risk assessment tools and methods used to evaluate, prioritize, and improve cybersecurity capabilities.

(vii) General information about current emergency response plans regarding cybersecurity incidents, domestic preparedness strategies, threat assessments, and vulnerability assessments.

(b) In addition to the information required under subdivision (a) of this subrule, an investor-owned public utility must include in its annual report to the Michigan public service commission an overview of major investments in cybersecurity during the previous calendar year and plans and rationale for major investments in cybersecurity anticipated for the next calendar year.

(2) As soon as reasonably practicable and prior to any public notification, an electric provider must orally report the confirmation of a cybersecurity incident to a designated member of the commission staff and to the Michigan fusion center, unless prohibited by law or court order or instructed otherwise by official law enforcement personnel, if any of the following occurred:

(a) A person intentionally interrupted the production, transmission, or distribution of electricity.

(b) A person extorted money or other thing of value from the electric provider through a cybersecurity attack.

(c) A person caused a denial of service in excess of 12 hours.

(d) An unauthorized person accessed or acquired data that compromises the security or confidentiality of personal information maintained by the electric provider, as defined by section 3(r) of the identity theft protection act, 2004 PA 452, MCL 445.63(r), prior to public and customer notification.

(e) At the electric provider’s discretion, any other cybersecurity incident, attack, or threat which the electric provider deems notable, unusual, or significant.

(3) For purposes of this rule, “electric provider” means any of the following:

(a) Any person or entity that is regulated by the commission for the purpose of selling electricity to retail customers in this state.

(b) A member-regulated cooperative electric utility in this state.

(4) For purposes of subrule (2) of this rule, “person” means any individual, firm, corporation, educational institution, financial institution, governmental entity, or legal or other entity.

(5) For purposes of subrule (2)(c) of this rule, “denial of service” means, for an electric provider, a successful attempt to prevent a legitimate user from accessing electronic information made accessible by the electric provider or by another party on the behalf of the electric provider.

PART 3. METER REQUIREMENTS

R 460.3303 Meter reading data.

Rule 303. The meter reading data must include all of the following information:

(a) A suitable designation identifying the customer.

(b) Identifying number and description of the meter.
(c) Meter readings or, if a reading was not taken, an indication that a reading was not taken.
(d) Any applicable multiplier or constant.

R 460.3304 Meter data collection system.
Rule 304. A meter data collection system that takes data from recording meters must indicate all of the following meter information:
(a) The date of the record.
(b) The equipment numbers.
(c) A suitable designation identifying the customer.
(d) The appropriate multipliers.

R 460.3308 Standards of good practice; adoption by reference.
Rule 308. In the absence of specific rules of the commission, a utility shall apply the provisions of the publications set forth in this rule as standards of accepted good practice. The following standards are available from the American National Standards Institute (ANSI), Customer Service, 25 West 43rd St., 4th floor, New York, New York, 10036, USA, telephone number: 1-212-642-4900 or via the internet at web-site: http://webstore.ansi.org at the cost listed below as of the time of adoption of these rules, plus a handling charge (for paper copies):
(a) American National Standards Institute standards for electricity meters ANSI C12.1-2014, cost $266.00, and C12.20-2010, cost $94.00.
(b) American National Standards Institute/American Society for Quality Sampling Procedures and Tables for Inspection by Variables for Percent Nonconforming (ANSI/ASQ Z1.9-2003(R2013)). Cost $179.00.
R 460.3309 Metering inaccuracies; billing adjustments.

Rule 309. (1) An adjustment of bills for service for the period of inaccuracy must be made for over registration and may be made for under registration under any of the following conditions:
   (a) A mechanical meter creeps.
   (b) A metering installation is found upon any test to have an average inaccuracy of more than 2.0%.
   (c) A demand metering installation is found upon any test to have an average inaccuracy of more than 1.0% in addition to the inaccuracies allowed under R 460.3609.
   (d) A meter registration has been found to be inaccurate due to apparent tampering by a person or persons known or unknown.

(2) The amount of the adjustment of the bills for service must be calculated on the basis that the metering equipment is 100% accurate with respect to the testing equipment used to make the test. The average accuracy of watt-hour meters must be calculated in accordance with R 460.3616.

(3) If the date when the inaccuracy in registration began can be determined, then that date must be the starting point for determining the amount of the adjustment and is subject to R 460.115.

(4) If the date when the inaccuracy in registration cannot be determined, then it is assumed that the inaccuracy existed for the period of time immediately preceding discovery of the inaccuracy that is equal to 1/2 of the time since the meter was installed on the present premises, 1/2 of the time since the last test, or 6 years, whichever is the shortest period of time, except as otherwise provided in subrule (5) of this rule and subject to subrule (12) of this rule.

(5) The inaccuracy in registration due to creep must be calculated by timing the rate of the creeping under R 460.3607 and by assuming that the creeping affected the registration of the meter for the period of time immediately preceding discovery of the inaccuracy that is equal to 1/4 of the time since the meter was installed on the present premises, 1/4 of the time since the last test, or 6 years, whichever is the shortest period of time, subject to subrule (12) of this rule.

(6) If the average inaccuracy cannot be determined by test because part, or all, of the metering equipment is inoperative, then the utility may use the registration of check metering installations, if any, or estimate the quantity of energy consumed based on available data. The utility shall advise the customer of the metering equipment failure and of the basis for the estimate of the quantity billed. The same periods of inaccuracy must be used as explained in this rule.

(7) Recalculation of bills must be on the basis of the recalculated monthly consumption.

(8) Refunds must be made to the 2 most recent customers who received service through the meter found to be inaccurate. If a former customer of the utility, a notice of the amount of the refund must be mailed to such customer at the last known address. The utility shall, upon demand made by the customer within 3 months of mailing of the notice, forward the refund to the customer.

(9) If the external meter display is not operating so that the customer can determine the energy used, but the meter is recording energy correctly, then no adjustment is required. The utility shall repair or replace the meter promptly upon discovery of the failure.

PART 4. CUSTOMER RELATIONS

R 460.3409 Protection of utility-owned equipment on customer’s premises.

Rule 409. (1) The customer shall use reasonable diligence to protect utility-owned equipment on the customer’s premises and to prevent tampering or interference with the equipment. The utility may shut off service in accordance with applicable rules of the commission if the metering or wiring on the customer’s premises is unsafe, or has been tampered with or altered in any manner that allows unmetered or improperly metered energy to be used.
(2) If a utility shuts off service for unauthorized use of service, then both of the following provisions apply:
   (a) The utility may bill the customer for the unmetered energy used and any damages that have been caused to utility-owned equipment.
   (b) The utility is not required to restore service until the customer does all of the following:
      (i) Makes reasonable arrangements for payment of the charges in subdivision (a) of this subrule.
      (ii) Agrees to pay the approved reconnection charges.
      (iii) Agrees to make provisions and pay charges for relocating utility-owned equipment or making other reasonable changes that may be requested by the utility to provide better protection for its equipment.
      (iv) Provides the utility with reasonable assurance of the customer’s compliance with the utility’s approved standard rules and regulations.
   (3) Failure to comply with the terms of an agreement to restore service after service has been shut off pursuant to subrule (1) of this rule is cause to shut off service in accordance with the rules of the utility and the commission.
   (4) If service is shut off pursuant to subrule (3) of this rule and the utility must incur extraordinary expenses to prevent the unauthorized restoration of service, the utility may bill the customer for the expenses, in addition to all other charges that may apply under this rule, and may require that the expenses and other charges be paid before restoring service. A reasonable effort must be made to notify the customer at the time of shutoff that additional charges may apply if an attempt is made to restore service that has been shut off.
   (5) The customer of record who benefits from the unauthorized use is responsible for payment to the utility for the energy consumed.
   (6) The utility may bill the customer for the reasonable actual cost of the tampering investigation.

PART 6. METERING EQUIPMENT INSPECTIONS AND TESTS

R 460.3605 Metering electrical quantities.

Rule 605. (1) All electrical quantities that are to be metered as provided in R 460.3301 must be metered by commercially acceptable instruments which are owned and maintained by the utility.

(2) Every reasonable effort must be made to measure at 1 point all the electrical quantities necessary for billing a customer under a given rate.

(3) Metering facilities located at any point where energy may flow in either direction and where the quantities measured are used for billing purposes shall consist of meters equipped with ratchets or other devices to prevent reverse registration and shall be so connected as to separately meter the energy flow in each direction, unless used to implement a utility tariff approved by the commission for service provided under a net metering program.

(4) A utility shall not employ reactive metering for determining the average power factor for billing purposes where energy may flow in either direction or where the customer may generate an appreciable amount of his or her energy requirements at any time, unless suitable directional relays and ratchets are installed to obtain correct registration under all conditions of operation.

(5) All electric service of the same type rendered by a utility under the same rate schedule must be metered with instruments having like characteristics, except that the commission may be requested to approve the use of instruments of different types if their use does not result in unreasonable discrimination. Either all of the reactive meters which may run backwards or none of the reactive meters used for measuring reactive power under 1 schedule must be ratcheted. This rule is only applicable to equipment owned by the utility.
R 460.3606 Nondirect reading meters and meters operating from instrument transformers; marking of multiplier on instruments; marking of charts and magnetic tapes; marking of register ratio on meter registers; watthour constants.

Rule 606. (1) Meters that are not direct reading and meters operating from instrument transformers must have the multiplier plainly marked on the dial of the instrument or otherwise suitably marked. All charts and magnetic tapes taken from recording meters must be marked with the date of the record, the meter number, customer, and chart multiplier, except as in R 460.3304.

(2) The register ratio must be marked on all meter registers.

(3) The watthour constant for the meter itself must be shown on all watthour meters.

R 460.3608 Demand meters, registers, and attachments; requirements.

Rule 608. A meter that records, or is capable of recording electric demand, is subject to the requirements of this rule. A demand meter, demand register, or demand attachment that is used to measure a customer’s service shall meet all of the following requirements:

(a) Be in good mechanical and electrical condition.

(b) Have proper constants, indicating scale, contact device, recording tape or chart, and resetting device.

(c) Not register at no load.

(d) Curve-drawing meters that record quantity-time curves and integrated-demand meters must be accurate to within plus or minus 2.0% of full scale throughout their working range. Timing elements measuring specific demand intervals must be accurate to within plus or minus 2.0%, and the timing element which serves to provide a record of the time of day when the demand occurs must be accurate to within plus or minus 4 minutes in 24 hours.

R 460.3613 Meter and metering equipment testing requirements.

Rule 613. (1) The testing of any unit of metering equipment must consist of a comparison of its accuracy with a standard of known accuracy. Units that are not properly connected or that do not meet the accuracy or other requirements of these meter and metering equipment rules at the time of testing shall be reconnected or rebuilt to meet such requirements and must be adjusted to within the required accuracy and as close to zero error as practicable or else their use shall be discontinued.

(2) Self-contained, electro-mechanical, solid state, single-phase, and all network meters must be in compliance with all of the following requirements:

(a) Be checked for accuracy as provided for in R 460.3602.

(b) Notwithstanding the provisions of subdivision (a) of this subrule, upon application to the commission and upon receipt of an order granting approval, the testing of self-contained, electro-mechanical, solid state, single-phase, and all network meters in service must be governed by a quality control plan as follows:

(i) Meters must be divided into homogenous groups by manufacturers’ types, and certain manufacturers’ types must be further subdivided into separate groups by manufacturers’ serial numbers.

(ii) The meters in each homogeneous group must then be further subdivided into lots of not less than 301, and not more than 35,000, meters each, except that meters of the most recent design may be combined into lots regardless of manufacturers’ type, except that where the number of meters of a single type is 8,001 or more, that number of meters must be segregated by types for the formation of lots.

(iii) From each assembled lot, a sample of the size specified in table A-2, ANSI/ASQC Z1.9, must be drawn annually. The sample must be drawn at random.

(iv) The meters in each sample must be tested for accuracy pursuant to paragraphs (v) to (xi) of this subdivision.
(v) The test criteria for acceptance or rejection of each lot must be based on the test at heavy load only and must be that designated for double specification limits and an acceptable quality level (AQL) that is not higher than 2.50 (normal inspection) as shown in table B-3, ANSI/ASQC Z1.9.

(vi) The necessary calculations must be made pursuant to Example B-3 of ANSI/ASQC Z1.9. The upper and lower specification limits, U and L, must be 102% and 98%, respectively.

(vii) A lot must be rejected if the total estimated percent defective (p) exceeds the appropriate maximum allowable percent defective (M) as determined from table B-3 as specified in paragraph (v) of this subdivision.

(viii) All meters in a rejected lot must be tested within a maximum period of 60 months and be adjusted pursuant to the provisions of R 460.3607 or be replaced with meters that are in compliance with the requirements of R 460.3607.

(ix) During each calendar year, new meter samples must be drawn as specified in this subdivision from all meters in service, with the exception that lots that have been rejected must be excluded from the sampling procedure until all meters included in the rejected lots have been tested.

(x) The utility may elect to adopt a mixed variables-attribut es sampling plan as outlined in Section A9 of ANSI/ASQC Z1.9, in which case, a lot that is not in compliance with the acceptability criteria of the variables sampling plan shall be resampled the following year using an attributes sampling plan. If the acceptability criteria of the attributes sampling plan are met, then the lot shall be considered acceptable and shall be returned to the variables sampling plan the following year. If the acceptability criteria of the attributes sampling plan are not met, then the utility shall reject that lot and all meters in the lot must be tested and adjusted or replaced within a maximum period of 48 months after the second rejection.

(xi) The plan specified in paragraph (x) of this subdivision does not alter the rules under which customers may request special tests of meters.

(c) Be checked for accuracy in all of the following situations:

(i) When a meter is suspected of being inaccurate or damaged.

(ii) When the accuracy of a meter is questioned by a customer. (See R 460.3601.)

(d) Be inspected for mechanical and electrical faults when the accuracy of the device is checked.

(e) Have the register and the internal connections checked before the meter is first placed in service and when the meter is repaired.

(f) Have the connections to the customer’s circuits checked when the meter is tested on the premises or when removed for testing.

(g) A meter need not be tested or checked for any reason if the device was tested, checked, and adjusted within the previous 12 months except when a complaint is received.

3) All single-phase instrument rated electro-mechanical meters must be in compliance with all of the following requirements:

(a) Be checked for accuracy at unity power factor at the point where a meter is installed, at a central testing point, or in a mobile testing laboratory as follows:

(i) Not later than 9 months after 144 months of service for a surge-resistant meter and not later than 9 months after 96 months of service for a non-surge-resistant meter.

(ii) When a meter is suspected of being inaccurate or damaged.

(iii) When the accuracy of a meter is questioned by a customer. (See R 460.3601.)

(iv) Before use when a meter has been inactive for more than 1 year after having been in service.

(b) Be inspected for mechanical and electrical faults when the accuracy of the device is checked.

(c) Have the register and the internal connections checked before the meter is first placed in service and when the meter is repaired.

(d) Have the connections to the customer’s circuits checked when the meter is tested on the premises or when removed for testing.

(e) Be checked for accuracy at 50% power factor when purchased and after rebuilding.
(f) A meter need not be tested or checked for any reason if the device was tested, checked, and adjusted within the previous 12 months except when a complaint is received.

(4) All self-contained electro-mechanical and solid state 3-phase meters and associated equipment must be in compliance with all of the following requirements. However, a utility may elect to include self-contained solid state 3-phase meters in service in its quality control plan as provided for in R 460.3613(2)(b). Therefore, a utility may be exempt from the periodic meter test requirements as provided in subdivision (a)(ii) of this subrule.

(a) Be tested for accuracy at unity and 50% power factor as follows:
   (i) Before being placed in service.
   (ii) Not later than 9 months after 120 months of service.
   (iii) When a meter is suspected of being inaccurate or damaged.
   (iv) When the accuracy of a meter is questioned by a customer. (See R 460.3601.)
   (v) When a meter is removed and put back in service.

(b) Be inspected for mechanical and electrical faults when the accuracy is checked.

(c) Have the register and internal connections checked before the meter is first installed, when repaired and when the register is changed.

(d) Have the connections to the customer’s circuits and multipliers checked when the equipment is tested for accuracy on the customer’s premises.

(5) All transformer-rated electro-mechanical and solid state 3-phase meters and associated equipment must be in compliance with all of the following requirements. However, a utility may elect to include transformer-rated solid state 3-phase meters in service in its quality control plan as provided for in R 460.3613(2)(b). Therefore, a utility may be exempt from the periodic meter test requirements as provided in subdivision (a)(iii) of this subrule.

(a) Be checked for accuracy at unity and 50% power factor as follows:
   (i) Before being placed in service.
   (ii) On the customer’s premises within 60 days after installation, unless the transformers are in compliance with the specifications outlined in the American National Standards Institute standard ANSI C-57.13, and unless the meter adjustment limits do not exceed plus or minus 1.5% at 50% power factor.
   (iii) Not later than 9 months after 72 months of service.
   (iv) When a meter is suspected of being inaccurate or damaged.
   (v) When the accuracy is questioned by a customer. (See R 460.3601.)
   (vi) When a meter is removed and put back in service.

(b) Be inspected for mechanical and electrical faults when the accuracy is checked.

(c) Have the register and internal connections checked before the meter is first placed in service and when the meter is repaired.

(d) Have the connections to the customer’s circuits and multipliers checked when the equipment is tested for accuracy on the premises or when removed for testing and when instrument transformers are changed.

(e) Be checked for accuracy at 50% power factor when purchased and after rebuilding.

(6) A utility shall test instrument transformers in all of the following situations:

(a) When first received, unless a transformer is accompanied by a certified test report by the manufacturer.

(b) When removed and put back in service.

(c) Upon complaint.

(d) When there is evidence of damage.

(e) When an approved check, such as the variable burden method in the case of current transformers that is made when the meter is tested indicates that a quantitative test is required.

(7) Demand meters must be in compliance with both of the following requirements:
(a) Be tested for accuracy in all of the following situations:
   (i) Before a meter is placed in service.
   (ii) When an associated meter is tested and the demand meter is a block interval nonrecording type or a thermal type.
   (iii) After 2 years of service if the meter is of the recording type, but testing is not required if the meter is of the pulse-operated type and the demand reading is checked with the kilowatt-hour reading each billing cycle.
   (iv) When a meter is suspected of being inaccurate or damaged.
   (v) When the accuracy is questioned by a customer. (See R 460.3601.)
(b) Be inspected for mechanical and electrical faults when a meter is tested in the field or in the meter shop.

R 460.3615 Metering equipment records.
Rule 615. (1) A utility shall maintain a complete record of the most recent test of all metering equipment. The record must show all of the following information:
   (a) Identification and location of unit.
   (b) Equipment with which the device is associated.
   (c) The date of test.
   (d) Reason for the test.
   (e) Readings before and after the test.
   (f) A statement as to whether or not the meter creeps and, in case of creeping, the rate.
   (g) A statement of meter accuracies before and after adjustment sufficiently complete to permit checking of the calculations employed.
   (h) Indications showing that all required checks have been made.
   (i) A statement of repairs made, if any.
   (j) Identification of the testing standard and the person making the test.
(2) The utility shall also keep a record of each unit of metering equipment which shows all of the following information:
   (a) When the unit was purchased.
   (b) The unit’s cost.
   (c) The company’s identification.
   (d) Associated equipment.
   (e) Essential nameplate data.
   (f) The date of the last test. The record must also show either the present service location with the date of installation or, if removed from service, the service location from which the unit was removed with the date of removal.

PART 7. STANDARDS OF QUALITY OF SERVICES

R 460.3703 Voltage measurements and records.
Rule 703. (1) A utility shall make voltage measurements at the utility’s service terminals.
(2) Each utility shall make a sufficient number of voltage measurements, using recording voltmeters, to determine if voltages are in compliance with the requirements stated in R 460.3702. For installations in which the meter measures voltage variations, measurements using recording voltmeters are not necessary unless records of the measurements through the meter are not available.
(3) All records obtained under subrule (2) of this rule must be retained by the utility for not less than 2 years and must be available for inspection by the commission’s representatives. The records shall indicate all of the following information:
   (a) The location where the voltage was measured.
   (b) The time and date of the measurement.
   (c) For installations without meters that measure voltage variations, the results of the comparison with an indicating voltmeter at the time a recording meter is set.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


PART 1. GENERAL PROVISIONS

R 338.2923 Educational standards; adoption by reference.

   Rule 23. (1) The board adopts by reference the standards of the Council on Social Work Education (CSWE) for the accreditation of social work education programs in the publication entitled, “Handbook of Social Work Accreditation Policies and Procedures,” 2008 edition, updated 2016, which is available at no cost from the CSWE’s website at www.cswe.org. A copy of the standards and procedures also is available for inspection and distribution at cost from the Board of Social Work, Bureau of Professional Licensing, Michigan Department of Licensing and Regulatory Affairs, Ottawa Building, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.

   (2) A social work education program accredited by CSWE is approved by the board. A social work education program that is not accredited by CSWE may be approved by the board if it is deemed substantially equivalent to the standards in subrule (1) of this rule, as determined by the board.

   (3) The board adopts by reference the policies and procedures for recognizing accrediting organizations of the Council for Higher Education Accreditation (CHEA), effective June 28, 2010, and the procedures and criteria for recognizing accrediting agencies of the United States Department of Education, effective July 1, 2010, as contained in Title 34, Part 602 of the Code of Federal Regulations, 34 C.F.R section 602.1 to 602.50 (2017). Copies of the policies and procedures of the CHEA and the procedures and criteria of the United States Department of Education are available for inspection and distribution at cost from the Board of Social Work, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, Ottawa Building, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909. The CHEA recognition
standards also may be obtained from the Council for Higher Education Accreditation, One Dupont Circle NW, Suite 510, Washington, DC 20036-1110, or from the CHEA’s website at www.chea.org at no cost. The federal recognition criteria may be obtained from the United States Department of Education Office of Postsecondary Education, 1990 K Street, NW, Washington, DC 20006 or from the department’s website at www.ed.gov/accreditation?src=accred at no cost.

(4) The board adopts by reference the standards of the following postsecondary accrediting organizations, which may be obtained from the individual accrediting organization at the identified cost or at cost from the Board of Social Work, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, Ottawa Building, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909:


(e) The standards of the Southern Association of Colleges and Schools, Commission on Colleges, 1866 Southern Lane, Decatur, GA 30033, in the document entitled "Principles of Accreditation: Foundation for Quality Enhancement,” 2012 edition, second printing with edits, which is available free of charge on the association's website at www.sacscoc.org.

(f) The standards of the Western Association of Schools and Colleges Senior College and University Commission, 985 Atlantic Avenue, Suite 100, Alameda, CA 94501, in the document entitled "2013 Handbook of Accreditation Revisited," November 17, 2015, which is available free of charge on the commission's website at www.wascsenior.org.

(g) The standards of the Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges, 10 Commercial Blvd., Suite 204, Novato, CA 94949 set forth in the document entitled, “Accreditation Standards,” (Adopted June 2014), which is available free of charge on the commission's website at www.accjc.org.

R 338.2925 Examination adoption; passing scores.

Rule 25. (1) The board approves and adopts the examinations developed, maintained, and scored by the Association of Social Work Boards (ASWB), or its successor agency, hereafter referred to as the
(2) Applicants shall achieve a passing score as defined by ASWB on the test required for the level of licensure sought.

(3) An exam may be approved by the board if it is deemed substantially equivalent to the examinations in subrule (1) of this rule, as determined by the board.

PART 2. SOCIAL SERVICE TECHNICIAN REQUIREMENTS

R 338.2931 Limited social service technician registration requirements.

Rule 31. (1) An applicant for a limited social service technician registration shall submit a completed application on a form provided by the department, together with the required fee. In addition to meeting the requirements of section 18507(2) of the code, MCL 333.18507(2), an applicant for the limited social service technician shall meet both of the following requirements:

(a) Successful completion of 2 years of college in any field from an accredited college meeting the standards of R 338.2923.

(b) Employment in human services or social services or the submission of documentation that the applicant has been made an offer of employment in the practice of social service work at an agency recognized by the board pursuant to subrule (2) of this rule.

(2) Agencies recognized by the board include those which employ social workers engaged in the practice of social work as defined in section 18501 of the code, MCL 333.18501.

(3) The limited social service technician registration is granted for 1 year and may be renewed only once, as specified in section 18507(2) of the code, MCL 333.18507(2).

R 338.2933 Social service technician registration requirements.

Rule 33. (1) An applicant for social service technician registration shall submit a completed application on a form provided by the department, together with the required fee. Additionally, the applicant shall meet the requirements of section 18507(1) of the code, MCL 333.18507(1).

(2) Qualifying experience for an applicant for registration as a social service technician under section 18507 of the code, MCL 333.18507, means the delivery of social work services through any of the following:

(a) Interviewing clients to obtain information about a client's situation, providing information about available services, and providing specific assistance to help people utilize community resources.

(b) Conducting case-finding activities in the community and encouraging and providing linkages to available services.

(c) Monitoring a client's compliance with a program's expectations.

(d) Providing life skills training.

(3) The experience for a social service technician must comply with section 18507 of the code, MCL 333.18507, and the provisions described in subrule (4) of this rule.

(4) The experience must be completed under the supervision of a licensed bachelor's or a licensed master's social worker, or a under the supervision of a person who holds the equivalent license, certificate, or registration from the jurisdiction in which the experience was obtained. The supervisor shall hold his or her license, certificate, or registration in good standing during the period of supervision. The supervision must consist of all of the following:

(a) An applicant shall meet with his or her supervisor using any of the following methods:

(i) Individually and in person.

(ii) Individually using a telecommunications method that provides for live and simultaneous contact.
(iii) In a group modality, during which active work functions and records of the applicant are reviewed.

(b) Supervisory review must be conducted for at least 4 hours per month with at least 2 hours being conducted between the applicant and the supervisor on an individual basis either in person or using a telecommunication method that provides for live and simultaneous contact.

(c) Not more than 2,080 hours of acceptable experience must be accumulated in any 1 calendar year.

(d) Experience must be verified in writing by the supervisor. If the supervisor is not available, agency staff who are knowledgeable about the individual's work or another person who is knowledgeable about the individual's work, may provide the verification in writing.

R 338.2935 Registration by endorsement.

Rule 35. (1) An applicant for registration by endorsement shall submit a completed application on a form provided by the department, together with the required fee. An applicant for registration by endorsement who satisfies all of the requirements of these rules is deemed to meet the requirements of section 16186 of the code, MCL 333.16186.

(2) An applicant who holds a registration from another jurisdiction is eligible for registration if the requirements for registration are substantially equivalent to the requirements in this state, as determined by the board.

(3) The registration must be in good standing at the time of application.

(4) An applicant’s registration must be verified by the registering agency of all other states of the United States in which the applicant holds a current registration or ever held a registration as a social service technician. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.

PART 3. BACHELOR’S SOCIAL WORKER REQUIREMENTS

R 338.2939 Limited bachelor's social worker license requirements.

Rule 39. (1) An applicant for a limited bachelor's social worker license shall submit a completed application on a form provided by the department, together with the required fee. An applicant for a limited bachelor's license shall meet all of the following requirements:

(a) Graduation from a baccalaureate degree program from a school of social work that complies with the standards in R 338.2923 or certification from a school of the applicant's eligibility for graduation.

(b) Practice under the supervision of a licensed master's social worker.

(c) Compliance with the supervisory requirements in R 338.2941.

(d) Confinement of practice to an agency, health facility, institution, or other entity approved by the board. An agency is considered approved by the board where the agency utilizes master’s social workers who engage in the practice of social work at the master’s level as defined in section 18501 of the code, MCL 333.18501.

(2) A limited license is issued for 1 year and may be renewed for not more than 6 years, as specified in section 18509(2) of the code, MCL 333.18509.

(3) A limited license for supervised practice for relicensure pursuant to R 338.2945 is issued for 1 year and may be renewed for not more than 6 years.

R 338.2941 Bachelor's social worker license by examination; requirements; graduates of schools in compliance with board standards; limited bachelor's social worker license.

Rule 41. (1) An applicant for a bachelor's social worker license by examination shall submit a completed application on a form provided by the department, together with the required fee. In addition
to meeting the requirements of the code, an applicant for a bachelor's social worker license by examination shall meet all of the following requirements:

(a) Graduation from a baccalaureate degree program that complies with the standards in R 338.2923.

(b) Completion of at least 4,000 hours of post-degree social work experience accrued over not less than 2 years, as required in section 18509 of the code, MCL 333.18509, and described in subrules (2) and (3) of this rule.

(c) An applicant shall have passed the bachelor's examination as identified in R 338.2925.

(2) Qualifying experience for an applicant for licensure as a bachelor's social worker includes, but is not limited to, any of the following:

(a) Assessment, planning, and intervention with individuals, couples, families, or groups to enhance or restore the capacity for social functioning.

(b) Case management of health and human services.

(c) Providing information about and referring individuals to resources.

(d) Planning and collaborating with communities, organizations, or groups to improve their social or health services.

(e) Working with clients in accessing, coordinating, or developing resources to develop solutions for interpersonal or community problems.

(3) Qualifying experience in this state may be earned only in the limited license status. The experience for a bachelor's social worker license must meet all of the following requirements:

(a) The experience must be earned after completion of all the requirements for graduation as verified by the program. The license will not be issued until graduation from the program is verified.

(b) The experience must be completed under the supervision of a licensed master's social worker or a person who holds the equivalent license, certificate, or registration from the state in which the experience was obtained. The supervisor shall hold his or her license, certificate, or registration in good standing during the period of supervision.

(c) The applicant shall meet with his or her supervisor using any of the following methods:

   (i) Individually and in person.

   (ii) Individually using a telecommunications method that provides for live and simultaneous contact.

   (iii) In a group modality that provides for 50% of the supervision to include individual contact during which active work functions and records of the applicant are reviewed.

(d) Supervisory review must be conducted for at least 4 hours per month with at least 2 hours being conducted between the applicant and the supervisor using either of the following methods:

   (i) Individually and in person.

   (ii) Individually using a telecommunications method that provides for live and simultaneous contact.

(e) Not more than 2,080 hours of acceptable experience must be accumulated in any 1 calendar year.

(f) The experience must be accumulated at not less than 16 hours per week but not more than 40 hours per week.

(g) The applicant shall function as a licensed bachelor's social worker using generally accepted applications of social work knowledge and techniques acquired during the applicant's education and training.

(h) The experience may be earned either in an employment or volunteer capacity.

R 338.2943 Licensure by endorsement.

Rule 43. (1) An applicant for licensure by endorsement shall submit a completed application on a form provided by the department, together with the required fee. An applicant for licensure by endorsement who satisfies all of the requirements of these rules is deemed to meet the requirements of section 16186 of the code, MCL 333.16186.
(2) An applicant who holds a license from another jurisdiction is eligible for licensure if the requirements for licensure are substantially equivalent to the requirements in this state, as determined by the board.

(3) The license, whether currently active or expired, must be in good standing at the time of application.

(4) An applicant’s license must be verified by the licensing agency of all other states of the United States in which the applicant holds a current license or ever held a license as a social worker. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.

R 338.2945 Relicensure of bachelor's social worker.

Rule 45. (1) An applicant whose license has lapsed may be relicensed upon submission of the appropriate documentation as noted in the table below:

<table>
<thead>
<tr>
<th>For a bachelor’s social worker who has let his or her Michigan license lapse and is not currently licensed in another state.</th>
<th>Lapsed 0-3 years</th>
<th>Lapsed more than 3 years, but less than 7 years</th>
<th>Lapsed 7 years or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Application and fee: submit a completed application on a form provided by the department, together with the required fee.</td>
<td>√</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>(b) Good moral character: establish that he or she is of good moral character as defined under sections 1 to 7 of 1974 PA 381, MCL 338.41 to 338.47.</td>
<td>√</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>(c) Fingerprint: submit fingerprints as required under section 16174(3) of the code, MCL 333.16174(3).</td>
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<td>√</td>
<td>√</td>
</tr>
<tr>
<td>(d) Continuing education: submit proof of having completed 45 hours of continuing education in courses and programs approved by the board, including at least 5 hours in social work ethics and 2 hours in pain and symptom management, as provided under R 338.2961, which was earned within the 3-year period immediately preceding the application for relicensure.</td>
<td>√</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>(e) Supervised practice: completion of 1,000 hours of practice under the supervision of a licensed master’s social worker of the same designation, where applicable, described in subrules (2) and (3) of</td>
<td></td>
<td>√</td>
<td>√</td>
</tr>
</tbody>
</table>
Examination: passage of the examination adopted in R 338.2925 within 1 year prior to the application for relicensure.

(2) Supervised practice must be earned under a limited license pursuant to R 338.2939.
(3) A licensee with a limited license for supervised practice for relicensure shall comply with the supervisory requirements in R 338.2941(3)(b) to R 338.2941(3)(h).

PART 4. MASTER’S SOCIAL WORKER REQUIREMENTS

R 338.2947 Limited master's social worker license requirements.
Rule 47. (1) An applicant for a limited master's social worker license shall submit a completed application on a form provided by the department, together with the required fee. In addition to meeting the requirements of the code and administrative rules promulgated under the code, an applicant for a limited license shall meet all of the following requirements:
(a) Graduation from a master's degree program from an accredited school of social work that complies with the standards in R 338.2923 or certification from the school of the applicant's eligibility for graduation.
(b) Practice under the supervision of a master's social worker.
(c) Compliance with the supervision requirements in R 338.2949.
(d) Confinement of practice to an agency, health facility, institution, or other entity pre-approved by the board under section 18506 of the code, MCL 333.18506. An agency is considered approved by the board where the agency utilizes licensed master's social workers who engage in the practice of social work at the master’s level as defined in section 18501 of the code, MCL 333.18501.
(2) The limited license is issued for 1 year and may be renewed for not more than 6 years.
(3) A limited license for supervised practice for relicensure pursuant to R 338.2955 is issued for 1 year and may be renewed for not more than 6 years.

R 338.2949 Master’s social worker license requirements; generally.
Rule 49. (1) An applicant for a master's social worker license shall submit a completed application on a form provided by the department, together with the required fee. Additionally, the experience for a master's social worker license must meet all of the following requirements, in addition to meeting the requirements of either R 338.2951 or R 338.2953, or both, as applicable:
(a) The experience must be completed under the supervision of a Michigan-licensed master's social worker or a person who holds the equivalent license, certificate, or registration from the state in which the experience was obtained. The supervisor shall hold his or her license, certificate, or registration in good standing during the period of supervision.
(b) The applicant shall meet with his or her supervisor using any of the following methods:
(i) Individually and in person.
(ii) Individually using a telecommunications method that provides for live and simultaneous contact.
(iii) In a group modality that provides for 50% of the supervision to include individual contact during which active work functions and records of the applicant are reviewed.
(c) Supervisory review must be conducted for at least 4 hours per month with at least 2 hours being conducted between the applicant and the supervisor using either of the following methods:
(i) Individually and in person.
(ii) Individually using a telecommunications method that provides for live and simultaneous contact.
(d) Not more than 2,080 hours of acceptable experience must be accumulated in any 1 calendar year.
(e) The experience must be accumulated at not less than 16 hours per week but not more than 40 hours per week.
(f) The applicant shall function as a master's social worker using generally accepted applications of social work knowledge and techniques acquired during the applicant's education and training.

(2) An applicant for licensure or a licensee may add a second master's level social work specialty designation by completing both of the following requirements:
(a) The applicant shall complete an additional 2,000 hours of post-degree social work experience, accrued over not less than 1 year, in the second specialty designated area with at least 50 hours of supervisory review.
(b) In addition to the experiential requirement in subdivision (a) of this subrule, an applicant for licensure or a licensee may add a second master’s level social work designation by completing and passing the appropriate examination for that designation. This subdivision takes effect 1 year after promulgation of this rule.

R 338.2951 Master’s social worker license; macro designation.
Rule 51. (1) An applicant for the license with a macro designation shall meet all of the following requirements:
(a) Graduation from a master's or doctoral degree program from an accredited school of social work that complies with the standards in R 338.2923. The experience must be earned after completion of all the requirements for graduation as verified by the program. The license shall not be issued until graduation from the program is confirmed.
(b) Successful completion of the advanced generalist examination in R 338.2925.
(c) Completion of at least 4,000 hours of post-degree social work experience accrued over not less than 2 years, as required in section 18509 of the code, MCL 333.18509.
(d) Qualifying experience for the macro designation must be completed in either or both of the following areas:
(i) Administration, management, and supervision of human service organizations, including the translating of laws and administrative rulings into organizational policy and procedures; collaboration, coordination, mediation, and consultation between and among organizations, disciplines and communities; community organizing and development; research and evaluation; the seeking of social justice through the legislative process or the social action and advocacy processes; the improvement of social conditions through social planning and policy formulations; and, social work education and training.
(ii) The advanced application of macro social work processes and systems to improve the social or health services of communities, groups, or organizations through planned interventions.

R 338.2953 Master’s social worker license; clinical designation.
Rule 53. An applicant for licensure with a clinical practice designation shall meet all of the following requirements:
(a) Graduation from a master's or doctoral degree program from an accredited school of social work that complies with the standards in R 338.2923.
(b) Successful completion of the clinical examination in R 338.2925.
(c) Completion of at least 4,000 hours of post-degree social work experience accrued over not less than 2 years, in accordance with section 18509 of the code, MCL 333.18509.
(d) Completion of qualifying experience for the clinical practice designation must include 1 or more of the following activities: assessment, treatment, and intervention methods that utilize a specialized and
formal interaction between a social worker and an individual, a couple, a family, or a group in which a professional relationship is established; advocating for care; protecting the vulnerable; providing forensic practice functions; increasing social well-being; providing education, and resources; providing psychotherapy; providing case management for complex and high-risk cases; serving on community committees; and, providing clinical supervision or direction of clinical programs.

R 338.2955 Relicensure of master's social worker.
Rule 55. (1) An applicant whose license has lapsed may be relicensed upon submission of the appropriate documentation:

<table>
<thead>
<tr>
<th>For a licensed master’s social worker who has let his or her Michigan license lapse and is not currently licensed in another state.</th>
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</thead>
<tbody>
<tr>
<td>(a) Application and fee: submit a completed application on a form provided by the department, together with the required fee.</td>
<td>√</td>
<td>√</td>
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<tr>
<td>(b) Good moral character: establish that he or she is of good moral character as defined under sections 1 to 7 of 1974 PA 381, MCL 338.41 to 338.47.</td>
<td>√</td>
<td>√</td>
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<tr>
<td>(c) Fingerprints: submit fingerprints as required under section 16174(3) of the code, MCL 333.16174(3).</td>
<td>√</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>(d) Continuing education: submit proof of having completed 45 hours of continuing education in courses and programs approved by the board, including at least 5 hours in social work ethics and 2 hours in pain and symptom management, as provided under R 338.2961, which was earned within the 3-year period immediately preceding the application for relicensure.</td>
<td>√</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>(e) Supervised practice: completion of 1,000 hours of practice under the supervision of a licensed master’s social worker of the same designation, where applicable, described in subrules (2) and (3) of this rule, R 338.2951, and R 338.2953.</td>
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<td>√</td>
</tr>
<tr>
<td>(f) Examination: passage of the</td>
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<td></td>
</tr>
</tbody>
</table>
applicable examination adopted in R338.2925 within 1 year before application for relicensure.

(2) Supervised practice must be earned under a limited license pursuant to R 338.2947.

(3) A licensee with a limited license for supervised practice for relicensure shall comply with the supervisory requirements in R 338.2949(1)(a) to R 338.2949(1)(f).

R 338.2957 Licensure by endorsement.

Rule 57. (1) An applicant for licensure by endorsement shall submit a completed application on a form provided by the department, together with the required fee. An applicant for licensure by endorsement who satisfies all of the requirements of this rule is deemed to meet the requirements of section 16186 of the code, MCL 333.16186.

(2) An applicant who holds a license from another jurisdiction is eligible for licensure if the requirements are substantially equivalent to the requirements in this state, as determined by the board.

(3) The license, whether currently active or expired, must be in good standing at the time of application.

(4) An applicant’s license must be verified by the licensing agency of all other states of the United States in which the applicant holds a current license or ever held a license as a social worker. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.

PART 5. CONTINUING EDUCATION

R 338.2961 License renewals; continuing education requirements.

Rule 61. (1) An applicant for license renewal who has been licensed for the 3-year period immediately preceding the expiration date of the license shall accumulate not less than 45 continuing education contact hours that are approved by the board under R 338.2963 during the 3 years immediately preceding the date of renewal. At least 5 of the 45 continuing education contact hours in each renewal period must be in ethics and 2 continuing education contact hours in each renewal period must be in pain and pain symptom management. Continuing education contact hours in pain and pain symptom management may include, but are not limited to, courses in behavior management, psychology of pain, behavior modification, and stress management.

(2) Submission of an application for renewal constitutes the applicant's certification of compliance with the requirements of these rules. A licensed master's or licensed bachelor's social worker shall retain documentation of meeting the requirements of this rule for a period of 4 years from the date of applying for license renewal. The board may require an applicant or licensee to submit evidence to demonstrate compliance with this rule. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221(h).

(3) The department shall receive a request for a waiver under section 16205 of the code, MCL 333.16205, before the expiration date of the license.

R 338.2963 Acceptable continuing education; limitations.

Rule 63. (1) One half of the required continuing education contact hours must be completed in person using live, synchronous contact. The remaining continuing education contact hours may be completed in any other approved format.

(2) The board shall consider any of the following as acceptable continuing education:
<table>
<thead>
<tr>
<th>(a)</th>
<th>Attendance at a continuing education program that complies with the standards in R 338.2965.</th>
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<tbody>
<tr>
<td></td>
<td>If audited, a licensee shall submit a copy of a letter or certificate of completion showing the licensee’s name, number of credits earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date or dates on which the program was held or activity completed.</td>
</tr>
<tr>
<td></td>
<td>Contact hours may be earned without limitation under this subrule.</td>
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<table>
<thead>
<tr>
<th>(b)</th>
<th>Presentation of a continuing education program that is not part of the licensee’s regular job description which complies with the standards in R 338.2965.</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>If audited, a licensee shall submit a letter from the program sponsor confirming the licensee as the presenter and the presentation date and time, or 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.</td>
</tr>
<tr>
<td></td>
<td>Three continuing education contact hours may be earned for each 60 minutes of presentation.</td>
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<tr>
<td></td>
<td>Credit may be earned for the same program only once in each renewal period. A maximum of 15 continuing education contact hours may be earned per licensure cycle.</td>
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<thead>
<tr>
<th>(c)</th>
<th>Academic courses related to the practice of social work offered in an educational program approved by the board under R 338.2923.</th>
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<tbody>
<tr>
<td></td>
<td>If audited, the licensee shall submit an official transcript documenting successful completion of the course.</td>
</tr>
<tr>
<td></td>
<td>Five continuing education contact hours earned for each semester credit. 3 continuing education contact hours may be earned for each quarter credit earned. Contact hours may be earned without limitation.</td>
</tr>
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<tr>
<th>(d)</th>
<th>Attendance at a continuing education program that has been granted approval by another state board of social work or the ASWB-ACE.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>If audited, a licensee shall submit a copy of a letter or certificate of completion showing the licensee’s name, number of credits earned, sponsor name or the name</td>
</tr>
<tr>
<td></td>
<td>Continuing education contact hours may be earned without limitation.</td>
</tr>
</tbody>
</table>
of the organization that approved the program or activity for continuing education credit, and the date or dates on which the program was held or activity completed.

<table>
<thead>
<tr>
<th>(e)</th>
<th>Attendance at a continuing education program related to the practice of social work offered by an educational program approved by the board under R 338.2923.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>If audited, a licensee shall submit a copy of a letter or certificate of completion showing the licensee’s name, number of credits earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date or dates on which the program was held or activity completed.</td>
</tr>
<tr>
<td></td>
<td>Continuing education contact hours may be earned without limitation.</td>
</tr>
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<tr>
<th>(f)</th>
<th>Publication in a peer reviewed journal or textbook of an article or chapter related to the practice of social work.</th>
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<tr>
<td></td>
<td>If audited, a licensee shall submit a copy of the publication that identifies the licensee as the author of the chapter or a publication acceptance letter.</td>
</tr>
<tr>
<td></td>
<td>Ten continuing education contact hours may be earned for publication in a journal or textbook, with a maximum of 10 contact hours per licensure cycle.</td>
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</table>

R 338.2965 Continuing social work education programs; methods of approval.

Rule 65. (1) The board approves and adopts by reference the standards of the ASWB for approved continuing education (ACE) providers set forth in the publication entitled “Approved Continuing Education Program ACE Provider Guidelines,” revised June, 15, 2016, which is available for inspection and distribution at cost from the Board of Social Work, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, Ottawa Building, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909, or from the ASWB, 400 Southridge Parkway, Suite B, Culpeper, VA 22701 and at no cost on the association's website at www.aswb.org.

(2) The board approves and adopts by reference the standards of the ASWB for approved continuing education co-sponsorship set forth in the publication entitled “ACE Resource Co-Sponsorship Policy,” effective September 1, 2017, which is available for inspection and distribution at cost from the Board of Social Work, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, Ottawa Building, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909, or from the Association of Social Work Boards, 400 Southridge Parkway, Suite B, Culpeper, VA 22701 and at no cost on the association’s website at www.aswb.org.

(3) The board approves any continuing education contact hours offered by a school of social work meeting the requirements of R 338.2923 and meeting the standards of subrule (1) of this rule.
(4) A course or program may be reviewed and approved by the board or any organization that has been authorized by the board to approve such courses or programs.

(5) A course or program reviewed and approved by the board or its designee must comply with the following program requirements:

(a) The content or activity of a course or program must cover 1 or more of the following topics:
   (i) Theories and concepts of human behavior in the social environment.
   (ii) Social work practice, knowledge, and skills.
   (iii) Social work research, program evaluation, or practice evaluation.
   (iv) Social work agency management or administration.
   (v) Development, evaluation, or implementation of social policy.
   (vi) Social work ethics and standards of professional practice.
   (vii) Current issues in clinical or macro social work practice.
   (viii) Cultural competence and diversity.

(b) An outline of the course or program must be provided.

(c) The qualifications of individuals presenting a course or program must be provided.

(d) The method used to deliver the course or program must be described.

(e) Measurements of pre-knowledge and post-knowledge or skill improvements must be defined.

(f) The monitoring of attendance at a course or program must be required.

(g) Records of course attendance that show the date of a program or course, its location, the credentials of the presenters, rosters of individuals who were in attendance, and continuing education contact hours awarded to each attendee must be maintained.

(h) A program or course shall award a participant a certificate or written evidence of attendance at a program or course that indicates the participant's name, date and location of program, sponsor or program approval number, and hours of continuing education earned.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45(a)(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 460.137 and R 460.155 of the Michigan Administrative Code are amended as follows:

R 460.137 Shutoff or denial of service permitted.

   Rule 37. (1) Subject to the requirements of these rules, a utility may shut off or deny service to a customer for any of the following reasons:
      (a) The customer has not paid a delinquent account that accrued within the last 6 years.
      (b) The customer has failed to provide a deposit or guarantee permitted by these rules.
      (c) The customer has engaged in unauthorized use of utility service or unauthorized use of equipment furnished and owned by the utility occurs, including obtaining the use of equipment by submitting an application containing false information.
      (d) The customer has refused to arrange access at reasonable times for the purpose of inspection, meter reading, maintenance, or replacement of equipment that is installed upon the premises, or for the removal of a meter.
      (e) An occupant who has used electricity or natural gas has failed to establish service in conformance with these rules.
      (f) The customer has failed to comply with the terms and conditions of a payment plan or settlement agreement.
      (g) For violation of, or noncompliance with, the utility's rules on file with, and approved, by the commission.

   (2) Residential customers may also be shut off or denied service for any of the following reasons:
      (a) The customer misrepresented his or her identity for the purpose of obtaining utility service or put service in another person's name without permission of the other person.
      (b) An individual living in the customer's residence meets both of the following:
         (i) Has a delinquent account for service with the utility within the past 3 years that remains unpaid and is not in dispute.
(ii) The individual lived in the customer's residence when all or part of the debt was incurred. The utility may transfer a prorated amount of the debt to the customer's account, based upon the length of time that the individual resided at the customer's residence. This paragraph does not apply if the individual was a minor while living in the customer's residence.

(c) The customer has failed, for 3 consecutive billing cycles, to pay the per-meter charge for an energy project, as defined in section 201 of the clean and renewable energy and energy waste reduction act, MCL 460.1201, that is part of a commission-approved residential energy projects program, as described in section 203(2) of the act, MCL 460.1203(2).

(3) Nonresidential customers may also be shut off or denied service for either of the following reasons:
(a) Failure of the customer to fulfill his or her contractual obligations for service or facilities that are subject to regulation by the commission.
(b) Nonpayment of unpaid balances on any other nonresidential account incurred by the customer under a different account name by the customer’s predecessor in interest, or by any other entity, the debt of which the customer is legally obligated to assume.

R 460.155 Customer hearing and hearing officers for residential and small nonresidential customers.

Rule 55. (1) If the parties are unable to resolve the dispute, the utility shall offer the customer the opportunity for a customer hearing before a hearing officer selected from a list of hearing officers filed with the commission.

(2) If the customer requests a customer hearing with the utility or with the commission regulation officer, the utility shall place a hold on any action to shut off or suspend service until 1 of the following occurs:
(a) The customer fails to complete his or her responsibilities required for a customer hearing.
(b) The customer withdraws the request.
(c) The utility and the customer settle the dispute.
(d) The customer hearing officer issues a decision finding that shut off or suspension of service is appropriate.

(3) The utility shall accept notification from a regulation officer of a customer's request for a customer hearing.

(4) If the parties are unable to resolve the dispute, the utility shall offer the customer the opportunity for a customer hearing before a hearing officer selected from a list of hearing officers filed with the commission.

(5) If the customer chooses to have a customer hearing, the customer shall do both of the following:
(a) Notify the utility within 5 business days of the utility’s offer for a hearing.
(b) Pay the amount not in dispute, or if the utility and customer cannot agree, pay 50% of the disputed amount not to exceed $100.00.

(6) If the customer notifies the utility of the intent to pursue a customer hearing, then the utility shall do all of the following:
(a) Complete the necessary investigation.
(b) Schedule the hearing within 10 business days of the customer's request for a hearing.
(c) Hold the hearing within 45 business days of the customer's request for a hearing.
(d) If the customer fails to pay the part of the bill that is determined under subrule (5)(b) of this rule within 15 business days of the date that the utility sends the hearing notice, the utility may exercise its right to shut off service pursuant to these rules.

(8) A utility shall select hearing officers who meet all of the following requirements:
(a) Are on the list of hearing officers on file with the commission.
(b) Are notaries public who are qualified to administer oaths.
(c) Are not a past or present employee of the utility, and they are not engaged in or have not been engaged in any other activities that would cause bias or lack of objectivity.
(d) Comply with part 10 of these rules, R 460.154 to R 460.159.
(9) In January of each year, utilities shall provide to the commission's executive secretary the name or names of selected hearing officers and update those lists as necessary. Upon notice to the commission, a hearing officer, other than those on the list, may be used subject to the requirements specified in subrule (8) of this rule. Upon request, utilities shall provide the resume of a hearing officer to the commission or any party participating in a customer hearing.
(10) If the dispute is ultimately resolved, in whole or in part, in favor of the customer, the utility shall return promptly any excess amount paid by the customer, with interest at the rate specified pursuant to R 460.111(8).
These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of the 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the public service commission by section 10ee(1) of 2016 PA 341, MCL 460.10ee(1))

R 460.10101, R 460.10102, R 460.10103, R 460.10104, R 460.10105, R 460.10106, R 460.10107, R 460.10108, R 460.10109, R 460.10110, R 460.10111, R 460.10112, and R 460.10113 are added to the Michigan Administrative Code as follows:

PART 1. GENERAL PROVISIONS

R 460.10101 Applicability.

Rule 1. These rules apply to all utilities and alternative electric suppliers subject to the jurisdiction of the commission and the requirements of these rules under section 10ee of 2016 PA 341, MCL 460.10ee. These rules do not apply to a utility with fewer than 150 customers.

R 460.10102 Definitions.

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

(a) “Affiliate” means a person or entity that directly or indirectly through 1 or more intermediates, controls, is controlled by, or is under common control with another specified entity. As used in these rules, “control” means, whether through an ownership, beneficial, contractual, or equitable interest, the possession, directly or indirectly, of the power to direct or to cause the direction of the management or policies of a person or entity or the ownership of at least 7% of an entity either directly or indirectly.

(b) “Alternative electric supplier” means a person selling electric generation service to retail customers in this state as licensed by the commission under section 10a of 2016 PA 341, MCL 460.10a. Alternative electric supplier does not include a person who physically delivers electricity directly to retail customers in this state. An alternative electric supplier is not a public utility, but may be an affiliate of a public utility.

(c) “Commission” means the public service commission.

(d) “Other entity within the corporate structure” means a division, department, subsidiary, or similar entity within the corporate structure of a utility.

(e) “Third-party” means an entity separate from a utility, and separate from a utility affiliate, that offers value-added programs and services to a utility’s customers through a contract.
(f) “Utility” means an electric, steam, or natural gas utility regulated by the public service commission, and an electric or natural gas cooperative that is subject to regulation pursuant to the Electric Cooperative Member-Regulation Act, 2008 PA 167, MCL 460.31 to 460.39.

(g) “Value-added programs and services” means programs and services that are utility or energy related, including, but not limited to, home comfort and protection, appliance service, building energy performance, alternative energy options, or engineering and construction services. Value-added programs and services do not include energy optimization or energy waste reduction programs paid for by utility customers as part of the regulated rates.

PART 2. CROSS-SUBSIDIZATION AND PREFERENTIAL TREATMENT

R 460.10103 Preventive measures.

Rule 3. (1) A utility that offers both regulated and unregulated services shall prevent anticompetitive behavior, cross-subsidization, and preferential treatment prohibited by law and these rules.

(2) A utility shall not offer unregulated value-added programs and services except through an affiliate or other entity within the corporate structure, or through a third-party contract.

(3) A utility’s regulated services shall not subsidize the business of its affiliates, other entities within the corporate structure, or third-party contractors offering unregulated value-added programs or services.

R 460.10104 Records.

Rule 4. (1) A utility shall maintain its books and records separately from those of its affiliates or other entities within the corporate structure offering unregulated value-added programs and services.

(2) The commission may review records relating to any transaction between a utility and an affiliate, or relating to the offering of unregulated value-added programs and services. At any time, the commission may initiate an investigation into transactions between the utility and its affiliates, or into its offering of value-added programs and services.

(3) A utility, its affiliates, and other entities within the corporate structure shall keep their books in a manner consistent with generally accepted accounting principles and, where applicable, with the Uniform System of Accounts.

R 460.10105 Sharing of facilities and employees.

Rule 5. (1) A utility, its affiliates, and other entities within the corporate structure may share facilities, equipment, operating employees, and computer hardware and software with documented protection to prevent discriminatory access to competitively sensitive information, provided that such sharing complies with section 10ee of 2016 PA 341, MCL 460.10ee, and measures are adopted to prevent cross-subsidization and preferential treatment that is otherwise prohibited.

(2) A utility may transfer employees between the utility and an affiliate alternative electric supplier providing the utility documents those transfers and files semi-annually with the commission a report of each occasion on which an employee of the utility became an employee of an affiliate alternative electric supplier and/or an employee of an affiliate alternative electric supplier became an employee of the utility.

(3) None of these rules shall be interpreted to require a utility with fewer than 60 employees to maintain separate facilities, operations, or personnel used to deliver regulated services and unregulated programs and services. Utilities using a third-party contractor for value-added programs and services remain subject to the provisions of MCL 460.10ee(12).

R 460.10106 Marketing.
Rule 6. (1) A utility, its affiliates, and other entities within the corporate structure offering unregulated value-added programs or services, shall not engage in joint advertising, marketing, or other promotional activities related to the provision of both regulated and unregulated services, nor shall they jointly sell regulated services and unregulated value-added programs and services.

(2) A utility or affiliate alternative electric supplier shall not provide or offer to provide any customer with preferential treatment or service for doing business with the utility, its affiliates, or other entities within the corporate structure offering unregulated value-added programs or services, nor shall the utility or affiliate alternative electric supplier provide any customer with inferior treatment or service for doing business with an unaffiliated supplier of a similar service.

(3) A utility shall not condition or otherwise tie the provision of a utility service or the availability of discounts, rates, other charges, fees, rebates, or waivers of terms and conditions to the taking of any goods or services from the utility, its affiliates, or other entities within the corporate structure offering unregulated value-added programs or services.

R 460.10107 Utility and affiliate or alternative electric supplier relationship.

Rule 7. (1) A utility shall not interfere in the business operations of any alternative electric supplier. This provision includes, but is not limited to, all of the following:

(a) A utility shall not give the appearance that it speaks on behalf of any alternative electric supplier or affiliate.

(b) A utility shall not interfere in the contractual relationship between the alternative electric supplier and its customers unless the utility’s action is clearly permitted in the contract between the customer and the alternative electric supplier or in tariffs approved by the commission.

(2) A utility shall not finance or co-sign loans, provide loan guarantees, provide collateral, or be encumbered or allow its assets to be encumbered by affiliates or other entities within the corporate structure. The utility and its assets shall not be the subject of recourse in the event of default by an affiliate or other entity within the corporate structure.

PART 3. DISCRIMINATION

R 460.10108 Discrimination.

Rule 8. (1) A utility shall not discriminate in favor of or against any person, including its affiliates.

(2) A utility shall not provide any affiliate or other entity within the corporate structure offering unregulated value-added programs or services, or any customer of an affiliate or other entity within the corporate structure offering unregulated value-added programs or services, preferential treatment or any other advantages that are not offered under the same terms and conditions and contemporaneously to other suppliers offering programs or services within the same service territory or to customers of those suppliers.

(3) If a utility provides to any affiliate alternative electric supplier or customers of an affiliate alternative electric supplier a discount, rebate, fee waiver, or waiver of its regulated tariffed terms and conditions for services or products, it shall contemporaneously offer the same discount, rebate, fee waiver, or waiver to all alternative electric suppliers operating within the utility’s service territory or all alternative electric suppliers’ customers.

(4) If a utility provides services or products to any affiliate or other entity within the corporate structure, and the cost of the service or product is not governed by section 10ee(8) of 2016 PA 341, MCL 460.10ee(8), compensation is based upon the higher of fully allocated embedded cost or fair market price. If an affiliate or other entity within the corporate structure provides services or products to a utility, and the cost of the service or product is not governed by section 10ee(8) of 2016 PA 341,
MCL 460.10ee(8), compensation is at the lower of market price or 10% over fully allocated embedded cost. Asset transfers from a utility to an affiliate or other entity within the corporate structure for which the cost is not governed by section 10ee(8) of 2016 PA 341, MCL 460.10ee(8), is at the higher of cost or fair market value. Asset transfers from an affiliate or other entity within the corporate structure to a utility for which the cost is not governed by section 10ee(8) of 2016 PA 341, MCL 460.10ee(8) is at the lower of cost or fair market value.

PART 4. INFORMATION SHARING

R 460.10109 Disclosure of information.

Rule 9. (1) Notwithstanding any provision of this rule, utilities shall comply at all times with applicable data privacy tariffs.

(2) Prior written approval of the customer is not required for the disclosure of a customer list to a program or service provider of an unregulated value-added program or service in compliance with section 10ee(10)(a) of 2016 PA 341, MCL 460.10ee(10)(a), or to otherwise comply with these rules. A customer list may include only the name and address of a customer.

(3) Information obtained by a utility in the course of conducting its regulated business shall not be shared directly or indirectly with its affiliates or other entities within the corporate structure offering unregulated value-added programs or services unless that same information is provided upon request to competitors operating in the service territory on the same terms and conditions and contemporaneously.

(4) Customer specific consumption or billing data shall not be provided to any affiliate, other entity within the corporate structure offering unregulated value-added programs or services, or alternative electric supplier without prior written approval of the customer.

(5) If a utility provides non-customer specific, or aggregated, customer information to its affiliate or other entity within the corporate structure offering unregulated value-added programs or services, it must, upon request, offer the same information on the same terms and conditions, in the same form and manner, and contemporaneously, to all competitors of that affiliate or other entity within the corporate structure. The provision of such data must comply with all applicable data privacy tariffs.

(6) When disclosure required in subrule (5) of this rule is otherwise allowed, a utility shall not provide its affiliates or other entities within the corporate structure offering unregulated value-added programs or services with information about the distribution system, including operation and expansion, without providing, upon request, the same information under the same terms and conditions, in the same form and manner, and contemporaneously, to all licensed alternative electric suppliers and competitors of the affiliate or other entity within the corporate structure. The utility shall keep a record of requests for such information, and shall make that record available to the commission upon request.

(7) A utility shall not provide any information received from or as a result of doing business with a competitor to the utility’s affiliate or other entity within the corporate structure offering unregulated value-added programs or services without the written approval of the competitor.

PART 5. REPORTING, OVERSIGHT, AND PENALTIES

R 460.10110 Notification.

Rule 10. (1) Utilities that intend to offer a value-added program or service shall notify the commission not less than 30 days before offering the new program or service. The written notification shall, at a minimum, provide all of the following:

(a) A detailed description of the new value-added program or service and what it will offer.
(b) A list of the personnel responsible for management of the value-added program or service and their location within the utility, both physically and within the corporate structure.

c) A detailed description of how costs, including but not limited to, billing, postage, and call center costs, will be allocated to the value-added program or service to ensure that there is no cross-subsidization between regulated and unregulated programs or services.

d) A copy of the business plan for the value-added program or service.

e) Pro forma financial statements that outline the expected financial performance for each value-added program or service for the next 12 months.

2) Utilities shall request a docket for the filing of the notification, and shall thereafter make all annual report filings in that docket.

3) A utility that intends to sell or transfer an asset with a market value of $1,000,000 or more to any affiliate or other entity within the corporate structure shall notify the commission of the impending sale or transfer no less than 30 days before the sale or transfer. An affiliate or other entity within the corporate structure of a utility that intends to sell or transfer an asset with a market value of $1,000,000 or more to a utility shall notify the commission of the impending sale or transfer no less than 30 days before the sale or transfer. Upon request, the utility, affiliate, or other entity within the corporate structure shall make available to the commission information that demonstrates how the sale or transfer price was determined. Notification shall be in the form of a letter to the director of the regulated energy division of the commission.

R 460.10111 Oversight.

Rule 11. (1) A utility, its affiliates, and other entities within the corporate structure offering unregulated value-added programs or services shall maintain documentation needed to investigate compliance with section 10ee of 2016 PA 341, MCL 460.10ee, and these rules. All documentation shall be kept at a designated company office in this state, unless the Commission by order has authorized a different location. The utility, its affiliates, and other entities within the corporate structure offering unregulated value-added programs or services shall make this information available for review upon request by the commission or its staff.

(2) The utility, its affiliates, and other entities within the corporate structure offering unregulated value-added programs or services shall use a documented dispute resolution process separate from any process that might be available from the commission. This dispute resolution process shall address complaints arising from application of these rules. The utility, its affiliates, and other entities within the corporate structure offering unregulated value-added programs or services shall keep a log of all complaints, including the name of the person or entity filing the complaint, the date the complaint was filed, a written statement of the nature of the complaint, and the results of the resolution process.

(3) A utility, its affiliates, and other entities within the corporate structure offering unregulated value-added programs or services may request a waiver from 1 or more provisions of these rules by filing an application with the commission. The requesting party carries the burden of demonstrating that such a waiver will not impair the development or functioning of the competitive market. Waivers shall be granted for entities that qualify for loans to deploy broadband services in rural areas under the Rural Electrification Act of 1936, as amended, 7 U.S.C. §901 et seq.

R 460.10112 Reporting.

Rule 12. (1) Utilities shall file the code of conduct annual report information required under section 10ee(6)(c) and (15), 2016 PA 341, MCL 460.10ee, no later than April 30 of each year in the docket in which the utility filed its notification for a new program or service, or in a new docket for an existing program or service. Code of conduct annual reports shall include all of the following:
(a) Designation of a corporate officer of the utility who will oversee compliance with these rules and be available to serve as the commission’s primary contact regarding compliance.

(b) An organizational chart of the parent or holding company showing all regulated entities and affiliates and a description of all programs and services provided between the regulated entity and its affiliates.

(c) An overview of the report year, including a detailed accounting of how costs were apportioned between the utility and the value-added program or service, expectations for the following year, and any 5-year projections available for each value-added program and service.

(d) A table illustrating the customer count, revenue, and expense of each value-added program and service.

(e) A balance sheet, where available, and income statement for each value-added program and service offered by an affiliate or other entity within the corporate structure, including revenues, less direct and indirect expenses broken out separately. Direct and indirect revenues and expenses shall be separated by category and then aggregated at the direct and indirect levels, and the report shall include gross income, amounts flowed back to ratepayers to reduce rates, and net income. Each category of indirect cost should be accompanied by formulas/calculations/allocations showing how they have been derived.

(f) General ledger and trial balance for each value-added program and service shall be provided to the commission staff separately on a USB thumb drive or other appropriate technological device with formulas intact.

(g) The number and type of complaints received in the prior calendar year regarding code of conduct issues from customers, alternative electric suppliers, or any other person or entity, and a summary of the resolution of any complaint that occurred during the calendar year.

(h) The number of times during the prior calendar year that customer information was provided to an affiliate or competing provider of an unregulated value-added program or service, the identity of the affiliate or competing provider, and a description of the information shared.

(i) A description of the nature of each transaction with an affiliate or other entity within the corporate structure and of the basis for the cost allocation and pricing established in each transaction.

(j) Reports of internal audits conducted by the utility regarding transactions between the utility and its affiliates, or transactions between the utility and other entities within the corporate structure offering value-added programs or services.

(2) The annual report shall be signed by the designated corporate officer or a person responsible for each value-added program and service attesting to the accuracy of the information in the annual report and certifying that there is no cross-subsidization between regulated and non-regulated utility programs and services.

(3) Copies of federal income tax returns for utilities, affiliates, and, where applicable, other entities within the corporate structure who offer a value-added program or service, shall be available to the commission for inspection and review.

R 460.10113 Penalties.

Rule 13. Penalties for violations of these rules are as provided in sections 10c and 10ee(14) of 2016 PA 341, MCL 460.10c, and MCL 460.10ee(14).
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45(a)(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the board of managers by section 8 of 1885 PA 152, MCL 36.8 and Executive Order 1991-7, MCL 36.71)

R 32.71 Purpose.
Rule 1. The intent of the veterans home rules is to provide substantive and procedural due process to members of the homes and the public; assure the continued financial stability of the homes; ensure sufficient standards related to admissions, transfers, and discharges; and maximize the availability of care to qualified veterans and their family members.

R 32.72 Definitions.
Rule 2. As used in these rules:
(1) "Administrator" means the licensed senior authority of a state veterans home, or his or her designated representative.
(2) "Applicant" means an individual who is applying for admission to a state veterans home.
(3) "Arrearage" means a balance owed by an applicant, member, or his or her estate to this state for care provided at a state veterans home. This definition does not apply to care covered by Medicaid that is also subject to estate recovery.
(4) “Assessment” means the members charge for services that is less than the cost of care as determined by the governing board.
(5) "Asset" means the valuable property of an applicant or member.
(6) "Asset divestment" means the disposing, transfer, gifting, or giving away of assets for less than fair market value.
(7) "Asset restriction" means the moving or transferring of assets, thereby making them unavailable to pay the member’s individual assessment or the cost of care.
(9) "Contract" means the written agreement between a member and the home.
(10) "Cost of care" means the monthly amount set by the governing board at the start of each fiscal year.
(11) "Governing board" means the applicable authority; either the board of managers, as established by former section 2 of 1885 PA 152, or the veterans’ facility authority board as established by section 3 of 2016 PA 560, MCL 36.103
(12) "Home" means a state veterans home as defined by 38 CFR 51.2.
(13) "MCL" means Michigan compiled laws.
(14) "Member" means an individual who has been admitted to a state veterans home.
(15) "Responsible party" means an individual with the legal authority to act on behalf of an applicant or member.
(16) "State" means the state of Michigan.

R 32.73 Eligibility for admission; continued care.
Rule 3. (1) Applicants for admission must meet the criteria specified in section 11 of 1885 PA 152, MCL 36.11 or section 1 of 1921 PA 15, MCL 36.31.
(2) In addition to the requirements in subrule (1) of this rule, an applicant must demonstrate both of the following:
   (a) Be able to pay his or her portion of the cost of care.
   (b) Not require care for which the home is not equipped or staffed to provide.
(3) The home may refuse admission to applicants whose medical, behavioral, or other conditions exceed the level of care provided by the home.
(4) Following admission, the home shall continue to provide care, provided that the care required does not exceed the level of care offered at the home.

R 32.74 Involuntary transfer and discharge.
Rule 4. The governing board shall establish policies regarding involuntary transfers and discharges. The policies must be in compliance with 38 CFR 51.80 and 42 CFR 483.15.

R 32.75 Holding bed open during temporary absence of member.
Rule 5. The governing board shall establish policies regarding the holding of beds for members absent from the home for emergency medical treatment, therapeutic leave, or other reasons. The policies must be in compliance with 38 CFR 51.80 and 42 CFR 483.15.

R 32.76 Financial disclosure.
Rule 6. In determining financial eligibility for admission or continued care, an applicant, member, or responsible party must make full disclosure of all assets and income in accordance with the policies developed by the governing board.

R 32.77 Financial responsibility.
Rule 7. (1) A member must pay his or her portion of the total cost of care as determined in policy established by the governing board.
(2) Any amounts of the member’s portion of the cost of care not paid are considered an arrearage. The state may file an appropriate legal proceeding at any time to recover an arrearage owed.

R 32.78 Asset divestment; asset restriction.
Rule 8. The governing board shall determine policies establishing asset divestment and restriction penalties.

R 32.79 Exempt assets and income.
Rule 9. The governing board shall determine policies establishing exempt assets and income.

R 32.80 Rescinded.

R 32.81 Rescinded.
R 32.82 Contract for admission.
Rule 12. A member and a home must enter into a contract for admission.

R 32.83 Appeals; right to compliance conference; grounds; written notice; appearance by letter; date, time, and location of compliance conference; stay pending decision.
Rule 13. (1) Appeals associated with Medicaid must comply with federal regulations. An applicant, member, or responsible party may request a compliance conference with the home in the event of any the following:
(a) A denial of admission to a state veterans home.
(b) A denial of continued care at a state veterans home.
(c) A decision to involuntarily transfer or discharge a member.
(d) A determination of an amount owed.
(e) A determination of asset divestment or restriction.
(2) To request a compliance conference, the applicant, member, or responsible party must provide written notice to the home administrator that he or she wishes to contest the denial of admission to a state veterans home, the denial of continued care at a state veterans home, the decision to involuntarily transfer or discharge a member, the determination of an amount owed, or the determination of asset divestment or restriction. Written notice must include all of the following:
(a) The date.
(b) The name and address of the person providing notice.
(c) The name of the affected applicant, member, or responsible party.
(d) The basis for the objection.
(e) All documents that support the objection.
(f) Any other pertinent documents that the person providing notice wants the home to consider.
(3) A compliance conference must be conducted at a reasonable time and date, to be determined by the home administrator. The location of a compliance conference will be the home where the member resides or, in the case of applicants not yet admitted to a state veterans home, the home where application was made. The home administrator may accept a letter from the applicant, member, or responsible party, instead of the applicant's, member's, or responsible party's personal appearance at a compliance conference. The applicant, member, or responsible party must notify the home administrator, in writing, that he or she wishes to appear by letter before the start of the scheduled compliance conference.
(4) The home shall mail notice of the time, date, and location of compliance conference to the applicant, member, or responsible party requesting a compliance conference at least 10 business days before the date of the compliance conference.
(5) Requesting a compliance conference under this rule will automatically stay a member's transfer or discharge pending a decision. The automatic stay requirement of this subrule does not apply in any of the following instances:
(a) If an emergency transfer or discharge is mandated by the member's health care needs.
(b) If the transfer or discharge is mandated by the physical safety of other members, visitors, employees, or contractors.
(c) If the transfer or discharge is later agreed to by the member or the responsible party.

R 32.84 Denial or dismissal of request for compliance conference.
Rule 14. (1) The home shall deny or dismiss the request for a compliance conference if any of the following occurs:
(a) The request is withdrawn by an applicant, member, or responsible party, in writing, before the date of the compliance conference.
(b) The applicant, member, or responsible party abandons the compliance conference.
(c) The home has no jurisdiction over the matter.
(2) Abandonment occurs if an applicant, member, or responsible party, without good cause, fails to appear at the scheduled compliance conference or fails to submit an appearance by letter.

R 32.85 Home's decision; notice of opportunity to appeal the home's decision; date, time, and location of hearing; telephonic attendance; appearance by letter; waiver.
Rule 15. (1) Within 10 business days following a compliance conference, the home must provide the applicant, member, or responsible party written notice of the home's decision. Written notice must include all of the following:
(a) A statement of the action the home intends to take.
(b) The reasons for the intended action.
(c) The specific rules supporting the action.
(d) A statement that the applicant, member, or responsible party has the right to request a hearing before the governing board.
(e) The circumstances, if any, under which a member's transfer or discharge will be stayed if a hearing is requested.
(2) Within 15 business days of service of the written notice of the home's decision, the applicant, member, or responsible party may request, in writing, a hearing before the board to appeal the decision of the home. Written notice must include all of the following:
(a) The date.
(b) The name and address of the person requesting a hearing.
(c) The name of the affected applicant, member, or responsible party.
(d) The basis for the appeal.
(e) All documents that support the appeal.
(f) Any other pertinent documents that the person requesting a hearing wants the governing board to consider.
(3) A hearing will be conducted at a reasonable time, date, and location, to be determined by the governing board. The governing board may accept a letter from the applicant, member, or responsible party, instead of the applicant's, member's, or responsible party's personal appearance at a hearing before the governing board. The applicant, member, or responsible party must notify the governing board, in writing, that he or she wishes to appear by letter before the start of the scheduled hearing.
(4) The home shall mail notice of the time, date, and location of hearing to the applicant, member, or responsible party requesting a hearing at least 10 business days before the date of the hearing.
(5) A hearing may be conducted via telephone upon written request by the applicant, member, or responsible party. Written request for a hearing via telephone must accompany the applicant's, member's, or responsible party's written request for a hearing before the governing board in order to be considered.
(6) If the applicant, member, or responsible party does not request a hearing before the governing board within 15 business days of service of the notice of opportunity to appeal the home's decision, then the applicant, member, or responsible party is deemed to have waived the right to appeal the home's decision to the governing board.

R 32.86 Hearing rights of parties.
Rule 16. (1) An applicant, member, or responsible party may do any of the following:
(a) Examine the contents of his or her case file and all documents and records to be used by the governing board at the hearing at a reasonable time before the date of the hearing, as well as during the hearing.

(b) Present a case individually or with the aid of legal counsel or an authorized representative.

(c) Bring witnesses.

(d) Establish all pertinent facts and circumstances.

(e) Advance any relevant arguments without undue interference.

(f) Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

(2) The home may be represented by legal counsel and other representatives, staff, or former staff members.

R 32.87 Denial or dismissal of request for hearing.

Rule 17. (1) The home shall deny or dismiss the request for a hearing under any of the following conditions:

(a) The request is withdrawn by an applicant, member, or responsible party, in writing, before the hearing date.

(b) The applicant, member, or responsible party abandons the hearing.

(c) The home has no jurisdiction over the matter.

(2) Abandonment occurs if an applicant, member, or responsible party, without good cause, fails to appear at the scheduled hearing or fails to submit an appearance by letter.

R 32.88 Decision of governing board.

Rule 18. After the hearing and an opportunity to consider the evidence presented, the governing board may do any of the following:

(a) Affirm the home's decision.

(b) Make a finding that the home's decision be overturned.

(c) Enter into a written settlement of the matter with the applicant, member, or responsible party.

(d) Direct the home to provide the applicant, member, or responsible party with written notice of the opportunity to appeal the governing board’s decision to the circuit court.

R 32.89 Judicial review.

Rule 19. Decisions of the governing board are appealable to the circuit court as provided by law.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a (6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the department of transportation by section 39 of motor bus transportation act, 1982 PA 432, MCL 474.139.

R 474.1, R 474.2, R 474.3, R 474.4, R 474.5, R 474.6, and R 474.7 of the Michigan Administrative Code are added, as follows:

R 474.1 Definitions.
   Rule 1. As used in these rules:
   “Act” means motor bus transportation act, 1982 PA 432, mcc 474.101 to 474.141.
   “Bus” includes private owned school bus. School buses owned and operated by public school systems are not eligible for an authority under the act and the pupil transportation act, 1990 PA 187, MCL 257.1801 to 257.1877.
   “MDOT” means the Michigan department of transportation.
   “Remuneration” means the compensation that a carrier receives in exchange for the work or services performed, including both cash and non-cash payments received directly or indirectly.
   “Renewal period” means the period from January 1 to the last day of February each year.

R 474.2 Applicability.
   Rule 2. Carriers based outside this state and registered with the United States Department of Transportation that use vehicles in interstate regular route service or interstate charter service, that begin and end outside of this state, are exempted from the act, unless required by MDOT as a condition of financial assistance. Carriers operating intrastate regular route or charter service offering trip origins within this state shall comply with the requirements of the act.

R 474.3 Applications; information to be submitted; determination.
   Rule 3. An applicant shall submit all items requested in the application, as required by MDOT.
   The applicant shall send the information specified in the act, and in these rules, to MDOT via electronic means or by mail to the address listed on the application.
   To determine if a carrier is “fit, willing, and able” as required by the act, MDOT shall consider if a carrier has completed the application process as specified in the act and if the carrier has a history of violating the act.
R 474.4 Cancellation of insurance; notification.
   Rule 4. An alternate method of notifying MDOT of the cancellation of insurance may be requested by
   MDOT in lieu of granting of notifications rights to MDOT.

R 474.5 Inspections.
   Rule 5.
   Each vehicle listed under a certificate of authority shall be inspected annually, within 12 months of the
   previous inspection, or more frequently, to determine the character of the vehicle. Inspections expire the
   first day of the month following that 12-month period.
   The inspection shall follow the federal motor vehicle safety regulations and motor carrier safety
   standards, except where MDOT determines there is a clear and convincing need to exceed the federal
   standards.
   MDOT may determine the date, time, and location of the inspection based on the inspector’s schedule
   and availability of a safe inspection location. A carrier shall make its vehicles available at MDOT’s
   requested time and location.
   A carrier shall contact MDOT and ensure its inspection is scheduled prior to the expiration of the
   previous inspection. Inspections that are not conducted prior to expiration may result in late fees to be
   paid by the carrier.
   It is the responsibility of the carrier to provide a safe inspection location.
   MDOT shall offer an inspection date that is within 15 business days from the carrier’s initial contact for
   an inspection.
   An inspector may cancel an inspection if, for any reason, the inspector determines performing the
   inspection would put the inspector in an unsafe situation. The cancellation may result in late inspection
   fees.
   Upon successful completion of an inspection, a decal designated by MDOT shall be affixed on the
   driver’s side of the vehicle in the immediate area of the driver’s window.
   A vehicle that does not pass its inspection, which is not placed out-of-service by the MDOT inspector
   under the act, has until the prior inspection expires to make repairs and pass its inspection before its
   vehicle becomes unauthorized.
   The MDOT inspector may place a vehicle in an out-of-service status when found in violation of safety
   issues as described in the Commercial Vehicle Safety Alliance out-of-service criteria. The vehicle is not
   authorized for passenger-for-hire service, under the act, until the vehicle is returned to an authorized
   status by MDOT.

R 474.6 Fees as nonrefundable.
   Rule 6. A vehicle registration fee is nonrefundable when the vehicle is entered into the MDOT
   database.

R 474.7 Alteration, suspension, or revocation of certificate of authority.
   Rule 7. An applicant applying for a new or reinstated authority that is determined by MDOT to have
   been associated with a previously suspended or revoked carrier will have that carrier’s previous service
   record, vehicle condition, and history included in the determination of the applicant’s eligibility and
   ability to meet the requirements of the act.
These rules take effect immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 54.201, R 54.205, R 54.206, R 54.208, and R 54.209 of the Michigan Administrative Code are amended and R 54.202, R 54.204, R 54.207, R 54.210, R 54.211, and R 54.212 are rescinded to the Code as follows:

R 54.201 Definitions.
   Rule 1. (1) As used in these rules:
   (a) “Act” means the state survey and remonumentation act, 1990 PA 345, MCL 54.261 to 54.279.
   (b) “Applicant” means a county or multiple counties that apply for a grant pursuant to the act.
   (c) “Application” means an annual grant application pursuant to section 13 of the act, MCL 54.273.
   (d) “Annual grant agreement” means the contract between the department and an applicant.
   (e) “Grantee” means an applicant that receives a grant pursuant to the act.
   (f) “Land corner recordation certificate” or LCRC means the document prepared and filed pursuant to the corner recordation act, 1970 PA 74, MCL 54.201 to 54.210d.
   (2) Terms defined in the act have the same meanings when used in these rules.

R 54.202 Rescinded.

R 54.204 Rescinded.

R 54.205 Grant administrator.
   Rule 5. The grant administrator shall do all of the following:
   (a) Manage a grantees’ obligations of the annual grant agreement and be the point of contact.
   (b) Be responsible for the application, all reports, and documentation required by the act, these rules, and the annual grant agreement.
   (c) Oversee the county representative and all contractual obligations to fulfill the annual grant agreement.
R 54.206 County representative.

Rule 6. (1) A county representative of each county shall be the county representative for all surveying projects approved by or initiated through the department pursuant to the act.

(2) A county representative shall do all of the following:
   (a) Assist the applicant and grantee by providing technical and professional expertise.
   (b) Assist the applicant and grantee in the development of and monitoring the progress of their county plan pursuant to the act and these rules.
   (c) Coordinate the perpetuation of remonumentation corners along shared county borders.
   (d) Facilitate the inclusion of any remonumentation corners that were not included in the annual grant agreement.
   (e) If a peer review group has been established, schedule and chair the meetings pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and give notice to any surveyor who has a position in conflict with a corner position scheduled for peer review.
   (f) At the discretion of the grantee, provide an indication of acceptance on the LCRC that the corner record has been reviewed by the peer review group and accepted by the grantee to be filed with the state pursuant to the act, these rules, and the annual grant agreement. The indication of acceptance shall be placed on the face of the LCRC before its filing with a county’s register of deeds. If a conclusive decision cannot be made on a remonumentation corner, the surveyor or grantee may request an independent review be completed before the surveyor renders a final decision.

R 54.207 Rescinded.

R 54.208 Application and grant award.

Rule 8. (1) An applicant shall comply with the requirements of section 14 of the act and these rules by appointing a grant administrator.

(2) An application may be approved or denied based on either the following criteria:
   (a) Corners to be completed or maintained.
   (b) Estimated expenditures are neither provided nor explained.

(3) The department may require the applicant to provide additional information for the department to make a determination required by the act and these rules.

R 54.209 Disbursement of annual grant.

Rule 9. The department shall disburse an annual grant pursuant to section 12 of the act and as follows:
   (a) Forty percent of the annual grant amount upon receipt of the previous grant year completion report.
   (b) Forty-five percent of the annual grant amount upon receipt and approval of a progress report and supporting documentation. The total of the start-up payment and progress payment is limited to 85% of the total annual grant.
   (c) Final payment upon receipt and approval of a completion report and supporting documentation.

R 54.210 Rescinded.

R 54.211 Rescinded.

R 54.212 Rescinded.
R 338.1a  Training standards for identifying victims of human trafficking; requirements.

Rule 1a. (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 shall 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 subrule (1)(a) of this rule 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 shall 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 for license renewals beginning with the 2017 renewal cycle and for initial licenses issued after April 22, 2021.

R 338.2 Application for audiologist license; requirements.
Rule 2. (1) An applicant for an audiologist license, in addition to meeting the requirements of the code and the administrative rules promulgated under the code, shall comply with all of the following requirements:
   (a) Submit a completed application on a form provided by the department, together with the requisite fee.
   (b) Possess a master's or doctoral degree in audiology from an accredited educational program that is acceptable to the board under R 338.8.
   (c) Successfully completed a minimum of 9 months of supervised clinical experience in audiology as demonstrated by 1 of the following:
      (i) For an applicant who possesses a doctor of audiology (Au.D.) degree, submission of an official transcript that indicates the awarding of a doctor of audiology (Au.D.) degree from an accredited educational institution that is acceptable to the board under R 338.8.
      (ii) For an applicant who possesses either a doctoral or master's degree in audiology, submission of a certification of clinical experience form that indicates that the applicant completed the required supervised clinical experience.
   (d) Successfully completed an examination in audiology under R 338.7.
(2) If an applicant for an audiologist license submits either certification of clinical competence in audiology (CCC-A) from the American speech-language-hearing association (ASHA) or board certification in audiology by the American board of audiology (ABA) that has been held up to September 1, 1995, then it is presumed that the applicant meets the requirements of subdivisions (b), (c), and (d) of subrule (1) of this rule.

R 338.3 Licensure by endorsement; audiologist.
   Rule 3. (1) An applicant for an audiologist license by endorsement shall submit a completed application on a form provided by the department, together with the requisite fee. In addition to meeting the requirements of the code and the administrative rules promulgated under the code, an applicant shall satisfy the requirements of this rule.
   (2) If an applicant was registered or licensed as an audiologist in another state with substantially equivalent requirements and holds a current and unencumbered registration or license as a an audiologist in that state, then it is presumed that the applicant meets the requirements of section 16811(1)(a) or (b), and (2) or (3) of the code, MCL 333.16811(1)(a) or (b), and (2) or (3).
   (3) If an applicant does not meet the requirements of subrule (2) of this rule, then the applicant shall meet all of the following, in addition to meeting the requirements of the code:
      (a) Possess a master's or doctoral degree in audiology from an accredited educational program that is acceptable to the board under R 338.8.
      (b) Have successfully completed a minimum of 9 months of supervised clinical experience in audiology.
      (c) Have successfully completed an examination in audiology under R 338.7.
      (d) Verify that the registration or license from the other jurisdiction located in another state or territory of the United States, whether current or expired, is in good standing.
      (e) In place of subdivisions (a), (b) and (c) of this subrule, submit certification of clinical competence in audiology (CCC-A) from the American speech-language-hearing association (ASHA) or board certification in audiology by the American board of audiology (ABA).

R 338.5 Clinical experience requirements.
   Rule 5. (1) The 9 months of supervised clinical experience required for licensure in R 338.2 (1)(c), R 338.3 (3)(b), and R 338.4(2) shall comply with the following requirements:
      (a) The experience shall be obtained under the supervision of a licensed audiologist.
      (b) The experience shall be full time, which means at least 30 hours per week, and be obtained within 24 consecutive months.
   (2) The supervised clinical experience required under subrule (1) of this rule may be fulfilled on a part-time basis and shall comply with the following requirements:
      (a) The experience shall be obtained under the supervision of a licensed audiologist.
      (b) The experience shall be part time, which means at least 15 hours per week, and be obtained within 36 consecutive months.

R 338.6 Foreign trained applicants; licensure requirements.
   Rule 6. An applicant for an audiologist license who graduated from a postsecondary institution that is located outside of the United States shall establish all of the following:
      (a) That the applicant has completed an educational degree program in audiology that is substantially equivalent to the educational requirements in R 338.2(1)(b) for licensure or R 338.3(3)(a) for licensure
by endorsement. The department shall accept as proof of an applicant's completion of the educational
requirements a credential evaluation completed by a credential evaluation organization that is a current
member organization of the National Association of Credential Evaluation Services (NACES).

(b) That the applicant is authorized to practice as an audiologist without limitation in a country
currently recognized by the United States. An applicant shall have his or her license, certification, or
registration verified by the licensing agency of any country in which the applicant holds a current
license, certification, or registration or has ever held a license, certification, or registration as an
audiologist. If applicable, verification shall include the record of any disciplinary action taken or
pending against the applicant.

(c) That the applicant whose audiology educational program was taught in a language other than
English demonstrates a working knowledge of the English language. To demonstrate a working
knowledge of the English language, an applicant shall establish that he or she has obtained a total score
of not less than 80 on the test of English as a foreign language internet-based test (TOEFL-IBT)
administered by the educational testing service and obtained the following section scores:

(i) Not less than 18 on the reading section.
(ii) Not less than 18 on the listening section.
(iii) Not less than 22 on the speaking section.
(iv) Not less than 20 on the writing section.

(d) That the applicant has completed, in the United States, 9 months of supervised clinical experience
under a licensed audiologist, and the supervised clinical experience meets R 338.5.

R 338.8 Educational standards; adoption by reference.

Rule 8. (1) The board adopts by reference in these rules the standards of either of the following
organizations:

(a) The council on academic accreditation in audiology and speech language pathology (CAA) for the
accreditation of audiology education programs as in the publication entitled "Standards for
Accreditation of Graduate Education Programs in Audiology and Speech-Language Pathology," August
2017, which is available from the American Speech-Language-Hearing Association, 2200 Research
Boulevard, #310, Rockville, MD 20850 at no cost from the association's website at
the standards also is available for inspection and distribution at cost from the Board of Audiology,
Bureau of Professional Licensing, Michigan Department of Licensing and Regulatory Affairs, 611 West
Ottawa Street, Lansing, MI 48909. Completion of an accredited audiology education program at the
level required by the code shall be evidence of completion of a program acceptable to the department
and approved by the board.

(b) The accreditation commission for audiology education (ACAE) for the accreditation of doctor of
audiology programs as in the publication entitled "Accreditation Standards for the Doctor of Audiology
(Au.D.) Program", adopted March 2016, which is available at no cost from the Accreditation
Commission for Audiology Education, 11480 Commerce Park Dr., Ste. 220, Reston, VA 20191 or at no
cost from the commission's website at http://acaeaccred.org/standards/. Copies of the standards are
available for inspection and distribution at cost from the Board of Audiology, Bureau of Professional
Licensing, Michigan Department of Licensing and Regulatory Affairs, 611 West Ottawa Street,
Lansing, MI 48909.

(2) A higher education institution is considered approved by the board if it is accredited by the
accrediting body of the region in which the institution is located and the accrediting body meets either
the recognition standards and criteria of the council for higher education accreditation or the recognition
procedures and criteria of the United States department of education. The board adopts by reference the
R 338.9 Relicensure.

Rule 9. (1) An applicant whose license has lapsed for less than 3 years preceding the date of application for relicensure may be relicensed under section 16201(3) of the code, MCL 333.16201(3), if the applicant satisfies all of the following requirements:
   (a) Submits the required fee and a completed application on a form provided by the department.
   (b) Establishes that he or she is of good moral character as defined under sections 1 to 7 of 1974 PA 381, MCL 338.41 to 338.47.
   (c) Submits proof to the department of accumulating not less than 20 hours of continuing education credit that meets the requirements of R 338.10 and R 338.11 during the 2 years immediately preceding the application for relicensure.

(2) An applicant whose license has lapsed for 3 years or more preceding the date of application for relicensure may be relicensed under section 16201(4) of the code, MCL 333.16201(4), if the applicant satisfies all of the following requirements:
   (a) Submits the required fee and a completed application on a form provided by the department.
   (b) Establishes that he or she is of good moral character as defined under sections 1 to 7 of 1974 PA 381, MCL 338.41 to 338.47.
   (c) Submits fingerprints as required under section 16174(3) of the code, MCL 333.16174(3).
   (d) Complies with either of the following requirements:
      (i) Pass an examination required under R 338.7.
      (ii) Presents evidence to the department that he or she was registered or licensed as an audiologist in another state during the 2-year period immediately preceding the application for relicensure.

(3) An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or has ever held a license, certification, or registration as an audiologist. If applicable, verification shall include the record of any disciplinary action taken or pending against the applicant.

R 338.10 License renewal; requirements; applicability.

Rule 10. (1) This rule applies to applications for renewal of an audiology license under sections 16201 and 16811 of the code, MCL 333.16201 and 333.16811.

(2) An applicant for license renewal who has been licensed for the 2-year period immediately preceding the expiration date of the license shall accumulate not less than 20 hours of continuing
education in activities approved by the board under these rules during the 2 years immediately preceding
the application for renewal.
(3) Submission of an application for renewal shall constitute the applicant's certification of compliance
with the requirements of this rule. A licensee shall retain documentation of meeting the requirements of
this rule for a period of 4 years from the date of applying for license renewal. Failure to comply with
this rule is a violation of section 16221(h) of the code, MCL 333.16221(h).

R 338.11 Acceptable continuing education; requirements; limitations.
Rule 11. (1) The 20 hours of continuing education required pursuant to R 338.10(2) for the renewal of
an audiology license shall comply with the following:
(a) For the purpose of this rule, "instruction" means education time, exclusive of coffee breaks; breakfast, luncheon, or dinner periods; or, any other breaks in the program.
(b) Not more than 10 hours of continuing education shall be earned during a 24-hour period.
(c) A licensee shall not earn credit for a continuing education program or activity that is identical or
substantially identical to a program or activity the licensee has already earned credit for during that
license cycle.
(d) Pursuant to section 16204 of the code, MCL 333.16204, at least 1 hour of continuing education
shall be earned in the area of pain and symptom management. Continuing education hours in pain and
symptom management may include, but are not limited to, courses in behavior management, behavior
modification, stress management, and clinical applications, as they relate to professional practice under
sections 16801 to 16811 of the code, MCL 333.16801 to MCL 333.16811. The requirement specified in
this subrule applies to license renewals beginning with the first renewal cycle after the promulgation of
this amended rule.
(2) The board shall consider the following as acceptable continuing education:

<table>
<thead>
<tr>
<th>Activity Code</th>
<th>Activity and Proof Required</th>
<th>Number of continuing education hours granted/permited per activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Initial presentation of a continuing education program related to the practice of audiology provided to a state, regional, national, or international audiology organization. To receive credit, the presentation shall not be a part of the licensee's regular job description and shall comply with the standards in R 338.12. 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.</td>
<td>Three hours of continuing education shall be granted for each 50 to 60 minutes of presentation. No additional credit shall be granted for preparation of a presentation. A maximum of 9 hours of continuing education may be earned for this activity in each renewal period. Pursuant to R 338.11(1)(c), credit for a presentation shall be granted once per renewal period.</td>
</tr>
<tr>
<td>b</td>
<td>Initial presentation of a scientific exhibit,</td>
<td>Two hours of continuing education</td>
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</tbody>
</table>


| c | Passing a postgraduate academic course related to the practice of audiology offered in an educational program approved by the board under R 338.8. | Five hours of continuing education shall be granted for each academic credit hour passed. |
|   | If audited, the licensee shall submit an official transcript documenting successful completion of the course. | Three hours of continuing education shall be granted for each academic term or quarter credit hour passed. |
| d | Attendance at a continuing education program that has been granted approval by the board under R 338.12. | One continuing education clock hour shall be earned for each 50 to 60 minutes of program attendance. |
|   | If audited, the licensee shall submit a program description, 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 activity for continuing education credit, and the date on which the program was held or activity completed. | A maximum of 20 hours of continuing education may be earned for this activity in each renewal period. |
| e | Attendance at a continuing education program that has been granted approval by another state board of audiology. | One continuing education clock hour shall be earned for each 50 to 60 minutes of program attendance. |
|   | If audited, the licensee shall submit a program description, 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 activity for continuing education credit, and the date on which the program was held or activity completed. | A maximum of 20 hours of continuing education may be earned for this activity in each renewal period. |
program or activity for continuing education credit, and the date on which the program was held or activity completed.

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<td>f</td>
<td>Initial publication of an article related to the practice of audiology in a non-peer reviewed journal or newsletter.</td>
<td>One hour of continuing education shall be granted for each article. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period. Pursuant to R 338.11(1)(c), credit for publication shall be granted once per renewal period.</td>
</tr>
<tr>
<td></td>
<td>If audited, the licensee shall submit a copy of the publication that identifies the licensee as the author or a publication acceptance letter.</td>
<td></td>
</tr>
</tbody>
</table>
| g | Initial publication of a chapter related to the practice of audiology in either of the following:  
  - A professional or health care textbook.  
  - A peer-reviewed journal. | Five hours of continuing education shall be granted for serving as the primary author. Two hours of continuing education shall be granted for serving as the secondary author. Pursuant to R 338.11(1)(c), credit for publication shall be granted once per renewal period. |
|   | If audited, the licensee shall submit a copy of the publication that identifies the licensee as the author or a publication acceptance letter. |   |
| h | Reading an audiology professional journal and successfully completing an evaluation created for continuing education credit in audiology practice education. | One hour of continuing education shall be granted for each 50 to 60 minutes of this activity. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period. |
|   | If audited, the licensee shall submit a copy of the publication and the evaluation created for continuing education credit in audiology practice education. |   |
| i | Attendance at a program approved by the board of medicine or the board of osteopathic medicine related to audiology practice. | One continuing education clock hour shall be earned for each 50 to 60 minutes of program attendance. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period. |
|   | If audited, the licensee shall submit a program description, 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 activity for continuing education credit, and the date on which the program was held or activity completed. |   |
| j | Participating on a state or national | Two hours of continuing education |
committee, board, council, or association related to the field of audiology. A committee, board, council, or association is considered acceptable by the board if it enhances the participant’s knowledge and understanding of the field of audiology.

If audited, the licensee shall submit documentation verifying the licensee’s participation in at least 50% of the regularly scheduled meetings of the committee, board, council, or association.

shall be granted for each committee, board, council, or association.

A maximum of 2 hours of continuing education may be earned for this activity in each renewal period.

R 338.12 Continuing audiology education programs; methods of approval.

Rule 12. (1) The board approves and adopts by reference in these rules the standards of the American speech-language-hearing association continuing education board (ASHA-CEB) for approved continuing education providers in the document entitled “American Speech-Language-Hearing Association Continuing Education Board Manual”, August 2015, which is available at no cost from the American Speech-Language-Hearing Association, 2200 Research Boulevard, Rockville, MD 20850-3289 or from the association's website at https://www.asha.org/ce/for-providers/. A copy of the guidelines also is available for inspection and distribution at cost from the Michigan Board of Audiology, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, P.O. Box 30670, Lansing, MI 48909.

(2) The board approves and adopts by reference in these rules the standards of the American academy of audiology for approved continuing education programs—in the document entitled “Continuing Education Algorithm”, September 2015, which is available at no cost from the American Academy of Audiology, 11480 Commerce Park Drive, Suite 220, Reston, VA 20191 or from the academy’s website at https://audiology.org/professional-development/continuing-education/ce-provider-information/course-approval-requirements. A copy of the guidelines also is available for inspection and distribution at cost from the Michigan Board of Audiology, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, P.O. Box 30670, Lansing, MI 48909.

(3) A course or program may be reviewed and approved by the board or any organization that has been authorized by the board to approve such courses or programs.

(4) Courses or programs that need to be reviewed and preapproved by the board or its designee shall submit the following:

(a) Course content related to current issues in audiology practice.

(b) An outline of the course or program provided with time allotted for each section of the program.

(c) Documentation of qualifications of presenters.

(d) The method for delivering the course or program is described.

(e) Defined measurements of pre-knowledge and post-knowledge or skill improvement are included.

(f) Participant attendance at program or course is monitored.

(g) Records of a course or program are maintained and include the number of participants in attendance, the date of the program, the program's location, the credentials of the presenters, rosters of the individuals who attended, and the continuing education time awarded to each participant.
(h) A participant shall receive a certificate or written evidence of attendance at a program that indicates a participant's name, the date of the program, the location of program, the sponsor or program approval number, and the hours of continuing education awarded.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


PART 1. GENERAL PROVISIONS

R 338.12001 Definitions.

Rule 1. (1) As used in these rules:
(a) "Adjustment apparatus" means a tool or device used to apply a mechanical force to correct or reduce subluxations, misalignments, and joint dysfunctions.
(b) "Analytical instruments" means instruments used in the detection and diagnosis of human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health.
(c) "Board" means the Michigan board of chiropractic created in section 16421 of the code, MCL 333.16421.
(d) "Code" means 1978 PA 368, MCL 333.1101 to 333.25211, known as the public health code.
(e) "Department" means the department of licensing and regulatory affairs.
(f) "Nationally recognized standards" means that which is taught in a chiropractic educational program or postgraduate educational program that is accredited by the council on chiropractic education.
(g) "Physical measures" means procedures or techniques used to correct or reduce subluxations, misalignments, and joint dysfunctions.
(h) "Rehabilitative exercise program" means the coordination of a patient's exercise program; the performance, ordering and use of tests; the performance of measurements; instruction and consultation; supervision of personnel; and the use of exercise and rehabilitative procedures, with or without assistive devices, for the purpose of correcting or preventing subluxations, misalignments, and joint dysfunctions.

(i) "Test" means a procedure that is ordered or performed for the purpose of detecting and diagnosing human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health.

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

R 338.12001a Rescinded.

R 338.12003 Rescinded.

R 338.12004 Rescinded.

R 338.12005 Rescinded.

R 338.12006 Rescinded.

R 338.12008 Rescinded.

R 338.12008a Rescinded.

R 338.12008b Rescinded.

R 338.12010 Rescinded.

R 338.12011 Rescinded.

R 338.12011a Rescinded.

R 338.12011b Rescinded.
PART 2. EDUCATION

R 338.12021 Educational program standards; adoption by reference.

Rule 21. (1) The board adopts by reference the standards of the council on chiropractic education, (CCE), as specified in the publication entitled, "CCE Accreditation Standards: Principles, Processes & Requirements for Accreditation" January 2018. The standards are available from The Council on Chiropractic Education, 8049 N. 85th Way, Scottsdale, Arizona 85258-4321, or at the council's website at http://www.cce-usa.org at no cost. Copies of the standards are available for inspection and distribution at cost from the Board of Chiropractic, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, P. O. Box 30670, Lansing, Michigan 48909.

(2) Any chiropractic educational program that is accredited by the CCE qualifies as a chiropractic educational program approved by the board.

PART 3. LICENSURE

R 338.12031 Training standards for identifying victims of human trafficking; requirements.

Rule 31. (1) Pursuant to section 16148 of the code, MCL 333.16148, an individual seeking licensure or registration or who is licensed or registered shall complete training in identifying victims of human trafficking that meets the following standards:

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

(i) Understanding the types and venues of human trafficking in 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 registration, 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 shall 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 for license renewals beginning with the 2016 renewal cycle and for initial licenses issued after March 17, 2021.

R 338.12032 Educational limited license; requirements.
   Rule 32. An applicant for a nonrenewable educational limited license under section 16412 of the code, MCL 333.16412, shall submit the required fee and a completed application on a form provided by the department. In addition to satisfying the requirements of the code, an applicant shall satisfy all of the following requirements:
   (a) Submit evidence that the applicant has successfully completed 2 years of education in a college of arts and sciences and have official transcripts provided to the department from the educational institution.
   (b) Submit evidence that the applicant has successfully completed at least 1 of the following:
      (i) Two years of attendance in a program or institution of chiropractic that meets the educational standards in R 338.12021 and have official transcripts provided to the department from the educational institution.
      (ii) Four semesters of attendance in a program or institution of chiropractic that meets the educational standards in R 338.12021 and have official transcripts provided to the department from the educational institution.
      (iii) Six quarter terms of attendance in a program or institution of chiropractic that meets the educational standards in R 338.12021 and have official transcripts provided to the department from the educational institution.
   (c) Submits evidence that the applicant will be supervised by a licensed chiropractor on a form provided by the department.

R 338.12033 Examination; adoption and approval; passing score.
   Rule 33. The board approves and adopts the national board examination in chiropractic that is conducted and scored by the national board of chiropractic examiners (NBCE). The board adopts the passing score recommended by the NBCE for the national board examination parts I, II, III, and IV.

R 338.12034 Licensure by examination; requirements.
Rule 34. An applicant for a chiropractic license by examination shall submit the required fee and a completed application on a form provided by the department. In addition to satisfying the requirements of the code, an applicant shall satisfy both of the following requirements:

(a) Have graduated from a program or institution of chiropractic that meets the educational standards in R 338.12021 and have final and official transcripts provided to the department from the educational institution.

(b) Have passed parts I, II, III, and IV of the national board examination that is conducted and scored by the NBCE, under R 338.12033. The applicant shall ensure that the NBCE issues evidence of official passing scores directly to the department.

R 338.12035 Licensure by endorsement; requirements.

Rule 35. (1) An applicant for a chiropractic license by endorsement shall submit the required fee and a completed application on a form provided by the department. In addition to satisfying the requirements of the code, an applicant shall satisfy either of the following requirements:

(a) Have been licensed in another state of the United States for 5 years or more immediately preceding the date of application.

(b) Have been licensed in another state of the United States for less than 5 years immediately preceding the date of filing an application and have passed parts I, II, III, and IV of the national board examination that is conducted and scored by the NBCE, pursuant to R 338.12033. The applicant shall have the NBCE issue evidence of official passing scores directly to the department.

(2) An applicant shall have his or her license verified by the licensing agency of any state of the United States in which the applicant holds or has ever held a license to practice chiropractic. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.

R 338.12036 Relicensure requirements.

Rule 36. (1) An applicant for relicensure whose license has been lapsed for less than 3 years preceding the date of application may be relicensed under section 16201(3) of the code, MCL 333.16201(3), if the applicant satisfies all of the following requirements:

(a) Establishes that he or she is of good moral character.

(b) Submits the required fee and a completed application on a form provided by the department.

(c) Submits proof to the department of the completion of, in the 3-year period immediately preceding the application for relicensure, 45 hours of continuing education in programs approved by the board that include all of the following:

(i) The required continuing education hours listed in R 338.12041(1)(c) to (g).

(ii) Not more than 15 continuing education hours in board-approved distance learning programs.

(d) An applicant shall have his or her license verified by the licensing agency of any state of the United States in which the applicant holds or has ever held a license to practice chiropractic. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.

(2) An applicant for relicensure whose license has been lapsed for 3 years or more may be relicensed under section 16201(4) of the code, MCL 333.16201(4), if the applicant satisfies all of the following:

(a) Establishes that he or she is of good moral character.

(b) Submit fingerprints as set forth in section 16174(3) of the code, MCL 333.16174(3).

(c) Submits the required fee and a completed application on a form provided by the department.
(d) Submits proof to the department of the completion of, in the 3-year period immediately preceding
the application for relicensure, 45 hours of continuing education in programs approved by the board that
include all of the following:
   (i) Twenty-four live and in-person continuing education hours on chiropractic adjusting techniques.
   (ii) The required continuing education hours listed in R 338.12041(1)(c) to (g).
   (iii) Not more than 15 continuing education hours in board-approved distance learning programs.
(e) Provides either of the following:
   (i) Documentation to the department that the applicant holds or has held a valid and unrestricted
license in another state within 3 years immediately preceding the application for relicensure.
   (ii) Evidence of having passed the special purposes exam for chiropractic (SPEC) of the NBCE. The
applicant shall request written authorization from the department to take the exam. The applicant must
pass the exam within 6 months after the department’s issuance of written authorization to take the exam.
The applicant shall ensure that the NBCE issues evidence of official passing scores directly to the
department.
(f) An applicant shall have his or her license verified by the licensing agency of any state of the United
States in which the applicant holds or has ever held a license to practice chiropractic. Verification
includes, but is not limited to, showing proof of any disciplinary action taken or pending against the
applicant.

R 338.12037 License renewal; continuing education.
Rule 37.  (1) An applicant for license renewal shall complete 30 hours of board-approved continuing
education in the 2-year period immediately preceding the application that complies with R 338.12041.
   (2) This rule does not apply to a licensee who has obtained his or her initial chiropractic license
within the 2-year period immediately preceding the expiration date of the initial license.
   (3) Submission of an application for renewal shall constitute the applicant's certification of compliance
with this rule. The licensee shall retain documentation of meeting this rule for a period of 4 years from
the date of applying for license renewal. Failure to comply with this rule is a violation of section
16221(h) of the code, MCL 333.16221(h).

PART 4. CONTINUING EDUCATION

R 338.12041 Acceptable continuing education.
Rule 41.  (1) The 30 hours of continuing education required under R 338.12037 shall comply with all
of the following:
   (a) No more than 12 credit hours of continuing education shall be earned during 1 24-hour period.
   (b) Credit for a continuing education program or activity that is identical to or substantially identical to
a program or activity for which the licensee has already earned credit during the license cycle shall not
be granted.
   (c) Pursuant to section 16431(2) of the code, MCL 333.16431(2), at least 1 hour of continuing
education shall be in the area of pain and symptom management. Continuing education in pain and
symptom management may include, but is not limited to, courses in: chiropractic manipulative
treatment, manual therapies, therapeutic exercises for pain management; behavior management;
psychology of pain; pharmacology; behavior modification; stress management; clinical applications; and
drug interventions as they relate to the practice of chiropractic.
   (d) At least 1 hour of continuing education shall be in the area of sexual boundaries.
(e) At least 1 hour of continuing education shall be in the area of ethics.

(f) At least 2 hours of continuing education shall be in the area of physical measure and shall be completed by attending a live, in-person program.

(g) At least 2 hours of continuing education shall be in the area of performing and ordering tests and shall be completed by attending a live, in-person program.

(h) At least 15 hours of continuing education shall be completed by attending a live, in-person program.

(2) In addition to those programs approved by the board under R 338.12042, the board shall consider any of the following as acceptable continuing education:

(a) Successful completion of a course or courses related to the practice of chiropractic which are offered for academic credit in a chiropractic school approved by the board under R 338.12021, according to the following:

(i) If audited, the licensee shall submit a letter from the program director verifying the licensee participated in the program.

(ii) Five continuing education credit hours may be earned for each semester credit. Three continuing education contact hours may be earned for each quarter credit earned.

(iii) There is no limitation on hours earned in this category.

(b) Attendance at or participating in a continuing education program or activity related to the practice of chiropractic that is offered on campus at a chiropractic school approved by the board under R 338.12021, by the Michigan association of chiropractors, or by an organization approved by the board under R 338.12042.

(i) 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, and the date on which the program or activity was completed.

(ii) The number of continuing education hours for a specific program or activity shall be the number of hours approved by the sponsor or approving organization for the specific program or activity.

(iii) A maximum of 30 hours of continuing education may be earned for the program or activity in each renewal period.

(c) Initial presentation of a continuing education program related to the practice of chiropractic to a state, regional, national, or international organization. To receive credit, the presentation shall not be a part of the licensee’s regular job description and shall be approved or offered for continuing education credit by any of the following: the American chiropractic association, the international chiropractors association, the Michigan association of chiropractors, or an organization approved by the board under R 338.12042.

(i) If audited, the licensee shall submit a copy of the presentation notice or advertisement showing the date of the presentation and the licensee’s name listed as a presenter.

(ii) Two hours of continuing education credit shall be granted for each 50 to 60 minutes of presentation. No additional credit shall be granted for preparation of a presentation.

(iii) A maximum of 10 hours of continuing education may be earned for the activity in each renewal period.

(3) This rule takes effect beginning with the first renewal cycle after the promulgation of this rule. Continuing education programs approved by the board before the effective date of this amended rule are considered approved.

R 338.12042 Approval of continuing education programs.

Rule 42. (1) An organization may petition the board for approval of a continuing education program.
(2) The petition shall be filed at least 60 days before the commencement of the program.
(3) The petition shall include all of the following information:
   (a) A description of the sponsoring organization.
   (b) Name, title, and address of the program director.
   (c) An outline of the course.
   (d) A resumé for all speakers or presenters, or both.
   (e) A description of the delivery method.
   (f) The dates and location or locations that the course will be delivered.
   (g) A description of how attendance will be monitored, sample documents, and identification of the
       person monitoring attendance.
   (h) A sample certificate or other document that will be issued upon completion and a description of
       how the participant will be notified.
   (i) If appropriate, a request for recognition in a specific topic area required by R 338.12041(1)(c) to
       (h).

PART 5. STANDARDS OF PRACTICE

R 338.12051 Performance of invasive procedure; requirements.
   Rule 51. Under sections 16401(2)(d) and 16423 of the code, MCL 333.16401(2)(d) and MCL
   333.16423, a chiropractor may perform an invasive procedure if both of the following requirements are
   satisfied:
   (a) The invasive procedure is limited to an examination of the ears, nose, and throat.
   (b) The purpose of the examination is to detect and diagnose human conditions and disorders of the
       human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint
       dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health
       professionals in order to restore and maintain health.

R 338.12052 Tests; performance or ordering; requirements.
   Rule 52. Under section 16423 of the code, MCL 333.16423, the performance, ordering or use of tests
   shall satisfy all of the following requirements:
   (a) The performance and ordering of tests shall be for the practice of chiropractic as defined in section
       16401(1)(e) of the code, MCL 333.16401(1)(e).
   (b) The performance, ordering, or use of tests shall be for the purpose of detecting and diagnosing
       human conditions and disorders of the human musculoskeletal and nervous systems as they relate to
       subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to
       seek treatment from other health professionals in order to restore and maintain health. The performance
       and ordering of tests may be included as, but not limited to, a part of a rehabilitative exercise program.
   (c) The performance and ordering of tests shall be substantially equivalent to nationally recognized
       standards as defined in R 338.12001(1)(f).

R 338.12053 Analytical instruments; criteria for board approval.
   Rule 53. Under section 16423 of the code, MCL 333.16423, analytical instruments shall satisfy all of
   the following requirements:
(a) The instruments shall be used for the practice of chiropractic as defined in section 16401(1)(e) of the code, MCL 333.16401(1)(e).

(b) The instruments shall be used for the purpose of detecting and diagnosing human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health. The use of the instrument may be included as, but not limited to, a part of a rehabilitative exercise program.

(c) The use of the instrument shall be substantially equivalent to nationally recognized standards as defined in R 338.12001(1)(f).

R 338.12054 Adjustment apparatus; criteria for board approval.

Rule 54. Under section 16423 of the code, MCL 333.16423, an adjustment apparatus shall satisfy all of the following requirements:

(a) The apparatus shall be used for the practice of chiropractic as defined in section 16401(1)(e) of the code, MCL 333.16401(1)(e).

(b) The apparatus shall be used for the purpose of correcting or reducing subluxations, misalignments, and joint dysfunctions. The use of the apparatus may be included as, but not limited to, a part of a rehabilitative exercise program.

(c) The use of the apparatus shall be substantially equivalent to nationally recognized standards as defined in R 338.12001(1)(f).
ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

WORKERS’ COMPENSATION AGENCY

WORKERS’ COMPENSATION HEALTH CARE SERVICES

Filed with the Secretary of State on January 8, 2019

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 418.10106, R 418.10107, R 418.10109, R 418.10117, R 418.10901, R 418.10902, R 418.10904, R 418.10913, R 418.101002, and R 418.101004 of the Michigan Administrative Code are amended, as follows:

PART 1. GENERAL PROVISIONS

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 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 2018 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.

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®) 2018 Professional Edition,” published by the American Medical Association, P.O. Box 7408935, Chicago, IL 60674-8935, item #EP054118, 1-800-621-8335. The publication may be purchased at a cost of $116.95 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 2018 Level II Professional Edition," published by the American Medical Association, P.O. Box 7408935, Chicago, IL 60674-8935, item #OP231518, customer service 1-800-621-8335. The publication may be purchased at a cost of $99.95, plus $11.95 for shipping and handling, as of the time of adoption of these rules.
(c) "Medicare RBRVS 2018: The Physicians' Guide," published by The American Medical Association, P.O. Box 7408935, Chicago, IL 60674-8935, item #OP059618, 1-800-621-8335. The publication may be purchased at a cost of $99.95, plus $11.95 shipping and handling, as of the time of adoption of these rules.
(d) “International Classification of Diseases, ICD-10-CM 2018: The Complete Official Codebook,” American Medical Association, P.O. Box 7408935, Chicago, IL 60674-8935, item #OP201418, 1-800-621-8335. The publication may be purchased at a cost of $104.95, plus $16.95 shipping and handling, as of the time of adoption of these rules.
(e) “International Classification of Diseases, ICD-10-PCS 2018: The Complete Official Codebook,” American Medical Association, P.O. Box 7408935, Chicago, IL 60674-8935, item #OP201118, 1-800-621-8335. The publication may be purchased at a cost of $104.95, plus $16.95 shipping and handling, as of the time of adoption of these rules.
(h) "Official UB-04 Data Specifications Manual 2019, July 1, 2018" adopted by the National Uniform Billing Committee, © Copyright 2018 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 418.10109 Definitions; M to U.
Rule 109. As used in these rules:
(a) "Maximum allowable payment" means the maximum fee for a procedure that is established by these rules, a reasonable amount for a "by report" procedure, or a provider's usual and customary charge, whichever is less.

(b) "Medical only case" means a case that does not involve wage loss compensation.

(c) "Medical rehabilitation" means, to the extent possible, the interruption, control, correction, or amelioration of a medical or a physical problem that causes incapacity through the use of appropriate treatment disciplines and modalities that are designed to achieve the highest possible level of post-injury function and a return to gainful employment.

(d) "Medically accepted standards" means a measure that is set by a competent authority as the rule for evaluating quantity or quality of health care or health care services ensuring that the health care is suitable for a particular person, condition, occasion, or place.

(e) "Morbidity" means the extent of illness, injury, or disability.

(f) "Mortality" means the likelihood of death.

(g) "New patient" means a patient who is new to the provider for a particular covered injury or illness and who needs to have medical and administrative records established.

(h) "Nursing home" means a nursing care facility, including a county medical care facility, created pursuant to section 20109 of the public health code, 1978 PA 368, MCL 333.20109.

(i) "Opioid drugs" as used in these rules, refers to opiate analgesics, narcotic analgesics, or any other Schedule C (II-III) controlled substance as identified in United States Code Controlled Substances Act of 1970, 21. U.S.C. §812. Opioid analgesics are the class of drugs, such as morphine, codeine, and methadone, that have the primary indication for the relief of pain.

(j) "Orthotic equipment" means an orthopedic apparatus that is designed to support, align, prevent, or correct deformities of, or improve the function of, a movable body part.

(k) "Pharmacy" means the place where the science, art, and practice of preparing, preserving, compounding, dispensing, and giving appropriate instruction in the use of drugs is practiced.

(l) "Practitioner" means an individual who is licensed, registered, or certified as used in the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(m) "Primary procedure" means the therapeutic procedure that is most closely related to the principal diagnosis and has the highest assigned relative value unit (RVU).

(n) "Properly submitted bill" means a request by a provider for payment of health care services that is submitted to a carrier on the appropriate completed claim form with attachments as required by these rules.

(o) "Prosthesis" means an artificial substitute for a missing body part. A prosthesis is constructed by a "prosthetist", a person who is skilled in the construction and application of a prosthesis.

(p) "Provider" means a facility, health care organization, or a practitioner.

(q) "Reasonable amount" means a payment based upon the amount generally paid in the state for a particular procedure code using data available from the provider, the carrier, or the workers' compensation agency, health care services division.

(r) "Restorative" means that the patient's function will demonstrate measurable improvement in a reasonable and generally predictable period of time and includes appropriate periodic care to maintain the level of function.

(s) "Secondary procedure" means a surgical procedure that is performed to ameliorate conditions that are found to exist during the performance of a primary surgery and is considered an independent procedure that may not be performed as a part of the primary surgery or for the existing condition.

(t) "Separate procedure" means procedures or services listed in the CPT code set that are commonly carried out as an integral component of a total service or procedure have been identified by the inclusion of a term "separate procedure."
(u) "Specialist" means any of the following entities that are board-certified, board-eligible, or otherwise considered an expert in a particular field of health care by virtue of education, training, and experience generally accepted in that particular field:

(i) A doctor of chiropractic.
(ii) A doctor of dental surgery.
(iii) A doctor of medicine.
(iv) A doctor of optometry.
(v) A doctor of osteopathic medicine and surgery.
(vi) A doctor of podiatric medicine and surgery.

(v) "Subrogation" means substituting 1 creditor for another. An example of subrogation in workers' compensation is when a case is determined to be workers' compensation and the health benefits plan has already paid for the service and is requesting the workers' compensation carrier or the provider to refund the money that the plan paid on behalf of the worker.

(w) "Technical surgical assist" means that additional payment for an assistant surgeon, referenced in R 418.10416, is allowed for certain designated surgical procedures.

(x) "Telemedicine" means the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine, the health care professional must be able to examine the patient via a real-time, interactive audio and video telecommunication system, and the patient must be able to interact with the off-site health care professional at the time the services are provided.

(y) "Treatment plan" means a plan of care for restorative physical treatment services that indicates the diagnosis and anticipated goals.

(z) "Usual and customary charge" means a particular provider's average charge for a procedure to all payment sources, and includes itemized charges which were previously billed separately and which are included in the package for that procedure as defined by these rules. A usual and customary charge for a procedure shall be calculated based on data beginning January 1, 2000.

(aa) "Utilization review" means the initial evaluation by a carrier of the appropriateness in terms of both the level and the quality of health care and health services provided an injured employee, based on medically accepted standards.

R 418.10117 Carrier responsibilities.

Rule 117. (1) The carrier or its designated agent shall assure that a billing form is completed properly before making payment to the licensed provider or licensed facility.

(2) A carrier may designate a third party to receive provider bills on its behalf. If a carrier instructs the provider to send the medical bills directly to the third party, then the 30-day limit of this rule begins when the third party receives the bill. The carrier is responsible for forwarding bills and medical documentation when there is a third party reviewing medical bills for the carrier.

(3) A carrier or designated agent shall make payment of an unadjusted and properly submitted bill within 30 days of receipt of a properly submitted bill or shall add a self-assessed 3% late penalty to the maximum allowable payment or the provider's charge, whichever is less, as required by these rules.

(4) A carrier or designated agent shall record payment decisions on a form entitled "Carrier's Explanation of Benefits" using a format approved by the workers' compensation agency. The carrier or designated agent shall keep a copy of the explanation of benefits and shall send a copy to the provider and to the injured worker. The carrier's explanation of benefits shall list a clear reason for the payment adjustment or amount disputed and shall notify the provider what information is required for additional payment.
(5) A carrier or designated agent shall make payment of an adjusted bill or portion of an adjusted bill within 30 days of receipt of the properly submitted bill. If a carrier or designated agent rejects a bill in its entirety, then the carrier or designated agent shall notify the provider of the rejection within 30 days after receipt of a properly submitted bill.

(6) If a carrier requests the provider to send duplicated copies of the documentation required in part 9 or additional medical records not required by these rules, then the carrier shall reimburse the provider for the copying charges in accord with R 418.10118.

(7) When the carrier has disputed a case and has not issued a copy of the formal notice of dispute to the medical provider, then the carrier's explanation of benefits shall be sent in response to the provider's initial bill. The carriers' explanation of benefits shall serve as notice to the provider that nonpayment of the bill is due to the dispute.

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 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 418.10902 Billing for injectable medications, other than vaccines and toxoids, in office setting.

Rule 902. (1) The provider shall not bill the carrier for administration of therapeutic injections when billing an evaluation and management procedure code. If an evaluation and management procedure code is not listed, then the appropriate medication administration procedure code may be billed.

(2) The medication being administered shall be billed with either the unlisted drug and supply code from the CPT code set or the specific J-code procedure from the HCPCS Level II codebook, as adopted by reference in R 418.10107.

(3) The provider shall list the NDC number for the medication in the upper shaded portion of box 24 of the CMS 1500.

(4) The carrier shall reimburse the medication at average wholesale price (AWP) minus 10%, as determined by Red Book or Medi-Span, as adopted by reference in R 418.10107. No dispense fee shall be billed for injectable medications administered in the office setting.

(5) If the provider does not list the national drug code for the medication, the carrier shall reimburse the medication using the least costly NDC number by Red Book or Medi-Span for that medication.

R 418.10904 Procedure codes and modifiers.


(2) The following ancillary service providers shall bill codes from "HCPCS 2018 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.

R 418.10913 Billing for durable medical equipment and supplies.

Rule 913. (1) Durable medical equipment (DME) and supplies shall be billed using the appropriate descriptor from the HCPCS Level II codebook, as referenced in R 418.10107, for the service. If the equipment or supply is billed using an unlisted or not otherwise specified code and the charge exceeds $35.00, then an invoice shall be included with the bill.

(2) Initial claims for rental or purchased DME shall be filed with a prescription for medical necessity, including the expected time span the equipment will be required.

(3) Durable medical equipment may be billed as a rental or a purchase. If possible, the provider and carrier shall agree before dispensing the item as to whether it should be a rental or a purchased item. With the exception of oxygen equipment, rented DME is considered purchased equipment once the monthly rental allowance exceeds the purchase price or payment of 12 months rental, whichever comes first.

(a) If the worker's medical condition changes or does not improve as expected, then the rental may be discontinued in favor of purchase.
(b) If death occurs, rental fees for equipment will terminate at the end of the month and additional rental payment shall not be made.

(c) The return of rented equipment is the dual responsibility of the worker and the DME supplier. The carrier is not responsible and shall not be required to reimburse for additional rental periods solely because of a delay in equipment returns.

(d) Oxygen equipment shall be considered a rental as long as the equipment is medically necessary. The equipment rental allowance includes reimbursement for the oxygen contents.

(4) A bill for an expendable medical supply shall include the brand name and the quantity dispensed.

(5) A bill for a miscellaneous supply, for example; a wig, shoes, or shoe modification, shall be submitted on an invoice if the supplier is not listed as a health care professional.

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 2018 and shall be effective for dates of service on the effective date of these rules.

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® 2018 Professional Edition," and the "HCPCS 2018 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 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.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45(a)(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 338.1801, R 338.1821, R 338.1823, R 338.1825, R 338.1827, R 338.1831, R 338.1833, and R 338.1835 are added to the Michigan Administrative Code to read as follows:

PART 1. GENERAL PROVISIONS

R 338.1801 Definitions.
Rule 801. (1) As used in these rules:
(a) “BACB” means the behavior analyst certification board, or its successor.
(b) “Board” means the Michigan board of behavior analysts created under section 18255 of the code, MCL 333.18255.
(c) "Code" means 1978 PA 368, MCL 333.1101 to 333.25211, known as the public health code.
(d) “Department” means the department of licensing and regulatory affairs.
(2) Except as otherwise defined in these rules, the terms defined in the code have the same meaning when used in these rules.

PART 2. LICENSURE

R 338.1821 Training standards for identifying victims of human trafficking; requirements.
Rule 821. (1) Pursuant to section 16148 of the code, MCL 333.16148, an individual seeking licensure or registration or who is licensed or registered shall complete training in identifying victims of human trafficking that meets the following standards:
(a) Training content shall cover all of the following:
(i) Understanding the types and venues of human trafficking in 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 registration, 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 shall 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 shall apply for license or registration renewals beginning with the first renewal cycle after the promulgation of this rule and for initial licenses or registrations issued 5 or more years after the promulgation of this rule.

R 338.1823 Application for license; qualifications.

Rule 823. (1) In addition to meeting the requirements of the code, the department shall issue a behavior analyst license to a person who satisfies all of the following:

(a) Submits a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Has the BACB issue directly to the department proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant whose application was denied under this subrule may request a hearing under section 16232 of the code, MCL 333.16232.

(2) In addition to meeting the requirements of the code, the department shall issue an assistant behavior analyst license to a person who satisfies all of the following:

(a) Submits a completed application on a form provided by the department.

(b) Pays the required fee to the department.
(c) Has the BACB issue directly to the department proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant whose application was denied under this subrule may request a hearing under section 16232 of the code, MCL 333.16232.

(e) Provides proof acceptable to the department that he or she will be supervised by a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision complies with current BACB supervision requirements.

(3) An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or has ever held a license, certification, or registration as a behavior analyst or assistant behavior analyst. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.

R 338.1825 Relicensure.

Rule 825. (1) An applicant whose license has lapsed for less than 3 years preceding the date of application for relicensure may be relicensed under section 16201(3) of the code, MCL 333.16201(3), if the applicant satisfies all of the following requirements:

(a) Submits a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Has the BACB issue directly to the department proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant whose application was denied under this subrule may request a hearing under section 16232 of the code, MCL 333.16232.

(e) Establishes that he or she is of good moral character as defined under sections (1) to (7) of 1974 PA 381, MCL 338.41 to 338.47.

(f) If applying for relicensure as an assistant behavior analyst, provides proof acceptable to the department that he or she will be supervised by a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision complies with current BACB supervision requirements.

(2) An applicant whose license has lapsed for 3 years or more preceding the date of application for relicensure may be relicensed under section 16201(4) of the code, MCL 333.16201(4), if the applicant satisfies all of the following requirements:

(a) Submits a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Has the BACB issue directly to the department proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant whose application was denied under this subrule may request a hearing under section 16232 of the code, MCL 333.16232.

(e) Establishes that he or she is of good moral character as defined under sections (1) to (7) of 1974 PA 381, MCL 338.41 to 338.47.

(f) Submits fingerprints as required under section 16174(3) of the code, MCL 333.16174(3).

(g) If applying for relicensure as an assistant behavior analyst, provides proof acceptable to the department that he or she will be supervised by a Michigan licensed behavior analyst in this state who is
currently certified and in good standing with the BACB, and that the supervision complies with current BACB supervision requirements.

(3) An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or has ever held a license, certification, or registration as a behavior analyst or assistant behavior analyst. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.

R 338.1827 Application for renewal of license; qualifications.
Rule 827. (1) The department shall renew a behavior analyst license for a current licensee who satisfies all of the following:
(a) Submits a completed application on a form provided by the department.
(b) Pays the required fee to the department.
(c) Has the BACB issue directly to the department proof of current certification in good standing with the BACB.
(d) Has not been convicted of a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant whose application was denied under this subrule may request a hearing under section 16232 of the code, MCL 333.16232.

(2) The department shall renew an assistant behavior analyst license for a current licensee who satisfies all of the following:
(a) Submits a completed application on a form provided by the department.
(b) Pays the required fee to the department.
(c) Has the BACB issue directly to the department proof of current certification in good standing with the BACB.
(d) Has not been convicted of a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant whose application was denied under this subrule may request a hearing under section 16232 of the code, MCL 333.16232.
(e) Provides proof acceptable to the department that he or she will be supervised by a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision complies with current BACB supervision requirements.

PART 3. STANDARDS OF PRACTICE

R 338.1831 Certification; requirement.
Rule 831. A licensee shall maintain active status certification with the BACB.

R 338.1833 Adoption of standards.
Rule 833. The board adopts by reference the professional standards of the BACB, as specified in the publication entitled “Professional and Ethical Compliance Code for Behavior Analysts” August 2014. The standards are available from the BACB’s website at https://www.bacb.com/wp-content/uploads/2017/09/170706-compliance-code-english.pdf at no cost. Copies of the standards are available for inspection and distribution at cost from the Board of Behavior Analysts, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 W. Ottawa Street, P.O. Box 30670, Lansing, MI 48909.
R 338.1835  Permanent revocation; grounds; hearing.

Rule 835.  (1)  Notwithstanding sections 16221, 16226, and 16245 of the code, MCL 333.16221, 333.16226, and 333.16245, a licensee’s license shall be permanently revoked if he or she is convicted of a listed offense as that term is defined under section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, while licensed under this part.

(2)  A licensee whose license was permanently revoked under subrule (1) of this rule may request a hearing under section 16232 of the code, MCL 333.16232.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45(a)(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 338.3125 of the Michigan Administrative Code is amended, and R 338.3135 and 338.3161a are added to the Code to read as follows:

PART 2. SCHEDULES

R 338.3125 Schedule 5; narcotics added to nonnarcotic compounds.

Rule 25. (1) Schedule 5 includes pregabalin and lacosamide by whatever official, common, usual, chemical, or brand name designated.

(2) Schedule 5 includes ezogabine by whatever official, common, usual, chemical, or brand name designated.

(3) Schedule 5 includes gabapentin by whatever official, common, usual, chemical, or brand name designated.

(4) A compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which includes 1 or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation a valuable medicinal quality other than that possessed by the narcotic drug alone, is included in schedule 5:

<table>
<thead>
<tr>
<th>Substance</th>
<th>Limitations</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams, and not more than 10 milligrams per dosage unit.</td>
</tr>
<tr>
<td>b</td>
<td>Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams, and not more than 4 milligrams per dosage unit.</td>
</tr>
<tr>
<td>c</td>
<td>Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams, and not more than 5 milligrams per dosage unit.</td>
</tr>
<tr>
<td>d</td>
<td>Not more than 100 milligrams of opium per 100 milliliters or per 100 grams, and not more than 5 milligrams per dosage unit.</td>
</tr>
<tr>
<td>e</td>
<td>Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.</td>
</tr>
</tbody>
</table>
(5) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of pyrovalerone which has a stimulate effect on the central nervous system, including its salts, isomers, and salts of isomers, is included in schedule 5.

PART 3. LICENSES

R 338.3135 Opioids and other controlled substances awareness training standards for prescribers and dispensers of controlled substances; requirements.

Rule 35. (1) Pursuant to section 7301 of the act, MCL 333.7301, an individual seeking a controlled substance license or who is licensed to prescribe or dispense controlled substances shall complete a 1-time training, offered after promulgation of this rule, in opioids and controlled substances awareness that meets the following standards:
   (a) Training content must cover all of the following topics:
      (i) Use of opioids and other controlled substances.
      (ii) Integration of treatments.
      (iii) Alternative treatments for pain management.
      (iv) Counseling patients on the effects and risks associated with using opioids and other controlled substances.
      (v) The stigma of addiction.
      (vi) Utilizing the Michigan Automated Prescription System (MAPS).
      (vii) State and federal laws regarding prescribing and dispensing controlled substances.
      (viii) Security features and proper disposal requirements for prescriptions.
   (b) Topics covered under subrule (1)(a) of this rule may be obtained from more than 1 program.
   (c) 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 offered by a continuing education program or activity that is accepted by a licensing board established under article 15 of the act.
      (iv) Training obtained in an educational program that has been approved by a board established under article 15 of the act for initial licensure or registration, or by a college or university.
   (d) Acceptable modalities of training include any of the following:
      (i) Teleconference or webinar.
      (ii) Online presentation.
      (iii) Live presentation.
      (iv) Printed or electronic media.
   (2) A prescriber or dispenser shall not delegate or order the prescribing, dispensing, or administering of a controlled substance as authorized by this act to an advanced practice registered nurse, registered professional nurse, or licensed practical nurse unless the nurse complies with this rule.
   (3) The department may select and audit licensees and request documentation of proof of completion of training. If audited, an individual shall provide an acceptable proof of completion of training, including either of the following:
(a) A completion certificate issued by the training provider that includes the date, provider name, name of training, and individual’s name.
(b) A self-attestation by the individual that includes the date, provider name, name of training, and individual’s name.
(4) The requirements specified in this rule apply to controlled substance license renewals beginning with the first renewal cycle after the promulgation of this rule and for initial licenses issued after September 1, 2019.

PART 6. DISPENSING AND ADMINISTERING CONTROLLED SUBSTANCE PRESCRIPTIONS

Rule 338.3161a. Exception to bona fide prescriber-patient relationship; alternative requirements.

Rule 61a. (1) A bona fide prescriber-patient relationship is required before a licensed prescriber may prescribe a controlled substance listed in schedules 2 to 5.

(2) As used in section 7303a of the act, MCL 333.7303a, a “bona fide prescriber-patient relationship” means a treatment or counseling relationship between a prescriber and a patient in which both of the following are present:
(a) The prescriber has reviewed the patient’s relevant medical or clinical records and completed a full assessment of the patient’s medical history and current medical condition, including a relevant medical evaluation of the patient conducted in person or through telehealth. “Telehealth” means that term as defined in section 16283 of the act, MCL 333.16283.
(b) The prescriber has created and maintained records of the patient’s condition in accordance with medically accepted standards.
(3) Pursuant to Section 16204e of the act, MCL 333.16204e, a licensed prescriber may prescribe a controlled substance listed in schedules 2 to 5 without first establishing the bona fide prescriber-patient relationship required under Section 7303a of the act, MCL 333.7303a, in the following situations:
(a) The prescriber is providing on-call coverage or cross-coverage for another prescriber who is not available and has established a bona fide prescriber-patient relationship with the patient for whom the on-call or covering prescriber is prescribing a controlled substance, the prescriber, or an individual licensed under article 15 of the act, reviews the patient’s relevant medical or clinical records, medical history, and any change in medical condition, and provides documentation in the patient’s medical record in accordance with medically accepted standards of care.
(b) The prescriber is following or modifying the orders of a prescriber who has established a bona fide prescriber-patient relationship with a hospital in-patient, hospice patient, or nursing care facility resident and provides documentation in the patient’s medical record in accordance with medically accepted standards of care.
(c) The prescriber is prescribing for a patient that has been admitted to a licensed nursing care facility or a hospice, completes the tasks identified in subrule (2)(a) and (2)(b) of this rule in compliance with R 325.20602 or R 325.13302, as applicable, and provides documentation in the patient’s medical record in accordance with medically accepted standards of care.
(d) The prescriber is prescribing for a patient for whom the tasks listed in subrule (2)(a) and (2)(b) of this rule have been performed by an individual licensed under article 15 of the act, and the prescriber provides documentation in the patient’s medical record in accordance with medically accepted standards of care.
(e) The prescriber is treating a patient in a medical emergency. For purposes of this subdivision, “medical emergency” means a situation that, in the prescriber’s good-faith professional judgment,
creates an immediate threat of serious risk to the life or health of the patient for whom the controlled substance prescription is being prescribed.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 338.7005 of the Michigan Administrative Code is rescinded as follows:

R 338.7005 Rescinded.
These rules take effect immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


PART 1. GENERAL PROVISIONS

R 338.5101 Definitions.

Rule 101. (1) As used in these rules:

(a) "Act" means 1980 PA 299, MCL 339.101 to 339.2677, and known as the occupational code.
(b) "Audit" or "examination" means an examination applying generally accepted auditing standards, including any procedure undertaken to verify or test the reasonableness of financial information with a view of expressing an opinion or commenting on the fairness of the presentation.
(c) "Attest" means an audit, review, examination, or agreed upon procedures engagement as defined in section 720 of the act, MCL 339.720, performed in accordance with applicable professional standards adopted in R 338.5102.
(d) "Board" means the Michigan board of accountancy.
(e) “Certified public accountant” or “CPA” means a person holding a certificate of certified public accountant granted by the department, or an individual with practice privileges.
(f) "Client" means the person or persons or entity that retains an individual licensee, a firm licensee, individual with practice privileges, or an out-of-state firm, for the performance of professional services.
(g) "Continuing education period" means all or part of a year beginning July 1 and ending June 30.
(h) "Continuous instruction" means education time not including breakfast, lunch, or dinner periods, coffee breaks, or any other breaks in the program.
(i) "Disclose" means to provide a written communication from a CPA or a CPA firm informing the client, prior to making a recommendation or referral, that the CPA or CPA firm will receive a commission, referral fee, or contingency fee from a third party for recommendations or referrals of products and/or services.
(j) "Enterprise" means a person, persons, or entity for which an individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm performs professional services.

(k) “Exam window” means the time in each calendar quarter in which the uniform certified public accountant examination is offered. There are 4 exam windows in each calendar year, the first 2 months of each calendar quarter: January 1 to February 28 (or 29), April 1 to May 31, July 1 to August 31, and October 1 to November 30.

(l) "Financial statements" means statements and related footnotes that show financial position, results of operations, and cash flows on the basis of generally accepted accounting principles or another comprehensive basis of accounting. The term does not include incidental financial data included in management advisory services reports to support recommendations to a client and does not include tax returns and supporting schedules of tax returns.

(m) "Generally accepted accounting principles" means accounting principles of professional conduct, promulgated by the applicable nationally or internationally recognized professional standard setting organization, related to individual accounting engagements.

(n) "Generally accepted auditing standards" means the standards of professional conduct, promulgated by the applicable nationally or internationally recognized professional standard setting organization, related to individual audit engagements.

(o) “Individual with practice privileges” means an individual who practices in this state pursuant to section 727a of the act, MCL 339.727a.

(p) “Licensee” means the holder of an individual license under section 727 of the act, MCL 339.727 or the holder of a firm license under section 728 of the act, MCL 339.728.

(q) “Nano-learning program” means a tutorial program designed to permit a participant to learn a given subject in a 10-minute time frame through the use of electronic media and without interaction with a real-time instructor.

(r) “Out-of-state firm” means a firm that is permitted to provide certain services and use the title “CPA firm” without obtaining a Michigan firm license under section 728 of the act, MCL 339.728, under the conditions in section 728(4) and (5) of the act, MCL 339.728(4) and (5).

(s) "Professional engagement" means an agreement between a client and an individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm relative to the performance of professional services.

(t) "Professional services" means any services performed or offered to be performed by an individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm for a client in the course of the practice of public accounting, pursuant to section 720 of the act, MCL 339.720.

(u) "Qualifying hours" means continuing education hours that comply with part 3 of these rules.

(2) Terms defined in the act have the same meanings when used in these rules.


Rule 102. (1) The following standards are adopted by reference:

(a) The standards issued by the American Institute of CPAs (AICPA), 220 Leigh Farm Road, Durham, North Carolina, 27707, set forth in the publication “AICPA Professional Standards” updated June 1, 2017, and any statements issued as of the effective date of this rule, which are available at cost from the institute’s website at: http://www.aicpa.org.

(b) The standards issued by the Public Company Accounting Oversight Board (PCAOB), 1666 K Street NW, Washington, DC 20006, set forth in the publication entitled “PCAOB Standards and Related Rules” 2017 edition, and any updates issued as of the effective date of this rule, which are available at cost from the AICPA at http://www.aicpa.org.

(c) The auditing standards issued by the Government Accountability Office, 441 G. St., NW, Washington, DC 20548, in the publication entitled "Government Auditing Standards 2011 Revision,"
reissued on January 20, 2012, which are available at no cost on the Office’s website at http://gao.gov/products/GAO-12-331G.

(d) The auditing standards issued by the International Auditing and Assurance Standards Board (IAASB), 529 5th Avenue, New York, NY 10017, in the publication entitled “Handbook of International Quality Control, Auditing, Review, Other Assurance, and Related Pronouncements” 2016-2017 edition, and any related pronouncements issued as of the effective date of this rule, which are available at cost from the IAASB's website at: http://www.ifac.org/publications-resources/2015-handbook-international-quality-control-auditing-review-other-assurance.

(e) The accounting standards issued by the Financial Accounting Standards Board (FASB), 401 Merritt 7, P.O. Box 5116, Norwalk, CT 06856, in the publication entitled “FASB Accounting Standards Codification” as of October 31, 2016, and any updates published as of the effective date of this rule, which are available at cost from the board’s website at https://asc.fasb.org.

(f) The accounting standards issued by the Governmental Accounting Standards Board (GASB), 407 Merritt 7, P.O. Box 5116, Norwalk, CT 06856, in the publication entitled “GASB Codification” as of June 30, 2016, and any pronouncements published as of the effective date of this rule, which are available at cost from the board’s website at http://gasb.org.

(g) The accounting standards issued by the International Accounting Standards Board, 30 Cannon Street, London EC4M 6XH, United Kingdom, in the publication entitled “2017 International Financial Reporting Standards IFRS® (Red Book)” and any pronouncements issued as of the effective date of this rule, which are available at cost from the board’s website at: http://www.ifrs.org.


(2) Copies of the standards adopted in this rule are available for inspection and distribution at cost from the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 W. Ottawa Street, P.O. Box 30670, Lansing, MI 48909.

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

R 338.5115 Qualifying educational requirements; approved educational institutions; adoption of accreditation standards by reference.

Rule 115. (1) Pursuant to section 725(2) of the act, MCL 339.725(2), an individual who has completed a curriculum required for a baccalaureate degree consisting of not less than 120 semester hours with a concentration in accounting at a higher education institution approved in subrule (3) of this rule is eligible to take the uniform certified public accountant examination.

(2) A concentration in accounting shall include all the following accounting and general business subjects:

(a) Auditing: 3 semester hours.

(b) Twenty-four semester hours of general business subjects, other than accounting, that may include study in any of the following subjects:

(i) Business communications.

(ii) Business ethics.

(iii) Business law.

(iv) Economics.

(v) Finance.

(vi) Management.
(vii) Marketing
(viii) Information systems or technology.
(ix) Quantitative methods.
(x) Statistics.
(xi) Other subjects approved by the department.

(c) Twenty-one semester hours of accounting principles that must include study in each of the following areas:

(i) Financial accounting and accounting theory.
(ii) Managerial accounting, including cost accounting.
(iii) Accounting systems and controls.
(iv) Taxation.
(v) Governmental/fund accounting.


(4) Copies of the standards and criteria adopted by reference in this rule are available for inspection and distribution at cost from the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 W. Ottawa Street, P.O. Box 30670, Lansing, MI 48909.

R 338.5116 Certificate of certified public accountant; credit hour requirements for concentration in accounting.

Rule 116. (1) The department shall consider a person as having met the concentration in accounting requirements of section 725(1)(e) of the act, MCL 339.725(1)(e), if the person provides proof of having completed 150 semester hours of academic credit at an accredited college or university, including any of the following:

(a) A master's degree in accounting.
(b) A master’s degree in business administration that includes not less than 12 semester hours of graduate level accounting courses. The 12 semester hours of accounting courses does not include tax or information systems courses.
(c) An academic program consisting of both of the following:
   (i) Thirty semester hours of accounting subjects, including not more than 6 semester hours of taxation. Additional semester hours in accounting subjects may be applied toward the general business subject requirements of subdivision (c) (ii) of this subrule.
   (ii) Thirty-nine additional semester hours with a minimum of 3 semester hours, but not more than 12 semester hours, in not less than 5 of the following areas:
      (A) Business law.
      (B) Economics.
      (C) Professional ethics.
      (D) Finance.
      (E) Management.
      (F) Marketing.
      (G) Taxation.
      (H) Statistics.
(I) Business policy.

(2) A person may earn credit only once for an accounting or general business topic. If the department determines that 2 courses are duplicative, then only the semester hours of 1 course shall be counted toward the semester hour requirement.

(3) Academic credit earned during an internship shall apply toward the total 150 semester hour requirement; however, shall not apply to the required 30 semester hours of accounting subjects or the required 39 semester hours in subrule (1)(c)(ii) of this rule.

PART 3. CONTINUING EDUCATION

R 338.5210 License renewals; continuing education requirements; applicability; continuing education waiver; reciprocity.

Rule 210. (1) This part applies to applications for renewal of an accountancy license under sections 411 and 729 of the act, MCL 339.411 and 339.729. An applicant for renewal must submit the required fee and a completed application on a form provided by the department. Both of the following apply:

(a) Pursuant to section 729(1) of the act, MCL 339.729(1), an applicant for renewal who is a nonresident under section 720(1)(g) of the act, MCL 339.720(1)(g), is considered to have met the requirements under this part if he or she satisfies all of the following requirements:

(i) Submits the required fee and a completed application on a form provided by the department.

(ii) The state in which his or her principal place of business is located requires continuing education for renewal of that state’s accountancy license.

(iii) Has met the continuing education requirements of the state in which his or her principal place of business is located.

(b) If audited, the applicant shall provide a copy of the license that was renewed by the state in which his or her principal place of business is located.

(2) Submission of an application for renewal shall constitute the applicant’s certification of compliance with the requirements of this rule. Both of the following apply:

(a) An applicant shall retain documentation required by R 338.5215 as evidence of meeting the requirements under this rule for 4 years from the date of applying for license renewal.

(b) A licensee is subject to audit under this part and may be required to submit the documentation as described by R 338.5215 upon request of the department.

(3) A request for a continuing education waiver pursuant to section 204(2) of the act, MCL 339.204(2), must be received by the department before the expiration date of the license.

R 338.5215 Acceptable continuing education; requirements; limitations.

Rule 215. (1) The board shall consider the following as acceptable continuing education:

<table>
<thead>
<tr>
<th>Acceptable Continuing Education.</th>
<th>Number of continuing education hours earned for activity.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activity and proof of completion.</td>
<td></td>
</tr>
<tr>
<td>(a) Attendance in a group program that meets all the following requirements:</td>
<td>Fifty minutes of continuous instruction equals 1 continuing education hour.</td>
</tr>
<tr>
<td>• The subject matter of the program complies with R 338.5255.</td>
<td>Additional credit shall be granted after the first 50 minutes for continuous instruction in the following amounts:</td>
</tr>
<tr>
<td>• The program is conducted by an instructor or discussion leader whose background, training,</td>
<td></td>
</tr>
<tr>
<td>Education, or experience makes it appropriate for him or her to lead a discussion on the subject matter.</td>
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<tr>
<td>---</td>
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<tr>
<td>• The sponsor of the program takes individual attendance.</td>
<td></td>
</tr>
<tr>
<td>• The sponsor of the program issues to each attendee a program outline and a written certification of the attendee’s hours of attendance.</td>
<td></td>
</tr>
<tr>
<td>• The sponsor of the program maintains written records of individual attendance and the program outline for 4 years.</td>
<td></td>
</tr>
<tr>
<td>If audited, a licensee shall submit a copy of a letter or certificate of completion showing the licensee’s name, total continuing education hours earned, sponsor name and contact information, course title, course field of study, date offered or completed, and type of instruction or delivery method used.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(b) Completion of an individual nano-learning program that meets all the following requirements:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• The subject matter of the program complies with R 338.5255.</td>
</tr>
<tr>
<td>• The program is an educational course designed for nano-learning delivery.</td>
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<td>• The program uses instructional methods that define a minimum of 1 learning objective.</td>
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<td>• The program guides the participant through a program of learning and provides evidence of a participant's satisfactory completion of the program.</td>
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<tr>
<td>• The sponsor requires the participant to successfully complete a qualified assessment with a passing grade of 100% before issuing credit for the course.</td>
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<tr>
<td>• The sponsor of the program</td>
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<tr>
<th>Credit shall be awarded as 1/5 credit (0.2 credit).</th>
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<tr>
<td>A nano-learning course cannot be combined with another nano-learning course.</td>
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<tr>
<td>A combined maximum of 20 continuing education hours in auditing and accounting may be earned under this activity and activity (f) during each continuing education period.</td>
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<td>A combined maximum of 4 continuing education hours in auditing and accounting may be earned under this activity and activity (f) during each continuing education period.</td>
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<td>A combined maximum of 1 continuing education hour in the study of professional ethics may be earned under this activity and</td>
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(e) Classroom work as a teacher, instructor, speaker, or lecturer that is part of an academic course of which the subject matter complies with R 338.5255 and is offered at an educational institution that complies with R 338.5115 or for conducting a group program that meets the requirements under activity code (a) as a teacher, instructor, lecturer, speaker, or seminar discussion leader.

If audited, the licensee shall submit a copy of the confirmation letter provided by the program sponsor or the institution verifying the licensee’s name, number of hours of classroom work or hours spent conducting the group program, course title, course field of study, and dates of the presentation or instruction.

Twenty-five minutes of continuous instruction equals \( \frac{1}{2} \) of 1 continuing education hour. One-fifth of 1 continuing education hour shall be granted for every additional 10 minutes of continuous instruction after the first 25 minutes of continuous instruction.

A maximum of 20 continuing education hours may be earned during each continuing education period.

A maximum of 4 continuing education hours in auditing and accounting may be earned during each continuing education period.

A maximum of 1 continuing education hour in the study of professional ethics may be earned during each continuing education period.

(f) Completion of an individual self-study program that meets all the following requirements:

- The subject matter of the program complies with R 338.5255.
- The program is an educational course designed for self-study.
- The sponsor of the program issues the participants a written certification of the participant’s completion of the program and a program outline.
- The sponsor of the program maintains written records of the participant’s completion of the program and the program outline for 4 years.

If audited, the licensee shall submit a copy of a letter or certificate of completion provided by the program sponsor verifying the

Twenty-five minutes of continuous instruction equals \( \frac{1}{2} \) of 1 continuing education hour. One-fifth of 1 continuing education hour shall be granted for every additional 10 minutes of continuous instruction after the first 25 minutes of continuous instruction.

A combined maximum of 20 continuing education hours may be earned under this activity and activity (b) during each continuing education period.

A combined maximum of 4 continuing education hours in auditing and accounting may be earned under this activity and activity (b) during each continuing education period.
licensee’s name, number of continuing education hours earned, sponsor name and contact information, course title, course field of study, date completed, and type of instruction or delivery method used. | A combined maximum of 1 continuing education hour in professional ethics may be earned under this activity and activity (b) during each continuing education period.

(g) A course in professional ethics that complies with the requirements of activity (a), (b), (c), (d), (e), or (f) is approved if the subject matter of the course complies with R 338.5255(2).

If audited, the licensee shall submit a copy of a letter or certificate of completion provided by the program sponsor verifying the licensee’s name, number of continuing education hours earned, sponsor name and contact information, course title, course field of study, date completed, and type of instruction or delivery method used.

Continuing education hours shall be granted in an amount allowed under the type of activity for which the course qualifies.

(h) Completion of a course in Michigan statutes and administrative rules applicable to public accountancy that meets all the following requirements:

- The content of the course is created by the Michigan Association of Certified Public Accountants.
- The course provider issues the participants a written certification of the participant's completion of the course and a course outline.
- The sponsor of the program maintains written records of the participant's completion of the course and the course outline for 4 years.

If audited, the licensee shall submit a copy of a letter or certificate of completion provided by the program sponsor verifying the licensee’s name, number of continuing education hours earned, sponsor name and contact information, course title, course field of study, date completed, and type of instruction or delivery method used.

Fifty minutes of continuous instruction equals 1 continuing education hour.
education hours earned, sponsor name and contact information, course title, course field of study, date completed, and type of instruction or delivery method used.

(2) Continuing education hours shall not be granted for a program or activity that has substantially the same content of a program or activity for which the applicant has already earned continuing education hours during the continuing education period.

R 338.5216 Rescinded.

R 338.5217 Rescinded.

R 338.5218 Rescinded.

R 338.5230 Relicensure; continuing education.

Rule 230. (1) An applicant for relicensure whose license has lapsed for less than 3 years after the expiration date of the last license may be relicensed under section 411(3) of the act, MCL 339.411(3), if the applicant satisfies both of the following requirements:
   (a) Submits the required fee and a completed application on a form provided by the department.
   (b) Submits proof to the department of the completion of 40 hours of continuing education within the 12 months immediately preceding the date of application. The 40 hours must comply with all the following requirements:
      (i) Meet the requirements of R 338.5215.
      (ii) Eight of the 40 hours are in auditing and accounting.
      (iii) Two of the 40 hours are in professional ethics.
      (iv) One of the 2 hours of professional ethics are in Michigan statutes and administrative rules applicable to public accountancy.

   (2) An applicant whose license has been lapsed for 3 or more years after the expiration date of the last license may be relicensed under section 411(4) of the act, MCL 339.411(4), if the applicant satisfies all of the following requirements:
      (a) Submits the required fee and a completed application on a form provided by the department.
      (b) Establishes that he or she holds a valid and unrevoked certificate as a certified public accountant that was issued pursuant to section 725 or 726 of the act, MCL 339.725 or 339.726.
      (c) Submits proof to the department of the completion of 40 hours of continuing education within the 12 months immediately preceding the date of application. The 40 hours must comply with all the following requirements:
          (i) Meet the requirements of R 338.5215.
          (ii) Eight of the 40 hours are in auditing and accounting.
          (iii) Two of the 40 hours are in professional ethics.
          (iv) One of the 2 hours of professional ethics are in Michigan statutes and administrative rules applicable to public accountancy.

   (2) The continuing education hours required for the continuing education period of the year in which the license is granted under this rule shall be prorated starting with the month following the date of relicensure.

R 338.5240 Rescinded.
Rule 255. (1) Subjects qualifying for continuing education include any of the following:
   (a) Accounting.
   (b) Auditing.
   (c) Management advisory services.
   (d) Information technology.
   (e) Mathematics, statistics, probability, and quantitative application to business.
   (f) Economics.
   (g) Finance.
   (h) Business law.
   (i) Business management.
   (j) Professional ethics for certified public accountants.
   (k) Taxation.
   (l) Financial advisory services.
   (m) Business valuations.
   (n) Any other subjects which contribute to the professional competency of a licensee and for which the responsibility for compliance rests solely with the licensure applicant or licensee.

   (2) Subjects that qualify for continuing education in the study of professional ethics include any of the following:
   (a) Behavioral ethics in any of the following areas:
      (i) Ethical reasoning.
      (ii) Ethical philosophy.
      (iii) Ethics enforcement.
      (iv) Ethical practice in business.
      (v) International ethical professional standards.
   (b) Technical ethics in the following areas:
      (i) Business transactions with clients.
      (ii) Competence.
      (iii) Conflict of interest.
      (iv) Contingent fees, commissions, and other considerations.
      (v) Discreditable acts.
      (vi) General and professional standards.
      (vii) Independence.
      (viii) Integrity and objectivity.
      (ix) Malpractice
      (x) Professional conduct.
      (xi) Public interest and responsibilities.
      (xii) State rules and regulations.
   (c) Any other subject in the study of professional ethics that contributes to the professional competency of a licensee and for which the responsibility for compliance rests solely with the licensure applicant or licensee.
These rules become effective on April 19, 2019.

(By authority conferred on the public service commission by sections 202 and 213 of 1991 PA 179, MCL 484.2202 and 484.2213.)

R 484.71, R 484.72, R 484.73, R 484.74, and R 484.75 of the Michigan Administrative Code are amended as follows:

PART 1. GENERAL PROVISIONS

R 484.71 Applicability.

Rule 1. These rules apply to the provision of unbundled network elements and local interconnection services by an incumbent local exchange carrier to other providers which are used in the provision of basic local exchange service. These rules do not alter the scope or terms of any preexisting performance remedy plan and performance measurements approved by the commission.

R 484.72 Definitions.

Rule 2. (1) As used in these rules:
(a) “Act” means the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2101 to MCL 484.2601.
(c) "Incumbent local exchange carrier" or “ILEC” means that term as defined in 47 USC 251(h) and required to comply with the additional obligations in 47 USC 251(c).
(d) “Interconnection agreement” means an agreement between 2 or more providers entered into under sections 251 and 252 of the federal act.
(e) “Provider” means a person, firm, partnership, corporation, or other entity that provides basic local exchange service as defined by section 102(b) of the act, MCL 484.2102(b).

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

R 484.73 Expiration.

Rule 3. These rules expire 3 years from the effective date of the rules. The commission may, prior to the expiration of the rules, promulgate new rules.

PART 2. PROVISION OF UNBUNDLED NETWORK ELEMENTS AND LOCAL INTERCONNECTION

R 484.74 Quality standards.
Rule 4. (1) The quality standards for the provision of unbundled network elements and local interconnection by an ILEC shall be either of the following:
(a) Those standards in a preexisting performance remedy plan for an ILEC and performance measurements approved by the commission in an industrywide proceeding in Michigan, regardless of whether all providers participate in the plan.
(b) If a plan specified in subdivision (a) of this subrule does not exist for the ILEC, then the performance remedy plan and performance measurements negotiated or arbitrated by the parties in an interconnection agreement approved by the commission.
(2) Nothing in this rule shall entitle a provider to participate in a plan if the plan is not incorporated into its commission-approved interconnection agreement.

R 484.75 Remedies.
Rule 5. Nothing in this rule shall add to or detract from the remedies available to a provider under the plans referenced in R 484.74, the act, or the federal act.
ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

PUBLIC SERVICE COMMISSION

BASIC LOCAL EXCHANGE SERVICE CUSTOMER MIGRATION

Filed with the Secretary of State on January 9, 2019

These rules become effective June 17, 2019.

(By authority conferred on the public service commission by sections 202 and 213 of 1991 PA 179, MCL 484.2202 and 484.2213)

R 484.81, R 484.82, R 484.83, R 484.84, R 484.85, R 484.86, R 484.87, R 484.88, R 484.89, and R 484.90 of the Michigan Administrative Code are amended as follows:

PART 1. GENERAL PROVISIONS

R 484.81 Applicability.
Rule 1. These rules apply to the timely and complete transfer of an end user from 1 provider of basic local exchange service to another provider.

R 484.82 Exclusions.
Rule 2. Nothing in these rules prohibits providers from adopting more stringent standards in an interconnection agreement or other stand alone agreement.

R 484.83 Definitions.
Rule 3. (1) As used in these rules:
   (a) "Act" means 1991 PA 179, MCL 484.2101 to 484.2602.
   (b) "Basic local exchange service" or "local exchange service" or "service" means the provision of an access line and usage within a local calling area for the transmission of high-quality 2-way interactive switched voice or data communication.
   (c) "Business day" means a day on which a provider’s office is scheduled to be open for business.
   (d) "Business hours" means the times that a provider’s office is scheduled to be open for business. As scheduled business days and hours may vary, the schedule to be followed by each provider is the one posted on its website.
   (e) "Commission" means the Michigan public service commission.
   (f) "Customer service record" or "customer service information" means account information including, but not limited to, the customer’s address, features, services, equipment, directory listings, and network information, as appropriate.
   (g) "Directory service provider" means the entity that receives or implements the local service provider’s directory service requirements for the end user, including white page listings, and may also include providing end user directory assistance.
   (h) "End user" means the retail subscriber of a telecommunication service.
(i) “End user’s authorization” means the data or record indicating that the end user has authorized a new local service provider to change the end user’s service provider or view the end user’s customer service record.


(k) “Interconnection agreement” means an agreement between 2 or more providers entered into under sections 251 and 252 of the federal act.

(l) “Line level” means features or activities associated with a specific line.

(m) “Local service provider” means the provider that administers and bills local exchange and related services for the end user, and includes both of the following:

(i) "New local service provider" means the planned or actual provider of record following the completion of the migration process.

(ii) "Old local service provider" means the provider of record prior to the migration process or the current local service provider prior to service migration.

(n) “Local service request” means an industry standard document used among providers to request installation, changes, or disconnections of local services.

(o) “Loop” or “Unbundled loop” means the transmission facility between the network interface on a subscriber’s premises and the main distribution frame in the servicing central office.

(p) “Loss notification” means provider notification initiated by the underlying network service provider at the completion of a service migration to notify the old local service provider of the loss of end user facilities.

(q) “Number portability” means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from 1 telecommunications provider to another.

(r) “Plain old telephone service” means the provision of a standard telephone line and telephone number, as subscribed to by a residential or small business end user.

(s) “Primary interexchange carrier” or “primary interexchange carriers” means the provider or providers designated by a wire line end user to carry intraLATA and/or interLATA long distance traffic.

(t) "Provider" means a person, firm, partnership, corporation, or other entity that provides basic local exchange service as defined by section 102(b) of the act.

(u) “Service configuration” means identification of the type of serving arrangement used by the local service provider to provide service to the end user, including resale, facility-based service, and other arrangements.

(v) “Service provider” means each provider involved in supplying service to an end user, including local service providers and/or underlying network service providers.

(w) “Underlying network service provider” means a provider that provides some or all of the facilities and equipment components used to make up an end user’s local telecommunications service, including both of the following:

(i) "New underlying network service provider" means a provider that provides some or all of the facilities and equipment components used to make up an end user’s local telecommunications service following the completion of the migration process or the potential network service provider prior to service migration.

(ii) "Old underlying network service provider" means a provider that provides some or all of the facilities and equipment components used to make up an end user’s local telecommunications service prior to the migration process or the current network service provider prior to service migration.

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

R 484.84 Expiration.
Rule 4. These rules expire 3 years from the effective date of the rules. The commission may promulgate new rules at any time.

PART 2. TRANSFER OF END USER BY PROVIDERS
R 484.85 Migration responsibilities of local service providers.

Rule 5. (1) Each service provider shall maintain a publicly accessible website with all of the following information:
   (a) All applicable processes and procedures for end user migration.
   (b) Company contact escalation list, which shall include a company contact for operational issues and a contact for escalation of those issues.

   (2) The old local service provider shall release any assigned telephone numbers associated with the end user’s service that are properly requested in accordance with industry standards and federal law.

   (3) Except for migrations described in 47 CFR 64.1120(e), the new local service provider shall communicate directly with the end user, receive the end user’s authorization to switch service providers, and provide all pertinent information to the end user associated with the end user migration.

   (4) The new local service provider is responsible for the coordination required to migrate the end user. The underlying network service providers shall promptly provide necessary support and assistance to migrate the end user. Neither the old local service provider nor underlying network service provider shall interfere in the transfer or otherwise use this opportunity to win back the customer.

   (5) Before requesting a customer service record, the new local service provider or authorized agent shall have obtained an end user’s authorization.

   (6) All providers shall follow industry standard procedures and federal law for porting an end user’s telephone number and processing to actual completion the migration of the end user upon receipt of an accurate request from the new local service provider. For requests received outside of business hours, the date and time of receipt shall be considered to be the beginning of the next business day.

   (7) When local exchange service to be migrated is currently provided using resale or local wholesale arrangements, the old underlying network service provider shall provide a loss notification to the old local service provider upon completion of a request.

   (8) Upon completion of the service order, the old underlying network service provider shall unlock the end user’s E911 records that are being migrated, within industry standard or federally mandated timeframes, whichever is earlier. The new underlying network service provider shall assure the new E911 database record is accurately entered into the E911 database and that the database is locked.

   (9) Directory listing information shall be submitted by the new local service provider to the directory service provider using a local service request or other mutually agreeable format. If the old local service provider is a facilities-based provider and directory listing migration capabilities are not available from the directory service provider, then the old local service provider shall remove its listings upon completion of a local service request to migrate local service. The new local service provider shall ensure that the directory listing information is accurate.

   (10) The new local service provider may reuse an unbundled loop upon request if reuse is technically feasible. Any of the following exclusions shall apply:

   (a) The new local service provider has made all reasonable efforts to obtain the circuit identification for reuse, and the circuit identification information was not provided by the old local service provider.

   (b) Upgrade or downgrade of existing facilities is required.

   (11) The old local service provider shall release the circuit identification and facilities for reuse when the existing circuit or facilities are no longer needed by the old local service provider to provide service to the migrating end user or any other end user that is currently using those facilities.

   (12) The old local service provider shall not retain a requested facility for possible future use.
(13) An unbundled loop shall be considered released for reuse when the old local service provider provides the circuit identification for release.

(14) Subject to subrule (10) of this rule, when requested, and reuse of the unbundled loop facility is available, the old local service provider shall provide the circuit identification number with the associated telephone number for the requested unbundled loop facility to the new local service provider as part of the customer service record or firm order confirmation response. To order the reuse of an unbundled loop facility, the new local service provider shall furnish the circuit identification number on the local service request issued to the new underlying network service provider.

(15) If the new local service provider requests reuse of the unbundled loop facility, and it is not available, then the old local service provider shall use best efforts to indicate as part of the customer service record or firm order confirmation response the reason why the unbundled loop is not reusable.

(16) The local service providers and underlying network service providers involved in the transfer shall maintain accurate unbundled loop circuit identification information and customer service record content, as applicable, to the end user service to facilitate migration activity as described in these rules.

(17) The underlying network service provider shall notify the local service providers involved in the transfer of changes affecting information contained in this rule within 5 business days of completion of the transfer.

R 484.86 Exchanging customer service information.

Rule 6. (1) Unless otherwise agreed to by the providers involved, all of the following shall be the responsibility of the local service providers in any migration of an end user’s local service.

(a) The new local service provider may request and receive the customer service record information, which may include a request for circuit identification with associated telephone number from the old local service provider as part of the customer service record or firm order confirmation.

(b) To the extent resale and local wholesale arrangement information is available via current pre-order functionality in the underlying network service provider’s operational support systems and is made available under current local business practice, it shall be made available to all new local service providers upon request and acknowledgement of end user permission. Underlying network service provider customer service record information might not reflect all end user services subscribed and received from the old local service provider.

(c) Customer service record requests shall only be submitted after proper authorization from the end user to review the end user’s account and only with the intent to obtain information to facilitate the migration of local service.

(d) A customer service request or local service request shall not be used by a local service provider to trigger retention activity. The new local service provider shall not be required to share a copy of the end user’s authorization with the old local service provider prior to receipt of the records, but shall retain records for a reasonable period of time to resolve issues about proper use of operational support systems or to assist in the resolution of a claim of unauthorized transfer, should one arise.

(e) All responses to customer service record requests shall be provided promptly, without unreasonable delay, and consistent with federal law.

(f) The deadline for submitting service requests shall be posted on a provider’s website.

(g) Upon receiving a local service request, the receiving provider shall issue either a confirmation or rejection of an electronic request within the time required by federal law.

(h) A provider may require a customer service record request to include some or all of the following:

(i) Billed assigned telephone number.

(ii) Acknowledgement of end user consent to review the customer service record or customer service information.

(iii) End user name.
(iv) Contact information detailing to whom, how, and where to respond with the customer service record or customer service information.

(v) A telephone number and person to contact for questions about the customer service record or customer service information request.

(vi) The name of the company requesting the customer service record or customer service information.

(vii) The date and time the request was sent.

(viii) Indication whether circuit identification with associated telephone number is requested for loop reuse.

(ix) Indication whether directory information is requested.

(i) The old local service provider shall provide to the new local service provider all of the following information in addition to the fields required by federal law when applicable:

(i) Account level information including the following:
(A) Billing telephone number.
(B) Complete customer billing name and address.
(C) Directory listing information, including address and listing type, to the extent that it is maintained by the old local service provider.
(D) Complete service address including floor, suite, unit, or similar designation.
(E) Type of service.

(ii) Line level information shall include all services and features associated with the service provider, including the following:
(A) Assigned telephone number, which identifies all telephone numbers that are billed on the account.
(B) Current primary interexchange carrier selections including freeze status.
(C) Local freeze status, if offered.
(D) All vertical features such as custom calling features identified in a manner so that the new local service provider can understand to which products and services the end user currently subscribes.
(E) Other service options, such as lifeline, 900 blocking, toll blocking, remote call forwarding, and off premises extensions, if applicable.
(F) Service configuration information.
(G) Identification of the local service or underlying network service provider when different from the provider providing the response.
(H) Identification of any data services on the migrating end user’s line or any other services such as alarm services that utilize the unbundled loop.

(i) Circuit identification with associated telephone number, provided with the customer service record, when requested and the unbundled loop is not being used for other services.

(J) Indication as to whether any circuit identifications are not reusable and therefore not provided.

(K) Type of service.

(j) If requested, the old local service provider shall provide the network information, including loop circuit identification (when the unbundled loop is available for reuse) and associated telephone number, with the customer service record or firm order confirmation. When service components such as loop and directory services are currently being provided to the end user by an entity other than the local service provider or the underlying network service provider the customer service record shall also include identification of those components and the associated service provider.

(k) The transmission of customer service records and customer service information requests and information shall be through electronic facsimile, electronic mail, electronic data interchange, graphical user interface, or any other means negotiated between the 2 providers. The transmission of customer service records and customer service information requests shall not be by voice telephone call. All providers shall, at a minimum, allow transmission of customer service record requests by facsimile.
Rule 484.87  Order process requirements.
  Rule 7. All migration and ordering processes between providers shall follow the applicable industry standards and comply with federal law.

Rule 484.88  Service quality standards.
  Rule 8. (1) Upon receipt of an accurate request from the new local service provider, the old local service provider shall port the telephone number and, if requested, transfer the unbundled loop to the new local service provider within the specified time period listed in subdivisions (a) and (b) of this subrule, unless a later due date is requested. If the old local service provider reschedules the original due date without the consent of the new local service provider, or the old local service provider fails to complete the migration by the original due date, the original due date shall be the one measured against. The following apply to due dates:
    (a) Due dates for migrations involving number portability with or without a loop. For a migration request involving 1 to 18 lines, the due date is a monthly average of 4 business days after a request is made. Any migration request involving 19 or more lines involving number portability with or without a loop is a project for which a due date shall be negotiated.
    (b) Due dates for migrations involving a simple port request only, for example, not for orders that require other facilities, such as loops. For a migration involving a simple port, the due date is the date required by 47 CFR 52.35. For migration involving simple ports for 2 to 30 lines, the old local service provider shall send a firm order confirmation within 24 hours and complete the porting of the telephone number to the new local service provider within 3 business days of the firm order confirmation. Any migration request that involves simple ports for 31 or more lines is a project for which a due date shall be negotiated.
  (2) The provider shall keep records on provisioning due dates that are not met. This measurement shall be reported by the provider at an order level for resale plain old telephone service, and at a feature or circuit level for resale specials and local wholesale arrangements. The records shall be available for review upon the request of commission staff.
  (3) Data used to measure performance concerning due dates shall not include misses caused by either of the following:
    (a) Action or inaction of the new local service provider or the end user.
    (b) The number portability administration center.

PART 3. REMEDIES, WAIVER, AND GENERAL EXEMPTIONS

R 484.89  Remedies.
  Rule 9. (1) If, after 3 consecutive months, a provider fails to meet 1 or more of the standards as set forth by these rules for each of the 3 months, then the provider shall notify commission staff within 10 days of such failure and the commission shall require the provider to take corrective action. This corrective action shall include, but is not limited to, the 2-part report described as follows:
    (a) Part 1 of the report shall be a “root-cause” analysis of the reported level of performance, explaining why the reported performance failed to meet applicable service quality standard(s).
    (b) Part 2 of the report shall be a “corrective action plan.” The plan shall be based on the causes for substandard performance identified in part 1, and it shall define actions proposed to bring performance up to a level at or above the applicable standard. This plan shall have a 90-day timeline within which the provider commits to bring its performance up to a level at or above the applicable standard.
  (2) A provider shall deliver its 2-part report to the commission staff within 30 days after it files the report showing a failure to meet the prescribed standards. Unless otherwise requested by the
commission staff, the provider shall provide a status report for each month thereafter until the provider meets the applicable service quality standard.

(3) This rule does not prohibit a provider from seeking commission action against another provider, nor does it prohibit the commission from investigating a provider’s compliance under its own motion under the Michigan telecommunications act, 1991 PA 179, MCL 484.2101 to MCL 484.2602.

(4) Violation of these rules may result in penalties issued under section 601 of the act, MCL 484.2601.

Rule 484.90 Waiver and general exemptions.

(1) A provider may petition for a permanent or temporary waiver or exception from these rules when qualifying circumstances beyond the control of the provider render compliance impossible or when compliance would be unduly economically burdensome or technologically infeasible.

(2) Qualifying circumstances include any of the following:

(a) The problem is or was attributable to an "act of God." The term "act of God" includes events such as any of the following:

(i) Flood.
(ii) Lightning.
(iii) Tornado.
(iv) Earthquake.
(v) Fire.
(vi) Blizzard.
(vii) Ice storm.
(viii) Widespread electrical power outage.
(ix) Other unusual natural or man-made disasters.

(b) There is a work stoppage or other work action, beyond the control of the provider, that causes or caused a significant reduction in hours worked.

(c) The problem occurs or occurred during a major failure. A major failure is a single event or occurrence that is not the direct result of action taken by the provider and that generates out-of-service reports affecting 100 or more access lines.

(d) The problem is or was caused by either the end user or by malicious damage to facilities by a third party outside the control of the provider.

(3) A provider may request a temporary waiver in order to have sufficient time to implement procedures and systems to comply with these rules.

(4) The provider shall notify the commission, in writing, within 20 business days of such an event that it intends to invoke the occurrence of an event described in subrule (2) of this rule. The notification to the commission shall include all of the following information:

(a) Specific description of the event and general impact.
(b) Date or dates of the event.
(c) Location affected, such as exchanges or wire centers.
(d) Estimated number of customers affected.

(5) The commission staff shall have 10 business days following the notification to advise the provider, in writing, of a dispute concerning the validity of the company’s invocation of an event described in subrule (2) of this rule and the reasons for such dispute. If the dispute cannot be resolved within 10 business days of the commission staff's advice, then the provider shall file an application with the commission within 10 business days thereafter for resolution of the dispute.
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(Rule 500.1121 Rescinded.)

R 500.1122 Definitions.

Rule 2. As used in these rules:

(a) "Beneficiary" means the entity for whose sole benefit a trust or letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

(b) "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When a trust is established in conjunction with a reinsurance agreement, the grantor is the unlicensed assuming insurer.

(c) “Liabilities” means the assuming insurer’s gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means and shall include all of the following:

(i) For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance all of the following:

(A) Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer.
(B) Reserves for losses reported and outstanding.
(C) Reserves for losses incurred but not reported.
(D) Reserves for allocated loss expenses.
(E) Unearned premiums.

(ii) For business ceded by domestic insurers authorized to write life, health, and annuity insurance all of the following:
(A) Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums.
(B) Aggregate reserves for accident and health policies.
(C) Deposit funds and other liabilities without life or disability contingencies.
(D) Liabilities for policy and contract claims.
(d) “Obligations” means any of the following:
   (i) Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer.
   (ii) Reserves for reinsured losses reported and outstanding.
   (iii) Reserves for reinsured losses incurred but not reported.
   (iv) Reserves for allocated reinsured loss expenses and unearned premiums.

R 500.1123 Conditions applicable to a reinsurance agreement in conjunction with a trust agreement.

Rule 3. (1) A reinsurance agreement that is entered into in conjunction with a trust agreement and the establishment of a trust account under section 1105 of the insurance code of 1956, 1956 PA 218, MCL 500.1105, may contain any of the following provisions:
   (a) A requirement that the assuming insurer enter into a trust agreement, establish a trust account for the benefit of the ceding insurer, and specify what the agreement is to cover.
   (b) A stipulation that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit issued by a United States bank and payable in United States legal tender, and investments of the types permitted by chapter 9 of the insurance code of 1956, 1956 PA 218, MCL 500.901 to 500.947, or any combination of cash, certificates of deposit, or investments specified in this subdivision, if the investments are issued by an entity that is not the parent, subsidiary, or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. If a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, then the trust agreement may contain the provisions required by this subdivision instead of including the provisions in the reinsurance agreement.
   (c) A requirement that the assuming insurer, before depositing assets with the trustee, execute assignments or endorsements in blank or transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments, so that the ceding insurer, or the trustee upon the direction of the ceding insurer, may, if necessary, negotiate the assets without the consent or signature from the assuming insurer or any other entity.
   (d) A requirement that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent.
   (e) A stipulation that the assuming insurer and the ceding insurer agree that the assets in the trust account established pursuant to the provisions of the reinsurance agreement may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be used and applied by the ceding insurer or its successors in interest by operation of law, including, without limitation, any liquidator, rehabilitator, receiver, or conservator of the insurer, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for 1 or more of the following purposes:
      (i) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellation of the policies.
(ii) To pay or reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement.

(iii) To pay or reimburse the ceding insurer for any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(iv) To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(2) The reinsurance agreement may also do any of the following:

(a) Give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer the assets to the assuming insurer, if either of the following provisions is satisfied:

(i) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets that have a current fair market value equal to the market value of the assets withdrawn so as to maintain, at all times, the deposit in the required amount.

(ii) After withdrawal and transfer, the current fair market value of the trust account is not less than 102% of the required amount.

(b) Provide for the return of any amount withdrawn in excess of the actual amounts required under subrule (1)(e) of this rule.

(c) Provide for interest payments, at a rate that is not more than the prime rate of interest, on the amounts held pursuant to subrule (1)(e) of this rule.

(d) Permit the award by any arbitration panel or court of competent jurisdiction of any of the following:

(i) Interest at a rate different from that provided in subdivision (c) of this subrule.

(ii) Court or arbitration costs.

(iii) Attorney fees.

(iv) Any other reasonable expenses.

(3) A trust agreement that is in compliance with the provisions of these rules may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the director if established on or before the date of filing of the financial statement of the ceding insurer. Further, the amount of the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but the reduction shall not be more than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(4) Notwithstanding the effective date of this rule, any trust agreement or underlying reinsurance agreement in existence before July 1, 1996, will continue to be acceptable until June 30, 1997, at which time the agreements will have to be in full compliance with this rule for the trust agreement to be acceptable.

(5) The failure of any trust agreement to specifically identify the beneficiary as that term is defined in R 500.1122(a) shall not be construed to affect any actions or rights that the director may take or possess pursuant to the provisions of the laws of this state.

R 500.1124 Requirements for letters of credit.

Rule 4. (1) A letter of credit used to reduce any liability for reinsurance ceded to an unauthorized reinsurer under section 1105 of the insurance code of 1956, 1956 PA 218, MCL 500.1105, shall be clean, irrevocable, unconditional, and issued or confirmed by a qualified United States financial institution as that term is defined by section 1101 of the insurance code of 1956 1956 PA 218, MCL
500.1101. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents, or entities, except as provided in R 500.1125(1).

(2) The heading of the letter of credit may include a boxed section that contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that the information is for internal identification purposes only.

(3) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is not contingent upon reimbursement with respect thereto.

(4) The term of the letter of credit shall be for at least 1 year and shall contain an "evergreen clause" that prevents the expiration of the letter of credit without due notice from the issuer. The evergreen clause shall provide for a period of not less than 30 days' notice before the expiration date or nonrenewal of the letter of credit.

(5) The letter of credit shall state whether it is subject to and governed by the laws of this state, publication 600 of the International Chamber of Commerce entitled the Uniform Customs and Practice for Documentary Credits (UCP 600), or publication 590 of the International Chamber of Commerce entitled International Standby Practices (ISP 98), or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

(6) If the letter of credit is made subject to publication 600 of the International Chamber of Commerce entitled the Uniform Customs and Practice for Documentary Credits (UCP 600), or publication 590 of the International Chamber of Commerce entitled International Standby Practices (ISP 98), or any successor publication, then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit if 1 or more of the occurrences specified in article 36 of publication 600, or any successor publication, occur.

(7) If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in subrule (1) of this rule, then both of the following additional requirements shall be met:

(a) The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts.

(b) An evergreen clause shall provide for 30 days' notice before the expiration date or nonrenewal of the letter of credit.

R 500.1125 Conditions applicable to reinsurance agreement in conjunction with letter of credit.

Rule 5. (1) A reinsurance agreement in conjunction with which a letter of credit is obtained may contain any of the following provisions:

(a) A requirement that the assuming insurer provide letters of credit to the ceding insurer and specify what they are to cover.

(b) A stipulation that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for 1 or more of the following reasons:
(i) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement, of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies.

(ii) To pay or reimburse the ceding insurer for the assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement.

(iii) To pay or reimburse the ceding insurer in an amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(iv) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer’s entire obligations under the reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer’s share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in paragraph (i) of this subdivision as may remain after withdrawal and for any period after the termination date.

(c) A requirement that all of the provisions of this subrule shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(2) Nothing contained in subrule (1) of this rule shall preclude the ceding insurer and assuming insurer from providing for either of the following:

(a) An interest payment, at a rate not more than the prime rate of interest, on the amounts held pursuant to subrule (1)(b) of this rule.

(b) The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for subrule (1)(b) of this rule, or any amounts that are subsequently determined not to be due.

R 500.1126 Other security.

Rule 6. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

R 500.1127 Reinsurance contract.

Rule 7. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of section 1103 or 1105 of the insurance code of 1956, 1956 PA 218, MCL 500.1103 or 500.1105, after the effective date of these rules, unless the reinsurance agreement includes all of the following:

(a) A proper insolvency clause which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company.

(b) A provision pursuant to section 1103 of the insurance code of 1956, 1956 PA 218, MCL 500.1103, whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be served, and has agreed to abide by the final decision of the court or panel.
R 500.1128 Contracts affected.
Rule 8. All new and renewal reinsurance transactions entered into on or after January 1, 2019 shall conform to the requirements of the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, and these rules if credit is to be given to the ceding insurer for the reinsurance.

R 500.1129 Rescinded.

R 500.1130 Credit for reinsurance; reinsurer licensed in this state.
Rule 10. Pursuant to section 1103(2) of the insurance code of 1956, 1956 PA 218, MCL 500.1103, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that was licensed in this state as of any date on which statutory financial statement credit for reinsurance is claimed.

R 500.1131 Credit for reinsurance; certified reinsurers.
Rule 11. (1) Pursuant to section 1103(6) of the insurance code of 1956, 1956 PA 218, MCL 500.1103(6), the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this rule. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the director. The security shall be in a form consistent with sections 1103(6) and 1105 of the insurance code of 1956, 1956 PA 218, MCL 500.1103(6) and MCL 500.1105, and the requirements, as applicable, under R 500.1123, R 500.1124, R 500.1125, R 500.1126, and R 500.1133. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

<table>
<thead>
<tr>
<th>Ratings</th>
<th>Security Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secure—1</td>
<td>0%</td>
</tr>
<tr>
<td>Secure—2</td>
<td>10%</td>
</tr>
<tr>
<td>Secure—3</td>
<td>20%</td>
</tr>
<tr>
<td>Secure—4</td>
<td>50%</td>
</tr>
<tr>
<td>Secure—5</td>
<td>75%</td>
</tr>
<tr>
<td>Vulnerable—6</td>
<td>100%</td>
</tr>
</tbody>
</table>

(2) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.
(3) The director shall require the certified reinsurer to post 100% security, for the benefit of the ceding insurer or its estate, upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer.
(4) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the director. The one-year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:
(a) Line 1: Fire.
(b) Line 2: Allied Lines.
(c) Line 3: Farmowners multiple peril.
(d) Line 4: Homeowners multiple peril.
(e) Line 5: Commercial multiple peril.
(f) Line 9: Inland Marine.
(g) Line 12: Earthquake.
(h) Line 21: Auto physical damage.

(5) Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this section with respect to the losses incurred and reserves reported from and after the effective date of the amendment or new contract.

(6) Nothing in this rule shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this rule.

(7) The director shall post notice on the department’s website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The director may not take final action on the application until at least 30 days after posting the notice required by this subrule.

(8) The director shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with subrules (1) through (6) of this rule. The director shall publish a list of all certified reinsurers and their ratings.

(9) In order to be eligible for certification, the assuming insurer shall meet all of the following requirements:

(a) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the director pursuant to subrule (15) of this rule.

(b) The assuming insurer must maintain capital and surplus, or its equivalent, of no less than $250,000,000.00 calculated in accordance with subrule (10)(h) of this rule. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least $250,000,000.00 and a central fund containing a balance of at least $250,000,000.00.

(c) The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the director. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the director in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include all of the following:

(i) Standard & Poor’s.

(ii) Moody’s Investors Service.

(iii) Fitch Ratings.

(iv) A.M. Best Company.

(v) Any other nationally recognized statistical rating organization.

(d) The certified reinsurer must comply with any other requirements reasonably imposed by the director.
(10) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, all of the following:

(a) The certified reinsurer’s financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The director shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification.

<table>
<thead>
<tr>
<th>Ratings</th>
<th>Best</th>
<th>S&amp;P</th>
<th>Moody’s</th>
<th>Fitch</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secure—1</td>
<td>A++</td>
<td>AAA</td>
<td>Aaa</td>
<td>AAA</td>
</tr>
<tr>
<td>Secure—2</td>
<td>A+</td>
<td>AA+, AA, AA-</td>
<td>Aa1, Aa2, Aa3</td>
<td>AA+, AA, AA-</td>
</tr>
<tr>
<td>Secure—3</td>
<td>A</td>
<td>A+, A</td>
<td>A1, A2</td>
<td>A+, A</td>
</tr>
<tr>
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<td>A-</td>
<td>A-</td>
<td>A3</td>
<td>A-</td>
</tr>
<tr>
<td>Secure—5</td>
<td>B++, B+</td>
<td>BBB+, BBB, Baa1, Baa2, Baa3</td>
<td>BBB+, BBB, Baa1, Baa2, Baa3</td>
<td></td>
</tr>
</tbody>
</table>

(b) The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations.
(c) For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers).
(d) For certified reinsurers not domiciled in the United States, a review annually of a form approved by the director.
(e) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers’ Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership.
(f) Regulatory actions against the certified reinsurer.
(g) The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subrule (10)(h) of this rule.
(h) For certified reinsurers not domiciled in the United States, audited financial statements (audited United States GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a United States GAAP basis, or, with the permission of the director, audited IFRS statements with reconciliation to United States GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor). Upon the initial application for certification, the director will consider audited financial statements for the last 3 years filed with its non-U.S. jurisdiction supervisor.
(i) The liquidation priority of obligations to a ceding insurer in the certified reinsurer’s domiciliary jurisdiction in the context of an insolvency proceeding.

(j) A certified reinsurer’s participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The director shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement.

(k) Any other information deemed relevant by the director.

(11) Based on the analysis conducted under subrule (10)(e) of this rule of a certified reinsurer’s reputation for prompt payment of claims, the director may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the director shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under subrule (10)(a) of this rule if the director finds either of the following:

(a) More than 15% of the certified reinsurer’s ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more which are not in dispute and which exceed $100,000.00 for each cedent.

(b) The aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by 90 days or more exceeds $50,000,000.00.

(12) The assuming insurer must submit a properly executed form approved by the director as evidence of its submission to the jurisdiction of this state, appointment of the director as an agent for service of process in this state, and agreement to provide security for 100% of the assuming insurer’s liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The director shall not certify any assuming insurer that is domiciled in a jurisdiction that the director has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

(13) The certified reinsurer must agree to meet applicable information filing requirements as determined by the director, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which are not otherwise public information subject to disclosure shall be exempted from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall be withheld from public disclosure. The applicable information filing requirements include all of the following:

(a) Notification within 10 days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore.

(b) Annually, the filing of a form approved by the director.

(c) Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision (d) of this subrule.

(d) Annually, audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the director, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer’s supervisor). Upon the initial certification, audited financial statements for the last 3 years filed with the certified reinsurer’s supervisor.

(e) At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.

(f) A certification from the certified reinsurer’s domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction’s highest regulatory action level.

(g) Any other information that the director may reasonably require.
(14)(a) In the case of a downgrade by a rating agency or other disqualifying circumstance, the director shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of subrule (10)(a) of this rule.

(b) The director shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer’s certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the director to reconsider the certified reinsurer’s ability or willingness to meet its contractual obligations.

(c) If the rating of a certified reinsurer is upgraded by the director, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the director shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the director, the director shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

(d) Upon revocation of the certification of a certified reinsurer by the director, the assuming insurer shall be required to post security in accordance with section 1105 of the insurance code of 1956, 1956 PA 218, MCL 500.1105, in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with R 500.1122 to R 500.1123, the director may allow additional credit equal to the ceding insurer’s pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer’s rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of 3 months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the director to be at high risk of uncollectibility.

(15)(a) If, upon conducting an evaluation under this rule with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the director determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the director shall publish notice and evidence of such recognition in an appropriate manner. The director may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

(b) In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The director shall determine the appropriate approach for evaluating the qualifications of such jurisdictions and create and publish a list of jurisdictions whose reinsurers may be approved by the director as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the director, include, but are not limited to, all of the following:

(i) The framework under which the assuming insurer is regulated.
(ii) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.
(iii) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.
(iv) The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.
(v) The domiciliary regulator’s willingness to cooperate with U.S. regulators in general and the director in particular.
(vi) The history of performance by assuming insurers in the domiciliary jurisdiction.
(vii) Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the director has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.
(viii) Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.
(ix) Any other matters deemed relevant by the director.
(c) A list of qualified jurisdictions shall be published through the NAIC committee process. The director shall consider this list in determining qualified jurisdictions. If the director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the director shall provide thoroughly documented justification with respect to the criteria provided under subdivision (b)(i) to (ix) of this subrule.
(d) U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.
(16)(a) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the director has the discretion to defer to that jurisdiction’s certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed form approved by the director and such additional information as the director requires. The assuming insurer shall be considered to be a certified reinsurer in this state.
(b) Any change in the certified reinsurer’s status or rating in the other jurisdiction shall apply automatically in this state as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the director of any change in its status or rating within 10 days after receiving notice of the change.
(c) The director may withdraw recognition of the other jurisdiction’s rating at any time and assign a new rating in accordance with subrule (14)(a) of this rule.
(d) The director may withdraw recognition of the other jurisdiction’s certification at any time, with written notice to the certified reinsurer. Unless the director suspends or revokes the certified reinsurer’s certification in accordance with subrule (14)(a) of this rule, the certified reinsurer’s certification shall remain in good standing in this state for a period of 3 months, which shall be extended if additional time is necessary to consider the assuming insurer’s application for certification in this state.
(17) In addition to the clauses required under R 500.1127, reinsurance contracts entered into or renewed under this rule shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this rule for reinsurance ceded to the certified reinsurer.
(18) The director shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

R 500.1132 Requirements for assets deposited in trusts established under MCL 500.1103.

Rule 12. (1) Assets deposited in trusts established pursuant to section 1103 of the insurance code of 1956, 1956 PA 218, MCL 500.1103, and this rule shall be valued according to their current fair market value and shall consist only of 1 or more of the following:
(a) Cash in U.S. dollars.
(b) Certificates of deposit issued by a qualified U.S. financial institution as defined in section 1101 of the insurance code of 1956, 1956 PA 218, MCL 500.1101.
(c) Clean, irrevocable, unconditional, and “evergreen” letters of credit issued or confirmed by a qualified U.S. financial institution, as defined in section 1101 of the insurance code of 1956, 1956 PA 218, MCL 500.1101.

(d) Investments of the type specified in this rule, provided that the investments meet all of the following criteria:
   (i) Investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed 5% of total investments.
   (ii) No more than 20% of the total of the investments in the trust may be foreign investments authorized under subrule (2)(a)(v), (c), (d)(ii), or (e) of this rule, and no more than 10% of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency.

(2) The assets of a trust established to satisfy the requirements of section 1103 of the insurance code of 1956, 1956 PA 218, MCL 500.1103, shall be invested only in 1 or more of the following investments:
   (a) Government obligations that are not in default as to principal or interest, that are valid and legally authorized, and that are issued, assumed, or guaranteed by any of the following:
      (i) The United States or any agency or instrumentality of the United States.
      (ii) A state of the United States.
      (iii) A territory, possession or other governmental unit of the United States.
      (iv) An agency or instrumentality of a governmental unit referred to in paragraphs (ii) and (iii) of this subdivision if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements.
      (v) The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.
   (b) Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market. by a solvent U.S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations meet 1 of the following requirements:
      (i) Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated. are similar in structure and other material respects to other obligations of the same institution that are so rated.
      (ii) Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this state and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC.
      (iii) Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC.
   (c) Obligations issued, assumed, or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.
   (d) Equity interests.
      (i) Investments in common shares or partnership interests of a solvent U.S. institution are permissible if both of the following requirement are met:
(A) Its obligations and preferred shares, if any, are eligible as investments under this rule.
(B) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the securities exchange act of 1934, 15 USC 78a to 78qq, or otherwise registered pursuant to that act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under this subparagraph in an amount exceeding 1% of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company.

(ii) Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development are permissible if both of the following requirements are met:
(A) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.
(B) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development.

(iii) An investment in or loan upon any one institution’s outstanding equity interests shall not exceed 1% of the assets of the trust. The cost of an investment in equity interests made pursuant to this paragraph, when added to the aggregate cost of other investments in equity interests then held pursuant to this paragraph, shall not exceed ten percent (10%) of the assets in the trust.

(e) Obligations issued, assumed or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

(f) Investment companies.

(i) Securities of an investment company registered pursuant to the investment company act of 1940, 15 USC 80a, are permissible investments if the investment company meets either of the following:
(A) Invests at least 90% of its assets in the types of securities that qualify as an investment under subrule (2)(a), (b), or (c) of this rule or invests in securities that are determined by the director to be substantively similar to the types of securities set forth in subrule (2)(a), (b), or (c) of this rule.
(B) Invests at least 90% of its assets in the types of equity interests that qualify as an investment under subdivision (d)(1) of this subrule;

(ii) Investments made by a trust in investment companies under this subrule shall not exceed either of the following limitations:
(A) An investment in an investment company qualifying under paragraph (i)(A) of this subdivision shall not exceed 10% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed 25% of the assets in the trust.
(B) Investments in an investment company qualifying under paragraph (i)(B) of this subdivision shall not exceed 5% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to subdivision (d)(i) of this subrule.

(g) Letters of Credit.

(i) In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the director) to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.
(ii) The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in
circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

(3) A specific security provided to a ceding insurer by an assuming insurer pursuant to section 1103(5) of the insurance code of 1956, 1956 PA 218, MCL 500.1103(5), shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this rule.

(4) An investment made pursuant to the provisions of subrule (2)(a), (b), or (c) of this rule shall be subject to all of the following additional limitations:

(a) An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed 5% of the assets of the trust.

(b) An investment in any one mortgage-related security shall not exceed 5% of the assets of the trust.

(c) The aggregate total investment in mortgage-related securities shall not exceed 25% of the assets of the trust.

(d) Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution’s obligations are eligible as investments under subrule (2)(b)(i) and (iii) of this rule, but shall not exceed 2% of the assets of the trust.

(5) As used in this rule:

(a) “Mortgage-related security” means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that meets either of the following provisions:

(i) Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under the notes, certificates or participation), that meet both of the following requirements:

(A) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 USC 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located.

(B) Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 USC 1709 and 1715b, or, where the notes involve a lien on the manufactured home by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 USC 1703.

(ii) Is secured by one or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of paragraph (i)(A) and (B) of this subdivision.

(b) “Promissory note” when used in connection with a manufactured home, shall also include a loan, advance or credit sale as evidenced by a retail installment sales contract or other instrument.

R 500.1133 Trust agreements under MCL 500.1105.

Rule 13. (1) Reinsurance trusts established under section 1105 of the insurance code 1956, 1956 PA 218, MCL 500.1105, shall comply with the requirements of R 500.1123 and this rule.
(2) The trust agreement shall be entered into between the beneficiary, the grantor, and a trustee. The trustee shall be a qualified United States financial institution as defined by section 1101 of the insurance code of 1956, 1956 PA 218, MCL 500.1101.

(3) The trust agreement shall create a trust account into which assets shall be deposited.

(4) All assets in the trust account shall be held by the trustee at the trustee’s office in the United States.

(5) The trust agreement shall provide for all of the following:
   (a) The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee.
   (b) No other statement or document is required to be presented to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets.
   (c) The trust agreement shall not be subject to any conditions or qualifications outside of the trust agreement.
   (d) The trust agreement shall not contain references to any other agreements or documents, except as provided for under subrules (12) and (13) of this rule.

(6) The trust agreement shall be established for the sole benefit of the beneficiary.

(7) The trust agreement shall require the trustee to do all of the following:
   (a) Receive assets and hold all assets in a safe place.
   (b) Determine that all assets are in a form that the beneficiary, or the trustee upon the direction of the beneficiary, may, whenever necessary, negotiate the assets without the consent of, or a signature from, the grantor or any other person or entity.
   (c) Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals not less frequent than the end of each calendar quarter.
   (d) Notify the grantor and the beneficiary within 10 days of any deposits to, or withdrawals from, the trust account.
   (e) Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title, and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary.
   (f) Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary. However, the trustee may, without the consent of, but with notice to, the beneficiary, upon call or maturity of any trust asset, withdraw the asset upon the condition that the proceeds are paid into the trust account.

(8) The trust agreement shall provide that written notice of termination shall be delivered by the trustee to the beneficiary not less than 30 days, but not more than 45 days, before termination of the trust account.

(9) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.

(10) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement, as duly approved by the director, to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(11) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

(12) Notwithstanding other provisions of this rule, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, where it
is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for any of the following purposes:

(a) To pay or reimburse the ceding insurer for the assuming insurer’s share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer but not recovered from the assuming insurer or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer.

(b) To make payment to the assuming insurer of any amounts held in the trust account that are more than 102% of the actual amount required to fund the assuming insurer’s obligations under the specific reinsurance agreement.

(c) Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer’s entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days before the termination date, to withdraw amounts equal to the obligations and deposit the amounts in a separate account apart from its general assets in the name of the ceding insurer in any qualified United States financial institution as defined in section 1101 of the insurance code of 1956, 1956 PA 218, MCL 500.1101, in trust for the uses and purposes specified in subdivisions (a) and (b) of this subrule as may remain executory after the withdrawal and for any period after the termination date.

(13) Notwithstanding other provisions of these rules, when a trust agreement is established in conjunction with a reinsurance agreement covering life, annuities, or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for 1 or more of the following purposes:

(a) To pay or reimburse the ceding insurer for either of the following:

(i) The assuming insurer’s share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies.

(ii) The assuming insurer’s share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement.

(b) To pay the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(c) Where the ceding insurer has received notification of termination of the trust and where the assuming insurer’s entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer’s share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution apart from its general assets, in trust for the uses and purposes specified in subdivisions (a) and (b) of this subrule as may remain executory after withdrawal and for any period after the termination date.

(14) Either the reinsurance agreement or the trust agreement shall stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit issued by a United States bank and payable in United States legal tender, and investments of the types permitted by chapter 9 of the insurance code of 1956, 1956 PA 218, MCL 500.901 to 500.947, or any combination of cash, certificates of deposit, or investments, provided investments in or issued by an entity controlling, controlled by or under common
control with either the grantor or the beneficiary of the trust shall not exceed 5% of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities, or accident and health risks, then the provisions required by this subrule must be included in the reinsurance agreement.

(15) The trust agreement may provide that the trustee may resign upon the delivery of a written notice of resignation which is effective not less than 90 days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by the delivery, to the trustee and the beneficiary, of a written notice of removal which is effective not less than 90 days after receipt by the trustee and the beneficiary of the notice. However, a resignation or removal is not effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(16) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive payments of any dividends or interest upon any shares of stock or obligations included in the trust account. The interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor’s name.

(17) The trustee may be given authority to invest and accept substitutions of any funds in the account if the investment or substitution is made with the prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and which are consistent with the restrictions in R 500.1123(1)(c).

(18) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. The transfer may be conditioned upon the trustee’s receipt, either before the transfer or simultaneous with the transfer, of other specified assets.

(19) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with the written approval by the beneficiary, be delivered over to the grantor.
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.”
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.


PART 1. DEFINITIONS

R 338.7121 Definitions.

Rule 21. As used in these rules:

(a) “Board” means the Michigan board of physical therapy created under section 17821 of the code, MCL 333.17821.

(b) “Code” means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(c) “Department” means the Michigan department of licensing and regulatory affairs.

(d) “Intervention” means the purposeful and skillful interaction of the physical therapist or physical therapist assistant with the patient or client.

(e) “Patient or client of record” means a patient or client who is receiving physical therapy services from a licensed physical therapist or from a licensed physical therapist assistant under the direction and supervision of a physical therapist.

PART 2. GENERAL PROVISIONS

R 338.7122 Prescription.

Rule 22. (1) As used in these rules, a prescription is a written or electronic order for physical therapy. A prescription shall include all of the following:

(a) The name of the patient.
(b) The patient's medical diagnosis.

(c) The signature of either an individual who is licensed and authorized to prescribe physical therapy in Michigan or an individual who holds the equivalent license issued by another state, as provided in section 17820(1) of the code, MCL 333.17820.

(d) The date that the prescription was written.

(2) A prescription is valid for 90 days from the date that the prescription was written unless the termination date is otherwise stated by the authorized licensee on the prescription.

R 338.7124—Prohibited conduct. Rescinded.

Rule 24. Prohibited conduct includes, but is not limited to, the following acts or omissions by any individual covered by these rules:

—(a) Practicing outside of the boundaries of professional competence, based on education, training, and experience.

—(b) Failing to provide or arrange for the provision or continuity of necessary physical therapy service.

—(c) Engaging in harassment or unfair discrimination based on age, gender, gender identity, race, ethnicity, national origin, religion, sexual orientation, disability, or any basis proscribed by law.

—(d) Being involved in a dual or multiple relationship with a current or former patient or client or a member of the individual's immediate family, when there is a risk of harm to, or exploitation of, the patient or client. As used in this rule, "dual or multiple relationship" means a relationship in which a licensee is in a professional role with an individual and 1 or more of the following occurs at the same time. All of the following apply:

—(i) The licensee takes on a professional role even though a personal, scientific, legal, financial, or other relationship could impair the exercise of professional discretion or make the interests of a patient or client secondary to those of the licensee.

—(ii) The licensee takes advantage of any professional relationship or exploits others to further his or her personal, religious, political, business, or financial interests, including inducing a patient or client to solicit business on behalf of the licensee.

—(iii) The licensee solicits or engages in a sexual relationship with a current patient or client.

—(iv) The licensee solicits or engages in a sexual relationship with an individual, other than a consenting adult, to whom the licensee is delegating the performance of selected acts, tasks, functions, or interventions in the treatment of a patient or client.

R 338.7126 Training standards for identifying victims of human trafficking; requirements.

Rule 26. (1) Pursuant to section 16148 of the code, MCL 333.16148, an individual seeking licensure or who is licensed shall complete training in identifying victims of human trafficking that meets all of the following standards:

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

(i) Understanding the types and venues of human trafficking in 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 shall 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 for license renewals beginning with the first 2017 renewal cycle after the promulgation of this rule and for initial licenses issued 5 or more years after the promulgation of this rule beginning January 6, 2022.

PART 3. PHYSICAL THERAPISTS

R 338.7131 Program accreditation standards; physical therapist; adoption of standards by reference.

Rule 31. (1) The standards and evaluative criteria for accreditation of physical therapist educational programs set forth by the Commission on Accreditation in Physical Therapy Education (CAPTE) in the document entitled “Evaluative Criteria for Accreditation of Education Programs for the Preparation of Physical Therapists,” effective January 1, 2006, revised January 2013, “PT Standards and Required Elements” effective January 1, 2016 are adopted by reference in these rules. Copies of the evaluative criteria are available, at no cost, from the Commission on Accreditation in Physical Therapy Education (CAPTE), 1111 North Fairfax St., Alexandria, VA 22314-1488, and on the Commission’s website at http://www.capteonline.org/AccreditationHandbook/. Copies of the evaluative criteria also are available for inspection and distribution, at no cost, from the Board of Physical Therapy, Bureau of Health Care Services, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.

(2) Any educational program for physical therapists that is accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) meets the qualifications for an approved physical therapist educational program.

R 338.7132 Licensure by examination; physical therapist; requirements.
Rule 32. An applicant for a physical therapist license by examination shall submit the required fee and a completed application on a form provided by the department. In addition to meeting the requirements of the code and these rules, an applicant shall meet all of the following requirements:

(a) Graduate from an accredited physical therapist educational program that meets the standards in under R 338.7131.

(b) Pass the national physical therapist examination National Physical Therapy Examination (NPTE) for physical therapists required under R 338.7133(1).

(c) Pass the Achieve a converted score of not less than 75 on the Michigan Physical Therapist Jurisprudence Exam examination on laws and rules related to the practice of physical therapy in this state required under R 338.7133(2).

R 338.7133 Examinations; physical therapist; adoption and approval; passing scores.

Rule 33. (1) The board approves and adopts the national physical therapist examination NPTE for physical therapists that was developed, administered, and scored by the federation of state boards of physical therapy (fsbpt) Federation of State Boards of Physical Therapy (FSBPT). The board adopts the passing score recommended by the fsbpt FSBPT.

(2) The board approves the Michigan Physical Therapist Jurisprudence Exam examination on laws and rules related to the practice of physical therapy in Michigan, which is administered by a third party approved by the department. The passing score on the laws and rules examination is a converted score of not less than 75.

R 338.7134 Physical therapist examination; eligibility.

Rule 34. (1) To ensure eligibility for the national physical therapist examination required under R 338.7133(1), an applicant shall submit the required fee and a completed application on a form provided by the department. To be eligible for the NPTE for physical therapists examination, an applicant shall meet 1 of the following requirements:

(a) Graduate from an accredited physical therapist educational program that meets the standards in under R 338.7131.

(b) Comply with the requirements of under R 338.7135.

(c) Submit documentation acceptable to the department verifying that the applicant he or she is currently enrolled in the final semester, term, or quarter of an approved physical therapist educational program and is expected to graduate.

(2) An applicant who fails to achieve passing scores on the examinations required in under R 338.7133 may retake the state Michigan Physical Therapist Jurisprudence Exam examination without limitation and the national examination NPTE for physical therapists consistent with fsbpt the FSBPT testing standards.

R 338.7135 Graduate of non-accredited postsecondary institution; physical therapist; examination; eligibility.

Rule 35. To ensure eligibility for examination, an applicant who graduated from a non-accredited physical therapist educational program shall submit the required fee and a completed application on a form provided by the department. To be eligible for the NPTE for physical therapists examination, an applicant who graduated from a non-accredited physical therapist educational program shall comply with both of the following requirements:

(a) Verify that the applicant he or she has completed a physical therapist educational program that is substantially equivalent to a physical therapist program that is accredited by the commission on accreditation in physical therapy education (capte)-CAPTE, as provided in under R 338.7131. Evidence
of having completed a substantially equivalent physical therapist educational program includes an evaluation of the applicant's non-accredited education through an evaluation that uses the FSBPT Coursework Tool for Foreign Educated Physical Therapists, by the foreign credentialing commission on physical therapy (fcept), 124 West Street South, Alexandria, VA 22314-2825, http://www.fcept.org, or a substantially equivalent evaluation that utilizes the fsbpt's coursework evaluation tool or the standards that were utilized by the fcept at the time the applicant graduated.

(b) Demonstrate a working knowledge of the English language. An applicant shall demonstrate a working knowledge of the English language by satisfying either of the following requirements: if the applicant's physical therapist educational program was taught in a language other than English. To demonstrate a working knowledge of the English language, the applicant shall establish

(i) submitting proof that he or she has obtained a total score of not less than 89 on the test of English as a foreign language internet-based test (toefl ibt) (TOEFL-iBT) administered by the educational testing service Educational Testing Service (ETS) and obtained the following section scores:

- (i) (A) Not less than 24-22 on the reading section.
- (ii) (B) Not less than 21-21 on the listening section.
- (iii) (C) Not less than 26-24 on the speaking section.
- (iv) (D) Not less than 24-22 on the writing section.

(ii) submitting proof that he or she graduated from a physical therapist educational program or physical therapist assistant educational program located in Australia, a province of Canada that is not Quebec, Ireland, New Zealand, the United Kingdom, or the United States.

R 338.7136 Licensure by endorsement of physical therapist; requirements.

Rule 36. (1) An applicant for a physical therapist license by endorsement shall submit the required fee and a completed application on a form provided by the department and satisfy the requirements of the code and this rule. An applicant who meets the requirements of the code and this rule and passes the examination required in R 338.7133(2) is presumed to meet the requirements of section 16186 of the code.

(2) An applicant who was first licensed in another jurisdiction recognized by the FSBPT and engaged in the practice of physical therapy for 5 years or more immediately preceding the date of filing an application for a Michigan physical therapist license, then the applicant shall satisfy both of the following requirements: pass the national physical therapist examination required under R 338.7133(1).

(a) Pass the Michigan Physical Therapist Jurisprudence Exam required under R 338.7133(2).

(b) Have passed the NPTE for physical therapists required under R 338.7133(1).

(3) An applicant who was first licensed in another jurisdiction recognized by the FSBPT and engaged in the practice of physical therapy for less than 5 years immediately preceding the date of filing an application for a Michigan physical therapist license, then the applicant shall satisfy all of the following requirements: comply with all of the following:

(a) Have graduated from either a physical therapist educational program that meets the standards in under R 338.7131 or graduate from a physical therapist educational program determined to be substantially equivalent to an educational program that meets the standards in R 338.7131 by satisfying the verification process under R 338.7135(a).

(b) Pass the Michigan Physical Therapist Jurisprudence Exam required under R 338.7133(2).

(c) Have passed the national physical therapist examination-NPTE for physical therapists required under R 338.7133(1).
Demonstrate a working knowledge of the English language if the applicant's physical therapist educational program was taught in a language other than English by satisfying the requirements under R 338.7135(b) if the applicant graduated from a nonaccredited physical therapist educational program. To demonstrate a working knowledge of the English language, the applicant shall meet the requirements in R 338.7135(b).

(4) An applicant's license shall must be verified, on a form provided by the department, by the licensing agency of any jurisdiction recognized by the FSBPT in which the applicant holds a current license or registration or ever held a license or registration as a physical therapist. If applicable, verification shall must include the record of any disciplinary action taken or pending against the applicant.

R 338.7137 Requirements for relicensure; physical therapist.

Rule 37. (1) An applicant whose license has lapsed for less than 3 years preceding the date of application for relicensure may be relicensed under section 16201(3) of the code, MCL 333.16201, if the applicant meets all of the following requirements:

(a) Submits the required fee and a completed application on a form provided by the department.

(b) Establishes that he or she is of good moral character as defined under section 1 of 1974, 1974 PA 381, MCL 338.41.

(c) Passes the Michigan Physical Therapist Jurisprudence Exam examination on Michigan laws and rules related to the practice of physical therapy required under R 338.7133(2).

(d) Complies with either of the following:

(1) Establishes that he or she has been employed as a physical therapist in another jurisdiction recognized by FSBPT for a minimum of 500 hours during the 2-year period immediately preceding the date of application for relicensure.

(2) An applicant whose license has lapsed for 3 years or more preceding the date of application for relicensure may be relicensed under section 16201(4) of the code, MCL 333.16201(4) if the applicant meets all of the following requirements:

(a) Submits the required fee and a completed application on a form provided by the department.

(b) Establishes that he or she is of good moral character as defined under section 1 of 1974, 1974 PA 381, MCL 338.41.

(c) Submits fingerprints as set forth in section 16174(3) of the code, MCL 333.16174.

(d) Passes the Michigan Physical Therapist Jurisprudence Exam examination on Michigan laws and rules related to the practice of physical therapy required under R 338.7133(2).

(e) Complies with either of the following:

(i) Establishes that he or she has been employed as a physical therapist in another jurisdiction recognized by the FSBPT for a minimum of 500 hours during the 2-year period immediately preceding the date of application for relicensure.

(ii) Passes the national physical therapy examination NPTE for physical therapists required under R 338.7133(1).

(3) An applicant’s license or registration shall must be verified by the licensing agency of any jurisdiction recognized by the FSBPT in which the applicant holds a current license or registration.
or ever held a license or registration as a physical therapist. If applicable, verification shall include the record of any disciplinary action taken or pending against the applicant.

R 338.7138 Delegation of acts, tasks, functions, or interventions to a physical therapist assistant; supervision of physical therapist assistant; requirements.

Rule 38. (1) A physical therapist who delegates the performance of selected acts, tasks, functions, or interventions to a physical therapist assistant as permitted under section 16215 of the code, MCL 333.16215, shall supervise the physical therapist assistant consistent with section 16109(2) of the code, MCL 333.16109, and satisfy the requirements of this rule.

(2) A physical therapist who delegates acts, tasks, functions, or interventions to a physical therapist assistant shall provide general supervision of the physical therapist assistant. As used in this subrule, "general supervision" means that the physical therapist is not required to be physically present on site, but must be continuously available at the time the procedure is performed. Continuously available includes availability by telecommunication or other electronic device.

(3) A physical therapist who delegates acts, tasks, functions, or interventions under subrule (2) of this rule shall also comply with all of the following:

(a) Ensure the qualifications of the physical therapist assistant under the physical therapist's supervision, including verification of the physical therapist assistant's training, education, and licensure.

(b) Examine and evaluate the patient or client before delegating interventions to be performed by a physical therapist assistant.

(c) Provide supervision of a physical therapist assistant to whom acts, tasks, functions, or interventions have been delegated. Be continuously available by radio, telephone, or telecommunication at the time the act, task, function, or intervention is carried out.

(d) Provide predetermined procedures and protocols for acts, tasks, functions, or interventions that have been delegated.

(e) Maintain a record of the names of the physical therapist assistants to whom acts, tasks, functions, or interventions have been delegated.

(f) Monitor a physical therapist assistant's practice and provision of assigned physical therapy acts, tasks, functions, or interventions.

(g) Meet regularly and in person with the physical therapist assistant to whom acts, tasks, functions, or interventions have been delegated to evaluate the assistant's performance, review records, and educate the physical therapist assistant on the acts, tasks, functions, or interventions that have been delegated.

(4) A physical therapist shall not supervise more than 4 physical therapist assistants at the same time.

R 338.7139 Delegation of acts, tasks, or functions to an unlicensed individual; direct supervision of an unlicensed individual; requirements.

Rule 39. (1) A physical therapist who delegates the performance of selected acts, tasks, or functions to an unlicensed individual as permitted under section 16215 of the code, MCL 333.16215, shall supervise the unlicensed individual consistent with section 16109(2) of the code, MCL 333.16109, and satisfy the requirements of this rule. As used in this rule "unlicensed individual" means an individual who does not hold a physical therapist license or a physical therapist assistant license that is issued by this state.

(2) A physical therapist who delegates acts, tasks, or functions to an unlicensed individual shall provide direct supervision of the unlicensed individual. As used in this subrule, "direct supervision" means that the physical therapist is physically present and immediately available for direction and
supervision when patients or clients are present at the time the act, task, or function is performed, and that the physical therapist has direct contact with the patient or client during each visit.

(3) A physical therapist who delegates acts, tasks, or functions under subrule (2) of this rule shall also comply with all of the following:

(a) Ensure the qualifications of the unlicensed individual under the physical therapist's direct supervision, including verification of the unlicensed individual's training and education.

(b) Examine and evaluate the patient or client before delegating acts, tasks, or functions to be performed by an unlicensed individual.

(c) Supervise an unlicensed individual to whom acts, tasks, or functions have been delegated.

(d) Provide predetermined procedures and protocols for acts, tasks, or functions that have been delegated.

(e) Maintain a record of the names of the unlicensed individuals to whom acts, tasks, or functions have been delegated.

(f) Monitor an unlicensed individual's practice and provision of assigned acts, tasks, or functions.

(g) Meet regularly and in person with the unlicensed individual to whom acts, tasks, or functions have been delegated to evaluate the individual's performance, review records, and educate the unlicensed individual on the acts, tasks, or functions that have been delegated.

(4) A physical therapist shall not supervise more than 3 unlicensed individuals at the same time.

(5) A physical therapist shall not delegate the performance of a physical therapy intervention to an unlicensed individual.

(6) Under section 16171 of the code, MCL 333.16171, the requirements of subrules (2), (3)(b), and (5) of this rule do not apply to a student enrolled in an accredited physical therapist or physical therapist assistant educational program approved by the board.

PART 4. PHYSICAL THERAPIST ASSISTANTS

R 338.7141 Program accreditation standards; physical therapist assistant; adoption of standards by reference.


(2) Any educational program for physical therapist assistants that is accredited by the Commission on Accreditation in Physical Therapy Education meets the qualifications for an approved physical therapist assistant educational program.

R 338.7142 Licensure by examination; physical therapist assistant; requirements.
Rule 42. (1) An applicant for a physical therapist assistant license by examination shall submit the required fee and a completed application on a form provided by the department. In addition to meeting the requirements of the code and these rules, an applicant shall meet all of the following requirements:

(a) Graduate from an accredited physical therapist assistant educational program that meets the standards in under R 338.7141.
(b) Pass the national physical therapist assistant examination-NPTE for physical therapist assistants required under R 338.7145(1).
(c) Pass the Achieve a converted score of not less than 75 on the Michigan Physical Therapist Assistant Jurisprudence Exam on laws and rules related to the practice of physical therapy in this state required under R 338.7145(2).

(2) An applicant who graduated on or before January 1, 2008, from an accredited educational program that meets the standards in under R 338.7141, then the applicant is presumed to meet the requirements of this rule.

R 338.7145 Examinations; physical therapist assistant; adoption and approval; passing score.

Rule 45. (1) The board approves and adopts the national physical therapist assistant examination NPTE for physical therapist assistants that was developed, administered, and scored by the fsbpt FSBPT. The board adopts the passing score recommended by the fsbpt FSBPT.

(2) The board approves the Michigan Physical Therapist Assistant Jurisprudence Exam examination on laws and rules related to the practice of physical therapy in Michigan, which is administered by a third party approved by the department. The passing score on the laws and rules examination is a converted score of not less than 75.

R 338.7146 Physical therapist assistant examination; eligibility.

Rule 46. (1) To ensure eligibility for the national physical therapist assistant examination required under R 338.7145(1), an applicant shall submit the required fee and a completed application on a form provided by the department. To be eligible for the NPTE for physical therapist assistants examination, an applicant shall meet 1 of the following requirements:

(a) Graduate from an accredited physical therapist assistant educational program that meets the standards in under R 338.7141.
(b) Comply with the requirements of under R 338.7147.
(c) Submit documentation acceptable to the department verifying that the applicant he or she is currently enrolled in the final semester, term, or quarter of an approved physical therapist assistant educational program and is expected to graduate.

(2) An applicant who fails to achieve passing scores on the examinations required in under R 338.7145(1) and (2) may retake the state Michigan Physical Therapist Assistant Jurisprudence Exam examination without limitation and the national examination-NPTE for physical therapist assistants consistent with fsbpt the FSBPT testing standards.

R 338.7147 Graduate of non-accredited postsecondary institution; physical therapist assistant; examination; eligibility.

Rule 47. To ensure eligibility for examination, an applicant who graduated from a United States military or non-accredited physical therapist assistant educational program shall submit the required fee and a completed application on a form provided by the department. To be eligible for examination, an applicant shall comply with both of the following requirements:
(a) Verify that the applicant has completed a physical therapist or physical therapist assistant educational program that is substantially equivalent to a physical therapist assistant program that is accredited by the commission on accreditation in physical therapy education (CAPTE), as provided in R 338.7141. Evidence of having completed a substantially equivalent physical therapist assistant educational program includes an evaluation of the applicant’s non-accredited education through an evaluation that uses the FSBPT Coursework Tool for Foreign Educated Physical Therapist Assistants, by the foreign credentialing commission on physical therapy (FCCPT), 124 West Street South, Alexandria, VA 22314-2825, http://www.fccpt.org, or a substantially equivalent evaluation that utilizes the FSBPT's course work evaluation tool, or the standards that were utilized by the FCCPT at the time the applicant graduated.

(b) Demonstrate a working knowledge of the English language, if the applicant's physical therapist or physical therapist assistant educational program was taught in a language other than English by satisfying the requirements under R 338.7135(b) if the applicant graduated from a nonaccredited physical therapist assistant educational program. To demonstrate a working knowledge of the English language, the applicant shall meet the requirements in R 338.7135(b).

R 338.7148 Licensure by endorsement of physical therapist assistant; requirements.

Rule 48. (1) An applicant for a physical therapist assistant license by endorsement shall submit the required fee and a completed application on a form provided by the department and satisfy the requirements of the code and this rule. An applicant who satisfies the requirements of the code and this rule and passes the examination required in R 338.7145(2) is presumed to meet the requirements of section 16186 of the code.

(2) If an applicant who was first licensed in another jurisdiction recognized by the FSBPT and engaged in practice as a physical therapist assistant for 5 years or more immediately preceding the date of filing an application for a Michigan physical therapist assistant license, then the applicant shall satisfy both of the following requirements: pass the national physical therapist assistant examination required under R 338.7145(1).

(a) Pass the Michigan Physical Therapist Assistant Jurisprudence Exam required under R 338.7145(2).

(b) Have passed the NPTE for physical therapist assistants required under R 338.7145(1).

(3) If an applicant who was first licensed in another jurisdiction recognized by the FSBPT and engaged in practice as a physical therapist assistant for less than 5 years immediately preceding the date of filing an application for a Michigan physical therapist assistant license, then the applicant shall satisfy the following requirements: comply with all of the following:

(a) Have graduated from a physical therapist assistant educational program that meets the standards in R 338.7141 or graduate from a physical therapist or physical therapist assistant educational program determined to be substantially equivalent to such an educational program by satisfying the verification process under R 338.7147(a).

(b) Pass the Michigan Physical Therapist Assistant Jurisprudence Exam required under R 338.7145(2).

(b) Have passed the national physical therapist assistant examination-NPTE for physical therapist assistants required under R 338.7145(1).

(c) Demonstrate a working knowledge of the English language if the applicant's physical therapist or physical therapist assistant educational program was taught in a language other than English by satisfying the requirements under R 338.7135(b) if the applicant graduated from a nonaccredited physical therapist assistant educational program. To demonstrate a working knowledge of the English language, the applicant shall meet the requirements in R 338.7135(b).
(4) An applicant's license shall must be verified, on a form provided by the department, by the licensing agency of any jurisdiction recognized by the FSBPT in which the applicant holds a current license or registration or ever held a license or registration as a physical therapist assistant. If applicable, verification shall must include the record of any disciplinary action taken or pending against the applicant.

R 338.7149 Requirements for relicensure; physical therapist assistant.

Rule 49. (1) An applicant whose license has lapsed for less than 3 years preceding the date of application for relicensure may be relicensed under section 16201(3) of the code, MCL 333.16201, if the applicant meets all of the following requirements:
   (a) Submits the required fee and a completed application on a form provided by the department.
   (b) Establishes that he or she is of good moral character as defined under section 1 of 1974, 1974 PA 381, MCL 338.41.
   (c) Passes the Michigan Physical Therapist Assistant Jurisprudence Exam examination on Michigan laws and rules related to the practice of physical therapy required under R 338.7145(2).
   (d) Complies with either of the following:
      (i) Submits proof to the department of accumulating not less than 24 professional development requirement PDR credits consistent with R 338.7161 to R 338.7165 during the 2 years immediately preceding the date of the application for relicensure. However, if the PDR credits submitted with the application are deficient, the applicant shall have 2 years from the date of the application to complete the deficient credits.
      (ii) Establishes that he or she has been employed as a physical therapist assistant in another jurisdiction recognized by FSBPT for a minimum of 500 hours during the 2-year period immediately preceding the date of the application for relicensure.
   (2) An applicant whose license has lapsed for 3 years or more preceding the date of application for relicensure may be relicensed under section 16201(4) of the code, MCL 333.16201, if the applicant meets all of the following requirements:
   (a) Submits the required fee and a completed application on a form provided by the department.
   (b) Establishes that he or she is of good moral character as defined under section 1 of 1974, 1974 PA 381, MCL 338.41.
   (c) Submits fingerprints as set forth in section 16174(3) of the code, MCL 333.16174.
   (d) Passes the Michigan Physical Therapist Assistant Jurisprudence Exam examination on Michigan laws and rules related to the practice of physical therapy required under R 338.7145(2).
   (e) Complies with either of the following:
      (i) Establishes that he or she has been employed as a physical therapist assistant in another jurisdiction recognized by FSBPT for a minimum of 500 hours during the 2-year period immediately preceding the date of application for relicensure.
      (ii) Passes the national physical therapist assistant examination NPTE for physical therapist assistants required under R 338.7145(1).
   (3) An applicant’s license or registration shall must be verified by the licensing agency of any jurisdiction recognized by the FSBPT in which the applicant holds a current license or registration or ever held a license or registration as a physical therapist assistant. If applicable, verification shall must include the record of any disciplinary action taken or pending against the applicant.

PART 5. PROFESSIONAL DEVELOPMENT REQUIREMENTS

R 338.7161 License renewals; requirements; applicability.
Rule 61. (1) This part applies to applications for renewal of a physical therapist or physical therapist assistant license under sections 16201 and 17823 of the code, MCL 333.16201 and 333.17823, that are filed for the renewal cycle beginning 1 year or more after the effective date of these rules.

(2) An applicant for license renewal who has been licensed for the 2-year period immediately preceding the expiration date of the license shall accumulate not less than 24 professional development requirement (pdr) credits in activities approved by the board under these rules during the 2 years immediately preceding an application for renewal the expiration date of the license.

(3) Submission of an application for renewal shall constitute the applicant’s certification of compliance with the requirements of this rule. A licensee shall retain documentation of meeting the requirements of this rule for a period of 3-4 years from the date of applying for license renewal. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221.

(4) The requirements of this rule do not apply to a licensee during his or her initial licensure cycle.

(5) The pdr requirements established in these rules meet the professional development requirements established under section 17823 of the code, MCL 333.17823.

R 338.7163 Acceptable professional development requirement activities; requirements; limitations.

Rule 63. (1) The 24 pdr credits required under R 338.7161(2) for the renewal of a license shall meet the following requirements, as applicable:

(a) No more than 12 pdr credits shall be earned for approved online continuing education programs or activities during one 24-hour period.

(b) A licensee shall not earn pdr credit for a continuing education program or activity that is identical or substantially identical to a program or activity for which the licensee has already earned credit for during that renewal period.

(c) In accordance with Pursuant to section 16204(2) of the code, MCL 333.16204, a licensee shall earn at least 1 pdr credit in the area of pain and symptom management by completing a continuing education program or activity. Credits in pain and symptom management may include, but are not limited to, courses in psychology of pain, pharmacology, behavior modification, stress management, clinical applications, and drug interventions as they relate to the practice of physical therapy.

(2) The board adopts by reference the procedures and criteria for recognizing accrediting organizations of the Council for Higher Education Accreditation (CHEA), effective June 28, 2010, and the procedures and criteria for recognizing accrediting agencies of the U.S. Department of Education, effective July 1, 2010, as contained in 34 CFR part 602 Title 34, Part 602 of the Code of Federal Regulations. Copies of the standards procedures and criteria of the CHEA council for higher education accreditation and the U.S. Department of Education are available for inspection and distribution at cost from the Board of Physical Therapy, Bureau of Health Care Services, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909. The CHEA’s recognition standards procedures and criteria also may be obtained, from the Council for Higher Education Accreditation CHEA, One Dupont Circle NW, Suite 510, Washington, DC 20036-1110, and or from the council's at no cost from CHEA’s website at http://www.chea.org at no cost. The federal recognition criteria may be obtained at no cost from the U.S. Department of Education’s Office of Postsecondary Education, 1990 K Street, NW, Washington, DC 20006 or from the department's website at www.ed.gov http://www.ed.gov/about/offices/list/OPE/index.html at no cost.
(3) **As used in this rule, “continuous instruction” means education or presentation time that does not include breakfast, lunch, or dinner periods, coffee breaks, or any other breaks in the activity or program.**

(3)(4) **Credit may be earned for any of the following activities:**

<table>
<thead>
<tr>
<th>Activity Code</th>
<th>Activity</th>
<th>Number of PDR credits earned for activity</th>
</tr>
</thead>
</table>
| 1             | Completing an approved continuing education program or activity related to the practice of physical therapy or any non-clinical subject relevant to the practice of physical therapy. A continuing education program or activity is approved, regardless of the format in which it is offered, if it is approved or offered for continuing education credit by any of the following:  
  - Another state board of physical therapy.  
  - The Michigan board of medicine.  
  - The Michigan board of osteopathic medicine and surgery.  
  - The federation of state boards of physical therapy (FSBPT).  
  - The American Physical Therapy Association (APTA) or its components.  
  - An accredited physical therapist educational program that meets the standards listed under R 338.7131.  
  - An accredited physical therapist assistant educational program that meets the standards described in R 338.7141.  
If audited, a licensee shall submit a copy of a letter or certificate of completion showing the licensee’s name, number of credits earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date or dates on which the program was held or activity completed. | The number of credits approved by the sponsor or the approving organization shall be granted.  
A maximum of 20 PDR credits may be earned for this activity in each renewal period. |
| 2             | Passing a postgraduate academic course related to the practice of physical therapy offered by either of the following:  
  - An accredited physical therapist educational program that meets the | Fifteen PDR credits shall be granted for each semester credit earned and 10 PDR credits shall be granted for each quarter or term credit earned.  
A maximum of 20 PDR credits may |
standards in R 338.7131.  
- An accredited physical therapist assistant educational program that meets the standards in R 338.7141.  
- A nationally accredited university or college that meets the standards in subsection (2) of this rule.

If audited, a licensee shall submit a copy of the transcript showing credit hours of the academic courses related to physical therapy.

<table>
<thead>
<tr>
<th>3</th>
<th>Reading an article related to the practice of physical therapy in a professional or scientific journal.</th>
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<tbody>
<tr>
<td></td>
<td>This activity does not include articles that are approved for PDR credit under activity code 1.</td>
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<tr>
<td></td>
<td>To receive credit, a licensee shall successfully complete an evaluation that was provided with the article or the general response form provided by the department as an evaluative component for this activity.</td>
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<td></td>
<td>If audited, a licensee shall submit documentation from the professional or scientific journal or a copy of the completed general response form to verify that he or she completed an evaluation.</td>
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<tr>
<td></td>
<td>One PDR credit shall be granted for each article.</td>
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<tr>
<td></td>
<td>A maximum of 6 PDR credits may be earned for this activity in each renewal period.</td>
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</table>

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<tr>
<th>4</th>
<th>Viewing or listening to media devoted to professional education related to the practice of physical therapy, other than on-line programs, that was not approved or offered for continuing education credit.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>To receive credit, a licensee shall successfully complete an evaluation that was provided with the educational media or the general response form provided by the department as an evaluative component for this activity.</td>
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<td></td>
<td>If audited, a licensee shall submit a copy of the completed evaluation or completed general response form to verify that he or she completed an evaluation.</td>
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<tr>
<td></td>
<td>One PDR credit shall be granted for every 50 minutes of continuous instruction.</td>
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<td></td>
<td>A maximum of 6 PDR credits may be earned for this activity in each renewal period.</td>
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<tr>
<td></td>
<td>Presenting a continuing education program related to the practice of physical therapy.</td>
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</table>
| **5** | To receive credit, the presentation shall be approved or offered for continuing education credit by any of the following:  
- Another state board of physical therapy.  
- The Michigan board of medicine.  
- The Michigan board of osteopathic medicine and surgery.  
- The federation of state boards of physical therapy (fsbpt) FSBPT.  
- The American physical therapy association (apta) APTA or its components.  
- An accredited physical therapist educational program that meets the standards in under R 338.7131.  
- An accredited physical therapist assistant educational program that meets the standards in under R 338.7141.  

If audited, a licensee shall submit a letter from the program sponsor confirming the licensee as the presenter and the presentation date and time, or 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.  

Two pdr-PDR credits shall be granted for each every 50 to 60 minutes of presentation, which includes credit granted for preparation, continuous instruction. A presentation shall not be less than 50 minutes in length, and credit for a presentation shall be granted only once in each renewal period.  

A maximum of 12 pdr-PDR credits may be earned for this activity in each renewal period. |
|   | Presenting a scientific exhibit or scientific paper accepted for presentation through a peer review process at a state, regional, national, or international physical therapy conference, or its components, or a related professional organization. |
| **6** | If audited, a licensee shall submit a copy of the document presented with evidence of presentation or a letter from the program sponsor verifying the exhibit or paper was accepted for presentation through a peer review process and the date of the presentation.  

Two pdr-PDR credits shall be granted for each every 50 minutes of continuous instruction. presentation, which includes credit granted for preparation, and credit for a presentation shall be granted only once in each renewal period.  

A maximum of 12 pdr-PDR credits may be earned for this activity in each renewal period. |
| **7** | Writing an article related to the practice, education, or research of physical therapy that is accepted for publication.  

Six pdr-PDR credits shall be granted for each article, which includes credit for preparation, and credit for an article shall be granted only once in each renewal period. |
<table>
<thead>
<tr>
<th>Number</th>
<th>Activity Description</th>
<th>PDR Credits</th>
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<tbody>
<tr>
<td>8</td>
<td>Writing a chapter related to the practice, education, or research of physical therapy that is published in a book. If audited, a licensee shall submit a copy of the publication that identifies the licensee as the author of the chapter or a publication acceptance letter.</td>
<td>Six PDR credits shall be granted for each chapter, which includes credit granted for preparation, and credit for each chapter shall be granted only once in each renewal period. A maximum of 12 PDR credits may be earned for this activity in each renewal period.</td>
</tr>
</tbody>
</table>
| 9      | Successfully completing 1 of the following:  
- An American Board of Physical Therapy Specialties (ABPTS) certification examination.  
- An ABPTS recertification examination.  
- An ABPTS professional development portfolio for recertification.  
- A specialty certification examination or recertification examination offered or approved by an organization approved by the board.  
If audited, a licensee shall submit proof of certification or recertification. | Twenty-three PDR credits shall be granted for each successful completion. A maximum of 23 PDR credits may be earned for this activity in each renewal period. |
| 10     | Participating as a student for a minimum of 1,000 hours in any of the following:  
- A postgraduate clinical training program related to the practice of physical therapy provided through or recognized by an accredited physical therapist educational program that meets the standards in | Twelve PDR credits shall be granted for 1,000 hours of participation. A maximum of 12 PDR credits may be earned for this activity in each renewal period. |
under R 338.7131.

- A postgraduate clinical training program related to the practice of physical therapy provided through or recognized by an accredited physical therapist assistant educational program that meets the standards in under R 338.7141.
- A postgraduate clinical training program related to the practice of physical therapy offered through a health care organization accredited by an organization recognized by the Centers for Medicare and Medicaid Services.
- A postgraduate clinical training program related to the practice of physical therapy that is accredited or credentialed by the APTA or an organization approved by the board.

If audited, a licensee shall submit a letter from the program director verifying the number of hours the licensee participated in the clinical training program and that the program was provided, offered, or accredited by an educational program or organization that meets the requirements of this rule.

<p>| 11 | Participation in a health care organization committee or task force dealing with patient care related issues, which may include including, but not limited to, quality of patient care and utilization review. If audited, a licensee shall submit a letter from an organization official verifying the committee or organization dealt with patient care related issues and the licensee’s participation, including the dates and the amount of time the licensee participated on each date. | One PDR credit shall be granted for each every 50 to 60 minutes of participation. A maximum of 6 PDR credits may be earned for this activity in each renewal period. |
| 12 | Serving as a guest instructor of students, staff, or other licensees at any of the following: A clinical training program related to the practice of physical therapy provided through or recognized by an accredited physical therapist educational program that meets the standards in under R 312. | Two PDR credits shall be granted for each every 50 to 60 minute minutes of continuous instruction instructional session on a specific subject, which includes credit granted for preparation, and credit shall be granted only once for each separate instructional session. |</p>
<table>
<thead>
<tr>
<th>338.7131.</th>
<th>A clinical training program related to the practice of physical therapy provided through or recognized by an accredited physical therapist assistant educational program that meets the standards in under R 338.7141.</th>
</tr>
</thead>
<tbody>
<tr>
<td>338.7141.</td>
<td>A clinical training program related to the practice of physical therapy offered through a health care organization accredited by an organization recognized by the center for medicare and medicaid services Centers for Medicare and Medicaid Services.</td>
</tr>
<tr>
<td>338.7131.</td>
<td>A clinical training program related to the practice of physical therapy that is accredited or credentialed by the apta APTA or an organization approved by the board.</td>
</tr>
</tbody>
</table>

If audited, a licensee shall submit a letter from the program director verifying the licensee’s role, the number of instructional sessions on specific subjects provided by the licensee, and the length of the instructional sessions. Also, the letter shall verify that the clinical training program was provided, offered, or accredited by an educational program or organization that meets the requirements of this rule.

<table>
<thead>
<tr>
<th>13</th>
<th>Serving as a clinical instructor or clinical supervisor for students completing an internship, residency, or fellowship program that is recognized or approved by any of the following:</th>
</tr>
</thead>
<tbody>
<tr>
<td>338.7131.</td>
<td>An accredited educational program for physical therapists that meets the standards in under R 338.7131.</td>
</tr>
<tr>
<td>338.7141.</td>
<td>An accredited educational program for physical therapist assistants that meets the standards in under R 338.7141.</td>
</tr>
<tr>
<td>338.7131.</td>
<td>The apta APTA or an organization approved by the board.</td>
</tr>
</tbody>
</table>

If audited, a licensee shall submit a letter from the educational program or clinical agency director verifying the licensee’s role, the number of hours of instruction or supervision provided.

A maximum of 12 ped-PDR credits may be earned for this activity in each renewal period.

<table>
<thead>
<tr>
<th>13</th>
<th>Serving as a clinical instructor or clinical supervisor for students completing an internship, residency, or fellowship program that is recognized or approved by any of the following:</th>
</tr>
</thead>
<tbody>
<tr>
<td>338.7131.</td>
<td>An accredited educational program for physical therapists that meets the standards in under R 338.7131.</td>
</tr>
<tr>
<td>338.7141.</td>
<td>An accredited educational program for physical therapist assistants that meets the standards in under R 338.7141.</td>
</tr>
<tr>
<td>338.7131.</td>
<td>The apta APTA or an organization approved by the board.</td>
</tr>
</tbody>
</table>

Three ped-PDR credits shall be granted for 40 hours of clinical instruction or supervision.

A maximum of 12 ped-PDR credits may be earned for this activity in each renewal period.
by the licensee, and that the internship, residency, or fellowship program is recognized or approved by an educational program or organization that meets the requirements of this rule.

<table>
<thead>
<tr>
<th>14</th>
<th>Identifying, researching, and addressing an event or issue related to professional practice. If audited, a licensee shall submit a completed experiential activity form provided by the department for each issue or event.</th>
<th>One <strong>PDR credit shall be granted</strong> for each <strong>every 50 minutes of identifying, researching, or addressing an event or issue</strong>. Separate event or issue. A maximum of 6 <strong>PDR credits</strong> may be earned for this activity in each renewal period.</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>Participating on an international, national, regional, state, state component, or local task force, committee, board, council, or association related to the field of physical therapy that is considered acceptable by the board. A task force, committee, board, council, or association is considered acceptable if it enhances the participant’s knowledge and understanding of the field of physical therapy. If audited, a licensee shall submit documentation verifying the licensee’s participation in at least 50% of the regularly scheduled meetings of the task force, committee, board, council, or association.</td>
<td>Four <strong>PDR credits shall be granted</strong> for participation on each task force, committee, board, council, or association. A maximum of 12 <strong>PDR credits</strong> may be earned for this activity in each renewal period.</td>
</tr>
<tr>
<td>16</td>
<td>Participating as a surveyor for an external agency in a program involving the accreditation, certification, or inspection of an educational program for physical therapists or physical therapist assistants or a certification process for a clinical agency. If audited, a licensee shall submit a letter from the accreditation, certification, or inspection program verifying the licensee’s participation, the location of the inspections, and the number of hours the licensee spent participating as a surveyor.</td>
<td>One <strong>PDR credit shall be granted</strong> for each <strong>every 50 to 60 minutes of participation.</strong> A maximum of 12 <strong>PDR credits</strong> may be earned for this activity in each renewal period.</td>
</tr>
<tr>
<td>17</td>
<td>Performing volunteer work related to the field of physical therapy without reimbursement in a public or nonprofit entity.</td>
<td>One <strong>PDR credit shall be granted</strong> for each <strong>every 50 to 60 minutes of volunteer work performed.</strong></td>
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</tr>
</tbody>
</table>
| 18 | Serving as a center or site coordinator of clinical education at an agency that provides clinical internships for students enrolled in programs that are recognized or approved by either of the following:  
  - An accredited educational program for physical therapists that meets the standards in under R 338.7131.  
  - An accredited educational program for physical therapist assistants that meets the standards in under R 338.7141.  
  
  If audited, a licensee shall submit a letter from the educational program or clinical agency director verifying the licensee’s role and that students were placed and participated in the internship program during the time for which the licensee is claiming PDR credit.  
  
  Two PDR credits shall be granted per year of serving as the coordinator.  
  
  A maximum of 4 PDR credits may be earned for this activity in each renewal period. |
| 19 | Completing a self-review tool that is developed by the federation of state boards of physical therapy (FSBPT) practice review tool.  
  
  To receive credit, a licensee shall submit documentation from the FSBPT verifying completion of the practice review self-review tool.  
  
  Ten-three PDR credits shall be granted for each completion.  
  
  A maximum of 10-three PDR credits may be earned for this activity in each renewal period. |
NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
NOTICE OF PUBLIC HEARING
February 19, 2019
9:00 a.m.
Location: G. Mennen Williams Building Auditorium
525 W. Ottawa Street, Lansing, Michigan

The hearing is held to receive public comments on the following administrative rules:

<table>
<thead>
<tr>
<th>Physical Therapy – General Rules (ORR 2018-023 LR)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Authority:</strong> MCL 333.16141; MCL 333.16145; MCL 333.16148; MCL 333.16174; MCL 333.16201; MCL 333.16204; MCL 333.16205; MCL 333.16206; MCL 333.16215; MCL 333.16287; MCL 333.17823; MCL 338.3501; MCL 445.2001; MCL 445.2011, and MCL 445.2030.</td>
</tr>
<tr>
<td><strong>Overview:</strong> The proposed revisions to the rules will amend the human trafficking rule to include a date of promulgation, update standards that are adopted by reference under the rules, rescind rules that are duplicative of statute, and update requirements pertaining to initial licensure, licensure by endorsement, license renewal, and relicensure.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Task Force on Physician’s Assistants – General Rules (ORR 2018-050 LR)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Authority:</strong> MCL 333.16145; MCL 333.16148; MCL 333.17060; MCL 333.17068; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2030.</td>
</tr>
<tr>
<td><strong>Overview:</strong> The proposed revisions to the rules will amend the human trafficking rule to include a date of promulgation, provide updated accreditation standards for physician’s assistant educational programs, and require applicants for relicensure to provide fingerprints and establish good moral character.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Respiratory Care – General Rules (ORR 2018-041 LR)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Authority:</strong> MCL 333.16148; MCL 333.16174; MCL 333.18709; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2030.</td>
</tr>
<tr>
<td><strong>Overview:</strong> The proposed revisions to the rules will clarify definitions, provide the dates by which a licensee or applicant must have completed training for identifying victims of human trafficking, amend and update licensure requirements, and update relicensure requirements. The proposed revisions will also rescind the rules pertaining to temporary respiratory therapist licensure and credentialed respiratory therapy licensure because an applicant must have applied for these licenses by no later than December 1, 2006. Lastly, the proposed revisions will require a foreign-trained applicant to have his or her credentials evaluated by the National Association of Credential Evaluation Services and demonstrate a working knowledge of the English language.</td>
</tr>
</tbody>
</table>
The rules will take effect immediately upon filing with the Secretary of State, unless specified otherwise in the rules. 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 February 19, 2019, at the following address or e-mail address:

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  
Email: BPL-BoardSupport@michigan.gov

A copy of the proposed rules may be obtained by contacting Board Support at (517) 241-7500 or the email address noted above. Electronic copies also may be obtained at the following link:


The meeting site and parking are accessible to people with disabilities. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations (such as materials in alternative format) in order to participate in the meeting should call (517) 241-7500.)
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(6). Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 338.2201, R 338.2201a, R 338.2202, R 338.2205, R 338.2206, and R 338.2207 of the Michigan Administrative Code are amended, R 338.2203 and R 338.2204 are rescinded, and R 338.2202a and R 338.2202b are added, as follows:

PART 1. GENERAL PROVISIONS

R 338.2201 Definitions.
  Rule 2201. As used in these rules:
  (a) "Board" means the board of respiratory care
  (b) "Code" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
  (c) "Department" means the department of community health licensing and regulatory affairs.
  (d) "Endorsement" means the acknowledgement that the licensing criteria in 1 jurisdiction is substantially equivalent to the criteria established and described in section 16186 of the code, MCL 333.16186.

R 338.2201a Training standards for identifying victims of human trafficking; requirements.
  Rule 2201a. (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 shall 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 department in consultation with 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 subrule (1) subdivision (1)(a) of this rule 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 shall 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 shall apply to license renewals beginning with the first renewal cycle after promulgation of this rule December 2018 and for initial licenses issued 5 or more years after the promulgation of this rule after March 16, 2021.

PART 2. LICENSURE

R 338.2202 Application for respiratory therapist license; requirements.
Rule 2202. An applicant for a respiratory therapist license, in addition to meeting the requirements of the code and the administrative rules promulgated under the code, shall comply with all of the following provisions:
(a) Submit a completed application on a form provided by the department, together with the requisite fee.
(b) Have successfully completed graduated from a respiratory therapist educational program that is acceptable to the board under satisfies the requirements of R 338.2206.
(c) Have earned at least a 2-year associate's degree from an accredited college or university approved by the department that satisfies the requirements of R 338.2206.
(d) Possess Have earned a the entry-level credential for respiratory therapists that was conferred by the national board National Board of respiratory care Respiratory Care (nbrc NBRC) or by its predecessor organization.

R 338.2202a. Applicant trained outside the United States; education evaluated.
Rule 2202a. Pursuant to section 16174(1)(c) of the code, MCL 333.16174(1)(c), an applicant who was trained outside the United States or Canada shall have his or her education evaluated by an
organization accredited by the National Association of Credential Evaluation Services (NACES) to
determine if the applicant satisfies the requirements of R 338.2202.

R 338.2202b. Working knowledge of English language; demonstrate.
Rule 2202b. Pursuant to section 16174(1)(d) of the code, MCL 333.16174(1)(d), except as
otherwise provided by the code or by another rule, an applicant shall demonstrate a
working knowledge of the English language if the applicant's educational or training
program was taught outside the United States. To demonstrate a working knowledge of
the English language, the applicant shall establish that he or she obtained a total score of
not less than 80 on the Test of English as a Foreign Language internet-based test (TOEFL-
IBT) administered by the Educational Testing Service.

R 338.2203 Application for temporary respiratory therapist license; requirements. Rescinded.
Rule 2203. An applicant for a temporary respiratory therapist license, in addition to meeting the code
and the administrative rules promulgated under the code, shall comply with all of the following
provisions:
(a) Before December 1, 2006, submit a completed application on a form provided by the
department together with the requisite fee in section 18711(1)(a).
(b) Provide proof of full-time employment as a respiratory therapist for the 4 years immediately
preceding the date of application in accordance with section 18711(1)(b). "Full-time employment" as
used in this subdivision shall be defined as continuous employment for 4 years with a minimum of 5,000
hours of experience accumulated in the 4 years immediately preceding the date of application.
(c) Submit a letter of recommendation from the applicant's medical director, as defined in section
18701(1)(b), that attests to the applicant's clinical competence as a respiratory therapist.

R 338.2204 Application for license for credentialed respiratory therapists; requirements. Rescinded.
Rule 2204. An applicant for a respiratory therapist license, in addition to meeting the code and the
administrative rules promulgated under the code, shall comply with both of the following provisions:
(a) Before December 1, 2006, submit a completed application on a form provided by the
department together with the requisite fee according to provisions of section 18709(2).
(b) Submit documentation of a respiratory therapist certification or registration credential from the
nbrc.

R 338.2205 Licensure by endorsement; respiratory therapist.
Rule 2205. (1) An applicant for a respiratory therapist license by endorsement, in addition to meeting
the requirements of the code and the administrative rules promulgated under the code, shall
comply with all of the following:
(a) shall submit Submit a completed application on a form provided by the department, together with
the requisite fee. In addition to meeting the code and the administrative rules promulgated under the
code, an applicant shall satisfy the requirements of this rule.
(b) If an applicant was registered or licensed as a respiratory therapist in another state and has held a
valid registration or license as a respiratory therapist in that state immediately preceding the date of
filing an application for a Michigan license but is not currently certified by the nbrc, then it will be
presumed that the applicant meets the requirements of section 18709(1)(a), (b) and (c) of the code.
(b) Provide verification of his or her license or registration by the licensing agency of any state
of the United States and any province of Canada in which the applicant has ever held a license or
registration to practice respiratory care. Verification includes submitting documentation of each disciplinary action initiated against the applicant.

(2) If the applicant has been licensed for less than 5 years immediately preceding the date of the application, he or she shall comply with all of the following:
   (a) Submit educational information that satisfies the requirements of R 338.2202.
   (b) Submit NBRC examination and certification information that satisfies the requirements of R 338.2202.

(c) Be of good moral character.

(3) If the applicant does not meet subrule (2) of this rule, then the applicant shall meet both of the following, in addition to meeting the requirements of the code:
   (a) Possess a valid registration or license as a respiratory therapist that was issued by another state after the applicant graduated from an accredited respiratory therapist education program that is acceptable to the board under R 338.2206.
   (b) Be currently registered or certified by the nbrc or passed the nbrc certification examination for respiratory therapists within 2 years of submission of the application for licensure by endorsement.

(4) If the applicant is a Canadian registered respiratory therapist who is currently certified as a respiratory therapist by the United States nbrc, then it will be presumed that the applicant meets section 18709(1)(a), (b) and (c) of the code.

(5) If a Canadian registered applicant or other foreign trained and registered applicant does not meet subrule (4) of this rule, then the applicant shall comply with all of the following provisions:
   (a) Have his or her education evaluated to determine if it is equivalent to the standards in R 338.2206.
   (b) Pass the United States nbrc certification examination.
   (c) Verify that the registration or license from the other jurisdiction, whether current or expired, is in good standing.

(2) An applicant that is a Canadian registered respiratory therapist may apply for licensure by endorsement if the applicant holds a current certification by the NBRC.

PART 3. EDUCATION

R 338.2206 Educational program Accreditation standards; adoption by reference.

Rule 2206. (1) The department in consultation with the board approves, and adopts by reference, the following standards for accrediting respiratory therapist educational programs adopted by from the Committee Commission on Accreditation for Respiratory Care (CoARC), from— the Commission on Accreditation of Allied Health Education Programs in the document entitled "Standards and Guidelines of the Profession of Respiratory Care" effective July 15, 2003. Copies of these standards may be obtained at cost from CoARC, 1248 Harwood Rd., Bedford, Texas 76021-4244, at no cost from the CoARC website, www.coarc.com. Copies may be obtained at no cost from the Michigan Board of Respiratory Care, Bureau of Health Professions, Department of Community Health, Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909. A Any respiratory therapist educational program that is accredited by the committee on accreditation for respiratory care CoARC is a respiratory therapist educational program that is acceptable to approved by department in consultation with the board.

   (b) Accreditation Standards for Entry into Respiratory Care Professional Practice,” effective June 1, 2015 and revised November 12, 2016.
(c) “Accreditation Standards for Degree Advancement Programs in Respiratory Care,” effective January 1, 2018.

(2) The board adopts by reference the recognition standards and criteria of the council for higher education accreditation (chea), effective January 1999, and the procedures and criteria for recognizing postsecondary accrediting agencies of the U. S. department of education, effective July 1, 2000. Copies of the standards and criteria of the council for higher education accreditation and the U. S. department of education are available for inspection and distribution at cost from the Michigan Board of Respiratory Care, Bureau of Health Professions, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909. The chea recognition standards also may be obtained from the Council for Higher Education Accreditation, 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 from the U. S. Department of Education Office of Postsecondary Education, 1990 K Street, NW, Washington, DC 20006, or from the department’s website at http://www.ed.gov/about/offices/list/OPE/index.html at no cost.

(2) The department in consultation with the board adopts by reference the procedures and criteria for recognizing accrediting organizations of the Council of Higher Education Accreditation (CHEA), effective June 28, 2010, 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. 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 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: www.ed.gov. Copies of the standards and criteria recognizing accrediting agencies used by CHEA and the Department of Education are available for inspection and distribution at cost from the Board of Respiratory Care, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.

(3) The board adopts by reference the standards of the following postsecondary accrediting organizations, which may be obtained from the individual accrediting organization at the identified cost. Copies of these standards also are available for inspection and distribution at cost from the Michigan Board of Respiratory Care, Bureau of Health Professions, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909:

(a) The standards of the Middle States Commission on Higher Education, 3624 Market Street, Philadelphia, PA 19104, in the document entitled "Characteristics of Excellence in Higher Education: Eligibility Requirements and Standards for Accreditation," 2002 edition which is available free of charge on the association’s website at http://www.msche.org, or for purchase at a cost of $7.40 as of the time of adoption of these rules.


(c) The standards of the North Central Association of Colleges and Schools, The Higher Learning Commission, 30 North LaSalle Street, Suite 2400, Chicago, IL 60602, in the document entitled "Handbook of Accreditation," 2003 edition which is available for purchase through the association’s website at http://www.ncahigerlearningcommission.org at a cost of $30.00 as of the time of adoption of these rules.

(d) The standards of the Northwest Association of Schools, Colleges and Universities, the Commission on Colleges and Universities, 8060 165th Avenue NE, Suite 100, Redmond, WA 98052, in the
document entitled "Accreditation Handbook," 2003 edition, which is available for purchase through the association's website at http://www.nwccu.org at a cost of $20.00 as of the time of adoption of these rules.

(e) The standards of the Southern Association of Colleges and Schools, Commission on Colleges, 1866 Southern Lane, Decatur, GA 30033, in the document entitled "Principles of Accreditation: Foundation for Quality Enhancement", January 2004, which is available free of charge on the association's website at http://www.sacscoc.org or for purchase at a cost of $12.00 for members and $24.00 for nonmembers as of the time of adoption of these rules.

(f) The standards of the Western Association of Schools and Colleges, the Accrediting Commission for Senior Colleges and Universities, 985 Atlantic Avenue, Suite 100, Alameda, CA 94501, in the document entitled "2001 Handbook of Accreditation," which is available free of charge on the commission's website at http://www.wascweb.org or for purchase at a cost of $15.00 for member institutions and $20.00 for nonmember institutions as of the time of adoption of these rules.

(g) The standards of the Western Association of Schools and Colleges Accrediting Commission for Community and Junior Colleges, 10 Commercial Blvd., Suite 204, Novato, CA 94949, in the document entitled "Accreditation Reference Book," July 2003 which is available free of charge on the commission's website at http://www.wascweb.org.

PART 4. RELICENSURE

R 338.2207 Relicensure.

Rule 2207. (1) An applicant for relicensure whose license has lapsed, under section 16201(3) or (4) of the code, MCL 333.16201(3) or (4), as applicable, may be relicensed by complying with the following requirements as noted by (√):

(a) Provide to the department documentation that the applicant holds an unrestricted license in another state.

(b) Provide to the department documentation that the applicant passed the certification examination of the nbrc within the 2 years immediately preceding the application for relicensure.

(2) If the applicant is not able to meet either of the requirements in subdivisions (a) and (b) of this subrule, the applicant shall become credentialed by the nbrc.

<table>
<thead>
<tr>
<th>(1) For an applicant who has let his or her license lapse and who does not hold a current and valid respiratory care license, registration, or certification in another state of the United States or province of Canada:</th>
<th>Lapsed 3 Years or less</th>
<th>Lapsed more than 3 Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Application and fee: Submit a completed application on a form provided by the department, together with the requisite fee.</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>(b) Establish that the applicant is of good moral character.</td>
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<td>√</td>
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</tbody>
</table>
(c) Submit fingerprints as set forth in section 16174(3) of the code, MCL 333.16174(3).

(d) Provide to the department documentation that the applicant passed the NBRC certification examination within the 2 years immediately preceding the application for relicensure.

(e) If applicable, proof of respiratory care license, registration, or certification previously held: An applicant’s respiratory care license, registration, or certification must be verified by the licensing agency of any state of the United States or province of Canada in which the applicant ever held a respiratory care license, registration, or 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 license lapse and holds a current and valid respiratory care license, registration, or certificate within another state of the United States or province of Canada:

(a) Application and fee: Submit a completed application on a form provided by the department, together with the requisite fee.

(b) Establish that the applicant is of good moral character.

(c) Submit fingerprints as set forth in section 16174(3) of the code, MCL 333.16174(3).

(d) Proof of current and valid respiratory care license, registration, or certification: An applicant’s respiratory care license, registration, or certification must be verified by the licensing agency of any state of the United States or province of Canada in which the applicant holds or has ever held a respiratory care license, registration, or certification. Verification must include the record of any disciplinary action taken or pending against the applicant.
NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
NOTICE OF PUBLIC HEARING
February 19, 2019
9:00 a.m.
Location: G. Mennen Williams Building Auditorium
525 W. Ottawa Street, Lansing, Michigan

The hearing is held to receive public comments on the following administrative rules:

<table>
<thead>
<tr>
<th>Physical Therapy – General Rules (ORR 2018-023 LR)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Authority:</strong> MCL 333.16141; MCL 333.16145; MCL 333.16148; MCL 333.16174; MCL 333.16201; MCL 333.16204; MCL 333.16205; MCL 333.16206; MCL 333.16215; MCL 333.16287; MCL 333.17823; MCL 338.3501; MCL 445.2001; MCL 445.2011, and MCL 445.2030.</td>
</tr>
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<td><strong>Overview:</strong> The proposed revisions to the rules will amend the human trafficking rule to include a date of promulgation, update standards that are adopted by reference under the rules, rescind rules that are duplicative of statute, and update requirements pertaining to initial licensure, licensure by endorsement, license renewal, and relicensure.</td>
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<th>Task Force on Physician’s Assistants – General Rules (ORR 2018-050 LR)</th>
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<td><strong>Authority:</strong> MCL 333.16145; MCL 333.16148; MCL 333.17060; MCL 333.17068; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2030.</td>
</tr>
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<td><strong>Overview:</strong> The proposed revisions to the rules will amend the human trafficking rule to include a date of promulgation, provide updated accreditation standards for physician’s assistant educational programs, and require applicants for relicensure to provide fingerprints and establish good moral character.</td>
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<th>Respiratory Care – General Rules (ORR 2018-041 LR)</th>
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<tr>
<td><strong>Overview:</strong> The proposed revisions to the rules will clarify definitions, provide the dates by which a licensee or applicant must have completed training for identifying victims of human trafficking, amend and update licensure requirements, and update relicensure requirements. The proposed revisions will also rescind the rules pertaining to temporary respiratory therapist licensure and credentialed respiratory therapy licensure because an applicant must have applied for these licenses by no later than December 1, 2006. Lastly, the proposed revisions will require a foreign-trained applicant to have his or her credentials evaluated by the National Association of Credential Evaluation Services and demonstrate a working knowledge of the English language.</td>
</tr>
</tbody>
</table>
The rules will take effect immediately upon filing with the Secretary of State, unless specified otherwise in the rules. 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 February 19, 2019, at the following address or e-mail address:

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   Email: BPL-BoardSupport@michigan.gov

A copy of the proposed rules may be obtained by contacting Board Support at (517) 241-7500 or the email address noted above. Electronic copies also may be obtained at the following link:


The meeting site and parking are accessible to people with disabilities. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations (such as materials in alternative format) in order to participate in the meeting should call (517) 241-7500).
These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45(a)(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.


R 338.6101, R 338.6103, R 338.6201, R 338.6301, R 338.6305, R 338.6308, and R 338.6311 of the Michigan Administrative Code are amended, and R 338.6309 is rescinded, to read as follows:

PART 1. GENERAL PROVISIONS

R 338.6101 Definitions.
Rule 101. (1) As used in these rules:
(a) “Code” means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
(b) “Department” means the department of licensing and regulatory affairs.
(c) “Task force” means the Michigan task force on physician’s assistants: created under section 17025 of the code, MCL 333.17025.
(2) Terms The terms defined in the code have the same meanings when used in these rules.

R 338.6103 Training standards for identifying victims of human trafficking; requirements.
Rule 103. (1) Pursuant to section 17060 of the code, MCL 333.17060, an individual seeking licensure or licensed shall complete training in identifying victims of human trafficking that meets the following standards:
(a) Training content shall 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 task force 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 subrule subdivision (1)(a) of this rule 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 shall 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 with the first 2016 renewal cycle after the promulgation of this rule and for initial licenses issued 5 or more years after the promulgation of this rule. April 22, 2021.

PART 2. PHYSICIANS’ PHYSICIAN’S ASSISTANT PROGRAM APPROVAL

R 338.6201 Educational program standards; adoption by reference.
   (2) Any Only educational programs for physician’s assistants that are accredited by the arc-pa ARC-PA meets the qualifications for an are approved physician’s assistant educational program programs.
PART 3. PHYSICIAN'S ASSISTANT LICENSE

R 338.6301 Application for physician’s assistant license; requirements.
   Rule 301. An applicant for a physician’s assistant license shall submit the required fee and a completed application on a form provided by the department. In addition to meeting the requirements of the code and these rules, an applicant shall meet both of the following requirements:
   (a) Have graduated from an accredited educational program for physician’s assistants that meets the standards in R 338.6201.
   (b) Have passed the certifying examination conducted and scored by the national commission on certification of physician assistants (NCCPA).

R 338.6305 Licensure by endorsement; requirements.
   Rule 305. (1) An applicant for a physician’s assistant license by endorsement, in addition to meeting the requirements of the code and these rules, shall submit the required fee and a completed application on a form provided by the department. An applicant who satisfies the requirements of the code and this rule, is presumed to meet the requirements of section 16186, MCL 333.16186, of the code.
   (2) If the applicant was first licensed, certified, or registered to practice as a physician’s assistant in another state before July 7, 1986, then the applicant shall submit evidence of having passed the certifying examination conducted and scored by the NCCPA.
   (3) If the applicant was first licensed, certified, or registered to practice as a physician’s assistant in another state on or after July 7, 1986, the applicant shall meet both of the following requirements:
      (a) Have graduated from an accredited educational program for physician’s assistants that meets the standards in R 338.6201.
      (b) Have passed the certifying examination conducted and scored by the NCCPA.
   (4) An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or ever held a license, certification, or registration as a physician’s assistant. If applicable, verification shall include the record of any disciplinary action taken or pending against the applicant.

R 338.6308 Requirements for relicensure.
   Rule 308. (1) An applicant for relicensure whose license has been lapsed for less than 3 years preceding the date of application for relicensure may be relicensed under section 16201(3), of the code, MCL 333.16201(3), of the code if the applicant submits the required fee and a completed application on a form provided by the department, satisfies all of the following requirements:
      (a) Submits the required fee and a completed application on a form provided by the department.
      (b) Establishes that he or she is of good moral character.
      (c) Has his or her license, certification, or registration verified, on a form provided by the department, by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or ever held a license, certification, or registration as a physician’s assistant. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.
   (2) An applicant for relicensure whose license has been lapsed for 3 years or more preceding the date of application for relicensure may be relicensed under section 16201(4), of the code, MCL...
of the code if the applicant submits the required fee and a completed application on a form provided by the department and meets either satisfies all of the following requirements:

(a) Presents evidence to the department that he or she was licensed as a physician’s assistant in another state of the United States during the 3-year period immediately preceding the date of the application for relicensure. Submits the required fee and a completed application on a form provided by the department.

(b) Establishes that he or she passed either the certifying or recertifying examination conducted and scored by the nccpa during the 10-year period immediately preceding the date of the application for relicensure. Establishes that he or she is of good moral character.

(c) Submits fingerprints as set forth in section 16174(3) of the code, MCL 333.16174(3).

(d) Does either of the following:
   (i) Presents evidence to the department that he or she was licensed as a physician’s assistant in another state of the United States during the 3-year period immediately preceding the date of the application for relicensure.
   (ii) Establishes that he or she passed either the certifying or recertifying examination conducted and scored by the NCCPA during the 10-year period immediately preceding the date of the application for relicensure.

(e) Has his or her license, certification, or registration verified, on a form provided by the department, by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or ever held a license, certification, or registration as a physician’s assistant. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.

   (3) An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or ever held a license, certification, or registration as a physician’s assistant. If applicable, verification shall include the record of any disciplinary action taken or pending against the applicant.


Rule 309. (1) A licensee practicing as a physician’s assistant in this state shall use the words “physician’s assistant” or “physician assistant” or the initials “P.A.” in conjunction with his or her names on all signs, letterheads, business cards, or similar items of identification.

R 338.6311 License renewal; requirements.

Rule 311. An applicant for license renewal who has been licensed for the 2-year period immediately preceding the application for renewal shall submit the required fee and a completed application on a form provided by the department.

PART 4. ADMINISTRATIVE HEARINGS
NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing

NOTICE OF PUBLIC HEARING
February 19, 2019
9:00 a.m.
Location: G. Mennen Williams Building Auditorium
525 W. Ottawa Street, Lansing, Michigan

The hearing is held to receive public comments on the following administrative rules:

**Physical Therapy – General Rules (ORR 2018-023 LR)**

**Authority:** MCL 333.16141; MCL 333.16145; MCL 333.16148; MCL 333.16174; MCL 333.16201; MCL 333.16204; MCL 333.16205; MCL 333.16206; MCL 333.16215; MCL 333.17823; MCL 338.3501; MCL 445.2001; MCL 445.2011, and MCL 445.2030.

**Overview:** The proposed revisions to the rules will amend the human trafficking rule to include a date of promulgation, update standards that are adopted by reference under the rules, rescind rules that are duplicative of statute, and update requirements pertaining to initial licensure, licensure by endorsement, license renewal, and relicensure.

**Task Force on Physician’s Assistants – General Rules (ORR 2018-050 LR)**

**Authority:** MCL 333.16145; MCL 333.16148; MCL 333.17060; MCL 333.17068; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2030.

**Overview:** The proposed revisions to the rules will amend the human trafficking rule to include a date of promulgation, provide updated accreditation standards for physician’s assistant educational programs, and require applicants for relicensure to provide fingerprints and establish good moral character.

**Respiratory Care – General Rules (ORR 2018-041 LR)**

**Authority:** MCL 333.16148; MCL 333.16174; MCL 333.18709; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2030.

**Overview:** The proposed revisions to the rules will clarify definitions, provide the dates by which a licensee or applicant must have completed training for identifying victims of human trafficking, amend and update licensure requirements, and update relicensure requirements. The proposed revisions will also rescind the rules pertaining to temporary respiratory therapist licensure and credentialed respiratory therapy licensure because an applicant must have applied for these licenses by no later than December 1, 2006. Lastly, the proposed revisions will require a foreign-trained applicant to have his or her credentials evaluated by the National Association of Credential Evaluation Services and demonstrate a working knowledge of the English language.

The rules will take effect immediately upon filing with the Secretary of State, unless specified otherwise in the rules. 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 February 19, 2019**, at the following address or e-mail address:
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   Email:   BPL-BoardSupport@michigan.gov

A copy of the proposed rules may be obtained by contacting Board Support at (517) 241-7500 or the email address noted above. Electronic copies also may be obtained at the following link:


The meeting site and parking are accessible to people with disabilities. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations (such as materials in alternative format) in order to participate in the meeting should call (517) 241-7500).
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 333.22217.

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

SYNOPSIS FOR PUBLICATION IN THE MICHIGAN REGISTER
PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, 1969 PA 306, MCL 24.208(1)(k)

CARDIAC CATHETERIZATION SERVICES
Final Approval by the CON Commission 9/20/18 and Effective 12/26/18

The language changes include the following:

1. Updated the Department name throughout the document.
2. Added “hospital” after “applicant” throughout the document, as applicable, for clarity.
3. Added “/congenital” after “pediatric” throughout the document, as applicable, for clarity.
4. Section 2(1) - Added and modified definitions as follows:
   • (a) “ADULT CARDIAC CATHETERIZATION SERVICE” MEANS PROVIDING CARDIAC CATHETERIZATION SERVICES ON AN ORGANIZED, REGULAR BASIS TO PATIENTS AGE 18 AND ABOVE, AND FOR ELECTROPHYSIOLOGY PROCEDURES TO PATIENTS AGE 15 AND OLDER.
   • (b) "Cardiac catheterization laboratory" or "laboratory" means an individual radiological room equipped with a variety of x-ray machines and devices such as electronic image intensifiers, high speed film changers and digital subtraction units to assist in performing diagnostic or therapeutic cardiac catheterizations or electrophysiology studies.
   • (c) "Cardiac catheterization procedure" means any cardiac procedure, including diagnostic, therapeutic, and electrophysiology studies, performed on a patient during a single session in a laboratory. Cardiac catheterization is a medical diagnostic or therapeutic procedure during which a catheter is inserted into a vein or artery in a patient; subsequently the free end of the catheter is manipulated by a physician to travel along the course of the blood vessel into the chambers or vessels of the heart. X rays and an electronic image intensifier are used as aides in placing the catheter tip in the desired position. When the catheter is in place, the physician is able to perform various diagnostic studies and/or therapeutic procedures in the heart. This term does not include "float catheters" that are performed at the bedside or in settings outside the laboratory or the implantation of cardiac permanent pacemakers and implantable cardioverter defibrillators (ICD) devices that are performed in an interventional radiology laboratory or operating room IN A LICENSED HOSPITAL AND HAS DIAGNOSTIC CARDIAC CATHETERIZATION CON APPROVAL.
   • (d) "Cardiac catheterization service" means the provision of one or more of the following types of procedures: adult diagnostic cardiac catheterizations; adult therapeutic cardiac catheterizations; and pediatric/CONGENITAL cardiac catheterizations.
   • (e) “CARDIAC CATHETERIZATION SESSION” MEANS A CONTINUOUS TIME PERIOD DURING WHICH A PATIENT MAY UNDERGO ONE OR MORE DIAGNOSTIC OR THERAPEUTIC CARDIAC OR PERIPHERAL PROCEDURES IN A CARDIAC CATHETERIZATION LABORATORY. THE TERM SESSION APPLIES TO BOTH ADULT AND PEDIATRIC/CONGENITAL CATHETERIZATIONS.
• (h) “COMPLEX THERAPEUTIC SESSION” MEANS A CONTINUOUS TIME PERIOD DURING WHICH A PATIENT UNDERGOES ONE OR MORE OF THE FOLLOWING PROCEDURES:
  (i) PCI FOR CHRONIC TOTAL OCCLUSION
  (ii) TAVR, MITRAL/PULMONARY/TRICUSPID VALVE REPAIR OR REPLACEMENT, PARAVALVULAR LEAK CLOSURE
  (iii) ABLATION FOR ATRIAL FIBRILLATION (AF) OR VENTRICULAR TACHYCARDIA (VT), PACEMAKER OR ICD LEAD EXTRACTION
• (j) “DIAGNOSTIC CARDIAC CATHETERIZATION PROCEDURE” INCLUDES RIGHT HEART CATHETERIZATION, LEFT HEART CATHETERIZATION, CORONARY ANGIOGRAPHY, CORONARY ARTERY BYPASS GRAFT ANGIOGRAPHY, INTRACORONARY ADMINISTRATION OF DRUGS, FRACTIONAL FLOW RESERVE (FFR), INTRA-CORONARY IMAGING SUCH AS INTRAVASCULAR ULTRASOUND (IVUS), OPTICAL COHERENCE TOMOGRAPHY (OCT), OR NEAR-INFRARED SPECTROSCOPY (NIRS) WHEN PERFORMED WITHOUT A THERAPEUTIC PROCEDURE, CARDIAC BIOPSY, INTRA-CARDIAC ECHOCARDIOGRAPHY, AND ELECTROPHYSIOLOGY STUDY.
• (k) "Diagnostic cardiac catheterization service" means providing diagnostic cardiac catheterization procedures on an organized, regular basis in a laboratory to diagnose anatomical and/or physiological problems in the heart. Procedures include the intra coronary administration of drugs; left heart catheterization; right heart catheterization; coronary angiography; diagnostic electrophysiology studies; and cardiac biopsies (echo-guided or fluoroscopic). A hospital that provides diagnostic cardiac catheterization services may also perform implantations of cardiac permanent pacemakers and ICD devices IMPLANTATION (THERAPEUTIC PROCEDURES).
• (l) “DIAGNOSTIC CARDIAC CATHETERIZATION SESSION” MEANS A CONTINUOUS TIME PERIOD DURING WHICH A PATIENT MAY UNDERGO ONE OR MORE DIAGNOSTIC CARDIAC CATHETERIZATION PROCEDURES.
• (m) “DIAGNOSTIC PERIPHERAL PROCEDURE” INCLUDES ANGIOGRAPHY OR HEMODYNAMIC MEASUREMENTS IN THE ARTERIAL OR VENOUS CIRCULATION (EXCLUDING THE HEART).
• (n) “DIAGNOSTIC PERIPHERAL SESSION” MEANS A CONTINUOUS TIME PERIOD DURING WHICH A PATIENT MAY UNDERGO ONE OR MORE DIAGNOSTIC PERIPHERAL PROCEDURES IN A CARDIAC CATHETERIZATION LABORATORY.
• (p) “Elective PCI services without on-site open heart surgery (OHS)” means performing PCI, percutaneous transluminal coronary angioplasty (PTCA), and coronary stent implantation on an organized, regular basis in a hospital having a diagnostic cardiac catheterization service and a primary PCI service but not having OHS on-site and adhering to patient selection as outlined in the SCAI/ACC/AHA Expert Consensus Document: 2014 Update on PCI Without On-Site Surgical Backup and published in Circulation 2014, 129:2610-2626 and its update or further guideline changes. A HOSPITAL THAT PROVIDES ELECTIVE PCI WITHOUT ON-SITE OHS MAY ALSO PERFORM RIGHT-SIDED CARDIAC ABLATION PROCEDURES INCLUDING RIGHT ATRIAL FLUTTER, AV REENTRY, AV NODE REENTRY, RIGHT ATRIAL TACHYCARDIA, AND AV NODE ABLATION.
• (t) "Pediatric/CONGENITAL cardiac catheterization service" means providing cardiac AND ELECTROPHYSIOLOGY catheterization services on an organized, regular basis to infants and children ages 18 and below, except for electrophysiology studies that are offered and
provided to infants and children ages 14 and below, and PATIENTS BORN with congenital heart disease.

- **(u)** “PERCUTANEOUS CORONARY INTERVENTION” (PCI) MEANS A THERAPEUTIC CARDIAC CATHETERIZATION PROCEDURE TO RESOLVE ANATOMIC AND/OR PHYSIOLOGIC PROBLEMS IN THE CORONARY ARTERIES OF THE HEART. A PCI SESSION MAY INCLUDE SEVERAL PROCEDURES INCLUDING BALLOON ANGIOPLASTY, AHERECTOMY, LASER, STENT IMPLANTATION AND THROMBECTOMY. THE TERM DOES NOT INCLUDE THE INTRACORONARY ADMINISTRATION OF DRUGS, FFR OR IVUS WHERE THESE ARE THE ONLY PROCEDURES PERFORMED.

- **(v)** “PERIPHERAL CATHETERIZATION SESSION” MEANS A CONTINUOUS TIME PERIOD DURING WHICH A PATIENT MAY UNDERGO ONE OR MORE DIAGNOSTIC OR THERAPEUTIC PROCEDURES IN THE ARTERIAL OR VENOUS CIRCULATION (EXCLUDING THE HEART) WHEN PERFORMED IN A CARDIAC CATHETERIZATION LABORATORY.

- **(w)** “Primary percutaneous coronary intervention (PCI)” means a PCI performed on an EMERGENT BASIS ON A acute myocardial infarction (AMI) patient with confirmed ST-SEGMENT elevation, or new left bundle branch block on an emergent basis, ECG EVIDENCE OF TRUE POSTERIOR MI, OR CARDIOGENIC SHOCK.

- **(x)** “Primary PCI service without on-site OHS” means performing primary PCI on an emergent basis in a hospital having a diagnostic cardiac catheterization service. A HOSPITAL THAT PROVIDES PRIMARY PCI WITHOUT ON-SITE OHS MAY ALSO PERFORM RIGHT-SIDED CARDIAC ABLATION PROCEDURES INCLUDING RIGHT ATRIAL FLUTTER, AV REENTRY, AV NODE REENTRY, RIGHT ATRIAL TACHYCARDIA, AND AV NODE ABLATION.

- **(y)** "Procedure equivalent" means a unit of measure that reflects the relative average length of time one patient spends in one session in a CARDIAC CATHETERIZATION laboratory based on the type of procedures being performed. IF A DIAGNOSTIC AND THERAPEUTIC PROCEDURE IS PERFORMED IN THE SAME SESSION, THE HIGHER PROCEDURE EQUIVALENT WEIGHTING WILL BE USED TO EVALUATE UTILIZATION.

- **(z)** “STRUCTURAL HEART PROCEDURE” MEANS A THERAPEUTIC CARDIAC CATHETERIZATION PROCEDURE TO RESOLVE ANATOMIC AND/OR PHYSIOLOGIC PROBLEMS OF THE HEART VALVES OR CHAMBERS. PROCEDURES INCLUDE: BALLOON VALVULOPLASTY, BALLOON ATRIAL SEPTOSTOMY, TRANSCATHETER VALVE REPAIR, TRANSCATHETER VALVE IMPLANTATION, PARAVALULAR LEAK CLOSURE, LEFT ATRIAL APPENDAGE OCCLUSION, PFO/ASD/VSD/PDA CLOSURE, ALCOHOL ABLATION OF CARDIAC TISSUE, EMBOLIZATION OF CORONARY FISTULAE AND ABNORMAL VASCULAR CONNECTIONS IN THE HEART.

- **(aa)** "Therapeutic cardiac catheterization service" means providing therapeutic cardiac catheterizations on an organized, regular basis in a laboratory to treat and resolve anatomical and/or physiological problems in the heart.

- **(bb)** “THERAPEUTIC CARDIAC CATHETERIZATION SESSION” MAY INCLUDE: PCI (ELECTIVE, EMERGENT), PERICARDIOCENTESIS, PERMANENT PACEMAKER IMPLANTATION, ICD IMPLANTATION (ENDOVASCULAR OR SUBCUTANEOUS), PACEMAKER OR ICD GENERATOR CHANGE, PACEMAKER OR ICD LEAD REVISION, CARDIAC ABLATION, AND/OR STRUCTURAL HEART PROCEDURE.
THIS ALSO INCLUDES IMPLANTATION OF A CIRCULATORY SUPPORT DEVICE SUCH AS IABP, IMPELLA, ECMO OR TANDEMHEART WHERE THIS IS THE ONLY THERAPEUTIC PROCEDURE. WHEN PCI IS PERFORMED IN MORE THAN ONE CORONARY ARTERY DURING THE SAME SETTING, THIS IS COUNTED AS ONE SESSION.

- (cc) “THERAPEUTIC PERIPHERAL PROCEDURE” MEANS A THERAPEUTIC CATHETERIZATION PROCEDURE TO RESOLVE ANATOMIC AND/OR PHYSIOLOGIC PROBLEMS IN THE ARTERIAL OR VENOUS CIRCULATION (EXCLUDING THE HEART). PROCEDURES MAY INCLUDE PERCUTANEOUS TRANSLUMINAL ANGIOPLASTY (PTA), ATERECTOMY, DRUG ELUTING BALLOON, LASER, STENT IMPLANTATION, IVC FILTER IMPLANTATION OR RETRIEVAL, CATHETER-DIRECTED ULTRASOUND/THROMBOLYSIS, AND THROMBECTOMY.

- (dd) “THERAPEUTIC PERIPHERAL SESSION” MEANS A CONTINUOUS TIME PERIOD DURING WHICH A PATIENT MAY UNDERGO ONE OR MORE THERAPEUTIC PERIPHERAL PROCEDURES IN A CARDIAC CATHETERIZATION LABORATORY.

- (ee) “THERAPEUTIC PEDIATRIC/CONGENITAL CARDIAC CATHETERIZATION SESSION” MAY INCLUDE: STRUCTURAL HEART PROCEDURE (AS LISTED ABOVE), PULMONARY ARTERY ARTERIOPLASTY/STENT IMPLANTATION, PULMONARY VALVE PERFORATION, ANGIOPLASTY/STENT IMPLANTATION FOR AORTIC COARCTATION, CARDIAC ABLATION, PACEMAKER/ICD IMPLANTATION, AND PCI.

5. Section 5(3) - Added language to replace a cardiac catheterization service to a new site simultaneously with an open heart surgery service. (This language will only apply to those cardiac catheterization services that are being replaced simultaneously with an open heart surgery service. An open heart surgery service must have a diagnostic and therapeutic cardiac catheterization service.)

6. Section 10(2) – Project delivery requirements have been updated.

- (d) EACH PHYSICIAN CREDENTIALED BY A HOSPITAL TO PERFORM DIAGNOSTIC LEFT-HEART CATHETERIZATION AND/OR CORONARY ANGIOGRAPHY MUST PERFORM, AS THE PRIMARY OPERATOR, AN AVERAGE OF AT LEAST 50 DIAGNOSTIC CARDIAC CATHETERIZATION SESSIONS INVOLVING A LEFT-HEART CATHETERIZATION OR CORONARY ANGIOGRAPHY PER YEAR AVERAGED OVER THE MOST RECENT 2 YEARS STARTING IN THE SECOND 12 MONTHS AFTER BEING CREDENTIALED. THIS TWO YEAR AVERAGE WILL BE EVALUATED ON A ROLLING BASIS ANNUALLY THEREAFTER. THE ANNUAL CASE LOAD FOR A PHYSICIAN MEANS A CARDIAC CATHETERIZATION SESSION IN WHICH THAT PHYSICIAN PERFORMED, AS THE PRIMARY OPERATOR, AT LEAST ONE LEFT-HEART CATHETERIZATION OR CORONARY ANGIOGRAPHY, IN ANY COMBINATION OF HOSPITALS. PHYSICIANS FALLING BELOW THIS VOLUME REQUIREMENT MUST BE PLACED ON A FOCUSED PROFESSIONAL PRACTICE EVALUATION (FPPE) PLAN, WHICH MUST INCLUDE AN INDEPENDENT REVIEW OF ALL DIAGNOSTIC CARDIAC CATHETERIZATION SESSIONS BY AN APPROPRIATE DESIGNEE, TO ENSURE QUALITY OUTCOMES ARE MAINTAINED. IN THE EVENT A PHYSICIAN DOES NOT PERFORM CARDIAC CATHETERIZATION PROCEDURES ON A TEMPORARY OR PERMANENT BASIS FOR A PERIOD OF 3
MONTHS OR MORE, THE PHYSICIAN DIAGNOSTIC PROCEDURE VOLUME WILL BE ANNUALIZED ON THE 24 MONTH PERIOD PRECEDING THE ABSENCE. WHEN A DIAGNOSTIC CARDIAC CATHETERIZATION SESSION AND AD HOC THERAPEUTIC CARDIAC CATHETERIZATION SESSION ARE PERFORMED TOGETHER, DIAGNOSTIC AND THERAPEUTIC SESSIONS ARE COUNTED SEPARATELY FOR THE PURPOSES OF THIS SUBSECTION. IF A PHYSICIAN IS DOING RIGHT HEART ONLY PROCEDURES, THEN THEY ARE NOT REQUIRED TO MEET THIS VOLUME REQUIREMENT. PHYSICIANS WHO ARE CREDENTIALED BY A HOSPITAL TO PERFORM ADULT THERAPEUTIC CARDIAC CATHETERIZATION PROCEDURES ARE NOT REQUIRED TO MEET THE VOLUME REQUIREMENT FOR DIAGNOSTIC CARDIAC CATHETERIZATION SESSIONS.

- (e) Each physician credentialed by a hospital to perform adult therapeutic cardiac catheterization procedures shall perform, as the primary operator, an AVERAGE of AT LEAST 50 adult therapeutic cardiac catheterization SESSIONS per year AVERAGED OVER THE MOST RECENT TWO YEARS STARTING in the second 12 months after being credentialed. THIS TWO-YEAR AVERAGE WILL BE EVALUATED ON A ROLLING BASIS annually thereafter. The annual case load for a physician means adult therapeutic cardiac catheterization SESSIONS performed by that physician in any combination of hospitals. PHYSICIANS FALLING BELOW THIS VOLUME REQUIREMENT MUST BE PLACED ON A FOCUSED PROFESSIONAL PRACTICE EVALUATION (FPPE) PLAN, WHICH MUST INCLUDE AN INDEPENDENT REVIEW OF ALL THERAPEUTIC CARDIAC CATHETERIZATION SESSIONS BY AN APPROPRIATE DESIGNEE, TO ENSURE QUALITY OUTCOMES ARE MAINTAINED. IN THE EVENT A PHYSICIAN DOES NOT PERFORM CARDIAC CATHETERIZATION PROCEDURES ON A TEMPORARY OR PERMANENT BASIS FOR A PERIOD OF 3 MONTHS OR MORE, THE PHYSICIAN THERAPEUTIC PROCEDURE VOLUME WILL BE ANNUALIZED ON THE 24-MONTH PERIOD PRECEDING THE ABSENCE. WHEN A DIAGNOSTIC CARDIAC CATHETERIZATION SESSION AND AD HOC THERAPEUTIC CARDIAC CATHETERIZATION SESSION ARE PERFORMED TOGETHER, DIAGNOSTIC AND THERAPEUTIC SESSIONS ARE COUNTED SEPARATELY FOR THE PURPOSES OF THIS SUBSECTION (THIS INCLUDES INTERVENTIONAL CARDIOLOGISTS AND ELECTROPHYSIOLOGISTS). FOR INTERVENTIONAL CARDIOLOGISTS, THE THERAPEUTIC SESSION VOLUME EXCLUDES PACEMAKER AND ICD IMPLANTATION. FOR ELECTROPHYSIOLOGISTS, PACEMAKER AND ICD IMPLANTS PERFORMED IN AN OPERATING ROOM MAY ALSO BE COUNTED TOWARD THE PHYSICIAN THERAPEUTIC VOLUME.

- (f) Each physician credentialed by a hospital to perform pediatric/CONGENITAL cardiac catheterizations shall perform, as the primary operator, an AVERAGE of AT LEAST 50 pediatric/CONGENITAL cardiac catheterization SESSIONS per year AVERAGED OVER THE MOST RECENT 2 YEARS STARTING in the second 12 months after being credentialed. THIS TWO-YEAR AVERAGE WILL BE EVALUATED ON A ROLLING BASIS and annually thereafter. The annual case load for a physician means pediatric/CONGENITAL cardiac catheterization SESSIONS performed by that physician in any combination of hospitals. PHYSICIANS FALLING BELOW THIS VOLUME REQUIREMENT MUST BE PLACED ON A FOCUSED PROFESSIONAL PRACTICE EVALUATION (FPPE) PLAN, WHICH MUST INCLUDE AN INDEPENDENT REVIEW OF ALL CARDIAC CATHETERIZATION SESSIONS BY AN APPROPRIATE DESIGNEE,
TO ENSURE QUALITY OUTCOMES ARE MAINTAINED. IN THE EVENT A PHYSICIAN DOES NOT PERFORM CARDIAC CATHETERIZATION PROCEDURES ON A TEMPORARY OR PERMANENT BASIS FOR A PERIOD OF 3 MONTHS OR MORE, THE PHYSICIAN THERAPEUTIC PROCEDURE VOLUME WILL BE ANNUALIZED ON THE 24 MONTH PERIOD PRECEDING THE ABSENCE.

- **(g)** An adult diagnostic cardiac catheterization service shall have a minimum of two appropriately trained physicians on its active hospital staff MEETING THE FOLLOWING CRITERIA:
  1. are trained consistent with the recommendations of the American College of Cardiology;
  2. are credentialed by the hospital to perform adult diagnostic cardiac catheterizations; and
  3. have performed a minimum of 100 adult diagnostic cardiac catheterization SESSIONS in the preceding 12 months. THE ANNUAL CASE LOAD FOR A PHYSICIAN MEANS A CARDIAC CATHETERIZATION SESSION IN WHICH THAT PHYSICIAN PERFORMED, AS THE PRIMARY OPERATOR, AT LEAST ONE DIAGNOSTIC CARDIAC CATHETERIZATION, IN ANY COMBINATION OF HOSPITALS.

- **(h)** An adult therapeutic cardiac catheterization service shall have a minimum of two appropriately trained physicians on its active hospital staff MEETING THE FOLLOWING CRITERIA:
  1. are trained consistent with the recommendations of the American College of Cardiology;
  2. are credentialed by the hospital to perform adult therapeutic cardiac catheterizations; and
  3. have performed a minimum of 50 adult therapeutic cardiac catheterization procedures SESSIONS in the preceding 12 months. THE ANNUAL CASE LOAD FOR A PHYSICIAN MEANS A CARDIAC CATHETERIZATION SESSION IN WHICH THAT PHYSICIAN PERFORMED, AS THE PRIMARY OPERATOR, AT LEAST ONE THERAPEUTIC CARDIAC CATHETERIZATION, IN ANY COMBINATION OF HOSPITALS.

- **(i)** A pediatric/CONGENITAL cardiac catheterization service shall have AT LEAST ONE physician on its active hospital staff MEETING THE FOLLOWING CRITERIA:

7. Section 10(5) – Language has been updated to exclude patients with cardiogenic shock.
8. Section 10(5)(f) – Modified language to make it applicable to only those catheterization labs providing primary PCI services without on-site OHS service and for catheterization labs providing elective PCI services without on-site OHS service.
9. Section 10(5)(i) – Modified language for clarity.
10. Section 11 – Updated procedure type, procedure equivalent, and added a description for the procedure type.
11. Removed Appendix B as it’s no longer needed given the revised definition for “pediatric/congenital cardiac catheterization service.”
12. Other technical edits.

**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](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, Planning and Legislative Services Planning and Access to Care Section P.O. Box 30195 Lansing, MI 48909 (517) 335-6708

Email address: MDHHS-ConWebTeam@michigan.gov

339
The language changes include the following:

13. Updated the Department name throughout the document.
14. Added language under new Section 4 – Requirements to replace an existing OHS Service. This language will not increase the number of OHS services in the state, instead it will allow current OHS providers to replace their service to a new location and discontinue service at the previous location. This language is consistent with language in other CON review standards.

- SEC. 4. REPLACE AN EXISTING ADULT OR PEDIATRIC OHS SERVICE MEANS RELOCATING AN EXISTING ADULT OR PEDIATRIC OHS SERVICE TO A NEW GEOGRAPHIC LOCATION OF AN EXISTING LICENSED HOSPITAL. THE TERM DOES NOT INCLUDE THE REPLACEMENT OF AN EXISTING OHS SERVICE AT THE SAME SITE. AN APPLICANT REQUESTING TO REPLACE AN EXISTING OHS SERVICE SHALL DEMONSTRATE EACH OF THE FOLLOWING, AS APPLICABLE TO THE PROPOSED PROJECT.
  - (1) AN APPLICANT PROPOSING TO REPLACE AN EXISTING OHS SERVICE SHALL DEMONSTRATE THE FOLLOWING:
    - (a) THE EXISTING OHS SERVICE TO BE REPLACED HAS BEEN IN OPERATION FOR AT LEAST 36 MONTHS AS OF THE DATE AN APPLICATION IS SUBMITTED TO THE DEPARTMENT.
    - (b) THE PROPOSED NEW SITE IS A HOSPITAL THAT IS OWNED BY, IS UNDER COMMON CONTROL OF, OR HAS A COMMON PARENT AS THE APPLICANT HOSPITAL.
    - (c) THE APPLICANT IS REPLACING THE OHS SERVICE SIMULTANEOUSLY WITH REPLACEMENT OF ITS CARDIAC CATHETERIZATION SERVICE(S) AT THE SAME LOCATION.
    - (d) THE PROPOSED NEW SITE IS WITHIN THE SAME PLANNING AREA OF THE SITE AT WHICH THE EXISTING OHS SERVICE IS LOCATED AND WITHIN 5 MILES OF THE EXISTING OHS SERVICE LOCATION IF LOCATED IN A METROPOLITAN STATISTICAL AREA COUNTY, OR WITHIN 10 MILES OF THE EXISTING OHS SERVICE LOCATION IF LOCATED IN A RURAL OR MICROPOLITAN STATISTICAL AREA COUNTY.
    - (e) THE EXISTING OHS SERVICE TO BE RELOCATED PERFORMED AT LEAST THE APPLICABLE MINIMUM NUMBER OF OPEN HEART SURGICAL CASES SET FORTH IN SECTION 8 AS OF THE DATE AN APPLICATION IS DEEMED SUBMITTED.
BY THE DEPARTMENT UNLESS THE OHS SERVICE BEING REPLACED IS PART OF THE REPLACEMENT OF THE ENTIRE HOSPITAL TO A NEW GEOGRAPHIC SITE.

• (f) THE CARDIAC CATHETERIZATION AND OHS SERVICES SHALL CEASE OPERATION AT THE ORIGINAL SITE PRIOR TO BEGINNING OPERATION AT THE NEW SITE.

15. Other technical edits.

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](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, Planning and Legislative Services
Planning and Access to Care Section
P.O. Box 30195
Lansing, MI 48909
(517) 335-6708

Email address: MDHHS-ConWebTeam@michigan.gov
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

January 8, 2019

Deidre O’Berry
Office of Regulatory Reinvention

RE: 2014-075 TY – Taxpayer Bill of Rights Rules
Request for Correction to R 205.1006b(4)
Filed with the Secretary of State on May 4, 2018

Pursuant to our discussion, I am writing to request that a correction be made to R 205.1006b(4) of the Taxpayer Bill of Rights Rules. Subrule (4) directs that a taxpayer’s written authorization for a representative to act on its behalf in communications with the Department of Treasury should be provided by filing Michigan Department of Treasury Form 151, “except as provided in subrules (2)(b) or (c) or (7).” After the initial draft of R 205.1006b subrule (5) was added moving the exception to the use of Form 151 in (7) to be numbered (8). Please correct the first sentence in Rule 205.1006b(4) so that it will read:

(4) A taxpayer’s written authorization should be provided by filing a properly completed Michigan Department of Treasury Form 151, except as provided in subrules (2)(b) or (c) or (8) of this rule. Form 151 is available on the department’s website or may be requested by contacting the department. Directions for returning the completed form shall be included in the instruction page, and the taxpayer shall return the completed form in accordance with the instructions.

Thank you in advance Deidre, for enabling this correction.

Sincerely,

Margaret Patterson
Regulatory Affairs Officer
Department of Treasury
CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

Memorandum

DATE: January 7, 2019

TO: Deidre O’Berry, Regulatory Affairs Manager
Office of Regulatory Reinvention

FROM: Karen A. Kostbade, Administrative Law Specialist
Public Service Commission, Regulatory Affairs Division

SUBJECT: Request for correction of the Gas Safety Standards R 460.20304, R 460.20312, R 460.20316, R 460.20317, R 460.20338, R 460.20502, R 460.20504, and R 460.20602 pursuant to Administrative Procedures Act, Section 56(1), MCL 24.256 (1).

The Public Service Commission, as a promulgating agency, is writing to request that the Office of Regulatory Reinvention exercise its discretion to correct edits requested by the Legislative Service Bureau (LSB) during its second round of informal approvals and to correct a few minor technical errors in the Gas Safety Standards as published in the Michigan Administrative Code.

The errors are contained in sections R 460.20304, R 460.20312, R 460.20316, R 460.20317, R 460.20338, R 460.20502, R 460.20504, and R 460.20602. The rules were promulgated as part of the revisions to the Gas Safety Standards, effective January 3, 2019. A detailed list of these edits follows.

- In sections R 460.20304(b) and R 460.20312, a comma was left in boldface type and and the boldface type needs to be removed.

- LSB’s edits indicate that section R 460.20316(1) is missing a comma between the words “in 49 C.F.R.§ 192.555(b)(2)” and “which” which requires that this addition be made.

- LSB also edited section R 460.20317, which was rescinded, by striking the words “Rule 317” listed below the section number and this change must be incorporated in the rules.

- LSB edited section R 460.20338(2)(b) by striking the word “and” at the end of the sentence and adding a period, and those corrections need to be made to these rules.

- The Commission Staff found a word missing in section R 460.20502(1), because the phrase “not less than 60 days before of the following begins:” should read “not less than 60 days before any of the following begins:” which requires the addition of the word “any.”

- LSB edited section R 460.20502(3) by inserting the phrase “of these rules” after “subrule (2)”.

344
The Commission Staff further noted that an outdated email address is listed in section R 460.20504(1) and that the email address MPSC-Operations@michigan.gov should be updated to state LARA-MPSC-Operations@michigan.gov.

The Commission Staff also noted that, in section R 460.20602(c) a parenthesis is needed before the last phone number listed, so that it reads “(800-797-6223).”

If you have any questions about this transmittal, you may contact me at 517.284.8086.
VIA E-MAIL

Ms. Deidre O'Berry
Office of Regulatory Reinvention
State Budget Office
Department of Technology, Management and Budget
Romney Building, 8th Floor
111 South Capitol Avenue
Lansing, Michigan 48933

Dear Ms. O'Berry:


The Department of Environmental Quality (DEQ), as the promulgating agency, is writing to request that the Office of Regulatory Reinvention exercise its discretion to correct an obvious error in the Michigan Administrative Code, pursuant to Section 56(1), MCL 24.256, of the Administrative Procedures Act, 1969 PA 306, as amended.

I respectively request the following changes be made:

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

R 339.1902 (1)(b)
(b) The following sections of “Requirements for Preparation, Adoption, and Submittal of Implementation Plans,” 40 C.F.R. Part 51 (2015), AQD price $61.00/$51.00 GPO price for Part 50 through Part 51:

R 336.1902 (1)(d)
(d) “Quality Assurance Requirements for Prevention of Significant Deterioration Air Monitoring,” 40 C.F.R. § Part 58, Appendix B (2015); AQD price $46.00/$36.00 GPO price for Part 53 through Part 59.

R 336.1902 (10)
“OTC Model Rule for Consumer Products,” except Sections 8, 10, and 11(f), 2006 is adopted by reference in these rules. A copy is available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, Lansing, MI 48909-7760, at a cost as of the time of adoption of these rules of $10.00. A copy may also be obtained from the Ozone Transport Commission website, www.otcair.org, for free as of the time of adoption of these rules.

R 336.1973 (5)
(5) Owners and operators of LMWCs shall comply with all of the following emission limits in 40 C.F.R. Part 60, Subparts Cb and Eb, adopted by reference in R 336.1902:
   (a) Carbon monoxide limits in Table 3 in Subpart Cb,
   (b) Fugitive ash emission limits in 40 C.F.R. §60.55b,
   (c) Nitrogen oxide limits in Tables 1 and 2 in Subpart Cb,
   (d) Other emission limits listed in Table 973:

Please note the correction in both the Michigan Register and the Michigan Administrative Code.
CORRECTION OF OBVIOUS ERRORS IN PUBLICATION

January 4, 2019

VIA E-MAIL

Ms. Deidre O’Berry
Office of Regulatory Reinvention
State Budget Office
Department of Technology, Management and Budget
Romney Building, 8th Floor
111 South Capitol Avenue
Lansing, Michigan 48933

Dear Ms. O’Berry:


The Department of Environmental Quality (DEQ), as the promulgating agency, is writing to request that the Office of Regulatory Reinvention exercise its discretion to correct an obvious error in the Michigan Administrative Code, pursuant to Section 56(1), MCL 24.256, of the Administrative Procedures Act, 1969 PA 306, as amended.

I respectively request the following changes be made:

**R 336.1226 (f)**

(f) Natural gas fuel burning equipment or natural gas fired equipment that meet all the following:

(i) A maximum natural gas usage rate of 50,000 cubic feet per hour or less.

**R 336.1285 (2)(w)**

(w) Air strippers controlled by an appropriately designed and operated dual stage carbon adsorption or incineration system that is used exclusively for the cleanup of gasoline, fuel oil, natural gas condensate, and crude oil spills, provided the following conditions are met:

(Ai) For dual stage carbon adsorption, the first canister of the dual stage carbon adsorption is monitored for breakthrough at least once every 2 weeks and replaced if breakthrough is detected.

(Bii) For incineration, a thermal oxidizer (incinerator) is operated at a minimum temperature of 1,400 degrees Fahrenheit in the combustion chamber and a catalytic oxidizer is operated at a minimum temperature of 600 degrees Fahrenheit at the inlet of the catalyst bed. A temperature indication device which continually displays the operating temperature of the oxidizer must be installed, maintained, and operated in accordance with the manufacturer’s specifications.

**R 336.1285 (3)**
(3) For the purposes of this rule, “meaningful” with respect to toxic air contaminant emissions is defined as follows:

(a) “Meaningful change in the quality and nature” means a change in the toxic air contaminants emitted that results in an increase in the cancer or non-cancer hazard potential that is 10% or greater, or which causes an exceedance of a permit limit. The hazard potential is the value calculated for each toxic air contaminant involved in the proposed change, before and after the proposed change, and it is the potential to emit (hourly averaging time) divided by the initial risk screening level or the adjusted annual initial threshold screening level (ITSL), for each toxic air contaminant and screening level involved in the proposed change. The adjusted annual ITSL is the ITSL that has been adjusted as needed to an annual averaging time utilizing averaging time conversion factors in accordance with the models and procedures in 40 C.F.R §51.160(f) and Appendix W, adopted by reference in R 336.1902. The percent increase in the hazard potential is determined from the highest cancer and non-cancer hazard potential before and after the proposed change. The potential to emit before the proposed change is the baseline potential to emit established in an approved permit to install application on or after April 17, 1992, that has not been voided or revoked, unless it has been voided due to incorporation into a renewable operating permit.

(b) “Meaningful increase in the quantity of the emission” means an increase in the potential to emit (hourly averaging time) of a toxic air contaminant that is 10% or greater compared to a baseline potential to emit, or which results in an increase in the cancer or non-cancer hazard potential that is 10% or greater, or which causes an exceedance of a permit limit. The baseline is the potential to emit established in an approved permit to install application on or after April 17, 1992 that has not been voided or revoked, unless it has been voided due to incorporation into a renewable operating permit.

Please note the correction in both the Michigan Register and the Michigan Administrative Code.
VIA E-MAIL

Ms. Deidre O’Berry
Office of Regulatory Reinvention
State Budget Office
Department of Technology, Management and Budget
Romney Building, 8th Floor
111 South Capitol Avenue
Lansing, Michigan 48933

Dear Ms. O’Berry:


The Department of Environmental Quality (DEQ), as the promulgating agency, is writing to request that the Office of Regulatory Reinvention exercise its discretion to correct an obvious error in the Michigan Administrative Code, pursuant to Section 56(1), MCL 24.256, of the Administrative Procedures Act, 1969 PA 306, as amended.

I respectively request the following changes be made:

R 336.2801 (c)(i)

(i) Any intrastate area, and every part thereof, designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the clean air act in which the major source or major modification establishing the minor source baseline date would constructor would have an annual average air quality impact equal to or greater than 1 microgram per cubic meter for sulfur dioxide, oxides of nitrogen, or PM-10, or 0.3 microgram per cubic meter for PM 2.5 of the pollutant for which the minor source baseline date is established.

R 336.2801 (c)(ii)

(ii) Area redesignations under section 107(d)(1)(D) or (E) of the clean air act shall not intersect or be smaller than the area of impact of any major stationary source or major modification which does either of the following:
R 336.2801 (f)

(f) “Best available control technology” or “BACT” means an emissions limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated new source review pollutant, which would be emitted from any proposed major stationary source or major modification which the department -- on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs -- determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of the pollutant. Application of best available control technology shall not result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 C.F.R. parts 60 and 61, adopted by reference in R 336.2801a. If the department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, then a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. The standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of the design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

R 336.2801 (g)

(g) “Building, structure, facility, or installation” means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on 1 or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control, except the activities of any vessel. Pollutant-emitting activities are part of the same industrial grouping if they have the same 2-digit major group code associated with their primary activity. Major group codes and primary activities are described in the standard industrial classification manual, 1987. For assistance in converting North American industrial classification system codes to standard industrial classification codes see http://www.census.gov/epcd/naics02/.

R 336.2801 (z)

(z) “Lowest achievable emission rate” or “LAER,” for any source, means the more stringent rate of emissions based on R 336.1112(f).901(s).

R 336.2801 (bb)(iii)(A)

(A) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(i)(D) or (E) of the clean air act for the pollutant on the date of its complete application under R 336.1201 and PSD regulations.
(dd) “Necessary preconstruction approvals or permits” means a permit issued under R 336.1201(1)(a) that is required by R 336.2801 to R 336.2819, R 336.2823, and R 336.2830 or R 336.1220.

Please note the correction in both the Michigan Register and the Michigan Administrative Code.
VIA E-MAIL

Ms. Deidre O’Berry
Office of Regulatory Reinvention
State Budget Office
Department of Technology, Management and Budget
Romney Building, 8th Floor
111 South Capitol Avenue
Lansing, Michigan 48933

Dear Ms. O’Berry:


The Department of Environmental Quality (DEQ), as the promulgating agency, is writing to request that the Office of Regulatory Reinvention exercise its discretion to correct an obvious error in the Michigan Administrative Code, pursuant to Section 56(1), MCL 24.256, of the Administrative Procedures Act, 1969 PA 306, as amended.

I respectively request the following changes be made:

The action statement needs correction
R 336.2901, R 336.2901a, R 336.2902, R 336.2907, and R 336.2908 of the Michigan Administrative Code are amended, and R 336.2901a of the Code is rescinded, as follows:

R 336.2901 (w)(iv)
(iv) The magnitude of a creditable, contemporaneous increase in actual emissions is determined by the amount that the allowable emissions following the increase exceeds the emissions unit’s baseline actual emissions prior to the increase. This means allowable emissions and baseline actual emissions are determined from the date of the contemporaneous increase. Baseline actual emissions shall be determined as provided in the definition of baseline actual emissions, except that paragraphs subdivisions (b)(i)(C) and (b)(ii)(D) of this subdivision rule shall not apply.

R 336.2901 (w)(v)(A)(3)
In determining the magnitude of a creditable contemporaneous decrease, allowable emissions and baseline actual emissions are determined from the date of the contemporaneous decrease. Baseline actual emissions shall be determined as provided in the definition of
baseline actual emissions except that **paragraphs subdivisions (b)(i)(C) and (b)(ii)(D) of this subdivision rule shall not apply.**

**R 336.2901 (bb)**

(bb) “Prevention of significant deterioration” or “PSD” permit means any permit that is issued under R 336.2802 or the prevention of significant deterioration of air quality regulations or under 40 C.F.R. §52.21, adopted by reference in R 336.2901a.

**R 336.2901 (cc)**

(cc) “Process Unit” means any collection of **structures and/or equipment, or both,** that processes, assembles, applies, bends, or otherwise uses material inputs to produce or store an intermediate or a completed product. A single stationary source may contain more than one process unit, and a process unit many contain more that one emission unit.

**R 336.2901 (cc)(iii)(B)**

For a petroleum refinery, there are several categories of process units: those that **separate and/or distill, or both,** petroleum feedstocks; those that change molecular structures; petroleum treating processes; auxiliary facilities, such as steam generators and hydrogen productions units; and those that load, unload, blend, or store intermediate or completed products.

**R 336.2908 (5)(c)(ii)**

(ii) Emissions reductions that are achieved by shutting down an existing emissions unit or curtailling production or operating hours and that do not meet the requirements of **R 336.2908(5)(c)(i)(A) and (B)** may be generally credited only if they meet either of the following:

Please note the correction in both the *Michigan Register* and the Michigan Administrative Code.
MCL 14.32 states in part:

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

MCL 24.208 states in part:

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

* * *

(j) Attorney general opinions.”
PREFERENTIAL TREATMENT:

PUBLIC CONTRACTING:

The Michigan State Housing Development Authority’s Equal Employment Opportunity policy, as applied through its loan agreements with developers, violates article 1, § 26 of the Michigan Constitution, which requires non-discriminatory, equal treatment in public contracting. The Constitution prohibits state instrumentalities, such as the Authority, from using public contracts to mandate that private parties grant preferential treatment to individuals or groups on the basis of race, sex, color, ethnicity, or national origin.

Opinion No. 7308

Earl J. Poleski, Executive Director
Michigan State Housing Development Authority
P.O. Box 30044
Lansing, MI 48909

The Honorable Shane Hernandez
State Representative
The Capitol
Lansing, MI 48909

You have asked whether the Michigan State Housing Development Authority’s (Authority or MSHDA) Equal Employment Opportunity (EEO) policy violates article 1, § 26, subsection 2 of the Michigan Constitution of 1963. This Constitutional provision, which was approved by ballot initiative in 2006, provides:

The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the
operation of public employment, public education, or public contracting. [Const 1963, art 1, § 26(2).]

Specifically, you question whether the Authority’s application of its EEO policy results in the state granting preferential treatment to individuals or groups on the basis of race, sex, color, ethnicity, or national origin in the operation of public contracting, which is contrary to Michigan’s constitutional requirement of equal treatment and non-discrimination for all individuals in Michigan.

Background

This section of the Constitution defines “state” to include not just the state itself but also any “governmental instrumentality” of the state. Const 1963, art 1, § 26(3). The Michigan Supreme Court has expressly concluded that the Authority is an instrumentality of the state, as it is a “body politic and corporate” created by the State Housing Development Authority Act of 1966 (Act), 1966 PA 346, MCL 125.1401 et seq. Advisory Opinion re: Constitutionality of PA 1966, No 346, 380 Mich 554, 562-563, 575 (1967).

The Act provides that the Authority may “make or purchase loans” for affordable housing projects. MCL 125.1422(i). Accordingly, the Authority frequently issues bonds and loans bond proceeds to private developers, who in turn use those loan proceeds to finance the construction or renovation of affordable housing. The Authority sometimes uses federal funds to finance development projects and may “agree and comply with conditions attached to federal financial assistance.” MCL 145.1422(c). Notably, the constitutional provision in question excepts actions necessary to remain eligible for federal funding. Const 1963, art 1, § 26(4). Federal equal employment opportunity requirements apply to all contractors and subcontractors that hold construction contracts in excess of $10,000, and any portion of the loan is federally funded. 41 CFR § 60–4.1. This opinion does not
address either construction contracts in excess of $10,000 for work performed on projects involving federally funded loans or federal equal employment opportunity requirements.

**MSHDA’s Equal Employment Opportunity Policy**

Section 46 of the Act dictates that the Authority “shall require . . . that contractors and subcontractors . . . shall take affirmative action to assure an equal opportunity for employment[.]” MCL 125.1446. You indicate that the Authority’s EEO Policy (entitled “Michigan State Housing Development Authority Equal Employment Opportunity Goal Requirements”) provides that contractors constructing Authority-financed developments must implement an EEO plan approved by the Authority. According to the EEO Policy, an EEO plan must include goals for “contracting and employment” of minority-skilled tradespeople and female-skilled tradespeople. Contractors must meet the approved plan’s EEO goals or, alternatively, take “all feasible steps” or make “a good-faith effort” to achieve the EEO goals. If a contractor fails to do this, the Authority will deem the contractor “non-awardable” for up to six years, depending on the circumstances, meaning contracts for work on Authority financed projects would be unavailable to the contractor:

If you fail to meet the established equal employment opportunity goals for contracting and employment of minority-skilled trades’ people or female skilled trades’ people or to demonstrate a good faith effort to achieve these goals, you will be non-awardable for a period of two years [from] the contractor’s next immediate (3 months) submission or maximum period of six years following date of 100% completion of the housing development for which equal employment and contracting goals were met. [Michigan State Housing Development Authority Equal Employment Opportunity Goal Requirements, p 1.]

The Authority further explained that “this determination” is based on a “review” of the contractor’s performance:

This determination will be made by the Manager of Construction Disbursement & EEO based on a review of contractor’s documented performance with respect to the MSHDA assisted housing developments. [Id.]
The EEO Policy defines minorities to include all persons classified as Black, African American, Hispanic, Latino, American Indian, Alaska Native, Asian, Native Hawaiian, or other Pacific Islander. Under the policy, there is a goal percentage for total project hours worked by minorities in each trade, although that goal percentage varies by EEO plan based on the demographics of the community in which the work is to be performed. Also, a contractor must strive to ensure that 6.9% of total project hours worked are by women in each trade.

The Authority has two primary loan structures to which this EEO policy applies—direct loans and pass-through loans.

1. Direct loans

In a direct loan, the Authority directly lends bond proceeds to a developer. The Authority and the developer enter into a Building Loan Agreement, which requires that the developer execute all “Contract Documents” and deliver them to the Authority; these “Contract Documents” cannot be modified without the prior written consent of the Authority. (Building Loan Agreement, Section 3). “Contract Documents,” in turn, is defined to include the General Contractor’s EEO plan, as approved by the Authority. Id. In other words, the Building Loan Agreement requires the developer to include an Authority-approved EEO plan in its contracts with construction contractors.

The Building Loan Agreement also requires the developer to attach the Authority’s “General Conditions of the Construction Contract” (General Conditions) to its contracts with construction contractors. Id. Article 15 of the Authority’s General Conditions is entitled “Employment Practices”
and may be enforced by the Authority. General Conditions, Art 15.1. In this Article, the contractor agrees to “comply with all of the Authority’s Equal Employment Opportunity and Affirmative Action Plan Compliance Reporting Requirements[.]” *Id.* at Art 15.3.1(d). The Article describes where in the contract one can find goals and timetables for minority and female participation. *Id.* at Art 15.3.2(a). And it requires contractors to “implement . . . specific affirmative action standards[.]” *Id.* at Art 15.3.2(b)(3). For example, contractors “where possible” must assign two or more women to each construction project. *Id.* at Art 15.3.2(b)(6)(a). Article 15 mandates that contractors “utilize . . . best efforts in successfully implementing the provisions of the [EEO] Plan,” or face financial consequences in its future dealings with the Authority. *Id.* at Art 15.3.3.

This office has previously opined that the term “preferential treatment” as used in article 1, § 26 means “the act or fact of giving a favorable advantage to one person or group over others based on race, sex, color, ethnicity, or national origin.” OAG, 2007-2008, No. 7202, p 37 (April 9, 2007). Such an action would violate the principle of equal treatment and non-discrimination reflected in Michigan’s Constitution. Even though the EEO Policy, as implemented through an EEO plan and the General Conditions, describes the requisite percentages as “goals” and permits compliance through “good-faith effort,” it still requires contractors to strive to employ only women and minorities for an explicit percentage of jobs. In doing so, the EEO policy establishes a fixed percentage, requiring that contractors give favorable advantage to women and minorities, or otherwise be subject to an examination whether their conduct was in “good faith” and face the loss of Authority financing for up to six years.

While the Authority uses the term “goal,” the EEO Policy nonetheless expressly sets numerical objectives based on race, sex, color, ethnicity, and national origin. See *Regents of Univ of Cal v Bakke*, 438 US 265, 288-289 (1978). And those numerical objectives, even if they are labeled as “goals,” require preferential treatment because they command contractors to hire women and minorities, not
merely to solicit or reach out to women and minorities, because the failure to meet the fixed percentage triggers a review for “good-faith effort.” Safeco Ins Co of America v City of White House, 191 F3d 675, 689-692 (CA 6, 1999); see also Michigan Rd Builders Ass’n, Inc v Milliken, 571 F Supp 173, 177 (ED Mich, 1983) (concluding that Michigan state government procurement law that set interim and expenditure goals for minority- and woman-owned businesses in the form of percentages “must be viewed as giving deference, if not preference, to minorities and women”). Michigan law prohibits these kinds of preferences in public contracting. OAG No. 7202 at p 39 (“Michigan treats all individuals equally in the areas of public contracting, education, and employment.”).

In sum, the Authority’s direct loans require developers to implement an Authority-approved EEO plan and the General Conditions, both of which incorporate the EEO policy and thus require construction contractors to prefer minorities and women—or otherwise be subject to an examination for good faith under the threat of loss of Authority financing for up to six years—when contracting with subcontractors and employing construction workers. This office has previously concluded that the City of Grand Rapids’ analogous bid discount process for construction contracts resulted in preferential treatment based on race, sex, color, ethnicity, and national origin and violated the constitutional provision in question. OAG No. 7202 at p 32 (describing the bid discount process). This was because city contract bidders received discounts based on the percentage of subcontractors that qualified as disadvantaged business enterprises, defined by race, sex, ethnicity, and national origin. But that opinion did not address what is meant by the phrase “the operation of . . . public contracting,” which is an issue at the core of your question as it applies to the Authority’s direct loans. Const 1963, art 1, § 26(2).

Article 1, § 26 of the Constitution was passed by ballot initiative in November 2006 and applies to actions taken after December 23, 2006. OAG No. 7202 at pp 35-36. In 2014, this provision was upheld by the United States Supreme Court as consistent with the United States Constitution’s Equal
Protection Clause. *Schuette v Coalition to Defend Affirmative Action*, 134 S Ct 1623 (2014). The Court explained the rationale behind the ballot initiative:

The electorate’s instruction to governmental entities not to embark upon the course of race-defined and race-based preferences was adopted, we must assume, because the voters deemed a preference system to be unwise, on account of what voters may deem its latent potential to become itself a source of the very resentments and hostilities based on race that this Nation seeks to put behind it. [*Id.* at 1638.]

Again, Michigan’s Constitution has adopted the principle of non-discrimination in public contracting. See OAG No. 7202 at p 39. See also *Parents Involved in Community Schools v Seattle School District No.1*, 551 US 701, 748 (2007) (Roberts, C.J., plurality opinion) (“The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”).

The rules of construction for constitutional provisions apply in this instance. “The primary objective in interpreting a constitutional provision is to determine the text’s original meaning to the ratifiers, the people, at the time of ratification.” *Wayne Co v Hathcock*, 471 Mich 445, 468 (2004). This is known as the rule of “common understanding[.]” *Id.* In the event of a constitutional provision ratified by ballot initiative, the intent of the voters who passed the initiative is determined by looking at the language of the provision itself. *Durant v State Bd of Ed*, 424 Mich 364, 378 (1985). The common understanding can be determined by examining the dictionary definitions in effect at the time of ratification. *Studier v Mich Pub Sch Employees Retirement Bd*, 472 Mich 642, 653-654 (2005). If the constitutional language is clear, extrinsic evidence should not be consulted. *American Axle & Mfg, Inc v Hamtramck*, 461 Mich 352, 362 (2000).

The adjective “public” is defined, in part, to mean “of or relating to a government[.]” *Merriam-Webster’s Collegiate Dictionary* (11th ed, 2006). And the verb “contract” means “to establish or undertake by contract[.]” *Id.* In turn, the noun “contract” means “a binding agreement between two or more persons or parties[.]” *Id.* Accordingly, in 2006, “public contracting” was commonly understood
to mean the establishing of a binding agreement between two or more parties that relates to a government. Because this language is clear, there is no need to consult extrinsic evidence of meaning. *American Axle*, 461 Mich at 362.

When the Authority makes a direct loan, the government entity—the Authority—is not a party to the construction contract. But the Authority is a party to the Building Loan Agreement. Consequently, the Building Loan Agreement, rather than the construction contract, would be commonly understood to be a public contract because a government entity is a party to that agreement. Here, the Building Loan Agreement does not itself give favorable advantage to one person or group based on these factors. But, as described above, the Building Loan Agreement incorporates by reference the EEO Policy, EEO plan, and General Conditions, which require the contractors benefiting from the loan proceeds to give favorable advantage to minorities and women by meeting fixed percentages or otherwise being subject to a review that examines whether the contractors acted in “good faith.”

Significantly, the Constitution prohibits preferential treatment in “the operation of . . . public contracting” not just in “public contracting” itself. Const 1963, art 1, § 26(2). The verb “operate” means, in part, to “bring about, effect” or “to cause to function[.]” *Merriam-Webster’s Collegiate Dictionary* (11th ed, 2006). The Supreme Court relied on a similar definition when interpreting a Michigan statute: “‘operate’ means . . . ‘to bring about, effect, or produce, as by action or the exertion of force or influence.’” *DaimlerChrysler Corp v State Tax Comm*, 482 Mich 220, 227-228 (2008).

Given these definitions, “the operation of . . . public contracting” means more than just the act of public contracting itself—it also means the bringing about or effectuating of public contracting, such as by exerting force or influence. To say otherwise would render the phrase “the operation of” meaningless. But Michigan courts have long held that “every word, every phrase and, *a fortiori*, every distinct provision of the constitution . . . must be construed to have its own specific and appropriate
meaning, office and effect.” Sears v Cottrell, 5 Mich 251, 260 (1858) (Christiany, J.); accord In re Lapeer Co Clerk, 469 Mich 146, 162 (2003) (providing that “no constitutional provision should be construed to nullify or impair another”).

While Michigan courts have not interpreted the phrase “the operation of . . . public contracting,” a California case provides guidance. Article I, § 31, subsection (a) of the California Constitution is identical to Michigan’s article 1, § 26. In Hi-Voltage Wire Works, Inc v City of San Jose, 24 Cal 4th 537; 12 P3d 1068 (2000), the Supreme Court of California concluded that the City’s policy that required “contractors bidding on city projects to utilize a specified percentage of minority and women subcontractors or to document efforts to include minority and women subcontractors in their bids” was unconstitutional under California’s identical provision. Id. at 541.

Although the California case did not involve loan agreements, here, the Authority’s Building Loan Agreement—a public contract—commands the developer to require contractors to favorably advantage minorities and women or be subject to scrutiny regarding whether their conduct was in “good faith.” Accordingly, like the City of San Jose’s bid process, the Authority’s direct loan process unlawfully results in preferential treatment on the basis of race or sex in the operation of public contracting. Id. at 570 (Mosk, J., concurring) (California’s prohibition “is not limited to barring such actors from improperly assigning burdens or benefits themselves. Rather, it extends to barring them from enabling, facilitating, encouraging, or requiring private parties to do so as well.”).

2. Pass-through loans

The second type of loan structure used by the Authority is a “pass-through loan.” A pass-through loan is conduit lending of the Authority’s bond proceeds. In this situation, the Building Loan Agreement and the General Conditions of the Construction Contract are not used. Instead, the
Authority, the developer, and the contractor enter into a tri-party contract—the “Construction Oversight and Equal Employment Opportunity Agreement” (CO Agreement). The CO Agreement requires the developer and contractor to submit an EEO plan to the Authority for approval. Id. at Recital E. The purpose of the CO Agreement is to “establish reporting, implementation, and enforcement requirements for the effectuation of the [EEO plan].” Id. at Recital I.

Section 10 of the CO Agreement outlines the equal employment opportunity requirements applicable to the contractor and largely mirrors Article 15 of the General Conditions of the Construction Contract. Thus, the preferential treatment of minorities and women required in direct loans through the Building Loan Agreement and General Conditions also exist in pass-through loans but are instead applied through the CO Agreement. And because the Authority, a government entity, is a party to the CO Agreement, it is even more apparent that this preferential treatment occurs in the operation of public contracting. Accordingly, the Authority’s pass-through loan process also results in preferential treatment on the basis of race and sex in the operation of public contracting.

**MCL 125.1446 remains valid**

You explained that the Authority’s EEO Policy was developed in response to MCL 125.1446, which provides, in relevant part:

> The authority *shall require* . . . that contractors and subcontractors engaged in the construction of housing projects . . . *shall take affirmative action to assure an equal opportunity for employment*. [Emphasis added.]

The phrase “shall take affirmative action” was added to the statute in 1976 by Public Act 410. The Legislature has not defined the term “affirmative action,” but the term has generally been understood to mean “[a] set of actions designed to eliminate existing and continuing discrimination, to remedy lingering effects of past discrimination, and to create systems and procedures to prevent future
discrimination.” Black’s Law Dictionary (9th ed. 2009). The type of preferential treatment called for in the Authority’s EEO policy and discussed above falls within this definition and is thus authorized by the statute.


Here, MCL 125.1446 may be interpreted as authorizing the Authority to direct contractors and subcontractors to engage in “affirmative action” activities so long as those activities do not result in the preferential treatment of individuals or groups on the basis of race, sex, color, ethnicity, or national origin. Thus, the Authority is not “barred from pursuing its policies of ensuring nondiscrimination and equal opportunities within the contracting process. It must do so, however, employing race- and sex-neutral means.” OAG No. 7202 at p 39, citing *Hi-Voltage, Inc*, 12 P3d at 1085 (“Plainly, the voters intended to preserve outreach efforts to disseminate information about public employment, education, and contracting not predicated on an impermissible classification.”). Thus, if the Authority provided incentives for the employment of individuals who can demonstrate “economic disadvantage,” *id.*, such a criterion would not be dependent on race or sex and so would not rely on impermissible classifications.1

**Conclusion**

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1 See OAG No. 7202 at pp 39-40 and nn 18, 22-23, briefly discussing possible changes to public contracting process to comply with article 1, § 26.
As affirmed by the United States Supreme Court, our Michigan Constitution requires equal, non-discriminatory treatment to our citizenry and prohibits preferential discriminatory treatment in the application of Michigan’s laws and statutes.

It is my opinion, therefore, that the Authority’s EEO policy, as applied through its direct loan and pass-through loan processes, violates article 1, § 26 of the Michigan Constitution, which requires non-discriminatory, equal treatment in public contracting. The Constitution prohibits state instrumentalities, such as the Authority, from using public contracts to mandate that private parties grant preferential treatment to individuals or groups on the basis of race, sex, color, ethnicity, or national origin.

BILL SCHUETTE
Attorney General
MICHIGAN ADMINISTRATIVE CODE TABLE
(2019 SESSION)

MCL 24.208 states in part:

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

*   *   *

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

The following table cites administrative rules promulgated during the year 2019, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).


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(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)
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CUMULATIVE INDEX

ATTORNEY GENERAL, DEPARTMENT OF
Opinions
Constitutionality of State Housing Development Authority’s Equal Employment Opportunity policy
OAG Opinion No. 7308

ENVIRONMENTAL QUALITY, DEPARTMENT OF
Correction:
Part 2. Air Use Approval (2019-1)
Part 18. Prevention of Significant Deterioration of Air Quality (2019-1)
Part 19. New Source Review For Major Sources Impacting Nonattainment Areas (2019-1)

HEALTH AND HUMAN SERVICES, DEPARTMENT OF
Certificate of Need
Cardiac Catheterization Services (2019-1)
Open Heart Surgery (OHS) Services (2019-1)

INSURANCE AND FINANCE, DEPARTMENT OF
Credit for Reinsurance (2019-1)
LICENSING AND REGULATORY AFFAIRS, DEPARTMENT OF
Correction:
Michigan Gas Safety Standards (2019-1)

Accountancy – General Rules (2019-1)
Audiology - General Rules (2019-1)
Basic Local Exchange Service Customer Migration (2019-1)
Behavior Analysts – General Rules (2019-1)
Board of Acupuncture - General Rules (2019-1)
Board of Chiropractic - General Rules (2019-1)
Board of Massage Therapy – General Rules (2019-1)
Board of Pharmacy - Controlled Substances (2019-1)
Board of Physical Therapy - General Rules (2019-1*)
Board of Respiratory Care (2019-1*)
Board of Social Work - General Rules (2019-1)
Board of Veterinary Medicine - General Rules (2019-1)
Consumer Standards and Billing Practices for Electric and Gas Residential Service (2019-1)
Code of Conduct (2019-1)
Michigan Gas Safety Standards (2019-1)
Residential Builders and Maintenance and Alteration Contractors (2019-1)
Securities (2019-1)
Survey and Remonumentation Commission - General Rules (2019-1)
Task Force on Physician’s Assistants – General Rules (2019-1*)
Technical Standards for Electric Service (2019-1)
Unbundled Network Element and Local Interconnection Services (2019-1)
Veterinary Technician Licensure (2019-1) (2019-1)
Workers' Compensation Health Care Services Rules (2019-1)

MILITARY AND VETERAN AFFAIRS, DEPARTMENT OF
State Homes for Veterans (2019-1)

NATURAL RESOURCES, DEPARTMENT OF
Nonmetallic Minerals Leased on State Lands (2019-1)

TRANSPORTATION, DEPARTMENT OF
Motor Bus Transportation Rules (2019-1)
TREASURY, DEPARTMENT OF
Correction:
Taxpayers Bill of Rights (2019-1)
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.”
<table>
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<tr>
<th>PA No.</th>
<th>HB</th>
<th>SB</th>
<th>I.E.*</th>
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<th>Filed Date</th>
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<td>Yes</td>
<td>No</td>
<td>1/18</td>
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<td>Use tax; collections; use tax on the difference; accelerate phase-in. **** Governor Veto of 7/25/17 overridden and approved by 2/3 vote on 1/17/18 **** (Sen. D. Robertson)</td>
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<td>0094</td>
<td>Yes</td>
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<td>Sales tax; collections; use tax on the difference; accelerate phase-in. **** Governor Veto of 7/25/17 overridden and approved by 2/3 vote on 1/17/18 **** (Sen. D. Hildenbrand)</td>
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<td>4533</td>
<td>Yes</td>
<td>1/26</td>
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<td>1/26/18</td>
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<td>Natural resources; hunting; nonresident 3-day small game license; establish. (Rep. C. VanderWall)</td>
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<td>4957</td>
<td>Yes</td>
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<td>Natural resources; hunting; mentored youth hunting license; allow individual to purchase additional licenses. (Rep. G. Howell)</td>
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<td>4/26/18</td>
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<td>Law enforcement; other; arrest power for state property security officers; modify. (Sen. M. Green)</td>
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<td>Courts; reorganization; reorganization of courts and number of judgeships; modify. (Sen. R. Jones)</td>
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<td>Local government; other; educational instruction access act; clarify deed restriction language. (Sen. P. Pavlov)</td>
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<td>Yes</td>
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<td>Cemeteries and funerals; other; money held by a county for care and preservation of cemetery lots; require to be presumed abandoned under certain circumstances. (Rep. J. Alexander)</td>
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</table>

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<td>Agriculture; associations and commissions; dry bean act; modify apportionment of districts and create a member at large. (Rep. E. Canfield)</td>
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<td>Marihuana; facilities; requirements for the issuance of a state operating license; revise, and provide for other general amendments. (Rep. K. Kesto)</td>
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<td>Education; dual enrollment; definition of eligible institution for postsecondary dual enrollment; expand. (Rep. A. Miller)</td>
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<td>Juveniles; juvenile justice services; qualifications for direct care worker of a juvenile court-operated residential care facility; modify. (Rep. E. Leutheuser)</td>
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<td>Probate; wills and estates; appointment of the state or county public administrator as personal representative of a decedent's estate in a formal proceeding; require, and modify powers and duties of public administrators acting as personal representatives. (Rep. J. Runestad)</td>
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<td>Probate; wills and estates; appointment of the state or county public administrator as personal representative of a decedent's estate in a formal proceeding; require, and modify powers and duties of public administrators acting as personal representatives. (Rep. J. Ellison)</td>
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<td>Civil procedure; statute of limitations; appointment of receiver; clarify that appointment does not constitute an action under the &quot;one act&quot; rule, and clarify that statute of limitations under other act does not conflict with the revised judicature act. (Rep. B. Iden)</td>
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<td>Civil procedure; remedies; uniform commercial real estate receivership act; enact. (Rep. B. Iden)</td>
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<td>Traffic control; traffic regulation; annual multiple trip permit for vehicles; allow. (Rep. T. Cole)</td>
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<td>5/14/18</td>
<td>Natural resources; Great Lakes; use of certain bottomlands for private harbors; provide for. (Sen. T. Casperson)</td>
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<td>Highways: name; portion of I-94 in Kalamazoo County; designate as the “Chief Ed Switalski Memorial Highway”. <em>(Sen. M. O’Brien)</em></td>
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<td>Natural resources: other; certain regulations on the taking of frogs; repeal. <em>(Sen. D. Booher)</em></td>
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<td>Human services: county services; child care fund act; establish reimbursement procedures for appeal of determination. <em>(Sen. P. MacGregor)</em></td>
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<td>2/14</td>
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<td>Human services: county services; child care fund act; designate state as first payer and clarify reimbursable expenses. <em>(Sen. P. MacGregor)</em></td>
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<td>Education; financing; levy of regional enhancement millage; revise. <em>(Sen. D. Hildenbrand)</em></td>
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<td>2/14/18</td>
<td>Health occupations; psychologists; temporary license for individuals seeking a limited license as a psychologist; allow for extensions or renewals under certain circumstances and exempt certain individuals from examination requirement to obtain a limited license as a psychologist. <em>(Sen. W. Schmidt)</em></td>
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<td>Natural resources; fishing; ice shanty identification requirements and removal dates; modify. <em>(Rep. C. VanderWall)</em></td>
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<td>Property: conveyances; transfer of certain state-owned property in Saginaw County; provide for. <em>(Rep. V. Guerra)</em></td>
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<td>Explosives; other; Michigan explosives permitting act; repeal. <em>(Rep. S. Johnson)</em></td>
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<td>2/21</td>
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<td>Torts; liability; joint and several liability; revise to reflect repeal of explosives act of 1970. <em>(Rep. S. VanSingel)</em></td>
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<td>Crimes: explosives; certain activities with respect to explosive materials; prohibit and provide penalties.</td>
<td>(Rep. S. Johnson)</td>
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<td>2/20</td>
<td>2/21</td>
<td>5/22/18 #</td>
<td>Criminal procedure: sentencing guidelines; certain activities with respect to explosive materials; prohibit, and enact sentencing guidelines.</td>
<td>(Rep. S. Johnson)</td>
</tr>
<tr>
<td>31</td>
<td>4950</td>
<td></td>
<td>Yes</td>
<td>2/20</td>
<td>2/21</td>
<td>2/21/18</td>
<td>Corporate income tax: insurance companies; tax imposed on gross direct premiums; exclude health maintenance organizations.</td>
<td>(Rep. H. Vaupel)</td>
</tr>
<tr>
<td>32</td>
<td>5047</td>
<td></td>
<td>Yes</td>
<td>2/20</td>
<td>2/21</td>
<td>2/21/18 #</td>
<td>Corporate income tax: insurance companies; definition of insurance company; exclude health maintenance organizations.</td>
<td>(Rep. H. Vaupel)</td>
</tr>
<tr>
<td>33</td>
<td>4752</td>
<td></td>
<td>Yes</td>
<td>2/20</td>
<td>2/21</td>
<td>2/21/18</td>
<td>Probate: wills and estates; fee ratio and reporting requirement; revise, and remove sunset.</td>
<td>(Rep. K. Kesto)</td>
</tr>
<tr>
<td>34</td>
<td>4813</td>
<td></td>
<td>Yes</td>
<td>2/20</td>
<td>2/21</td>
<td>5/22/18</td>
<td>Animals: other; training requirements for animal control shelters, animal protection shelters, and class B dealers to obtain a limited permit to buy, possess, and administer certain animal tranquillizers and sodium pentobarbital; revise.</td>
<td>(Rep. H. Vaupel)</td>
</tr>
<tr>
<td>35</td>
<td>4956</td>
<td></td>
<td>Yes</td>
<td>2/20</td>
<td>2/21</td>
<td>5/22/18</td>
<td>Vehicles: equipment; distance requirement between kingpins and axles on certain trucks; eliminate.</td>
<td>(Rep. T. Cole)</td>
</tr>
<tr>
<td>36</td>
<td>5200</td>
<td></td>
<td>Yes</td>
<td>2/20</td>
<td>2/21</td>
<td>2/21/18 #</td>
<td>Natural resources: other; certain sections in the natural resources and environmental protection act; update and eliminate certain references.</td>
<td>(Rep. G. Howell)</td>
</tr>
<tr>
<td>37</td>
<td>4411</td>
<td></td>
<td>Yes</td>
<td>2/20</td>
<td>2/21</td>
<td>2/21/18</td>
<td>Liquor: licenses; eligibility of certain local governmental units to receive a scheduled event license; modify population threshold.</td>
<td>(Rep. C. VanderWall)</td>
</tr>
<tr>
<td>38</td>
<td>0748</td>
<td></td>
<td>Yes</td>
<td>2/28</td>
<td>2/28</td>
<td>2/28/18</td>
<td>Individual income tax: exemptions; treatment of certain deductions and exemptions for state purposes after reduction of federal exemptions to zero; clarify and increase.</td>
<td>(Sen. J. Brandenburg)</td>
</tr>
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<tr>
<td>39</td>
<td>0750</td>
<td></td>
<td>Yes</td>
<td>2/28</td>
<td>2/28</td>
<td>2/28/18</td>
<td><strong>Individual income tax:</strong> city; treatment of exemptions after reduction of federal exemptions to zero; clarify. <em>(Sen. M. Knollenberg)</em></td>
</tr>
<tr>
<td>40</td>
<td>5175</td>
<td></td>
<td>Yes</td>
<td>2/28</td>
<td>2/28</td>
<td>5/29/18</td>
<td><strong>Liquor:</strong> licenses; qualifications of an eligible merchant that may fill and sell growlers of beer; revise. <em>(Rep. T. Brann)</em></td>
</tr>
<tr>
<td>41</td>
<td>4472</td>
<td></td>
<td>Yes</td>
<td>2/28</td>
<td>2/28</td>
<td>5/29/18</td>
<td><strong>Health:</strong> pharmaceuticals; food and drug administration-designated interchangeable biological drug products; allow pharmacists to dispense under certain circumstances. <em>(Rep. J. Bizon)</em></td>
</tr>
<tr>
<td>42</td>
<td>4665</td>
<td></td>
<td>Yes</td>
<td>2/28</td>
<td>2/28</td>
<td>2/28/18</td>
<td><strong>Education:</strong> discipline; enrollment eligibility in strict discipline academy; modify. <em>(Rep. R. VerHeulen)</em></td>
</tr>
<tr>
<td>43</td>
<td>5040</td>
<td></td>
<td>Yes</td>
<td>3/1</td>
<td>3/1</td>
<td>3/1/18</td>
<td><strong>Traffic control:</strong> other; driver responsibility fees; eliminate collection of beginning September 30, 2018. <em>(Rep. L. Chatfield)</em></td>
</tr>
<tr>
<td>44</td>
<td>5041</td>
<td></td>
<td>Yes</td>
<td>3/1</td>
<td>3/1</td>
<td>3/1/18</td>
<td><strong>Traffic control:</strong> other; educational outreach program for driver responsibility fee amnesty program; create. <em>(Rep. S. Santana)</em></td>
</tr>
<tr>
<td>45</td>
<td>5043</td>
<td></td>
<td>Yes</td>
<td>3/1</td>
<td>3/1</td>
<td>3/1/18</td>
<td><strong>Traffic control:</strong> other; driver responsibility fees; eliminate collection of for certain individuals who entered into an installment payment program. <em>(Rep. R. Hauck)</em></td>
</tr>
<tr>
<td>46</td>
<td>5044</td>
<td></td>
<td>Yes</td>
<td>3/1</td>
<td>3/1</td>
<td>3/1/18</td>
<td><strong>Traffic control:</strong> other; driver responsibility fees; eliminate assessment beginning October 1, 2018. <em>(Rep. J. Bellino)</em></td>
</tr>
<tr>
<td>47</td>
<td>0613</td>
<td></td>
<td>Yes</td>
<td>3/1</td>
<td>3/1</td>
<td>3/1/18</td>
<td><strong>Traffic control:</strong> other; reference in enhanced driver license and enhanced official state personal identification card act to driver responsibility fees; modify. <em>(Sen. R. Jones)</em></td>
</tr>
<tr>
<td>48</td>
<td>5046</td>
<td></td>
<td>Yes</td>
<td>3/1</td>
<td>3/1</td>
<td>3/1/18</td>
<td><strong>Traffic control:</strong> other; waiver of driver responsibility fee for successful participation in DWI sobriety court program; provide for on or after October 1, 2018. <em>(Rep. S. Marino)</em></td>
</tr>
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<tr>
<td>49</td>
<td>0625</td>
<td>Yes</td>
<td>3/1</td>
<td>3/1</td>
<td>3/31/18</td>
<td>Traffic control; other; workforce training payment program; create. (Sen. K. Horn)</td>
</tr>
<tr>
<td>50</td>
<td>5079</td>
<td>Yes</td>
<td>3/1</td>
<td>3/1</td>
<td>3/31/18</td>
<td>Traffic control; driver license; Traffic control; driver license; driver responsibility fee; amend eligibility for alternative payment programs and reinstatement of driver license, and eliminate driver responsibility fee assessments for certain offenses. (Rep. D. Rendon)</td>
</tr>
<tr>
<td>51</td>
<td>0400</td>
<td>Yes</td>
<td>3/6</td>
<td>3/6</td>
<td>3/6/18</td>
<td>Communications; emergency 9-1-1; emergency 9-1-1 service enabling act; modify. (Sen. R. Jones)</td>
</tr>
<tr>
<td>52</td>
<td>0481</td>
<td>Yes</td>
<td>3/6</td>
<td>3/6</td>
<td>6/4/18</td>
<td>Highways; name; portion of US-10; designate as the &quot;Marine Lance Corporal Ryan Burgess Memorial Highway&quot;. (Sen. J. Stamas)</td>
</tr>
<tr>
<td>53</td>
<td>4191</td>
<td>Yes</td>
<td>3/6</td>
<td>3/6</td>
<td>6/4/18</td>
<td>Highways; name; portion of I-75; designate as the &quot;Officer Martin 'Marty' Chivas Memorial Highway&quot;. (Rep. M. Howrylak)</td>
</tr>
<tr>
<td>54</td>
<td>5216</td>
<td>Yes</td>
<td>3/6</td>
<td>3/6</td>
<td>6/4/18</td>
<td>Civil procedure; other; report of prisoner actions dismissed as frivolous; eliminate. (Rep. K. Kesto)</td>
</tr>
<tr>
<td>55</td>
<td>5039</td>
<td>Yes</td>
<td>3/6</td>
<td>3/6</td>
<td>3/6/18</td>
<td>Transportation; motor fuel tax; motor fuel tax exemptions; modify. (Rep. J. Wentworth)</td>
</tr>
<tr>
<td>56</td>
<td>0616</td>
<td>Yes</td>
<td>3/6</td>
<td>3/6</td>
<td>6/4/18</td>
<td>Children; protection; access to electronic central registry; allow tribal entity or tribal social services representative to have access. (Sen. J. Emmons)</td>
</tr>
<tr>
<td>57</td>
<td>0393</td>
<td>Yes</td>
<td>3/13</td>
<td>3/14</td>
<td>1/1/19</td>
<td>Economic development; tax increment financing; tax increment finance authorities into a single act; provide for. (Sen. K. Horn)</td>
</tr>
<tr>
<td>58</td>
<td>0419</td>
<td>Yes</td>
<td>3/13</td>
<td>3/14</td>
<td>6/12/18</td>
<td>Juveniles; other; considerations for returning child to custody of parent; modify. (Sen. J. Emmons)</td>
</tr>
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<td>59</td>
<td>0420</td>
<td></td>
<td>Yes</td>
<td>3/13</td>
<td>3/14</td>
<td>6/12/18</td>
<td>Children; protection; considerations for returning child to custody of parent; modify. (Sen. P. Pavlov)</td>
</tr>
<tr>
<td>60</td>
<td>0421</td>
<td></td>
<td>Yes</td>
<td>3/13</td>
<td>3/14</td>
<td>6/12/18</td>
<td>Children; child abuse or child neglect; considerations for returning child to custody of parent; modify. (Sen. R. Jones)</td>
</tr>
<tr>
<td>61</td>
<td>0522</td>
<td></td>
<td>Yes</td>
<td>3/13</td>
<td>3/14</td>
<td>6/12/18</td>
<td>Local government; other; compensation for directors of a village or township community center; provide for. (Sen. T. Caspersion)</td>
</tr>
<tr>
<td>62</td>
<td>0582</td>
<td></td>
<td>Yes</td>
<td>3/13</td>
<td>3/14</td>
<td>6/12/18</td>
<td>Vehicles; registration; issuance of plates, tabs, or placards to persons with disabilities; allow upon determination of a qualifying condition by a physical therapist. (Sen. M. Knollenberg)</td>
</tr>
<tr>
<td>63</td>
<td>0645</td>
<td></td>
<td>Yes</td>
<td>3/13</td>
<td>3/14</td>
<td>6/12/18</td>
<td>Transportation; other; state safety oversight entity; create to oversee covered rail fixed guideway public transportation systems. (Sen. T. Caspersion)</td>
</tr>
<tr>
<td>64</td>
<td>4535</td>
<td></td>
<td>Yes</td>
<td>3/13</td>
<td>3/14</td>
<td>6/12/18</td>
<td>Traffic control; civil infraction procedures; civil infraction for failure to place a tab on a vehicle within 30 days of date of registration; modify. (Rep. C. VanderWall)</td>
</tr>
<tr>
<td>65</td>
<td>4536</td>
<td></td>
<td>Yes</td>
<td>3/13</td>
<td>3/14</td>
<td>6/12/18</td>
<td># Criminal procedure; expunction; expunction of all information in arrest record when individual is wrongly accused under certain circumstances; require. (Rep. P. Lucido)</td>
</tr>
<tr>
<td>66</td>
<td>4537</td>
<td></td>
<td>Yes</td>
<td>3/13</td>
<td>3/14</td>
<td>6/12/18</td>
<td># Law enforcement; law enforcement information network (LEIN); promulgation of rules to effectuate expunction and destruction of all arrest record information from LEIN and other databases by C.J.I.S. under certain circumstances; require. (Rep. P. Lucido)</td>
</tr>
<tr>
<td>67</td>
<td>4538</td>
<td></td>
<td>Yes</td>
<td>3/13</td>
<td>3/14</td>
<td>6/12/18</td>
<td># Criminal procedure; pretrial procedure; expunction and destruction of biometric data; eliminate certain exceptions. (Rep. P. Lucido)</td>
</tr>
<tr>
<td>68</td>
<td>4973</td>
<td></td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>6/17/18</td>
<td>Civil rights; public records; public body records, documents, or information disclosable under freedom of information act; exempt critical energy infrastructure and cybersecurity-related information. (Rep. B. Iden)</td>
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<td>69</td>
<td>0596</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>6/17/18</td>
<td>Recreation: trails; trail development and management; provide for. (Sen. G. Hansen)</td>
</tr>
<tr>
<td>70</td>
<td>4168</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>6/17/18</td>
<td>Highways: name; portion of M-71; designate as &quot;PFC Shane Cantu Veterans Memorial Highway&quot;. (Rep. B. Frederick)</td>
</tr>
<tr>
<td>71</td>
<td>4430</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>6/17/18</td>
<td>Civil rights: privacy; state assistance of federal government data collection; restrict. (Rep. M. Howrylak)</td>
</tr>
<tr>
<td>72</td>
<td>4545</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>7/1/18</td>
<td>Employment security: other; data sharing; allow for certain purposes and facilitate access. (Rep. J. Ellison)</td>
</tr>
<tr>
<td>73</td>
<td>4546</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>7/1/18</td>
<td>Employment security: reports; liability for misuse of shared data; extend to individuals associated with Michigan works agencies and certain educational institutions. (Rep. G. Howell)</td>
</tr>
<tr>
<td>74</td>
<td>4839</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>6/17/18</td>
<td>Vehicles: registration; authority to deny or suspend vehicle registrations of carriers under certain circumstances; provide for. (Rep. C. VanderWall)</td>
</tr>
<tr>
<td>75</td>
<td>4888</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>3/19/18</td>
<td>Traffic control; traffic regulation; definition of &quot;charitable or civic organization&quot; in section 676b of the Michigan vehicle code; modify. (Rep. D. Lauwers)</td>
</tr>
<tr>
<td>76</td>
<td>5094</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>6/17/18</td>
<td>Consumer credit: credit reports and reporting agencies; free security freeze for consumers; provide for. (Rep. J. Bellino)</td>
</tr>
<tr>
<td>77</td>
<td>5112</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>6/17/18</td>
<td>Highways: name; portion of Red Arrow Highway in Berrien County; designate as the &quot;Trooper Robert J. Mihalik Memorial Highway&quot;. (Rep. K. LaSata)</td>
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<tr>
<td>78</td>
<td>5155</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>6/17/18</td>
<td>Natural resources: rivers and streams; adopt-a-river program; limit to state parks and recreation areas. (Rep. K. LaSata)</td>
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<td>79</td>
<td>5156</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>6/17/18</td>
<td>Natural resources: shorelands; adopt-a-shoreline program; limit to state parks and recreation areas. (Rep. K. LaSata)</td>
</tr>
<tr>
<td>80</td>
<td>5198</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>6/17/18</td>
<td>Natural resources: forests; agreements with other states and the federal government to provide assistance; allow for all hazard incidents. (Rep. S. Allor)</td>
</tr>
<tr>
<td>81</td>
<td>5236</td>
<td>Yes</td>
<td>3/19</td>
<td>3/19</td>
<td>6/17/18</td>
<td>Occupations: accounting; certified public accountants; continuing education requirements; modify, and make other general revisions. (Rep. B. Iden)</td>
</tr>
<tr>
<td>83</td>
<td>5120</td>
<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>6/24/18</td>
<td>Highways: name; portion of M-15 in the city of Vassar; designate as the “Specialist 5 Michael May and Corporal Chris Esckelson Memorial Highway”. (Rep. E. Canfield)</td>
</tr>
<tr>
<td>84</td>
<td>0353</td>
<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>6/24/18</td>
<td>Labor: benefits; mandatory job interview information requirements; prohibit local units of government from establishing for employers. (Sen. J. Proos)</td>
</tr>
<tr>
<td>85</td>
<td>0442</td>
<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>6/24/18</td>
<td>Businesses: business corporations; general revisions to business corporation act; provide for. (Sen. M. Kowall)</td>
</tr>
<tr>
<td>86</td>
<td>0590</td>
<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>6/24/18</td>
<td>Townships: charter; computation of net indebtedness; modify to include eligible reimbursements under the local community stabilization authority act. (Sen. J. Stamas)</td>
</tr>
<tr>
<td>87</td>
<td>0591</td>
<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>6/24/18</td>
<td>Villages: general law; computation of net indebtedness; modify to include eligible reimbursements under the local community stabilization authority act. (Sen. J. Stamas)</td>
</tr>
<tr>
<td>88</td>
<td>0592</td>
<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>6/24/18</td>
<td>Villages: home rule; computation of net indebtedness; modify to include eligible reimbursements under the local community stabilization authority act. (Sen. M. Shirkey)</td>
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<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>6/24/18</td>
<td>Cities: home rule; computation of net indebtedness; modify to include eligible reimbursements under the local community stabilization authority act. (Sen. M. Shirkey)</td>
</tr>
<tr>
<td>90</td>
<td>0589</td>
<td></td>
<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>6/24/18</td>
<td>Vehicles: other; operation of electric patrol vehicles on sidewalks; permit under certain circumstances and modify certain equipment requirements. (Sen. P. MacGregor)</td>
</tr>
<tr>
<td>91</td>
<td>0638</td>
<td></td>
<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>6/24/18</td>
<td>Insurance: reinsurance; eligibility credit for reinsurance; modify. (Sen. M. O’Brien)</td>
</tr>
<tr>
<td>92</td>
<td>4811</td>
<td></td>
<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>3/26/18 #</td>
<td>Agriculture: other; certain food processing standards; modify compliance with federal regulations, and modify certain licensing requirements and fees. (Rep. R. Victory)</td>
</tr>
<tr>
<td>93</td>
<td>4812</td>
<td></td>
<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>3/26/18 #</td>
<td>Agriculture: other; certain feed standards; modify compliance with federal regulations. (Rep. R. Victory)</td>
</tr>
<tr>
<td>94</td>
<td>5227</td>
<td></td>
<td>Yes</td>
<td>3/26</td>
<td>3/26</td>
<td>6/24/18</td>
<td>Agriculture: regulation; seed potato standards for distributing, growing, and planting; require to comply with the national harmonization program. (Rep. R. Victory)</td>
</tr>
<tr>
<td>95</td>
<td>5257</td>
<td></td>
<td>Yes</td>
<td>4/2</td>
<td>4/2</td>
<td>7/1/18</td>
<td>Crimes: computer; penalties for possession and use of ransomware without authorization; provide for. (Rep. B. Iden)</td>
</tr>
<tr>
<td>96</td>
<td>5258</td>
<td></td>
<td>Yes</td>
<td>4/2</td>
<td>4/2</td>
<td>7/1/18 #</td>
<td>Criminal procedure: sentencing guidelines; sentencing guidelines for possession with intent to use ransomware without authorization; enact. (Rep. J. Lower)</td>
</tr>
<tr>
<td>97</td>
<td>5097</td>
<td></td>
<td>Yes</td>
<td>4/2</td>
<td>4/2</td>
<td>7/1/18</td>
<td>Counties: boards and commissions; permit fee required for a government entity or telecommunication provider working within a county right-of-way; clarify limits, and clarify bonding and insurance requirements for telecommunication providers working within a county right-of-way. (Rep. B. Griffin)</td>
</tr>
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| 99    | 5282 |     | Yes   | 4/2               | 4/2        | 7/1/18        | Crimes: intoxication or impairment; hearing procedure for issuing a restricted license requiring the installation of ignition interlock device; modify.  
(Rep. P. Lucido) |
| 100   | 5456 |     | Yes   | 4/2               | 4/2        | 4/2/18        | Civil procedure; civil actions; asbestos bankruptcy trust claims transparency act; enact.  
(Rep. J. Wentworth) |
| 101   | 5678 |     | Yes   | 4/2               | 4/2        | 4/2/18        | Health occupations: health professionals; bona fide prescriber-patient relationship before prescribing or dispensing a controlled substance; modify beginning date.  
(Rep. B. Kahle) |
| 102   | 4633 |     | Yes   | 4/2               | 4/5        | 7/4/18        | Law enforcement; reports; uniform crime reporting system; include the national missing and unidentified persons system (NamUs) for reports of missing individuals.  
(Rep. T. Brann) |
| 103   | 0623 |     | Yes   | 4/5               | 4/5        | 4/5/18        | Individual income tax: deductions; extension or renewal of certain qualified renaissance zones; allow.  
(Sen. K. Horn) |
| 104   | 0662 |     | Yes   | 4/2               | 4/5        | 7/4/18        | Liquor: licenses; eligibility for club liquor license; extend to certain additional members.  
(Sen. R. Jones) |
| 105   | 0712 |     | Yes   | 4/5               | 4/5        | 4/5/18        | Civil rights; public records; maintenance, custody, and procedure for disclosing certain public records; modify.  
(Sen. J. Stamas) |
| 106   | 0727 |     | Yes   | 4/5               | 4/5        | 4/5/18        | Education; teachers; interim teaching certificate; modify certain criteria.  
(Sen. P. Pavlov) |
| 107   | 0801 |     | Yes   | 4/5               | 4/5        | 7/4/18        | Controlled substances: schedules; tianeptine sodium; include as a schedule 2 drug.  
(Sen. R. Jones) |
| 108   | 4922 |     | Yes   | 4/2               | 4/5        | 7/4/18        | Vehicles: inspection; records of collection and disposition of inspection fees; allow for review by local government.  
(Rep. J. Yaroch) |

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<tr>
<td>109</td>
<td>0521</td>
<td>Yes</td>
<td>4/24</td>
<td>7/23/18</td>
<td>Traffic control; traffic regulation; procedure for intersection traffic flow due to power failure; clarify. (Sen. R. Jones)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>110</td>
<td>5190</td>
<td>Yes</td>
<td>4/24</td>
<td>4/24/18</td>
<td>Liquor; licenses; issuance of a national sporting event license; expand to include Professional Golf Association Tour Champions Tournament for 2018-2020. (Rep. T. Sneller)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>111</td>
<td>4562</td>
<td>Yes</td>
<td>4/25</td>
<td>4/25/18</td>
<td>Agriculture; other; agricultural disaster loan origination program act; recodify and update reference to sales tax exemption. (Rep. C. VanderWall)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>112</td>
<td>4563</td>
<td>Yes</td>
<td>4/25</td>
<td>4/25/18</td>
<td>State financing and management; funds; reference to sales tax exemption for certain agriculture equipment; revise. (Rep. D. Rendon)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>113</td>
<td>4561</td>
<td>Yes</td>
<td>4/25</td>
<td>4/25/18</td>
<td>Sales tax; exemptions; exemption for certain agricultural equipment; clarify. (Rep. D. Lauwers)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>114</td>
<td>4564</td>
<td>Yes</td>
<td>4/25</td>
<td>4/25/18</td>
<td>Use tax; exemptions; exemption for certain agricultural equipment; clarify. (Rep. T. Barrett)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>115</td>
<td>5394</td>
<td>Yes</td>
<td>4/25</td>
<td>7/25/18</td>
<td>Highways; name; portion of Business Route 127; designate as the &quot;SPC Robert Friese Memorial Highway&quot;. (Rep. J. Wentworth)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>116</td>
<td>5001</td>
<td>Yes</td>
<td>4/25</td>
<td>7/25/18</td>
<td>Occupations; foresters; registration of foresters; provide for purposes of preparing management plan for tax-exempt qualified forest property. (Rep. D. Rendon)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>117</td>
<td>5002</td>
<td>Yes</td>
<td>4/25</td>
<td>7/25/18</td>
<td>Property tax; exemptions; qualified forest property; revise forester registration program citation. (Rep. D. Rendon)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>118</td>
<td>5091</td>
<td>Yes</td>
<td>4/25</td>
<td>4/26/18</td>
<td>Individual income tax; reporting; employer reporting deadline; modify to comply with federal deadline. (Rep. B. Kahle)</td>
<td></td>
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<tr>
<td>119</td>
<td>5438</td>
<td>Yes</td>
<td>4/25</td>
<td>4/26</td>
<td>7/25/18</td>
<td><strong>Crimes:</strong> human trafficking; definition of coercion; expand to include controlling or facilitating access to controlled substances. <em>(Rep. L. Cox)</em></td>
</tr>
<tr>
<td>120</td>
<td>0809</td>
<td>Yes</td>
<td>5/2</td>
<td>5/3</td>
<td>12/31/18</td>
<td><strong>Elections:</strong> other; Michigan election law; repeal and remove certain obsolete provisions, and make other miscellaneous changes. <em>(Sen. D. Robertson)</em></td>
</tr>
<tr>
<td>121</td>
<td>0810</td>
<td>Yes</td>
<td>5/2</td>
<td>5/3</td>
<td>12/31/18 #</td>
<td><strong>Courts:</strong> district court; reference in the revised judicature act of 1961 to the Michigan election law; update. <em>(Sen. D. Robertson)</em></td>
</tr>
<tr>
<td>122</td>
<td>0811</td>
<td>Yes</td>
<td>5/2</td>
<td>5/3</td>
<td>12/31/18 #</td>
<td><strong>Elections:</strong> school; reference in the revised school code to the Michigan election law; update. <em>(Sen. D. Robertson)</em></td>
</tr>
<tr>
<td>123</td>
<td>0812</td>
<td>Yes</td>
<td>5/2</td>
<td>5/3</td>
<td>12/31/18</td>
<td><strong>Elections:</strong> voting equipment; certain obsolete provisions; remove, and modify voting machine references to electronic voting system. <em>(Sen. D. Robertson)</em></td>
</tr>
<tr>
<td>124</td>
<td>0813</td>
<td>Yes</td>
<td>5/2</td>
<td>5/3</td>
<td>12/31/18 #</td>
<td><strong>Criminal procedure:</strong> sentencing guidelines; sentencing guidelines for certain Michigan election law violations; provide for. <em>(Sen. D. Robertson)</em></td>
</tr>
<tr>
<td>125</td>
<td>0814</td>
<td>Yes</td>
<td>5/2</td>
<td>5/3</td>
<td>12/31/18</td>
<td><strong>Elections:</strong> registration; certain obsolete provisions in the Michigan election law related to voter registration; remove, and amend other provisions related to voter registration. <em>(Sen. D. Robertson)</em></td>
</tr>
<tr>
<td>126</td>
<td>5646</td>
<td>Yes</td>
<td>5/2</td>
<td>5/3</td>
<td>5/3/18</td>
<td><strong>Elections:</strong> qualified voter file; maintenance of the statewide qualified voter file; require the secretary of state to check against the United States Social Security Administration's death master file and require the secretary of state to participate in multistate voter registration verification programs. <em>(Rep. J. Calley)</em></td>
</tr>
<tr>
<td>127</td>
<td>5644</td>
<td>Yes</td>
<td>5/2</td>
<td>5/3</td>
<td>5/3/18</td>
<td><strong>Elections:</strong> absent voters; procedure to &quot;spoil&quot; an absent voter ballot; provide for, and require use of paper ballots for tabulation. <em>(Rep. T. Barrett)</em></td>
</tr>
<tr>
<td>128</td>
<td>5012</td>
<td>Yes</td>
<td>5/2</td>
<td>5/3</td>
<td>8/1/18</td>
<td><strong>Elections:</strong> recounts; aggrieved candidate for purposes of recount; clarify. <em>(Rep. J. Lilly)</em></td>
</tr>
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| 129    | 5669     | Yes  | 5/2               | 5/3        | 5/3/18         | Elections; voting procedures; identification for election purposes; define.  
(Rep. A. Miller) |
| 130    | 0290     | Yes  | 5/2               | 5/3        | 8/1/18         | Elections; recounts; recount fee; increase for certain recounts.  
(Sen. D. Robertson) |
| 131    | 0841     | Yes  | 5/2               | 5/3        | 8/1/18         | Businesses; partnerships; liability for obligations of limited liability partnerships; clarify.  
(Sen. J. Brandenburg) |
| 132    | 5261     | Yes  | 5/2               | 5/3        | 5/3/18         | Property tax; exemptions; filings for certain personal property exemptions; modify dates.  
(Rep. J. Tedder) |
| 133    | 4905     | Yes  | 5/2               | 5/3        | 5/3/18         | Property tax; principal residence exemption; principal residence exemption for individual residing in nursing home or assisted living facility; modify.  
(Rep. P. Lucido) |
| 134    | 0618     | Yes  | 5/9               | 5/10       | 8/8/18         | Highways; name; portion of M-59 in Livingston County; designate as the "Candice Dunn Memorial Highway".  
(Sen. D. Hildenbrand) |
| 135    | 5238     | Yes  | 5/9               | 5/10       | 5/10/18        | School aid; other; operational improvements for school districts; clarify terms.  
(Rep. B. Griffin) |
| 136    | 5463     | Yes  | 5/9               | 5/10       | 8/8/18 #       | Health; hazardous products; sale or delivery of nitrous oxide to individuals under the age of 18; prohibit, and provide remedies.  
(Rep. S. Chang) |
| 137    | 5464     | Yes  | 5/9               | 5/10       | 8/8/18 #       | Civil procedure; remedies; prosecuting attorney or attorney general to bring action for certain violations regarding the sale of nitrous oxide to minors; provide for.  
(Rep. J. Bellino) |
| 138    | 4628     | Yes  | 5/9               | 5/10       | 8/8/18         | Highways; name; portion of M-66 between M-55 in Lake City and M-72 in Kalkaska; designate as the "Veterans Highway".  
(Rep. D. Rendon) |

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<tr>
<td>139</td>
<td>4945</td>
<td></td>
<td>Yes</td>
<td>5/9</td>
<td>5/10</td>
<td>8/8/18</td>
<td>Traffic control; traffic regulation; prohibition on operation of golf cart on state trunk line highway; eliminate under certain circumstances. (Rep. A. Miller)</td>
</tr>
<tr>
<td>140</td>
<td>5215</td>
<td></td>
<td>Yes</td>
<td>5/9</td>
<td>5/10</td>
<td>8/8/18</td>
<td>Crimes; escape; provision related to assisting an inmate to escape from the Adrian girls training school; repeal. (Rep. B. Kahle)</td>
</tr>
<tr>
<td>141</td>
<td>4422</td>
<td></td>
<td>Yes</td>
<td>5/9</td>
<td>5/10</td>
<td>5/10/18</td>
<td>Retirement; public school employees; allowing a retirant to be employed at a reporting unit as school renewal coach or high impact leadership facilitator under certain conditions without forfeiting retirement allowance or health care coverage; provide for. (Rep. H. Hughes)</td>
</tr>
<tr>
<td>142</td>
<td>4768</td>
<td></td>
<td>Yes</td>
<td>5/9</td>
<td>5/10</td>
<td>8/8/18</td>
<td>Juveniles; criminal procedure; setting aside juvenile adjudication for completion of the Michigan youth challeNGe academy; provide for. (Rep. J. Bizon)</td>
</tr>
<tr>
<td>143</td>
<td>4410</td>
<td></td>
<td>Yes</td>
<td>5/9</td>
<td>5/10</td>
<td>8/8/18</td>
<td>Probate; wills and estates; exempt property; allow decedent to exclude child by written instrument. (Rep. P. Lucido)</td>
</tr>
<tr>
<td>144</td>
<td>5530</td>
<td></td>
<td>Yes</td>
<td>5/9</td>
<td>5/10</td>
<td>8/8/18</td>
<td>Crimes; criminal sexual conduct; individual convicted of or juvenile adjudicated for criminal sexual conduct; prohibit from returning to the same school building as victim. (Rep. L. Theis)</td>
</tr>
<tr>
<td>145</td>
<td>5531</td>
<td></td>
<td>Yes</td>
<td>5/9</td>
<td>5/10</td>
<td>8/8/18</td>
<td>Education; discipline; provision related to suspension or expulsion of a student; modify. (Rep. L. Theis)</td>
</tr>
<tr>
<td>146</td>
<td>5532</td>
<td></td>
<td>Yes</td>
<td>5/9</td>
<td>5/10</td>
<td>8/8/18</td>
<td>Civil procedure; personal protection orders; criminal sexual conduct; prohibit abuser from attending same school as minor victim. (Rep. S. Santana)</td>
</tr>
<tr>
<td>147</td>
<td>5100</td>
<td></td>
<td>Yes</td>
<td>5/15</td>
<td>5/16</td>
<td>8/14/18</td>
<td>Traffic control; violations; definition of obstructed license plate; clarify. (Rep. H. Hughes)</td>
</tr>
<tr>
<td>148</td>
<td>5010</td>
<td></td>
<td>Yes</td>
<td>5/15</td>
<td>5/16</td>
<td>8/14/18</td>
<td>Criminal procedure; statute of limitations; crime of armed robbery; include. (Rep. D. Farrington)</td>
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<td>149</td>
<td>5234</td>
<td></td>
<td>Yes</td>
<td>5/15</td>
<td>5/16</td>
<td>Corrections: jails; medical probation based on physical or mental incapacity and compassionate release based on imminent death; allow. (Rep. M. Howrylak)</td>
</tr>
<tr>
<td>150</td>
<td>5259</td>
<td></td>
<td>Yes</td>
<td>5/15</td>
<td>5/16</td>
<td>Transportation: other; taxi service, limousine, and transportation network company vehicle signage regulations; revise. (Rep. B. Iden)</td>
</tr>
<tr>
<td>151</td>
<td>0297</td>
<td></td>
<td>Yes</td>
<td>5/15</td>
<td>5/16</td>
<td>Occupations: individual licensing and regulation; presentation of identification to certain government officials; require, and revise scope of practice for electricians. (Sen. K. Horn)</td>
</tr>
<tr>
<td>152</td>
<td>0815</td>
<td></td>
<td>Yes</td>
<td>5/15</td>
<td>5/16</td>
<td>Vehicles: registration; registration fee reduction for vans modified with a wheelchair lift mechanism; modify. (Sen. K. Horn)</td>
</tr>
<tr>
<td>153</td>
<td>5407</td>
<td></td>
<td>Yes</td>
<td>5/23</td>
<td>5/23</td>
<td>Crime victims; statements; presence of defendant during presentation of victim oral impact statements; require. (Rep. H. Hughes)</td>
</tr>
<tr>
<td>154</td>
<td>4667</td>
<td></td>
<td>Yes</td>
<td>5/23</td>
<td>5/23</td>
<td>Liquor: economic development; grape and wine industry council; change name to Michigan craft beverage council and revise powers and duties of members. (Rep. B. Iden)</td>
</tr>
<tr>
<td>155</td>
<td>0440</td>
<td></td>
<td>Yes</td>
<td>5/23</td>
<td>5/23</td>
<td>Liquor: other; reference to grape and wine council; revise to reflect change in name to the Michigan craft beverage council and to create a fund for it to carry out its responsibilities. (Sen. G. Hansen)</td>
</tr>
<tr>
<td>157</td>
<td>5591</td>
<td></td>
<td>Yes</td>
<td>5/23</td>
<td>5/23</td>
<td>Occupations: appraisers; time period for filing a complaint against a licensee for certain violations; modify. (Rep. B. Iden)</td>
</tr>
<tr>
<td>158</td>
<td>0803</td>
<td></td>
<td>Yes</td>
<td>5/23</td>
<td>5/23</td>
<td>Liquor: licenses; alcohol sales in state-owned buildings; allow under certain circumstances. (Sen. D. Hildenbrand)</td>
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<td>159</td>
<td>0804</td>
<td>Yes</td>
<td>5/23</td>
<td>5/23</td>
<td>8/21/18</td>
<td>Property: state buildings; concession operations by blind persons; modify exceptions. (Sen. D. Hildenbrand)</td>
</tr>
<tr>
<td>160</td>
<td>0568</td>
<td>Yes</td>
<td>5/23</td>
<td>5/23</td>
<td>5/23/18</td>
<td>Vehicles: motorcycles; height restriction on motorcycle and moped handlebars; modify. (Sen. R. Jones)</td>
</tr>
<tr>
<td>161</td>
<td>0647</td>
<td>Yes</td>
<td>5/23</td>
<td>5/23</td>
<td>5/23/18</td>
<td>Individual income tax; home heating credit; funding for weatherization; extend sunset and require report. (Sen. D. Zorn)</td>
</tr>
<tr>
<td>162</td>
<td>0839</td>
<td>Yes</td>
<td>5/23</td>
<td>5/23</td>
<td>8/21/18</td>
<td>Natural resources; mining; amendments to a mining permit; allow significant changes after a public meeting and allow certain changes by written notification to department of environmental quality. (Sen. T. Casperson)</td>
</tr>
<tr>
<td>163</td>
<td>0840</td>
<td>Yes</td>
<td>5/23</td>
<td>5/23</td>
<td>8/21/18</td>
<td>Environmental protection; water pollution; certain waste collection or treatment facilities; exempt from certain permit requirements. (Sen. T. Casperson)</td>
</tr>
<tr>
<td>164</td>
<td>0881</td>
<td>Yes</td>
<td>5/23</td>
<td>5/23</td>
<td>8/21/18</td>
<td>Environmental protection; water pollution; exemptions for tailings disposal facilities; modify. (Sen. T. Casperson)</td>
</tr>
<tr>
<td>165</td>
<td>0883</td>
<td>Yes</td>
<td>6/3</td>
<td>6/4</td>
<td>6/4/18</td>
<td>Appropriations; supplemental; Michigan natural resources trust fund; provide appropriations for fiscal year 2017-2018. (Sen. D. Booher)</td>
</tr>
<tr>
<td>166</td>
<td>0551</td>
<td>Yes</td>
<td>6/3</td>
<td>6/4</td>
<td>6/4/18</td>
<td>Natural resources; other; natural resources trust fund process for determining amounts available for expenditure; provide for. (Sen. D. Hildenbrand)</td>
</tr>
<tr>
<td>167</td>
<td>5620</td>
<td>Yes</td>
<td>6/3</td>
<td>6/4</td>
<td>1/1/19</td>
<td>Sales tax; exemptions; exemption claim process after sale at retail; modify. (Rep. P. Hornberger)</td>
</tr>
<tr>
<td>168</td>
<td>5621</td>
<td>Yes</td>
<td>6/3</td>
<td>6/4</td>
<td>1/1/19</td>
<td>Use tax; exemptions; exemption claim process after sale; modify. (Rep. S. Allor)</td>
</tr>
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<tbody>
<tr>
<td>169</td>
<td>5093</td>
<td>Yes</td>
<td>6/3</td>
<td>6/4</td>
<td>6/4/18</td>
<td>Retirement: public school employees; matching contributions for certain employees hired before July 1, 2010; provide for. (Rep. B. LaFave)</td>
</tr>
<tr>
<td>170</td>
<td>5235</td>
<td>Yes</td>
<td>6/3</td>
<td>6/4</td>
<td>9/2/18</td>
<td>Labor: hours and wages; technical amendments to payment of monthly payday wages; provide for. (Rep. S. Marino)</td>
</tr>
<tr>
<td>171</td>
<td></td>
<td>Yes</td>
<td>6/6</td>
<td>6/6/18</td>
<td></td>
<td>Initiated Law: prevailing wage; requirement; repeal.</td>
</tr>
<tr>
<td>172</td>
<td>4643</td>
<td>Yes</td>
<td>6/11</td>
<td>6/11</td>
<td>6/11/18</td>
<td>Taxation: state real estate transfer; exemptions of real estate transfer tax for certain principal residences that have lost value; expand to include certain certificate of occupancy dates. (Rep. D. Maturen)</td>
</tr>
<tr>
<td>173</td>
<td>0992</td>
<td>Yes</td>
<td>6/11</td>
<td>6/11</td>
<td>6/11/18 &amp;    #</td>
<td>Insurance: health insurers; health insurance claims assessment act; sunset and repeal under certain conditions. (Sen. K. Horn)</td>
</tr>
<tr>
<td>176</td>
<td>5686</td>
<td>Yes</td>
<td>6/11</td>
<td>6/11</td>
<td>9/9/18</td>
<td>State: identification cards; issuance of a state identification card for a term that exceeds an applicant's legal presence; prohibit. (Rep. P. Hornberger)</td>
</tr>
<tr>
<td>177</td>
<td>5687</td>
<td>Yes</td>
<td>6/11</td>
<td>6/11</td>
<td>9/9/18</td>
<td>Traffic control: driver license; issuance of driver license for a term that exceeds an applicant's legal presence; prohibit, and require visual marking on driver license. (Rep. B. Griffin)</td>
</tr>
<tr>
<td>178</td>
<td>5768</td>
<td>Yes</td>
<td>6/11</td>
<td>6/11</td>
<td>6/11/18</td>
<td>Liquor: distribution; requirements related to the sale, delivery, or importation of beer, wine, and mixed spirit drink in this state; modify process. (Rep. B. Iden)</td>
</tr>
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<tr>
<td>179</td>
<td>4574</td>
<td></td>
<td>Yes</td>
<td>6/11</td>
<td>6/11</td>
<td>9/9/18</td>
<td>Traffic control; parking; information to be displayed on handicap permit placard; revise. (Rep. D. Rendon)</td>
</tr>
<tr>
<td>180</td>
<td>5767</td>
<td></td>
<td>Yes</td>
<td>6/11</td>
<td>6/11</td>
<td>6/11/18</td>
<td>Liquor; licenses; general provisions related to a special licensee; modify. (Rep. R. Hauck)</td>
</tr>
<tr>
<td>181</td>
<td>5355</td>
<td></td>
<td>Yes</td>
<td>6/11</td>
<td>6/11</td>
<td>6/11/18</td>
<td>Retirement; public school employees; use of a level dollar method for paying off unfunded actuarial accrued liability; implement method beginning on certain date. (Rep. T. Albert)</td>
</tr>
<tr>
<td>182</td>
<td>0871</td>
<td></td>
<td>Yes</td>
<td>6/12</td>
<td>6/12</td>
<td>10/10/18</td>
<td>Criminal procedure; statute of limitations; statute of limitations for certain criminal sexual conduct violations; modify. (Sen. M. O'Brien)</td>
</tr>
<tr>
<td>183</td>
<td>0872</td>
<td></td>
<td>Yes</td>
<td>6/12</td>
<td>6/12</td>
<td>6/12/18</td>
<td>Civil procedure; statute of limitations; statute of limitations for criminal sexual conduct violations; extend retroactively, and add grace period for minor victims of criminal sexual conduct. (Sen. D. Knezek)</td>
</tr>
<tr>
<td>184</td>
<td>4106</td>
<td></td>
<td>Yes</td>
<td>6/12</td>
<td>6/13</td>
<td>9/11/18 #</td>
<td>Education; curriculum; granting academic credit for internship; require under certain circumstances. (Rep. B. LaFave)</td>
</tr>
<tr>
<td>185</td>
<td>5676</td>
<td></td>
<td>Yes</td>
<td>6/12</td>
<td>6/13</td>
<td>9/11/18 #</td>
<td>School aid; membership; definition of membership; expand to include pupils engaging in internships and work experiences. (Rep. B. Iden)</td>
</tr>
<tr>
<td>186</td>
<td>5726</td>
<td></td>
<td>Yes</td>
<td>6/12</td>
<td>6/13</td>
<td>9/11/18 #</td>
<td>Trade; business practices; pyramid promotional schemes; prohibit. (Rep. E. Leutheuser)</td>
</tr>
<tr>
<td>187</td>
<td>5727</td>
<td></td>
<td>Yes</td>
<td>6/12</td>
<td>6/13</td>
<td>9/11/18 #</td>
<td>Businesses; franchises; prohibition against pyramid schemes; revise in franchise investment law. (Rep. P. Hornberger)</td>
</tr>
<tr>
<td>188</td>
<td>5728</td>
<td></td>
<td>Yes</td>
<td>6/12</td>
<td>6/13</td>
<td>9/11/18 #</td>
<td>Criminal procedure; sentencing guidelines; sentencing guidelines for crime of engaging in pyramid promotion schemes; provide for. (Rep. J. Noble)</td>
</tr>
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<tr>
<td>PA 189</td>
<td>5729</td>
<td>Yes</td>
<td>6/12</td>
<td>6/13</td>
<td>9/11/18</td>
<td># Consumer protection; unfair trade practices; application of consumer protection act to pyramid schemes; clarify. (Rep. B. Iden)</td>
</tr>
<tr>
<td>PA 190</td>
<td>1012</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>6/20/18</td>
<td>Elections; voting procedures; ballot secrecy sleeves; modify, and modify time to notify an officer whose recall is sought of the recall petition. (Sen. D. Robertson)</td>
</tr>
<tr>
<td>PA 191</td>
<td>0731</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>9/18/18</td>
<td>Property; recording; requirement that an instrument be filed; change to recorded. (Sen. D. Zorn)</td>
</tr>
<tr>
<td>PA 192</td>
<td>0732</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>9/18/18</td>
<td>Property; recording; recording waiver of mortgage priority; clarify recording fee. (Sen. D. Zorn)</td>
</tr>
<tr>
<td>PA 193</td>
<td>0733</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>9/18/18</td>
<td>Land use; other; certified survey map requirements; modify. (Sen. D. Zorn)</td>
</tr>
<tr>
<td>PA 194</td>
<td>0734</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>9/18/18</td>
<td>Property; recording; conveyance under a trust; require trust to be recorded separately. (Sen. I. Conyers)</td>
</tr>
<tr>
<td>PA 195</td>
<td>0735</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>9/18/18</td>
<td>Property; recording; death certificate for joint tenant; require to be recorded separately from deed. (Sen. D. Knezek)</td>
</tr>
<tr>
<td>PA 196</td>
<td>0736</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>9/18/18</td>
<td>Property; recording; recording requirements; remove exception for wills. (Sen. C. Hertel)</td>
</tr>
<tr>
<td>PA 197</td>
<td>0737</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>9/18/18</td>
<td>Property; recording; recording with register of deeds; require an English translation document to be included. (Sen. C. Hertel)</td>
</tr>
<tr>
<td>PA 198</td>
<td>0738</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>9/18/18</td>
<td>Property; recording; certificates of correction; provide for recording fee. (Sen. J. Proos)</td>
</tr>
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<tr>
<td>199</td>
<td>0739</td>
<td>Yes</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>6/20/18</td>
<td>Property: condemnation; prima facie evidence of ownership in fourth class cities; repeal. (Sen. J. Proos)</td>
</tr>
<tr>
<td>200</td>
<td>0740</td>
<td>Yes</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>6/20/18</td>
<td>Property: condemnation; prima facie evidence of ownership in county department and board of public works; repeal. (Sen. J. Proos)</td>
</tr>
<tr>
<td>201</td>
<td>0887</td>
<td>Yes</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>6/20/18</td>
<td>Use tax: exemptions; certain tangible personal property acquired by a contractor; exempt. (Sen. J. Brandenburg)</td>
</tr>
<tr>
<td>202</td>
<td>4614</td>
<td>Yes</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>6/20/18</td>
<td>Education: teachers; option to renew lapsed provisional education certificate; repeal. (Rep. A. Miller)</td>
</tr>
<tr>
<td>203</td>
<td>5283</td>
<td>Yes</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>6/20/18</td>
<td>Economic development: brownfield redevelopment authority; definition of demolition within the brownfield redevelopment financing act; modify. (Rep. B. Frederick)</td>
</tr>
<tr>
<td>204</td>
<td>5391</td>
<td>Yes</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>9/18/18</td>
<td>Vehicles: other; electric skateboard; define and regulate. (Rep. C. VanderWall)</td>
</tr>
<tr>
<td>205</td>
<td>5430</td>
<td>Yes</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>6/20/18</td>
<td>Insurance: insurers; electronic delivery of insurance documents; allow under certain conditions. (Rep. L. Theis)</td>
</tr>
<tr>
<td>206</td>
<td>5662</td>
<td>Yes</td>
<td>Yes</td>
<td>6/19</td>
<td>6/20</td>
<td>9/18/18</td>
<td>Vehicles: off-road; helmet and protective eyewear requirement while operating an off-road vehicle for towing a fishing shanty; eliminate. (Rep. C. VanderWall)</td>
</tr>
<tr>
<td>208</td>
<td>0897</td>
<td>Yes</td>
<td>Yes</td>
<td>6/22</td>
<td>6/22</td>
<td>9/20/18</td>
<td>Human services: medical services; recipient work engagement requirements for Healthy Michigan coverage; provide for and update waiver provisions for Healthy Michigan. (Sen. M. Shirkey)</td>
</tr>
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### 2018 Michigan Public Acts Table

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<td>209</td>
<td>5638</td>
<td></td>
<td>Yes</td>
<td></td>
<td>6/21</td>
<td>6/22</td>
<td>Water; conservation; adverse resource impact from water withdrawal; revise process for determining. (Rep. A. Miller)</td>
</tr>
<tr>
<td>210</td>
<td>5536</td>
<td></td>
<td>Yes</td>
<td></td>
<td>6/25</td>
<td>6/26</td>
<td>Veterans; other; county veteran service fund; create, and provide for funding and expenditures. (Rep. J. Wentworth)</td>
</tr>
<tr>
<td>211</td>
<td>4918</td>
<td></td>
<td>Yes</td>
<td></td>
<td>6/25</td>
<td>6/26</td>
<td>Consumer protection; unfair trade practices; veterans; prohibit pension poaching. (Rep. S. Allor)</td>
</tr>
<tr>
<td>212</td>
<td>0330</td>
<td></td>
<td>Yes</td>
<td></td>
<td>6/25</td>
<td>6/26</td>
<td>Traffic control; violations; crime of operation of vehicle causing death while holding a suspended or revoked license or registration; expand to include individuals whose licenses or registrations were suspended or revoked by other states. (Sen. M. O'Brien)</td>
</tr>
<tr>
<td>213</td>
<td>0672</td>
<td></td>
<td>Yes</td>
<td></td>
<td>6/25</td>
<td>6/26</td>
<td>Transportation; carriers; motor carrier safety act; remove exemption for certain motor buses. (Sen. P. Pavlov)</td>
</tr>
<tr>
<td>214</td>
<td>5985</td>
<td></td>
<td>Yes</td>
<td></td>
<td>6/25</td>
<td>6/26</td>
<td>Criminal procedure; indigent defense; Michigan indigent defense commission; modify. (Rep. R. VerHeulen)</td>
</tr>
<tr>
<td>215</td>
<td>0622</td>
<td></td>
<td>Yes</td>
<td></td>
<td>6/25</td>
<td>6/26</td>
<td>Highways; name; portion of US-23; designate as the &quot;Peter A. Pettalia Memorial Highway&quot;. (Sen. J. Stamas)</td>
</tr>
<tr>
<td>216</td>
<td>4828</td>
<td></td>
<td>Yes</td>
<td></td>
<td>6/25</td>
<td>6/26</td>
<td>Highways; name; portion of I-696; designate as the &quot;Trooper Vicki Moreau DeVries Memorial Highway&quot;. (Rep. C. Greig)</td>
</tr>
<tr>
<td>217</td>
<td>5664</td>
<td></td>
<td>Yes</td>
<td></td>
<td>6/25</td>
<td>6/26</td>
<td>Highways; name; portion of I-96; designate as the &quot;Officer Mason Samborski Memorial Highway&quot;. (Rep. R. Wittenberg)</td>
</tr>
<tr>
<td>218</td>
<td>5673</td>
<td></td>
<td>Yes</td>
<td></td>
<td>6/25</td>
<td>6/26</td>
<td>Highways; name; portion of US-23; designate as the &quot;Trooper Larry Forreider Memorial Highway&quot;. (Rep. S. Allor)</td>
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<td>219</td>
<td>0459</td>
<td>Yes</td>
<td>6/25</td>
<td>6/26</td>
<td>9/24/18</td>
<td>Highways; name; portion of M-52; designate as the “Trooper Calvin R. Jones Memorial Highway”. (Sen. D. Zorn)</td>
</tr>
<tr>
<td>220</td>
<td>5934</td>
<td>Yes</td>
<td>6/25</td>
<td>6/26</td>
<td>9/24/18</td>
<td>Human services; medical services; rural hospital access pool; provide for. (Rep. E. Canfield)</td>
</tr>
<tr>
<td>221</td>
<td>5901</td>
<td>Yes</td>
<td>6/25</td>
<td>6/26</td>
<td>9/24/18</td>
<td>Crime victims; other; allocation for statewide trauma system; modify limitation. (Rep. M. Whiteford)</td>
</tr>
<tr>
<td>222</td>
<td>1016</td>
<td>Yes</td>
<td>6/25</td>
<td>6/26</td>
<td>6/26/18</td>
<td>Corporate income tax; insurance companies; rate; reduce for certain gross premiums. (Sen. J. Stamas)</td>
</tr>
<tr>
<td>223</td>
<td>5052</td>
<td>Yes</td>
<td>6/25</td>
<td>6/26</td>
<td>9/24/18 #</td>
<td>Elections; other; filling vacancy in office of county auditor; clarify under certain circumstances. (Rep. J. Jones)</td>
</tr>
<tr>
<td>224</td>
<td>5072</td>
<td>Yes</td>
<td>6/25</td>
<td>6/26</td>
<td>9/24/18 #</td>
<td>Elections; other; reference to elected office of county auditor in the election law; remove. (Rep. M. Webber)</td>
</tr>
<tr>
<td>225</td>
<td>5114</td>
<td>Yes</td>
<td>6/25</td>
<td>6/26</td>
<td>9/24/18 #</td>
<td>Elections; candidates; reference to elected office of county auditor in the election law; remove. (Rep. J. Calley)</td>
</tr>
<tr>
<td>226</td>
<td>5131</td>
<td>Yes</td>
<td>6/25</td>
<td>6/26</td>
<td>9/24/18 #</td>
<td>Elections; candidates; reference to elected office of county auditor in the election law; remove. (Rep. R. Kosowski)</td>
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<tr>
<td>228</td>
<td>0942</td>
<td>Yes</td>
<td>6/26</td>
<td>6/27</td>
<td>6/27/18</td>
<td>State financing and management; authorities; talent investment fund in the higher education loan authority act; implement. (Sen. G. Hansen)</td>
</tr>
</tbody>
</table>

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<tr>
<td>229</td>
<td>5139</td>
<td>Yes</td>
<td>6/26</td>
<td>6/27</td>
<td>9/25/18</td>
<td>Education; curriculum; instruction on a career exploration and job readiness; require. (Rep. D. Rendon)</td>
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<tr>
<td>230</td>
<td>0684</td>
<td>Yes</td>
<td>6/26</td>
<td>6/27</td>
<td>12/24/18</td>
<td>Education; school districts; educational development plans; modify requirements. (Sen. K. Horn)</td>
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<tr>
<td>231</td>
<td>0685</td>
<td>Yes</td>
<td>6/26</td>
<td>6/27</td>
<td>12/24/18 #</td>
<td>Education; school districts; school improvement plans; modify requirements. (Sen. P. MacGregor)</td>
</tr>
<tr>
<td>232</td>
<td>0175</td>
<td>Yes</td>
<td>6/26</td>
<td>6/27</td>
<td>6/27/18</td>
<td>Education; graduation requirements; certain requirements for high school diploma; modify. (Sen. J. Stamas)</td>
</tr>
<tr>
<td>233</td>
<td>0889</td>
<td>Yes</td>
<td>6/26</td>
<td>6/27</td>
<td>9/25/18</td>
<td>Education; teachers; requirements for teacher certification; eliminate the basic skills exam. (Sen. M. Knollenberg)</td>
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<tr>
<td>234</td>
<td>5145</td>
<td>Yes</td>
<td>6/26</td>
<td>6/27</td>
<td>9/25/18</td>
<td>Education; employees; time invested with local employers and technology centers; include toward continuing education and professional development for teachers and administrators. (Rep. J. Alexander)</td>
</tr>
<tr>
<td>235</td>
<td>5141</td>
<td>Yes</td>
<td>6/26</td>
<td>6/27</td>
<td>9/25/18 #</td>
<td>Education; teachers; option to hire noncertificated teachers for career and technical programs; provide for. (Rep. B. Kahle)</td>
</tr>
<tr>
<td>236</td>
<td>4069</td>
<td>Yes</td>
<td>6/26</td>
<td>6/27</td>
<td>9/25/18</td>
<td>Education; teachers; college credit requirements for individual to serve as substitute teacher; revise. (Rep. J. Tedder)</td>
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<tr>
<td>237</td>
<td>1000</td>
<td>Yes</td>
<td>6/27</td>
<td>6/27</td>
<td>9/25/18</td>
<td>Natural resources; other; certain reporting requirements; repeal. (Sen. J. Stamas)</td>
</tr>
<tr>
<td>238</td>
<td>0302</td>
<td>Yes</td>
<td>6/27</td>
<td>6/27</td>
<td>9/25/18 #</td>
<td>Natural resources; land acquisition; fees, notice, and appraisals for DNR land transactions; modify and provide for notice of land management orders. (Sen. T. Casperson)</td>
</tr>
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<td>239</td>
<td>0303</td>
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<td>6/27</td>
<td>6/27</td>
<td>9/25/18</td>
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<td>240</td>
<td>4475</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/27</td>
<td>9/25/18</td>
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<td>241</td>
<td>0344</td>
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<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>9/26/18</td>
<td>Education; curriculum; endorsement in science, technology, engineering, and math (STEM); provide for eligibility requirements. (Sen. J. Proos)</td>
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<tr>
<td>242</td>
<td>0343</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>9/26/18</td>
<td>Education; students; provision to students of certain information concerning career outlook; provide for. (Sen. J. Proos)</td>
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<tr>
<td>243</td>
<td>5379</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>9/26/18</td>
<td>Education; safety; possession and application of sunscreen at school; allow. (Rep. K. Hertel)</td>
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<tr>
<td>244</td>
<td>0988</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>9/26/18</td>
<td>Human services; county services; sunset on certain administrative rate changes to foster care services; eliminate. (Sen. P. MacGregor)</td>
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<tr>
<td>245</td>
<td>1015</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td>Health facilities; quality assurance assessments; state retention amount from funds generated through hospital assessments; revise. (Sen. D. Hildenbrand)</td>
</tr>
<tr>
<td>246</td>
<td>5805</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>9/26/18</td>
<td>Health; pharmaceuticals; generically equivalent drug products and Food and Drug Administration-designated interchangeable biological drug products; require pharmacist to charge certain amount to certain purchasers. (Rep. J. Bizon)</td>
</tr>
<tr>
<td>248</td>
<td>5908</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td>Property tax; personal property; distribution of local community stabilization act share revenues; modify. (Rep. R. VerHeulen)</td>
</tr>
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<tr>
<td>249</td>
<td>4115</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>9/26/18</td>
<td><strong>Sales tax</strong>: exemptions; sales at retail for fund-raising activities by nonprofit organizations; increase exempt amount. <em>(Rep. E. Leutheuser)</em></td>
</tr>
<tr>
<td>251</td>
<td>5436</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td><strong>Economic development</strong>: obsolete property and rehabilitation; revocation of certain obsolete property rehabilitation certificates; modify. <em>(Rep. B. Frederick)</em></td>
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<tr>
<td>252</td>
<td>0197</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td><strong>Individual income tax</strong>: checkoff; fostering futures scholarship trust fund; provide for. <em>(Sen. P. MacGregor)</em></td>
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<tr>
<td>253</td>
<td>0196</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td><strong>Individual income tax</strong>: other; credit income tax checkoff contributions to the fostering futures scholarship trust fund; provide for. <em>(Sen. M. Knollenberg)</em></td>
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<td>256</td>
<td>0816</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td><strong>Individual income tax</strong>: checkoff; contributions to the Michigan World War II Legacy Memorial fund; provide for. <em>(Sen. M. Knollenberg)</em></td>
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<tr>
<td>257</td>
<td>0817</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td><strong>Individual income tax</strong>: other; Michigan World War II Legacy Memorial fund act; create. <em>(Sen. S. Bieda)</em></td>
</tr>
<tr>
<td>258</td>
<td>5739</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td><strong>Individual income tax</strong>: checkoff; donation to the Kiwanis fund; provide for. <em>(Rep. S. Marino)</em></td>
</tr>
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<td>259</td>
<td>5740</td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Individual income tax; other; Kiwanis fund act; create.</td>
<td>(Rep. D. Farrington)</td>
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<td>260</td>
<td>0946</td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td>Labor; job training; Going pro talent program; create.</td>
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<tr>
<td>261</td>
<td>0226</td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>9/26/18</td>
<td>Civil procedure; service of process; fees and mileage allowed for service of process; modify.</td>
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<td>262</td>
<td>4871</td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td>Economic development; other; qualifying period for assessment; modify.</td>
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<td>263</td>
<td>4609</td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td>State financing and management; funds; cap and distribution of disaster and contingency fund; revise and modify.</td>
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<tr>
<td>264</td>
<td>4610</td>
<td>Yes</td>
<td>6/27</td>
<td>6/28</td>
<td>6/28/18</td>
<td>State financing and management; funds; cap and distribution of disaster and contingency fund; revise and modify.</td>
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<td>266</td>
<td>5142</td>
<td>Yes</td>
<td>6/28</td>
<td>6/28</td>
<td>9/26/18</td>
<td>School aid; other; requirement to employ certificated teachers for the purposes of school aid; modify.</td>
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<td>267</td>
<td>0652</td>
<td>Yes</td>
<td>6/28</td>
<td>6/29</td>
<td>6/29/18</td>
<td>Administrative procedure; rules; environmental rules; establish a special review committee.</td>
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<td>268</td>
<td>0653</td>
<td>Yes</td>
<td>6/28</td>
<td>6/29</td>
<td>6/29/18</td>
<td>Environmental protection; permits; permit appeal panel; create.</td>
</tr>
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<td>269</td>
<td>0654</td>
<td>Yes</td>
<td>6/28</td>
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<td></td>
<td>Environmental protection; other; environmental science advisory board; create. (Sen. D. Robertson)</td>
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<td>270</td>
<td>0542</td>
<td>Yes</td>
<td>6/28</td>
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<td></td>
<td>Environmental protection; other; pesticide notification registry; limit geographic scope of required notification. (Sen. T. Casperson)</td>
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<tr>
<td>271</td>
<td>4438</td>
<td>Yes</td>
<td>6/28</td>
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<td></td>
<td>Environmental protection; sewage; exemption from domestic septage law; provide for portable toilets for farm laborers. (Rep. T. Barrett)</td>
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<tr>
<td>272</td>
<td>5417</td>
<td>Yes</td>
<td>6/28</td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td>Natural resources; hunting; possessing or transporting of a bow and arrow, crossbow, or slingshot; modify. (Rep. S. Johnson)</td>
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<tr>
<td>273</td>
<td>0915</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
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<td></td>
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<td></td>
<td>Traffic control; traffic regulation; maximum width of school buses; provide for, and exempt from seasonal road restrictions. (Sen. T. Casperson)</td>
<td></td>
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<tr>
<td>274</td>
<td>0836</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
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<td></td>
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<td></td>
<td>Traffic control; traffic regulation; tandem axle assemblies; modify weight restrictions. (Sen. T. Casperson)</td>
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<tr>
<td>275</td>
<td>0640</td>
<td>Yes</td>
<td>6/27</td>
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<td></td>
<td>Transportation; authorities; motor bus transportation act; modify exemption from act for certain interstate motor carriers of passengers. (Sen. P. Pavlov)</td>
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<td>276</td>
<td>4705</td>
<td>Yes</td>
<td>6/27</td>
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<td></td>
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<td></td>
<td>Vehicles; driver training; training component for drivers regarding protocol when pulled over by a law enforcement officer; include in curriculum. (Rep. P. Lucido)</td>
<td></td>
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<tr>
<td>277</td>
<td>4198</td>
<td>No</td>
<td>6/27</td>
<td>6/29</td>
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<tr>
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<td></td>
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<td></td>
<td>Vehicles; driver training; training component for drivers regarding safety for bicyclists and other vulnerable roadway users on the road; require. (Rep. J. Alexander)</td>
<td></td>
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<tr>
<td>278</td>
<td>4176</td>
<td>Yes</td>
<td>6/28</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>Vehicles; equipment; use of amber flashing lights on vehicles that participate in neighborhood watch programs; allow. (Rep. R. Kosowski)</td>
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<td>4185</td>
<td>Yes</td>
<td>6/28</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Traffic control; traffic regulation; requirement for operator of a motor vehicle to maintain a 5-foot distance when passing a bicyclist on the left; establish. (Rep. J. Bizon)</td>
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<tr>
<td>280</td>
<td>4265</td>
<td>Yes</td>
<td>6/28</td>
<td>6/29</td>
<td>10/16/</td>
<td>Traffic control; traffic regulation; requirement for operator of a motor vehicle to maintain a 5-foot distance when passing a bicyclist; establish. (Rep. H. Hughes)</td>
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<tr>
<td>282</td>
<td>5645</td>
<td>Yes</td>
<td>6/28</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Criminal procedure; witnesses; support dog when witness testifies; allow under certain circumstances. (Rep. T. Barrett)</td>
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<td>283</td>
<td>5761</td>
<td>Yes</td>
<td>6/28</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Crimes; other; provision for making or procuring false protest; repeal. (Rep. J. Bellino)</td>
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<td>284</td>
<td>5762</td>
<td>Yes</td>
<td>6/28</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Civil procedure; other; reference to certain criminal violations; modify. (Rep. B. Kahle)</td>
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<tr>
<td>286</td>
<td>5775</td>
<td>Yes</td>
<td>6/28</td>
<td>6/29</td>
<td>6/29/18</td>
<td>Crimes; animals; provision related to disposition and use of animals permanently unfit to work; repeal. (Rep. R. Hauck)</td>
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<tr>
<td>287</td>
<td>1001</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Human services; foster parents; certain reporting requirements; repeal. (Sen. P. MacGregor)</td>
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<tr>
<td>288</td>
<td>1002</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Natural resources; other; report related to the Michigan civilian conservation corps endowment fund; eliminate. (Sen. T. Casperson)</td>
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<td>1003</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Agriculture; products; certain reporting requirements; eliminate. (Sen. J. Stamas)</td>
<td></td>
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<tr>
<td>290</td>
<td>1004</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Agriculture; other; crop and stock reporting requirements; repeal. (Sen. W. Schmidt)</td>
<td></td>
</tr>
<tr>
<td>291</td>
<td>1005</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Animals; pet shops; certain reporting requirements; eliminate. (Sen. M. Knollenberg)</td>
<td></td>
</tr>
<tr>
<td>292</td>
<td>1006</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Agriculture; other; reporting requirements under the right to farm act; eliminate. (Sen. M. Shirkey)</td>
<td></td>
</tr>
<tr>
<td>293</td>
<td>1007</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Food; service establishments; certain reporting requirements; eliminate. (Sen. D. Zorn)</td>
<td></td>
</tr>
<tr>
<td>294</td>
<td>1008</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Agriculture; weights and measures; certain reporting requirements; eliminate. (Sen. M. O’Brien)</td>
<td></td>
</tr>
<tr>
<td>295</td>
<td>1009</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Corrections; other; certain reporting requirements; repeal. (Sen. V. Gregory)</td>
<td></td>
</tr>
<tr>
<td>296</td>
<td>1010</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Transportation; other; certain reporting requirements; remove. (Sen. M. Kowall)</td>
<td></td>
</tr>
<tr>
<td>297</td>
<td>1011</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18</td>
<td>Aeronautics; other; aeronautics commission; repeal biennial reporting requirement. (Sen. P. MacGregor)</td>
<td></td>
</tr>
<tr>
<td>298</td>
<td>5990</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18</td>
<td>Law enforcement; fire personnel; certain reporting requirements under the firefighters training council act; repeal. (Rep. P. Hornberger)</td>
<td></td>
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<tr>
<td>299</td>
<td>5993</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18</td>
<td>Agriculture: diseases and pests; certain reporting requirements under the insect pest and plant disease act; repeal. (Rep. S. Marino)</td>
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<tr>
<td>300</td>
<td>5995</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Veterans: employment; certain reporting requirements under the veteran right to employment services act; repeal. (Rep. B. Iden)</td>
</tr>
<tr>
<td>302</td>
<td>5997</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Corrections: other; certain reporting requirements under the community corrections act; repeal. (Rep. J. Bellino)</td>
</tr>
<tr>
<td>305</td>
<td>6000</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18</td>
<td>Explosives: fireworks; certain reporting requirements under the Michigan fireworks safety act; repeal. (Rep. B. LaFave)</td>
</tr>
<tr>
<td>306</td>
<td>6001</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Human services: food assistance; certain reporting requirements under the state food stamp distribution act; repeal. (Rep. S. Johnson)</td>
</tr>
<tr>
<td>308</td>
<td>6003</td>
<td></td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>9/27/18</td>
<td>Energy: gas and oil; certain reporting requirements under the motor fuels quality act; repeal. (Rep. S. Allor)</td>
</tr>
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<tr>
<td>309</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18</td>
<td>Individual income tax; other, certain reporting requirements under the income tax act; eliminate. (Rep. D. Rendon)</td>
</tr>
<tr>
<td>310</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18</td>
<td>Criminal procedure; DNA; certain reporting requirements under the DNA identification profiling system act; eliminate. (Rep. R. Hauck)</td>
</tr>
<tr>
<td>312</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18 #</td>
<td>Health facilities; other, references to remove 1925 PA 177; remove from 1987 PA 230. (Rep. R. Kosowski)</td>
</tr>
<tr>
<td>313</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18 #</td>
<td>Health facilities; other, references to 1925 PA 177; remove from 1945 PA 109. (Rep. S. Johnson)</td>
</tr>
<tr>
<td>314</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18 #</td>
<td>Health facilities; other, references to 1925 PA 177; remove from 1913 PA 350. (Rep. J. Bellino)</td>
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<tr>
<td>315</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18 #</td>
<td>Health facilities; other, references to 1925 PA 177; remove from the social welfare act. (Rep. A. Hammoud)</td>
</tr>
<tr>
<td>316</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18</td>
<td>Corrections; other, probation recovery camps; repeal. (Rep. S. Allor)</td>
</tr>
<tr>
<td>318</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29</td>
<td>6/29/18</td>
<td>Corrections; other, operation of Camp LaVictoire conservation rehabilitation camp; repeal. (Rep. R. Hauck)</td>
</tr>
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<tr>
<td>319</td>
<td>5895</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29/18</td>
<td># Corrections: other; conservation rehabilitation camp for male delinquent youths; repeal 1962 PA 229. (Rep. B. LaFave)</td>
<td></td>
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<tr>
<td>320</td>
<td>5769</td>
<td>Yes</td>
<td>6/27</td>
<td>6/29/18</td>
<td>Corrections: other; boys' vocational schools; repeal. (Rep. D. Rendon)</td>
<td></td>
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<tr>
<td>323</td>
<td>5335</td>
<td>Yes</td>
<td>6/28</td>
<td>7/2/18     # State agencies (proposed): boards and commissions; Michigan infrastructure council; establish. (Rep. R. VerHeulen)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>324</td>
<td>5406</td>
<td>Yes</td>
<td>6/28</td>
<td>7/2/18     # Water: other; water asset management council; establish. (Rep. R. Victory)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>325</td>
<td>5408</td>
<td>Yes</td>
<td>6/28</td>
<td>9/30/18    # Transportation: other; transportation asset management council; modify, and modify reporting requirements for local road agencies. (Rep. T. Cole)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>326</td>
<td>0178</td>
<td>Yes</td>
<td>6/28</td>
<td>9/30/18</td>
<td>Vehicles; fund-raising registration plates; fund-raising plates for the &quot;Detroit Red Wings&quot;, &quot;Detroit Tigers&quot;, &quot;Detroit Lions&quot;, and &quot;Detroit Pistons&quot;; create. (Sen. J. Stamas)</td>
<td></td>
</tr>
<tr>
<td>327</td>
<td>4360</td>
<td>Yes</td>
<td>6/28</td>
<td>9/30/18</td>
<td>Local government: other; local governments and law enforcement agencies operating a motor vehicle storage facility or towing operation; prohibit under certain circumstances. (Rep. P. Lucido)</td>
<td></td>
</tr>
<tr>
<td>328</td>
<td>0888</td>
<td>Yes</td>
<td>6/28</td>
<td>7/2/18</td>
<td>Retirement: public school employees; participation of certain student workers in retirement system; prohibit. (Sen. J. Proos)</td>
<td></td>
</tr>
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<tr>
<td>329</td>
<td>0916</td>
<td>Yes</td>
<td>6/28</td>
<td>7/2</td>
<td>9/30/18</td>
<td>Occupations; junk and secondhand dealers; automatic recycling kiosks; regulate. (Sen. M. Kowall)</td>
</tr>
<tr>
<td>331</td>
<td>0757</td>
<td>Yes</td>
<td>6/28</td>
<td>7/2</td>
<td>7/2/18</td>
<td>Occupations; alarm systems; low-voltage alarm system installation permitting; provide for. (Sen. M. Knollenberg)</td>
</tr>
<tr>
<td>332</td>
<td>0758</td>
<td>Yes</td>
<td>6/28</td>
<td>7/2</td>
<td>7/2/18</td>
<td>Construction; permits; low-voltage electric fence permitting; provide for exemption. (Sen. M. Knollenberg)</td>
</tr>
<tr>
<td>333</td>
<td>0908</td>
<td>Yes</td>
<td>6/28</td>
<td>7/2</td>
<td>7/2/18</td>
<td>Property; conveyances; state-owned property in Ingham County previously conveyed to city of Lansing; modify restrictions on use. (Sen. C. Hertel)</td>
</tr>
<tr>
<td>334</td>
<td>1036</td>
<td>Yes</td>
<td>6/28</td>
<td>7/2</td>
<td>7/2/18</td>
<td>Property; conveyances; state-owned property under the jurisdiction of the department of corrections; provide for the sale of. (Sen. W. Schmidt)</td>
</tr>
<tr>
<td>335</td>
<td>5652</td>
<td>Yes</td>
<td>6/28</td>
<td>7/2</td>
<td>7/2/18</td>
<td>Retirement; judges; determination of actuarial equivalent retirement allowance; modify. (Rep. J. Reilly)</td>
</tr>
<tr>
<td>336</td>
<td>5653</td>
<td>Yes</td>
<td>6/28</td>
<td>7/2</td>
<td>7/2/18</td>
<td>Retirement; state employees; determination of actuarial equivalent retirement allowance; modify. (Rep. E. Leutheuser)</td>
</tr>
<tr>
<td>337</td>
<td>No</td>
<td></td>
<td></td>
<td>9/5</td>
<td>**</td>
<td>Initiated Law; hours and wages.</td>
</tr>
<tr>
<td>338</td>
<td>No</td>
<td></td>
<td></td>
<td>9/5</td>
<td>**</td>
<td>Initiated Law; benefits; fair employment practices.</td>
</tr>
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<tr>
<td>339</td>
<td>5377</td>
<td></td>
<td>Yes</td>
<td>9/12</td>
<td>9/13</td>
<td>12/12/18</td>
<td>Corrections; prisoners; criteria for placement on parole; modify. (Rep. K. Kesto)</td>
</tr>
<tr>
<td>340</td>
<td>4679</td>
<td></td>
<td>Yes</td>
<td>9/12</td>
<td>9/13</td>
<td>12/12/18</td>
<td>Legislature; reports; fiscal note on the financial impact of legislation; require. (Rep. J. Lilly)</td>
</tr>
<tr>
<td>341</td>
<td>5084</td>
<td></td>
<td>Yes</td>
<td>9/12</td>
<td>9/13</td>
<td>12/12/18</td>
<td>Elections; other; reference to elected office of county auditor in the election law; repeal. (Rep. S. Marino)</td>
</tr>
<tr>
<td>342</td>
<td>5766</td>
<td></td>
<td>Yes</td>
<td>10/16</td>
<td>10/16</td>
<td>10/16/18</td>
<td>Vehicles; equipment; use of amber lights on vehicles performing snow removal services; allow during movement between jobs, allow for operation of certain vehicles with snow plow blades up to 10 feet wide during certain periods, and other revisions. (Rep. T. Cole)</td>
</tr>
<tr>
<td>343</td>
<td>5402</td>
<td></td>
<td>Yes</td>
<td>10/16</td>
<td>10/16</td>
<td>1/14/19</td>
<td>Criminal procedure; evidence; videorecorded statements used for training purposes; require consent of certain individuals, and allow to be used in counties other than the county in which the videorecorded statement was taken. (Rep. D. Farrington)</td>
</tr>
<tr>
<td>344</td>
<td>5403</td>
<td></td>
<td>Yes</td>
<td>10/16</td>
<td>10/16</td>
<td>1/14/19</td>
<td>Children; protection; videorecorded statements used for training purposes; require consent of certain individuals, and allow to be used in counties other than the county in which the videorecorded statement was taken. (Rep. S. Gay-Dagnogo)</td>
</tr>
<tr>
<td>345</td>
<td>4887</td>
<td></td>
<td>Yes</td>
<td>10/16</td>
<td>10/16</td>
<td>1/14/19</td>
<td>Occupations; pawnbrokers; hold process for allegedly misappropriated goods; establish. (Rep. P. Lucido)</td>
</tr>
<tr>
<td>346</td>
<td>4668</td>
<td></td>
<td>Yes</td>
<td>10/16</td>
<td>10/16</td>
<td>10/16/18</td>
<td>Liquor; other; marihuana-infused alcohol; prohibit. (Rep. K. Kesto)</td>
</tr>
<tr>
<td>347</td>
<td>5181</td>
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<td>Yes</td>
<td>10/16</td>
<td>10/16</td>
<td>1/14/19</td>
<td>Vehicles; abandoned; recovery procedures for abandoned vehicles; modify. (Rep. D. Farrington)</td>
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<tr>
<td>348</td>
<td>5902</td>
<td></td>
<td>Yes</td>
<td>10/23</td>
<td>10/24</td>
<td>10/24/18</td>
<td>Public utilities; public service commission; long-term industrial load rates; allow. (Rep. D. Lauwers)</td>
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<tr>
<td>349</td>
<td>0477</td>
<td>Yes</td>
<td>11/15</td>
<td>11/15</td>
<td>2/13/19</td>
<td>Traffic control; traffic regulation; vehicles to move over and slow down when passing certain stationary vehicles; require, and modify penalties. (Sen. D. Zorn)</td>
</tr>
<tr>
<td>350</td>
<td>0425</td>
<td>Yes</td>
<td>11/15</td>
<td>11/15</td>
<td>2/13/19</td>
<td>Elections; registration; online voter registration; allow. (Sen. J. Emmons)</td>
</tr>
<tr>
<td>351</td>
<td>0426</td>
<td>Yes</td>
<td>11/15</td>
<td>11/15</td>
<td>2/13/19</td>
<td>Elections; registration; online voter registration; allow. (Sen. M. Nofs)</td>
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<tr>
<td>352</td>
<td>0427</td>
<td>Yes</td>
<td>11/15</td>
<td>11/15</td>
<td>2/13/19</td>
<td>Elections; registration; online voter registration; allow. (Sen. J. Stamas)</td>
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<td>353</td>
<td>0428</td>
<td>Yes</td>
<td>11/15</td>
<td>11/15</td>
<td>2/13/19</td>
<td>Elections; registration; online voter registration; allow. (Sen. G. Hansen)</td>
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<tr>
<td>354</td>
<td>0429</td>
<td>Yes</td>
<td>11/15</td>
<td>11/15</td>
<td>2/13/19</td>
<td>Elections; registration; online voter registration; allow. (Sen. D. Hildenbrand)</td>
</tr>
<tr>
<td>355</td>
<td>0901</td>
<td>Yes</td>
<td>11/15</td>
<td>11/15</td>
<td>2/13/19</td>
<td>Health occupations; podiatrists; definitions and terms associated with the practice of podiatric medicine and surgery; modify. (Sen. J. Stamas)</td>
</tr>
<tr>
<td>356</td>
<td>5923</td>
<td>Yes</td>
<td>11/20</td>
<td>11/20</td>
<td>2/18/19</td>
<td>Highways; name; portion of I-94 in Jackson County; designate as the &quot;Corrections Officers Jack Budd and Josephine McCallum Memorial Highway&quot;. (Rep. J. Alexander)</td>
</tr>
<tr>
<td>357</td>
<td>6379</td>
<td>Yes</td>
<td>11/20</td>
<td>11/20</td>
<td>11/20/18</td>
<td>Retirement; state employees; retired legislative employee employed for a special assignment; allow without forfeiting retirement allowance. (Rep. E. Canfield)</td>
</tr>
<tr>
<td>Veto</td>
<td>4350</td>
<td>No</td>
<td></td>
<td>10/16/18</td>
<td></td>
<td>Use tax; exemptions; purchase of certain aviation equipment; exempt. (Rep. B. Kahle)</td>
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<tr>
<td>Veto</td>
<td>4351</td>
<td>No</td>
<td></td>
<td>10/16/18</td>
<td>Sales tax: exemptions; purchase of certain aviation equipment; exempt. (Rep. B. Kahle)</td>
<td></td>
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<tr>
<td>Veto</td>
<td>5095</td>
<td>No</td>
<td></td>
<td>6/29/18</td>
<td>Environmental protection; water pollution; permit for ballast water discharge from oceangoing vessels; adopt Coast Guard standards. (Rep. D. Lauwers)</td>
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