

Rulemaking Process

A department must submit a Request for Rulemaking (RFR) to Michigan Office of Administrative Hearings and Rules (MOAHR) to begin the rulemaking process. MOAHR reviews and approves the RFR and notifies the Joint Committee on Administrative Rules (JCAR).

Rules are drafted by the agency and submitted by the agency's Regulatory Affairs Officer (RAO) to MOAHR to review for legal authority. MOAHR approves the draft rules and notifies JCAR. MOAHR sends the draft to the Legislative Service Bureau (LSB) for informal editing according to format and style requirements. The agency makes the suggested LSB edits to the draft rules and sends them to MOAHR.

A Regulatory Impact Statement & Cost-Benefit Analysis (RIS) is prepared by the agency and sent to MOAHR for approval 28 days prior to the public hearing. MOAHR notifies JCAR. A Notice of Public Hearing is prepared by the agency and sent to MOAHR. MOAHR notifies JCAR. The Notice is published in 3 newspapers, including 1 in the Upper Peninsula, not less than 10 days but no more than 60 days prior to the hearing. MOAHR publishes the Notice and draft rules in the Michigan Register. The agency holds a public hearing for public comment.

The agency submits the final draft of the rules and the JCAR Report to MOAHR. MOAHR submits the final draft to LSB to formally certify the rules. MOAHR legally certifies the rules and sends the JCAR Report, including the final draft of the rules, certifications, RFR, and RIS to JCAR.

The JCAR Report and rules must be submitted to JCAR within 1 year after the public hearing, or there must be a subsequent public hearing. The JCAR Report summarizes the purpose of the draft rules and any comments made at the public hearing or submitted in writing. The rules must be before JCAR for 15 session days, unless JCAR grants a waiver of the remaining days. During those 15 days, JCAR may object to the rules, but then must introduce legislation within another 15 session days to stop or delay the rules. Rules can be filed by MOAHR with the Office of the Great Seal after 15 session days expire or after JCAR has waived the 15 session day requirement.

The agency director confirms the intent to adopt the rules by submitting a Certificate of Adoption to MOAHR. MOAHR files the final rules with the Office of the Great Seal. The rules may become effective immediately upon filing, or at a later date specified by the agency in the rules. On the effective date, MOAHR amends the Michigan Administrative Code to reflect the new language of the rules.

Emergency Rulemaking

An agency may determine that preservation of the public health, safety, or welfare requires the issuance of an emergency rule.

The Governor must concur in the finding of an emergency.

The agency may issue an emergency rule, which is effective when filed and remains in effect until a date fixed in the rule or 6 months after the date of filing. Copies must be filed with the Secretary of State, as prescribed for other rules, with the additional requirements that the copies must be endorsed as an emergency rule, and that certificates of approval from the Legislative Service Bureau and the Governor's certificate concurring in the finding of emergency must be attached to three of the filed copies. The emergency rule shall be published in the Michigan Register.

The rule may be extended for one additional 6-month period by the filing of a Governor's certificate of the need for the extension prior to the expiration of the initial 6-month period.

Emergency rules are not numbered or included in the Michigan Administrative Code, but are to be noted in the annual supplement to the Code and published in the Michigan Register.

Emergency rules may be rescinded by concurrent resolutions of the Legislature.

Michigan Register

Michigan Administrative Procedure Act