STATE OF MICHIGAN
GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Memorandum

DATE: July 3, 2019

TO: Michigan's Fire Service

CC: Michigan Fire Fighters Training Council

FROM: Kevin J. Sehlmeyer, State Fire Marshal/Director

SUBJECT: Michigan Fire Fighters Training Council General Rules Update and Clarification

As you may be aware, the Bureau of Fire Services and the Michigan Fire Fighters Training Council are in the process of updating the Fire Fighters Training Council General Rules. Both bureau staff and the Michigan Fire Fighters Training Council members have received questions regarding this process. There has also been some concern among the Michigan fire service that the administrative rules process is not transparent. The intent of this memo is to clarify the administrative rules process and address any misinformation that has been shared.

First, revisions to the Fire Fighters Training Council General Rules are being made in order to implement changes in Public Act 291 of 1966, the Fire Fighters Training Council Act, which became effective in January 2018. The bureau and council are tasked with revising the rules and implementing the changes set forth in the law. The changes in the rules cannot exceed the Act.

One major change in Public Act 291 was the expansion of the Michigan Fire Fighters Training Council from seven to nine members. The current council members were appointed by the governor to represent the Michigan Association of Fire Chiefs, Michigan Fire Service Instructors Association, Michigan Professional Fire Fighters Union, Michigan Municipal League/Michigan Townships Association, the Michigan Fire Inspectors Society, and a nominee of the state fire marshal. The state fire marshal also serves as an ex-officio member of the council. Contact information for all nine of the Michigan Fire Fighters Training Council members is available on the bureau's website and the Michigan fire service is encouraged to reach out to their council representative(s) with questions, input or concerns regarding the administrative rules process.

The administrative rules process is a lengthy process with multiple reviews required prior to formally amending the Michigan Administrative Code. Please refer to the administrative rules process summary attached. On February 13, 2018, the council began the rules update process. On February 26, 2018, a special meeting/stakeholder meeting was held at the Delta Township Office Building to gather feedback from the Michigan fire service on continuing education. To date, the council has met on 21 occasions to draft, review, and edit the rules in an effort to complete the first draft of the rules that may be submitted to the Michigan Office of Administrative Hearings and Rules (formerly the Office of Regulatory Reinvention) for review for legal authority. (See step 2 attached.)

The formality of the administrative rules process is to clarify items in Public Act 291, which states in many sections that the fire marshal with the approval of the majority of the Michigan Fire Fighters Training Council "shall" or "may" develop processes and procedures to meet the minimum requirements depending on the section of the Act including:

- The requirement to meet the current edition of each NFPA standard for each defined classification, including an examination process of each classification;
- An in-state and out-of-state reciprocity process;
- A formal discipline process, including the revocation of certifications;
- The formal process of how each county training committee chairperson is elected and conducting a county training needs survey in order to receive annual fireworks safety funding to be used for firefighter training; and
- The development and requirements of continuing education for each identified classification.

And last, please do not call Region Coordinators Dan Hammerberg and TJ Richardson to voice your concerns or to share your input regarding the rules. The region coordinators are not part of the decision-making process for the rules and I ask that you limit your calls to them to current issues or questions relating to bureau training processes. By not fielding questions about the rules, the region coordinators can focus on scoring exams, issuing company officer and fire instructor certifications, and coordinating training state-wide. Instead, please direct any questions, comments and concerns regarding the administrative rules process to your Michigan Fire Fighters Training Council representative as each council member is directly involved in the rules making process.

Thank you for your continued patience as we work through the lengthy administrative rules process. I assure you that the Michigan Fire Fighters Training Council members are working hard to provide a draft of the rules to the Michigan Office of Administrative Hearings and Rules and move forward in the process.

Attachment: Administrative Rules Process Summary

Administrative Rules Process Summary

The process for creating, amending, and rescinding administrative rules is governed by the Administrative Procedures Act, 1969 PA 306, MCL 24.201 to 24.328. (Note this is an overview and does not include all required provisions). Revised: December 2018.

Starting Out: Request for Rulemaking (RFR)	▲ A proposal for rulemaking originates from professional boards or commissions, advisory committees, the department, or the public. ▲ The department must submit an official RFR to the ORR to begin the process. ▲ The department's Regulatory Affairs Officer (RAO) works with staff to send an RFR to the ORR, where it is approved or disapproved by the ORR. If approved, the ORR notifies the Joint Committee on Administrative Rules (JCAR) of the approval.

Draft Rules: Prior to the Public Hearing	▲ Rules are drafted and approved by any necessary department, board, or commission. The RAO submits the rules to the ORR to review for legal authority. ▲The ORR approves the draft and notifies JCAR. The ORR sends the draft to the Legislative Service Bureau (LSB) for editing according to format and style. ▲ LSB returns the edited draft to the ORR, and the ORR returns the draft to the department to add the new formatting edits.

Public Hearing & Public Comment	▲ A Regulatory Impact Statement & Cost-Benefit Analysis is prepared by the department and sent to the ORR for approval 28 days prior to the public hearing. ▲ A public hearing notice, which includes the deadline for written comment and the edited draft rules, is sent by the RAO to the ORR for approval. ▲ The notice is published in 3 newspapers, including 1 in the UP, not less than 10 days but no more than 60 days prior to the hearing. ▲ The ORR publishes the public hearing notice and edited draft rules in the *Michigan Register*.

Post-Hearing Draft Rules	▲ The department RAO submits the final draft of the rules and the JCAR Report to the ORR. ▲ The ORR submits the final draft to LSB to certify the rules for form, classification, and arrangement. ▲ The ORR legally certifies the rules and sends the JCAR Report, including the final draft of the rules, certifications, Regulatory Impact Statement, and RFR to JCAR.

Joint Committee on Administrative Rules (JCAR)	▲ The JCAR Report and rules must be submitted to JCAR within 1 year after the public hearing, or there must be a subsequent public hearing. ▲ The JCAR Report summarizes the purpose of the draft rules and any comments made at the public hearing or submitted in writing. ▲ The rules must be before JCAR for 15 session days, unless JCAR grants a waiver of the remaining days. ▲ During those 15 days, JCAR may object to the rules, but then must introduce legislation within another 15 session days to stop or delay the rules. ▲ Rules can be filed by the ORR with the Office of the Great Seal after 15 session days expire or after JCAR has waived the 15 day requirement.

Department Adopts Rules **ORR Files with Office of the Great Seal**	▲ The department director, agency, or commission (for type 1 agency) confirms the intent to adopt the rules by submitting a Certificate of Adoption to the ORR. ▲ The ORR enters the filing date at the top of the first page of the rules and sends an electronic and hard copy to the Office of the Great Seal. ▲ The rules may become effective immediately upon filing, or at a later date specified in the rules by the department. ▲ On the effective date, the ORR amends the Michigan Administrative Code to reflect the new language of the rules.