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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
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### CLEARINGHOUSE REPORT TO AGENCY

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

#### CLEARINGHOUSE RULE 02-059

AN ORDER to repeal and recreate NR 200.03 (5), relating to WPDES permit exemptions for private sewage systems with a design capacity of less than 12,000 gallons per day.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

05-02-02 RECEIVED BY LEGISLATIVE COUNCIL.

05-23-02 REPORT SENT TO AGENCY.

RS:NZ:flu;ksm

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

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

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO



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## CLEARINGHOUSE RULE 02-059

### Comments

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

#### 2. Form, Style and Placement in Administrative Code

Section NR 200.03 (5) should be restructured in the following way:

NR 200.03 (5) (a) In this subsection:

1. “Distribution cell” means the dimensional zone . . . .
  2. “Common ownership” means a person . . . .
- (b) When two or more private sewage systems are located near each other in accordance with par. (c) 1 . . . criteria in par. (c).
- (c) When calculating the design capacity . . . .
- (d) For purposes of calculating the total design capacity under par. (c) . . . in existence as of the effective date of this subsection . . . .

## ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD CREATING RULES

The Wisconsin Natural Resources Board proposes an order to repeal and recreate NR 200.03(5) relating to WPDES permit exemptions for private sewage systems with a design capacity of less than 12,000 gallons per day.

### WT-26-02

#### Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 283.31, 283.37 and 22711(2)(a), Stats.

Statutes interpreted: ss. 283.31 and 283.37, Stats.

Previous modifications to s. NR 200.03 (effective in January, 2000) were made to define which private sewage systems, receiving domestic wastewater, would be excluded from Wisconsin Pollutant Discharge Elimination System (WPDES) permits. Subsequent experience with implementation of s. NR 200.03 has revealed a need to clarify which systems will be excluded from WPDES permits in situations involving multiple private sewage systems that are commonly owned and located near each other. Under the proposed revision, it is clarified that two or more systems may be subject to a WPDES permit if they are commonly owned, located within 1,500 feet of one other system, and each system has a design capacity of greater than 2,000 gallons per day.

SECTION 1. NR 200.03(5) is repealed and recreated to read:

NR 200.03(5). In situations where 2 or more private sewage systems are located near each other in accordance with par.(a)1, the design capacity determination in sub. (4) shall include the cumulative design wastewater flows of all private sewage systems that satisfy the criteria in par.(a).

(a) When calculating the design capacity, 2 or more private sewage systems shall be added together and the multiple systems shall, in aggregate, be considered one total system if all of the following are met:

1. The perimeter of the distribution cell of a system is less than 1,500 feet from the perimeter of the distribution cell of another system.
2. The systems are under the common ownership.
3. Each system has a design capacity of greater than 2,000 gallons per day.

(b) For the purposes of calculating the total design capacity under par. (a), when there are multiple systems, the design flow of any systems in existence as of the effective date of this rule... [revisor insert date] shall be added together cumulatively with all new systems.

(c) In this subsection, a distribution cell is the dimensional zone that is part of a private sewage system's treatment or dispersal component where wastewater is disseminated into in situ soil or engineered soil.

(d) In this subsection, common ownership means a person, group of persons, a partnership, association or corporation that own, manage or control the systems.

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

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

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Darrell Bazzell, Secretary

(SEAL)