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# ENVIRONMENTAL Fact Sheet

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## Am I a Public Water System?

When planning to develop property, arguably one of the most important considerations is the availability of potable water. Unfortunately, sometimes design and permitting of drinking water and wastewater infrastructure is not done until late in the process, creating significant issues or conflicts with other plans for the development.

NHDES Drinking Water and Groundwater Bureau (DWGB) staff are available for informal pre-application discussions, preferably at the time when the subdivision or development is first proposed. We strongly encourage developers and their consultants to reach out to us early in the process of planning a development to discuss the relevant drinking water regulations.

One question we commonly receive from developers and consultants is, “Does the drinking water system being proposed for my proposed development meet the definition of a ‘public water system’ [PWS] and therefore fall under NHDES rules and regulations?” And relatedly, “Are multiple drinking water wells with separate distribution systems considered together when determining whether they qualify as a PWS under federal and State law?”

In short, the **installation of multiple wells even with physically separate distribution systems may create a PWS**. This fact sheet is intended to help answer these questions and provide clarification of how drinking water systems are classified as either a PWS or not.

### Statutory authority

The State of New Hampshire and federal Safe Drinking Water Acts protect public health by regulating the design, construction, operation, maintenance, monitoring and water quality of public water systems.

The New Hampshire Safe Drinking Water Act RSA 485:1-a, XV defines a “public water system” as:

A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

NH Code of Administrative Rules [Env-Dw 401](#) sets forth how NHDES determines the population being served for purposes of determining whether or not the definition of a PWS is met and how NHDES classifies a PWS as community or non-community.

New Hampshire law provides that the term “operator” means “the individual who has direct management responsibility for the routine supervision and operation of a public water system or of a water treatment plant or collection, treatment, storage, or distribution facility or structure that is a part of a system.” RSA 485:1-a, XII.

### **Implementation of the PWS definition**

The following questions are considered by NHDES when determining whether a water system is classified as a PWS:

1. Are the components under control of the same operator?
2. Are the underlying land or components owned by the same entity?
3. Does such ownership demonstrate ultimate operational control?
4. Do what appear to be two, or more, separate structures actually share other components of infrastructure such as a common building pad, local heating source (like an on-site boiler), local electrical source (such as an on-site generator), etc.?
5. Do separate structures function as one building, for instance, two buildings of the same apartment complex?
6. Are separate buildings marketed as a unitary entity, for example, multiple apartment buildings marketed together as “New Hampshire Estates”?

### **For more information**

Again, we strongly encourage developers and their consultants to reach out to DWGB early in the process of planning a development to discuss the relevant drinking water regulations.

For additional information, please contact the DWGB at [\(603\) 271-2513](tel:6032712513) or [dwengineering@des.nh.gov](mailto:dwengineering@des.nh.gov) or visit our website at [www.des.nh.gov](http://www.des.nh.gov).

*Note: This fact sheet is accurate as of March 2025. Statutory or regulatory changes or the availability of additional information after this date may render this information inaccurate or incomplete.*