DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF FIRE SERVICES

FIREWORKS SAFETY GENERAL RULES

(By authority conferred on the department of licensing and regulatory affairs by sections 20(1) and 20(2) of 2011 PA 256, MCL 28.470(1) and 28.470(2))

PART 1. GENERAL PROVISIONS

R 29.2901 Applicability.

Rule 1. These rules shall apply to all new and existing permanent buildings or structures and temporary facilities at which both consumer and low-impact fireworks are sold.

History: 2013 AACS.

R 29.2902 Definitions.

Rule 2. As used in these rules:

(a) "Act" means the Michigan fireworks safety act, 2011 PA 256, MCL 28.451 to 28.471.

(b) "Bureau" means the department of licensing and regulatory affairs' bureau of fire services.

(c) "Department" means the department of licensing and regulatory affairs.

(d) "NFPA" means the standard established by the national fire protection association headquartered at 1 Batterymarch Park, Quincy, Massachusetts.

(e) "National holidays" as identified in section 7(2) of the act, means national holidays as defined in 5 U.S.C. 6103 (1998).

(f) "Permanent building or structure" means both of the following:

(i) Stores.

(ii) Consumers fireworks retail sales (cfrs) facilities, as defined by nfpa 1124 (2006 edition).

(g) "Temporary facilities" means a building or structure not meeting the definition for a permanent building or structure, at which consumer and low-impact fireworks are sold, including the following:

(i) Consumer fireworks retail stands.

(ii) Tents.

(iii) Canopies.

(iv) Membrane structures.

History: 2013 AACS.

R 29.2903 Applications.

Rule 3. The bureau shall create uniform applications and other forms for dissemination to and for use by applicants for retail sales and local units of government as provided under section 16 of the act and published in electronic format at http://www.michigan.gov/bfs. Applications for retail sales may be submitted after January 1 of the calendar year for which the certificate will be issued.

History: 2013 AACS.

R 29.2904 Rescinded.

History: 2013 AACS; 2014 AACS.

R 29.2905 Collection of fees.

Rule 5. The bureau shall create procedures for the collection of applications and fireworks safety fees in accordance with the act, the Michigan department of treasury rules and procedures, and department of licensing and regulatory affairs tax and finance procedures, and shall include all of the following:

(a) Pursuant to sections 8 and 9 of the act, MCL 28.458 and 28.459, a person who sells consumer fireworks or low-impact fireworks, or both, at retail locations shall collect the 6% fireworks safety fee when the gross retail income is $1.04 or more as determined before any taxes are applied. This fee shall be in addition to the 6% Michigan state sales tax. A person who fails to collect and remit the fireworks safety fee is guilty of a misdemeanor punishable by a fine of not more than $10,000. A person who is found guilty under section 18c of the act**,** MCL 28.468c, shall not be eligible to obtain a consumer fireworks certificate for the specified time period.

(b) Pursuant to section 10 of the act, MCL 28.460, the remittance of the fireworks safety fee shall be filed with the department on forms prescribed by the department not later than 20 calendar days after the end of each preceding month. The forms and submission schedule are published in electronic format at http://www.michigan.gov/bfs. A person shall file the fireworks safety fees and the required forms by either of the following methods:

(i) Electronically submitting them to the bureau at http://www.michigan.gov/bfs.

(ii) Sending them to the bureau by United States mail. Fireworks safety fees and requisite filing forms shall be postmarked by the filing date and mailed to: Department of Licensing and Regulatory Affairs, Bureau of Fire Services, P.O. Box 30642, 7150 Harris Drive, Lansing, MI 48909. Checks or money orders shall be payable to the state of Michigan.

(c) A person who possesses a consumer fireworks certificate but does not record any sales of consumer fireworks, shall file forms prescribed by the bureau and indicate that no sales were transacted in the previous month. The required forms shall be filed with the bureau either electronically or by United States mail, using the same addresses provided in subdivision (b)(i) and (ii) of this rule, not later than 20 calendar days after the end of each preceding month.

History: 2013 AACS; 2014 AACS.

R 29.2906 Transfer of certificate.

Rule 6. (1) A consumer fireworks certificate is transferrable in accordance with section 4(6) of the act, MCL 28.454(6).

(a) A new applicant shall submit an application and other required information, other than plans, with a $25 transfer fee.

(b) The consumer fireworks certificate may be transferred to a new entity that is in the same physical location and that has had no modification made to the facility since the last required inspection.

(c) The consumer fireworks certificate for a temporary facility may be transferred to a new location upon the submission to the bureau of an application for location transfer that meets all of the following:

(i) The bureau received the application not later than June 1 of the certificate year.

(ii) No changes were made to the submitted plans other than site location.

(iii) No previous inspection was conducted.

(2) Not more than 1 entity or location transfer is permitted per certificate per year.

History: 2013 AACS; 2014 AACS.

R 29.2907 Refunds.

Rule 7. Refunds of 70% of the certificate application fee are permitted only under either of the following conditions:

(a) The refund request is for an accidental duplicate payment for the same cfrs location for which payment was already made.

(b) The refund request is due to the death of an applicant and the certificate has not been issued.

History: 2013 AACS; 2014 AACS.

R 29.2908 Inspection.

Rule 8. The bureau shall establish an inspection process to confirm that the retail location meets the requirements of the act and the national codes and standards as adopted by reference in R 29.2909 for the retail sale of consumer fireworks. The state fire marshal or the state fire marshal's designee may enter and inspect the retail locations issued a consumer fireworks certificate at any reasonable time.

History: 2013 AACS.

PART 2. FIRE SAFETY REQUIREMENTS

R 29.2909 Code for manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles; adoption by reference.

Rule 9. Except as amended by part 2 of these rules, the provisions of Chapters 1 to 3 and 7, nfpa (national fire protection association) 1124, entitled "code for the manufacture,

transportation, storage, and retail sales of fireworks and pyrotechnic articles," 2006 edition, are adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the Bureau of Fire Services, Michigan Department of Licensing and Regulatory Affairs, P.O. Box 30700, 3101 Technology Boulevard, Suite H, Lansing, Michigan 48910, or from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1-800-344-3555. The cost as of the time of adoption of these rules is $46.50 per copy.

History: 2013 AACS; 2014 AACS.

R 29.2910 Administration.

Rule 10. Sections 1.1, 1.2, and 1.3 of the code are amended and sections 1.3.2.1, 1.3.2.1.1, 1.3.2.1.2, 1.3.2.2, 1.3.2.3, 1.3.2.3.1, 1.3.2.3.2, and 1.3.2.5 of the code are deleted to read as follows:

1.1 Scope. This code shall provide regulations for the construction, use, and maintenance of buildings and facilities for the retail sales and related storage of consumer fireworks in cfrs facilities and stores.

1.2 Purpose. The purpose of this code shall be to establish reasonable minimum fire and life safety requirements for the storage and retail sales of consumer fireworks.

1.3 Application. This code shall apply to the storage and retail sales of consumer fireworks.

1.3.2.1 Deleted.

1.3.2.1.1 Deleted.

1.3.2.1.2 Deleted.

1.3.2.2 Deleted.

1.3.2.3 Deleted.

1.3.2.3.1 Deleted.

1.3.2.3.2 Deleted.

1.3.2.5 Deleted.

History: 2013 AACS.

R 29.2911 Referenced publications.

Rule 11. Sections 2.2, 2.3.1 and 2.4 of chapter 2 of the code are amended to read as follows:

2.2 NFPA publications.

The following publications may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471.

NFPA 1, uniform fire code, 2006 edition. $79.00 each.

NFPA 10, standard for portable fire extinguishers, 2002 edition. $38.00 each.

NFPA 13, standard for the installation of sprinkler systems, 2002 edition. $72.00 each.

NFPA 45, standard on fire protection for laboratories using chemicals, 2004 edition. $38.00 each.

NFPA 70, national electrical code®, 2005 edition. References to this standard mean R 408.30801 to R 408.30880.

NFPA 72®, national fire alarm code®, 2002 edition. $54.00 each.

NFPA 101®, life safety code®, 2009 edition. $85.00 each.

NFPA 102, standard for grandstands, folding and telescopic seating, tents, and membrane structures, 1995 edition. $29.00 each.

NFPA 204, standard for smoke and heat venting, 2002 edition. $38.00 each.

NFPA 230, standard for the fire protection of storage, 2003 edition. $41.50 each.

NFPA 255, standard method of test of surface burning characteristics of building materials, 2006 edition. $29.00 each.

NFPA 256, standard methods of fire tests of roof coverings, 2003 edition. $29.00 each.

NPFA 259, standard test methods for potential heat of building materials, 2003 edition. $33.50 each.

NFPA 430, code for the storage of liquid and solid oxidizers, 2004 edition. $34.50 each.

NFPA 432, code for the storage of organic peroxide formulations, 2002 edition. $34.50 each.

NFPA 1122, code for model rocketry, 2002 edition. $29.00 each.

NFPA 1123, code for fireworks display, 2010 edition. $37.50 each.

NFPA 1125, code for the manufacture of model rocket and high power rocket motors, 2001 edition. $34.50 each.

NFPA 1126, standard for the use of pyrotechnics before a proximate audience, 2011 edition. $32.00 each

NFPA 1127, code for high power rocketry, 2002 edition. $29.00 each.

2.3.1 APA Publication. American Pyrotechnics Association, P.O. Box 30438, Bethesda, MD 20824. APA 87-1, Standard for the Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition. $60.00 each.

2.4 References for extracts in mandatory sections.

NFPA 495, explosive materials code, 2006 edition. $43.00 each.

NFPA 1123, code for fireworks display, 2010 edition. $37.50 each.

NFPA 1125, code for the manufacture of model rocket and high power rocket motors, 2001 edition. $34.50 each.

NFPA 1126, standard for the use of pyrotechnics before a proximate audience, 2011 edition. $32.00 each

NFPA 5000®, building construction and safety code®, 2006 edition. References to this standard mean R 408.30401 to R 408.30547, R 408.30551 to R 408.30577.

History: 2013 AACS.

R 29.2912 Definitions.

Rule 12. Sections 3.2.2, 3.2.3, 3.3.19, 3.3.30, 3.3.30.1, 3.3.30.2, 3.3.48, 3.3.51, and 3.3.52 are amended and sections 3.2.3.1, 3.3.30.3, 3.3.30.4, 3.3.65.1, and 3.3.78 are added to read as follows:

3.2.2 “Authority having jurisdiction” means the director of the department or an employee of the department appointed by the director to implement the act.

3.2.3 “Code” means the national fire protection association pamphlet no. 1124, 2006 edition, entitled “code for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles” as amended by these rules.

3.2.3.1 “Act” means 2011 PA 256, the Michigan fireworks safety act, MCL 28.451 to 28.471.

3.3.19 “Consumer fireworks retail stand” means a temporary or permanent building or structure that has a floor area not greater than 800 sq. ft. (74 sq. m.), other than tents, canopies, or membrane structures, that is used primarily for the retail display and sale of consumer fireworks to the public. Stands may include, but are not limited to, small buildings, plywood and sheet metal structures, manufactured buildings, semitrailers, shipping containers, or similar structures or facilities.

3.3.30 “Firework or fireworks” means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

3.3.30.2 “Display fireworks” means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

3.3.30.3 “Low-impact fireworks” means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

3.3.30.4 “Special effects” means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

3.3.48 “Novelties” means devices as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

(a) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(b) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps, as described in subdivision (a) of this rule, are used that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated to form a missile by the explosion.

(c) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(d) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer’s name and the quantity contained in each box are printed on the box; and toy smoke devices.

3.3.51 “Permanent building or structure” means a building or structure that is affixed to a foundation on a site that has fixed utility connections and that is intended to remain on the site for more than 180 consecutive calendar days.

3.3.52 “Person” means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.

3.3.65.1 “Retailer” means a person who sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.

3.3.78 “Minor” means an individual who is less than 18 year of age.

History: 2013 AACS.

R 29.2913 Retail sales of consumer fireworks.

Rule 13. Sections 7.2.1, 7.3.2, 7.3.3, 7.3.6, 7.3.13, 7.3.16, 7.3.18.1, 7.3.23, 7.4.9.1.1, 7.4.9.2.4, 7.5.1.1, 7.6.2.2 of chapter 7 of the code are amended, section 7.3.13.1 is added, and sections 7.3.18.2 and 7.4.9.2.1 of the code are deleted to read as follows:

7.2.1 Retail sales of consumer fireworks, including their related storage and display for sale of such fireworks, shall be in accordance with this code and the act.

7.3.2 Consumer fireworks certificate. A consumer fireworks certificate shall be obtained in accordance with the act and these rules.

7.3.3 Plans.

(1) Plans shall be submitted to the bureau no later than April 1 of the application year. All of the following apply to plans:

(a) Exempt amounts: Plans are not required for applications of temporary or permanent facilities under either of the following conditions:

(i) Where the consumer fireworks are in packages and where the total quantity of consumer fireworks on hand does not exceed 125 pounds (net) (56.8 kg) of pyrotechnic composition.

(ii) Where the consumer fireworks are in a building protected throughout with an approved automatic sprinkler system installed pursuant to nfpa 13, standard for the installation of sprinkler systems, and do not exceed 250 pounds (net) (113.6 kg) of pyrotechnic composition.

(b) For temporary or permanent facilities under subrule (1)(a)(i) or (ii) of this rule, a product inventory, including package weights, shall be available upon request by the bureau or delegated representative of the bureau for verification during inspection.

(c) Plans are not required for renewal applications of permanent facilities unless changes to the site, facility structure, or floor plan have occurred since the previous year application.

(d) Temporary non-exempt amount facilities shall submit a site plan and shall have a floor plan available for inspection at the facility site that shows the location of tables, displays, and exits. New permanent non-exempt amount facilities shall submit both a site plan and a floor plan. Plans for temporary and permanent facilities shall be drawn in a professional manner on suitable material. Electronic media plans shall be acceptable. Plans shall be of sufficient detail and clarity to show the information specified in subrules (2), (3), and (4) of this rule, as applicable:

(2) Site plans for temporary facilities shall indicate all of the following, including minimum distances from the following, as applicable:

(a) Public ways: within 150 feet of a public way or an approved fire apparatus access.

(b) Buildings: a minimum distance of 20 feet.

(c) Other cfrs facilities: a minimum distance of 20 feet.

(d) Motor vehicle fuel-dispensing station dispensers: a minimum distance of 50 feet.

(e) Retail propane-dispensing station dispensers: a minimum distance of 50 feet.

(f) Flammable and combustible liquid above-ground tank storage: a minimum distance of 50 feet.

(g) Flammable gas and flammable liquefied gas bulk above-ground storage and dispensing areas: a minimum distance of 300 feet.

(h) Vehicle access and parking areas.

(i) Storage of consumer fireworks: a minimum distance of 20 feet.

(3) Site plans for permanent facilities shall indicate all of the following, including minimum distances from the following, as applicable:

(a) Public ways: within 150 feet of a public way or an approved fire apparatus access.

(b) Other buildings: minimum distances pursuant to 7.4.7.1.1 and 7.4.7.1.2 of the code.

(c) Motor vehicle fuel-dispensing station dispensers: a minimum distance of 50 feet.

(d) Retail propane-dispensing station dispensers: a minimum distance of 50 feet.

(e) Flammable and combustible liquid above-ground tank storage: a minimum distance of 50 feet.

(f) Flammable gas and flammable liquefied gas bulk above-ground storage and dispensing areas: a minimum distance of 300 feet.

(g) Vehicle access and parking areas.

(4) Floor plans for only permanent facilities shall indicate the following, as applicable:

(a) Location and type of portable fire extinguishers.

(b) A dimensioned floor plan with room names that shows the layout of storage and displays to indicate compliance with this chapter including aisles, proposed flame break locations and construction, proposed shelving materials, and height of displays and shelving.

(c) Means of egress, including the location of exit doors, size of doors, exit signs, aisle widths, emergency lights, and travel distance to exits.

(d) Construction details for structures and fire-rated construction for required walls**,** including ceiling height and square footage of the building.

(e) The maximum expected quantity of pyrotechnic material on display and maximum expected quantity of pyrotechnic material stored on site.

(5) A copy of the plans required by this rule shall be kept on site for review by the bureau or delegated representative of the bureau, and the copy shall be provided by the applicant to the local fire department at the time of application for use in pre-incident review and planning.

7.3.6 An automatic sprinkler system designed and installed in accordance with ordinary hazard group 2 for ceiling heights under 16 feet (4.9m) or in accordance with extra hazard group 1 for ceiling heights 16 feet (4.9m) or above under nfpa 13, standard for the installation of sprinkler systems, shall be provided for the following permanent cfrs facilities and stores in which cfrs are conducted:

(1) New buildings greater than 6000 sq. ft. (557.2 m^2) in area.

(2) Existing buildings greater than 7500 sq. ft. (694 m^2) in area.

7.3.13 Fire safety and evacuation plan. For a cfrs facility or store, a fire safety and evacuation plan shall be prepared in writing, maintained current, and available for inspection upon request.

7.3.13.1 The fire safety and evacuation plan shall include, but not be limited to all of the following information:

(1) The procedure for reporting a fire or other emergency.

(2) The procedure for alerting occupants of a fire or other emergency.

(3) Emergency egress floor plans indicating all exits, manual fire alarm boxes, portable extinguishers, and fire alarm panels and controls.

(4) A list of fire hazards associated with the normal products in the facility, including maintenance, general fire safety, and housekeeping practices.

(5) The procedure to ensure all employees receive initial and on-going training in their responsibilities under the fire safety and evacuation plan.

7.3.16 Electrical equipment. All electrical wiring shall be in accordance with the Michigan electrical code, R 408.30801 to R 408.30880.

7.3.18.1 Fuel for generators shall be permitted to be class I, class II or class III liquids and shall be limited to not more than 5 gallons (18.9L)

7.3.18.2 Deleted.

7.4.9.2.1 Deleted.

7.4.9.1.1 Temporary wiring installed in a temporary structure, including tents and canopies, shall comply with the Michigan electrical code, R 408.30801 to R 408.30 880.

7.4.9.2.4 Where the generator fuel storage is located not less than 50 ft (15.2m) from the cfrs facility, the quantity of such fuel shall not be limited by section 7.3.18.

7.5.1.1 For the purpose of this chapter, stores in which retail sales of consumer fireworks are conducted shall not be considered cfrs facilities as defined in section 3.3.29.1 where both of the following conditions exist:

(1) The area of the retail sales floor occupied by the retail displays of consumer fireworks does not exceed 25 percent of the area of the retail sales floor in the building or 600 ft2 (55.5 m2), whichever is less.

(2) The consumer fireworks are displayed and sold in a manner consistent with the act and comply with the applicable provisions of this code and federal and state law.

7.6.2.2 Fire safety and evacuation plan. For a temporary cfrs stand, a fire safety and evacuation plan in compliance with section 7.3.13.1 shall be prepared in writing, maintained current, and available for inspection upon request.

History: 2013 AACS; 2014 AACS.

R 29.2914 Verification of compliance.

Rule 14. Consumer fireworks shall not be sold at a retail location until plans required under R 29.2913 have been received and approved by the bureau and the bureau verifies compliance with section 5 of the act, MCL 28.455; nfpa 1124; and**,** these rules. Verification may be accomplished by either of the following:

(a) A site inspection of the retail location by the bureau or a delegated representative of the bureau. The bureau shall be the authority having jurisdiction to enforce the applicable nfpa codes.

(b) Attestation at the time of application by the person filing the certificate application stating that the certified retail location will comply with section 5 of the act, nfpa 1124, and these rules, and that plans have been submitted and approved pursuant to R 29.2913 prior to selling consumer fireworks.

History: 2013 AACS; 2014 AACS.

PART 3. VIOLATIONS AND PENALTIES

R 29.2915 Violations.

Rule 15. If the bureau determines during the physical site inspection that violations exist, the person holding the certificate for the retail location shall be responsible for a civil fine pursuant to the act and R 29.2916. The bureau may seize fireworks pursuant to section 14(2) of the act, MCL 28.464(2), for failure to pay any fine within the time written on the violation notice.

History: 2013 AACS; 2014 AACS.

R 29.2916 Sanctions.

Rule 16. The bureau may issue violation citations and assess civil infraction fines and penalties for any violations of the act and applicable rules, including those observed by bureau personnel while they are performing their duties. The bureau may enforce violation citations and civil infraction fines and penalties pursuant to the department's obligation to administer the requirements of the act. When bureau personnel determine a violation of the act or applicable rules exists, these violations shall be stated on a violation citation form prescribed by section 17a of the act and copy of the citation shall be submitted to the state fire marshal.

History: 2013 AACS.

R 29.2917 Persons subject to penalty.

Rule 17. A person applying for a consumer fireworks certificate under the act may be subject to any and all penalties as prescribed by the act. The bureau may forward information regarding violations of the act subject to potential criminal sanctions to the prosecutor for the jurisdiction in which the alleged violation of the act has occurred.

History: 2013 AACS.

R 29.2918 Proof of insurance.

Rule 18. Proof of insurance as required by section 5(3) of the act shall be in writing, be current, and be available for inspection upon request at each retail location.

History: 2013 AACS.

R 29.2919 Technical review of certificate denials.

Rule 19. A person denied a certificate for a retail location may file an appeal in writing with the state fire marshal within 28 calendar days of the issuance of the denial. An appeal

of a certificate denial shall be based on the following technical review procedure within 28 calendar days of receipt:

(a) The state fire marshal, or the state fire marshal's designee, shall conduct a technical review of the certificate denial and decide the matter based on the interested parties' written submissions and documents, bureau records, applicable rules, and the state fire marshal's technical expertise.

(b) The state fire marshal is not authorized to conduct a hearing.

(c) The state fire marshal shall issue a technical review decision setting forth the state fire marshal's material findings of fact, conclusions of law, and remedial orders, if any.

The technical review decision of the state fire marshal shall be deemed to be final department action for purposes of judicial review under chapter 4 of the administrative procedures act,1969 PA 306, MCL 24.271 to 24.287.

History: 2013 AACS.

R 29.2920 Appeal of violation citation or civil infraction penalty or fine.

Rule 20. A party wishing to appeal the violation citation, any penalty or fine assessed for such violation, or both, shall file within 15 calendar days of issuance of the violation citation an appeal with the state fire marshal. An appeal of the violation citation does not automatically stay a party's obligation to take action necessary to remedy the violation. The appeal process shall consist of all of the following:

(a) The state fire marshal, or the state fire marshal's designee, shall conduct a review of the violation citation appeal and decide the matter based on the interested parties' written submissions and documents, bureau records, applicable rules, and the state fire marshal's technical expertise.

(b) The state fire marshal is not authorized to conduct a hearing.

(c) Within 28 calendar days of receipt of an appeal of a violation citation, the state fire marshal, or the state fire marshal's designee, shall issue a review decision setting forth the material findings of fact, conclusions of law, and remedial orders, if any. The review decision of the state fire marshal, or the state fire marshal's designee, shall contain notice of the right of interested parties to file an appeal to the state fire safety board within 28 calendar days of issuance.

History: 2013 AACS; 2014 AACS.

R 29.2921 Waiver of hearing; acknowledgement of violation.

Rule 21. A party issued a certificate for a retail location cited for a violation of the act or applicable rules may waive the right to appeal and acknowledge the violation or violations specified in the citation. The waiver of the right to appeal and acknowledgement of the violation shall be in accordance with section 17a of the act. The certificate holder may explain, on a separate sheet of paper, any mitigating circumstances which the certificate holder believes should be considered in disposing of the violation.

History: 2013 AACS.

R 29.2922 Appeal of state fire marshal's review decision to the state fire safety board.

Rule 22. An interested party to the review proceeding may file an appeal of the state fire marshal's final review decision under R 29.2920 of these rules to the state fire safety board within 28 calendar days of the issuance of the final review decision. The appeal process shall consist of the following:

(a) The state fire safety board shall conduct a technical review of the state fire marshal's final review decision and decide the matter based solely on the administrative record created by the state fire marshal.

(b) The state fire safety board is not authorized to conduct a contested hearing.

(c) The state fire safety board shall issue a decision setting forth its material findings of fact, conclusions of law, and remedial orders, if any, after official action by the state fire safety board at a regularly scheduled or special meeting.

(d) The decision of the state fire safety board shall contain notice of the right of interested parties to file an appeal to the Michigan administrative hearings system (mahs) within 28 calendar days of issuance of the board's decision.

History: 2013 AACS.

R 29.2923 Administrative law appeal.

Rule 23. An appeal from the state fire safety board decision will be a contested case before a mahs administrative law judge governed by chapter 4 of 1969 PA 306, MCL 24.271 to 24.287, and the act.

History: 2013 AACS.

R 29.2924 Proposed decision of administrative law judge.

Rule 24. The proposed decision of the administrative law judge shall be as follows:

(a) Within 10 business days of the conclusion of a hearing or within 5 business days of the receipt of the transcript, if any, or the additional time as allowed by the administrative law judge, each party may file with the administrative law judge a proposed order, including proposed findings of fact and conclusions of law, with the supporting argument and reasoning as are necessary to support the proposed order.

(b) Within 20 business days of the conclusion of a hearing or within 15 business days of the receipt of the transcript, if any, the administrative law judge shall serve upon parties by certified mail or personal service a proposed decision which shall include all of the following:

(i) A statement of the reasons for the proposed decision.

(ii) Issues of fact and law necessary for the proposed decision.

(iii) The decision of the administrative law judge which shall be based upon consideration of the whole record and shall be made on the basis of a preponderance of reliable and probative evidence.

(c) Unless a party, within 10 business days of the receipt of the proposed decision, files exceptions to the proposed decision with supporting reasons, the proposed decision shall become a final decision of the director of the department. Exceptions shall refer to the

specific issues of fact and law, or excepted terms of the proposed decision. If the testimony had been transcribed, reference shall be made to specific pages of the transcript, and shall suggest modified issues of fact and law, and terms of the proposed decision.

(d) An administrative law judge's proposed decision under this rule shall not be operative while that decision is being referred to the director.

History: 2013 AACS.

R 29.2925 Transmission of record.

Rule 25. If exceptions and objections are filed, the administrative law judge shall transmit the record of the proceeding to the director of the department. The record shall include the following:

(a) Notices, pleadings, motions, and intermediate rulings.

(b) Questions and offers of proof, objections, and rulings.

(c) Evidence presented.

(d) Matters officially noticed, except matters so obvious that a statement of them would not serve a useful purpose.

(e) Proposed findings of fact and conclusions of law, and exceptions and objections to them.

(f) Any proposed decision, opinion, order, or report by the administrative law judge.

History: 2013 AACS.

R 29.2926 Decision of the director.

Rule 26. Upon receipt of the record transmitted under these rules, the director of the department or the director's designee shall, within 30 business days, render a decision. The decision may affirm, modify, or set aside, in whole or in part, the findings, conclusions, and the rule or order contained in the proposed decision of the administrative law judge, and shall include a statement of reasons for each conclusion of law, supporting authority, or reasoned opinion. The director shall serve or cause to be served, a copy of the decision upon all parties and the hearing officer. The director's decision shall be deemed to be final department action for purposes of judicial review under chapter 4 of the administrative procedures act, 1969 PA 306, MCL 24.271 to 24.287.

History: 2013 AACS.

PART 4. LOCAL INSPECTION DELEGATION

R 29.2927 Delegation.

Rule 27. (1) A local unit of government requesting local inspection delegation under section 11(5) of the act, MCL 28.461(5), shall comply with all of the following:

(a) State certified fire inspectors shall perform all delegated inspections.

(b) Inspections shall be conducted within 3 business days of receipt of a request for inspection from a fireworks facility representative.

(c) Inspections shall be documented on forms provided by the department. Both of the following apply to forms:

(i) Inspection forms shall be electronically generated and in a format prescribed by the department, and at a minimum, include all of the following information:

(A) Facility name.

(B) Facility address.

(C) Facility contact information.

(D) Facility certificate number.

(E) Facility type.

(F) Inspection type.

(G) Fire safety certification.

(H) Name of inspecting official and contact information.

(I) Description of the inspection activity.

(J) Violations cited during the inspection including code reference.

(K) Any other information necessary to ascertain the facility meets the requirements of the act and these rules.

(ii) Inspection forms, including samples of approved forms, can be found on the department's website at www.michigan.gov/bfs.

(d) All completed inspection forms shall be submitted to the department for approval within 5 business days of completing the facility inspection and prior to distribution to the facility. All unapproved inspection forms shall be returned for correction and resubmitted to the department for approval within 5 business days of receipt by the delegated inspector.

(e) A delegated inspector who conducts fireworks inspections shall attend all department-provided training sessions regarding inspections of permanent and temporary fireworks facilities.

(2) Failure to comply with requirements under the act or these rules may result in the termination of the local inspection delegation authority.

History: 2014 AACS.

R 29.2928 Delegation application.

Rule 28. A local unit of government shall apply for local inspection delegation of consumer fireworks sales facilities by November 1 of the preceding year. The application forms are available in electronic format at http://www.michigan.gov/bfs.

History: 2014 AACS.

R 29.2929 Delegation payment.

Rule 29. A local unit of government shall be reimbursed for delegated inspection duties pursuant to section 11(5) of the act, MCL 28.461(5). Payment for delegated inspections shall be made to the local unit of government after the inspection forms are approved by the department.

History: 2014 AACS.