

**Ground water classification and potable use response requirements, and urban setting designations.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-300-15 of the Administrative Code titled "Incorporation by reference - voluntary action program."]

(A) Obligation to classify ground water zones identified in paragraph (F)(2) of rule 3745-300-07 of the Administrative Code. Ground water underlying a property shall be classified in accordance with this rule and paragraphs (F)(7) and (F)(8) of rule 3745-300-07 of the Administrative Code unless one of the following conditions applies:

- (1) The ground water zone does not contain concentrations of chemicals of concern (COCs) in excess of unrestricted potable use standards as determined in accordance with a phase II property assessment conducted under paragraph (F)(3) of rule 3745-300-07 of the Administrative Code.
- (2) For ground water zones that exceed unrestricted potable use standards underlying and emanating from the property, the response requirements consistent with critical resource ground water under paragraph (E) of this rule are implemented.

(B) Ground water classification system.

- (1) Critical resource ground water. A ground water zone that meets any of the following criteria is classified as critical resource ground water:
    - (a) The ground water zone is used by a public water system and is in a drinking water source protection area.
    - (b) The ground water zone is located in an unconsolidated saturated zone that is capable of yielding water at a time-weighted average rate greater than one hundred gallons per minute over a twenty-four-hour period as determined in accordance with paragraphs (F)(7) and (F)(8) of rule 3745-300-07 of the Administrative Code.
    - (c) The ground water zone is in a consolidated saturated zone that is part of a sole source aquifer.
  - (2) Class A ground water. A ground water zone that does not meet any of the criteria for critical resource ground water and meets any of the following criteria is classified as a class A ground water zone:
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- (a) The ground water zone is currently utilized as a source of potable water on the property or within one-half mile of the property boundary.
  - (b) The ground water within the zone has a background level of total dissolved solids of less than three thousand milligrams per liter, and except as provided in paragraph (B)(3) of this rule, the ground water zone is capable of yielding water at a time-weighted average rate greater than one-tenth of a gallon per minute over a twenty-four-hour period. The ground water yield shall be determined in accordance with paragraphs (F)(7) and (F)(8) of rule 3745-300-07 of the Administrative Code.
  - (c) The ground water is located in an unconsolidated zone capable of yielding water at a time-weighted average rate of greater than one-tenth of a gallon per minute but less than one hundred gallons per minute as determined in accordance with paragraphs (F)(7) and (F)(8) of rule 3745-300-07 of the Administrative Code, unless any of the criteria in paragraph (B)(3) of this rule are met.
  - (d) The ground water zone is located in a consolidated zone capable of yielding water at a time-weighted average rate of greater than one-tenth of a gallon per minute and is not part of a sole source aquifer, unless any of the criteria in paragraph (B)(3) of this rule are met.
- (3) Class B ground water. A ground water zone that does not meet any of the criteria for either critical resource ground water or a class A ground water zone and meets any of the following criteria is classified as class B ground water:
- (a) The ground water zone to be classified yields less than three gallons per minute as determined in accordance with paragraph (F)(8) of rule 3745-300-07 of the Administrative Code, another ground water zone underlies the property, and the underlying ground water zone is a potential source of potable water within one mile of the property. The ground water zone used for comparison shall be present beneath both the property and the surrounding area off-property, shall be capable of yielding three or more gallons per minute, and shall produce at least twice as much ground water as the zone to be classified.
  - (b) The ground water zone to be classified yields less than three gallons per minute over a twenty-four-hour period, and all parts of the zone are wholly contained within fifteen feet below ground surface.

- (c) The ground water zone to be classified has a background level of total dissolved solids greater than three thousand milligrams per liter.
- (C) Urban setting designation criteria and process. An urban setting designation may be used only to eliminate the potable use pathway for areas surrounding the property and may be requested only through a certified professional. An urban setting designation does not impact ground water response requirements for on-property or off-property pathways that are unrelated to the potable use of ground water.
- (1) Threshold criteria. A certified professional may request an urban setting designation from the director for a property that meets the following threshold criteria:
    - (a) Location. The property is entirely within the boundaries of a community. For purposes of this rule, "community" means any of the following:
      - (i) A township with a population of twenty thousand or more residents in the unincorporated area of the township.
      - (ii) The unincorporated portion of a township that has an average population density of six hundred fifty people per square mile within the unincorporated area of the township.
      - (iii) The corporation boundaries of a city.
      - (iv) The boundaries of a former township that is entirely composed of municipal corporations.
      - (v) An area that is completely surrounded by areas that are otherwise eligible as described in paragraphs (C)(1)(a)(i) to (C)(1)(a)(iv) of this rule.
    - (b) Community water supply connectability- ninety per cent or greater. A community water system shall be present. One of the following shall be demonstrated:
      - (i) Ninety per cent of the parcels within the communities for which the urban setting designation is requested are connected or are capable of being connected to the community water system. Parcels in unincorporated areas that are wholly surrounded by the community shall be considered in the calculation of parcels

connected.

- (ii) Ninety per cent of the parcels within a minimum of one mile from the proposed boundary of the urban setting designation are connected or are capable of being connected to the community water system. Parcels in unincorporated areas that are wholly surrounded by communities shall be considered in the calculation of parcels connected.
- (c) Community water supply connectability- less than ninety per cent. If the evaluation conducted under paragraph (C)(1)(b) of this rule indicates that less than ninety per cent of the parcels are connected or are capable of being connected to a community water system, an urban setting designation for the property may be requested, provided that one or both of the following apply:
- (i) The parcels that are not connected or are not capable of being connected to a community water system would be unaffected by hazardous substances or petroleum on or emanating from the properties within the urban setting designation.
  - (ii) Installation of wells used for potable water supply purposes at the parcels that are not connected or are not capable of being connected to a community water system would be impractical for reasons other than ground water quality or the presence of the community water system. The following criteria may be considered to demonstrate that well installation would be impractical:
    - (a) Land use patterns (e.g., the parcel is on the right-of-way of a highway).
    - (b) Topography.
    - (c) Legally enforceable and reliable restrictions.
- (d) Water supply- future needs. The community has a community water system that the community considers capable of meeting the community's future water supply needs.
- (e) Drinking water source protection areas. The property for which the urban

setting designation is requested is not located within a drinking water source protection area for a public water system using ground water. An urban setting designation for a property located within a drinking water source protection area for a public water system using ground water, where the public water supply is a community system, may be requested if the owner of the community water system has a drinking water source protection plan and the owner consents in writing to the urban setting designation.

(f) Potable use wells.

(i) Wells connected for potable water supply purposes shall not be located in or within one-half mile of the defined boundary of the property or properties for which the urban setting designation is requested. The existence of potable wells shall be determined in accordance with paragraph (F)(7)(a) of rule 3745-300-07 of the Administrative Code.

(ii) If potable wells are located in or within one-half mile of the defined boundary, the property may be designated as an urban setting if either of the following occurs:

(a) The wells are part of a community water system with a drinking water source protection plan, and the owner of the community water system consents in writing to the urban setting designation.

(b) The certified professional who requests the urban setting designation demonstrates that the capture zones of any wells connected for potable water supply purposes in or within one-half mile of the defined boundary do not extend under the property for which the urban setting designation is requested.

(g) Other ground water resource considerations. When the property for which urban setting designation is requested is located either over a sole source aquifer in a consolidated saturated zone, or over an unconsolidated ground water zone capable of sustaining a yield greater than one hundred gallons per minute as determined in accordance with paragraph (F)(7)(b) of rule 3745-300-07 of the Administrative Code, the certified professional shall demonstrate that there is a reasonable expectation that no wells will be installed or used for potable water

supply purposes within one-half mile of the property boundary. The certified professional, at a minimum, shall consider all of the following criteria to make this demonstration:

- (i) The certified professional shall consult with the owner of the community water system and the appropriate legislative authority or the legislative authority's authorized representative.
  - (ii) The presence of legally enforceable, reliable restrictions on ground water use, other than those imposed for wellhead protection or ground water protection purposes.
  - (iii) Whether current land use patterns in or within one-half mile of the property that is the subject of the urban setting designation request, or ground water quality, make development of a well impractical.
  - (iv) Whether ninety per cent or more of the parcels in or within one-half mile of the property that is the subject of the urban setting designation request are connected to a community water system.
  - (v) Whether the capture zones of any wells that can reasonably be expected to be installed or connected in or within one-half mile of the property boundary would not extend under the property for which urban setting designation is requested.
- (h) Other ground water potable uses.
- (i) Sources of potable ground water use other than a well, such as springs used for potable purposes, shall not be located in or within one-half mile of the defined boundary of the property for which urban setting designation is requested.
  - (ii) If sources of potable ground water use other than wells are located in or within one-half mile of the defined boundary, the property may be designated as an urban setting if the certified professional who requests the urban setting designation demonstrates that the source of ground water used for potable purposes that is located in or within one-half mile of the defined boundary is not hydraulically connected to the property or properties for which the urban setting designation is requested.

(2) Approval or denial of a request for an urban setting designation. An urban setting designation may not be used to classify ground water or to determine applicable standards under this chapter and Chapter 3746. of the Revised Code until the director approves the urban setting designation in accordance with this paragraph. The process by which a request for an urban setting designation is submitted, considered by the director, and approved or denied by the director is as follows:

(a) Request for approval of urban setting designation. A certified professional shall send a written request to the director for approval of an urban setting designation in the format prescribed by Ohio EPA. At a minimum, the request for approval shall include the following:

(i) The requested urban setting designation shall be based upon a defined property boundary that consists of one or more of the following:

(a) The area described by the plat of a survey completed (signed and sealed) by a professional surveyor under Ohio law.

(b) The entirety of a city as may be established by that municipality and Chapter 709. of the Revised Code, or the entirety of a township as may be established by Chapter 503. of the Revised Code (i.e., by certified copy of the recorded plat or map that establishes the legal boundary of the entire city or the entire township at the time of the request).

(c) The area described by complete and adjacent parcels of real property shown on a plat or other recorded documents maintained by the county or political subdivision. Any urban setting designation boundary that divides a parcel shall be determined by a survey completed by a professional surveyor under Ohio law.

(ii) The name and address of each applicant who seeks the urban setting designation requested by the certified professional.

(iii) A description of the location and size of the property that is the subject of the urban setting designation request.

(iv) If known, whether the legislative authority of the communities in

which the property is located is in favor of or in opposition to the proposed urban setting designation.

- (v) An affidavit by the certified professional which affirms the following:
    - (a) The urban setting designation threshold criteria in paragraph (C)(1) of this rule are met.
    - (b) Attached is a true and accurate copy of all documents which form the basis of the certified professional's determination that the urban setting designation threshold criteria in paragraph (C)(1) of this rule have been met.
    - (c) Attached is an "11 x 17" inch or smaller reproducible figure that is an aerial photo and a topographic map that identifies the defined boundary for the requested urban setting designation and a one-half mile radius around the boundary.
    - (d) Notice was provided in accordance with paragraph (C)(2)(b) of this rule.
  - (vi) The documents identified in paragraphs (C)(2)(a)(v)(b) and (C)(2)(a)(v)(c) of this rule.
- (b) Notice. Notification of a request for the director's approval of an urban setting designation shall accomplish the following:
- (i) The notice shall be provided to the following:
    - (a) The legislative authority or authorized representative of any county, township, and municipality in which the property for which the urban setting designation is sought is located.
    - (b) The legislative authority of any county, township, and municipality whose boundaries are in or within one-half mile of the property for which the urban setting designation is sought.
  - (ii) The notice shall be made concurrently with a request for approval



under paragraph (C)(2)(a) of this rule.

(iii) At a minimum, the notice shall include the following:

(a) An explanation of the voluntary action program.

(b) The purpose of an urban setting designation.

(c) The threshold criteria for an urban setting designation, and the fact that the director shall approve or deny the urban setting designation after consultation with the community in which the property is located.

(d) A copy of the documents described in paragraph (C) of this rule.

(e) The location of and a description of the defined boundary of the property for which the urban setting designation is sought.

(f) Standards that apply to the ground water and source areas of ground water contamination and the point of compliance, if approval for the urban setting designation is not received.

(g) Standards that apply to the ground water and source areas of ground water contamination and the point of compliance, if approval for the urban setting designation is received.

(h) A statement which advises the legislative authority that the director shall consult with the legislative authority regarding the urban setting designation, and which encourages the legislative authority to provide written comments or any information relevant to the director's consideration of the urban setting designation.

(i) A statement that a decision may be made by the director within ninety days after the director's consultation with the community where the property is located.

(c) Information. After receipt of a complete request for approval of an urban

setting designation, the following may occur:

- (i) The director may request any additional information from the certified professional, the applicant, local jurisdictions, or residents, which may be relevant to the director's decision whether or not to approve the urban setting designation. Failure by a certified professional or applicant to cooperate with any request under this paragraph may result in the director's refusal to consider the urban setting designation request.
  - (ii) At the director's discretion, a public meeting may be held on the urban setting designation request.
- (d) Consultation. No later than ninety days after receipt of a complete request for approval of an urban setting designation, the director shall complete consultation with the legislative authority or authorized representative of the community in which the property is located, or any other persons which the director deems appropriate, to obtain sufficient information to determine whether to approve or deny the urban setting designation request, as provided in paragraph (C)(2)(e) of this rule.
- (e) Criteria for approval or denial. After consultation with the legislative authority or authorized representative of the community where the property for which the urban setting designation is sought is located, the director may approve or deny the request for an urban setting designation. The director may approve or deny a request for an urban setting designation upon consideration of one or more of the following factors, as relevant:
- (i) Whether all of the applicable threshold criteria in paragraph (C)(1) of this rule have been met for the property for which the urban setting designation is sought.
  - (ii) The potential impact of the urban setting designation on surrounding jurisdictions or communities.
  - (iii) The potential impact of the intended urban setting designation on regional water resource needs, and the consistency of the urban setting designation with any existing regional water resource obligations of the community where the property for which the urban setting designation is sought is located. This shall include any drinking water source protection plans for ground water in the

area.

- (iv) Whether the ground water in the region or area where the property for which the urban setting designation is sought is not currently used by residents as a source of water used for potable purposes such that the risk of exposure to humans of contaminated ground water as a result of the urban setting designation is not likely.
- (v) Whether the ground water in the region or area where the property for which the urban setting designation is sought is located is not reasonably expected to be used as a future source of water used for potable purposes by residents such that a risk of exposure to humans of contaminated ground water as a result of the urban setting designation is not likely. For purposes of this evaluation, the director shall consider, but is not limited to consideration of, the following:
  - (a) The likelihood of future water use by local residents in light of the existence of regional, commingled contamination in the area surrounding the property for which the urban setting designation is sought.
  - (b) The existence of reasonably available alternative potable water sources to satisfy the future needs of local residents other than the ground water proposed for the urban setting designation.
  - (c) The existence of reliable and legally enforceable local laws which restrict or prohibit the use of the ground water proposed for the urban setting designation, such that the risk of exposure of humans to contaminated ground water as a result of the urban setting designation is not likely.
- (vi) The availability and feasibility of treatment systems at community water systems that are capable of preventing exposures to ground water with concentrations of COCs in excess of unrestricted potable use standards.
- (vii) Any other factors that pertain to the request for approval of the urban setting designation that the director considers relevant in the determination of whether the urban setting designation is protective of public health and safety and the environment.

- (f) Costs. Ohio EPA incurs costs to review and consider a request for an urban setting designation. Those costs shall be addressed as follows:
  - (i) After the request for an urban setting designation is approved, denied, or withdrawn, Ohio EPA shall send to the applicant a statement of costs.
  - (ii) The applicant for the urban setting designation shall reimburse Ohio EPA for all of the costs on the statement of costs. This payment shall be made, in full, within sixty days after receipt of the statement of costs.
- (g) Timing. The director shall approve or deny a request for an urban setting designation in one of the following time frame options:
  - (i) Within ninety days after the following:
    - (a) Receipt of a complete request, as provided in paragraph (C)(2)(a) of this rule.
    - (b) Consultation with each community, as provided in paragraph (C)(2)(d) of this rule.
  - (ii) The director may extend the time to approve or deny a request for an urban setting designation if the director determines that an extension of time is necessary to properly consider the request. If the director extends the time to consider the request for an urban setting designation, Ohio EPA shall notify the applicant and other interested persons of the extended time frame.
- (3) Use of an urban setting designation to support a no further action letter. An urban setting designation approved by the director may be used to determine the appropriate ground water response requirements in paragraph (E) of this rule. The certified professional shall verify that the urban setting designation remains protective of the potable use pathway for property that is the subject of a no further action letter. The certified professional shall make the verification at the time of and as part of issuance of the no further action letter for the property. Verification is not required when there is reason to believe that the urban setting designation remains protective of the potable use pathway because conditions are unchanged since the urban setting designation request or most recent verification of record. When a certified professional determines that verification is not required for a property

pursuant to this rule, the certified professional shall provide written justification for the determination in the phase II property assessment report for the property.

- (a) To verify the urban setting designation, the certified professional shall consider the criteria in paragraph (C)(3)(b) of this rule and shall determine that the criteria are still protective of the potable use pathway.
- (b) To verify that an urban setting designation is protective of the potable use pathway, the certified professional shall evaluate the following:
  - (i) Whether additional wells have been installed in or within one-half mile of the defined urban setting designation boundary or the geographic area that are or will be impacted by the COCs at or from the property. To accomplish this evaluation, the certified professional shall do, at a minimum, the following:
    - (a) Review the ground water well logs submitted to the Ohio department of natural resources since the request for, or most recent verification of, the urban setting designation. If wells have been installed, the certified professional shall determine whether the wells are used or are reasonably anticipated to be used for potable purposes.
    - (b) Contact the county health department or other local authorities with jurisdiction over installation of wells used for potable purposes to determine if any residential wells are used or are reasonably anticipated to be used for potable purposes.
  - (ii) If a determination in accordance with paragraph (C)(3) of this rule is made that new potable wells have been installed or if previously unknown potable wells are discovered, the urban setting designation may be verified to be protective of the potable use pathway as long as either of the following criteria are met:
    - (a) The wells are part of a community water system with a drinking water source protection plan and the owners of the community water system consents in writing to the use of the urban setting designation in support of the no further action letter.

- (b) The capture zones of any wells installed or used for potable water supply purposes in or within one-half mile of the property boundary do not extend under the property to which the urban setting designation applies.
- (iii) If an ordinance or other imposed restrictions on the potable use of ground water were used as part of the urban setting designation, determine whether the restrictions are still valid.
- (iv) Whether any new drinking water source protection areas have been delineated that incorporate areas within the urban setting designation.
- (v) Evaluate whether the ground water in the region or area within or surrounding the urban setting designation is used or is reasonably anticipated to be used as a source of potable water. To accomplish this evaluation, the certified professional shall do, at a minimum, the following:
  - (a) Contact the owner or operator of each public water system in the region or area, communities, and the community's planners to determine the following:
    - (i) Whether the public water systems meet the current water use demands.
    - (ii) If there are any plans to develop ground water, either within or in the vicinity of the urban setting designation, as a source of potable water.
  - (b) As applicable to the property that is the subject of the no further action letter, contact the surrounding communities to determine whether there are any plans to develop the ground water in the vicinity of the urban setting designation.
- (c) To verify an urban setting designation, the certified professional may rely upon either of the following:
  - (i) The certified professional's evaluation of the criteria in paragraph (C)(3)(b) of this rule.

- (ii) The director's evaluation, if any, of the urban setting designation provided for in paragraph (C)(4) of this rule. Use of the director's evaluation of the urban setting designation in accordance with paragraph (C)(4) of this rule to comply with this paragraph is acceptable if the urban setting designation was recently approved by the director, or the criteria in paragraph (C)(3)(b) of this rule were recently evaluated and determined to be protective of the potable use pathway. In this situation, the certified professional does not need to verify the urban setting designation where changed conditions do not otherwise exist. However, when determining whether a covenant not to sue may be issued, the director reserves the authority to evaluate the protectiveness of the urban setting designation as the urban setting designation applies to a submitted no further action letter.
  - (d) To rely on an urban setting designation for the ground water response requirements in paragraph (E) of this rule, the entire property being considered for a no further action letter must be wholly contained within the approved urban settling designation boundary.
- (4) Periodic protectiveness verification. The director may implement a program to periodically verify the protectiveness of an urban setting designation elimination of a potable use pathway. Based on an evaluation of the criteria in paragraph (C)(3)(b) of this rule, the director may determine that the urban setting designation is still valid or that the urban setting designation is no longer valid. The director may decrease the size of the urban setting designation so that the decreased area remains protective of the potable use pathway.
- (a) The director shall make available to certified professionals any determinations regarding urban setting designations.
  - (b) If the director determines that an urban setting designation is no longer valid or decreases the size of the urban setting designation, Ohio EPA shall notify certified professionals and the original applicants for the urban setting designation. The director's determination shall be public noticed in any affected county.
- (D) Protection of ground water that meets unrestricted potable use standards.
- (1) When any ground water zone underlying the property complies with unrestricted potable use standards, the remedial activities shall ensure that

contamination shall not result in unrestricted potable use standards being exceeded anywhere within any ground water zone underlying the property that otherwise meets the standards. However, when the contamination that exceeds standards is entirely the result of source areas from off-property releases, this provision for protection of ground water does not apply for protection of another ground water zone, except when any of the criteria in paragraph (E)(1)(b) of this rule are applicable.

- (2) Except as provided in rule 3745-300-12 of the Administrative Code, no provision of this chapter modifies the requirements of this paragraph.
- (E) Response requirements for ground water zones that exceed unrestricted potable use standards.
- (1) Assigning responsibility for purposes of this rule for COCs in ground water zones.
    - (a) Paragraphs (E)(2) to (E)(7) of this rule apply to the volunteer when COCs released to ground water originate from a source area on the voluntary action property, or when COCs released to ground water originate from an off-property source area and the volunteer is required to address the release, as specified in paragraph (E)(1)(b) of this rule.
    - (b) The volunteer is required to address requirements of paragraph (E)(2)(d)(ii), (E)(2)(e), or (E)(3) of this rule for COCs that originate from a release from an off-property source area when any of the following apply:
      - (i) The owner of the voluntary action property was an owner or operator of any property other than the voluntary action property, where any source area was located during the owner's ownership of or operation on any such property, and hazardous substances or petroleum on or from the off-property source area migrated onto the voluntary action property.
      - (ii) The volunteer, or owner if different from the volunteer, caused or contributed to the source areas or release.
      - (iii) The volunteer, or owner if different from the volunteer, has entered into an agreement with any person with the purpose or effect of creating a less stringent ground water standard than would otherwise be applicable in this rule.



(iv) The volunteer is a parent, subsidiary, or other commonly owned entity of any party identified in paragraphs (E)(1)(b)(i) to (E)(1)(b)(iii) of this rule.

(2) Response requirements that apply to all critical resource ground water zones (with or without an urban setting designation) include the following:

(a) The volunteer shall implement institutional controls or engineering controls that reliably prevent human exposure on the property to ground water with concentrations of COCs in excess of unrestricted potable use standards, or shall restore the ground water underlying the property to unrestricted potable use standards.

(b) The volunteer shall address all non-potable use ground water exposure pathways in accordance with paragraph (F) of rule 3745-300-07 of the Administrative Code.

(c) For ground water that contains COCs that have impacted any off property potable use wells above unrestricted potable use standards, a volunteer shall do one of the following:

(i) Restore the contaminated ground water to unrestricted potable use standards.

(ii) Provide a reliable alternate potable water supply or water treatment system that does the following:

(a) Provides a volume of potable water sufficient for the intended use.

(b) Is provided for a period of time no shorter than the time that the ground water supply of off-property ground water users exceeds unrestricted potable use standards due to sources for which the volunteer is responsible.

(d) Notification and evaluation of ground water use requirements for critical resource ground water zone. These requirements are applicable where ground water has or is reasonably anticipated to have contamination in excess of unrestricted potable use standards beyond the property boundary, except when in an urban setting designation. If the property is within an urban setting designation, these requirements are applicable

where ground water has or is reasonably anticipated to have contamination in excess of unrestricted potable use standards beyond the urban setting designation boundary or beyond a distance of one-half mile from the property boundary, whichever is greater.

- (i) Prior to issuance of the no further action letter, the volunteer shall send a written notification by certified mail to the applicable local health department and all owners of properties in areas where ground water has or is reasonably anticipated to have concentrations of COCs in excess of unrestricted potable use standards.
- (ii) The written notification required in paragraph (E)(2)(d)(i) of this rule shall include the following:
  - (a) The location and a description of the property where the voluntary action has taken place.
  - (b) A summary of the releases or type of COCs that were assessed as part of the voluntary action and the remedial activities that were taken or are being taken in response to the releases.
  - (c) A description of the concentrations of COCs in ground water that has or may migrate onto or under the properties in areas where ground water has or is reasonably anticipated to have concentrations of COCs in excess of unrestricted potable use standards.
  - (d) A summary of the unrestricted potable use standards for the COCs that have emanated from the property.
  - (e) A description of the requirements in paragraph (E)(2)(e) of this rule that the volunteer, or subsequent owners relying on a no further action letter, that address exposures of humans to ground water with concentrations of COCs in excess of applicable standards.
  - (f) A request for information regarding any current or intended use of ground water in areas where ground water has or is reasonably anticipated to have concentrations of COCs in excess of unrestricted potable use standards, with the name,

address, and telephone number of a representative of the volunteer, or subsequent owner relying on a no further action letter who can be notified of any current or intended use of ground water or contacted for further information.

(e) Ongoing obligations after issuance of a covenant not to sue.

(i) At least annually, review Ohio department of natural resources water well log and applicable health department information for the properties where ground water has or is reasonably anticipated to have concentrations of COCs in excess of unrestricted potable use standards to determine whether new ground water wells have been installed. If any new potable use wells are discovered, implement remedial activities consistent with paragraph (E)(2)(c) of this rule as needed for compliance with applicable standards.

(ii) At least annually, identify any known changes and inquire of changes in ownership of properties in areas where ground water has or is reasonably anticipated to have concentrations of COCs in excess of unrestricted potable use standards. If there is any change in ownership, provide the new owners with the notification prescribed in paragraph (E)(2)(c) of this rule.

(f) Critical resource points of compliance:

(i) For critical resource ground water without an urban setting designation, ground water on or from the property shall not exceed unrestricted potable use standards at the point of compliance determined in accordance with paragraph (E)(5)(a) of this rule. The exceptions are described in paragraph (E)(5)(b) or (E)(5)(c) of this rule.

(ii) For critical resource ground water in an urban setting designation, the point of compliance is the urban setting designation defined boundary or one-half mile from the property boundary, whichever is greater. The exceptions are described in paragraph (E)(5)(b) or (E)(5)(c) of this rule.

(3) Response requirements that apply to class A ground water zones include the following:

(a) Class A without an urban setting designation requirements include the

following:

- (i) The volunteer shall implement institutional controls or engineering controls that reliably prevent human exposure on the property to ground water with concentrations of COCs in excess of unrestricted potable use standards, or shall restore the ground water underlying the property to unrestricted potable use standards.
  - (ii) The volunteer shall address all non-potable use ground water exposure pathways in accordance with paragraph (F) of rule 3745-300-07 of the Administrative Code.
  - (iii) Ground water on or from the property shall not exceed unrestricted potable use standards at the point of compliance determined in accordance with paragraph (E)(5)(a) of this rule. The exceptions are described in paragraph (E)(5)(b) or (E)(5)(c) of this rule.
  - (iv) For ground water that contains COCs that have impacted any off property potable use wells above unrestricted potable use standards, a volunteer shall do one of the following:
    - (a) Restore the contaminated ground water to unrestricted potable use standards.
    - (b) Provide a reliable alternate potable water supply or water treatment system that does the following:
      - (i) Provides a volume of potable water sufficient for the intended use.
      - (ii) Is provided for a period of time no shorter than the time that the ground water supply of off-property ground water users exceeds unrestricted potable use standards due to sources for which the volunteer is responsible.
- (b) Class A with an urban setting designation requirements include the following:
- (i) The volunteer shall implement institutional controls or engineering controls that reliably prevent human exposure on the property to

ground water with concentrations of COCs in excess of unrestricted potable use standards, or shall restore the ground water underlying the property to unrestricted potable use standards.

- (ii) The volunteer shall address all non-potable use ground water exposure pathways in accordance with paragraph (F) of rule 3745-300-07 of the Administrative Code.
- (4) Response requirements that apply to class B ground water zones (with or without an urban setting designation) include the following:
  - (a) The volunteer shall implement institutional controls or engineering controls that reliably prevent human exposure on the property to ground water with concentrations of COCs in excess of unrestricted potable use standards, or shall restore the ground water underlying the property to unrestricted potable use standards.
  - (b) The volunteer shall address all non-potable use ground water exposure pathways in accordance with paragraph (F) of rule 3745-300-07 of the Administrative Code.
- (5) Determination of point of compliance for potable use ground water response requirements.
  - (a) The point of compliance where unrestricted potable use standards shall be met is the property boundary, unless the volunteer chooses to demonstrate an alternative point of compliance under the following circumstances:
    - (i) If ground water discharges to an off-property surface water body that is in close proximity to the property and there is no complete exposure pathway for potable use off-property, as determined in accordance with paragraph (F)(1) of rule 3745-300-07 of the Administrative Code, the point of compliance is the surface water body. The applicable standards in paragraph (F) of rule 3745-300-08 of the Administrative Code or paragraph (G) of rule 3745-300-09 of the Administrative Code for the receiving surface water body shall be met instead of unrestricted potable use standards.
    - (ii) If the property's down gradient boundary is adjacent to an

established transportation corridor, such as a public road or railroad, the point of compliance is the most distant edge of the transportation corridor.

- (iii) If an activity and use limitation in an environmental covenant pursuant to sections 5301.80 to 5301.92 of the Revised Code restricts the potable use of ground water on an adjacent down gradient property, the point of compliance is the down gradient edge of the adjacent property.
  - (iv) If the property boundary bisects a landfill, the point of compliance is the down gradient edge of the lateral extent of the landfill.
- (b) If the contamination is due to off-property sources in whole or in part, then the volunteer shall implement remedial activities to prevent leaching of COCs from source areas on the property that are reasonably anticipated to result in unrestricted potable use standards being exceeded at the point of compliance determined from paragraph (E)(5)(a) of this rule. This paragraph does not apply if any of the provisions in paragraph (E)(1)(b) of this rule are applicable.
- (c) When ground water emanates from the property into a surface water body immediately adjoining the property boundary, the applicable standards in paragraph (F) of rule 3745-300-08 of the Administrative Code or paragraph (G) of the rule 3745-300-09 of the Administrative Code for the receiving surface water body shall be met.
- (6) The volunteer shall implement the applicable requirements of paragraphs (E)(2)(c), (E)(2)(e), and (E)(3)(a)(iv) of this rule through an operation and maintenance plan prepared under rule 3745-300-11 of the Administrative Code or through another method prescribed by rule 3745-300-11 of the Administrative Code.
- (7) All remedial activities, including institutional controls or engineering controls, shall be implemented in accordance with rule 3745-300-11 of the Administrative Code or other applicable law.

Replaces: 3745-300-10  
Effective: 10/17/2019  
Five Year Review (FYR) Dates: 10/17/2024

CERTIFIED ELECTRONICALLY

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Certification

10/07/2019

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Date

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