

**Department of Labor & Economic Opportunity  
Bureau of Employment Relations - Wage and Hour Division**

**1. Rule(s) to be **processed** between July 1, 2021, and June 30, 2022. [Give brief description.]**

R 408.9002(2)(a)(i), (b)(i), and (2)(c) of the Payment of Wages and Fringe Benefits rules need to be revised because these provisions conflict with R 408.701(b), (f) and (i) of the Wage and Hour Division General Rules, which took effect on May 6, 2019.

Proposed rule change 2019-133 LE and Proposed rule change 2019-127 LE were removed from the ARS due to timeliness and will be restarted under new rule numbers.

R408.6203(g) of the Youth Employment Standards rules need to be revised because the current version gives rulemaking authority to the Michigan Department of Education, but the enforcement of the act was transferred by Executive Order 2019-13 to the Wage and Hour Division, currently located in the Department of Labor and Economic Opportunity. R408.6301 needs to be revised to define the term department from the Michigan Department of Education to the Department of Labor and Economic Opportunity. R408.6305(1) needs to be revised to remove the requirement that an employer be notified by mail whether or not a deviation has been approved or denied.

**2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2021, and June 30, 2022. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.**

The agency proposes rescinding the Wage Deviation Rules, R 408.771 through R408.787, because the wage deviation board has not been appointed as required under Section 5, MCL 408.935, of the Improved Workforce Opportunity Act (PA 337 of 2018). Also, the agency has not issued a wage deviation in more than 12 years. Finally, there is a comparable federal statute - Section 14(c) of the Fair Labor Standards Act, 29 CFR Part 525, that sets forth for a process whereby an employer may seek to receive a deviated wage rate for certain employees.

**3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.**

MCL 408.479(5) and MCL 408.482 of the Payment of Wages and Fringe Benefits Act (PA 390 of 1978) and MCL 408.934a(5) of the Improved Workforce Opportunity Wage Act (PA 337 of 2018) require the Director of LARA to promulgate rules to define the terms used in MCL 408.479(4) of PA 390 of 1978 and 408.934a(4) PA 337 of 2018. The rule sets for both Acts should be revised to ensure consistency of similar or identical terms defined in both Acts and with state and federal law.

**4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.**

Members of the agricultural industry have voiced concern over R 408.711 regarding scale of piecework for harvesting fruits and vegetable in the Wage and Hour General Rules, and they have indicated that they would like the Division to set piecework rates for certain commodities.

The agency proposes rescinding the Wage Deviation Rules, R 408.771 through R408.787, because the wage deviation board has not been appointed as required under Section 5, MCL 408.935, of the Improved Workforce Opportunity Act (PA 337 of 2018). Also, the agency has not issued a wage deviation in more than 12 years. Finally, there is a comparable federal statute

Annual Regulatory Plan 2021-2022

- Section 14(c) of the Fair Labor Standards Act, 29 CFR Part 525, that sets forth a process whereby an employer may seek to receive a deviated wage rate for certain employees.

**A.** Whether there is a continued need for the rules.

The Wage and Hour Division General Rules and the Payment of Wages and Fringe Benefits rules are required by their respective governing statutes, PA 337 of 2018 and PA 390 of 1978. The Youth Employment Standards rules are required by the governing statute, PA 90 of 1978, as amended.

**B.** A summary of any complaints or comments received from the public concerning the rules.

Consistency is needed between the two rulesets as well as with state and federal law.

**C.** The complexity of complying with the rules.

The rule sets have not been updated to reflect changes in state and federal law and guidance, they potentially create situations that may result in noncompliance by an employer. Specifically, the definitions in both rule sets must be updated to ensure that the definitions contained in both rule sets are not in conflict.

**D.** Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

R 408.9002(2)(a), (b), and (c) conflicts with the recently updated R 408.701(b), (f) and (i) of the Wage and Hour Division General Rules. The latter rules provide that to be exempt from overtime, in general, an employee must meet certain tests regarding his or her job duties and currently be paid on a salary basis at not less than the current federal standard salary level per week for overtime exempt employees.

**E.** The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

The Payment of Wage and Fringe Benefits Rules were last updated in 2014. The Wage and Hour Division General Rules that were promulgated under Public Act 138 of 2014 were amended in August 2016. With the enactment of Public Act 337 of 2018, which repealed Public Act 138, the Wage and Hour Division General Rules were amended in April 2019 in order to comply with Public Act 337. The rules were reviewed in 2019 and proposed rules 2019-133 LE and 2019-127 LE were filed. Proposed rule change 2019-133 LE and Proposed rule change 2019-127 LE were removed from the ARS due to timeliness and will be restarted under new rule numbers.

A cursory review of the Youth Employment Standards rules was completed in 2019 once the enforcement of PA 90 of 1978, as amended, was moved to the Department of Labor and Economic Opportunity. The legal authority to promulgate Youth Employment Standards rules appears tied to the definition of Department. In the rules, Department is defined to be the Department of Education, this will need to be clarified by the attorney general.

**5.** Please provide the URL link the department or bureau is currently using to display their administrative rules.

[https://dtmb.state.mi.us/ARS\\_Public/AdminCode/AdminCode](https://dtmb.state.mi.us/ARS_Public/AdminCode/AdminCode)

Annual Regulatory Plan 2021-2022

6. Please provide a list of the items identified for action in the 2021 ARP that have been completed and those that remain outstanding.

Proposed rule change 2019-133 LE and Proposed rule change 2019-127 LE were removed from the ARS due to timeliness and will be restarted under new rule numbers along with the development of the draft rule and accompanying Regulatory Impact Statement for each.

**Department of Labor & Economic Opportunity  
Bureau of Employment Relations/Michigan Employment Relations Division**

**1. Rule(s) to be processed between July 1, 2021, and June 30, 2022. [Give brief description.]**

Amend the General Rules and Act 312 Rules to authorize:

- a. Mandatory electronic filing (e-filing) of all/ certain MERC cases and documents.
- b. Waive the filing requirement of hard copies on e-filed cases and documents.
- c. Permit or require alternate service methods on e-filed cases and documents.
- d. Permit remote hearings on MERC cases including court reporter participation.
- e. Permit electronic recording and transcription of MERC case hearings.
- f. Permit arbitrators to administer the oath or affirmation in Act 312 hearings.
- g. Clarify the definition and application of "Advocate" used in Act 312 and Fact-finding processes.
- h. Require 312 arbitrators to make certain preliminary rulings (e.g., duration) prior to setting the deadline date for submission of last offers in Act 312 proceedings.
- i. Codify several elections bars.
- j. Codify document content, filing, service requirements on all case types.
- k. Expand mediator role to include making written recommendations.
- l. Other related changes.

**2. Rules that are obsolete or superseded and can be rescinded between July 1, 2021, and June 30, 2022. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.**

None to be rescinded.

**3. Has the agency failed to promulgate any statutorily required rules or failed to utilize any statutorily required rules? Please explain.**

No

**4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.**

(Items 1a-c) Without change, General Rule 181, 191, 192, 192a, 193, 195, 196, 198 minimize MERC's ability to expedite the filing processes. Likewise, 14 other rules require the submission of hard copy filings that complicate or contravene the advantages of a party using any electronic filing method. Same for Rules 505 and 513 in Act 312.

(Items 1g & 1h) Changes are needed to avoid misinterpretation and erred application of certain key components in the Act 312 process.

**A. Whether there is a continued need for the rules.**

Yes

**B. A summary of any complaints or comments received from the public concerning the rules.**

Various complaints that include the need for MERC to mandate electronic filing (e-filed) and service of case types for faster more efficient processing and fewer redundant filings; Eliminate hard copy original and extras with e-filed materials; lack of clarity in some of the 312 definitions and steps; lack of use of more technology regarding remote hearings and alternative options for capturing the record at hearings; clarify missing or ambiguous rulings and practices

Annual Regulatory Plan 2021-2022

C. The complexity of complying with the rules.

All relate to comments listed above in 4B

D. Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

None known.

E. The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

Targeted Focus Group discussions in early 2021.  
Connected to the new case management system (MERC e-File) launched in Dec 2019 that allows public access to view and e-file case materials.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

[https://dtmb.state.mi.us/ARS\\_Public/AdminCode/AdminCode](https://dtmb.state.mi.us/ARS_Public/AdminCode/AdminCode)

6. Please provide a list of the items identified for action in the 2021 ARP that have been completed and those that remain outstanding.

The following remain outstanding:

A. CHANGE GENERAL RULE 181 TO ALLOW AGENCY THROUGH MERC POLICY TO MANDATE THE E-FILING OF MERC CASES AND DOCUMENTS:

Rule 181. (1) "Filing" of a document, pleading, or other paper with the commission is considered complete on the date it is delivered to any office of the commission and received and accepted by the commission, administrative law judge, or other agent designated to receive the document, with the intent to enter it in the record. Filing may be accomplished by hand delivery, registered, certified or regular mail, private delivery service, or any other means specifically authorized or required by the commission, or an administrative law judge designated by the commission. (2) When LMA, PERA, or any of these rules require the filing of an original and extra copies of a document, filing is considered complete on the date a copy is filed, but the original and remaining copies shall be filed within 5 business days.

B. WAIVE THE REQUIREMENT OF FILING HARD COPY DOCUMENTS (Original and Extras) WHEN CASE IS INITIATED BY E-FILE OR OTHER DOCUMENTS ARE E-FILED (Impacts 14 General Rules and 2 Act 312 Rules):

R 423.124 Strike elections “. . . A party shall file a signed original and 4 copies of the objections with the commission . . .”

R 423.132 Petitions; initiation by commission of fact finding “. . . The petitioner shall file an original and 3 copies with the commission . . .”

R 423.134 Answers “. . .The answer and 3 copies shall be filed with the commission . . .”

R 423.137 Fact finders' reports “. . . The fact finder shall file the fact-finding report and 2 copies with the commission . . .”

R 423.141 Petitions for elections “. . . An original and 4 copies of the petition shall be filed with the commission . . .”

R 423.149b Objections to elections; rerun and runoff elections “. . . A signed original and 4 copies of the objections shall be filed with the commission, . . .”

R 423.151 Filing, contents, and service (ULP charge) “. . . An original and 4 copies of the charge shall be filed with the commission. . . .”

R 423.153 Amendments to charges “. . . An original and 4 copies of the amended charge shall be filed with the commission . . . If a request to amend a charge is made in writing, each party opposing the request shall file with the commission a signed original and 2 copies of its objection . . .”

R 423.155 Answers “. . . Each respondent may file with the commission a signed original and 4 copies of an answer to the complaint and attached charge, . . .

R 423.156 Amendments to answers “. . . An original and 4 copies of the amended answer shall be filed with the commission . . .”

R 423.161 General provisions “. . . All pleadings to the administrative law judge shall include 1 original, and 1 copy, unless otherwise directed . . .”

R 423.173 Oral argument at hearing and briefs “. . . An original and 2 copies shall be submitted for any brief filed in a representation proceeding under part 4 of these rules unless additional copies are requested. . . .”

R 423.176 Exceptions to administrative law judge's decision and recommended orders; cross exceptions and response; brief in support.

(2) An original and 4 copies of the exceptions and brief shall be filed with the commission, along with all of the following documents:

Two copies of each exhibit, if any, admitted, or offered and marked at hearing by either party.

Two copies of each party's post-hearing briefs.

Two copies of all of the following documents:

Any motion that resulted in a ruling by the administrative law judge dismissing or sustaining the unfair labor practice in whole or part.

Any brief in support of the motion.

The response to the motion filed by the opposing party or parties.

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(8) Within 10 days after service of exceptions, a party may file 1 original and 4 copies of cross exceptions and briefs in support thereof, or 1 original and 4 copies of a brief or legal memorandum in support of the decision and recommended order.

(9) Within 10 days after service of cross exceptions, an opposing party may file 1 original and 4 copies of a brief or legal memorandum

R 423.177 Compliance and enforcement.

(1)(b) An original and 4 copies of the request shall be filed with the commission, . . .”

(4) Each respondent alleged in the request to have compliance obligations shall, within 10 days of service of the request, file an original and 4 copies of an answer with the commission, . . .”

R 423.191 Notice to commission; filing; service.

Rule 191. (4) Upon filing a written notice and affidavit with the commission, . . . An original and 4 copies of the notice and affidavit shall be filed with the commission unless the notice and affidavit are filed electronically pursuant to commission policy.

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(7) The bargaining representative shall file an answer and any affirmative defenses with the commission within 7 days of service of notice of hearing and shall simultaneously serve the initiating party. An original and 4 copies of any answer and affirmative defenses shall be filed with the commission unless the answer and affirmative defenses are filed electronically pursuant to commission policy.

R 423.192 Hearing on whether a strike occurred.

(13) At the discretion of the commission, parties may submit briefs at the close of the hearing. A party submitting a brief shall file the original and 4 copies with the commission unless the brief is submitted electronically pursuant to commission policy.

R 423.192a Notice of names of employees presumed to have engaged in a strike.

(3) The public-school employer or the superintendent of public instruction shall file with the commission an original and 2 copies of the notice and affidavit, unless the notice and affidavit are filed electronically pursuant to commission policy.

R 423.193. Challenge to presumption of participation in a strike.

(3) The public-school employee shall file an original and 2 copies of the answer and affidavit with the commission unless the answer and affidavit are filed electronically pursuant to commission policy.

R 423.195 Exceptions to decision and recommended order; cross exceptions and response; brief in support.

(2) An original and 4 copies of the exceptions and brief shall be filed with the commission, along with all of the following documents:

Two copies of the notice and affidavit identifying the employees presumed to have been engaged in a strike in violation of section 2 of PERA.

Two copies of the answer and affidavit of the employee presumed to have been engaged in a strike in violation of section 2 of PERA.

Two copies of each exhibit, if any, admitted, or offered and marked at hearing by either party.

Two copies of each party's briefs.

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(3) . . . If the exceptions and the supporting documents listed in subrule (2) of this rule are filed electronically pursuant to commission policy, it is not necessary to file additional copies.

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(8) Within 10 days after service of exceptions, an opposing party may file 1 original and 4 copies of cross exceptions and briefs in support of the cross exceptions, or 1 original and 4 copies of a brief or legal memorandum in support of the decision and recommended order. If the cross exceptions and brief in support or the legal memorandum in support of the decision and recommended order are filed electronically pursuant to commission policy, it is not necessary to file additional copies.

(9) Within 10 days after service of cross exceptions, an opposing party may file 1 original and 4 copies of a brief or legal memorandum responding specifically to the issues raised in the cross exceptions that were not addressed in the exceptions. If the brief or legal memorandum responding to the cross exceptions is filed electronically pursuant to commission policy, it is not necessary to file additional copies.

R 423.196 Notice of conditions constituting a lockout.

(3) An original and 4 copies of the notice and affidavit shall be filed with the commission unless the notice and affidavit are filed electronically pursuant to commission policy.

R 423.198 Hearing on whether a lockout occurred.

(12) At the discretion of the commission, parties may submit briefs at the close of the hearing. Any party submitting a brief shall file the original and 4 copies with the commission and serve a copy on each of the other parties no later than the close of business on the last day of the hearing. If the brief is filed electronically pursuant to commission policy, it is not necessary to file

additional copies.

Act 312 Rules impacted by waiving the requirement of an original and extra hard copy on e-filed cases:

R 423.505 Petition to initiate compulsory arbitration. “. . . 3 copies, along with a proof of service, shall be filed with the commission . . .”

R 423.513 Panel findings, opinion, and award. “. . . (4) The arbitrator shall serve a copy of the award on each party and send the original and 2 copies of the award, along with an electronic copy of the award, to the commission with the entire record.

#### C. ALLOW OPTION OF ELECTRONIC RECORDING AND TRANSCRIPTION OF HEARINGS:

R 423.136 (8) No official record will be made unless the parties request one, in which case, the cost of a court reporter and any other costs associated with the preparation of the record shall fully be the responsibility of the parties pursuant to R423.138.

R 423.138 (3) A party may order a transcript of a deposition at its own expense. The party who requests a deposition shall pay the costs for the court reporter and for a copy of the transcript of the deposition for the fact-finding hearing record.

R 423.171 (8) The record of any hearing or proceeding shall be taken pursuant to all of the following:

(a) Certification. Only official court reporters certified in accordance with the state court administrative office (SCAO) may record or prepare transcripts of proceedings held by or on behalf of the commission pursuant to these rules. Official court reporters shall, at a minimum, be designated as a certified shorthand reporter (CSR), certified steno mask reporter (CSMR), or certified electronic recorder (CER) as defined by SCAO. The signature line on the certification shall be signed by the court reporter who physically appeared at the proceedings and shall contain a current certification number issued by the SCAO as assigned to that reporter.

(b) Attendance at hearing. A court reporter satisfying the certification requirements specified in subrule (8)(a) of this rule shall attend all hearings conducted by or on behalf of the commission and take a verbatim record of the proceedings, including, but not limited to, opening statements, witness testimony, final arguments, and the reasons given by the administrative law judge for granting or refusing any motion made by a party during the course of hearing.

(c) Furnishing transcript. The court reporter shall furnish within 10 business days, in verbatim record, a transcript of the proceedings or any part of the proceedings taken by him or her to any party on request. A party ordering the transcript shall make satisfactory arrangements with the court reporter for payment of the cost of the transcript.

(d) Filing transcript. The court reporter shall file with the commission and the administrative law judge an original transcript of the record, in legible English, of any proceedings conducted by or on behalf of the commission. The transcript shall include a certification by the court reporter that the transcript is an original, verbatim transcript of the proceedings. The original transcript shall become part of the record in the case, and the commission shall maintain a copy of the transcript for the time period required under R 423.185.

R 423.192 (12) The court reporter shall prepare the transcript within 1 business day of each day's proceedings and provide it to the commission. A court reporter shall file with the commission an original transcript of the record, in legible English, of any proceedings conducted by or on behalf of the commission. The transcript shall include a certification by the court reporter that the transcript is an original, verbatim transcript of the proceedings. The original transcript shall



maintain a copy of the transcript for the time period required under R 423.185. A party that orders a copy of the transcript shall make arrangements with the court reporter for payment of the cost of the copy.

R 423.194 (11) The court reporter shall prepare the transcript within 1 business day of each day's proceedings and provide it to the commission. A court reporter shall file with the commission an original transcript of the record, in legible English, of any proceedings conducted by or on behalf of the commission. The transcript shall include a certification by the court reporter that the transcript is an original, verbatim transcript of the proceedings. The original transcript shall maintain a copy of the transcript for the time period required under R 423.185. A party that orders a copy of the transcript shall make arrangements with the court reporter for payment of the cost of the copy.

R 423.198 (11) The transcript shall be prepared within 1 business day of each day's proceedings and provide it to the commission. The court reporter shall file with the commission an original transcript of the record, in legible English, of any proceedings conducted by or on behalf of the commission. The transcript shall include a certification by the court reporter that the transcript is an original, verbatim transcript of the proceedings. The original transcript shall become part of the record in the case, and the commission shall maintain a copy of the transcript for the time period required under R 423.185. A party that orders a copy of the transcript shall make arrangements with the court reporter for payment of the cost of the copy.

Act 312 Rules impacted by the court reporter requirement:

R 423.507 (10) Testimony shall be taken by a court reporter. . . .

**C. CREATE A NEW RULE THAT ALLOWS COMMISSION THROUGH POLICY TO PERMIT OR REQUIRE ALTERNATE SERVICE METHODS (SYSTEM OR ELECTRONIC SERVICE) ON ALL CASES AND DOCUMENTS FILED WITH THE AGENCY.**

**D. PERMIT THE IMPARTIAL ARBITRATOR TO ADMINISTER THE OATH OR AFFIRMATION IN ACT 312 HEARING:**

R 423.508 Witness examination. A witness at the hearing shall be examined orally under oath or affirmation administered by the court reporter.

**E. CLARIFY DEFINITION & APPLICATION OF "ADVOCATE" IN ACT 312 RULES:**

R 423.501 (b) "Advocate" means an individual who has represented management or a union in collective bargaining or labor relations in the 5 years prior to his or her selection by the commission as a nominee for an impartial arbitrator or chair of an arbitration hearing panel pursuant to Section 5(1) of 1969 PA 312, MCL 423.235(1). Advocate also means an individual, including an attorney, who is associated with a firm or entity that has represented management or a union in collective bargaining or a labor relations in the 5 years prior to his or her selection by the commission as a nominee for an impartial arbitrator or chair of an arbitration hearing panel pursuant to Section 5(1) of 1969 PA 312, MCL 423.235(1).

**F. REINFORCE THE REQUIREMENT THAT THE IMPARTIAL ARBITRATOR IN AN ACT 312 PREHEARING MUST RULE ON 'DURATION' AND OTHER PRELIMINARY RULINGS ARE MADE BEFORE THE LAST OFFERS OF SETTLEMENT ARE SUBMITTED BY THE PARTIES:**

R 423.507 (3) The arbitrator shall do all of the following:

(a) Make a determination on the economic issues in dispute and the duration of the collective bargaining agreement, and require each party to exchange and submit all of the following:

**Department of Labor & Economic Opportunity  
MIOSHA/Technical Service Division**

1. Rule(s) to be **processed** between July 1, 2021, and June 30, 2022. [Give brief description.]

**MOAHR # 2020-67 LE General Industry Safety and Health Standard – Part 74 – Fire Fighting** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 16 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016, 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules will be revised to reflect Michigan Bureau of Fire Services rule to adopt by reference the National Fire Protection Association 1403 standard during live fire training in Michigan and rescind nonmandatory appendices. As a result of legislative changes, MIOSHA was required to write new rules regarding fire fighters’ use of PFAS containing foam in firefighting operations.

**MOAHR # Not Assigned General Industry Safety and Health Standard – Part 73 – Fire Brigades** - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules will be revised as a result of legislative changes, MIOSHA was required to write new rules regarding fire fighters’ use of PFAS containing foam in firefighting operations.

**MOAHR # Not assigned MIOSHA Safety and Health Standard – Part 11 – Recording and Reporting of Occupational Injuries and Illnesses** - By authority conferred on the department of labor and economic opportunity by sections 69 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1069, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. These rules are being amended to amend R 408.22133 to be similar with 29 CFR 1904 and minor editorial and formatting changes are being made.

**MOAHR # 2020-094 LE Construction Safety and Health Standard – Part 13 – Mobile Equipment** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16 and 19 of 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The topic-based rule sets are meant to provide clarity/consistency to those working in the construction industry. These rule sets are being amended in order to make editorial and administrative revisions and required under the standard improvement project issued by Federal OSHA.

**MOAHR # Not Assigned – MIOSHA Safety and Health Standard Part 13 – Inspections and Investigations, Citations and Proposed Penalties** - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 69 of Michigan occupational safety and health act, 1974 PA 154, MCL 408.1033, and section 33 of the administrative procedures act, 1969 PA 306, and MCL 24.233, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. These rules are being amended in order to make editorial and administrative revisions.

**MOAHR # 2020-093 LE Administrative Safety and Health Standard – Part 4 - Procedures**

- By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 46 of the Michigan occupational safety and health act, 1974 PA 154, and section 33 of the administrative procedures act, 1969 PA 306, MCL 408.1046 and 24.233 of the Michigan Compiled Laws, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. These rules are being amended in order to make editorial and administrative revisions.

**MOAHR # 2020-107 LE Construction Safety and Health Standard – Part 665 –**

**Underground Construction, Caissons, Cofferdams, and Compressed Air** - By authority conferred on the director of the department of labor and economic opportunity by sections 14, 16, 19, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The topic-based rule sets are meant to provide clarity/consistency to those working in the construction industry. These rule sets are being amended in order to make editorial and administrative revisions and required under the standard improvement project issued by Federal OSHA.

**MOAHR # 2021-18 LE General Industry and Construction Safety and Health Standard –**

**Part 432. Hazardous Waste Operations and Emergency Response** - By authority conferred on the director of the department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The topic-based rule sets are meant to provide clarity/consistency to those working in the construction industry. These rules are being amended in order to make editorial and administrative revisions and required under the standard improvement project issued by Federal OSHA.

**MOAHR # 2021-39 LE Construction Safety and Health Standard – Part 10 Cranes and**

**Derricks** - By authority conferred on the director of the department of labor and economic opportunity by sections 14, 16, and 19 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, and 408.1019, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. These rules are being amended in order to be as effective as OSHA and to make editorial and administrative revisions.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2021, and June 30, 2022. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.

**MOAHR # 2020-67 LE General Industry Safety and Health Standard Part 74 – Fire Fighting** – R 408.17434, R 408.17435, and R 408.17437 – Obsolete.

**MOAHR # 2020-093 LE Administrative Safety and Health Part 4 – Procedures** – R 408.21422, R 408.21427, R 408.21428, R 408.21429, and R 408.21431 – Obsolete.

Annual Regulatory Plan 2021-2022

3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.

No

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

None

- A. Whether there is a continued need for the rules.

There is a continued need for the MIOSHA rules which set standards to help protect the safety and health of Michigan workers.

- B. A summary of any complaints or comments received from the public concerning the rules.

MIOSHA is not aware of any complaints from the public concerning the rules.

- C. The complexity of complying with the rules.

The Williams-Steiger Occupational Safety and Health Act of 1970 requires MIOSHA to promulgate standards that are at least as effective as those promulgated under the Act. Consequently, any complexity in complying with the MIOSHA rules stems from the complexing of the federal OSHA standards that are adopted by reference in the MIOSHA rules.

- D. Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

These rules do not conflict with federal regulations. Many of these rules are adoption of federal OSHA rules and regulations.

- E. The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

The MIOSHA rules are continually revised and updated in order to be as effective as the federal regulations.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

**MIOSHA Rules**

[https://www.michigan.gov/leo/0,5863,7-336-78421\\_11407\\_15368---,00.html](https://www.michigan.gov/leo/0,5863,7-336-78421_11407_15368---,00.html)

**Radiation Safety Rules**

[https://www.michigan.gov/leo/0,5863,7-336-78421\\_11407\\_35791---,00.html](https://www.michigan.gov/leo/0,5863,7-336-78421_11407_35791---,00.html)

6. Please provide a list of the items identified for action in the 2021 ARP that have been completed and those that remain outstanding.

**Completed:**

**MOAHR # 2020-044 LE Construction Safety and Health Standard – Part 1 – General Rules** By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 16 and 19 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016 and 408.1019, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-045 LE Construction Safety and Health Standard – Part 6 – Personal Protective Equipment** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, and 19 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, and 408.1019, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-049 LE Construction Safety and Health Standard – Part 8 – Handling and Storage of Materials** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 16 and 19 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016 and 408.1019, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-047 LE Construction Safety and Health Standard – Part 14 – Tunnels, Shafts, Cofferdams and Caissons** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 16 and 19 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016 and 408.1019, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-048 LE Construction Safety and Health Standard – Part 21 – Guarding of Walking and Working Areas** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 16 and 19 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016 and 408.1019, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-054 LE Construction Safety and Health Standard – Part 22 – Signals, Signs, Tags and Barricades** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 16 and 19 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016 and 408.1019, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-055 LE Construction Safety and Health Standard – Part 602 – Asbestos Standards for Construction** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, and 408.1024 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-051 LE Construction Safety and Health Standard – Part 603 – Lead Exposure in Construction** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, and 408.1024 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-052 LE Construction Safety and Health Standard – Part 604 – Chromium (VI) in Construction** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, and 408.1024 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-056 LE Construction Safety and Health Standard – Part 605 – Methylenedianiline (MDA) in Construction** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, and 408.1024 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-053 LE Construction Safety and Health Standard – Part 609 – Cadmium in Construction** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, and 408.1024 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2021-007 LE General Industry Safety and Health Standard – Part 49 – Slings** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 16 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016, 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2019-122 General Industry Safety and Health Standard – Part 62 – Plastic Molding** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 16 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016, 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2021-009 LE General Industry Safety and Health Standard – Part 302 – Vinyl Chloride** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1021, 408.1024 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-063 LE General Industry Safety and Health Standard – Part 303 – Methylenedianiline (MDA) in General Industry** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-064 LE General Industry and Construction Safety and Health Standard –**

**Part 304 – Ethylene Oxide** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-065 LE General Industry and Construction Safety and Health Standard – Part 306 – Formaldehyde** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-066 LE General Industry and Construction Safety and Health Standard – Part 307 – Acrylonitrile** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-071 LE General Industry and Construction Safety and Health Standard – Part 308 – Inorganic Arsenic** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-098 LE General Industry Safety and Health Standard – Part 309 – Cadmium in General Industry** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-073 LE General Industry Safety and Health Standard – Part 310 – Lead in General Industry** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-075 LE General Industry and Construction Safety and Health Standard – Part 312 1, 3 – Butadiene** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-076 LE General Industry and Construction Safety and Health Standard – Part 313 – Methylene Chloride** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-077 LE General Industry and Construction Safety and Health Standard – Part 314 – Coke Oven Emissions** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-103 LE General Industry Safety and Health Standard – Part 472 – Medical Services and First Aid** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 16, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2021-008 LE General Industry Safety and Health Standard – Part 554 – Bloodborne Infectious Diseases** - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 16, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-092 LE General Industry Safety and Health Standard – Part 590 – Silica in General Industry** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2021-006 LE General Industry and Construction Safety and Health – Part 311 – Benzene** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**MOAHR # 2020-105 LE General Industry Safety and Health – Part 340 – Beryllium in General Industry** – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.



**MOAHR # 2020-106 LE Construction Safety and Health – Part 640 – Beryllium in Construction** - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16, 19, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

**Department of Labor and Economic Opportunity  
Michigan State Housing Development Authority**

1. Rule(s) to be **processed** between July 1, 2021, and June 30, 2022. [Give brief description.]

**New rules to be processed:**

**R 125.103:** add new subsection (d) defining “low-income persons and families” in accordance with the State Housing Development Authority Act of 1966 (MCL 125.1401, et. seq.).

**R 125.111:** add subsection (3) creating time limit within which to request certain administrative appeals.

**COMPREHENSIVE UPDATE R. 125.101 through R 125.224:** The Authority is undertaking a review and update of the entire Authority rule set for clarity and correction as prior, most-recent update occurred in 2009.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2021, and June 30, 2022. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.

None. Please see reference in the preceding to comprehensive update. No rules are to be rescinded in their entirety, but many will be subject to proposed edits for condensing and simplification.

3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.

None.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

The new, proposed R 125.103(d) has been prepared to respond to developments in the affordable housing industry. The Authority rule set is otherwise reflective of corresponding statutory language and general requirements of Federal funding administered by the Authority.

- A. Whether there is a continued need for the rules.

No existing rule has been identified as being problematic to industry.

- B. A summary of any complaints or comments received from the public concerning the rules.

No comment has been received suggesting that any Authority rule is problematic.

- C. The complexity of complying with the rules.

No existing rule has been identified as requiring complex compliance.

- D. Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

Please see the reference above to the comprehensive update. As part of the Authority’s work in updating the 2009 rule set, the Authority has attempted to identify and eliminate any conflicting or duplicative rules.

- E. The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

2009. Significant changes in industry concepts, the structure of state government, and modern word usage have led the Authority to undertake the comprehensive update

Annual Regulatory Plan 2021-2022

described above.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

[ARS Public - MI Admin Code \(state.mi.us\)](https://www.state.mi.us/ARS/Public)

6. Please provide a list of the items identified for action in the 2021 ARP that have been completed and those that remain outstanding.

Not applicable.

**DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY  
WORKERS' DISABILITY COMPENSATION AGENCY**

1. Rule(s) to be **processed** between July 1, 2021, and June 30, 2022. [Give brief description.]

Workers' Disability Compensation Health Care Services Rules: 2020-26-LE (Authority conferred on the Workers' Disability Compensation Agency by Sections 205 and 315 of 1969 PA 317, Section 33 of 1969 PA 306, Executive Reorganization Order Nos. 1982-2, 1986-3, 1990-1, 1996-2, 2003-1, 2011-4, and 2019-13, MCL 418.205, 418.315, 24.233, 18.24, 418.1, 418.2, 445.2001, 445.2011, and 445.2030.) The Health Care Services rule set is reviewed and revised annually due to ongoing changes in the medical arena, as well as with Medicare. This rule set establishes schedules of maximum fees for a health facility or health care provider for treatment or attendance, service, device, apparatus, or medicine, as well as procedures by which a health care provider shall be paid, and source documents to be utilized.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2021, and June 30, 2022. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.

None Identified

3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.

The Agency has not failed to promulgate any statutorily required rules or failed to utilize any statutorily required rules.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

The Workers' Disability Compensation Agency Health Care Services rule set is reviewed and revised annually due to ongoing changes in the medical arena, as well as with Medicare. The industry would like continual improvement with efficiency of processing new rules that allows us to keep pace with the rapidly changing medical arena. The Agency has not found a more efficient or cost-effective means of administering a reimbursement fee schedule in an equitable fashion across all parties.

- A. Whether there is a continued need for the rules.

There is a continued need for the Workers' Disability Compensation Health Care Services rule set. This rule set establishes schedules of maximum fees by a health facility or health care provider for such treatment or attendance, service, device, apparatus, or medicine, as well as procedures by which a health care provider shall be paid. The rules do regulate the administration of all major workers' disability compensation health care reimbursement processes and procedures, which does impact all involved parties, including businesses large and small across the state.

- B. A summary of any complaints or comments received from the public concerning the rules.

No complaints or comments received from the public

- C. The complexity of complying with the rules.

Complying with the Health Care Rules can be complex. As noted above in Question #4,

Annual Regulatory Plan 2021-2022

the Agency's Health Care Rules are tied directly to the Medicare fee schedules which are updated several times throughout a year. The rules are also directly tied to Current Procedural Terminology (CPT) codes, which are published in March of each year. The Agency's rule set is revised annually based on data from the previous year. It is sometimes difficult for the Agency's customers to understand that compliance is tied to the previous year's codes, simply because the rules promulgation process must go through the full rulemaking process.

- D.** Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

The rules do not conflict with or duplicate other governmental rules, either local or federal.

- E.** The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

The healthcare ruleset 2020-26LE is currently in the rule's promulgation process. The last revisions to the Workers' Disability Compensation Health Care Services rule set (2018-017 LR) took effect January 8, 2019. These rules are directly linked to annual updates by Centers for Medicare and Medicaid Services (CMS) and the American Medical Association (AMA). As such, the rules should be updated annually to account for the latest information.

- 5.** Please provide the URL link the department or bureau is currently using to display their administrative rules.

[Labor and Economic Opportunity - HCS Rules, Manuals & Fees \(michigan.gov\)](#)

- 6.** Please provide a list of the items identified for action in the 2021 ARP that have been completed and those that remain outstanding.

Workers' Compensation Health Care Services Rules (2020-26 LE) and Workers' Compensation Agency General Rules (2020-31 LE) proposed changes and updates were highlighted in the 2019 Annual Regulatory Plan and remain outstanding and in the promulgation process as of the drafting of this plan.