

ADMINISTRATIVE PROCEDURES ACT OF 1969 (EXCERPT)
Act 306 of 1969

24.246 Promulgation of rules; procedure; arrangement, binding, certification, and inspection of rules.

Sec. 46.

(1) To promulgate a rule the state office of administrative hearings and rules shall file in the office of the secretary of state 3 copies of the rule bearing the required certificates of approval and adoption, true copies of the rule without the certificates, and 1 electronic copy. The state office of administrative hearings and rules shall not file a rule, except an emergency rule under section 48 and rules processed under sections 33 and 44, until the time periods for committee and legislative consideration described in section 45a have elapsed.

(2) The secretary of state shall endorse the date and hour of filing of rules on the 3 copies of the filing bearing the certificates and shall maintain a file containing 1 copy for public inspection.

(3) The secretary of state, as often as he or she considers it advisable, shall cause to be arranged and bound in a substantial manner the rules hereafter filed in his or her office with their attached certificates and published in a supplement to the Michigan administrative code. The secretary of state shall certify under his or her hand and seal of the state on the frontispiece of each volume that it contains all of the rules filed and published for a specified period. The rules, when so bound and certified, shall be kept in the office of the secretary of state and no further record of the rules is required to be kept. The bound rules are subject to public inspection.

History: 1969, Act 306, Eff. July 1, 1970 ;-- Am. 1971, Act 171, Imd. Eff. Dec. 2, 1971 ;-- Am. 1977, Act 108, Eff. Jan. 1, 1978 ;-- Am. 1993, Act 141, Imd. Eff. Aug. 4, 1993 ;-- Am. 1999, Act 262, Eff. Apr. 1, 2000 ;-- Am. 2006, Act 247, Imd. Eff. July 3, 2006

Constitutionality: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, art 4, and violated the separation of powers provision of Const 1963, art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. *Blank v Department of Corrections*, 462 Mich 103; 611 NW2d 530 (2000).

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