DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

OFFICE OF STATE FIRE SAFETY BOARD

ORGANIZATION, OPERATION, AND PROCEDURE

(By authority conferred on the state fire safety board by sections 3b, 3c, and 3d of Act No. 207 of the Public Acts of 1941, as amended, Act No. 306 of the Public Acts of 1969, as amended, and Act No. 267 of the Public Acts of 1976, as amended, being SS29.3b, 29.3c, 29.3d, S24.201 et seq., and S15.261 et seq. of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 29.3101 Applicability.

Rule 101. (1) These rules apply to the board, a member, and the staff in the performance of duties prescribed by the act.

(2) Fire safety rules developed, adopted, and promulgated, and a hearing, review, and rendering of a decision of any contested case, a fire safety rule, or a ruling of the state fire marshal in his interpretation or application of the rules, shall be in compliance with Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws.

History: 1981 AACS.

R 29.3103 Definitions.

Rule 103. (1) As used in these rules:

(a) "Act" means Act No. 207 of the Public Acts of 1941, as amended, being S29.1 et seq. of the Michigan Compiled Laws.

(b) "Board" means the state fire safety board.

(c) "Member" means an appointed member of the state fire safety board.

(d) "Staff" means the department of civil service classified personnel employed by the board.

(2) Terms defined in Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, have the same meaning when used in these rules.

History: 1981 AACS.

PART 2. ORGANIZATION AND OPERATION

R 29.3201 Board; election of officers; quorum; voting; presiding officer.

Rule 201. (1) During the month of December each year, the board shall elect a chairperson, vice chairperson, and board secretary to serve during the following calendar year.

(2) The chairperson shall be elected on the basis of his or her ability to preside.

(3) The chairperson or a designee shall preside over regular and special meetings.

(4) If the chairperson temporarily vacates the chair or is absent for any reason, the vice chairperson shall preside, discharging the responsibilities and duties and exercising the rights of the elected chairperson.

(5) If the chairperson temporarily vacates the chair or is absent, and the vice chairperson is also absent, the board secretary shall preside, discharging the responsibilities and duties and exercising the rights of the elected chairperson.

History: 1981 AACS.

R 29.3203 Operation; staff.

Rule 203. (1) The executive secretary shall be a department of civil service classified employee with title and civil service status as recommended by the department of state police and as authorized by the department of civil service.

(2) The executive secretary shall be accountable to the board only, but shall be subject to the administrative policies and procedures of the department of state police.

(3) The executive secretary shall administer the in-house operations of the board office and staff.

(4) The executive secretary shall carry out the procedures, policies, and directives necessitated or authorized by board action.

(5) The executive secretary shall develop and process the board's proposed administrative rules in accordance with the act and Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws.

(6) The commanding officer of the fire marshal division shall approve absence from duty by the executive secretary for purpose of annual leave, sick leave, or administrative leave in accordance with department of state police official orders.

History: 1981 AACS.

PART 3. PROCEDURES

R 29.3301 Meetings and hearings; procedure.

Rule 301. (1) A regular board meeting shall be scheduled for the third Wednesday of the month and may continue through the following day.

(2) After the chairperson has called a regular meeting to order, he or she shall authorize the prepared agenda or shall authorize the updating of the prepared agenda.

(3) After the chairperson has called a special meeting to order, he or she shall declare the matter of business being the reason for the special meeting and shall not permit action on a matter other than that for which the meeting was called.

(4) The chairperson shall maintain order and control presentations of evidence and testimony so that the proceedings may be recorded accurately and chronologically.

(5) A person who desires to address the board at a meeting shall be required to provide his or her name prior to making his or her statement. The subject to be discussed shall also be made known so that it may take its appropriate place on the agenda; except that if the person desires, he or she may refrain from stating the subject and may address the board at the general public input portion of the meeting. Presentations covered by this subrule shall be limited to 10 minutes' duration which may be extended by the chairperson.

(6) The chairperson may declare a recess during a regular or special meeting.

(7) The chairperson or a board member may temporarily vacate the chair if he or she is a principal or has an interest in the case or its conclusion.

(8) In the absence of the executive secretary during a meeting or a hearing, the board secretary shall assist a recording secretary in recording the proceedings of the meeting or hearing.

(9) In the absence of a recording secretary during a meeting or a hearing, the board secretary shall assist the executive secretary in recording the proceedings of the meeting or hearing.

History: 1981 AACS.

R 29.3303 Procedures; executive secretary.

Rule 303. (1) The executive secretary shall continually analyze the organization, operation, and procedure of the board and, when necessary, shall recommend appropriate changes.

(2) The executive secretary is responsible for the management of the office, the staff, the business of the board, and actions taken by the board that are not inconsistent with these rules.

(3) The executive secretary may participate in any activity within this state that is essential to the discharge of his or her responsibilities and duties, and shall recover incurred travel expense.

History: 1981 AACS.

R 29.3305 Procedures requiring board action.

Rule 305. (1) The approval of the minutes of regular or special meetings requires board action.

(2) Conclusions regarding existing and proposed fire safety rules, emergency fire safety rules, and board position letters require board action.

(3) Formal action in a contested case requires board action.

(4) The board shall consider and may authorize a request for increased office staffing.

(5) The board shall consider and may authorize the involvement of the executive secretary in the determination of applicants' qualifications, the selection of qualified applicants, and the assignment of duties and responsibilities to staff that fill vacated office staff positions and additional office positions.

History: 1981 AACS.

R 29.3307 Meeting agenda and minutes.

Rule 307. (1) The executive secretary shall forward an agenda scheduling all business, hearings, and guest appearances, along with pertinent materials regarding scheduled contested cases and materials pertaining to the scheduled items, to each board member not later than 7 days prior to a regular meeting.

(2) The agenda shall be in a format and order to facilitate the proper and orderly conduct of a board meeting by the presiding official. See appendix A in R 29.3501 for agenda format.

(3) The executive secretary report on the agenda of a regular meeting shall contain any invitations extended to a member or the executive secretary to appear and represent the board.

(4) The executive secretary report on the agenda of a regular meeting shall contain announcements of interest to the members.

(5) The minutes of a regular board meeting shall indicate the time, date, and location of the meeting; the official presiding; the members present; the members absent; the action taken on the minutes of the previous regular meeting; the action taken on the minutes of a previous special meeting, if held; and, a listing of each item on the agenda, along with a summary of the testimony, evidence, deliberations, and a verbatim account of all motions, listing the vote of each member.

(6) The minutes of a regular board meeting shall be forwarded to each member and recipient authorized by the board prior to the next regular board meeting. Recipients authorized by the board include designated staff members of the fire marshal division of the department of state police and others the board may deem advisable.

History: 1981 AACS.

R 29.3309 Appeal procedure; contested cases.

Rule 309. A request for the hearing of a contested case shall comply with the appeal request procedure. See appendix B in R 29.3501.

History: 1981 AACS.

R 29.3311 Hearing procedure; contested cases.

Rule 311. (1) The hearing of a contested case shall be conducted in compliance with appendix C in R 29.3501.

(2) The chairperson shall preside over the hearing, except as provided in R 29.3201(3) and (4).

(3) A copy of the determination shall be forwarded by certified mail forthwith to the appellant and a copy shall be forwarded to each of the other principals in the case.

(4) The executive secretary shall cause a recording of the contested case hearing proceedings to be made. A written transcript shall not be prepared unless ordered by the board or requested by 1 of the parties. A fee may be charged for preparing the transcript.

History: 1981 AACS.

R 29.3313 Administrative rules; review, development, and processing; hearing official.

Rule 313. (1) The administrative rules for fire safety authorized by the act shall be continually reviewed by the executive secretary to determine their validity under current circumstances.

(2) Administrative rules for fire safety that are the subject of appeals shall be reviewed periodically by the executive secretary and a record of the frequency of the involvement of a rule shall be maintained to ascertain the adequacy, applicability, and validity of the rule.

(3) The executive secretary is designated as the hearing official and shall conduct public hearings in compliance with the applicable provisions of chapter 3 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.231 to 24.264 of the Michigan Compiled Laws, unless determined otherwise by action of the board.

History: 1981 AACS.

R 29.3315 Position letters.

Rule 315. The board may, upon request or at its own initiative, issue position letters clarifying the intent of a promulgated rule or establishing its position on a particular subject. Position letters issued during a calendar year shall be numbered sequentially.

History: 1981 AACS.

R 29.3317 Records; retention and disposal.

Rule 317. Records made by the board shall be maintained at the office of the board as directed by the board and in compliance with the retention and disposal schedule of the department of management and budget, office services division, state records and publications center.

History: 1981 AACS.

PART 4. PUBLIC INSPECTION

R 29.3401 Public inspection.

Rule 401. Rules, minutes, and other documents shall be available for inspection in compliance with Act No. 306 of the Public Acts of 1969, as amended, and Act No. 267 of the Public Acts of 1976, as amended, being S24.201 et seq. and S15.261 et seq. of the Michigan Compiled Laws.

History: 1981 AACS.

PART 5. APPENDICES

R 29.3501 Appendices A, B, and C.

Rule 501. (1) Appendix A reads as follows:

APPENDIX A

AGENDA

1. Start of meeting - review agenda
2. Disposition of minutes
3. Executive secretary report
4. Unfinished business
5. New Business
6. Old appeals
7. New appeals
8. General public input
9. Adjourn

(2) Appendix B reads as follows:

APPENDIX B

APPEAL REQUEST PROCEDURE
1/80

Section 3(c) of Act No. 207, PA 1941, as amended, provides that "The Board shall act as a hearing body in accordance with Act No. 306 of the Public Acts of 1969, as amended, to review and render decisions on a contested case, a fire safety rules specified in this act, or ruling of the state fire marshal in the marshal's interpretation or application of the rules. When properly appealed to and after hearing, the board may vary the application all a fire safety rule or may modify the ruling or interpretation of the state fire marshal when the enforcement of the ruling or interpretation would do manifest injustice and would be contrary to the spirit and purpose all the rules or the public interest." The board is therefore not empowered to grant an exemption to a rule, but seeks to ascertain that allow all of protection at least equal to that requested by the rules will be accomplished. Section 3(c) of Act No. 207, PA 1941, as amended, states that, in part: "A person may request a variation of the application of a rule promulgated pursuant to this act by application to the state fire marshal. the state fire marshal may make the variation upon a finding that the variation does not result in a hazard to light or property." the case may not be appealed to the State Fire Safety Board until written application for a variation has been reviewed and indicted by the State Fire Marshal. The appeal to the State Fire Safety Board is limited to the circumstances, proposals, and evidence presented to the State Fire Marshal. The board may

only vary rules which trauma gates and has no authority to vary other rules or laws. A request for an appeal hearing shall be in writing and shall be delivered to the office of the State Fire Safety Board, General Office Building, 7150 Harris Drive, Lansing MI 48913, by mail or other suitable means, subject to the following conditions:

1. The request shall include:

a. A copy of the variation request sent to the State Fire Marshal.

b. A copy of the State Fire Marshal's letter of denial.

c. A concise statement of the reason(s) the State Fire Marshal's application or interpretation of the rule should be modified.

2. Appeals must be received in the office of the State Fire Safety Board within sixty days following the date of the State Fire Marshal's letter of denial and not less than 10 days prior to the board meeting date. Appeals will be scheduled according to time available at the next scheduled board meeting. Exceptions to the time limitations may be made, on an individual basis, or unusual circumstances.

3. Upon receipt of a request for appeal, the office of the State Fire Safety Board shall examine the appeal and determine the following:

a. Whether the board has jurisdiction.

b. Whether the information provided meets the requirements of paragraph 1. If any information is not provided, or yet the information provided is not clear, the office of the State Fire Safety Board may require additional information prior to scheduling an appeal hearing.

4. When a case is determined as meeting the prerequisites and is excepted for hearing, the appellant shall be so notified by written communication, which shall also specify the date, time, and location of the hearing.

5. The appellant or a designated representative, except as provided in paragraphs 6 and 7, must be present at the hearing and will be given an opportunity to fully present the case; except that the board may exclude incompetent, immaterial, or repetitious evidence.

6. A hearing may be conducted based on written documents presented by the appellant and/or State Fire Marshal, with no verbal testimony being taken, if this is agreed to buy the board and interested parties prior to the hearing.

7. If either party fails to appear for schedule appeal hearing, and if no adjournment has been granted, the board may proceed with the hearing and make its decision in the absence of the party.

(3) Appendix C reads as follows:

APPENDIX C

SCRIPT FOR APPEAL HEARINGS

EXECUTIVE SECRETARY: (Introduce self)

This is the time, date and location established for the hearing of the state fire safety board appeal number . . . . . , the appellant being . . . . . .

This hearing will follow a formal script and will be conducted in compliance with the administrative

procedures act of 1969. All parties desiring to speak shall be permitted to do so.
Exhibits shall be identified in entered into the record.
Cross-examination shall be permitted.
The presiding official of this hearing is . . . . .
The chair will govern the proceedings and will recognize each spokesperson by stating his or her name.
The proceedings will be recorded.
The speaker will be interrupted if the recording secretary is unable to hear or understand what is said.
Mr. chairman will you please call the meeting the order?

CHAIRMAN: This hearing is called order. It is . . . . AM - PM, ... , . . . 19 . .
The executive secretary will now identify the principals in the case, state their affiliations, establish the issue of appeal, enter into the record materials pertinent to the case, and identify and enter into the record any exhibits the appellant or administration agency wished to present.

EXECUTIVE SECRETARY: (Introduce)
Representatives of the appellant
Representatives of the administration agency
Guests
The board
Establish the issue of appeal
Identify:
- Pertinent materials
- Exhibits
- Construction and occupancy status
    - Is the project proposed, under construction, or completed?
    - What is the type of construction?
    - The number of stories?
    - Is there a basement?
    - Please identify the portion of the facility involved.
    - How many persons in the building or area to serve?

CHAIRMAN: Will the principal spokesman for the administration agency briefly described the conditions which resulted in the action taken by your office?

Does the appellant wished to question the statements made by

the administration agency?
Does the board wish to question statements made up to this point?
The spokesperson for the appellant may now proceed with evidence in the testimony germane to the support of your position in requesting the modification.

Does the administration agency wish to question for comment on statements up to this point?

Does the member of the board have questions or wish to comment regarding the issue?

Is there any testimony, evidence or fact pertinent to the issue which is not been presented or are there any questions remaining to be answered?

(At this point the chairman will summarize the points which have a bearing on the issue.)

CHAIRMAN: If there is nothing further to be presented we wish to thank you or your presentation. The board will carefully consider all of the evidence in testimony in reaching a conclusion in you will be notified of the decision by certified mail.

This hearing stands adjourned at . . . . am pm.

History: 1981 AACS.