

**PUBLIC HEALTH CODE (EXCERPT)**

**Act 368 of 1978**

**ARTICLE 12**

**ENVIRONMENTAL HEALTH**

**PART 121**

**GENERAL PROVISIONS**

**333.12101 "Environmental health" defined; general definitions and principles of construction.**

Sec. 12101. (1) As used in this article, "environmental health" means the area of activity which deals with the protection of human health through the management, control, and prevention of environmental factors which may adversely affect the health of individuals. This activity is concerned with the existence of substances, conditions, or facilities in quantities, of characteristics, and under conditions, circumstances, or duration which are or can be injurious to human health.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of the division of environmental health, with the exception of the food service sanitation program and the shelter environment program, from the director of the department of public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

**Popular name:** Act 368

**333.12103 Department as environmental health agency; purpose; duties; contamination of property or dwelling that is site of illegal drug manufacturing; requirements; "dwelling" defined.**

Sec. 12103. (1) The department of environmental quality shall serve as the environmental health agency for this state to facilitate a uniform approach to environmental health by the various public and private entities involved in that field and shall:

(a) Advise the governor, boards, commissions, and state agencies on matters of the environment as those matters affect the health of the people of this state.

(b) Cooperate with and provide environmental health resource support to state and local health planning agencies and other state, district, and local agencies mandated by law or otherwise designated to develop, maintain, or administer state and local health programs and plans, and other public and private entities involved in environmental health activities.

(c) Develop and maintain the capability to monitor and evaluate conditions which represent potential and actual environmental health hazards, reporting its findings to appropriate state departments and local jurisdictions, and to the public as necessary.

(d) Provide an environmental health policy for the state and an environmental health services plan to include environmental health activities of local health jurisdictions.

(e) Serve as the central repository and clearinghouse for the collection, evaluation, and dissemination of data and information on environmental health hazards, programs, and practices.

(2) Within 6 months after the effective date of the amendatory act that added this subsection, the department of community health, in consultation with the department of environmental quality, shall develop a cleanup of clandestine drug labs guidance document that includes, but is not limited to, detailed protocols for the preliminary site assessment, remediation, and post-cleanup assessment of indoor environments and structures and cleanup criteria based on human health risk that is similar to the cleanup criteria derived under section 20120a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20120a, and shall promulgate rules and procedures necessary to implement subsection (3). The department of community health shall make the guidance document available to the public on its website and, upon request from a local health department, shall provide that local health department with a physical copy of the guidance document.

(3) Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the local health department and the department of community health regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the

premises. Within 14 days after receipt of the notification under this subsection or as soon thereafter as practically possible, the department of community health, in cooperation with the local health department, shall review the information received from the state or local law enforcement agency, emergency first responders, or hazardous materials team that was called to the site and make a determination regarding whether the premises are likely to be contaminated and whether that contamination may constitute a hazard to the health or safety of those who may occupy the premises. The fact that property or a dwelling has been used as a site for illegal drug manufacturing shall be treated by the department of community health as prima facie evidence of likely contamination that may constitute a hazard to the health or safety of those who may occupy those premises. If the property or dwelling, or both, is determined likely to be contaminated under this subsection, the local health department or the department of community health shall issue an order requiring the property or dwelling to be vacated until the property owner establishes that the property is decontaminated or the risk of likely contamination ceases to exist. The property owner may establish that the property is decontaminated by submitting a written assessment of the property before decontamination and a written assessment of the property after decontamination, enumerating the steps taken to render the property decontaminated, and a certification that the property has been decontaminated and that the risk of likely contamination no longer exists to the enforcing agency. The property or dwelling shall remain vacated until the enforcing agency has reviewed and concurred in the certification. As used in this subsection, "dwelling" means any house, building, structure, tent, shelter, trailer or vehicle, or portion thereof, except railroad cars on tracks or rights-of-way, which is occupied in whole or in part as the home, residence, living, or sleeping place of 1 or more human beings, either permanently or transiently.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1985, Act 17, Imd. Eff. May 16, 1985;—Am. 2006, Act 260, Imd. Eff. July 6, 2006.

**Popular name:** Act 368

### **333.12104 Statutes which impact on environmental health; review; recommendations; state programs related to lead-based paint poisoning and rodent control.**

Sec. 12104. (1) The department shall continually review all statutes which impact on environmental health and may recommend the updating or incorporation of those statutes into this code. Recommendations for inclusion of environmental health statutes in this code shall take cognizance of the alternative preventive health and engineering approaches to environmental health issues and fully consider the roles of local health departments and local governing and planning entities in the implementation of authorized programs and assure their participation in the consideration of their roles.

(2) Not later than 12 months after the effective date of this section, the director shall make recommendations to the governor and legislature for state programs related to lead-based paint poisoning and rodent control.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12105 Organizational structure; creation; purpose.**

Sec. 12105. The director shall create an organizational structure within the department to carry on the functions required by this part.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12106 Delegation of license inspection function to local health department; denial or granting of license; explanatory statement.**

Sec. 12106. If the state department of public health delegates a license inspection function under this article to a local health department and the local health department recommends denial of the license, based on a local inspection, the license shall be denied unless the state department of public health upon prompt inspection determines that the license shall be granted. The state department of public health shall issue an explanatory statement when granting a license not recommended by a local health department.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12195 Alternative waste disposal systems.**

Sec. 12195. This article shall not limit the exploration of alternative waste disposal systems in a manner consistent with state and federal law.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

PART 122  
HOUSING

**333.12201-333.12222 Repealed. 1980, Act 431, Eff. Mar. 31, 1981.**

Popular name: Act 368

PART 124  
AGRICULTURAL LABOR CAMPS

**333.12401 Definitions and principles of construction.**

Sec. 12401. (1) As used in this part:

- (a) "Advisory board" means the board appointed pursuant to section 12421.
- (b) "Agricultural labor camp" means a tract of land and all tents, vehicles, buildings, or other structures pertaining thereto, part of which is established, occupied, or used as living quarters for 5 or more migratory laborers engaged in agricultural activities, including related food processing.
- (c) "Camp operator" means a person who owns, establishes, operates, conducts, manages, or maintains an agricultural labor camp or who causes or permits the occupancy or use of an agricultural labor camp whether or not rent is charged for housing and facilities.
- (d) "Fund" means the migratory labor housing fund.
- (e) "Migratory laborer" means a person working, or available for work, who moves seasonally 1 or more times from 1 place to another from within or without the state for the purpose of such employment or availability or who is employed in the growing of mushrooms.
- (f) "Person" means a person as defined in section 1106 or a governmental entity.
- (g) "Remodeling" means the remodeling, improving, or reconstruction of existing housing or facilities which are incidental or appurtenant thereto for migratory laborers or the construction of new housing or facilities which are incidental or appurtenant thereto for migratory laborers.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

**333.12411 License for operation of agricultural labor camp required; posting license or license placard; notice of construction, enlargement, or conversion; violation; fine.**

Sec. 12411. (1) A person shall not operate an agricultural labor camp or cause to be operated or allow an agricultural labor camp to be occupied and used as an agricultural labor camp, without a license. The agricultural labor camp shall be operated only while the license remains in effect. The camp operator shall post the license or the license placard issued by the department in a conspicuous place in the agricultural labor camp to which it applies. The license or placard shall continue to remain posted during the entire time the agricultural labor camp is operated.

(2) A person shall not construct or alter for occupancy or use, an agricultural labor camp or any portion or facility thereof, or convert a property for use or occupancy as an agricultural labor camp, without giving written notice of the intent to do so to the department at least 30 days before the date of beginning the construction, enlargement, or conversion. The notice shall give the name of the city, village, or township in which the property is located, the location of the property within that area, a brief description of the proposed construction, enlargement, or conversion, the name and mailing address of the person giving the notice, and the person's telephone number, if any.

(3) A person is not in violation of subsection (1) if the sole reason the person is operating the agricultural labor camp without a license is due to the failure of the department to respond within a timely manner to an application submitted in accordance with section 12412.

(4) In addition to any other penalty provided under this part, a person who violates subsection (1) by operating an agricultural labor camp without a license is subject to an administrative civil fine of not more than \$1,000.00. Each day a person operates without a license is a separate violation, however the total administrative civil fine for continued noncompliance shall not exceed \$10,000.00. All fines collected under this subsection shall be credited to the migratory labor housing fund created under section 12431.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2005, Act 43, Imd. Eff. June 16, 2005.

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**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.12412 License for operation of agricultural labor camp; form; fee; contents; time of application.**

Sec. 12412. (1) A person desiring to operate an agricultural labor camp in this state shall make application to the department on the forms and in the manner prescribed by the department. At the time of submitting an application under this section, the applicant shall remit to the department a nonrefundable agricultural labor camp license application fee equal to the product of \$5.00 and the maximum number of people permitted to occupy the agricultural labor camp.

(2) The application shall include:

(a) The full name and address of the applicant.

(b) The location of the agricultural labor camp.

(c) The maximum number of people who will occupy the camp at any time.

(d) The months during which the camp will be used or occupied.

(e) A brief description of the tents, vehicles, buildings, or other structures in which individuals will be housed.

(f) A brief description of the sanitary, water, cooking, and sewage facilities available.

(g) Other information required by the department.

(3) An application for a license to operate an agricultural labor camp shall be made at least 30 days before the first day that the proposed camp is to be operated.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2010, Act 14, Imd. Eff. Mar. 16, 2010.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.12413 License for operation of agricultural labor camp; issuance; duration; recital on face of license; transferability or assignability.**

Sec. 12413. (1) The department shall issue a license for the operation of the agricultural labor camp, if after investigation and inspection, it finds that the camp and its proposed operation conforms or will conform to the minimum standards of construction, health, sanitation, sewage, water supply, plumbing, garbage and rubbish disposal, and operation set forth in the rules promulgated under section 12421. The license shall be valid for the balance of the calendar year during which it is issued.

(2) The license shall recite on its face that the camp operator shall comply with this part and the rules promulgated under this part.

(3) The license is not transferable or assignable, except with the express written consent of the department.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.12414 Temporary license; renewal application.**

Sec. 12414. (1) A temporary license may be issued for not more than 3 months pending the results of an inspection or pending the correction of certain designated items. Not more than 2 temporary licenses pending correction of the same violation shall be issued for a camp.

(2) A renewal application shall be filed after January of each year to operate the agricultural labor camp during the year, but at least 30 days before the agricultural labor camp is to commence operation.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.12415 Denial of application for license; notice; hearing.**

Sec. 12415. When the department denies an application for a license to operate an agricultural labor camp, it shall give written notice of the denial by certified mail to the applicant stating reasons for the denial. An applicant denied a license may request a hearing before the department on the denial not later than 4 days after receipt of the denial. The department shall hold the hearing on the denial not later than 7 days after receipt of the request.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.12416 Suspension or revocation of license; grounds; notice; hearing; appeal.**

Sec. 12416. (1) The department may suspend or revoke the license of a camp operator, after due notice and hearing, upon a finding that the camp operator is in violation of this part or the rules promulgated pursuant to this part. If the department believes that a camp operator is violating this part or the rules, the department shall set a hearing, give written notice thereof by certified mail at least 4 days before the date of the hearing, and set forth in writing the charges against the camp operator. The hearing shall be conducted according to the administrative procedures act of 1969.

(2) After a hearing, the department may suspend the license of the camp operator for a fixed period of time or until the camp operator meets the requirements of this part and the rules or may revoke the license.

(3) A camp operator aggrieved by the decision of the department to suspend or revoke the license may appeal as provided by the administrative procedures act of 1969.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.12421 Rules.**

Sec. 12421. (1) The department shall promulgate rules for the protection of the health, safety, and welfare of migratory laborers and their families who occupy agricultural labor camps.

(2) The rules shall include provisions for:

(a) The appointment by the director of an advisory board representing, among others, growers, processors, local health departments, and religious or fraternal organizations. The advisory board shall advise the department on the allocation of the fund and any matter which pertains to this part and shall make recommendations to the department as to legislation or other measures necessary or advisable to alleviate a migratory farm labor housing problem.

(b) The collection, treatment, and disposal of human wastes and sewage at agricultural labor camps.

(c) The supply and maintenance of safe water at agricultural labor camps.

(d) The temporary storage and removal of food wastes and rubbish at agricultural labor camps.

(e) The housing of seasonal laborers and their families, including adequate and safe construction and repair, fire protection, facilities for laborers and their families to keep and prepare food, and other necessary matters relating to their good health, safety, and welfare.

(f) For the administration of migratory labor housing remodeling grants.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**Administrative rules:** R 325.1501 et seq. and R 325.1531 et seq. of the Michigan Administrative Code.

### **333.12425 Enforcement; inspection and investigation of premises; assistance; payments to local health departments.**

Sec. 12425. (1) The department shall enforce this part and rules promulgated under this part.

(2) An authorized representative of the department may enter upon the premises of an agricultural labor camp at reasonable times to inspect and investigate the premises to ascertain whether the camp operator is in compliance with this part and the rules promulgated under this part.

(3) The department may utilize the services of other state agencies and offices to assist in conducting investigations. The department may use the services of a local health department to inspect the premises before licensing the camp operator and to conduct investigations under rules promulgated under this part. The department may approve payments of \$15.00 to local health departments for each licensed agricultural labor camp.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368



### **333.12426 Action for injunction or other process.**

Sec. 12426. Notwithstanding the existence and pursuit of any other remedy, the department may maintain an action in the name of this state for an injunction or other process against a person to restrain or prevent the establishment, conduct, management, maintenance, or operation of an agricultural labor camp without a license.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.12431 Migratory labor housing fund; creation; appropriation; deposit; investment; interest and earnings; administration for auditing purposes; use of funds; money in fund.**

Sec. 12431. (1) A migratory labor housing fund is created within the state treasury and shall receive funds appropriated by the legislature and as provided under this part. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. The department shall be the administrator of the fund for auditing purposes.

(2) Money in the fund shall be used for implementation of this part.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2005, Act 43, Imd. Eff. June 16, 2005;—Am. 2010, Act 13, Imd. Eff. Mar. 16, 2010.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.12432 Filing claim for grant; approval; priority list.**

Sec. 12432. (1) A person who qualifies for a grant shall file a claim with the department following completion of construction. The department, after approving the claim, shall make payment to the claimant from the fund.

(2) If the fund is insufficient to cover all applications for grants approved by the department, the department shall establish a priority list which may be funded from subsequent allocations.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.12433 Powers of department.**

Sec. 12433. The department may:

(a) Contract or execute other instruments necessary to implement this part.

(b) Agree and comply with any condition for receiving federal financial assistance for purposes of remodeling migratory housing.

(c) Survey and investigate migratory labor housing conditions and needs and recommend to the governor and the legislature legislation or other measures necessary or advisable to alleviate an existing housing shortage in the state for migratory laborers.

(d) Encourage community organizations or private employers to assist in initiating remodeling projects as provided in this part.

(e) Enforce compliance with any law or rule regarding health or construction standards for remodeling projects which utilize grants made pursuant to this part.

(f) Provide inspection of remodeling projects to determine if they comply with this part and the rules promulgated under this part.

(g) Accept gifts, grants, or other aid from a person or the federal government for purpose of implementing this part.

(h) Enter into agreements with a recipient of a grant to insure that the purposes of this part are effectuated.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.12434 Violation as misdemeanor; each day of violation as separate violation; wilful damage or destruction of camp.**

Sec. 12434. (1) A person who violates this part or the rules promulgated under this part is guilty of a misdemeanor. Each day of the violation is considered a separate violation.

(2) A person who wilfully damages or destroys any part of a licensed agricultural labor camp is guilty of a misdemeanor.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

## **PART 125**

### **CAMPGROUNDS, SWIMMING AREAS, AND SWIMMERS' ITCH**

#### **333.12501 Definitions; principles of construction.**

Sec. 12501. (1) As used in sections 12501 to 12516:

(a) "Campground" means a parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for 5 or more recreational units. Campground does not include a seasonal mobile home park licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(b) "Department" means the department of environmental quality.

(c) "Local health department" means that term as defined under section 1105.

(d) "Mobile home" means a structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

(e) "Person" means a person as defined in section 1106 or a governmental entity.

(f) "Recreational unit" means a tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreational unit includes the following:

(i) A travel trailer, which is a vehicular portable structure, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a vehicle, primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use.

(ii) A camping trailer, which is a vehicular portable structure mounted on wheels and constructed with collapsible partial sidewalls of fabric, plastic, or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

(iii) A motor home, which is a vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.

(iv) A truck camper, which is a portable structure designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping, or travel use. Truck campers are of 2 basic types:

(A) A slide-in camper, which is a portable structure designed to be loaded onto and unloaded from the bed of a pickup truck, constructed to provide temporary living quarters for recreational, camping, or travel use.

(B) A chassis-mount camper, which is a portable structure designed to be affixed to a truck chassis, and constructed to provide temporary living quarters for recreational, camping, or travel use.

(v) A single sectional mobile home used only to provide temporary living quarters for recreational, camping, or travel use. Recreational unit does not include a mobile home used as a permanent dwelling, residence, or living quarters.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 525, Eff. Mar. 30, 1983;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004

**Compiler's note:** For transfer of powers and duties of the division of environmental health, with the exception of the food service sanitation program and the shelter environment program, from the director of the department of public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

**Popular name:** Act 368

### **333.12505 Construction permit for campground; application; contents.**

Sec. 12505. A person shall not begin to construct, alter, or engage in the development of a campground without first obtaining a construction permit from the department. Applications for a construction permit shall be submitted to the department along with the fee as prescribed in section 12506a. The application shall contain the following:

- (a) A description of the proposed project.
- (b) The name and address of the applicant.
- (c) The location of the proposed project.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12506 Campground license required; application; contents; exemption; expiration.**

Sec. 12506. (1) A person shall not operate a campground without a campground license issued by the department, its agent or representative, or a representative of a designated local health department. An application for a campground license shall be submitted to the department, its agent or representative, or a representative of a designated local health department along with the license fee as prescribed in section 12506a.

(2) The application shall contain the following:

- (a) The name and address of the applicant.
- (b) The location of the campground.
- (c) Information regarding physical facilities.

(3) The campground license shall expire on December 31 of every third year if the annual renewal fee is paid or as stipulated on the license, whichever is sooner.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12506a Campground fees.**

Sec. 12506a. (1) The fees related to campground regulation under this part are as follows:

(a)	Construction permit fee for a new campground	\$	600.00.
(b)	Construction permit fee for an addition, alteration, or modification of an existing campground	\$	225.00.
(c) Initial or annual renewal license fee for a new or temporary campground as follows:			
(i)	One to 25 sites	\$	75.00.
(ii)	Twenty-six to 50 sites	\$	100.00.
(iii)	Fifty-one to 75 sites	\$	125.00.
(iv)	Seventy-six to 100 sites	\$	150.00.
(v)	One hundred one to 500 sites	\$	225.00.
(vi)	More than 500 sites	\$	500.00.
(d)	Late annual renewal license fee, after December 31	\$	100.00.
(e)	License transfer fee	\$	75.00.

(2) The department may adjust the amounts prescribed in subsection (1) every 3 years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index and rounded to the nearest dollar.

**History:** Add. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12506b Campground fund; creation; remaining balance; expenditures; use; annual report.**

Sec. 12506b. (1) The campground fund is created in the state treasury and shall be administered by the department. The state treasurer shall credit to the campground fund all fees collected by the department under section 12506a and all money, gifts, and devises received by the fund as otherwise provided by law.

(2) The unencumbered balance remaining in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(3) The money in the campground fund shall be expended only as provided in this section. The department shall use the fund to implement this part and to carry out its powers and duties under sections 12501 to 12516. The department shall not use the money in the campground fund for inspections of any mobile home parks



licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(4) The department shall annually prepare a report containing an accounting of revenues and expenditures from the campground fund. This report shall include details of the departmental costs and activities of the previous year in administering this campground program. This report shall be provided to the senate and house of representatives appropriations committees, the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment, and the senate and house of representatives fiscal agencies.

**History:** Add. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12507 Campground facilities to meet requirements prescribed under MCL 333.12511.**

Sec. 12507. Before an application for a campground license is approved, the department, its agent or representative, or a representative of a designated local health department shall determine that the campground contains facilities which meet the requirements prescribed in rules promulgated under section 12511.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12508 Campground license; issuance; display; notice of denial; statement of reasons; reconsideration; hearing; appeal.**

Sec. 12508. (1) Upon approval of the application for a campground license, the department, its agent or representative, or a representative of a designated local health department shall issue a campground license which shall be displayed in a conspicuous place on the campground.

(2) If the application is not approved, the department, its agent or representative, or a representative of a designated local health department shall give written notice of its denial to the applicant stating reasons for the denial. The applicant may request reconsideration of the application after correction of the reasons for the denial or may request a hearing before the department, or an authorized representative of the department, on the denial within 10 days after receipt of the denial. The hearing shall be held not later than 20 days after receipt of the request.

(3) A person aggrieved by the decision of the department or its authorized representative may appeal to the courts as provided by the administrative procedures act of 1969.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12509 Campground license; transfer.**

Sec. 12509. A campground license shall not be transferred to another person except where the transferee complies with all the requirements to be licensed under sections 12501 to 12516 and upon submission of an application and the license transfer fee as prescribed in sections 12506 and 12506a.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12510 Annual inspection by local health department; payments; additional fees.**

Sec. 12510. (1) If a representative of the designated local health department performs annual inspections of campgrounds that are applying for a new license, renewal license, or temporary license and have submitted the applicable license fee to the department, the department shall approve payments of \$25.00 per campground to that local health department.

(2) The state treasurer shall make the payments upon receipt of approval from the department.

(3) A designated local health department may collect additional fees as provided under section 2444 from the owner of a campground for services provided under sections 12501 to 12516.

**History:** Add. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12511 Rules.**

Sec. 12511. The department, with the advice, assistance, and approval of the advisory board, shall promulgate rules regarding sanitation and safety standards for campgrounds and public health. The rules shall recognize and provide controls for different types of campgrounds.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**Administrative rules:** R 323.3101 et seq.; R 325.1551 et seq.; R 325.2101 et seq.; and R 325.2111 et seq. of the Michigan Administrative Code.

**333.12512 Notice of noncompliance; specifying particular violations; time for compliance; revocation of license; hearing; decision; appeal.**

Sec. 12512. (1) The department, its agent or representative, or a representative of a designated local health department shall give written notice to a licensee who fails to comply with sections 12501 to 12516 or a rule promulgated under those sections. The notice shall specify the particular violations and a date by which the licensee shall comply. The time given for compliance shall depend upon the nature of the violation.

(2) If the licensee does not comply within the time specified, the department, its agent or representative, or a representative of a designated local health department may, in accordance with the administrative procedures act of 1969, revoke the license. If the licensee files a request for a hearing within 60 calendar days after the licensee receives notice of revocation, the department shall hold a hearing.

(3) A license revoked under subsection (2) shall not be reissued by the department, its agent or representative, or a representative of a designated local health department until it has been determined that the violations have been corrected.

(4) A licensee aggrieved by a decision of the department, its agent or representative, or a representative of a designated local health department to revoke the license may appeal to a court of competent jurisdiction as provided by the administrative procedures act of 1969.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

**333.12513 Advisory board; purpose; appointment, qualifications, and terms of members.**

Sec. 12513. (1) The director shall appoint an advisory board with broad geographical distribution of members to advise on the administration of sections 12501 to 12516 and the preparation and administration of rules promulgated under those sections.

(2) The board shall consist of 15 members as follows: 1 representing the Michigan association of recreation vehicles and campgrounds; 1 representing the association of RV parks and campgrounds of Michigan; 2 representing consumers, including 1 who represents a recognized campground users association; 3 campground owners or operators, including 1 who represents a primitive type of campground; 2 representing counties; 1 representing townships; 1 representing cities and villages; 2 representing local health departments; the director of the department of natural resources or his or her authorized representative; and the director or his or her authorized representative.

(3) Except for the directors of the departments, or their authorized representatives, the members shall serve for a term of 3 years. However, of the members first appointed, 3 members shall serve for a 1-year term, 3 members shall serve for a 2-year term, and 3 members shall serve for a 3-year term.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Compiler's note:** For transfer of campground public health advisory board to department of environmental quality by type III transfer, see E.R.O. No. 2010-14, compiled at MCL 333.26365.

**Popular name:** Act 368

**333.12514 Access to campground; purpose.**

Sec. 12514. An agent or representative of the department or a representative of a designated local health department shall have access during all reasonable hours to a campground for the purpose of inspection or otherwise carrying out sections 12501 to 12516.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

**333.12515 Application and construction of MCL 333.12501 to 333.12516.**

Sec. 12515. (1) Sections 12501 to 12516 do not apply to a campground used solely as a children's camp licensed by the department of social services or to properties owned by a person licensed pursuant to part 124, and used for housing seasonal agricultural workers employed by that person. A campground licensed under sections 12501 to 12516 shall not be used for the housing of seasonal agricultural workers unless also licensed under part 124.

(2) Sections 12501 to 12516 shall not be construed to interfere in any way with the enforcement of sanitary controls by a health officer having jurisdiction in the area.

(3) Sections 12501 to 12516 do not relieve a person from complying with local ordinances governing building permits or with a code, regulation, or ordinance not in conflict with sections 12501 to 12516.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12516 Violation as misdemeanor; action for injunction.**

Sec. 12516. (1) A person who violates sections 12501 to 12515 is guilty of a misdemeanor.

(2) Notwithstanding the existence of any other remedy, the department, its agent or representative, or a representative of a designated local health department may maintain an action in the name of the state for an injunction against a person to restrain or prevent the construction, enlargement, or alteration of a campground without a permit, or the operation or conduct of a campground without a license.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12521 Definitions used in MCL 333.12521 to 333.12534.**

Sec. 12521. As used in sections 12521 to 12534:

(a) "Department" means the department of environment, Great Lakes, and energy.

(b) "Person" means that term as defined in section 1106 or a governmental entity.

(c) Except as otherwise provided in subdivision (d), "public swimming pool" means an artificial body of water for a qualified premises that is used collectively by a number of individuals primarily for the purpose of swimming, wading, recreation, or instruction and includes related equipment, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool, including, but not limited to, equipment, dressing, locker, shower, and toilet rooms.

(d) Public swimming pool does not include a pool or portable pool located on the same premises with a 1-, 2-, 3-, or 4-family dwelling and for the benefit of the occupants and their guests, a natural bathing area such as a stream, lake, river, or man-made lake or pond that uses water from natural sources and has an inflow and outflow of natural water, an exhibitor's swimming pool built as a model at the site of the seller and in which swimming by the public is not permitted, or a pool serving not more than 4 hotel, motel, apartment, condominium, or similar units.

(e) "Qualified premises" includes, but is not limited to, a park, school, motel, camp, resort, apartment, club, hotel, mobile home park, subdivision, and waterpark.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004;—Am. 2022, Act 99, Imd. Eff. June 14, 2022.

**Popular name:** Act 368

**Administrative rules:** R 325.5801 et seq. of the Michigan Administrative Code.

### **333.12522 Public swimming pool; review of design, construction, and operation; rules; exception.**

Sec. 12522. (1) The department shall review the design, construction, and operation of public swimming pools to protect the public health, prevent the spread of disease, and prevent accidents or premature deaths.

(2) Except as otherwise provided in subsection (3), the department shall promulgate rules to carry out sections 12521 to 12534.

(3) Until December 31, 2018, rules pertaining to lifeguarding promulgated by the department under subsection (2) do not apply to a pool that meets all of the following requirements:

(a) It is located in a health and wellness center that is owned or operated by a community hospital authority as authorized under 1945 PA 47, MCL 331.1 to 331.11.

(b) The total pool water surface area within the swimming pool enclosure is not more than 2,400 square feet.

(c) No diving board is provided.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2014, Act 430, Imd. Eff. Dec. 30, 2014.

**Popular name:** Act 368

**Administrative rules:** R 325.2111 et seq. of the Michigan Administrative Code.

### **333.12523 Construction and operation of public swimming pools; supervisory and visitorial power; control.**

Sec. 12523. The department has supervisory and visitorial power and control as limited in sections 12521 to 12534 over persons engaged in the construction and operation of public swimming pools.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12524 Public swimming pools; periodic inspections; right of entry.**

Sec. 12524. (1) The department, its agents or representatives, or representatives of a designated local health department shall make periodic inspections of public swimming pools.

(2) The department, its agents or representatives, or representatives of a designated local health department may enter upon the swimming pool premises and other property of a person at all reasonable times for the purpose of inspecting the swimming pool and carrying out the authority vested in the department under sections 12521 to 12534.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12525 Construction or modification of public swimming pool; review and approval of plans and specifications; fee; permit; responsibility of applicant or owner; nuisance or hazard to health or safety; description of swimming pool system and auxiliary structures.**

Sec. 12525. (1) A person intending to construct a public swimming pool or intending to modify an existing public swimming pool shall submit plans and specifications for the proposed installation accompanied by a fee specified in section 12527a to the department for review and approval and shall secure a permit for the construction. A person shall not start or engage in the construction of a public swimming pool or modify an existing public swimming pool until the permit for the construction is issued by the department.

(2) Sections 12521 to 12534 or an action of the department shall not relieve the applicant or owner of a public swimming pool from responsibility for securing a building permit or complying with applicable local codes, regulations, or ordinances not in conflict with sections 12521 to 12534. Compliance with an approved plan does not authorize the owner constructing or operating a public swimming pool to create or maintain a nuisance or a hazard to health or safety.

(3) Plans and specifications submitted for the purpose of obtaining a construction permit shall include a true description of the entire swimming pool system and auxiliary structures or parts thereof as proposed to be constructed and operated.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 522, Imd. Eff. Jan. 26, 1981.

**Popular name:** Act 368

### **333.12526 Examination of plans and specifications; determination; issuance of permit; notice of deficiencies; resubmission of documents; duration of permit; written approval of change.**

Sec. 12526. (1) The department shall examine the plans and specifications and, subject to section 12526a, determine whether the swimming pool facilities, if constructed in accordance with the plans and specifications, are or would be sufficient and adequate to protect the public health and safety. If the plans and specifications are approved, the department shall issue a permit for construction. If the plans and specifications are not approved, the department shall notify the applicant or the applicant's representative of the deficiencies. The applicant may have the plans and specifications amended to remedy the deficiencies and resubmit the documents, without additional fee, for further consideration.

(2) A construction permit is valid for not more than 2 years after the date of issuance unless a written time extension is granted by the department.

(3) Each public swimming pool must be constructed or modified in accordance with the approved plans and specifications unless written approval of a change is granted by the department.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2022, Act 99, Imd. Eff. June 14, 2022.

**Popular name:** Act 368

### **333.12526a Preparation or consumption of food or beverages within swimming pool enclosure; requirements; use of plastic or nonbreakable material; definitions.**

Sec. 12526a. (1) Subject to section 548 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1548, and the food law, 2000 PA 92, MCL 289.1101 to 289.8111, a person engaged in the operation of a public swimming pool shall not allow the preparation of food or beverages in the swimming pool enclosure, or consumption of food or beverages in the water of a public swimming pool, unless all of the following are met:

(a) The department has determined under section 12526 that the plans and specifications for the public swimming pool meet all of the following requirements:

(i) The materials used to construct the area within the swimming pool water that is used for serving, preparing, or consuming food or beverages are made of a material that is nonabsorbent, is easily cleanable,

and can be regularly sanitized.

(ii) The area within the swimming pool water that is used for serving, preparing, or consuming food or beverages is constructed in a manner that has no sharp edges, has no open cracks, and has sealed joints.

(iii) Areas within the swimming pool water where there is ice, food, equipment, and any other item that is stored or used in the preparation of food or beverages are physically separated by a service counter or other structure or material in a manner that protects the ice, food, equipment, or other item from splash or spillage of swimming pool water.

(iv) The swimming pool water is equipped with heightened disinfection and filtration standards and maintains increased disinfectant residuals.

(v) The swimming pool water is monitored with an electronic chemical control monitoring system.

(b) The water temperature of the public swimming pool is maintained at 104 degrees Fahrenheit or less.

(c) The free disinfectant residual levels in the swimming pool water are tested poolside at least 4 times per day when the public swimming pool is open for use.

(d) Lifeguard service is provided in the swimming pool enclosure when the public swimming pool is open for use.

(e) An individual who holds a certification as a certified pool operator, or an equivalent certification as determined by the department, is readily available when the public swimming pool is open for use to test the swimming pool water and to operate the water treatment equipment of the public swimming pool.

(f) The public swimming pool does not contain a slide, diving board, starting block, spray feature, or similar addition in the area of the public swimming pool permitted for the sale and consumption of alcoholic liquor under section 548 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1548. However, the public swimming pool may have a waterfall, or another decorative feature, that is not intended for interaction or contact with an individual using the public swimming pool in the area of the public swimming pool permitted for the sale and consumption of alcoholic liquor under section 548 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1548.

(2) A person engaged in the operation of a public swimming pool that allows for the consumption of food or beverages in the public swimming pool under this section shall ensure that food and beverages are served in a container made of plastic or another nonbreakable material and that is designed to reduce the chances of spilling the food or beverage in the swimming pool water.

(3) As used in this section:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Beverages" means alcoholic liquor and nonalcoholic beverages.

(c) "Heightened disinfection and filtration standards" means all of the following:

(i) A regenerative media filter system or an equivalent filter system. If the swimming pool uses a sand-type filter or a cartridge-type filter, a filter system is considered equivalent under this subparagraph if it requires a reduction in the max flow rate per square foot of filter area.

(ii) An accelerated water turnover rate of once every 4 hours or less when the public swimming pool is open for use.

(iii) An ultraviolet light secondary disinfection system or an equivalent secondary disinfection system.

(iv) Increased inlets to prevent impaired circulation and to increase water circulation due to potential obstructions.

(v) Increased number of skimmers or surge weirs to ensure effective surface water skimming.

(d) "Swimming pool enclosure" means the area containing 1 public swimming pool or, if the area contains 2 or more public swimming pools, the area containing all of the public swimming pools, which area is surrounded by an uninterrupted constructed feature or obstacle that meets all of the following requirements:

(i) It is used to surround and secure the area.

(ii) It is intended to deter or effectively prevent unpermitted, uncontrolled, and unfettered access to the area.

(iii) It is designed to resist climbing and to prevent passage through and under it.

**History:** Add. 2022, Act 99, Imd. Eff. June 14, 2022.

**Popular name:** Act 368

### **333.12527 Public swimming pool; license required; fee; display; expiration; renewal; replacement.**

Sec. 12527. (1) A public swimming pool shall not be operated without a license.

(2) A person engaged in the operation of a public swimming pool shall obtain a license to operate the swimming pool from the department, its agent or representative, or a representative of a designated local



health department and shall pay an initial or renewal fee as specified in section 12527a.

(3) A license shall be displayed by the owner in a conspicuous place on the premises.

(4) A license shall expire December 31 of every third year if the annual renewal fee is paid or as stipulated on the license, whichever is sooner.

(5) A license shall be renewed upon receipt of a proper application, an annual renewal fee as specified in section 12527a, and evidence that the public swimming pool is being operated and maintained in accordance with sections 12521 to 12534 and the applicable rules and regulations.

(6) A license shall not be transferred to another person but it may be replaced by another license upon receipt of a proper application and the fee specified in section 12527a.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 522, Imd. Eff. Jan. 26, 1981;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12527a Fees.**

Sec. 12527a. (1) The fees related to swimming pool regulation under this part are as follows:

(a)	Construction permit fee for a swimming pool with a surface area as follows:	
(i)	500 square feet or less	\$ 550.00
(ii)	501 to 1,500 square feet	\$ 700.00
(iii)	1,501 to 2,400 square feet	\$ 800.00
(iv)	2,401 to 4,000 square feet	\$ 1,300.00
(v)	More than 4,000 square feet	\$ 1,800.00
(b)	Construction permit fee for modification of an existing swimming pool	\$ 275.00
(c)	Initial license fee for a swimming pool with a surface area as follows:	
(i)	500 square feet or less	\$ 550.00
(ii)	501 to 1,000 square feet	\$ 600.00
(iii)	1,001 to 1,500 square feet	\$ 625.00
(iv)	1,501 to 2,000 square feet	\$ 650.00
(v)	2,001 to 2,500 square feet	\$ 700.00
(vi)	2,501 to 3,500 square feet	\$ 800.00
(vii)	3,501 to 4,500 square feet	\$ 900.00
(viii)	More than 4,500 square feet	\$ 1,000.00
(d)	Initial license fee for a modified swimming pool	\$ 275.00
(e)	Annual renewal license fee, to December 31	\$ 55.00
(f)	Late annual renewal license fee, after December 31 through April 30	\$ 100.00
(g)	Lapsed annual renewal license fee, after April 30	\$ 150.00
(h)	Replacement license fee for transfer to another person	\$ 50.00

(2) The department may adjust the amounts prescribed in subsection (1) every 3 years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index and rounded to the nearest dollar.

(3) A person that has a valid, current permit to operate a public swimming pool on the effective date of the amendatory act that added this subsection is not required to pay an initial license fee as specified in this section.

**History:** Add. 1980, Act 522, Imd. Eff. Jan. 26, 1981;—Am. 1985, Act 19, Eff. Mar. 31, 1986;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12527b Public swimming pool fund; creation; remaining balance; expenditures; use; annual report.**

Sec. 12527b. (1) The public swimming pool fund is created in the state treasury and shall be administered by the department. The state treasurer shall credit to the public swimming pool fund all fees collected by the department under section 12527a and all money, gifts, and devises received by the fund as otherwise provided by law.

(2) The unencumbered balance remaining in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(3) The money in the public swimming pool fund shall be expended only as provided in this section. The department shall use the fund to implement this part and to carry out its powers and duties under sections 12521 to 12534. The department shall not use the money in the public swimming pool fund for inspections of

any mobile home parks licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(4) The department shall annually prepare a report containing an accounting of revenues and expenditures from the public swimming pool fund. This report shall include details of the departmental costs and activities of the previous year in administering this public swimming pool program. This report shall be provided to the senate and house of representatives appropriations committees, the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment, and the senate and house of representatives fiscal agencies.

**History:** Add. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12528 Denial of license; grounds; notice; failure to correct deficiencies or noncomplying items.**

Sec. 12528. If upon investigation, the department, its agent or representative, or a representative of a designated local health department finds that a public swimming pool was not constructed or modified in accordance with the approved plans and specifications, the department, its agent or representative, or a representative of a designated local health department shall give written notice to the applicant that the license will not be issued, citing the deficiencies or noncomplying items that constitute the reasons for not issuing the license and a date by which the licensee shall comply. An applicant who fails to correct the deficiencies or noncomplying items within the time specified shall be denied a license.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12529 Revocation of license; grounds; reissuance.**

Sec. 12529. The department may, in accordance with the administrative procedures act of 1969, revoke the license upon a finding that the pool is not being operated or maintained in accordance with sections 12521 to 12534 or the rules. A person aggrieved by a decision of the department or its authorized representative to revoke the license may appeal to a court of competent jurisdiction as provided by the administrative procedures act of 1969. A license that has been revoked shall be reissued only when the department determines the deficiencies are corrected.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12530 Periodic reports covering operation of public swimming pools.**

Sec. 12530. The department shall provide for a system of periodic reports covering the operation of the public swimming pool so that the department may readily determine compliance with sections 12521 to 12534 and the rules.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12531 Ordering owner or operator to prohibit use of swimming pool.**

Sec. 12531. If the department, its agent or representative, or a representative of a designated local health department considers that conditions warrant prompt closing of a swimming pool until sections 12521 to 12534 and the rules are complied with for the protection of the public health and safety, the department or designated local health department may order the owner or operator of the swimming pool to prohibit an individual from using it until corrections are made to protect adequately the public health and safety.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12531a Use of life jacket in public swimming pool.**

Sec. 12531a. A person shall not prohibit the use of a coast guard approved life jacket in a public swimming pool by an individual who has in his or her possession a statement signed by a licensed physician stating that the individual has a physical disability or condition that necessitates the use of a life jacket. An individual assumes the risk of any injury to himself or herself caused by the use of a life jacket as provided in this section which is not otherwise caused by the pool operator's negligence.

**History:** Add. 1989, Act 153, Imd. Eff. July 19, 1989.

**Popular name:** Act 368

### **333.12532 Payments to local health departments; additional fees.**

Sec. 12532. (1) The department may approve payments for each public swimming pool granted an initial license and each renewal license to a designated local health department when the fees are collected by the state from the designated local health department's respective area, as follows:

(a) Initial license fee for a swimming pool	\$	100.00
(b) Annual renewal license fee	\$	30.00
(c) Late annual renewal license fee	\$	45.00
(d) Lapsed annual renewal license fee	\$	70.00

(2) The state treasurer shall make the payments upon receipt of approval from the department.

(3) A designated local health department may collect additional fees as provided under section 2444 from the owner of a swimming pool for services provided under sections 12521 to 12534.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 522, Imd. Eff. Jan. 26, 1981;—Am. 1985, Act 19, Eff. Mar. 31, 1986;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 368

### **333.12533 Violation as misdemeanor; each day of violation as separate violation; prosecution.**

Sec. 12533. A person who violates sections 12521 to 12531a or a rule promulgated under those sections is guilty of a misdemeanor. Each day upon which a violation occurs is a separate violation. The attorney general or local prosecuting attorney shall be responsible for prosecuting a person who violates sections 12521 to 12531a.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1989, Act 153, Imd. Eff. July 19, 1989.

**Popular name:** Act 368

**Administrative rules:** R 325.2111 et seq. of the Michigan Administrative Code.

### **333.12534 Action for injunction or other process.**

Sec. 12534. Notwithstanding the existence and pursuit of any other remedy, the department, its agent or representative, or a representative of a designated local health department may maintain an action in the name of the state for injunction or other process against a person to restrain or prevent the construction or modification of a public swimming pool without a construction permit, or the operation of a public swimming pool without an operation permit, or in a manner contrary to law.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12541 Testing and evaluating quality of water at bathing beaches; purpose; posting sign; injunction; definitions.**

Sec. 12541. (1) The local health officer or an authorized representative of the local health department having jurisdiction may test and otherwise evaluate the quality of water at bathing beaches to determine whether the water is safe for bathing purposes. However, the local health officer or authorized representative shall notify the city, village, or township in which the bathing beach is located prior to conducting the test or evaluation.

(2) If a local health officer or an authorized representative of a local health department conducts a test or evaluation of a bathing beach under subsection (1), within 36 hours of conducting the test or evaluation, he or she shall notify the department, the city, village, or township in which the bathing beach is located, and the owner of the bathing beach of the results of the test or evaluation.

(3) The owner of the bathing beach shall post at the main entrance to the bathing beach or other visible location a sign that states whether or not the bathing beach has been tested or evaluated under subsection (1) and, if the bathing beach has been tested, the location of where test results may be reviewed. Open stretches of beaches or beaches at road ends that are not advertised or posted as public bathing beaches do not need to have signs posted.

(4) If a local health officer or authorized representative of the local health department conducts a test or evaluation under subsection (1) and, based upon the standards promulgated under section 12544, the health officer or the authorized representative determines that the water is unsafe for bathing, he or she may petition the circuit court of the county in which the bathing beach is located for an injunction ordering the person owning or operating the bathing beach to close the bathing beach for use by bathers or ordering other measures to keep persons from entering on the bathing beach. Upon receipt of a petition under this subsection, the court may grant an injunction if circumstances warrant it.

(5) As used in this section:

(a) "Bathing beach" means a beach or bathing area offered to the public for recreational bathing or swimming. It does not include a public swimming pool as defined in section 12521.

(b) "Department" means the department of environmental quality.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 507, Eff. Mar. 31, 2003.

**Popular name:** Act 368

### **333.12542 Public bathing beach; safety and rescue equipment; communication with outside sources of assistance.**

Sec. 12542. The owner or person in charge of a public bathing beach shall provide and maintain suitable and adequate safety and rescue equipment and suitable and adequate means of communication with outside sources of assistance, which shall be available and accessible at the public bathing beach when it is open to bathers.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12543 Consulting and cooperating with local health officers; training for employees; assistance.**

Sec. 12543. The department or an authorized representative of the department shall consult and cooperate with local health officers and shall provide training for employees thereof and otherwise assist in the effective administration of sections 12541 to 12545.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12544 Rules; contents; use.**

Sec. 12544. The department, in cooperation with local health departments, shall promulgate rules which shall contain minimum sanitation standards for determining water quality at bathing beaches open to the public. The rules shall be used by a local health department to establish the safety of the water for swimming. Water quality standards adopted under this section shall be in conformity with the official state water quality standards adopted by the department of environmental quality under the authority of part 31 (water resources protection) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.3101 to 324.3119 of the Michigan Compiled Laws.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1996, Act 67, Imd. Eff. Feb. 26, 1996.

**Popular name:** Act 368

### **333.12545 Violation as misdemeanor.**

Sec. 12545. A person who violates sections 12541 to 12543 is guilty of a misdemeanor.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12546 Local regulations.**

Sec. 12546. Sections 12541 to 12544 shall not change the authority of local health departments or county boards of commissioners to enact local regulations governing public bathing beaches.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12561-333.12563 Repealed. 2004, Act 246, Eff. Oct. 1, 2004.**

**Compiler's note:** The repealed sections pertained to permits to chemically treat nuisance-producing organisms in waters of this state.

## **PART 126**

## **SMOKING IN PUBLIC PLACES**

### **333.12601 Definitions.**

Sec. 12601. (1) As used in this part:

(a) "Casino" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202. Casino does not include a casino operated under the Indian gaming regulatory act, 25 USC 2701 to 2721.

(b) "Child caring institution" and "child care center" mean those terms as defined in section 1 of 1973 PA

116, MCL 722.111.

(c) "Cigar" means any roll of tobacco weighing 3 or more pounds per 1,000, which roll has a wrapper or cover consisting only of tobacco.

(d) "Cigar bar" means an establishment or area within an establishment that is open to the public and is designated for the smoking of cigars, purchased on the premises or elsewhere.

(e) "County medical care facility" means that term as defined in section 20104.

(f) "Educational facility" means a building owned, leased, or under the control of a public or private school system, college, or university.

(g) "Food service establishment" means a food service establishment as defined in section 12905.

(h) "Health facility" means a health facility or agency licensed under article 17, except a home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit.

(i) "Home for the aged" means that term as defined in section 20106.

(j) "Hospice" means that term as defined in section 20106.

(k) "Hospital long-term care unit" means that term as defined in section 20106.

(l) "Meeting" means a meeting as defined in section 2 of the open meetings act, 1976 PA 267, MCL 15.262.

(m) "Motor vehicle" means that term as defined in section 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33.

(n) "Nursing home" means that term as defined in section 20109.

(o) "Place of employment" means an enclosed indoor area that contains 1 or more work areas for 1 or more persons employed by a public or private employer. Place of employment does not include any of the following:

(i) A structure used primarily as the residence of the owner or lessee that is also used as an office for the owner or lessee and for no other employees.

(ii) A food service establishment that is subject to section 12905.

(iii) A motor vehicle.

(p) "Public body" means a public body as defined in section 2 of the open meetings act, 1976 PA 267, MCL 15.262.

(q) "Public place", except as otherwise provided in subsection (2), means any of the following:

(i) An enclosed, indoor area owned or operated by a state or local governmental agency and used by the general public or serving as a meeting place for a public body, including an office, educational facility, home for the aged, nursing home, county medical care facility, hospice, hospital long-term care unit, auditorium, arena, meeting room, or public conveyance.

(ii) An enclosed, indoor area that is not owned or operated by a state or local governmental agency, is used by the general public, and is any of the following:

(A) An educational facility.

(B) A home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit.

(C) An auditorium.

(D) An arena.

(E) A theater.

(F) A museum.

(G) A concert hall.

(H) Any other facility during the period of its use for a performance or exhibit of the arts.

(iii) Unless otherwise exempt under this part, a place of employment.

(r) "Smoking" or "smoke" means the burning of a lighted cigar, cigarette, pipe, or any other matter or substance that contains a tobacco product.

(s) "Smoking paraphernalia" means any equipment, apparatus, or furnishing that is used in or necessary for the activity of smoking.

(t) "Tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, cigarettes, noncigarette smoking tobacco, or smokeless tobacco, as those terms are defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422, and cigars.

(u) "Tobacco specialty retail store" means an establishment in which the primary purpose is the retail sale of tobacco products and smoking paraphernalia, and in which the sale of other products is incidental. Tobacco specialty retail store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

(v) "Work area" means a site within a place of employment at which 1 or more employees perform services for an employer.



(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles of this code.

**History:** Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989;—Am. 2009, Act 188, Eff. May 1, 2010.

**Compiler's note:** For transfer of certain powers and duties of the center for health promotion and chronic disease prevention from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

**Popular name:** Act 368

**333.12603 Smoking in public place or at meeting of public body prohibited; duties of owner, operator, manager, or person having control of public place, food establishment, or casino; good faith effort to prohibit smoking; affirmative defense; affidavit; section referred to as "Dr. Ron Davis Law."**

Sec. 12603. (1) An individual shall not smoke in a public place or at a meeting of a public body, and a state or local governmental agency or the person who owns, operates, manages, or is in control of a public place shall make a reasonable effort to prohibit individuals from smoking in a public place.

(2) The owner, operator, manager, or person having control of a public place, a food service establishment, or a casino subject to section 12606b shall do all of the following:

(a) Clearly and conspicuously post "no smoking" signs or the international "no smoking" symbol at the entrances to and in every building or other area where smoking is prohibited under this act.

(b) Remove all ashtrays and other smoking paraphernalia from anywhere smoking is prohibited under this act.

(c) Inform individuals smoking in violation of this act that they are in violation of state law and subject to penalties.

(d) If applicable, refuse to serve an individual smoking in violation of this act.

(e) Ask an individual smoking in violation of this act to refrain from smoking and, if the individual continues to smoke in violation of this act, ask him or her to leave the public place, food service establishment, or nonsmoking area of the casino.

(3) The owner, operator, manager, or person in control of a hotel, motel, or other lodging facility shall comply with subsection (2) and section 12606. It is an affirmative defense to a prosecution or civil or administrative action for a violation of this section that the owner, operator, manager, or person in control of a hotel, motel, or other lodging facility where smoking is prohibited under this section made a good faith effort to prohibit smoking by complying with subsection (2). To assert the affirmative defense under this subsection, the owner, operator, manager, or person shall file a sworn affidavit setting forth his or her efforts to prohibit smoking and his or her actions of compliance with subsection (2).

(4) This section may be referred to as the "Dr. Ron Davis Law".

**History:** Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1993, Act 217, Eff. Apr. 1, 1994;—Am. 2009, Act 188, Eff. May 1, 2010.

**Popular name:** Act 368

**333.12604 Smoking in a child caring institution or child care center or on the real property under control of institution or center; violation; penalties.**

Sec. 12604. (1) An individual shall not smoke in a child caring institution or child care center or on real property that is under the control of a child caring institution or a child care center and upon which the child caring institution or child care center is located, including other related buildings.

(2) An individual who violates this section is subject to all the penalties described in section 15 of Act No. 116 of the Public Acts of 1973, being section 722.125 of the Michigan Compiled Laws, except imprisonment.

**History:** Add. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1991, Act 178, Eff. June 21, 1992;—Am. 1993, Act 217, Eff. Apr. 1, 1994.

**Popular name:** Act 368

**333.12604a, 333.12605 Repealed. 2009, Act 188, Eff. May 1, 2010.**

**Compiler's note:** The repealed sections pertained to prohibitions against smoking in private practice of health facility and designation of smoking areas.

**333.12606 Retaliatory or adverse personnel action against employee or applicant prohibited.**

Sec. 12606. An employer or a food service establishment shall not take any retaliatory or adverse personnel action against an employee or applicant for employment on the basis of the individual's exercise of or attempt to exercise his or her rights under this part with respect to place of employment or part 129 with

respect to food service establishments.

**History:** Add. 2009, Act 188, Eff. May 1, 2010.

**Popular name:** Act 368

**333.12606a Cigar bar or tobacco specialty retail store in existence on effective date of section; exemption from smoking prohibition; affidavit; request for additional information; failure to file affidavit.**

Sec. 12606a. (1) A cigar bar in existence on May 1, 2010 that meets the requirements of this section is exempt from the smoking prohibition of section 12603 and may allow smoking on its premises. Except as otherwise provided in subsection (3), to qualify for the exemption under this section, the person that owns or operates a cigar bar must file an affidavit with the department on or before the expiration of 30 days after May 1, 2010 and on January 31 of each year after May 1, 2010. The affidavit must be signed by the owner or operator of the cigar bar and must certify that the cigar bar was in existence on May 1, 2010 and that it meets all of the following requirements:

(a) In the 30-day period immediately preceding May 1, 2010, the cigar bar generated 10% or more of its total gross annual income from the on-site sale of cigars and the rental of on-site humidors.

(b) Except as otherwise provided in this subdivision, the cigar bar generates 10% or more of its total gross annual income from the on-site sale of cigars and the rental of on-site humidors for each calendar year after the calendar year in which the first affidavit is filed under this subsection. If the cigar bar has qualified for the exemption under this section pursuant to subsection (2), the requirement under this subdivision does not include the 3 calendar years immediately preceding the calendar year in which the affidavit under subsection (2) was filed.

(c) The cigar bar is located on premises that are physically separated from any areas of the same or adjacent establishment in which smoking is prohibited under this part or part 129 and where smoke does not infiltrate into those nonsmoking areas. As used in this subdivision, "physically separated" means an area that is enclosed on all sides by any combination of solid walls, windows, or doors that extend from the floor to ceiling.

(d) The cigar bar has installed on its premises an on-site humidor.

(e) The cigar bar prohibits entry to an individual who is less than 21 years of age during the time the cigar bar is open for business.

(f) The cigar bar allows only the smoking of cigars on the premises that retail for over \$1.00 per cigar.

(g) The cigar bar prohibits the smoking of all other tobacco products.

(2) For 1 calendar year only, a cigar bar qualifies for the exemption under this section if an affidavit, signed by the person that owns or operates the cigar bar, is filed with the department and certifies that all of the following circumstances apply to the cigar bar:

(a) The cigar bar is located in a city with a population of more than 32,000 and less than 34,000 that is located in a county with a population of more than 100,000 and less than 105,000.

(b) Not earlier than 2023, the cigar bar failed to file an affidavit under subsection (1) for not less than 1 calendar year and not more than 3 calendar years.

(c) The cigar bar has not previously filed an affidavit under this subsection.

(3) If a cigar bar has qualified for the exemption under this section pursuant to subsection (2), the cigar bar's affidavit filing requirement under subsection (1) does not include the range of calendar years described in subsection (2)(b), as applicable to the cigar bar.

(4) A tobacco specialty retail store in existence on May 1, 2010 that meets the requirements of this section is exempt from the smoking prohibition of section 12603 and may allow smoking on its premises. To qualify for the exemption under this section, the person that owns or operates a tobacco specialty retail store must file an affidavit with the department on or before the expiration of 30 days after May 1, 2010 and on January 31 of each year after May 1, 2010. The affidavit must be signed by the owner or operator of the tobacco specialty retail store and must certify that the tobacco specialty retail store was in existence on May 1, 2010 and that it meets all of the following requirements:

(a) In the 30-day period immediately preceding May 1, 2010, the tobacco specialty retail store generated 75% or more of its total gross annual income from the on-site sale of tobacco products and smoking paraphernalia.

(b) For each calendar year after the calendar year in which the first affidavit is filed under this subsection, the tobacco specialty retail store generated 75% or more of its total gross annual income from the on-site sale of tobacco products and smoking paraphernalia.

(c) The tobacco specialty retail store is located on premises that are physically separated from any areas of the same or adjacent establishments in which smoking is prohibited under this part or part 129 and where

smoke does not infiltrate into those nonsmoking areas. As used in this subdivision, "physically separated" means an area that is enclosed on all sides by any combination of solid walls, windows, or doors that extend from the floor to ceiling.

(d) The tobacco specialty retail store prohibits entry to an individual who is less than 21 years of age during the time the tobacco specialty retail store is open for business.

(5) The department may request additional information from a cigar bar or tobacco specialty retail store to verify that the cigar bar or tobacco specialty retail store meets the requirements of this section. A cigar bar or tobacco specialty retail store shall comply with requests from the department under this section.

(6) Except as otherwise provided in this subsection, a cigar bar or tobacco specialty retail store that does not meet the requirements of this section or violates this section is not exempt from the smoking prohibition of section 12603 and shall immediately prohibit smoking on its premises. A cigar bar or tobacco specialty retail store that meets the requirements of this section, other than filing the affidavit as required under subsection (1) or (4), retains its exemption and may continue to allow smoking during the period beginning on the date the affidavit is due and ending on the expiration of 21 days after that date. However, if the affidavit remains unfiled after the 21-day grace period, the cigar bar or tobacco specialty retail store is not exempt from the smoking prohibition of section 12603 and shall immediately prohibit smoking on its premises. A cigar bar or tobacco specialty retail store that loses its exemption under this subsection is not exempt from the smoking prohibition of section 12603, shall immediately prohibit smoking on its premises, and may only again qualify for the exemption under this section by filing an affidavit and meeting the requirements of subsection (1), (2), or (4), as applicable.

**History:** Add. 2009, Act 188, Eff. May 1, 2010;—Am. 2022, Act 168, Imd. Eff. July 21, 2022;—Am. 2023, Act 318, Imd. Eff. Dec. 14, 2023.

**Popular name:** Act 368

### **333.12606b Casino in existence on effective date of section; "gaming area" defined.**

Sec. 12606b. (1) A casino that is in existence on the effective date of this section may allow smoking in the gaming area of the casino. Section 12603 applies to a casino that is not in existence on the effective date of this section and to all areas of a casino not part of the gaming area. A food service establishment in or part of a casino is subject to section 12905. However, any part of the gaming area where food and beverage is taken by patrons for immediate consumption is not considered a food service establishment under this part or part 129.

(2) A casino that is in existence on the effective date of this section shall comply with section 12603(2) for all areas of the casino not part of the gaming area. Section 12606 does not apply with respect to employees working in the gaming area of a casino where smoking is allowed under this section. However, section 12606 does apply with respect to employees working in areas other than the gaming area of a casino.

(3) As used in this section, "gaming area" means that term as defined in R 432.1103 of the Michigan administrative code.

**History:** Add. 2009, Act 188, Eff. May 1, 2010.

**Popular name:** Act 368

### **333.12607 Repealed. 2009, Act 188, Eff. May 1, 2010.**

**Compiler's note:** The repealed section pertained to duties of state or local governments to prevent smoking.

### **333.12609 Rules.**

Sec. 12609. The department may promulgate rules to implement this part.

**History:** Add. 1986, Act 198, Eff. Jan. 1, 1987.

**Popular name:** Act 368

### **333.12610 Rules prohibited.**

Sec. 12610. Notwithstanding section 12609 or any other provision of this act to the contrary, the department shall not promulgate rules to implement or administer the provisions of this part that were added by the amendatory act that added this section.

**History:** Add. 2009, Act 188, Eff. May 1, 2010.

**Popular name:** Act 368

### **333.12611 Violation; compliance; civil fine; perjury.**

Sec. 12611. A person or state or local governmental agency that violates this part or part 129 shall be directed to comply with this part and is subject to a civil fine of not more than \$100.00 for a first violation and

not more than \$500.00 for a second or subsequent violation. A person who makes a false statement in an affidavit under this part is guilty of perjury under section 423 of the Michigan penal code, 1931 PA 328, MCL 750.423.

**History:** Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989;—Am. 1993, Act 217, Eff. Apr. 1, 1994;—Am. 2009, Act 188, Eff. May 1, 2010.

**Popular name:** Act 368

### **333.12613 Enforcement; civil fine; injunctive relief; remedies independent and cumulative.**

Sec. 12613. (1) Subject to subsection (2), the department shall enforce this part and part 129 and any rules promulgated under this part pursuant to sections 2262(2) and 2263. In addition to the civil fine authorized under section 12611, the department may enforce this part and any rules promulgated under this part through an action commenced pursuant to section 2255 or any other appropriate action authorized by law.

(2) Pursuant to section 2235, the department may authorize a local health department to enforce this part and part 129 and any rules promulgated under this part. A local health department authorized to enforce this part and part 129 and any rules promulgated under this part shall enforce this part and part 129 and any rules promulgated under this part pursuant to sections 2461(2) and 2462. In addition to the civil fine authorized under section 12611, a local health department may enforce this part and part 129 and any rules promulgated under this part through an action commenced pursuant to section 2465 or any other appropriate action authorized by law.

(3) In addition to any other enforcement action authorized by law, a person alleging a violation of this part may bring a civil action for appropriate injunctive relief, if the person has used the public place, child caring institution, or child care center within 60 days before the civil action is filed.

(4) The remedies under this part are independent and cumulative. The use of 1 remedy by a person shall not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

**History:** Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989;—Am. 2009, Act 188, Eff. May 1, 2010.

**Popular name:** Act 368

### **333.12614 Reports.**

Sec. 12614. (1) The director shall report biennially to the legislature on the effect and enforcement of this part and part 129. The report shall include, at a minimum, compliance with sections 12603 and 12905.

(2) Upon request of the department, the director of the department of management and budget annually shall report to the department, at a minimum, a list of each public place owned or operated by the state and its compliance with section 12603.

**History:** Add. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 2009, Act 188, Eff. May 1, 2010.

**Popular name:** Act 368

### **333.12615 Repealed. 2009, Act 188, Eff. May 1, 2010.**

**Compiler's note:** The repealed section pertained to smoking of tobacco in nursing home or food service establishment.

### **333.12616 Short title.**

Sec. 12616. This part shall be known and may be cited as the "Michigan clean indoor air act".

**History:** Add. 1988, Act 296, Eff. Mar. 30, 1989.

**Popular name:** Act 368

### **333.12617 Repealed. 2009, Act 188, Eff. May 1, 2010.**

**Compiler's note:** The repealed section pertained to effective date of part.

## **PART 127**

## **WATER SUPPLY AND SEWER SYSTEMS**

### **333.12701 Definitions used in MCL 333.12701 to 333.12715.**

Sec. 12701. (1) As used in sections 12701 to 12715:

- (a) "Person" means a person as defined in section 1106 or a governmental entity.
- (b) "Pump" means a mechanical equipment or device used to remove water from a well.
- (c) "Pump installer" means a person who is qualified to engage in the installation, removal, alteration, or repair of water well pumping equipment in connection with a water well.
- (d) "Well" means an opening in the surface of the earth for the purpose of removing fresh water or a test

well, recharge well, waste disposal well, or a well used temporarily for dewatering purposes during construction.

(e) "Well drilling contractor" means a person qualified to engage in well construction, well alteration, or well repair and pump installation, who supervises the construction of water wells and the installation of pumps, and who owns, rents, or leases equipment used in the construction of water wells.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of the division of environmental health and the division of water supply from the director of the department of public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

**Popular name:** Act 368

### **333.12703 Applicability of MCL 333.12701 to 333.12715.**

Sec. 12703. (1) Sections 12701 to 12715 shall not apply to:

(a) A well, pump, or other equipment used temporarily for dewatering purposes during construction when the well is not more than 2 inches in diameter and not more than 25 feet in total depth below the natural ground surface or is used in the relief of artesian pressure at hydroelectric projects or is used with the drilling of oil or gas wells.

(b) A brine, test, storage, or disposal well regulated pursuant to part 625 (mineral wells) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.62501 to 324.62518 of the Michigan Compiled Laws.

(2) Sections 12701 to 12715 shall not prevent a person from constructing a well or installing a pump on property owned or leased by the person which is intended for use only in a single family house which is that person's permanent residence, or intended for use only for farming purposes on that person's farm, and where the waters to be produced are not intended for use by the public or in any residence other than his or her own. The person shall submit the drilling record required by section 12707 and comply with the rules and construction code promulgated under section 12714.

(3) Sections 12701 to 12715 shall not restrict a master plumber licensed under Act No. 266 of the Public Acts of 1929, being sections 338.901 to 338.917 of the Michigan Compiled Laws, from engaging in the licensee's legally recognized trade. A licensed master plumber may perform the work of a pump installer prescribed in sections 12701 to 12715 or rules and construction code promulgated under section 12714 without a certificate of registration as a pump installer.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1996, Act 67, Imd. Eff. Feb. 26, 1996.

**Popular name:** Act 368

### **333.12704 Certificate of registration as well drilling contractor, pump installer, water well drilling contractor, or dewatering well pump installer; application; fees; exemption.**

Sec. 12704. (1) Before engaging in the business of well drilling or pump installing, a person shall obtain a certificate of registration annually as a well drilling contractor or pump installer, using an application prepared by the department.

(2) Before engaging in the business of constructing dewatering wells or installing dewatering well pumps, a person shall obtain a certificate of registration annually as a water well drilling contractor limited to the construction of dewatering wells or as a dewatering well pump installer, using an application prepared by the department.

(3) The applicant shall pay a registration fee with the application. The initial registration fee and the annual renewal registration fee for a well drilling contractor is \$40.00 and for a pump installer is \$25.00. A well drilling contractor shall pay an additional annual fee of \$10.00 for each additional drilling machine. A registered well drilling contractor may do any of the work of a pump installer without payment of the fee for a pump installer.

(4) A county, city, village, township, or other governmental unit engaged in well drilling or pump installing shall be registered under sections 12701 to 12715, but shall be exempt from paying the registration fees if the drilling or installing is done by regular employees of, and with equipment owned by, the governmental unit and the work is on wells or pumps intended for use by the governmental unit.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12705 Certificate of registration; issuance; nontransferable; expiration; renewal;**



**examination; eligibility; reciprocity.**

Sec. 12705. (1) The department shall issue certificates of registration to well drilling contractors and pump installers who meet the requirements of sections 12701 to 12715.

(2) A certificate of registration is not transferable and expires on April 30 of each year. After July 1 of each year a certificate of registration may be renewed only upon application for renewal and payment of a fee of 50% of the basic registration fee in addition to the regular registration fee.

(3) A new applicant for a certificate of registration shall be examined in accordance with the rules and construction code promulgated under section 12714. The advisory board created by section 12711 shall determine and advise the department as to the eligibility of a well drilling contractor or pump installer for registration. A well drilling contractor or pump installer which is a firm, partnership, or corporation shall designate at least 1 partner, officer, or responsible full-time employee to take the examination on its behalf.

(4) The department, upon application and payment of the prescribed fees, may issue a certificate of registration as a well drilling contractor or a pump installer to a person who holds a similar certificate of registration in another state or a foreign country, if the requirements for the registration of a well drilling contractor and pump installer under which the certificate of registration was issued do not conflict with this part, are of a standard not lower than that specified by the rules and construction code promulgated under section 12714, and if equal reciprocal privileges are granted to a registrant of this state.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**333.12706 Numbers, seal, and words to be placed on well drilling machine.**

Sec. 12706. A well drilling contractor shall place the registration number, including the county code number for the business location, in figures not less than 2 inches high in a conspicuous location on both sides of the contractor's well drilling machine. A seal furnished by the department designating the year the certificate of registration was issued or renewed and the words "Michigan registered water well drilling contractor" shall be affixed directly adjacent to the registration number.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**333.12707 Record required; contents; copies; forms; sufficiency of record for drive point well.**

Sec. 12707. Not later than 60 days after the completion of a well, a well drilling contractor shall provide the owner with a copy and the department, or local health department, with 2 copies of a record indicating the well owner's name, location of the well, well depth, geologic materials and thicknesses of materials penetrated, amount of casing, static water levels, and any other information which may be required by the rules and construction code promulgated under section 12714. The department or local health department shall send 1 copy of the record to the director of the department of natural resources not later than 30 days after its receipt from the well drilling contractor. Standard forms for the record shall be provided by the department or the contractor's forms may be used if approved by the department. A record for a drive point well where no earth materials are removed from the well bore is sufficient if the owner's name, well location, depth, casing, static water level, and screen data are stated.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**333.12708 Entering and inspecting installation.**

Sec. 12708. The department or local health department may enter and inspect, at reasonable hours, an installation on public or private property for the development or abandonment of ground water supplies.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**333.12709 Inspection of violation; order; notice of suspension of certificate of registration; petition for hearing; revocation of certificate of registration.**

Sec. 12709. (1) When the department or local health department determines that there are reasonable grounds to believe there has been a violation of sections 12701 to 12715 or a rule or the construction code promulgated under section 12714, the department or the local health department shall investigate the violation. If the department or local health department establishes that a violation has been committed, the department or the local health department shall order the responsible person to make the proper corrections.

(2) When the department finds that the holder of a certificate of registration has engaged in a practice in

violation of sections 12701 to 12715 or a rule, construction code, or order issued pursuant to those sections, the department may give written notice to the holder of the certificate of registration that the certificate of registration is suspended. A person who receives notice from the department that his or her certificate of registration is suspended, upon request, shall be granted a hearing before the department or an authorized representative of the department. If a petition for a hearing is not filed within 30 days after the day on which the certificate of registration was suspended, the certificate of registration is automatically revoked.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12711 Advisory board; creation; appointment and qualifications of members.**

Sec. 12711. An advisory board of 9 members is created in the department composed of the following: 5 members who are residents of this state registered under sections 12701 to 12715, at least 4 of whom are well drilling contractors, and who shall be appointed by the governor with the advice and consent of the senate; an employee of the bureau of environmental and occupational health of the department, and a representative of a local health department, each to be appointed by the director; an employee of the geological survey section of the department of natural resources appointed by the director of the department of natural resources; and an employee of the water resources commission appointed by the executive secretary of the water resources commission. Of 4 well drilling contractors 1 shall be from each of 4 geographic regions:

(a) Region 1: The Upper Peninsula.

(b) Region 2: That part of the Lower Peninsula bordered on the south by Oceana, Newaygo, Mecosta, Isabella, Midland, and Bay counties and the area north of those counties.

(c) Region 3: The area bordered on the north and west by Huron, Tuscola, Saginaw, Shiawassee, Livingston, Washtenaw, and Lenawee counties and the area south and east of those counties.

(d) Region 4: The area bordered on the east and north by Hillsdale, Jackson, Ingham, Clinton, Gratiot, Montcalm, Kent, and Muskegon counties and the area south and west of those counties.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibilities of the water well drillers advisory committee to the director of the Michigan state department of public health, see E.R.O. No. 1994-1, compiled at MCL 333.26322 of the Michigan Compiled Laws.

**Popular name:** Act 368

### **333.12712 Advisory board; terms of members; vacancies.**

Sec. 12712. Each member of the advisory board shall be appointed for a 3-year term. The terms of the 5 members registered under sections 12701 to 12715 shall alternate so that not more than 2 are appointed each year, except that of the first appointees, 1 shall be appointed for 1 year and 2 each shall be appointed for 2 and 3 years. The terms of the members representing the department of natural resources, the water resources commission, and the local health department shall alternate so that only 1 is appointed each year, except that of the first appointees 1 member shall be appointed for 1 year, 1 for 2 years, and 1 for 3 years. Vacancies shall be filled by appointment for the balance of the unexpired terms by the respective officials designated in section 12711.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12713 Advisory board; election of chairperson; secretary; number of meetings; quorum; conducting business at public meeting; notice of meeting; compensation and expenses.**

Sec. 12713. (1) The members of the advisory board, as soon as appointed, shall organize and elect from their number a chairperson. Thereafter, annually when new members are appointed to the board, a chairperson shall be elected at the next board meeting. The member from the department shall be the secretary of the board.

(2) The board shall hold not less than 1 meeting each year for the purpose of examining candidates for registration. Additional meetings may be called by the chairperson or director as may be reasonably necessary to carry out sections 12701 to 12715. Five members shall constitute a quorum. The business which the advisory board may perform shall be conducted at a public meeting of the advisory board held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(3) The per diem compensation of the members of the advisory board registered under sections 12701 to 12715 shall be established annually by the legislature. Expenses shall be reimbursed pursuant to section 1216.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 143, Imd. Eff. June 2, 1980.

**Popular name:** Act 368

### **333.12714 Rules and construction code.**

Sec. 12714. The department, with the advice of the advisory board, shall promulgate rules and a construction code reasonably necessary to implement sections 12701 to 12715. The rules and construction code shall include provisions for qualifications and examination of well drilling contractors and pump installers, standards for the construction and installation of developments of ground water supplies, dewatering wells, abandonment of wells and dewatering wells, and for the administration of sections 12701 to 12715.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**Administrative rules:** R 325.1601 et seq. of the Michigan Administrative Code.

### **333.12715 Violation as misdemeanor; penalties; prosecution.**

Sec. 12715. (1) Except as provided in subsection (2), a person who violates sections 12701 to 12714, a rule or the construction code promulgated under section 12714, or an order issued by the department or local health department under sections 12701 to 12714 is guilty of a misdemeanor.

(2) A member of the advisory board who intentionally violates section 12713(2) shall be subject to the penalties prescribed in Act No. 267 of the Public Acts of 1976, as amended.

(3) The attorney general or local prosecuting attorney shall be responsible for prosecuting a person who violates sections 12701 to 12715.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 143, Imd. Eff. June 2, 1980.

**Popular name:** Act 368

### **333.12721 Adding fluoride to water.**

Sec. 12721. (1) A state department, board, commission, or agency shall not order a county, city, township, village, or any combination thereof to add fluoride to water which is supplied to the public that may be consumed by human beings.

(2) A county, city, township, village or any combination thereof which supplies water to the public may add fluoride to the water, in a manner and amount to be prescribed by the department, unless the addition of fluoride is rejected by an ordinance of the or by a majority of the electors of the county, city, township, village or any combination thereof.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12751 Definitions used in MCL 333.12752 to 333.12758.**

Sec. 12751. As used in sections 12752 to 12758:

(a) "Acceptable alternative greywater system" means a system for the treatment and disposal of waste water which normally does not receive human body wastes or industrial waste and is approved for use by a local health department.

(b) "Acceptable innovative or alternative waste treatment system" means a decentralized or individual waste system which has been approved for use by a local health department and which is properly operated and maintained so as not to cause a health hazard or nuisance. An acceptable innovative or alternative waste treatment system may include, but is not limited to, an organic waste treatment system or compost toilet which operates on the principle of decomposition of heterogeneous organic materials by aerobic and facultatively anaerobic organisms and utilizes an effectively aerobic composting process which produces a stabilized humus. Acceptable innovative or alternative waste treatment system does not include a septic tank/drain field system or any other system which is determined by the department to pose a similar threat to the public health, safety and welfare, and the quality of surface and subsurface waters of this state.

(c) "Available public sanitary sewer system" means a public sanitary sewer system located in a right of way, easement, highway, street, or public way which crosses, adjoins, or abuts upon the property and passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates.

(d) "Person" means a person as defined in section 1106 or a governmental entity.

(e) "Public sanitary sewer system" means a sanitary sewer or a combined sanitary and storm sewer used or intended for use by the public for the collection and transportation of sanitary sewage for treatment or disposal.

(f) "Structure in which sanitary sewage originates" or "structure" means a building in which toilet, kitchen,

laundry, bathing, or other facilities which generate water-carried sanitary sewage are used or are available for use for household, commercial, industrial, or other purposes.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 421, Eff. Mar. 31, 1981.

**Popular name:** Act 368

### **333.12752 Public sanitary sewer systems; declaration of necessity.**

Sec. 12752. Public sanitary sewer systems are essential to the health, safety, and welfare of the people of the state. Septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of septic tank disposal systems poses a threat to the public health, safety, and welfare; presents a potential for ill health, transmission of disease, mortality, and economic blight; and constitutes a threat to the quality of surface and subsurface waters of this state. The connection to available public sanitary sewer systems at the earliest, reasonable date is a matter for the protection of the public health, safety, and welfare and necessary in the public interest which is declared as a matter of legislative determination.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12753 Structures in which sanitary sewage originates to be connected to public sanitary sewer; approval; time.**

Sec. 12753. (1) Structures in which sanitary sewage originates lying within the limits of a city, village, or township shall be connected to an available public sanitary sewer in the city, village, or township if required by the city, village, or township.

(2) Structures in which sanitary sewage originates lying outside the limits of the city, village, or township in which the available public sanitary sewer lies shall be connected to the available public sanitary sewer after the approval of both the city, village, or township in which the structure and the public sanitary sewer system lies and if required by the city, village, or township in which the sewage originates.

(3) Except as provided in subsection (4), the connection provided for in subsections (1) and (2) shall be completed promptly but not later than 18 months after the date of occurrence of the last of the following events or before the city, village, or township in which the sewage originates requires the connection:

(a) Publication of a notice by the governmental entity which operates the public sanitary sewer system of availability of the public sanitary sewer system in a newspaper of general circulation in the city, village, or township in which the structure is located.

(b) Modification of a structure so as to become a structure in which sanitary sewage originates.

(4) A city, village, or township may enact ordinances, or a county or district board of health, may adopt regulations to require completion of the connection within a shorter period of time for reasons of public health.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12754 Failure to connect structure to public sanitary sewer; notice; action to compel connection.**

Sec. 12754. (1) When the structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within the time specified in section 12753, the governmental unit in which the structure lies shall require the connection to be made immediately after notice, which may be by first class or certified mail to the owner of the property or by posting on the property.

(2) The notice shall give the approximate location of the public sanitary sewer system which is available for connection of the structure involved and shall advise the owner of the requirements and enforcement provisions of sections 12752 to 12758 and any applicable ordinance or regulation.

(3) Where a structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within 90 days after the date of mailing or posting of the written notice, the governmental unit which operates the available sanitary sewer system may bring an action for a mandatory injunction or order in the district, municipal, or circuit court in the county in which the structure is situated to compel the owner to connect to the available sanitary sewer system immediately. The governmental unit may join any number of owners of structures situated within the governmental unit in the action to compel each owner to connect to an available sanitary sewer system immediately.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12756 Tap-in fee for connection; deferment of payment by reason of hardship;**

**application; evidence of hardship; ordinance defining hardship and permitting deferred or partial payment; condition to granting deferred or partial payment.**

Sec. 12756. (1) An owner of property who by reason of hardship is unable to comply with provisions of sections 12752 to 12758 requiring connection to an available sanitary sewer system when the local unit of government charges a tap-in fee for connection may have the fee payment deferred by application to the assessing officer. Upon receipt of evidence of hardship, the local unit of government may defer partial or total payment of the fee.

(2) The local unit of government may enact ordinances to define hardship in its area and to permit deferred or partial payment of the tap-in fee. As a condition to the granting of the deferred or partial payment of the tap-in fee, the local unit of government may require mortgage security on the real property of the beneficiary payable on or before death, or, in any event, on the sale or transfer of the property.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**333.12757 Installation and use of acceptable innovative or alternative waste treatment system alone or in combination with acceptable alternative greywater system; regulation by local health department; guidelines; exemption from special assessments not permitted; connection to available public sanitary sewer system not required; payment of sewer availability fee in lieu of connection or user fees; exemption from connection or user fees.**

Sec. 12757. (1) Notwithstanding sections 12752 to 12756, a person may install and use in a structure an acceptable innovative or alternative waste treatment system or an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system. The installation and use of an acceptable innovative or alternative waste treatment system or an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system in a structure shall be subject to regulation by the local health department in accordance with the ordinances and regulations of the local units of government in which the structure lies. A local health department may inspect each acceptable innovative or alternative waste treatment system within its jurisdiction at least once each year to determine if it is being properly operated and maintained. A local health department may charge the owner of an acceptable innovative or alternative waste treatment system a reasonable fee for such an inspection and for the plan review and installation inspection. A copy of the approved application or permit to install and use an alternative system and a copy of each maintenance inspection report shall be forwarded to the department and to the local unit of government in which the structure lies. The department shall maintain a record of approved alternative systems and their maintenance and operation.

(2) The department, after consultation with the state plumbing board, shall adopt guidelines to assist local health departments in determining what are acceptable alternative greywater systems and what are acceptable innovative or alternative waste treatment systems. The department shall advise local health departments regarding the appropriate installation and use of acceptable innovative or alternative waste treatment systems and acceptable innovative or alternative waste treatment systems in combination with acceptable alternative greywater systems.

(3) A person who installs and uses an acceptable innovative or alternative waste treatment system or an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system shall not be exempt from any special assessments levied by a local unit of government for the purpose of financing the construction of an available public sanitary sewer system.

(4) Notwithstanding sections 12752 to 12756, an owner of a structure using an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system shall not be required to connect to an available public sanitary sewer system.

(5) An owner who does not connect to an available public sanitary sewer system pursuant to subsection (4), shall not be required to pay connection or user fees to a local unit of government except those connection or user fees which are allocated for financing of construction of an available public sanitary sewer system. In lieu of connection or user fees, an owner may be required by the local unit of government to pay a sewer availability fee if that fee is to be used for the purpose of paying a proportionate share of financing the construction of an existing available public sanitary sewer system. The exemption from connection or user fees under this subsection shall not apply to an owner connected to an available public sanitary sewer system on the effective date of this act.

(6) A local unit of government may exempt an owner proposing to use an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system from



connection or user fees related to the financing, construction, use, or maintenance of an available public sanitary sewer system.

**History:** Add. 1980, Act 421, Eff. Mar. 31, 1981.

**Popular name:** Act 368

### **333.12758 Voluntary connection to public sanitary sewer system; provisions cumulative.**

Sec. 12758. (1) Sections 12752 to 12758 shall not limit the right of the owner of a structure in which sanitary sewage originates voluntarily to connect the structure to a public sanitary sewer system where the operator of the system agrees to the connection.

(2) Sections 12752 to 12758 are in addition to and not in limitation of the power of a governmental unit to adopt, amend, and enforce ordinances relating to the connection of a structure in which sanitary sewage originates to its public sanitary sewer system.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12771 Outhouses; requirements; rules; violation as misdemeanor; public nuisance; "outhouse" defined.**

Sec. 12771. (1) A person shall not maintain, or permit to be maintained, on premises owned or controlled by the person an outhouse unless the outhouse is kept in a sanitary condition, and constructed and maintained in a manner which will not injure or endanger the public health.

(2) The department shall promulgate rules governing the construction and maintenance of outhouses to safeguard the public health and to prevent the spread of disease and the existence of sources of contamination.

(3) A person who violates this section is guilty of a misdemeanor. An outhouse not constructed or maintained as required by this section or the rules promulgated pursuant to this section shall be a public nuisance.

(4) As used in this section, "outhouse" means a building or other structure not connected with a sewer system or with a properly installed and operated sewage disposal system, and which is used for the reception, disposition, or storage, either temporarily or permanently, of feces or other excreta from the human body.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**Administrative rules:** R 325.421 et seq. of the Michigan Administrative Code.

## **PART 129.**

### **SMOKE-FREE FOOD SERVICE ESTABLISHMENTS**

### **333.12901-333.12904 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.**

**Compiler's note:** The repealed sections pertained to definitions, preparation and service of wild game, creation of food service sanitation advisory board, and license to operate food service establishment.

**Popular name:** Act 368

### **333.12905 Food service establishment; smoking prohibited; shopping malls; inspection; determination of compliance; investigation of complaint; order to cease food service operations; good faith effort to prohibit smoking; affirmative defense; affidavit; violation; civil fine; definitions.**

Sec. 12905. (1) An individual shall not smoke in a food service establishment, and the person who owns, operates, manages, or is in control of a food service establishment shall make reasonable effort to prohibit individuals from smoking in a food service establishment.

(2) In addition to a food service establishment that provides its own seating, subsection (1) applies to a food service establishment or group of food service establishments that are located in a shopping mall in which the seating for the food service establishment or group of food service establishments is provided or maintained, or both, by the person who owns or operates the shopping mall.

(3) The director, an authorized representative of the director, or a representative of a local health department to which the director has delegated responsibility for enforcement of this part shall inspect each food service establishment that is subject to this section. The inspecting entity shall determine compliance with this section during each inspection.

(4) Within 5 days after receipt of a written complaint of violation of this section, a local health department shall investigate the complaint to determine compliance. If a violation of this section is identified and not corrected as ordered by the local health department within 2 days after receipt of the order by the food service

establishment, the local health officer may issue an order to cease food service operations until compliance with this section is achieved.

(5) A food service establishment shall comply with sections 12603(2) and 12606. It is an affirmative defense to a prosecution or civil or administrative action for a violation of this section that the owner, operator, manager, or person in control of a food service establishment where smoking is prohibited under this section made a good faith effort to prohibit smoking by complying with section 12603(2). To assert the affirmative defense under this subsection, the owner, operator, manager, or person shall file a sworn affidavit setting forth his or her efforts to prohibit smoking and his or her actions of compliance with section 12603(2).

(6) An individual who violates this part shall be directed to comply with this part and is subject to a civil fine of not more than \$100.00 for a first violation and not more than \$500.00 for a second or subsequent violation.

(7) As used in this section:

(a) "Food service establishment" means that term as defined in section 1107 of the food law of 2000, 2000 PA 92, MCL 289.1107.

(b) "Shopping mall" means a shopping center with stores facing an enclosed mall.

(c) "Smoking" means that term as defined in section 12601.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 96, Eff. July 1, 1986;—Am. 1988, Act 297, Eff. Mar. 30, 1989;—Am. 1993, Act 242, Eff. Apr. 1, 1994;—Am. 2009, Act 188, Eff. May 1, 2010.

**Popular name:** Act 368

### **333.12905a-333.12908 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.**

**Compiler's note:** The repealed sections pertained to display of poster diagramming and explaining antichoking techniques in food service establishment; payment of sanitation service and state license fees; denial, suspension, limitation, or revocation of license; and delegation of authority and responsibility for enforcement of requirements.

**Popular name:** Act 368

\*\*\*\*\* 333.12909 SUBSECTION (3) EXPIRES AUGUST 17, 1981: See (3) of 333.12909 \*\*\*\*\*

### **333.12909 Rules; manufacturing, processing, or freezing frozen desserts; compliance with standards; adoption of federal provisions by reference; recognition of other enforcement procedures; meanings of certain terms; expiration of subsection (3); food service establishment or vending machine in place before effective date of part; food service sanitation program as required service.**

Sec. 12909. (1) The department shall promulgate rules to prescribe criteria for programs by local health departments and procedures for the administration and enforcement of this part. The department may promulgate rules to prescribe minimum standards of sanitation for the protection of the public health and otherwise provide for the implementation of this part. The department in promulgating these rules shall seek the advice and counsel of local health departments and the food service industry.

(2) The manufacturing, processing, or freezing of frozen desserts as defined in section 2 of the frozen desserts act of 1968, Act No. 298 of the Public Acts of 1968, being section 288.322 of the Michigan Compiled Laws, in food service establishments licensed pursuant to this part, which frozen desserts are intended only for use in the soft form by patrons, guests, patients, or employees, shall comply with the standards of this part and rules promulgated pursuant to this part.

(3) Except as otherwise specifically defined or described in this part, the provisions of the 1976 recommendations of the United States food and drug administration for a food service sanitation manual, including a model food service sanitation ordinance and the unabridged form of "the vending of food and beverages--a sanitation ordinance and code--1965 recommendations of the public health service" are adopted, except any reference in these ordinances and codes to adulteration, misbranding, advertising, and enforcement procedures. Upon written request from a local health department, the department may recognize certain enforcement procedures other than those contained in this part and rules promulgated under this part, when the procedures will result in enforcement which is equivalent in effectiveness and have been legally adopted by the local department of health. The words "municipality of . . ." as used in the recommendations for a model food service sanitation ordinance shall mean the state and the term "regulatory authority" shall mean the local health officer in charge of a local health department or the local health officer's designated representative. This subsection shall expire September 30, 1981 or when the rules promulgated under subsection (1) are promulgated, whichever is sooner.

(4) The design, construction, and equipment of a food service establishment or vending machine which was in place before the effective date of standards developed or adopted under this part shall be considered to

be in compliance with this part if they are in compliance with the standards in effect on the date they were installed and if they are in good repair and are being maintained in a sanitary condition.

(5) A food service sanitation program which meets the requirements of this part is a required service under part 24.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 324, Eff. Mar. 30, 1983.

**Compiler's note:** Subsection (3) of this section expired August 17, 1981, the date rules authorized under subsection (1) were promulgated, being R 325.25101 et seq. of the Michigan Administrative Code.

For transfer of powers and duties of the food service sanitation program from the department of public health to the director of the department of agriculture, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

**Popular name:** Act 368

**Administrative rules:** R 285.514.1 of the Michigan Administrative Code.

### **333.12910-333.12913 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.**

**Compiler's note:** The repealed sections pertained to transitory food units; construction, remodeling, or alteration of food service establishments; investigation of food-borne diseases and poisonings; and storage or application of sulfiting agents prohibited.

**Popular name:** Act 368

### **333.12914 Rules prohibited.**

Sec. 12914. Notwithstanding any other provision of this act to the contrary, the department shall not promulgate rules to implement or administer the provisions of this part that were added by the amendatory act that added this section.

**History:** Add. 2009, Act 188, Eff. May 1, 2010.

**Popular name:** Act 368

### **333.12915 Local authority limited; exception; local permit; compliance with local codes, regulations, or ordinances.**

Sec. 12915. A county, city, village, or township shall not regulate those aspects of food service establishments or vending machines which are subject to regulation under this part except to the extent necessary to carry out the responsibility of a local health department pursuant to sections 12906 and 12908. This part shall not relieve the applicant for a license or a licensee from responsibility for securing a local permit or complying with applicable local codes, regulations, or ordinances not in conflict with this part.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 526, Eff. Mar. 30, 1983.

**Popular name:** Act 368

### **333.12916 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.**

**Compiler's note:** The repealed section pertained to food establishment, delicatessen, or bakery offering certain food for sale.

**Popular name:** Act 368

### **333.12921 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.**

**Compiler's note:** The repealed section pertained to injunction or other process.

**Popular name:** Act 368

### **333.12922 Violation as misdemeanor.**

Sec. 12922. A person who violates this part or a rule promulgated under this part is guilty of a misdemeanor.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

## **PART 131. BODY ART FACILITIES**

### **333.13101 Definitions.**

Sec. 13101. (1) As used in this part:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Applicant" means the person who submits an application for a body art facility license under this part and includes the owner or operator, an agent of the owner or operator, or any other person operating under the apparent authority of the owner or operator of a body art facility that is required to be licensed under this part.

(c) "Body art facility" means the location at which an individual does 1 or more of the following:

- (i) Performs tattooing.
- (ii) Performs branding.
- (iii) Performs body piercing.
- (d) "Body piercing" means the perforation of human tissue other than an ear for a nonmedical purpose.
- (e) "Branding" means a permanent mark made on human tissue by burning with a hot iron or other instrument.
- (f) "Controlled substance" means that term as defined in section 7104.
- (g) "Critical violation" means a violation of this part that is determined by the department or a local health department to be more likely than other violations of this part to contribute to illness in humans.
- (h) "Licensee" means the person who is the holder of a license under this part or the person who is legally responsible for the operation of a body art facility and includes the owner or operator, an agent of the owner or operator, or any other person operating under the apparent authority of the owner or operator of a body art facility that is required to be licensed under this part.
- (i) "Local governing entity" means that term as defined in section 2406.
- (j) "Minor" means an individual under 18 years of age who is not emancipated under section 4 of 1968 PA 293, MCL 722.4.
- (k) "Smoking" means that term as defined in section 12601.
- (l) "Tattoo" means 1 or more of the following:
  - (i) An indelible mark made upon the body of another individual by the insertion of a pigment under the skin.
  - (ii) An indelible design made upon the body of another individual by production of scars other than by branding.
- (m) "Temporary body art facility" means a body art facility that operates at a fixed or temporary location in this state for a time period that does not exceed 14 consecutive days and includes out-of-state facilities operating within this state.
- (2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** Add. 1996, Act 223, Eff. Sept. 1, 1996;—Am. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

### **333.13102 Tattoo, brand, or body piercing on minor; consent and proof of authority of parent or guardian required.**

Sec. 13102. An individual shall not tattoo, brand, or perform body piercing on a minor unless the individual obtains the prior written informed consent of the minor's parent or legal guardian and proof of that individual's authority to give the informed consent required under this section. The minor's parent or legal guardian shall execute the written, informed consent required under this section in the presence of the licensee or an employee or agent of the licensee. The minor's parent or legal guardian shall present to the licensee or employee or agent of the licensee the minor's birth certificate or legal proof of guardianship to establish the individual's authority to give the informed consent required under this section.

**History:** Add. 1996, Act 223, Eff. Sept. 1, 1996;—Am. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

### **333.13103 Repealed. 2010, Act 375, Imd. Eff. Dec. 22, 2010.**

**Compiler's note:** The repealed section pertained to violation of part or rules as misdemeanor.

**Popular name:** Act 368

### **333.13104 Tattooing, branding, or performing body piercing; licensure of body art facility required; application; form; issuance; duration; temporary license; fees; adjustment.**

Sec. 13104. (1) An individual shall not tattoo, brand, or perform body piercing on another individual unless the tattooing, branding, or body piercing occurs at a body art facility licensed under this part. Any tattooing, branding, or body piercing occurring in this state other than at a facility licensed under this part is considered an imminent danger under section 2251 or 2451 and the department or a local health department shall order the immediate cessation of that activity in the manner prescribed in this act.

(2) The owner or operator of a body art facility shall apply to the department for a body art facility license under this part on a form provided by the department and at the time of application shall pay to the department the appropriate fee prescribed under subsection (4). The department shall issue a license on an

annual basis to a body art facility that meets the requirements of this part or for a time period not to exceed 14 consecutive days to a temporary body art facility that meets the requirements of this part.

(3) If the department determines that the application is complete and the body art facility proposed or operated by the applicant meets the requirements of this part and any rules promulgated under this part, the department shall issue the appropriate license to the applicant for the operation of that body art facility. Except for a temporary license issued under this part, the license is effective for up to 1 year and expires at 12 midnight on December 31. A temporary license issued under this part is effective for not more than 14 consecutive days and expires at 12 midnight on the date prescribed on the temporary license.

(4) Except as otherwise provided in this part, the applicant shall pay 1 of the following fees at the time of application for a body art facility license:

- |     |  |    |         |
|-----|--|----|---------|
| (a) | For an annual license  | \$ | 500.00. |
| (b) | For a temporary license to operate a body art facility at a fixed location for not more than 14 consecutive days | \$ | 150.00. |

(5) An applicant for a new annual license that is filed on or after July 1 shall only pay 50% of the fee prescribed in subsection (4)(a). A licensee that fails to submit an application for a license renewal on or before December 1, in addition to the license fee under subsection (4)(a), shall pay an additional \$250.00 late fee.

(6) The department shall issue a duplicate license upon request of a licensee and the payment of a duplicate license fee of \$50.00.

(7) Unless a different distribution is provided for in a cost reimbursement program under sections 2471 to 2498, the department shall distribute a portion of a fee collected under this section from an applicant or licensee to a local health department authorized to enforce this part under section 13108 as follows:

(a) From the annual license fee under subsection (4)(a) or (5) and, if applicable, from the late fee under subsection (5), 50%.

(b) From the temporary license fee under subsection (4)(b), 75%.

(c) From the duplicate license fee under subsection (6), 50%.

(8) The department shall adjust the fees prescribed in this section annually by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit-Ann Arbor-Flint consumer price index, but not by an amount that exceeds 5%. As used in this subsection, "Detroit-Ann Arbor-Flint consumer price index" means the most comprehensive index of consumer prices available for the Detroit, Ann Arbor, and Flint areas from the bureau of labor statistics of the United States department of labor.

**History:** Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

### **333.13105 Inspection by local health department; results; recommendation; annual inspection; license nontransferable.**

Sec. 13105. (1) Before issuing a license to an applicant under this part, the department shall receive the results of an inspection of the premises of the body art facility that is the subject of the application from the appropriate local health department. The local health department shall convey the results of the inspection of the premises of the body art facility that is the subject of the application to the department as soon as practical after the inspection occurs, along with its recommendation on whether the department should issue a license to that facility under this part.

(2) The appropriate local health department shall inspect each body art facility prior to being licensed under this part and shall at least annually inspect each body art facility licensed under this part to ensure compliance with this part. Subject to section 13108, the department shall authorize a local health department under section 2235 to perform the inspections required under this subsection.

(3) The department shall issue a license under this part to a specific person for a body art facility at a specific or temporary location.

(4) A license issued under this part is nontransferable.

**History:** Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

### **333.13105a Access to body art facility; books and records; findings; inspection report; order to immediately cease operation of facility; license limitations.**

Sec. 13105a. (1) An applicant or licensee shall give the local health department access to the body art facility and all of its books and records during all hours of operation and during other reasonable hours to allow the local health department to determine if the body art facility is in compliance with this part. An inspection of a body art facility under this part may be announced or unannounced. An applicant or licensee



shall not do any of the following:

- (a) Refuse to permit the local health department to enter or inspect a body art facility.
- (b) Refuse to produce the body art facility's books and records for inspection.
- (c) Any other activity that impedes the local health department's ability to carry out its duties prescribed in this part.

(2) As part of an inspection under this part, the local health department may examine, take photographs, or make copies of the books and records of the body art facility.

(3) Upon completion of an inspection under this part, the local health department shall reduce its findings to writing on a form prescribed by the department. The inspection report shall include a summary of all findings of the inspection with regard to items of compliance with this part. If any critical violations are found, the inspection report shall include a compliance schedule for the body art facility to follow, which schedule is consistent with the department's standards established under this part for body art facilities.

(4) An authorized representative of the local health department who participated in the conduct of the inspection shall sign and date the inspection report and obtain the signature of the licensee on the report. A copy of the signed and dated inspection report shall be delivered to the licensee.

(5) If the local health department determines that the continued operation of a body art facility is an imminent danger under section 2451, the local health department shall order the immediate cessation of the operation of that facility in the manner prescribed in this act. A body art facility ordered to cease operations under this subsection shall immediately cease operations and shall not resume operations until the local health department has conducted an inspection, has determined that the operation of the body art facility is no longer an imminent danger, and has issued an order allowing the body art facility to resume operations.

(6) At any time it determines appropriate, a local health department may place limitations on the license of a body art facility, which limitations include the imposition of restrictions or conditions, or both, on the operations of that body art facility. A body art facility shall comply with all license limitations imposed under this subsection until the local health department has conducted an inspection, has determined that the license limitations are no longer necessary, and has issued an order allowing the body art facility to resume operations without the license limitations.

**History:** Add. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

### **333.13106 License renewal.**

Sec. 13106. The licensee shall apply to the department for renewal of the annual license on or before December 1 each year. A licensee that fails to file an application for renewal as prescribed in this section is subject to the late fee under section 13104.

**History:** Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

### **333.13107 Licensee; duties.**

Sec. 13107. A licensee shall do all of the following:

(a) Display the license issued under this part in a conspicuous place within the customer service area of the body art facility.

(b) Comply with and ensure that the body art facility is in compliance with this part and part 138 and with rules promulgated under those parts.

(c) Develop and maintain a bloodborne infectious disease exposure control plan that is specific to the location of that facility and that is in compliance with applicable Michigan occupational safety and health administration standards including the standards for bloodborne infectious diseases under R 325.70001 to R 325.70018 of the Michigan administrative code.

(d) Ensure that the body art facility as a whole, the owner or operator, an agent of the owner or operator, an employee, and any individual engaged in tattooing, cleaning tattooing instruments, performing branding or body piercing, or cleaning branding or body piercing instruments who has the potential for occupational exposure to blood or other potentially infectious materials receive training annually on bloodborne infectious diseases.

(e) Ensure that tattooing, branding, or body piercing is performed with sterile needles, sterile instruments, and only single-use ink.

(f) Maintain a confidential record of each individual who has been tattooed or branded or who has had body piercing performed at the body art facility and make the records available for inspection by a local health department. The record shall include, at a minimum, the individual's name, address, date of birth, and signature; the procedure date; the design and location of the tattooing, branding, or body piercing; the name of

the individual performing the tattooing, branding, or body piercing; and any known complications the individual has with any previous tattooing, branding, or body piercing procedure. The licensee or employee of the licensee shall provide a copy of the record to the individual at the time he or she is tattooed, is branded, or has body piercing performed. The department shall develop guidelines for the confidential handling of this record, including, but not limited to, the maintenance, storage, inspection, and destruction of the record.

(g) Prohibit smoking within the body art facility.

(h) Provide each customer with a written information sheet that provides at least all of the following:

(i) Instructions on the care of a tattoo site, brand site, or body piercing site.

(ii) A recommendation that an individual seek medical attention if the tattoo site, brand site, or body piercing site becomes infected or painful or if the person develops a fever soon after being tattooed, branded, or having body piercing performed.

(iii) Notice that the individual may be allowed to donate blood within the standard deferral period if the individual presents a copy of the record required under subdivision (f) to the blood donor facility.

(i) Maintain on file on the premises of the body art facility and have available for inspection by a local health department all of the following:

(i) All of the following regarding each technician employed by or who performs tattooing, branding, or body piercing at the body art facility:

(A) His or her full legal name.

(B) His or her exact duties at the facility.

(C) His or her date of birth.

(D) His or her gender.

(E) His or her home address.

(F) His or her home and work telephone numbers.

(G) His or her prior or other current places of employment as a technician, if known.

(H) His or her training and experience.

(I) An identification photo.

(J) Documentation of compliance with the educational, training, or experience requirements of the department under this part.

(K) Documentation of HBV vaccination status or other vaccination status requirements of the department under this part.

(ii) Full legal name of the body art facility.

(iii) The hours of operation of the body art facility.

(iv) All of the following regarding each owner and operator of the body art facility:

(A) His or her full legal name.

(B) His or her home address.

(C) His or her home and work telephone numbers.

(v) A complete description of all tattooing, branding, or body piercing performed at the body art facility.

(vi) A record of all instruments, body jewelry, sharps, and inks used for the tattooing, branding, or body piercing performed at the body art facility. The record shall include the name of the item's manufacturer and serial or lot number, if applicable. The body art facility may provide invoices or orders to satisfy the requirement of this subparagraph.

(vii) A copy of this part and rules promulgated under this part.

(viii) A copy of the current bloodborne infectious disease exposure control plan developed and maintained under subdivision (c).

(ix) Documentation of the annual training required under subdivision (d).

**History:** Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

### **333.13108 Enforcement.**

Sec. 13108. (1) Pursuant to section 2235, the department shall authorize a local health department to enforce this part and any rules promulgated under this part. A local health department authorized to enforce this part and any rules promulgated under this part shall enforce this part and any rules promulgated under this part pursuant to sections 2461(2) and 2462. In addition to the penalties and remedies under this part, a local health department may enforce this part and any rules promulgated under this part through an action commenced pursuant to section 2465 or any other appropriate action authorized by law.

(2) If a local health department of a county or city under part 24 is unable or unwilling to perform the functions required in this section and the county or city is not part of a district that has created a district health department pursuant to section 2415, the county or city, through an intergovernmental agreement, may

contract with another local governing entity to have that entity's local health department perform the functions required in this section. The contracting parties under this subsection shall obtain the department's approval before execution of the intergovernmental agreement.

(3) Pursuant to section 2444, a local governing entity of a local health department authorized to enforce this part under this section may fix and require the payment of fees by applicants and licensees for services required to be performed by the local health department under this part.

(4) A local health department shall use as guidance in enforcing this part any safety standards or other requirements issued by the department applicable to body art facilities.

(5) In addition to any other enforcement action authorized by law, a person alleging a violation of this part may bring a civil action in a court of competent jurisdiction for appropriate injunctive relief.

**History:** Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

### **333.13109 Violation as misdemeanor; penalty; civil action.**

Sec. 13109. (1) Except as otherwise provided in section 13110, a person who violates this part or a rule promulgated under this part is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$2,500.00, or both, for each violation.

(2) A person who violates this part or a rule promulgated under this part is liable in a civil action for actual damages or \$1,000.00, whichever is greater, plus reasonable court costs, attorney fees, and any other fines, fees, or claims for reimbursement as determined by the court or the department.

**History:** Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

### **333.13110 Giving or selling tattooing, branding, body piercing kit or device to minor prohibited; violation; fine.**

Sec. 13110. A person shall not give or sell to a minor a tattooing, branding, or body piercing kit or other tattooing, branding, or body piercing device. A person who violates this section is responsible for a state civil infraction and is subject to a civil fine of not more than \$500.00. This section shall be enforced pursuant to chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835.

**History:** Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

### **333.13111 Local codes, regulations, or ordinances; variance.**

Sec. 13111. (1) A local governing entity of a local health department authorized to enforce this part under section 13108 may adopt and enforce local codes, ordinances, or regulations that are more stringent than the minimum applicable standards set forth in this part, rules promulgated under this part, or any safety standards or other requirements issued by the department applicable to body art facilities. This part shall not relieve the applicant or a licensee from the responsibility for securing a local permit or complying with applicable local codes, regulations, or ordinances that are in addition to this part.

(2) A local health department may grant a variance to a body art facility from a requirement of this part if the local health department determines that the variance will not create or increase the potential for a health hazard or nuisance and that the activity or condition for which the variance is proposed will not violate any other provisions of this part. The applicant or licensee shall request the variance in writing, which writing shall include all of the following:

(a) A statement of the proposed variance and a citation to the requirement of this part for which the variance is requested.

(b) An analysis of the rationale for the variance.

(c) A description of the alternative methods the applicant or licensee will utilize to ensure that the variance will not create or increase the potential for any health hazard or nuisance.

(3) A variance granted under subsection (2) shall be in writing and shall be maintained in the records of the local health department for that body art facility.

**History:** Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

### **333.13112 Individual under influence of alcohol or controlled substance; prohibition.**

Sec. 13112. (1) An individual shall not tattoo, brand, or perform body piercing on another individual if the other individual is under the influence of alcoholic liquor or a controlled substance.

(2) An individual who is under the influence of alcoholic liquor or a controlled substance shall not tattoo,

brand, or perform body piercing on another individual.

**History:** Add. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 368

## PART 133 DRY CLEANING

### **333.13301 Definitions and principles of construction.**

Sec. 13301. (1) As used in this part:

- (a) "Approved" means acceptable to the department.
  - (b) "Class IV installation" means a dry cleaning system utilizing solvents classified as nonflammable or as nonflammable at ordinary temperatures and only slightly flammable at higher temperatures.
  - (c) "Dry cleaning" includes dry dyeing and means the process of removing dirt, grease, paints, and other stains from wearing apparel, textiles, fabrics, and rugs by use of nonaqueous liquid solvents, including:
    - (i) Immersion and agitation in open vessels.
    - (ii) Immersion and agitation in closed machines.
    - (iii) Spotting or local application of flammable liquid solvents to spots of dirt, grease, paints, and stains not removed by the immersion and agitation process.
    - (iv) Brushing or scouring with inflammable solutions.
  - (d) "Dry dyeing" means the process of dyeing clothes or other fabrics of textiles in a solution of dye colors and nonaqueous solvents.
  - (e) "Person" means a person as defined in section 1106 or a governmental entity.
- (2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of the dry cleaning program in the division of occupational health, with the exception of the division of health risk assessment and the division of occupational health, from the director of the department of public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13303 Class IV cleaning installation; establishment or remodeling; examination and approval of drawings; scale and contents of drawings; specifications.**

Sec. 13303. Before a class IV cleaning installation is established or before an existing plant is remodeled, complete drawings shall be submitted to the department for examination and approval. The drawings shall be drawn to an indicated scale, give the relative location of dry cleaning building, boiler room, finishing building or department, storage tanks for solvents, pumps, washers, drying tumblers, extractors, filter traps, stills, condensers, piping, and show elevation of the buildings, including lowest floors or pits, tanks, and their fittings and devices. Specifications prescribed by rules promulgated pursuant to this part shall accompany the drawings.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13304 Inspection of building and premises; conformity as condition to issuance of license.**

Sec. 13304. When the construction and establishment of a class IV installation is completed, the department shall be notified and it shall inspect the buildings and premises in which the dry cleaning operations are contemplated. If the building and premises conform to the approved plans submitted in accordance with this part or rules promulgated pursuant to this part, the department shall issue to the applicant a license to conduct a class IV installation.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13305 License required.**

Sec. 13305. A person shall not operate a class IV installation until issued a license under this part.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13306 License; application; issuance; duration; fee; fee adjustment; "Detroit consumer price index" defined.**

Sec. 13306. (1) The department may receive license applications for the operation of a class IV installation. Upon compliance by an applicant with the requirements of this part and rules promulgated pursuant to this part, the department shall issue a class IV installation license.

(2) The department shall issue a license under this part for a period of 1 year.

(3) Except as otherwise provided in subsection (4), the initial application and annual license fee for a class IV installation license is \$100.00 for each class IV installation with operating equipment and an additional \$.75 per pound of rated capacity per cleaning wheel for each dry cleaning machine.

(4) The department shall adjust on an annual basis the installation license fees prescribed by subsection (3) by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index, not to exceed 5%. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**Administrative rules:** R 325.17101 et seq. of the Michigan Administrative Code.

### **333.13307 Inspections; delegation to local health department; costs; local ordinance prohibited; staff.**

Sec. 13307. (1) The department shall conduct annual inspections of class IV installations to insure compliance with the requirements of this part and rules promulgated pursuant to this part.

(2) The department may delegate the duty of inspections for approval of class IV installation permits to a local health department which has the technical and other capabilities to protect the public health, safety, and welfare in this field. The delegation shall not take place unless the department has first consulted with an ad hoc committee which shall be appointed by the department for the purpose of advising on such delegation. Membership on the ad hoc committee shall include representatives of the department, local public health agencies, and an association which represents the class IV installations which would be subject to the inspections. The state shall reimburse each local health department the full amount of the fees collected, as reimbursement for cost of inspection, on vouchers certified by the local health officer and approved by the department.

(3) A local governmental unit shall not enact or enforce an ordinance which duplicates the standards regarding class IV installations imposed in this part.

(4) The department shall adequately staff the dry cleaning section to carry out the duties of the department under this section.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**Administrative rules:** R 325.17101 et seq. of the Michigan Administrative Code.

### **333.13308 License renewal; application; fee; issuance.**

Sec. 13308. (1) A person operating a class IV installation shall apply for license renewal and shall pay a fee as prescribed by section 13306.

(2) Upon compliance by an applicant with the requirements of this part and rules promulgated pursuant to this part and payment of the license renewal fee, the department shall issue a renewal license.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services



to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13309 Exhibition of license.**

Sec. 13309. A license shall be exhibited at all times in the customer area of a class IV installation in a conspicuous place.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13310 Repealed. 2006, Act 195, Imd. Eff. June 19, 2006.**

**Compiler's note:** The repealed section pertained to applicability of MCL 28.5i to class IV installation in same building or establishment as other classes of dry cleaning installations.

For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13311 Installation in building approved by department.**

Sec. 13311. A class IV installation in which no flammable liquids as defined in section 1 of the fire prevention code, Act No. 207 of the Public Acts of 1941, being section 29.1 of the Michigan Compiled Laws, are employed for other than spotting purposes may be installed in a building approved by the department.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13312 Prohibited installation; exception.**

Sec. 13312. A class IV installation shall not be located in a building occupied in part as a dwelling. An exception may be granted when due to special construction, location, or use the class IV installation will not create injury or hazard to health as determined by the department.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13313 Preventing escape of vapors; ventilation; exception.**

Sec. 13313. (1) A class IV installation shall be constructed and installed so as to prevent the escape of substantially all vapors into the atmosphere of the dry cleaning room.

(2) Ventilation shall be installed in a class IV installation to meet the requirements of rules promulgated pursuant to this part.

(3) A class IV installation shall not be installed in a basement or other location difficult to ventilate. An exception may be granted when due to special construction, location, or use the class IV installation will not create injury or hazard to health as determined by the department.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13314 Use of flammable solvent.**

Sec. 13314. A class IV installation shall not use a flammable solvent for brushing, scouring, or scrubbing. The use of a flammable solvent for spotting purposes shall be limited to 1 quart with storage and application from an approved safety can.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13315 Fire extinguishers.**

Sec. 13315. One or more fire extinguishers, of either the carbon dioxide or dry chemical type shall be

provided for use against A, B, and C class fires for every room in which the dry cleaning or spotting operations are carried on.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13316 Installation to be kept in clean and sanitary condition.**

Sec. 13316. A person engaged in conducting a class IV installation shall keep the installation in a clean and sanitary condition free from the accumulation of dirt, waste, and fire hazards.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13321 Enforcement; suspension, revocation, or denial of license; finding of emergency; emergency order; hearing; continuing, modifying, or revoking order.**

Sec. 13321. (1) The department shall enforce this part and the rules promulgated pursuant to this part.

(2) The department may suspend, revoke, or deny a class IV installation license.

(3) Upon a finding that an emergency exists requiring immediate action to protect occupational or public health and safety, the department may issue an order, without notice or hearing, reciting the existence of the emergency and providing for the protection of public health and safety. Notwithstanding this part or the administrative procedures act of 1969, the order shall be effective immediately. A person to whom the order is directed shall comply immediately but on application to the department shall be afforded a hearing within 15 days. On the basis of the hearing, the emergency order shall be continued, modified, or revoked not later than 30 days after the hearing.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13322 Rules; appointment of advisory committee.**

Sec. 13322. The department shall promulgate rules necessary to carry out this part, and may appoint an advisory committee to assist in rule development. The rules shall include the following:

- (a) Plans.
- (b) Drawings.
- (c) Specifications.
- (d) Construction.
- (e) Installation of equipment standards.
- (f) Inspections.
- (g) Other matters necessary to protect the health, safety, and welfare of the public.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**Administrative rules:** R 325.17101 et seq. of the Michigan Administrative Code.

### **333.13325 Violations; penalties.**

Sec. 13325. (1) The owner or lessee of a class IV installation who uses a liquid other than that for which the owner or lessee is licensed is guilty of a misdemeanor, punishable by imprisonment for not less than 30 days nor more than 90 days, or a fine of not less than \$10.00 nor more than \$100.00, or both.

(2) The owner, occupant, or lessee of a class IV installation, or an agent thereof who fails to comply with this part or rules promulgated pursuant to this part within the time specified by the department, or who builds in violation of a detailed statement of specifications, plans, or license approved by the department, is guilty of a misdemeanor, punishable by imprisonment for not less than 30 days nor more than 90 days, or a fine of not less than \$10.00 nor more than \$100.00, or both for each violation or noncompliance.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan dry cleaning program from department of health and human services

**Popular name:** Act 368

PART 134.  
TANNING FACILITIES

**333.13401 Definitions.**

Sec. 13401. As used in this part:

(a) "Eye protection" or "protective eyewear" means protective eyewear that protects the eyes from ultraviolet radiation, allows adequate vision to maintain balance, and meets the requirements of 21 CFR 1040.20.

(b) "Tanning device" means equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and is used for tanning of the skin. Tanning device includes, but is not limited to, a sunlamp, tanning booth, or tanning bed and accompanying equipment, including, but not limited to, protective eyewear, timers, and handrails.

(c) "Tanning facility" means a location that provides individuals with access to a tanning device. Tanning facility does not include a private residence with a tanning device if the tanning device is used only by an owner or occupant of the private residence.

**History:** Add. 2008, Act 368, Imd. Eff. Dec. 23, 2008.

**Popular name:** Act 368

**333.13403 Statement; contents; display of poster; claim or distribution of promotional materials; prohibition.**

Sec. 13403. (1) Before allowing an individual to use a tanning device in any tanning facility, the owner, operator, or an employee of the tanning facility shall provide the individual with a written statement that contains all of the following information:

(a) Not wearing either his or her own eye protection or eye protection made available to the individual by the tanning facility while using a tanning device may cause damage to the eyes.

(b) Overexposure to the ultraviolet radiation produced by the tanning devices used in the tanning facility causes burns.

(c) Repeated exposure to the ultraviolet radiation produced by the tanning devices used in the tanning facility may cause premature aging of the skin or skin cancer, or both.

(d) Abnormal skin sensitivity to ultraviolet radiation or burning may be caused by certain foods, cosmetics, and medication. The medication includes, but is not limited to, all of the following:

(i) Tranquilizers.

(ii) Diuretics.

(iii) Antibiotics.

(iv) High blood pressure medication.

(v) Birth control medication.

(e) An individual who is taking a prescription drug or over-the-counter drug should consult a physician before using a tanning device.

(f) An individual that suffers an injury while using a tanning device at a tanning facility must report the injury to the owner or operator of the tanning facility.

(g) That any skin-related treatment involving microdermabrasion, including, but not limited to, facials, waxing, or skin peels, may cause abnormal sensitivity to ultraviolet radiation.

(2) The owner or operator of a tanning facility shall conspicuously display a poster in an area frequented by customers. The poster shall be printed in at least 32-point boldfaced type and in substantially the following form:

**"DANGER: ULTRAVIOLET RADIATION**

1. Follow instructions.

2. Avoid too frequent or too lengthy exposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause chronic sun damage, characterized by wrinkling, dryness, fragility, and bruising of the skin, and skin cancer.

3. Wear protective eyewear.

**FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE  
BURNS AND LONG-TERM INJURY TO THE EYES**

4. Ultraviolet radiation from sunlamps will intensify the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.

5. Some oral or skin medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult your physician before using a tanning device if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women on birth control pills who use this tanning device may develop discolored skin.

6. If you do not tan in the sun, you are unlikely to tan from use of this tanning device.

7. If you suffered an injury while using a tanning device at this tanning facility, you must report the injury to the owner or operator.

8. Any skin-related treatment involving microdermabrasion, including, but not limited to, facials, waxing, or skin peels, may cause abnormal sensitivity to ultraviolet radiation."

(3) The owner or operator or an employee of a tanning facility shall not claim or distribute printed promotional materials that claim or otherwise advertise that using a tanning device is safe, nonburning, or free from risk.

**History:** Add. 2008, Act 368, Imd. Eff. Dec. 23, 2008.

**Popular name:** Act 368

### **333.13405 Acknowledgment that customer has read statement required under MCL 333.13403; signing of statement and agreement to use protective eyewear; duties of owner or operator of tanning facility; signing of statement by parent or legal guardian of customer under 18 years of age.**

Sec. 13405. (1) Before allowing a customer to use a tanning device, the owner or operator of any tanning facility shall require the customer to sign a written statement acknowledging that the customer has read and understood the written statement required under section 13403(1) and agrees to use protective eyewear. The owner or operator of the tanning facility shall do all of the following:

(a) Require a customer to sign the statement at least once in a 1-year period.

(b) Retain the written statement for not less than 1 year.

(c) Make the written statement available for inspection upon request of a law enforcement officer.

(2) In the case of a customer under 18 years of age, the written statement described in subsection (1) shall also be signed by the customer's parent or legal guardian while the parent or legal guardian is physically present at the tanning facility and shall be signed in the presence of the owner or operator.

**History:** Add. 2008, Act 368, Imd. Eff. Dec. 23, 2008..

**Popular name:** Act 368

### **333.13407 Repealed. 2008, Act 368, Imd. Eff. Dec. 23, 2008.**

**Compiler's note:** The repealed section pertained to use of tanning device by minor.

### **333.13407a Action by individual suffering injury.**

Sec. 13407a. If an individual suffers an injury while using a tanning device at a tanning facility and if that tanning facility has failed to comply with the disclosure and consent requirements of this part, the individual may bring an action in a court of competent jurisdiction for actual damages plus an amount of not more than \$1,000.00, as well as actual and reasonable attorney fees.

**History:** Add. 2008, Act 368, Imd. Eff. Dec. 23, 2008..

**Popular name:** Act 368

### **333.13409 Remedies.**

Sec. 13409. The remedies under this part are independent and cumulative. The use of 1 remedy by a person does not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

**History:** Add. 2008, Act 368, Imd. Eff. Dec. 23, 2008..

**Popular name:** Act 368

## **PART 135 RADIATION CONTROL**

### **333.13501 Definitions; principles of construction.**

Sec. 13501. (1) As used in this part:

(a) "General license" means a license, effective pursuant to rules promulgated by the department without the filing of an application, to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing, radioactive material.

(b) "Ionizing radiation" means gamma rays and x-rays, alpha particles, beta particles, high speed electrons,

neutrons, protons, high speed ions, and other high speed nuclear particles.

(c) "Mammography" means radiography of the breast for the purpose of enabling a physician to determine the presence, size, location, and extent of cancerous or potentially cancerous tissue in the breast.

(d) "Mammography authorization" means authorization under section 13523 to use a radiation machine for mammography.

(e) "Mammography interpreter" means an individual who meets the requirements set forth in section 13523(2)(g) and is responsible for evaluating and interpreting mammographic images.

(f) "Person" means a person as defined in section 1106 or a governmental entity.

(g) "Radioactive material" means a solid, liquid, or gas material which emits ionizing radiation spontaneously.

(h) "Radiography" means the making of a film or other record of an internal structure of the body by passing x-rays or gamma rays through the body to act on film or other image receptor.

(i) "Registration" means registration of a source of ionizing radiation in writing with the department.

(j) "Source of ionizing radiation" means a device or material that emits ionizing radiation.

(k) "Specific license" means a license issued to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing, radioactive material.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1989, Act 56, Imd. Eff. June 16, 1989;—Am. 1994, Act 100, Imd. Eff. Apr. 18, 1994.

**Compiler's note:** For transfer of powers and duties of the radiation machine licensing and registration program in the division of radiological health in the bureau of environmental and occupational health from the department of public health to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of the division of radiological health, with the exception of the radiation machine licensing and registration program, from the director of the department public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**Administrative rules:** R 325.5001 et seq. of the Michigan Administrative Code.

### **333.13505 License, registration, or exemption required.**

Sec. 13505. A person shall not manufacture, produce, transport, transfer, dispose of, acquire, own, possess, or use a radioactive material or other source of ionizing radiation unless licensed, registered, or exempted by the department in accordance with rules promulgated pursuant to this part or unless exempted by this part.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13506 Applicability of MCL 333.13505 and 333.13515 to 333.13536.**

Sec. 13506. Sections 13505 and 13515 to 13536 do not apply to the following sources or conditions, except as noted:

(a) Electrical or other equipment or material not intended primarily to produce radiation which, by nature of design, does not produce radiation at the point of nearest approach at a weekly rate higher than 1/10 the appropriate limit generally accepted by the medical profession for any critical organ exposed. The production testing or production servicing of the equipment is not exempt.

(b) A radiation machine during process of manufacture or in storage or transit. The production testing or production servicing of the machine is not exempt.

(c) A radioactive material while being transported under the jurisdiction of and in conformity with regulations adopted by the nuclear regulatory commission or the United States department of transportation, or their successors, specifically applicable to the transportation of such radioactive material.

(d) Sound waves, radio waves, and visible, infrared, or ultraviolet light.

(e) A production or utilization facility, as defined in the federal atomic energy act of 1954, 42 U.S.C. 2011 to 2281, or a source of ionizing radiation used in or in connection with the operation of a production or utilization facility pursuant to a license from the federal nuclear regulatory commission or successor thereto. However, the department may collect radiation data and perform environmental monitoring in connection with the operation of the facility in accordance with this part.

(f) A source material, by-product material, or special nuclear material over which the federal nuclear



regulatory commission or a successor thereto has exclusive regulatory jurisdiction under the federal atomic energy act of 1954, which jurisdiction has not been transferred to this state pursuant to an agreement under Act No. 54 of the Public Acts of 1965, being sections 3.801 and 3.802 of the Michigan Compiled Laws.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13511 Agreements as to inspections, environmental monitoring, or other functions.**

Sec. 13511. (1) The governor may enter into agreements with the federal government, other states, or interstate agencies, whereby the department shall perform for or on a cooperative basis with the federal government, other states, or interstate agencies inspections, environmental monitoring, or other functions relating to control of sources of ionizing radiation.

(2) An agreement entered into pursuant to subsection (1) does not transfer, delegate, or impose upon the department any power, authority, or responsibility that is not fully consistent with this part.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13515 Department as radiation control agency; duties generally.**

Sec. 13515. (1) The department is designated as the radiation control agency of this state and shall coordinate radiation control programs of state departments acting within their statutory authorities.

(2) Pursuant to rules promulgated under this part, the department shall require licensing and registration of radioactive materials and other sources of ionizing radiation.

(3) The department shall develop and conduct programs for evaluation and control of hazards associated with the use of radioactive materials and other sources of ionizing radiation.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13516 Finding of emergency; emergency order; hearing; continuing, modifying, or revoking order.**

Sec. 13516. When the department finds that an emergency exists requiring immediate action to protect occupational or public health and safety, the department shall issue an order, with or without notice or hearing, reciting the existence of the emergency and providing for the protection of public health and safety. Notwithstanding this act or the administrative procedures act of 1969, the order shall be effective immediately. A person to whom the order is directed shall comply therewith immediately but on request to the department shall be granted a hearing within 15 days. On the basis of the hearing, the emergency order shall be continued, modified, or revoked within 30 days after the hearing.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13517 Right of entry to determine compliance or violation; warrant; search and seizure.**

Sec. 13517. (1) The department may enter at all reasonable times upon private or public property upon which sources of ionizing radiation are reasonably believed to be located, with the permission of the owner or custodian thereof, to determine if there is compliance with or violation of this part or a rule or license.

(2) If the department has reasonable or probable cause to believe that a violation of this part or a rule or license is being committed on private or public property or that there exists on the property evidence of a violation, and permission to enter thereon is denied by the owner or custodian thereof, the department may apply to the proper judicial officer under Act No. 189 of the Public Acts of 1966, being sections 780.651 to 780.659 of the Michigan Compiled Laws, for a warrant commanding the sheriff or a law enforcement officer, with the aid of the department, to search the property and seize any source of ionizing radiation that is possessed, controlled, or used wholly or partially in violation of this part or a rule or license, or any evidence of a violation of this part or a rule or license.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13518 Operation of environmental monitoring systems; collection and coordination of radiation data.**

Sec. 13518. The department shall operate and collect data from environmental monitoring systems in the environs of facilities which emit or could emit significant quantities of radioactive material effluents to measure the effect on public health and safety. The department shall receive and coordinate radiation data collected by other state departments.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13521 Rules generally.**

Sec. 13521. (1) The department shall promulgate rules providing for general or specific licenses or registration, or exemption from licensing or registration, for radioactive materials and other sources of ionizing radiation. The rules must provide for amendment, suspension, or revocation of licenses. In connection with those rules, subject to section 13527, the department may promulgate rules to establish requirements for record keeping, permissible levels of exposure, notification and reports of accidents, protective measures, technical qualifications of personnel, handling, transportation, storage, waste disposal, posting and labeling of hazardous sources and areas, surveys, and monitoring.

(2) The rules must not limit the intentional exposure of patients to radiation for the purpose of lawful therapy or research conducted by licensed health professionals.

(3) The department shall promulgate rules specifying the minimum training and performance standards for an individual using a radiation machine for mammography as set forth in section 13523.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1989, Act 56, Imd. Eff. June 16, 1989;—Am. 2018, Act 544, Eff. Mar. 28, 2019.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**Administrative rules:** R 325.5001 et seq., R 325.5801 et seq., and R 325.5901 et seq. of the Michigan Administrative Code.

### **333.13522 Rules; avoiding dual licensing; recognition of other state or federal licenses; schedule of fees; deposit of fees; nonrefundable fees in connection with mammography authorization; waiver of fee; waiver prohibited; adjustment of fees.**

Sec. 13522. (1) In promulgating rules under this part, the department shall avoid requiring dual licensing, insofar as practical. Rules promulgated by the department may provide for the recognition of other state or federal licenses as the department considers desirable, subject to registration requirements prescribed by the department. A person that, on the effective date of an agreement under 1965 PA 54, MCL 3.801 to 3.802, possesses a license issued by the federal government for a source of ionizing radiation of the type for which the state assumes regulatory responsibility under the agreement, is considered to possess an identical license issued under this part, which license expires either 90 days after receipt of a written notice of termination from the department or on the date of expiration stated in the federal license, whichever occurs first.

(2) The department may promulgate rules to establish a schedule of fees to be paid by applicants for licenses for radioactive materials and devices and equipment utilizing the radioactive materials.

(3) Except as otherwise provided in this subsection, the department may promulgate rules to establish a schedule of fees to be paid by an applicant for a license for other sources of ionizing radiation and the renewal of the license, and by a person possessing sources of ionizing radiation that are subject to registration. The registration or registration renewal fee for a radiation machine registered under this part is \$104.88 for the first veterinary or dental x-ray or electron tube and \$58.19 for each additional veterinary or dental x-ray or electron tube annually, or \$174.88 annually per nonveterinary or nondental x-ray or electron tube. The department shall not assess a fee for the amendment of a radiation machine registration certificate. In addition, the department shall assess a fee of \$233.23 for each follow-up inspection due to noncompliance during the same year. The department may accept a written certification from the licensee or registrant that the items of noncompliance have been corrected instead of performing a follow-up inspection. If the department does not inspect a source of ionizing radiation for a period of 5 consecutive years, the licensee or

registrant of the source of ionizing radiation does not have to pay further license or registration fees as to that source of ionizing radiation until the first license or registration renewal date following the time an inspection of the source of ionizing radiation is made.

(4) A fee collected under this part must be deposited in the state treasury and credited to the general fund of this state.

(5) Except as otherwise provided in subsection (6), the department shall assess the following nonrefundable fees in connection with mammography authorization:

- |   |             |
|---|-------------|
| (a) Inspection, per radiation machine   | \$ 233.23   |
| (b) Reinspection for reinstatement of mammography authorization, per radiation machine  | \$ 233.23   |
| (c) Department evaluation of compliance with section 13523(2)(a), per radiation machine | \$ 1,567.45 |

Each reevaluation of a radiation machine due to failure during the previous evaluation, relocation of the radiation machine, or similar changes that could affect earlier evaluation results	\$ 671.65
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(6) If an applicant for mammography authorization submits an evaluation report issued by the American College of Radiology that evidences compliance with section 13523(2)(a), the department shall waive the fee under subsection (5) for department evaluation of compliance with that provision.

(7) Except as otherwise provided in subsections (3) and (6), the department shall not waive a fee required under this section.

(8) The department shall adjust on an annual basis the fees prescribed by subsections (3) and (5) by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit Consumer Price Index, not to exceed 5%. As used in this subsection, "Detroit Consumer Price Index" means the most comprehensive index of consumer prices available for the Detroit area from the Bureau of Labor Statistics of the United States Department of Labor.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 522, Imd. Eff. Jan. 26, 1981;—Am. 1982, Act 403, Eff. Oct. 1, 1983;—Am. 1989, Act 56, Imd. Eff. June 16, 1989;—Am. 1992, Act 88, Imd. Eff. June 4, 1992;—Am. 1994, Act 100, Imd. Eff. Apr. 18, 1994;—Am. 2023, Act 138, Imd. Eff. Sept. 29, 2023.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**Administrative rules:** R 325.5001 et seq., R 325.5801 et seq., and R 325.5901 et seq. of the Michigan Administrative Code.

**333.13523 Radiation machine; registration; temporary authorization; authorization; standards; application; certificate; inspections; denial or withdrawal of authorization; hearing; emergency order; reinstatement of authorization; fine; notice; rules; definitions.**

Sec. 13523. (1) Beginning August 16, 1989, a person shall not use a radiation machine to perform mammography unless the radiation machine is registered with the department under department rules for registration of radiation machines and is specifically authorized under this section for use for mammography.

(2) The department shall authorize a radiation machine for use for mammography if the radiation machine, the personnel operating the radiation machine, and the facility in which the radiation machine is used meet all of the following standards:

(a) The radiation machine and the facility in which the radiation machine is used meet the criteria for the American college of radiology mammography accreditation program dated August, 1993 and published by the American college of radiology in the documents entitled "overview, mammography accreditation program, and ACR standards for the performance of screening mammography", which documents and criteria are incorporated by reference, excluding the physician interpreter and the accreditation fee schedule. The department shall make copies of those criteria available to the public and may by rule adopt modified criteria. The department may accept an evaluation report issued by the American college of radiology as evidence that a radiation machine, the personnel operating the radiation machine, and the facility in which the radiation machine is used meet those criteria. If at any time the department determines that it will not accept any evaluation reports issued by the American college of radiology as evidence that a radiation machine, the personnel operating the radiation machine, and the facility in which the radiation machine is used meet those criteria, the department shall promptly notify each person who has registered a radiation machine used exclusively to perform mammography under this part and the rules promulgated under this part.

(b) The radiation machine, the film or other image receptor used in the radiation machine, and the facility in which the radiation machine is used meet the requirements set forth in department rules for radiation machines.

- (c) The radiation machine is specifically designed to perform mammography.
- (d) The facility in which the radiation machine is used does all of the following:
- (i) At least annually has a qualified radiation physicist provide on-site consultation to the facility, including, but not limited to, a complete evaluation of the entire mammography system to ensure compliance with this part and the rules promulgated under this part.
- (ii) Maintains for at least 7 years records of the consultation required in subparagraph (i) and the findings of the consultation.
- (iii) Designates a physician or osteopathic physician licensed under article 15 to provide medical direction for the delivery of mammography services and to be responsible for the clinical aspects of the x-ray examinations and other procedures related to mammography. The physician designated under this subparagraph is responsible for conducting an on-site visit to each mammography station within the facility at least monthly for the purpose of providing professional feedback regarding clinical image quality and quality assurance procedures, for review of quality control documentation, and for ensuring that safe operating procedures are used in the delivery of mammographic services. If the physician designated under this subparagraph practices primarily outside of the facility, the physician shall keep a log of each on-site visit signed by the physician. The chief administrative officer of the facility or his or her designee may request to view the log at any time. The physician designated under this subparagraph shall meet the requirements of subdivision (g)(i) and (ii) or, until January 1, 1996, the requirements of subdivision (g)(ii) and (iii).
- (e) The radiation machine is used according to department rules on patient radiation exposure and radiation dose levels.
- (f) Each individual who operates the radiation machine can demonstrate to the department that he or she is specifically trained in mammography or an individual who is a physician or an osteopathic physician, and beginning 60 days after the rules required under section 13521(3) are promulgated, each individual who operates the radiation machine can demonstrate to the department that he or she meets the standards required by those rules or an individual who is a physician or an osteopathic physician.
- (g) The x-ray images of each mammographic examination performed with the radiation machine are interpreted by a mammography interpreter who is a physician or osteopathic physician licensed under article 15 and who meets the requirements of subparagraphs (i), (ii), (iii), (iv), and (v):
- (i) Except as otherwise provided in this subparagraph, is certified in radiology or diagnostic radiology by the American board of radiology or the American osteopathic board of radiology, has been eligible for certification in radiology or diagnostic radiology for not more than 2 years, or is certified or determined to be qualified in radiology or diagnostic radiology by another professional organization approved by the radiation advisory board appointed under section 13531. Until the expiration of 2 years after the effective date of the amendatory act that added this subdivision, a physician or osteopathic physician licensed under article 15 who has been eligible for certification in radiology or diagnostic radiology for more than 2 years shall be considered to meet the requirement of this subparagraph.
- (ii) Shall successfully complete or teach not less than 15 hours of continuing medical education every 3 years after the effective date of the amendatory act that added this subdivision in the technical aspects or clinical aspects, or both, of mammography in courses or programs approved by the individual's respective specialty organization and licensing board and has documentation of successful completion or teaching that is satisfactory to the department.
- (iii) Shall have successfully completed not less than 2 months of formal training in reading mammograms with instruction in medical radiation physics, radiation effects, and radiation protection and has documentation of successful completion of the training that is satisfactory to the department. For purposes of this subparagraph, the department may accept time spent in a residency program that includes specific training in mammography if the individual has documentation of the residency program that is satisfactory to the department.
- (iv) Interprets not less than 520 mammographic examinations each year.
- (v) Maintains annual records concerning outcome data for correlation of positive mammograms to biopsies done, and the number of cancers detected.
- (3) The department may issue a nonrenewable temporary authorization for a radiation machine for use for mammography if additional time is needed to allow submission of evidence satisfactory to the department that the radiation machine, the personnel operating the radiation machine, and the facility in which the radiation machine is used meet the standards set forth in subsection (2) for approval for mammography. A temporary authorization granted under this subsection after February 16, 1991 is effective for no more than 12 months. The department may withdraw a temporary authorization before its expiration if the radiation machine, the personnel operating the radiation machine, or the facility in which the radiation machine is used does not meet 1 or more of the standards set forth in subsection (2).

(4) To obtain authorization from the department to use a radiation machine for mammography, the person who owns or leases the radiation machine or an authorized agent of the person shall apply to the department for mammography authorization on an application form provided by the department and shall provide all of the information required by the department as specified on the application form. A person who owns or leases more than 1 radiation machine used for mammography shall obtain authorization for each radiation machine. The department shall process and respond to an application within 30 days after the date of receipt of the application. Upon determining to grant mammography authorization for a radiation machine, the department shall issue a certificate of registration specifying mammography authorization for each authorized radiation machine. A mammography authorization is effective for 3 years contingent upon the radiation machine, the personnel operating the radiation machine, and the facility in which the radiation machine is operated for which the mammography authorization is issued meeting 1 of the following requirements:

(a) Maintaining continued accreditation by the American college of radiology.

(b) Having an active accreditation application in process with the American college of radiology.

(c) Maintaining approval or being in the process of obtaining approval under a department evaluation process equivalent to that described in subdivisions (a) and (b).

(5) No later than 60 days after initial mammography authorization of a radiation machine under this section, the department shall inspect the radiation machine. After that initial inspection, the department shall annually inspect the radiation machine and may inspect the radiation machine more frequently. The department shall make reasonable efforts to coordinate the inspections under this section with the department's other inspections of the facility in which the radiation machine is located.

(6) After each satisfactory inspection by the department, the department shall issue a certificate of radiation machine inspection or a similar document identifying the facility and radiation machine inspected and providing a record of the date the radiation machine was inspected. The facility shall post the certificate or other document near the inspected radiation machine.

(7) The department may withdraw the mammography authorization for a radiation machine if it does not meet 1 or more of the standards set forth in subsection (2).

(8) The department shall provide an opportunity for a hearing in connection with a denial or withdrawal of mammography authorization.

(9) Upon a finding that a deficiency in a radiation machine used for mammography or a violation of this part or the rules promulgated under this part seriously affects the health, safety, and welfare of individuals upon whom the radiation machine is used for mammography, the department may issue an emergency order summarily withdrawing the mammography authorization of the radiation machine. The department shall incorporate its findings in the order and shall provide an opportunity for a hearing within 5 working days after issuance of the order. The order is effective during the proceedings.

(10) If the department withdraws the mammography authorization of a radiation machine, the radiation machine shall not be used for mammography. An application for reinstatement of a mammography authorization shall be filed and processed in the same manner as an application for mammography authorization under subsection (4), except that the department shall not issue a reinstated certificate of mammography registration until the department receives the reinspection fee required under section 13522(5), inspects the radiation machine, and determines that it meets the standards set forth in subsection (2). The department shall conduct an inspection required under this subsection no later than 60 days after receiving a proper application for reinstatement of a mammography authorization.

(11) In addition to the penalties provided in section 13535 and the reinspection fee required under section 13522(5), if a person violates subsection (1), the department may impose an administrative fine against the owner of the radiation machine or, if a lessee of the radiation machine has effective control of the radiation machine, the lessee, of not more than \$500.00 for each calendar week in which a mammography is performed in violation of subsection (1). If a person continues to violate subsection (1) for a period of 2 weeks after a fine is imposed under this subsection, the department shall post a conspicuous notice on the unauthorized radiation machine and at the entry to the facility where the radiation machine is located warning the public that the facility is performing mammography using a radiation machine that is a substantial hazard to the public health.

(12) The department may promulgate rules necessary to implement this section after consultation with the radiation advisory board established under section 13531.

(13) As used in this section:

(a) "Radiation machine" means a machine, other than those exempted by department rule, that emits ionizing radiation.

(b) "Mammography system" means the radiation machine used for mammography; automatic exposure control devices; films, screens, and cassettes; image processor; darkroom; and viewboxes.



**History:** Add. 1989, Act 56, Imd. Eff. June 16, 1989;—Am. 1994, Act 100, Imd. Eff. Apr. 18, 1994.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**Administrative rules:** R 325.5001 et seq. of the Michigan Administrative Code.

### **333.13524 Mammogram demonstrating dense breast tissue; notification to patient; information to be provided in report; "dense breast tissue" defined.**

Sec. 13524. (1) If a patient's mammogram demonstrates dense breast tissue, a person who provides mammography services in this state shall provide notification to the patient that includes, but is not limited to, the following information, in the summary of the written report of the results of a mammography examination that is sent directly to a patient pursuant to 42 USC 263b:

"Your mammogram shows that your breast tissue is dense. Dense breast tissue is very common and is not abnormal. However, dense breast tissue can make it harder to find cancer through a mammogram. Also, dense breast tissue may increase your risk for breast cancer. This information about the result of your mammogram is given to you to raise your awareness. Use this information to discuss with your health care provider whether other supplemental tests in addition to your mammogram may be appropriate for you, based on your individual risk. A report of your results was sent to your ordering physician. If you are self-referred, a report of your results was sent to you in addition to this summary."

(2) As used in this section, "dense breast tissue" means heterogeneously or extremely dense breast tissue as defined in nationally recognized guidelines or systems for breast imaging reporting of mammography screening including, but not limited to, the breast imaging reporting and data system established by the American college of radiology. If, after the effective date of this section, new terms are defined in revised guidelines or systems for breast imaging reporting of mammography screening, and the department determines that those new terms are more appropriate for the purposes of the information required to be provided under this section, the department, by order, may update the definition of dense breast tissue under this subsection to use those new terms. Upon issuance, the department shall forward an order issued under this subsection to the legislature.

**History:** Add. 2014, Act 517, Eff. June 1, 2015.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13525 Licensing, regulation, or registration by municipalities prohibited.**

Sec. 13525. A municipality or a department, agency, or official of a municipality may not license, regulate, or require the registration of a radioactive material or other source of ionizing radiation.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13527 Use of handheld dental X-ray system; registration requirements; "handheld dental X-ray system" defined.**

Sec. 13527. (1) A person shall not use a handheld dental X-ray system to perform dental radiography unless the machine is registered with the department under department rules for registration of radiation machines and the system, the personnel operating the system, and the facility in which the system is used meet all of the following requirements:

(a) The system has been approved for human use by the United States Food and Drug Administration and is used in a manner consistent with that approval.

(b) The system has a backscatter shield that meets all of the following requirements:

(i) The shield is composed of a leaded polymer or a lead-equivalent substance that has a substantially equivalent protective capacity.

(ii) The shield has at least 0.5 millimeters of lead or lead-equivalent shielding, as determined by the department.

(iii) The shield is permanently affixed to the system.

(c) The system is calibrated by its manufacturer before its first use and is recalibrated at least every 24 months after the date of the last calibration.

(d) When not in use, the system is stored in a manner that restricts access to the system, such as by storing

the system in a locked area of the facility.

(e) Each individual who operates the system is an individual who is authorized to operate a dental radiography machine pursuant to rules promulgated under part 166. An individual operating the system is not required to wear a lead apron or other personal monitoring equipment while operating the system if it is determined that the use of the system is in compliance with part 381 of the Michigan occupational safety and health administration occupational health standards, R 325.60601a to R 325.60618 of the Michigan Administrative Code, or equivalent federal occupational safety and health standards; part 33 of the Michigan occupational safety and health administration general industry safety and health standard, R 408.13301 to R 408.13395g of the Michigan Administrative Code, or equivalent federal occupational safety and health standards; R 333.5057 of the Michigan Administrative Code; and R 333.5063 to R 333.5065 of the Michigan Administrative Code. Upon request, a registrant shall make a lead apron or other personal monitoring equipment available to an individual who operates the system.

(f) The system is not used if the backscatter shield described in subdivision (b) is broken, missing, or malfunctioning.

(2) A handheld dental X-ray system that meets the requirements described in this section may be used for routine dental radiography in a dental office or a situation in which it is impractical to transfer a patient to a radiation machine that is stationary.

(3) As used in this section, "handheld dental X-ray system" or "system" means an X-ray system that is used to take radiographs, is designed to be handheld during its operation, and is portable.

**History:** Add. 2018, Act 544, Eff. Mar. 28, 2019.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13531 Radiation advisory board; appointment, qualifications, and terms of members; expenses; duty to furnish technical advice.**

Sec. 13531. The governor shall appoint, with the advice and consent of the senate, a radiation advisory board of 9 members, 3 of whom shall represent industry, 3 the healing arts, and 3 the public and private institutions of higher learning. Members of the board shall serve at the pleasure of the governor. The members shall be reimbursed for necessary and actual expenses incurred in attendance at meetings or for authorized business of the board pursuant to section 1216. The board shall furnish to the department technical advice the board deems desirable or the department may reasonably request on matters relating to the radiation control program.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibilities of the radiation advisory board to the director of the Michigan state department of public health, see E.R.O. No. 1994-1, compiled at MCL 333.26322 of the Michigan Compiled Laws.

For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13535 Violations; penalties.**

Sec. 13535. A person who violates this part or a rule promulgated under this part or who fails to obtain or comply with conditions of licensure or registration under this part is guilty of a misdemeanor, punishable by imprisonment for not more than 180 days, or a fine of not more than \$10,000.00, or both. A court may fine a person not more than \$2,000.00 for each violation of this part. Each day a violation continues shall be a separate violation.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13536 Injunction; order directing compliance.**

Sec. 13536. If, after thorough investigation by the department, it is the judgment of the department that a person has engaged in or is about to engage in an act or practice which constitutes a violation of this part or a rule or order, the attorney general, at the request of the department, shall make application to the appropriate circuit court for an order enjoining the act or practice or for an order directing compliance with this part or a rule or order issued pursuant to this part.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13537 Part subject to MCL 324.1401 to 324.1429.**

Sec. 13537. This part is subject to part 14 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1401 to 324.1429.

**History:** Add. 2012, Act 556, Imd. Eff. Jan. 2, 2013.

**Compiler's note:** For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

## **PART 136**

### **RADIOACTIVE WASTE CONTROL COMMITTEE**

### **333.13601-333.13606 Repealed. 1985, Act 190, Eff. Dec. 31, 1993.**

**Compiler's note:** The repealed sections pertained to the radioactive waste control committee.

**Popular name:** Act 368

### **333.13607 Repeal of MCL 333.13601 to 333.13606.**

Sec. 13607. Sections 13601 to 13606 of Act No. 368 of the Public Acts of 1978, being sections 333.13601 to 333.13606 of the Michigan Compiled Laws, are repealed effective December 31, 1993.

**History:** Add. 1985, Act 190, Imd. Eff. Dec. 20, 1985.

**Popular name:** Act 368

## **PART 137**

### **333.13701 Meanings of words and phrases.**

Sec. 13701. As used in this part, the words and phrases defined in sections 13702 to 13704 have the meanings ascribed to them in those sections.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13702 Definitions; A to H.**

Sec. 13702. (1) "Above ground vault" means an engineered structure with a floor, walls, and a roof constructed at least partially above grade that is designed in a manner that is compatible with the requirements of this part and the rules promulgated under this part.

(2) "Above or below ground canisters" are individual, engineered modular containers that contain 1 or more waste packages that are approved by the department, in compliance with applicable federal law, and designed in a manner that meets all of the requirements of this part and the rules promulgated under this part.

(3) "Authority" means the low-level radioactive waste authority created in the low-level radioactive waste authority act, Act No. 204 of the Public Acts of 1987, being sections 333.26201 to 333.26226 of the Michigan Compiled Laws.

(4) "Below ground vault" means an engineered structure with a floor, walls, and a roof constructed entirely below grade that is designed in a manner that is compatible with the requirements of this part and the rules promulgated under this part.

(5) "Candidate site" means a site designated by the authority as a possible host site.

(6) "Carrier" means a person authorized pursuant to this part who is engaged in the transportation of waste by air, rail, highway, or water.

(7) "Collector" means a person authorized pursuant to this part who receives prepackaged waste from a generator and who does not treat or repack that waste.

(8) "Compact" means a contractual, cooperative agreement among 2 or more states to provide for the disposal of low-level radioactive waste, that is reflected in the passage of statutes by the participating states.

(9) "Disposal" means the isolation of waste from the biosphere by emplacement in the disposal site or as otherwise authorized in section 13709(3).

(10) "Disposal site" means a geographic location in this state upon which the disposal unit and any other structures and appurtenances are located, the property upon which any monitoring equipment is located, and the isolation distance from the disposal unit to adjacent property lines.

(11) "Disposal unit" means the portion of the disposal site into which waste is placed for disposal.

(12) "Host site" means the candidate site that is designated by the commissioner as the location for the disposal site in this state.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

**Compiler's note:** For transfer of powers and duties of the division of radiological health, with the exception of the radiation machine licensing and registration program, from the director of the department public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13703 Definitions; G to M.**

Sec. 13703. (1) "Generator" means any person licensed as a generator by the nuclear regulatory commission and authorized pursuant to this part whose act or process results in the production of waste or whose act first causes waste to become subject to regulation under this part or federal law.

(2) "Groundwater" means water below the land surface in a zone of saturation.

(3) "Hazardous waste" has the meaning attributed to it in part 111 (hazardous waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11101 to 324.11152 of the Michigan Compiled Laws.

(4) "Host site" means the candidate site that is designated by the authority as the location for the disposal site in this state.

(5) "Host site community" means the municipality that is designated by the authority as the host site.

(6) "Institutional control" means the continued surveillance, monitoring, and care of the disposal site after site closure and stabilization to insure the protection of the public health, safety, and welfare, and the environment until the contents of the disposal site no longer have a radioactive content that is greater than the natural background radiation of the host site as determined during its site characterization.

(7) "Local monitoring committee" means a committee established pursuant to the low-level radioactive waste authority act to provide for the participation of the residents of a candidate site community.

(8) "Low-level radioactive waste" or "waste" means radioactive material that consists of or contains class A, B, or C radioactive waste as defined by 10 C.F.R. 61.55, as in effect on January 26, 1983 but does not include waste or material that is any of the following:

(a) Owned or generated by the department of energy.

(b) Generated by or resulting from the operation or closure of a superconducting super collider.

(c) Owned or generated by the United States navy as a result of the decommissioning of vessels of the United States navy.

(d) Owned or generated as a result of any research, development, testing, or production of an atomic weapon.

(e) Identified under the formerly utilized sites remedial action program.

(f) High-level radioactive waste, spent nuclear fuel, or byproduct material as defined in section 11(e)(2) of the atomic energy act of 1954, chapter 1073, 68 Stat. 922, 42 U.S.C.2014.

(g) Contains greater than or equal to 100 nanocuries per gram of transuranic elements.

(h) Contains concentrations of radionuclides that exceed the limits established by the nuclear regulatory commission for class C radioactive waste as defined by 10 C.F.R. 61.55, as in effect on January 26, 1983.

(i) Classified as naturally occurring or accelerator-produced radioactive materials known as N.A.R.M. waste.

(j) Waste that after the effective date of this part is determined by the nuclear regulatory commission to be waste that is beneath regulatory concern, or B.R.C. waste as defined by the nuclear regulatory commission, unless the department and the authority concur with this designation.

(9) "Low-level radioactive waste management fund" or "fund" means the fund created in section 20 of the low-level radioactive waste authority act, Act No. 204 of the Public Acts of 1987, being section 333.26220 of the Michigan Compiled Laws.

(10) "Management" means the collection, storage, packaging, processing, transportation, or disposal, where applicable, of low-level radioactive waste.

(11) "Manifest" means a form provided or approved by the department that is used for identifying the quantity; composition, including the class, curie count, and radioactive nuclides; origin; routing; and destination of waste from the point of generation to the point of processing, collection, or disposal.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1996, Act 67, Imd. Eff. Feb. 26, 1996.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services

**Popular name:** Act 368

### **333.13704 Definitions; M to S.**

Sec. 13704. (1) "Municipality" means a city, village, township, or Indian tribe.

(2) "Operation" means the control, supervision, or implementation of the actual physical activities involved in the acceptance, storage, disposal, and monitoring of waste at the disposal site, the maintenance of the disposal site, and any other responsibility pertaining to the disposal unit and the disposal site.

(3) "Performance assessment" means an analysis of the potential pathways for release of waste to the environment and the potential impacts of a release during the transportation of radioactive waste to the disposal site and during the handling and disposal of waste at the disposal site, including, but not limited to:

(a) A description of the potential pathways for radioactive nuclide migration beyond the boundaries of the disposal site during the operation of the site and in the event there is a release.

(b) A description of the potential pathways for radioactive nuclide migration beyond the packaging boundaries in the event of a release that occurs during transportation.

(c) An analysis of safety factors pertaining to the transportation of waste.

(d) The identification of the potential impacts to air, surface water, and groundwater quality, and vegetation, animals, and humans, or any other living thing beyond the boundaries of the disposal site.

(e) A description of potential mechanisms for radioactive release, including, but not limited to, mechanical failure, structural failure, and human error.

(4) "Person" means a person as defined in section 1106, and, for the purposes of this part, includes the authority, a municipality, county, the state, and any subdivision of the state.

(5) "Postclosure observation and maintenance" means the surveillance, monitoring, and maintenance of the disposal site after it has been closed and continuing through site closure and stabilization and institutional control.

(6) "Processing" means any method, technique, or process, including storage to facilitate radioactive decay, designed to change the physical, chemical, radioactive concentration, or biological characteristics or composition of the waste, in order to render the waste safer for transport, storage, or disposal, amenable to recovery, convertible to another usable material, or to reduce the volume of waste. Processing does not include incineration or dilution of a material that has a radioactive concentration that is greater than the radioactive concentration of low-level radioactive waste.

(7) "Processor" means a person authorized pursuant to this part who processes or repackages waste.

(8) "Release" means any intentional or unintentional spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, or placing of waste into the environment, except in compliance with all of the following:

(a) This part.

(b) The rules promulgated under part 135.

(c) Any rules promulgated under this part.

(d) Federal law.

(e) A permit or license issued pursuant to federal law, if the person who is responsible for the release holds such a permit or license.

(f) A permit or license issued pursuant to this part, if the person who is responsible for the release holds such a permit or license.

(9) "Remedial actions" means those actions taken in the event of a radioactive release or threatened release into the environment to prevent or minimize the radioactive release so that it does not migrate and cause significant danger to the present or future public health, safety, or welfare, or to the environment. Remedial action includes, but is not limited to, actions at the location of the release such as storage, confinement, perimeter protection which may include dikes, trenches, and ditches, clay cover, neutralization, dredging or excavation, repair or replacement of leaking containers, collection of leachate and runoff, efforts to minimize the social and economic harm of processing, provision of alternative water supplies, and any required monitoring to assure that the actions taken are sufficient to protect the public health, safety, and welfare, and the environment.

(10) "Shallow land burial" means the disposal of waste in an excavated trench constructed entirely below grade without a below-ground vault and without below-ground canisters.

(11) "Site characterization" means the site specific investigation of a candidate site undertaken pursuant to section 12 of the low-level radioactive waste authority act.

(12) "Site closure and stabilization" means the actions taken at the disposal site during the time period after the closure of the disposal unit during which on-site low-level radioactive waste is disposed in accordance



with this part, equipment is dismantled, decontaminated, removed for reuse or disposed of, and radioactive residues are removed from, or properly isolated on, the disposal site.

(13) "Storage" means the temporary holding of low-level radioactive waste prior to processing or disposal.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**Administrative rules:** R 325.5001 et seq., R 325.5801 et seq., and R 325.5901 et seq. of the Michigan Administrative Code.

### **333.13705 Regulatory responsibility.**

Sec. 13705. Subject to any limitations in this part, the department shall have the regulatory responsibility that is held by this state in all matters related to the generating, storage, processing, handling, transporting, possession, or disposal of waste.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13706 Implementation and enforcement of part; coordination of regulatory activities; consultation, cooperation, and assistance.**

Sec. 13706. (1) The department shall implement and enforce this part, and shall coordinate all regulatory activities of state agencies and departments acting within the scope of their responsibilities related to waste.

(2) The departments of agriculture, management and budget, commerce, natural resources, state police, the state transportation department, and other state departments and agencies shall consult and cooperate with the department and shall assist the department in the implementation of this part.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13707 Review and recommendations; conflicting laws and rules.**

Sec. 13707. (1) The department shall enter into negotiations with the federal government on behalf of this state for full agreements providing for the discontinuance of specified federal authority with regard to waste disposal, radioactive by-product, source and special nuclear material, or for other authority over radioactive materials or sources of ionizing radiation in this state and assumption of that authority by this state. The governor with the advice and consent of the senate may enter into 1 or more agreements with the federal government negotiated pursuant to this subsection.

(2) The department and the attorney general shall review this part and all applicable federal and state laws and rules pertaining to the authority, the disposal site, and to generators, carriers, collectors, and processors and shall submit written recommendations to the legislature and the governor regarding whether this state should require additional or more stringent regulations for generators, carriers, collectors, or processors to protect the public health, safety, and welfare, and the environment. In addition, the department and the attorney general shall submit written recommendations and the rationale supporting the recommendations to the legislature regarding whether this state should include naturally occurring or accelerator produced radioactive materials known as N.A.R.M. waste in the definition of waste that may be disposed of in the disposal site. The recommendation required in this subsection shall be submitted by April 1, 1988.

(3) If a portion of this part or a rule that is promulgated under this part conflicts with part 135 or with a rule that is promulgated under part 135 prior to the effective date of this part, this part and any rules promulgated under this part shall be given precedence unless a contrary legislative intent is evident.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**Administrative rules:** R 325.5001 et seq., R 325.5801 et seq., and R 325.5901 et seq. of the Michigan Administrative Code.

### **333.13708 Duties of director or director's designee.**

Sec. 13708. The director or the director's designee, with the assistance of other state departments and agencies, shall do all of the following:

- (a) Implement a regulatory, inspection, and enforcement program to carry out the provisions of this part.
- (b) Issue a construction and operating license to the authority upon the submittal by the authority of an application for a license for the construction and operation of the disposal unit on the disposal site that is in compliance with the requirements of this part and with rules promulgated under this part.
- (c) Issue permits to generators, carriers, collectors, and processors if all the requirements of this part and rules promulgated under this part are met.
- (d) Assure that the authority fulfills its responsibilities under this act and under the low-level radioactive waste authority act.
- (e) Promulgate rules and take any other action considered necessary by the department as authorized under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. In fulfilling the requirement to promulgate rules, the director shall promulgate rules necessary to implement the provisions of this part that pertain to the issuance of permits to generators, transporters, collectors, and processors, including rules pertaining to the possession of waste by a generator, transporter, collector, or processor that is incidental to the regulated activity of the permit holder.
- (f) Contract as necessary for research and services to assist in the implementation of the department's powers and duties under this part.
- (g) Insure the permanent maintenance of records that are sufficient to assure a complete accounting of all waste that is generated, transported, processed, collected, and disposed of in this state, and which includes the maintenance of records pertaining to the operation of the disposal site, the site, site closure and stabilization, and institutional control.
- (h) Review the monthly report submitted by the authority to the department as required in section 18 of the low-level radioactive waste authority act.
- (i) Take responsive action regarding any discrepancy or other matter considered necessary by the department after reviewing the monthly report described in subdivision (h).
- (j) Biannually audit all of the records pertaining to manifests that are maintained by the authority.
- (k) Develop and implement policies and programs to insure adequate and informed public participation in matters pertaining to the regulation of the disposal site.
- (l) Review and comment on the site selection process developed by the authority pursuant to the low-level radioactive waste authority act.
- (m) Review and approve or disapprove the weekly construction inspection submitted by the authority during the construction of the disposal site.
- (n) Review for completeness only the contracts entered into by the authority pursuant to the low-level radioactive waste authority act.
- (o) Review the authority's recommendation regarding sanctions against a generator, carrier, collector, or processor who the authority suspects has violated this part, rules promulgated under this part, or a permit issued under this part and respond by taking appropriate regulatory action.
- (p) Assure that the authority charges just and reasonable fees and surcharges for the disposal of waste and obtains sufficient funds to cover expenses incurred under this part and as required in the low-level radioactive waste authority act.
- (q) Seek appropriations from the general fund and from the low-level radioactive waste management fund from the legislature in amounts that are sufficient to fulfill the department's responsibilities under this part.
- (r) Approve or disapprove a waiver by the authority of 1 or more of the criteria for the selection of 3 candidate sites provided for in section 11(4) of the low-level radioactive waste authority act. If the director approves the waiver, the approval shall indicate why the director concludes that the waiver will not compromise the public health, safety, or welfare, or the environment and that a candidate site for which a waiver is sought is an appropriate candidate site despite the site's inability to meet 1 or more of the criteria in section 11(3) of the low-level radioactive waste authority act. Prior to approving a waiver under this subdivision, the director shall forward the proposed approval and supporting documentation to the department of natural resources for review and written comments.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13709 Compliance; disposal of waste; full agreement state status; waiver; acceptance of waste for disposal.**

Sec. 13709. (1) A person shall not possess, generate, collect, process, package, store, transport, or dispose of waste in this state without complying with the requirements of this part.

(2) Except as otherwise provided in subsection (3), if this state has not obtained full agreement state status with the federal government, a person shall not dispose of waste in this state except in the disposal site licensed by the United States nuclear regulatory commission, or its successor agency, and by the director through the issuance of a construction and operating license under this part. Except as otherwise provided in subsection (3), if this state has full agreement state status, a person shall not dispose of waste in this state except at the disposal site licensed by the director through the issuance of a construction and operating license under this part.

(3) Prior to the issuance of a construction and operating license under this part, if a person obtains a waiver pursuant to 10 C.F.R. 20.302, the requirement that waste be disposed of only in the disposal site shall be waived by the director upon receipt of notice and evidence of such a waiver. Following the issuance of a construction and operating license under this part, the director with the written concurrence of the authority may grant or deny an application for a waiver of the requirement that waste be disposed of only in the disposal site if either of the following occurs:

(a) If this state has obtained full agreement state status with the federal government, the department approves the disposal of the waste in a location other than the disposal site and concludes that the waiver will not harm the public health, safety, or welfare, or the environment and will not substantially impact on the volume of waste available for disposal in the disposal site or the financial solvency of the disposal site.

(b) If this state has not obtained a full agreement state status with the federal government, the department concludes that any waiver granted by the nuclear regulatory commission will not harm the public health, safety, or welfare, or the environment and will not substantially impact on the volume of waste available for disposal in the disposal site or the financial solvency of the disposal site.

(4) The department shall assure that waste that is not generated in this state or in a state with which this state may elect to enter a compact shall not be accepted for disposal at the disposal site. In addition, if this state is a member of a compact the department shall assure that this state does not accept waste for disposal from any member of the compact that does either of the following:

(a) Is delinquent in paying dues or fees payable under the compact.

(b) Fails to establish or maintain a permitting and regulatory system, including penalties and remedies, that equals or exceeds the laws and rules of this state as they apply to generators, carriers, processors, and collectors.

(5) If this state is not a member of a compact, the department shall assure that the disposal site accepts only waste generated in this state.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13710 Minimum criteria for design, construction, and operation of disposal site.**

Sec. 13710. (1) The director, following consultation with the department of natural resources, shall establish minimum criteria for the design, construction, and operation of the disposal site. The minimum criteria shall reflect and shall be updated to include state-of-the-art technology in regard to disposal site design, construction, operation, and waste disposal technology. The criteria shall be developed and prepared in the form of specifications to be included in the construction and operating license issued to the authority pursuant to sections 13712 to 13714 and in any modification of that license. The criteria at a minimum shall comply with criteria adopted under the atomic energy act of 1954, 42 U.S.C. 2011 to 2296 and regulations pertaining to licensing requirements for land disposal of waste under 10 C.F.R. 61.1 to 61.81 and shall require that the isolation distance between the disposal unit and adjacent property lines be at least 3,000 feet.

(2) Shallow land burial shall not be permitted. Acceptable disposal technologies shall be limited to above and below ground canisters or above and below ground vaults, or both. The criteria shall also include provisions for monitoring at the disposal site and within the disposal unit and provisions for the recoverability of waste that has been disposed of in the disposal site.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13711 Licensing requirements for design, construction, and operation of disposal site.**

Sec. 13711. The licensing requirements for the design, construction, and operation of the disposal site shall be at least as stringent as all applicable federal design, construction, and operating requirements. The director,

following consultation with the department of natural resources, shall establish requirements for the design, construction, and operation of the disposal site that reflect those practices that are necessary to protect the public health, safety, and welfare, and the environment, and that include at least all of the following:

- (a) Requirements and performance standards for the operation of the disposal site.
- (b) Requirements and standards for the keeping of records and the reporting and retaining of data collected by the authority.
- (c) Requirements, training, and standards for the personnel who operate, monitor, and maintain the disposal site.
- (d) Requirements and standards for the emergency closure of the disposal site.
- (e) Requirements and standards for the postclosure observation and maintenance, and postclosure ownership, monitoring, maintenance, and use, if any, of the disposal site.
- (f) Specifications regarding the amounts, sources, form, chemical, and physical composition, and concentrations of the waste that may be accepted at the disposal site.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13712 Construction and operating license; application; additional information; fee; license nontransferable.**

Sec. 13712. (1) The disposal site shall not be constructed or operated in this state except upon issuance of a construction and operating license issued under this part by the director. The director shall consider only an application submitted by the authority for a construction and operating license. However, the authority may submit a license that has been prepared for the authority pursuant to a contract entered into by the authority as provided in the low-level radioactive waste authority act.

(2) An application for a construction and operating license shall contain all of the following information pertaining to the disposal site:

- (a) The mailing address of the authority.
- (b) The location of the host site.
- (c) A hydrogeological report specifying the existing hydrogeological characteristics.
- (d) A monitoring program acceptable to the department and consistent with all applicable federal and state laws and rules pertaining to the protection of the public health, safety, and welfare, and the environment.
- (e) A performance assessment.
- (f) Engineering plans and specifications for construction.
- (g) A detailed basis for design specifications.
- (h) The disposal technology.
- (i) Procedures for the pre-closure monitoring.
- (j) Operating procedures.
- (k) A site closure and stabilization plan.
- (l) A postclosure observation and maintenance plan and an institutional control plan, both of which shall contain specific provisions as to who is responsible for all aspects of monitoring, maintenance, and other procedures necessary to protect the public health, safety, and welfare, and the environment for as long as the waste is in the disposal site.
- (m) Estimates of the quantities and types of wastes to be stored, treated, or disposed of at the disposal site.
- (n) The personnel information necessary to assure the integrity and qualifications of the personnel hired by the authority.
- (o) A contingency plan to establish the procedures to be followed in the event of a release.

(3) If any information required to be included in the application regarding a person undertaking a responsibility of the authority changes, or is supplemented after the filing of the statement, the person undertaking a responsibility of the authority shall provide that information to the department in writing, within 30 days of the change or addition.

(4) An application for a construction and operating license shall be accompanied by a nonrefundable application fee that is determined by the department to be sufficient to cover the costs of processing the application.

(5) A construction and operating license shall not be transferable from the office of the authority.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**333.13713 Application for construction and operating license; additional information; nullification of contract; supplementing and keeping current information.**

Sec. 13713. (1) The application for a construction and operating license shall contain such additional information as may be required by the department, and shall disclose all of the following information regarding persons with whom the authority enters into agreements or contracts to prepare a construction and operating license for the disposal site or for the construction or operation of the disposal site, if known:

(a) The full name and business address of all of the following:

(i) Each person who enters into a contract to undertake a responsibility of the authority.

(ii) The 5 persons holding the largest shares of the equity in or debt liability of the person undertaking a responsibility of the authority. The director may waive all or any portion of this requirement for a person who is a corporation with publicly traded stock.

(iii) If known, the 3 employees of the person who contracts with the authority who will have the most responsibility for the day-to-day operation of the site.

(iv) Any other business entity listed in which any person listed in subdivisions (i) to (iii) has at any time had 25% or more of the equity in or debt liability of that business entity.

(b) A listing of all convictions for criminal violations of an environmental statute promulgated by a federal, state, Canadian, or provincial agency for each person required to be listed under this subsection. If debt liability is held by a chartered lending institution, information required in this subsection shall not be required from that institution.

(c) A listing of all civil judgments resulting from a violation of an environmental statute promulgated by a federal, state, Canadian, or provincial agency for each person required to be listed under this subsection. If debt liability is held by a chartered lending institution, information required in this subsection shall not be required from that institution.

(d) A listing of all environmental permits or licenses issued by a federal, state, Canadian, or provincial agency held by each person required to be listed under this subsection and a listing of any of those permits or licenses that were permanently revoked because of noncompliance.

(e) A listing of all activities at property owned or operated by each person required to be listed under this subsection, if the incident resulted in a threat or potential threat to the environment.

(2) Notwithstanding any other provision of law, the director may nullify a contract between the authority and a person who undertakes or may undertake a responsibility of the authority if there are any listings as originally disclosed or as supplemented pursuant to subsection (1)(b), (c), or (e) or subsection (1)(d) as it pertains to permits or licenses that were permanently revoked because of noncompliance.

(3) The authority shall have the continuous responsibility to supplement and keep current the information required in subsection (1). The authority shall provide the department with the information required in subsection (1) for persons with whom the authority enters into contracts following the original submittal of an application for a construction and operating license.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

**333.13714 Surety bond, secured trust fund, or other suitable secured instrument or mechanism.**

Sec. 13714. The authority shall file as a part of the application for a construction and operating license a surety bond, secured trust fund, or other suitable secured instrument or mechanism that shall be approved by the department and shall cover the cost of site closure and stabilization. In addition, the authority shall file a surety bond, secured trust fund, or other suitable secured instrument or mechanism that shall be approved by the department, and shall cover the cost of the postclosure observation and maintenance of the disposal site and institutional control. The authority may use a combination of bonds, instruments, mechanisms, or funds, as approved by the department, to satisfy the requirements of this section. The bond, instrument, mechanism, or fund, or combination of these methods of assurance, shall be in an amount equal to a reasonable estimate of the site closure and stabilization costs, based on the level of operations proposed in the application for the construction and operating license, and for institutional control. The bond, instrument, mechanism, or fund, or the combination of these methods of assurance, shall be adjusted periodically as determined by the department to account for inflation or changes in the permitted level of operation of the disposal site. A failure to maintain the bond, instrument, mechanism, or fund, or combination of these methods of assurance,



constitutes a violation of this part.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13715 Financial responsibility.**

Sec. 13715. The authority, as part of the application for a construction and operating license, shall demonstrate financial responsibility through the establishment of a fully funded trust fund or a liability bond, or both, providing for bodily injury and property damage to third parties caused by sudden and accidental releases arising from operations of the disposal site. The authority shall obtain and maintain liability coverage for sudden and accidental releases in an amount of not less than \$3,000,000.00 per occurrence with an annual aggregate of not less than \$6,000,000.00, and additional coverage sufficient to meet anticipated legal defense costs.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13716 Duties of department; issuance or denial of license; consultation; cooperation; assistance; exemption; effect of local requirements.**

Sec. 13716. (1) Upon receipt of an application for a construction and operating license, the department shall do all of the following:

(a) Within 45 days, determine whether the application is complete. If the application is not complete, the department shall notify the authority of all deficiencies and request that the additional information that the department considers necessary to make the application complete be supplied by the authority within 15 days. If the authority is unable to supply the requested information within 15 days, the authority shall notify the department in writing of the reason for any delay and when the requested information will be forwarded.

(b) Immediately notify the local monitoring committee of the host site community, the governing body of the county in which the host site is located, and impacted state departments and agencies as determined by the department of the receipt of an application for a construction and operating license and the procedure by which the license may be approved or denied.

(c) Publish a notice in a newspaper that has statewide circulation, and a newspaper that has major circulation in the municipality in the immediate vicinity of the host site, and a newspaper that is circulated in the county in which the host site is located. The published notice shall contain a map indicating the location of the host site and shall contain a description of the host site and the location where the complete application package may be reviewed and where copies may be obtained. The notice shall describe the procedure by which the construction and operating license may be granted or denied. The director shall provide an opportunity for public comment at least 60 days before making a final decision to grant or deny an application for a construction and operating license.

(d) Along with other impacted state departments and agencies as determined by the department, review the entire application for a construction and operating license. The review shall include, but not be limited to, considerations pertaining to air quality, water quality, waste management, hydrogeology, and proposed waste transportation routes, and the protection of the public health, safety, and welfare, and the environment. The review shall be completed within 140 days after a complete application is received. Following the completion of the 140-day review, the department shall prepare a draft version of a construction and operating license that the department is considering issuing. Before the department prepares a draft construction and operating license, the department shall assure that all concerns expressed by the review board created in section 13 of the low-level radioactive waste authority act, the local monitoring committee of the host site community, the governing body of the county in which the host site is located, and impacted state departments and agencies during the review process are considered. A written and signed review by each person representing a department who reviews the application and plans shall be reviewed and recorded by the department before a draft license is prepared by the department. In addition, before a draft license is prepared, but following the completion of the 140-day review, the department shall prepare a responsive summary that describes any public comments received by the department and describes how those comments have been evaluated and addressed by the department.

(e) Insure that the draft construction and operating license, written and signed reviews, and the responsive summary provided for in subdivision (d) are submitted to impacted state agencies as determined by the

director and to the department of environmental quality.

(2) The director shall make a decision to issue a construction and operating license or deny the application for a construction and operating license as soon as practicable but not later than 12 months after the receipt of a complete application that is in compliance with this part. If the director denies the authority's application for a construction and operating license, the director shall state his or her reason or reasons in writing. If the construction and operating license application meets the requirements of this part and the rules promulgated under this part, the department shall, after preparing a draft version, prepare and issue to the authority a construction and operating license.

(3) The departments of agriculture, natural resources, environmental quality, state police, the state transportation department, and other state departments and agencies shall consult and cooperate with the department in a timely manner in the review of an application for a construction and operating license. The department may also seek the assistance of any other person in evaluating the application for a construction and operating license and in the development of a draft or final construction and operating license, or both.

(4) Except as provided in this subsection, the issuance of a construction and operating license by the director pursuant to this part shall exempt the authority from obtaining other permits, licenses, or registrations which may be required under other applicable state laws, but shall not exempt the authority from meeting other standards and requirements of applicable state laws or federal laws or from obtaining an operating license pursuant to part 111 (hazardous waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11101 to 324.11152 of the Michigan Compiled Laws, before construction commences.

(5) A local ordinance or permit requirement or other local requirement shall not prohibit, restrict, or regulate the construction or operation of the disposal site.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1996, Act 67, Imd. Eff. Feb. 26, 1996.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13717 Independent contractor; inspecting and verifying construction of disposal site; qualification of contractor; certification; compliance; filing and availability of inspection results; addressing deficiencies.**

Sec. 13717. (1) Prior to the commencement of the construction of the disposal site, the department shall enter into a contract with an independent contractor who shall inspect and verify that the construction of the disposal site is progressing according to this part, rules promulgated under this part, and the conditions and stipulations included in the construction and operating license. The contractor hired under this subsection shall be knowledgeable in construction projects of the scope and complexity of the disposal site and shall not be associated in any business capacity with a contractor hired by the authority to construct the disposal site. A representative of the local monitoring committee for the host site community may be present during an inspection of the disposal site by the independent contractor.

(2) Prior to the commencement of the operation of the disposal site, the authority shall submit to the director a certification under the seal of a registered professional engineer who contracted with the authority verifying that the construction of the disposal site has proceeded according to the plans approved by the department and the construction and operating license. The department may require additional certification periodically during the operation of the disposal site.

(3) Following the construction of the disposal site and receipt of the certification required under subsection (2), the department and the independent contractor hired pursuant to subsection (1) shall inspect the disposal site and determine if the site complies with this part, rules promulgated under this part, and the conditions and stipulations included in the construction and operating license. The results of the inspection shall be filed in writing with the department before the operation of the disposal site is authorized, and shall be made available to the local monitoring committee of the host site community, the governing body of the county in which the host site is located, and to the public for review. The department shall assure that all deficiencies noted in the inspection shall be addressed to the satisfaction of the department prior to the commencement of the operation of the disposal site.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13718 Temporary or permanent closure of disposal site; reopening.**

Sec. 13718. The director may issue an order temporarily or permanently closing the disposal site prior to its scheduled closing date if the director finds that there is a potential hazard to the public health, safety, or welfare or to the environment that justifies a temporary or permanent closure. A disposal site that is temporarily closed shall not receive waste and shall remain closed while remedial action is taken. Before authorizing the reopening of a temporarily closed disposal site, the department shall seek the advice of the local monitoring committee of the host site community and the department of natural resources, and shall provide a documented explanation of its reasons for authorizing the reopening.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13719 Release of waste or hazardous waste; remedial action; site closure and stabilization; cost.**

Sec. 13719. (1) If there has been a release of waste or hazardous waste at the disposal site during its operation, closure, or postclosure, the department shall assure that the authority takes appropriate remedial action.

(2) If there is a release that requires the disposal site to be closed permanently, the department shall insure that site closure and stabilization is complete and adequate and that the authority retains control of the disposal site through the period of institutional control. The cost of site closure and stabilization shall be paid from the low-level radioactive waste management fund.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13720 Site closure and stabilization; control; cost; rules; surveillance and maintenance of disposal site.**

Sec. 13720. (1) Beginning on January 1, 2014, or prior to that date if the disposal site has been permanently closed for any reason, the authority shall begin site closure and stabilization. The department shall assure that site closure and stabilization is complete and adequate and that the authority retains control of the disposal site. The cost of site closure and stabilization shall be borne by the authority.

(2) The department shall promulgate rules pertaining to site closure and stabilization and the active surveillance and maintenance of the disposal site.

(3) After completing site closure and stabilization, the authority shall be required by the department to assure that surveillance and maintenance of the disposal site occurs in accordance with the requirements and conditions of the construction and operating license and with any rules promulgated under this part. The department shall assure that the authority retain control of the site through the period of institutional control.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13721 Amendment to construction and operating license.**

Sec. 13721. If the authority proposes an amendment to the construction and operating license for the disposal site to conform to the requirements of this part and the rules promulgated under this part, or if the director determines that amendments are necessary to conform to the requirements of this part or the rules promulgated under this part, the director may amend the construction and operating license issued to the authority as necessary to protect the public health, safety, and welfare, and the environment. However, prior to authorizing an amendment to a construction and operating license, the director shall submit a proposed amendment to the department of natural resources for review and comment. The director shall submit the department of natural resources' comments and the director's response to those comments to the review board created in the low-level radioactive waste authority act, and to the local monitoring committees. An amendment to a construction and operating license shall specify the time required to complete any required modifications. The director may prescribe a fee to be paid by the authority from revenues collected by the disposal site that is sufficient to cover the department's administrative costs associated with the processing and modification of the construction and operating license. A construction and operating license issued under this part is subject to amendment, as provided in the administrative procedures act of 1969, Act No. 306 of the

Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**333.13721a Disposal shipment registration system; validity and contents of approved disposal shipment certificate; application for certificate; duty of generator, processor, or collector; duty of carrier; approval or denial of application for certificate; amended certificate.**

Sec. 13721a. (1) The authority shall establish and implement a disposal shipment registration system which shall at a minimum require a valid disposal shipment certificate to accompany each shipment of waste to be delivered to the disposal site.

(2) An approved disposal shipment certificate shall be valid for not more than 3 days, and shall specify, at a minimum, all of the following:

(a) The date on which a designated shipment shall be delivered to the disposal site. The date shall be 1 of the 3 days for which the disposal certificate is valid.

(b) The hours during which a designated shipment shall be delivered to the disposal site.

(c) The name of the carrier, type of transport vehicle, type of shipping container or cask, type of disposal container, and applicable department of transportation hazard classifications.

(d) The transportation route that a carrier who is specified by the generator shall use to deliver a designated shipment.

(e) The amount, type, class, and curie count of waste to be included in a designated shipment.

(3) A generator, processor, or collector who is arranging the transport of waste to the disposal site shall submit to the authority an application for a disposal shipment certificate for each shipment of waste to be delivered to the disposal site. The application shall be made on a form provided by or approved by the authority. The generator, processor, or collector shall submit the application at least 15 days, but not more than 30 days, prior to the date requested by the generator, processor, or collector for a carrier to transport the waste shipment to the disposal site.

(4) A generator, processor, or collector who is arranging the transport of waste to the disposal site shall ensure that a carrier who transports waste to the disposal site has been supplied with the information required in subsection (2).

(5) A carrier delivering a shipment of waste to the disposal site shall comply with the requirements of the disposal shipment certificate.

(6) The authority shall approve or deny within 10 days each complete application for a disposal shipment certificate that is submitted by a generator, processor, or collector who is arranging the transport of waste to the disposal site. An application shall not be approved unless the authority has signed the certificate and has assigned to it a disposal shipment certificate number. The disposal shipment certificate number shall be placed on each manifest that is a part of the waste shipment approved on the disposal shipment certificate.

(7) Without requiring submission of a new application for a disposal shipment certificate, upon the written request of a generator, processor, or collector, the authority may issue an amended disposal shipment certificate that is valid for 3 days, within 15 days of the original delivery date designated by the authority.

(8) Upon written prenotification by the authority to a generator, carrier, or processor within 72 hours of the original delivery date designated by the authority, the authority may issue an amended disposal shipment certificate. If the amended date is unacceptable to the generator, processor, or collector, a new application for a disposal shipment certificate shall be submitted.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

**333.13722 Manifest; duties of authority accepting waste at disposal site.**

Sec. 13722. (1) The authority or any other person shall not accept delivery of waste unless the waste is accompanied by a manifest certified by each generator, carrier, processor, or collector who possessed the waste and who is authorized to possess waste under this part, and the location of acceptance is the destination indicated on the manifest.

(2) When the authority accepts waste at the disposal site, the authority shall do all of the following:

(a) Keep permanent records as required by the department.

(b) Compile an annual report pertaining to the operation of the disposal site, the volume and type of waste placed in the disposal unit, and any other information required by the department.

(c) Make manifest copies, certificates of disposal, and reports available for review and inspection at reasonable times by the department or a peace officer.

(d) Certify on the manifest receipt of the waste and furnish a copy of the manifest to the generator within 10 days after receipt of the waste.

(e) Within 30 days of receipt of waste, notify the generator whether the manifest was properly completed.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13723 Operation of disposal site; inspection of shipment; refusal to accept waste; return of waste; seizure and impoundment of vehicle and contents; imposition of surcharges; notice; unloading; requirements as to transport vehicle; informing department of violations.**

Sec. 13723. (1) The disposal site shall be operated in accordance with this part, the rules promulgated under this part, and in compliance with the terms and conditions of the construction and operating license and any applicable federal requirements.

(2) Each shipment of waste that arrives at the disposal site shall not proceed into the unloading area until inspected by both the authority and the department and found by the authority and the department to be in compliance with this part, the rules promulgated under this part, the manifest, and any applicable provisions of the construction and operating license. Shipments that are not in compliance shall proceed to a controlled area for appropriate action to remedy the noncompliance or the authority may refuse to accept the waste. If the authority refuses to accept the waste, the authority may order the waste returned by the carrier to the generator or processor who contracted with the carrier to transport the waste to the disposal site. If the waste is ordered to be returned, the authority shall specify on the manifest the address of the generator or processor to whom the waste shall be returned. The authority may seize and impound a vehicle and the contents of that vehicle if it transports waste in a manner that is not in compliance with this part or the rules promulgated under this part or if the contents of the truck are not in compliance with this part or the rules promulgated under this part. In addition, the authority may impose surcharges as provided in the low-level radioactive waste authority act. A vehicle and its contents that are impounded as provided in this subsection shall not be released until the department informs the authority that appropriate remedial and enforcement action has been concluded. The authority or his or her authorized agent shall notify the department and the local monitoring committee of the host site community of the noncomplying shipment. Shipments that are found to be in compliance shall proceed to the unloading area. After a transport vehicle is unloaded, or leaves the unloading area without being unloaded, it shall not leave the disposal site until it is inspected by the authorized agent of the authority and the department and is decontaminated, if necessary.

(3) The authority shall promptly inform the department of any violation of this part, the rules promulgated under this part, a permit issued under this part, or the low-level radioactive waste authority act, that is committed or that the authority suspects was committed by a generator, collector, carrier, or processor.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13724 Compact member states; list of generators, carriers, processors, and collectors; state laws and rules; valid permits; permitting and regulatory system; permission to receive waste; equivalent privileges; expenses; liabilities; primary place of business; eligibility for permit.**

Sec. 13724. (1) If this state is a member of a compact, the department shall obtain from each compact member a list of generators, carriers, processors, and collectors who hold permits to generate, transport, process, or collect waste in each compact member state. The department shall also obtain an updated list of the generators, carriers, processors, and collectors as necessary. In addition, the department shall obtain from each state that is a member of a compact with this state the state laws and rules that regulate generators, carriers, processors, and collectors in each compact member state.

(2) The department shall compile and maintain a list of all generators, carriers, processors, and collectors who hold valid permits issued in this state under this part, including updated information regarding any



change in the status of a permit issued in this state under this part.

(3) If this state is a member of a compact, the department shall determine which compact member states have established and maintained to the satisfaction of the department a permitting and regulatory system, including penalties and remedies, that equals or exceeds the laws and rules of this state as they apply to generators, carriers, processors, and collectors, and the department shall prepare a master list that includes only the names of generators, carriers, processors, and collectors who hold permits in those compact member states and the names of generators, carriers, processors, and collectors who hold permits under this part.

(4) The department shall permit the authority to receive waste only from a generator, carrier, processor, or collector whose name is on the master list and who holds a valid permit issued in this state under this part or who holds a valid permit issued by a compact member state that has equivalent privileges in this state because the state in which that person generates, carries, processes, or collects waste has established and maintains to the satisfaction of the department a permitting and regulatory system, including penalties and remedies, that equals or exceeds the laws and rules of this state as they pertain to generators, carriers, processors, and collectors. If this state is a member of a compact, a compact member state that establishes and maintains a permitting and regulatory system that the department determines equals or exceeds this state's system as provided in subsection (3) shall, by accepting equivalent privileges in this state as provided in this subsection, give its consent to the requirements of this part, the rules promulgated under this part, and the provisions of the low-level radioactive waste authority act. In addition, each of the compact member states shall be considered to have consented to share with this state and any other compact member states the expenses incurred in the construction, operation, site closure and stabilization, postclosure observation and maintenance, and institutional control of the disposal site and liabilities incurred as a result of the locating of the disposal site in this state.

(5) A carrier, processor, or collector whose primary place of business is in this state shall be eligible to seek a permit from the department under this part to transport, process, or collect waste in this state. A carrier, processor, or collector whose primary place of business is in a state that is not a compact member state shall be eligible to seek a permit from the department under this part to transport, process, or collect waste generated in this state. The department shall issue a permit only to a generator who generates waste in this state.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13725 Generator's permit; identification number; requirements; conditions; validity; issuance or renewal; application; nontransferable; applicability; fee; modification of permit; administrative costs; automatic issuance of permit.**

Sec. 13725. (1) After the issuance of a construction and operating license for a disposal site under this part, a person shall not generate waste in this state unless the person holds a generator's permit issued under this section. The department shall assign an identification number to each generator who is issued a permit or who has been granted equivalent privileges in this state under section 13724.

(2) A generator's permit shall include requirements as provided in this part and any rules promulgated under this part, in the low-level radioactive waste authority act, and conditions that are equivalent to applicable federal requirements. Other conditions as necessary and provided by law may be imposed after the department has submitted to the governor and the legislature the written recommendations required under section 13707(2). A generator's permit is valid for 3 years after the date of issuance.

(3) Upon receipt of the application and a fee as required in subsection (6), the department shall issue or renew a generator's permit if it determines that the generator meets the requirements of this part.

(4) An application for a generator's permit shall contain information required by the department to implement and enforce this part, including all of the following:

- (a) The estimated quantities and types of waste generated.
- (b) The procedures and methods to be used for responding to a release of waste.
- (c) The location and use of storage and transfer facilities, if any.

(5) A generator's permit is not transferable, and shall state with particularity the persons and real or personal property to which it applies.

(6) Each person who submits an application for a generator's permit or permit renewal in this state under this section shall pay a permit application fee of \$500.00.

(7) If a generator requests modification of a generator's permit, or if the director determines that modifications are necessary to conform to the requirements of this part, the director may invoke permit

modifications which the director considers necessary and may specify the time required to complete the modifications. The director may prescribe a fee not to exceed \$500.00 for administrative costs associated with the processing of a modification of a generator permit.

(8) The department shall automatically issue a generator's permit to an applicant who makes an initial application for a generator's permit under this part if that person holds a valid permit or other authorization to generate waste issued by the nuclear regulatory commission at the time of the initial application. A person granted a generator's permit under this subsection is subject to all the applicable provisions of this part, rules promulgated under this part, and the provisions of the permit.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13726 Duties of generator; generator acting as carrier, collector, or processor.**

Sec. 13726. (1) A generator required to be permitted under this part or who has privileges in this state pursuant to section 13724 shall do all of the following:

(a) Prepare a manifest for each shipment of waste.

(b) Provide a separate manifest for each unit of waste as determined by the department that is to be transported to or collected or processed on property other than the property to which the generator's permit applies.

(c) Include with each manifest details as specified by the department, including sufficient qualitative and quantitative analysis and physical description of the waste to permit an evaluation of the potential hazards associated with the waste and to determine proper methods of transportation, processing, collecting, storage, and disposal. The manifest shall also indicate any safety or transportation requirements required by law for each shipment of waste.

(d) Within 10 days after the transfer of the waste to a carrier, processor, or collector, or to the disposal site, submit a copy of the manifest to the authority.

(e) Compile and maintain information and records regarding the quantities and the disposition of waste shipped.

(f) Package waste in accordance with applicable federal requirements, this part, rules promulgated under this part, and any requirements under the low-level radioactive waste authority act.

(g) Label each container of waste with the generator's identification number and an identification number that corresponds to the number listed on the manifest for that waste and comply with all lawful requirements for labeling and containerization of waste for shipment.

(h) Keep all records and copies of manifests available for review and inspection at reasonable times by the department or a peace officer.

(i) Retain all records and manifest copies for 3 years. The retention period required by this subdivision shall be automatically extended during the course of an unresolved enforcement action regarding a regulated activity or as required by the director.

(j) Certify that the information contained in each manifest is accurate.

(k) Provide for the transport, collection, or processing of waste only by persons holding a carrier's, collector's, or processor's permit issued under this part or who has equivalent privileges in this state under section 13724.

(2) Without obtaining an additional permit under this part, a person who holds a generator's permit issued in this state may act as a carrier, collector, or processor in regard to waste that is generated by the holder under the generator's permit. A generator who acts as a carrier, collector, or processor pursuant to this subsection shall be subject to the same requirements provided for in this part for a carrier, collector, or a processor.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13727 Carrier's permit; identification number; requirements; conditions; validity; issuance or renewal; application; registration and inspection of vehicle; inspection fee; vehicle tag; permit nontransferable; applicability; application fee; modification of permit; administrative costs; specifying available routes.**

Sec. 13727. (1) Except as otherwise provided in section 13726(2), a person shall not transport waste in this

state after the issuance of a construction and operating license for a disposal site under this part unless the person holds a carrier's permit issued under this section or issued by a state that has been granted equivalent privileges in this state under section 13724. The department shall assign an identification number to each carrier who is issued a permit or who has equivalent privileges in this state under section 13724.

(2) A carrier's permit shall include requirements as provided in this part and in any rules promulgated under this part, in the low-level radioactive waste authority act, and conditions that are equivalent to applicable federal requirements. Other conditions as necessary and provided by law may be imposed after the department has submitted to the governor and the legislature the written recommendations required under section 13707(2). A carrier's permit is valid for 3 years after the date of issuance.

(3) Upon receipt of the application and fee required in subsection (7), the department shall issue or renew a carrier's permit if it determines that the carrier meets the requirements of this part.

(4) An application for a carrier's permit shall contain information required by the department to implement and enforce this part, including all of the following information:

- (a) The estimated quantities and types of wastes to be transported.
- (b) The procedures and methods to be used for responding to a release of waste.
- (c) The location and use of storage and transfer facilities, if any.

(5) As a condition of a carrier's permit from this state, each vehicle used by a carrier to transport waste shall be registered and inspected by the department of state police annually to insure compliance with applicable state and federal law. The department of state police may collect a fee of \$200.00 for each vehicle that is inspected. The department of state police shall supply the carrier with a vehicle tag for each vehicle registered under this subsection. The vehicle tag shall be displayed by the carrier on each registered vehicle.

(6) A carrier's permit is not transferable, and shall state with particularity the persons and real or personal property to which it applies.

(7) Each person who submits an application for a carrier's permit or permit renewal in this state under this section shall pay a permit application fee of \$500.00.

(8) If a carrier requests modification of a carrier's permit, or if the director determines that modifications are necessary to conform to the requirements of this part, the director may invoke permit modifications which the director considers necessary and may specify the time required to complete the modifications. The director may prescribe a fee not to exceed \$500.00 for administrative costs associated with the processing of a modification to a carrier permit.

(9) The department with the assistance of the department of state police and the state transportation department shall specify the routes available in this state for the transportation of waste.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13728 Manifest as condition to transporting of waste by carrier; certification; contents; delivery; retaining copy of manifest; forwarding copy of manifest.**

Sec. 13728. (1) A carrier shall not transport waste unless each shipment of waste is accompanied by a manifest.

(2) A carrier shall certify on the manifest the receipt of waste for transportation, and shall specify on the manifest the number of containers of waste received and actually delivered and the corresponding identification numbers for each container of waste, and the carrier's identification number. The carrier shall deliver the waste and the manifest only to the destination specified on the manifest.

(3) A carrier shall retain a copy of each manifest for 3 years. The retention period required by this subsection shall be automatically extended during the course of an unresolved enforcement action regarding a regulated activity or as required by the director. The carrier shall forward a copy of the manifest to the authority within 10 days of its delivery to a processor, collector, or to the disposal site.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13729 Collector's permit; identification number; requirements; conditions; validity; issuance or renewal; application; nontransferable; applicability; fee; modification of permit; administrative costs.**

Sec. 13729. (1) Except as otherwise provided in section 13726(2), a person shall not collect waste for

disposal in this state after the issuance of a construction and operating license for a disposal site under this part unless the person holds a collector's permit issued under this section or issued by a state that has been granted equivalent privileges in this state under section 13724. The department shall assign an identification number to each collector who is issued a permit or who has equivalent privileges in this state pursuant to section 13724.

(2) A collector's permit shall include requirements as provided in this part and any rules promulgated under this part, in the low-level radioactive waste authority act, and conditions that are equivalent to applicable federal requirements. Other conditions as necessary and provided by law may be imposed after the department has submitted to the governor and the legislature the written recommendations required under section 13707(2). A collector's permit is valid for 3 years after the date of issuance.

(3) Upon receipt of the application and fee required in subsection (6), the department shall issue or renew a collector's permit if it determines that the collector meets the requirements of this part.

(4) An application for a collector's permit shall contain information required by the department to implement and enforce this part, including all of the following information:

- (a) The estimated quantities and types of wastes to be collected.
- (b) The procedures and methods to be used for responding to the release of waste.
- (c) The location and use of storage and transfer facilities, if any.

(5) A collector's permit is not transferable, and shall state with particularity the persons and real or personal property to which it applies.

(6) Each person who submits an application for a permit or permit renewal in this state under this section shall pay a permit application fee of \$500.00.

(7) If a collector requests modification of a collector's permit or if the director determines that modifications are necessary to conform to the requirements of this part, the director may invoke permit modifications which the director considers necessary and may specify the time required to complete the modifications. The director may prescribe a fee not to exceed \$500.00 for administrative costs associated with the processing of a modification to a collector permit.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13730 Manifest as condition to collector accepting delivery of waste; certification; contents; transfer; retaining copy of manifest; forwarding copy of manifest.**

Sec. 13730. (1) A collector shall not accept the delivery of waste unless the waste is accompanied by a manifest.

(2) A collector shall certify on the manifest the receipt of waste and shall specify on the manifest the number of containers of waste received and actually delivered and the corresponding identification numbers for each container of waste, and the collector's identification number. The collector shall transfer the manifest with the waste to a carrier for transportation.

(3) The collector shall retain a copy of each manifest for 3 years. The retention period required by this subsection shall be automatically extended during the course of an unresolved enforcement action regarding the regulated activity or as required by the director.

(4) The collector shall forward a copy of the manifest to the authority within 10 days of transferring the waste to a carrier for transportation.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13731 Processor's permit; identification number; requirements; conditions; validity; issuance or renewal; application; nontransferable; applicability; fee; modification of permit; administrative costs.**

Sec. 13731. (1) Except as otherwise provided in section 13726(2), a person shall not process waste in this state after the issuance of a construction and operating license for a disposal site under this part unless the person holds a processor's permit issued under this section or issued in a state that has been granted equivalent privileges in this state under section 13724. The department shall assign an identification number to each processor who is issued a permit or who has equivalent privileges in this state pursuant to section 13724.

(2) A processor's permit shall include requirements as provided in this part, and in any rules promulgated

under this part, in the low-level radioactive waste authority act, and conditions that are equivalent to applicable federal requirements. Other conditions as necessary and provided by law may be imposed after the department has submitted to the governor and the legislature the written recommendations required under section 13707(2). A processor's permit is valid for 3 years after the date of issuance.

(3) Upon receipt of the application and fee in subsection (6), the department shall issue or renew a processor's permit if it determines that the processor meets the requirements of this part.

(4) An application for a processor's permit shall contain information required by the department to implement and enforce this part, including all of the following information:

(a) The estimated quantities and types of waste to be processed.

(b) The procedures and methods to be used for responding to the release of waste, including an analysis of the potential pathways for a release of waste to the environment and the potential impact of such a release.

(c) The location and use of storage and transfer facilities, if any.

(5) A processor's permit shall not be transferable, and shall state with particularity the persons and real or personal property to which it applies.

(6) Each person who submits an application for a processor's permit or permit renewal under this section shall pay a permit application fee of \$500.00.

(7) If a processor requests modification of a processor's permit, or if the director determines that modifications are necessary to conform to the requirements of this part, the director may invoke permit modifications which the director considers necessary and may specify the time required to complete the modifications. The director may prescribe a fee not to exceed \$500.00 for administrative costs associated with the processing of a modification to a processor permit.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13732 Manifest as condition to processor accepting delivery of waste; certification; contents; transportation of waste; forwarding copy of certified manifest to generator; retaining copy of manifest; preparation of manifest; compliance; records; packaging waste; labeling containers.**

Sec. 13732. (1) A processor shall not accept the delivery of waste unless the waste is accompanied by a manifest.

(2) A processor shall certify on the manifest the receipt of waste, the amount, and the type of waste received for processing, and shall include on the manifest the processor's identification number. A processor shall provide for the transportation of waste only by a person holding a carrier's permit authorized under this part.

(3) A processor shall forward a copy of the certified manifest to the generator within 10 days of receiving the waste. The processor shall retain a copy of each manifest for a period of 3 years. The retention period required by this subsection shall be automatically extended during the course of an unresolved enforcement action regarding the regulated activity or as required by the director.

(4) A processor shall prepare a manifest for each shipment of waste it transfers to a person holding a carrier's permit issued under this part. A processor shall comply with the requirements of section 13726(c) to (k).

(5) A processor shall maintain any records necessary to trace a generator's shipment from the point of receipt by the processor to the point of transfer to a carrier.

(6) A processor shall package waste in accordance with applicable federal requirements, this part, and any requirements under the low-level radioactive waste authority act.

(7) If a processor places waste in a different container than the container in which the generator places that waste, the processor shall label each new container of waste with the generator's identification number, an identification number that corresponds to the number listed on the manifest by the generator for that waste, the processor's identification number, and the identification number listed on the manifest by the processor for that repackaged waste.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13733 Condition to possession of waste; data as public information.**



Sec. 13733. (1) A person shall not possess waste in this state without complying with the manifest requirements of this part.

(2) Data obtained from any person on a manifest required under this part is public information.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13734 Implied consent; due process rights; surety bond, secured trust fund, or other secured instrument or mechanism; reimbursement of costs resulting from violation; conduct constituting violation.**

Sec. 13734. (1) A generator, carrier, processor, and a collector who holds a permit issued under this part or who holds a permit in a state that has been granted equivalent privileges in this state under section 13724 shall by utilizing the disposal site in this state be considered to have given implied consent to the duties and responsibilities imposed on that person under this part, rules promulgated under this part, and the low-level radioactive waste management act.

(2) Nothing in subsection (1) shall be construed to impact upon the due process rights, including any appellate rights, of a generator, carrier, processor, or a collector who gives implied consent as provided in subsection (1).

(3) A generator, carrier, processor, and collector who holds a permit issued under this part shall post a surety bond or present evidence of a secured trust fund or other suitable secured instrument or mechanism in an amount determined by the department. The bond, trust fund, or other instrument or mechanism shall be payable to the department and conditioned upon performance in accordance with the terms and conditions of the permit of the generator, carrier, collector, or processor. The bond, trust fund, or other instrument or mechanism shall provide that if the generator, carrier, processor, or collector violates the provisions of this part, any rules promulgated under this part, or any terms or conditions of a permit issued under this part, the department shall be reimbursed for the costs that are incurred as a result of the violation. The failure to maintain a surety bond, secured trust fund, or other suitable instrument or mechanism constitutes a violation of this part.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13735 Notice of release of waste; report.**

Sec. 13735. A generator, carrier, processor, and collector shall be responsible for giving immediate oral notice to the department, the law enforcement agency and governing body of the municipality and county in which a release occurs, the local monitoring committee of the host site community, and the authority regarding any known release of waste in this state. Within 10 days after the release, a written report shall be submitted by the generator, carrier, processor, or collector to the department, the local monitoring committee, and the authority, which shall include all of the following information:

(a) The date, time, and location of the release.

(b) The cause, nature, and details of the release.

(c) The remedial actions, if any, taken to effectuate corrective measures and to mitigate the impact of the release.

(d) The measures to be taken to prevent the occurrence of future releases.

(e) Other information as may be required by the department.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13736 Sanctions for negligence or failure to exercise due care; grounds for suspending, revoking, annulling, withdrawing, recalling, or cancelling license or permit; order; procedures, hearings, oaths, subpoenas, and testimony; books, papers, or documents; aid of circuit court; grounds for denial of application for license or permit; monitoring, surveillance, and inspection; spot checks; advising authority of regulatory actions; administrative inspection warrant; search warrant; probable cause.**

Sec. 13736. (1) A person who holds a license or permit issued under this part may be subject to sanctions as provided in subsection (2) for negligence or a failure to exercise due care, including negligent supervision, regarding the license or permit holder's contractors, employees, agents, or subordinates.

(2) The department may suspend, revoke, annul, withdraw, recall, or cancel a license or permit issued under this part in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, if any of the following exists:

(a) Fraud or deceit in obtaining a permit or license or in registering under this part.

(b) A violation of this part, an order issued or a rule promulgated under this part, or the conditions of a registration, permit, or license under this part.

(c) Negligence or failure to exercise due care, including negligent supervision, regarding contractors, employees, agents, or subordinates.

(3) In addition to or in lieu of any action authorized in subsection (2), if the department finds any of the circumstances listed in subsection (2)(a) to (c), the department may issue an order directing the person to do either of the following:

(a) Discontinue handling or otherwise possessing waste.

(b) Comply with specific requirements of a permit or license issued under this part.

(4) The department may establish procedures, hold hearings, administer oaths, issue subpoenas, and order testimony to be taken at a hearing or by deposition in a proceeding under this part. A person may be compelled to appear and testify and to produce books, papers, or documents in a proceeding. In case of disobedience of a subpoena, a party to a hearing may invoke the aid of the circuit court of the county in which the hearing is held to require the attendance and testimony of witnesses. The circuit court may issue an order requiring an individual to appear and give testimony.

(5) An application for a license or permit under this part may be denied on a finding of any condition or practice that would constitute a violation of this part or any rules promulgated under this part if the applicant were a holder of the permit or a license that the applicant seeks or if there is fraud or deceit in attempting to obtain a permit or license under this part.

(6) The director or his or her authorized representatives may enter the disposal site or other location where waste is located or reasonably believed to be located at any time for the purpose of monitoring, surveillance, and inspection, and may enter at all reasonable times upon any public or private property, building, premises, place, or vehicle for the purpose of determining compliance with this part, or a permit, registration, or license condition, rule, or an order issued pursuant to this part. In the conduct of an investigation, the director or his or her authorized representatives may collect samples, conduct tests and inspections, and examine any book, record, paper, document, or other physical evidence related to the generation, management, processing, collecting, transport, storage, or disposal of waste.

(7) The department shall conduct unannounced spot checks of the premises of generators and processors who hold permits issued under this part to assure the proper packaging of waste. The unannounced spot checks provided for in this subsection shall only occur to the extent that the department has access to the premises of the generator and processor under federal law.

(8) The department shall advise the authority of regulatory actions taken under this part and shall evaluate and respond within 30 days to information received from the authority in which the authority recommends that regulatory action should be undertaken by the department.

(9) An agent or employee of the department may apply for an administrative inspection warrant pursuant to sections 2241 to 2247, or for a search warrant for purposes of collecting samples, testing, inspecting, or examining any radioactive material or any public or private property, building, premises, place, vehicle, book, record, paper, sample results, or other physical evidence related to the generation, processing, collecting, management, transport, storage, disposal, or possession of waste. It shall be sufficient probable cause to show any of the following:

(a) The sample collection, test, inspection, or examination is pursuant to a general administrative action to determine compliance with this part.

(b) An agent or employee of the department has reason to believe that a violation of this part has occurred or may occur.

(c) An agent or employee of the department has been refused access to the waste, property, building, premise, place, vehicle, book, record, document, paper, sample results, or other physical evidence related to the generation, management, processing, collecting, transport, or disposal of waste, or has been prevented from collecting samples or conducting tests, surveillance, inspections, monitoring, or examinations.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

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**333.13737 Action to restrain, enjoin, prevent, or correct violation; rules adopting schedule of monetary civil fines.**

Sec. 13737. (1) Notwithstanding the existence and pursuit of any other remedy, the director, without posting a bond, may request the attorney general to bring an action in the name of the people of this state to restrain, enjoin, prevent, or correct a violation of this part, rules promulgated under this part, or a permit or license or order issued under this part.

(2) The department may promulgate rules to adopt a schedule of monetary civil fines in accordance with sections 2262 and 2263 to enforce this part.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

**333.13738 Order requiring compliance or remedial action; emergency order; civil action; venue; civil fine; violation as misdemeanor or felony; penalty; "state of mind"; "placing person in imminent danger of death or serious bodily injury"; affirmative defense; "serious bodily injury"; action for damage; costs of litigation; intervention.**

Sec. 13738. (1) If the director finds that a person is in violation of this part, a rule promulgated under this part, or a permit or license issued under this part, the director may issue an order requiring the person to comply with this part, rule, permit, or license. An order issued pursuant to this section may require remedial actions considered necessary by the department to correct violations. An order issued by the director pursuant to this section may be an emergency order as authorized by section 2251 upon a finding and determination that an imminent danger to the health or lives of individuals exists as a result of conditions associated with the generation, processing, collecting, management, transporting, handling, disposal, or possession of waste. The attorney general may commence a civil action against a person for appropriate relief, including injunctive relief for a violation of this part or a rule promulgated under this part. An action under this subsection may be brought in the circuit court for the county of Ingham or for the county in which the defendant is located, resides, or is doing business. In addition to any other relief granted under this subsection, the court may impose a civil fine of not more than \$25,000.00 for each instance of violation and, if the violation is continuous, for each day of continued noncompliance. A fine collected under this subsection shall be forwarded to the state treasurer for deposit in the general fund.

(2) A person who possesses, generates, processes, collects, transports, or disposes of waste in violation of this part, or contrary to a license, permit, order, or rule issued or promulgated under this part, or who makes a false statement, representation, or certification in an application for, or form pertaining to, a permit or license, is guilty of a misdemeanor, punishable by a fine of not more than \$25,000.00 for each instance of violation and, if the violation is continuous, for each day of violation, or imprisonment for not more than 1 year, or both. If the conviction is for a violation committed after a first conviction of the person under this subsection, the person is guilty of a misdemeanor, punishable by a fine of not more than \$50,000.00 for each instance of violation and, if the violation is continuous, for each day of violation, or by imprisonment for not more than 5 years, or both.

(3) Any person who knowingly possesses, generates, processes, collects, transports, or disposes of waste in violation of subsection (2) and who knows at that time that he or she thereby places another person in imminent danger of death or serious bodily injury, and if his or her conduct in the circumstances manifests an unjustified and inexcusable disregard for human life, or if his or her conduct in the circumstances manifests an extreme indifference for human life, is guilty of a misdemeanor, punishable by a fine of not more than \$250,000.00 or imprisonment for not more than 2 years, or both, except that any person whose actions constitute an extreme indifference for human life is guilty of a felony punishable by a fine of not less than \$250,000.00 and not more than \$500,000.00 and imprisonment for not less than 5 years and not more than 20 years. A defendant that is not an individual and not a governmental entity shall be subject, upon conviction, to a fine of not more than \$1,000,000.00.

(4) For the purposes of subsection (3), a person's state of mind is knowing with respect to:

(a) His or her conduct, if he or she is aware of the nature of his or her conduct.

(b) An existing circumstance, if he or she is aware or believes that the circumstance exists.

(c) A result of his or her conduct, if he or she is aware or believes that his or her conduct is substantially certain to cause danger of death or serious bodily injury.

(5) For purposes of subsection (3), in determining whether a defendant who is an individual knew that his

or her conduct placed another person in imminent danger of death or serious bodily injury, both of the following apply:

(a) The person is responsible only for actual awareness or actual belief that he or she possessed.

(b) Knowledge possessed by a person other than the defendant but not by the defendant himself or herself may not be attributed to the defendant. However, in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself or herself from relevant information.

(6) It is an affirmative defense to a prosecution under this part that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of either of the following:

(a) An occupation, business, profession, or through the undertaking of an inspection of the disposal site as a representative of the local monitoring committee of the host site community.

(b) Medical treatment or professionally approved methods and such other person had been made aware of the risks involved prior to giving consent.

(7) The defendant may establish an affirmative defense under subsection (6) by a preponderance of the evidence.

(8) For purposes of subsection (3), "serious bodily injury" means each of the following:

(a) Bodily injury which involves a substantial risk of death.

(b) Unconsciousness.

(c) Extreme physical pain.

(d) Protracted and obvious disfigurement.

(e) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(9) In addition to a fine, the attorney general may bring an action in a court of competent jurisdiction to recover the full value of the damage done to the natural resources of this state and the costs of surveillance and enforcement by the state resulting from the violation. The damages and cost collected under this subsection shall be forwarded to the state treasurer for deposit in the general fund.

(10) The court, in issuing a final order in an action brought under this part, may award costs of litigation, including reasonable attorney and expert witness fees to a party, including the state, if the court determines that the award is appropriate.

(11) A person who has an interest which is or may be affected by a civil or administrative action commenced under this part shall have a right to intervene in that action.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13739 Action for injunction; noncompliance by department.**

Sec. 13739. (1) A person may bring an action for an injunction against the director to compel the director to fulfill a requirement of this part.

(2) The failure of the department to comply with a requirement of this part that pertains to specified dates by which certain acts are to occur shall not invalidate an action taken by the department after the specified date if that action is otherwise in compliance with this part.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13740 Disposition of receipts from civil fines and fees; appropriations; construction of section; expenditures required as result of release.**

Sec. 13740. (1) The department shall deposit all receipts from civil fines and fees collected pursuant to this part and from judgments, settlements, and any other payments collected pursuant to this part in the state treasury to the credit of the general fund.

(2) Funds credited to the general fund as required by this section shall be appropriated for the purposes provided in this section and if insufficient funds are available or appropriated from the general fund, the department may seek appropriations by the legislature from the low-level radioactive waste management fund for purposes authorized by this part, including, but not limited to, any of the following:

(a) Hiring personnel and any other operating and contingent expenses necessary for the proper administration of this part, to fulfill the state's obligations under the low-level radioactive waste policy act,

Public Law 96-573, 42 U.S.C. 2021b to 2021d, and if this state is a member of a compact to assure adequate involvement by this state in any compact activities and responsibilities.

(b) Regulatory costs, including, but not limited to, the costs of promulgating and enforcing administrative rules if this state enters into an agreement with the United States nuclear regulatory commission as provided in section 13707.

(c) Contracting with any person or vendor for the purpose of carrying out this part and the rules promulgated under this part.

(d) Taking any actions necessary to protect the public health, safety, and welfare, and the environment from actual or threatened harm from activities regulated under this part.

(3) This section shall not be construed to limit the financial responsibilities of a person who holds a permit or license under this part, or establish or imply any liability on the part of the state.

(4) If expenditures are required as a result of a release or threatened release, the department, the attorney general on behalf of the department, the department of natural resources, and the authority shall seek to obtain funds from a responsible party including a surety bond, secured trust fund, or other instrument, mechanism, fund, or liability insurance held by that party.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

### **333.13741 Lawful activity not prohibited or restricted.**

Sec. 13741. A municipality or county shall not prohibit or restrict a lawful activity regulated under this part.

**History:** Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

**Compiler's note:** For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

**Popular name:** Act 368

## **PART 138 MEDICAL WASTE**

### **333.13801 Short title.**

Sec. 13801. This part shall be known and may be cited as the "medical waste regulatory act".

**History:** Add. 1990, Act 18, Eff. May 31, 1990.

**Popular name:** Act 368

### **333.13803 Meanings of words and phrases; general definitions and principles of construction.**

Sec. 13803. (1) For purposes of this part, the words and phrases defined in sections 13805 and 13807 have the meanings ascribed to them in those sections.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** Add. 1990, Act 21, Eff. June 4, 1990.

**Popular name:** Act 368

### **333.13805 Definitions; A to M.**

Sec. 13805. (1) "Advisory council" means the interdepartmental medical waste advisory council created in section 13827.

(2) "Autoclave" means to sterilize using superheated steam under pressure.

(3) "Decontamination" means rendering medical waste safe for routine handling as solid waste.

(4) "Fund" means the medical waste emergency response fund created in section 13829.

(5) "Health facility or agency" means that term as defined in section 20106.

(6) "Household" means a single detached dwelling unit or a single unit of a multiple dwelling.

(7) "Infectious agent" means a pathogen that is sufficiently virulent so that if a susceptible host is exposed to the pathogen in an adequate concentration and through a portal of entry, the result could be transmission of disease to a human.

(8) "Medical waste" means any of the following that are not generated from a household, a farm operation or other agricultural business, a home for the aged, or a home health care agency:



(a) Cultures and stocks of infectious agents and associated biologicals, including laboratory waste, biological production wastes, discarded live and attenuated vaccines, culture dishes, and related devices.

(b) Liquid human and animal waste, including blood and blood products and body fluids, but not including urine or materials stained with blood or body fluids.

(c) Pathological waste.

(d) Sharps.

(e) Contaminated wastes from animals that have been exposed to agents infectious to humans, these being primarily research animals.

**History:** Add. 1990, Act 21, Eff. June 4, 1990.

**Popular name:** Act 368

### **333.13807 Definitions; P to T.**

Sec. 13807. (1) "Pathogen" means a microorganism that produces disease.

(2) "Pathological waste" means human organs, tissues, body parts other than teeth, products of conception, and fluids removed by trauma or during surgery, autopsy, or other medical procedure, and not fixed in formaldehyde. Pathological waste does not include a fetus or fetal body parts.

(3) "Point of generation" means the point at which medical waste leaves the producing facility site.

(4) "Producing facility" means a facility that generates, stores, decontaminates, or incinerates medical waste.

(5) "Products of conception" means any tissues or fluids, placenta, umbilical cord, or other uterine contents resulting from a pregnancy. Products of conception do not include a fetus or fetal body parts.

(6) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of medical waste into the environment in violation of this part.

(7) "Response activity" means an activity necessary to protect the public health, safety, welfare, and the environment, and includes, but is not limited to, evaluation, cleanup, removal, containment, isolation, treatment, monitoring, maintenance, replacement of water supplies, and temporary relocation of people.

(8) "Sharps" means needles, syringes, scalpels, and intravenous tubing with needles attached.

(9) "Storage" means the containment of medical waste in a manner that does not constitute disposal of the medical waste.

(10) "Transport" means the movement of medical waste from the point of generation to any intermediate point and finally to the point of treatment or disposal. Transport does not include the movement of medical waste from a health facility or agency to another health facility or agency for the purposes of testing and research.

**History:** Add. 1990, Act 21, Eff. June 4, 1990;—Am. 2012, Act 499, Eff. Mar. 31, 2013.

**Popular name:** Act 368

### **333.13809 Producing facility not incinerating medical waste on site; containment of medical waste.**

Sec. 13809. A producing facility that does not incinerate medical waste on site shall do all of the following to contain medical waste:

(a) Package, contain, and locate medical waste in a manner that protects and prevents the medical waste from release at the producing facility or at any time before ultimate disposal.

(b) Separate the categories of medical waste at the point of origin into appropriate containers that are labelled as required under subdivision (c).

(c) Label the containers required under subdivision (b) with a biohazard symbol or the words "medical waste" or "pathological waste" in letters not less than 1 inch high.

(d) Not compact or mix medical waste with other waste materials before decontamination, incineration, and disposal.

(e) If decontaminated medical waste is mixed with other solid waste, clearly label the container to indicate that it contains decontaminated medical waste.

(f) Store medical waste in such a manner that prevents putrefaction and also prevents infectious agents from coming in contact with the air or with individuals.

(g) If medical waste is stored outside of the producing facility, store the medical waste in a secured area or locked in a container that weighs more than 500 pounds and prevent access to the area or container by vermin or unauthorized individuals.

(h) Except as provided under subdivision (i), not store medical waste on the premises of the producing facility for more than 90 days.

(i) Store sharps contained in a sharps container on the premises of the producing facility until the sharps

container is filled to no more than 3/4 capacity but for no more than 18 months from the date the first sharps is deposited into the container.

**History:** Add. 1990, Act 21, Eff. June 4, 1990;—Am. 2024, Act 105, Imd. Eff. July 23, 2024.

**Popular name:** Act 368

### **333.13810 Producing facility incinerating medical waste on site; containment of medical waste.**

Sec. 13810. A producing facility that incinerates medical waste on site shall do all of the following to contain medical waste:

(a) Package, contain, and locate medical waste in a manner that protects and prevents the medical waste from release at the producing facility or at any time before ultimate disposal.

(b) Separate and dispose of sharps in the manner described in section 13811(d).

(c) Label the containers required under subdivision (a) with a biohazard symbol or the words "medical waste" or "pathological waste" in letters not less than 1 inch high.

(d) Except as provided under subdivision (e), not store medical waste on the premises of the producing facility for more than 90 days.

(e) Store sharps contained in a sharps container on the premises of the producing facility until the sharps container is filled to no more than 3/4 capacity but for no more than 18 months from the date the first sharps is deposited into the container.

**History:** Add. 1990, Act 21, Eff. June 4, 1990;—Am. 2024, Act 105, Imd. Eff. July 23, 2024.

**Popular name:** Act 368

### **333.13811 Storage, decontamination, and disposal of medical waste.**

Sec. 13811. A producing facility shall store, decontaminate, and dispose of medical waste pursuant to the following:

(a) Cultures and stocks of material contaminated with an infectious agent shall be stored in closed, puncture-resistant containers, decontaminated by autoclaving or incineration, and disposed of in a sanitary landfill.

(b) Blood and blood products and body fluids shall be disposed of by 1 or more of the following methods:

(i) Flushing down a sanitary sewer.

(ii) Decontaminating by autoclaving or incineration.

(iii) Solidifying.

(iv) If not in liquid form, transferring to a sanitary landfill.

(v) A process approved by the department.

(c) Pathological waste shall be disposed of by 1 or more of the following methods:

(i) Incineration or cremation.

(ii) Grinding and flushing into a sanitary sewer.

(iii) Burial in a cemetery, if transported in leakproof containers of sufficient integrity to prevent rupture.

(iv) Grinding until rendered unrecognizable, stored in closed, puncture-resistant, properly labeled containers, and, if not in liquid form, disposed of in a sanitary landfill.

(v) A process approved by the department.

(d) Sharps shall be disposed of by 1 of the following methods:

(i) Placement in rigid, puncture-resistant containers that are appropriately labeled and transported to a sanitary landfill in a manner that retains the integrity of the container.

(ii) Incineration or decontamination and grinding that renders the objects unrecognizable. Ground sharps shall be placed in a sealed, rupture-resistant container and transported to a sanitary landfill.

(iii) A process approved by the department.

(e) Animal waste contaminated with organisms infectious to humans shall be disposed of by incineration or by burial in a sanitary landfill in properly labeled, double containers that are leakproof and puncture-resistant and are tightly sealed to prevent escape of fluids or material. Contaminated animal organs disposed of separately shall be rendered unrecognizable.

**History:** Add. 1990, Act 21, Eff. June 4, 1990.

**Popular name:** Act 368

### **333.13813 Producing facility; registration; form; medical waste management plan required; registration fee; certificate of registration; investigation of complaint; inspection of facility; disposition of fees.**

Sec. 13813. (1) Each producing facility shall register with the department on a form prescribed by the department. A producing facility shall have a written medical waste management plan that contains information required in section 13817 on file on the premises within 90 days after registration.

(2) A producing facility shall submit the following registration fee with the registration form:

(a) For a producing facility that is a private practice office with fewer than 4 licensees under article 15 who are physicians, dentists, podiatrists, certified nurse practitioners, certified nurse midwives, or veterinarians employed by, under contract to, or working at the producing facility, a registration fee of \$50.00.

(b) For a producing facility that is a private practice office with 4 or more licensees under article 15 who are physicians, dentists, podiatrists, certified nurse practitioners, certified nurse midwives, or veterinarians employed by, under contract to, or working at the producing facility, a registration fee of \$20.00 for each licensee, up to a maximum total registration fee of \$80.00.

(3) Upon receipt of a complete registration form and registration fee under this section or section 13815, the department shall issue a certificate of registration to the producing facility. A certificate of registration issued under this section is valid for 3 years from its date of issuance. The department shall investigate each complaint received and may inspect a producing facility registered under this section pursuant to the receipt of a complaint.

(4) Registration fees collected pursuant to this section and section 13815 shall be forwarded to the state treasury and deposited pursuant to section 13829.

**History:** Add. 1990, Act 18, Eff. May 31, 1990.

**Popular name:** Act 368

### **333.13815 Registration fee.**

Sec. 13815. A producing facility shall submit the following registration fee with the registration form required under section 13813:

(a) For a producing facility that is a health facility or agency other than a hospital described in subdivision (b) and for a producing facility that is not a health facility or agency, a registration fee of \$75.00.

(b) For a producing facility that is a health facility or agency that is a hospital with 150 or more licensed beds or a clinical laboratory, a registration fee of \$150.00.

**History:** Add. 1990, Act 21, Eff. June 4, 1990.

**Popular name:** Act 368

### **333.13817 Medical waste management plan; contents; compliance; update; availability.**

Sec. 13817. (1) The medical waste management plan required in section 13813 shall contain information relating to the handling of all medical waste generated, stored, decontaminated, or incinerated at each producing facility or transported from the producing facility for handling by another facility for storage, decontamination, incineration, or for disposal in a sanitary landfill, cemetery, or other disposal site. A professional corporation may identify and prepare a common medical waste management plan for all producing facilities owned and operated by the corporation. The medical waste management plan shall describe each of the following, to the extent the information is applicable to the producing facility:

(a) The types of medical waste handled.

(b) The segregation, packaging, labeling, and collection procedures used.

(c) The use and methods of on-site or off-site storage.

(d) The use and methods of on-site or off-site decontamination.

(e) The use of on-site or off-site incineration.

(f) The corporate or other legally recognized business name of solid waste haulers who transport medical waste for the producing facility.

(g) The use of sanitary landfills, cemeteries, and other disposal sites.

(h) The measures to minimize exposure of the facility's employees to infectious agents throughout the process of handling and disposing of the medical waste, including, where applicable, the use of protocols, procedures and training, personal protective devices and clothing, physical containment or isolation devices or systems, and prevention or control of aerosols.

(i) The name of the individual responsible for the management of the medical waste.

(2) A medical waste management plan shall comply with the requirements of this act.

(3) A producing facility shall update a medical waste management plan each time there is a change in either of the following, within 30 days after the change occurs:

(a) A person or site named in the plan.

(b) The types of medical waste handled or the methods of handling medical waste at the facility.

(4) Upon request, a producing facility shall make its medical waste management plan available to the

department pursuant to a routine or unannounced inspection or the investigation of a complaint.

(5) Upon receipt of 24 hours' advance notice, a producing facility shall make its medical waste management plan available to an employee of the producing facility for inspection on the premises or provide a copy of the medical waste management plan to the employee.

(6) A producing facility shall comply with its medical waste management plan.

**History:** Add. 1990, Act 18, Eff. May 31, 1990.

**Popular name:** Act 368

### **333.13819 Medical waste management plan; modification; warning.**

Sec. 13819. (1) Upon review of a medical waste management plan under section 13817(4), the department may require a producing facility to modify the medical waste management plan at any time the department determines the plan is not adequate to protect the public health or is inconsistent with state or federal law. Upon determining that the plan is inadequate or inconsistent under this section, the department shall notify the producing facility in writing of its determination and the specific modifications necessary for compliance. The producing facility shall modify the plan within 10 days after receipt of the notice from the department.

(2) The department may issue a warning to a producing facility that fails to modify a plan within the 10-day period.

**History:** Add. 1990, Act 18, Eff. May 31, 1990.

**Popular name:** Act 368

### **333.13821 Manner of packaging medical waste.**

Sec. 13821. A producing facility that transports medical waste off the premises of the producing facility shall package the medical waste in the following manner:

(a) Sharps that are not ground or incinerated as described in section 13811(d) shall be contained for disposal in individual leakproof, rigid, puncture-resistant containers that are secured to preclude loss of the contents. In addition, a container used to store or transport a number of individual sharps containers shall be leakproof. These containers shall be conspicuously labeled with the word "sharps". Sharps that are contained pursuant to this subdivision may be disposed of as solid waste pursuant to part 115 (solid waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11501 to 324.11549 of the Michigan Compiled Laws. However, sharps shall not be compacted or handled during transport in a manner that will result in breakage of a sharps container.

(b) Medical waste other than sharps shall be contained in bags other than body pouches or other containers that are impervious to moisture and have a strength sufficient to resist ripping, tearing, breaking, or bursting under normal conditions of usage or handling. The bags or containers shall be secured so as to prevent leakage during storage, handling, or transport.

**History:** Add. 1990, Act 18, Eff. May 31, 1990;—Am. 1996, Act 67, Imd. Eff. Feb. 26, 1996.

**Popular name:** Act 368

### **333.13823 Investigation and confirmation of reported medical waste on land or water; report; protective measures; consultations; information on results of investigation.**

Sec. 13823. (1) If suspected medical waste is discovered on any land or water in the state and reported to the department of natural resources, the department of public health, a local health department, the department of state police, or any other state or local governmental agency, the agency or department receiving the report shall promptly investigate to confirm the existence of medical waste. If the existence of medical waste is confirmed by a department or agency other than the department of natural resources, a report shall be transmitted immediately to the department of natural resources. The department of natural resources may if appropriate take measures to contain the medical waste, to close off the area, to remove the medical waste from the environment, and to do all things necessary to protect the public health, safety, and welfare and the environment. The department of natural resources may if appropriate conduct an investigation to determine the source of the medical waste.

(2) The department of natural resources may consult with the department of public health, the appropriate local health department, the department of state police, and the department of attorney general on the actions taken by the department of natural resources under this section.

(3) After the department of natural resources confirms the existence of medical waste under this section, the department of natural resources shall inform the legislature, the governor, the advisory council, and the public on the results of any investigation conducted within 30 days after the investigation is completed.

**History:** Add. 1990, Act 18, Eff. May 31, 1990.

**Popular name:** Act 368

**333.13825 Investigation and confirmation of violation; report; corrective and protective measures; consultations; assistance; information on results of investigation.**

Sec. 13825. (1) If there is a suspected violation of this part on the premises of a health facility or agency or on the premises of an incinerator owned and operated by a health facility or agency, the department of public health shall promptly conduct an investigation to confirm the violation. If the suspected violation is reported to the department of natural resources, a local health department, the department of state police, or any other state or local governmental agency, the report immediately shall be transmitted to the department of public health. If the investigation confirms the existence of a violation of this part, the department of public health may if appropriate take measures to correct the violation and to do all things necessary to protect the public health, safety, and welfare and the environment.

(2) The department of public health may consult with the department of natural resources, the appropriate local health department, the department of state police, and the department of attorney general on the actions taken by the department of public health under this section. If the suspected violation of this part is at an incinerator owned and operated by a health facility or agency, the department of public health immediately shall notify the department of natural resources and request the assistance of the department of natural resources in conducting the investigation.

(3) If the department of public health confirms the existence of a violation under this section, the department of public health shall inform the legislature, the governor, the advisory council, and the public on the results of the investigation conducted within 30 days after the investigation is completed.

**History:** Add. 1990, Act 18, Eff. May 31, 1990.

**Popular name:** Act 368

**333.13827 Interdepartmental medical waste advisory council; creation; appointment and qualifications of members; chairperson; duties of advisory council.**

Sec. 13827. (1) The interdepartmental medical waste advisory council is created in the department. The council shall consist of the following members appointed as follows:

(a) One individual appointed by the director of public health representing the department.

(b) One individual appointed by the director of the department of natural resources representing the department of natural resources.

(c) One individual appointed by the director of the department of state police representing the department of state police.

(d) One individual appointed by the director of commerce representing the department of commerce, who has knowledge of tourism in the state.

(e) One individual appointed by the attorney general representing the department of the attorney general.

(2) The representative of the department shall serve as chairperson.

(3) The advisory council shall do all of the following:

(a) Collect data pertaining to medical waste reports and investigations under this part.

(b) Annually report to the governor, the standing committees in the senate and house of representatives with jurisdiction over public health matters, the department of public health, and the department of natural resources on all of the following:

(i) The number of medical waste reports received and investigations conducted under this part.

(ii) The implementation and effectiveness of this part.

(iii) Changes in the overall regulatory scheme pertaining to medical waste, including, but not limited to, the enactment of pertinent federal law.

(iv) Recommendations, if any, that the advisory council has for changes to this part or any other state statute or rule that pertains to medical waste.

(v) Coordinate reports and investigations under this part between the department of public health and the department of natural resources.

**History:** Add. 1990, Act 18, Eff. May 31, 1990.

**Popular name:** Act 368

**333.13829 Medical waste emergency response fund; creation; deposits; investments; interest and earnings; no reversion to general fund; use of fund.**

Sec. 13829. (1) The medical waste emergency response fund is created in the state treasury.

(2) The state treasurer shall deposit in the fund all money received pursuant to this act and all money received by the fund as otherwise provided by law.

(3) The state treasurer shall direct the investment of the fund. Interest and earnings of the fund shall be



credited to the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(4) Not more than 80% of the total amount in the fund shall be used by the department of public health for administrative expenses related to the implementation of this part, and the balance may be used by the department of natural resources for response activities necessitated by the release of medical waste into the environment.

**History:** Add. 1990, Act 18, Eff. May 31, 1990.

**Popular name:** Act 368

### **333.13830 Rules to prescribe training standards.**

Sec. 13830. (1) The department shall promulgate rules to prescribe training standards for both medical and nonmedical personnel who handle medical waste in producing facilities.

(2) Each producing facility shall train its personnel who handle medical waste pursuant to the rules promulgated under subsection (1).

**History:** Add. 1990, Act 18, Eff. May 31, 1990.

**Popular name:** Act 368

**Administrative rules:** R 325.1541 et seq. of the Michigan Administrative Code.

### **333.13831 Violation; administrative fine; failure to register or have plan available for inspection; injunction.**

Sec. 13831. (1) Except as provided in subsection (2), a person who violates this part or a rule promulgated under this part is subject to an administrative fine of not more than \$2,500.00 for each violation and an additional fine of not more than \$1,000.00 for each day during which the violation continues. For a first offense, the department of public health or the department of natural resources may postpone the levying of a fine under this subsection for not more than 45 days or until the violation is corrected, whichever occurs first.

(2) A person who fails to register with the department or have a medical waste management plan available for inspection in compliance with sections 13813 and 13817 is subject to an administrative fine of \$500.00.

(3) A person who violates this act may be enjoined by a court of competent jurisdiction from continuing the violation.

**History:** Add. 1990, Act 18, Eff. May 31, 1990.

**Popular name:** Act 368

### **333.13832 Part subject to MCL 324.1401 to 324.1429.**

Sec. 13832. This part is subject to part 14 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1401 to 324.1429.

**History:** Add. 2012, Act 556, Imd. Eff. Jan. 2, 2013.