

Annual Regulatory Plan 2019-2020

**Department of Natural Resources
Executive Division**

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020. [Give brief description.]

None.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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.

None.

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

The retained rules remain necessary.

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

The Department has not received any complaints or comments regarding the rules for the Executive Division.

- C. The complexity of complying with the rules.

The Department has not received any comments regarding the complexity of complying with the rules for the Executive Division.

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

There is no known conflict with any 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.

The rules were evaluated as part of EO 2011-5 and yearly thereafter for ARPs.

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

https://www.michigan.gov/dnr/0,4570,7-350-79136_79772---,00.html

6. Please provide a list of the items identified for action in the 2019 ARP that have been completed and those that remain outstanding.

Completed – None.

Outstanding – None.

**Department of Natural Resources
Fisheries Division**

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020. [Give brief description.]

R 299.701 – R 299.705 Use of Trawls
R 299.721 – R 299.846 Commercial Fishing
R 299.1061 Marketing of Imported Commercial and Game Fish
R 299.1071 – R 299.1079 Commercial Fishing.
The above rulesets need to be rescinded when statutory amendments to Parts 467 and 473 of the Natural Resources and Environmental Protection Act, 1994 PA 451 are adopted. House Bills 4567-4569 were introduced to amend these Parts. If adopted by the Legislature, this series of bills would allow for rescission/amendment of the listed rulesets as appropriate. Rescission/amendments to the listed rulesets could occur in early 2020, depending on legislative action.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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.

R 299.701 – R 299.705 Use of Trawls
R 299.721 – R 299.846 Commercial Fishing
R 299.1061 Marketing of Imported Commercial and Game Fish
R 299.1071 – R 299.1079 Commercial Fishing
The above rule sets describe commercial fishing areas, gear, licenses, and other specifics related to the industry. Fisheries Division worked with representatives from the industry, Michigan’s recreational fishing stakeholder groups, and members of the Legislature to introduce a series of bills to modify all commercial fishing laws, rules, and orders. House Bills 4567-4569 of 2019 were introduced to modify commercial fishing laws, which will allow for the rescission/amendment of the rulesets listed. When Parts 467 and 473 of the Natural Resources and Environmental Protection Act are amended, these rules will become obsolete and it is anticipated that most would be rescinded in their entirety. Further, many of the rules listed or language contained within these rule sets are obsolete or not applicable to the present conditions of the fishery. Specifically, R 299.1072(a) & (e), R 299.1073, 299.1074(b), (c), & (e), portions of R 299.1075, as well as R 299.1078 in its entirety will no longer be necessary if legislative action occurs.

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.

Some sections within the listed rules are problematic to industry but cannot be rescinded until Parts 467 and 473 of the Natural Resources and Environmental Protection Act are amended.

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

Currently, a continued need for the rules exists to properly regulate commercial fishing; however, these rules will not be needed once the referenced statutes are amended.

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

The Department has not received any complaints or comments regarding the rules for the Fisheries Division.

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

The Department has not received any comments regarding the complexity of complying with the rules for the Fisheries Division.

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

There is no known conflict with any other 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.

The rules were evaluated as part of EO 2011-5 and yearly thereafter for ARPs.

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

https://www.michigan.gov/dnr/0,4570,7-350-79136_79772---,00.html

- 6.** Please provide a list of the items identified for action in the 2019 ARP that have been completed and those that remain outstanding.

Complete—None.

Outstanding:

R 299.701 – R 299.705 Use of Trawls

R 299.721 – R 299.846 Commercial Fishing

R 299.1061 Marketing of Imported Commercial and Game Fish

R 299.1071 – R 299.1079 Commercial Fishing

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**Department of Natural Resources
Forest Resources Division**

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020. [Give brief description.]

None

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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.

None

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

There is a continued need for the rules.

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

The Department has not received any complaints or comments regarding the rules for the Forest Resources Division.

- C. The complexity of complying with the rules.

The Department has not received any comments regarding the complexity of complying with the rules for the Forest Resources Division.

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

There is no known conflict with any other 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.

The rules were evaluated as part of EO 2011-5 and yearly thereafter for ARPs.

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

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6. Please provide a list of the items identified for action in the 2019 ARP that have been completed and those that remain outstanding.

Completed—R 299.2651-R 299.2666, Forest and Mineral Resource Development Program, rescinded effective March 13, 2019.

Outstanding—None.

**Department of Natural Resources
Law Enforcement Division**

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020. [Give brief description.]

- Marine Collisions, Accidents, or Other Casualties, R 281.1221 – 1226: establish reporting requirements in the event of a collision on waters in Michigan’s jurisdiction
- Numbering of Vessels and Motorboats, R 281.1201 – 1209: establish the details of the requirement to display numbers on vessels while in waters within Michigan.
- State Land Use Rules R 299.921 – 933: regulate use of state land; updates to reflect statutory changes.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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.

Some rules in the marine related rulesets listed above may be obsolete. DNR has established a workgroup to review, update, and rescind these rulesets as appropriate to ensure they are current and consistent with federal regulations.

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.

All rules are required and/or necessary to meet statutory requirements and address public safety concerns.

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

The rules that are retained are necessary.

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

The Department has not received any complaints or comments regarding the rules for the Law Enforcement Division.

C. The complexity of complying with the rules.

The Department has not received any comments regarding the complexity of complying with the rules for the Law Enforcement Division.

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

The marine related rules will be updated for consistency with federal standards. The State Land Use Rules need to be updated to accurately coordinate with recent statutory changes.

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 were evaluated as part of EO 2011-5 and yearly thereafter for ARPs.

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

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6. Please provide a list of the items identified for action in the 2019 ARP that have been completed and those that remain outstanding.

Completed – None.

Outstanding – State Land Use Rules R 299.921 – 933

**Department of Natural Resources
Michigan History Center**

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020. [Give brief description.]

R 399.101-399.102 Site Protection

The Department will consider amendments to make technical updates to the rules to address inaccurate statutory citations and departmental organizational changes.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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.

None.

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

The retained rules remain necessary.

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

The Department has not received any complaints or comments regarding the rules for the History Center.

- C. The complexity of complying with the rules.

The Department has not received any comments regarding the complexity of complying with the rules for the History Center. The rules are currently confusing due to changes in state statute and government organization, but do not present significant complexity related to compliance.

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

There is no known conflict with any 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.

The rules were evaluated as part of EO 2011-5 and yearly thereafter for ARPs. The rules are currently confusing due to changes in state statute and government organization, but do not present significant complexity related to compliance.

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

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6. Please provide a list of the items identified for action in the 2019 ARP that have been completed and those that remain outstanding.

Completed – None.

Outstanding – **R 399.101-399.102 Site Protection**

**Department of Natural Resources
Office of Minerals Management**

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020. [Give brief description.]

R 299.8101 – 299.8107 - Rules for Oil and Gas Leases on State Lands

The rules have not been updated since they were established more than 25 years ago. The rules are out of date with current practices and various procedural changes such as classification reviews and auction processes, as well as lease approvals. Among other things, the referenced authority has changed, some of the definitions are no longer correct, the DNR mailing address is incorrect, and many of these rules no longer reflect current practices due to procedural changes and technological advancement. Proposed amendments would remove unnecessary requirements, clarify existing requirements, and update outdated information.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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.

R 299.8101- 299.8107 - Rules for Oil and Gas Leases on State Lands

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

There is a continued need for the rules

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

The Department has received comments about the rules being out of date (e.g., citing “commission” throughout the rules as the lessor; that role has been delegated to the Director of the Department). Industry is concerned with some areas within the rules such as the length of time it takes to enter a lease with the State and the ability for the rules to address “false” bidders who bid against industry during an auction but have no intent to pay the amount bid. Industry has also requested clarification of direct lease requirements. Rules could be reviewed to identify areas that may be changed to help shorten the process, add protections, and provide greater flexibility to enter leases.

- C. The complexity of complying with the rules.

The requirements to enter a direct lease are complex and limit the Department’s ability to issue direct leases.

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

There is no known conflict with any other 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.

The rules were evaluated as part of EO 2011-5 and yearly thereafter for ARPs.

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

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6. Please provide a list of the items identified for action in the 2019 ARP that have been completed and those that remain outstanding.

Completed – R 299.4021 - 299.4027 - Nonmetallic Minerals Leased on State Lands

Outstanding – R 299.8101 – 299.8107 - Rules for Oil and Gas Leases on State Lands

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Department of Natural Resources
Wildlife Division

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020. [Give brief description.]

R 299.1021 – 299.1028, Threatened & Endangered Species: Technical committees continue to review the threatened and endangered species list and will produce recommended changes in September of 2019, consistent with a 5-year review cycle. The Wildlife Division will review the recommendation when received in September 2019 and consider possible amendments to the ruleset in 2020.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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.

None.

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

The retained rules remain necessary.

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

The Department has not received any complaints or comments regarding the rules for the Wildlife Division.

- C. The complexity of complying with the rules.

The Department has not received any comments regarding the complexity of complying with the rules for the Wildlife Division.

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

There is no known conflict with any 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.

The rules were evaluated as part of EO 2011-5 and yearly thereafter for ARPs. The threatened and endangered ruleset specifically is currently being reviewed, consistent with the established 5-year review cycle and recommended amendments to the ruleset may result from the review in 2020. The Department's regulatory authority pertaining to Wildlife Division administered rules has not changed.

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

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6. Please provide a list of the items identified for action in the 2019 ARP that have been completed and those that remain outstanding.

Completed – None.

Outstanding – R 299.1021 – 299.1028, Threatened & Endangered Species

The ruleset was identified in the 2018 ARP based on recommendations from the 2014 technical review of the lists, but no amendments to the ruleset were actual pursued based on the 2014 review. Because technical committees are currently reviewing the threatened and endangered species list based on the established 5-year review cycle, it is now more practical and efficient to wait for the outcome of the September 2019 review before pursuing amendments to the ruleset.

**Department of Natural Resources
Parks and Recreation Division**

1. Rule(s) to be **processed** between July 1, 2019 and June 30, 2020. [Give brief description.]

R 257.1501-257.1511 State Aid for Snowmobile Safety Programs

The Advisory Rules Committee made a recommendation to generally update the rules to conform to statute. The DNR will continue to consider possible updates over the next year.

R 299.671(f) Definition

The definition of "Director" needs to be updated to remove "department of natural resources and environment" and replace it with "department of natural resources."

R 299.921 (j) Definition

The definition of "Pathway" needs to be updated to reflect that "properly signed on the ground" would only be necessary for allowed non-motorized uses.

R 299.922(a) regulates entry, use or occupancy of "state owned land", since the state also leases lands, the DNR would propose removing "state owned land" from this definition.

R299.922(j) regulates where animals are allowed on state land and under what circumstances. Because the rule does not define "bathing beach" the DNR would propose clarifying the rule to better reflect the intent and practical application of the rule.

R 299.922(v) prohibits leaving a campsite unoccupied for more than a 24-hour period after the camp is "established," but "establish" is not defined in the Rules. The DNR would propose amendments to clarify the rule to better reflect the intent and practical application of the rule.

R 299.923(e) prohibits building a fire except in a stove or grill "provided" by the department. The DNR would propose replacing "provided" with "approved", as there are some instances where the DNR does not provide a stove or grill.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2019 and June 30, 2020. 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.

None.

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

The retained rules are necessary.

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

The Department has not received any complaints or comments regarding the rules for the

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Parks and Recreation Division.

C. The complexity of complying with the rules.

The Department has not received any comments regarding the complexity of complying with the rules for the Parks and Recreation Division.

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

There is no known conflict with any 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.

The rules were evaluated as part of EO 2011-5 and yearly thereafter for ARPs.

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

https://www.michigan.gov/dnr/0,4570,7-350-79136_79772---,00.html

6. Please provide a list of the items identified for action in the 2019 ARP that have been completed and those that remain outstanding.

Completed—none.

Outstanding:

R 257.1501-257.1511 State Aid for Snowmobile Safety Programs

The Advisory Rules Committee made a recommendation to generally update the rules to conform to statute. The DNR will continue to consider possible updates over the next year.

R 299.671(f), 299.921(j), 299.922(a), 299.922(j), 299.922(v), and 299.923(e)

The definition of “Director” in R 299.671(f) needs to be updated to remove “department of natural resources and environment” and replace it with “department of natural resources.”

The definition of “Pathway” in R 299.921(j) needs to be updated to reflect that “properly signed on the ground” would only be necessary for allowed non-motorized uses.

R 299.922(a) regulates entry, use or occupancy of “state owned land”, since the state also leases lands, the DNR would propose removing “state owned land” from this definition.

R299.922(j) regulates where animals are allowed on state land and under what circumstances. Because the rule does not define “bathing beach” the DNR would propose clarifying the rule to better reflect the intent and practical application of the rule.

R 299.922(v) prohibits leaving a campsite unoccupied for more than a 24-hour period after the camp is “established,” but “establish” is not defined in the Rules. The DNR would propose amendments to clarify the rule to better reflect the intent and practical application of the rule.

R 299.923(e) prohibits building a fire except in a stove or grill “provided” by the department. The DNR would propose replacing “provided” with “approved”, as there are some instances where the DNR does not provide a stove or grill.