
THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 33. (1) An agency shall promulgate rules describing its organization and stating the general course and method of its operations. and THE AGENCY may include therein IN THE RULES forms with instructions. Sections 41, 42, 45, and 45a, AND 66 do not apply to such PROMULGATION OF THE rules.
(2) An agency shall promulgate rules prescribing its procedures available to the public and the methods by which the public may obtain information and submit requests.

(3) An agency may promulgate rules not inconsistent PRESCRIBING PROCEDURES FOR CONTESTED CASES. THE RULES MUST BE CONSISTENT with this act or AND other applicable statutes.

Sec. 39a. (1) AN SUBJECT TO SECTION 66, AN agency may publish the notice of hearing under section 42 only if the office of regulatory reform has received draft proposed rules and has given the agency approval to proceed with a public hearing.

(2) After a grant of approval to hold a public hearing by the office of regulatory reform under subsection (1), the office of regulatory reform shall immediately provide a copy of the proposed rules to the committee. The committee shall provide a copy of the proposed rules, not later than the next business day after receipt of the notice from the office, of regulatory reform, to members of the committee and to members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed rule.

Sec. 41. (1) Except as provided in section SECTIONS 44 AND 66, before the adoption of a rule, an agency, or the office, of regulatory reform, shall give notice of a public hearing and offer a person an opportunity to present data, views, questions, and arguments. The notice must be given within the time prescribed by any applicable statute, or if none, in the manner prescribed in section 42(1).
(2) The notice described in subsection (1) shall MUST include all of the following:

(a) A reference to the statutory authority under which the action is proposed.

(b) The time and place of the public hearing and a statement of the manner in which data, views, questions, and arguments may be submitted by a person to the agency at other times.

(c) A statement of the terms or substance of the proposed rule, a description of the subjects and issues involved, and the proposed effective date of the rule.

(3) The agency, or the office of regulatory reform acting on behalf of an agency, shall transmit copies of the notice DESCRIBED IN SUBSECTION (1) to each person who requested the agency in writing or electronically for advance notice of proposed action that may affect the person. If requested, the notice shall MUST be by mail, in writing, or electronically to the last address specified by the person.

(4) The public hearing shall MUST comply with any applicable statute, but is not subject to the provisions governing a contested case.

(5) The head of the promulgating agency or 1 or more persons designated by the head of the agency who have knowledge of the subject matter of the proposed rule shall be present at the public hearing and shall participate in the discussion of the proposed rule.

Sec. 42. (1) Except as provided in section SECTIONS 44 AND 66, at a minimum, an agency, or the office of regulatory reform acting
on behalf of the agency, shall publish the notice of public hearing as prescribed in any applicable statute or, if none, the agency, or the office of regulatory reform acting on behalf of the agency, shall publish the notice not less than 10 days and not more than 60 days before the date of the public hearing in at least 3 newspapers of general circulation in different parts of the THIS state, 1 of which shall MUST be in the Upper Peninsula.

(2) Additional methods that may be employed by the agency, or the office of regulatory reform acting on behalf of the agency, depending upon the circumstances, TO PROVIDE NOTICE OF THE PUBLIC HEARING include publication in trade, industry, governmental, or professional publications or posting on the website of the agency or the office of regulatory reform.

(3) In addition to the requirements of subsection (1) AND EXCEPT AS PROVIDED IN SECTION 66, the agency shall electronically submit a copy of the notice of public hearing to the office of regulatory reform for publication in the Michigan REGISTER. If the office of regulatory reform submitted the notice of public hearing on behalf of the agency, the office of regulatory reform shall publish the notice of public hearing in the Michigan REGISTER. An agency's notice shall MUST be published in the Michigan REGISTER before the public hearing and the agency shall electronically file a copy of the notice of public hearing with the office of regulatory reform. Within 7 days after receipt of the notice of public hearing AND BEFORE THE PUBLIC HEARING, the office of regulatory reform shall do all of the following: before the public hearing.
(a) Electronically transmit a copy of the notice of public hearing to the committee.

(b) Provide notice electronically through publicly accessible internet media.

(4) After the office of regulatory reform electronically transmits a copy of the notice of public hearing to the committee, the committee shall electronically transmit copies of the notice of public hearing, not later than the next business day after receipt of the notice from the office, of regulatory reform, to each member of the committee and to the members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed rule.

(5) After receipt of the notice of public hearing filed under subsection (3), the committee may meet to consider the proposed rule, take testimony, and provide the agency with the committee's informal response to the rule.

Sec. 43. (1) Except in the case of an emergency rule promulgated in the manner described in section 48, a rule is not valid unless it is processed in compliance with section 66, if applicable, section 42, and unless in substantial compliance with section 41(2), (3), (4), and (5).

(2) A proceeding to contest a rule on the ground of noncompliance with the requirements of sections 41 and 42 shall or section 66 must be commenced within 2 years after the effective date of the rule.

Sec. 44. (1) Sections 41, and 42, and 66 do not apply to an amendment or rescission of a rule that is obsolete or superseded,
or that is required to make obviously needed corrections to make
the rule conform to an amended or new statute or to accomplish any
other solely formal purpose, if a statement to that effect is
included in the legislative service bureau certificate of approval
of the rule.

(2) Sections 41 and 42 do not apply to a rule that is
promulgated under the Michigan occupational safety and health act, 
1974 PA 154, MCL 408.1001 to 408.1094, that is substantially
similar to an existing federal standard that has been adopted or
promulgated under the occupational safety and health act of 1970,
Public Law 91-596. However, notice of the proposed rule must be
published in the Michigan register at least 35 days before
the submission of the rule to the secretary of state
under section 46(1). A reasonable period, not to exceed 21 days,
must be provided for the submission of written or electronic
comments and views following publication in the Michigan
register.

(3) Sections 41 and 42 do not apply to a change to a proposed
rule by an agency during processing of the rule if the office
determines under section 45c(3) that the regulatory impact and
impact on small businesses of the changed proposed rule are not
more burdensome than the regulatory impact and impact on small
businesses of the original proposed rule.

(4) For purposes of subsection (2), "substantially similar"
means identical, with the exception of style or format differences
needed to conform to this or other state laws, as determined by the
office.
Sec. 47. (1) Except in case of a rule processed under section 48, a rule becomes effective on the date fixed in the rule, which shall not be earlier than 7 days after the date of its promulgation, or, if a date is not so fixed then IN THE RULE, 7 days after the date of promulgation.

(2) Except in case of a rule processed under section 48 OR 66, an agency may withdraw a promulgated rule which has not become effective by filing a written request stating reasons for withdrawal to the secretary of state on or before the last day for filing rules for the interim period in which the rules were first filed, or by filing a written request for withdrawal to the secretary of state and the office, of regulatory reform, within a reasonable time, as determined by the office, of regulatory reform, after the last day for filing and before publication of the rule in the next supplement to the code. In any other case CIRCUMSTANCES, an agency may abrogate its rule only by rescission. When IF an agency has withdrawn a promulgated rule, it shall give notice, stating reasons, to the committee that the rule has been withdrawn.

(3) Sections 45 and 45a apply to rules for which a public hearing has not been held by April 1, 2000.

Sec. 48. (1) If an agency finds that preservation of the public health, safety, or welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 and states in the rule the agency's reasons for that finding, and the governor concurs in the finding of emergency, the agency may dispense with all or part of the procedures and file in the office of the secretary of state
the copies prescribed by section 46 endorsed as an emergency rule, to 3 of which copies shall **MUST** be attached the certificates prescribed by section 45 and the governor's certificate concurring in the finding of emergency. The emergency rule is effective on filing and remains in effect until a date fixed in the rule or 6 months after the date of its filing, whichever is earlier. The rule may be extended once for not more than 6 months by the filing of a governor's certificate of the need for the extension with the office of the secretary of state before expiration of the emergency rule. **ANY PERIOD OR EXTENSION DURING WHICH AN EMERGENCY RULE IS EFFECTIVE UNDER THIS SUBSECTION IS TOLLED FROM THE DATE THAT THE ENVIRONMENTAL RULES REVIEW COMMITTEE MAKES A DETERMINATION AS TO A SIMILAR RULE UNDER SECTION 66(5)(C) UNTIL THE DATE A PUBLIC HEARING IS HELD ON THE RULE UNDER SECTION 66(7).**

(2) If the director of the department of community health AND HUMAN SERVICES determines that an imminent danger to the health or lives of individuals in this state can be prevented or controlled by scheduling a substance as a controlled substance under section 2251(4) of the public health code, 1978 PA 368, MCL 333.2251, and the administrator determines that the substance should be scheduled or rescheduled as a controlled substance, the department of licensing and regulatory affairs may dispense with all or part of the procedures required by sections 41 and 42 and file in the office of the secretary of state the copies prescribed by section 46 endorsed as an emergency rule, to 3 of which copies shall **MUST** be attached the certificate of approval and the director of the department of community health's HEALTH AND HUMAN SERVICES'S
notification under section 2251(4) of the public health code, 1978 PA 368, MCL 333.2251. The office of regulatory reinvention shall submit the emergency rule draft language to the legislative service bureau for its formal certification within 7 business days of receipt from the department of licensing and regulatory affairs. The legislative service bureau shall issue a certificate of approval indicating whether the proposed rule is proper as to all matters of form, classification, and arrangement within 7 business days after receiving the submission and return the rule to the office of regulatory reinvention. If the legislative service bureau fails to issue a certificate of approval within 7 business days after receipt of the submission for formal certification, the office of regulatory reinvention may issue a certificate of approval. If the legislative service bureau returns the submission to the office of regulatory reinvention before the expiration of the 7-business-day time period, the 7-business-day time period is tolled until the rule is returned by the office of regulatory reinvention. The legislative service bureau shall have the remainder of the 7-business-day time period to consider the formal certification of the rule. Upon receipt from the legislative service bureau, the office of regulatory reinvention shall, within 7 business days, approve the proposed rule if it considers the proposed rule to be legal and appropriate. An emergency rule adopted under this subsection remains in effect until the earlier date of the following:

(a) An identical or similar rule is promulgated.

(b) An identical or similar bill is enacted into law.
(c) The administrator determines that the emergency rule is no longer necessary.

(d) Six months after the date of its filing, which may be extended for not more than 6 months by the administrator upon filing a certificate of extension with the office of the secretary of state before the expiration of 6 months after the date of its filing.

(3) An emergency rule shall not be numbered and shall not be compiled in the Michigan administrative code, but shall be noted in the annual supplement to the code. The emergency rule shall be published in the Michigan register pursuant to section 8.

(4) If the agency desires to promulgate an identical or similar rule with an effectiveness beyond the final effective date of an emergency rule, the agency shall comply with the procedures prescribed by this act for the processing of a rule which is not an emergency rule. The rule shall be published in the Michigan register and in the code.

(5) As used in this section, "administrator" means that term as defined in section 7103 of the public health code, 1978 PA 368, MCL 333.7103.

SEC. 65. (1) THE ENVIRONMENTAL RULES REVIEW COMMITTEE IS CREATED AS AN INDEPENDENT BODY IN THE OFFICE.

AGRICULTURE AND RURAL DEVELOPMENT, OR HIS OR HER DESIGNEE, AND THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES, OR HIS OR HER DESIGNEE, ALL OF WHOM SERVE AS NONVOTING MEMBERS, AND THE FOLLOWING VOTING MEMBERS APPOINTED BY THE GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF THE SENATE:

(A) ONE INDIVIDUAL WHO REPRESENTS THE SOLID WASTE MANAGEMENT INDUSTRY.

(B) ONE INDIVIDUAL WHO REPRESENTS A STATEWIDE MANUFACTURING ORGANIZATION.

(C) ONE INDIVIDUAL WHO REPRESENTS A STATEWIDE ORGANIZATION THAT REPRESENTS SMALL BUSINESSES.

(D) ONE INDIVIDUAL WHO REPRESENTS PUBLIC UTILITIES THAT ENGAGE IN THE GENERATION, TRANSMISSION, OR DISTRIBUTION OF ELECTRICITY.

(E) ONE INDIVIDUAL WHO REPRESENTS A STATEWIDE ENVIRONMENTAL ORGANIZATION.

(F) ONE INDIVIDUAL WHO REPRESENTS THE OIL AND GAS INDUSTRY.

(G) ONE INDIVIDUAL WHO REPRESENTS A STATEWIDE AGRICULTURAL ORGANIZATION.

(H) ONE INDIVIDUAL WHO REPRESENTS LOCAL GOVERNMENTS.

(I) ONE INDIVIDUAL WHO REPRESENTS A STATEWIDE LAND CONSERVANCY ORGANIZATION.

(J) TWO INDIVIDUALS WHO REPRESENT THE GENERAL PUBLIC.

(K) ONE INDIVIDUAL WHO IS A PUBLIC HEALTH PROFESSIONAL.

(3) A VOTING MEMBER OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE MUST POSSESS KNOWLEDGE, EXPERIENCE, OR EDUCATION THAT QUALIFIES HIM OR HER TO REPRESENT THE REPRESENTED CONSTITUENCY.

(4) AN INDIVIDUAL MAY NOT SERVE AS A VOTING MEMBER OF THE
ENVIRONMENTAL RULES REVIEW COMMITTEE IF ANY OF THE FOLLOWING APPLY:

(A) THE INDIVIDUAL IS AN EMPLOYEE OF ANY OFFICE, DEPARTMENT, OR AGENCY OF THIS STATE.

(B) THE INDIVIDUAL IS A PARTY TO 1 OR MORE CONTRACTS WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE COMPENSATION PAID UNDER THOSE CONTRACTS IN ANY OF THE PRECEDING 3 YEARS REPRESENTED MORE THAN 5% OF THE INDIVIDUAL'S ANNUAL GROSS INCOME IN THAT PRECEDING YEAR.

(C) THE INDIVIDUAL IS EMPLOYED BY A PERSON THAT IS A PARTY TO 1 OR MORE CONTRACTS WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE COMPENSATION PAID TO THE INDIVIDUAL'S EMPLOYER UNDER THOSE CONTRACTS IN ANY OF THE PRECEDING 3 YEARS REPRESENTED MORE THAN 5% OF THE EMPLOYER'S ANNUAL GROSS REVENUE IN THAT PRECEDING YEAR.

(D) THE INDIVIDUAL WAS EMPLOYED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY WITHIN THE PRECEDING 3 YEARS.

(5) AN INDIVIDUAL WHO IS A LOBBYIST AGENT UNDER 1978 PA 472, MCL 4.411 TO 4.431, MAY SERVE AS A MEMBER OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE ONLY IF THE INDIVIDUAL DOES NOT SIMULTANEOUSLY RECEIVE COMPENSATION OR REIMBURSEMENT OF ACTUAL EXPENSES FOR LOBBYING FROM MORE THAN 1 PERSON WHILE SERVING AS A MEMBER OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE.

(6) NOT MORE THAN 6 OF THE VOTING MEMBERS OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE MAY BE MEMBERS OF THE SAME POLITICAL PARTY.

(7) SUBJECT TO SUBSECTION (8), A VOTING MEMBER OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL SERVE A TERM OF 4 YEARS, EXCEPT THAT OF THE MEMBERS FIRST APPOINTED, 4 SHALL EACH SERVE A TERM OF 4 YEARS, 4 SHALL EACH SERVE A TERM OF 3 YEARS, AND 4 SHALL
EACH SERVE A TERM OF 2 YEARS. A VOTING MEMBER OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE MUST NOT BE APPOINTED TO SERVE MORE THAN 3 CONSECUTIVE 4-YEAR TERMS BUT MAY BE APPOINTED AGAIN AFTER NOT SERVING ON THE ENVIRONMENTAL RULES REVIEW COMMITTEE FOR 1 FULL TERM.

(8) THE TERM OF A VOTING MEMBER OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE CONTINUES UNTIL A SUCCESSOR IS APPOINTED.

(9) THE GOVERNOR MAY REMOVE A VOTING MEMBER OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE FOR CAUSE. CAUSE INCLUDES, BUT IS NOT LIMITED TO, REPEATED FAILURE TO ATTEND MEETINGS.

(10) THE GOVERNOR SHALL APPOINT, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, A MEMBER TO FILL A VACANCY IN THE VOTING MEMBERSHIP OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE CREATED BY EITHER OF THE FOLLOWING:

(A) THE DEATH, RESIGNATION, OR REMOVAL OF A MEMBER BEFORE THE MEMBER'S TERM HAS EXPIRED. A MEMBER APPOINTED UNDER THIS SUBDIVISION SHALL SERVE FOR THE REMAINDER OF THE UNEXPIRED TERM.

(B) THE EXPIRATION OF A MEMBER'S TERM.

(11) THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL NOT CONDUCT ANY BUSINESS OR PERFORM ANY DUTIES WHILE THERE IS A VACANCY IN THE VOTING MEMBERSHIP OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE, EXCEPT AS FOLLOWS:

(A) IF THE VACANCY IS CREATED BY DEATH, RESIGNATION, OR REMOVAL, THE ENVIRONMENTAL RULES REVIEW COMMITTEE MAY CONTINUE TO CONDUCT BUSINESS AND PERFORM DUTIES UNLESS THE GOVERNOR DOES NOT APPOINT AN INDIVIDUAL TO FILL THE VACANCY WITHIN 90 DAYS. IF THE GOVERNOR DOES NOT APPOINT AN INDIVIDUAL TO FILL THE VACANCY WITHIN
90 DAYS, THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL NOT CONDUCT
ANY BUSINESS OR PERFORM ANY DUTIES UNTIL THE GOVERNOR APPOINTS AN
INDIVIDUAL TO FILL THE VACANCY.

(B) IF THE VACANCY IS CREATED BY THE SENATE’S DISAPPROVAL OF
AN APPOINTMENT UNDER SECTION 6 OF ARTICLE V OF THE STATE
CONSTITUTION OF 1963, THE ENVIRONMENTAL RULES REVIEW COMMITTEE MAY
CONTINUE TO CONDUCT BUSINESS AND PERFORM DUTIES UNLESS THE GOVERNOR
DOES NOT APPOINT AN INDIVIDUAL TO FILL THE VACANCY WITHIN 90 DAYS.
IF THE GOVERNOR DOES NOT APPOINT AN INDIVIDUAL TO FILL THE VACANCY
WITHIN 90 DAYS, THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL NOT
CONDUCT ANY BUSINESS OR PERFORM ANY DUTIES UNTIL THE GOVERNOR
APPOINTS AN INDIVIDUAL TO FILL THE VACANCY.

(12) THE VOTING MEMBERS OF THE ENVIRONMENTAL RULES REVIEW
COMMITTEE SHALL SERVE WITHOUT COMPENSATION BUT MAY BE REIMBURSED BY
THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR ACTUAL AND NECESSARY
EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS
MEMBERS.

(13) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
AND THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
SHALL EACH SELECT A SCIENCE ADVISOR TO PARTICIPATE IN MEETINGS OF
THE ENVIRONMENTAL RULES REVIEW COMMITTEE AND PROVIDE EXPERT ADVICE
TO ENVIRONMENTAL RULES REVIEW COMMITTEE MEMBERS ON RELEVANT
SCIENCE-BASED ISSUES THAT COME BEFORE THE ENVIRONMENTAL RULES
REVIEW COMMITTEE. TO SERVE AS AN ENVIRONMENTAL RULES REVIEW
COMMITTEE SCIENCE ADVISOR, AN INDIVIDUAL MUST POSSESS THE PROPER
EDUCATIONAL CREDENTIALS AND BACKGROUND TO PROVIDE SCIENCE-BASED
EXPERT ADVICE. AN INDIVIDUAL MAY NOT SERVE AS A SCIENCE ADVISOR IF
HE OR SHE IS A STATE EMPLOYEE OR CONTRACT EMPLOYEE OF THIS STATE.


(15) NINE VOTING MEMBERS OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE CONSTITUTE A QUORUM. A QUORUM MUST BE PRESENT TO TRANSACT ANY BUSINESS AT A MEETING OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE. DECISIONS BY THE ENVIRONMENTAL RULES REVIEW COMMITTEE AT A MEETING MUST BE MADE BY A MAJORITY VOTE OF THE MEMBERS PRESENT AT THE MEETING.


(17) THE CHAIRPERSON OR A MAJORITY OF THE MEMBERS OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE MAY CALL A MEETING OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE. HOWEVER, A MEETING MAY NOT BE CALLED ON LESS THAN 10 DAYS' NOTICE UNLESS ALL THE VOTING MEMBERS OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE AGREE IN WRITING OR BY ELECTRONIC MEANS TO A SHORTER NOTICE PERIOD.

(18) THE ENVIRONMENTAL RULES REVIEW COMMITTEE MAY ENGAGE
ADMINISTRATIVE, TECHNICAL, OR LEGAL CONSULTANTS, IN ADDITION TO ADVISORS SELECTED UNDER SUBSECTION (13), TO ASSIST THE ENVIRONMENTAL RULES REVIEW COMMITTEE IN THE PERFORMANCE OF ITS DUTIES. IF REQUESTED BY THE ENVIRONMENTAL RULES REVIEW COMMITTEE, A DEPARTMENT, AGENCY, OR OFFICE OF THIS STATE MAY PROVIDE ADMINISTRATIVE, TECHNICAL, OR LEGAL STAFF, IN ADDITION TO ADVISORS SELECTED UNDER SUBSECTION (13), TO ASSIST THE ENVIRONMENTAL RULES REVIEW COMMITTEE IN THE PERFORMANCE OF ITS DUTIES.


SEC. 66. (1) THE OFFICE SHALL PROMPTLY TRANSMIT TO THE ENVIRONMENTAL RULES REVIEW COMMITTEE ELECTRONIC COPIES OF A REQUEST FOR RULE-MAKING SUBMITTED TO THE OFFICE BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY UNDER SECTION 39. THE DEPARTMENT OF ENVIRONMENTAL QUALITY IS STRONGLY ENCOURAGED TO CREATE A STAKEHOLDER REVIEW PROCESS BEFORE BEGINNING THE RULE PROMULGATION PROCESS TO ENSURE THAT ALL VIEWPOINTS ARE ADEQUATELY REPRESENTED IN THE PROPOSED RULE.

(2) WITHIN 14 DAYS AFTER THE ENVIRONMENTAL RULES REVIEW COMMITTEE RECEIVES A REQUEST FOR RULE-MAKING, THE CHAIRPERSON AND
VICE-CHAIRPERSON MAY DETERMINE AND NOTIFY THE OTHER MEMBERS OF THE
ENVIRONMENTAL RULES REVIEW COMMITTEE THAT NO FURTHER REVIEW OF THE
RULE-MAKING SHOULD BE REQUIRED UNDER THIS SECTION. WITHIN 14 DAYS
AFTER RECEIVING THIS NOTICE, 3 MEMBERS OF THE ENVIRONMENTAL RULES
REVIEW COMMITTEE MAY REQUEST A VOTE ON THE DETERMINATION. IF 7 OR
MORE MEMBERS VOTE TO OVERRIDE THE DETERMINATION OF THE CHAIRPERSON
AND VICE-CHAIRPERSON, THE RULE-MAKING MUST PROCEED UNDER
SUBSECTIONS (3) TO (12). IF FEWER THAN 7 MEMBERS VOTE TO OVERRIDE
REQUEST FOR RULE-MAKING MUST NOT PROCEED UNDER SUBSECTIONS (3) TO
(12), BUT MUST PROCEED UNDER THE OTHERWISE APPLICABLE SECTIONS OF
THIS ACT.

(3) THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL PROVIDE
COPIES OF DRAFT PROPOSED RULES AND A DRAFT REGULATORY IMPACT
STATEMENT TO THE OFFICE AND THE ENVIRONMENTAL RULES REVIEW
COMMITTEE.

(4) AFTER RECEIVING DRAFT PROPOSED RULES UNDER SUBSECTION (3),
THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL MEET 1 OR MORE TIMES
TO CONSIDER WHETHER THE DRAFT PROPOSED RULES MEET ALL OF THE
FOLLOWING CRITERIA:

(A) THE OFFICE HAS CERTIFIED THAT THE DRAFT PROPOSED RULES DO
NOT EXCEED THE RULE-MAKING DELEGATION CONTAINED IN THE STATUTE
AUTHORIZING THE RULE-MAKING.

(B) THE DRAFT PROPOSED RULES REASONABLY IMPLEMENT AND APPLY
THE STATUTE AUTHORIZING THE RULE-MAKING AND ARE CONSISTENT WITH ALL
OTHER APPLICABLE LAW.

(C) THE DRAFT PROPOSED RULES ARE NECESSARY AND SUITABLE TO
ACHIEVE THEIR PURPOSES IN PROPORTION TO THE BURDENS THEY PLACE ON
INDIVIDUALS AND BUSINESSES.

(D) THE DRAFT PROPOSED RULES ARE AS CLEAR AND UNAMBIGUOUS AS
REASONABLY APPROPRIATE CONSIDERING THE SUBJECT MATTER OF THE
PROPOSED RULES AND THE INDIVIDUALS AND BUSINESSES THAT WILL BE
REQUIRED TO COMPLY WITH THE PROPOSED RULES.

(E) THE DRAFT PROPOSED RULES ARE BASED ON SOUND AND OBJECTIVE
SCIENTIFIC REASONING.

(5) WITHIN 35 DAYS AFTER RECEIVING DRAFT PROPOSED RULES UNDER
SUBSECTION (3), THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL MAKE
1 OF THE FOLLOWING DETERMINATIONS:

(A) BY A VOTE OF 9 VOTING MEMBERS OF THE ENVIRONMENTAL RULES
REVIEW COMMITTEE, A DETERMINATION THAT THE REQUEST FOR RULE-MAKING
MUST NOT PROCEED ANY FURTHER UNDER THIS SECTION, BUT MUST PROCEED
UNDER THE OTHERWISE APPLICABLE SECTIONS OF THIS ACT.

(B) BY A MAJORITY VOTE OF THE VOTING MEMBERS OF THE
ENVIRONMENTAL RULES REVIEW COMMITTEE, A DETERMINATION THAT THE
DRAFT PROPOSED RULES MEET THE CRITERIA IN SUBSECTION (4) AND MAY
PROCEED TO A PUBLIC HEARING UNDER SUBSECTION (7)(A).

(C) BY A MAJORITY VOTE OF THE VOTING MEMBERS OF THE
ENVIRONMENTAL RULES REVIEW COMMITTEE, EITHER A DETERMINATION THAT
THE DRAFT PROPOSED RULES DO NOT MEET THE CRITERIA IN SUBSECTION (4)
OR THAT ADDITIONAL REVIEW IS NEEDED TO DETERMINE WHETHER THE DRAFT
PROPOSED RULES MEET THE CRITERIA IN SUBSECTION (4). IF THE
ENVIRONMENTAL RULES REVIEW COMMITTEE MAKES A DETERMINATION UNDER
THIS SUBDIVISION, THE DRAFT PROPOSED RULES MUST NOT PROCEED TO A
PUBLIC HEARING UNDER SECTIONS 41 AND 42 BUT RATHER MUST FOLLOW THE
PROCESS IN SUBSECTION (6).

(6) IF THE ENVIRONMENTAL RULES REVIEW COMMITTEE MAKES A DETERMINATION UNDER SUBSECTION (5)(C), THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL NOTIFY THE DEPARTMENT OF ENVIRONMENTAL QUALITY IN WRITING OF THE DETERMINATION, INCLUDING AN EXPLANATION AS TO EITHER WHY THE DRAFT PROPOSED RULES DO NOT MEET THE CRITERIA IN SUBSECTION (4) OR WHY ADDITIONAL REVIEW IS NEEDED. THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL THEN ATTEMPT TO ADDRESS THE ENVIRONMENTAL RULES REVIEW COMMITTEE'S DETERMINATION BY TAKING ACTIONS THAT MAY INCLUDE, BUT ARE NOT LIMITED TO, CONVENING MEETINGS WITH STAKEHOLDERS OR GROUPS OF STAKEHOLDERS, PROVIDING FURTHER INFORMATION TO THE ENVIRONMENTAL RULES REVIEW COMMITTEE, OR REVISING THE DRAFT PROPOSED RULES.

(7) THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL HOLD A PUBLIC HEARING UNDER SECTIONS 41 AND 42 ONLY IF 1 OF THE FOLLOWING OCCURS:

(A) THE ENVIRONMENTAL RULES REVIEW COMMITTEE MAKES THE DETERMINATION UNDER SUBSECTION (5)(B).

(B) THE ENVIRONMENTAL RULES REVIEW COMMITTEE DETERMINES THAT THE DRAFT PROPOSED RULES OR ANY REVISED DRAFT PROPOSED RULES SUBMITTED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY MEET THE CRITERIA IN SUBSECTION (4).

(C) WITHIN 90 DAYS AFTER THE DEPARTMENT OF ENVIRONMENTAL QUALITY RECEIVES A NOTICE UNDER SUBSECTION (6), WHICH DEADLINE MAY BE EXTENDED BY UP TO 2 ADDITIONAL 90-DAY PERIODS BY A MAJORITY OF THE VOTING MEMBERS OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE, THE ENVIRONMENTAL RULES REVIEW COMMITTEE HAS NOT DETERMINED THAT THE...
DRAFT PROPOSED RULES OR ANY REVISED DRAFT PROPOSED RULES SUBMITTED
BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY MEET THE CRITERIA IN
SUBSECTION (4).

(D) THE ENVIRONMENTAL RULES REVIEW COMMITTEE FAILS TO MAKE A
DETERMINATION UNDER SUBSECTION (5) WITHIN 35 DAYS AFTER RECEIVING
THE DRAFT PROPOSED RULES UNDER SUBSECTION (3).

(8) WITHIN 120 DAYS AFTER A PUBLIC HEARING CONDUCTED BY THE
DEPARTMENT OF ENVIRONMENTAL QUALITY UNDER SUBSECTION (7), THE
DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL PREPARE AND SUBMIT TO THE
ENVIRONMENTAL RULES REVIEW COMMITTEE AN AGENCY REPORT CONTAINING A
SYNOPSIS OF THE COMMENTS MADE AT AND RECEIVED IN CONNECTION WITH
THE PUBLIC HEARING AND A DESCRIPTION OF ANY CHANGES THAT ARE
SUGGESTED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO THE DRAFT
PROPOSED RULES. IF THE DEPARTMENT OF ENVIRONMENTAL QUALITY FAILS TO
SUBMIT AN AGENCY REPORT TO THE ENVIRONMENTAL RULES REVIEW COMMITTEE
WITHIN 120 DAYS AFTER THE PUBLIC HEARING, THE DEPARTMENT OF
ENVIRONMENTAL QUALITY SHALL WITHDRAW THE RULE REQUEST.

(9) AFTER THE RECEIPT OF AN AGENCY REPORT UNDER SUBSECTION
(8), THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL MEET 1 OR MORE
TIMES TO DISCUSS THE REPORT AND COMMENTS MADE AND TESTIMONY GIVEN
AT THE PUBLIC HEARING AND APPROVE THE DRAFT PROPOSED RULES WITH
MODIFICATIONS, APPROVE THE DRAFT PROPOSED RULES, OR REJECT THE
DRAFT PROPOSED RULES. IF THE ENVIRONMENTAL RULES REVIEW COMMITTEE
FAILS TO MAKE A DETERMINATION WITHIN 120 DAYS AFTER RECEIVING AN
AGENCY REPORT UNDER SUBSECTION (8), THE DRAFT PROPOSED RULES MUST
PROCEED UNDER SUBSECTION (12).

(10) IF THE ENVIRONMENTAL RULES REVIEW COMMITTEE APPROVES THE

ENVIRONMENTAL QUALITY TO WITHDRAW THE DRAFT RULES.


Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 653 of the 99th Legislature is enacted into law.