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DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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ENVIRONMENTAL PROTECTION RULES
CHAPTER 21
WATER SUPPLY RULE

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NOTE: The complete rule consists of the following parts:

- Subchapters 1 - 16
- Appendix A, Parts 1 - 10 - General Standards
- Appendix A, Part 11 - Non-Community and Non-Public Water Systems
- Appendix A, Part 12 - Construction & Isolation Standards for Wells
- Appendix B - Long Range Plan Requirements
- Appendix C - Bacteriological Monitoring Requirements
- Appendix D - Operation & Maintenance Manual Standards

Most people will not need all parts of the Rule. If you need a part that you do not have, please call the Water Supply Division at (800) 823-6500 or (802) 241-3400 and request the part(s) you need. The Water Supply Division will also provide a free copy of the most recent version of the federal regulations referenced in the rule, 40 CFR Parts 141-143. These are also available on the division's website at <http://www.anr.state.vt.us/dec/watersup/wsrules.htm>.

INTRODUCTION

Applicability of This Rule

This rule, known as the Water Supply Rule, applies to **all** water systems in Vermont, which include **Public** water systems, bottled water systems, **Non-Public** water systems, and privately owned water sources. Only portions of this rule apply to each type of water system. The section below, entitled "Types of Water Systems," helps the reader to identify his or her type of water system. There may also be other jurisdictions with regulations affecting water systems. This rule is not intended to, and does not affect, modify or repeal existing orders of the Board of Health.

Purpose of This Rule

This rule is intended to serve a number of purposes.

First, and most important, the rule's primary purpose is to regulate water systems in the state so that they provide clean and safe drinking water to Vermont's citizens. This is true for the smallest, single house source to the state's largest system. The rule also establishes well construction standards (contained in Part 12 of Appendix A) which apply to every constructed well in Vermont regardless of the type of facility it serves.

Second, by implementing this rule, Vermont qualifies to retain "primacy" for the Safe Drinking Water Act from the federal US Environmental Protection Agency (EPA). Primacy means that the state will administer the federal regulations that apply to all public water systems in the country, instead of EPA. Without state regulations that are at least as strict as the federal ones, Vermont may not administer the federal regulations.

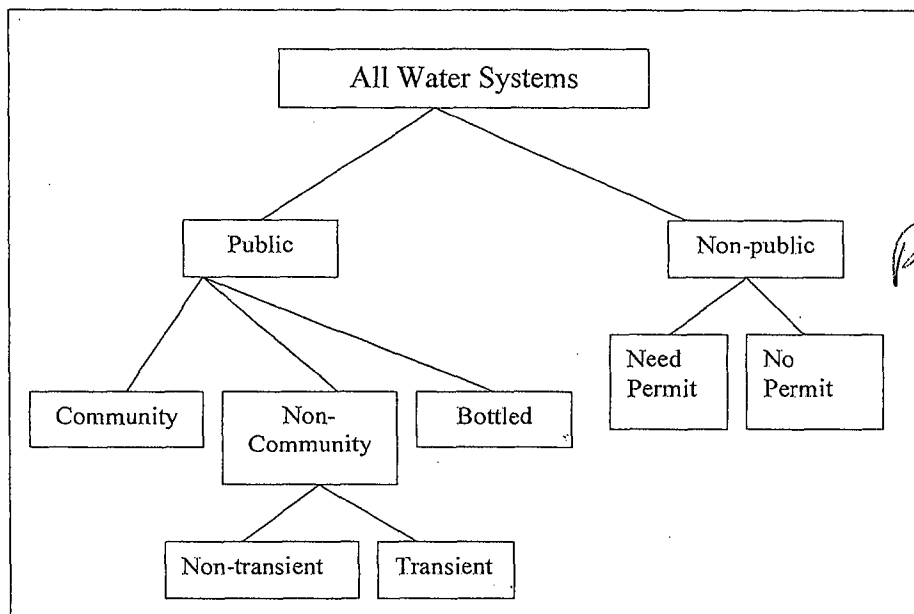
We think having primacy represents an advantage to Vermont's water systems. The federal regulations contain some optional provisions that permit exceptions to the regulations when mitigating factors make it difficult or impossible to follow the regulation. Also, there are situations where interpretations of the federal regulations can be made by states with primacy that provide some benefit to the public water systems. EPA has stated that, in the event that they have to administer their own rules in a state without primacy, they will not have the resources to provide most of these permitted exceptions to the regulations.

Third, this document contains all of the state's major regulations concerning water systems in a single document, which, in spite of its size, makes it easier for both the regulators and the regulated community to carry out their respective roles. The Agency will bind the various parts of the rule (discussed below) into smaller packages that make sense for the intended recipient.

Types of Water Systems

This rule varies in its applicability to the different types of water systems, and the administration of this rule is conducted by two different divisions in the Department of Environmental Conservation. Due to the comprehensive nature of this rule, and for the convenience of the reader, the water systems have been categorized into groups, and the introduction at the beginning of each subchapter in the rule explains which sections apply to which water systems.

Also, when these categories of water systems are referred to in this rule, they are displayed in **bold type**. The following figure displays the different categories in graphical format, although the reader is cautioned that there are formal definitions for each type of water system contained in the Rule.



Public and Non-Public

All water systems are initially classified as either **Public** water systems or **Non-Public** water systems. Classification as a **Public** water system depends on the number of service connections (15 or more) or people served (25 or more) by the system, as is explained in the definition for **Public** water systems in Subchapter 21-2.

Community and Non-Community

Public water systems are further subdivided into **Public Community** water systems and **Public Non-Community** water systems. Generally, **Public Community** water systems are those which serve residents on a year-round basis, while **Public Non-Community** water systems serve non-residential groups of people (e.g., restaurants, schools).

Non-Transient and Transient

Public Non-Community water systems are further subdivided into those systems who serve non-residential users who don't change over time (**Public Non-Transient Non-Community** water system), such as schools and offices, and those non-residential users who do change over time (**Public Transient Non-Community** water system), such as restaurants and motels.

Bottled water systems are considered to be a special case of **Public** water systems, and are regulated specifically under Subchapter 21-11. They are not included in the categories addressed here.

Non-Public Requiring Permits and **Non-Public** Not Requiring Permits

Non-Public water systems include those requiring permits and those not requiring permits. Examples of **Non-Public** water systems requiring permits are some 9 lot-or-fewer subdivisions, and public buildings serving fewer than 25 people. **Non-public** water systems not requiring permits, such as single family homes on lots not subject to state subdivision rules, have no direct responsibilities under the rule, and are regulated indirectly by the standards in Part 12 of Appendix A and the Well Driller Licensing Rule in Chapter 15 of the Environmental Protection Rules. These systems are not included in the categories addressed here, either. The regulations regarding **Non-Public** water systems have been changing over the past several years and are expected to continue to change. The Regional Office should be contacted regarding what permits and requirements are relevant to these water systems.

In summary, then, there are five categories of water systems referred to throughout this rule and grouped for convenience:

- (a) **Public Community** water systems;
- (b) **Public Non-Transient Non-Community (NTNC)** water systems;
- (c) **Public Transient Non-Community (TNC)** water systems;
- (d) **Bottled** water systems; and
- (e) **Non-Public** water systems requiring permits.

The formal definitions for (a) through (d) above (i.e., the **Public** water systems) are contained in Subchapter 2, Definitions. **Public** water systems are also subject to regulation under the federal Safe Drinking Water Act. By enacting this rule, the federal regulations will be administered by the Department of Environmental Conservation when it has "primacy," or primary administrative and enforcement authority.

The water systems contained in categories (c) and (e) above are generally administered for construction permit purposes, by the Regional Offices of the Wastewater Management Division. The design and construction standards for **Public Non-community** water systems are contained in Appendix A, Part 11. Continued operating requirements, including operating permits, fees, and other requirements, are administered by the Water Supply Division of the Department of Environmental Conservation.

Organization of the Rule

The complete Water Supply Rule consists of the sixteen subchapters and four appendices. The chapters are divided into Sections (e.g., 2.12) and Subsections (e.g., 2.18(a)(1)). Each

subchapter contains a brief introduction which identifies which type(s) of water systems are regulated by that subchapter. These subchapters contain regulatory requirements that water systems must follow.

Following the main part of the rule are the four appendices, lettered A through D. Each is briefly described here.

Appendix A of the rule contains the Vermont Standards for Water System Design, Construction, and Protection. These are technical standards that apply to persons designing, constructing, and operating water systems. This appendix contains twelve Parts, and the introduction at the beginning of the appendix identifies which parts of the appendix apply to which water systems. The numbering in Appendix A is divided into Parts (e.g., 5) and Subparts (e.g., 5.1.2(a)).

Parts 1 through 9 of Appendix A apply to **Public Community** water systems and **Bottled** water systems with sources in Vermont. Part 11 contains the technical standards for **Public Non-community** water systems and **Non-public** water systems requiring permits, which are considerably simplified from those for **Public Community** systems. Finally, Part 12 contains standards for water sources, both privately owned (which do not require permits), as well as those for which permits are required from the Water Supply Division or the Wastewater Management Division.

Appendix B contains the requirements for the Long Range Plan, a document required under the rules, whose purpose is to assist water systems in proper planning for the continued viability of their systems.

Appendix C is a table of the sampling frequencies required for bacteriological monitoring.

Appendix D contains the standards for Operation & Maintenance (O&M) Manuals, which are also required under this rule.

The Department has made a concerted effort to coordinate this rule with all the appropriate state agencies in order to reduce conflicting or overlapping regulations. For assistance in complying with this rule the reader should contact the nearest Regional Office of the Agency of Natural Resources for **Public Non-community** water systems or the Water Supply Division in Waterbury for **Public Community** water systems and bottled drinking water facilities.

For **Public Transient Non-Community, and Non-Public** water systems, Construction Permits and development of new drinking water sources are administered by the Wastewater Management Division through its Regional Offices. All other drinking water permits are issued through the Water Supply Division, including Construction Permits for treatment at **Public Transient Non-Community** water systems.

- 3.1.2 For each application for a new source for a **Public Community, Domestic Bottled,** or a **Public Non-Transient Non-Community** water system, the Secretary shall provide notice and opportunity for hearing or written comment, or both, in accordance with 10 V.S.A., §1675.

3.2 Suspension or revocation of permit

- 3.2.1 Any permit issued under these regulations may be suspended or revoked if the Secretary finds that the **Public** water system or drinking water facility is maintained or operated in violation of this rule or of any law, rule, order, ordinance or regulation applicable thereto, or is in violation of the conditions stated in the permit, or that the water supplier has submitted false or misleading information to the Secretary.
- 3.2.2 The Secretary shall comply with 10 V.S.A., §1675 and 3 V.S.A. §814 prior to revocation or suspension of a permit.
- 3.2.3 When a permit has been denied, suspended or revoked, emergency orders to protect the users may be issued and remain in effect until the operating permit is validated.

3.3 (Reserved)

3.4 Appeals

- 3.4.1 Final decisions made by the Secretary regarding permit issuance, renewal, denial, revocation, and suspension, for **Public** water systems, may be appealed formally as provided by 10 V.S.A., §1680 (or 10 V.S.A., §1977 for Non-Public water systems).

3.5 Transfer or Assignment of Permits

- 3.5.1 Operating Permits (see Subchapter 21-5), Source Permits, and **Public Community, Non-Transient Non-Community, Domestic Bottled and Transient Non-Community** Water System Construction Permits are not transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation. A new owner shall obtain a new permit prior to operation of the water system.

3.6 Requirements of Other Statutes and Permitting Authorities

A permit issued under this rule allows specific actions by the permittee. However, it does not relieve the permittee of obligations he or she may have under other statutes, regulations or permitting authorities including but not limited to Act 250, Agency of Natural Resources,

Part 3 PUBLIC WATER SYSTEM SOURCE DEVELOPMENT AND PROTECTION

Introduction

This Part applies to:

- (a) **Public Community** water systems;
- (b) **Public Non-Transient Non-Community** water systems with surface water sources and sources determined to be ground water under the direct influence of surface water;
- (c) **Public Transient** water systems with surface water sources and sources determined to be ground water under the direct influence of surface water; and
- (d) **Domestic Bottled** water systems.

3.0 General

In selecting the source of water to be developed, the applicant for a Source Permit shall show, to the satisfaction of the Secretary, that an adequate quantity of water will be available, and that the water which is to be delivered to the consumers will meet the current requirements of the Secretary with respect to microbiological, physical, chemical and radiological qualities. Each water system should take its raw water from the best available source which is economically reasonable and technically feasible. Proposed sources are evaluated against six criteria; site, construction, water quality, water quantity, interference, and source protection.

Not all subparts of Part 3 of Appendix A may be relevant for a pre-existing source. The applicant is advised to consult with the Secretary for further guidance.

General procedural requirements for a Source Permit are outlined in Subchapter 4. Technical requirements for surface water are in Appendix A Subpart 3.2 and for groundwater in Appendix A Subpart 3.3.

3.1 Reserved

3.2 Surface Water Development

A surface water source includes all tributary streams and basins, natural lakes and artificial or natural impoundments above the point of water supply intake.

3.2.1 Source Permit

3.2.1.1 Source Permit Application (See Subchapters 3 and 4 for details)

- (a) A Source Permit will be based in part on existing threats to the water sources and the ability of the water supplier to effectively manage those threats.

Subchapter 21-3 PERMITS - ADMINISTRATION

Introduction

Unless otherwise stated below, this subchapter applies to the following water systems:

- (a) **Public Community** water systems;
- (b) **Public Non-Transient Non-Community (NTNC)** water systems;
- (c) **Public Transient Non-Community (TNC)** water systems;
- (d) **Bottled** water systems; and
- (e) **Non-Public** water systems requiring permits.

This subchapter applies to Source Permits, Construction Permits and Operating Permits. Operating Permits consist of Operating Permits and Temporary Operating Permits.

This subchapter applies to Source Permits for **Public Community, Non-Transient Non-Community, and Domestic Bottled** water systems.

3.0 Prohibitions

- 3.0.1 No person shall modify, construct, or operate a **Public** water system without first obtaining the appropriate permit from the Secretary.
- 3.0.2 No person shall modify or construct a **Non-Public** water system requiring a permit without first obtaining a permit from the Secretary.
- 3.0.3 No person shall modify or construct a new **Public Community** or **Domestic Bottled** water system source, change an existing water source into a **Public Community** or **Domestic Bottled** water system source, or operate a **Public Community** or **Domestic Bottled** water system source without first obtaining a permit from the Secretary.
- 3.0.4 No person shall use or connect an unpermitted water source, including an emergency source, to a **Public Water System**, except
 - (a) following public notice to the water system customers (according to Agency public notification requirements);
 - (b) providing notice to the Secretary as soon as possible, but no later than within 12 hours of its connection or use; and
 - (c) in an emergency situation for a limited duration, no more than 90 cumulative days without prior written approval of extension by the Secretary.

3.1 Permits

- 3.1.1 The Secretary may issue, renew, deny, suspend, or revoke a **Public** water system or drinking water facility permit.