

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Licensing and Regulatory Affairs

2. Bureau:

Bureau of Professional Licensing

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Accountancy – General Rules

5. Rule numbers or rule set range of numbers:

R 338.5101 – R 338.5503

6. Estimated time frame:

12 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The Accountancy – General Rules pertain to definitions, standards, document retention, examination, education, experience, privileges, permits, continuing education, renewal, relicensure, conduct, independence, competence, fees, commissions, and peer review for certified professional accountants.

Amendment of the rules will take place to supply clarity on definitions, standards, document retention, examination, education, experience, privileges, permits, continuing education, renewal, relicensure, conduct, independence, competence, fees, commissions, and peer review for certified professional accountants.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

MCL 339.205 authorizes the department to promulgate rules to implement articles 1 to 6 and rules which are necessary and appropriate to enable the department to fulfill its role under this act.

MCL 339.308 authorizes a board to promulgate rules as required in the article in which it is created as are necessary and appropriate to fulfill its role and a board may promulgate rules to set the minimal standards of acceptable practice for an occupation for which the board is created.

MCL 339.721 authorizes that the director may promulgate rules of professional conduct for establishing and maintaining high standards of competence and integrity in the practice of public accounting, rules governing corporations practicing public accounting, consistent with former 1962 PA 192 or chapter 2A of the business corporation act, 1972 PA 284, MCL 450.1281 to 450.1289, as applicable, rules governing educational requirements that qualify an applicant to sit for the uniform CPA exam, rules governing educational and experience requirements for the issuance of a certificate as a certified public accountant, rules of procedure governing the conduct of matters before the board, rules governing the recognition of educational institutions by the board, rules governing continuing education required under section 729, and any other rules considered necessary by the director to implement and enforce this article.

MCL 339.729 authorizes the department to establish a peer review program approved by the board in which each licensed firm and sole practitioner that performs audit, review, and compilations that are relied upon by third parties shall participate.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

MCL 339.205; MCL 339.308; MCL 339.721; MCL 339.725; MCL 339.726; MCL 339.728; MCL 339.729; Executive Reorganization Order No. 1991-9, MCL 338.3501; Executive Reorganization Order No.1996-2, MCL 445.2001; Executive Reorganization Order No. 2003-1, MCL 445.2011; Executive Reorganization Order No. 2008-4, MCL 445.2025; and Executive Reorganization Order No. 2011-4, MCL 445.2030.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

Under MCL 339.205, the department shall promulgate rules to implement articles 1 to 6 and rules which are necessary and appropriate to enable the department to fulfill its role under this act.

Under MCL 339.308, a board shall promulgate rules as required in the article in which it is created as are necessary and appropriate to fulfill its role and a board may promulgate rules to set the minimal standards of acceptable practice for an occupation for which the board is created.

Under MCL 339.729, each licensed firm and sole practitioner that performs audit, review, and compilations that are relied upon by third parties shall participate in a peer review program established by rule of the department and approved by the board.

There is no constitutional mandate.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

Each state sets up its own requirements with respect to accountants. The rules do not conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

No. The subject matter of these rules is not currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

Yes.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

The Board of Accountancy will receive comments from the public, associations, and licensees. The Board of Accountancy will hold Rules Committee Work Group sessions with the public.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The Department last amended the rules on October 24, 2023. There have been no technological factors, economic conditions, or other factors that would require amendment of the rules.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No, there are no changes or developments since implementation of the last rule set that demonstrates there is no continued need for the rules.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

Yes

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.