



Department of Environmental Quality  
Annual Regulatory Plan  
7/1/16 to 6/30/17

Assembled by:

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- Ronda Blayer (OWMRP)
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**Department of Environmental Quality  
Air Quality Division**

1. Rule(s) to be **processed** between July 1, 2016 and June 30, 2017.

**Part 8 – Emission Limitations and Prohibitions – Oxides of Nitrogen (R 336.1801 - R 336.1834).** Address expected federal rulemaking on pollutant transport requirements and update adoptions by reference.

**Part 9 – Miscellaneous Provisions (R 336.1901 – R 336.1972) Update** adoptions by reference. Add new commercial and industrial solid waste incinerator and new landfill rules as required by federal regulations.

**Part 16 – Organization, Operation, and Procedures (R 336.2601 – R 336.2608).** Update rules to reflect current practices.

**Part 17 – Hearings (R 336.2710 – R 336.2706).** Update rules to reflect current practices.

**Part 18 – Prevention of Significant Deterioration of Air Quality (R 336.2801 – R 336.2823).** Revise to address expected federal rulemaking on significant impact levels and significant monitoring concentrations, as required by federal regulations and update adoptions by reference.

2. Please include rules that are obsolete or superseded and can be **rescinded** between July 1, 2015 and June 30, 2016. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None at this time.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

The Air Quality Division (AQD) has exercised its statutory rulemaking authority.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

This issue has been addressed. Major revisions were initiated last year on the Part 1 (General Provisions - Definitions) and Part 2 (Air Use Approval) rules in response to the recommendations of the Office of Regulatory Reinvention's Environmental Advisory Rules Committee (ARC).

(a) Whether there is a continued need for the rules.

N/A

(b) A summary of any complaints or comments received from the public concerning the rules.

N/A

(c) The complexity of complying with the rules.

N/A

(d) Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

N/A

(e) The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

N/A

5. Please provide the URL link the department or bureau is currently using to display their administrative rules. [Example.]

The Office of Regulatory Reinvention maintains the Web site that lists all of the AQD rules currently under review. To view revisions, go to <http://w3.lara.state.mi.us/orr/Rules.aspx?type=dept&id=EQ>. To view all of the AQD rules, go to [http://w3.lara.state.mi.us/orr/AdminCode.aspx?AdminCode=Department&Dpt=EQ&Level\\_1=Air+Quality+Division](http://w3.lara.state.mi.us/orr/AdminCode.aspx?AdminCode=Department&Dpt=EQ&Level_1=Air+Quality+Division).

6. Please provide a list of the items identified for action in the 2014 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation. [Example description.]

**COMPLETED:**

**ORR # 2014-024 EQ, Part 4 – Emission Limitations and Prohibitions – Sulfur Bearing Compounds.** Address federal requirements to reduce sulfur dioxide emissions in an area not meeting the National Ambient Air Quality Standards for sulfur dioxide. The rules were effective on June 14, 2016.

**OUTSTANDING:**

**ORR # 2014-153 EQ, Part 1 – General Provisions – Definitions.** Update the volatile organic compound definition, adoptions by reference, and other associated changes to Part 2.

**ORR # 2014-154 EQ, Part 2 – Air Use Approval.** Address recommendations of stakeholder workgroups on air toxics and permit exemption rules, update Renewable Operating Permit program rules, and update adoptions by reference.

**ORR # 2016-003 EQ, Part 6 – Emission Limitations and Prohibitions – Existing Sources of Volatile Organic Compound Emissions.** Updates to R 336.1618, use of cutback paving asphalt, and update adoptions by reference.

**ORR # 2015-079 EQ, Part 9 – Emission Limitations and Prohibitions – Miscellaneous.** Address federal rulemaking on state startup/shutdown/malfunction emissions.

**Department of Environmental Quality  
Office of Drinking Water and Municipal Assistance**

1. **Rules to be processed between July 1, 2016, and June 30, 2017.**

**Supplying Water to the Public, Part 1 – Part 28 (R 325.10101 – R 325.12820), promulgated under the Michigan Safe Drinking Water Act, 1976 PA 399, as amended (Act 399).**

The ODWMA anticipates regulatory updates to lead and copper regulations, but does not yet know the scope or timing of these changes.

**Campgrounds (R 325.1551 – R 325.1599).** The ODWMA may work on a rules package to address changes that have occurred in the campgrounds industry since the rules were last revised in December 2000. These changes would include additional definitions of the types of campgrounds that may exist and clarification on structures that may be placed on a campground site that are not recreational vehicles. This work will commence after completing revisions to the Campgrounds portion of the Michigan Public Health Code, 1978 PA 368, as amended. The stakeholder process for revising the statute began in late 2014 and concluded in September 2015 with a final document containing suggested revisions. The DEQ has not pursued legislative action on the stakeholder group's proposal. Additionally, a bill (SB 952) was introduced in May 2016 that would significantly modify the statute by adding current Campgrounds Administrative Rules to the statute and removing DEQ rulemaking authority for permanent campgrounds.

2. Please include rules that are obsolete or superseded and can be **rescinded** between July 1, 2016, and June 30, 2017. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None at this time.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

**Part 117, Septage Waste Servicers, of the NREPA (specifically MCL 324.11701 – R 324.11720).**

Part 117 was amended in 2004 to require the DEQ to promulgate rules for septage waste receiving facilities and for continuing education requirements. The DEQ has successfully implemented the receiving facility and education provisions using the statutory authorities and has not had resources to promulgate rules for this program. The following sections require the promulgation of rules:

**324.11715b Rules; requirements for receiving facilities and control of nuisance conditions; notice of operation; penalties for noncompliance.**

Sec. 11715b. (1) The department shall promulgate rules establishing design and operating requirements for receiving facilities and the control of nuisance conditions.

**324.11718 Rules.**

Sec. 11718. (1) The department shall promulgate rules that establish both of the following: (a) Continuing education requirements under section 11706.

(b) Design and operating requirements for receiving facilities, as provided in section 11715b.

(2) The department may, in addition, promulgate rules that do 1 or more of the following . . .

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

**Supplying Water to the Public, Part 1 – Part 28.** Specifically the lead and copper requirements. Current emphasis on the complexity and shortcomings of existing lead and copper regulations provide a challenge to regulated entities.

(a) Whether there is a continued need for the rules.

Yes, lead and copper regulations are critical to protecting public health.

(b) A summary of any complaints or comments received from the public concerning the rules.

There have been extensive complaints/comments on the effectiveness of existing lead and copper regulations and a call for regulatory revision. Most public comments express a need for more stringent regulation of lead and copper in drinking water than current regulations provide.

(c) The complexity of complying with the rules.

Lead and copper regulations are extremely complex, including extensive sampling, reporting, treatment, and education requirements.

(d) Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

None of the rules conflict with or duplicate similar rules or regulations adopted by other regulatory agencies.

(e) The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

The U.S. Environmental Protection Agency's (U.S. EPA) most recent revision to lead and copper requirements came with the 2009 Lead and Copper Short Term Revisions that were adopted by the state. The U.S. EPA has been working towards long term rule revisions for several years and anticipates a proposal in 2017. However, Michigan may proceed with regulatory revisions in advance of the federal timeline.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

The drinking water program has traditionally provided Act 399 and Supplying Water to the Public Rules formatted into one document for the convenience of the regulated community and regulatory staff. They are at [http://www.michigan.gov/documents/deq/deq-wb-dwehs-cws-Act399\\_247583\\_7.pdf](http://www.michigan.gov/documents/deq/deq-wb-dwehs-cws-Act399_247583_7.pdf) under the Laws and Rules category of the Community Water Supply Web page at [http://www.michigan.gov/deq/0,4561,7-135-3313\\_3675\\_3691---,00.html](http://www.michigan.gov/deq/0,4561,7-135-3313_3675_3691---,00.html), the Noncommunity Water Supply Web page at [http://www.michigan.gov/deq/0,4561,7-135-3313\\_3675\\_3692---,00.html](http://www.michigan.gov/deq/0,4561,7-135-3313_3675_3692---,00.html) and the Water Well Construction Web page at [http://www.michigan.gov/deq/0,4561,7-135-3313\\_3675\\_3694---,00.html](http://www.michigan.gov/deq/0,4561,7-135-3313_3675_3694---,00.html). Note that the cover of this document provides links to the statute on the Michigan Legislature Web site and the administrative rules on the Web site of the Office of Regulatory Reinvention.

The DEQ has a Web page titled "Laws and Rules." To access this page, go to [www.michigan.gov/deq](http://www.michigan.gov/deq) and select "Laws & Rules" at the bottom of the page under the title "Regulations." On this page are links to ORR's Michigan Administrative Rules and Rule Revisions for Environmental Quality. Alternately, go to the following: [http://www.michigan.gov/deq/0,4561,7-135-3307\\_4132---,00.html](http://www.michigan.gov/deq/0,4561,7-135-3307_4132---,00.html).

6. Please provide a list of the items identified for action in the 2015 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation.

**COMPLETED**

**ORR # 2014-023 EQ, Supplying Water to the Public, Part 1 – Part 28.** This rule package responds to the Environmental ARC Recommendation W-17. Rules changes were effective on October 16, 2015.

**ORR # 2015-083 EQ, Marina Facilities (R 325.2581 – R 325.2591).** Rescinded on February 16, 2016.

**OUTSTANDING:**

**Campgrounds (R 325.1551 – R 325.1599).** Revisions to the Campgrounds statute (Michigan Public Health Code) began in late 2014 through a stakeholder process. The stakeholder process concluded in September 2015 with a final document containing suggested revisions to the Campgrounds statute. The DEQ has not pursued legislative action on the stakeholder group's proposal. If this process is completed, work on updating the Campgrounds Rules will begin.

**Public Swimming Pools (R 325.2111 – R 325.2199).** The ODWMA anticipates beginning work to revise and update the Public Swimming Pool Rules after completing work on the Campgrounds statute and rules. The rules were last revised in 2001 and do not address new types of water recreation and water therapy structures, such as spray pads and physical therapy pools.

**Septage Waste Servicers of the NREPA.** As mentioned in Item 3, above, the current lack of resources prevents the DEQ from promulgating rules, as required by statute.

**Department of Environmental Quality  
Office of Environmental Assistance**

1. Rule(s) to be **processed** between July 1, 2016 and June 30, 2017.

None.

2. Please include rules that are obsolete or superseded and can be **rescinded** between July 1, 2016 and June 30, 2017. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None at this time.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

No.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

None at this time.

(a) Whether there is a continued need for the rules.

(b) A summary of any complaints or comments received from the public concerning the rules.

(c) The complexity of complying with the rules.

(d) Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

(e) The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

The DEQ has a Web page titled "Laws and Rules." To access this page, go to [www.michigan.gov/deq](http://www.michigan.gov/deq) and select "Laws & Rules" at the bottom of the page under the title "Regulations." On this page are links to the ORR's Michigan Administrative Rules and Rule Revisions for Environmental Quality. Alternately, go to the following: [www.michigan.gov/deq/0,4561,7-135-3307\\_4132---,00.html](http://www.michigan.gov/deq/0,4561,7-135-3307_4132---,00.html).

6. Please provide a list of the items identified for action in the 2015 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation.

None.

**Department of Environmental Quality  
Office of Oil, Gas, and Minerals**

1. Rule(s) to be **processed** between July 1, 2016 and June 30, 2017.

**Conformance Bond or Statement of Financial Responsibility Requirements found in the Oil and Gas Operations Rules (R 324.210, R 324.211, and R 324.212).** As part of the Auditor General's Performance Audit of the Office of Oil, Gas, and Minerals (OOGM) dated September 2013, Finding 5 recommended that OOGM pursue changes in rules to update current single well bond amounts that have not been reviewed since 1996. The OOGM has agreed to evaluate actual necessary costs and trends for plugging wells and pursue changes as appropriate to single well bond amounts. The OOGM has completed the evaluation, met with stakeholder workgroup, obtained their concurrence, and will be submitting the Request For Rulemaking.

**Rules pertaining to gas storage in the Oil and Gas Operations Rules (R 324.101 – 324.1406) promulgated under Part 615, Supervisor of Wells, and Part 625, Mineral Wells, of the Natural Resources Environmental Protection Act, 1994 PA 451, as amended (NREPA)** The OOGM, with support of the DEQ Director initiated a review of existing gas storage regulations to evaluate potential changes in order to strengthen and clarify the rules. The OOGM has convened a workgroup of gas storage operators which has met twice.

2. Please include rules that are obsolete or superseded and can be **rescinded** between July 1, 2015 and June 30, 2016. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

The OOGM has exercised all of its mandatory/statutory rulemaking authority.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

**R 324.208** does create some concern for industry. The rule mandates that oil and gas well permits shall terminate after two years unless the drilling operation has reached a depth of at least 100 feet and the drilling operation is diligently proceeding, or the well is otherwise being used for its permitted purpose. In recent years there have been an increasing number of legal challenges and economic factors that have delayed the start of drilling beyond two years after permit issuance. Many states and the federal government allow for basic extensions of a permit for such reasons, whereas Michigan's current oil and gas rules do not. There is no urgent need for action on this item but the OOGM anticipates pursuing during next round of broad based rule-making.

- (a) Whether there is a continued need for the rules.

There is no apparent need for mandatory termination of permits under R 324.208.

- (b) A summary of any complaints or comments received from the public concerning the rules.

There have been no complaints or comments received from the public concerning R 324.208.

(c) The complexity of complying with the rules.

Compliance with R 324.208 can create considerable regulatory uncertainty. Permit holders have navigated the regulatory process once and received their permit. If they face delays outside of their control extending beyond two years, they are forced to reapply and go through the entire permitting process a second time for the exact same activity. This creates additional administrative work for the OOGM, and can cause additional confusion with the public.

(d) Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

R 324.208 does not directly duplicate or conflict with other rules; however, it diverges from federal injection control permits, which allow operators to extend permits with a basic request. Oftentimes, delays in the federal permitting process can extend to more than two years, during which period the state permit can expire, forcing operators to reapply for state permits due to circumstances beyond their control.

(e) The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

R 324.208 was last reviewed during the 1996 rule revision.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

The DEQ has a Web page titled "Laws and Rules." To access this page, go to [www.michigan.gov/deg](http://www.michigan.gov/deg) and select "Laws & Rules" at the bottom of the page under the title "Regulations." On this page are links to ORR's Michigan Administrative Rules and Rule Revisions for Environmental Quality. Alternately, go to the following: [http://www.michigan.gov/deg/0,4561,7-135-3307\\_4132---,00.html](http://www.michigan.gov/deg/0,4561,7-135-3307_4132---,00.html).

6. Please provide a list of the items identified for action in the 2015 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation.

**COMPLETED:**

None.

**OUTSTANDING:**

**Conformance Bond or Statement of Financial Responsibility Requirements found in the Oil and Gas Operations Rules (R 324.210, R 324.211, and R 324.212).** Pursue changes in rules to update current single well bond amounts that have not been reviewed since 1996.

**Department of Environmental Quality  
Office of Waste Management and Radiological Protection**

1. Rule(s) to be **processed** between July 1, 2016 and June 30, 2017.

**ORR # 2016-007 EQ, Hazardous Waste Management (R 299.9101 et seq.).** The U.S. EPA has authorized Michigan to administer the state's Hazardous Waste Management Program in lieu of the federal Hazardous Waste Management Program. The Office of Waste Management and Radiological Protection (OWMRP) has initiated rule revisions to address federal revisions, including: cathode ray tubes, conditional exclusions for carbon dioxide streams in geologic sequestration activities, solvent-contaminated wipes, electronic manifesting, and definition of solid waste. The revisions will also address public recommendations and a systematic review the state-only hazardous waste codes per Environmental Advisory Rule Committee (ARC) Recommendation RM-3.

2. Please include rules that are obsolete or superseded and can be **rescinded** between July 1, 2016 and June 30, 2017. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

**ORR # 2016-002 EQ, Resource Recovery Commission (R 299.5001 – R 299.5016).** The Commission was abolished per Executive Reorganization Order 1991-22.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

**Part 137 of the Michigan Public Health Code, 1978 PA 368, as amended (Act 368).** Part 137 was enacted to enable the state to regulate a low-level radioactive waste disposal facility. Since the state is not actively seeking a site for such a facility, no rules regulating the disposal facility and those who would use the facility have been promulgated. The following three sections of Part 137 authorize the promulgation of rules:

**333.13708 Duties of director or director's designee.**

Sec. 13708. The director or the director's designee, with the assistance of other state departments and agencies, shall do all of the following:

(e) Promulgate rules and take any other action considered necessary by the department as authorized under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. In fulfilling the requirement to promulgate rules, the director shall promulgate rules necessary to implement the provisions of this part that pertain to the issuance of permits to generators, transporters, collectors, and processors, including rules pertaining to the possession of waste by a generator, transporter, collector, or processor that is incidental to the regulated activity of the permit holder.

**333.13720 Site closure and stabilization; control; cost; rules; surveillance and maintenance of disposal site.**

(2) The department shall promulgate rules pertaining to site closure and stabilization and the active surveillance and maintenance of the disposal site.

**333.13737 Action to restrain, enjoin, prevent, or correct violation; rules adopting schedule of monetary civil fines.**

(2) The department may promulgate rules to adopt a schedule of monetary civil fines in accordance with sections 2262 and 2263 to enforce this part.

**Part 173, Electronics, of the NREPA.** Enacted in 2008, Part 173 establishes a registration program for manufacturers and recyclers of televisions and computers and requires the manufacturers to maintain a take-back program for these devices. Part 173 provides the DEQ with authority to promulgate rules to implement certain requirements. The OWMRP does not intend to pursue these rules because they are not needed to implement the current program given the minimal resources the DEQ has to administer it.

4. Rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

**Medical Waste Producing Facilities (R 325.1541 – R 325.1549).** Environmental ARC Recommendation RM-8 states, “Amend Part 138, Medical Waste, of Act 368 or rules governing the disposal of medical waste to require the disposal of sharps that are used strictly for non-medical procedures (a) when the storage container is full, or (b) annually, whatever comes first.” Legislation is needed to implement this recommendation.

- (a) Whether there is a continued need for the rules.

The medical waste rules are critical to ensure public health protection.

- (b) A summary of any complaints or comments received from the public concerning the rules.

The Environmental ARC identified the medical waste rules as those needing updating to address concerns from businesses, manufacturers, and local government.

- (c) The complexity of complying with the rules.

The medical waste rules are basic and add clarity to the statutory provisions.

- (d) Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

None of the medical waste rules conflict with or duplicate similar rules or regulations adopted by other regulatory agencies.

- (e) The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

The medical waste rules were evaluated in 2005 and stakeholders recommended statutory amendments to add clarity to the program. However, the draft legislation did not make it out of committee.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules. [Example.]

The DEQ has a Web page titled “Laws and Rules.” To access this page, go to [www.michigan.gov/deq](http://www.michigan.gov/deq) and select “Laws & Rules” at the bottom of the page under the title “DEQ Regulations.” On this page are links to the ORR’s Michigan Administrative Rules and Rule Revisions for Environmental Quality. Alternately, go to the following: [http://www.michigan.gov/deq/0,4561,7-135-3307\\_4132---,00.html](http://www.michigan.gov/deq/0,4561,7-135-3307_4132---,00.html).

6. Please provide a list of the items identified for action in the 2015 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation. [Example description.]

**COMPLETED:**

**ORR # 2014-033 EQ, Ionizing Radiation Rules (IRR) (R 325.5001 – R 325.5721).** The DEQ worked with the ORR to amend or rescind specific rules in the IRR that are no longer needed or under the purview of LARA concurrent with the promulgation of rules to regulate radiation machines, R 333.5001 to R 333.5721, by LARA. These revisions become effective May 25, 2016.

**OUTSTANDING:**

**Medical Waste Producing Facilities (R 325.1541 – R 325.1549).** The OWMRP intends to convene a new stakeholder work group in 2017 to evaluate the current act and rules, the recommendations of the previous 2005 work group, and the outcome of a 3-year pilot project that used local health departments to conduct inspections at medical waste producing facilities. As noted in Box 4, some enabling legislation is also required.

**ORR # 2016-002 EQ, Resource Recovery Commission (R 299.5001 – R 299.5016).** The Commission was abolished per Executive Reorganization Order 1991-22.

**Department of Environmental Quality  
Remediation and Redevelopment Division**

1. Rule(s) to be **processed** between July 1, 2016 and June 30, 2017.

**ORR # 2015-094 EQ, Cleanup Criteria Requirements for Response Activity (R 299.1 – R 299.50).** The current rules, which were updated in December, 2013, reflect the December 2010 amendments of Part 201, Environmental Response, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). The Department of Environmental Quality (DEQ) has completed a comprehensive update of the cleanup criteria based upon the recommendations of the Criteria Stakeholders Advisory Group (CSA). The rules were submitted to the ORR on April 15, 2016 to commence the rulemaking process.

2. Please include rules that are obsolete or superseded and can be **rescinded** between July 1, 2016 and June 30, 2017. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None at this time.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

The RRD has exercised all of its mandatory/statutory rulemaking authority.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

**ORR # 2015-094 EQ, Cleanup Criteria Requirements for Response Activity (R 299.1 – R 299.50).** In 2014, the DEQ convened the Criteria Stakeholders Advisory Group (CSA) specifically to advise the agency on these rules. The DEQ is maintaining contact and working with members of the CSA through the rule promulgation process.

**Property Owner or Operator Obligations Under Section 20107a of the Act (R 299.51001 – R 299.51021).** Specific rules have not been identified as problematic; rather the implementation and lack of common understanding on how to comply has been problematic.

- (a) Whether there is a continued need for the rules.

There have been no developments since the implementation of these rules that would demonstrate a need to discontinue them.

- (b) A summary of any complaints or comments received from the public concerning the rules.

**(R 299.1 – R 299.50).** Concern has been raised regarding the need for additional time to review this highly complex rule package. The recommendations made by the CSA address most of the concerns noted by the stakeholder community and discussions with the CSA members are continuing. The comprehensive update of the cleanup criteria rules following the recommendations given.

**(R 299.51001 – R 299.51021).** The general public has not expressed interest; stakeholders have been instrumental in the suggested changes, which primarily update the rules to align with current statute.

- (c) The complexity of complying with the rules.

**(R 299.1 – R 299.50)** The Cleanup Criteria Requirements for Response Activity rules are complex in nature. The CSA Group was comprised of representatives from the regulated community as well as environmental, academia and public health interests who have

experience working with DEQ's remediation and redevelopment programs. The complexity of complying with the rules was an integral component of the stakeholder evaluation.

**(R 299.51001 – R 299.51021)** The rules are intended to clarify how to comply with the statute. In addition, educational material is available to the public and will continue to be updated.

(d) Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

The rules in Box 4 are state rules and do not duplicate federal regulations.

(e) The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

**(R 299.1 – R 299.50)** The entire rule sets pertaining to the DEQ's cleanup and redevelopment programs have been through a comprehensive review by the Environmental ARC (January, 2012), the Collaborative Stakeholder Initiative (February, 2012 through December, 2013), and the Criteria Stakeholders Advisory Group, (March 2014 through November 2014). The criteria included in the current rules have not been substantially updated since 2001. Additional physical, chemical and toxicological data may be available for some of the over 300 hazardous substances addressed by the criteria. These data need to be evaluated pursuant to the recommendations of the CSA to update the cleanup criteria.

**(R 299.51001 – R 299.51021)** The Part 10 rules were last evaluated by the Collaborative Stakeholders Initiative (2012 - 2013) and the Due Care Stakeholders Workgroup (2013 - 2014). There have been no significant technological or economic changes that would affect compliance or recommendations.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules. [Example.]

The DEQ has a Web page titled "Laws and Rules." To access this page, go to [www.michigan.gov/deg](http://www.michigan.gov/deg) and select "Laws & Rules" at the bottom of the page under the title "Regulations." On this page are links to ORR's Michigan Administrative Rules and Rule Revisions for Environmental Quality. Alternately, go to the following: [http://www.michigan.gov/deg/0,4561,7-135-3307\\_4132---,00.html](http://www.michigan.gov/deg/0,4561,7-135-3307_4132---,00.html).

6. Please provide a list of the items identified for action in the 2014 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation. [Example description.]

**COMPLETED:**

**ORR # 2015-034 EQ, The Site Reclamation Grant and Loan Program (R 299.5051 – R 299.5061)** were rescinded effective August 12, 2015.

**OUTSTANDING:**

**ORR # 2015-094 EQ, Revisions to Cleanup Criteria Requirements for Response Activity (R 299.1 – 299.50).**

**Department of Environmental Quality  
Water Resources Division**

1. Rule(s) to be **processed** between July 1, 2016 and June 30, 2017.

**Part 5 – Spillage of Oil and Polluting Materials Rules (R 324.2001 – R 324.2009).** Recommendations W-1 and W-10 of the Environmental ARC contain specific changes to the Part 5 rules that would make compliance less onerous. Stakeholder process was completed. *Note: The DEQ cannot proceed until it receives rulemaking authority under Part 31, Water Resources Protection, of the NREPA.*

**Part 13 – Floodplains and Floodways (R 323.1311 – R 323.1329).** Stakeholder process was completed. *Note: The DEQ cannot proceed until it receives rulemaking authority under Part 31, Water Resources Protection, of the NREPA.*

**Part 23 – Pretreatment Rules (R 323.2302 – R 323.2303 and R 323.2305 – R 323.2317).** The Request for Rulemaking (RFR) for this rule set was withdrawn in February 2007 due to loss of rulemaking authority. An RFR will be resubmitted when rulemaking authority is restored. The proposed rules will incorporate the majority of the changes made to the General Pretreatment Regulations for Existing and New Sources of Pollution (Title 40 of the Code of Federal Regulations, Part 403) in 1995, 1997, and 2005. For the most part, the changes will offer streamlining and regulatory relief for municipalities and industries compared to the existing requirements. There also are a few minor additional requirements and clarifications that will be included. In addition, references will be updated. Stakeholder process was completed. *Note: The DEQ cannot proceed until it receives rulemaking authority under Part 31, Water Resources Protection, of the NREPA.*

**Sewerage Systems (R 299.2901 - 299.2974):** The Water Resources Division (WRD) will need to make changes pertaining to operator certification. It is something the industry wants and they already have proposed changes worked out. There is no need for an advisory group because the rules changes are not controversial.

**Part 17 – Soil Erosion and Sedimentation Control (R 323.1701 - 323.1714):** Changes are needed to address Michigan Department of Transportation (MDOT) issues. The Water Resources Division (WRD) will be discussing the rules changes with the Joint Agency Transportation Committee (JACK).

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2016 and June 30, 2017. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None.

3. Has the agency failed to exercise any mandatory/statutory rulemaking authority? Please explain.

The WRD has exercised all of its mandatory/statutory rulemaking authority.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

**Wetland Mitigation Banking Rules (R 281.951 – R 281.961).** Recommendation W-12 of the Environmental ARC proposes changes to the program to facilitate more economically efficient wetlands mitigation projects.

**Part 5 – Spillage of Oil and Polluting Materials Rules (R 324.2001 – R 324.2009).** Recommendations W-1 and W-10 of the Environmental ARC contain specific changes to the Part 5 rules that would make compliance less onerous. *Note: The DEQ cannot proceed until it receives rulemaking authority under Part 31, Water Resources Protection, of the NREPA.*

**Part 22 – Groundwater Quality Rules (R 323.2201 – R 323.2240).** Recommendation W-4 of the Environmental ARC proposes clarification of the types of discharges that do not require groundwater permits – similar to what is done in the storm water regulations. Recommendation W-9 proposes expanding the permit-by-rule categories and eliminating categories requiring groundwater discharge permits for projects with minimal or no impact on groundwater. *Note: The DEQ cannot proceed until it receives rulemaking authority under Part 31, Water Resources Protection, of the NREPA.*

(a) Whether there is a continued need for the rules.

There is a continued need for all of the rule sets identified in Box 4 above.

(b) A summary of any complaints or comments received from the public concerning the rules.

The Wetland Mitigation Banking, Groundwater Quality, and Spillage of Oil and Polluting Materials Rules will be thoroughly reviewed and amended as appropriate to address the Environmental ARC recommendations W-12, W-4 and W-9, and W-1 and W-10, respectively. The Environmental ARC voiced concerns about these three rule sets.

(c) The complexity of complying with the rules.

The DEQ can add additional general permits for types of **groundwater discharges** that can streamline the permit issuance process and provide additional exemptions from the groundwater permit requirement.

The DEQ can modify the **Part 5 Rules** in an effort to make them more understandable and technically feasible to achieve the intended result, which is to prevent spills from occurring and responding quickly when they do occur.

(d) Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

Some areas of the Part 5 Rules do contain more stringent requirements than the federal Spill Prevention, Control, and Countermeasures (SPCC) Plan; the Comprehensive Environmental Response, Compensation, and Liability Act (CERLA); and the Superfund Amendments and Reauthorization Act (SARA) Title III reporting requirements but functions to be more protective of Michigan's water resources and to fill the gaps left by the federal regulations.

(e) The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

The Wetland Mitigation Bank Rules were promulgated in 1997.

The Groundwater Quality Rules were promulgated in August 1999, and have not been modified subsequent to that date.

The Part 5 Rules were last revised and became effective August 31, 2001.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules. [Example.]

The DEQ has a Web page titled "Laws and Rules." To access this page, go to [www.michigan.gov/deg](http://www.michigan.gov/deg) and select "Laws & Rules" at the bottom of the page under the title "Regulations." On this page are links to ORR's Michigan Administrative Rules and Rule

Revisions for Environmental Quality. Alternately, go to the following:  
[http://www.michigan.gov/deq/0,4561,7-135-3307\\_4132---,00.html](http://www.michigan.gov/deq/0,4561,7-135-3307_4132---,00.html).

6. Please provide a list of the items identified for action in the 2015 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation. [Example description.]

**COMPLETED:**

None.

**OUTSTANDING:**

**Part 5 – Spillage of Oil and Polluting Materials Rules (R 324.2001 – R 324.2009).** An RFR will be submitted when rulemaking authority is restored.

**Part 13 – Floodplains and Floodways (R 323.1311 – R 323.1329).** An RFR will be submitted when rulemaking authority is restored.

**Part 22 – Groundwater Quality Rules (R 323.2201 – R 323.2217).** An RFR will be submitted when rulemaking authority is restored.

**Part 23 – Pretreatment Rules (R 323.2302 – R 323.2303 and R 323.2305 – R 323.2317).** An RFR will be submitted when rulemaking authority is restored.