Water Supply Rule Revision
Response to Comments
January 29, 2005

The comments received are in plain text. The response is in *italics*. In cases where similar comments were received, they have been grouped together and only one response is included. Where the text in the rule has been changed either the comment or the response notes which parts of the rule have been modified.

1. Does the Water Supply Division (WSD) now see UV disinfection being more allowable than it used to be in more traditional systems? Is the WSD doing any research to learn about using UV for larger systems? There is more interest in getting away from chlorine – a lot of small municipal systems need to find an alternative to chlorination. *The WSD has not changed its position on disinfection as part of this rule change, instead we attempted to clarify that many disinfection methods are available. Specifically, we have deleted the language of Appendix A Part 4.3.7 on other disinfecting agents which stated that other disinfecting agents have shortcomings and that approval of the Secretary is needed prior to preparation of final plans and specifications. We have also deleted the language in Subchapter 21.7.2 which stated that required written approval of non-chlorine disinfection since any type of disinfection is considered treatment and requires a permit from the Secretary. We do not currently have funding to conduct research for UV for larger systems, although this may be happening at a national level through research institutions.*

2. Comment #1:Creating the new water system operator class 1B [Transient Non-community Public Water Systems] is a step in the right direction. The number of training credit hours required [3 every 3 years] seems light. Systems using UV treatment need more attention – 3 credit hours may not be appropriate. It is nice to see this first step for TNCs.
   Comment #2: I'm supportive of the change for operators for TNC Class 1B.
   Thank you for your input. We believe that operating a treatment system can be complex and presents a public health risk if it is not appropriately maintained and operated. We intend to offer training specifically targeted to this class of operators that is relevant to their treatment systems.

3. In the introduction to the meeting, you mentioned that the WSR Appendix A Parts 11 and 12 would be revised shortly. When will that occur? *This revision is being discussed internally and will likely be available for public comment during 2005.*

4. How do small consecutive systems fall into the regulations? *This comment was received at a public meeting and does not deal directly with the proposed changes. We provided a summary of what this means as a courtesy during the public meeting.*

5. Comment #1: I disagree with the proposed language requiring that hydrant drains be plugged. You would want to be able to drain hydrants if soils and water level allow it. There is the possibility of a cross-connection. It seems like the more appropriate way to deal with this a recommendation with guidelines on when to plug it or not in the rule and then deal with potential cross-connections issues through the permitting process.
   Comment #2: Appendix A Part 8 - Distribution Systems - Hydrant plugging. As discussed at the meeting in Montpelier. This will be unrealistic and possibly considered a hardship for water systems throughout the state. Many systems simply do not have the resources (time or

money) to pump their hydrants during the winter months. With hydrants that don't drain, the potential for freezing and causing extensive damage to the system is high. Perhaps there can be some language that discusses the distance from the high water table etc?
Comment #3: I would like to ask for the data demonstrating actual examples where systems were contaminated through the hydrant drains. As I'm sure you are aware, the downside to plugging the hydrant drains is the hydrants being frozen up. This can cause serious delays for the Fire Department in obtaining water from a frozen hydrant or during the fire fighting the freezing of the hydrant could create life threatening delays for the interior firefighters. Often time hydrants will be dressed by the Fire Department used to fill tankers and the n left to site for hours before trucks are back to refill. Weather conditions in Vermont dictate this occurring often times at 20 to 40 below 0 degrees. At those time fighting ice buildup in the road hoses, pumps etc. is task enough. Damage to frozen hydrants is another concern. Water Departments will not be able to regulate use of the hydrants to assure that no hydrants will be left unpumped. If a hydrant is damaged in winter it probably will remain out of commission until the following Spring. I believe allowing installation of hydrants when verified bottom of barrel is at least 12" above seasonal high water to be reasonable. The Fire Department will favor those hydrants and other plugged hydrants can are available, more convenient, but less reliable.
Comment #4: Appendix A Part 8 Hydrant drains *shall* be plugged. All hydrant drains are not plugged, in this part the country hydrants will freeze and break, that's why they have drains. If you plug all the drains they will need to be pumped out manually which takes time, man power, and notification when used. This could lead to a lot of hydrants that break and become inoperative, best to let each system deal with their own hydrants and procedures.
Comment #6: The hydrant drain shouldn't be required to be plugged. *We agree and have restored the original language regarding hydrant drains (see Appendix A Subpart 8.3.4).*

6. In Subchapter 12 the list of operator duties should be modified to say they should follow an approved Operation and Maintenance Manual, instead of listing all of the duties. *While an Operations and Maintenance (O&M) Manual does include a number of important duties of an operator, it is not comprehensive and some systems do not yet have an approved O&M Manual. Therefore, the operator duties are included in the rule. We have not made the requested changed.*

7. Comment #1: In Subchapter 12 in the list of operator duties #20 does not work because operator does not have authority for spending so they would have difficulty meeting this requirement. I will send in a written comment on this issue.
Comment #2: 12.2.2(b)20. The concern here was that operators don't always have the approval and/or are given the appropriate authority and/or funding to keep some of the systems in compliance and therefore they should not be held responsible. Possible alternative wording: "The operator shall be responsible for notifying the owner of violations of the federal Safe Drinking Water Act..." which is basically what 12.2.2(b)7 says. If the intent of this paragraph was that operators be responsible for ensuring their own actions don't threaten the public safety and health of their system's consumers then this should be worded differently.

Comment #3: Page 91. The operator in responsible charge is made responsible "for compliance with the federal safe drinking water act, Vermont's statutes, and the regulations developed pursuant to both. Comment: This may be too far reaching a level responsibility for the certified operator in responsible charge.
Comment #4: Section 12.2.2.20 under operator's responsibility which states: The operator shall be responsible for compliance with the federal Safe Drinking Water Act, Vermont statutes, and the regulations developed pursuant to both. This IS the responsibility of the permittee.
Comment #5: 12.2.2 20. The operator can not take responsibility for compliance to all the regulations. The operator does not usually have control of finances of the system. The operator can only make the governing body aware that certain thing need to be done. That leaves the governing body responsible for compliance. Don't know why you would try to get this through it's a no brainier!! It is also covered under owner's responsibilities. *We acknowledge that in many cases an operator does not have control of finances to meet some requirements. We have modified this language to reflect our intent of requiring operators to comply with applicable state and federal laws, and to perform their duties with reasonable care and judgment for public health, public safety and the environment.*

8. I like that you converted many of the lists to a table format. *Thank you for your feedback. We hope that this change will make it easier for everyone to read and reference the rule.*

9. For the new requirement for TNC to submit an annual report, is it a small report? Will they know what to submit designed to be a fill in the blank form provided by the WSD? *We intend for this report to be one to two pages that will include the current information from our computer database. The system will then simply need to update any incorrect information and return it to us. The focus of the report will be to update contact people and facility information.*

10. I want to confirm that there is new language requiring NTNCs to have stand-by "disinfection," not stand-by "chlorination." *You are correct that the language in Subchapter 7.2 states "…capability of continuous disinfection."*

11. I would like to propose that for operators who operate a bottled water plant that the International Bottled Water Association Exam (IBWA) can be used to satisfy the testing requirement instead of the ABC Exam which focuses on more traditional public water system. The IBWA is more applicable to the technologies, operations, and treatment associated with a Bottled Water Systems. *We believe that the rule currently provides for this possibility in Subchapter 12.3.1(c) which requires that the "examination approved by the Secretary." This allows for exams other than the ABC exam to be used to meet certification requirements. In order to approve a different examination, we would need to conduct a review of the IBWA exam and process.*

12. In Chapter 11 regarding the labeling of bottled water, I would like to see the language mimic the FDA guidelines which allows you to say who it is distributed by without stating who it was bottled by. *We reviewed the labeling requirements for bottled water in this rule and in*

statute. Our review indicated that the rule did not match exactly with statute, so we have modified the rule language. A copy of the letter from FDA to Maine was not attached to your comments, so we were unable to review this. Nevertheless, this letter is to the Maine program, not Vermont, so we are unsure of how it relates to our statutory requirements. Any change to Vermont statutory labeling requirements would need to be addressed in the Vermont legislature.

13. To follow up on the earlier question on UV, wastewater treatment systems using UV have redundancy and other technical guidelines. Has the WSD considered developing some guidelines on UV operation and maintenance, such as redundancy, back-up batteries, minimum number of replacement bulbs to have on hand, etc? Guidance needs to be the basic expectation of reliability. The challenge is to ensure that in the long term the operation and maintenance is done so that the UV system is dependable. Perhaps the WSD could allocate funding for a UV literature research of small systems and then buy and pilot test 3-4 units and try them over 6 months. *This comment does not address specific changes in the rule. However, we would consider doing such a project should resources become available.*

14. Comment #1: On page 203, Appendix A Subpart 7.0.1(a), the minimum flow requirements language is changed. Why is this change only for storage and not for distribution? Comment #2: Part 8, Distribution Systems, 8.1.3 Fire Protection: The corrected wording found in Part 7, Finished Water Storage, 7.0.1 (a) should be added in its entirety to Part 8, Distribution Systems, 8.1.3 Fire Protection for consistency. The existing wording from 8.1.3 must be deleted so as to not create confusion on this issue. *We have modified the language in Appendix A Subpart 8.1.3 to reflect the changes to be consistent with the changes in 7.0.1.(a).*

15. The Rule is less than clear with regard to the management of alum sludge. It would be helpful if there were a regulatory cite in the section on waste handling and disposal that directs the reader to the appropriate rules and/or program. *In Appendix A, Subpart 4.10.2 discusses the disposal of alum sludge. We have added new language to the introductory portion (Subpart 4.10) to reference assistance that the DEC permit specialists can provide in identifying contact information for the various permitting programs.*

16. Subchapter 21-9 Section 9.1.2. I have received copies of sanitary surveys conducted for the Woodbriar (WSID #5081), and the Bert's (WSID #5083) mobile home park Public Community Water Systems. The survey requires them to submit with their monthly operating reports the amount of water they produced for that period. Since they purchase their water from the Milton Water System, and Milton from CWS, they produce no water. The wording should read "produced or purchased". The reporting required for purchased water should be based upon the billing cycle of the wholesaler, and not monthly, as this would require the consecutive system to enter or access meter pits which they do not own or operate. *We recognize that some systems cannot take meter readings when they don't necessarily have access to the meter pits. Where meters can be read monthly, doing so provides an early warning that something may be wrong with the system. We have modified*

the rule language to allow some water systems to request an alternative reporting schedule for metered flows. Note that reporting of monitoring results must still be submitted monthly.

17. Subchapter 21-10 Section 10.5.1—This section does not adequately address the consecutive system relationship that member owned wholesalers, such as CWD, has with its member systems. The rule requires us to submit and certify the Consumer Confidence Reports generated on our behalf by CWD. The rule should be amended to reflect such relationship, and waive the submission and certification requirement's as long as such STATE APPROVED agreement exists. *This section's requirements match with the federal requirements relating to CCR. We encourage consecutive system to provide specific contact information for their customers. No changes are proposed for this section due to the need to meet federal requirements for primacy.*

18. Appendix A Part 1 Submission of Plans—In most cases, as communities grow, their in house capabilities to develop and implement distribution system improvements in compliance with State and Federal Regulations also grows. Milton is an example. We currently have a professional engineer on staff, drafting and editing capabilities, financial capacity, and most importantly, an approved Facilities/Master Plan. The Plan is on file with the State. Why can't a community such as ours, with the capacity to do so, develop and construct their system improvements without a lengthy State review process? The Rule should be amended to recognize communities with these capabilities. Such an amendment to the Rule would free up some of the Water Supply Divisions valuable staff time to assist those water systems who require the WSD's assistance. *Under state statute a permit from the Secretary is required, so the Water Supply Division does not have the authority to delegate permitting authority to a municipality. The Division is exploring the possibility of simplifying our review process where we believe public health is appropriately protected.*

19. Subchapter 12.2.1.4 is requiring a certified operator to be *available* at all times. This sounds like a good idea but in the real world it's not possible for most of the systems in the state. This rule could be implemented at a later date with a plan that could use Northeast Rural Water as "on call operators" as they receive federal money for such things. Another thought may be to form some sort of mutual aid service as most fire departments in the state have. However by making this a rule now it will put most systems out of compliance. I think it would be in everyone's best interest try to brain storm this problem and see how we may come to a satisfactory solution before making any rule. *The use of the term "available" is in federal guidance for operator certification for Public Community and Non-transient Non-Community Water Systems. Our intention with this language is that an operator should be available in some fashion—pager, cell phone, mutual assistance agreement, etc. We do not intend for this to mean on-site 24/7.*

20. Appendix A Part 3.3 Note that additional source water quality testing beyond those contaminates.... / Needs to be clarified, WATER SUPPLY can require any and all test it desires? *This language is included so that the Secretary may chose to require testing of any additional contaminants in order to protect public health and welfare. While considering this comment, we also realized that the language in Appendix A Subpart 3.2.4 and 3.3.4.1,*

and Subchapter 6.1 was not consistent, so it has been updated to be consistent with the concept of monitoring may be required for any contaminant. Also, we have modified Tables 6.1 and 6.2 to note which contaminants are required as part of initial monitoring.

21. Section 12.2.2.20 under operator's responsibility which states: The operator shall be responsible for compliance with the federal Safe Drinking Water Act, Vermont statutes, and the regulations developed pursuant to both. This IS the responsibility of the permittee. *We acknowledge that in many cases an operator does not have control of finances to meet some requirements. We have modified this language to reflect our intent of requiring operators to comply with applicable state and federal laws, and to perform their duties with reasonable care and judgment for public health, public safety and the environment.*

22. What Vermont statute(s) and regulation(s) protect natural water resources from excessive withdrawal? With the worldwide demand for and value of potable water increasing, there is increased need to protect this VT resource. The only restrictions I find in the Water Supply Rule are in Part 3 of Appendix A., and particularly in provisions 3.2.3, 3.2.5, 3.2.6, 3.3.1, 3.3.3, and 3.3.6. Are there provisions in other statutes or regulations that protect groundwater levels and aquifers, and that protect streams, lakes and rivers? *This question is not directly related to the rule. The commenter was referred to 10 V.S.A., Chapter 48 for information on groundwater protection.*

23. The term "Small Scale Water System" appears in the table of contents. This should be revised to reflect the elimination of the term. *Thank you. We have changed this reference in the rule.*

24. Page 35 paragraph 3.0.1. "No person shall modify, construct or operate a Public water system without first obtaining a permit from the Secretary." I suggest that you define the word "modify." I expect that WSD doesn't wish to nor do we (the operators) want you to micromanage our systems. Yet, from the language, we wouldn't be allowed to even, for example, upgrade a hydrant lateral valve from a double disc to a resilient wedge or replace a piece of J.M. pipe with ductile without permission and a permit. The word "modify" needs clarification. *In Subchapter 4.0.2, the rule discusses exemptions for construction and source permits. If you are doing modifications to your system you should reference this section to ensure that your activities meet the exemption and contact our office for further guidance. We agree that we do not have the intention of micromanaging a public water system; however we need to balance this with the responsibility to protect public health and welfare. We are examining the possibility of broadening possible exemptions through the permit application process. No changes have been made to the current revision of the rule.*

25. Page 35 paragraph 3.0.2. "No person shall modify or construct a Non-Public water systems without first obtaining a permit from the Secretary." Does "Non-Public" water system mean an individual residential well? Does this mean I can't change the pressure tank in my own home without a permit? It looks like "Non-Public water system" needs a definition in Section 21-2. *We have inserted the phrase "requiring a permit" after "Non-Public water*

systems" since this was our intent. The introduction to the rule includes a discussion of the various types of water systems and includes examples.

26. Comment #1: Page 35 paragraph 3.0.4. "No person shall use or connect an unpermitted water source, including an emergency source, to a Public Water System except (a) for an emergency situation for a limited duration of no more than 90 cumulative days." Ninety days is not long enough, and I suggest rewording in such a way that period of time may be reviewed and extended as needed. If we, for example, were to lose our primary well, the siting and permitting process for a new well is much beyond ninety days and may, in fact, be closer to two years. Under the proposed language, we would have to desist from using an emergency source after ninety days. Then what, run on empty?
    Comment #2: Subchapter 3 3.0.4(a) - What happens in the event the 90 days is exceeded? Can there be some language that says "unless an extension is approved, in writing, by the state?" *We have changed the language to allow the Secretary to extend the use beyond 90 days.*

27. Page 74 paragraph 7.9. Composite Correction Program. Rewrite in plan understandable English—please! *We agree that this language is complex. This is federal language and is tied to federal requirements for Vermont to administer the drinking water program, so no change in language is proposed.*

28. I understand the need to periodically review and correct Rule 21. Whoever worked on this did a lot of commendable work that must have taken considerable time. I request that you read these suggestions [in my comment letter] at each of the hearings so that other comments and suggestions may be elicited. *Thank you for the compliment. We did not read your comment letter at the public meeting since your letter was not reviewed until after the meetings had already been held.*

29. Pages 27 and 28. Deletes the term "responsible party" and places responsibility under the "owner" of the systems. Allows "owner to designate "authorized representative." Comment: Consider wording that clarifies who or what the owner is in a publicly owned water system. This will enable publicly owned systems to determine who specifically should designate the "authorized representative" and the "operator-in charge". *The concept of who owns something is defined in statute and case history. Our legal advisor recommends that we do not attempt to re-interpret what constitutes an owner in the rule.*

30. Comment #1: Page 63. Revised secondary standards table and added specific secondary MCL for aluminum (0.05 mg/l), and a specific range for pH (6.5 to 8.5). Comment: The Federal SDWA secondary standard list a range for aluminum of 0.05 to 0.2 mg/l. Surface Water Treatment facilities using Aluminum Sulfate (ALUM) for coagulation, etc. may find the proposed more stringent Vermont requirement very difficult to consistently meet.
    Comment #2: Section 21-6 6.13 Secondary Contaminants. The proposed change: Includes a revised secondary contaminant table and includes a specific MCL for aluminum of 0.05 mg/L. Comment: The federal secondary maximum contaminant level for aluminum is a range from 0.05 to 0.2 mg/L and is based solely on aesthetic considerations intended to

prevent the precipitation of aluminum solids in the distribution system. Some past proposals in the water field have suggested using 0.2 mg/L as a maximum operating level. "An aluminum concentration of less than 0.2 mg/L has long been recommended for aesthetic reasons and to minimize the color, turbidity, and post-precipitation in water distribution systems." (AWWA 1997 - http://www.awwa.org/Advocacy/govtaff/aluminpa.cfm.). Even in States such as California where Aluminum has been regulated as a public health goal, the level was set 3 times higher than the top level of 0.2 allowed under the federal secondary drinking water regulations. "California has established a public health goal (PHG) of 0.6 mg/L for aluminum in drinking water…" (AWWA E-Mainstream 2001 - http://www.awwa.org/Communications/mainstream/Archives/2001/June/ms0601ww.cfm) Many surface water systems in Vermont use Aluminum salts in their coagulation, flocculation, sedimentation, and filtration processes. In addition, many of these systems have sources with relatively low TSS, very cold water, and treat water without traditional sedimentation basins. Due to these treatment conditions, these systems will find consistently meeting the proposed 0.05 ppm Vermont secondary contaminant level for Aluminum extremely difficult. The federal regulations allow the State of Vermont to select a SMCL for aluminum between 0.05 to 0.2 mg/L. Given that past water treatment established practice has used 0.2 mg/L as a maximum operating level and that , although not considered under SMCL regualtions, health effects are considered at levels much higher than 0.2 mg/L; the proposed regulation should be changed to list 0.2 mg/L as the secondary MCL for aluminum in Vermont.
The aluminum standard is a secondary standard established for public welfare, not public health protection. The federal regulations provide for aluminum secondary standard as a range. The rule originally only reference the federal register. In order to provide for ease of use, the standards were written into the rule and aluminum was proposed at the lower end of the range. After review, we agree that setting the standard at the higher end of the range is appropriate. We have changed the standard for aluminum to 0.2 mg/l.

31. Comment #1: Page 74 Requires a water supplier to respond to significant deficiencies identified in Sanitary Survey in writing within 45 days. This response is required to include a schedule, which the WSD may accept or revise. Comment: This may limit water supplier legal recourse to findings of WSD sanitary surveyors.
    Comment #2: Section 21-7 7.5.2 Sanitary Surveys. The proposed change: Requires water suppliers to respond to significant deficiencies identified in Sanitary Surveys in writing within 45 days. The response is required to include a schedule, which the WSD may accept or revise. Comment: This proposal limits a water supplier's legal recourse to the findings of the personnel conducting sanitary surveys for the Water Supply Division. Water Suppliers must be given the ability to contest sanitary survey findings when it is appropriate and necessary to do so. It is inappropriate to require a schedule until the findings have been allowed to be reviewed and, if necessary, contested, and the contested findings resolved. It is also, inappropriate to require a water supplier to follow a schedule imposed by the Water Supply Division without proper water supplier input. The Water Supply Division must already have existing legal authority to order actions when there are documented serious breaches of the public health or violations of the water supply rule without imposing this proposed process upon sanitary survey findings. The language should be changed to set up a

three step process: 1) Water Supplier response (60 days), 2) Water Supply Division and water supplier agreement, and 3) Schedule development. In addition, the language should specify that when the Water Supply Division proposes to change the schedule submitted by the water supplier, that a similar three step process be employed in determining the agreed upon schedule.
Comment #3: Subchapter 21-7, 7.5.2: This new wording does not provide the water system the opportunity to contest the findings of the sanitary survey. Provisions should be added in the wording that allows for an appeal by the water system to the Secretary on the results of the Sanitary Survey. At the very least wording should be added to the last sentence after "schedule" based on the severity of the deficiency.
Comment #4: I support the comment made by others that a means to appeal or contest the findings of a Sanitary Survey is needed.
The requirement for a water system to respond within 45 days of receiving a sanitary survey review letter was proposed in response to a federal requirement that states have this authority. As pointed out, requiring this submittal could elevate the sanitary survey review letter to a formal decision by the secretary, making it subject to appeal. This was not our intent at all in Vermont, since the operating permit is the secretary's decision that is subject to appeal. We have removed this language from the rule and intend to instead rely on our operating permits to specify schedules for dealing with deficiencies. The period of time between the sanitary survey review letter and the issuance of the operating permit is intended to be an appropriate time for the water system to discuss deficiencies with us and to correct any erroneous information in the sanitary survey review letter. The US EPA will need to approve the alternate arrangement of relying on our Operating Permits to meet the federal requirements. If they do not approve this, we may need to revise the rule at a future date to incorporate the sanitary survey letter response requirement.

32. Comment #1: Page 77 and 78 Removed 30 day timeframe to submit monitoring results from laboratories other than the VT DOH Lab. Requires all compliance data to be submitted within the first ten days of the month data was received or first ten days after monitoring period, whichever is sooner. Comment: 10 day requirement may be overly stringent and place unnecessary burden on Vermont Water Suppliers.
Comment #2: Section 21-9 9.1.1 and 9.1.2 Reporting The proposed change: Requires all compliance data to be submitted within the first ten days of the month after the data is recieved or the first ten days after the monitoring period, whichever is sooner. Also, removes existing 30 day time frame to submit results from laboratories other than the Vermont Department of Health Laboratory. The existing language should be retained and the proposed language deleted, continuing to allow Vermont Water Suppliers reasonable timeframes for reporting compliance data. Much of the data required to be reported cannot be completely collected, the data analyzed, and the report prepared until after the end of the month being reported. Given that at least one and possibly two weekends fall within the first 10 days of most months, and that mailing the report can take up to 3 days or more, a typical Vermont Water Supplier may have three days or less to collect , analyze, check, develop a report for, and approve this data before it is mailed to the Water Supply Division. Given that the Water Supply Division already must be notified immediately when a violation occurs,

this proposed overly stringent reporting timeframe does not appear to provide additional public health protection.
The language in Subchapters 9.1.1 and 9.1.3 has been changed to reflect the language in the federal regulation. Please note that the samples may be collected and analyzed earlier in the monitoring period giving the system more than just 10 days to complete the full circle of sampling and reporting the results. Receiving results in a timely manner is important to protect public health. Operators and water system officials will need to be aware of this requirement and plan their sampling accordingly. If there are issues with labs completing and reporting analyses to the water systems in a timely fashion, we will work with the Health Department, who certifies labs, to resolve these issues.

33. Comment #1: Page 148 Requires BAT (Best Available Technology) be used when a treatment technology is required under 40 CFR Parts 141 and 142. This is under 4.1.1.e Rapid Mix. Comment: 141 and 142 reference all the SDWA regulations. Why is this broad statement included under a specific section related to rapid mix?
Comment #2 P. 148 4.1.1.e. The proposed change: requires BAT be used when a treatment technology is required under 40 CFR parts 141 and 142. Why is this broad statement that applies to any technology required under the SDW regulations included under a specific section of the water supply rule related to rapid mix? Move the statement to a more appropriate general section of the water supply rule.
This language should have been included as a broad statement and has been moved to the beginning of the subpart.

34. In the current 2003 regulations I am concerned with (A-7-7) Distribution Storage, (7.3.1.) which states that having greater than 100 lbs static pressure in your distribution mains calls for providing pressure reducing devices on your mains even though the class 52, 8" ductile iron pipe commonly used is rated with a working pressure of 350 lbs. Installation of pressure reducers conversely means, in most of Vermont systems, costly booster pumps to then up the pressure again for succeeding hills. I am concerned this regulation as written creates liability issues for many of your Vermont Water Systems who have static pressure exceeding 100 lbs. Are they liable by being in violation of this regulation for in house plumbing failures? *This section is a "should" not a "shall" section, so we consider this something that should be considered during the design of a system. The rule does not address liability issues. If you have concerns relating to your system's liability, you may want to contact a lawyer.*

35. Subchapter 11 11.1.1 There is a typo - "operator" instead of "operate" *We agree and have corrected this.*

36. Subchapter 12 12.2.14 - This paragraph was discussed at length during the last operator certification committee meeting - the concern being that many of the certified operators in the state are not within driving distance of the systems they operate (contract operators). Therefore being on site or "able to be contacted" at all times seemed excessive. Alternative wording for this paragraph was not proposed. It is my understanding however, that using the term "a certified operator" rather than "the designated certified operator" means that a backup operator can be temporarily designated by the owner as being "available" when the primary

operator is not? *During our review of another comment, we realized that the proposed language in Subchapter 12.2.14 is already included in the existing language of Subchapter 12.1 second paragraph. Therefore Subchapter 12.2.14 has been deleted. This comment is still relevant to the existing language. This language is included because of the need to have an operator available to address a public health threat in an emergency situation. The term "designated" is important so that the Water Supply Division can contact an operator for a specific system in an emergency. We need to have record of who to call, page, fax, etc. when an emergency arises.*

37. 12.2.2 Certified Operator's Responsibilities - this whole section was discussed and it was suggested by one of the committee members that the list offered in (b) was unnecessary. *This section is existing language and we believe it is appropriate to define operator duties in the rule. We have not removed any of this section.*

38. 12.11.1(a) - Class 1B operators - are you requesting they take any approved seminars or a seminar specifically designed to address their treatment? NeRWA offers many courses that are state sponsored and approved - including computer courses and safety courses. I believe the intent was to train these folks on the disinfection that they are using – should there be more specific wording here about the type of training approved? *We considered including specific training area requirements. However, we do not wish to be this prescriptive in the rule since some operators may already have adequate knowledge to run their treatment system and may want to attend some other type of training.*

39. Appendix A Part 7 - Finished Water Storage - Will there be a grandfathered clause for those systems that don't have this liner already? *Any grandfathering is dealt with on a case-by-case basis through the permitting process and in consideration of public health protection.*

40. I will defer to the engineers for technical comments. From my reading, the changes look good and certainly clarify a few areas that haven't been addressed for a long time. *Thank you for your comment.*

41. In going through the draft, I had a recurring thought which I know is still of interest to some of the Agency folks. Years ago, ANR, Vermont League of Cities and Towns and a bunch of other interested groups got together on a comprehensive rewrite of Chapter 89 of Title 24. The goal at the time was to harmonize the general water statute with Chapters 97 and 101 (the general statutes dealing with municipal sewage systems). Chapter 89 is woefully out of date. While it still has value as enabling municipalities to own and operate water systems, it was written with Nineteenth Century village waterworks in mind. There wasn't enough sex appeal at the time to get our proposed comprehensive revision too far along the legislative process. That was then. Now is now. With the federal enactments and regulations, the public water system universe has changed overnight. It seems to me that if we are bound by modern federal enactments, the least we can do is bring our statute into the current century. If the Agency is interested in reviving interest in rewriting Chapter 89, please let me know what I can do to help. *This comment can't be addressed through Water Supply Rule revisions. We have forwarded the comment on to the ANR General Counsel for*

consideration. You may also want to contact the Vermont League of Cities and Towns since this statute focuses on municipal issues.

42. We [EPA Region I representative and the Water Supply Division] have been playing "telephone tag" since July in effort to discuss the change in the proposed Water Supply Rule (WSR) of eliminating the inclusion of the Federal Register as Appendix E and instead just incorporating the federal requirements/citations by reference. Since the proposed revised (WSR) is now out for public comment, I thought it best that I send you this e - mail and we can still have a discussion, as needed, later. If the intent of the revised WSR's incorporation by reference (IBR) of the federal requirements/citations is to have such IBR to be "static" and not "prospective", and such intent is clearly identified then this should be acceptable. In other words, the federal requirements that are being incorporated are those that exist at the time of adoption of the WSR. Subsequent additions or changes to the federal requirements/citations would be incorporated by readoption of the WSR. If the intent of the revised WSR's IBR of the federal requirements / citations is to be " prospective " IBR , then your next submitted primacy package that would include such WSR will need to append a legal opinion from the Attorney General explaining the following : (1) The agency / legislature's authority to incorporate by reference and to do so prospectively, (2) Relatedly, whether prospective IBR violates the non-delegated principle, if any, in the Vermont Constitution, (3) Whether prospective IBR violates Vermont's public notice principle, if any. Again, we can discuss this further if you want. *This comment from EPA was requested by the Water Supply Division as part of removing the federal register as an appendix. In response to the comment, the reference is static and not prospective.*

43. Subchapter 21-2, 2.2 Definitions: The “USC Cross Connection Control Manual,” defines a Cross Connection as “Cross Connection- any unprotected actual or potential connection or structural arrangement between a public or a consumer’s potable water system and any other source or system through which it is possible to introduce into any other part of the potable system any used water, industrial fluid, gas, or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices through which or because of which backflow can occur are considered to be cross-connections.
    a. The term “direct cross connection” shall mean a cross connection which is subject to both backsiphonage and backpressure.
    b. The term “indirect cross connection” shall mean a cross connection which is subject to backsiphonage only.”

    This established definition should be used in the Water Supply Rule. *We have researched this issue and believe that replacing the existing definition with the United States Environmental Protection Agency’s (EPA) definition in their Cross-Connection Control Manual would be better than either leaving the old definition which was limited to “piping” systems or incorporating the suggested more complex definition. The EPA definition is “Any actual or potential connection between the public water supply and a source of contamination or pollution.” This definition has been added.*

44. Subchapter 21-5, 5.3.1 Operating Permits: The original wording "…or his authorized representative (Responsible Person) should be kept in with the following change: change the words Responsible Person to "Responsible Charge". *We have changed the definition of owner to allow for an "authorized representative" of the owner and therefore using the term "responsible charge" is not necessary. No change was made to the proposed language.*

45. Subchapter 21-5, 5.3.1 (a): The following wording should be added: "The Secretary intends to provide the operating permit to the Responsible Charge 60 days before the actual operation of the Public water system is to begin. However, the burden to submit the completed operating permit on time is assumed by the Responsible Charge." *The language in this section deals with the application for an operating permit. We believe that adding language about the Secretary's intent on providing a permit is not appropriate to add to a regulation.*

46. Subchapter 21-5, 5.3.4: The following wording should be added: The owner or Responsible Charge shall be the applicant for an operating permit or a temporary operating permit. *We have changed the definition of owner to allow for an "authorized representative" of the owner and therefore using the term "responsible charge" is not necessary. No change was made to the proposed language.*

47. Subchapter 21-7, 7.1.2: A clearer definition should be added to this paragraph, since it would be very unlikely that any water system would inspect the outside of a buried water storage tank. Furthermore, a thorough tank inspection could be completed once every ten years when the water system can provide sufficient proof of historical and ongoing successful inspections. *We agree that the language should be clarified to acknowledge that the outside of a buried tank would be extremely difficult to inspect. We have modified the language in this section. Second, the tank inspection requirement is relatively new regulation. We are willing to consider a change to this language once we have more information on tank inspections.*

48. Subchapter 21-8, 8.1.2: Wording should be added to the last sentence "…eliminate the cross connection" through the water systems cross connection control program requirements. M*any system do not have a cross connection control program (and it is not a regulatory requirement), but may want eliminate a cross connection. If this language were to be incorporated, it could limit the ability of these systems to respond to a cross connection.*

49. Subchapter 21-10, 10.2.5: Delete the words "shall be made" as these are redundant. *We agree and have changed the language.*

50. Subchapter 21-10, 10.5.2: The terms water suppliers and water systems are used in the same paragraph, making the requirements confusing. It would seem that if the water supplier prepares the CCR and delivers it to all of its served customers, then a consecutive system should not have to provide another CCR, UNLESS the consecutive system has violated some aspect of the Water Supply Rule that requires customer notification. This would apply to those systems in which the water supplier performs all testing according to the SDWA and meets WSR requirements. *This section's requirements match with the federal requirements*

relating to CCR. We encourage consecutive system to provide specific contact information for their customers. No changes are proposed for this section due to the need to meet federal requirements for primacy. Please note that "water supplier" and "public water system" are defined in Subchapter 2.

51. Subchapter 21-12, 12.2.14: This wording is already used under 12.1- General. Does it need to be repeated? *We have deleted the proposed language in 12.2.14 since it mimics language in 12.1.*

52. Appendix A, Part 1, Submission of Plans: 1.1 Permit Application: The following wording should be added after "…owner" or Responsible Charge. *We have changed the definition of owner to allow for an "authorized representative" of the owner and therefore using the term "responsible charge" is not necessary. No change was made to the language.*

53. Appendix A, Part 1, Submission of Plans: 1.2 Engineers Report: 1.2.1 (a): The words Responsible Charge should be restored to the original wording. *We have changed the definition of owner to allow for an "authorized representative" of the owner and therefore using the term "responsible charge" is not necessary. No change was made to the language.*

54. Appendix A, Part 7, Finished Water Storage, Part 7.0.1 Sizing: Remove the new word "requirement" (after … recommends a higher…) and insert the word rate. *We agree and have changed the wording.*

55. Appendix A, Part 8, 8.9 Booster Pumps, 8.9.2: A more accurate explanation should be added in this section defining when and how individual home booster pump stations can be installed. *We agree and have incorporated language from an existing Water Supply Division Practice.*

56. The Vermont Department of Health noted that Table A11-5 and A11-6 in the draft for comment did not reflect their intent that the Arsenic standard of 50 mg/l apply only to Transient Non-Community System. *This has been clarified by separating the primary standards tables for Non-Public Systems requiring permits and Transient Non-community Water Systems (see Tables A11-6 and A11-7).*

57. Chapter 21-2 Definitions and Abbreviations "Public water systems" IBWA [International Bottled Water Association] applauds the effort by DEC to distinguish bottled water production from other water systems by including a definition of "bottled water systems" in Subchapter 21-2 and establishing Subchapter 21-11 to specifically address bottled water systems. However, the proposed definition of public water systems also includes bottled water production facilities as one type of a public water system. The definition of public water systems states: "*A public water system is **either** a public community water system or a public non-community water system." (Emphasis added)* Neither of these two systems' descriptions includes bottled water systems. Therefore, it is very unclear how bottled water will be considered within the context of public water systems. Is it a public community

water system or a public non-community water system? Or is it to be considered a separate public water system from either of these two types?

Thus, the entire proposed regulations are very confusing in the application of various standards, procedures, and requirements to bottled water production. Often the regulations apply particular requirements for both public community water systems and public non-community water systems, but do not mention bottled water systems. For example, Subchapter 21-4 Introduction states that the section applies to domestic bottled water systems, but then it states in Section 4.0 that bottled water system source permits will be governed by Section 4.1 and the requirements of Appendix A, Part 3. If this is read literally, imported bottled water systems would also be required to meet those provisions and obtain approval from DEC.

It is further complicated under Subchapter 6 and Subchapter 11. By including bottled water within the definition of public water systems, the water quality standards and monitoring frequencies become unclear. For example, as currently proposed, the regulations would require bottled water systems that use a public community water system that has surface water as its source to comply with the Enhanced Surface Water Treatment rule in 41 CFR 141, even though the municipality is already compliant. In addition, Table 11-1 outlines monitoring frequencies for various contaminants that directly conflict with or at a minimum are confusing with the requirements under 40 CFR 141, since bottled water is not regulate by EPA, as either a large or small community water system. System size modifies the frequency for monitoring for some contaminants and situations. Also, under 21 CFR 129, which the proposed regulations incorporate and require certification of compliance by bottler water systems, bottled water is required to monitor annually for inorganic chemicals, volatile organic chemicals, synthetic organic chemicals, and radionuclides. So, under these circumstances, it is very unclear what frequency for testing DEC will require of bottlers.

<u>Recommendations:</u> IBWA urges the DEC maintain the definition of bottled water systems and to delete bottled water systems from the definition of public water systems. This will clarify and eliminate potential future confusion over the status of bottled water within the regulations. This is needed to determine the applicability of the various proposed changes in the water supply regulations to bottled water systems, both domestic and imported. The regulations are confusing when read with the definition of public water systems.

IBWA also urges DEC to delete the applicability of the various Subchapters to bottled water systems, and modify Subchapter 11 to include the specific provisions within the various Subchapters and Appendices that directly apply to bottled water systems. This process would establish Subchapter 11 as the bottled water regulations for Vermont. As an example, Subchapter 21-11.1.2(d) could reference a requirement for bottlers to adhere to Subchapter 21-3.0.3. This would make it clear that domestic bottled water sources would be required to obtain approval from the Secretary. In this way, the specific regulations that are applicable to bottled water could be referenced within the Subchapter 11 on Bottled Water. This would eliminate any confusion over which portions of the other chapters apply to bottled water

systems, and which portions apply to domestic and/or imported bottled water systems. *With respect to changing the definition of a "public water system" in Subchapter 2, much of the language mirrors state statute (10 V.S.A., Chapter 56). We have removed the sentence defining a system as "either" a community or non-community system and allowed these two statutory definitions to stand on their own as subsets of a public water system. We cannot remove the concept of a bottled water system being a public water system since this is in state statute. We agree that the language is sometimes confusing. This is in part due to bottled water systems being a public water system under state statute, but not under federal statute. With respect to requiring a bottled water system to comply with various requirements that may be dealt with by the public water systems that they purchase water from, Section 6.1.1 allows the Secretary to exempt systems who purchase water from other permitted systems. With respect to deleting the applicability of various subchapters, we have reviewed the rule and made changes to help clarify whether the subchapter applies to a bottled water system and also whether it applies to an "imported" or "domestic" bottled water system (two more concepts in state statute with regard to in-state and out-of-state bottled water systems). We agree that some of the references to the subchapter and subparts are not appropriate for bottled water or for imported bottled water and have revised them. Additionally, under this rule revision, we do not believe that incorporating all of the requirements for bottled water systems is feasible from a logistical and efficiency view; however, we are willing to consider this in future revisions and would welcome further dialogue with the IBWA on this topic.*

58. Chapter 21-3 and 4 Permits IBWA urges the DEC to provide flexibility in the transfer of source permits in a change of ownership. To require a complete permit application process for bottled water sources, including hydrological studies on existing sources that have been operating without any negative impact for many years, will add exponentially to the cost of selling or buying a bottling plant in Vermont with additional burdens and costs to DEC. It will also have a significant impact on the value of a bottled water company if there is a change of ownership, because the source is not transferable. A more flexible approach would be to allow for continued use of the permit and the withdrawal rates, but require new or increased withdrawals by new owners to go through the source permitting process.

    The construction permit requirements for bottled water within this Subchapter appear to be conflicting or are missing information. Under Section 4.0 - General, bottled water systems will be governed by Sections 4.2 through 4.11. However, there is no section 4.11 and 4.2.10 only contains a header. In addition, Section 4.0 requires bottled water to be governed by Appendix A, Parts 1-10 and 12, but without further clarifying language suggested above for bottled water systems as not a public water system, it is difficult to determine the status bottled water systems under Section 4.2.1(b) which could subject the construction to Appendix A Part 11. IBWA believes this could be made much clearer by segregating a bottled water system from the other systems in the definitions section and including in Subchapter 11 specific references to the applicable Subchapters and Sections to bottled water. Such concerns on applicability of various provisions would be clear, because a bottled water system could not later be interpreted to mean a public transient non-community water

system, for example, and thus subject to a variety of other provisions within the regulations. The summary of the proposed rule seems to indicate that this is the intent of DEC.

Recommendation: IBWA recommends flexibility on a change of ownership for a bottled water source permit under this Subchapter. IBWA agrees that new withdrawals should be required to obtain a source permit, but existing withdrawals should not be required to submit an entirely new application for analysis, review, and approval by DEC. Notice on new ownership and other vital information for responsibility and contact with the new owners should be required in such a change, similar to the food facility (bottled water plant) registration requirements by FDA. *This comment seems to indicate a misunderstanding on how the source permitting process works in Vermont. A source permit is typically valid for two years from date of issuance. If the source has been built during that two year time frame, the source is considered permitted and then is regulated through the bottled water operating permit. A new source permit for a new owner is not necessary if the source has already been permitted and built since the permit is no longer valid. If the source is not built during the two year timeframe, the water system may apply to extend the permit via an amendment. If a system changes ownership during those two years, or during the application phase of a source permit, a new permit will need to be applied for to reflect this change. The new owner can use any of the existing data and information already submitted in the "old" application or permit. We believe our existing process works in the fashion that you are recommending, so no change is needed. Second, thank you for the comment on the lack of headings and incorrect references in Subchapter 4; we have fixed this.*

59. Chapter 21-7 Facility and Operations Requirements and Subchapter 21-12 Water system Classification and Operators Certification IBWA members must, as a condition of membership, adhere to the IBWA Model Code and be subjected to an annually audit for compliance with the Model Code by an independent third party. To assist bottlers in meeting and maintaining the standards within the Model Code, IBWA provides a number of education and training programs for the membership. Under Section 7.1, each bottled water system must have an Operations and Maintenance Manual approved by the Secretary. IBWA hopes that this requirement will be targeted to the operation of a bottled water facility and DEC will accept the IBWA Plant Technical Operations Manual as a means of satisfying this requirement. The educational programs and materials, along with the Model Code, provide a bottler with an up-to-date guide for operating a bottled water facility and providing consumers with a high quality, convenient beverage.

    In addition, IBWA requires a certified bottled water operator to be responsible for each bottling facility for members. The requirement within the Model Code ensures that a person who is knowledgeable of bottled water operations is responsible for the production within the facility. IBWA provides a proctored examination for plant operators, and opportunities to remain current through a variety of programs to earn continuing education units (CEU's). Both the examination and the continuing education are specific to a bottled water system. IBWA hopes that at a minimum DEC will recognize and accept the CEU's that are provided by IBWA. In addition, IBWA urges DEC to recognize the IBWA certified plant operators as

having obtained the necessary education and testing to satisfy the requirements of the proposed regulation that mandates certified plant operators.

Recommendations IBWA urges DEC to accept the IBWA Plant Technical Operations Manual as satisfying these requirements. If there is a process through which IBWA must submit the Manual for review and approval, please let us know so that the proper paperwork may be filed and approval obtained.

Also, IBWA recommends that DEC accept the IBWA certification of plant operators and not require certification that would not directly relate to the operation of a bottled water facility. At a minimum, IBWA urges that the requirements for a certified plant operator directly relate to the operation of a bottled water system, and not generically to drinking water or public water systems. In addition, IBWA urges DEC to accept the CEU's earned by plant operators through the various programs and educational seminars that are offered through bottled water organizations. If there is a process or procedure to have Vermont recognize IBWA certified plant operators' certification and the CEU's provided through the bottled water associations, please let IBWA know, so that efforts can be made to obtain approval for IBWA programs and testing. *With respect to CEUs, we have a review process to approve training credit hours for operators from a variety of organizations. We will be happy to review IBWA classes that Vermont operators wish to have credit for (and have issued credit for such classes in the past). Any operator should contact our operator certification program directly to have this review conducted. We will also be willing to review the IBWA certification exam to see if we will allow it to meet the examination requirements for operator certification in Vermont. No rule change is necessary to consider these options. The operator certification program can be reached by calling (802) 241-3400. With respect to using the Technical Operations Manual as a substitute for the Operations and Maintenance Manual, we would need to review the various components of this manual and compare them to our existing requirements for an O&M Manual. Please contact our capacity development coordinator to initiate this review at (802) 241-3400.*

60. Subchapter 21-11 Bottled & Bulk Water IBWA supports the incorporation of 21 CFR 110 and 129 into the regulations for bottled water systems. The effort to harmonize with the FDA good manufacturing practices for food products is important to ensure safety and quality of bottled water. IBWA hopes that DEC will accept the audit report from IBWA as certification of compliance. *Our intention of this language was to have a certification statement signed by the water system. We are not familiar with the audit report so had not considered this as an option meet this requirement.*

    Subsections (g) and (h) should be modified to harmonize with FDA regulations by adding a requirement to comply with 21 CFR 165 and deleting the proposed subsections. This change will harmonize Vermont requirements for labeling and standards of quality for bottled water with FDA regulations. This change will eliminate any confusion or conflicts within the proposed regulations while maintaining public health protections. Specifically, Subsection (g) is pre-empted by FDA regulations and thus unenforceable. Enclosed for your information is a letter from FDA to the Attorney General of Maine on a similar law in Maine. In the

letter, FDA is very clear that federal regulations pre-empt state laws requiring source identification on bottled water labels. As indicated in their letter, FDA considered and rejected a requirement for bottled water labels to list the water source. *We reviewed the labeling requirements for bottled water in this rule and in statute. Our review indicated that the rule did not match exactly with statute, so we have modified the proposed language to match statutory language. A copy of the letter from FDA to Maine was not attached to your comments, so we were unable to review this. Nevertheless, this letter is to the Maine program, not Vermont, so we are unsure of how it relates to our statutory requirements. Any change to Vermont statutory labeling requirements would need to be dealt with in the Vermont legislature.*

By incorporating 21 CFR 165.110 (b), Vermont will harmonize the standards of quality for bottled water with FDA standards. As you probably are aware, bottled water standards of quality by federal law can be no less protective of the public health than the EPA standards for drinking water. Under the 1996 Amendments to the Safe Drinking Water Act, FDA must rule on the applicability of new or revised EPA primary drinking water standards to bottled water[21 USC § 349]. If FDA does not make a determination within 180 days of the implementation of the EPA standards, then the EPA standards will apply automatically to bottled water ("the hammer provision"). 21 CFR 129 and 165.100 includes monitoring requirements and methods for testing, thus eliminating the conflict mentioned above regarding the frequency for monitoring of bottled water for contaminants according to system size or applicability of an EPA regulation that does not apply to bottled water on a federal level. *In Vermont, we also incorporate state statutory requirements since a bottled water system is considered a public water system in Vermont and has regulatory requirements that may go beyond the EPA standards. Simply incorporating, 21 CFR 165.110 (b) will not necessarily meet these state requirements.*

IBWA would also recommend that bottled water systems not be included in the public notification requirements of the proposed rule. By federal law, bottled water which does not comply with federal regulation, particularly the standards of quality, can not be offered for sale, and maybe be recalled. Such bottled water is also subject to the plethora of enforcement actions by FDA, which is one of the significant differences between food regulation and public drinking water regulations. *While we appreciate that FDA has the ability to enforce and require a recall, they may have a limited number of staff available for the regulation of bottled water and may have different priorities than Vermont. Therefore, we intend to maintain our independent ability to require public notice. This is also important because some of Vermont's regulations differ from the federal regulations and we want to maintain the ability to require public notice for any violations of our regulations.*

IBWA supports the use of dedicated equipment for the transportation of bulk water for the purposes of bottled water production, as proposed in Subchapter 21-11.2.3(d). Such a requirement will mitigate the potential for cross contamination with other food products or substances within the tanker. IBWA's Model Code also prohibits the use of non-dedicated tankers for hauling of water for the production of bottled water. IBWA's Model Code permits the use of certain multi-purpose equipment, but not transport equipment. Certain fat

or protein containing food products are difficult to thoroughly remove from transportation equipment and have the potential to create adulteration and health concerns with bottled water from such water. However, IBWA opposes the requirement for a residual chlorine level for all bulk water. The health concern in bottled water should be directed to what the consumer ingests. Alternative disinfection methods should be permitted in the regulation if necessary. By requiring the chlorination of bulk water, unnecessary additional burdens will be placed on bottled water systems that have potential adverse health effects. By-products of chlorination and the esthetics of the resultant water must be factored by the bottler when using such bulk water. IBWA would support modifying the strict requirement for chlorination of bulk water with a more flexible approach of the use of other disinfection techniques or requiring the finished product to be compliant with the 21 CFR 165.110. *We believe that we have already provided for an alternative by the proposed language in Subchapter 11.2.2(c) which allows for either meeting the chlorine residual or the requirements in Subchapter 12.2.3 which do not require a chlorine residual, but do require development of Standard Operating Procedures to ensure that sanitary condition of the tank.*

<u>IBWA Recommendations:</u> IBWA urges DEC to harmonize the Vermont bottled water regulations with FDA requirements by replacing the current (g) and (h) subsections with a requirement that bottled water systems comply with 21 CFR 165.110. In addition, DEC should delete bottled water systems from the Subchapters throughout the proposed regulations that would apply the EPA standards for drinking water to bottled water. Such a change will substantially resolve any conflicts or confusion which may arise from the proposed regulations. It will also be no less protective of the public health, than the proposed regulations. *See above for the response to the more detailed comments.*

<u>Conclusion</u> IBWA commends DEC on distinguishing bottled water within the proposed regulations and attempting to harmonize Vermont regulations with FDA regulations. IBWA urges DEC to complete this process as suggested in these comments. If you have any questions pr need more information, please do not hesitate to contact IBWA. *We would welcome the opportunity to discuss these issues further with IBWA to see how they might be incorporated into future rule revision and our policies.*

61. Section 21-7 7.9 Composite Correction Program The proposed change: allows the Water Supply Division to require a water supplier to under go a composite correction program (CCP), and the term “CCP” is defined. The CCP program developed by USEPA in Cincinnati is a valuable program for water treatment facilities to participate in. In addition to State CCP programs like the one being implemented in Vermont, the CCP program forms the core of the Partnership for Safe Water Phase III and Phase IV assessments as well. Due to the limited resources located within The Water Supply Division, it is to the benefit of the public health that water suppliers become involved, whenever possible, with the composite correction program voluntarily. The Partnership for Safe Water Phase III and Phase IV programs exist and provide this voluntary opportunity for water suppliers. Indeed some State Primacy agencies (such as the Pennsylvania Department of Environmental Protection) have successfully included the Partnership for Safe Water Phase III and Phase IV programs within their program responsibilities. The State should begin actively encouraging participation by

water suppliers in the Partnership for Safe Water. (http://www.awwa.org/Communications/mainstream/Archives/2001/November/ms1101quality.cfm).\ The language should be changed to allow completion of Phase III and/or Phase IV under the Partnership for Safe Water in lieu of a State conducted Composite Correction Program. *This is federal language and is tied to a primacy, so no change in language is proposed. Your concern about limited resources within the division to conduct CCP is appreciated. While we do conduct CPEs on a limited basis, this language does not place the burden upon the state to conduct a CCP or a CPE. Additionally, this does not preclude the Water Supply Division from encouraging participation in the Partnership for Safe Water and we have contacted the commenter to see if he would be willing to write a letter for our newsletter on this program.*

62. Section 21-9.1.4 The proposed change: Requires a public water system to notify local law enforcement and the Secretary "upon discovering a potential or actual threat to water quality or quantity…." The words "potential or actual" as they are related to "threat" are confusing and should be removed so that the language reads: "upon discovering a threat to water quality or quantity…" *We agree and have changed the language.*

63. Section 21-12 12.2.1.2 & 12.2.1.3 Responsibilities and duties The proposed change: Requires both the certified operator and the owner to sign the certified operator designation form. How would this be handled in a municipal/water district setting? Who is the "owner," who is the "certified operator." Are all of the the operators employed by an entity required to sign the form or only the "operator in responsible charge "required to sign this form? Is the "operator in responsible charge" the operator working a particular shift, or that operator's supervisor (also an operator) who may or may not be working that shift? Change language in this section so that these questions are cleared up. Specifically, make clear status of actual shift operator and supervising operator in terms of "operator in responsible charge." *When designating that someone is an operator for a system we intend for both the operator and the owner to acknowledge this relationship in writing. This will only need to be done when adding or removing an operator from a system.*