



MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

Overview of the EPRC and ERRC

Dave Fiedler

Regulatory Affairs Officer

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Environmental Permit Review Commission

| Name | Expertise | Term Expiration Date |
|--------------------|------------------------------|----------------------|
| Dennis Bittner | Licensed Engineer | August 28, 2020 |
| Jamie Buckingham | Geologist | August 28, 2020 |
| Mark Henne | Hydrogeologist | August 28, 2020 |
| Dana Kirk | Bioenergy | August 28, 2020 |
| Mark Prein | Licensed Engineer | August 28, 2020 |
| Tony Anthony | Environmental Consultant | August 28, 2021 |
| Theodore Bornhorst | Geology | August 28, 2021 |
| Dirk Mammen | Attorney | August 28, 2021 |
| Evan Pratt | Civil/Environmental Engineer | August 28, 2021 |
| Jeffery King | Wetlands Consultant | August 28, 2021 |
| Bryan Burroughs | Environmental Science | August 28, 2022 |
| Matthew Germane | Environmental Engineer | August 28, 2022 |
| David Hamilton | Aquatic Invasive Species | August 28, 2022 |
| Lori Myott | Civil/Environmental Engineer | August 28, 2022 |
| Bradley Venman | Environmental Health | August 28, 2022 |


Environmental Permit Review Commission

- Petition for Permit Application Review
 - Section 1315 of Part 13, Permits, of NREPA
- Petition for Review of a Final Decision of a Contested Case
 - Section 1317 of Part 13, Permits, of NREPA

Permit Application Review

- Application dispute
- Applicant submits a form
- Director tries to resolve
- 3-member panel
 - Disclosure of Interest Form
 - Meeting w/ applicant and EGLE
 - Issues written recommendation
- Director agrees or disagrees w/ recommendation
- Not subject to review under Administrative Procedures Act or Judicature Act

Petition for Application Review

| | | | | | |
|--|--|---|--|--|--|
|  | | Michigan Department of Environment, Great Lakes, and Energy | | Permit or Application No. (On permit or application as assigned by EGLE) | |
| ENVIRONMENTAL PERMIT REVIEW COMMISSION PETITION FOR PERMIT APPLICATION REVIEW | | | | | |
| <i>The procedural authority for a permit review is Section 1315 of Part 13, Permits, of the Natural Resources and Environmental Protection Act, 1004 PA 451, as amended. Additional pages may be attached.</i> | | | | | |
| PETITIONER'S NAME _____ _____ | | | MAILING ADDRESS (if different from street address) _____ _____ | | |
| STREET ADDRESS _____ _____ | | | CITY STATE ZIP CODE _____ | | |
| TELEPHONE NO. (____) _____-____ | | | CITY STATE ZIP CODE _____ | | |
| E-MAIL ADDRESS _____ | | | | | |
| Issues in dispute, including the site location: _____ | | | | | |
| Relevant facts: _____ | | | | | |
| Data, analysis, opinion, and/or supporting documentation for the petitioner's position: _____ | | | | | |
| SIGNATURE OF PETITIONER | | | | DATE | |
| Submit this completed petition and attachments to: MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY INFORMATION MANAGEMENT DIVISION 525 WEST ALLEGAN STREET P.O. BOX 30473 LANSING, MI 48909-7973 TELEPHONE: 517-284-5004 or send via e-mail to EGLE-PermitAppeal@Michigan.gov | | | | | |
| EQP0202 (Rev. 07/2019) | | | | | |

Section 1315 Petitions to Date

| | Petitioner 1 | Petitioner 2 |
|--------------------|--|--|
| Petition Submitted | March 11, 2019 | July 11, 2019 |
| Location | Menominee County | Grand Traverse County |
| Permit Type | Part 303 – Wetlands | Part 303 – Wetlands Part 310 – Inland Lakes & Streams |
| Status | Petition denied – need to complete application | Petition denied – need to submit proper fee and complete application |

Review of a Final Decision of a Contested Case

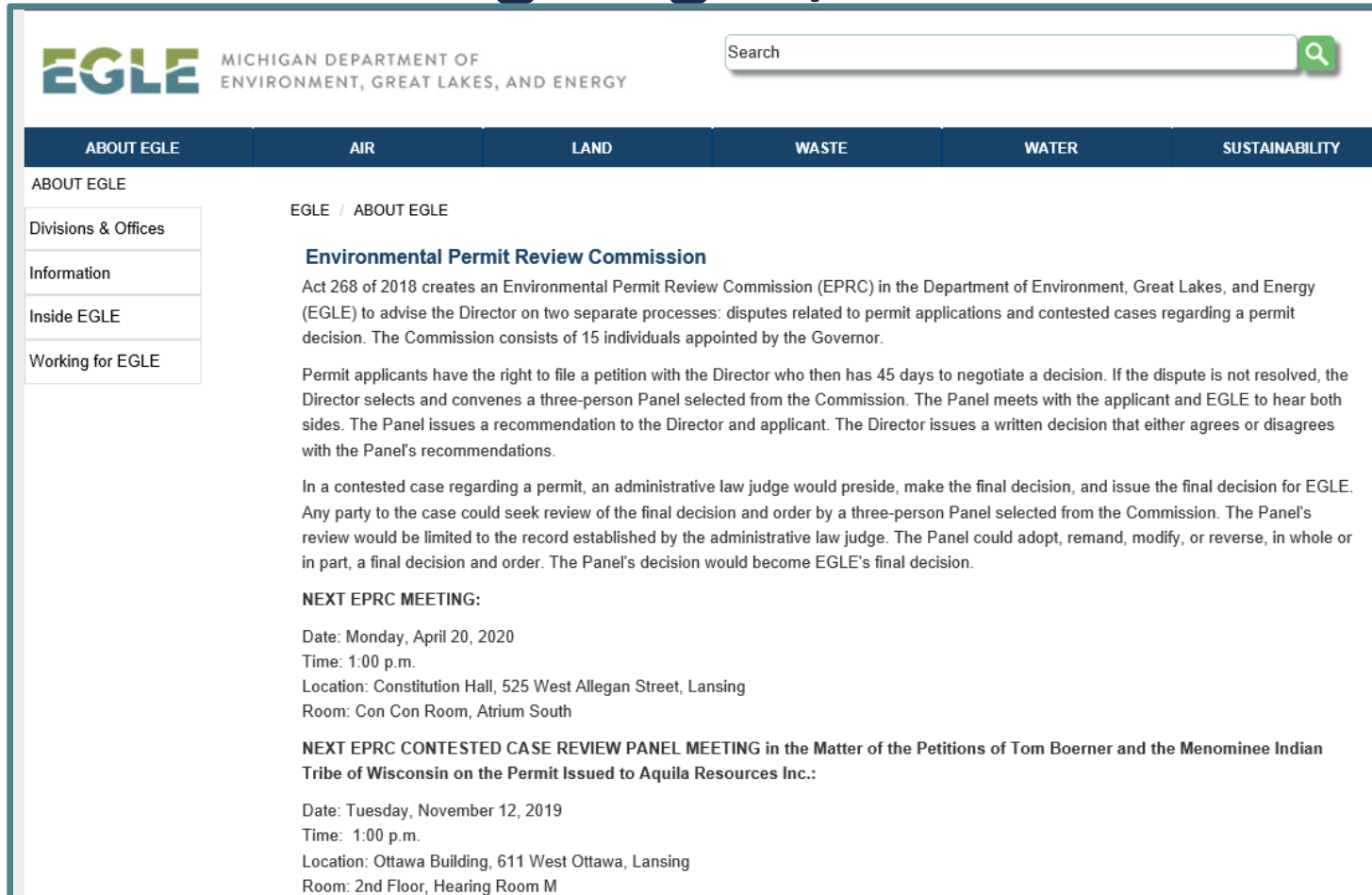
- Panel must meet within 45 day after petition filed.
- Panel's review limited to the record established by the Administrative Law Judge.
- Panel may adopt, remand, modify, or reverse, in whole or in part , a final decision and order. Panel's opinion becomes final decision of the department and subject to judicial review.

SECTION 1317 PETITIONS TO DATE

| | Petitioner 1 | Petitioner 2 |
|--------------------|---|--|
| Petition Submitted | March 11, 2019 | September 30, 2019 |
| Petitioner | Tom Boerner and Menominee Indian Tribe | MI Citizens for Water Conservation |
| Permittee | Aquila Resources Inc. Menominee County | Michigan Potash Operating, LLC |
| Permit Type | Part 632 – Nonferrous Metallic Mineral Mining | June 1, 2018 issued permits authorizing 8 solution mining wells and 3 disposal wells |
| Status | Panel Meeting Held November 12, 2019 | Panel Meeting Scheduled for March 20, 2020 |


EPRC Website

Michigan.gov/EPRC



The screenshot shows the EPRC website interface. At the top left is the EGLE logo and the text "MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY". To the right is a search bar with a magnifying glass icon. Below this is a navigation menu with tabs for "ABOUT EGLE", "AIR", "LAND", "WASTE", "WATER", and "SUSTAINABILITY". The "ABOUT EGLE" tab is selected, and a sidebar on the left contains links for "Divisions & Offices", "Information", "Inside EGLE", and "Working for EGLE". The main content area displays the breadcrumb "EGLE / ABOUT EGLE" and the title "Environmental Permit Review Commission". The text describes the commission's role under Act 268 of 2018, its 15 members, and the process for permit disputes and contested cases. It also lists the dates, times, and locations for the next EPRC meeting and the next contested case review panel meeting.

EGLE MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

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ABOUT EGLE

Divisions & Offices

Information

Inside EGLE

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EGLE / ABOUT EGLE

Environmental Permit Review Commission

Act 268 of 2018 creates an Environmental Permit Review Commission (EPRC) in the Department of Environment, Great Lakes, and Energy (EGLE) to advise the Director on two separate processes: disputes related to permit applications and contested cases regarding a permit decision. The Commission consists of 15 individuals appointed by the Governor.

Permit applicants have the right to file a petition with the Director who then has 45 days to negotiate a decision. If the dispute is not resolved, the Director selects and convenes a three-person Panel selected from the Commission. The Panel meets with the applicant and EGLE to hear both sides. The Panel issues a recommendation to the Director and applicant. The Director issues a written decision that either agrees or disagrees with the Panel's recommendations.

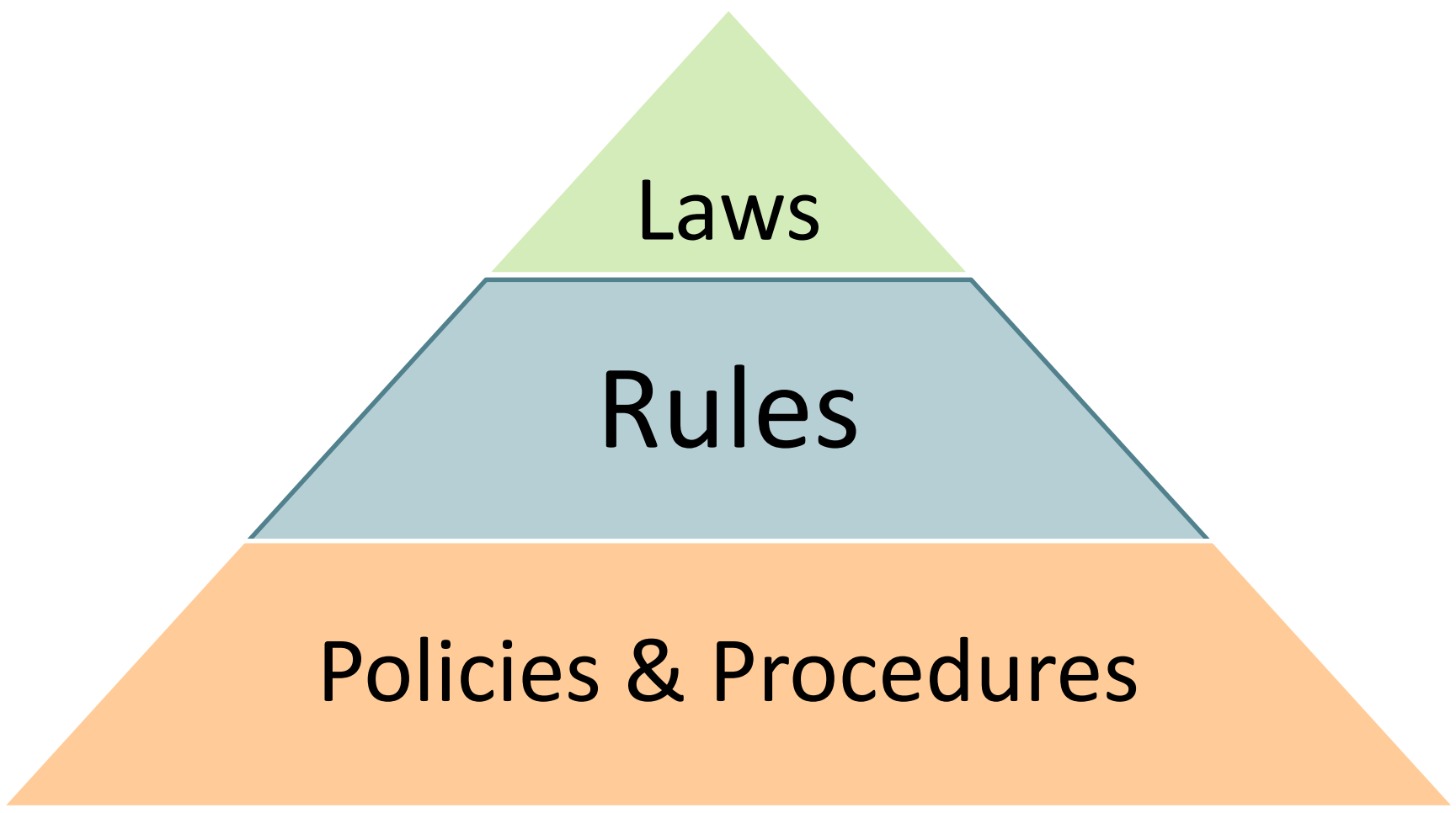
In a contested case regarding a permit, an administrative law judge would preside, make the final decision, and issue the final decision for EGLE. Any party to the case could seek review of the final decision and order by a three-person Panel selected from the Commission. The Panel's review would be limited to the record established by the administrative law judge. The Panel could adopt, remand, modify, or reverse, in whole or in part, a final decision and order. The Panel's decision would become EGLE's final decision.

NEXT EPRC MEETING:

Date: Monday, April 20, 2020
Time: 1:00 p.m.
Location: Constitution Hall, 525 West Allegan Street, Lansing
Room: Con Con Room, Atrium South

NEXT EPRC CONTESTED CASE REVIEW PANEL MEETING in the Matter of the Petitions of Tom Boerner and the Menominee Indian Tribe of Wisconsin on the Permit Issued to Aquila Resources Inc.:

Date: Tuesday, November 12, 2019
Time: 1:00 p.m.
Location: Ottawa Building, 611 West Ottawa, Lansing
Room: 2nd Floor, Hearing Room M



Laws

Rules

Policies & Procedures

What is a Rule?

- Defined in the Administrative Procedures Act (MCL 24.207)
- Implements or applies law
- What is not a rule?
 - Attorney General Opinion
 - Contested Case Decision
 - Forms, Guidelines, Publications, etc.
 - Declaratory Ruling

How Many EGLE Rules?

| DIVISION | NO. RULE SETS | TOTAL NO. RULES |
|----------|---------------|-----------------|
| AQD | 16 | 342 |
| DWEHD | 8 | 641 |
| MMD | 5 | 468 |
| OGMD | 5 | 396 |
| RRD | 2 | 35 |
| WRD | 25 | 382 |
| TOTAL | 61 | 2,264 |

Pending EGLE Rules

| DIVISION | RULE SET NO. | SUBJECT MATTER |
|----------|--------------|-----------------|
| DWEHD | 2019-35 EG | PFAS Compounds |
| MMD | 2018-12 EQ | Hazardous Waste |

Where to Find Rules

Michigan.gov/MOAH

1. Current Rules

2. Pending Rules



MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES (MOAHR)

- Oversees the rulemaking process in Michigan.
- Located in the Department of Licensing and Regulatory Affairs.
- Duties described in the Administrative Procedures Act (1969 PA 306):
 - Operate rules web site
 - Publish documents in the *Michigan Register*

Joint Committee on Administrative Rules (JCAR)

- Committee made up of senators and representatives from Michigan's Legislature.
- JCAR is notified by MOAHR at the important steps throughout the rulemaking process.
- JCAR can influence the final result of the rulemaking process.

Environmental Rules Review Committee (ERRC)

| Environmental Rules Review Committee (ERCC) Members | |
|--|--|
| <p>Janet Barlow (I), Clio Representing a statewide organization that represents small businesses Term expires 10/4/2020</p> | <p>Rob Nederhood (I), Grosse Pointe Park Representing the general public Term expires 10/4/2022</p> |
| <p>Tyler Ernst (R), Lansing Representing a statewide agriculture organization Term expires 10/4/2021</p> | <p>Eric Pessell, (I), Delton Representing public health professionals Term expires 10/4/2020</p> |
| <p>Mark Fowler (R), East Jordan Representing local governments Term expires 10/4/2021</p> | <p>Daniel Frakes (I), St. Clair Shores Representing a statewide manufacturing organization Term expires 10/4/2020</p> |
| <p>David Maness (R), Midland Representing the oil and gas industry Term expires 10/4/2022</p> | <p>Helen Taylor (I), Okemos Representing a statewide land conservancy organization Term expires 10/4/2022</p> |
| <p>Fadi Mourad (I), Farmington Hills Representing public utilities that engage in the generation, transmission, or distribution of electricity Term expires 10/4/2022</p> | <p>Grant Trigger (I), West Bloomfield Representing the general public Term expires 10/4/2021</p> |
| <p>Shayna Schupan Barry (I), Portage Representing the solid waste management industry Term expires 10/4/2021</p> | <p>Jeremy Orr (D), Detroit Representing a statewide environmental organization Term expires 10/4/2021</p> |

Environmental Rules Review Committee (ERRC)

- 12 voting members appointed by the Governor representing a variety of stakeholder groups.
- Creation and duties found in Sections 65 and 66 of the Administrative Procedures Act.
- Oversight of the EGLE's rulemaking process.

RULEMAKING PROCESS OVERVIEW

1. STAKEHOLDER INPUT
2. REQUEST FOR RULEMAKING
3. DRAFT RULES & REGULATORY IMPACT STATEMENT
4. ERRC VOTE
5. PUBLIC HEARING
6. UPDATED DRAFT RULES
7. ERRC VOTE
8. JCAR
9. PROMUGATION

Step 1 Stakeholder Input

- EGLE conducts meetings with impacted stakeholders to understand their positions on potential rule changes.
- This input helps EGLE draft proposed rule language.

Step 2 Request for Rulemaking

- A proposal for rule changes including:
 - Rule Amendments,
 - Rescissions, and
 - Additions.
- EGLE's Regulatory Affairs Officer (RAO) must submit an official RFR to MOAHR in order to begin the rulemaking process.

Step 3 Draft Rules and Regulatory Impact Statement

- Rules are drafted by EGLE and sent to MOAHR and ERRC.
- MOAHR will conduct a legal review of the rules and the Legislative Service Bureau edits the rules for formatting.
- The Regulatory Impact Statement consists of 38 questions related to the impact the proposed rules will have on individuals, businesses and local government.

Step 4 ERRC Vote

- ERRC makes a determination pertaining to the draft rules within 35 days of receiving them:
 - The ERRC **removes itself** from further review of the rulemaking;
 - The rules meet the criteria in Sec. 66(4) and should **proceed to public hearing**;
 - The ERRC **needs more time** to review the rules; or
 - The rules **do not meet the criteria** in Sec. 66(4). ERRC negotiates changes with EGLE.

Step 5 Public Hearing

- EGLE submits a public hearing notice to MOAHR.
- The notice includes:
 - When and where the hearing is begin held;
 - The deadline for written comments; and
 - A copy of the draft rules.
- After MOAHR approves the notice and it is published in 3 newspapers and the *Michigan Register*, the public hearing can be held by EGLE.

Step 6 Updated Draft Rules

- EGLE reviews comments and may make updates to the draft rules based upon the comments.
- EGLE creates a report summarizing the comments received at the public hearing.
- EGLE sends the draft rules and report to ERRC and MOAHR.

Step 7 ERRC Vote

- The ERRC votes to **approve** the draft rules, **approve with modifications**, or **rejects** draft rules.
- ERRC submits a notice of objection to EGLE if they approve with modification or reject draft rules.
- If issues not resolved, EGLE submits written finding to Governor who then makes final decision.

Step 8 JCAR

- The rules must be before JCAR for 15-full session days.
- During the session days, the JCAR may object to the rules.
 - But if it does object, then it must pass legislation to delay or stop the rules
- After the 15 session days expire, MOAHR may file the rules with the Office of the Great Seal.

Step 9

Promulgation

- Once the MOAHR receives a Certificate of Adoption from EGLE, MOAHR can file the rules with the Office of the Great Seal making the rules official.
- The rules may become effective immediately upon filing or at a later date determined by EGLE.

ERRC Website

Michigan.gov/ERRC

The screenshot displays the EGLE website header with the logo and navigation menu. The main content area is titled 'ABOUT EGLE' and features a sidebar with links to 'Divisions & Offices', 'Information', 'Inside EGLE', and 'Working for EGLE'. The main text includes the title 'Environmental Rules Review Committee', contact information for Dave Fiedler, a description of the committee's role, and details for the next meeting on November 14, 2019. A list of rule sets being reviewed is provided, along with links to 'About the Committee', 'Creation and Responsibilities', and 'Meeting Materials'.

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Search

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Environmental Rules Review Committee

For more information, contact Dave Fiedler, Regulatory Affairs Officer, at 517-284-6705 or FiedlerD@Michigan.gov.

The Environmental Rules Review Committee (ERRC) was created by Public Act 267 of 2018, the ERRC was created to oversee all rulemaking of the Michigan Department of Environment, Great Lakes, and Energy. The ERRC is comprised of four ex-officio department heads and 12 members, appointed by the governor, who represent different industries and organizations outlined in statute.

NEXT MEETING

Date: Thursday, November 14, 2019
Time: 1:00 - 3:30 p.m.
Location: Constitution Hall, 525 West Allegan Street, Lansing
Room: Lee Walker Conference Room, Atrium North

The following rule set is being reviewed by the Environmental Rules Review Committee.

- 2019-035 EG, Supplying Water to the Public

For more information about this and other pending EGLE rule sets, visit the [Michigan Office of Administrative Hearings web site](#).

About the Committee

- [List of Members](#)

Creation and Responsibilities

- [Flowchart](#)
- [Public Act 267 of 2018](#)

Meeting Materials

- [Meeting Minutes](#)
- [Meeting Packets](#)
- [Meeting Schedule](#)

Michigan Department of
Environment, Great Lakes, and Energy

800-662-9278

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