

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PUBLIC HEARINGS
DG-39-10

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 227.11(2)(a) and 281.348, Stats., and interpreting s. 281.348, Stats., the Department of Natural Resources will hold public hearings on the creation of Wis. Adm. Code chapter NR 854 Water Supply Service Area Plans, relating to the establishment of a statewide water supply service area planning process for operators of public water supply systems. The rule establishes a planning process covering a 20-year period for public water supply systems serving populations of 10,000 or more to help ensure that those systems sustainably provide an adequate quantity and quality of water to their customers.

NOTICE IS FURTHER GIVEN THAT the hearings will be held on:

December 14, 2010, Tuesday, 2:00 p.m. Concurrent sessions will be held at the following two locations: : the University of Wisconsin – Milwaukee, Lubar Hall, Room S-250, 3202 N. Maryland Avenue, Milwaukee, WI 53211(<http://www4.uwm.edu/map/buildings/vt-lub-prof.cfm>) **AND** the University of Wisconsin – Green Bay, Instructional Services Building, Room 1034, 2420 Nicolet Drive, Green Bay, WI 54311 (<http://www.uwgb.edu/team/maps/index.htm>).

December 15, Wednesday, 2:00 p.m. Concurrent sessions will be held at the following two locations: the University of Wisconsin -- Eau Claire, Old Library, Room OL1132, 105 Garfield Avenue, Eau Claire, WI 54702-4004 (<http://www.uwec.edu/Maps/campmap.htm>) **AND** The Pyle Center, Room 232, 702 Langdon Street, Madison, WI 53702 (<http://www.map.wisc.edu/>)

NOTICE IS FURTHER GIVEN that the proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. (Search the Web site using Natural Resources Board Order No. DG-39-10). Written comments on the proposed rule may be submitted via U.S. mail to Mr. Dino Tisoris, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707-7921 or by e-mail to Constantine.Tsoris@wisconsin.gov. Comments may be submitted until December 31, 2010. Written comments, whether submitted electronically or by mail, will have the same weight and effect as oral statements presented at the public hearings. If you do not have Internet access, a personal copy of the proposed rule and supporting documents may be obtained from Dino Tisoris, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707-7921 or by calling (608) 267-4581.

Plain Language Analysis: This rule supports the implementation of s. 281.348, Stats., as created in 2007 Wisconsin Act 227, to establish a continuing water supply service area planning process for persons that operate public water supply systems that serve a population of 10,000 or more and any person that operates a consecutive water supply system that receives water from a public water supply system required to prepare a plan under this rule. Persons required to prepare a water supply service area plan under this rule must have an approved plan by December 31, 2025. However, persons proposing a new or increased withdrawal from the waters of the Great Lakes basin must prepare a water supply service area plan prior to receiving approval for the new or increased withdrawal. The rule also applies to any person proposing a new or increased diversion from the Great Lakes Basin – regardless of the size of the population. Persons requesting a new or increased diversion must have an approved water supply service area plan before the department will grant an approval of a new or increased diversion. The purpose of water supply service area planning is to systematically evaluate alternative means of supplying water to a delineated water supply service area and to identify a cost-effective water supply alternative for the 20-year planning period.

The proposed rule requires that persons preparing a water supply service area plan: include the identification of water supply options that are based on a cost-effectiveness analysis of regional and individual water supply and water conservation alternatives; delineate a water supply service area; forecast populations and water demands; establish population densities and population forecasts;

assess environmental impacts of implementing water supply alternatives; analyze how the plan is consistent with comprehensive and other planning processes; and conduct a public participation process, including review and comment, for a proposed water supply service area plan.

Federal Regulatory Analysis: There are no comparable federal regulations pertaining to a water supply service area planning process.

Comparison with Rules in Adjacent States: The following table compares water supply service area planning requirements in adjacent states.

Water Supply Service Area Planning Comparison				
Wisconsin	Michigan	Illinois	Iowa	Minnesota
A water supply planning process is established for public water supply systems that serve populations of 10,000 or more or persons proposing a new or increased diversion of Great Lakes water. The planning process includes a cost-effectiveness analysis of water supply and water conservation alternatives that can sustainably supply an adequate amount of water of sufficient quality. The water supply service area plan must include a delineation of the water supply service area, describe current and projected water demands, and describe plans to meet projected water demand. The plans shall also assess environmental impacts. The rule also establishes a public participation process, timelines for plan submittal by December 31, 2025, and a department plan approval process.	Publicly owned and operated community water suppliers that operate a waterworks system are required to submit a general plan that identifies water system needs for 5-year and 20-year planning periods by January 1, 2016. The general plan may include information about current reliability studies, annual pumpage reports, a sample siting plan, a water protection plan, a water conservation and efficiency program, waterworks operation and maintenance programs, regional planning documents and relevant land use plans for the service area. Administrative rules require a public water supply system to conduct a hydrogeological study of the groundwater source to determine the availability of water and consideration of other hydrogeological conditions and water quality assessments. Administrative code also requires public water systems proposing use of a surface water supply to conduct an assessment of surface water sources including a determination of the availability of an adequate and dependable water supply source.	A water supply planning process is conducted for two regional planning agencies in the state that includes the Northeast Region and the East-Central Region. The establishment of the two water supply planning areas is based on population densities and establishment of priority watersheds in the state. The water supply plans include an evaluation of water use, water demand and future water demand projections through 2050. The water supply plans also evaluate future water supply options based on hydrogeology studies of the area, water conservation, and climate change through 2050.	A Self-Assessment Manual is used to assess Iowa water system viability. The manual is a tool for public water systems to appraise their technical, managerial, and financial capability to provide water supply to their customers. The assessment includes determining the availability and adequacy of water supply sources; treatment requirements; infrastructure needs; operation and maintenance; management and administration; finances; and future planning.	All public water supply systems that serve more than 1,000 people must submit a water supply plan every 10 years for approval. The water supply plans must include a description and evaluation of the water supply system that includes an analysis of water demand, water use trends, treatment and storage capacity, a description of water sources, natural resource impacts, resource sustainability, proposed water sources, alternative capital improvement plan, emergency response procedures, and a water conservation plan.

Summary of the Factual Data and Analysis that Support the Proposed Rule: Information from published scientific literature, industry manuals, information from other states and consultation with the Wisconsin Public Service Commission were reviewed in the development of the core elements of the rule. Additionally, the department considered the input from an advisory committee, which included

representatives from public water supply systems, municipal and town organizations, urban planners and environmental organizations in the development of the water supply service area planning process.

Analysis and Supporting Documentation in Support of the Determination of the Rule's Effect on Small Business: The proposed rule is estimated to affect approximately 77 public water supply systems serving populations of 10,000 or more throughout the state. The rule will affect public water supply systems owned or operated primarily by a city, village, town, utility district or municipal water district.

Effect on Small Business: Persons responsible for submitting a water supply service area plan are owners or operators of public water supply systems. Costs associated with the water supply service area planning process will be managed by the operator of a public water supply system. The costs may be passed on to the customers of the public water supply system through utility rate increases subject to PSC approval and those customers would include small businesses. Costs are likely to be very case specific; however, the department anticipates that any individual utility rate increase resulting from costs imposed by this rule would be relatively small since the costs would be distributed among all customers that the public water supply system serves (residential, commercial and industrial) and due to the 20-year planning period over which the costs could be distributed.

Fiscal Estimate: A fiscal estimate has been prepared and a full copy can be obtained following the procedures set forth above.

The department estimates that there are 77 public water supply systems that will need an approved water supply service area plan by December 31, 2025. The department estimates that 10 or fewer public water systems may need an approved water supply service area plan prior to the December 31, 2025 date.

As described below, the department assumes that the annualized costs to public water supply systems is relatively low; in part because many municipalities already conduct some level of water supply service area planning. Local governments may choose to pay for these costs out of existing funds. However, the costs will be incurred at the beginning of the planning period, and if the existing water utility revenues are insufficient to cover these up-front planning costs, the department assumes that public water supply systems regulated by the Public Service Commission (PSC) will have the option to recover the water supply planning costs from water supply users in a variety of ways.

The department estimates that the annual cost for water supply service area planning affecting local governments will be the amounts described below.

- 1) The department estimates that 38 public water supply systems will plan to meet the projected water demand with new or enlarged water supply facilities. The cost estimate to prepare a water supply service area plan for public water supply systems that plan to meet water demand with new or enlarged facilities is \$57,300. The department assumes that the \$57,300 cost to prepare the plan would be spread over a 20-year planning period: therefore the annual cost would be $\$57,300/20 = \$2,900$.
- 2) The department estimates that 19 public water supply systems will need to meet the projected demand with existing water supply facilities. The cost estimate to prepare a water supply service area plan with existing supplies is \$27,300. The department assumes that the \$27,300 cost to prepare the plan would be spread over a 20-year planning period: therefore the annual cost would be $\$27,300/20 = \$1,400$.
- 3) The department estimates that 20 consecutive systems will have to prepare a water supply service area plan that includes a delineation of the water supply service area, a description of the water supply system, and forecast population and water demand. The cost estimate for consecutive systems to prepare a water supply service area plan is \$16,500. The department assumes that the \$16,500 cost to prepare the plan would be spread over a 20-year planning period; therefore the annual cost would be $\$16,500/20 = \800 .

Agency Contact Person: Dino Tisoris, Water Supply Specialist, Wisconsin Department of Natural Resources, Bureau for Drinking Water and Groundwater, (608) 267-4581, Constantine.Tisoris@wisconsin.gov.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have an economic impact on small businesses. The department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@wisconsin.gov or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based upon the comments received, the department may prepare an environmental analysis before proceeding with the proposal. The environmental review document would summarize the department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call James McLimans at (608) 266-2726 with specific information on your request at least 10 days before the date of the scheduled hearing.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Matthew J. Frank, Secretary