

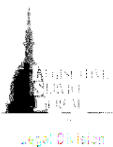
# HOUSE BILL NO. 5452

February 04, 2020, Introduced by Reps. Kuppa, Hammoud, Ellison, Greig, Pohutsky, Cynthia Johnson, Koleszar, Anthony, Tyrone Carter, Garza, Coleman, Brenda Carter, Shannon, Robinson, Byrd, Chirkun, Hertel, Manoogian, Hood, Sowerby, Lasinski, Guerra, Clemente, Hope, Kennedy, Witwer, Tate, Sabo, Wittenberg, Brixie, Haadsma, Love, Camilleri, Cherry, Hoadley, Stone, Yancey, Garrett, Gay-Dagnogo, Jones and Rabhi and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1969 PA 306, entitled  
"Administrative procedures act of 1969,"  
by amending sections 33, 39a, 41, 42, 43, 44, 47, 48, 65, and 66  
(MCL 24.233, 24.239a, 24.241, 24.242, 24.243, 24.244, 24.247,  
24.248, 24.265, and 24.266), sections 33, 39a, 41, 42, 43, 44, 47,  
and 48 as amended and sections 65 and 66 as added by 2018 PA 267.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 33. (1) An agency shall promulgate rules describing its  
2 organization and stating the general course and method of its



1 operations. The agency may include in the rules forms with  
2 instructions. Sections 41, 42, 45, **and** 45a ~~, and 66~~ do not apply to  
3 promulgation of the rules.

4 (2) An agency shall promulgate rules prescribing its  
5 procedures available to the public and the methods by which the  
6 public may obtain information and submit requests.

7 (3) An agency may promulgate rules prescribing procedures for  
8 contested cases. The rules must be consistent with this act and  
9 other applicable statutes.

10 Sec. 39a. (1) ~~Subject to section 66, an~~ **An** agency may publish  
11 the notice of hearing under section 42 only if the office has  
12 received draft proposed rules and has given the agency approval to  
13 proceed with a public hearing.

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

22 Sec. 41. (1) Except as provided in ~~sections~~ **section** 44, ~~and~~  
23 ~~66,~~ before the adoption of a rule, an agency, or the office, shall  
24 give notice of a public hearing and offer a person an opportunity  
25 to present data, views, questions, and arguments. The notice must  
26 be given within the time prescribed by any applicable statute, or  
27 if none, in the manner prescribed in section 42(1).

28 (2) The notice described in subsection (1) must include all of  
29 the following:



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

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

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

9 (3) The agency, or the office acting on behalf of an agency,  
10 shall transmit copies of the notice described in subsection (1) to  
11 each person who requested the agency in writing or electronically  
12 for advance notice of proposed action that may affect the person.  
13 If requested, the notice must be by mail, in writing, or  
14 electronically to the last address specified by the person.

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

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

23 Sec. 42. (1) Except as provided in ~~sections~~**section** 44, and  
24 ~~66,~~ at a minimum, an agency, or the office acting on behalf of the  
25 agency, shall publish the notice of public hearing as prescribed in  
26 any applicable statute or, if none, the agency, or the office  
27 acting on behalf of the agency, shall publish the notice not less  
28 than 10 days and not more than 60 days before the date of the  
29 public hearing in ~~at least~~**not less than** 3 newspapers of general



1 circulation in different parts of this state, 1 of which must be in  
2 the Upper Peninsula.

3 (2) Additional methods that may be employed to provide notice  
4 of the public hearing include publication in trade, industry,  
5 governmental, or professional publications or posting on the  
6 website of the agency or the office.

7 (3) In addition to the requirements of subsection (1), ~~and~~  
8 ~~except as provided in section 66,~~ the agency shall electronically  
9 submit a copy of the notice of public hearing to the office for  
10 publication in the Michigan Register. If the office submitted the  
11 notice of public hearing on behalf of the agency, the office shall  
12 publish the notice of public hearing in the Michigan Register. An  
13 agency's notice must be published in the Michigan Register before  
14 the public hearing and the agency shall electronically file a copy  
15 of the notice of public hearing with the office. Within 7 days  
16 after receipt of the notice of public hearing and before the public  
17 hearing, the office shall do all of the following:

18 (a) Electronically transmit a copy of the notice of public  
19 hearing to the committee.

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

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

29 (5) After receipt of the notice of public hearing filed under



1 subsection (3), the committee may meet to consider the proposed  
 2 rule, take testimony, and provide the agency with the committee's  
 3 informal response to the rule.

4 Sec. 43. (1) Except for an emergency rule promulgated in the  
 5 manner described in section 48, a rule is not valid unless it is  
 6 processed in compliance with ~~section 66, if applicable,~~ section 42,  
 7 and in substantial compliance with section 41(2), (3), (4), and  
 8 (5).

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

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

20 (2) Sections 41 and 42 do not apply to a rule that is  
 21 promulgated under the Michigan occupational safety and health act,  
 22 1974 PA 154, MCL 408.1001 to 408.1094, that is substantially  
 23 similar to an existing federal standard that has been adopted or  
 24 promulgated under the occupational safety and health act of 1970,  
 25 Public Law 91-596. However, notice of the proposed rule must be  
 26 published in the Michigan Register ~~at least~~ **not less than** 35 days  
 27 before the rule is filed with the secretary of state under section  
 28 46(1). A reasonable period, not to exceed 21 days, must be provided  
 29 for the submission of written or electronic comments and views



1 following publication in the Michigan Register.

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

8 (4) For purposes of subsection (2), "substantially similar"  
9 means identical, with the exception of style or format differences  
10 needed to conform to this or other state laws, as determined by the  
11 office.

12 Sec. 47. (1) Except for a rule processed under section 48, a  
13 rule becomes effective on the date fixed in the rule, which must  
14 not be earlier than 7 days after the date of promulgation, or, if a  
15 date is not fixed in the rule, 7 days after the date of  
16 promulgation.

17 (2) Except for a rule processed under section 48, ~~or 66,~~ an  
18 agency may withdraw a promulgated rule that has not become  
19 effective by filing a written request stating reasons for  
20 withdrawal to the secretary of state on or before the last day for  
21 filing rules for the interim period in which the rules were first  
22 filed, or by filing a written request for withdrawal to the  
23 secretary of state and the office, within a reasonable time, as  
24 determined by the office, after the last day for filing and before  
25 publication of the rule in the next supplement to the code. In any  
26 other circumstances, an agency may abrogate its rule only by  
27 rescission. If an agency has withdrawn a promulgated rule, it shall  
28 give notice, stating reasons, to the committee that the rule has  
29 been withdrawn.



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

3 Sec. 48. (1) If an agency finds that preservation of the  
4 public health, safety, or welfare requires promulgation of an  
5 emergency rule without following the notice and participation  
6 procedures required by sections 41 and 42 and states in the rule  
7 the agency's reasons for that finding, and the governor concurs in  
8 the finding of emergency, the agency may dispense with all or part  
9 of the procedures and file in the office of the secretary of state  
10 the copies prescribed by section 46 endorsed as an emergency rule,  
11 to 3 of which copies must be attached the certificates prescribed  
12 by section 45 and the governor's certificate concurring in the  
13 finding of emergency. The emergency rule is effective on filing and  
14 remains in effect until a date fixed in the rule or 6 months after  
15 the date of its filing, whichever is earlier. The rule may be  
16 extended once for not more than 6 months by the filing of a  
17 governor's certificate of the need for the extension with the  
18 office of the secretary of state before expiration of the emergency  
19 rule. Any period or extension during which an emergency rule is  
20 effective under this subsection is tolled from the date that the  
21 environmental rules review committee makes a determination as to a  
22 similar rule under section 66(5)(c) until the date a public hearing  
23 is held on the rule under section 66(7) **or until the date the**  
24 **environmental rules review committee is abolished under section**  
25 **65(20), whichever is earlier.**

26 (2) If the director of the department of health and human  
27 services determines that an imminent danger to the health or lives  
28 of individuals in this state can be prevented or controlled by  
29 scheduling a substance as a controlled substance under section



1 2251(4) of the public health code, 1978 PA 368, MCL 333.2251, and  
2 the administrator determines that the substance should be scheduled  
3 or rescheduled as a controlled substance, the department of  
4 licensing and regulatory affairs may dispense with all or part of  
5 the procedures required by sections 41 and 42 and file in the  
6 office of the secretary of state the copies prescribed by section  
7 46 endorsed as an emergency rule, to 3 of which copies must be  
8 attached the certificate of approval and the director of the  
9 department of health and human services's notification under  
10 section 2251(4) of the public health code, 1978 PA 368, MCL  
11 333.2251. The office shall submit the emergency rule draft language  
12 to the legislative service bureau for its formal certification  
13 within 7 business days after receipt from the department of  
14 licensing and regulatory affairs. The legislative service bureau  
15 shall issue a certificate of approval indicating whether the  
16 proposed rule is proper as to all matters of form, classification,  
17 and arrangement within 7 business days after receiving the  
18 submission and return the rule to the office. If the legislative  
19 service bureau fails to issue a certificate of approval within 7  
20 business days after receipt of the submission for formal  
21 certification, the office may issue a certificate of approval. If  
22 the legislative service bureau returns the submission to the office  
23 before the expiration of the 7-business-day time period, the 7-  
24 business-day time period is tolled until the rule is returned by  
25 the office. The legislative service bureau has the remainder of the  
26 7-business-day time period to consider the formal certification of  
27 the rule. On receipt from the legislative service bureau, the  
28 office shall, within 7 business days, approve the proposed rule if  
29 it considers the proposed rule to be legal and appropriate. An





1 emergency rule adopted under this subsection remains in effect  
2 until the earlier date of the following:

3 (a) An identical or similar rule is promulgated.

4 (b) An identical or similar bill is enacted into law.

5 (c) The administrator determines that the emergency rule is no  
6 longer necessary.

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

12 (3) An emergency rule must not be numbered and must not be  
13 compiled in the Michigan Administrative Code, but must be noted in  
14 the annual supplement to the code. The emergency rule must be  
15 published in the Michigan ~~register~~**Register** under section 8.

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

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

25 Sec. 65. (1) ~~The~~**Subject to subsection (20), the** environmental  
26 rules review committee is created as an independent body in the  
27 office.

28 (2) The environmental rules review committee consists of the  
29 director of the department of ~~environmental quality,~~**environment,**



1 **Great Lakes, and energy,** or his or her designee, the director of  
2 the department of health and human services, or his or her  
3 designee, the director of the department of agriculture and rural  
4 development, or his or her designee, and the director of the  
5 department of natural resources, or his or her designee, all of  
6 whom serve as nonvoting members, and the following voting members  
7 appointed by the governor by and with the advice and consent of the  
8 senate:

9 (a) One individual who represents the solid waste management  
10 industry.

11 (b) One individual who represents a statewide manufacturing  
12 organization.

13 (c) One individual who represents a statewide organization  
14 that represents small businesses.

15 (d) One individual who represents public utilities that engage  
16 in the generation, transmission, or distribution of electricity.

17 (e) One individual who represents a statewide environmental  
18 organization.

19 (f) One individual who represents the oil and gas industry.

20 (g) One individual who represents a statewide agricultural  
21 organization.

22 (h) One individual who represents local governments.

23 (i) One individual who represents a statewide land conservancy  
24 organization.

25 (j) Two individuals who represent the general public.

26 (k) One individual who is a public health professional.

27 (3) A voting member of the environmental rules review  
28 committee must possess knowledge, experience, or education that  
29 qualifies him or her to represent the represented constituency.



1 (4) An individual may not serve as a voting member of the  
2 environmental rules review committee if any of the following apply:

3 (a) The individual is an employee of any office, department,  
4 or agency of this state.

5 (b) The individual is a party to 1 or more contracts with the  
6 department of ~~environmental quality~~**environment, Great Lakes, and**  
7 **energy** and the compensation paid under those contracts in any of  
8 the preceding 3 years represented more than 5% of the individual's  
9 annual gross income in that preceding year.

10 (c) The individual is employed by a person that is a party to  
11 1 or more contracts with the department of ~~environmental quality~~  
12 **environment, Great Lakes, and energy** and the compensation paid to  
13 the individual's employer under those contracts in any of the  
14 preceding 3 years represented more than 5% of the employer's annual  
15 gross revenue in that preceding year.

16 (d) The individual was employed by the department of  
17 ~~environmental quality~~**environment, Great Lakes, and energy** within  
18 the preceding 3 years.

19 (5) An individual who is a lobbyist agent under 1978 PA 472,  
20 MCL 4.411 to 4.431, may serve as a member of the environmental  
21 rules review committee only if the individual does not  
22 simultaneously receive compensation or reimbursement of actual  
23 expenses for lobbying from more than 1 person while serving as a  
24 member of the environmental rules review committee.

25 (6) Not more than 6 of the voting members of the environmental  
26 rules review committee may be members of the same political party.

27 (7) Subject to subsection (8), a voting member of the  
28 environmental rules review committee shall serve a term of 4 years,  
29 except that of the members first appointed, 4 shall each serve a



1 term of 4 years, 4 shall each serve a term of 3 years, and 4 shall  
2 each serve a term of 2 years. A voting member of the environmental  
3 rules review committee must not be appointed to serve more than 3  
4 consecutive 4-year terms but may be appointed again after not  
5 serving on the environmental rules review committee for 1 full  
6 term.

7 (8) The term of a voting member of the environmental rules  
8 review committee continues until a successor is appointed.

9 (9) The governor may remove a voting member of the  
10 environmental rules review committee for cause. Cause includes, but  
11 is not limited to, repeated failure to attend meetings.

12 (10) The governor shall appoint, by and with the advice and  
13 consent of the senate, a member to fill a vacancy in the voting  
14 membership of the environmental rules review committee created by  
15 either of the following:

16 (a) The death, resignation, or removal of a member before the  
17 member's term has expired. A member appointed under this  
18 subdivision shall serve for the remainder of the unexpired term.

19 (b) The expiration of a member's term.

20 (11) The environmental rules review committee shall not  
21 conduct any business or perform any duties while there is a vacancy  
22 in the voting membership of the environmental rules review  
23 committee, except as follows:

24 (a) If the vacancy is created by death, resignation, or  
25 removal, the environmental rules review committee may continue to  
26 conduct business and perform duties unless the governor does not  
27 appoint an individual to fill the vacancy within 90 days. If the  
28 governor does not appoint an individual to fill the vacancy within  
29 90 days, the environmental rules review committee shall not conduct



1 any business or perform any duties until the governor appoints an  
2 individual to fill the vacancy.

3 (b) If the vacancy is created by the senate's disapproval of  
4 an appointment under section 6 of article V of the state  
5 constitution of 1963, the environmental rules review committee may  
6 continue to conduct business and perform duties unless the governor  
7 does not appoint an individual to fill the vacancy within 90 days.  
8 If the governor does not appoint an individual to fill the vacancy  
9 within 90 days, the environmental rules review committee shall not  
10 conduct any business or perform any duties until the governor  
11 appoints an individual to fill the vacancy.

12 (12) The voting members of the environmental rules review  
13 committee shall serve without compensation but may be reimbursed by  
14 the department of ~~environmental quality~~ **environment, Great Lakes,**  
15 **and energy** for actual and necessary expenses incurred in the  
16 performance of their official duties as members.

17 (13) The director of the department of ~~environmental quality~~  
18 **environment, Great Lakes, and energy** and the director of the  
19 department of health and human services shall each select a science  
20 advisor to participate in meetings of the environmental rules  
21 review committee and provide expert advice to environmental rules  
22 review committee members on relevant science-based issues that come  
23 before the environmental rules review committee. To serve as an  
24 environmental rules review committee science advisor, an individual  
25 must possess the proper educational credentials and background to  
26 provide science-based expert advice. An individual may not serve as  
27 a science advisor if he or she is a state employee or contract  
28 employee of this state.

29 (14) The business that the environmental rules review



1 committee may perform must be conducted at a public meeting of the  
2 environmental rules review committee held in compliance with the  
3 open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

4 (15) Nine voting members of the environmental rules review  
5 committee constitute a quorum. A quorum must be present to transact  
6 any business at a meeting of the environmental rules review  
7 committee. Decisions by the environmental rules review committee at  
8 a meeting must be made by a majority vote of the members present at  
9 the meeting.

10 (16) The environmental rules review committee shall select a  
11 chairperson and vice-chairperson from its voting members. The  
12 chairperson shall preside over all meetings of the environmental  
13 rules review committee and ensure that the decisions of the  
14 environmental rules review committee are implemented. The vice-  
15 chairperson shall perform the duties of the chairperson in the  
16 chairperson's absence. The chairperson and vice-chairperson shall  
17 serve for a term of 2 years and may be selected to serve for  
18 additional terms.

19 (17) The chairperson or a majority of the members of the  
20 environmental rules review committee may call a meeting of the  
21 environmental rules review committee. However, a meeting may not be  
22 called on less than 10 days' notice unless all the voting members  
23 of the environmental rules review committee agree in writing or by  
24 electronic means to a shorter notice period.

25 (18) The environmental rules review committee may engage  
26 administrative, technical, or legal consultants, in addition to  
27 advisors selected under subsection (13), to assist the  
28 environmental rules review committee in the performance of its  
29 duties. If requested by the environmental rules review committee, a



1 department, agency, or office of this state may provide  
 2 administrative, technical, or legal staff, in addition to advisors  
 3 selected under subsection (13), to assist the environmental rules  
 4 review committee in the performance of its duties.

5 (19) The purpose of the environmental rules review committee  
 6 is to oversee all rule-making of the department of ~~environmental~~  
 7 ~~quality~~**environment, Great Lakes, and energy** as provided in this  
 8 act. For purposes of this act, the department of ~~environmental~~  
 9 ~~quality~~**environment, Great Lakes, and energy** includes any  
 10 department, agency, commission, or other person to whom the rule-  
 11 making authority of the department of ~~environmental quality~~  
 12 **environment, Great Lakes, and energy** on the ~~effective date of the~~  
 13 ~~amendatory act that added this section~~ **June 29, 2018** is transferred  
 14 after the ~~effective date of the amendatory act that added this~~  
 15 ~~section~~ **June 29, 2018**.

16 (20) **On the effective date of the amendatory act that added**  
 17 **this subsection, the environmental rules review committee is**  
 18 **abolished.**

19 Sec. 66. (1) The office shall promptly transmit to the  
 20 environmental rules review committee electronic copies of a request  
 21 for rule-making submitted to the office by the department of  
 22 ~~environmental quality~~**environment, Great Lakes, and energy** under  
 23 section 39. The department of ~~environmental quality~~**environment,**  
 24 **Great Lakes, and energy** is strongly encouraged to create a  
 25 stakeholder review process before beginning the rule promulgation  
 26 process to ensure that all viewpoints are adequately represented in  
 27 the proposed rule.

28 (2) Within 14 days after the environmental rules review  
 29 committee receives a request for rule-making, the chairperson and



1 vice-chairperson may determine and notify the other members of the  
2 environmental rules review committee that no further review of the  
3 rule-making should be required under this section. Within 14 days  
4 after receiving this notice, 3 members of the environmental rules  
5 review committee may request a vote on the determination. If 7 or  
6 more members vote to override the determination of the chairperson  
7 and vice-chairperson, the rule-making must proceed under  
8 subsections (3) to (12). If fewer than 7 members vote to override  
9 the determination of the chairperson and vice-chairperson, the  
10 request for rule-making must not proceed under subsections (3) to  
11 (12), but must proceed under the otherwise applicable sections of  
12 this act.

13 (3) The department of ~~environmental quality~~**environment, Great**  
14 **Lakes, and energy** shall provide copies of draft proposed rules and  
15 a draft regulatory impact statement to the office and the  
16 environmental rules review committee.

17 (4) After receiving draft proposed rules under subsection (3),  
18 the environmental rules review committee shall meet 1 or more times  
19 to consider whether the draft proposed rules meet all of the  
20 following criteria:

21 (a) The office has certified that the draft proposed rules do  
22 not exceed the rule-making delegation contained in the statute  
23 authorizing the rule-making.

24 (b) The draft proposed rules reasonably implement and apply  
25 the statute authorizing the rule-making and are consistent with all  
26 other applicable law.

27 (c) The draft proposed rules are necessary and suitable to  
28 achieve their purposes in proportion to the burdens they place on  
29 individuals and businesses.





1 (d) The draft proposed rules are as clear and unambiguous as  
 2 reasonably appropriate considering the subject matter of the  
 3 proposed rules and the individuals and businesses that will be  
 4 required to comply with the proposed rules.

5 (e) The draft proposed rules are based on sound and objective  
 6 scientific reasoning.

7 (5) Within 35 days after receiving draft proposed rules under  
 8 subsection (3), the environmental rules review committee shall make  
 9 1 of the following determinations:

10 (a) By a vote of 9 voting members of the environmental rules  
 11 review committee, a determination that the request for rule-making  
 12 must not proceed any further under this section, but must proceed  
 13 under the otherwise applicable sections of this act.

14 (b) By a majority vote of the voting members of the  
 15 environmental rules review committee, a determination that the  
 16 draft proposed rules meet the criteria in subsection (4) and may  
 17 proceed to a public hearing under subsection (7) (a).

18 (c) By a majority vote of the voting members of the  
 19 environmental rules review committee, either a determination that  
 20 the draft proposed rules do not meet the criteria in subsection (4)  
 21 or that additional review is needed to determine whether the draft  
 22 proposed rules meet the criteria in subsection (4). If the  
 23 environmental rules review committee makes a determination under  
 24 this subdivision, the draft proposed rules must not proceed to a  
 25 public hearing under sections 41 and 42 but rather must follow the  
 26 process in subsection (6).

27 (6) If the environmental rules review committee makes a  
 28 determination under subsection (5) (c), the environmental rules  
 29 review committee shall notify the department of ~~environmental~~



1 ~~quality-environment, Great Lakes, and energy~~ in writing of the  
 2 determination, including an explanation as to either why the draft  
 3 proposed rules do not meet the criteria in subsection (4) or why  
 4 additional review is needed. The department of ~~environmental~~  
 5 ~~quality-environment, Great Lakes, and energy~~ shall then attempt to  
 6 address the environmental rules review committee's determination by  
 7 taking actions that may include, but are not limited to, convening  
 8 meetings with stakeholders or groups of stakeholders, providing  
 9 further information to the environmental rules review committee, or  
 10 revising the draft proposed rules.

11 (7) The department of ~~environmental quality-environment, Great~~  
 12 **Lakes, and energy** shall hold a public hearing under sections 41 and  
 13 42 only if 1 of the following occurs:

14 (a) The environmental rules review committee makes the  
 15 determination under subsection (5)(b).

16 (b) The environmental rules review committee determines that  
 17 the draft proposed rules or any revised draft proposed rules  
 18 submitted by the department of ~~environmental quality-environment,~~  
 19 **Great Lakes, and energy** meet the criteria in subsection (4).

20 (c) Within 90 days after the department of ~~environmental~~  
 21 ~~quality-environment, Great Lakes, and energy~~ receives a notice  
 22 under subsection (6), which deadline may be extended by up to 2  
 23 additional 90-day periods by a majority of the voting members of  
 24 the environmental rules review committee, the environmental rules  
 25 review committee has not determined that the draft proposed rules  
 26 or any revised draft proposed rules submitted by the department of  
 27 ~~environmental quality-environment, Great Lakes, and energy~~ meet the  
 28 criteria in subsection (4).

29 (d) The environmental rules review committee fails to make a



1 determination under subsection (5) within 35 days after receiving  
2 the draft proposed rules under subsection (3).

3 (8) Within 120 days after a public hearing conducted by the  
4 department of ~~environmental quality~~ **environment, Great Lakes, and**  
5 **energy** under subsection (7), the department of ~~environmental~~  
6 ~~quality~~ **environment, Great Lakes, and energy** shall prepare and  
7 submit to the environmental rules review committee an agency report  
8 containing a synopsis of the comments made at and received in  
9 connection with the public hearing and a description of any changes  
10 that are suggested by the department of ~~environmental quality~~  
11 **environment, Great Lakes, and energy** to the draft proposed rules.  
12 If the department of ~~environmental quality~~ **environment, Great**  
13 **Lakes, and energy** fails to submit an agency report to the  
14 environmental rules review committee within 120 days after the  
15 public hearing, the department of ~~environmental quality~~  
16 **environment, Great Lakes, and energy** shall withdraw the rule  
17 request.

18 (9) After the receipt of an agency report under subsection  
19 (8), the environmental rules review committee shall meet 1 or more  
20 times to discuss the report and comments made and testimony given  
21 at the public hearing and approve the draft proposed rules with  
22 modifications, approve the draft proposed rules, or reject the  
23 draft proposed rules. If the environmental rules review committee  
24 fails to make a determination within 120 days after receiving an  
25 agency report under subsection (8), the draft proposed rules must  
26 proceed under subsection (12).

27 (10) If the environmental rules review committee approves the  
28 draft proposed rules under subsection (9), the draft proposed rules  
29 must proceed under subsection (12). If the environmental rules



1 review committee either approves the draft proposed rules with  
 2 modifications or rejects the draft proposed rules, the draft  
 3 proposed rules must proceed under subsection (11).

4 (11) If within the time period set forth in subsection (9),  
 5 the environmental rules review committee approves the draft  
 6 proposed rules with modifications or rejects the draft proposed  
 7 rules, the environmental rules review committee shall submit a  
 8 notice of objection to the director of the department of  
 9 ~~environmental quality~~ **environment, Great Lakes, and energy** and the  
 10 governor that includes an explanation of its decision. The  
 11 department of ~~environmental quality~~ **environment, Great Lakes, and**  
 12 **energy** shall then attempt to resolve any issues with the  
 13 environmental rules review committee, which resolution may include  
 14 submitting revised draft proposed rules. If the environmental rules  
 15 review committee and the department of ~~environmental quality~~  
 16 **environment, Great Lakes, and energy** resolve all issues, the draft  
 17 proposed rules must proceed under subsection (12). If all issues  
 18 are not resolved before 11 months after the date of the last public  
 19 hearing on the draft proposed rules, the department of  
 20 ~~environmental quality~~ **environment, Great Lakes, and energy** shall  
 21 submit a written finding to the governor on its final position on  
 22 the draft proposed rules or revised draft proposed rules. If the  
 23 governor concurs with the department of ~~environmental quality's~~  
 24 **environment, Great Lakes, and energy's** finding, the governor shall  
 25 direct the director of the department of ~~environmental quality~~  
 26 **environment, Great Lakes, and energy** to proceed with the draft  
 27 proposed rules under subsection (12). If the governor does not  
 28 concur with the department of ~~environmental quality's~~ **environment,**  
 29 **Great Lakes, and energy's** finding, the governor shall direct the



1 department of ~~environmental quality~~**environment, Great Lakes, and**  
2 **energy** to withdraw the draft rules.

3 (12) If draft proposed rules proceed under this subsection as  
4 provided in this section, the office shall transmit by notice of  
5 transmittal to the committee copies of the rules, the request for  
6 rule-making, the synopsis of the comments contained in the public  
7 hearing record, a description of any revisions to the proposed  
8 rules that were made after the public hearing, and certificates of  
9 approval from the legislative service bureau and the office. The  
10 office shall also electronically submit to the environmental rules  
11 review committee a copy of the rule and any certificates of  
12 approval from the legislative service bureau and the office. The  
13 office shall electronically transmit to the environmental rules  
14 review committee the information described in this subsection  
15 within 1 year after the date of the last public hearing.

16 (13) **This section does not apply after the effective date of**  
17 **the amendatory act that added this subsection. A request for rule-**  
18 **making that is pending before the environmental rules review**  
19 **committee on the effective date of the amendatory act that added**  
20 **this subsection must proceed under the otherwise applicable**  
21 **sections of this act. A rule is not invalid for a failure to comply**  
22 **with this section.**

