

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>	<p>2. Date June 28, 2023</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) NR 854 – Water Supply Service Area Plans</p>	
<p>4. Subject Creation of ch. NR 854 for statewide water supply service area planning for municipalities serving populations greater than 10,000 people. Board Order DG-02-22</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input checked="" type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected N/A</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect   <input type="checkbox"/> Increase Existing Revenues   <input type="checkbox"/> Increase Costs   <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate   <input type="checkbox"/> Decrease Existing Revenues   <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy   <input type="checkbox"/> Specific Businesses/Sectors <input checked="" type="checkbox"/> Local Government Units   <input checked="" type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). The department estimates total implementation and compliance costs of \$1,800,000 for all communities covered by the rule. The expected implementation and compliance costs, however, are due to the requirements for water supply service area plans established in Wisconsin statute rather than the provisions of this rule. Due to water supply service area planning being a statutory requirement, these anticipated costs will be applicable even without development of this rule.</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes   <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule Section 281.348, Wis. Stats., requires the department to promulgate rules to establish a continuing water supply service area planning process for persons operating public water supply systems in Wisconsin that serve a population of 10,000 or more and that withdraws water from waters of the state. The purpose of water supply service area planning is for communities to document long-term planning to demonstrate that a public water supply system can supply an adequate and sustainable amount of water. Chapter NR 854 will provide clarity on: water supply service area plan content, public participation, department review and determinations related to water supply service area plans.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. Department staff interviewed local governmental units and regional planning commissions that have developed water supply service area plans to determine costs related to developing water supply service area plans using the process as required under state statute.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. Village of Somers, City of Waukesha, Southeastern Wisconsin Regional Planning Commission</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) No additional economic and fiscal impact is expected from the rulemaking on businesses, business sectors, or on the</p>	

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state's economy as a whole. Minimal economic and fiscal impact is anticipated for public utility rate payers. The department estimates a moderate economic impact to local governmental units. The expected implementation costs, however, are due to the requirements for water supply service area plans established in Wisconsin statute rather than the provisions of this rule. No anticipated implementation costs are based on requirements of the proposed administrative rule alone, as the proposed rule is no more stringent than the requirements already established in Wisconsin statute. Due to water supply service area planning being a statutory requirement, these anticipated costs will be applicable even without development of this rule. Water supply systems would still be required to meet the statutory requirements without this rule.

Under the statute and proposed rule, communities serving a population of 10,000 or more must complete a water supply service area plan by 2025. The department estimates up to 90 communities may serve a population of 10,000 persons or more and may have to complete a plan. Only those water supply systems applying for a diversion or withdrawal of Great Lakes water would need to obtain department approval of their water supply service area plan. Since the Great Lakes Compact and implementing legislation was passed in December 2008, the department has received and approved only three water supply service area plans (Cities of New Berlin and Waukesha, and Village of Somers). The department anticipates a similar limited number of plans will require department approvals in future years.

Based on the interviews conducted, the department estimates development of a water supply service area plan for department approval would cost communities operating public water supply systems in the range of \$10,000 to \$30,000. Plans that will not require department approval are expected to cost less than the \$10,000 to \$30,000 estimate due to those plans having fewer statutorily required elements. Costs would be primarily attributed to staff time or the hiring of consultants to develop and prepare a water supply service area plan. There was one outlier in interviews who estimated costs around \$1,300,000 (excluding lobbying and legal costs). The department feels this cost was an outlier due to the prolonged (several year) and high priority nature of the application which required significant revisions of the plan with two separate water supply service area plans developed and submitted to the department. In addition that water supply plan contained significant elements and details meant to comply with requirements of the exception standard for diversions under the Great Lakes Compact (s. 281.346 (4) (f), Wis. Stats.), not the requirements of the water supply service area statute or proposed rule. As noted above, the department anticipates the rule will have moderate economic impact on local governments as costs associated with the proposed rule are the same as the costs already associated with the requirements in state statute. No additional implementation costs would result from the proposed administrative rule.

#### **Specific Businesses and Business Sectors (Private Businesses)**

The department anticipates the rule will have no significant economic impact on specific businesses or business sectors.

#### **Impacts on Public Utility Rate Payers**

The entities responsible for developing a water supply service area plan are owners or operators of public water systems, typically local governmental units. The costs of developing a plan may be passed on to utility customers through minor rate increases. The department anticipates that any individual costs imposed on rate payers would be relatively small since the costs would be distributed among all customers that the public water supply system serves and those costs would typically be spread out over the multi-year planning period. As noted elsewhere, the implementation costs associated with the proposed rule are the same as the costs already associated with the requirements in state statute. No additional implementation costs would result from the proposed administrative rule.

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#### **Impacts on Local Governmental Units**

The entities responsible for developing a water supply service area plan are owners or operators of public water systems, typically local governmental units. Cost impacts on local governmental units are related to staff or consultant time required to develop a water supply service area plan to meet statutory requirement. The department anticipates the rule will have moderate economic impact on local governmental units. Implementation costs associated with the proposed rule, however, are the same as the costs already associated with the requirements in state statute. No additional implementation costs would result from the proposed administrative rule.

#### **Fiscal Impact and Impact on State Economy**

The department anticipates the rule will have no adverse affect in a material way on the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the state.

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#### 15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The primary benefit of implementing this proposed rule is that it defines requirements for a community that has to develop a plan creating a more efficient planning process for water supply systems. The proposed rule mirrors the statutory requirements for water supply service area plans in s. 281.348, Wis. Stats., while providing more specifics and clarity, allowing for consistency and transparency in the planning process. The proposed rule is expected to reduce costs and time for a person preparing a water supply service area plans.

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#### 16. Long Range Implications of Implementing the Rule

This rule will provide consistency for communities developing water supply service area plans and assist with communities planning for future water supply needs. In addition the rule will codify standards for department review and approval of water supply plans where required.

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#### 17. Compare With Approaches Being Used by Federal Government

There are no comparable federal regulations pertaining to water supply service area planning for water withdrawal-related activities regulated under the Great Lakes – St. Lawrence River Basin Water Resource Compact.

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#### 18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

As described below all the neighboring states have approaches that include elements in the 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.

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**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.

19. Contact Name Chris Fuchsteiner	20. Contact Phone Number (608) 716-1868
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