

State Budget Office  
**Office of Regulatory Reinvention**  
111 S. Capitol Avenue; 8th Floor, Romney Building,  
Lansing, MI 48933  
Phone: (517) 335-8658 FAX: (517) 335-9512

## REQUEST FOR RULEMAKING (RFR)

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate rules must electronically file a RFR with the Office of Regulatory Reinvention (ORR) before initiating any changes or additions to the rules. Submit copy to the ORR at [orr@michigan.gov](mailto:orr@michigan.gov).

### 1. Agency Information

Agency name:	Department of Environmental Quality (DEQ)
Division/Bureau/Office:	Drinking Water and Municipal Assistance Division
Name, title, phone number, and e-mail of person completing this form:	Eric Oswald, Division Director, 517-643-2543, <a href="mailto:oswalde1@michigan.gov">oswalde1@michigan.gov</a>

### 2. Rule Set Information

Title of proposed rule set:	Supplying Water to the Public
Rule number(s) or range of numbers:	R 325.10101 through R 325.12820
Included in agency's annual regulatory plan as rule to be processed in current year?	Yes

### 3. Estimated timetable for completion, or statutory deadline, if applicable:

The draft proposed rules and regulatory impact statement will be submitted to the Office of Regulatory Reinvention by October 1, 2019.

### 4. Describe the general purpose of these rules, including any problem(s) the changes are intended to address:

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.

### 5. Cite the specific rule promulgation authority (i.e. agency director, commission, board, etc., listing all applicable statutory references. If the rule(s) are mandated by any applicable constitutional or statutory provision, please explain.

Section 5 of the Safe Drinking Water Act, 1976 PA 399, as amended (Act 399), MCL 325.1005.

### 6. Describe the extent to which the rule(s) conflict with, duplicate, or exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level. Include applicable public act and statutory references.

Act 399 currently contains numerous drinking water standards that are consistent with federal requirements. This requested rulemaking will add additional drinking water standards and related sampling and response requirements. These additional standards

would be more stringent than regulations under the federal Safe Drinking Water Act (SDWA) which was originally passed by Congress in 1974 to protect public health by regulating the nation’s public drinking water supply. SDWA authorizes the U.S. Environmental Protection Agency to set national health-based standards for drinking water to protect against both naturally-occurring and man-made contaminants that may be found in drinking water. Title 40 of the Code of Federal Regulations (CFR), Part 141, National Primary Drinking Water Regulations, currently does not contain standards for PFAS.

**7. Is the subject matter of the rule(s) currently contained in any guideline, manual, handbook, instructional bulletin, form with instructions, or operational memo?**

No.

**8. Explain whether the rule(s) will be promulgated under Sections 44 or 48 of the APA or the full rulemaking process:**

Full rulemaking process.

**9. Do the rule(s) incorporate the recommendations of any Advisory Rules Committee formed pursuant to Executive Order 2011-5? If yes, explain.**

No.

**10. Is there an applicable decision record as defined in Section 3(6) and required by Section 39(2) of the APA? If so, please attach the decision record.**

No.

**11. Reviewed by the following Departmental Regulatory Affairs Officer:**

Dave Fiedler

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 ↓ To be completed by the ORR ↓

Date RFR received: 3-26-2019

**Based on the information in this RFR, the ORR concludes that there are sufficient policy and legal bases for approving the RFR.**

ORR assigned rule set number:	2019-035 EQ
Date of approval:	3/28/19

**Based on the information in this RFR, the ORR is not approving the RFR at this time.**

Date of disapproval:	
Explanation:	