

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: DG-22-20

Relating to: Revisions to ch. NR 811, Wis. Adm. Code, to update, correct and clarify existing code requirements and add requirements for new technologies related to community drinking water system sources, source water quality, storage, treatment, and distribution.

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

Not applicable. The rules will be proposed as permanent rules.

2. Detailed description of the objective of the proposed rule:

The primary objectives of ch. NR 811, Wis. Adm. Code, revisions are to correct, clarify and update design and construction standards and address new technologies related to community drinking water systems. Specific objectives include:

- a. Modify, add and clarify NSF/ANSI Standard 61 certification requirements for all materials or products coming in contact with finished water.
- b. Modify, add and clarify groundwater well design including siting, construction, rehabilitation, reconstruction and abandonment.
- c. Modify, add and clarify groundwater and surface water treatment facility design including construction, reconstruction, treatment technologies, facility layout, equipment, piping, storage and disposal of waste.
- d. Modify, add and clarify finished water storage design including siting, construction, rehabilitation, reconstruction and decommissioning.
- e. Modify, add and clarify distribution and transmission system design including separation distance to potential contamination sources, installation, construction, location of appurtenances, rehabilitation technologies, testing and abandonment.
- f. Modify, add and clarify drinking water system building construction requirements.
- g. Modify, add and clarify source water quality treatment requirements.
- h. Modify, add and clarify exemptions or alternative code requirements for other-than-municipal community drinking water systems.
- i. Remove code requirements that may be conflicting or are no longer applicable.
- j. Address grammatical errors and inconsistencies.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter NR 811, Wis. Adm. Code, contains the engineering and construction requirements for community water system sources, source water quality, storage, treatment, and distribution. Proposed revisions are intended to address two major areas:

- Clarify and update existing code requirements.
- Add requirements that allow the use of new technologies and water industry standards.

Alternatives to addressing these two areas are:

| Policy Area | Alternatives | Comments |
|---|--|--|
| Clarify language | No rule revision Program guidance Clarify language | - Failure to clarify code language maintains confusion for the regulated community, inconsistent implementation, and inefficiency for DNR staff. - Program guidance has been issued to provide implementation clarity but does not have force of law. |
| Address new technologies and water industry standards | No rule revision Program guidance | - Failure to address new technologies creates confusion on whether technologies not specifically regulated in code are compliant. - Program guidance has been issued to address some new technologies but does not have force of law. |

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 227.11(a)(intro.), Wis. Stats., provides that a state agency, “may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute,” subject to certain restrictions.

Chapter 280, Wis. Stas., established the statutory authority and framework for regulation of community water systems. Section 280.11(1), Wis. Stats., specifically directs the department to prescribe, publish, and enforce minimum reasonable standards and rules for methods to be pursued to obtain pure drinking water for human consumption, and to establish safeguards deemed necessary in protecting the public health against the hazards of polluted sources of impure water supplies intended or used for human consumption. This statute gives the department general supervision and control over all methods of obtaining groundwater for human consumption, authority to prescribe, amend, modify or repeal any applicable rule and to perform any act deemed necessary for the safeguarding of public health.

Section 281.41(1), Wis. Stats, gives the department authority to require complete plans of proposed system drinking water systems for extensions, maintenance, operation and other information that the department requires.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The department estimates that 850-900 hours of state employee time will be required to complete the promulgation of the proposed rule.

6. List with description of all entities that may be affected by the proposed rule:

The proposed rule will affect the following entities:

- Municipal community water systems (cities, townships, sanitary districts)
- Other-than-municipal community water systems (mobile home parks, apartment buildings, condominium associations)
- Wisconsin Department of Natural Resources
- Wisconsin Department of Safety and Professional Services
- Wisconsin Department of Agriculture, Trade and Consumer Protection
- Wisconsin Public Service Commission
- Engineering consulting firms
- Well drillers and pump installers

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

Federal law does not directly regulate the construction of operation and design of community water systems. For public drinking water systems, Wisconsin has state primacy, with the primary responsibility to enforce state drinking water regulations consistent with the federal Safe Drinking Water Act. One federal requirement of Wisconsin's primacy role is that the state assures that the design and construction of new or modified public water system facilities will be capable of compliance with the state and federal primary drinking water regulation.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):

The department's preliminary determination is that the proposed rule changes to ch. NR 811, Wis. Adm. Code will have a moderate impact (\$50,000 to less than \$5 million per year and with unquantifiable human health benefits). Overall the proposed changes are expected to clarify and update existing code requirements as well as add requirements that allow the use of new technologies and water industry standards. The anticipated impact of this rule will include small business entities regulated under ch. NR 811, Wis. Adm. Code. Including small businesses, the anticipated implementation costs may include increased documentation and certification requirements. Cost savings are also anticipated by allowing increased flexibility in the selection of materials, technologies and design conditions.

9. Anticipated number, month and locations of public hearings:

The department anticipates holding four concurrent public hearings in December 2022. Hearing cities are expected to be: Eau Claire, Wausau, Green Bay, and Madison. Video conferencing will be used to hold all hearings concurrently, reducing DNR staff time and travel costs. These four locations are expected to provide convenient access to public hearings for interested parties around the state.

Contact Person:

Cathrine Wunderlich, Public Water Engineering Section Chief
(608) 886-0864
cathrine.wunderlich@wisconsin.gov