

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: DG-02-24

Relating to: Technical corrections to ch. NR 809 to clarify and correct existing language and add federal Consumer Confidence Report requirements.

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

The rule will be proposed as a permanent rule.

2. Detailed description of the objective of the proposed rule:

The Wisconsin Department of Natural Resources' (department) objective for the proposed rule is to amend ch. NR 809, Wis. Adm. Code to do the following:

— Clarify and correct existing requirements to meet the requirements of the Environmental Protection Agency (EPA) and the Safe Drinking Water Act (SDWA).

— Add a definition of "Service Connection." This phrase is used throughout the code but is not defined in ch. NR 809, Wis. Adm. Code.

— Make additional rule changes within ch. NR 809, Wis. Adm. Code to address redundancies and omissions, clarify to improve understanding and readability, and correct grammatical, spelling, and punctuation errors.

— Update Consumer Confidence Report (CCR) requirements to be consistent with new federal regulations under the SDWA.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

There are two types of modifications to ch. NR 809 being proposed. First, the rule will make technical edits to add clarity, eliminate minor errors in the text, and add a practical definition for "service connection," an otherwise undefined term in ch. NR 809. These modifications are not intended to change current department policy.

Second, the rule will amend ch. NR 809 to comply with recent changes to federal regulations governing CCRs, which EPA finalized in May 2024. Currently, all community public drinking water systems deliver a CCR to their customers once per year. The new CCR requirements will increase reporting frequency to twice per year for community water systems with a population of greater than 10,000 persons. Systems serving 100,000 or more persons must also develop a plan for providing assistance to consumers with limited English proficiency.

Rulemaking related to the content of the CCR for the Lead and Copper Rule revisions will be included in Board Order DG-04-24.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Chapter NR 809, Wis. Adm. Code, is adopted under authority granted in chs. 280 and 281, Wis. Stats. Under s. 281.17(8)(a), Wis. Stats., “the department may establish, administer and maintain a safe drinking water program no less stringent than the requirements of the safe drinking water act, 42 USC 300f to 300j-26.” The EPA has granted the department primary enforcement authority (primacy) to implement the SDWA. To maintain primacy, the department must promulgate state rules that are no less stringent than the requirements of the SDWA regulations.

The purpose of ch. NR 809 is to establish minimum standards and procedures for the protection of public health, safety and welfare in obtaining safe drinking water.

Other related statutory authority includes:

— Section 280.11(1), Wis. Stats., provides department authority to prescribe, publish and enforce minimum reasonable standards for obtaining pure drinking water for human consumption and establishing all safeguards deemed necessary in protecting the public health against the hazards of polluted sources of impure water supplies intended or used for human consumption. The department has general supervision and control of all methods of obtaining groundwater for human consumption including sanitary conditions. It is generally authorized to prescribe, amend, modify or repeal any rule or regulation previously prescribed and shall do and perform any act deemed necessary for the safeguarding of public health.

— Section 281.12, Wis. Stats., provides that the department has general supervision and control over the waters of the state and is to carry out the planning, management and regulatory programs necessary for implementing the policy and purpose of ch. 281, Wis. Stats., including to protect, maintain and improve water quality. The department shall also formulate plans and programs for the prevention and abatement of water pollution and for the maintenance and improvement of water quality.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

The Department estimates that 450 hours of state employee time will be required to complete the promulgation of the proposed edits.

6. List with description of all entities that may be affected by the proposed rule :

The proposed edits will affect the following entities:

- Municipal community water systems (cities, townships, sanitary districts)
- Other-than-municipal community water systems (mobile home parks, apartment buildings, condominium associations)
- Non-transient non-community water systems (small businesses with 25 or more employees that are not on a municipal source)
- Transient non-community water systems (churches, restaurants, taverns that serve water to a transient population)
- Wisconsin Department of Natural Resources
- Wisconsin Department of Health Services
- Wisconsin Department of Safety and Professional Services

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

In May 2024, EPA finalized federal regulations under the SDWA that increase reporting frequency from once per year to twice per year for community water systems with a population greater than 10,000 persons. Systems serving 100,000 or more persons must also develop a plan for providing assistance to consumers with limited English proficiency.

This rulemaking will modify Wisconsin rules to be no less restrictive than the new federal regulations for CCRs. This is necessary to maintain Wisconsin's primacy over this portion of the SDWA.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):

The economic impact of the federal regulations from this rule is anticipated to be moderate. The costs are expected to be limited to preparation costs for additional CCRs at community water systems with a population greater than 10,000 persons.

This rule is not anticipated to have an effect on small businesses.

9. Anticipated number, month and locations of public hearings:

The department anticipates holding one public hearing on the final proposed rule language in the fall of 2026. The department will hold the meeting in Madison with an option for virtual participation to allow for as many people to attend as possible.

Comments may be provided by mail, phone and email as well as in-person.

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