

Report to
Legislative Council Rules Clearinghouse
NR 854, Wis. Adm. Code
Natural Resources Board Order No. DG-02-22

Wisconsin Statutory Authority

Section 281.19(1), Wis. Stats., authorizes the department to adopt rules applicable throughout the state for the construction, installation, and use and operation of practicable and available systems, methods and means for preventing and abating pollution of the waters of the state.

Section 281.348, Wis. Stats., directs the department to promulgate and administer rules to develop a continuing water supply service area planning process for persons operating public water supply systems. Specifically, s. 281.348(3)(a)1., Wis. Stats., states: “The department shall establish, by rule, and administer a continuing water supply planning process for the preparation of water supply plans for persons operating public water systems.” Section 281.348(3)(b), Wis. Stats. directs the department to include certain specific procedures in the rulemaking explicitly authorized under s. 281.348(3)(a)(1). Section 281.348(3)(c)9. authorizes the department to require other information in a public water system’s water supply service area plan. Section 281.346(4), (4s), and (5), Wis. Stats., require department-approved water supply service area plans for purposes of completing certain applications for diversions and withdrawal permits.

Federal Authority

N/A

Comparison of Adjacent States

As described below all the neighboring states have approaches that include elements in Wisconsin water supply service area plan statute. Iowa, Michigan and Minnesota require the public water system to complete a planning process or assessment of their water supply system, while in Illinois water supply planning is done on a regional level with input from public water systems. The programs of all the neighboring states require an evaluation of the availability of water supply for the public water system in some form. Illinois and Minnesota specifically have planning programs that require municipal systems to provide water demand forecasts or trends, while Iowa requires a determination on the availability and adequacy of sources and Michigan requires an analysis of water system needs for the future.

Illinois: A water supply planning program has been established and 5 of 10 planning regions have conducted and will continue to conduct regional planning activities in the state. These include the Northeastern Illinois Region, Rock River Region, Middle Illinois Region, East Central Region, and Kaskaskia River Region. The Illinois Department of Natural Resources will also work to set up the water supply planning programs for the remaining regions. The establishment of the water supply planning regions is based on population densities and establishment of priority watersheds in the state. The water supply plans include an evaluation of water use, water demand and future water demand projections through 2050. The water supply plans also evaluate future water supply options based on hydrogeology studies of the area, water conservation, and climate change through 2050.

Iowa: A Self-Assessment Manual is used to assess Iowa water system viability. The manual is a tool for public water systems to appraise their technical, managerial, and financial capability to provide water supply to their customers. The assessment includes determining the availability and adequacy of water supply

sources; treatment requirements; infrastructure needs; operation and maintenance; management and administration; finances; and future planning.

Michigan: Publicly owned and operated community water suppliers that operate a waterworks system are required to submit a general plan that identifies water system needs for 5-year and 20-year planning periods by January 1, 2016. The general plan may include information about current reliability studies, annual pumpage reports, sample siting plan, water protection plan, water conservation and efficiency program, waterworks operation and maintenance programs, regional planning documents and relevant land use plans for the service area. Administrative rules require a public water supply system to conduct a hydrogeological study of the groundwater source to determine the availability of water and consideration of other hydrogeological conditions and water quality assessments. Administrative code also requires public water systems proposing use of a surface water supply to conduct an assessment of surface water sources including a determination of the availability of an adequate and dependable water supply source.

Minnesota: All public water supply systems that serve more than 1,000 people must submit a water supply plan every 10 years for approval. The water supply plans must include a description and evaluation of the water supply system that includes an analysis of water demand, water use trends, treatment and storage capacity, description of water sources, natural resource impacts, resource sustainability, proposed water sources, alternative capital improvement plan, emergency response procedures and a water conservation plan.

Court Decisions Directly Relevant

None.

Analysis of the Rule - Rule Effect - Reason for the Rule

Section 281.348, Wis. Stats., requires certain public water systems to prepare water supply service area plans by December 31, 2025. A water supply service area plan documents long-term planning to demonstrate that a public water supply system can supply an adequate and sustainable amount of water in a manner that meets the requirements of s. 281.348, Wis. Stats., and where applicable, the requirements of the Great Lakes – St. Lawrence River Basin Water Resources Compact.

The proposed rule establishes a continuing water supply service area planning process for public water supply systems in Wisconsin that serve a population of 10,000 or more. In addition, submittal and department approval of a water supply service area plan is required by statute for the following:

- Public water systems of any size proposing new or increased diversions of water from the Great Lakes basin under s. 281.346 (4), Wis. Stats.
- Public water systems proposing new or increased withdrawals from the Great Lakes basin under ss. 281.346 (4g), (4s), or (5), Wis. Stats.

The rule contains the same water supply service area plan requirements as s. 281.348(3), Wis. Stats.:

- Delineation of the area for which the plan is being prepared.
- Inventory of the sources and quantity of water supply in the area.
- Forecast of water demands, including population projections.
- Identification of water supply options.
- Assessment of environmental and economic impacts of carrying out significant recommendations of the plan.
- Demonstration that the plan will utilize existing water supply and wastewater infrastructure to the extent practicable.

- Procedures for implementing and updating the plan.
- Consistency with applicable comprehensive and areawide water quality management plans.

In addition, water supply service area plans that require department approval need to include:

- Delineation of the proposed water supply service areas for each public water supply system making a withdrawal covered by the plan.
- A cost-effective analysis of regional and individual water supply and water conservation alternatives.

Section 281.348(3)(b), Wis. Stats., also requires that the rule include procedures for the following:

- Public review and comment on the proposed water supply service area plan.
- Submission of the plan to governing body(s) of municipalities whose water supply is addressed by the plan.
- Submission and approval of the plan to the department, if required.
- Revisions to a previously approved plan.

Agency Procedures for Promulgation

The department will hold a hearing online on October 5th, 2023 at 10:00 am. The hearing will be followed by board adoption, expected in December 2023, followed by a request for the governor’s approval and legislative review.

Description of any Forms (attach copies if available)

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