

Clearinghouse Rule 10-060

Report to
Legislative Council Rules Clearinghouse
NR 852, Wis. Adm. Code
Natural Resources Board Order No. DG-24-10

Wisconsin Statutory Authority

Sections 227.11 (2)(a), 281.346(4)(g), 281.346(8), and 281.35(10)(b), Stats.

Federal Authority

N/A

Court Decisions Directly Relevant

None

Analysis of the Rule – Rule Effect – Reason for the Rule

This rule is being proposed to clarify and further define new statutory requirements for water conservation and water use efficiency for withdrawals of waters of the state within the Great Lakes Basin, diversions of water from the Great Lakes Basin, and water withdrawals statewide that require a water loss approval. Section 281.346 (8), Stats., created in 2007 Wisconsin Act 227, directs the Department to promulgate rules specifying water conservation and efficiency measures. The new rule implements the following:

- Specifies mandatory water conservation and efficiency measures for waters of the Great Lakes Basin and withdrawals statewide that require a water loss approval.
- Promotes voluntary statewide water conservation through the identification of water conservation and efficiency measures.
- Guides other department regulatory, planning, resource management, liaison and financial aid determinations.

Persons subject to this chapter are categorized into one of 3 levels:

- Tier 1 includes new and increased withdrawals in the Great Lakes Basin that average 100,000 gallons per day or more in any 30-day period but that do not equal at least 1,000,000 gallons per day for any 30 consecutive days.
- Tier 2 includes new and increased withdrawals in the Great Lakes Basin that equal 1,000,000 gallons per day or more for any 30 consecutive days.
- Tier 3 includes new and increased diversions in a community or county that straddles the sub-continental divide and new and increased withdrawals statewide that will result in a water loss averaging more than 2,000,000 gallons per day in any 30-day period.

This tiered approach is being used to differentiate between the requirements for different types and levels of regulated activities. The level of water conservation and efficiency requirements are increased from Tier 1, to Tier 2, to Tier 3.

In addition to completing a Water Conservation Plan, there are four mandatory water conservation and efficiency measures (CEMs) for all persons for whom water conservation and efficiency requirements are mandatory under this chapter. These CEMs have been determined to be cost-effective, environmentally sound and economically feasible for all water use sectors. Implementation of additional CEMs are required for Tier 2 and Tier 3 only.

The rule sets forth definitions, sector specific water conservation and efficiency measures, elements of a water conservation plan, procedures for conducting an environmentally sound and economically feasible analysis, process for approval and reporting, and process for enforcement.

This rule will affect businesses, including small businesses, located in the Great Lakes Basin that supply their own water with water supply systems that actually withdraw water averaging 100,000 gallons per day or more in any 30-day period or have a new or increased withdrawal statewide that will result in a water loss averaging more than 2,000,000 gallons per day in any 30-day period. Water conservation and efficiency measures that are not environmentally sound or economically feasible do not need to be implemented. Small businesses that receive water from a public water supply will not be impacted by this rule.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

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