



CR 86-8

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
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STATE OF WISCONSIN)
) SS
DEPARTMENT OF NATURAL RESOURCES)

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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. WS-3-86 was duly approved and adopted by this Department on October 23, 1986. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at General Executive Facility #2 in the City of Madison, this 3rd day of December, 1986.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

2-1-87

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ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

.....
IN THE MATTER OF creating ch. NR 145, .
Wisconsin Administrative Code, relating .
to county administration of the private .
well code .
.....

WS-3-86

Analysis Prepared by Department of Natural Resources

The private well code, ch. NR 112 has been administered at the state level for nearly 50 years. Because of the "home rule" movement, in 1983 the legislature gave the department statutory authority to develop rules for voluntary county adoption of a well and pump installation ordinance. NR 145 addresses criteria for authorizing county administration and enforcement of the private well code including training, county responsibilities, enforcement procedures, laboratory support and DNR responsibilities.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 59.067, 162.07 and 227.11(2)(a), Stats., the State of Wisconsin Natural Resources Board hereby creates rules interpreting ss. 59.067 and 162.07, Stats., as follows:

SECTION 1. Chapter NR 145 is created to read:

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CHAPTER NR 145
COUNTY ADMINISTRATION OF CHAPTER NR 112, THE PRIVATE WELL CODE

NR 145.01 PURPOSE. The purpose of this chapter is to establish standards for county adoption and enforcement of an ordinance for private well location, well construction or pump installation and for department review of county delegation programs. The goal of the county delegation program is to protect Wisconsin's drinking water and groundwater resources by governing access to groundwater through regulating private well location, construction and pump installation.

NR 145.02 APPLICABILITY. The provisions of this chapter apply to all counties with a department-approved well construction or pump installation ordinance regulating new and existing private water systems, including private wells constructed in special well casing areas, in accordance with ch. NR 112. Drilled, driven point, dug, bored and jetted wells are all regulated under the provisions of this chapter. The provisions of this chapter do not apply to springs, school water systems, wastewater treatment plant or lift station water systems, high capacity water systems, community water systems and wells, water systems or installations which require written plan approval from the department.

Note: See chs. NR 111 and 112 for wells, water systems and installations that require written plan approval from the department.

NR 145.03 OTHER MUNICIPALITIES. No entity other than a county authorized under this chapter may adopt or enforce an ordinance regulating matters covered by ch. 162, Stats., or by department rules adopted under ch. 162, Stats.

NR 145.04 DEFINITIONS. In this chapter:

(1) "Administrator" means the county employe designated by the county board of supervisors to issue permits for either private well location or pump installation or both and to administer ch. NR 112 in the county as authorized by the department.

(2) "Aesthetic parameters" means constituents of drinking water that are not cause for health concern, including but not limited to those in the secondary drinking water standards listed in s. NR 109.60.

(3) "Approval" means the written plan approval of the department.

(4) "Central office" means the bureau of water supply, located in Madison, Wisconsin, which functions as the coordinating authority for the statewide water supply program.

(5) "Community water system" has the meaning designated in s. NR 111.03(2).

(6) "Contaminant" has the meaning designated in s. NR 109.04(2).

(7) "County office staff" means county office personnel trained to answer general well location and pump installation questions and to accept permit applications.

(8) "Delegation level" means the program level, as set forth in s. NR 145.05, at which a county is authorized to administer and enforce ch. NR 112.

(9) "Department" means the department of natural resources.

(10) "Department district offices" means offices located in:

Northwest District, Box 309, Spooner, WI 54801

North Central District, Box 818, Rhinelander, WI 54501

West Central District, 1300 W. Clairemont Ave., Box 4001, Eau Claire, WI 54702

Lake Michigan District, 1125 N. Military Ave., Box 10448, Green Bay,
WI 54307

Southeast District, 2300 N. Dr. Martin Luther King Jr. Dr., Box 12436,
Milwaukee, WI 53212

Southern District, 3911 Fish Hatchery Rd., Fitchburg, WI 53711

(11) "Emergency installation" means an installation made as a result of an unforeseen problem with an existing private water system, such as a well not producing water, that could be a hazard to the health of humans or livestock served by a potable well.

(12) "Existing installations" has the meaning designated in s. NR 112.03(24).

(13) "Health hazard" means a condition which constitutes:

(a) A violation of ch. NR 112 regarding the installation, construction, operation or maintenance of a private well; or

(b) Confirmed bacteriologically-unsafe well water quality.

(14) "Noncommunity water system" means a public water supply system that is not a community water system. It serves at least 25 persons per day at least 60 days each year. A noncommunity water system commonly serves a transient population rather than permanent year-round residents. This is typically an individual well serving a restaurant, industry, service station, tavern, motel, campground or church.

(15) "Noncomplying well or pump installation" means a private water system not in compliance with all provisions of ch. NR 112 in effect at the time the well was constructed or the pump was installed.

(16) "Performance standards" means standards established by the department specifying the success level a county is required to achieve and maintain in order to retain authorization for a delegation level.

(17) "Person" means an individual, corporation, company, association, cooperative, trust, institution, partnership, state, public utility, sanitary district, municipality or federal agency.

(18) "Personal interest" means having a financial interest in a property or being related by marriage or birth to a person having a financial interest in a property.

(19) "Primary drinking water standards" means those maximum contaminant levels which represent minimum public health standards set forth in ch. NR 109.

(20) "Private water system" means the water collection, storage and treatment facilities and all structures, piping and appurtenances by which water is provided for human consumption by other than community water systems. For the purpose of this chapter, it includes noncommunity water systems.

(21) "Private water systems inspector" means a county employe trained by the department to inspect the well location and pump installation and collect water samples for any private water system.

(22) "Private water systems ordinance" means a county ordinance, approved by the department, regulating private water systems at the county's authorized delegation level.

(23) "Private well" means, for the purpose of this chapter, any drilled, driven point, dug, bored or jetted well constructed for the purpose of obtaining groundwater for potable use, including wells constructed in special well casing depth areas and noncommunity wells. It does not include springs, or private or public wells that require written plan approval from the department.

(24) "Public water system" has the meaning designated in s. NR 112.03.

(25) "Pump installation" means:

(a) In a new private water system, the installation of a pump.

(b) In an existing private water system, a change in the nature of the connection between the well and the interior water supply piping or changing the type of pump installed. It does not include replacement of a pump with a similar pump, replacement of one type of pipe material with another pipe material of the same or different diameter or the installation of motors, controls, sampling faucets, well seals or caps or pressure tanks.

(26) "Pump installation inspector" means a county employe trained by the department to inspect new and existing pumps and related equipment used for withdrawing water from a private water system including but not limited to the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.

(27) "Pump installation permit" means a permit, or comparable registration system, issued by a participating county which allows the installation of a pump in a new, reconstructed, replaced or rehabilitated private water system or the installation of a pump in an existing private water system when a change is made in the nature of the connection between the well and the water supply piping or when a different type of pump is installed.

(28) "Reconstruction" means modifying the original construction of a private well. It includes but is not limited to deepening, lining, installing or replacing a screen, under-reaming, hydrofracturing and blasting.

(29) "Registration system" means a record of county approval for the construction of a private water system or the installation of a pump as recorded by the county administrator.

(30) "Special well casing depth area" means an area in which the department requires a greater depth of protective casing because well histories show that the vertical zone of contamination extends to a greater depth than the casing requirements of s. NR 112.08(2).

Note: A list of special well casing depth areas is available from the Department of Natural Resources, 101 S. Webster Street, P.O. Box 7921, Madison, WI 53707-7921.

(31) "Uniform private water systems guidance manual" means the manual prepared by the department outlining county procedures for administering and enforcing ch. NR 112.

Note: Copies are available from Department of Natural Resources, 101 S. Webster Street, P.O. Box 7921, Madison, WI 53707-7921.

(32) "Variance" means an approval issued by the department under s. NR 112.04 allowing a private water system to vary from ch. NR 112 requirements if department approved conditions are met.

(33) "Water system" means the water collection, storage, treatment facilities and all structures, piping and appurtenances by which water is provided.

(34) "Well" has the meaning designated in s. 162.02(6), Stats.

(35) "Well construction" means the procedures, methods, materials and equipment used during the construction or reconstruction of a well.

(36) "Well construction inspector" means a county employe trained by the department to conduct inspections of private wells during or immediately following construction.

(37) "Well location inspector" means a county employe trained by the department to inspect the location of a private well in relation to ch. NR 112 locational distances, to observe the above grade casing height, to observe whether there is a cap or a seal on the upper terminus of the well and to locate unused, unabandoned wells.

(38) "Well location permit" means a permit, or comparable registration system, issued by the county which allows the construction or reconstruction of a private well.

NR 145.05 DELEGATION LEVELS. Upon the approval of the department, a county may receive authorization to administer ch. NR 112 at one of 4 levels. Counties may be authorized to administer: level 1; levels 1 and 2; levels 1 and 3; levels 1 to 3; or levels 1 to 4. Department authorization of level 4 shall be predicated on a county's successful administration of levels 1 to 3 for a minimum one-year period. For the first 18 months following ch. NR 145 implementation, the department may only authorize delegation authority for level 1. Counties who intend to administer level 2 and/or level 3 within 18 months of ch. NR 145 implementation may include an 18-month delayed effective date for delegation levels 2 and/or 3 in the county's private water system ordinance. The delegation levels involve the inspection of private water systems, including private well construction and the issuance of permits for private well location or pump installation. At each delegation level, the county shall investigate complaints and take enforcement actions related to their authorized delegation level. The 4 delegation levels are:

(1) LEVEL 1 - PRIVATE WELL LOCATION. Under level 1 delegation it is a county's responsibility to:

(a) Issue permits authorizing the location of new and replacement private wells, including drilled, driven point, dug, bored or jetted wells, or the reconstruction or rehabilitation of existing private and noncommunity wells.

(b) Conduct inspections of new, replaced, reconstructed or rehabilitated private well installations for which well location permits were required as soon as possible after the well is constructed.

(c) Determine whether the casing height of a permitted well complies with ch. NR 112 and that there is a cap or seal on the upper terminus of the well.

(d) Require the abandonment of wells not in service, or that will be taken out of service, if the well is unused, noncomplying or

bacteriologically-unsafe. A county may require the abandonment of a well with water exceeding a primary drinking water standard listed in ch. NR 109, or other chemical compounds for which state health advisory limits have been issued including inorganic and organic compounds, after consultation with and approval by the department.

(e) Require upgrading of all inspected private wells that are not in compliance with the minimum private well locational distances in ch. NR 112.

(2) LEVEL 2 - WELL LOCATION AND PUMP INSTALLATION PERMITS. Under level 2 it is a county's responsibility to operate a program for level 1 and to:

(a) Issue permits for the installation of a pump on new, replaced, rehabilitated or reconstructed private water systems. This permit may be incorporated in a joint well location/pump installation permit system.

(b) Issue permits for pump installations on existing private water systems when a change is made in the nature of the connection between the well and the water supply piping or when a different type of pump is installed.

(c) Conduct inspections of new and existing pump installations for which pump installation permits were required as soon as possible after the pump installation work is completed.

(d) Require upgrading of all inspected private water systems that are not in compliance with the minimum private well location and pump installation code standards in ch. NR 112.

(3) LEVEL 3 - EXISTING PRIVATE WATER SYSTEMS. Level 3 delegation includes level 1 responsibilities plus a program for inspecting existing private water systems. Under level 3 it is a county's responsibility to:

(a) Follow-up on all initial bacteriologically-unsafe sample results in the county, that the county is informed of, from all private water systems located in the county covered under this chapter submitted to the county

health department laboratory or other laboratories certified by the department of health and social services under s. 143.14, Stats. Initial unsafe sample follow-up shall consist of, at a minimum, a telephone contact or form letter, but may be an on-site visit. The county shall advise the property owner what action should be taken and offer further assistance. Follow-up on initial bacteriologically-unsafe results from samples analyzed by the state laboratory of hygiene need not be done by the county. If further assistance is requested following a second unsafe sample submitted to the state laboratory of hygiene, the county health department laboratory or other laboratories certified by the department of health and social services, the county shall follow the procedures described in the uniform private water systems guidance manual. Problems with private water systems which require action beyond the authorized delegation level of the county shall be referred to the department.

(b) Annually inspect 10% of the existing noncommunity water systems located in the county. The county shall collect coliform bacteria and nitrate samples for the systems inspected each year and follow-up on bacteriologically-unsafe samples and samples exceeding the primary drinking water standard for nitrates. Follow-up procedures are described in the uniform private water systems guidance manual. When all noncommunity wells in the county have been inspected and sampled under this program, the county shall repeat the inspection and analysis procedure described in this paragraph.

(c) On the request of a property owner or a lending institution, conduct an inspection of the well and pump installation and collect a water sample for coliform bacteria analysis, and if also requested collect a nitrate-nitrogen sample, for the private water system.

(d) Conduct a private water system inspection and evaluation whenever any water sample is collected as part of complaint or problem follow-up unless authorized not to do so by the department.

(e) Require upgrading of all inspected private water systems that are not in compliance with the minimum well location and pump installation standards of ch. NR 112.

(4) LEVEL 4 - PRIVATE WELL CONSTRUCTION. Level 4 includes the responsibilities of levels 1 to 3 and the following responsibilities:

(a) Inspect new private wells during the actual construction phase or immediately following construction to ensure compliance with ch. NR 112 well construction requirements.

(b) Follow-up on problems with new and existing private water systems due to well construction, in addition to problems associated with pump installation or private well location.

(c) Check the well driller's license, equipment and materials to ensure that department approved materials and methods are used. Follow-up procedures are described in the uniform private water systems guidance manual.

NR 145.06 COUNTY ADMINISTRATION. (1) COUNTY ORDINANCE. (a) Adoption of ordinance. Each county authorized by the department to administer and enforce ch. NR 112 under any delegation level shall adopt a private water systems ordinance, no less stringent nor more stringent than ch. 162, Stats., and department rules adopted under ch. 162, Stats. The ordinance shall establish a well location permit system or pump installation permit system or both. The ordinance shall be commensurate with the level or levels of the county's delegated authority. The ordinance shall apply to the entire county and shall include cities, towns, villages and sanitary districts in the county.

(b) Repeal of ordinance. A county may rescind participation in the delegation program by repealing the private water system ordinance in its entirety or by repealing portions of the ordinance authorizing participation

in a specific delegation levels. The county shall notify the department of its intention to withdraw from participation in the county delegation program in writing at least 30 days prior to date of repeal of all or any part of the county ordinance.

(c) Ordinance provisions. 1. The county ordinance shall to the extent of the county's authorized delegation level:

a. Prohibit the installation of a private water system by a well constructor or pump installer unless the owner of the property on which the system is to be installed holds a valid permit as required by the county ordinance.

b. Prohibit the installation or operation of a private water system which is not in compliance with ch. NR 112 and the county ordinance.

c. Require the abandonment of private wells if the well is unused, noncomplying or bacteriologically-unsafe. A county may require the abandonment of a well with water exceeding a primary drinking water standard listed in ch. NR 109, or other chemical compounds for which state health advisory limits have been issued including inorganic and organic compounds, after consultation with and approval by the department.

2. The county's ordinance shall authorize the administrator or the trained county inspectors to:

a. Enter property to inspect private water systems during reasonable hours. To administer and enforce the county ordinance, the administrator or county inspectors may enter any building or property for the purpose of inspecting the private water system and may request the owner or operator to produce the private well location or pump installation permit required by the county ordinance. No person may interfere with the administrator or county inspectors in the performance of their duties. Any person interfering is

subject to penalty as provided in the county ordinance. If consent to enter property for inspection purposes is denied, the administrator may obtain a special inspection warrant under ss. 66.122 and 66.123, Stats.

b. Order any person owning, operating or installing a private water system to abandon, modify, repair or replace the private water system in a complying, safe and sanitary condition if the system is found to be unused, noncomplying or bacteriologically-unsafe.

c. Prohibit the use of any new or existing private water system that is found to be installed, constructed, operated or maintained so as to be a health hazard to the users, neighbors or community.

d. Order the suspension of all further work on a private water system until any preceding noncompliant work is brought into compliance with ch. NR 112 and the county ordinance. The administrator or county inspectors may order suspension and the posting of a suspension order if it is determined that the location or construction of a private well or the installation of a pump does not comply with ch. NR 112 or the county ordinance. The administrator shall notify the well constructor, pump installer and property owner in writing of the noncompliance and the nature of the work to be discontinued and corrected, identifying the location and the name of the person issuing the order. Work may be resumed on the site only under the direction of the administrator.

(d) Conflicting ordinances. Any county or municipal ordinance relating to private water systems other than an ordinance adopted under par. (a) may not be enforced.

(e) Unauthorized ordinances. Counties and other local units of government not authorized by the department to adopt and enforce an ordinance under par. (a) for either private well construction or pump installation or both, may not enforce unauthorized ordinances.

(f) Delegation levels. Counties may not carry out or enforce programs related to ch. NR 112 beyond their authorized level of delegation.

(2) COUNTY QUALIFICATIONS. (a) A county is required to provide an adequate number of staff trained at a level designated by the department to assure adequate administration and enforcement of ch. NR 112 before the department may delegate level 1, 2, 3 or 4.

(b) A county is required to provide staff trained at a level designated by the department to assure adequate administration and enforcement of ch. NR 112 and satisfactorily complete one year of operating a program that includes delegation levels 2 and 3 before the department may delegate level 4.

(3) ORDINANCE ADMINISTRATION. The county board of supervisors may assign administration of the private water systems program to any appropriate county office, department, committee, board or commission that shall have the authority and the duty to administer and enforce the provisions of the county ordinance adopted under sub.(1)(a) and (c).

(a) Qualifications of the administrator for the private water systems ordinance. 1. To be eligible for appointment as administrator of the private water systems ordinance, a person shall be knowledgeable about the principles and practices of private well construction and pump installation. The department recommends that the administrator take the examination and attend the training sessions commensurate with the level or levels of authorized county delegation.

2. If the administrator has a personal interest in the construction or modification of any private well or pump installation subject to the provisions of ch. 162, Stats., ch. NR 112 or the county ordinance, the county board shall, after consultation with the department, designate another knowledgeable person to examine the application, to issue the required permits and to make any or all of the necessary inspections.

(b) Duties. It shall be the duty of the administrator or her or his designated representative to enforce the county ordinance and perform the following duties commensurate with the level or levels of the county's delegation authority:

1. Record all permits, fees, inspections and other official actions.
2. a. Submit copies of the processed permits, forms or correspondence within the timeframes specified in Table 1.

Table 1

| Delegation Authority | Permits, Forms, Correspondence | Timeframe | |
|----------------------|--|-----------|---------|
| | | 7 days | 30 days |
| Level 1 | Well Location Permit Application | Yes | |
| | Field Inspection Forms | | Yes |
| | Corrective, Enforcement Letters and Orders (Well Location and Abandonment) | Yes | |
| Level 2 | New and Existing Pump Installation Permits | Yes | |
| | Field Inspection Forms | Yes | |
| | Corrective, Enforcement Letters and Orders (Noncomplying Pump Installations) | Yes | |
| Level 3 | Well and Pump Installation Field Inspection Forms | Yes | |
| | Corrective, Enforcement Letters and Orders (Non-Complying Well and Pump Installations) | | Yes |
| | All Follow-up Letters Involving Noncommunity Water Systems | Yes | |
| | Correspondence pertaining to well water samples with chemical or radiological contaminants exceeding drinking water standards. | | Yes |
| | Correspondence pertaining to confirmed unsafe water samples | | Yes |
| | Inventory Information and Sample Results Form for Noncommunity Water Systems | Yes | |
| Level 4 | Drinking Water Analyses, Except Bacti, from County or Private Laboratories | | Yes |
| | Well Construction Field Inspection Form | Yes | |
| | Corrective, Enforcement Letters and Orders (Noncomplying Well Constructions) | Yes | |

b. All counties shall submit samples of routine county information correspondence not identified in Table 1 to the department. Thereafter, copies of county correspondence, having samples on file at the department, need not be sent to the department. If significant modifications are made to routine county information correspondence or new correspondence letters formulated, sample copies shall be sent to the department.

c. After a one-year period of county participation in level 3, the department may modify portions of the level 3 copy submittal requirements. The central office shall make this decision on a case-by-case basis.

d. The department may review or request a copy of any inspection report, correspondence or water quality data pertaining to the county's delegation level. The department may require the use of standardized forms for reporting water quality data.

e. The department may reinstitute, increase or decrease delegation level correspondence submittal requirements for participating counties as deemed necessary by the central office. The department shall provide the county 30 days notice, in writing, of any reinstated, increased or decreased submittal requirements.

f. The department will provide standardized private water system permit application and field inspection forms for use in the delegation program.

Note: The forms are available from the Department of Natural Resources, 101 S. Webster, P.O. Box 7921, Madison, WI 53707-7921.

3. Submit a summary report to the department, upon request, by the 60th day following the end of the calendar year. The summary report shall include:

- a. Number of permits issued;
- b. Number of permits denied;
- c. Number of inspections completed;
- d. Number of compliance orders issued;
- e. Number of compliance orders complied with;
- f. Number of complaints investigated; and
- g. Any other information requested by the department.

4. Inspect private water systems upon completion or during installation using the procedures set forth in the uniform private water systems guidance manual and record the inspections on forms provided by the department. If the

county's level of delegation does not authorize the inspection of the entire private water system, the county shall complete the inspection in accordance with the authorized delegation level. Inspections beyond a county's authorized delegation level shall be the responsibility of the department.

Note: The forms are available from the Department of Natural Resources, 101 S. Webster Street, P.O. Box 7921, Madison, WI 53707-7921.

5. Require the abandonment of wells not in service, or that will be taken out of service, if the well is unused, noncomplying or bacteriologically-unsafe. A county may require the abandonment of a well with water exceeding a primary drinking water standard listed in ch. NR 109, or other chemical compounds for which state health advisory limits have been issued including inorganic and organic compounds, after consultation with and approval by the department.

6. Investigate cases involving noncompliance with the private water systems ordinance, ch. 162, Stats., or ch. NR 112, issue orders to abate the noncompliance and submit complaints to the district attorney or corporation counsel for enforcement.

7. Investigate and record all private water system complaints related to the county's delegation level.

8. Refer complaints and cases of noncompliance that are believed to be or known to be beyond the scope of the county's delegation level to the department.

9. Cooperate with all other governmental units and agencies in the enforcement of all state and local laws and regulations of matters related to this chapter.

10. Assist the department in:

a. Conducting studies to determine the cause or extent of a groundwater contamination incident.

b. Investigating the activities of unregistered well constructors and pump installers.

c. Investigating the use of questionable materials or methods by well constructors or pump installers.

d. Inspecting private water systems.

e. Collecting water samples within the scope of resources available to the county.

11. Refer variance requests and actions which require department approval to the department.

12. Advise owners not to drink or use water from private water systems under the following conditions:

a. Private wells producing bacteriologically-unsafe water as described in the uniform private water systems guidance manual from samples submitted to the state laboratory of hygiene or a laboratory certified by the department of health and social services under ch. HSS 165.

b. Private wells, except noncommunity, having a level of contamination exceeding a primary drinking water standard specified in ch. NR 109 or inorganic or organic compounds exceeding state health advisory limits in 2 separate samples submitted to a laboratory certified or registered under s. 144.95, Stats., and ch. NR 149, or the state laboratory of hygiene.

c. Other cases of private well contamination after consultation with and approval by the department.

NR 145.07 LABORATORY SUPPORT. (1) For delegation level 2, 3 or 4, a county shall have drinking water analyses for inorganics, pesticides and volatile organics performed by the state laboratory of hygiene or by a laboratory certified under s. 144.95, Stats., and ch. NR 149. Counties shall

have drinking water analyses for coliform bacteria performed by the state laboratory of hygiene or a laboratory certified by the department of health and social services under ch. HSS 165. Counties shall have drinking water analyses for radiological substances performed by the state laboratory of hygiene or a laboratory acceptable to the U.S. environmental protection agency.

(2) The department shall arrange for water samples to be tested for coliform bacteria, nitrates and fluorides, routinely and at no cost to the county, through the state laboratory of hygiene if the sample is collected by a county employe as part of a private water system inspection under level 3.

(3) As department resources and state laboratory of hygiene scheduling allows, laboratory testing for inorganics, volatile organic compounds (VOCs) and pesticides will be available to the county for samples collected by a county employe as part of a private water system inspection under level 3. Samples for inorganics, VOCs and pesticides submitted to the state laboratory of hygiene shall be scheduled for analysis in advance through the appropriate department district office. If the number of samples does not exceed available resources, the department district office may waive the scheduling requirement for inorganics.

(4) The county may use an unregistered or uncertified laboratory for drinking water analyses for aesthetic parameters except when the purpose of the sampling is to characterize the effect of pollution sources on drinking water or groundwater quality.

(5) The county shall submit copies of results of drinking water analyses performed at laboratories other than the state laboratory of hygiene to the department within 30 days of receipt of the analyses.

NR 145.08 COUNTY PERSONNEL. (1) WORK HOURS. (a) The administrator, a trained county inspector or county office staff shall be available at the administrator's office for answering questions regarding permit applications and for accepting applications for well location or pump installation permits for a minimum of 4 regularly scheduled hours each working day.

(2) TRAINED COUNTY INSPECTORS. (a) Any county employe conducting inspections is required to attend initial training sessions and pass an examination related to the delegation level at which her or his county is authorized. Examinations and training will relate to ch. NR 112 requirements, the technical aspects of well location, pump installation, existing private water systems and private well construction and water quality. Only county personnel who have attended the initial training sessions and successfully passed the department's examination for her or his county delegation level or levels and has not violated the provisions of sub. (2)(b), (c) and (d) may conduct private water system inspections. Counties shall consult with the department for temporary exceptions to the training session and examination requirements for county inspectors. Inspectors shall be titled as follows: Level 1 - Well location inspector; Level 2 - Pump installation inspector; Level 3 - Private water systems inspector; and Level 4 - Well construction inspector.

(b) A county inspector may not grant variances.

(c) A county inspector may not issue permits that result in noncompliance with ch. 162, Stats., ch. NR 112 or the county ordinance.

(d) A county inspector shall attend continuing education classes conducted by or approved by the department. The annual department audit evaluation shall include a determination of whether the inspector granted any variances or issued any permits that resulted in noncompliance. Such action by an inspector may be cause for departmental reexamination of the inspector.

(e) All inspectors shall be trained to adequately conduct inspections commensurate with a county's authorized delegation level for levels 1 to 3. In counties with delegation level 4, one or more inspectors shall be trained to do level 4 inspections and shall be the only inspectors conducting level 4 inspections.

Note: The department recommends that counties authorized for delegation level 2, 3 or 4 employ registered sanitarians to perform pump installation inspections.

NR 145.09 WELL LOCATION AND PUMP INSTALLATION PERMITS. (1) Permits shall be issued from the office of the ordinance administrator designated by the county board of supervisors.

(2) The administrator may not issue a permit for an application that shows noncompliance with ch. 162, Stats., or ch. NR 112 or the county ordinance. Only the department may issue variances.

(3) Well location permit applications shall be signed by the well constructor. Pump installation permit applications shall be signed by the pump installer. Well location and pump installation permit applications shall be submitted to the administrator at least 2 working days prior to construction or installation. The permit application may be submitted by the owner or the well constructor or pump installer but shall be issued to the property owner.

(4) The administrator or designated representative shall assist applicants in preparing applications and approve, disapprove or notify an applicant of the need to seek a variance or special approval from the department or return the permit application due to incompleteness for all private water systems to be constructed or modified in the county within 2

working days following submission of the permit application. A county may reserve final approval or disapproval action of a permit which requires department action until the variance or special approval request has been acted on by the department.

(5) If a permit is not acted on within the 2-working-day period, the well constructor or pump installer may proceed with well construction or pump installation, accepting strict liability and responsibility for maintaining full compliance with all provisions of ch. NR 112. Requiring the administrator or designated representative to inform the applicant of a need for a departmental variance or special approval does not in any way relieve the well constructor or pump installer of his or her responsibility to be knowledgeable of and procure variances or special approvals from the department in all situations where construction or installation would result in noncompliance with ch. NR 112. To ascertain full compliance with all provisions of ch. NR 112, a strict post-construction appraisal shall be conducted by a county inspector of any well constructed or pump installed without prior county permit approval due to county inaction on a permit within the 2-working-day period.

(6) The county may establish a schedule of fees for issuance of the permits and related inspections. Related inspections include inspections of new and existing private water systems commensurate with the county's authorized level of delegation.

(7) In emergency situations well construction, pump installation or both may proceed immediately without the required county permit. The well constructor and/or pump installer remains responsible for construction and installation in compliance with all provisions of ch. NR 112 and for obtaining the required county well location and/or pump installation permit after the emergency work is completed.

(8) Applications for emergency pump installation permits or emergency well location permits shall be submitted to the county administrator within 2 working days following commencement of construction or installation work.

(9) A permit transfer application shall be submitted to the county when there is a change of well constructor, pump installer, or property owner after the application is submitted, but before well construction or pump installation is completed. Failure to submit a transfer application to the county shall invalidate a previously-issued permit. The application shall be on a form available from the department.

(10) The well location or pump installation permit shall be displayed conspicuously during construction or installation and for a minimum of 7 days following completion of construction or installation or until the well and/or pump has been inspected by county staff, whichever occurs first.

(11) The administrator shall issue written notice to each applicant whose permit application is disapproved. An application shall be disapproved if construction or installation would result in noncompliance with ch. NR 112, or if a construction or installation variance or special approval request was denied by the department. Each notice shall:

(a) State the specific reason for denial.

(b) Inform the applicant of the right to request a variance or special approval from the department and the procedures for requesting a variance or special approval.

(12) A well location permit shall be valid for a period of one year or until construction or installation is completed, whichever occurs first. If the permit expires, a new application shall be submitted to the administrator. Reapplications shall be evaluated so that construction or installation will comply with the provisions of ch. NR 112 in effect at the

time of the reapplication. The administrator may require additional inspection and fees for reapplications.

NR 145.10 COUNTY ENFORCEMENT PROCEDURES. (1) The county shall administer ch. NR 112 and the county ordinance in accordance with this chapter and chs. 59 and 162, Stats.

(2) The county procedures for enforcement of the private water systems ordinance shall be outlined in the letter of application submitted by the county to the department requesting authority to administer ch. NR 112.

(3) Each county shall utilize its authority under ch. 59, Stats., to appoint an administrator who shall investigate any case of noncompliance with ch. 162, Stats, ch. NR 112 or the county ordinance, related to the county's delegation level and who shall issue orders to abate noncompliances.

(4) A county may provide for enforcement of a private water system ordinance by forfeiture, injunction or both. A county may establish a schedule of forfeitures for noncompliance with the county ordinance.

(5) The administrator shall refer cases of noncompliance with ch. 162, Stats., ch. NR 112 or the county ordinance to the district attorney or corporation counsel for prosecution.

(6) The department may enforce ch. 162, Stats., and any rules of the department also covered by a county ordinance adopted under ss. 59.067 and 162.07, Stats, if the department is engaged in audit or review activities, if there is reasonable cause to believe that the county ordinance and related enforcement program of the county is not in compliance with ch. 162, Stats., or department rules or if the department determines there are special circumstances requiring concurrent enforcement. The department shall continue to enforce ch. 162, Stats., and rules of the department not covered by a county ordinance in counties delegated ch. NR 112 authority and in counties not authorized to administer and enforce ch. NR 112.

(7) Counties may not suspend or revoke the permit of a well driller or a pump installer.

NR 145.11 COUNTY APPLICATIONS FOR AUTHORIZATION. County applications for authorization to administer ch. NR 112 shall include the following:

(1) A copy of the private water systems ordinance that will be adopted by the county board of supervisors.

Note: The county may submit a draft copy of the ordinance to the department for review prior to submission to the county board of supervisors for approval. A model ordinance is available from the department.

(2) A description of the enforcement procedures to be used by the county for follow-up on noncompliance with ch. 162, Stats., ch. NR 112, or the county ordinance.

(3) A signed statement from the district attorney or corporation counsel indicating a willingness to prosecute noncompliance with ch. 162, Stats., ch. NR 112 or the county ordinance.

(4) The expected number of staff hours available per year for each level of delegation for the private water systems program. The number of staff to be trained at each delegation level shall be included.

NR 145.12 PERFORMANCE STANDARDS. Tables II-V contain performance standards for delegation levels 1 to 4. These standards are established as levels to guide county efforts and to provide a means for the department to evaluate the effectiveness of county programs. Failure to meet the minimum standards, as determined in the department audit, is cause for the department to place a county on probationary status or to revoke a county's program authority. In the event the county determines it cannot meet the minimum

standards, this information shall be conveyed to the department at the earliest possible time. In addition to the performance standards contained in Tables II to V, the department may consider any other activity, in review of a county's program, the department determines to be an indication of a county's ability to administer and enforce the private water system ordinance and program.

Table II

PERFORMANCE STANDARDS
 DELEGATION LEVEL 1
 PRIVATE WELL LOCATION

| <u>Activity</u> | <u>Excellent</u> | <u>% Satisfactory</u> | <u>Minimum</u> |
|--|------------------|-----------------------|----------------|
| *Properly Siting Private Wells Within ch. NR 112 Location Distances | 100 | 99 | 98 |
| *Follow-up on Location Violations (Corrective/ Enforcement Letters and Orders) | 100 | 99 | 98 |
| *Field Evaluation of Emergency and 2 Day Presumptive Permit Approval Well Constructions (During or After Construction) | 100 | 99 | 98 |
| *Acting on Permit Application Within 2 Working Days | 100 | 95 | 90 |
| *Inspect Variance Private Well Sites After Construction | 100 | 95 | 90 |
| *Provide Department with Completed Location Permit Application/Field Inspection Forms Within Specified Timeframes in Table 1 | 95 | 93 | 90 |
| *Field Evaluation of Private Well Location (During or After Construction) | 90 | 80 | 70 |
| *Follow-up on Well Abandonment (Corrective/ Enforcement Letters and Orders) | 80 | 70 | 60 |

Table III
 PERFORMANCE STANDARDS
 DELEGATION LEVEL 2
 PUMP INSTALLATION

| <u>Activity</u> | <u>Excellent</u> | <u>% Satisfactory</u> | <u>Minimum</u> |
|--|------------------|-----------------------|----------------|
| *Field Evaluation of Emergency and 2-day Presumptive Permit Approval Pump Installations | 100 | 99 | 98 |
| *Follow-up on Pump Installation Violations (Corrective/Enforcement Letters and Orders) | 100 | 97 | 95 |
| *Correct Evaluation of Existing Pump Installations That Were Inspected | 100 | 95 | 90 |
| *Correct Evaluations of New Pump Installations That Were Inspected | 100 | 95 | 90 |
| *Provide Department with Completed Pump Installation Permits/Field Inspection Forms Within Specified Timeframes in Table 1 | 95 | 93 | 90 |
| *Inspect Existing Pump Installations | 80 | 70 | 60 |
| *Inspect New Pump Installation | 80 | 70 | 60 |

Table IV
 PERFORMANCE STANDARDS
 DELEGATION LEVEL 3
 EXISTING PRIVATE WATER SYSTEMS

| <u>Activity</u> | <u>Excellent</u> | <u>% Satisfactory</u> | <u>Minimum</u> |
|---|------------------|---------------------------|----------------|
| *Follow-up on Existing Private Water Systems Violations (Corrective/Enforcement Letters and Orders) | 100 | 97 | 95 |
| *Follow-up on Confirmed Bacteriologically-Unsafe Samples | 100 | 95 | 90 |
| *Inspect and Sample 10% of Noncommunity Water Systems Within County in a Year | 100 | 95 | 90 |
| *Provide Department with Well and Pump Installation Field Inspection Forms and Other Listed Correspondence Within Specified Timeframes in Table 1 | 95 | 93 | 90 |

Table V
 PERFORMANCE STANDARDS
 DELEGATION LEVEL 4
 WELL CONSTRUCTION

| <u>Activity</u> | <u>Excellent</u> | <u>% Satisfactory</u> | <u>Minimum</u> |
|--|------------------|---------------------------|----------------|
| *Follow-up on Private Well Construction Violations (Corrective/Enforcement Letters and Orders) | 100 | 97 | 95 |
| *Make Correct Interpretation of Construction Requirements | 100 | 95 | 90 |
| *Well driller Contacts -- Check Each Well Driller's Supply of Casing Pipe in County 2 Times a Year | 95 | 90 | 85 |
| *Provide Department with Well Construction Field Inspection Form Within 7 Days of Inspection | 95 | 93 | 90 |
| *Observe Wells During Drilling | 30 | 20 | 10 |
| *Observe Wells During Grouting | 30 | 20 | 10 |

NR 145.13 PROBATION. (1) The department may invoke a probationary period of 6 to 12 months for county failure to administer and enforce ch. 162, Stats., ch. NR 112 or the county ordinance under any of the following conditions:

(a) The employment of an inspector who:

1. Is not trained according to the standards of s. NR 145.08(2), or
2. Granted variances or issued permits resulting in noncompliance with ch. 162, Stats., ch. NR 112, or the county ordinance.

(b) Failure to meet the minimum annual performance standards specified for tasks in the county's delegation level. See Tables II to V for the minimum performance standards at each delegation level.

(c) Granting a variance.

(d) Issuing a permit for an application signed by an unregistered well driller or pump installer except for an owner installation authorized under s. 162.04(4), Stats.

(e) Issuing permits for an application that shows noncompliance with ch. 162, Stats., ch. NR 112 or the county ordinance.

(f) Failure to enforce the ordinance in conformance with ch. 162, Stats., and the rules of the department adopted under ch. 162, Stats.

(2) A county shall be placed on probation for a 6 month period when it reenters the county delegation program after having its delegation authority revoked by the department.

(3) The probation period shall include closer contacts, such as joint field inspections and telephone calls, between county and department personnel to provide increased training opportunities.

(4) The probationary period may be shortened or extended at the discretion of the central office. The department shall provide a county 30 days notice, in writing, of any change in the probationary period.

(5) Depending upon the severity of the factor or factors leading to probation, the department may conduct special audits to evaluate improvement in a county's performance during or at the end of the probationary period.

NR 145.14 REVOCATION. (1) The department may revoke a county's authority to administer and enforce ch. NR 112 and the county ordinance following a public hearing conducted by the department upon 30 days notice to the county under any of the following conditions:

(a) Failure to have in effect a private water system ordinance meeting the requirements of this chapter.

(b) Repeated failure to meet the minimum annual performance standards specified for tasks in the county's delegation levels.

(c) Failure to achieve minimum performance standards at the next annual audit following a probation period.

(d) When evidence exists of a county's flagrant nonperformance of its delegation responsibilities.

(e) Repeated violations of s. NR 145.13(1)(c) to (f).

(2) When county delegation is revoked under sub. (1)(a), the county's authority shall be revoked until the deficiency is corrected. The county may receive reauthorization from the department following submission of a private water system ordinance that has been approved by the county board of supervisors. For revocations under sub. (1)(b), (c), (d) or (e), the county's authority shall be revoked for at least 6 months or until the condition is corrected, whichever is longer, and the county receives reauthorization from the department following submission of a new application.

(3) Counties with delegation level 2, 3 or 4 under revocation may apply for level 1 delegation 90 days following the effective date of revocation.

NR 145.15 COMMENDATION. The department shall issue a certificate of outstanding contribution to protection of the state of Wisconsin's citizens and groundwater resources to counties and their administrators who achieve an excellent rating at the annual audit for all performance criteria associated with their delegation levels.

NR 145.16 DEPARTMENT RESPONSIBILITIES. (1) DEPARTMENT APPROVAL. The department may specify categories of private well construction or pump installation requiring department approval.

(2) REVIEW AND AUDIT. The department shall periodically review and audit each county's private water systems program and ordinance adopted under s. 59.067, Stats., to ascertain compliance with ch. 162, Stats., ch. NR 112 and this chapter. The review shall include a random audit of well location or pump installation permit applications, field inspection forms and other correspondence and verification of county inspections by on-site inspections conducted by the department.

(3) COMPLIANCE. If a county ordinance or delegation program is not in compliance, the department may revoke the authority of the county to enforce the ordinance. Revocation shall be made pursuant to written department findings made after a public hearing held in the county upon 30 days advance notice to the county clerk. As soon as practicable after the public hearing, the department shall issue a written decision regarding compliance with ch. 162, Stats., and department rules adopted thereunder.

(4) VARIANCES. The department may issue a variance under s. NR 112.04 allowing the well construction or pump installation features of a private water system to vary from ch. NR 112 requirements if department approved conditions are met.

(5) TRAINING SERVICES. The department shall conduct or approve training programs for county inspectors and be available to advise county inspectors.

(6) CORRESPONDENCE. The department shall refer inquiries related to a county's level of delegation to the county for follow-up. Follow-up procedures are described in the uniform private water systems guidance manual. The department shall provide counties with copies of correspondence relevant to their authorized delegation levels concerning private water systems within their jurisdiction.

(7) GUIDANCE MANUAL. The department shall maintain a uniform private water systems guidance manual outlining procedures for inspections and investigations and related information. Copies of the guidance manual shall be provided by the department to counties.

(8) FORMS. The department shall make available standardized forms to counties for use in the administration of ch. NR 112 and the county ordinance at the county's authorized level of delegation.

(9) COUNTY OFFICES. The department shall maintain a list of county offices issuing private well location and pump installation permits. The list shall include office location, office hours, name of ordinance administrator and office telephone number.

(10) MODEL ORDINANCE. The department shall have a model ordinance available for use by counties.

(11) NONCOMMUNITY WATER SYSTEMS. The department shall provide counties with level 2, 3 or 4 delegation a list of noncommunity water systems in their jurisdiction.

The foregoing rules are approved and adopted by the State of Wisconsin Natural Resources Board on **October 23, 1986**

The rules shall take effect as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin December 3, 1986

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

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