

Joint Committee on Administrative Rules (JCAR)

An Overview

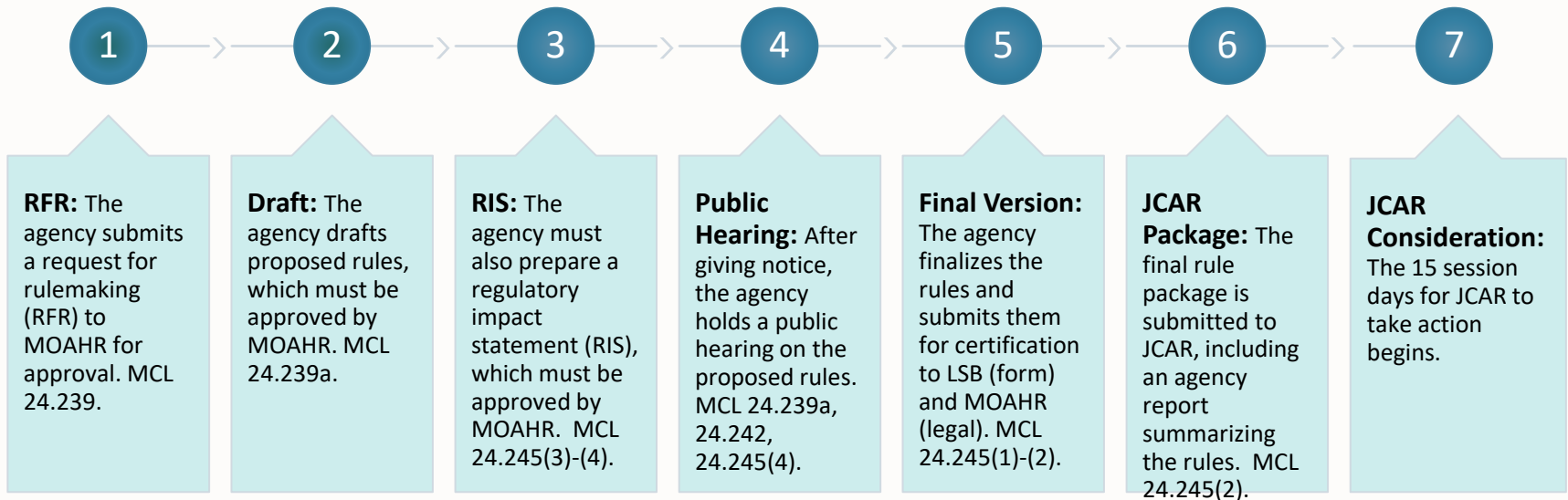


What is JCAR?

- A statutorily created bicameral legislative committee that is responsible for the legislative oversight of administrative rules proposed or adopted by state agencies (the rules in the Michigan Administrative Code).
- 5 House members (3 majority party and 2 minority party).
- 5 Senate members (3 majority party and 2 minority party).
- The chairperson of the committee alternates between houses each year.
- **All actions taken by JCAR must be by concurrent majority (3 House members must vote yes and 3 Senate members must vote yes).**
- **MCL 24.235.**

The Rulemaking Process

The Michigan Office of Administrative Hearings and Rules (MOAHR) is in charge of overseeing the administrative rulemaking process for each department.



NOTE: While rules are not before JCAR until step 6 of the rulemaking process, committee members will receive copies of documents prepared in connection with steps 1 to 5.

**JCAR does
not
approve or
disapprove
rules.**

*See Blank v
Dep't of
Corrections,
462 Mich
103 (2000).*

Rather, JCAR has 15 session days to do 1 of the following:

1. Nothing. Rule may be filed with the Secretary of State after 15 session days. MCL 24.245a(3).
2. Waive remaining session days. Rule may be immediately filed. MCL 24.245a(3).
3. Propose that the rule be changed. MCL 24.245a(1)(b). (Added by 2016 PA 513.)
4. Object to the rule. MCL 24.245a(1)(a).
5. Decide to introduce bills to enact the subject of the rule into law. MCL 24.245a(1)(c). (Added by 2016 PA 513.)

NOTE: Session days = days both the House and Senate are in session with a quorum.

Propose that a rule be changed

If JCAR proposes that a rule be changed, the agency must do 1 of the following within 30 days (MCL 24.245c):

1. Decide to change the rule and resubmit the rule as changed to JCAR.
2. Decide not to change the rule and notify JCAR of that decision. JCAR has 15 session days after the filing of the notice to consider the rule.

Object

In order to object, both of the following requirements must be met (MCL 24.245a):

1. JCAR must approve a notice of objection and file it with the OPT. To approve a notice of objection, JCAR must affirmatively determine that 1 or more of the following apply:
 - a. The agency lacks statutory authority for the rule.
 - b. The agency is exceeding the statutory scope of its rule-making authority.
 - c. There exists an emergency relating to the public health, safety, and welfare that would warrant disapproval of the rule.
 - d. The rule conflicts with state law.
 - e. A substantial change in circumstances has occurred since enactment of the law on which the proposed rule is based.
 - f. The rule is arbitrary or capricious.
 - g. The rule is unduly burdensome to the public or to a licensee licensed under the rule.
2. If a notice of objection is filed, members of the committee must introduce in both houses (and pass within 15 session days) a bill that does 1 of the following:
 - a. Rescinds the rule upon its effective date.
 - b. Repeals the statutory provision under which the rule was authorized
 - c. Stays the effective date of the proposed rule for up to one year.

Enact the Subject of the Rule into Law

The committee chair and alternate chair must introduce or cause to be introduced in both houses bills to enact into law the subject of the proposed rule. LSB shall give priority to the preparation of these bills. If this happens, the proposed rule is put on hold for 270 days. MCL 24.245a(5), (7).



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Useful Links

JCAR website:

<http://council.legislature.mi.gov/CouncilAdministrator/JCAR>

- Lists rules before the committee
- Provides an overview of the committee
- Has minutes of previous JCAR meetings and documents provided to JCAR as well as other materials
- Allows the public to contact the committee

MOAHR website:

https://www.michigan.gov/lara/0,4601,7-154-89334_10576_92306---,00.html

- Has pending rules activity.
- Has the Michigan Administrative Code.