

Chapter NR 856

WATER USE REGISTRATION AND REPORTING

Subchapter I — General Provisions

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Subchapter I — General Provisions

NR 856.10 Purpose. The purpose of this chapter is to implement s. 281.346 c3d, Stats., by establishing requirements for registering water withdrawals and collecting and reporting of accurate water withdrawal data to support management of the state's water resources.

History: CR 10-059; cr. Register December 2010 No. 660, eff. 1-1-11.

NR 856.11 Applicability. c1d Unless exempted under sub. c2d, this chapter applies to the following persons regardless of whether the activity is permitted, approved, or otherwise authorized under other regulatory authority of the department:

cad Any person who proposes to begin a withdrawal from the waters of the state using a water supply system or systems on one property, or a public water supply, with the capacity to withdraw an amount averaging 100,000 gallons per day or more in any 30-day period.

cbd Any person who proposes to increase the capacity of a water supply system or systems on one property, or a public water supply, so that it will have the capacity to withdraw an amount averaging 100,000 gallons per day or more in any 30-day period.

ccd Any person who on July 1, 2009, had a water supply system or systems on one property or a public water supply with the capacity to withdraw from the waters of the state an amount averaging 100,000 gallons per day or more in any 30-day period.

cdd Any person who proposes to begin a diversion on or after December 8, 2008, or who had a diversion on December 8, 2008.

c2d This chapter does not apply to withdrawals for any of the following purposes:

cad To supply vehicles, including vessels and aircraft, for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

cbd To use in a noncommercial project that lasts no more than three months for fire fighting, humanitarian, or emergency response purposes.

History: CR 10-059; cr. Register December 2010 No. 660, eff. 1-1-11.

NR 856.12 Definitions. In this chapter:

c1d XConsumptive useY has the meaning specified in s. 281.346 c1d ced, Stats.

Note: Section 281.346 c1d ced, Stats., defines Xconsumptive useY to mean Xa use of water that results in the loss of or failure to return some or all of the water to the basin from which the water is withdrawn due to evaporation, incorporation into products, or other processes.Y

c2d XContinuous water useY means a water use that is intended to be uninterrupted through time except for short periods such as for maintenance and because of power outages.

c3d XDepartmentY means the department of natural resources.

c4d XDiversionY has the meaning specified in s. 281.346 c1d chd, Stats.

Note: Section 281.346 c1d chd, Stats., defines XdiversionY to mean Xa transfer of water from the Great Lakes basin into a watershed outside the Great Lakes basin, or from the watershed of one of the Great Lakes into that of another, by any means of transfer, including a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, tanker ship, tanker truck, or rail tanker except that [diversion] does not include any of the following: 1. The transfer of a product produced in the Great Lakes basin or in the watershed of one of the Great Lakes, using waters of the Great Lakes basin, out of the Great Lakes basin or out of that watershed. 2. The transmission of water within a line that extends outside the Great Lakes basin as it conveys water from one point to another within the Great Lakes basin if no water is used outside the Great Lakes basin. 3. The transfer of bottled water from the Great Lakes basin in containers of 5.7 gallons or less.Y

c5d XGreat Lakes basinY has the meaning specified in s. 281.346 c1d cjed, Stats.

Note: Section 281.346 c1d cjed, Stats., defines XGreat Lakes basinY to mean Xthe watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivieres, Quebec, within the jurisdiction of the parties.Y

c6d XIntermittent water useY means a water use that starts and stops irregularly or regularly through time.

c7d XOne propertyY has the meaning specified in s. NR 812.07 c68d.

Note: Section NR 812.07 c68d, Wis. Adm. Code, defines Xone propertyY to mean Xall contiguous land controlled by one owner, lessee, or any other person having a possessory interest. Lands under single ownership bisected by highways or railroad right-of-ways are considered contiguous.Y

c8d XOwnerY for water supply systems other than public water supply systems, means a person who owns property on which a water supply system is located or proposed to be located or the designated representative of such a person. For public water supply systems, owner means a person who owns the public water supply or designated representative of such a person.

c9d XPersonY has the meaning specified in s. 281.346 c1d cnmd, Stats.

Note: Section 281.346 c1d cnmd, Stats., defines XpersonY to mean Xan individual or other entity, including a government or a nongovernmental organization, including any scientific, professional, business, nonprofit, or public interest organization or association that is neither affiliated with nor under the direction of a government.Y

c10d XPropertyY has the same meaning as Xone propertyY, as specified in sub. c7d.

c11d XPublic water supplyY has the meaning specified in s. 281.346 c1d cpmd, Stats.

Note: Section 281.346 c1d cpmd, Stats., defines Xpublic water supplyY to mean Xwater distributed to the public through a physically connected system of treatment, storage, and distribution facilities that serve a group of largely residential customers and that may also serve industrial, commercial, and other institutional customers.Y

c12d XSourceY means an individual location where water is withdrawn from groundwater or surface water, such as a well or surface water intake.

c13d XWater lossY has the meaning specified in s. 281.346 c1d cwmd, Stats.

Note: Section 281.346 c1d cwmd, Stats., defines Xwater lossY to mean Xthe amount of water that is withheld from or not returned to the basin from which it is withdrawn as a result of a diversion or consumptive use or both.Y

c14d XWater supply system.Y has the meaning specified in s. 281.346 c1d cwpd, Stats.

Note: Section 281.346 c1d cwpd, Stats., defines Xwater supply systemY, when not preceded by XpublicY, to mean Xone of the following: 1. Except as provided in subd. 2., the equipment handling water from the point of intake of the water to the first point at which the water is used. 2. For a system for providing a public water supply, the equipment from the point of intake of the water to the first point at which the water is distributed.Y

Note: The water supply system includes all points of intake of water into a water supply system.

c15d XWaters of the stateY has the meaning specified in s. 281.01 c18d, Stats.

Note: Section 281.01 c18d, Stats., defines Xwaters of the stateY to include Xthose portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.Y

c16d XWellY has the meaning specified in s. 281.34 c1d chd, Stats.

Note: Section 281.34 c1d chd, Stats., defines XwellY to mean Xany drillhole or other excavation or opening deeper than it is wide that extends more than 10 feet below the ground surface and is constructed for the purpose of obtaining groundwater.Y

c17d XWithdrawY has the meaning specified in s. 281.346 c1d cyd, Stats.

Note: Section 281.346 c1d cyd, Stats., defines XwithdrawY to mean Xto take water from surface water or groundwater.Y

c18d XWithdrawalY has the meaning specified in s. 281.346 c1d czd, Stats.

Note: Section 281.346 c1d czd, Stats., defines XwithdrawalY to mean Xthe taking of water from surface water or groundwater, including the taking of surface water or groundwater for the purpose of bottling the water.Y

History: CR 10-059; cr. Register December 2010 No. 660, eff. 1-1-11.

NR 856.13 Determining withdrawal capacity. c1d The withdrawal capacity for a property is the total capacity in gallons per day from all water sources on the property.

Note: The withdrawal capacity may not necessarily be the same as the approved maximum daily withdrawal set forth by another department approval or permit, such as a high capacity well approval or a permit issued under s. 30.18, Stats.

c2d The withdrawal capacity for a public water supply is the total capacity from all water sources in the system.

c3d The capacity of individual water sources shall be one of the following:

cad For flowing sources, the maximum flow rate.

cbd For pumped sources, the maximum hydraulic capacity of the most restrictive component of the water supply system. If the most restrictive component is a pump, the maximum capacity is determined based on the pump curve at the lowest system pressure setting.

History: CR 10-059; cr. Register December 2010 No. 660, eff. 1-1-11.

NR 856.14 Responsible parties. The person responsible for registering, reporting, amending, or terminating registrations as required under this chapter is one of the following:

c1d For water supply systems, the owner of the property on which the water supply system is located.

c2d For public water supply systems, the owner of the public water supply system.

History: CR 10-059; cr. Register December 2010 No. 660, eff. 1-1-11; correction to numbering made under s. 13.92 c4d cbd 1., Stats., Register December 2010 No. 660.

NR 856.15 Open records requests and water use information. c1d The locations of withdrawals and diversions are sensitive information that may impact domestic security.

c2d Open records requests received by the department under

ss. 19.21 to 19.39, Stats., that request information on the locations of withdrawals or diversions may be subject to greater scrutiny by the department because of domestic security concerns, as allowed under s. 281.346 c3d ccmd, Stats. The department may request any of the following with respect to open records requests seeking information on the locations of withdrawals or diversions, in order to address domestic security concerns:

cad That the request be put in writing.

cbd The name, mailing address, telephone number, and email address of the requester and the company or organization that the requester represents.

ccd The specific information requested.

cdd The reason the information is requested and how it will be used.

c3d In considering the public[s] interest in domestic security when reviewing requests submitted under sub. c2d, the department may consider guidance and information from state and federal agencies and organizations with responsibility for domestic security and may place conditions on the use of the information, or may provide the requested information in a different format, when necessary to protect the public[s] interest in domestic security. The department shall explain its reasons for why conditions or special formats are necessary to protect the public[s] interest in domestic security in its response to the requester.

c4d Water use information collected by the department shall be provided to the public in an easily accessible form such as a report or database summary, at least annually. Information provided by the department shall not include the following information:

cad The registrant[s] personal information except for the registrant[s] name; and

cbd Location information at a scale more specific than the public land survey section level.

History: CR 10-059; cr. Register December 2010 No. 660, eff. 1-1-11.

NR 856.16 Enforcement. c1d Violations of this chapter may be prosecuted by the department under s. 281.346 c14d, Stats.

c2d Any violation of these rules shall be treated as a violation of the statutes they interpret or under which they are promulgated.

c3d Persons violating this chapter are subject to penalties as specified in s. 281.346 c14d, Stats.

History: CR 10-059; cr. Register December 2010 No. 660, eff. 1-1-11.

Subchapter II — Registration

NR 856.20 Procedures. c1d Any person proposing to begin a withdrawal or diversion to which this chapter applies shall register with the department prior to withdrawing or diverting water.

c2d Any person who on July 1, 2009 had a water supply system to which this chapter applies shall register within six months after January 1, 2011.

c3d Registration is required for each property and each public water system.

c4d A person shall register in the manner prescribed by the department and shall provide all of the following information:

cad The name, mailing address, telephone number, and email address of the owner and operator.

cbd The locations and sources of the withdrawal or diversion.

ccd The daily withdrawal capacity of the water supply system, the daily withdrawal capacity from each source and, for water supply systems located in the Great Lakes Basin, an estimate of

the maximum hydraulic capacity of the most restrictive component of the water supply system or systems.

cdd An estimate of the volume of the withdrawal or diversion in terms of gallons per day average in any 30-day period.

ced The uses made of the water.

cfid The places at which the water is used.

cgd The places at which any of the water is discharged.

chd Whether the water use is continuous or intermittent.

cid Whether the person holds an approval or permit under s. 30.18, 281.35, 283.31, Stats., or other statutes.

cjd A map showing the location of the property or public water supply, sources, and discharges.

Note: The department is developing an internet based system that will allow registrants to identify required locations using an online mapping tool.

c5d The department shall not accept a registration until it is complete. A complete registration contains all of the information identified in sub. c4d.

c6d The department shall notify owners if the registration is incomplete or if it has been accepted within 30 calendar days after the receipt of the registration.

History: CR 10-059: cr. Register December 2010 No. 660, eff. 1-1-11.

NR 856.21 Amendments. c1d A registration amendment is required when changes or modifications are made to any of the following:

cad Property ownership or property boundaries.

cbd The name, mailing address, telephone number, and email address of the owner and operator, if applicable.

ccd The locations and sources of the withdrawal or diversion.

cdd The daily withdrawal capacity of the water supply system or individual source or sources.

ced The uses made of the water.

cfid The places at which the water is used.

cgd The places at which any of the water is discharged.

c2d Except for changes in property ownership, the owner shall amend the registration in the manner prescribed by the department by March 1 of the year following the change or modification. For changes in property ownership, the new owner shall amend the registration within 30 calendar days after the change.

Note: Registration amendments may be completed as part of the annual reporting process.

c3d An owner is not required to amend a registration when replacing equipment with equipment of the same capacity and operating parameters.

History: CR 10-059: cr. Register December 2010 No. 660, eff. 1-1-11.

NR 856.22 Terminations. c1d An owner may terminate registration only when the withdrawal capacity of the water supply system or systems on one property or for a public water system is no longer at the level requiring registration under s. NR 856.11.

c2d One property or a public water system no longer has the withdrawal capacity at the level requiring registration under s. NR 856.11 when one of the following occurs:

cad For flowing sources, the connection between the source or sources and the water supply system is physically eliminated or reduced in size permanently to below the level requiring registration under s. NR 856.11.

Note: Elimination of the physical connection may require filling of channels, filling and sealing of wells, removal of pipes or conduits, or re-routing flow around the water supply system or facility.

cbd For pumped sources, the connection between the source or sources and the water supply system is physically eliminated or reduced in size to below the level requiring registration under s. NR 856.11 and the pump or pumps are reduced in capacity to be-

low the level requiring registration under s. NR 856.11 or are removed from the system permanently.

Note: Elimination of the physical connection may require filling of channels, filling and sealing of wells, or removal of pipes or conduits.

c3d An owner shall terminate the registration in the manner prescribed by the department by the end of the calendar year of the calendar year in which the water supply system is no longer at the capacity requiring registration under s. NR 856.11.

History: CR 10-059: cr. Register December 2010 No. 660, eff. 1-1-11.

Subchapter III — Recordkeeping and Reporting

NR 856.30 Measurement and reporting requirements. c1d A person registered under this chapter shall determine the monthly volume of water withdrawn from the property or public water supply, or the monthly volume of water diverted, using methods and procedures set forth in s. NR 856.31.

c2d A person registered under this chapter that makes a withdrawal that averages 100,000 gallons per day or more in any 30-day period, or diverts any amount of water, shall annually report to the department the monthly volumes of the withdrawal or diversion. Reports shall be submitted to the department in the manner prescribed by the department by March 1 of every year and shall contain all of the following information about the previous year[s] withdrawals:

cad Monthly volumes of withdrawal for each source on the property or in the public water supply and if applicable, the monthly volumes of diversion.

cbd The estimated volumes of each use made of the water.

ccd Method or methods used to measure the withdrawals or diversion.

cdd A statement advising the department if the withdrawal was at a level greater than or equal to 1,000,000 gallons per day for 30 consecutive days.

ced Estimated or actual water loss from consumptive use. Water loss and consumptive use estimations and calculations shall follow the requirements of ch. NR 142.

cfid Method or methods used to determine water loss from consumptive use.

c3d Withdrawal information shall be made available to the department upon request.

c4d The owner shall maintain records of the withdrawal or diversion for a minimum of three years. Records include monthly volumes of withdrawal and, if applicable, diversion; methods used to measure or estimate the withdrawal or diversion; calibration records of meters; and any other pertinent documents necessary to calculate or estimate the withdrawal or diversion volume.

c5d When a property or portion of a property is transferred to another person, the previous owner shall provide copies of the records identified in sub. c4d to the new owner of the property. The new owner is responsible for reporting all withdrawals that occurred during the calendar year as required in sub. c2d.

History: CR 10-059: cr. Register December 2010 No. 660, eff. 1-1-11.

NR 856.31 Measurement methods and frequency. c1d Withdrawals shall be measured in accordance with the following methods:

cad Sources that flow or are pumped at a rate of 70 or more gallons per minute shall be measured using one of the following methods:

1. Totalizing flow meter. Flow meters shall be read and documented at least once every month.

2. Pump operation is timed with an hour meter and the pumping capacity is used to calculate total pumpage. The opera-

tion time and pumping capacity shall be documented for each period of use.

3. Flow rate is measured using a weir. For sources with little or no flow rate variability, flow rate shall be measured on a daily basis for the first week and at a minimum of weekly thereafter. For sources with flow rate variability, flow rate shall be measured daily.

4. Flow rate is measured by discharge from a horizontal pipe. Flow rate shall be measured on a daily basis for the first week and at a minimum of weekly thereafter.

5. Alternative method and monitoring frequency that has been approved by the department.

cbd Sources that flow or are pumped at a rate of less than 70 gallons per minute shall be measured using one of the following methods:

1. Totalizing flow meter. Flow meters shall be read and documented at least once every month.

2. Pump operation is timed with an hour meter and the pumping capacity is used to calculate total pumpage. The operation time and pumping capacity shall be documented for each period of use.

3. Flow rate is measured using a weir. For sources with little or no flow rate variability, flow rate shall be measured on a daily basis for the first week and at a minimum of weekly thereafter. For sources with flow rate variability, flow rate shall be measured daily.

4. Flow rate is measured by discharge from a horizontal pipe. Flow rate shall be measured on a daily basis for the first week and at a minimum of weekly thereafter.

5. Estimate based upon time to fill a container of known volume. Flow rate shall be measured on a daily basis for the first week and at a minimum of weekly thereafter and if the flow is not continuous, hours of operation shall also be recorded.

6. Alternative method and monitoring frequency that has been approved by the department.

c2d The monthly volume of water withdrawn shall not include the volumes of water that are reused on the property or within the public water system.

c3d Meters and measuring devices shall be maintained and calibrated as directed by the manufacturer.

History: CR 10-059: cr. Register December 2010 No. 660, eff. 1-1-11.