

DEPARTMENT OF ENVIRONMENTAL QUALITY

ENVIRONMENTAL RESPONSE DIVISION

ENVIRONMENTAL CONTAMINATION RESPONSE ACTIVITY

(By authority conferred on the department of environmental quality by section 20104 of 1994 PA 451, MCL 324.20104 and Executive Order No. 1995-18, MCL 324.99903)

PART 4. ALTERNATE WATER SERVICE

R 299.5401 Definitions.

Rule 401. As used in this part:

(a) "Alternate water service" means a water supply provided as an alternative to, or as a supplement to, the use of a well or water supply system. The term includes, but is not limited to, providing bottled water, constructing a new private well, and extending or constructing a water supply system.

(b) "Public notification" means a letter to a property owner or notification at a public meeting as defined in 1976 PA 267, MCL 15.261 et seq., and known as the open meetings act.

(c) "Treatment system" means a device, installation, or structure and associated appurtenances that are installed for the purpose of treating drinking water before delivery in a distribution system.

(d) "Type I water supply" means a public water supply which provides year-round service to not less than 15 living units or which regularly provides year-round service to not less than 25 residents.

(e) "Water supply system" means a system of pipes and structures through which water is obtained and distributed for the purpose of furnishing water for drinking or household purposes, including any of the following:

(i) Wells and well structures.

(ii) Intakes and cribs.

(iii) Pumping stations.

(iv) Treatment plants.

(v) Storage tanks.

(vi) Pipelines and appurtenances.

(vii) A combination of the items specified in paragraphs (i) to (vi) of this subdivision.

History: 1990 MR 6, Eff. July 12, 1990; 2002 MR 24, Eff. Dec. 21, 2002.

R 299.5403 Department approval of permanent alternate water supply as an alternate water service; limitations on use of public funds.

Rule 403. (1) When public funds are used to provide a permanent alternate water supply, any new or modified well or water supply system shall be approved by the department under 1976 PA 399, MCL 325.1001 et seq. and part 217 of 1978 PA 368, MCL 333.12701 et seq.

(2) Public funds shall not be used to pay the cost of operation and maintenance of a permanent replacement well, water supply system, or treatment system, or the cost of water supplied by such a system.

(3) Except as provided in this rule, public funds shall not be used to pay for replacement of a well or water supply system unless the owner of that well or water supply system has agreed, in writing, to abandon and plug the existing well or wells, if any, in compliance with part 127 of 1978 PA 368, MCL 333.12701 et seq. Wells that are replaced shall be abandoned and plugged unless otherwise agreed, in writing, by the department. The cost for well plugging may be paid for as part of alternate water service.

(4) Public funds shall not be used to provide alternate water service to a person who is liable for a release that contaminated the water supply in question.

(5) Public funds shall not be used to provide alternate water service if, in the judgment of the department, illegal construction of a well contributed to its contamination, and the well serves the person who constructed the well.

(6) If either of the following criteria is met, then sufficient basis is established to conclude that an incident is the result of self-contamination and public funding shall not be provided:

(a) Hydrogeological data support the conclusion that the contaminated supply resulted from self-contamination.

(b) The department determines that an off-site source of contamination is not or was not evident, a probable source of the hazardous substance in question is or was located at the facility, and activities or practices are known to have in proximity to the affected well which could have resulted in the contamination documented in the well.

(7) Public funds shall be used to provide a well or water supply system connection to a property only when a drinking water well or connection to a public water supply exists at the time that public notice is given regarding provision of a permanent alternate water service.

(8) Public funds shall not be used to pay the cost of alternate water service at any facility that is included on the site list prepared under section 20105 of the act as a result of nitrate contamination from a non-point source or from a private septic tank and tile field system.

History: 1990 MR 6, Eff. July 12, 1990; 2002 MR 24, Eff. Dec. 21, 2002.

R 299.5405 Conditions for provision of alternate water service.

Rule 405. (1) Individual water supply system replacements shall be provided with public funds only when the water supply system proposed for replacement meets the criteria specified in both of the following provisions:

(a) The water supply system is contaminated, or threatened by contamination, with a hazardous substance as defined by the act.

(b) The department has issued an advisory which states that the current drinking water supply should not be used, or that an aesthetic drinking water criterion has been exceeded, or the department has concurred with an advisory issued by a local health department.

(2) All alternate water services that are provided with public funds shall be installed in accordance with department specifications.

History: 1990 MR 6, Eff. July 12, 1990; 2002 MR 24, Eff. Dec. 21, 2002.

R 299.5407 Use of public funds to address contamination of local government-owned type I water supplies.

Rule 407. (1) A project to address contamination of a local government-owned type I water supply system shall be eligible to receive public funds if both of the following criteria are met:

(a) There is a hazardous substance present in the water supply system or component as a result of environmental contamination and the department has issued an advisory against the use of the system or component as a result of that contamination.

(b) The project to be funded under this subrule is designed to reduce or eliminate a threat to the public health caused by environmental contamination.

(2) Projects to address state or federally owned type I water supply systems are not eligible to receive public funds.

(3) Public funds shall be used to pay 1/3 of the cost of a project which is approved by the department and which meets the criteria in subrule (1) of this rule, except as provided for in subrules (5) and (6) of this rule. Two-thirds of the cost of the project shall be paid by the local unit of government that receives the matching payment.

(4) Only locally generated funds shall be used for the local government share of the project costs. Federal or other funds shall not be used for the local government share.

(5) Except as provided in subrule (6) of this rule, the total amount of public funds that is available to any local unit of government for projects approved by the department under subrule (1) of this rule shall not be more than \$500,000.00.

(6) If a local unit of government is the owner or operator of 1 or more type I water supply systems which serve another jurisdiction, that local unit of government may receive up to \$500,000.00 for

each water supply system that it owns or operates that is separate from its system and exclusively serves another jurisdiction.

(7) Public funds shall not be used as part of a project under this rule by a local unit of government to investigate the source of groundwater contamination or to identify persons who are liable for the water supply contamination.

(8) Monies expended by the local unit of government for activities completed before the approval by the department of a project under this rule shall not be eligible as the local government share of costs.

History: 1990 MR 6, Eff. July 12, 1990; 2002 MR 24, Eff. Dec. 21, 2002.

R 299.5409 Service area boundaries; establishment.

Rule 409. (1) Before the approval of public funds by the department for extending or constructing a public water supply system, the department shall consider all of the following factors, to the extent that information is available, when determining the physical boundaries of the project service area:

- (a) The extent of documented contamination.
- (b) The nature, concentration, and mobility of the hazardous substances.
- (c) The rate and direction of groundwater flow in the contaminated aquifer or aquifers.
- (d) Whether the release of a hazardous substance has been controlled.
- (e) If the project is an extension of water supply service, the attributes and limitations of the existing public water supply system.
- (f) The probable impact of response activity or other actions at the facility, such as the shutdown of currently pumping wells and the effect of groundwater purge and treatment systems.

(2) Service area boundaries shall be established to protect well users from the current and projected impacts of the contaminated groundwater.

History: 1990 MR 6, Eff. July 12, 1990; 2002 MR 24, Eff. Dec. 21, 2002.

R 299.5411 Responsibilities of local governing entity.

Rule 411. (1) A public water supply construction or extension project shall not be funded unless the water supply owner has agreed, in writing, before public funds are authorized, to accept the responsibility for the ownership, operation, and maintenance of the proposed system.

(2) Public funds shall not be used to support operation and maintenance costs for public water supply systems.

(3) It is the responsibility of the water supply owner to obtain all necessary permits for the construction or extension of the public water supply system.

History: 1990 MR 6, Eff. July 12, 1990; 2002 MR 24, Eff. Dec. 21, 2002.

R 299.5413 Distribution of public funds for alternate water supply system; lowest cost alternative.

Rule 413. (1) Monies from the public funds shall be used only for a public or individual water supply system that is acceptable to the department. If more than 1 alternative is practical and acceptable to the department, then funding will be limited to the cost of the lowest-cost acceptable alternative.

(2) If more than 1 alternative is practical, then the following alternatives, at a minimum, shall be evaluated in determining the type of alternate water supply system that will be funded:

- (a) Well replacement.
- (b) Connection to an existing water supply system.
- (c) Construction of a public water supply system.

(3) If the local governing entity or affected property owner chooses to implement an acceptable alternative in accordance with subrule (1) of this rule other than the lowest-cost alternative specified in subrule (1) of this rule, then public funds up to the value of the lowest-cost acceptable alternative may be provided.

History: 1990 MR 6, Eff. July 12, 1990; 2002 MR 24, Eff. Dec. 21, 2002.

R 299.5415 Notice to property owners in area to be served by public water supply system or extension.

Rule 415. (1) All property owners in an area proposed to be served by a public water supply system or an extension of such a system that is to be paid for with public funds shall be given written notice of the state's action. The notice shall include an explanation of the proposed project, including a description of the project area and the services proposed to be provided to each property owner at state expense. The notice shall also explain that state funding of the proposed project is not contingent on any local assessment, unless such an assessment is made to cover the local government cost share required by R 299.5407(3).

(2) For the purposes of this rule, mailing of the required notice to the last known address of the property owner is sufficient notice.

History: 1990 MR 6, Eff. July 12, 1990; 2002 MR 24, Eff. Dec. 21, 2002.