

BILL

1 (b) The findings of fact upon which the department determined that a violation
2 exists or that a condition authorizing an order exists.

3 (c) A compliance schedule or a date by which the order must be obeyed.

4 (3) Except as provided under sub. (5), an order issued under sub. (1) takes effect
5 30 days after the date on which the order is served, unless a person subject to the
6 order files a written request for a hearing before the expiration of the 30 days. The
7 department shall serve an order issued under sub. (1) by certified mail or personal
8 service. The person subject to an order has a right to a hearing if s. 227.42 (1) is
9 satisfied. If the request for a hearing is granted, the department shall stay the order
10 and conduct a contested case hearing under ch. 227 on the matter. The department
11 shall provide written notice to the person of the date, time, and place of the hearing
12 at least 10 days before the hearing.

13 (4) Following a hearing under sub. (3), the department shall affirm, set aside,
14 or, if necessary, modify the original order.

15 (5) (a) If necessary to protect public health, safety, or welfare or to prevent the
16 contamination of groundwater, the department may issue an order described in sub.
17 (1) as an emergency order that takes effect immediately or within 30 days after the
18 date of service, whichever is specified in the order. The department shall publish
19 each emergency order as a class 1 notice, under ch. 985, and shall serve the
20 emergency order on the person subject to the emergency order by certified mail or
21 personal service. In an emergency order, the department shall notify the person
22 subject to the order that he or she is entitled to a contested case hearing under ch.
23 227 if a request is filed within 30 days after the date on which the order is served.
24 The hearing shall be held as soon as practicable after receipt of the request. An
25 emergency order remains in effect pending the result of the hearing.

BILL

1 (b) The department may, without a prior hearing, issue an emergency order to
2 a person to whom an approval, as defined in s. 281.35 (1) (a), is issued to stop a
3 withdrawal, as defined in s. 281.35 (1) (m), immediately if the department
4 determines that there is a danger of imminent harm to the public health, safety, or
5 welfare, to the environment, or to the water resources or related land resources of
6 this state. In the emergency order, the department shall specify the date on which
7 the withdrawal must be stopped and the date, if any, on which it may be resumed.
8 In the emergency order, the department shall notify the person subject to the order
9 that he or she is entitled to a contested case hearing under ch. 227 if a request is filed
10 within 30 days after the date on which the order is served. The department shall hold
11 the hearing as soon as practicable after receipt of a request for a hearing. An
12 emergency order remains in effect pending the result of the hearing.

13 (5m) (a) The department may issue orders directing particular owners of water
14 systems to remedy violations of the safe drinking water program under ss. 280.03 (1)
15 or (8m) and 280.05 (1) (f), within a specified time. Pending efforts to comply with any
16 order, the department may permit continuance of operations on the conditions that
17 it prescribes. If any owner cannot comply with an order within the time specified,
18 the owner may, before the date set in the order, petition the department to modify the
19 order. The department may modify the order, specifying in writing the reasons for
20 the modification. If any order is not complied with within the period specified, the
21 department shall notify the attorney general of ^{the failure to comply} ~~this fact~~. After receiving the notice,
22 the attorney general may commence an action under s. 280.46 (1) (b).

23 (b) The department may issue temporary emergency orders to remedy
24 violations described in par. (a) without prior hearing when the department
25 determines that the protection of the public health necessitates immediate action.

BILL

1 Emergency orders shall take effect at the time the department specifies. As soon as
2 is practicable, the department shall hold a public hearing after which it may modify
3 or rescind the temporary emergency order or issue a special order under par. (a).

4 (c) 1. Any owner may secure a review of the necessity for and reasonableness
5 of any order of the department under this subsection or s. 280.50 by first filing with
6 the department a petition setting forth specifically the change desired in the order.
7 The petition must be filed within 60 days of the issuance of the order sought to be
8 reviewed. Upon receipt of a petition the department shall order a public hearing on
9 the order and make whatever further investigation it determines is advisable.
10 Pending the review and hearing, the department may suspend the order under terms
11 and conditions to be fixed by the department on application of the petitioner. The
12 department shall affirm, repeal, or change the order within 60 days after the close
13 of the hearing on the petition.

14 2. The determination of the department under subd. 1. is subject to review
15 under ch. 227.

16 (6) In addition to issuing an order under this section, the department may
17 proceed under s. 280.28.

18 (7) The department may record an order under sub. (1) that relates to a water
19 system, well, or other drill hole with the register of deeds of the county in which the
20 water system, well, or other drill hole is located. If an order is recorded and the
21 person complies with the order, the department shall record a satisfaction of the
22 order with the register of deeds.

23 (8) In lieu of recording an order under sub. (7), the department may record an
24 affidavit that sets forth facts showing that a violation or a condition exists, relating
25 to a water system, well, or other drill hole, that would authorize the department to

BILL

1 issue an order under sub. (1). In an affidavit recorded under this subsection, the
2 department shall include a legal description of the property on which the water
3 system, well, or other drill hole is located. An employee of the department shall sign
4 the affidavit. If a person corrects the violation or the condition, the department shall
5 record an affidavit describing that correction.

6 **280.42 Inspection authority.** (1) For purposes of administering and
7 enforcing this chapter or any rule promulgated under this chapter, any authorized
8 representative of the department who presents appropriate identification may, at
9 any reasonable hour, enter public or private property to do any of the following:

10 (a) Inspect and obtain samples from any water system, well, or other drill hole.

11 (b) Conduct an investigation or inspection to ensure compliance with this
12 chapter or with any rule promulgated or order issued under this chapter.

13 (c) Inspect records that the department requires to be kept.

14 (2) If an owner refuses a request to make his or her property accessible for
15 inspection under sub. (1), the department's authorized representative may obtain a
16 special inspection warrant as provided under s. 66.0119.

17 (3) No person may refuse to permit an authorized representative of the
18 department who, at a reasonable hour, presents a special inspection warrant and
19 appropriate identification to enter the person's property, to conduct an inspection, or
20 to take samples.

21 **280.44 Sampling.** (1) The department may, in accordance with rules
22 promulgated under s. 280.05 (1) (i), require a well driller, well point driver, restricted
23 drill hole constructor, or pump installer to take a sample of water from any water
24 system for which the person provides services, to submit the sample to the state
25 laboratory of hygiene or a laboratory approved under s. 93.12 or certified under s.

BILL

1 299.11 for analysis, and to provide the analysis to the department and the owner or
2 operator of the water system or drill hole.

3 (2) The department may, in accordance with rules promulgated under s. 280.05
4 (1) (i), require the owner or operator of a public water system or the owner or operator
5 of a private water system that is the water supply for bottled drinking water
6 regulated under s. 97.34 to take samples of water from the water system according
7 to a schedule specified by the department, to submit the samples to the state
8 laboratory of hygiene or a laboratory approved under s. 93.12 or certified under s.
9 299.11 for analysis, and to provide a report of the analysis to the department.

10 (3) If a person required to submit samples under sub. (1) or (2) fails to do so,
11 the department may enter the person's property as provided under s. 280.42, if
12 necessary, and take samples for analysis. The department shall charge the person
13 responsible for sampling for the costs incurred under this subsection, according to
14 fees established by the department by rule.

15 **280.46 Enforcement.** (1) GENERAL. (a) If the department determines that
16 a person has violated this chapter, a rule promulgated under this chapter, or an order
17 issued under this chapter, the department may refer the matter to the department
18 of justice or the district attorney of the county in which the violation occurred for
19 enforcement.

20 (b) If the department of justice commences an action after a referral under par.
21 (a), the department of justice shall, before stipulation, consent order, judgment, or
22 other final disposition, consult with the department of natural resources to
23 determine that department's views on final disposition.

24 (2) INJUNCTIONS. In any action commenced under sub. (1) (a), the department
25 of justice or a district attorney may seek, and the court may grant, a temporary or

BILL

1 permanent injunction to prevent or restrain any violation of this chapter, a rule
2 promulgated under this chapter, or an order issued under this chapter.

3 (3) VENUE. An action under sub. (1) shall be commenced in the circuit court for
4 the county in which the violation occurred in whole or in part. The proceedings may
5 be transferred to the circuit court for Dane County if all parties stipulate to the
6 transfer and if that court agrees to the transfer.

7 **280.49 Penalties.** (1) In subs. (2) to (4), “violation” means a violation of this
8 chapter, a rule promulgated under this chapter, or an order, license, or approval
9 issued under this chapter or the falsification of any report required under this
10 chapter.

11 (2) Any individual who is a licensed well driller, well point driver, restricted
12 drill hole constructor, or pump installer or is licensed under ch. 145 who commits a
13 violation shall forfeit not less than \$10 nor more than \$1,000 for each violation.

14 (3) Any person, other than a person specified under sub. (2), who commits a
15 violation shall forfeit not less than \$10 nor more than \$5,000 for each violation.

16 (4) Any person who intentionally commits a violation shall, for each violation,
17 be fined not less than \$100 nor more than \$10,000 or imprisoned for not more than
18 6 months or both.

19 (5) For purposes of subs. (2) to (4), each violation of this chapter or a rule or
20 order is a separate offense and each day of continued violation is a separate offense.

21 (6) (a) Notwithstanding subs. (2) to (4), any person who violates this chapter,
22 a rule promulgated under this chapter, or an order, license, or approval issued under
23 this chapter with respect to any requirement of the federal Safe Drinking Water Act,
24 42 USC 300f to 300j-26, shall forfeit not less than \$10 nor more than \$25,000 for each
25 violation. Each day of continued violation is a separate offense.

BILL

1 (b) Notwithstanding subs. (2) to (4), any person who intentionally commits an
 2 act that violates, or intentionally fails to perform an act required by, this chapter, a
 3 rule promulgated under this chapter, or an order, license, or approval issued under
 4 this chapter with respect to any requirement of the federal Safe Drinking Water Act,
 5 42 USC 300f to 300j-26, may be fined not more than \$50,000 for each day of violation
 6 or imprisoned for not more than 3 years or both.

7 **SUBCHAPTER VI** ✓

8 **FINANCIAL ASSISTANCE**

9 **SECTION 36.** Chapter 281 (title) of the statutes is amended to read:

10 **CHAPTER 281**

11 **WATER POLLUTION AND SEWAGE**

12 **SECTION 37.** 281.01 (8) of the statutes is amended to read:

13 281.01 (8) "Owner" means the state, county, town, town sanitary district, city,
 14 village, metropolitan sewerage district, corporation, firm, company, institution or
 15 individual owning or operating any ~~water supply~~, sewerage or ~~water~~ system or
 16 sewage and refuse disposal plant.

17 **SECTION 38.** 281.01 (15) of the statutes is amended to read:

18 281.01 (15) "Solid waste" means any garbage, refuse, sludge from a waste
 19 treatment plant, water supply treatment plant or air pollution control facility and
 20 other discarded or salvageable materials, including solid, liquid, semisolid, or
 21 contained gaseous materials resulting from industrial, commercial, mining and
 22 agricultural operations, and from community activities, but does not include solids
 23 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
 24 return flows or industrial discharges which are point sources subject to permits
 25 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear

BILL

1 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
2 (1).

3 **SECTION 39.** 281.01 (16) of the statutes is amended to read:

4 281.01 (16) "System or plant" includes ~~water and~~ sewerage systems and
5 sewage and refuse disposal plants.

6 **SECTION 40.** 281.01 (20) of the statutes is repealed.

7 **SECTION 41.** 281.12 (3) of the statutes is amended to read:

8 281.12 (3) The department, upon request, shall consult with and advise owners
9 who have installed or are about to install systems or plants, ~~as to the most~~
10 ~~appropriate water source and the best method of providing for its purity, or as to the~~
11 best method of disposing of wastewater, including operations and maintenance,
12 taking into consideration the future needs of the community for protection of its
13 water supply. The department is not required to prepare plans.

14 **SECTION 42.** 281.13 (title) of the statutes is repealed and recreated to read:

15 **281.13 (title) Research.**

16 **SECTION 43.** 281.13 (1) (a) of the statutes is renumbered 280.03 (2), and 280.03
17 (2) (intro.), as renumbered, is amended to read:

18 280.03 (2) (intro.) ~~The department is authorized to act Act with the U.S.~~
19 geological survey in determining the sanitary and other conditions and nature of the
20 natural water sources in this state, for the following purposes:

21 **SECTION 44.** 281.13 (1) (b) of the statutes is repealed.

22 **SECTION 45.** 281.13 (3) of the statutes is renumbered 281.13.

23 **SECTION 46.** 281.17 (3) of the statutes is amended to read:

24 281.17 (3) The department shall promulgate rules establishing an examining
25 program for the certification of operators of ~~water systems,~~ wastewater treatment

BILL

1 plants and septage servicing vehicles operated under a license issued under s. 281.48
2 (3), setting such standards as the department finds necessary to accomplish the
3 purposes of this chapter and chs. 285 and 289 to 299, including requirements for
4 continuing education. The department may charge applicants a fee for certification.
5 All moneys collected under this subsection for the certification of operators of ~~water~~
6 ~~systems~~, wastewater treatment plants and septage servicing vehicles shall be
7 credited to the appropriation under s. 20.370 (4) (bL). No person may operate a ~~water~~
8 ~~systems~~, wastewater treatment plant or septage servicing vehicle without a valid
9 certificate issued under this subsection. The department may suspend or revoke a
10 certificate issued under this subsection for a violation of any statute or rule relating
11 to the operation of a ~~water system or~~ wastewater treatment plant or to septage
12 servicing, for failure to fulfill the continuing education requirements or as provided
13 under s. 145.245 (3). The owner of any wastewater treatment plant shall be, or shall
14 employ, an operator certified under this subsection who shall be responsible for plant
15 operations, unless the department by rule provides otherwise. In this subsection,
16 “wastewater treatment plant” means a system or plant used to treat industrial
17 wastewater, domestic wastewater or any combination of industrial wastewater and
18 domestic wastewater.

19 **SECTION 47.** 281.17 (8) of the statutes is repealed.

20 **SECTION 48.** 281.17 (9) of the statutes is renumbered 280.03 (8m) and amended
21 to read:

22 280.03 (8m) ~~The department may require~~ Require owners of water systems to
23 demonstrate the technical, managerial, and financial capacity to comply with
24 national primary drinking water regulations under 42 USC 300g-1 and ~~may assist~~
25 owners of water systems to develop that capacity.

BILL

1 **SECTION 49.** 281.19 (2) (a) of the statutes is amended to read:

2 281.19 (2) (a) The department may issue special orders directing particular
3 owners to ~~remedy violations of the safe drinking water program under s. 281.17 (8)~~
4 ~~and (9) or~~ to secure such operating results toward the control of pollution of the
5 waters of the state as the department prescribes, within a specified time. Pending
6 efforts to comply with any order, the department may permit continuance of
7 operations on such conditions as it prescribes. If any owner cannot comply with an
8 order within the time specified, the owner may, before the date set in the order,
9 petition the department to modify the order. The department may modify the order,
10 specifying in writing the reasons therefor. If any order is not complied with within
11 the time period specified, the department shall ~~immediately~~ notify the attorney
12 general of this fact. After receiving the notice, the attorney general shall may
13 commence an action under s. 299.95.

14 **SECTION 50.** 281.35 (1) (a) and (b) 2. of the statutes are amended to read:

15 281.35 (1) (a) “Approval” means a permit issued under s. 30.18 or an approval
16 under s. 280.10, 281.17 (1) or 281.41.

17 (b) 2. If subd. 1. does not apply, the highest average daily water loss over any
18 30-day period that is reported to the department or the public service commission
19 under sub. (3) (c) or s. 30.18 (6) (c), 196.98, 280.10 (3), 281.17 (1) or 281.41.

20 **SECTION 51.** 281.35 (4) (a) 3. and (b) (intro.) of the statutes are amended to read:

21 281.35 (4) (a) 3. An owner who is operating a sewage system or sewage and
22 refuse disposal plant under plans approved under s. 281.41 ~~or~~, who is required to
23 submit plans and obtain an approval under that section before construction ~~or~~
24 ~~extension~~ modification, or operation of a proposed sewage system or sewage and
25 refuse disposal plant, who is operating a water system under an approval under s.

BILL

1 280.10, or who is required to obtain an approval under s. 280.10 before construction,
2 modification, or operation of a water system.

3 (b) (intro.) Before any person specified in par. (a) may begin a new withdrawal
4 or increase the amount of an existing withdrawal, the person shall apply to the
5 department under s. 30.18, 281.10 (1), 281.17 (1) or 281.41 for a new approval or a
6 modification of its existing approval if either of the following conditions applies:

7 **SECTION 52.** 281.41 (1) (c) of the statutes is amended to read:

8 281.41 (1) (c) Construction or material change shall be according to approved
9 plans only. The department may disapprove plans that are not in conformance with
10 any existing approved areawide waste treatment management plan prepared
11 pursuant to the federal water pollution control act, P.L. 92-500, as amended 33 USC
12 1251 to 1387, and shall disapprove plans that do not meet the grounds for approval
13 specified under s. 281.35 (5) (d), if applicable. The department shall require each
14 person whose plans are approved under this section to report that person's volume
15 and rate of water withdrawal, as defined under s. 281.35 (1) (m), and that person's
16 volume and rate of water loss, as defined under s. 281.35 (1) (L), if any, in the form
17 and at the times specified by the department.

18 **SECTION 53.** 281.45 of the statutes is amended to read:

19 **281.45 House connections.** To assure ~~preservation of~~ preserve the public
20 health, ~~comfort and safety, any city, village or town or town sanitary district having~~
21 ~~a system of waterworks or sewerage, or both, may~~ municipality with a sewerage
22 system shall by ordinance require buildings used for human habitation and located
23 adjacent to a sewer ~~or water main, or in a block through which one or both of these~~
24 ~~systems extend, to be connected with either or both~~ to the sewerage system in the
25 manner prescribed by the municipality. If any person fails to comply with the

BILL

1 ordinance for more than 10 days after notice in writing, the municipality may impose
2 a ~~penalty or may cause forfeiture.~~ The municipality may also complete the
3 connection to be made, and charge the expense thereof shall be assessed as a special
4 tax assessment against the property. Except in 1st class cities, the owner may, within
5 ~~30 days after the completion of the work, file a written option with the municipal~~
6 ~~clerk stating that he or she cannot pay the amount in one sum and asking that it be~~
7 ~~levied in not to exceed~~ municipality shall collect the special assessment in 5 equal
8 annual instalments, and the amount shall be so collected with interest at a rate not
9 to exceed 15% per year from the completion of the work, the unpaid balance to be a
10 special tax lien if the property owner files a written request with the municipal clerk
11 within 30 days after completion of the connection. If the property owner does not file
12 a request, the property owner shall pay the entire sum in a single payment.

13 **SECTION 54.** 281.53 of the statutes is renumbered 280.54, and 280.54 (1) and
14 (3), as renumbered, are amended to read:

15 280.54 (1) The department may award a municipal clean drinking water grant,
16 from the appropriation under s. 20.866 (2) (tb), to a ~~municipality~~ local governmental
17 unit for capital costs to achieve compliance with standards for contaminants
18 established by the department by rule under the safe drinking water program under
19 s. ~~281.17 (8)~~ 280.03 (1), if the ~~municipality~~ local governmental unit is not in
20 compliance with those standards on or after April 1, 1990, if the ~~municipality~~ local
21 governmental unit incurs the capital costs after January 1, 1989, and if the violation
22 of the standards for contaminants occurs in a public water system owned by the
23 ~~municipality~~ local governmental unit.

24 (3) The department shall rank applicants for grants under this section on the
25 basis of the severity of risk to human health posed by each applicant's violation of the

BILL

1 standards for contaminants. If insufficient funds are available for providing grants
2 to eligible municipalities local governmental units, the department shall allocate
3 grants based on the severity of risk to human health.

4 **SECTION 55.** Subchapter VI (title) of chapter 281 [precedes s. 281.75] of the
5 statutes is repealed.

6 **SECTION 56.** 281.75 (title) and (1) (intro.), (a) and (b) of the statutes are
7 renumbered 280.52 (title) and (1) (intro.), (a) and (b).

8 **SECTION 57.** 281.75 (1) (c) of the statutes is repealed.

9 **SECTION 58.** 281.75 (1) (d) to (g) of the statutes are renumbered 280.52 (1) (d)
10 to (g).

11 **SECTION 59.** 281.75 (1) (h) of the statutes is renumbered 280.52 (1) (h) and
12 amended to read:

13 280.52 (1) (h) “Well” Notwithstanding s. 280.01 (15), “well” means an
14 excavation or opening in the ground made by boring, drilling or driving for the
15 purpose of obtaining a supply of groundwater. “Well” does not include dug wells.

16 **SECTION 60.** 281.75 (2) and (3) of the statutes are renumbered 280.52 (2) and
17 (3).

18 **SECTION 61.** 281.75 (4) of the statutes, as affected by 2001 Wisconsin Act 16,
19 is renumbered 280.52 (4).

20 **SECTION 62.** 281.75 (4m) to (11) of the statutes are renumbered 280.52 (4m) to
21 (11).

22 **SECTION 63.** 281.75 (12) (intro.) and (a) of the statutes are renumbered 280.52
23 (12) (intro.) and (a).

24 **SECTION 64.** 281.75 (12) (b) of the statutes is renumbered 280.52 (12) (b) and
25 amended to read:

BILL

1 280.52 (12) (b) If the well is a drilled well, it is constructed by a well driller
2 licensed under ~~ch. 280 s. 280.24~~ or, if the well is a sandpoint well, it is constructed
3 by a well driller or ~~pump installer~~ well point driver licensed under ~~ch. 280 s. 280.24~~.

4 **SECTION 65.** 281.75 (13) to (17) of the statutes are renumbered 280.52 (13) to
5 (17).

6 **SECTION 66.** 281.75 (18) of the statutes is renumbered 280.52 (18) and amended
7 to read:

8 280.52 (18) **SUSPENSION OR REVOCATION OF LICENSES.** The department may
9 suspend or revoke a license issued under ~~ch. 280~~ this chapter if the department finds
10 that the licensee falsified information submitted under this section. The department
11 of commerce may suspend or revoke the license of a plumber licensed under ch. 145
12 if the department of commerce finds that the plumber falsified information
13 submitted under this section.

14 **SECTION 67.** 281.75 (19) of the statutes is renumbered 280.52 (19), and 280.52
15 (19) (intro.), as renumbered, is amended to read:

16 280.52 (19) **PENALTIES.** (intro.) ~~Whoever~~ Notwithstanding s. 280.49, whoever
17 does any of the following shall forfeit not less than \$100 nor more than \$1,000 and
18 shall be required to repay an award issued to that person under this section:

19 **SECTION 68.** 281.77 of the statutes is renumbered 280.19, and 280.19 (title), (1)
20 (b) and (3), as renumbered, are amended to read:

21 **280.19 (title) Damage to private water supplies.**

22 (1) (b) “Regulated activity” means an activity for which the department may
23 issue an order under ch. 281, except s. 281.48, or under chs. 285 or 289 to 299 or this
24 chapter, except s. 281.48, if the activity is conducted in violation of ch. 281, except s.
25 281.48, or in violation of chs. 285 or 289 to 299 or this chapter, except s. 281.48, or

BILL

1 in violation of licenses, permits or special orders issued or rules promulgated under
2 ch. 281, except s. 281.48, or under chs. 285 or 289 to 299 or this chapter, except s.
3 281.48.

4 (3) In any action brought by the department of justice under s. 280.46 or 299.95
5 or by a district attorney under s. 280.46, if the court finds that a regulated activity
6 owned or operated by the defendant has caused a private water supply to become
7 contaminated, polluted or unfit for consumption by humans, livestock or poultry, the
8 court may order the defendant to treat the water to render it fit for consumption by
9 humans, livestock and poultry, repair the private water supply or replace the private
10 water supply and to reimburse the town, village or city for the cost of providing water
11 under sub. (4).

12 SECTION 69. 281.97 of the statutes is amended to read:

13 **281.97 Records; inspection.** Records Owners shall keep records required by
14 the department shall be kept by the owners and shall supply the department
15 supplied with certified copies of those records and ~~such~~ other information as it may
16 require required by the department. Agents of the department may enter buildings,
17 structures and premises of owners supplying the public or industrial plants with
18 water, ice, sewerage systems, or sewage or refuse disposal service and private
19 properties to collect samples, records and information, and to ascertain if the rules
20 and orders of the department are complied with.

21 SECTION 70. 281.98 (1) of the statutes, as affected by 2001 Wisconsin Act 6, is
22 amended to read:

23 281.98 (1) Except as provided in ~~ss. s.~~ s. 281.47 (1) (d), 281.75 (19), and 281.99
24 (2), any person who violates this chapter or any rule promulgated or any plan
25 approval, license, special order, or water quality certification issued under this

BILL

1 chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each
2 day of continued violation is a separate offense. While an order is suspended, stayed,
3 or enjoined, this penalty does not accrue.

4 **SECTION 71.** 281.98 (2) of the statutes is amended to read:

5 281.98 (2) In addition to the penalties provided under sub. (1) ~~or s. 281.99 (2)~~,
6 the court may award the department of justice the reasonable and necessary
7 expenses of the investigation and prosecution of a violation of this chapter, including
8 attorney fees. The department of justice shall deposit in the state treasury for
9 deposit into the general fund all moneys that the court awards to the department or
10 the state under this subsection. Ten percent of the money deposited in the general
11 fund that was awarded under this subsection for the costs of investigation and the
12 expenses of prosecution, including attorney fees, shall be credited to the
13 appropriation account under s. 20.455 (1) (gh).

14 **SECTION 72.** 281.99 of the statutes is renumbered 280.50, and 280.50 (1) (a),
15 (b) 2. and (c), (2) (a) (intro.), (3) and (5), as renumbered, are amended to read:

16 280.50 (1) (a) The department may directly assess forfeitures in the amounts
17 provided under sub. (2) for violations of safe drinking water program rules
18 promulgated under s. ~~281.17 (8) or (9)~~ 280.03 (1) or (8m) or 280.05 (1) (f).

19 (b) 2. The department may directly assess a forfeiture by issuing an order under
20 par. (c) without first providing notice if the alleged violation either creates an acute
21 risk to public health or safety or is part of a documented pattern of noncompliance
22 with one or more rules promulgated under s. ~~281.17 (8) or (9)~~ 280.03 (1) or (8m) or
23 280.05 (1) (f).

24 (c) If the department determines that a forfeiture should be assessed for a
25 particular violation, it shall issue an order under s. ~~281.19 (2) (a)~~ 280.40 (5m) to the

BILL

1 water system owner or operator alleged to have committed the violation. Except as
2 provided in par. (b) 2., the department may not issue the order until at least 60 days
3 after the day on which it provided notice under par. (b) 1. The order shall specify the
4 amount of the forfeiture assessed, the violation and the rule alleged to have been
5 violated and shall inform the licensee of the right to contest the order under sub. (3).

6 (2) (a) (intro.) The Notwithstanding s. 280.49, the amount of forfeitures that
7 the department may assess under this section are as follows:

8 (3) A water system owner or operator may contest the issuance of an order and
9 the assessment of a forfeiture under this section using the procedure under ch. 227
10 or s. ~~281.19 (8)~~ 280.40 (5m) (c). A water system owner or operator that timely
11 requests a hearing under ch. 227 is entitled to a contested case hearing.

12 (5) The attorney general may bring an action as provided in s. ~~281.19 (2) (a)~~
13 280.46 (1) (b) in the name of the state to collect any forfeiture imposed under this
14 section if the forfeiture has not been paid following the exhaustion of all
15 administrative and judicial reviews.

16 **SECTION 73.** 285.01 (40) of the statutes is amended to read:

17 285.01 (40) "Solid waste" means any garbage, refuse, sludge from a waste
18 treatment plant, water ~~supply~~ treatment plant or air pollution control facility and
19 other discarded or salvageable materials, including solid, liquid, semisolid, or
20 contained gaseous materials resulting from industrial, commercial, mining and
21 agricultural operations, and from community activities, but does not include solids
22 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
23 return flows or industrial discharges which are point sources subject to permits
24 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear

BILL

1 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
2 (1).

3 **SECTION 74.** 289.01 (33) of the statutes is amended to read:

4 289.01 (33) “Solid waste” means any garbage, refuse, sludge from a waste
5 treatment plant, water supply treatment plant or air pollution control facility and
6 other discarded or salvageable materials, including solid, liquid, semisolid, or
7 contained gaseous materials resulting from industrial, commercial, mining and
8 agricultural operations, and from community activities, but does not include solids
9 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
10 return flows or industrial discharges which are point sources subject to permits
11 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
12 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
13 (1).

14 **SECTION 75.** 289.01 (44) of the statutes is repealed.

15 **SECTION 76.** 292.65 (1) (g) of the statutes is amended to read:

16 292.65 (1) (g) “Groundwater” has the meaning given in s. ~~281.75 (1) (e)~~ 299.01
17 (5).

18 **SECTION 77.** 295.11 (10) of the statutes is amended to read:

19 295.11 (10) “Solid waste” means any garbage, refuse, sludge from a waste
20 treatment plant, water supply treatment plant or air pollution control facility and
21 other discarded or salvageable materials, including solid, liquid, semisolid, or
22 contained gaseous materials resulting from industrial, commercial, mining and
23 agricultural operations, and from community activities, but does not include solids
24 or dissolved material in domestic sewage, or solid or dissolved materials in irrigation
25 return flows or industrial discharges which are point sources subject to permits

BILL

1 under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear
2 material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31
3 (1).

4 **SECTION 78.** 299.07 (1) (a) 1. of the statutes is amended to read:

5 299.07 (1) (a) 1. A license or registration under s. 280.15 280.24.

6 **SECTION 79.** 299.07 (1) (a) 2. of the statutes is amended to read:

7 299.07 (1) (a) 2. A certification under s. 280.20 or 281.17 (3).

8 **SECTION 80.** 299.08 (1) (a) 1. of the statutes is amended to read:

9 299.08 (1) (a) 1. A license or registration under s. 280.15 280.24.

10 **SECTION 81.** 299.08 (1) (a) 2. of the statutes is amended to read:

11 299.08 (1) (a) 2. A certification under s. 280.20 or 281.17 (3).

12 **SECTION 82.** 299.11 (1) (d) 4. and 6. of the statutes are amended to read:

13 299.11 (1) (d) 4. The replacement of a well or provision of alternative water
14 supplies under s. 281.75 or 281.77 280.19 or 280.52.

15 6. The management or enforcement of the safe drinking water supply program
16 under s. 280.13 (1) (b) and (d) or 281.17 (8) ch. 280.

17 **SECTION 83.** 443.14 (12m) of the statutes is amended to read:

18 443.14 (12m) A well driller, as defined in s. 280.01 (7), person licensed or
19 registered under s. 280.24 who is engaged in well drilling, as defined in s. 280.01 (8)
20 (16), well point driving, as defined in s. 280.01 (17), or constructing a drill hole, as
21 defined in s. 280.01 (4), other than a well.

22 **SECTION 84.** 470.025 (9) of the statutes is amended to read:

23 470.025 (9) A well driller, as defined in s. 280.01 (7) person licensed or
24 registered under s. 280.24, who is engaged in well drilling, as defined in s. 280.01 (8)

BILL

1 (16), well point driving, as defined in s. 280.01 (17), or constructing a drill hole, as
2 defined in s. 280.01 (4), other than a well.

3 **SECTION 85.** 893.80 (8) of the statutes is amended to read:

4 893.80 (8) This section does not apply to actions commenced under s. 19.37,
5 19.97 or ~~281.99~~ 280.50.

6 **SECTION 86. Nonstatutory provisions.**

7 (1) CURRENT LICENSEES. Notwithstanding section 280.24 (5) (b) of the statutes,
8 as created by this act, the department of natural resources shall issue a well driller
9 license to each individual registered as a well driller under section 280.15, 1999
10 stats., on January 1, ²⁰⁰² ~~2001~~, and shall issue a pump installer license to each individual
11 registered as a pump installer under section 280.15, 1999 stats., on January 1, ²⁰⁰² ~~2001~~,
12 without requiring the individual to take and pass an examination.

13 (2) POSITION AUTHORIZATION. The authorized FTE positions for the department
14 of natural resources are increased by 3.0 PR positions to be funded from the
15 appropriation under section 20.370 ^{✓ (4)} ~~(2)~~ (ai) of the statutes ^{as created by this act,} for water supply
16 management.

17 (3) INITIAL TERMS OF MEMBERS OF COUNCIL. Notwithstanding the length of term
18 specified in section 15.347 (3) ^{✓ (a)} ~~(3)~~ of the statutes, as created by this act, the initial
19 members of the council on wells and drill holes shall serve as follows:

20 (a) ^{One of the} ~~The~~ members appointed under section 15.347 (3) (a) ^{✓ 1.} of the statutes, one of
21 the members appointed under section 15.347 (3) ^{(a) 2.} ~~(c)~~ of the statutes, ^{and} one of the
22 members appointed under section 15.347 (3) ^{(a) 4.} ~~(d)~~ of the statutes, ^{and} ~~one of the~~
23 ~~members appointed under section 15.347 (3) (e) of the statutes~~ ^{Keep} for terms expiring on
24 July 1, 2003.

BILL

1 (b) ^{one of} The member^s appointed under section 15.347 (3) ^{(a)1,} (b) of the statutes, one of
 2 the members appointed under section 15.347 (3) ^{(a)2,} (c) of the statutes, one of the
 3 members appointed under section 15.347 (3) ^{(a)3,} (d) of the statutes, and ^{one of} the members
 4 appointed under section 15.347 (3) ^{(a)4,} (e) of the statutes, for terms expiring on July 1,
 5 2004.

6 (c) One of the members appointed under section 15.347 (3) ^{(a)1,} (d) of the statutes,
 7 one of the members appointed under section 15.347 (3) ^{(a)3,} (e) of the statutes, and the
 8 member^s appointed under section 15.347 (3) ^{(a)5. to 8.} (g) of the statutes, for terms ending on
 9 July 1, 2005.

SECTION 87. Initial applicability.

11 (1) PRIVATE WATER SYSTEM ABANDONMENT AND PLUMBING CONNECTION ORDINANCES.
 12 The treatment of section 66.0437 (2) (am) of the statutes first applies to ordinances
 13 enacted or modified on the effective date of this subsection.

SECTION 88. Effective date.

14 (1) This act takes effect on January 1, 200³2, or on the first day of the 6th month
 15 ~~beginning after publication, whichever is later.~~

(END)

ONote

RET:

Note

This is a redraft of the draft concerning drinking water and drill holes.
There are numerous changes from the last version.

CP
not

Please review the entire draft carefully.

One of the requested changes was to add to the provisions on license reciprocity a requirement that the applicant was required to go through a substantially equivalent process in the other state. I believe that this is unnecessary because the introductory language in proposed s. 280.24(9) requires that the other state has laws and regulations governing the activity and licensing that DNR determines are substantially equivalent to this state's laws. If that language is not adequate, I will be glad to discuss how it could be modified.

RET

BILL

Insert 99-0105-A

1 59.64 (1) (a) *In general.* Every person, except jurors, witnesses and
 2 interpreters, and except physicians or other persons who are entitled to receive from
 3 the county fees for reporting to the register of deeds births or deaths, which have
 4 occurred under their care, having any claim against any county shall comply with
 5 s. 893.80. This paragraph does not apply to actions commenced under s. 19.37, 19.97
 6 or ~~281.99~~ 280.50.

7 SECTION 15. 59.70 (1) ^X of the statutes is amended to read:

8 59.70 (1) BUILDING AND SANITARY CODES. The board may enact building and
 9 sanitary codes, make necessary rules and regulations in relation thereto and provide
 10 for enforcement of the codes, rules and regulations by forfeiture or otherwise. The
 11 codes, rules and regulations do not apply within municipalities which have enacted
 12 ordinances or codes concerning the same subject matter. "Sanitary code" does not
 13 include a private sewage system ordinance enacted under sub. (5). "Building and
 14 sanitary codes" does not include well code ordinances enacted under sub. (6).

15 SECTION 16. 59.70 (6) (title) ^X of the statutes is amended to read:

16 59.70 (6) (title) OPTIONAL PRIVATE WELL CODE AND PUMP INSTALLATION ORDINANCES.

17 SECTION 17. 59.70 (6) (a) (intro.) ^X and 1. [✓] of the statutes are consolidated,
 18 renumbered 59.70 (6) ^(a) and amended to read:

19 59.70 (6) (a) (title) ~~Definitions~~ Definition. [✓] In this subsection: 1. "Department"
 20 , "department" means the department of natural resources.

21 SECTION 18. 59.70 (6) (a) 2. and 3. ^X of the statutes are repealed.

22 SECTION 19. 59.70 (6) (b) ^X of the statutes is repealed and recreated to read:

23 59.70 (6) (b) *Contents.* 1. If authorized by the department under s. [✓] 280.30 (2),
 24 a county may enact and enforce an ordinance regulating any of the following:

25 a. The location of private wells.

REF



BILL

(Insert 99-105-A) 9 -



b. The abandonment of private wells and other drillholes that are unused or unsafe because of the presence of bacteria or do not comply with ch. 280 or rules promulgated under that chapter.

c. The construction and reconstruction of private wells.

d. The installation of pumps in private wells.

e. The modification of existing pump installations in private wells.

f. The inspection of private water systems, as defined in s. 280.01 (10).

2. The county may require that a permit be obtained before a person engages in an activity regulated by the ordinance under subd. 1. The county may establish a schedule of fees for the issuance of permits required by the ordinance and for related inspections.

3. The provisions of an ordinance enacted under this paragraph that regulate the abandonment of private wells and drillholes do not apply in any portion of a local governmental unit that is covered by an ordinance enacted under s. 66.039.

14

SECTION 20. 59.70 (6) (c) of the statutes is repealed and recreated to read:

59.70 (6) (c) *Revocation*. If the department, under s. 280.30 (4), revokes all or part of the authority of a county to enforce an ordinance under par. (b), the county shall immediately cease all activities under the ordinance or part of the ordinance with respect to which authority is revoked and may not resume any such activity unless notified by the department to do so at the conclusion of all administrative and judicial proceedings arising out of the revocation.

SECTION 21. 59.70 (6) (e) of the statutes is repealed.

end of insert
99-105-A

~~SECTION 22. 60.44 (1) (a) of the statutes is amended to read:~~

~~60.44 (1) (a) Claims for money against a town or against officers, officials, agents or employees of the town arising out of acts done in their official capacity shall~~

BILL

Insert 99-0105-B

1 except that a licensee may apply after 10 days from that date if the licensee
2 eliminates all impediments to nonrenewal.

3 (9) A licensee who is subject to a nonrenewal, suspension or revocation shall,
4 at the request of the department, notify the department of the location of the work
5 that he or she performed under the license within 5 years before the nonrenewal,
6 suspension or revocation takes effect. If the licensee who is subject to a nonrenewal,
7 suspension or revocation is a well driller, he or she shall, immediately after the
8 sanction takes effect, notify the department of the location of all drilling rigs owned,
9 leased or rented by the licensee and shall notify the department of any change in any
10 of those locations during the period that the sanction remains in effect.

11 (10) An individual who is subject to a nonrenewal, suspension or revocation of
12 a license issued under s. 280.24 or 280.27 may not perform any activity authorized
13 by the license, except as directed by the department under sub. (8) (c), for a period
14 of 60 days starting with the first day of the nonrenewal, suspension or revocation.
15 After that period, the individual may perform the activity if the individual is
16 employed by and in the actual physical presence of a licensed individual.

SUBCHAPTER IV

LOCAL AUTHORITY

17 Insert 99-0105-B
18
19 **280.30** [✓] **County ordinances.** (1) **DEFINITION.** [✓] In this section, "private well"
20 means a type of well designated by the department by rule, which may not include
21 any type of well for which plans and specifications must be submitted to the
22 department for approval before construction.

23 (2) **ORDINANCES.** [✓] (a) The department may authorize the enactment, under s.
24 59.70 (6), [✓] of county ordinances strictly conforming to this chapter and rules

↓

BILL

Insert 99-0105-B, continued

1 promulgated under this chapter, or to portions of this chapter and rules promulgated
2 under this chapter, that govern any of the following:

3 1. The location of private wells.

4 2. The abandonment of private wells and ^{other} drill holes that are unused or
5 contaminated or do not comply with this chapter or rules promulgated under this
6 chapter.

7 3. The construction and reconstruction of private wells.

8 4. The installation of pumps in private wells.

9 5. The modification of existing pump installations in private wells.

10 6. The inspection of private water systems.

11 (b) Each county that proposes to enact an ordinance authorized under par. (a)
12 shall, before enactment, submit the proposed ordinance and a plan for its
13 enforcement to the department for approval.

14 (c) The department shall promulgate rules establishing the standards for
15 approval of county ordinances, program management, and enforcement plans, which
16 may include all of the following:

17 1. Personnel, training, reporting and other requirements.

18 2. Standards for various categories of private wells.

19 3. Standards for various categories of enforcement actions.

20 4. The emergency conditions under which a county may grant an exemption
21 from a provision of its ordinance for the replacement of a well or pump.

22 (d) The department may require that a person obtain approval from the
23 department for a variance from this chapter or rules promulgated under this chapter
24 before a county may issue a permit for the construction of a private well or the
25 installation of a pump.

↓

BILL

Insert 99-0105-B, continued

1 (3) TRAINING. The department shall provide training and technical assistance
2 to county employes who implement ordinances enacted under s. 59.70 (6). The
3 department may charge a fee, not to exceed the department's actual cost, for the
4 training and technical assistance provided. All amounts received under this
5 subsection shall be credited to the appropriation under s. 20.370 (2) (ai).

6 (4) REVIEW AND AUDIT. (a) The department shall periodically review and audit
7 each ordinance enacted under s. 59.70 (6) and the county's enforcement of the
8 ordinance to determine compliance with this chapter and rules promulgated under
9 this chapter.

10 (b) If following a review and audit the department determines that an
11 ordinance or an enforcement program is not in substantial compliance with any
12 requirement, the department may notify the county clerk of the determination. If
13 the department provides notification, it shall hold a public informational hearing in
14 the county no sooner than 30 days after the date of the notice. If the department finds
15 after the hearing that the county is not in compliance, the department may revoke
16 all or part of the county's authority to enforce the ordinance. A county is not entitled
17 to a contested case hearing on the department's decision to revoke the county's
18 authority to enforce the ordinance.

19 (5) DEPARTMENT ENFORCEMENT. (a) In a county that has not enacted an
20 ordinance under s. 59.70 (6) or that has, under its ordinance, only partial authority
21 to regulate private wells and pump installation, the department shall enforce all
22 applicable provisions of this chapter and rules promulgated under this chapter
23 relating to private wells and pump installation that are not governed by a county
24 ordinance.

↓

BILL

Insert 99-0105-B, continued

(b) The department may enforce this chapter and rules promulgated under this chapter in a county that has enacted an ordinance under s. 59.70 (6) under any of the following circumstances:

1. If the department is conducting an audit and review under sub. (4) (a).

2. If there is reasonable cause to believe that the county ordinance or enforcement program does not comply with any requirement of this chapter or rules promulgated under this chapter.

3. If the department determines that there are other special circumstances requiring enforcement by the department.

280.32 Local enforcement prohibited. Except as provided in ss. 59.70 (6), ^{66.0437,} ~~66.039~~ and 280.30, no city, village, town or county may enact or enforce an ordinance governing any matter regulated under this chapter.

end of insert 99-0105-B

SUBCHAPTER V

ENFORCEMENT

280.40 Orders; affidavits. (1) The department may do any of the following:

(a) Order the owner or operator of a water system or the person responsible for construction, operation or abandonment of the water system to take actions, which may include repair, replacement, reconstruction, abandonment or discontinuance of use, in a designated manner to protect public health, safety or welfare, to protect groundwater or surface water from contamination or to conform to rules of the department.

(b) Order any person causing the contamination of groundwater or whose actions may cause the contamination of groundwater to take any action necessary, or to refrain from any action in order to protect or restore the environment to the extent practicable or to minimize the harmful effects of the contamination.

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3331/3ins
RCT:.....

Insert 3-4

1. Three active, licensed, water well drillers who are members of a statewide association of licensed well drillers, pump installers, and other drill hole contractors, appointed by the board of directors of the association.
2. Two active, licensed, water well drillers who are not members of a statewide association of licensed well drillers, pump installers, and other drill hole contractors, appointed by the secretary of natural resources.
3. Two active, licensed, pump installers who are members of a statewide association of licensed well drillers, pump installers, and other drill hole contractors, appointed by the board of directors of the association.
4. Two active, licensed, pump installers who are not members of a statewide association of licensed well drillers, pump installers, and other drill hole contractors, appointed by the secretary of natural resources.
5. One monitoring well contractor appointed by a national association of drilling contractors.
6. One employee of the geological and natural history survey, appointed by the state geologist.
7. Two members of a statewide association of suppliers of pumps and products used in the construction of wells, appointed by the president of the association.
8. One employee of the department of natural resources, appointed by the secretary of natural resources.



(b) No member of the council on well drilling and pump installing may serve more than 2 consecutive terms, except that the member under par. (a) 6. may serve longer at the discretion of the state geologist.

(c) The council on well drilling and pump installing shall be cochaired by the member under par. (a) 8. and by another member of the council elected by the members of the council. The member under par. (a) 8. shall be a nonvoting member except that he or she may vote in case of a tie. The council shall meet ³~~three~~ times each year and may meet at other times on the call of the cochaairs.

Insert 29-22

(c) Subsection (2) (b) does not apply to an individual who constructs a driven-point well serving only a single-family residence on property owned and occupied by the individual and ~~subsection~~ (2) (c) does not apply if that individual installs a pump in the driven-point well. This paragraph does not exempt the individual from any other statute or rule governing the construction of a driven-point well or the installation of a pump.

(end ins)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3331/3dn
RCT:jld:kjf

February 19, 2002

This is a redraft of the draft concerning drinking water and drill holes. There are numerous changes from the last version. Please review the entire draft carefully.

One of the requested changes was to add to the provisions on license reciprocity a requirement that the applicant was required to go through a substantially equivalent process in the other state. I believe that this is unnecessary because the introductory language in proposed s. 280.24 (9) requires that the other state has laws and regulations governing the activity and licensing that DNR determines are substantially equivalent to this state's laws. If that language is not adequate, I will be glad to discuss how it could be modified.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

Tradewell, Becky

From: Sean Dilweg [sdilweg@patrickessie.com]
Sent: Monday, February 25, 2002 2:55 PM
To: Becky.Tradewell@legis.state.wi.us
Cc: Henderson, Patrick
Subject: final changes to LRB 3331/3



FAX.TIF

Becky,

I wanted to request final changes to the 280 rewrite. I'm shooting to have this up for a hearing in Senator Baumgart's Committee March 7th. If some or all of the below mentioned changes are not possible in that time frame please let me know.

Thank you again.

- ✓ 1) Page 27: add an additional licensure category for a "water system inspector." All well driller licenses would automatically be able to perform water system inspections. An individual off the street would need to pass an exam to receive the license. Continuing education credits would need to accrue similarly to other licenses.
- ✓ 2) Page 29: lines 5 and 7 change language to require that only a registered helper or drilling rig operator be onsite for an environmental driller. Becky the issue here is that many environmental wells are quiet limited and the licensed environmental well driller would not always be onsite during the siting, drilling or finishing of the drill hole.
- ✓ 3) Page 32 lines 21 to 24: change the language to reflect that an individual holding a well driller license would only need to take the test to attain an "environmental license." Any other individual would need the exam and the 1,000 hours of experience.
- ✓ 4) Page 33 section (9) standard language requiring that any company or individual living out-of-state be required to post a \$10,000 bond or Letter of Credit in order to operate as a well driller, pump installer or environmental well driller in Wisconsin. I don't know if the reciprocity section is appropriate. I've attached Minnesota requirements on this issue. In state operators would not have this requirement.

Sean Dilweg

Director Policy Analysis
Essie Consulting Group
16 North Carroll Street, #900
Madison, WI 53703
608-256-7701 <<FAX.TIF>>

application.

B. The application form must be signed by an officer or other legally authorized representative of the person making application for licensure or registration.

The "person" is again typically a business. The officer does not necessarily have to be the representative, but must be legally responsible for the company.

C. The application for licensure or registration must be accompanied by the nonrefundable licensure or registration fee specified in part 4725.0350.

The license and registration fees are listed in part 4725.0350 and summarized in the table after part 4725.1800. The license or registration fee is in addition to the (qualification) application fee.

Subp. 2. [Repealed 18 SR 1222]

4725.1100 [Repealed 15 SR 78]

4725.1200 [Repealed 15 SR 78]

4725.1250 BONDING

At the time the fee is submitted for initial licensure or registration, or licensure or registration renewal, the licensee or registrant must show proof of holding a corporate surety bond as required by Minnesota Statutes, chapter 103L. The bond must be submitted to the commissioner. One bond is required for each licensee or registrant. If on proof to the commissioner it is shown

that multiple licenses or registrations are held by one licensee or registrant, the bond held by that licensee or registrant may cover all licenses and registrations. The licensee or registrant must be named as the principal. The bond must be signed by an official of the company who is legally authorized to represent the company. The bond may be used by the commissioner to compensate persons injured or suffering financial loss because of failure of a licensee or registrant to properly perform the duties under part 4725.0475 and Minnesota Statutes, Chapter 103I. The term of the bond must be continuous or concurrent with the term of the license or registration. The penal sum of the bond is noncumulative and is not to be aggregated every year that the bond is in force. The bond must be written by a corporate surety licensed to do business in Minnesota. The corporate surety shall be responsible for providing 30 days written notice to the commissioner of cancellation of a licensee's or registrant's bond. If a bond is canceled, a licensee or registrant must not perform work requiring the license or registration until the licensee or registrant obtains another bond meeting the requirements of this part. An individual well contractor, as described in Minnesota Statutes, section 103I.525, subdivision 1, paragraph (c), is exempt from the requirements of this part.

The bond is in lieu of other license bonds required by a political subdivision of the state.

The commissioner of health may use the bond to pay for unlawful performance of work regulated by Minnesota Statutes, Chapter 103I, or Minnesota Rules, Chapter 4725. Proceeds of the bond may be used to compensate persons injured or suffering financial loss because of a failure of a licensee or registrant to properly perform work.

The bond is often referred to as a license bond with performance

guarantees. The bond is not an insurance policy, it is an agreement to pay up to the amount of the bond (\$10,000 or \$2,000 for some of the limited licenses). The bonding, or "surety," company guarantees that the money will be paid and holds the "principal" (the licensee or registrant) responsible for payment and will attempt to collect from the principal by attachment of assets if necessary.

The bond must be in effect during the license period. The bond total (penal sum) will not exceed \$10,000 (or \$2,000 for some of the limited licenses). The bond remains in effect for the period that it was issued for, even if the bond is not renewed. In other words, if a contractor is bonded and then retires, and a violation is later found that occurred during the period that the bond was in effect, the bond may be used to make a correction.

4725.1300 LICENSE OR REGISTRATION RENEWAL

Licenses expire on January 31 of each year and registrations expire on December 31 of each year. Each licensee or registrant shall submit an application for license or registration renewal on forms provided by the commissioner no later than January 31 for licenses and December 31 for registrations. The renewal application must be accompanied by the license and registration fees. A penalty fee must also be paid if the application is submitted after the January 31 license or December 31 registration deadline. As the part of license or registration renewal, the approved continuing education courses completed by the individual well contractor or representative as required in part 4725.100 must be listed and the licensee or registrant must provide the bond required under part 4725.1250.

Monitoring well contractors are registered. All other categories are licensed. If the license or registration is not renewed, the contractor may not do contracting work. The licensee or registrant must have all