Order

Michigan Supreme Court
Lansing, Michigan

May 22, 2026

Megan K. Cavanagh,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

SC: 169208
COA: 364067
Ct of Claims: 21-000078-MZ

3M COMPANY,
Plaintiff-Appellee,

v

DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the September 19, 2025 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(I)(1). The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing: (1) whether the plaintiff's challenge to rule set 2019-35 EG, "Supplying Water to the Public," codified at and amending in part Mich Admin Code, R 325.10101 to 325.12820, became moot when the defendant promulgated rule set 2020-130 EQ, "Cleanup Criteria Requirements for Response Activity," codified at and amending in part Mich Admin Code, R 299.1 to 299.50; (2) whether any exception to the mootness doctrine is applicable; (3) whether the plaintiff has standing to challenge the defendant's promulgated rule set 2019-35 EG after the defendant's promulgation of rule set 2020-130 EQ, see *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349, 372 (2010); MCL 24.264 (allowing a party to bring a declaratory action against an agency in court if "the rule or its threatened application interferes with or impairs, or imminently threatens to interfere with or impair, the legal rights or privileges of the plaintiff"); (4) whether the plaintiff failed to exhaust its administrative remedies by not requesting a declaratory ruling from the agency as to the validity of the challenged rule before commencing this lawsuit, MCL 24.264; MCL 24.263; *Warren Consol Sch Dist v Hazel Park Sch Dist*, ___ Mich ___ (March 5, 2026) (Docket No. 167643); slip op at 12 n 6; (5) if the administrative remedies were not properly exhausted, what effect, if any, that had on the justiciability of this lawsuit, including the court's subject-matter jurisdiction over the claims presented, see *Mich Farm Bureau v Dep't of Environment, Great Lakes, and Energy*, 515 Mich 481, 514

n 25 (2024); *Hendee v Putnam Twp*, 486 Mich 556, 573-578 (2010) (opinion by WEAVER, J.); *In re Harper*, 302 Mich App 349, 356-357 (2013); *Citizens for Common Sense in Gov't v Attorney General*, 243 Mich App 43, 51-54 (2000), abrogated in part by *Warren Consol Sch Dist*, ___ Mich at ___; slip op at 10 n 5; and (6) whether the Court of Appeals erred in holding that the Department of Environment, Great Lakes, and Energy violated Section 45 of the Administrative Procedures Act, MCL 24.201 *et seq*., by issuing new rules changing the permissible levels of per- and polyfluoroalkyl substances in drinking water without preparing a regulatory impact statement that included a sufficient "estimate of the actual statewide compliance costs of the proposed rule on businesses and other groups," MCL 24.245(3)(*l*).

Persons or groups interested in the determination of the issues presented in this case who are exempt from the motion requirement under MCR 7.312(H) may move the Court for permission to file briefs amicus curiae.

I, Elizabeth Kingston-Miller, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 22, 2026

Clerk