



MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

Annual Regulatory Plan

Report Period:
July 1, 2022 to June 30, 2023

Authority:
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Annual Regulatory Plan 2022-2023

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

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) is responsible for a total of 61 rule sets. EGLE will be evaluating 17 of the rule sets for possible revisions within the next 12 months. During the past 12 months, three rule sets were promulgated: 2020-60 EQ, Part 9. Emission Limitation and Prohibitions – Miscellaneous; 2020-130 EQ, Cleanup Criteria Requirements for Response Activity; 2021-24 EQ, Part 8. Emission Limitations and Prohibitions – Oxides of Nitrogen. EGLE has one rule set undergoing the rulemaking process: 2022-18 EQ, Part 6. Emission Limitations and Prohibitions – Existing Sources of Volatile Organic Compound Emissions.

EGLE Rule Sets Being Evaluated for Revision from July 1, 2022 to June 30, 2023

Division	Rule Set Title	Rule Citation
Air Quality	Part 1. General Provisions	R 336.1101 - 1128
	Part 2. Air Use Approval	R 336.1201 - 1299
	Part 7. Emission Limitation and Prohibitions - New Sources of Volatile Organic Compound Emissions	R 336.1701 - 336.1710
	Part 8. Emission Limitations and Prohibitions – Oxides of Nitrogen	R 336.1801 – 336.1834
	Part 9. Emission Limitation and Prohibitions - Miscellaneous	R 336.1901 - 336.1974
	Part 10. Intermittent Testing and Sampling	R 336.2001 - 336.2060
	Part 18. Prevention of Significant Deterioration of Air Quality	R 336.2801 - 336.2823
	Part 19. New Source Review for Major Sources Impacting Nonattainment Areas	R 336.2901 - 336.2908
Drinking Water & Environmental Health	Supplying Water to the Public	R 325.10101 - 12820
	Groundwater Quality Control Rules	R 325.1601 - 325.1781
	Public Swimming Pools	R 325.2111 - 324.2199
Finance	None	
Materials Management	Control and Licensing of Technologically Enhanced Naturally Occurring Radioactive Material (TENORM)	R 325.5150 – 325.5180
	Hazardous Waste Management	R 299.9101 – 299.11107
	Medical Waste	R 325.1541 – 325.1549
	Solid Waste Management	R 299.4101 – 299.4922

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<u>Oil, Gas, and Minerals</u>	Mineral Wells	R 299.2301 - 299.2531
<u>Remediation & Redevelopment</u>	None	
<u>Water Resources</u>	Sewerage Systems Rules	R 299.2901 - 299.2974

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

1. Rule(s) to be **processed** between July 1, 2022 and June 30, 2023.

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

Part 1. General Provisions (R 336.1101 – 336.1128)

Some definitions will need to be updated to be consistent with Part 6 rules and possibly other rule revisions.

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, as well as minor updates to renewable operating permit (ROP) rules dependent on result of PFAS discussions.

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. Also, revisions to some of these rules may be necessary to make them comport with Part 6 rule revisions to address the 2015 Ozone National Ambient Air Quality Standards (NAAQS) attainment state implementation plan (SIP).

Part 8. Emission Limitations and Prohibitions – Oxides of Nitrogen (R 336.2801 – 336.2823)

New rules will be developed to reduce emissions of Oxides of Nitrogen (NOx) from a variety of stationary sources in order to meet federal Clean Air Act requirements for areas in the state that are moderate nonattainment for Ozone. The rules will become part of the 2015 Ozone NAAQS attainment SIP when promulgated.

Part 9. Emission Limitations and Prohibitions – Miscellaneous (R 336.1901 – 336.1974)

Some rule revisions will be necessary to update adoptions by reference to be in line with Part 6 rule revisions and possibly other rules being revised. Pricing values for documents and addresses will also be updated to be current.

Part 10. Intermittent Testing and Sampling (R 336.2001 – 336.2060)

Some revisions may be needed that address testing requirements affected by current revisions to VOC rules in Part 6 and upcoming NOx rules in Part 8.

Part 18. Prevention of Significant Deterioration of Air Quality (R 336.2801– 336.2823)

Address a misinterpretation from a recent court ruling.

Part 19. New Source Review for Major Sources Impacting Nonattainment Areas (R 336.2901 – 336.2908)

Address a misinterpretation from a recent court ruling.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2022 and June 30, 2023. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None

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

No.

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

The Part 8 rule changes will require controls on sources of NOx as required by the federal Clean Air Act. However, some stakeholders may express concerns about these requirements.

- A. Describe whether there is a continued need for the rules.

Yes.

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

The rules development process has not fully begun yet.

- C. Describe the complexity of complying with the rules.

The rules development process has not fully begun yet. However, these types of rules have been previously implemented in other states in the region, meaning many neighboring sources are already meeting the pending NOx rules.

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

N/A

- E. Provide 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.

These rules will be new, therefore there have been no actions relative to them.

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

EGLE's Regulations, Laws, Rules, and Policies [website](#) directs the public to MOAHR's administrative rules websites as copied below:

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MOAHR maintains Michigan's promulgated administrative rules. The above link will take you to EGLE's administrative rules, organized by division.

[Pending Administrative Rules](#)

Track EGLE rules going through the rulemaking process by searching MOAHR's pending rulemaking system.

6. Please provide a list of the items identified for action in the 2022 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

2021-24 EQ: Part 8 – Emission Limitations and Prohibitions – Oxides of Nitrogen

The rules were filed on 3-17-2021 and became effective on 5-13-2022.

2020-60 EQ: Part 9 - Emissions Limitation and Prohibitions – Miscellaneous

The rules were filed on 10-20-2020 and became effective on 11-4-2021.

Outstanding Rule Sets

Part 1. General Provisions

Some definitions will need to be updated to be consistent with Part 6 rules and possibly other rule revisions.

Part 2. Air Use Approval

Potential updates are necessary to remove PFAS from exemption in toxics and permitting rules, as well as minor updates to ROP rules, dependent on the result of PFAS discussions.

Part 6. Emission Limits and Prohibitions – Existing Sources of Volatile Organic Compound Emissions

This will include an update of Reasonably Available Control Technology requirements/emission limits in pertinent Part 6 rules, other new rules, and rules changes for inclusion in the 2015 Ozone NAAQS attainment SIP. This will also include updating adoption by reference, if necessary.

Part 7. Emission Limitations and Prohibitions – New Sources of Volatile Organic Compound Emissions

Rule 706 will be modified to allow new, large loading facilities to use emission reduction technologies not considered when the rule was originally promulgated.

Currently, the AQD renews a variance annually to allow facilities to use these technologies. Also, revisions to some of these rules may be necessary to make them comport with Part 6 rule revisions to address the 2015 Ozone NAAQS attainment SIP.

Part 18. Prevention of Significant Deterioration of Air Quality

Address a misinterpretation from a recent court ruling.

Part 19. New Source Review for Major Sources Impacting Nonattainment Areas

Address a misinterpretation from a recent court ruling.

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

1. Rule(s) to be **processed** between July 1, 2022 and June 30, 2023.

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

Supplying Water to the Public (R 325.10101 – 325.12820)

Part 1 – Part 28 promulgated under the Michigan Safe Drinking Water Act, 1976 PA 399 (Act 399) will likely need to be amended. Whether this will occur between July 1, 2022 and June 30, 2023 is dependent on several factors including:

- EGLE is conducting a comprehensive review of these rules which may result in rule revisions. The timeline for rule changes will depend on the nature and scope of recommended revisions.
- The United States Environmental Protection Agency (USEPA) promulgated Lead and Copper Rule (LCR) revisions under the federal Safe Drinking Water Act, provisions of which will need to be incorporated into the state's administrative rules. However, the USEPA has indicated revisions to the LCR are likely to occur before the rule's effective date. The outcome of the USEPA's anticipated revisions will impact Drinking Water and Environmental Health Division's (DWEHD) timeline.

Public Swimming Pools (R 325.2111 – 325.2199)

There are currently proposed legislative bills regarding food and beverage service at public pools that, if adopted, will require modification of the existing rules.

Groundwater Quality Control Rules (R 325.1601 – 325.1781)

The division may conduct a review of the Michigan Water Well Construction and Pump Installation Code, adopted under Part 127, Water Supply and Sewer Systems, of the Public Health Code, 1978 PA 368, as amended (Part 127). This review may result in recommendations for rule revision.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2022 and June 30, 2023. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None

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

Part 117, Septage Waste Servicers, of the Natural Resources Environmental Protection Act, 1994 PA 451, as amended (Specifically MCL 324.11701 – 324.11720)

Part 117 was amended to require 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.

Item 1: Supplying Water to the Public (R 325.10101 – 325.12820)

Concerns have been expressed regarding the financial and logistical challenge to regulated entities, particularly as it relates to recent revisions to lead and copper requirements.

Item 2: Groundwater Quality Control Rules (R 325.1601 – 325.1781)

Written concerns have been submitted by Michigan's Water Well Drilling industry regarding the inability to obtain materials that meet the rules. Rule 140 requires specific water well components, such as certain grouts and casing sealing materials, be in compliance or surpass the American Society for Testing and Materials (ASTM) Specification C 150-89 "Standard Specification for Portland Cement." ASTM C150 ensures consistency in ingredients/chemical composition and provides test methods to verify the properties of the Portland cement. The major Michigan cement plants ceased production at the end of 2021. The replacement cement called Type IL does not meet ASTM C150, but rather ASTM C595.

- A. Describe whether there is a continued need for the rules.

Item 1: Yes, lead and copper regulations are critical to protecting public health.

Item 2: Yes, components which come into contact with drinking water must meet a minimum recognized standard to protect public health. However, that standard could be broadened.

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

Item 1: Municipalities are concerned with the cost associated with full lead service line replacement and challenges associated with accessing private property to replace lead service lines.

Item 2: The rules need to be updated to reflect new and changing products coming into the marketplace which have been tested and certified for use in drinking water systems.

- C. Describe the complexity of complying with the rules.

Item 1: Lead and copper regulations are extremely complex, including extensive sampling, reporting, treatment, and education requirements.

Item 2: When situations arise where approved water well components are unavailable without an approvable alternative, it creates a very complex situation.

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

Item 1 and Item 2: None of these rules conflict with or duplicate similar rules or

regulations adopted by other regulatory agencies.

- E. Provide 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.

Item 1: EGLE promulgated revisions to Michigan lead and copper rules in 2018. The USEPA's most recent revision to federal lead and copper requirements were promulgated in late 2020, however the effective date was immediately extended by the new administration for additional review. The USEPA subsequently let the rules proceed, but plan additional revisions before the effective implementation date. Increased attention on lead in drinking water is driving more stringent regulations nationwide. Additional federal and state funding is being made available to assist with service line replacement costs.

Item 2: The last review which engaged a stakeholder process was 2017. However, proposed changes did not receive strong momentum at that time. These factors have bearing on the groundwater industry and the drinking water/public health impacts of the rules and therefore need evaluation.

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

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6. Please provide a list of the items identified for action in the 2022 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

None

Outstanding Rule Sets

Supplying Water to the Public (R 325.10101 – 325.12820)

Part 1 – Part 28 promulgated under Act 399 will need to be amended. The USEPA recently promulgated LCR revisions under the federal Safe Drinking Water Act, provisions of which will need to be incorporated into state rules. However, the USEPA extended the LCR revision's implementation date to conduct additional rule review and revision. The outcome of the USEPA's review

and any subsequent actions will impact DWEHD's timeline for rule revision.

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

1. Rule(s) to be **processed** between July 1, 2022 and June 30, 2023.

None

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2022 and June 30, 2023. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None

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

No

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

None

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

N/A

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

N/A

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

N/A

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

N/A

- E.** Provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

N/A

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

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6. Please provide a list of the items identified for action in the 2022 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

None

Outstanding Rule Sets

None

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

1. Rule(s) to be **processed** between July 1, 2022 and June 30, 2023.

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

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

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

Hazardous Waste Management (R 299.9101 – 299.11007)

The USEPA has authorized Michigan to administer its state Hazardous Waste Management Program in lieu of the federal program. The MMD will initiate rule revisions to address, in part, the federal requirements for safe management of recalled airbags, management standards for hazardous waste pharmaceuticals, amendment of the P075 listing for nicotine, and modernization of ignitability standards. The MMD will propose to expand the requirement for operating license applications to include information on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to operations at hazardous waste treatment, storage, or disposal facilities as part of an environmental assessment; to require a contingency plan for postclosure license applications; to provide alternative standards for management of certain used leather gloves; and to clarify manifest entry options for commingled waste that were inadvertently omitted from the final draft of the rules promulgated on August 3, 2020.

Medical Waste (R 325.1541 – 325.1549)

Changes to the Medical Waste Regulatory Act, Part 138, of the Public Health Code, 1978 PA 368, as amended (Act 368) to bring it up to current industry standards; address emerging communicable diseases; address stakeholder concerns with sharps storage and management; expand local health department inspection authorization and funding; and bring registration fees in line with needed program work. Upon enactment of the statutory changes, the rules will need to be updated to align with the statute.

Solid Waste Management (R 299.4101 – 299.4922)

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

statutory changes are enacted, the rules will require updating to align with the statute.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2022 and June 30, 2023. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None

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

No

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

Medical Waste (R 325.1541 – 325.1549)

Environmental Advisory Rules Committee (EARC) Recommendation RM-8 states, "Amend Part 138, Medical Waste, of Act 368 or rules governing the disposal of medical waste to require the disposal of sharps that are used strictly for non-medical procedures (a) when the storage container is full, or (b) annually, whatever comes first." The legislation needed to implement this recommendation has been initiated.

- A. Describe whether there is a continued need for the rules.

Yes

- B. Provide 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 governments.

- C. Describe the complexity of complying with the rules.

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

- D. Describe 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. Provide 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.

If statute is amended as noted in items 1 and 4, the issue would be addressed, and the rules would need to be amended to align with the statute.

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6. Please provide a list of the items identified for action in the 2022 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

None

Outstanding Rule Sets

Control and Licensing of TENORM (R 325.5150 – 325.5180)

Promulgation of a new part in the Ionizing Radiation Rules for Radioactive Material to provide for the licensing of TENORM, as opposed to the current regulation by guidance on a case-by-case basis.

Hazardous Waste Management (R 299.9101 – 299.11007)

Federal and state-initiated changes to maintain Michigan's authorization of the state Hazardous Waste Management Program.

Medical Waste (R 325.1541 – 325.1549)

The MMD, along with stakeholders, have initiated changes to Act 368 to bring it up to current industry standards; address emerging communicable diseases; address stakeholder concerns with sharps storage and management; expand local health department inspection authorization and funding; and bring registration fees in line with needed program work. Once the statutory changes are enacted, the rules will need to be updated to bring them into alignment with the statute.

Solid Waste Management (R 299.4101 – 299.4922)

The USEPA has authorized Michigan to administer its state Solid Waste Management Program in lieu of the federal program. Changes to Part 115 of NREPA have been initiated. These changes would switch the program focus from landfill disposal to materials management, add authorizations for additional materials management facilities, and change the county planning focus from landfill disposal capacity to materials management facility capacity. Once the

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

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

1. Rule(s) to be **processed** between July 1, 2022 and June 30, 2023.

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

Mineral Wells (R 299.2301 – 299.2531)

Part 625, Mineral Wells, of the 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 the release of basic information to the local government and to any person who inquires, and to post the information on the weekly permit list on EGLE's website.

In addition, the OGMD would like to propose changes to the single well conformance bond amounts to better align with present day plugging costs, incorporate language to address potential conformance bonding for unpermitted test wells in the western upper peninsula, and provide additional flexibility for the blanket test well permits in multiple counties.

Finally, based upon legislative changes to Part 625, OGMD may need to incorporate changes in the administrative rules to address several emerging well types related to storage and sequestration of carbon that were not considered when Part 625 was enacted. Other types of emerging deep energy well types such as compressed air energy storage, hydrogen storage, and deep well closed loop geothermal wells are also not addressed well.

The proposed rule revisions would also correct several errors in the current rules.

The OGMD proposes to convene the Mineral Wells Advisory Committee (MWAC) as a stakeholder engagement group to explore these proposed rule changes and to submit a Request for Rulemaking (RFR).

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2022 and June 30, 2023. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None

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

No

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

Changes to Mineral Wells rules regarding confidentiality, conformance bonding amounts, and the addition of emerging well types into the program may be viewed as problematic to industry; engagement of the MWAC will be essential in determining if the Request for Rulemaking will include these additional rules.

- A. Describe 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.

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

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

- C. Describe the complexity of complying with the rules.

The establishment of emerging well types into the program have some degree of complexity since much of what is emerging has not gone through widespread development. Stakeholder engagement will ensure that any rule changes are nimble to account for these unknowns. The proposed Part 625 rule clarification to address the handling of confidentiality and conformance bonding, primarily affects OGMD workflows and not the regulated community's compliance with rules.

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

Emerging well types related to carbon sequestration do have federal requirements pursuant to the Safe Drinking Water Act and administered by the USEPA.

- E. Provide 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 Mineral Wells rules were last reviewed in 2008. Since then, there have been a few projects where the department has reviewed controversial permit applications and tried to engage the public. Without the ability to share very basic information that the township already has, lifting some of the confidentiality requirements will ease this engagement and promote transparency. With respect to emerging well types and technological advances, OGMD expects these well types to gain momentum moving forward and could constitute a regulatory gap that requires

oversight to ensure that the environment and public health and safety are protected.

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

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Track EGLE rules going through the rulemaking process by searching MOAHR's pending rulemaking system.

6. Please provide a list of the items identified for action in the 2022 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

None

Outstanding Rule Sets

Mineral Wells (R 299.2301 – 299.2531)

Part 625 of the 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 OGMD proposes to amend the rules to require the release of basic information to the local government and to any person who inquires, and to post the information on the weekly permit list on EGLE's website.

In addition, the OGMD would like to propose changes to the single well conformance bond amounts to better align with present day plugging costs, incorporate language to address potential conformance bonding for unpermitted test wells in the western upper peninsula, and provide additional flexibility for the blanket test well permits in multiple counties.

Finally, based upon legislative changes to Part 625, OGMD may need to incorporate changes in the administrative rules to address several emerging well types related to storage and sequestration of carbon that were not considered

when Part 625 was enacted. Other types of emerging deep energy well types such as compressed air energy storage, hydrogen storage, and deep well closed loop geothermal wells are also not addressed well.

The proposed rule revisions would also correct several errors in the current rules.

The OGMD proposes to convene the MWAC as a stakeholder engagement group to explore these proposed rule changes and to submit an RFR.

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

1. Rule(s) to be **processed** between July 1, 2022 and June 30, 2023.

None

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2022 and June 30, 2023. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None

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

No

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

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

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

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

Yes, there is a continued need for these rules.

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

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

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

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

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

The rules are state clean criteria and do not duplicate federal regulations.

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

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

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

EGLE Regulations, Laws, Rules, and Policies [website](#), directs the public to MOAHR's administrative rules websites as copied below:

[Michigan Office of Administrative Hearings and Rules \(MOAHR\)](#)

MOAHR maintains Michigan's promulgated administrative rules. The above link will take you to EGLE's administrative rules, organized by division.

[Pending Administrative Rules](#)

Track EGLE rules going through the rulemaking process by searching MOAHR's pending rulemaking system.

6. Please provide a list of the items identified for action in the 2022 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

2020-130 EQ: Cleanup Criteria Requirements for Response Activity

The rules were filed on 1-15-2021 and became effective on 2-15-2022.

Outstanding Rule Sets

None

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

1. Rule(s) to be **processed** between July 1, 2022 and June 30, 2023.

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

Part 41. Sewerage Systems Rules (R 299.2901 – R 299.2974)

The Water Resources Division (WRD) is proposing the following new definitions or modifying existing definitions under R 299.2903:

- Public
- Combined sewer overflow (CSO)
- Department
- Retention Treatment Basin (RTB)

Collection system classifications are being introduced to allow for operator certification for those systems under R 299.2911, R 299.2918, R 299.2925, and R 299.2925a.

Additional language to clarify construction/alteration of non-municipally owned sewer or sewerage system, asset management plans, and escrow accounts or letter of credit for those systems under R 299.2935.

Additional language to clarify revisions to approved plans under R 299.2942.

Additional language to clarify enforcement under R 299.2960.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2022 and June 30, 2023. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None

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

No

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

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

Recommendations W-1 and W-10 of the Environmental Advisory Rules Committee (ARC) contain specific changes to the Part 5 rules that would make compliance less onerous.

Note: EGLE cannot proceed with rulemaking until it receives rulemaking authority under Part 31, Water Resources Protection, of the NREPA.

Part 22. Groundwater Quality Rules (R 323.2201 – R 323.2240)

Recommendation W-4 of the Environmental ARC proposes clarification of the types of discharges that do not require groundwater permits – similar to what is done in 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 with rulemaking until it receives rulemaking authority under Part 31 of the NREPA.

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

Offers publicly-owned treatment works the option to implement some federal regulations that are now less restrictive than the current Pretreatment Rules. The actual amount of regulatory relief offered to industry will depend upon whether municipalities exercise the flexibility offered by the proposed rules.

Note: EGLE cannot proceed with rulemaking until it receives rulemaking authority under Part 31 of the NREPA.

A. Describe whether there is a continued need for the rules.

Yes

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

Part 5 rules and Part 22 rules will be thoroughly reviewed and amended as appropriate to address Environmental ARC recommendations W-1 and W-10 and W-4, W-9, and W-12, respectively. The Environmental ARC voiced concerns about these two rule sets.

C. Describe the complexity of complying with the rules.

EGLE can add additional general permits for types of groundwater discharges that can streamline the permit issuance process and provide additional exemptions from the groundwater permit requirement. An additional permit category could be added to address high strength/low volume wastes.

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

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

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

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E. Provide 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.

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

Part 22 rules were promulgated in August 1999 and have not been modified after that date.

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

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[Pending Administrative Rules](#)

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6. Please provide a list of the items identified for action in the 2022 ARP that have been completed and those that remain outstanding.

Completed Rule Sets

None

Outstanding Rule Sets

None