

## JURISDICTIONAL GUIDANCE FOR COMMUNITY WATER SYSTEMS

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### Overview

The purpose of this guidance document is to assist regulators and the regulated community in determining whether a water system that serves year-round residents and receives all of its water from a regulated public water system is a consecutive public water system, or unregulated under 10 V.S.A. Chapter 56. Jurisdictional determinations have a significant impact on those who are developing water systems to serve projects. This document applies only to water systems serving year-round residents.

### Pertinent State Law & Regulations

Under Vermont law (10 V.S.A. Chapter 56) a person who owns or controls a public water system is responsible for compliance with applicable regulations. While ownership is a well-established concept, "control" is not defined. This document discusses "control" below and establishes a means to lessen regulation of small water systems while not reducing public health protection.

Vermont law does not define a "consecutive" water system, either. In this document we define what a consecutive system is.

### Definitions

Public Water System means any system(s) or combination of systems owned or controlled by a person, that provides drinking water through pipes or other constructed conveyances to the public and that has at least fifteen\* service connections or serves an average of at least twenty-five individuals daily for at least sixty days out of the year. Note that *either* condition, fifteen service connections *or* twenty-five people served, triggers jurisdiction as a public water system.

Service Connection means each single family home, each living unit within a condominium, single rental unit, mobile home, store, or other commercial, educational, or industrial establishment, or other living unit which obtains water from a water system.

Consecutive Public Water System means a public water system that receives all of its water from a host or wholesale system that is also a public water system and the consecutive system does not provide subsequent treatment of that water.

Secretary means the Secretary of the Agency of Natural Resources, or the Secretary's delegate.

Wholesale Public Water System means a public water system that provides water to another water system that is not under its control or ownership.

### **Consecutive System Issues**

A common type of consecutive system is a fire district, homeowners association, or a mobile home park that receives its water from a larger municipal system, but is not an integral part of that wholesale system. These systems typically serve from 25 to a few hundred people, and lack the resources and economy of scale to operate a system that is reliable and affordable.

The wholesale system is generally responsible for monitoring for, and removing, contaminants that are source-based (e.g., through filtration, disinfection, or other treatment). Because of this earlier control of contaminants, monitoring requirements for consecutive systems are substantially reduced to only those contaminants that can arise within the distribution system after collection and treatment.

Prior to 1992, consecutive systems were only required to perform coliform monitoring under the Total Coliform Rule. Following 1992, the federal Lead & Copper Rule was promulgated. This rule addresses contaminants that arise only within the distribution system, more typically in the home itself. This increased the complexity and cost of compliance for consecutive water systems.

In late 2005, the federal Disinfectants/Disinfection By-products Stage 2 rule will apply to consecutive systems that contain a disinfectant in their water. This regulation is more complex and challenging than the previous two, and many consecutive water systems are seeking relief from the increasingly complex compliance requirements.

Water that is not potable at the tap in the home does not serve the interest of public health, so someone needs to operate and control all water systems or components so they deliver potable water. If the consecutive system owns and controls its system, then it will be regulated as a consecutive public water system. If another party assumes responsibility for water quality and quantity within the consecutive system, and has effective control of that system, then the consecutive system may be "inactivated," or deregulated as a separate public water system.

### **"Control" of a public water system**

Vermont law provides for an interest in a public water system besides outright ownership (i.e., "control"), so there is some flexibility to consider relationships between wholesale and consecutive water systems. We consider "control" of a public water system to mean that one water system accepts full responsibility for monitoring, water quality, and water quantity throughout a second water system, and further, has the power to maintain the water system infrastructure within the consecutive water system in accordance with applicable regulations. Control will normally be demonstrated by a written agreement between the two parties. If the agreement contains *all* of the following seven elements, we may determine that the wholesale system has adequate control of the consecutive system for regulatory purposes.

1. The wholesaler issues public notice to all users of the consecutive water system.
2. The wholesaler issues consumer confidence reports to all users of the consecutive water system.
3. The wholesaler includes the consecutive water system in all sampling plans and conducts all required monitoring within the wholesale and consecutive system as a combined single distribution system.
4. The wholesaler accepts all responsibility for the quality of the water in the consecutive distribution system.

5. The wholesaler accepts all responsibility for the quantity of water delivered throughout the consecutive distribution system.
6. The wholesaler maintains all infrastructure (including distribution piping) within the consecutive water system.
7. The wholesaler makes all required improvements to the consecutive water system to meet the technical requirements of the Vermont Water Supply Rule.

An agreement between the wholesale system and consecutive water system that contains the seven elements above would constitute effective control of the consecutive water system by the wholesale system, without an ownership interest in the consecutive system. If a wholesale system agrees to be responsible under the agreement for the seven elements above, then the consecutive system may be "inactivated," or not considered a separate public water system.

Any agreement intended to take control over a consecutive system must be reviewed and approved by the Secretary, and a deregulated consecutive system may subsequently be regulated if the terms of the agreement are not followed.

Although we strongly encourage written agreements between public water systems that share water, nothing in this document requires public water systems to enter into any formal agreement with other public water systems for service.

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\* When assessing the number of people served by a residential service connection, Vermont does not attempt to count people in each home. Instead, Vermont calculates the number of people in each residential service connection by using the national average single-family household occupancy rate of 2.62 people. This method provides stability and predictability for jurisdictional determinations. Using this methodology, ten residential service connections would serve 26 people and would be regulated as a public water system.



Approved: \_\_\_\_\_

This guidance sheet and related environmental information are available electronically via the internet. For information visit us through the Vermont Homepage at <http://www.vermont.gov> or visit VT WSD directly at <http://www.vermontdrinkingwater.org>

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