

ARCHIVE: Archived due to the 2009 rule revision. Refer to VA30010.09.004 for the updated document.

TITLE: Determination That Not Less Than 90% of Parcels Are Connected to a Community Water System for an Urban Setting Designation

DATE

EFFECTIVE: August 2003

HISTORY: Update of VA30010.98.014 (FAQ #13) - Revision was necessary to conform to rule revisions that became effective on October 21, 2002. However, the archived TDC document remains accurate under the 1996 VAP rules.

KEYWORDS: Urban Setting Designation (USD), parcels, percent connected

RULE/

AUTHORITY: OAC 3745-300-10(D)(1)(b) and (c)

QUESTION: How should a Certified Professional determine whether 90% of the parcels are connected or are capable of being connected to a community water system per the Voluntary Action Program Rules set forth in 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% of the parcels are connected?
5. What does OAC 3745-300-10(D)(1)(c)(i) mean by "the parcels that are or capable of being connected to a community water system will be unaffected by hazardous substances or petroleum on or emanating from the properties within the urban setting designation"?
6. How is it determined that unconnected parcels are not being affected by properties within the USD?
7. What does OAC 3745-300-10(D)(1)(c)(ii) mean by "installation of well(s) used for potable water supply purposes at the parcels that are not connected or capable of being connected to a community water supply would be impractical for reasons other than ground water quality or the presence of a community water system"?

8. If it is determined that 90% of the parcels are not 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 USD, 90% of the parcels within the city or township or alternatively, within 1 mile of the proposed USD must be connected to a community water system. OAC 3745-300-10(D)(1)(c) states that if less than 90% are connected, an urban setting can still be obtained. In this case, it must be demonstrated that 1) those parcels not connected or not capable of being connected are and will be unaffected by hazardous substances or petroleum on or emanating from the property, or 2) it is physically impractical to install a well at an unconnected parcel.

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 (OAC 3745-81-01(AAA)(1)). A public water system (PWS) is defined as a 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 for at least 60 days out of the year (OAC 3745-81-01(AAA)).

ANSWERS:**1. What does "parcel" mean?**

For the purpose of this guidance, parcel refers to an area of real property with specific boundaries used for real property tax identification purposes.

2. What does "connected or capable of being connected" to a community water supply" mean?

To be considered connected or capable of being 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 capable of being supplied is one where there are on-parcel distribution lines, but they are not turned on, or 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 considered connected for the purposes of the rule because the parcel relies on the water used 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 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 presence of legal restrictions that prohibit the use of ground water; and/or
- 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 parcel 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 connected 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% of the parcels are connected?

For demonstrating whether 90% 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, or apartments that have separate billing accounts for subunits within the complex.

The following qualitative indicators may be helpful in providing additional evidence to support the demonstration that greater than 90% of the parcels are connected or capable of being connected:

Ordinances to connect to CWS Ordinances may be in place that require residents or businesses to connect to the CWS. An ordinance may be universally applied within a jurisdiction or be limited to a subset of the jurisdiction. 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 an ordinance as a reliable ground water use restriction will depend on how well the ordinance is enforced and regularly monitored, and how long the ordinance has been in existence. For example, an ordinance that is highly enforced and monitored would be considered strong 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 strong evidence. The CP will need to provide documentation as to how the ordinance is enforced and monitored.

Water Distribution Lines along with Plat Maps This information 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 OAC 3745-300-10(D)(1)(c)(i) mean by “the parcels that are or capable of being connected to a community water system will be unaffected by hazardous substances or petroleum on or emanating from the properties within the urban setting designation”?

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. How is it determined that the unconnected parcels are not being affected by the voluntary action property?

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

- 7. What does OAC 3745-300-10(D)(1)(c)(ii) mean by “installation of well(s) used for potable water supply purposes at the parcels that are not connected or capable of being connected to a community water supply would be impractical for reasons other than ground water quality or the presence of a community water system”?**

Poor water quality or the presence of the community water supply can not be used as documentation that it is impractical to install a well. Physical criteria, such as, the parcel is in the right-of-way of a highway or airport, or the topography is such that a drill rig cannot access the parcel can be used to demonstrate impracticality of well installation. In addition, legally enforceable restrictions on the use of ground water can also be used.

OHIO EPA
CONTACT:

For any questions concerning this issue, please contact the VAP Central Office at (614) 644-2942 or DDAGW-VAP support staff at (614) 644-2752.