

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

MOAHR-Rules@michigan.gov

**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Environment, Great Lakes and Energy

Bureau name:

Water Resources Division

Name of person filling out RIS:

Alyssa Sarver

Phone number of person filling out RIS:

517-881-1371

E-mail of person filling out RIS:

SarverA@michigan.gov

Rule Set Information:

ARD assigned rule set number:

2024-52 EQ

Title of proposed rule set:

Sewerage Systems

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

Michigan is the only state in the United States Environmental Protection Agency's (USEPA) Region 5 that does not offer a required or optional collection system certification. While not federally required, of the other Region 5 states, Wisconsin, Minnesota, and Ohio have collection system operator certification requirements; and Illinois and Indiana offer optional certification requirements for collection system operators.

There are no federal rules that require wastewater construction permitting. However, the permit program for Part 41, Sewerage Systems, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA) complements the federal and state wastewater discharge permitting programs well, as Part 41 Wastewater Construction Permits, MCL 324.4105 (Part 41 Permit) ensure proper design and construction of public-serving wastewater facilities to achieve compliance with such discharge permits.

No states in Region 5 have a retention treatment basin (RTB) facility classification or operator certification option or requirement. Wisconsin and Michigan have some certification and classification options that mirror the treatment taking place in those systems, but there is no definitive classification.

A. Are these rules required by state law or federal mandate?

The proposed collection system and RTB facility classification and operator certification rules are not required by state law or federal mandate. MCL 324.4105 does require construction permits, as outlined in R 299.2901-299.2974 (Part 41 Rules).

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The proposed rules do not exceed a federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

While not federally required, of the other Region 5 states, Wisconsin, Minnesota, and Ohio have collection system operator certification requirements; and Illinois and Indiana offer optional certification requirements for collection system operators.

Michigan is the only state in the USEPA's Region 5 that does not offer a required or optional collection system certification. For RTBs, Wisconsin and Michigan have some certification and classification options that mirror the treatment taking place in those systems, but there is no definitive classification.

All other states in Region 5 require wastewater construction permits.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The proposed collection system facility classification and certification rules are comparable to those set in Wisconsin, Minnesota, and Ohio. They would exceed the standards in Illinois and Indiana, which are optional and not required.

While there will be certification costs associated with these rule changes, the additional oversight, operation, and maintenance requirements for the collection systems will provide more protection for public health and the environment and assist the receiving wastewater treatment plants to better manage their systems to meet permit requirements.

The addition of the RTB certification would exceed the standards in the USEPA's Region 5 states; however, Michigan's current RTB systems use the Class D wastewater treatment certification for their staff or industrial wastewater treatment certifications at the appropriate treatment type. The addition of this certification will assist RTBs in managing the operational variations noted at these facilities that rarely occur at wastewater treatment plants and will improve the quality of operation by focusing operator knowledge on operational situations and processes unique to these types of facilities.

Many of the states in Region 5 have wastewater construction design standards written in rule. Michigan's rules specify that the accepted regional wastewater design standards (Recommended Standards for Wastewater Facilities, also known as the Ten States Standards) are used when reviewing wastewater construction permit applications. All other states in Region 5 (and others in the Great Lakes and Upper Mississippi River region) participate in the committee and board that develop and oversee the Ten States Standards. Many of the design standards for which other states in the region have written in rule are consistent with those in the Ten States Standards. The Part 41 Rules pertaining to wastewater design standards do not exceed the standards of other regional states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

There are no duplicative laws, rules, or other legal requirements for the proposed collection system and RTB facility classifications and certified operator requirements.

There are no similar regulations at the federal or regional level for wastewater construction permitting. The proposed rule revisions will update an existing state wastewater construction permitting program and will not result in requirements that exceed the existing state regulations. The state statute authorizing the promulgation of the wastewater construction permit rules is MCL 324.4105(1).

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

There are no duplicative laws, rules, or other legal requirements for the proposed collection system facility classifications and certified operator requirement.

Part 41 Permits are not in conflict with nor duplicative of other standards at the state, regional, or federal level. In fact, the Part 41 Permit Program complements the federal and state wastewater discharge permitting programs well, as Part 41 Permits ensure proper design and construction of public-serving wastewater facilities to achieve compliance with such discharge permits.

Purpose and Objectives of the Rule(s)

4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

EGLE is addressing longstanding operation and maintenance issues with collection systems such as breakdowns, blockages, capacity issues, infiltration and inflow, and structural integrity issues. The additional oversight, operation, and maintenance requirements for the collection systems will provide more protection for public health and the environment and will assist the receiving wastewater treatment plants to better manage their systems to meet the permit requirements.

Most RTB facilities require operator certification at the Class D level or with industrial wastewater treatment certifications that reflect the waste treatment at those systems. Neither of those certification processes accurately reflect the nature of an RTB facility. The proposed RTB certification will allow those operators to become properly certified with relevant information and continuing education requirements. The operator certification requirements for both collection systems and RTBs will positively impact the sewerage system industry by providing employment advancement opportunities as operators earn higher levels of certification. Also, this aligns with the current certification structure for wastewater treatment plant operators and provides consistency within this line of work.

Rule revisions related to wastewater construction permitting will streamline permitting by setting clear expectations in rule for privately owned, publicly used systems so that they may plan accordingly when submitting applications for Part 41 Permits. Additionally, rule changes for addressing revisions to approved plans so that the rule is consistent with the statute are proposed. There are discrepancies as to how minor revisions are handled; the statute requires EGLE approval for minor revisions to plans while the existing rules allow for minor revisions without EGLE approval.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The proposed rules will require a facility classification and a certified operator for all collection systems with greater than 50 connections and RTB facilities. Once an operator is certified, they will be required to renew their certification every three years with continuing education requirements. The additional oversight, operation, and maintenance requirements for the collection systems will provide more protection for public health and the environment and assist the receiving wastewater treatment plants to better manage their system and meet the permit requirements.

Rule revisions related to wastewater construction permitting will streamline permitting by setting clear expectations in rule for privately owned and publicly used systems so that they may plan accordingly when submitting applications for Part 41 Permits.

B. Describe the difference between current behavior/practice and desired behavior/practice.

Currently, collection systems are operated by individuals that are not certified. The proposed rules will require facility classification and a certified operator for the collection system. The additional oversight, operation, and maintenance requirements for the collection systems will provide more protection for public health and the environment and assist the receiving wastewater treatment plants to better manage their systems to meet the permit requirements.

Most RTB facilities require operator certification at the Class D level or with industrial wastewater treatment certifications that reflect the waste treatment at those systems. Neither of those certification processes accurately reflect the nature of an RTB facility. The proposed RTB certification will allow those operators to become properly certified with relevant information and continuing education requirements.

The proposed rules will streamline current requirements for construction permits. Developers and owners of privately owned and publicly serving projects that Part 41 Permit applicants are often unaware and/or do not understand the requirements for establishing assurances for continuity of service, therefore, causing delays in permit review and issuance, which can delay projects. The proposed rule revisions will establish clear expectations for planning and permitting this aspect of wastewater projects and aid in facilitating project planning, permitting, and construction.

C. What is the desired outcome?

By proposing a facility classification and corresponding operator certification requirements, the additional oversight, operation, and maintenance for collection systems will provide more protection for public health and the environment and assist the receiving wastewater treatment plants to better manage their system and meet the permit requirements. The proposed rules for RTB facility classification and operator certification will improve operator knowledge within those systems and will establish an easier entry to the certification process by focusing on relevant knowledge and experience. Additionally, these certification requirements may provide better, more advanced employment opportunities for this section of the industry without a certification program.

Streamlining the Part 41 Permit requirements will establish expectations for those applicants for what is needed to demonstrate assurances for providing continuity of service for privately owned and publicly serving wastewater facilities.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

Currently, collection systems are not permitted by EGLE and there are no operator certification requirements for these systems. EGLE is addressing longstanding operation and maintenance issues with collection systems by proposing a facility classification and corresponding operator certification requirements. The additional oversight, operation, and maintenance requirements for the collection systems will provide more protection for public health and the environment and assist the receiving wastewater treatment plants to better manage their system and meet the permit requirements. In the absence of these rules, collection system infrastructure may continue to degrade and cause issues for the receiving wastewater treatment plant. This will negatively impact the influent coming into the plant and, potentially, the treated effluent returning to waters of the state. Additionally, the WRD is proposing a general permit for contributing municipality collection systems. If the permit is approved but the rules are not promulgated, it would be unlike other permits that are established where operator oversight and certification are required.

In the absence of an RTB facility classification and operator certification requirement, these facilities will continue to operate without a classification that properly identifies with the unique operation, maintenance, and treatment that takes place. Operators will not have an opportunity to earn a certification that provides knowledge for their specific facilities, and they will not have an opportunity to earn continuing education credits (CEC) throughout their career.

Without the proposed rule revisions, the Part 41 Permit process remains cumbersome for private owners as well as EGLE staff who review the permit applications. While the current permitting policy for privately owned sewerage systems is effective, it requires a relatively lengthy process for demonstrating continuity of service assurances. It is critical that publicly serving systems provide reliable wastewater service to its users. This includes assurances for providing continuity of service. While municipal systems have many provisions in place to provide continuity of services and solvency, private owners may not. The proposed rules will set clear expectations for this and will aid in streamlining this aspect of the permitting process.

A. What is the rationale for changing the rules instead of leaving them as currently written?

Currently, collection systems are operated by individuals that are not certified. The proposed rules will require certified operators for collection systems. The additional oversight, operation, and maintenance requirements for these systems will provide more protection for public health and the environment and bring Michigan up to regional standards.

Most RTB facilities require operator certification at the Class D level or with industrial wastewater treatment certifications that reflect the waste treatment at those systems. Neither of those certification processes accurately reflect the nature of an RTB facility. The proposed RTB certification will allow those operators to become properly certified with relevant information and continuing education requirements.

Inclusion of requirements for privately owned and publicly serving systems in rule will set clear expectations for owners of such wastewater systems. This will streamline the permit process and better ensure continuity of service for such systems.

6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed collection system facility classifications and operator certification requirements align with the currently required wastewater treatment plant facility classifications and operator certification requirements under MCL 324.4104 and the Part 41 Rules. It was decided, with stakeholder involvement, that collection system facility classification and operator certification requirements better reflect the sewerage system industry as a whole and provide equal requirements for operators in this industry. The additional oversight, operation, and maintenance requirements for these systems will provide more protection for public health and the environment and bring Michigan up to regional standards.

RTB facility classification and operator certification requirements would reduce barriers to entry for operators, improving the number of qualified individuals capable of operating and maintaining the RTBs. Correctly operated RTBs protect the environment and public health from wet weather discharges that could otherwise impair the receiving water or cause basement flooding or other discharges. The current requirement for wastewater treatment plant operator certification is an equivalent burden to the proposed collection system and RTB certifications.

Part 41 Permits are issued so that wastewater systems are properly designed and constructed. The addition of requirements for privately owned and publicly serving wastewater systems will ensure that sewerage systems governed under Part 41 of the NREPA are continually operated and maintained to avoid the unauthorized discharge of raw or untreated sewage into the waters of the state and will ensure that sewage is not potentially prejudicial to public health.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

R 299.2972, R 299.2973, and R 299.2974 can be rescinded due to duplicative language that exists in the Administrative Procedures Act, 1969 PA 306, as amended; the administrative rules pertaining to the Michigan Office of Administrative Hearings and Rules; and additional rules pertaining to contested cases and declaratory rulings.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

No funding source has been provided for expenditures associated with the proposed rules; however, the current wastewater treatment plant operator certification fees are associated with MCL 324.3110. If the proposed rules are promulgated, EGLE plans on proposing collection system and RTB certification fees that are in line with what are currently required for all other wastewater treatment certifications to alleviate added costs to the agency. This can only be accomplished through a public act of the Legislature when the current fees sunset in October 2025.

EGLE plans to move forward with the certification exams and the certification process without specified funding. As such, EGLE will bear the cost of staff time to manage the certification process, additional costs for examination materials, increased costs for larger/additional venues, and other costs associated with the increase of more certified operators in the industry.

Properly operated and maintained systems are more efficient and may result in cost savings. Part 41 Permit applications could be streamlined, which could result in time and cost savings for staff and EGLE; the intent is to lessen the burden on applicants and streamline the permit review and issuance process.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

EGLE will task existing staff in the WRD's Licensing and Technology Support Unit to oversee the proposed collection system and RTB certification rule changes. The additional certifications would increase time spent reviewing applications, creating examinations, and managing certification renewals.

No funding source has been provided for expenditures associated with the proposed rules; however, the current wastewater treatment plant operator certification fees are associated with MCL 324.3110. If the proposed rules are promulgated, EGLE plans on proposing collection system and RTB certification fees that are in line with what are currently required for all other wastewater treatment certifications to alleviate added costs to the agency. This can only be accomplished through a public act of the Legislature when the current fees sunset in October 2025.

EGLE plans to move forward with the certification exams and certification process without specified funding. As such, EGLE will bear the cost of staff time to manage the certification process, additional costs for examination materials, increased costs for larger/additional venues, and other costs associated with the increase of more certified operators in the industry. No appropriations, funding, or additional resources are necessary for the Part 41 Permit changes.

10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed collection system and RTB facility classifications and operator certification requirements align with the currently required wastewater treatment plant facility classifications and operator certification requirements under MCL 324.4104 and the Part 41 Rules. It was decided, with stakeholder involvement, that collection system and RTB facility classification and operator certification requirements better reflect the sewerage system industry as a whole and provide equal requirements for operators in this industry. The additional oversight, operation, and maintenance requirements for these systems will provide more protection for public health and the environment.

Affected collection systems will need to hire a certified operator and assess the associated labor costs. For collection systems that are adequately operated and maintained, there should be minimal additional cost for equipment and supplies. For those that are not adequately operated and maintained, there will likely be additional costs to bring the sewer system up to standards in compliance with the requirements.

If the proposed rules are promulgated, EGLE plans on proposing collection system certification fees that are in line with what are currently required for all other wastewater treatment certifications. This can only be accomplished through a public act of the Legislature when the current fees sunset in October 2025. Operators who earn these certifications will be responsible for maintaining them. There will be an initial certification fee and certification renewal fees. Often, the operator's employer will assist with the fee burden.

No additional burden is placed on Part 41 Permit applicants with the proposed rule revisions. In fact, the intent is to lessen the burden on applicants and streamline the permit review and issuance process.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The proposed collection system and RTB facility classifications and operator certification requirements align with the currently required wastewater treatment plant facility classifications and operator certification requirements under MCL 324.4104 and the Part 41 Rules. It was decided, with stakeholder involvement, that collection system and RTB facility classification and operator certification requirements better reflect the sewerage system industry as a whole and provide equal requirements for operators in this industry. EGLE is addressing longstanding operation and maintenance issues with collection systems by proposing a facility classification and corresponding operator certification requirements. The additional oversight, operation, and maintenance requirements for the collection systems and RTBs will provide more protection for public health and the environment and assist the receiving wastewater treatment plants to better manage their system and meet permit requirements.

Part 41 Permits are issued so that wastewater systems are properly designed and constructed. The addition of requirements for privately owned and publicly serving wastewater systems will ensure that sewerage systems governed under Part 41 of the NREPA are continually operated and maintained to avoid the unauthorized discharge of raw or untreated sewage into the waters of the state and ensure that sewage is not potentially prejudicial to the public health.

Impact on Other State or Local Governmental Units

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

In general, there would be no increase or decrease in revenues to other state or local governmental units, as a result of these rules. By requiring operator certification, it is possible that local governments may incur additional costs to maintain this specialized labor force. If additional cost is incurred, the average base salary for a wastewater treatment plant operator is \$24.81/hour (per the U.S. Bureau of Labor Statistics for Water and Wastewater Treatment Plant and System Operators).

One goal for requiring a certified operator is for the entity to employ a knowledgeable and skilled person to identify gaps in the system. There may be costs to bring a system to compliance resulting from the increased awareness from the certified operator. Such costs are not a result of the rules but may be a result of a system with a lack of funding and/or degrading assets over many years. The proposed rules do not include additional costs compared to existing regulations as they pertain to gaps that the certified operator may identify.

12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The proposed rules require collection systems and RTBs to be classified and under the supervision of a certified operator. If the proposed rules are promulgated, EGLE plans to propose collection system certification fees that are in line with what are currently required for all other wastewater treatment certifications. This can only be accomplished through a public act of the Legislature when the current fees sunset in October 2025. Operators who earn these certifications will be responsible for maintaining them. There would be an initial certification fee and a certification renewal fee at rates set by the Legislature. Often, the operator's employer will assist with the fee burden, which in most instances (95%), is a local government.

For privately owned and publicly used sewerage systems, the proposed rules require the recordation of a notification of responsibility across each parcel served for the commonly owned parts of the sewerage system, the submission of an asset management plan, and an escrow account or letter of credit payable to EGLE.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

The proposed rules require collection systems and RTBs to be classified and under the supervision of a certified operator. There may be permit reporting requirements that correspond with these facility classifications, but the permit is not a requirement of these proposed rules. As part of the proposed rules, certified operators would be required to keep track of their CECs and their employer may keep track of this information and/or pay for the operator's courses; however, these certifications belong to the individual and not the employer, so it is at the discretion of the employer to pay for associated certified operator costs other than salary. If the proposed rules are implemented, there is also a requirement for these classified systems to notify EGLE of the operator in charge, or if there is a change in operator in charge. This is in line with what is currently required for all other municipal wastewater treatment plant operators under this rule set.

For privately owned and publicly used sewerage systems, the proposed rules require the recordation of a notification of responsibility across each parcel served for the commonly owned parts of the sewerage system, the submission of an asset management plan, and an escrow account or letter of credit payable to EGLE.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

No appropriation or funding source has been provided to state or local governmental units for these proposed rules.

Rural Impact

14. In general, what impact will the rules have on rural areas?

Rural areas are not impacted any differently than urban areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rules affect any sewerage system with greater than 50 connections. These systems are in both urban and rural areas throughout the state. Generally, RTB systems are in larger urban areas and should not impact rural areas.

All publicly serving wastewater systems require Part 41 Permits, regardless of size or ownership. The proposed rule revisions will ensure that all systems are properly designed, constructed, and operated, per Part 41. The proposed rules require private owners of publicly used sewer systems to establish continuity of service provisions.

Environmental Impact

15. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed collection system and RTB facility classifications and operator certification requirements align with the currently required wastewater treatment plant facility classifications and operator certification requirements under MCL 324.4104 and the Part 41 Rules. The additional oversight, operation, and maintenance requirements for these systems will provide more protection for public health and the environment.

Part 41 Permits are issued so that wastewater systems are properly designed and constructed. The addition of requirements for privately owned and publicly serving wastewater systems will ensure that sewerage systems governed under Part 41 of the NREPA are continually operated and maintained to avoid the unauthorized discharge of raw or untreated sewage into the waters of the state and will ensure that sewage is not potentially prejudicial to public health.

Small Business Impact Statement

16. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The regulated community that will be impacted by the proposed rules is comprised mostly (95%) of local governments. Only 5% of approximately 600 contributing municipalities are considered privately owned and publicly used sewer systems, and most of these systems have 50 or less connections to a collection system and are exempt from the proposed rules. Beyond these measures, EGLE did not exempt any privately owned and publicly used systems based solely on the criteria identified in MCL 24.207a.

All publicly serving wastewater systems require Part 41 Permits, regardless of size or ownership. The proposed rule revisions will ensure that all systems are properly designed, constructed, and operated, per Part 41.

17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

EGLE exempted sewer systems with 50 or less connections from the proposed rules. Most small privately owned and publicly used sewer systems will be exempt from the collection system facility classification and certified operator requirements.

All publicly serving wastewater systems require Part 41 Permits, regardless of size or ownership. The proposed rule revisions will ensure that all systems are properly designed, constructed, and operated, per Part 41 of the NREPA. No additional burden is placed on Part 41 Permit applicants with the proposed rule revisions. In fact, the intent is to lessen the burden on applicants and streamline the permit review and issuance process.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

Potentially, all businesses that are regulated under Part 41 of the NREPA could be positively affected by the rule changes. The proposed rules exempt sewer connections of 50 or less. It is estimated that only 5% of approximately 600 contributing municipalities serve the public and have 50 or less connections. Most small privately owned and publicly used sewer systems will be exempt from the collection system facility classification and certified operator requirements. RTB facilities are owned by municipalities and are not, generally, small municipalities or businesses.

All publicly serving wastewater systems require Part 41 Permits, regardless of size or ownership. The proposed rule revisions will ensure that all systems are properly designed, constructed, and operated, per Part 41 of the NREPA.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The proposed rule changes will mostly affect municipal and public entities but may affect privately owned and publicly used collection systems. The proposed rules exempt sewer connections of 50 or less. Smaller privately owned and publicly used sewer systems will be exempt from the collection system certified operator requirement. RTB facilities are owned by municipalities and are not, generally, small municipalities or businesses.

All publicly serving wastewater systems require Part 41 Permits, regardless of size or ownership. The proposed rule revisions will ensure that all systems are properly designed, constructed, and operated, per Part 41.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The proposed rule changes will mostly affect municipal and public entities but may affect privately owned and publicly used collection systems. The proposed rules exempt sewer connections of 50 or less. RTB facilities are owned by municipalities and are not, generally, small municipalities or businesses. Most small privately owned and publicly used sewer systems will be exempt from the facility classification and certified operator requirement.

All publicly serving wastewater systems require Part 41 Permits, regardless of size or ownership. The proposed rule revisions will ensure that all systems are properly designed, constructed, and operated, per Part 41 of the NREPA. No additional burden is placed on Part 41 Permit applicants with the proposed rule revisions. In fact, the intent is to lessen the burden on applicants and streamline the permit review and issuance process.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The proposed collection system facility classifications and operator certification requirements align with the currently required wastewater treatment plant facility classifications and operator certification requirements under MCL 324.4104 and the Part 41 Rules. The current wastewater treatment plant facility classification and operator certification requirements are based on population, size, and complexity of the treatment system. The proposed collection system and RTB classifications and operator certifications mirror the existing treatment plant requirements; these requirements provide fairness for differing sizes of the systems, both urban and rural.

18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

EGLE does not anticipate a disproportionate impact of the proposed rules on small businesses because of their size or geographic location.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

The proposed rules require collection systems and RTBs to be classified and under the supervision of a certified operator. There may be permit reporting requirements that correspond with these facility classifications, but the permit is not a requirement of the proposed rules. The estimated cost would be the salary of the operator hired by the municipality and will vary based on location.

For privately owned and publicly used sewerage systems, the proposed rules require the recordation of a notification of responsibility across each parcel served for the commonly owned parts of the sewerage system, the submission of an asset management plan, and an escrow account or letter of credit payable to EGLE. There are no additional costs for small businesses to comply with the proposed rules. The proposed rule language aligns with what is currently outlined in Policy and Procedure No. WRD-010, Part 41 – Sewerage Systems Permit Approval.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

The proposed rules will mostly affect municipal and public entities (95%) but may affect small privately owned and publicly used collection systems with 50 or greater sewer connections (collection systems that fall within the 5% of overall contributing municipalities). For those that serve 50 or greater connections, those systems will need to employ a certified operator and assess the associated labor costs. There may be permit reporting requirements that correspond with these facility classifications, but the permit is not a requirement of these proposed rules. As part of the proposed rules, certified operators would be required to keep track of their CECs and their employer may keep track of this information and/or pay for the operator's courses; however, these certifications belong to the individual and not the employer, so it is at the discretion of the employer to pay for associated certified operator costs other than salary.

Affected sewer systems will need to hire a certified operator and assess the associated labor costs. The average base salary for a wastewater treatment plant operator is \$24.81/hour (per the U.S Bureau of Labor Statistics for Water and Wastewater Treatment Plant and System Operators). If affected systems choose to hire a new operator to serve in that role, it may cost them at least that much, just in salary, to comply with the proposed rules; however, the proposed rules do not require that a new staff person be hired to comply. An existing staff person or operator working in the system can become the certified operator and this will, most likely, be the case for these affected systems. One goal for requiring a certified operator is for the entity to employ a knowledgeable and skilled person to identify gaps in the system. There may be costs to bring a system to compliance resulting from the increased awareness from the certified operator. Such costs are not a product of the rules but are a product of a mismanaged system over many years. The proposed rules do not include additional costs compared to existing regulations as they pertain to such gaps that the certified operator may identify. RTB facilities are owned by municipalities and are not, generally, small businesses.

Proposed rule revisions regarding Part 41 requirements for privately owned and publicly serving systems will not result in increased costs compared to costs currently associated with Policy and Procedure No. WRD-010, Part 41 – Sewerage Systems Permit Approval.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

EGLE does not anticipate any costs for legal, consulting, or accounting services with the proposed rules; however, the proposed rules do not specify that the certified operator must be employed directly by the entity and, therefore, an entity may choose to utilize a consultant to meet the requirements for a certified operator if they do not have the capacity to maintain that specialized expertise in their own labor force.

The average base salary for a wastewater treatment plant operator is \$24.81/hour (per the U.S Bureau of Labor Statistics for Water and Wastewater Treatment Plant and System Operators). The cost to hire an outside consultant is dependent on the size of the firm, their specialized areas of expertise, and the level of service to be received.

The proposed rules will mostly affect municipal and public entities but may affect privately owned and publicly used collection systems. The proposed rules exempt sewer connections of 50 or less. Most smaller privately owned and publicly used sewer systems will be exempt from the facility classification and certified operator requirement.

Proposed rule revisions regarding Part 41 requirements for privately owned and publicly serving systems will not result in increased costs compared to what is currently outlined in Policy and Procedure No. WRD-010, Part 41 – Sewerage Systems Permit Approval.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

Smaller private consulting firms may benefit from the proposed operator certification requirements because regulated entities will need to hire a certified operator and the option to hire a third party to meet that requirement is available. This may result in economic benefit rather than harm for those small businesses. It should be noted that the operation and maintenance of a collection system or RTB is not traditionally an area where small businesses enter the marketplace since these are public services most often provided by public municipal systems. Small businesses usually only enter these spaces on a consulting level, and it is the responsibility of a public municipal system to make hiring decisions for internal or external staffing for the operation of that system.

Only 5% of approximately 600 contributing municipalities that will be affected by the proposed rules are considered privately owned and publicly used collection systems. Of that percentage, an even smaller percentage of those systems have greater than 50 sewer connections and would require a certified operator. Affected sewer systems will need to hire a certified operator and assess the associated labor costs. One goal for requiring a certified operator is for the entity to employ a knowledgeable and skilled person to identify gaps in the system. There may be costs to bring a system to compliance resulting from the increased awareness from the certified operator. Such costs are not a product of the rules but are a product of a mismanaged system over many years. The proposed rules do not include additional costs compared to existing regulations as they pertain to such gaps that the certified operator may identify. RTB facilities are owned by municipalities and are not, generally, small businesses.

Proposed rule revisions regarding Part 41 requirements for privately owned and publicly serving systems will not result in increased costs compared to costs currently associated with Policy and Procedure No. WRD-010, Part 41 – Sewerage Systems Permit Approval.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

There will be minimal or no cost to EGLE for enforcing a rule that exempts sewer connections of 50 or less. The proposed rules do not require a facility classification or certified operator for those systems; therefore, EGLE will not be reviewing exam applications or tracking certifications for those entities.

All publicly serving wastewater systems require Part 41 Permits, regardless of size or ownership. The proposed rule revisions will ensure that all systems are properly designed, constructed, and operated, per Part 41 of the NREPA. Proposed rule revisions regarding Part 41 requirements for privately owned and publicly serving systems will not result in increased costs compared to costs currently associated with Policy and Procedure No. WRD-010, Part 41 – Sewerage Systems Permit Approval.

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

There should be minimal impact, if any, on the public interest of exempting privately owned and publicly used sewer systems with 50 or less connections. The proposed rules will mostly affect larger municipal and public entities. There are not many privately owned and publicly used sewer systems with 50 or less connections in Michigan.

Creating an exemption or lesser standard for compliance for small businesses would negatively impact public health and the environment related to Part 41 Permits. All publicly serving wastewater systems require Part 41 Permits, regardless of size or ownership. The proposed rule revisions will ensure that all systems are properly designed, constructed, and operated, per Part 41 of the NREPA.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

EGLE has involved members of the regulated community, special interest groups, and EGLE staff in development and review of the proposed rules. From January 2020 to November 2022, the stakeholder group and EGLE formed a committee and met 18 times to develop and modify the proposed rules. It was imperative that EGLE included an EGLE staff person from the Upper Peninsula and a superintendent from one of the contributing municipalities in that region because the small systems around the state do not see the same issues as the larger systems down state. These considerations from small entities ensured that the proposed rules are as representative as possible for all communities around the state. Additionally, a few other members represented local authorities and townships that may serve populations greater than what is in the Upper Peninsula but still smaller than the larger county and municipal organizations.

Smaller privately owned and publicly used sewer systems will be exempt from the collection system certified operator requirement. It is estimated that 5% of facilities that serve the public and discharge wastewater have 50 or less connections.

A. If small businesses were involved in the development of the rules, please identify the business(es).

The stakeholder group that was involved with the rule changes consisted of large and small municipalities, along with representation from a consulting firm. The consulting firm may represent smaller privately owned and publicly used sewer systems depending on their clients. The municipal representatives are active in other special interest groups that could include members of smaller privately owned and publicly used entities and municipal systems.

Cost-Benefit Analysis of Rules (independent of statutory impact)

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

The proposed rules will mostly affect municipal and public entities (95%) but may affect privately owned and publicly used collection systems. The proposed rules exempt sewer connections of 50 or less, and those smaller privately owned and publicly used sewer systems will be exempt from the facility classification and certified operator requirement. Affected sewer systems will need to hire a certified operator and assess the associated labor costs. The average base salary for a wastewater treatment plant operator is \$24.81/hour (per the U.S Bureau of Labor Statistics for Water and Wastewater Treatment Plant and System Operators). If affected systems choose to hire a new operator to serve in that role, it may cost them at least that much, just in salary, to comply with the proposed rules; however, the proposed rules do not require that a new staff person be hired to comply. An existing staff person or operator working in the system can become the certified operator and this will, most likely, be the case for these affected systems. It is estimated that approximately 600 certified operators will be needed to meet the proposed rules. Each collection system will only need one certified operator to comply with the proposed rules, but many systems will elect to have more than one staff to be certified.

One goal for requiring a certified operator is for the entity to employ a knowledgeable and skilled person to identify gaps in the system. There may be costs to bring a system to compliance resulting from the increased awareness from the certified operator. Such costs are not a product of the rules but are a product of a mismanaged system over many years. The proposed rules do not include additional costs compared to existing regulations as they pertain to such gaps that the certified operator may identify. RTB facilities are owned by municipalities and are not, generally, businesses.

All publicly serving wastewater systems require Part 41 Permits, regardless of size or ownership. The proposed rule revisions will ensure that all systems are properly designed, constructed, and operated, per Part 41 of the NREPA. Proposed rule revisions regarding Part 41 requirements for privately owned and publicly serving systems will not result in increased costs compared to costs associated with the current policy.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

Municipalities and owners of privately owned and publicly used sewer and sewerage systems are directly affected by, bear the cost of, or directly benefit from the proposed rules.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

The regulated community that will be impacted by the proposed rules is comprised mostly (95%) of local governments. Only 5% of approximately 600 contributing municipalities are considered privately owned and publicly used sewer systems, and most of these systems have 50 or less connections to a collection system and are exempt from the proposed rules. The collection systems and RTB facilities will need to hire a certified operator and assess the associated labor costs. The average base salary for a wastewater treatment plant operator is \$24.81/hour (per the U.S Bureau of Labor Statistics for Water and Wastewater Treatment Plant and System Operators). One goal for requiring a certified operator is for the entity to employ a knowledgeable and skilled person to identify gaps in the system. There may be costs to bring a system into compliance resulting from the increased awareness from the certified operator. Such costs are not a product of the rules but are a product of a mismanaged system over many years. The proposed rules do not include additional costs compared to existing regulations as they pertain to such gaps that the certified operator may identify. RTB facilities are owned by municipalities and are not, generally, businesses.

As part of the proposed rules, certified operators would be required to keep track of their CECs and their employer may keep track of this information and/or pay for the operator's courses; however, these certifications belong to the individual and not the employer, so it is at the discretion of the employer to pay for associated certified operator costs other than salary.

Part 41 Permits do not have an associated fee (note that applicants may choose to pay a fee to expedite the permit review process, per statute). The proposed rule revisions regarding Part 41 requirements for privately owned and publicly serving systems will not result in increased costs compared to costs currently associated with Policy and Procedure No. WRD-010, Part 41 – Sewerage Systems Permit Approval.

27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The proposed rules regarding collection system and RTB operator certification do not include costs of education, training, application fees, examination fees, or license fees for individuals; however, the proposed rules do include continuing education requirements that will most likely be obtained through third party vendors that charge for their courses. The average course cost for Michigan Water Environment Association and Michigan Rural Water Association courses is \$180 for members and each course is approximately 5-6 hours. The proposed rules require C3 and C4 level operators to earn not less than 10 hours of approved continuing education hours to renew their certifications. It would cost a C3 or C4 level operator approximately \$360 to renew their certification if they attend these courses. The cost would increase for a C1 or C2 level operator as the proposed rules require not less than 20 hours of CECs to complete renewal or \$720. Similarly, the proposed rules require RTB operators to earn not less than 12 hours of approved continuing education hours to renew their certifications, costing approximately the same as the C3 and C4 operators.

Part 41 Permits do not have an associated fee (note that applicants may choose to pay a fee to expedite the permit review process, per statute). The proposed rule revisions regarding Part 41 requirements for privately owned and publicly serving systems will not result in increased costs compared to costs associated with the current policy.

A. How many and what category of individuals will be affected by the rules?

Each sewer collection system that serves more than 50 connections will require a certified operator. Out of 1,770 municipalities, villages, and townships in Michigan, there are more than 600 contributing municipalities and nearly 30 RTB facilities that will be impacted by the proposed rules.

EGLE estimates that there are approximately 5,319 operators working in collection systems and approximately 90 operators working in RTB facilities that have the potential to gain certification. Each collection system and RTB only needs one certified operator at the corresponding facility classification to be compliant, but any individual that meets the certification requirements would have an opportunity to gain certification.

All publicly serving wastewater systems require Part 41 Permits, regardless of size or ownership. For privately owned and publicly used sewerage systems, the proposed rules require recording a notification of responsibility across each parcel served for the commonly owned parts of the sewerage system, the submission of an asset management plan, and an escrow account or letter of credit payable to EGLE.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

There are no associated certification fees for the proposed rules. If the proposed rules are promulgated, EGLE plans on proposing collection system and RTB certification fees that are in line with what are currently required for all other wastewater treatment certifications. This can only be accomplished through a public act of the Legislature when the current fees sunset in October 2025, and the fees would be set by the Legislature. Operators that want to obtain certification may incur application, renewal, and continuing education fees, if this is not covered by their employer.

As part of the proposed rules, certified operators would be required to keep track of their CECs and their employer may keep track of this information and/or pay for the operator's courses; however, these certifications belong to the individual and not the employer, so it is at the discretion of the employer to keep track of this paperwork and/or pay for associated certified operator costs other than salary. The average course cost for Michigan Water Environment Association and Michigan Rural Water Association courses is \$180 for members and each course is approximately 5-6 hours. The proposed rules require C3 and C4 level operators to earn not less than 10 hours of approved continuing education hours to renew their certifications. It would cost a C3 or C4 level operator approximately \$360 to renew their certification if they attend these courses. The cost would increase for a C1 or C2 level operator as the proposed rules require not less than 20 hours of CECs to complete renewal, or \$720. Similarly, the proposed rules require RTB operators to earn not less than 12 hours of approved continuing education hours to renew their certifications, costing approximately the same as the C3 and C4 operators.

Qualitatively, EGLE expects the addition of these operator certification requirements to better the industry by allowing certification for a section of the industry that does not currently have many ways to advance. Currently, a person working in a collection system cannot just take a wastewater treatment plant exam and work their way up through that system; to advance, they would need to leave their job in the collection system and start gaining hands-on experience in a wastewater treatment facility. As we heard from our stakeholders, this puts pressure on public works departments when they have employees "jumping ship" to potentially find more advancement opportunities somewhere else in the system. By providing a certification pathway for these operators, we are evening the playing field for every person in the wastewater industry and providing an incentive for these entities to retain knowledgeable staff.

Part 41 Permits do not have an associated fee (note that applicants may choose to pay a fee to expedite the permit review process, per statute). The proposed rule revisions regarding Part 41 requirements for privately owned and publicly serving systems will not result in increased costs compared to costs currently associated with Policy and Procedure No. WRD-010, Part 41 – Sewerage Systems Permit Approval. Qualitatively, the inclusion of requirements in rule for privately owned and publicly serving systems would set clear expectations for owners of such wastewater systems. This would streamline the permit process and better ensure continuity of service for such systems. Streamlining of the permit process would decrease turnaround times for permit issuance that provide critical infrastructure for manufacturing and other businesses.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

As proposed, the rules are not expected to have direct cost reductions to businesses, individuals, groups of individuals, or governmental units. Properly operated and maintained systems are more efficient and less likely to fail, resulting in fewer unanticipated cost expenditures by municipalities and privately owned and publicly used systems. Some permit applications could be streamlined, which could result in time and cost savings for affected permittees.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

Properly operated and maintained systems are more efficient and less likely to fail, resulting in fewer unanticipated cost expenditures by municipalities. The proposed rules plan to minimize negative effects to public health and the environment by properly classifying facilities and requiring a certified operator for the system. The collection system and RTB operators will have a reason to advance in the industry, and it should be easier for employers to retain certified operators. Generally, employers attach promotions and monetary raises to each higher certification earned, which is a benefit to the operator and the industry.

Part 41 Permits are issued so that wastewater systems are properly designed and constructed. The addition of requirements for privately owned and publicly serving wastewater systems will ensure that sewerage systems governed under Part 41 of the NREPA are continually operated and maintained to avoid the unauthorized discharge of raw or untreated sewage into the waters of the state, and to ensure that sewage is not potentially prejudicial to the public health.

30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed collection system and RTB facility classifications and operator certification requirements align with the currently required wastewater treatment plant facility classifications and operator certification requirements under MCL 324.4104 and the Part 41 Rules. Operator certification requirements usually directly affect a person's employment. MCL 324.4104 requires one certified operator to be in charge of the facility, but employers usually require more staff to be certified at the required level.

The proposed rules require additional oversight and certification for a section of the industry that does not have any certification requirements. The collection system and RTB operators will have a reason to advance in the industry, and it should be easier for employers to retain certified operators. Generally, employers attach promotions and monetary raises to each higher certification earned, which is a benefit to the operator and the industry.

Economic development for a particular community often relies heavily on available infrastructure, including wastewater infrastructure. Inclusion of requirements in rule for privately owned and publicly serving systems will set clear expectations for owners of such wastewater systems. This will streamline the permit process and better ensure continuity of service for such systems. Streamlining of the permit process will decrease turnaround times for permit issuance that provide critical infrastructure for manufacturing and other businesses.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

Those regulated by Part 41 of the NREPA, both publicly and privately owned, are affected. Individuals and businesses not regulated by Part 41 of the NREPA are not affected.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

Estimates were made using information provided from discussions with stakeholders, EGLE staff knowledge, and data from EGLE's MiEnviro database. From January 2020 to November 2022, a stakeholder group and EGLE formed a committee and met 18 times to develop and modify the proposed rules. From these conversations, information from other states, and USEPA certification Web pages, EGLE thoughtfully developed answers to this document and prepared it as accurately as possible. The proposed rules align with the currently required wastewater treatment plant facility classifications and operator certification requirements under the Part 41 Rules and was used as our basis for creating new classifications.

In assessing the potential impacts for the rules pertaining to construction permits, the agency relied heavily on staff knowledge because permits for privately owned and publicly used sewer and sewerage systems are currently issued in accordance with Part 41 of the NREPA and Policy and Procedure No. WRD-010, Part 41 – Sewerage Systems Permit Approval.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

EGLE is addressing longstanding operation and maintenance issues with collection systems such as breakdowns, blockages, capacity issues, infiltration and inflow, and structural integrity issues. The proposed collection system and RTB facility classifications and operator certification requirements are like other USEPA Region 5 states and mirror the current requirements for Michigan wastewater treatment plants. EGLE relied on the assumption that properly operated and maintained systems are more efficient and may result in cost savings; these systems could see a cost reduction due to better maintenance of the infrastructure, which could result in less violation notices and legal issues with EGLE and other entities.

With the stakeholder group and staff knowledge of other certification processes, it was decided that collection system and RTB facility classification and operator certification requirements better reflect the sewerage system industry as a whole and provide equal requirements for operators working in collection systems and RTBs. EGLE relied on the assumption that these operators will have a reason to advance in the industry, and it should be easier for employers to retain certified operators. Generally, employers attach promotions and monetary raises to each higher certification earned, which is a benefit to the operator and the industry.

Construction permits for privately owned and publicly used sewer and sewerage systems are currently issued in accordance with Part 41 of the NREPA and Policy and Procedure No. WRD-010, Part 41 – Sewerage Systems Permit Approval. EGLE relied on the assumption that Part 41 Permit applications could be streamlined, which could result in time and cost savings for staff and EGLE; the intent is to lessen the burden on applicants. EGLE further relied on the assumption that the proposed rules will provide for better public health and environmental protections and reduced obligations of the permit applicant in the permit application.

Alternative to Regulation

33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

Wastewater treatment plants are currently classified and required to have a certified operator under MCL 324.4104 and the Part 41 Rules. The collection systems are part of this same industry but do not currently have any requirements for operation and maintenance of those systems, a facility classification, or operator certification requirements. It was decided, with stakeholder involvement, that collection system facility classification and operator certification requirements better reflect the sewerage system industry as a whole and provide equal requirements for operators in this industry. The additional oversight, operation, and maintenance requirements for these systems will provide more protection for public health and the environment. Currently, RTB systems use the Class D wastewater treatment certification for their staff, or industrial wastewater treatment certifications at the appropriate treatment type. These certifications do not accurately reflect the requirements and wastewater treatment at RTB facilities.

Construction permits for privately owned and publicly used sewer and sewerage systems are currently issued in accordance with Part 41 of the NREPA; the Part 41 Rules; and WRD Policy and Procedure No. WRD-010. Part 41 – Sewerage Systems Permit Approval. The requirements of this policy have been updated and streamlined in the proposed rules, which will provide for better public health and environmental protections and reduced obligations of the permit applicant in the permit application.

There are no reasonable alternatives that would achieve the same or similar goals.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There are no statutory amendments that are necessary to achieve alternatives.

34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

EGLE is not aware of any other states that rely solely on private market-based systems to accomplish the goals of the regulatory program established through these proposed rules. There are no reasonable alternatives, including a private market-based mechanism, to the proposed rules. If a private market-based system was established, it would be optional and not require a rule change or government oversight. An optional facility classification and certification solution would not resolve the longstanding issues that EGLE seeks to resolve with collection systems and RTB facilities.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

The significant alternative considered during this process of rulemaking is not promulgating the proposed rules and leaving things as they are. If the proposed rules are not promulgated, EGLE will continue to address longstanding operation and maintenance issues with collection systems such as breakdowns, blockages, capacity issues, infiltration and inflow, and structural integrity issues. The receiving wastewater treatment plants have some oversight of these systems, but they cannot require operator certification or other regulatory requirements like what is outlined in statute and rules.

Currently, RTB systems use the Class D wastewater treatment certification for their staff or industrial wastewater treatment certifications at the appropriate treatment type. These certifications do not accurately reflect the requirements and wastewater treatment at RTB facilities. If the proposed rules are not promulgated, these operators will not have a proper level of certification that is appropriate for the unique operations, maintenance, and treatment taking place at these facilities. Additionally, there will be no requirement for renewal of a certificate and CECs, which would benefit the industry and encourage continued growth.

It was decided, with stakeholder involvement, that collection system and RTB facility classification and operator certification requirements better reflect the sewerage system industry as a whole and provide equal requirements for operators in this industry. If the proposed rules are not promulgated, there will be an entire sector of this industry that does not have certification requirements. Currently, this leads to operators leaving the collection system/RTB to advance within the wastewater treatment plant. The inability to retain collection system/RTB operators and provide advancement opportunities with certification causes staffing issues within those facilities.

Part 41 Permits for privately owned and publicly used sewer and sewerage systems are currently issued in accordance with Part 41 of the NREPA, the Part 41 Rules, and Policy and Procedure No. WRD-010, Part 41 – Sewerage Systems Permit Approval. The requirements of this policy have been updated and streamlined in the proposed rules, which will provide for better public health and environmental protections and reduced obligations of the permit applicant in the permit application. The stakeholder group reviewed the proposed rule changes to include the policy language and supported the addition.

There are no reasonable alternatives that would achieve the same or similar goals.

Additional Information

36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

There are no instructions regarding the method of complying with the proposed rules.