



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 310 [2003 Assembly Bill 926]	High Capacity Wells
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

2003 Wisconsin Act 310 sets new standards and conditions for approval of high capacity wells by the Department of Natural Resources (DNR) and other requirements for the management of the use of groundwater. The Act defines a high capacity well as “a well that, together with all other wells on the same property, has a capacity of more than 100,000 gallons per day.”

Statewide Regulations and Programs

The Act requires the owner to obtain approval of a high capacity well by the DNR prior to construction, pay a fee of \$500, and submit an annual pumping report to DNR. For any new well that is not a high capacity well, the owner must notify DNR of the well location prior to construction and pay a fee of \$50. These fees fund the administration of the permits and programs created by the Act, including DNR monitoring and research relating to groundwater management.

If a proposed high capacity well may impair the water supply of a public utility engaged in furnishing water to the public, the DNR is required to include conditions in the approval of that well, e.g., limits on depth or pumping capacity, to ensure that the utility’s water supply will not be impaired. This requirement is continued from prior law.

Under the Act, DNR may modify or rescind the approval of any high capacity well, whether approved under the new statute or the prior statute, if the well or its use is not in conformance with standards or conditions applicable to the approval of the well.

Regulation of Designated Wells With Potentially Significant Environmental Impact

The Act requires DNR to undertake an environmental review under ch. NR 150, Wis. Adm. Code, for the following proposed high capacity wells (referred to below as designated wells):

- A high capacity well proposed in a “groundwater protection area” (an area within 1,200 feet

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

of an outstanding or exceptional resource water or any class I, II, or III trout stream as designated by DNR, but excluding trout streams that consist of a farm drainage ditch with no prior stream history).

- A high capacity well that may have a significant environmental impact on a spring (an area of groundwater discharge at the land's surface that results in a flow of at least one cubic foot per second for at least 80% of the time).
- A high capacity well where more than 95% of the amount of water withdrawn will be diverted from the basin or consumed.

The Act requires DNR to impose conditions on the approval for any of these wells if the DNR determines pursuant to its environmental review that an environmental impact report must be prepared by the applicant for the proposed well. These conditions must assure that these wells do not cause significant environmental impact.

If a proposed high capacity well will be a public utility water supply, and the well will be in a groundwater protection area or may have a significant environmental impact on a spring, DNR must use an alternate set of approval criteria. The DNR must determine that there is no other reasonable alternative location for the well, and the DNR must impose conditions on the approval that balance the well's environmental impact and its public health and safety benefits.

The Act directs DNR to administer a mitigation program for wells of all sizes in groundwater protection areas. Under the program, DNR may require abandonment or replacement of a well, and other management strategies, in order to mitigate the effects of wells constructed in those areas before the Act's effective date. DNR may only require mitigation if it can provide funding for the full cost of mitigation, unless abandonment is necessary to protect public health.

The Act establishes a groundwater advisory committee consisting of 14 members and directs it, by December 31, 2007, to review the implementation of the Act and recommend further changes in the regulation of the designated wells, identified above, including adaptive management strategies.

Groundwater Management Areas

The Act requires DNR to designate, by rule, two groundwater management areas in the areas including and surrounding Brown and Waukesha Counties. These areas are to consist of each city, village, and town at least a portion of which is within the area determined by DNR to have greater than a 150-foot decline in the level to which groundwater will rise in a well placed in the aquifer as the result of groundwater withdrawal. The Act directs DNR to assist local governmental units and regional planning commissions in those areas, including funding groundwater management planning.

The Act directs the groundwater advisory committee, by December 31, 2006, to recommend legislation and administrative rules to address the management of groundwater in groundwater management areas and any other areas of the state where a coordinated strategy is needed to respond to the adverse effects of long-term groundwater withdrawal on water quality and quantity. If the committee fails to submit this report, DNR may adopt rules using its existing statutory authority to address the management of groundwater in groundwater management areas, including a mitigation program comparable to the one in groundwater protection areas.

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