

98-151 - NR 809 - WATER SYS
CAPACITY

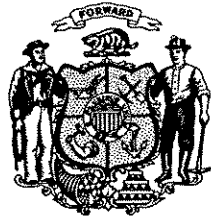
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-151

AN ORDER to create subchapter VIII of chapter NR 809, relating to water system capacity for community and nontransient noncommunity water systems.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

10-09-98 RECEIVED BY LEGISLATIVE COUNCIL.

11-06-98 REPORT SENT TO AGENCY.

RS:MCP:jal;kjf

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

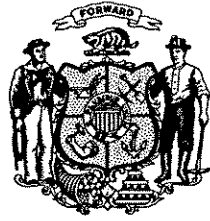
Comment Attached YES NO

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CLEARINGHOUSE RULE 98-151

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. The statement of statutory authority and statutes interpreted should include a reference to s. 281.17 (9), Stats., as created by 1997 Wisconsin Act 27.

b. Section NR 809.932 (1) refers to a "new community or non-transient non-community water system." It is preferable to refer to a system constructed on or after a specified date.

4. Adequacy of References to Related Statutes, Rules and Forms

a. Section NR 809.932 (3) refers to a form provided by the department. The agency should ensure that the requirements of s. 227.14 (3), Stats., are met.

b. The cross-reference in s. NR 809.932 (4) should be to "sub (2) (a) to (e)."

c. The cross-reference in s. NR 809.932 (5) should be to "this chapter and ch. NR 812."

d. Section NR 809.932 (6) contains an incorrect cross-reference: there is not a rule numbered s. NR 811.13 (3) (b). Also, the last cross-reference should be to "sub (2)."

e. The cross-reference in s. NR 809.933 (2) (b) should be to "this chapter and ch. NR 811."

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The terms "municipal water system" and "other-than-municipal water system" are used in s. NR 809.932. These terms are defined in ch. NR 811. Should a definition of these terms be included in ch. NR 809?

b. In s. NR 809.932 (2) (n), the comma following the reference "809" should be replaced by the word "and."

c. In s. NR 809.933 (2) (a), a comma should be inserted following the second occurrence of the word "standards."

d. In s. NR 809.933 (2) (b), it appears that the word "of" should be inserted before the reference "chs. NR 809 and 811," in order to clarify that both chs. NR 809 and 811 are an alternative to the reference to ch. PSC 185.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

The Wisconsin Natural Resources Board proposes an order to create NR 809, subch. VIII relating to water system capacity for community and non-transient non-community water systems

DG-52-98

Analysis Prepared by Department of Natural Resources

amend (9)?
Statutory authority: 281.17 (8), Stats. and 280.11, Stats.
Statutes interpreted: 281.17 (8), Stats. and 280.11, Stats.

The 1996 Amendments to the Safe Drinking Water Act established a Drinking Water State Revolving Fund. The proposed changes to Chapter NR 809 are required by the Amendments to assure our administrative rules are consistent with federal regulations and to maintain eligibility for a full allotment from the Drinking Water State Revolving Fund.

SECTION 1. NR 809, subch. VIII is created to read:

**NR 809
Subchapter VIII -
Water System Capacity**

NR 809.931 SYSTEM CAPACITY. All new community and non-transient non-community water systems shall develop and maintain adequate financial, managerial and technical capacity to meet the requirements of this chapter and 42 USC 300f to 300j-26.

Note: 42 USC 300f to 300j-26 is entitled the federal safe drinking water act

NR 809.932 NEW SYSTEM CAPACITY EVALUATION. (1) *use a date* No new community or non-transient non-community water system may be constructed unless the owner of the proposed water system first demonstrates to the satisfaction of the department that the water system ~~shall~~ have and ~~shall~~ maintain adequate financial, managerial and technical capacity to meet the requirements of this chapter and the requirements of 42 USC 300f to 300j-26. *will*

Note: 42 USC 300f to 300j-26 is entitled the federal safe drinking water act

(2) To demonstrate its financial, managerial and technical capacity to the department, before beginning construction of a water system, the owner of a proposed community or non-transient non-community water system shall submit to the department a system capacity evaluation that includes all of the following:

(a) A written description of the water system design that includes all of the following:

1. The proposed well construction and the name of the water bearing formation for groundwater systems.

2. The name of the source water body and the intake length and intake location for surface water systems.

3. The proposed pumping capacity.

4. The proposed water treatment.

5. The proposed water storage volume.

6. The proposed length and diameter of water mains.

7. The proposed pressure range within the water system.

8. The proposed location of any pressure reducing valves or pressure booster stations.

9. A map or plat showing the proposed water system.

(b) An evaluation of the potential for the water quality to exceed any of the primary or secondary standards of this chapter based on a review of water quality information available from nearby existing wells or on the results of water quality monitoring from a test well for groundwater systems and based on water quality monitoring from the surface water for surface water systems.

(c) The anticipated average and maximum daily water use for the proposed water system.

(d) A site assessment for groundwater systems that includes all of the following:

1. The separation distances between the well and potential sources of contamination within the proposed wellhead protection area.

2. Any violation of the applicable separation distances contained in chs. NR 811 and 812.

3. The proximity of the well to any wetlands.

4. The location of the well in relation to the 100 year flood elevation.

(e) A source water assessment for surface water systems that includes the identification of potential sources of contamination in relation to the intake and the susceptibility of the water system to contamination.

(f) The anticipated number of industrial, commercial and residential water services.

(g) The initial and projected customer population and service area.

(h) Information for the identification, location and contact of the water system designer including the name, address, and telephone number of the system designer and designer's firm.

(i) The status of all department permits and approvals related to the construction of the water system.

(j) Information for the identification, location and contact of the water system owner including the name, address and telephone number of the water system owner and the extent of the owner's responsibility for the water system.

(k) Information for the identification, location and contact of the water system manager including the name, address and telephone number of the system manager.

(l) Information for the identification, location and contact of the water system operator including the name, address and telephone number of the designated or certified water system operator. If an operator has not been selected prior to submitting the capacity evaluation, a timetable for hiring an operator shall be included as part of the capacity evaluation in lieu of the information for the identification, location and contact of the water system operator. The water system may not be placed into operation until the department is provided with the information for the identification, location and contact of the water system operator required in this paragraph.

(m) A proposed water quality monitoring plan that includes monitoring for all of the following:

1. Total coliform bacteria.
2. Corrosion products, including lead and copper and associated water quality parameters.
3. Chemicals to be added to the water.
4. Other water quality monitoring required by the department as part of the construction plan approval. 7

(n) A description of the operational procedures required by chs. NR 809, 811 and PSC 185 related to wellhead protection, well abandonment, cross-connection control, operational reporting, meter testing, hydrant and valve exercising and operator certification. *and*

(o) A description of the rate or fee mechanism for other-than-municipal water systems.

(p) A copy of the public service commission certificate authorizing the construction and operation, and estimating rates, for municipal water systems regulated by the public service commission.

(q) A description of the method of payment for the construction and operation of the water system for non-transient non-community water systems.

(r) A statement from the water system owner on the financial capacity of the water system to meet the requirements of this chapter.

(3) The capacity evaluation shall be submitted on a form provided by the department or in a format approved by the department. *forms*

(4) The information in NR 809.932(2)(a) to (e) shall be prepared by a professional engineer for municipal water systems and by a professional engineer or licensed well driller for other-than-municipal or non-transient non-community water systems. *NR 809.932*

(5) The department may waive the requirement for the owner to supply information on well construction, well location, water quality monitoring, and operational procedures listed in sub. (2)(a) to (n) for non-community water systems provided that the owner acknowledges conformance to the requirements for well construction, well location, water quality monitoring, and water system operation contained in chs. NR 809 and 812. *this chapter and ch. NR*

(6) A single engineering or design report may be submitted to satisfy the requirements of s. NR 811.13(3)(b) and the capacity evaluation required by s. NR 809.932(2). *6*

NR 809.933 DEPARTMENT APPROVAL OF SYSTEM CAPACITY. (1) The construction of any new non-transient non-community or community water system may not commence without department approval of the system capacity evaluation demonstrating technical, financial and managerial capacity required in s. NR 809.932.

(2) The department may deny approval of the system capacity evaluation for any of the following reasons:

(a) The water system design does not conform to the applicable design and location standards, or approved variances to the standards contained in chs. NR 811 and 812 and Comm 82.

the department and ch. NR
(b) ~~The water system~~ operational procedures do not meet the applicable requirements of ch. PSC 185 or ~~chs. NR 809~~ and 811 related to wellhead protection, well abandonment, cross-connection control, operational reporting, meter testing, hydrant and valve exercising and operator certification.

(c) The water system monitoring plan does not conform to the applicable monitoring requirements of this chapter, approved variances to the requirements of this chapter, or to monitoring requirements established as part of the department construction approval under chs. NR 811 and 812.

(d) The system capacity evaluation is incomplete.

(e) The information provided does not demonstrate adequate financial capacity to meet the requirements of this chapter.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)