

Minnesota and Wisconsin Groundwater Withdrawal Laws

Both Minnesota and Wisconsin regulate the withdrawal of groundwater, but they do so differently. Wisconsin has a new groundwater withdrawal law, and this information brief compares it with portions of Minnesota's groundwater law. The Wisconsin law is described first, followed by the applicable provisions of Minnesota's law, which appear in italics.

A new Wisconsin law, 2003 Wisconsin Act 310, sets new standards and conditions for the approval of high-capacity wells by the Department of Natural Resources (DNR) and establishes other requirements for managing groundwater use. The act defines a high-capacity well as "a well that, together with all other wells on the same property, has a capacity of more than 100,000 gallons per day."

Statewide Regulations and Programs

Wisconsin Act 310 requires the well owner to obtain DNR approval of a high-capacity well prior to construction, pay a fee of \$500, and submit an annual pumping report to DNR. For any new well that is not a high-capacity well, the owner must notify DNR of the well location prior to construction and pay a fee of \$50. These fees fund the administration of the permits and programs created by the act, including DNR monitoring and research relating to groundwater management.

Minnesota regulates the use of groundwater in amounts over 10,000 gallons a day, or one million gallons a year (Minn. Stat. § 103G.271). Minnesota doesn't differentiate "high-capacity

wells” from other types, and there is a complex system of fees per use (Minn. Stat. §§ 103G.271, subd. 6; 103G.301, subds. 2-3).

In Wisconsin, if a proposed high-capacity well might impair the water supply of a public utility that furnishes water to the public, the DNR is required to include conditions in the approval of that well (e.g., limits on depth or pumping capacity, to ensure that the utility’s water supply will not be impaired).

The Minnesota Department of Health regulates well construction, and the driller of a well must notify the department before commencing drilling (Minn. Stat. § 144.383).

Under the Wisconsin act, DNR may modify or rescind the approval of any high-capacity well, whether approved under the new statutes or the prior statutes, if the well or its use does not conform to standards or conditions applicable to the approval of the well.

Minnesota’s well interference law contains testing requirements to ensure that an existing adequate supply of water is available and a process to issue permits that protects all domestic use (Minn. Rules 6115.0730).

Regulation of High-Capacity Wells with Potentially Significant Environmental Impact

The Wisconsin act requires the DNR to do an environmental review for the following proposed high-capacity wells:

- A high-capacity well proposed in a “groundwater protection area” (an area within 1,200 feet of an outstanding or exceptional resource water or any class I, II, or III trout stream as designated by DNR, but excluding trout streams that consist of a farm drainage ditch with no prior stream history)
- A high-capacity well that may have a significant environmental impact on a spring (an area of groundwater discharge at the land’s surface that results in a flow of at least one cubic foot per second for at least 80 percent of the time)
- A high-capacity well where more than 95 percent of the amount of water withdrawn will be diverted from the basin or consumed

The DNR must impose conditions on the approval for any of these wells if the DNR determines, pursuant to its environmental review, that an environmental impact report must be prepared by the applicant for the proposed well. These conditions must assure that these wells do not cause significant environmental impact.

If a proposed high-capacity well will be a public utility water supply, and the well will be in a groundwater protection area or may have a significant environmental impact on a spring, DNR must use an alternate set of approval criteria. The DNR must determine that there is no other reasonable alternate location for the well, and the DNR must impose conditions on the approval that balance the well’s environmental impact and its public health and safety benefits.

The act directs DNR to administer a mitigation program for wells of all sizes in groundwater protection areas. Under the program, DNR may require abandonment or replacement of a well,

and may only require mitigation if it can provide funding for the full cost of mitigation, unless abandonment is necessary to protect public health.

The act directs the groundwater advisory committee, by December 31, 2006, to recommend legislation and administrative rules on groundwater management in groundwater management areas and any other areas of the state where a coordinated strategy is needed to respond to the adverse effects of long-term groundwater withdrawal on water quality and quantity. If the committee fails to submit this report, DNR may adopt rules using its existing statutory authority to address groundwater management in groundwater management areas, including a mitigation program comparable to the one in groundwater protection areas.

Mandatory environmental review is contained in [Minnesota Rule 4410.4300](#), subpart 24, which makes the DNR the responsible governmental unit for a new appropriation for commercial or industrial purposes that averages 30 million gallons per month, or a new appropriation for irrigation of 540 acres or more in one continuous land parcel from one source of water. Minnesota's DNR evaluates possible impacts of significant groundwater withdrawal on nearby surface waters. The waters division staff works with communities to help locate public utility water supply wells where impacts can be avoided.

Groundwater Advisory Committee

The act establishes a groundwater advisory committee consisting of 14 members that must review the implementation of the act and recommend further changes in the regulation of the designated wells, identified above, including adaptive management strategies. The advisory committee must complete this work by December 31, 2007.

Minnesota's comprehensive Groundwater Act of 1989 established a legislative water commission that had broad authority to look at water law. The commission reviewed new groundwater laws, including wells and withdrawal amounts, and advised the legislature until it sunsetted in 1996.

For more information about environmental laws, visit the environment and natural resources area of our web site, www.house.mn/hrd/issinfo/environ.htm.