

2003 DRAFTING REQUEST

Bill

Received: **11/26/2003**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Mary Lazich (608) 266-5400**

By/Representing: **Ann Molitor**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - water quality**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lazich@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Allow the use of blending in a public water system to enable compliance with the drinking water standard for radium

Instructions:

See Attached

Drafting History:

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/?							Local
/1	btradewe 01/09/2004	kgilfoy 01/12/2004	pgreensl 01/12/2004		sbasford 01/12/2004		Local
/2	btradewe	kgilfoy	pgreensl		lemery		Local

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	01/14/2004	01/14/2004	01/14/2004	_____	01/14/2004		
/3	btradewe 01/27/2004	kgilfoy 01/27/2004	jfrantze 01/27/2004	_____	lemery 01/27/2004	lemery 01/30/2004	Local
/4	btradewe 02/10/2004	kgilfoy 02/12/2004	pgreensl 02/12/2004	_____	sbasford 02/12/2004	sbasford 02/12/2004	Local
/5	btradewe 03/05/2004	kgilfoy 03/08/2004	pgreensl 03/08/2004	_____	sbasford 03/08/2004	sbasford 03/08/2004	

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→ At
Intro.

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/2	btradewe	kgilfoy <i>15-3/8 KMG</i>	pgreensl <i>7/8/08</i>	<i>PS/K</i>	lemery		Local

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/2	btradewe	kgilfoy 14-2/12 KMG	pgreensl 7/12/08		lemery		Local

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1/3 - 1/27
KMG

1/27

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/1	btradewe 01/09/2004	kgilfoy 01/12/2004	pgreensl 01/12/2004	<u>1/14</u>	sbasford 01/12/2004		
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12-1/14 King
1/14 P8
[Signature]

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1?	btradewe	1-1/12 Kmg	1/12 P8	1/12 P8/LE			

FE Sent For:

<END>

Tradewell, Becky

From: Molitor, Ann
Sent: Wednesday, November 26, 2003 10:34 AM
To: Tradewell, Becky
Subject: Request for legislation re radium

In December 2000, in the last days of the Clinton Administration and in accordance with the federal Safe Drinking Water Act, the US Environmental Protection Agency (EPA) established a standard for radium in drinking water of 5 picocuries of radium per liter. A picocurie is a unit of measuring radiation. Radium is a naturally occurring radioactive element and is found in greater concentrations in deep sandstone aquifers. Radium in drinking water increases the chance of bone cancer. The EPA, under the first Bush Administration, had proposed a standard of 20 picocuries per liter, which would have left most, if not all, affected communities in compliance with the federal standard. However, Congress amended the Safe Drinking Water Act in 1996 to require all drinking water regulations to be based upon the best available science and to take certain cost-benefit factors into account.

In early 2001, the City of Waukesha filed suit against the EPA to challenge its promulgation of the 5 picocuries standard under both the Safe Drinking Water Act and the Administrative Procedure Act. Several other affected communities from Wisconsin, Illinois, Minnesota, and Nebraska intervened in the suit. It was argued that the EPA wrongly used a general model of radiation risk that is based largely upon studies of the survivors of the atomic bombings at Hiroshima and Nagasaki and that the EPA failed to apply the proper cost-benefit analysis to the new standard.

In February 2003, a US Appeals Court in Washington, DC upheld the US Environmental Protection Agency's standards for radium in drinking water. The original federal deadline for complying with the 5 picocuries of radium per liter standard was December 2003, but the Wisconsin Department of Natural Resources (DNR) negotiated a three-year extension for state communities.

In December 2001, September 2002, and June 2003, the DNR, acting as the federal EPA's enforcement agent, notified 53 communities, trailer home parks, and sanitary districts that by December 8, 2003, they must be in compliance with the federal standard of 5 picocuries of radium per liter or enter into court-enforceable plans with the DNR outlining the steps they will take over the next three years to ensure their drinking water meets the radium standard by December 2006.

To come into compliance with the federal radium standard, some communities are using only wells that meet the standard and are not using wells that are in violation. According to the DNR, this would bring the communities into compliance with federal law. Under state law, if left idle, the unused wells have to be abandoned within five years.

A city in Senator Lazich's district wants to use the city's good wells and bad wells in such a way as to make the overall radium level below 5 picocuries. For example, if one well is at 2 picocuries and another well is at 10 picocuries, New Berlin would pump more from the low radium level well and less from the high radium level well to the point where the overall radium level is below 5 picocuries. This is commonly referred to as blending, and, as a result of a court decision in California regarding arsenic, this type of blending meets EPA standards. However, this blending within the system is not acceptable to the DNR, because it is really displacement and not blending.

Section NR 809.10 of the Wisconsin Administrative Code provides that no water source exceeding any primary maximum contaminant level may be connected to a public water system unless blending or treatment is provided such that the primary maximum contaminant level is not exceeded upon entry to the distribution system. This means that, to be acceptable to the DNR, the blending must occur outside the system, for example, in a water tower. Otherwise, under the current distribution system, residents near the high radium level wells get water in excess of the 5 picocurie standard. It is my understanding that the DNR will test for compliance at each well. If the wells are not in compliance, the city would face a fine up to \$5,000 per day for

each violation.

Senator Lazich would like legislation drafted that would prohibit the DNR from having a testing standard for radium that is stricter than that of the EPA. Namely, the sum total of the water being pumped by a municipality would be tested to see if the radium amount exceeds 5 picocuries per liter. The legislation would make in-system blending acceptable under state law, in accordance with the EPA's position on blending.

If you have any questions, please do not hesitate to contact me by phone or e-mail. Thanks!

Ann

Ann Marie Molitor
Legislative Aide/Policy Analyst
Office of State Senator Mary Lazich
Senate District 28
(608) 266-5400

*Per Ann - Hold for further instructions.
RTO*

Tradewell, Becky

From: Molitor, Ann
Sent: Friday, January 09, 2004 9:50 AM
To: Tradewell, Becky
Subject: FW: Radium testing

Becky,

Here is information regarding our legislation request concerning testing for radium levels in Wisconsin. Although the municipality is asking for a change to the Administrative Code, obviously we need to accomplish the change statutorily.

This issue is very important to Senator Lazich and very time sensitive. Please give me an indication of how long it will take you to get the language drafted. Ideally, we want to get the bill circulated within a week. Is this possible?

Thanks, Ann

-----Original Message-----

From: Schultz, Steve [mailto:SSchultz@ruekert-mielke.com]
Sent: Tuesday, January 06, 2004 2:07 PM
To: Sen.Lazich
Subject: RE: Radium testing

Ok - Here is the basic information on the changes that need to be made-

The EPA has indicated that the federal law (EPA 40 CFR parts 9, 141 and 142 - National Primary Drinking Water Regulations; Radionuclides; Final Rule) has been interpreted to allow sampling of an entry point (well) in the water distribution system between the well discharge and the first customer. The law states that the sampling must be done under normal operating conditions. In the case of many systems, only a portion of the wells are needed on a regular basis and the other wells are for emergencies and for peak use periods (hot, dry weather). The EPA has also indicated that if sampling and/or statistical analysis based upon well run time monitoring by control systems can show that at a sampling point the system is in compliance with the rule, that well would be allowed to remain on the system in "emergency" or other status without having to install expensive treatment.

The State of Wisconsin is pointing to WAC NR 809.10 which says "... no water source exceeding any primary maximum contaminant level in this chapter may be connected to a public water system unless blending or treatment is provided such that the primary maximum contaminant level is not exceeded upon entry to the distribution system."

To be consistent with, and not more restrictive than, EPA, I suggest changes as follows:

Change NR 809.10 above to exclude radionuclides by adding "Water sources exceeding radionuclides levels may be connected to the system provided they meet the maximum contaminant levels at the sampling point."

Change NR 809.53(1)(b)1. by adding the following language at the end of the paragraph "Sampling points between the water source connection to the distribution system and the first service connection to the distribution system closest to the source, that are representative of the water normally supplied to the customer, will be allowed. If, during a quarterly sampling period, the nearest entry point source has been used, the sample shall be taken while that source is operating."

This should allow for communities to sample the nearest customer's water quality and provide a worst case if the supply runs during a quarter. It also allows sampling in the system.

Please call with questions,

Steven H. Schultz, P.E.
Water Supply Department Head
Ruekert * Mielke
W233 N2080 Ridgeview Parkway
Waukesha, WI 53188
(262) 542-5733
(262) 542-5631 Fax
sschultz@ruekert-mielke.com

-----Original Message-----

From: Sen.Lazich [mailto:Sen.Lazich@legis.state.wi.us]
Sent: Monday, January 05, 2004 1:23 PM
To: Schultz, Steve
Subject: RE: Radium testing

No problem. I just want you to be aware of the time constraints we are under here in Madison. It will be very difficult to get a new bill through the legislature at this point in time, but we'll try.

Thanks much!

Ann Marie Molitor
Legislative Aide/Policy Analyst
Office of State Senator Mary Lazich
Senate District 28
(608) 266-5400

-----Original Message-----

From: Schultz, Steve [mailto:SSchultz@ruekert-mielke.com]
Sent: Monday, January 05, 2004 1:07 PM
To: Sen.Lazich
Subject: RE: Radium testing

I was out over the holidays and will get a narrative to you on Tuesday.
Sorry for any inconvenience

Steven H. Schultz, P.E.
Water Supply Department Head
Ruekert * Mielke
W233 N2080 Ridgeview Parkway
Waukesha, WI 53188
(262) 542-5733
(262) 542-5631 Fax
sschultz@ruekert-mielke.com

-----Original Message-----

From: Sen.Lazich [mailto:Sen.Lazich@legis.state.wi.us]
Sent: Monday, January 05, 2004 12:53 PM
To: Schultz, Steve
Subject: Radium testing

Hi, Steve.

You and I spoke a couple of weeks ago about Senator Lazich possibly introducing legislation to change the way in which the DNR tests for radium in municipal water supplies. You said that you would send me some language that I could forward to the drafting attorney, so that what gets drafted is what you want. To date, I have not received anything from you. Because we are fast approaching the end of the 2003-04 legislative session, time is of the essence. Is it still your intent to pursue a legislative change for the

City of New Berlin? Or has the City reached a different agreement with the DNR on this issue?

Any and all information you can pass along will be much appreciated.

Thanks, Ann

Ann Marie Molitor
Legislative Aide/Policy Analyst
Office of State Senator Mary Lazich
Senate District 28
(608) 266-5400



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3797/1

RCT: King

Tues. 1/13

2003 BILL

Note

including radionuclides
Gen. Cat.

1 AN ACT ...; relating to: connection of water sources producing water that
2 contains radionuclides to public water systems.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Natural Resources (DNR) to promulgate by rule standards for methods to obtain pure drinking water for human consumption and safeguards necessary to protect public health against the hazards of polluted sources of water used for human consumption. The law also authorizes DNR to administer a Safe Drinking Water Program no less stringent than the requirements of the federal Safe Drinking Water Act. Under this authority, DNR has promulgated maximum contaminant levels for various substances in drinking water. DNR has also promulgated a rule that prohibits a water source (a well, for example) that produces water with a concentration of a substance that exceeds a maximum contaminant level from being connected to a public water system unless blending or treatment is provided so that the maximum contaminant level is not exceeded upon entry of the water to the distribution system.

that is

This bill provides that DNR may not prohibit the connection of a water source that produces water with a concentration of radionuclides that exceeds a maximum contaminant level to a public water system if the maximum contaminant level is not exceeded at the point in the water distribution system at which water is sampled. A radionuclide is a radioactive substance. The bill also requires DNR to allow the sampling to be conducted in the water distribution system at a point between the entry point of water from the water source and the water connection of a customer's that is closest to that entry point if the samples taken are representative of the water normally provided to that customer.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3797/1dn

RCT:.....

King

Ann Molitor:

This is the draft related to radioactive substances in drinking water. Please review it carefully to ensure that it complies with your intent.

The information from Steve Schultz stated that EPA has indicated that this proposal will comply with its regulations. I have not attempted to verify that.

If you have any questions or redraft instructions, please contact me.

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

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3797/1dn
RCT:kmg:pg

January 12, 2004

Ann Molitor:

This is the draft related to radioactive substances in drinking water. Please review it carefully to ensure that it complies with your intent.

The information from Steve Schultz stated that EPA has indicated that this proposal will comply with its regulations. I have not attempted to verify that.

If you have any questions or redraft instructions, please contact me.

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

Tradewell, Becky

From: Sen.Lazich
Sent: Wednesday, January 14, 2004 11:42 AM
To: Tradewell, Becky
Subject: FW: Radium testing in drinking water supplies

Hi, Becky.

Attached are comments from Steve Schultz regarding LRB 3797/1. What do you think of his proposed changes? Do you know how we could insert a trigger mechanism for monitoring/sampling any time a well with a concentration of radionuclides that exceeds the maximum contaminant level is used as a source for the distribution system?

As always, your help is much appreciated.

Ann

Ann Marie Molitor
Legislative Aide/Policy Analyst
Office of State Senator Mary Lazich
Senate District 28
(608) 266-5400

-----Original Message-----

From: Schultz, Steve [mailto:SSchultz@ruekert-mielke.com]
Sent: Wednesday, January 14, 2004 9:26 AM
To: Sen.Lazich
Subject: RE: Radium testing in drinking water supplies

Ann,

Per our conversation last night, my comments are as follows:

Line 6 - change "connection" to "connection and use" (you could connect and not use)

line 13/14 delete "person using the" (not needed)

line 14 end - change "is used" to "produces water which enters the distribution system" (the well may have to be run to waste to sample)

The other question I envision from the WDNR is what happens if, during a non-required sampling year, the well is needed for a short period? Does that kick in monitoring. My suggestion is that utilities could agree to conduct 4 quarterly monitoring beginning anytime the well is used as a source for the distribution system or even have ongoing 4 quarterly monitoring. The added cost is small compared to the cost of treatment.
Thanks,

Steven H. Schultz, P.E.
Water Supply Department Head
Ruekert * Mielke
W233 N2080 Ridgeview Parkway
Waukesha, WI 53188
(262) 542-5733
(262) 542-5631 Fax
sschultz@ruekert-mielke.com

-----Original Message-----

From: Sen.Lazich [mailto:Sen.Lazich@legis.state.wi.us]
Sent: Monday, January 12, 2004 5:09 PM
To: Schultz, Steve
Subject: Radium testing in drinking water supplies

Steve,

Attached is draft legislation relating to testing for radium in public drinking water supplies. Please review the draft carefully and get back to me with your comments as soon as possible.

Thank you,

Ann

Ann Marie Molitor
Legislative Aide/Policy Analyst
Office of State Senator Mary Lazich
Senate District 28
(608) 266-5400

<<LRB Draft 03-3797-1 (1.12.2004).pdf>>



State of Wisconsin
2003 - 2004 LEGISLATURE

Thurs 1/15

LRB-3797132

RCT:kmg:pg

RMV

2003 BILL

DNB

- 1 AN ACT to create 281.18 of the statutes; relating to: connection of water sources
2 producing water that contains radionuclides to public water systems.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Natural Resources (DNR) to promulgate by rule standards for methods to obtain pure drinking water for human consumption and safeguards necessary to protect public health against the hazards of polluted sources of water used for human consumption. The law also authorizes DNR to administer a Safe Drinking Water Program that is no less stringent than the requirements of the federal Safe Drinking Water Act. Under this authority, DNR has promulgated maximum contaminant levels for various substances in drinking water, including radionuclides. A radionuclide is a radioactive substance. DNR has also promulgated a rule that prohibits a water source (a well, for example) that produces water with a concentration of a substance that exceeds a maximum contaminant level from being connected to a public water system unless blending or treatment is provided so that the maximum contaminant level is not exceeded upon entry of the water to the distribution system.

This bill provides that DNR may not prohibit the connection of a water source that produces water with a concentration of radionuclides that exceeds a maximum contaminant level to a public water system if the maximum contaminant level is not exceeded at the point in the water distribution system at which water is sampled. The bill also requires DNR to allow the sampling to be conducted in the water distribution system at a point between the entry point of water from the water source and the customer's water connection that is closest to that entry point if the samples taken are representative of the water normally provided to that customer's service connection.

BILL

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 281.18 of the statutes is created to read:

2 **281.18 Connection of water sources producing water that contains**
3 **radionuclides to public water systems.** (1) In this section, "public water
4 system" has the meaning given in s. 281.61 (1) (c).

5 (2) Notwithstanding the authority given to the department by ss. 280.11 (1)
6 and 281.17 (8), the department may not prohibit the connection ^{to a public water system} of a water source that

7 produces water with a concentration of radionuclides that exceeds a maximum
8 contaminant level established by the department by rule ^{or the use of such a water source} to a public water system

9 if the maximum contaminant level is not exceeded at the point in the distribution
10 system at which water is sampled. The department shall allow the sampling to be
11 conducted in the distribution system at a point between the entry point of water from
12 the water source and the service connection that is closest to that entry point if the
13 samples taken are representative of the water normally provided to the ~~person using~~

14 ~~via~~ service connection that is closest to the entry point. ~~If the water source is used~~
15 ~~during a calendar quarter in which the person operating the public water system~~

16 ~~conducts sampling required by the department.~~ The person operating the public
17 water system shall conduct sampling ^{during any} for ~~that~~ calendar quarter while the water

18 source is being used.

19 (END)

in which the water source
is used and shall conduct
the sampling

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3797/2dn

RCT: 1/2...

king

Ann Molitor:

I realized that in adding "or use" to the first sentence of proposed s. 281.18 (2), I needed to restructure the sentence in order to make it grammatically correct.

Please let me know if you have any questions or want any additional changes.

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

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3797/2dn
RCT:kmg:pg

January 14, 2004

Ann Molitor:

I realized that in adding "or use" to the first sentence of proposed s. 281.18 (2), I needed to restructure the sentence in order to make it grammatically correct.

Please let me know if you have any questions or want any additional changes.

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

Tradewell, Becky

From: Molitor, Ann
Sent: Tuesday, January 27, 2004 11:30 AM
To: Tradewell, Becky
Subject: Radium legislation, LRB 3797/2

Becky,

Would you please look at the draft and tell me whether you think it reads that any well that exceeds the maximum concentration of radionuclides can be hooked up to a public water system, regardless of any other violations the well may have? If so, please redraft the bill so that it is clear that only wells that meet drinking water standards and have no violations other than an elevated level of radionuclides can be hooked up to a public water system.

I am attaching the comments of a DNR drinking water specialist regarding the bill draft. He is the individual who points out that the bill may be too broad, as drafted now.

Thanks for all of your help.

Ann

Ann Marie Molitor
Office of State Senator Mary Lazich
Senate District 28
(800) 334-1442
(608) 266-5400



Voice

tail-20040126-Don Swales.

Transcribed Notes From Voicemail Message

FROM: Dan Swailes, SDWA Team Leader
Public Water Systems Section
Wisconsin Department of Natural Resources

TO: Steve Schultz

DATE: January 26, 2004

TIME: 11:12 A.M.

Hi Steve,

This is Don Swailes. I received your message from yesterday regarding the Lazisch proposal for the amendment to the statutes. Have read a copy of it and um would probably, well, you know as a general rule we are going to be against it, um, and basically for the reasons that we have the piece in our code now about water entering the water distribution system has to meet the code. And on the other piece of it, there is actually two parts of it, and the way that I read it, the first part is the well abandonment and would be against that too because its too broad, basically the way it reads right now is that, any well that exceeds the radium standard could be hooked up to a municipal system. In other words, we can't prohibit it. So, but the problem with that is that some of them have also other violations and it wouldn't prohibit them from being hooked up either. You know, it could go as far as some private wells as long as they have a radium violation it could be hooked up and might have a bacteria violation, nitrate violation, a VOC and an SOC, but you know under that, the wording is in there would say that we couldn't prohibit it from hooking it up. So, um you know, obviously there could be some changes in there that would make it a little different. And you know, I think probably the better way to do that part of it at least would be go to the code rather than do it statutorily because it really opens up a can of worms with the rest of the contaminants and the codes do it for just one contaminant that way and so um, and that would be the comment that we would make on it right now. I don't know, if we were called on it to testify on the proposal, we would be against it right now and for all the reasons I am sure you are aware of. And I understand that the EPA would allow it. And ah, I talked to Joe and I know he would testify that the EPA would allow it. But on the other hand, we've also contacted all the states that were in part of the group that actually got EPA to say, admit that this was available and lets just say it wasn't easy thing to get them to admit that, but those states were really headed up by people out in California. And we physically called California, Arizona, Oregon, Washington I believe were the four states and none of them, in terms of their state regulatory agencies, would allow that to be done. So there is kind of dichotomy there, although it is available it's not really being done. So anyway, regardless, at this point we would be not in favor of allowing that and um, I don't know for sure if you have other things you want to talk about regarding the legislation or anything else. But, I should be around today. I am going to be in and out of meetings. My number is (608) 266-7093 and so give me a call if you still would need to chat and we'll talk later. Thanks Steve, bye.



State of Wisconsin

2003 - 2004 LEGISLATURE

Today, if possible

LRB-37971~~2~~ 3

RCT:kmg:pg /my

2003 BILL

to a public water system on the grounds that the water source

please be sure to print with line numbers

AN ACT to create 281.18 of the statutes; **relating to:** connection of water sources producing water that contains radionuclides to public water systems.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Natural Resources (DNR) to promulgate by rule standards for methods to obtain pure drinking water for human consumption and safeguards necessary to protect public health against the hazards of polluted sources of water used for human consumption. The law also authorizes DNR to administer a Safe Drinking Water Program that is no less stringent than the requirements of the federal Safe Drinking Water Act. Under this authority, DNR has promulgated maximum contaminant levels for various substances in drinking water, including radionuclides. A radionuclide is a radioactive substance. DNR has also promulgated a rule that prohibits a water source (a well, for example) that produces water with a concentration of a substance that exceeds a maximum contaminant level from being connected to a public water system unless blending or treatment is provided so that the maximum contaminant level is not exceeded upon entry of the water to the distribution system.

This bill provides that DNR may not prohibit the connection of a water source ~~that produces water with a concentration of radionuclides that exceeds a maximum contaminant level to a public water system~~ if the maximum contaminant level is not exceeded at the point in the water distribution system at which water is sampled. The bill also requires DNR to allow the sampling to be conducted in the water distribution system at a point between the entry point of water from the water source and the service connection that is closest to that entry point if the samples taken are representative of the water normally provided to that service connection.

BILL

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 281.18 of the statutes is created to read:

281.18 Connection of water sources producing water that contains radionuclides to public water systems. (1) In this section, "public water system" has the meaning given in s. 281.61 (1) (c).

(2) Notwithstanding the authority given to the department by ss. 280.11 (1) and 281.17 (8), the department may not prohibit the connection to a public water system of a water source ^{on the grounds that the water source} that produces water with a concentration of radionuclides that exceeds a maximum contaminant level established by the department by rule ^{prohibit the} or the use of such a water source ^{on these grounds} if the maximum contaminant level is not exceeded at the point in the distribution system at which water is sampled. The department shall allow the sampling to be conducted in the distribution system at a point between the entry point of water from the water source and the service connection that is closest to that entry point if the samples taken are representative of the water normally provided to the service connection that is closest to the entry point. The person operating the public water system shall conduct sampling during any calendar quarter in which the water source is used and shall conduct the sampling while the water source is being used.

(END)

Barman, Mike

From: Molitor, Ann
Sent: Friday, January 30, 2004 11:17 AM
To: LRB.Legal
Subject: Draft review: LRB 03-3797/3 Topic: Allow the use of blending in a public water system to enable compliance with the drinking water standard for radium

It has been requested by <Molitor, Ann> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-3797/3 Topic: Allow the use of blending in a public water system to enable compliance with the drinking water standard for radium

2/9/04 Per Ann-

Redraft to require DNR to allow a community that has entered into a consent agreement with DNR about radium in drinking water to reopen the consent agreement to allow the community to take advantage of this new statute.

RET

Tradewell, Becky

From: Molitor, Ann
Sent: Tuesday, February 10, 2004 12:24 PM
To: Tradewell, Becky
Subject: RE: Redraft

Hi, Becky.

I just got in. Thanks for the reminder on jacketing. I will return it. But, on my way in today, I was thinking some more about this bill. There was some discussion last week about the bill, as currently drafted, applying to uranium, because uranium is a radionuclide. I don't think we want this bill to apply to uranium, so I'm going to ask Steve Schultz about that and get back to you on whether changes in terminology are necessary.

Thanks,

Ann

-----Original Message-----

From: Tradewell, Becky
Sent: Tuesday, February 10, 2004 9:05 AM
To: Molitor, Ann
Subject: Redraft

Ann,

I think that you had the radium draft, LRB-3797/3, jacketed. If so, and you have not already done so, please send the jacket back so that we can complete the redraft.

Thanks,
Becky Tradewell
6-7290

Tradewell, Becky

From: Molitor, Ann
Sent: Wednesday, February 11, 2004 3:29 PM
To: Tradewell, Becky
Subject: LRB 3797/3 Redraft

Hi, Becky.

In addition to new language requiring the DNR to reopen the consent decrees re radium, Senator Lazich would like to specifically limit the bill to Combined Radium 226 and 228 and Gross Alpha, rather than all radionuclides. This will eliminate uranium as being included under the bill.

I will send the jacket for this bill back to LRB as soon as I get done sending this message.

Please let me know if you have any questions. Thanks so much!

Ann

Ann Marie Molitor
Office of State Senator Mary Lazich
Senate District 28
(800) 334-1442
(608) 266-5400



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3797~~7~~4

RCT:kmj:jf

Thursday, 2/12

VMY

2003 BILL

Note

radium 226 and 228 and gross alpha particle radioactivity. Gross alpha particle radioactivity is total radioactivity due to alpha particle emissions.

radium 226, radium 228, or gross alpha particle radioactivity

Sen. Cat.

1 AN ACT to create 281.18 of the statutes; relating to: connection of water sources
2 producing water that contains radionuclides to public water systems.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Natural Resources (DNR) to promulgate by rule standards for methods to obtain pure drinking water for human consumption and safeguards necessary to protect public health against the hazards of polluted sources of water used for human consumption. The law also authorizes DNR to administer a Safe Drinking Water Program that is no less stringent than the requirements of the federal Safe Drinking Water Act. Under this authority, DNR has promulgated maximum contaminant levels for various substances in drinking water, including radionuclides. A radionuclide is a radioactive substance. DNR has also promulgated a rule that prohibits a water source (a well, for example) that produces water with a concentration of a substance that exceeds a maximum contaminant level from being connected to a public water system unless blending or treatment is provided so that the maximum contaminant level is not exceeded upon entry of the water to the distribution system.

This bill provides that DNR may not prohibit the connection of a water source to a public water system on the grounds that the water source produces water with a concentration of radionuclides that exceeds a maximum contaminant level if the maximum contaminant level is not exceeded at the point in the water distribution system at which water is sampled. The bill also requires DNR to allow the sampling to be conducted in the water distribution system at a point between the entry point of water from the water source and the service connection that is closest to that entry

radium 226 and 228 or gross alpha particle radioactivity

BILL

combined radium 226 and radium 228 or gross alpha particle radioactivity

point if the samples taken are representative of the water normally provided to that service connection.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 281.18 of the statutes is created to read:

281.18 Connection of water sources producing water that contains

radionuclides to public water systems. (1) In this section, "public water system" has the meaning given in s. 281.61 (1) (c).

(2) Notwithstanding the authority given to the department by ss. 280.11 (1) and 281.17 (8), the department may not prohibit the connection to a public water system of a water source on the grounds that the water source produces water with a concentration of ~~radionuclides~~ that exceeds a maximum contaminant level established by the department by rule or prohibit the use of such a water source on those grounds if the maximum contaminant level is not exceeded at the point in the distribution system at which water is sampled. The department shall allow the sampling to be conducted in the distribution system at a point between the entry point of water from the water source and the service connection that is closest to that entry point if the samples taken are representative of the water normally provided to the service connection that is closest to the entry point. The person operating the public water system shall conduct sampling during any calendar quarter in which the water source is used and shall conduct the sampling while the water source is being used.

(END)

19

Insert 2-18 ✓

Insert 2-18 ✓

SECTION 1. Nonstatutory provisions.

(1) REOPENING CONSENT AGREEMENTS. If, before the first day of the 12th month beginning after the effective date of this subsection, the operator of a public water system that entered into a consent agreement with the department of natural resources concerning compliance with a maximum contaminant level for ~~radionuclides~~ requests the department to reopen the consent agreement so that the operator may use section 281.18 of the statutes, as created by this act, to achieve compliance with the maximum contaminant level, the department shall reopen the consent agreement.

combined radium 226 and radium 228 or gross alpha
particle radioactivity

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

3797/40W
LRB-3747/4dr

RCT.....

KMG

Ann Molitor:

I included a deadline for a public water system operator to request that a consent agreement be reopened so ~~the~~ ^{that} the new provision could be placed in nonstatutory language rather than in the statutes. If you would prefer a different deadline or if you have any questions, please let me know.

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

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3797/4dn
RCT:kmg:pg

February 12, 2004

Ann Molitor:

I included a deadline for a public water system operator to request that a consent agreement be reopened so that the new provision could be placed in nonstatutory language rather than in the statutes. If you would prefer a different deadline or if you have any questions, please let me know.

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

Tradewell, Becky

From: Molitor, Ann
Sent: Friday, March 05, 2004 2:38 PM
To: Tradewell, Becky
Subject: Radium legislation - LRB 3797/4

Becky,

I am asking for a redraft of LRB 3797 to clarify that water from a well will be tested before entry into the distribution system. We want to allow sampling on the entry point discharge line as close as practical to the connection to the distribution system so that, when the well is operating, the samples taken will be the well water. This is being done to ensure that all water from an entry point meets the standard going into the distribution system on an average, annualized basis.

I am sending over by page a letter from Steve Schultz dated March 4, 2004, that addresses the issue. He included a diagram to help enable all of us to picture the proposed sampling point. I will also send over the letter to which Steve was responding.

If you have any questions or concerns, please don't hesitate to contact me. I'll also return the jacket for /4.

Thanks, Ann

Ann Marie Molitor
Office of State Senator Mary Lazich
Senate District 28
(800) 334-1442
(608) 266-5400



March 4, 2004

Mary A. Lazich
State Senator
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Re LRB
3797/4

RE: Proposed Radium Sampling Legislation

Dear Senator Lazich:

I have reviewed the February 13, 2004 letter from Jo Lynn Traub, Director of the region 5 EPA Water Division to Jill Jonas, Director of the Bureau of Drinking Water and Groundwater for the WDNR. I have some very serious concerns regarding that letter.

As stated during my testimony at the recent legislative committee hearing, The proposed bill (with the amendment to allow sampling on the well discharge line prior to connection to the distribution system) is perfectly in line with the EPA rule. In fact, Ms. Traub states in her letter that it is in line with the Rule. However, it is apparent that the type of sampling the bill would allow and what was explained to Ms. Traub are two different things. We are not proposing to sample in the distribution system where system fluctuations could make changes in flow patterns. We are proposing to make sure that the water that enters the distribution system is compliant and uncontaminated.

There is an inherent level of additional protection in the proposed sampling scheme. The proposal would allow municipalities to sample the entry point at the allowed location each quarter and average the results. In the case where the well was pumped to the system, even once in a quarter, that quarterly sample will be collected with the well running. If the well is not used the sample will be representative of the water normally used by the customers. Because the quarterly sample is a representation of continuous use of the well during any quarter in which a well is used, the proposal is very conservative in protecting public health.

There is no detailed modeling required or complex calculations. There is no increased burden placed on anyone at the DNR and any additional sampling costs will be born by the Utilities. The DNR simply has to check that the four quarterly running average is below the maximum contaminant level, which is averaging four numbers. We trust this will not require the DNR to dedicate additional resources to this exercise. This minimal added potential cost for additional sampling by a utility pales in comparison to the literally millions of dollars it will save many communities. If all the water entering the distribution system can be shown to be uncontaminated before it enters the system, there is no need for flow weighted averaging as was Ms. Traubs assumption. I believe Ms. Jonas referred to an older draft of the proposed legislation in her testimony and that this was the basis for the EPA correspondence. We have addressed the EPA concerns in the latest version.



engineering solutions for a working world

Mary A. Lazich
State Senator
State Capitol
March 4, 2004
Page 2

Our professional opinion is that the public health is being protected as is the public pocketbook. There will be no added burden to the DNR staff and no deterioration in the level of public health protection.

To add in understanding the simpleness of the proposed change in the sampling point, I have enclosed a drawing for your use. Please feel free to call with questions.

Very truly yours,

RUEKERT/MIELKE

A handwritten signature in black ink, appearing to read "Steven H. Schultz".

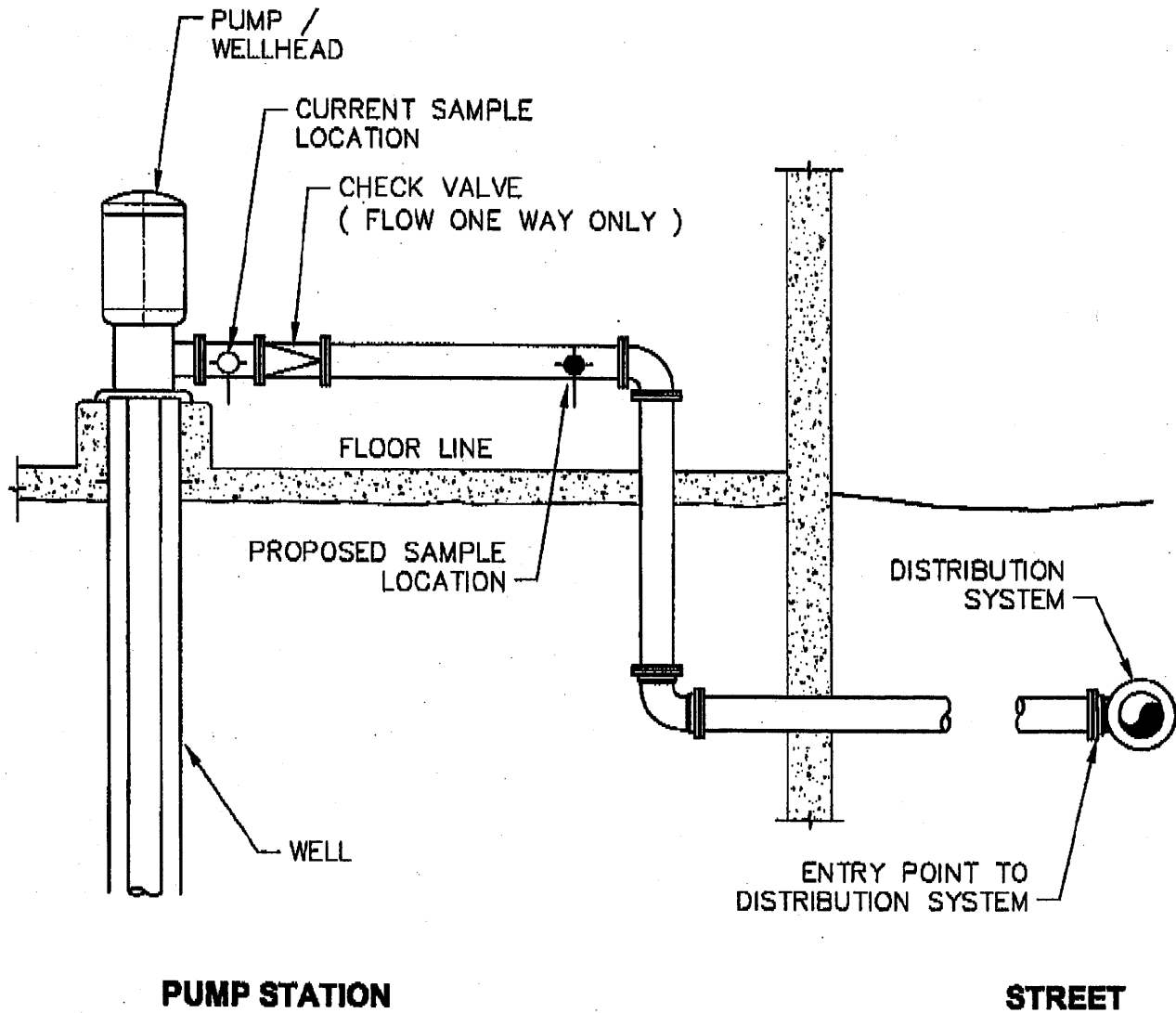
Steven H. Schultz, P.E.
Water Supply Department Head

SHS:tag
Enclosure

cc: File

RM811PB

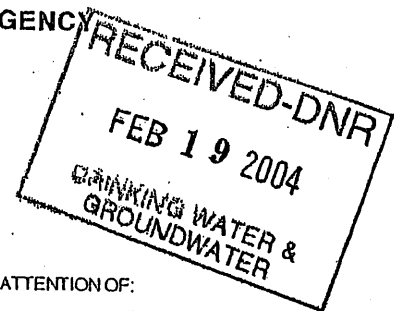
DIAGRAM OF PROPOSED SAMPLE LOCATION FOR RADIONUCLIDE SAMPLING



Mar 04, 2004 4:07pm
C:\user\1402004\WORK\ME-RADONUCLIDE.dwg 41064
RUEKERT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590



REPLY TO THE ATTENTION OF:

WG-15J

FEB 13 2004

Jill Jonas, Director
Bureau of Drinking Water
and Ground Water
Wisconsin Department of Natural Resources
101 South Webster
P.O. Box 7921
Madison, Wisconsin 53707

Dear Ms. Jonas:

This letter is being sent to you in response to concerns that we have with recent developments related to implementation of the Public Water System Supervision (PWSS) Program in Wisconsin.

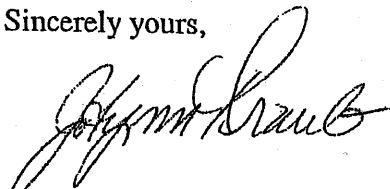
Over the last 2 years, we have expressed concern over the Wisconsin Department of Natural Resources' (WDNR) ability to fully implement the PWSS Program in Wisconsin, due to significant reductions in State funding and staffing. In recognition of the State's limited resources, we have negotiated a temporary agreement with the WDNR to prioritize PWSS Program activities, with the understanding that the State will not be able to implement some required program activities. This agreement is intended to be of a temporary nature, until such time that the PWSS Program can acquire the necessary resources and staffing to fully implement the base PWSS Program.

Recently, we have learned that WDNR is considering implementing an optional provision in the PWSS Program, which involves public water system (PWS)-specific calculations (i.e., weighted averaging) to determine contaminant levels in the distribution systems of a number of PWSs in Wisconsin. Although the national drinking water program allows this optional compliance determination approach, we have serious concerns with implementing this approach in Wisconsin, at a time when the WDNR is already unable to fulfill all of the basic public health protection functions for which the State is responsible under the PWSS Program. The WDNR has already disinvested in activities designed to follow up on PWS violations, reduced the level of technical assistance it provides to PWSs, and cannot adequately address the high non-compliance rate among small systems.

The implementation of weighted averaging is complex, resource intensive, and in the end, may not be feasible for most PWSs, without undergoing expensive and time-consuming flow modeling in the PWS. Water flow patterns in some systems can be complex, and can vary from day to day (e.g., a major industrial user could alter water flow patterns on a daily basis), making it difficult to calculate weighted averages for the PWS. In addition, due to sometimes complex flow patterns, and the mixing of contaminated and uncontaminated water in the distribution system, we are concerned about the level of resources that the State would need to dedicate to review each PWS's situation to assure that all consumers are being protected.

We understand that some PWSs in Wisconsin would like to use the weighted averaging approach to calculate compliance, but we are very concerned that the diversion of resources to this effort would further deteriorate the level of public health protection provided to other consumers in the State. Should you have any questions, please feel free to contact Charlene Denys, of my staff, at (312) 886-6206.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Lynn Traub".

Lynn Traub
Director, Water Division

Tradewell, Becky

From: Molitor, Ann
Sent: Friday, March 05, 2004 4:27 PM
To: Tradewell, Becky
Subject: Radium legislation

Becky,

For what it is worth, I would suggest the following changes:

SECTION 1. 281.18 of the statutes is created to read:

281.18 Connection of water sources producing water that contains certain radionuclides to public water systems. (1) In this section, "public water system" has the meaning given in s. 281.61 (1) (c).

2) Notwithstanding the authority given to the department by ss. 280.11 (1) and 281.17 (8), the department may not prohibit the connection to a public water system of a water source on the grounds that the water source produces water with a concentration of combined radium 226 and radium 228 or gross alpha particle radioactivity that exceeds a maximum contaminant level established by the department by rule or prohibit the use of such a water source on those grounds if the maximum contaminant level of the water entering the distribution system is not exceeded on an average annual basis. The department shall allow the sampling to be conducted on the well discharge line prior to connection to the distribution system. The sampling point on the well discharge line shall be considered the most representative of each water source. The person operating the public water system shall conduct sampling during any calendar quarter in which the water source is used and shall conduct the sampling while the water source is being used.

Ann

Ann Marie Molitor
Office of State Senator Mary Lazich
Senate District 28
(800) 334-1442
(608) 266-5400

Tradewell, Becky

From: Molitor, Ann
Sent: Friday, March 05, 2004 4:56 PM
To: Tradewell, Becky
Subject: RE: Radium legislation

Funny you should mention that. The CFR provides the following:

(a) Monitoring shall be conducted as follows:

*(1) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point) beginning in the initial compliance period. **The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.***

According to an EPA official, the second sentence is what gives states flexibility to move a sampling point, if they choose. The EPA allows what are called periodic episodes where the contaminant level is above the standard. So, for example, on wells where the radium level is above 5, the well would be run only one quarter out of four. Test results = 0, 0, 12, 0. Obviously, 12 is above the standard of 5, but, on an average basis, the well is only producing water with a level under 5, because no water is sent into the distribution system three out of the four quarters.

Our difficulty with drafting is, as I'm sure you are well aware, why these things are usually put into an administrative code rather than a statute.

I hope this helps.

Ann

-----Original Message-----

From: Tradewell, Becky
Sent: Friday, March 05, 2004 4:36 PM
To: Molitor, Ann
Subject: RE: Radium legislation

Ann,

I was thinking about something like that. I don't, though, understand your proposed language about considering the sampling point to be most representative of each water source. I had the impression that it is a federal requirement that the samples actually be representative of the water normally provided to consumers (or something like that).

Becky

-----Original Message-----

From: Molitor, Ann
Sent: Friday, March 05, 2004 4:27 PM
To: Tradewell, Becky
Subject: Radium legislation

Becky,

For what it is worth, I would suggest the following changes:

SECTION 1. 281.18 of the statutes is created to read:

281.18 Connection of water sources producing water that contains certain radionuclides to public water systems. (1) In this section, "public water system" has the meaning given in s. 281.61 (1) (c).

2) Notwithstanding the authority given to the department by ss. 280.11 (1) and 281.17 (8), the department may not prohibit the connection to a public water system of a water source on the grounds

that the water source produces water with a concentration of combined radium 226 and radium 228 or gross alpha particle radioactivity that exceeds a maximum contaminant level established by the department by rule or prohibit the use of such a water source on those grounds if the maximum contaminant level of the water entering the distribution system is not exceeded on an average annual basis. The department shall allow the sampling to be conducted on the well discharge line prior to connection to the distribution system. The sampling point on the well discharge line shall be considered the most representative of each water source. The person operating the public water system shall conduct sampling during any calendar quarter in which the water source is used and shall conduct the sampling while the water source is being used.

Ann

Ann Marie Molitor
Office of State Senator Mary Lazich
Senate District 28
(800) 334-1442
(608) 266-5400



State of Wisconsin
2003 - 2004 LEGISLATURE

Monday

LRB-3797/5

RCT:kmg:pg
mr

2003 SENATE BILL

Note

- 1 AN ACT *to create* 281.18 of the statutes; **relating to:** connection of water sources
2 producing water that contains radium 225, radium 228, or gross alpha particle
3 radioactivity to public water systems.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Natural Resources (DNR) to promulgate by rule standards for methods to obtain pure drinking water for human consumption and safeguards necessary to protect public health against the hazards of polluted sources of water used for human consumption. The law also authorizes DNR to administer a Safe Drinking Water Program that is no less stringent than the requirements of the federal Safe Drinking Water Act. Under this authority, DNR has promulgated maximum contaminant levels for various substances in drinking water, including radium 226 and 228 and gross alpha particle radioactivity. Gross alpha particle radioactivity is total radioactivity due to alpha particle emissions. DNR has also promulgated a rule that prohibits a water source (a well, for example) that produces water with a concentration of a substance that exceeds a maximum contaminant level from being connected to a public water system unless blending or treatment is provided so that the maximum contaminant level is not exceeded upon entry of the water to the distribution system.

This bill provides that DNR may not prohibit the connection of a water source to a public water system on the grounds that the water source produces water with a concentration of radium 226 and 228 or gross alpha particle radioactivity that exceeds a maximum contaminant level if the maximum contaminant level is not

SENATE BILL

Analysis insert 1

exceeded at the point ~~in the water distribution system~~ at which water is sampled. The bill also requires DNR to allow the sampling to be conducted in the ~~water distribution system~~ at a point between the entry point of water from the water source and the service connection ~~that is closest to that entry point~~ if the samples taken are representative of the water normally provided to ~~that service connection~~. *the closest*

Analysis insert 2

*

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 281.18 of the statutes is created to read:

2 281.18 Connection of water sources producing water that contains
3 certain radionuclides to public water systems. (1) In this section, "public
4 water system" has the meaning given in s. 281.61 (1) (c).

5 (2) Notwithstanding the authority given to the department by ss. 280.11 (1)
6 and 281.17 (8), the department may not prohibit the connection to a public water
7 system of a water source on the grounds that the water source produces water with
8 a concentration of combined radium 226 and radium 228 or gross alpha particle
9 radioactivity that exceeds a maximum contaminant level established by the
10 department by rule or prohibit the use of such a water source on those grounds if the

11 maximum contaminant level is not exceeded at the point ~~in the distribution system~~
12 at which water is sampled. *Insert 2-12* The department shall allow the sampling to be conducted

13 in the ~~distribution system~~ at a point between the entry point of water from the water
14 source and the service connection ~~that is closest to that entry point~~ *Insert 2-14* if the samples

15 taken are representative of the water normally provided to the service connection
16 that is closest to the entry point. *Insert 2-16* The person operating the public water system shall

17 conduct ~~sampling during any calendar quarter in which the water source is used and~~
18 ~~shall conduct~~ the sampling while the water source is being used.

SENATE BILL**SECTION 2. Nonstatutory provisions.**

(1) REOPENING CONSENT AGREEMENTS. If, before the first day of the 12th month beginning after the effective date of this subsection, the operator of a public water system that entered into a consent agreement with the department of natural resources concerning compliance with a maximum contaminant level for combined radium 226 and radium 228 or gross alpha particle radioactivity requests the department to reopen the consent agreement so that the operator may use section 281.18 of the statutes, as created by this act, to achieve compliance with the maximum contaminant level, the department shall reopen the consent agreement.

(END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3797/5ins
RCT.....

Analysis insert 1 ✓

, based on an annual average of ^{four} 4 samples, one taken each calendar quarter

Analysis insert 2 ✓

well discharge line

Insert 2-12 ✓

, based on an annual average of 4 samples, one taken each calendar quarter

Insert 2-13 ✓

well discharge line

Insert 2-14 ✓

before the connection to the distribution system

Insert 2-16 ✓

If the water source is used during a calendar quarter,

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3797/5dn

RCT: k....
krug

Ann Molitor:

I did not get hold of Steve Schultz, so this redraft should be reviewed carefully. It is based on my assumption that there will be 4 quarterly samples at the new sampling point. If the well is only being used during one quarter, the samples for the other quarters will not contain water from the problematic well, but will consist of water from the other water sources that goes up into the discharge line when the well is not being used. If my understanding is incorrect and there would be only one sample in this circumstance or if I am mistaken in some other respect, please let me know.

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

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3797/5dn
RCT:kmg:pg

March 8, 2004

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