

**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:

Full Process

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:

R792.10101–R792.10134;R792.10203–R792.10299;R792.10402–R792.10448;R792.11201–
R792.11209;R792.11903

6. Estimated time frame:

12 months

Name of person filling out RFR:

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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 rules 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 is to refine certain rules to clarify current practices, reflect statutory changes and department reorganizations, eliminate duplicative or unnecessary rules, and promote greater efficiency and fairness. Among the provisions and rules to be amended or rescinded are as follows:

Part 1: General. The proposed changes to the general rules address opportunities for the electronic or e-mail filing of documents and service to other parties, and the approved procedure for such filing and service. The proposed changes also define and limit the use of portable electronic devices during an administrative hearing. The proposed changes also clarify that denial of a motion for summary disposition does not need to be in a proposal for decision format to a department director, board, or final decisionmaker.

Part 2: Tax Tribunal. The proposed changes update certain procedures to reflect current law and approved practices, such as the electronic payment of filing fees, the exclusion or redaction of personal identifying information, appeal by statutorily required petition, transfer of appeals from the small claims division to the entire tribunal, extensions and the default process, notice filing requirements, prehearing conferences, and mediation.

Part 4: Public Service Commission. The proposed changes reflect new statutory requirements found in 2016 PA 341 and 2016 PA 342, as well as make minor changes to rules concerning electronic filing and other housekeeping matters. The proposed rules also rescind rules concerning motor carriers, because jurisdiction over motor carrier regulation has been transferred to the State Police.

Part 12: Wage and Fringe Benefit Hearings. The proposed changes add references to the Paid Medical Leave Act, “notice of violation” procedures, and authorized representation at a hearing.

Part 19: Corrections. The proposed changes address the notice of hearing and record evidence provisions of the hearings and decisions section.

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 1: ERO 2005-1, MCL 445.2021.

Part 2: sections 32 and 49 of 1973 PA 186, MCL 205.732 and 205.749.

Part 4: section 7 of 1909 PA 106, MCL 460.557; section 2 of 1909 PA 300, MCL 462.2; section 5 of 1919 PA 419, MCL 460.55; article 5, sections 6 and 6a of 1939 PA 3, MCL 460.6 and MCL 460.6a, article 5, section 6 of 1933 PA 254, MCL 479.6; and ERO No. 2015-3, MCL 460.21.

Part 12: section 12 of 1978 PA 390, MCL 408.482, and section 7(3) of 2018 PA 338, MCL 408.967.

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, 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?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, 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.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

No, the rules do not incorporate recommendations received from the public.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

These rules were last reviewed in 2018. The administrative hearings process (the regulatory activity covered by this rules set) has improved from a technological standpoint with electronic filing and remote video and telephone hearing capabilities, but otherwise remains unchanged. The process has also changed due to the transfer of certain aspects of the process from MOAHR to other agencies by executive reorganization order(s).

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

There are no changes or developments since implementation that demonstrate that there is no continued need for the rules.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No