

ARCHIVE: Archived because revisions made to VAP rules in 2002 in OAC Chapter 3745-300 necessitate revisions to this guidance. However, this document is accurate under the 1996 VAP rules. Refer to VA30010.03.003 for the updated document.

OHIO EPA

DIVISION OF EMERGENCY AND REMEDIAL RESPONSE VOLUNTARY ACTION PROGRAM

FREQUENTLY ASKED QUESTION # 13:

Determination that not less than 90% (or 75%) of the parcels within the city or township are connected to a community water system

PURPOSE

This series of fact sheets is intended to provide guidance regarding the Agency's position concerning the interpretation of certain Voluntary Action Program (VAP) rule requirements. The information provided within this fact sheet is based upon Agency evaluation of several Urban Setting Designation (USD) submitted as assistance provided for several USD technical assistance projects.

QUESTION

How should a certified professional determine whether 90 % or 75% of the parcels are connected to a community water system per the Voluntary Action Program Rules OAC 3745-300-10 (D)(1)(b)? This is answered by considering the following questions.

1. What does "parcel" mean?
2. What does "connected to a community water supply" mean?
3. What is considered a tapable distance?
4. How does one determine if 90% or 75% of the parcels are connected?

5. What does the rule mean by “the parcels not connected are and will be unaffected by hazardous substances or petroleum on or emanating from the property”?
6. If it is determined that 90% of the parcels are not connected but over 75% of the parcels are connected, how is it determined that the unconnected parcels are not being affected by the voluntary property?

BACKGROUND

OAC 3745-300-10(D)(1)(b) states that to obtain an Urban Setting Designation, not less than 90 percent of the parcels within the city or township where the property or properties for which designation is requested is located must be connected to a community water system. If less than 90 percent but greater than 75 percent are connected¹, an urban setting can still be obtained if the parcels not connected are and will be unaffected by hazardous substances or petroleum on or emanating from the property.

A community water system (CWS) is defined in Ohio’s Public Drinking Water Program as a public water system which serves at least fifteen service connections used by year-round residents or regularly serves at least 25 year-round residents. A public water system (PWS) is defined as system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year [OAC 3745-81-01(PP)].

This guidance will present Ohio EPA’s interpretation and clarify its position concerning certain portions of Rule 3745-300-10-(D)(1)(b).

ANSWER

1. What does “parcel” mean?

For the purpose of this guidance, parcel refers to area real property defined for tax purposes.

2. What does “connected to a community water supply” mean?

To be considered connected, the parcel must be **currently** supplied or capable of being supplied by a CWS. A parcel is considered supplied if it has a billing account with the CWS or has distribution lines from another parcel that has a billing account with the CWS. An example of a parcel that is currently capable

¹The rule language that “if less than 90 per cent of the parcels within *½ mile of the property* being designated is connected to a community water system” is in error. The 90 per cent connected applies to the city or township where the property or properties for which the designation is requested is located.

of being supplied is one where there are on-parcel distribution lines, but they are not turned on or that the parcel is within a distance reasonably accessible to a water supply line capable of being tapped (tapable distance).

In some instances, parcels may not need to be adjacent to distribution lines to be considered capable of being supplied and, therefore, connected. Some industries/businesses may own property that consists of multiple tax parcels. Some of these parcels are clearly connected to a CWS by distribution lines. Other parcels may not be physically connected, but may be used for purposes that rely upon the water use of the connected parcel. For one of these parcels to be considered connected, the parcel must be designed for human occupancy. This may include, but not be limited to, parcels containing parking lots/garages that are affiliated with adjacent parcels that are connected to a CWS (e.g., employee, church, school, hospital parking lots.)

Parcels not within a tapable distance and not intended or used for human occupancy (i.e., no buildings, the "back 40" of a industry, etc) that are part of a group of parcels with one or more other connected parcels would **not be considered connected**. These areas for the most part are unimproved, and could have multiple uses, not just an industrial or commercial use designed for human occupancy.

The presence of nearby water mains should not be used by itself to determine whether a parcel is connected. Any determination that a parcel is connected should be supported by other lines of evidence, such as:

- The existence of a city ordinance that requires the parcel/property to be connected to the CWS.
- The absence of wells on the parcel used for potable purposes.
- The absence of any legal restrictions or physical barriers which would preclude connection to the CWS.
- The determination that the CWS has the capacity to supply water to the unimproved parcels.

3. What is considered a tapable distance?

This distance to the water supply lines may vary from city to city. A rule of thumb would be 25 feet if the water supply line is in the easement in front of the house and 50 to 100 feet if the easement is across the street from the parcel, depending on the width of the street. This distance may be greater for cities that have an ordinance that requires a parcel be connect if it is a specified distance from distribution lines.

Water Distribution Lines along with Plat Maps may be used to determine whether a parcel can reasonably be expected to be connected.

4. How does one determine if 90% or 75 % of the parcels are connected?

For demonstrating whether 90% or 75% of the parcels in a city or township are connected to a CWS, the certified professional (CP) should start with the following calculation:

$$\%CONNECTED = \frac{WC - MC}{TP} \times 100$$

Where:

TP: # of tax parcels

WC: # water connections

MC: multiple connections to a single parcel*

*Single parcels with multiple connections may include: High-rise apartments, condominiums, apartments that have separate billing accounts for subunits within the complex.

The following qualitative indicators may be helpful in providing additional lines of evidence to support the demonstration that greater than 90% (or 75%) of the parcels are connected.

Ordinances to connect to CWS. Ordinances may require residents/businesses to connect to the community water system. An ordinance may be universally applied with the jurisdiction or be limited to subset of the jurisdiction such as condominiums. The ordinance must be well-established in the community, enforceable and monitored to effectively eliminate the use of ground water for drinking water purposes.

The evaluation of such ordinances as reliable ground water use restrictions will depend on how well the ordinance is enforced and regularly monitored, and how long the ordinance has been in existence. For example, if highly enforced and monitored this would be considered a very high weight of evidence. The CP will need to provide documentation as to how the ordinance is enforced and monitored.

Well Ban. A ban restricting well installation and a requirement for property owners to discontinue using existing ground water wells at their properties would provide documentation to a CP who is looking for ways of increasing

the weight of evidence showing that “occupied/developed” parcels are connected to a public water supply.

The evaluation of the well ban as a reliable ground water use restriction will depend on how well the ordinance is enforced and monitored, and how long the ordinance has been in existence. If highly enforced and monitored this would be considered a very high weight of evidence. The CP will need to provide documentation as to how the ordinance is enforced and monitored.

Water Distribution Lines along with Plat Maps may be used to determine whether a parcel can reasonably be expected to be connected. A CP can compare distribution lines from the public drinking water system with city plat maps to establish areas served *versus* accessibility to the public drinking water system. This comparison may help in demonstrating that an area of the city has access to public drinking water system and could reasonably be expected to be connected.

Census Data. This information may be useful to help establish the number of people within the city that indicated they were served by a CWS.

5. What does the rule mean by “the parcels not connected are and will be unaffected by hazardous substances or petroleum on or emanating from the property”?

This means that a plume from the voluntary property will not migrate to locations underlying the parcels that are not connected to the community water supply. This does not mean that no receptor populations have been identified on those parcels.

6. If it is determined that 90% of the parcels are not connected but over 75% of the parcels are connected, how is it determined that the unconnected parcels are not being affected by the voluntary property?

This could be demonstrated by showing that the unconnected parcels are upgradient of the property. Also fate and transport modeling could be used to demonstrate that ground water beneath the unconnected parcels would not be impacted by contaminants above the unrestricted potable use standards.