

MDEQ Proposes Contested Case Rules

The Michigan Department of Environmental Quality's (MDEQ) Office of Administrative Hearings (OAH) has proposed administrative rules that would formalize the OAH's procedures for conducting contested case hearings and issuing declaratory rulings pursuant to the Administrative Procedures Act. A "contested case" is a proceeding, such as a licensing proceeding, in which MDEQ must make a determination of a person's legal rights, duties, or privileges after an opportunity for hearing with evidence. A "declaratory ruling" determines the applicability of a statute, rule or order administered by MDEQ to an actual state of uncontested facts. The OAH estimates that it receives approximately 150 requests annually for a contested case and 5 requests annually for a declaratory ruling.

Currently, the OAH conducts contested cases and issues declaratory rulings under a set of informal procedures. The OAH has indicated that the proposed rules would simply formalize these existing procedures without substantive change. Among other things, the proposed rules would formalize the procedures for commencing a contested case proceeding, conducting pre-hearing conferences, filing motions, conducting discovery, and conducting hearings. The OAH has stated that the proposed rules parallel both the federal and state rules of civil procedure where practicable.

The proposed rules were filed with the Office of Regulatory Reform on January 3, 2001 and are available on the State of Michigan's web page.

Jeffrey L. Woolstrum