



MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

Annual Regulatory Plan

Report Period:
July 1, 2020 to June 30, 2021

Authority:
MCL 24.253

Submitted:
July 1, 2020

Annual Regulatory Plan 2020-2021

[Executive Summary](#)

[Air Quality Division](#)

[Drinking Water and Environmental Health Division](#)

[Finance Division](#)

[Materials Management Division](#)

[Oil, Gas, and Minerals Division](#)

[Remediation and Redevelopment Division](#)

[Water Resources Division](#)

Annual Regulatory Plan 2020-2021

Michigan Department of Environment, Great Lakes, and Energy Executive Summary

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) is responsible for a total of 60 rule sets. According to the table below, EGLE will be evaluating 13 of the rule sets for possible revisions within the next 12 months. During the past 12 months, two rule sets were promulgated (i.e., # 2017-62 EQ, Part 4. Sulfur Bearing Compounds and # 2019-1 EQ, Oil and Gas Operations) and two others (i.e., # 2018-12 EQ, Hazardous Waste Management and # 2019-35 EG, Supplying Water to the Public) are close to promulgation.

EGLE Rule Sets Being Evaluated for Revision from July 1, 2020 to June 30, 2021

Division	Rule Set Title	Rule Citation
Air Quality	Part 2. Air Use Approval	R 336.1201-1299
	Part 6. Existing Sources of Volatile Organic Compound (VOC) Emissions	R 336.1601-1661
	Part 7. New Sources of VOCs	R 336.1701-1710
	Part 8. Oxides of Nitrogen	R 336.1801-1834
	Part 9. Miscellaneous	R 336.1901-1974
Drinking Water & Environmental Health	Supplying Water to the Public	R 325.10101 – 12820
Finance	None	
Materials Management	Hazardous Waste Management	R 299.9101-11107
	Ionizing Radiation Rules for Radioactive Material	R 325.5001-5721
	Medical Waste	R 325.1541-1549
	Solid Waste Management	R 299.4101-4922
Oil, Gas, and Minerals	Mineral Wells	R 299.2301-2531
	Oil and Gas Operations	R 324.101-1406
Remediation & Redevelopment	Environmental Contamination Response Activity	R 299.1-50
Water Resources	None	

Annual Regulatory Plan 2020-2021

Michigan Department of Environment, Great Lakes, and Energy Air Quality Division

1. Rules to be processed between July 1, 2020 and June 30, 2021.

The need for modifications to the following rules are being evaluated at this time.

Part 2. Air Use Approval. Potential updates necessary to remove per- and polyfluoroalkyl substances (PFAS) from exemption in toxics and permitting rules as well as minor updates to renewable operating permit (ROP) rules dependent on result of PFAS discussions.

Part 6. Emission Limitations and Prohibitions – Existing Sources of Volatile Organic Compound Emissions. Considering update of Reasonable Available Control Technology (RACT) requirements/emission limits in pertinent Part 6 rules and other rules changes for inclusion in the 2015 Ozone National Ambient Air Quality Standards (NAAQS) attainment State Implementation Plan (SIP). Also update adoption by reference, if necessary.

Part 7. Emission Limitations and Prohibitions – New Sources of Volatile Organic Compound Emissions. Rule 706 will be modified to allow new large loading facilities to use emission reduction technologies not considered when the rule was originally promulgated. Currently, the Air Quality Division (AQD) renews a variance annually to allow facilities to use these technologies.

Part 8. Emission Limitations and Prohibitions – Oxides of Nitrogen. Address federal rulemaking on pollutant transport requirements and update adoptions by reference. Possible new rules for inclusion in the 2015 Ozone SIP.

Part 9. Miscellaneous Provisions. Update adoptions by reference, and update Rule 974 to comply with updated federal regulations.

2. Rules that are obsolete or superseded and can be rescinded between July 1, 2020 and June 30, 2021. 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 promulgate any statutorily required rules or failed to utilize any statutorily required rules? 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.

The Part 6 rule changes being considered.

Annual Regulatory Plan 2020-2021

A. Whether there is a continued need for the rules.

Yes

B. A summary of any complaints or comments received from the public concerning the rules.

None

C. The complexity of complying with the rules.

If pursued, these changes are not expected to be complex. They will likely revise (downward) emission limits already in existing rules. These lower emission rates have been previously implemented in many other states, meaning many entities will already be meeting them and if not, methods and options will have already been developed. They are and would continue to be state-wide rules.

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.

The rules in Part 6 to be considered for revision were first promulgated in 1993. Since then, federal guidelines addressing these activities have been updated, but due to its attainment status with respect to the 2008 Ozone NAAQS, Michigan has not needed to implement these more stringent updates. Other states facing nonattainment planning have utilized these federal guidelines. As a result, industry has had to adapt and develop solutions to the more stringent restrictions. The solutions are expected to be available to the portion of Michigan's regulated community that has not already implemented these changes voluntarily. The need to address the 2015 NAAQS Ozone standard has now made it necessary for Michigan to consider updating its rules.

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

The Michigan Department of Environment, Great Lakes, and Energy's (EGLE) Laws and Rules [Web site](#) directs the public to MOAHR's Web sites as shown below:

Annual Regulatory Plan 2020-2021

Michigan Administrative Rules

The Michigan Office of Administrative Hearings and Rules (MOAHR) maintains the rules promulgated under Michigan statutes. EGLE's administrative rules, organized by division, are on the [Michigan Administrative Code](#) Web site.

EGLE Pending Rules

MOAHR tracks rules in the promulgation process. Go to their [Pending Rules Changes](#) Web site.

6. Please provide a list of the items identified for action in the 2020 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

Rule Set # 2017-062 EG, Part 4. Emission Limitations and Prohibitions – Sulfur Bearing Compounds

The rules were filed on October 24, 2019.

Outstanding Rule Sets

Part 2. Air Use Approval (R 336.1201 – 336.1299). Potential updates necessary to remove PFAS from exemption in toxics and permitting rules, and minor updates to rules.

A Part 2 rulemaking has not begun because the main impetus for opening Part 2, PFAS, is still an evolving issue. The division wants to carefully consider potential changes to ensure issues are resolved appropriately and completely. In addition, Part 2 rules impact several different program areas in the AQD, and coordinating that effort is a time-consuming process.

Part 6. Emission Limitations and Prohibitions – Existing Sources of Volatile Organic Compound Emissions (R 336.1601 – 336.1661). Considering update of RACT requirements/emission limits in pertinent Part 6 rules and other rules changes for inclusion in the 2015 Ozone NAAQS attainment SIP. Also update adoption by reference, if necessary.

A Part 6 rulemaking has not begun, although AQD has done extensive work in evaluating RACT in preparation for this rule development. A workgroup has been formed to assist in this process.

Annual Regulatory Plan 2020-2021

Part 7. Emission Limitations and Prohibitions – New Sources of Volatile Organic Compound Emissions (R 336.1701 – 336.1710). Rule 706 may be modified to allow new, large loading facilities to use emission reduction technologies not considered when the rule was originally promulgated. Currently, the AQD renews a variance annually to allow facilities to use these technologies.

Part 7 rulemaking has not begun due to other priorities within the division.

Part 8. Emission Limitations and Prohibitions – Oxides of Nitrogen (R 336.1801 – 336.1834). Address federal rulemaking on pollutant transport requirements and update adoptions by reference. Possible new rules for inclusion in 2015 Ozone SIP.

Changes to Part 8 rules are well developed, but input from the regulated community and the United States Environmental Protection Agency has not yet been completed.

Part 9. Miscellaneous Provisions (R 336.1901 – 336.1974). Update Rule 974 to comply with updated federal regulations and update adoptions by reference.

The request for rulemaking and a draft rule package are completed and currently under review with AQD management.

Annual Regulatory Plan 2020-2021

Michigan Department of Environment, Great Lakes, and Energy Drinking Water and Environmental Health Division

1. Rule(s) to be processed between July 1, 2020 and June 30, 2021.

Rule Set # 2019-035 EG, Supplying Water to the Public (R 325.10101 – 325.12820).
Establish enforceable drinking water standards for per- and polyfluoroalkyl substances (PFAS) found during the 2018 sampling of Michigan's public drinking water supplies.
This rule is currently going through the rulemaking process.

2. Rules that are obsolete or superseded and can be rescinded between July 1, 2020 and June 30, 2021. 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 promulgate any statutorily required rules or failed to utilize any statutorily required rules? Please explain.

Part 117, Septage Waste Servicers, of the Natural Resources Environmental Protection Act, 1994 PA 451, as amended (specifically MCL 324.11701 – 324.11720).
Part 117 was amended to require the Department of Environment, Great Lakes, and Energy (EGLE) to promulgate rules for septage waste receiving facilities and continuing education requirements. EGLE has successfully implemented the receiving facility and education provisions using the statutory authorities and has not had resources to promulgate rules for this program.

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 (R 325.10101 – 325.12820).
Concerns have been expressed regarding the financial and logistical 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.

Municipalities are concerned with the cost associated with full lead service line replacement and challenges associated with accessing private property to replace lead service lines.

Annual Regulatory Plan 2020-2021

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 these 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.

EGLE promulgated revisions to the lead and copper rules in 2018. The United States Environmental Protection Agency's most recent revision to federal lead and copper requirements came with the 2009 Lead and Copper Short Term Revisions that were adopted by the state. Draft federal lead and copper rule revisions were released in late 2019, with potential further action expected in 2020. Increased attention on lead in drinking water is driving more stringent regulations nationwide.

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

EGLE's Laws and Rules [Web site](#), directs the public to MOAHR's rules Web sites as provided below:

Michigan Administrative Rules

The Michigan Office of Administrative Hearings and Rules (MOAHR) maintains the rules promulgated under Michigan statutes. The EGLE administrative rules, organized by division, are on the [Michigan Administrative Code](#) Web site.

EGLE Pending Rules

The MOAHR tracks rules in the promulgation process. Go to their [Pending Rules Changes](#) Web site.

6. Please provide a list of the items identified for action in the 2020 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

None

Outstanding Rule Sets

Rule Set # 2019-35 EG, Suppling Water to the Public (R 325.10101 – 325.12820).

Annual Regulatory Plan 2020-2021

To establish enforceable drinking water standards for per- and polyfluoroalkyl substances (PFAS) found during the 2018/2019 sampling of Michigan's public drinking water supplies. The package was sent to JCAR on March 16, 2020.

Annual Regulatory Plan 2020-2021

Michigan Department of Environment, Great Lakes, and Energy Finance Division

1. Rule(s) to be processed between July 1, 2020 and June 30, 2021.

None

2. Rules that are obsolete or superseded and can be rescinded between July 1, 2020 and June 30, 2021. 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 promulgate any statutorily required rules or failed to utilize any statutorily required rules? Please explain.

No, the Financial Division 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.

None

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

Annual Regulatory Plan 2020-2021

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

The EGLE's Laws and Rules [Web site](#), directs the public to MOAHR's rules web site as shown below:

Michigan Administrative Rules

The Michigan Office of Administrative Hearings and Rules (MOAHR) maintains the rules promulgated under Michigan statutes. The EGLE administrative rules, organized by division, are on the [Michigan Administrative Code](#) Web site.

EGLE Pending Rules

The MOAHR tracks rules in the promulgation process. Go to their [Pending Rules Changes](#) Web site.

6. Please provide a list of the items identified for action in the 2020 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

None

Outstanding Rule Sets

None

Annual Regulatory Plan 2020-2021

Michigan Department of Environment, Great Lakes, and Energy Materials Management Division

1. Rule(s) to be processed between July 1, 2020 and June 30, 2021.

Rule Set # 2018-12 EQ, Hazardous Waste Management (R 299.9101 – 299.11007).

Michigan is authorized to administer its Hazardous Waste Management Program in lieu of the federal program. The MMD completed rule revisions to address the federal generator improvements, e-manifest, and definition of solid waste (DSW) regulations. The package was sent to JCAR on March 13, 2020.

The need for modifications to the following rules is being evaluated at this time.

Control and Licensing of Technologically Enhanced Naturally Occurring Radioactive Material (TENORM) (R 325.5150 – 325.5180).

The Materials Management Division (MMD) may promulgate a new part in the Ionizing Radiation Rules for Radioactive Material to provide for the licensing of TENORM. Currently, TENORM is regulated by guidance on a case-by-case basis. Promulgation of formal licensing rules will make the process more consistent.

Hazardous Waste Management (R 299.9101 – 299.11007). The United States Environmental Protection Agency (USEPA) has authorized Michigan to administer its state Hazardous Waste Management Program in lieu of the federal program. The MMD will initiate rule revisions to address, in part, the federal requirements for the safe management of recalled airbags and the management standards for hazardous waste pharmaceuticals and amendment to the P075 listing for nicotine. These regulations include both structural and scope changes to the standards associated with management of these wastes.

Medical Waste (R 325.1541 – 325.1549). The MMD, along with stakeholders, have initiated changes to the Medical Waste Regulatory Act, Part 138, of the Public Health Code, 1978 PA 368, as amended (Act 368) to bring the Medical Waste Regulatory Act up to current industry standards; address emerging communicable diseases; address stakeholder concerns with sharps storage and management; expand local health department inspection authorization and funding; and bring registration fees in line with needed program work. Once the statutory changes are enacted, the rules will need to be updated to bring them into alignment with the statute.

Solid Waste Management (R 299.4101 – 299.4922). The USEPA has authorized Michigan to administer its state Solid Waste Management Program in lieu of the federal program. The MMD along with stakeholders have initiated changes to Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). These statutory changes would switch the program focus from landfill disposal to materials management, add authorizations for additional materials management facilities, and change the county planning focus from landfill disposal capacity to materials management facility capacity. Once the statutory

Annual Regulatory Plan 2020-2021

changes are enacted, the rules will need to be updated to bring them into alignment with the statute.

2. **Rules that are obsolete or superseded and can be rescinded between July 1, 2020 and June 30, 2021. 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 promulgate any statutorily required rules or failed to utilize any statutorily required rules? 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.**

Medical Waste Producing Facilities (R 325.1541 – 325.1549). Environmental Advisory Rules Committee (EARC) 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.” As noted in Item 1 above, the legislation needed to implement this recommendation has been initiated.

- A. Whether there is a continued need for the rules.

Yes

- B. A summary of any complaints or comments received from the public concerning the rules.

The EARC 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.

Annual Regulatory Plan 2020-2021

If statute is amended per stakeholder recommendations as noted above in Items 1 and 4, this issue would be addressed, and the rules would need to be amended to align with the statute.

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

EGLE's Laws and Rules [Web site](#), directs the public to MOAHR's rules Web sites as shown below.

Michigan Administrative Rules

The Michigan Office of Administrative Hearings and Rules (MOAHR) maintains the rules promulgated under Michigan statutes. The EGLE administrative rules, organized by division, are on the [Michigan Administrative Code](#) Web site.

EGLE Pending Rules

The MOAHR tracks rules in the promulgation process. Go to their [Pending Rules Changes](#) Web site.

6. Please provide a list of the items identified for action in the 2020 ARP that have been completed and those that remain outstanding.

Annual Regulatory Plan 2020-2021

Completed Rule Sets

None

Outstanding Rule Sets

Rule Set # 2018-12 EQ, Hazardous Waste Management (R 299.9101 – 299.11007).

Michigan is authorized to administer its Hazardous Waste Management Program in lieu of the federal program. The MMD completed rule revisions to address the federal generator improvements, e-manifest, and definition of solid waste (DSW) regulations. The package was sent to JCAR on March 13, 2020.

Medical Waste Producing Facilities (R 325.1541 – 325.1549).

The MMD convened 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. The required enabling legislation noted in Box 4 has not yet been enacted.

Solid Waste Management (R 299.4101 – 299.4922).

The Governor's Recycling Council and Solid Waste and Sustainability Advisory Panel developed recommendations to increase the recycling rate and update Michigan's solid waste laws in 2017. The MMD convened a stakeholder work group in 2019, the Solid Waste and Recycling Advisors, to evaluate the current act and rule, as well as change the focus of the program from landfill disposal to materials management. This will align the program with current industry trends in the way materials are managed in the 21st Century.

Enabling legislation first needs to be enacted and changes to the rules made to align with statute. It is hoped that the legislation will be pursued this year and rule changes to align with the new statutory language will be completed.

Annual Regulatory Plan 2020-2021

Michigan Department of Environment, Great Lakes, and Energy Oil, Gas, and Minerals Division

1. Rule(s) to be processed between July 1, 2020 and June 30, 2021.

The need for modifications to the following rules are being evaluated at this time.

Rules pertaining to mineral wells and mineral well confidentiality in the Mineral Wells Rules (R 299.2301 – 299.2531). Part 625, Mineral Wells, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), requires EGLE to hold all information and records on applications and permits for mineral wells as confidential for ten years or more. The administrative rules require permit applicants to provide a copy of the first page of the permit application to the clerk of the township and the landowner. That rule may be viewed as in conflict with the statute and requires release of some information that may be proprietary and is probably not essential for the public to know. Mineral well industry representatives did not object to the rule when it was proposed; however, a problem arises when staff must tell a citizen that we cannot release any information about an application or permit. The Oil, Gas, and Minerals Division (OGMD) proposes to amend the rules to require release of basic information to local government and to any person who inquires, and to post the information on the weekly permit list on the department Web site. The proposed rule revisions would also correct several errors in the current rules. The OGMD proposes to convene the Mineral Wells Advisory Committee as a stakeholder engagement group to explore these proposed rule changes and to submit a request for rules to being rule making process.

Rules pertaining to gas storage in the Oil and Gas Operations Rules (R 324.101 – 324.1406). In 2016 and 2017, at the direction of the department director, the OGMD initiated a review of existing gas storage regulations to evaluate potential changes in order to strengthen and clarify the rules. The OGMD convened a workgroup of gas storage operators that met four times in 2016 to consider potential rule revisions. In the meantime, the Pipeline and Hazardous Materials Safety Administration (PHMSA) promulgated new federal rules on gas storage that went into effect in March 2020. Michigan must adopt the federal rules by reference to retain the state's regulatory oversight. The OGMD is continuing to work with the Michigan Public Service Commission to determine jurisdiction and PHMSA partnering framework direction. Pending continued review of the partnering issue, the OGMD may need to initiate rule changes related to gas storage wells.

Rules pertaining to Class II Injection in the Oil and Gas Operations (R 324.101 – 324.1406). In 2018 and 2019, OGMD completed two rule sets largely in order to received delegated authority to administer and enforce the Class II well Underground Injection Control Program from the United States Environmental Protection Agency. EGLE updated requirements and definitions to ensure an equally effective program in protecting underground sources of drinking water. While not expected, should any additional deficiencies in Michigan's rules become apparent which impacts Class II well primacy, rule changes to eliminate these deficiencies would become a priority.

Annual Regulatory Plan 2020-2021

2. Rules that are obsolete or superseded and can be rescinded between July 1, 2020 and June 30, 2021. 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 promulgate any statutorily required rules or failed to utilize any statutorily required rules? Please explain.

No, the OGMD 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.

Changes to mineral wells rules regarding confidentiality may be viewed as problematic to industry; engagement of the Mineral Well Advisory Committee will be essential in determining if the request for rules will include clarification in R 299.2311 of what can be shared with the public, in addition to the proposed error corrections which need to be corrected.

- A. Whether there is a continued need for the rules.

There is a continued need for each rule set being processed for revision in this regulatory plan, and the OGMD has not identified any unnecessary rules or rule sets currently administered by the OGMD.

- B. A summary of any complaints or comments received from the public concerning the rules.

Some public complaints have been received regarding confidentiality in Part 625. The statute addresses confidentiality and what can be shared with the public; however, proposed clarification of R 299.2311 would allow the OGMD to share additional items that are already shared with the public via the township supervisor receiving the first page of a permit application. The proposed changes would also convey whether hydrogen sulfide gas is expected and details the expected base of the lowest freshwater interval.

- C. The complexity of complying with the rules.

There is no increased complexity with any proposed rule sets in the regulatory plan. The proposed Part 625 rule clarification to address the handling of confidentiality, primarily affects OGMD workflows and not the regulated community's compliance with rules.

Annual Regulatory Plan 2020-2021

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

No proposed rule revisions conflict with or duplicate similar rules or 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.

For Mineral Wells, R 299.2311 was last reviewed in 2004. Since then, there have been a few projects in recent years where the department has reviewed controversial permit applications and tried to engage the public, but without the ability to share very basic information that the township already has.

For Oil and Gas Operations, definitions were recently updated on October 18, 2019.

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

EGLE's Laws and Rules [Web site](#), directs the public to MOAHR's rules Web sites as shown below:

Michigan Administrative Rules

The Michigan Office of Administrative Hearings and Rules (MOAHR) maintains the rules promulgated under Michigan statutes. The EGLE administrative rules, organized by division, are on the [Michigan Administrative Code](#) Web site.

EGLE Pending Rules

The MOAHR tracks rules in the promulgation process. Go to their [Pending Rules Changes](#) Web site.

6. Please provide a list of the items identified for action in the 2020 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

Rule Set # 2019-1 EQ - Oil and Gas Operations (R 324.101 – 324.1406).

To obtain primacy from the United States Environmental Protection Agency for the Class II Underground Injection Control Program, EGLE updated definitions to ensure protection of underground sources of drinking water. The rule set was filed on October 18, 2019.

Annual Regulatory Plan 2020-2021

Outstanding Rule Sets

Rules pertaining to mineral wells and mineral well confidentiality in the Mineral Well Rules (R 299.2301 – 299.2531).

Part 625, Mineral Wells, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), requires EGLE to hold all information and records on applications and permits for mineral wells as confidential for ten years or more. The administrative rules require permit applicants to provide a copy of the first page of the permit application to the clerk of the township and the landowner. That rule may be viewed as in conflict with the statute and requires release of some information that may be proprietary and is probably not essential for the public to know. Mineral well industry representatives did not object to the rule when it was proposed; however, a problem arises when staff must tell a citizen that we cannot release any information about an application or permit. The Oil, Gas and Minerals Division (OGMD) proposes to amend the rules to require release of basic information to local government and to any person who inquires, and to post the information on the weekly permit list on the department website. The proposed rule revisions would also correct several errors in the current rules. The OGMD proposes to convene the Mineral Wells Advisory Committee as a stakeholder engagement group to explore these proposed rule changes and to submit a request for rules to being rule making process.

This rule set was not moved forward last regulatory plan cycle. The completed Oil and Gas Operations rule set (# 2019-001 EQ) above was given priority.

Rules pertaining to gas storage in the Oil and Gas Operations Rules (R 324.101 – 324.1406).

In 2016 and 2017, at the direction of the department director, the OGMD initiated a review of existing gas storage regulations to evaluate potential changes in order to strengthen and clarify the rules. The OGMD convened a workgroup of gas storage operators which met four times in 2016 to consider potential rule revisions. In the meantime, the Pipeline and Hazardous Materials Safety Administration (PHMSA) promulgated new federal rules on gas storage which went into effect in March 2020. Michigan must adopt the federal rules by reference to retain the state's regulatory oversight.

This rule set was not moved forward last regulatory plan cycle. The OGMD is continuing to evaluate new federal rules and engage with industry and the Michigan Public Service Commission to determine jurisdiction and PHMSA partnering framework direction. Pending continued review of the partnering issue, the OGMD may need to initiate rule changes related to gas storage wells.

Rules pertaining to Class II Injection in the Oil and Gas Operations (R 324.101 – 324.1406).

In 2018 and 2019, OGMD completed two rule sets largely in order to received delegated authority to administer and enforce the Class II well Underground Injection Control Program from the United States Environmental Protection Agency. EGLE updated

Annual Regulatory Plan 2020-2021

requirements and definitions to ensure an equally effective program in protecting underground sources of drinking water.

As stated earlier, further changes to this rule set regarding Class II injection is not anticipated this regulatory cycle. However, should any additional deficiencies in Michigan's rules become apparent which impacts the implementation Class II well primacy from the United States Environmental Protection Agency, rule changes to eliminate these deficiencies would become a priority.

Annual Regulatory Plan 2020-2021

Michigan Department of Environment, Great Lakes, and Energy Remediation and Redevelopment Division

1. Rule(s) to be processed between July 1, 2020 and June 30, 2021.

The need for modifications to the following rules are being evaluated at this time.

Cleanup Criteria Requirements for Response Activity (R 299.1 – 299.50).

The Remediation and Redevelopment Division (RRD) may need to amend portions of the Cleanup Criteria Requirements for Response Activity (R 299.44 – 299.50) when state drinking water standards for several per- and polyfluoroalkyl substances (PFAS) (PFOA, PFOS, PFNA, PFHxA, PFHxS, PFBS and GenX) are promulgated pursuant to the Safe Drinking Water Act, Act 399 of 1976, as amended. Rule revisions will be necessary to align the cleanup criteria under Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, (Part 201) with the newly promulgated state drinking water standards.

2. Rules that are obsolete or superseded and can be rescinded between July 1, 2020 and June 30, 2021. 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.

No rules are planned to be rescinded during this period.

3. Has the agency failed to promulgate any statutorily required rules or failed to utilize any statutorily required rules? 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.

Cleanup Criteria Requirements for Response Activity (R 299.1 – 299.50).

The cleanup criteria provided in the current rules have not been updated substantially since 1998. Based on previous stakeholder discussions, opportunities were identified to update the rules based on more recent science and potential improved processes.

A. Whether there is a continued need for the rules.

Yes, there is a continued need for these rules.

B. A summary of any complaints or comments received from the public concerning the rules.

Concerns from both the regulated community and public have been expressed in previous discussions regarding the rules. The concerns will be revisited at such time when a determination is made to move forward with rule revisions.

Annual Regulatory Plan 2020-2021

C. The complexity of complying with the rules.

The Cleanup Criteria Requirements for Response Activity rules are complex in nature. The complexity of complying with the rules continues to be an integral component of stakeholder evaluation.

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

The rules 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.

The entire rule set pertaining to EGLE's cleanup and redevelopment programs last underwent a comprehensive review by the Criteria Stakeholders Advisory Group and the public, (March 2014 through January 2018).

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

The EGLE's Laws and Rules [Web site](#), directs the public to MOAHR's rules Web sites as shown below.

Michigan Administrative Rules

The Michigan Office of Administrative Hearings and Rules (MOAHR) maintains the rules promulgated under Michigan statutes. The EGLE administrative rules, organized by division, are on the [Michigan Administrative Code](#) Web site.

EGLE Pending Rules

The MOAHR tracks rules in the promulgation process. Go to their [Pending Rules Changes](#) Web site.

6. Please provide a list of the items identified for action in the 2020 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

None

Outstanding Rule Sets

Cleanup Criteria Requirements for Response Activity (R 299.1 – 299.50).

Annual Regulatory Plan 2020-2021

Revisions to the Cleanup Criteria Requirements for Response Activity rules were withdrawn in 2019 due to the statutory amendments that were adopted into Part 201 by Act 581 of 2018.

Annual Regulatory Plan 2020-2021

Michigan Department of Environment, Great Lakes, and Energy Water Resources Division

1. **Rule(s) to be processed between July 1, 2020 and June 30, 2021.**

None

2. **Rules that are obsolete or superseded and can be rescinded between July 1, 2020 and June 30, 2021. 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 promulgate any statutorily required rules or failed to utilize any statutorily required rules? 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.**

Part 5. Spillage of Oil and Polluting Materials Rules (R 324.2001 – 324.2009).

Recommendations W-1 and W-10 of the Environmental Advisory Rules Committee (ARC) contain specific changes to the Part 5 rules that would make compliance less onerous. Note: EGLE cannot proceed until it receives rulemaking authority under Part 31.

Part 22. Groundwater Quality Rules (R 323.2201 – 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: EGLE cannot proceed until it receives rulemaking authority under Part 31.

Part 23. Pretreatment Rules (R 323.2301 – 323.2317).

Offers publicly owned treatment works the option to implement some federal regulations that are now less restrictive than our current state pretreatment rules. The actual amount of regulatory relief offered to industry will depend upon whether municipalities exercise the flexibility offered by the proposed rules. Note: EGLE cannot proceed until it receives rulemaking authority under Part 31.

- A. Whether there is a continued need for the rules.

Yes

Annual Regulatory Plan 2020-2021

- B.** A summary of any complaints or comments received from the public concerning the rules.

The 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 two rule sets.

The Environmental ARC also expressed concerns about Wetland Mitigation Banking Rules (R 281.951 - 281.961) in recommendation W-12. The WRD has completed a review of the program's rules and procedures and made administrative changes in the program that did not require rule changes. Furthermore, statutory modifications in 2013 have resulted in positive changes in the program. Wetland Mitigation Banking activity in Michigan has exponentially increased since that time and the WRD has heard positive feedback from the regulated community.

- C.** The complexity of complying with the rules.

EGLE 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. An additional permit category could be added to address high strength/low volume wastes.

EGLE 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 (CERCLA); 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 Groundwater Quality Rules were promulgated in August 1999 and have not been modified subsequent to that date.

The Spillage of Oil and Polluting Materials Rules were last revised and became effective August 31, 2001.

Annual Regulatory Plan 2020-2021

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

The EGLE's Laws and Rules [Web site](#), directs the public to MOAHR's rules Web sites as provided below:

Michigan Administrative Rules

The Michigan Office of Administrative Hearings and Rules (MOAHR) maintains the rules promulgated under Michigan statutes. The EGLE administrative rules, organized by division, are on the [Michigan Administrative Code](#) Web site.

EGLE Pending Rules

The MOAHR tracks rules in the promulgation process. Go to their [Pending Rules Changes](#) Web site.

6. Please provide a list of the items identified for action in the 2020 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

None

Outstanding Rule Sets

Part 5. Spillage of Oil and Polluting Materials Rules (R 324.2001 – 324.2009).

An RFR will be submitted when rulemaking authority is restored.

Part 13. Floodplains and Floodways (R 323.1311 – 323.1329).

An RFR will be submitted when rulemaking authority is restored.

Part 22. Groundwater Quality Rules (R 323.2201 – 323.2217).

An RFR will be submitted when rulemaking authority is restored.

Part 23. Pretreatment Rules (R 323.2302 - 323.2303 and R 323.2305 – 323.2317).

An RFR will be submitted when rulemaking authority is restored.