

DEPARTMENT OF NATURAL RESOURCES

DEPARTMENTAL ORGANIZATION AND GENERAL FUNCTIONS

(By authority conferred on the department of natural resources by sections 33 and 63 of Act No. 306 of the Public Acts of 1969, as amended, and Executive Reorganization Orders Nos. 1973-2 and 1973-2a, being sections 24.233, 24.263, and 299.11 of the Michigan Compiled Laws)

PART 1. NATURAL RESOURCES COMMISSION

R 299.3001 Creation by law.

Rule 1. A conservation commission was created by Act No. 17 of the Public Acts of 1921, as amended, being SS299.1 to 299.6 of the Michigan Compiled Laws. Subsequently, Act No. 380 of the Public Acts of 1965 as further amended by Act No. 353 of the Public Acts of 1968, being SS16.101 to 16.494 of the Michigan Compiled Laws, restructured the commission and changed its name to natural resources commission.

History: 1979 AC.

R 299.3002 Composition.

Rule 2. (1) The natural resources commission consists of 7 members appointed by the governor, by and with the consent of the senate. Members are appointed for 4 year terms.

(2) The commission has organized to provide for annual election of a chairman from its membership.

History: 1979 AC.

R 299.3003 Rescinded.

History: 1979 AC; 1989 AACS.

R 299.3004 Rules of procedure.

Rule 4. The commission meets at least once a month in Lansing or at various places throughout the state. A majority of members constitute a quorum. All business is transacted by motion, support and majority vote by those members present, including the chairman. An agenda is prepared and made available to the public at any time in advance of and at the meeting.

History: 1979 AC.

R 299.3005 Duties and responsibilities.

Rule 5. The commission protects and conserves the natural resources of the state; makes rules governing its organization and for the administration of the statute creating the department. It makes and enforces rules concerning the use and occupancy of lands and properties under its control; provides facilities for outdoor recreation; provides for reforestation and wise management of the state's forests; makes contracts for the taking of coal, oil, gas and other minerals from state-owned lands. The commission fosters and encourages the protection and propagation of game and fish; provides for the prevention and control of forest fire; prevents and guards against pollution of the air and waters of this state. The commission sets departmental policy for the conservation and preservation of the state's natural resources, including air and water.

History: 1979 AC.

PART 2. NATURAL RESOURCES DEPARTMENT

R 299.3006 Rescinded.

History: 1979 AC; 1989 AACS.

R 299.3006a Establishment of internal department administrative structure.

Rule 6a. (1) The director, with the approval of the commission, shall establish an internal department administrative structure that will assure the department does all of the following:

- (a) Protects, conserves, and manages the natural resources of this state.
 - (b) Provides and develops facilities for outdoor recreation.
 - (c) Prevents the destruction of timber and other forest growth by fire or otherwise.
 - (d) Promotes the reforestation of forest lands belonging to the state.
 - (e) Prevents and guards against the pollution of lakes and streams within the state and enforces all laws provided for that purpose with all of the authority granted by law.
 - (f) Controls air pollution.
 - (g) Controls the disposition and management of solid wastes.
 - (h) Fosters and encourages the protection and propagation of game and fish.
- (2) The director shall assure that the structure of the department is described in publications written by the department. The department shall assure wide distribution of these documents and shall make such documents available pursuant to R 299.3091.

History: 1989 AACS.

R 299.3007--R 299.3039 Rescinded.

History: 1979 AC; 1989 AACS.

PART 3. OTHER COMMISSIONS WITHIN DEPARTMENT

R 299.3041 Air pollution control commission.

Rule 41. (1) The air pollution commission was created by Act No. 348 of the Public Acts of 1965 and was transferred from the department of public health on April 1, 1973, by executive reorganization order nos. 1973-2 and 1973-2a. The commission exercises certain statutory duties and functions independently of the department of natural resources. The commission consists of the director of the department of public health who acts as chairman, the director of natural resources, the director of agriculture and 8 citizens appointed by the governor with the advice and consent of the senate. Of the 8 citizens appointed by the governor, 2 are representatives of industrial management, 1 is a registered professional engineer trained and experienced in matters of air pollution measurement and control, 2 are representatives of local government (1 of whom is a full-time air control pollution officer), 1 is a licensed doctor of medicine who is experienced and competent in the toxicology of air contaminants, 1 is a member of organized labor and 2 represent the general public.

(2) Each member is appointed for a term of 3 years. A member received no compensation, but is reimbursed for actual and necessary expenses incurred in the performance of official duties. The statute provides that the commission shall meet at least twice each year. The commission may do any of the following:

- (a) Establish standards for ambient air quality and for air contaminant emissions.
- (b) Issue permits for the installation and the operation of air pollution control facilities.
- (c) Compel the attendance of witnesses at proceedings of the commission upon reasonable notice.
- (d) Make findings of fact and determinations.

- (e) Make, modify, or cancel orders that require the control of air pollution.
 - (f) Institute in a court of competent jurisdiction proceedings to compel compliance with any rule or determination or order.
 - (g) Enforce rules promulgated under the act.
 - (h) Accept or require submission of plans for air-cleaning devices, approve and inspect for compliance.
 - (i) Enter and inspect at reasonable times and places to investigate actual or suspected sources of air pollution.
 - (j) Receive and initiate complaints of air pollution that is in violation of the act or rule.
 - (k) Prepare and develop a general comprehensive plan for the prevention, control, or abatement of air pollution.
 - (l) Encourage voluntary cooperation in controlling air pollution.
 - (m) Encourage the formulation and execution of plans by cooperative groups or associations of cities, villages, and counties or districts for control of air pollution.
 - (n) Cooperate with agencies of the United States government.
 - (o) Conduct studies and research.
 - (p) Conduct studies and supervise programs of air pollution education.
 - (q) Determine by field studies and sampling the degree of air pollution in the state.
 - (r) Provide advisory technical consultation services to local communities.
- (3) The department of natural resources, through its air pollution control division, provides staff to serve the commission.

History: 1979 AC.

R 299.3042 Mackinac Island state park commission.

Rule 42. (1) The Mackinac Island state park commission was created and given certain powers by Act No. 355 of the Public Acts of 1927. The commission consists of 7 members appointed by the governor and confirmed by the senate for 6-year terms of which no more than 2 expire in any given year. They receive no compensation but may be reimbursed for expenses incurred in performance of official duties.

(2) Commissioners set the dates of meetings, and the chairman has the authority to call special meetings. A majority of members constitutes a quorum. All business is transacted by motions, support and majority vote of those commissioners present, including the chairman. Each year the commissioners elect a chairman, vice-chairman, and secretary and designate a resident commissioner, who shall be a legal resident and property owner in the city of Mackinac Island. The commission employs a superintendent and other persons.

(3) The Mackinac Island state park commission operates as a type I transfer to the department of natural resources.

(4) The Mackinac Island state park commission administers, under specific legal directives, Mackinac Island state park, consisting of 1,773 acres on Mackinac Island and Michilimackinac state park, consisting of 25 acres in the village of Mackinaw city. The historical aspect of the sites is emphasized through suitable restoration and development and through an interpretive program.

(5) The commission effects leases and fixes prices for rentals or privileges upon the property of the 2 state parks. It may grant privileges and franchises for waterworks, sewage, transportation and lighting for a period not to exceed 30 years.

(6) The commission may promulgate rules for the parks under its jurisdiction, but cannot promulgate a rule permitting the use of motor vehicles on any roads situated on state park lands; it may issue temporary permits for such use.

(7) The commission may finance the construction and acquisition of certain improvements to park properties through the issuance of revenue bonds and to impose charges and fees providing for the payment and security of these bonds and for the operation and maintenance of these improvements.

History: 1979 AC.

R 299.3043 Water resources commission.

Rule 43. (1) The water resources commission was originally created as

the stream control commission by Act No. 245 of the Public Acts of 1929. It was transferred to the department of natural resources as a type I transfer by Act No. 380 of the Public Acts of 1965, and on April 1, 1973, by a type II transfer by executive reorganization order nos. 1973-2 and 1973-2a, except that certain powers, duties, and responsibilities relating to water pollution control are still exercised independent of the department of natural resources. The commission consists of the director of natural resources, the director of public health, the director of state highways and transportation, the director of agriculture, and 3 citizens of the state appointed by the governor with the advice and consent of the senate, 1 from groups representative to industrial management, 1 to represent conservation or environmental interests, and 1 from groups representing municipalities. Their terms of office are staggered. They receive no compensation but are reimbursed for actual and necessary expenses in performance of official duties.

(2) The commission meets at least once a month and is charged with authority to protect and conserve the water resources of the state and has control over the pollution of surface or groundwaters and the Great Lakes. It may make surveys, studies, and investigations of the uses of waters and cooperate with other governments, governmental units, and agencies thereof. The commission may assist any flood control district in an advisory capacity. The commission advises and consults with the legislature on the obligation of the state to participate in the costs of construction and maintenance as provided for in the official plans of any flood control district or intercounty drainage district. It may enforce the provisions and rules promulgated under Act No. 245 of the Public Acts of 1929, as amended.

(3) The water resources commission is the designated state agency to cooperate and negotiate with other governments, governmental units, and agencies thereof in matters concerning the water resources of the state, including flood control and beach erosion control. The commission has control over the alterations of natural and artificial watercourses of all rivers and streams in matters of flood control. The commission establishes pollution standards for lakes, rivers, streams, and other waters in relation to public use to which they are or may be put. The commission controls the amount of pollution discharged into the waters of the state, and administers Act No. 200 of the Public Acts of 1970. The commission administers grants in aid programs, federal and state, to local units of government. The commission administers the liquid industrial waste haulers act and the watercraft pollution control act.

History: 1979 AC.

R 299.3044 Waterways commission.

Rule 44. The waterways commission was established by Act No. 320 of the Public Acts of 1947, being SS281.501 to 281.511 of the Michigan Compiled Laws. It became a part of the department as a type I transfer by Act No. 380 of the Public Acts of 1965. On April 1, 1973, the commission was changed to a type II status by executive reorganization order no. 1973-2. The commission consists of 5 members appointed by the governor, with the advice and consent of the senate for a 3-year term of office. The commission has adopted organization rules providing for the annual election of a chairman, vice chairman, and secretary from its membership. The commission is vested with the following powers and duties:

(a) To acquire, construct, and maintain harbors, channels, and facilities for vessels in the navigable waters within the state.

(b) To acquire such lands, easements, and rights-of-way necessary for harbors and channels.

(c) To acquire suitable areas on shore for disposal of the material from dredging.

(d) To represent the state in its relationships with the chief of engineers, United States army, and his authorized agents.

(e) To conduct the inspection of boat livery craft and craft carrying passengers-for-hire.

(f) To administer the former highway department docks and facilities in the straits of Mackinac.

(g) To administer the department's public access site program.

(h) To administer the Cheboygan lock and dam complex on the Cheboygan river. The exercise of these powers and duties is subject to the approval of the natural resources commission.

History: 1979 AC.

PART 4. ADVISORY AGENCIES

R 299.3046 Boating and water safety advisory council.

Rule 46. Section 11 of Act No. 303 of the Public Acts of 1967 provides that the director may establish a boating and water safety advisory council of such membership as he may determine appropriate. This has been done. The council is presently made up of 9 members from various professions including a representative of the sportsman's clubs of the state. The council meets twice a year and advises the marine safety division and the director in matters of boating, the need for watercraft controls, enforcement and general water safety.

History: 1979 AC.

R 299.3047 Great Lakes fishing advisory commission.

Rule 47. (1) The Great Lakes fishing advisory commission was created in section 1d of Act No. 84 of the Public Acts of 1929. The purpose of the commission is to advise the director of natural resources on matters affecting the Great Lakes fisheries, as submitted to it by the director.

(2) The commission consists of 9 members, with terms of 3 years. The members are not compensated but are entitled to actual and necessary expenses incurred in performance of advisory duties.

(3) Members are recruited from the commercial fishing industry, sports fishermen and the general public.

History: 1979 AC.

R 299.3048 Hunter area control committee.

Rule 48. (1) The hunter area control committee was created by section 1 of Act No. 159 of the Public Acts of 1967. It is composed of a representative of the department of natural resources, a representative of the department of state police, the township supervisor, and a representative of the sheriff's department of the counties involved.

(2) The committee selects a chairman from its members who serves for a year, then alternates with a member from another agency. The department of natural resources performs clerical, operational, and administrative duties of the committee. Expenses incurred are borne by the member's department. Costs of surveys and actions outside the committee and the sheriff's department are borne by the department of natural resources.

(3) In the interest of public safety and the general welfare, the committee may regulate and prohibit hunting and the discharge of firearms and bow and arrow on those areas where hunting or the discharge of firearms or bow and arrow may or is likely to kill, injure, or disturb persons who reasonably can be expected to be present in the areas or to destroy or damage buildings or personal property situated or customarily situated in such areas or will impair the general safety and welfare. The committee may determine and define the boundaries. Areas may be closed throughout the year or parts thereof. The committee, in furtherance of safety, may designate areas where hunting is permitted only by prescribed methods and weapons not inconsistent with law.

History: 1979 AC.

R 299.3049 Natural beauty roads citizen's committee.

Rule 49. Act No. 150 of the Public Acts of 1970 provides for the setting aside of roads or certain portions thereof for the purpose of maintaining natural beauty as it is and provides that the director may establish a citizen's advisory committee to assist in the formulation of proposals for guidelines and procedures in establishing natural beauty roads.

History: 1979 AC.

R 299.3050 Mineral wells advisory committee.

Rule 50. The mineral wells advisory committee was created by Act No. 315 of the Public Acts of 1969. The state geologist acts as supervisor of mineral wells. He appoints 7 persons, subject to the approval of the director and the commission, to the mineral wells advisory board. The members are chosen from owners and operators subject to the act. The term of each member is 3 years on a staggered basis. The board elects a chairman and a vice-chairman, and meets semiannually, or more often. The board consults and advises the supervisor and performs such other duties as the supervisor deems necessary. The board participates in all public hearings provided for in the act and makes recommendations with respect to any rules or orders which may be considered for adoption pursuant to the evidence and testimony submitted. The board receives no compensation but may be reimbursed for travel or other expenses.

History: 1979 AC.

R 299.3051 Oil and gas advisory board.

Rule 51. The oil and gas advisory board was created by Act No. 61 of the Public Acts of 1939. The director is the supervisor of wells. He appoints 8 persons, subject to the approval of the commission, to the oil and gas advisory board. Six members are chosen from oil or gas producers or operators with special reference to their training, experience and standing in the oil or gas industry; 2 are from the general public. The term of each member is for 3 years on a staggered basis. The board elects a chairman and a vice-chairman and meets monthly. The board is advisory. The board may participate officially in all public hearings provided for by Act No. 61 of the Public Acts of 1939, as amended, and does advise and consult with the supervisor with respect to rules or orders which may be considered for adoption pursuant to the evidence and testimony submitted. The members receive no compensation but may be reimbursed for travel or other expenses.

History: 1979 AC.

R 299.3052 State recreation advisory committee.

Rule 52. The advisory committee for the state recreation and cultural arts section was created by Act No. 326 of the Public Acts of 1965, as amended. It consists of 15 members appointed by the governor. They serve without compensation for 4 years. The committee provides continual representation of citizen interest, need, and participation in a wide variety of leisure time pursuits.

History: 1979 AC.

R 299.3053 Wilderness and natural areas advisory board.

Rule 53. (1) The wilderness and natural areas advisory board was created by Act No. 241 of the Public Acts of 1972. It consists of 7 members appointed by the governor with the advice and consent of the senate. One is from the Upper Peninsula; 1 from the Lower Peninsula north of townline 16; 3 possess experience in the evaluation and preservation of wilderness or natural areas; 1 is trained and experienced in wildlife biology; 1 is a registered forester, trained and experienced in forest ecology, silviculture and protection of forest land; 1 is qualified in outdoor education and nature interpretation; and 1 represents those industries whose basic resources come from the lands and forests. The board elects a chairman from its members. Members serve for 3 years and receive no compensation but are reimbursed for expenses incurred in the performance of duties.

(2) The board makes recommendations for the dedication and administration of wilderness areas, wild areas and natural areas in accordance with the act.

History: 1979 AC.

R 299.3054 Advisory committee on economic poisons.

Rule 54. (1) The advisory board on economic poisons was created by Act No. 233 of the Public Acts of 1959.

(2) The committee was formed to consult with and aid the director of agriculture in the administration of the economic poisons act of 1959 which provides for the prevention of harm to man, contamination of food or feed or the destruction or damage of agricultural crops, growing plants, livestock, or wildlife from the application of any economic poison, pesticide, insecticide, herbicide, fungicide, or rodenticide.

(3) The committee is composed of the director of natural resources, the director of public health, the director of aeronautics, the director of the pesticide research center of Michigan state university, and the executive secretary of the water resources commission.

History: 1979 AC.

R 299.3055 Aeronautics commission.

Rule 55. The aeronautics commission was created by Act No. 327 of the Public Acts of 1945 and was transferred to the department of state highways and transportation by executive reorganization order nos. 1973-1 and 1973-1a. The commission consists of the highway director, the director of state police, the director of natural resources and 5 other members who are appointed by the governor with the advice and consent of the senate. Terms of office are 4 years. Members are compensated for actual expenses incurred in performance of duties as a commissioner. The commission has general supervision over aeronautics in the state. It encourages, fosters, and participates with the political subdivisions of the state in the development of aeronautics; establishes and encourages the establishment of airports and landing fields.

History: 1979 AC.

R 299.3056 The campgrounds advisory committee.

Rule 56. (1) The campgrounds advisory committee was created by Act No. 171 of the Public Acts of 1970. The act is administered by the department of public health. The director of public health has appointed an advisory committee with broad geographical distribution of members, 11 in number. Of the 11 members, 1 represents the Michigan mobile home and recreational vehicle institute; 2 represent customers including 1 who represents a recognized campground users association; 2 campground owners; 1 representing a primitive type of campground; 2 represent counties; 2 represent local health departments; the director of natural resources or his designated representative. The members serve for 3 years.

(2) The advisory committee assists the director of public health in the formulation of rules regarding sanitation and safety standards for campgrounds and public health. It further advises him in the administration of the act and the rules.

History: 1979 AC.

R 299.3057 The Great Lakes basin compact and commission.

Rule 57. (1) The Great Lakes basin compact is an agreement, entered into in 1955, between the states of Illinois, Indiana, Michigan, Minnesota, New York, Pennsylvania, and Wisconsin and the Canadian provinces of Ontario and Quebec to promote the orderly, integrated, and comprehensive development, use, and conservation of the water resources of the Great Lakes basin, called the "basin" hereafter; to plan for the welfare and development of the water resources of the basin as a whole as well as for those portions which may have problems of special concern; to make it possible for the states of the basin and their people to derive the maximum benefit from utilization of public works, in the form of navigational aids or otherwise; to advise in securing and maintaining a proper balance among industrial, commercial, agricultural, water supply, residential and other legitimate uses of water resources of the basin; and to establish and maintain an intergovernmental agency to the end that the purposes of this compact may be accomplished more effectively.

(2) The commission is composed of not less than 3 nor more than 5 commissioners from each member state; each state delegation is entitled to 3 votes. By statute, this state provides for 5 commissioners: the attorney general, the director of the department of natural resources, the

executive secretary of the water resources commission, the director of the department of commerce, and 1 member appointed by the governor, with the advice and consent of the senate, from groups or organizations interested in the Great Lakes. Each commissioner has 3/5 of a vote whenever a vote is required by the terms of the compact.

History: 1979 AC.

R 299.3058 Interstate oil compact commission.

Rule 58. The interstate oil compact commission is a cooperative advisory body composed of the several oil and gas producing states whose purpose is to conserve oil and gas by the prevention of physical waste from any cause. This state became a compacting state through the authority of Act No. 138 of the Public Acts of 1947. The governor is this state's member of the compact. He may appoint official representatives to act in his stead and such appointments have been either to the director or the chief of the geological survey. The compact commission meets at least twice each year. Compact business is accomplished through several committee structures. Appointment of committee members is mainly from agency personnel. Compact membership is a line item appropriation through the geological survey. Official representatives and committee appointees receive no compensation.

History: 1979 AC.

R 299.3059 State agriculture stabilization and conservation committee.

Rule 59. The director is an ex officio member of the state agriculture stabilization and conservation committee which was established to advise the United States department of agriculture on the use of set aside agricultural lands. The director assists in developing guidelines for all of the following:

- (a) Providing technical assistance for wildlife and habitat improvement practices.
- (b) Renewing applications of farmers for public land use option and selecting areas based on desirability of wildlife habitat.
- (c) Determining accessibility.
- (d) Evaluating effects on surrounding areas.
- (e) Considering aesthetic values.
- (f) Checking compliance of cooperators.
- (g) Carrying out programs of wildlife stocking and management of acreage set aside.

History: 1979 AC.

R 299.3060 The state soil conservation committee.

Rule 60. (1) The state soil conservation committee was created by Act No. 297 of the Public Acts of 1937. It consists of 7 members, the dean of agriculture at Michigan state university, the director of agriculture, the director of natural resources, and 4 practical farmers appointed by the governor. Appointed members serve for 4 years.

(2) The committee assists the directors of soil conservation districts in carrying out their programs; keeps the directors informed of the activities and experience of other districts; approves and coordinates the programs of the several soil conservation districts; secures the assistance and cooperation of the United States and any of its agencies and disseminates throughout the state the activities of the soil conservation districts.

History: 1979 AC.

R 299.3061 Water well drillers advisory board.

Rule 61. Act No. 294 of the Public Acts of 1965, as amended, is administered by the department of public health. The act provides for an advisory board of 9 members, 5 of which are well drilling contractors; 1 from each of the departments of public health and natural resources; 1

from the staff of the water resources commission and 1 from a county health department. The act specifies the department of natural resources representative as an employee of the geological survey appointed by the director. The terms are staggered. The board advises the state public health director in adopting of rules and construction codes and assists in determination of the qualification and examination of license applicants. The nonagency members are reimbursed for attendance at meetings but not to exceed \$600.00 annually.

History: 1979 AC.

PART 5. CONTESTED CASES

R 299.3071 Definitions.

Rule 71. (1) "Contested cases" means matters involving licenses, permits, or approvals issued by the department of natural resources and other matters which are within the definition of "contested cases" as set forth by subsection (3) of section 3 of Act No. 306 of the Public Acts of 1969, as amended, being S24.203 of the Michigan Compiled Laws.

(2) "Contested case hearing" means a hearing initiated pursuant to chapters 4, 5, and 6 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.306 of the Michigan Compiled Laws and R 299.3072 to R 299.3079.

(3) "Person" means an individual, partnership, association, corporation, municipality, or any other entity.

(4) "Director" means the director of the department of natural resources or his authorized representative.

History: 1979 AC.

R 299.3072 Procedures from administrative procedures act; appearances at hearings.

Rule 72. (1) Department of natural resources administrative hearings procedures in contested cases and judicial review thereof shall be in accordance with and subject to chapters 4, 5, and 6 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.306 of the Michigan Compiled Laws.

(2) Appearances at a contested case hearing shall be either in person, or by duly authorized agent, or by legal counsel.

History: 1979 AC.

R 299.3073 Initiation of contested case hearings.

Rule 73. (1) Contested case hearings may be initiated by the commission or the department. If the commission initiates a contested case hearing, by resolution it shall direct the department to conduct the hearing. Except in the case of suspension or revocation of a license or permit, the commission or the department shall initiate a contested case hearing by notice thereof mailed by certified mail at least 30 days prior to the hearing.

(2) Any person may request that a contested case hearing be initiated by the filing of a petition on a form provided by the department in the office of the director in Lansing, Michigan. The petition shall state the legal authority under which a hearing is requested. The petition shall provide a brief statement of matters asserted, a statement of the relationship of the petitioner to the issue, and a statement of relief sought.

History: 1979 AC.

R 299.3074 Notice to other persons.

Rule 74. (1) When a hearing is initiated, the director shall provide notice of the hearing to those persons as may be known to him who may be materially affected by the proceedings or who may request such notification at least 30 days prior to the hearings. The notice shall be by mail, by publication, or by both, as may be deemed necessary by the director, or as required by applicable statute or rule. The

notice shall be given at least 30 days prior to the hearing except in the case of suspension or revocation of a license or permit.

(2) The department shall send notices of the initiation of all adversary contested case hearings which would require the employment of a hearing officer to any person who requests so in writing. A person desiring to receive such notice shall submit his request annually.

History: 1979 AC.

R 299.3075 Hearing officer; contested case hearings; depositions.

Rule 75. (1) That portion of a contested case hearing in which testimony and evidence is to be taken may be referred to a hearing officer who shall be designated and authorized by the director to preside at the hearing. The hearing officer shall hear the evidence, prepare a record of the proceedings, and, if so directed by the director or commission, prepare a proposal for a decision, including findings of fact and conclusions of law. The record of the proceedings and the proposal for decision if required as prepared by the hearing officer shall be filed at the department offices as soon as possible following the completion of the testimony.

(2) If the hearing officer does not prepare a proposal for decision, the director or commission shall either have heard the contested case or read the record before making the final decision.

(3) Depositions shall be taken only when authorized by the official hearing the case. The taking of depositions shall be in accordance with the Michigan court rules.

History: 1979 AC.

R 299.3076 Adjournment of contested case hearings.

Rule 76. A hearing shall not be adjourned or continued except on the order of the official hearing the case. A request for adjournment or continuance shall be in writing, state concisely the reasons for the request, and be filed not later than 5 days prior to the date of hearing. A hearing may be adjourned or continued on less than 5 days' notice upon sufficient showing of good cause.

History: 1979 AC.

R 299.3077 Permission to intervene or file amicus curiae briefs.

Rule 77. (1) Any person may petition to intervene in any contested case hearing. A petition for intervention shall set forth the interest of the petitioner and a concise statement of reasons for intervention. A petition to intervene shall be filed not later than 5 days prior to the date set for hearing. The hearing officer may waive the 5 days' requirement on a showing of good cause.

(2) In a contested case hearing, any person may submit an amicus curiae brief to the hearing officer, the department, or the commission. The brief shall be filed not more than 30 days after the hearing officer's proposed findings of fact and conclusions of law are transmitted to the director and in a case heard by the director, or in all other instances, not more than 30 days after conclusion of the hearing.

History: 1979 AC.

R 299.3078 Department files and records; use in contested case hearings.

Rule 78. (1) The files and records of the department specified in the notice of hearing shall be available for inspection by the parties prior to the hearing, and the whole or part thereof may be offered at the hearing as evidence on behalf of any party.

(2) Following a hearing conducted by a hearing officer and completion of proceedings, a copy of the proposal for decision if required shall be transmitted within 30 days to the director and at the same time shall be served by certified mail on all parties to the proceedings and notice by regular mail to persons mentioned in subrule (2) of R 299.3074.

History: 1979 AC.

R 299.3079 Stipulations and consent orders.

Rule 79. (1) A party to a contested case hearing who desires to dispose of the case by stipulation or consent order may mail to the director, at least 10 days before the date set for the hearing, his written consent to the terms and conditions of the proposed order or action as set forth in the notice of hearing. Agreement between the parties on the terms and conditions of a stipulation or consent order constitutes sufficient cause for the director to dispose of the case without further hearing. Notice of the terms of the stipulation or consent order shall be sent within 10 days before the entry of the stipulation or consent order to all persons who receive notice of the hearing. Persons who receive notice of the hearing and terms of stipulation or consent order shall be notified of the final outcome of the case.

(2) After the hearing officer has submitted the proposal for decision, and the hearing proceedings have been completed, the director or commission shall make a final decision within 60 days. Persons who receive notice of the hearing shall be notified of the decision.

History: 1979 AC.

R 299.3080 Michigan oil and gas hearings.

Rule 80. Hearings conducted by the director or employees of the geological survey division arising pursuant to Act No. 61 of the Public Acts of 1939, as amended, Act No. 92 of the Public Acts of 1970, Act No. 197 of the Public Acts of 1959, and Act No. 315 of the Public Acts of 1969, being SS319.1 to 319.27, 425.181 to 425.188, 319.351 to 319.394, and 319.221 to 319.236 of the Michigan Compiled Laws, shall be in accordance with and subject to the requirements of the specific act and administrative rules promulgated thereto.

History: 1979 AC.

R 299.3081 Air pollution control commission and water resources commission hearings.

Rule 81. (1) Hearings conducted by the air pollution commission shall be in accordance with and subject to Act No. 348 of the Public Acts of 1965, as amended, being SS336.1 to 336.36 of the Michigan Compiled Laws and administrative rules promulgated pursuant thereto.

(2) Hearings conducted by the water resources commission shall be in accordance with and subject to Act No. 245 of the Public Acts of 1929, as amended, being SS323.1 to 323.13 of the Michigan Compiled Laws, and administrative rules promulgated thereto.

History: 1979 AC.

PART 6. ACCESS TO DOCUMENTS

R 299.3091 Availability of documents, photographs, and pertinent information.

Rule 91. It is the policy of the department to make information concerning its activities fully available to the public. Therefore, all writings, documents, photographs, and informational materials of the department shall be made available to any person during normal working hours, except where disclosure of material is prohibited by statute or is subject to R 299.3092. Materials available for public inspection, copying, and purchase include, but are not limited to:

- (a) Final orders or decisions in contested case hearings and the records on which they were made.
- (b) Promulgated administrative rules and policy statements.
- (c) Written statements which implement or interpret law, rules, or policy, including, but not limited to, guidelines, manuals, and forms with instructions adapted or used by the department in the discharge of its functions.
- (d) Agendas and minutes of all commissions, advisory boards, council, and committee meetings.
- (e) Orders, final orders, stipulations, and permits.

- (f) Transcribed records of conferences, public and statutory hearings.
- (g) Field orders and reports from staff and field.
- (h) Maps, charts, and surveys.
- (i) General information consisting of bulletins, booklets, hunting and fishing guides, and outdoor safety training materials.
- (j) Photographs; however, the department may formulate reasonable policy on the availability of photographs for advertisement and resale, and may assess a fee for photographs, film loans and sales, magazines, fee publications, and other lengthy abstracts and transcripts.
- (k) A list of statutes administered by the department.
- (l) A list of statutes providing rule-making authority to the commission and to the director.
- (m) An organizational chart.

History: 1979 AC.

R 299.3092 Documents, photographs, and materials which shall not be available.

Rule 92. (1) Information, the disclosure of which is expressly prohibited by statute, shall not be available to the public.

(2) All denials shall be made promptly and accompanied by a written statement of the reasons therefor. All denials of requests for information shall be brought to the attention of the director for review by him. Appeals from action by the director shall be to the commission

History: 1979 AC.

R 299.3093 Requests for documents or information.

Rule 93. A person desiring to inspect or copy materials shall make a request to the appropriate department office. The department shall promptly produce the materials for inspection and copying. If it is not possible to produce the materials, the delay shall be for good cause only, and the reasons therefor shall be given to the requestor in writing. If original materials are obtained for inspection, the department shall require that the person sign for them, not remove them from the department offices, and that he return them at the end of the work day. Upon receipt of his request and pledge of reimbursement, the department shall order duplication of the materials under its open account arrangements for commercial duplication with billing at cost direct to the requestor.

History: 1979 AC.

PART 7. MISCELLANEOUS

R 299.3094 Requests for promulgation of rules.

Rule 94. (1) A person requesting the commission or the department to promulgate a rule shall do so on a form provided by the department. The form is available at the offices of the director in Lansing, and at regional and district offices. The request shall contain the information required on the form, the signature and address of the person making the request, and the statute under which he requests the rule be promulgated. The request shall be filed either in person or by mail in the office of the director in Lansing. Within 90 days after receipt of a correctly filed request, the commission or the department shall initiate the processing of a rule or issue a written statement containing the reasons for denial of the request which shall be sent by certified mail to the person who made the request, and shall be made available to all persons requesting notification of the denial.

(2) When the statute involved provides for the promulgation of a rule by the commission, the commission shall consider the request at a public meeting prior to taking action thereon.

History: 1979 AC.

R 299.3095 Requests for declaratory rulings.

Rule 95. (1) A person requesting the department to issue a declaratory ruling as to the applicability to a state of facts of a statute, rule, or order administered or issued by the department shall do so on a form provided by the department. The form is available from the office of the director in Lansing, and regional and district offices. The request shall contain the information required on the form and the signature and address of the person making the request. The request for a declaratory ruling shall comply with the substantive, procedural, and public notice requirements of the statute or rule pursuant to which it is sought. The request shall be filed either in person or by mail in the office of the director in Lansing. Within 30 days after receipt of a correctly filed request, the department shall notify the person who made the request by certified mail whether a declaratory ruling be issued and, if it is to be issued, the nature and details thereof. If the request is denied, the department shall issue a concise written statement of its principal reasons for denial which shall be sent by certified mail to the person who made the request. Notification of the issuance or denial of a declaratory ruling shall be made available to all persons requesting notification.

(2) The department shall send notice of requests for declaratory ruling to any person who requests in writing to be so notified. A person desiring to receive such notice shall submit his request annually.

(3) The department shall make a compilation of the declaratory rulings which shall be available to the public.

History: 1979 AC.

R 299.3099 Rescission.

Rule 99. R 299.401 to R 299.408 of the Michigan Administrative Code of 1954, appearing on pages 1930 and 1931 of the 1954 edition of the Code, and R 299.431 to R 299.436 of the Michigan Administrative Code, appearing on pages 5474 and 5475 of the 1970-71 Annual Supplement to the Code, are rescinded.

History: 1979 AC.