

Guide to Review Proposed Amendments
Supplying Water to the Public, R 325.10101 *et seq.*
Promulgated Under the
Michigan Safe Drinking Water Act, 1976 PA 399,
as amended (Act 399), MCL 325.1001 *et seq.*

Purpose of the [Proposed Amendments](#): In order to retain primary enforcement authority for the Public Water System Supervision Program, states must adopt regulations as stringent as the federal regulations. The U.S. Environmental Protection Agency promulgated amendments to the National Primary Drinking Water Regulations promulgated under the federal Safe Drinking Water Act of 1974, as amended. The federal rules are included in the proposed amendment.

The proposed amendment also updates and expands long-standing public water supply (PWS) requirements to address waterworks system construction, planning and operation; required training for water system operators; and rules to disburse grants for source water protection.

Public Participation: Stakeholders met to provide input to the Department of Environmental Quality (DEQ) on September 19, 2008. The [public hearing](#) was held on Friday, June 12, 2009 and the comment period closed at 4:00 p.m. June 16, 2009.

Changes Based on Public Comment: As a result of public comments, the escrow fund will not be required for non-municipal facilities that are required to be licensed by the state, such as manufactured housing communities and nursing homes (see Rule 1703(c)(ii)). Also, the amendment will codify current practice by adopting the following elements of a cross connection control program, as provided in the Cross Connections Rules Manual guidance document since its first edition in 1977: a time schedule for the testing of all testable backflow preventers, the time allowed for a customer to complete necessary corrections, and a description of the record keeping methods (see Rule 1404). These and other public comments are summarized in the report to the legislature's Joint Committee on Administrative Rules at www.michigan.gov/deqwater. Click on Drinking Water, click on Community Water Supply, click on Proposed Rules under the Laws & Rules category, and click on [JCAR report](#).

How to Use This Guide: A stakeholder may choose to review specific changes to the rules. Each change and its rule number (e.g. R 325.11206) is listed below. Download the [draft rules](#) and use the Find function to search for the specific rule number.

1. **[Applicability exceptions](#):** Exceptions exist for community water supplies (CWS) that serve certain facilities licensed annually by the state, such as manufactured housing communities and health care facilities (licensed facilities), and for CWS that serve fewer than 50 service connections or fewer than 200 people (small CWS). The DEQ proposes to modify or remove the exceptions and provide a phase-in period as explained below:

- Standby power R 325.11206: Currently, standby power is not required in small CWS or in CWS that serve licensed facilities. The DEQ is proposing to require standby power in all CWS that serve 100 or more living units. A group living facility, such as a health care facility, correctional facility and group home, with 200 or more beds based on full capacity is equivalent to 100 or more living units. Previously excepted CWS that existed before the effective date of the rule will have until January 1, 2016 to comply.

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- Escrow fund and private ownership R 325.11703 to R 325.11713: Currently, private ownership provisions do not apply to privately owned CWS that serve licensed facilities. The rules presented at public hearing were drafted to apply escrow and private ownership provisions to all privately owned CWS. The amendment also increases the escrow amount from \$100 to \$500 per living unit and raises the minimum from \$5,000 to \$10,000 per privately owned CWS. No phase-in period is necessary because an existing privately owned CWS without an established escrow fund (including privately owned CWS whose escrow has been returned and licensed facilities) is not required to establish an escrow unless it changes ownership. Furthermore, a privately owned CWS that does not have an established escrow fund will not be required to establish an escrow fund when it increases the number of living units. Conversely, a privately owned CWS with an existing escrow will need to increase the amount of their escrow fund when it increases the number of living units. Finally, a new privately owned CWS and a new owner of an existing privately owned CWS will be required to establish an escrow fund.

Those persons that commented at the public hearing believe that private ownership provisions are unnecessary for licensed facilities due to existing licensing provisions through the Department of Energy, Labor and Economic Growth. Furthermore, an escrow fund was viewed as an economic burden on these facilities. The DEQ agrees the escrow fund may be unnecessary for licensed facilities, but that other private ownership provisions should apply. As a result, the rule text was modified so the escrow requirement will not apply to licensed facilities.

- Contingency plans R 325.12301 to R 325.12304: Currently, CWS that serve licensed facilities and small CWS do not have to prepare contingency plans, hereafter referred to as emergency response plans. The amendment requires all CWS to prepare contingency plans. A three year phase-in period is provided for currently excepted CWS. The amendment also expands the contingency plan to include elements of an emergency response plan already required for CWS serving more than 3,300 people under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107-188. A CWS may update to the new requirements according to the schedule in their contingency plan that existed before the effective date of the rule.
- Distribution and raw water pumping capacity and redundancy requirements R 325.11010: Currently, capacity and redundancy requirements do not apply to CWS with distribution system pumping installations that provide service to fewer than 50 service connections or fewer than 200 individuals. The amendment will require a CWS to provide capacity and redundancy in all of its distribution system pumping facilities. The change will ensure water is provided to the distribution system when one facility is not operating. CWS that existed before the effective date of the rule will have until January 1, 2016 to comply.
- Cross Connection Control Program R 325.10504: Currently CWS that serve licensed facilities do not have to develop and implement a cross connection program to prevent backflow of contamination into the distribution system in the event of a loss in pressure. The amendment expands applicability to all CWS. CWS that existed before the effective date of the rule will have until January 1, 2016 to comply. As a result of public comment, the amendment will codify current practice by adopting the following elements of a cross connection control program into Rule 1404, as provided in the Cross Connections Rules Manual guidance document since its first edition in 1977: a time schedule for the testing

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of all testable backflow preventers, the time allowed for a customer to complete necessary corrections, and a description of the record keeping methods.

- General plans R 325.11601 to R 325.11606: Currently, CWS that serve licensed facilities and small CWS do not have to prepare general plans. The amendment expands the applicability to all CWS. Planning requirements for CWS that provide fire protection are expanded to include an inventory of water mains and a hydraulic analysis of the system showing pressure contours under peak demands. The general plan requirements for publicly owned or operated CWS are expanded to include a capital improvements plan using 5 and 20 year planning periods. CWS that serve licensed facilities and small CWS that existed before the effective date of the rule will have until January 1, 2016 to comply.

2. Reliability studies R 325.11203: The amendment expands planning requirements to include forecasted water supply needs for 5 years and 20 years. Updating the study every 5 years will remain a requirement. However, an updated reliability study that is submitted to the department within the first 2 years of the new rule may be acceptable if it meets the current requirements.

3. Total coliform maximum contaminant level (MCL) compliance determination R 325.10602: Based on input at the September 2008 stakeholder meeting, no change will be made to modify compliance determination with the total coliform MCL. It is believed that the U.S. Environmental Protection Agency will promulgate a revised Total Coliform Rule that will eliminate the MCL for total coliform. As a result, it has been decided that any change to the total coliform MCL compliance determination is not necessary at this time. Changes to R 325.10602 are only typographical and consistency changes.

4. Fluoride MCL R 325.10604c: It was noted that the MCL for fluoride was listed in the state rule as 4 mg/L, while the federal MCL is 4.0 mg/L. Due to mathematical precision implications of the decimal point, the state rule is not as stringent as the federal rule. The department did not intend to be less stringent and this rule package corrects the state MCL. This correction is also made in the consumer confidence report and public notification rules.

5. Certified operator requirements R 325.11901 et al.: To encourage a cross section of relevant training subjects, the amendment requires a minimum number of currently required training hours from technical or managerial subjects, as categorized by the Advisory Board, according to the following table:

<i>Highest certification level held</i>	<i>Minimum number of continuing education training hours required to renew</i>	<i>Minimum number of continuing education training hours categorized as technical, managerial, or both</i>
1 or 2	24	18
3	24	12
4	12	6
5	9	no minimum

The new provisions must be met to renew a certificate that was issued on or after the effective date of the rule. In other words, a full training cycle is available to meet the requirements.

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6. Requirements if adding chemicals that may affect public health R 325.10505, R 325.11304 and R 325.11502: Currently, water supplies that alter treatment or add chemicals that affect public health must receive a construction permit, obtain a certified operator, and submit monthly operation reports. The amendment expands the applicability of these requirements to water supplies that add chemicals that *may* affect public health. For example, the change would apply to water supplies that add chlorine for the purpose of improving taste and odor because adding chlorine *may* affect public health.

7. Groundwater source requirements R 325.10801 et al.: Before a well may serve a PWS, its capture zone must be identified to ensure the well is isolated from potential sources of contamination. This identification is accomplished through a study of hydrogeologic conditions for the area and the use of a computer model to simulate groundwater flow and delineate the capture zone. The proposed rule change formalizes the acceptability of delineating the capture zone for a well as an often necessary aspect of the hydrogeologic study requirements for development of new wells. The amendment further implements recent amendments to Sections 4 and 17 of Act 399 related to water withdrawals from waters of the state. Finally, R 325.10828 clarifies that raw and finished water sample taps are required.

8. Source water protection R 325.12801 et al.: The amendment expands rules to disburse grants, when funds become available, to eligible CWS applicants to protect their surface water sources. Eligibility is based on a scoring method similar to that used in the Wellhead Protection Grant Program.

9. Requirements following infrastructure construction or repairs R 325.10831, R 325.11110, and R 325.11117: The amendment requires disinfectant levels to be normal and total coliform to be undetected before infrastructure is put in service following installation or repair. The purpose of the change is to ensure that high levels of disinfectant, used to flush infrastructure following construction or repair, do not mask the presence of coliform.

10. Classification of adjacent PWS owned by same person R325.10503: The amendment clarifies the classification of adjacent waterworks systems that are owned or operated by the same person. A CWS or noncommunity water supply (NCWS) that is adjacent to a PWS that is neither a CWS nor a NCWS may be considered a single PWS.

11. Adequate pressure R 325.11015 and R 325.11105: The amendment specifies a minimum pressure in pumping facilities and distribution systems of 35 pounds per square inch (psi) under normal operating conditions and 20 psi during emergencies.

12. Federal Rules: The following four federal rules will be adopted:

<i>Federal Rules</i>	<i>Rules*</i>
Long Term 2 Enhanced Surface Water Treatment Rule (LT2). Addresses <i>Cryptosporidium</i> treatment in PWS that use surface water or groundwater under the influence of surface water as a source.	R 325.10611d to R 325.10611n and R 325.10720b to R 325.10720e
Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2). Further limits exposure to disinfection byproducts.	R 325.10610d and R 325.10719g to R 325.10719n

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Ground Water Rule (GWR). Establishes a risk-based approach for groundwater PWS that are vulnerable to fecal contamination. When a sample must be analyzed for a fecal indicator, <i>E. coli</i> shall be the fecal indicator used, or with department approval, enterococci or coliphage may be used (See R 325.10739(1)(b), (c) and (d)(ii)(A) and R 325.10739(2)(d)).	R 325.10612 to R 325.10612b, R 325.10702, and R 325.10739 to R 325.10739b
Lead and Copper Rule Short Term Regulatory Revisions and Clarifications (LCR). Revises existing rules that limit exposure to lead and copper in drinking water.	R 325.10604f and R 325.10710a to R 325.10710d

*The rule numbers listed are the treatment techniques (Part 6) and the monitoring and reporting requirements (Part 7). Other provisions of these federal rules are found in Part 1 General Provisions (definitions), Part 4 Public Notification and Public Education, Part 15, Operating Reports and Recordkeeping, and Part 27 Laboratory Certification.

Finally, the amendment corrects errors, inconsistencies, omissions in the rules, deletes expired dates, and updates references and citations.

For more information, contact Jean Shekter or another rule manager, below:

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