

LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

CONTESTED CASE AND DECLARATORY RULING PROCEDURES

(By authority conferred on the department of environmental quality by sections 2233, 12561, and 13322 of 1978 PA 368, MCL 333.2233, 333.12561 and 333.13322 and Executive Reorganization Order Nos. 1997-2 and 1998-2, MCL 29.451 and 29.461, section 57 of 1989 PA 300, MCL 281.1352, parts 31, 32, 41, 55, 63, 111, 115, and 201 of 1994 PA 451, MCL 324.101 to 324.90106, Executive Order 1995-16, MCL 324.99903)

PART I. GENERAL PROVISIONS

R 324.1 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.2 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.3 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.21 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.23 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.24 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.31 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.32 Rescinded.

History: 2003 AACCS; 2015 AACCS.

R 324.33 Rescinded.

History: 2003 AACCS; 2015 AACCS.

R 324.41 Rescinded.

History: 2003 AACCS; 2015 AACCS.

R 324.42 Rescinded.

History: 2003 AACCS; 2015 AACCS.

R 324.43 Rescinded.

History: 2003 AACCS; 2015 AACCS.

R 324.51 Rescinded.

History: 2003 AACCS; 2015 AACCS.

R 324.52 Rescinded.

History: 2003 AACCS; 2015 AACCS.

R 324.53 Rescinded.

History: 2003 AACCS; 2015 AACCS.

R 324.54 Rescinded.

History: 2003 AACCS; 2015 AACCS.

R 324.55 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.56 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.57 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.58 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.59 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.59a Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.59b Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.59c Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.59d Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.59e Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.61 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.62 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.63 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.64 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.65 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.71 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.72 Rescinded.

History: 2003 AACS; 2015 AACS.

R 324.73 Proposal for decision; request for oral argument; opportunity for rebuttal.

Rule 73. (1) A party desiring to make oral argument in support of exceptions to a proposal for decision or in addition to written argument shall include a request in the exceptions filed under R 324.72. Oral argument may be granted by leave of the final decision maker and may be limited in scope and duration. Oral argument shall not be permitted without a written request supported by written exceptions and arguments filed in a timely manner. If oral argument is granted, notice shall be served on the parties.

(2) If oral argument is granted, all parties shall be given an opportunity for rebuttal argument, which the final decision maker may limit as to scope and duration.

(3) The final decision maker may schedule oral argument without a request for oral argument by a party.

History: 2003 AACCS.

R 324.74 Final decisions; evidence; date; basis for overturning proposal for decision; record for judicial review.

Rule 74. (1) Review of a proposal for decision by the final decision maker shall be restricted to the record made at the hearing and the exceptions and arguments submitted by the parties. Issues not raised in the written exceptions and arguments shall not be considered at oral argument. The final decision maker shall not accept additional testimony or exhibits.

(2) Except as otherwise provided by law, the final decision maker shall issue a final agency decision within a reasonable time after the date for filing of any exceptions or, if oral argument is permitted, a reasonable time after argument.

(3) The final decision maker may remand, reverse, modify, or set aside a proposal for decision and make a final decision which differs from the proposal for decision. The final decision maker shall consider whether the proposal for decision is deficient due to any of the following:

(a) Misapplied a rule, statute, or constitutional provision governing the issues involved.

(b) Adopted an incorrect interpretation of a rule or statute or an incorrect conclusion of law.

(c) Incorporated typographical, mathematical, or other obvious errors that affect the substantial rights of 1 or all of the parties to the action.

(d) Failed to address a relevant issue.

(e) Made factual findings inconsistent with the evidentiary record.

(f) Improperly excluded or included evidence that substantially affects the outcome of the case.

(4) The final decision maker's order shall include findings of fact and conclusions of law pursuant to section 85 of the act. The final decision maker may adopt the proposal for decision or any part of it as the final agency decision.

(5) The final agency decision in a contested case is the exhaustion of administrative remedies as set forth in section 301 of the act.

History: 2003 AACCS.

R 324.75 Rescinded.

History: 2003 AACCS; 2015 AACCS.

PART 8. DECLARATORY RULINGS

R 324.81 Declaratory rulings.

Rule 81. (1) An interested person requesting a declaratory ruling as to the applicability of a licensing statute, rule, or order administered by the department to an actual state of uncontested facts may do so on a form provided by the department. Requests regarding enforcement issues are not a proper subject for a declaratory ruling. The department shall not process a request that is incomplete. The request shall contain, at a minimum, all of the following information:

(a) The requesting person's name, mailing address, and telephone number.

(b) The requesting person's interest in the matter, including assertions regarding the person's legal standing to request a declaratory ruling.

(c) The statute, rule, or order to which the request applies.

(d) A detailed statement of the actual uncontested facts to which the statute, rule, or order may apply. Drawings, sketches, photographs, illustrations, and maps may be attached to the form.

(2) Within 60 days of receipt of the request, the department shall take 1 of the following actions:

(a) Deny the request and state the reasons for the denial.

(b) Grant the request and issue the declaratory ruling.

(c) Advise the person requesting the ruling that further clarification of the facts must be provided, or that the department requires additional time to conduct a review, including, but not limited to, an on-site investigation.

(3) If subrule (2)(c) of this rule is invoked, the department shall either deny or grant the request within 60 days after receiving satisfactory clarification of facts from the requesting person or from the date the department notifies the requesting person of the need for additional time to investigate.

(4) The department shall issue a declaratory ruling only in matters where all relevant facts are stipulated to by the requesting party and appropriate division. If relevant facts necessary to issue a declaratory ruling are contested, then a declaratory ruling shall not be issued.

(5) A denial or adverse decision of a declaratory ruling does not entitle a person to a contested case hearing.

History: 2003 AACCS.