

**Department of State
2019-2020 Annual Regulatory Plan**

Bureau of Elections

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020.

Petition Signature Standards: 2005 PA 71 amended the Michigan Election Law (MEL), 1954 PA 116, to require the Secretary of State to “promulgate rules establishing uniform standards for state and local nominating, recall and ballot question petition signatures.” MCL 168.31(2). Amendment was effective January 1, 2007.

2. Please include rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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The Bureau has not identified any rules to be rescinded.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

Experimental Use of New Voting Devices: The MEL requires the Secretary of State to adopt rules governing the experimental use of a new voting device on the local level. MCL 168.770a. No action has been taken as experimental use of such a voting device has never been requested. Further, the provision is now obsolete as a “uniform voting system” has been implemented throughout the state.

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.

Yes, there is a continued need for the existing rules. The Bureau has not received “any complaints or comments” regarding rules administered by the Bureau of Elections.

- (b) A summary of any complaints or comments received from the public concerning the rules.

There have been no complaints.

(c) The complexity of complying with the rules.

None.

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

Not applicable.

(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.

Not applicable.

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

<https://dtmb.state.mi.us/DTMBORR/AdminCode.aspx?AdminCode=Department&Dpt=ST&>

6. Please provide a list of the items identified for action in the 2018 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation.

Outstanding:

Petition Signature Standards.

Rules administered by BOE were not the subject of any Advisory Rules Committee recommendations.

Customer Services Administration

Direct Services Section – Uniform Commercial Code

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020.

Change “last name” to “individual’s surname” in the following rules: 440.202, 440.302, 440.407, 440.408, 440.502

Change “correction statement” to “information statement” in the following rules: 440.102, 440.311, 440.406, 440.412

Change “corporation administrators” to “commercial administrators” in the following rules: 440.103

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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.

R440.105 can be rescinded. R440.105 (1) is no longer necessary. The information is thoroughly covered in MCL 440.9521. R440.105 (2) and (3) references fees no longer valid. R440.202 can be rescinded. The information is covered in MCL 440.9516(2) and MCL 440.9520(5). R440.509 is unnecessary. It is based on a previous UCC information management system which allowed customers to view records in person, by appointment. A web-based search application is now available, making personal visits to the filing office no longer necessary.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

No. Filing office rules are statutorily required by MCL 440.9526. Michigan Rules were created to comply with the 2001 revision of UCC Article 9, on November 20, 2002.

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.

Yes. The UCC governs all commercial transactions and the administrative rules clarify, not complicate or burden, the process of filing and searching documents.

- (b) A summary of any complaints or comments received from the public concerning the rules.

None.

- (c) The complexity of complying with the rules.

None.

- (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 or duplicate the rules or regulations of other governmental entities. Rules for other state jurisdictions are also statutorily required by the Uniform Commercial Code (UCC) Article 9, Section 9-526.

- (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 last evaluation was in 2019. The current rules became effective November 20, 2002. Since that time, technology no longer necessitates that customers visit the office to receive search information quickly. Additionally, there have been statutory changes and the UCC filing application was replaced and upgraded in 2016.

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

<http://w3.lara.state.mi.us/orr/AdminCode.aspx?admincode=Department&Dpt=ST>

The rules can also be found at http://www.michigan.gov/sos/0,4670,7-127-1631_8851---,00.html

6. Please provide a list of the items identified for action in the 2018 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation. [Example description.]

Outstanding:

[R 440.101 – 440.510]: The Department of State is authorized to promulgate rules that govern the administration of its duties as a filing official. The Department intends to make the rules consistent with 2012 PA 88, which updates definitions, providing greater guidance in the administration of Article 9 and which became effective July 1, 2013.

Traffic Safety Division

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020.

None

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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 Division has not identified any rules to be rescinded.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

The Division has exercised all of its mandatory/statutory rulemaking authority.

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.

The Division has determined that all of the Rules should be continued.

- (b) A summary of any complaints or comments received from the public concerning the rules.

- (c) The complexity of complying with the rules.

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

None.

- (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 Visual Standards for Motor Vehicle Drivers' Licenses were last amended in 1979.

The Physical and Mental Standards for Drivers were last amended in 1988. Although we have experienced advancements in the medical field, they have not affected the rules or our actions.

The Motorcycle Rules were last updated in 1989 but are still effective. They are identified as the Department of Education rules, but that does not impact the oversight.

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

http://w3.lara.state.mi.us/orr/AdminCode.aspx?AdminCode=Department&Dpt=ST&Level_1=Driver+Licensing

6. Please provide a list of the items identified for action in the 2018 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation. [Example description.]

none.

- 1 Rule(s) to be **processed** between July 1, 2019 and June 30, 2020.

Since **Public Act 161 of 2003** transferred responsibility of the “Motorcycle Safety Education Program” to the Department of State, the references to the Department of Education in the title of rules **R 257.1701 through R 257.1727** from 1989, need to be changed to the Department of State.

- 2 Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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 Division has not identified any rules to be rescinded.

- 3 Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

The Division has exercised all of its mandatory/statutory rulemaking authority.

- 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.

Yes, there is a continued need for the existing rules. The Division has received complaints and comments regarding outdated rules administered by the Michigan Rider Education Program.

- (b) A summary of any complaints or comments received from the public concerning the rules.

There have been complaints from the public and instructors.

Within sections of the rules, there is reference to the “**Board**”. The “Board” currently means “The State Board of Education”. This reference is obsolete and makes rules within various sections incorrect.

R257.1706 “Hours of Classroom Instruction” has become outdated and problematic with regard to the current Motorcycle Safety Foundation (MSF) curriculum/s being used in Michigan. Rule 6. (1) There shall be not less than 7 clock hours of classroom instruction. This section is not attainable with some of the current MSF curriculum course designed to be “waiver courses”. Since 1989 when these rules were developed, the advent of the internet has changed how we train and conduct business. As such, a student now takes a portion of their “classroom” instruction online, by themselves, before they attend the first day of class. This structured format no longer meets the 7 clock hours of classroom instruction. Current hours of classroom instruction are being met under subsection (2), defined as an “alternative”. This alternative has become the norm for meeting this rule.

R257.1708 “Motorcycle Safety Education Instructor Qualifications” is outdated by today's standards and the Department has received complaints. It has been recommended on many occasions that the Department run criminal background checks on certified instructors who are interacting with students on behalf of the Department.

R257.1717 “Standards” is outdated and no longer correct, accurate, or attainable by the Department. The Department does not use the “*MSF Standards entitled Motorcycle Rider Course, January 1989*” and has not for over 20 years. The Department currently still uses curriculum developed by the Motorcycle Safety Foundation (MSF). The most recent change in MSF curriculum came in 2014. The \$35 cost is no longer accurate as well. Reference to the Michigan Department of Education and address should be removed or updated as well.

(c) The complexity of complying with the rules.

The Department is not able to comply with the rules listed in 4(b) above.

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

None

(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 Motorcycle Safety Education Rules were last updated in 1989 but are still relatively effective. They are identified as the Department of Education, State Board of Education rules, but that does not impact the Department of State oversight of the Michigan Rider Education Program (Mi-REP). Technology and the invention of the internet since 1989 have altered the way the MSF and the Department offer rider education in Michigan. MSF

curriculum updates approximately every 10 years have made certain rules unattainable and out of compliance.

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

https://dtmb.state.mi.us/ORRDocs/AdminCode/125_10120_AdminCode.pdf

- 6 Please provide a list of the items identified for action in the 2018 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation. [Example description.]

None

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020.

Department of State, Bureau of Branch Office Services, Motorcycle Operator Tests, R 257.971 through R 257.975 (1984 AACS).

Update to: Department of State, Customer Services Administration, Motorcycle Operator Tests

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2018 and June 30, 2019. 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 Division has not identified any rules to be rescinded.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

The Division has exercised all of its mandatory/statutory rulemaking authority.

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.

Yes, there is a continued need for the existing rules.

(b) A summary of any complaints or comments received from the public concerning the rules.

None

(c) The complexity of complying with the rules.

The Department is not able to comply with the rules listed as written R 257.971 through R 257.975 (1984 AACCS).

Update all spelling references for “indorsement” with “endorsement”.

R 257.971 (e): definition of motorcycle has been updated. Please reference MCL 257.31 in lieu of defining a motorcycle here in R 257.971 (e) that way if the MCL definition is updated we do not need to update the definition in R 257.971 (e).

Update all spelling of “indorsement” and replace with “endorsement”.

R 257.972 update “Examination for indorsement” to “Written examination for endorsement”.

R 257.973 Update “...a motorcycle operator driving test given by the department which is designed to measure the competency of the applicant to operate a motorcycle on the highways of this state with safety to himself or herself and other persons or property.”

To say: “...a motorcycle operator rider skills test given by an examiner approved by the department which is designed to measure the competency of the applicant to operate a motorcycle on the highways of this state with safety to himself or herself and other persons or property.”

Explanation:

Driving skills test services are provided entirely by a privatized third-party testing program, not by the department. This program utilizes a statewide network of approved public and private organizations that employ examiners authorized by the Department to conduct rider skills tests.

R 257.973 (2)(a)(v), strike from rules. There is no curve in the current rider skills test that is being administered by third-party examiner.

R 257.973 (4)(b)(ix), strike from rules. Motorcycle handlebars height restriction was increased from 15” to 30”. See MCL 257.661(a)

R 257.973 (4)(c), strike from rules. There is no requirement to take a motorcycle safety course and obtain a certificate of completion prior to taking the rider skills test.

R 257.975 Rule 5, update "...consult with the motorcycle safety foundation or other recognized experts" to "...consult with the Motorcycle Safety Foundation or other recognized experts"

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

None

(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.

None

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

https://dtmb.state.mi.us/ORRDocs/AdminCode/116_10111_AdminCode.pdf

6. Please provide a list of the items identified for action in the 2018 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation. [Example description.]

None

**Department of State
Legal Services Administration
Office of Hearings and Administrative Oversight**

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020.

The Office has not established any Rules to be processed.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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 Office has not identified any obsolete or superseded rules that can be rescinded.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

The Office has exercised all of its statutory rulemaking authority.

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.

Yes, there is a continued need for the existing rules.

- (b) A summary of any complaints or comments received from the public concerning the rules.

No complaints have been received.

- (c) The complexity of complying with the rules.

None.

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

Not applicable.

- (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.

Not applicable.

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

https://dtmb.state.mi.us/ORRDocs/AdminCode/112_10107_AdminCode.pdf
https://dtmb.state.mi.us/ORRDocs/AdminCode/118_10113_AdminCode.pdf
https://dtmb.state.mi.us/ORRDocs/AdminCode/2_10002_AdminCode.pdf

6. Please provide a list of the items identified for action in the 2018 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation. [Example]

description.]

None.

Department of State

Executive Office

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020.

Since Executive Order 2014-5 transferred responsibility of the Child's Protection Registry Program to the Department of State, the references to the Department of Labor and Economic Growth in title of rules **R 484.501 through R 484.512 and R 484.501(d)** need to be changed to the Department of State.

2. Please include rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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.

Not applicable.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? 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.

Not applicable.

- (a) Whether there is a continued need for the rules.

Yes, there is a continued need for the rules related to the Children's Protection Registry.

- (b) A summary of any complaints or comments received from the public concerning the rules.

There have been no complaints or comments that OPI is aware of.

- (c) The complexity of complying with the rules.

None.

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

Not applicable.

(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 rules were last evaluated in 2018.

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

<http://w3.lara.state.mi.us/orr/AdminCode.aspx?admincode=Department&Dpt=ST>

6. Please provide a list of the items identified for action in the 2018 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation. [Example description.]

Not applicable.