



MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

Annual Regulatory Plan

Report Period:
July 1, 2019 to June 30, 2020

Authority:
MCL 24.253

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[Air Quality Division](#)

[Drinking Water and Environmental Health Division](#)

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

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

Part 2. Air Use Approval (R 336.1201 - 336.1299) Potential updates necessary to remove per- and polyfluoroalkyl substances (PFAS) from exemption in toxics and permitting rules, and minor updates to Renewable Operating Permit rules.

MOAHR # 2017-062 EG, Part 4. Emission Limitations and Prohibitions – Sulfur Bearing Compounds (R 336.1401, R 336.1402, R 336.1404 and R 336.1420)
Updating rules adopted by reference and rescinding a rule.

Part 6. Emission Limitations and Prohibitions – Existing Sources of Volatile Organic Compound Emissions (R 336.1601 – 336.1661) Considering update of Reasonable Available Control Technology (RACT) requirements/emission limits in pertinent Part 6 rules and other rules changes for inclusion in 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 (R 336.1701 – 336.1710) 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 (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.

Part 9. Miscellaneous Provisions (R 336.1901 – 336.1974) Update adoptions by reference. Landfill emission rule if required by federal regulations.

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 Rules that are obsolete or superseded and can be rescinded between July 1, 2019 and June 30, 2020.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

AQD has proposed to rescind R 336.1420 as it is obsolete.

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

No, the AQD has exercised its statutory rulemaking authority.

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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.

- 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 these more stringent restrictions. These 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.

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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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EGLE Pending 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.

1. The following four rule sets were promulgated after the submittal of the last Annual Regulatory Report. Their effective dates were January 9, 2019.

MOAHR # 2017-006 EG, Part 9. Miscellaneous Provisions (R 336.1901 – R 336.1974) Add new commercial and industrial solid waste incinerator rule as required by federal regulations and update adoptions by reference.

MOAHR # 2017-068 EG, Part 2. Air Use Approval (R 335.1212 – R 336.1285) Updated rules to correct a typographical error, modified air toxics exemptions for natural gas burning equipment, and developed an exemption for vapor intrusion mitigation systems.

MOAHR # 2017-070 EQ - Part 18. Prevention of Significant Deterioration of Air Quality (R 336.2801 – R 336.2823) Revise to address federal rulemaking on significant monitoring concentrations, add applicability clarification in R 336.2802, and update adoptions by reference.

MOAHR # 2017-071 EG, Part 19. New Source Review for Major Sources Impacting Nonattainment Areas (R 336.2901 – R 336.2908) Revise to make consistent with a revamped Part 18 and correct typographical errors in multiple rules.

2. There is one pending rule set:

MOAHR # 2017-062 EG, Part 4. Emission Limitations and Prohibitions – Sulfur Bearing Compounds (R 336.1401, R 336.1402, R 336.1404 and R 336.1420) Updating rules adopted by reference and rescinding a rule.

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

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

MOAHR 2019-035 EG, Suppling Water to the Public (R 325.10101 – 325.12820)
To establish enforceable drinking water standards for per- and polyfluoroalkyl substances (PFAS) found during the 2018 sampling of Michigan's public drinking water supplies.

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 at this time.

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 (specifically MCL 324.11701 – 324.11720) Part 117 was amended to require 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) Specifically the lead and copper requirement, which provide a 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, liability, and legalities associated with accessing private property to replace lead service lines.

- C. The complexity of complying with the rules.

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

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- 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.

The United States Environmental Protection Agency's (USEPA) most recent revision to lead and copper requirements came with the 2009 Lead and Copper Short Term Revisions that were adopted by the state. A federal revision is anticipated in 2019. Increased attention to lead in drinking water is driving more stringent regulations nationwide.

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1. Outstanding:

Septage. House Bill 4438 was passed, enrolled, and sent to the Governor for consideration in late June 2018. This was signed into law on June 28, 2018, with an effective date of September 27, 2018, amending Part 117, Septage Waste Servicers, of the Natural Resources and Environmental Protection Act, as amended (NREPA) to add Section 11721. This Section exempts farm operations using portable toilets and related equipment from the need to comply with Part 117, given certain other requirements are met. Section 11718(3) is also added, requiring rulemaking: "The department of environmental quality and the department of agriculture and rural development shall jointly promulgate rules establishing field sanitation and food safety standards for the purposes of section 11721." Septage Program staff have reached out to the Michigan

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Department of Agriculture and Rural Development (MDARD) multiple times regarding this obligation with no response.

2. Pending:

MOAHR 2019-035 EG, Suppling Water to the Public (R 325.10101 – 325.12820)

To establish enforceable drinking water standards for per- and polyfluoroalkyl substances (PFAS) found during the 2018 sampling of Michigan's public drinking water supplies.

Onsite Wastewater. Legislation introduced in 2018 to work on a rules package to establish a statewide code containing performance-based standards for conventional and alternative onsite wastewater treatment systems was never passed. This issue may be raised again in the future.

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

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

MOAHR # 2018-012 EQ, Hazardous Waste Management (R 299.9101 to 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 Materials Management Division (MMD) has initiated rule revisions to address, in part, the federal generator improvements, e-manifest, and definition of solid waste (DSW) regulations. These regulations include both structural and scope changes to the standards for hazardous waste generators, the rollout of the e-manifest system, and revisions commensurate with the March 2018 federal court decision on the 2015 DSW provisions.

Hazardous Waste Management (R 299.9101 to 299.11007) The MMD will likely initiate an additional rules package during the specified time period. The rules will address two significant federal regulatory changes that occurred after the above referenced package was well underway. The changes pertain to the management of recalled automotive air bags and the regulation of pharmaceuticals.

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 exercise any mandatory/statutory rulemaking authority? Please explain.

Part 135, Radiation Control, 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. Sections 8, 20, and 37 of Part 137 authorize the promulgation of rules.

Part 173, Electronics, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (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 EGLE with the authority to promulgate rules to implement certain requirements. The MMD does not intend to pursue these rules because they are not

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necessary to implement the current program and the MMD has minimal resources available 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 to 325.1549) Environmental Advisory Rules Committee (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 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.

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.

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6. Please provide a list of the items identified for action in the 2018 ARP that have been completed and those that remain outstanding. Please indicate if an item is the subject of an Advisory Rules Committee recommendation.

1. Completed:

No rule sets were completed in the past 12 months.

2. Outstanding:

Medical Waste Producing Facilities (R 325.1541 to 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. As noted in Box 4, some enabling legislation is also required.

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

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

MOAHR # 2019-001 EG, 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 is updating definitions to ensure protection of underground sources of drinking water.

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.

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. 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.

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.

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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 Well 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 which 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.

- C. The complexity of complying with the rules.

There is no increased complexity with any proposed rule sets in the regulatory plan. The current MOAHR #2019-001 clarifies terms, and 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.

- 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

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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, R 324.802 and R 324.815 were recently updated on June 7, 2018.

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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.

1. No rules sets were promulgated since the submittal of last year's Annual Regulatory Report.

2. There is one pending rule set:

MOAHR # 2019-001 EG, 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 is updating definitions to ensure protection of underground sources of drinking water. 2019-001 EG is nearing completion, and EGLE anticipates submitting the final report to the Joint Committee for Administrative Rules in July where it must lay over at least 15 session days.

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

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

Cleanup Criteria Requirements for Response Activity (R 299.44 – 299.49) The Remediation and Redevelopment Division (RRD) may work on revisions to the existing lead criteria that are no longer appropriate for protection of public health. The purpose of these amendments would be to update the lead cleanup criteria for direct contact with soil, and groundwater cleanup criteria protective of drinking water. The current criteria for lead use exposure assumptions that are no longer appropriate for protection of public health. Updating the criteria for lead will allow for the protection required by statute. In addition, the RRD may initiate a stakeholder process to update the criteria for the existing list of 300+ hazardous substances, utilizing current data. The RRD may also initiate rulemaking to establish cleanup criteria for new compounds such as per- and polyfluoroalkyl substances (PFAS).

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.

There are no rules that are obsolete or superseded that can be rescinded. The agency has not identified any rules that are least important to the agency's mission and function, or otherwise candidates for rescission.

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

No, the RRD has exercised 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.

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, resulting in criteria that may not be protective of public health and the environment based on current physical/chemical and toxicological data, and updated exposure assumptions routinely used in calculating risk. In 2014, EGLE convened the Criteria Stakeholders Advisory Group (CSA) specifically to identify guiding principles to be used for updating the criteria; and to apply the guiding principles in the selection of assumptions and algorithms to be used in updating the criteria. While there was broad consensus on many of the subsequently proposed amendments to these rules, there were several important issues that required further evaluation and resolution. The proposed rules were withdrawn January 2018. Through this process the regulated community identified its most problematic issues with the proposed rules. These issues included: 1) the tiered approach for evaluating the volatilization to indoor air pathway; 2) the use of an IRIS toxicity value if one is available; 3) the developmental or reproductive exposure scenario; 4) nonresidential exposure time; 5) dioxin leachability and volatility; and 6) implementation provisions. (See 4(E) below.) In addition, the

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banking industry has found the qualifying statement that is sometimes included with EGLE approval of certain documents (indicating that while the contaminant concentrations meet the criteria in the rules, the values may not be protective of public health and the environment) is problematic.

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

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

These rules are critical to protect public health and the environment. 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 – 299.50) Notwithstanding the regulated community's concerns, the general public has expressed concerns regarding the following issues: 1) the existing criteria are not protective of the child receptor; and 2) the criteria for PFOS/PFOA are not stringent enough. In addition, both the regulated community and general public have expressed concerns that the existing rules do not have criteria for soil gas; therefore, site-specific criteria must be developed and approved by EGLE, which is not nimble for property transactions. Citizens in areas of groundwater contamination have made public their concerns that the rules allow for use of institutional controls in lieu of reducing/eliminating contaminant levels to manage exposure to hazardous substances.

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 EGLE's remediation and redevelopment programs. The complexity of complying with the rules continues to be an integral component of 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.

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- 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 EGLE’s cleanup and redevelopment programs have been through a comprehensive review by the Environmental Advisory Rules Committee (January 2012), the Collaborative Stakeholder Initiative (February 2012 through December 2013), and the Criteria Stakeholders Advisory Group, (March 2014 through November 2014). Although the rules have been evaluated and deficiencies have been noted by the department and the regulated community, the department has not been able to substantially update the criteria since 1998. Additional and more robust physical, chemical and toxicological data are available for many of the 300+ hazardous substances addressed by the criteria. Incorporation of this data into the development of the cleanup criteria would provide a higher confidence level in terms of the management of the risk to public health and the environment.

Through the evaluations of the existing criteria identified above, the regulated community identified its most problematic issues with the proposed rules. Those issues included: 1) the tiered approach for evaluating the volatilization to indoor air pathway; 2) the use of an IRIS toxicity value if one is available; 3) the developmental or reproductive exposure scenario; 4) nonresidential exposure time; 5) dioxin leachability and volatility; and 6) implementation provisions. After the regulated community’s failure to reach a consensus with EGLE on these issues, statutory amendments were adopted into Part 201, Environmental Remediation, of the NREPA, by Act 581 of 2018, to satisfy the regulated community’s concerns. This has not resolved the need to update these 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.

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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.

No rules sets were promulgated since the submittal of last year's Annual Regulatory Report. ORR # 2015-094 EQ, Cleanup Criteria Requirements for Response Activity (R 299.1 – 299.50) was withdrawn on January 18, 2019.

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

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

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. Stakeholder process was completed. *Note: EGLE cannot proceed until it receives rulemaking authority under Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).*

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

Part 23. Pretreatment Rules (R 323.2302 - 323.2303 and R 323.2305 - 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: EGLE cannot proceed until it receives rulemaking authority under Part 31, Water Resources Protection, of the NREPA.*

Public Bathing Beaches Rules (R 325.2101 - 325.2103) An RFR is expected to be submitted this year to modify the acceptable testing methods of *E. coli* at bathing beaches. A new method has been developed and is in the process of being approved by the United States Environmental Protection Agency. Once approved, the Water Resources Division (WRD) will incorporate it into the rules.

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. The WRD has exercised its statutory rulemaking authority.

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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 - 281.961) Recommendation W-12 of the Environmental ARC proposes changes to the program to facilitate more economically efficient wetland mitigation projects.

Part 5. Spillage of Oil and Polluting Materials Rules (R 324.2001 - 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: EGLE cannot proceed until it receives rulemaking authority under Part 31, Water Resources Protection, of the NREPA.*

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, 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.

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.

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.

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- 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.

The EGLE's Laws and Rules [web site](#), directs the public to MOAHR's rules web sites. See 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 2019 ARP that have been completed and those that remain outstanding.

1. No rule sets were completed in the past 12 months.

2. The following rule sets are outstanding:

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.

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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. No rules sets were promulgated since the submittal of last year's Annual Regulatory Report.