

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

1. Rule(s) to be **processed** between July 1, 2023, and June 30, 2024.

Amend the Commission’s General Rules and Act 312 Rules to authorize:

- a. Mandatory electronic filing (e-filing) of all/ certain MERC cases and documents.
- b. Waive requirement to file hard copies on e-filed cases and documents.
- c. Permit or require alternate service methods on case filings, exhibits and documents.
- d. Permit virtual and remote processes, including hearings on MERC cases including staff and court reporter participation.
- e. Permit electronic recording and transcription of MERC case hearings.
- f. Permit panel appointees to administer the oath or affirmation in case hearings.
- g. Clarify the definition and application of “Advocate” used in Act 312 and Fact-finding processes.
- h. Require 312 arbitrators and Fact Finders to make certain preliminary rulings (e.g., duration) included in instructions for submitting last best offers.
- i. Codify several established elections bars.
- j. Codify document content, filing, and service requirements on all case types.
- k. Expand mediator role to include making written non-binding recommendations and provide voluntary mediation upon mutual consent of all parties in labor relations cases.
- l. Require party submitting filings to MERC to also serve all parties in all case types.
- m. Codify standards for disqualification, recusal and required disclosures by a Commissioner, ALJ, Panel appointee or other Commission designee or agent.
- n. Promulgate changes as necessary based on recent legislation and case decisions.
- o. Other related changes.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2023, and June 30, 2024. 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None to be rescinded.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 any change, General Rule 181, 191, 192, 192a, 193, 195, 196, 198 minimize MERC’s ability to expedite the filing processes. Likewise, several 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.

Annual Regulatory Plan 2023-2024

A. Describe whether there is a continued need for the rules.

Yes

B. Provide a summary of any complaints or comments received from the public concerning the rules.

Various complaints that include: Need for MERC to mandate electronic filing (e-filed) and electronic service of case types for faster more efficient processing and fewer redundant filings; Eliminate hard copy original and extra copies with e-filed materials; lack of clarity in some of the 312 definitions and steps; Inability to readily use advancing technology regarding virtual/remote hearings and alternative methods for capturing the official record at MERC case hearings; codify standards for disqualification of Commissioners and designees, as well as clarify various missing or ambiguous rulings and practices.

C. Describe the complexity of complying with the rules.

All relate to comments listed above in 4B.

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

None that are known.

E. Provide 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 began in 2021 and continued in 2022; Some evaluation was connected to the new case management system (MERC e-File) launched in Dec 2018 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.

[www.michigan.gov/merc](http://www.michigan.gov/merc)

6. Please provide a list of the items identified for action in the 2023 ARP that have been completed and those that remain outstanding.

**No changes occurred in the prior period. The following remain outstanding (partial list):**

**A. CHANGE GENERAL RULE 181 AND OTHERS TO ALLOW AGENCY, THROUGH MERC POLICY, TO MANDATE THE E-FILING AND E-SERVICE OF MERC CASE FILINGS 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 Extra Copies) WHEN CASE IS INITIATED BY E-FILE OR OTHER DOCUMENTS ARE E-FILED**

*(Impacts both General Rules and 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 (1)** “. . . The petitioner shall file an original and 3 copies with the commission . . .”

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

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

**R 423.141 Petitions for elections (1)** “. . . An original and 4 copies of the petition shall be filed with the commission . . .”

**R 423.149b Objections to elections; rerun and runoff elections (1)** “. . . A signed original and 4 copies of the objections shall be filed with the commission, . . .”

**R 423.151 Filing, contents, and service (ULP charge) (1)** “. . . An original and 4 copies of the charge shall be filed with the commission. . . .”

**R 423.153 Amendments to charges (1)** “. . . An original and 4 copies of the amended charge shall be filed with the commission . . . (2) 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 (1)** “. . . 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 (2)** “. . . An original and 4 copies of the amended answer shall be filed with the commission . . .”

**R 423.161 General provisions (6)** “. . . 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.

\* \*

(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.** (1) “. . . 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. Expand Mediator role:**

- 1. Make written recommendations that are non-binding on the parties.**
- 2. Provide voluntary mediation upon mutual consent of all parties in ULP, UC and R cases.**

**D. ALLOW THE USE OF ELECTRONIC, REMOTE AND ALTERNATIVE METHODS FOR TO RECORD AND TRANSCRIBE CASE 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. . . .

**E. CREATE A RULE THAT ALLOWS COMMISSION TO PROMULGATE POLICY TO PERMIT OR MANDATE THE USE OF ALTERNATE SERVICE METHODS (i.e., EMAIL, SYSTEM OR ELECTRONIC SERVICE) ON ALL CASES AND DOCUMENTS FILED WITH THE AGENCY OR ISSUED BY THE COMMISSION OR ITS DESIGNEE.**

**F. PERMIT AN IMPARTIAL ARBITRATOR OR OTHER HEARING DESIGNEE TO ADMINISTER THE OATH OR AFFIRMATION IN ACT 312 AND OTHER CASE PROCEEDINGS:**

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

**G. 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 labor relations matters 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).

**H. REINFORCE THE REQUIREMENT THAT THE 312 ARBITRATOR MAKE CERTAIN PRELIMINARY RULINGS DURING THE PREHEARING STAGE THAT ARE INCLUDED IN THE INSTRUCTIONS ON SUBMITTING THE LAST OFFERS OF SETTLEMENT:**

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

- (a) Issue rulings 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:

Annual Regulatory Plan 2023-2024

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|-------|--|
| (i)   | A statement of the party's issues setting forth the specific changes in the collective bargaining agreement proposed by the party. |
| (ii)  | The party's position as to whether each issue is economic or non-economic.   |
| (iii) | The proposed duration of the collective bargaining agreement.  |



**Department of Labor and Economic Opportunity  
Employment and Training Division - Bureau of Services for Blind Persons**

1. Rule(s) to be **processed** between July 1, 2023, and June 30, 2024.

**Bureau of Services for Blind Persons – Vending Facility Program (ORR# not assigned)**  
Revision to R393.1 to R393.56, as authorized by MCL 393.1 et seq and in compliance with 34 CFR 395.1 et seq.

The Bureau of Services for Blind Persons is the State Licensing Agency for the Randolph Sheppard Act, authorizing the placement of food service establishments on state and federal properties to be operated by blind licensees.

In keeping with the mandate of the Randolph-Sheppard Act, the Program continues to actively seek the participation of the Elected Operator’s Committee to shape the Program’s rules and policy. Meetings regarding the update to the rule set are on-going. This rule set was last revised in 2004 and the department housing the SLA has changed, and the altering business model of the program require a full rule set revision.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2023, and June 30, 2024. 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.

BSBP/BEP: identified many rules that are obsolete and can be rescinded. The following rules, at a minimum, are obsolete and can be rescinded:

Proposed rescission of subrules (c), (d), (e), and (f) in R 393.9 on Candidate referral packet of the Vending Facility Program rules.

Proposed rescission of R 393.45 Vending facility training for existing cafeteria licensees.

Proposed rescission of sub rules (4) and (5) and Rule 393.46 Cafeteria training for licensees.

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.

R393.7 to R393.16 outline the process for becoming licensed and the revocation of a license where appropriate. R393.54 to R393.56 outline the dispute resolution process for licensees. All rules should be considered for revision to find more efficient methods for resolving problems arising from the implementation of the program.

- A. Describe whether there is a continued need for the rules.

The rules are a requirement outlined in federal regulations, 34 CFR 395.1, and are necessary for the continued implementation of the Randolph Sheppard act and PA 260 of 1978.

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

Annual Regulatory Plan 2023-2024

The Elected Operator Committee, a group of operators licensed in the program, have made numerous requests to review and revise the rules to allow for greater opportunities within the program. These opportunities include development of unmanned locations to allow greater hours of operations and more flexibility for items to be sold.

C. Describe the complexity of complying with the rules.

BSBP/BEP: Compliance with current rules requires coordination with multiple stakeholders and can cause delays in providing services prescribed by these rules. Changes to the existing rule, based on the Program's current structure, are not complex, and in fact should reduce the Program's cost in responding to licensee grievances. Additional changes will allow for the implementation of new business technologies. Finally, these rules ensure that fiscal actions comply with federal requirements.

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

BSBP/BEP: The rules do not conflict with, or duplicate similar rules or regulations adopted by the federal government. The rules have no impact on local units of government.

E. Provide 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. This rule set was last revised in 2004. Since that time, technology has provided real time monitoring of vending sales, micro market kiosks that allow for the retail sale of products without staff present, and the development of a process to receive licensee fiscal data via a web portal. All these updates to the business model have improved efficiency and reduced costs, however, none appear within the rule set.

This rule set was last revised in 2004. Since that time, technology has provided real time monitoring of vending sales, micro market kiosks that allow for the retail sale of products without staff present, and the development of a process to receive licensee fiscal data via a web portal. All these updates to the business model have improved efficiency and reduced costs, however, none appear within the rule set.

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

BSBP/BEP: [LEO - Legal Authority \(michigan.gov\)](#) Scroll down to BEP State Rules (a MS Word Document link)

6. Please provide a list of the items identified for action in the 2023 ARP that have been completed and those that remain outstanding.

BSBP/BEP: All activities identified for action are on-going. The BEP is required to actively participate with the Elected Operator Committee in any revisions to the rules and this committee was not able to meet as frequently as required to participate in the revision of the rules during the Covid health emergency, however, is currently meeting bi-monthly to make recommendations for updates.

**Department of Labor and Economic Opportunity  
Employment & Training Division - Michigan Rehabilitation Services Division**

1. Rule(s) to be **processed** between July 1, 2023, and June 30, 2024.

- 1. R 395.55 Confidentiality – Updated to clarify and reflect all requirements
- 2. R 395.65 Individuals employed at intake – Updated to align with current guidance
- 3. R 395.73 Comparable benefits and services in the IPE – Updated to align with current guidance
- 4. R 395.75 Post-secondary education and vocational training financial needs test – updated remove requirement off financial needs test and include new college training guidance.
- 5. R 395.77 Case closure prior to eligibility, R 395.78 Case closure; severity of disability, R 395.79 Rehabilitated case closure, R 395.80 Individual not rehabilitated; case closure, R 395.81 Rehabilitation case closure; supported employment, and R 395.82 Notice of case closure. (This list will be updated by consolidating into a single case closure rule in alignment with policy)
- 6. Formation of new rule(s) associated with Small Business Development
- 7. Formation of new rule(s) associated with Vendor Services including background checks.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2023, and June 30, 2024. 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.

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.

N/A

A. Describe whether there is a continued need for the rules.

N/A

B. Provide a summary of any complaints or comments received from the public concerning the rules.

N/A

C. Describe the complexity of complying with the rules.

N/A

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

N/A

E. Provide 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.

N/A

Annual Regulatory Plan 2023-2024

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

<https://www.michigan.gov/leo/bureaus-agencies/mrs/facts-pubs>

6. Please provide a list of the items identified for action in the 2023 ARP that have been completed and those that remain outstanding.

N/A

**Department of Labor & Economic Opportunity  
Michigan Occupational Safety and Health Administration**

1. Rule(s) to be **processed** between July 1, 2023, and June 30, 2024.

**MOAHR # Not Assigned Construction Safety and Health Standard – Part 9 – Excavation, Trenching, and Shoring** - By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of the Michigan occupational safety and health act, 1974 PA 154, 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 amend R 408.40945(3) to add the term “vertically” to the rule. This amendment would provide clarification and to match OSHA.

**MOAHR # Not Assigned Construction Safety and Health Standard – Part 12 – Scaffolds and Scaffold Platforms** - 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, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030 and 125.1998. The current rules are being amended to remove the reference to 29 CFR 1926.453, “Aerial lifts.” This amendment would provide clarification and to be at least as effective as OSHA.

**MOAHR # Not Assigned Construction Safety and Health Standard – Part 19 – Tools** - By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of the Michigan occupational safety and health act, 1974 PA 154, 408.1019, and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. This amendment would provide clarification and to be at least as effective as OSHA.

**MOAHR # Not Assigned Construction Safety and Health Standard – Part 21 – Guarding of Walking and Working Areas** - By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1019 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules are being amended to expand language regarding impalement hazards.

**MOAHR # LE not assigned Construction Safety Standard – Part 26 – Steel Erection** - By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of 1974 PA 154, MCL 408.1019 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3 MCL, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules are being amended to remove subrule (3) from R 408.42616 “Slip Resistance of Skeletal Structural Steel” to match OSHA’s 29 CFR 1926.754(c) “Structural Steel Assembly.”

**MOAHR # 2022-044 LE 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 is required to promulgate new rules regarding use of PFAS containing foam in firefighting operations. MIOSHA is updating several consensus standards listed in the rules to reflect more current industry standards. Public Hearing June 14, 2023.

**MOAHR # Not Assigned – General Industry and Construction Safety and Health Standard – Part 505 – Coronavirus Disease 2019 (COVID-19) For Healthcare** - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 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. The current rules are being amended to be at least as effective as OSHA.

**MOAHR # 2023-8 LE Not Assigned Part 5 - Operator Qualifications** - By authority conferred on the director of the Michigan department of labor and economic opportunity by section 13521, 1978 PA 368, MCL 333.13521 and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2011-4, and 2019-3, being MCL 330.3101, 445.2001, 445.2011, and 445.2030, and 125.1998. The current rules will be amended in order to add additional operator qualification rules. Public hearing August 16, 2023.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2023, and June 30, 2024. 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 that MIOSHA is aware of.

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. Describe 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. Provide 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. Describe 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.

Annual Regulatory Plan 2023-2024

- D. Describe 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 adoptions of federal OSHA rules and regulations.

- E. Provide 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](#)  
[Radiation Safety Rules](#)

6. Please provide a list of the items identified for action in the 2023 ARP that have been completed and those that remain outstanding.

**Completed:**

**MOAHR # 2022-063 LE General Industry Safety and Health Standard – Part 23 – Hydraulic Power Presses** - By authority conferred on the director of the 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 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. These rules were amended, in order to be as effective as the federal Occupational Safety and Health Administration (OSHA) standard 1910.217(d)(3), “Mechanical power presses.” R408.12363(3) states “employee”, we are changing it to “employer” to be as effective as OSAs 1910.217(d)(3). **Effective date: March 27, 2023.**

**Outstanding:**

**MOAHR #2022-044 LE 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 is required to promulgate new rules regarding use of PFAS containing foam in firefighting operations. Public Hearing June 14, 2023.

**MOAHR # 2023-24 LE Not Assigned Part 3 – Standards For Protection Against Radiation for Users of Radiation Machines General provisions** - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 13515, 13521, 13522, and 13527 of the public health code, 1978 PA 368, MCL 333.13515, 333.13521, 333.13522, and 333.13527 and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2030, and 125.1998. The current rules will be amended to update the reference in R 333.5065(a) in addition to administrative and minor editorial edits.

**MOAHR # 2023-24 LE Not Assigned Part 3 – Standards For Protection Against Radiation for Users of Radiation Machines General provisions** - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 13515, 13521, 13522, and 13527 of the public health code, 1978 PA 368, MCL 333.13515, 333.13521, 333.13522, and 333.13527 and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2030, and 125.1998. The current rules will be amended to update the reference in R 333.5065(a) in addition to administrative and minor editorial edits. **Effective date: June 16, 2023.**

**MOAHR # 2023-8 LE Not Assigned Part 5 - Operator Qualifications** - By authority conferred on the director of the Michigan department of labor and economic opportunity by section 13521, 1978 PA 368, MCL 333.13521 and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2011-4, and 2019-3, being MCL 330.3101, 445.2001, 445.2011, and 445.2030, and 125.1998. The current rules will be amended in order to make changes by implementing the operator qualification rules, by adding an expanded inspection process which may require additional staff, additionally, adding language that outlines a contract with the American Registry of Radiologic Technologists (ARRT) which would be required for limited scope operators.



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

1. Rule(s) to be **processed** between July 1, 2023, and June 30, 2024.

Given legislation newly enacted in 2023, and currently pending legislation, the Authority may process new rules to address the following:

- a. In R 125.101, revise the definition of “adjusted household income” to match the definition used by the U.S. Dept. of Housing and Urban Development.
- b. In R 125.101, adding a definition of “countywide area median income” to comport with new and pending Payment in Lieu of Taxes legislation.
- c. In R 125.103, adding definitions of “missing middle household” and “missing middle households” consistent with the terms of the federal American Rescue Plan Act of 2021.
- d. In R 125.103, adding a definition of “reasonably affordable” to comport with new and pending Payment in Lieu of Taxes legislation.
- e. Additional rule amendments or additions as the Authority deems prudent.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2023, and June 30, 2024. 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.

R 125.198 has been rendered inapplicable by executive order.

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 Authority’s rules do not impose any obligations on private industry whatsoever. The Authority rule set describes qualification criteria and processes for various non-federal loan and grant programs, participation in which is optional to industry and private citizens. The loan and grant parameters described are in accordance with private industry standards.

A. Describe whether there is a continued need for the rules.

There is a continued need for the rules as stewardship of the Authority’s non-federal loan and grant funds requires qualification criteria and articulated loan-making and grant-making processes.

B. Provide a summary of any complaints or comments received from the public concerning the rules.

No public comment was received at the public hearings conducted during the Authority’s 2021-2022 and 2022-2023 rulemaking processes, but limited unsolicited public comment suggested adopting a more expansive definition of “person with special needs” and adopting the definitions of “domestic violence, dating violence, sexual assault, or stalking” in accordance with the federal Violence Against Women Act.

C. Describe the complexity of complying with the rules.

Annual Regulatory Plan 2023-2024

The complexity of the loan-making and grant-making systems described in the Authority rules is equal to or lesser than similar loan-making and grant-making systems in private industry.

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

The Authority's rules do not conflict, nor duplicate similar rules or regulations adopted by the federal government or local units of government.

- E. Provide 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 Authority's current ruleset was adopted March 21, 2023, after two years of extensive review and updating. No factors have changed regulatory activity covered by the rules since that update.

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

[ARS Public - RFR Transaction \(state.mi.us\)](https://www.state.mi.us/ARS/Public/RFRTransaction) and [Board-Docket---071422---Final.pdf \(michigan.gov\)](#)

6. Please provide a list of the items identified for action in the 2023 ARP that have been completed and those that remain outstanding.

The Authority's 2022-2023 ARP identified the following for action in that rulemaking cycle: "The MSHDA general rule set update will be subject to a public hearing on June 24, 2022, and the updated rule set will be adopted and promulgated shortly thereafter." This was accomplished on March 31, 2023, and no action remains outstanding from that cycle.

**Department of Labor & Economic Opportunity  
Unemployment Insurance Appeals Commission (UIAC)**

1. Rule(s) to be **processed** between July 1, 2023, and June 30, 2024.

The UIAC will process the following set of rules:  
2020-110 LE, R792.11417 to 792.11433.  
These rules govern appeals proceedings before the UIAC.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2023, and June 30, 2024. 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.

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.

N/A

- A. Describe whether there is a continued need for the rules.

N/A

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

N/A

- C. Describe the complexity of complying with the rules.

N/A

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

N/A

- E. Provide 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.

N/A

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

[Click for URL UIAC Link](#)

6. Please provide a list of the items identified for action in the 2023 ARP that have been completed and those that remain outstanding.

The set of rules 2020-110 LE, R792.11417 to 792.11433 remains outstanding.

**Department of Labor and Economic Opportunity  
Workers' Disability Compensation Agency**

1. Rule(s) to be **processed** between July 1, 2023, and June 30, 2024.

Workers' Disability Compensation Health Care Services Rules: (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, 2023, and June 30, 2024. 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. Describe 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. Provide a summary of any complaints or comments received from the public concerning the rules.

Comments have been received regarding adequacy of reimbursement using Medicare based amounts.

Annual Regulatory Plan 2023-2024

C. Describe the complexity of complying with the rules.

Complying with the Health Care Rules can be complex. As noted above in Question #4, 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. Describe 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. Provide 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 completed the promulgation process and was effective 11-1-2021. 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.

[LEO - HCS Rules, Manuals & Fees \(michigan.gov\)](https://www.michigan.gov/leo)

6. Please provide a list of the items identified for action in the 2023 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) completed the promulgation process and became effective 11-1-21 and 12-10-21 respectively; updates were highlighted in the 2021 Annual Regulatory Plan. There are no outstanding items from the 2022 ARP.