



85th Annual Conference & Exhibits

# EGLE Regulatory and Department Update

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Great Lakes, and Energy

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# New EGLE Director Phil Roos



On July 12<sup>th</sup> Phil Roos joined the EGLE Team as our new director. Director Roos comes to EGLE with experience as an entrepreneur, business leader, and a consultant with deep expertise in organizational strategy, innovation, and growth.

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# DWEHD

## Mission and Vision

- Mission:

***Safeguarding Michigan's Drinking Water and Environmental Health***

- Vision:

***Michigan Values and Invests in Safe and Reliable Water***

# The Few – Thank You!

We are, all of us, water beings on a water planet. Water is life. Without it, all living things die. Our dependence on water is absolute; our psyches know this and signal us in myriad ways of water's elemental importance and significance. That is why we love the water and remember experiences associated with it.

Of the Earth's vast resources of water, only a small fraction is fresh and drinkable. **A few people among the globe's billions have been charged with the task of ensuring everyone else has a reliable supply of safe water.**

**Supplying potable water is an essential human activity, a great responsibility, and a vocation of distinction.**

J.B. Mannion, Former AWWA Executive Vice President

MI-ACE 2023





# DWEHD Priorities

- Reduce public health risks
  - IT Modernization
  - Comprehensive Sanitary Surveys
    - EPA Cybersecurity Reviews
  - Proper Staffing Levels
  - Technical and Compliance Assistance
- Assist Michigan communities with addressing infrastructure needs
  - Providing Infrastructure Funding
  - Providing Technical Assistance to Overburdened Communities for DWSRF Projects
- Build external partnerships to address Michigan's public health and environmental issues

# IT Modernization highlights

- Continuing to develop and implement MiEHDWIS as our primary system for all division programs. MiEHDWIS will also be the primary interface for regulated entities to communicate, create, evaluate, approve, and certify documentation to DWEHD.
- Transitioning and implementing many Global Environmental Consulting (GEC) software solutions to gain efficiency for the division's public water supply programs.
- Noncommunity Program is transitioning from the historical Water Track to SDWIS State. This is a huge lift for our staff and the 44 Local Health Departments that oversee this program.



# Sanitary Surveys Goals

- Improve the public health protection provided
- Support the Community's investment in infrastructure
- Provide recommendations for improvements
- Give opportunity for discussion on water system operations, maintenance, and optimization
- Evaluate compliance with existing SDWA regulations
- Support the Community's investment to ensure adequate Technical, Managerial, and Financial Capacity





# Top 5 Deficiencies identified by EGLE staff in Sanitary Surveys

- Source – Construction and Maintenance Issues
- Cross Connection Control Program
  - No Residential Program and/or Implementation issues
- General Plans – Outdated or Missing Items
- Reliability Study – Required every 5 years
- Finished Water Storage – Construction and Maintenance Issues





# Proper Staffing Levels

- ✓ CADMUS completed a workload analysis for the PWS program in 2023.
  - ✓ Findings – Significant gap in current staffing levels to implement program
- ✓ Repetitive finding on EPA audits – inadequate staffing levels
- ✓ IT modernization will help – force multiplier – eventually – spreading work loads across multiple districts to avoid backlogs.
- ✓ LHD workload was “unrecognized” and under resourced
  - ✓ Secured ongoing \$6 Million in additional annual funds for LHDs – FY23
  - ✓ Secured ongoing \$25 Million increase in support for LHDs to provide essential services – FY24
- ✓ Working actively to fill all approved positions in DWEHD
  - ✓ 39 positions to fill over the next year.
  - ✓ Please consider joining our team.



# On the horizon

- PFAS Rules – EPA and Michigan
- \$5 Million Private Water Well Testing launched
  - [Private Residential Water Well Testing \(michigan.gov\)](https://michigan.gov/private-residential-water-well-testing)
- \$35 Million Failing Septic Loan Program launch soon
- Statewide Sanitary Code Bill
- Cybersecurity reviews in Sanitary Surveys
- EPA's Lead and Copper Rule Revisions (LCRR) implementation along with EPA's Lead and Copper Rule Improvements (LCRI) in development.
- Michigan's Lead and Copper Rules - Reminders
  - Complete distribution system materials inventory due by January 1, 2025.
  - New Lead Action Level of 12 ppb will take effect January 1, 2025.

# Per- and polyfluoroalkyl substances (PFAS) Update



- ❑ Michigan PFAS Rules Update – August 22, 2023
  - ❑ 3M's challenge to EGLE's rules setting MCLs for 7 PFAS
  - ❑ The appeals court affirmed the lower court's determination that the PFAS rules were invalid based on finding a procedural requirement of APA was not met.
    - ❑ EGLE's Regulatory Impact Statement did not address potential costs associated with groundwater cleanup costs under Part 201.
  - ❑ The lower court, as affirmed by the Court of Appeals, rejected all of 3M's substantive challenges to the EGLE's PFAS drinking water rules.
- ❑ Court of Appeals affirmed a stay on the invalidation of the drinking water rules while EGLE pursued its available appellate options.
  - ❑ **Michigan PFAS Rules are still in full force and effect.**
- ❑ EPA is proposing a National Primary Drinking Water Regulation to establish legally enforceable levels, MCLs, for six PFAS in drinking water.
  - ❑ [EPA PFAS FACT SHEET \(epa.gov\)](https://www.epa.gov/pfas/pfas-fact-sheet) – Plan to finalize rule by end of 2023.

# Cybersecurity Threats Continue

- Stay informed
- Protect your systems Cybersecurity and Infrastructure Security Agency (CISA) provides updates on threats and risks.
  - [Website: https://www.cisa.gov/ncf-water](https://www.cisa.gov/ncf-water)
- New EPA evaluation tool for sanitary surveys and TA providers
  - [EPA Water Cybersecurity Assessment Tool 1.0 0.xlsx \(live.com\)](#)

# Significant Deficiencies (SDs)

- EGLE addresses all SDs identified in Sanitary Surveys using the same procedures.
- EGLE's subpart H primacy agreements with US EPA.
  - EGLE will use the Order authority under the Michigan's Safe Drinking Water Act (SDWA) to enter into an enforceable agreement with the water supply to return to compliance.
  - EGLE will use the public notification provisions of Michigan's SDWA to compel a water supply to provide public notification for unresolved SDs.
- EGLE procedures are the same for addressing SDs regardless of the water supply classification type of subpart S or subpart H.

# Clarification on Significant Deficiencies (SDs) Procedures

- All SDs are violations of Michigan's SDWA.
  - The specific Act or Rule violations will be identified in the letter.
- Sanitary Surveys
  - Typically when SDs are identified at a water supply.
  - Letter includes Significant Deficiency Violation Notice language.
    - Eliminates the need to send a second violation notification for the SDs.
- Water Supplies shall respond to EGLE with plan to address the SDs within 30 days.
  - Plan includes if the 120-day deadline for the SDs can be met, or additional time is needed to fully address the identified SDs (Administrative Consent Agreement (ACA) is needed).

# Clarification on Significant Deficiencies (SDs) Procedures

- All SDs must be fully corrected within 120 days of the letter date.
  - **We fully understand that the 120-day deadline is not practical in many cases.**
  - An ACA will be drafted by EGLE Enforcement Unit staff that inserts the mutually agreed upon compliance schedule to address the SDs and other deficiencies.
  - This document must be executed (signed by both parties) before the 120-day deadline.
  - Failure to meet the 120-day deadline to correct the SDs or be in a fully executed ACA is a Treatment Technique Violation which requires a Tier 2 Public Notice be issued.
- All unresolved SDs must be identified in a special notice within in the water supply's consumer confidence report.
  - This includes all uncorrected SDs that are in an ACA on a pathway toward compliance.



# Administrative Consent Agreement (ACA) Procedures



- District or Local Health Department (LHD) staff will identify the need to for an ACA to allow additional time to return to compliance.
- District or LHD will refer case to DWEHD Enforcement Unit.
- District or LHD will continue to work directly with water supply to identify a reasonable and mutually agreed upon compliance schedule to address the violations of Michigan's SDWA.
- Enforcement Unit staff will draft the ACA and provide it to the water supply for review and signature.
- Enforcement Unit staff will track deadlines, process any extensions to deadlines, prepare and send enforcement notices and invoices for missed deadlines.
- District or LHD staff will review and respond to documents submitted under the ACA.

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**Environment, Great Lakes, and Energy**

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