

Michigan Office of Administrative Hearings and Rules

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**AGENCY REPORT TO THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES (JCAR)**

1. Agency Information

Agency name:

Environment, Great Lakes and Energy

Division/Bureau/Office:

Drinking Water and Environmental Health Division

Name of person completing this form:

Kris Philip

Phone number of person completing this form:

(517) 284-6518

E-mail of person completing this form:

PHILIPK@michigan.gov

Name of Department Regulatory Affairs Officer reviewing this form:

David Fiedler

2. Rule Set Information

MOAHR assigned rule set number:

2019-35 EG

Title of proposed rule set:

Supplying Water to the Public

3. Purpose for the proposed rules and background:

To establish enforceable drinking water standards for per- and polyfluoroalkyl substances (PFAS) found during the 2018 sampling of Michigan's public drinking water supplies. While the U.S. Environmental Protection Agency has established an unenforceable lifetime health advisory level for total perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA), many academia, health officials, and the Agency for Toxic Substances and Disease Registry (ASTDR) deem this advisory level is too high. In addition, the lack of an enforceable standard for PFOS and PFOA and other commonly found PFAS chemicals impairs the DEQ's ability to take enforceable actions to protect human health and the environment.

4. Summary of proposed rules:

Agency Report to JCAR-Page 2

Additional public hearings will be held on January 14, 2020 at 5:00 p.m. to 8:00 p.m., at Washtenaw Community College, Morris Lawrence Building, Towsley Auditorium, 4800 East Huron River Drive, Ann Arbor, Michigan and on January 16, 2020 at 5:00 p.m. to 8:00 p.m., at the Ralph A. Macmullan (RAM) Conference Center, Au Sable Classroom, 104 Conservation Drive, Roscommon, Michigan.

The proposed rule set (2019-35 EG) will amend the current rules to provide provisions that reduce exposure to several per- and polyfluoroalkyl substances (PFAS) in drinking water. The provisions include establishment of drinking water standards, sampling requirements, public notification requirements, and laboratory certification criteria.

5. List names of newspapers in which the notice of public hearing was published and publication dates:

The Ann Arbor News – December 12, 2019; The Grand Rapids Press – December 12, 2019; and The Marquette Mining Journal – December 12, 2019.

6. Date of publication of rules and notice of public hearing in Michigan Register:

1/1/2020

7. Date, time, and location of public hearing:

1/8/2020 05:00 PM at Grand Valley State University, L.V. Eberhard Center - Room EC 215 , 301 West Fulton, Grand Rapids, MI 49504

8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:

https://dtmb.state.mi.us/ARS_Public/Transaction/RFRTtransaction?TransactionID=29

9. List of the name and title of agency representative(s) attending public hearing:

Agency Report to JCAR-Page 3

Grand Rapids, January 8, 2020

Department of Environment, Great Lakes, and Energy (EGLE) staff: Eric Oswald, George Krisztian, Ian Smith, Kris Philip, Ariel Zoldan, Eric Wildfang, Dave Fiedler, Dale Shaw, Jim Ostrowski (Hearings Officer), Anita Singh, Matt Tomlinson, Steve Sliver, Scott Dean, Ninah Sasy, Tom Berdinski, Luke Dehtiar, and Ernie Sarkipato.

Department of Health and Human Services (DHHS) staff: Laura Gossiaux, Deb MacKenzie-Taylor, and Rosa Jaiman.

Ann Arbor, January 14, 2020

EGLE staff: Eric Oswald, George Krisztian, Ian Smith, Kris Philip, Ariel Zoldan, Eric Wildfang, Dave Fiedler, Dale Shaw, Jim Ostrowski (Hearings Officer), Matt Tomlinson, Scott Dean, Ann Tavalire, and Kris Donaldson.

DHHS staff: Lisa Fischer, Steve Crider, Sue Manente, Paula Detweiler, and Tom Franke.

Roscommon, January 16, 2020

EGLE staff: Eric Oswald, Ian Smith, Kris Philip, Eric Wildfang, Dave Fiedler, Dale Shaw, Jim Ostrowski (Hearings Officer), Anita Singh, Steve Sliver, Carla Davidson, and Joe Reinke.

DHHS staff: Sue Manente, Sesha Kallakuri, and Bill Farrell.

10. Persons submitting comments of support:

Agency Report to JCAR-Page 4

Grand Rapids, January 8, 2020

A.J Birkbeck; Andrew Blok; Concerned Citizens for Responsible Remediation; Corinne Carey; Eric Pieh; Greater Grand Rapids Sierra Club Committee; Kim Conner; Larry Campbell; Lynn McIntosh; Michigan League of Conservation Voters; MPART's Citizen Advisory workgroup; Natural Resources Defense Council; Neighbors for Neighborhood; Renae Mata; Robert Allen; Sandy Wynn-Stelt; Scott Harvey; Shannon Donley; Sue Popma; Theresa Chaplin; Theresa Emshwiller; Tip of the Mitt Watershed Council; West Michigan Environmental Action Council; Winnie Brinks, Senator of 29th District Grand Rapids; Wolverine Community Advisory Group; and Wyoming Laboratory Manager Utilities Department.

Ann Arbor, January 14, 2020

Aaron Pelo, Aide for State Representative Yousef Rabhi of Ann Arbor; Andrew Wotan; Charles Carpenter; Clean Water Action; Denise Cantu; Diana Wright; Dr. Elaine Chottiner; Ecology Center; Environment Michigan; Fred Iles; Huron Watershed Council; Jeff Hayner; Jennifer Davis; John Buhl; John Machowicz; Kathy Smith; Keith Lee; Kevin Fisher; Lisa Capozza; Michigan Environmental Caucus; Michigan Environmental Council; Michigan League of Conservation Voters; Michigan Residents Against ET Rover; Michigan Sierra Club; Need our Water Oscoda; PDiesha Myles; Renee Gregory; Rita Loch-Caruso; Scio Residents for Safe Water; Senator Jeff Irwin, 18th District; Sierra Club; Stacy Taylor; Vince Caruso; Washtenaw 350.org; Washtenaw County Commission; Western Wayne Hazardous Incident Response Team; William Creal; Wolf Pack; and Ypsilanti Township.

Roscommon, January 16, 2020

Aiden Backstrom; Alexis Ruemenapp; Cathy Wusterbarth; Chuck Leady; Elyssa Steward; Greg Cole; Hank Bailey; Houghton Lake Wastewater Treatment Plant; Jason Trautz; Jesse Osmer, legislative director for State Representative Sue Allor; John Delistle; John Morris; Lillian Schell; Liz DeLisle; Mark Janeczko; Michigan Manufacturers Association; Natural Resources Defense Council; Need Our Water in Oscoda; Oscoda Township; Sean Overheul; and We Are the Evidence.

Written Comments: Andrew Fishbeck; Ann Poznanski; Armas Soorus; Au Sable River Watershed Committee; Camp Grayling JMTC Restoration Advisory Board; Christine Reay; Consumers Energy; Council of Michigan Foundations; Crystal Cunningham; Dave Dempsey; David Winn; Debbie Dingell; Derrick Golla; Donna Lasinski; Eric Piehl; For Love Of Water; Great Lakes Environmental Law Center; Healthy Food Action; Huron Pines; Jamie Fleming; Joe Jakubowski; John Sarver; Kenneth Scott Harvey; Kirsten Lietz; krista lilley; Kristeb Turick; Larry Scheer; Laura Rubin; Little Traverse Bay Bands of Odawa Indians; Lynn McIntosh; Mark Swan; Martha Vermeulen; Mary Ellen Howard; Matthew Nossal; Michelle Hamilton; Michigan Chapter of the Izaak Walton League; Michigan Environmental Council; Michigan Farm Bureau; Mike McIntosh; Nancee M.; National Resources Defense Council; National Wildlife Federation, Great Lakes Regional Center; Norrie Zaret; Patricia Baldwin; Peggy Sooz; Penelope Minhinnick-Burns; Peter Albertson; Plainfield Charter Township; Richard Rediske; Sam Ingot; Sharon McGladdery; Susan Rock; Susan Shink; Susan Thiel; talkingcloth; Tesha Galla; The Ecology Center; The Huron River Watershed Council; The Michigan Municipal League; Tip of the Mitt Watershed Council; Virginia L DeHaan; William and Carol Parker; William Creal.

11. Persons submitting comments of opposition:

Agency Report to JCAR-Page 5

Written Comments: 3M; barbarast2; Georgia Griffin; GHD; Grand Rapids Area Chamber of Commerce; Laurie Hoag; Marguerite Clevenger; MI Air MI Health; Michigan Chemistry Council; Rex Vaughn; The Chemical Products and Technology Division of the American Chemistry Council; The Michigan Manufacturers Association; The PFAS Regulatory Coalition; Varnum Attorneys at Law.

12. Identify any changes made to the proposed rules based on comments received during the public comment period:

	Name & Organization	Comments made at public hearing	Written Comments	Agency Rationale for change	Rule number & citation changed
1	Oday Salim, Natural Wildlife Federation, Great Lakes Regional Center		For Perfluorobutane sulfonic acid, the CAS number should be 375-73-5. For Perfluorohexane sulfonic acid, the CAS number should be 355-46-4.	Factual Correction	R 325.12708 (e), Table 1
2	Brian Steglitz, City of Ann Arbor, Water Treatment Services		It has come to my attention that the CASRN numbers for two of the proposed PFAS to be regulated may be incorrect. The city requests that EGLE review the CASRN numbers for each of the seven PFAS proposed for regulation to ensure the CASRNs are correct in the final rule. I believe that the ones in error are PFBS and PFHxS.	Factual Correction	R 325.12708 (e), Table 1

13.Date report completed:

3/9/2020