

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Licensing and Regulatory Affairs

2. Bureau:

Michigan Office Of Administrative Hearings and Rules

3. Promulgation type:

MCL 24.244 (1)

4. Title of proposed rule set:

Michigan Office of Administrative Hearings and Rules Administrative Hearing Rules

5. Rule numbers or rule set range of numbers:

R 792.10301–10302;R 792.10501;R 792.10601–10609;R 792.11102; Pt 13; R792.11501;
R792.11601;11609

6. Estimated time frame:

3 months

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The Michigan Office of Administrative Hearings and Rules (MOAHR) 19 part Uniform Hearing Rules are comprised of general hearing rules in the first part and specific practice areas in the 18 parts that follow. The general purpose of the rule set is to govern the practice and procedures for all administrative hearings conducted by MOAHR, allowing for different procedures in specific types of hearings. The purpose of the proposed changes in this Request for Rulemaking (RFR) is to make corrections to make the rules conform to amended/new statutes and to rescind rules that are obsolete and/or superseded. Among the provisions and rules to be amended or rescinded are as follows:

Part 3: Department of Environmental Quality and Department of Natural Resources. The proposed changes update the title of the department (reorganized as the Department of Environment, Great Lakes, and Energy) and add language regarding petitions to the Environmental Permit Review Commission created under section 1313 of act 268 of 2018, MCL 324.1313.

Part 5: Department of Transportation. The proposed change ensures consistency with the definitions section and eliminates reference to MOAHR's predecessor name, Michigan Administrative Hearing System.

Part 6: Department of Insurance and Financial Services. At the agency's request, Part 6 of the rule set (rules 601 through 609) will be rescinded to eliminate duplication with the MOAHR general rules and certain statutory changes in the subject area.

Part 11: Occupational Safety and Health. The proposed changes update the name and references of the "Department" to Labor and Economic Opportunity in the definitions section.

Part 13: Worker's Compensation Hearings and Appeals. Rescind - ERO 2019-3 moved the authority for these rules to LEO.

Part 15: Employment Relations Commission. The proposed change ensures consistency with the definitions section with respect to reference to the hearing system.

Part 16: Office of Retirement Services. The proposed change corrects the spelling of "retirement" in Rules 1601(2)(f) and 1609(1).

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

By authority conferred on the executive director of the Michigan office of administrative hearings and rules.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

Executive Reorganization Order (ERO) Nos. 2005-1, 2011-4, and 2011-6, and the Michigan office of administrative hearings and rules by ERO No. 2019-1 and ERO 2019-3, MCL 445.2021, 445.2030, 445.2032, 324.99923, 125.1998, and section 33 of the administrative procedures act, 1969 PA 306, MCL 24.233, as well as the following provisions applicable to specific practice areas.

Part 3: sections 2233, and 13322 of 1978 PA 368, MCL 333.2233 and 333.13322; ERO Nos. 1997-2 and 1998-2, MCL 29.451 and 29.461; parts 31 (MCL 324.3101-324.3134), 33 (MCL 324.3301-324.3315), 41 (MCL 324.4101-324.4113), 55 (MCL 324.5501-324.5542), 63 (MCL 324.6301-324.6321), 111 (MCL 324.11101-324.11153), 115 (MCL 324.11501-324.11554), and 201 (MCL 324.20101-324.20142) of 1994 PA 451; and ERO No. 1995-16, MCL 324.99903.

Part 5: section 675, 1949 PA 300, MCL 257.675; section 5 of 1969 PA 200, MCL 247.325, and section 23 of 1972 PA 106, MCL 252.323.

Part 6: section 210 of 1956 PA 218, MCL 500.210.

Part 11: section 46 of 1974 PA 154, MCL 408.1046.

Part 13: section 213 of 1969 PA 317, MCL 418.213, and ERO Nos. 1996-2, 2002-1, and 2003-1, MCL 445.2001, 445.2004, and 445.2011.

Part 15: sections 7, 9a, and 27 of 1939 PA 176, MCL 423.7, 423.9a, 423.27; sections 12 and 14 of 1947 PA 336, MCL 423.212 and 432.214; and ERO Nos. 1996-2, 2011-4, and 2011-5, MCL 445.2001, 445.2030, and 445.2031.

Part 16: section 2 of 1943 PA 240, MCL 38.2.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

The following MCLs mandate rule promulgation: MCL 205.749, 333.13322, 324.3131, 324.5504, 324.5505, 324.5506, 324.5507, 324.5509, 324.5512, 324.11114, 324.11127, 324.11508, 324.11538, 324.11547, 324.20139, 460.6a, 479.6, 247.325, 500.210, 339.308, 408.1046, 423.7, and 432.214.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The proposed rules will not conflict, duplicate, or exceed similar regulations, compliance requirements, or standards, but will instead comply with all current statutory requirements for hearings conducted by MOAHR.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

No, the subject matter of the rules is not currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

Yes, the rules are listed on LARA's annual regulatory plan for the current year.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

MCL 24.244 (1)

A. Explain why the rules are being promulgated under 24.244.

The purpose of the proposed changes in this RFR is to make corrections to make the rules conform to amended/new statutes and to rescind rules that are obsolete and/or superseded due to statutory changes and Executive Reorganization No. 2019-3.