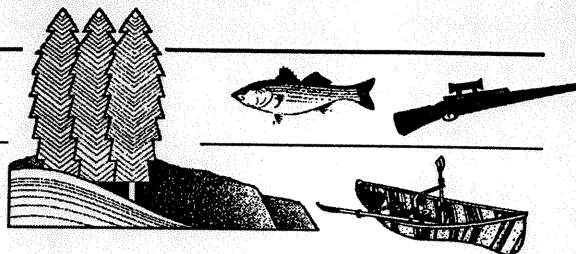


Assembly Committee on:

Natural Resources

State Representative

DuWayne Johnsrud, Chair



MEMORANDUM

DATE: May 1, 1995

TO: Members, Assembly Natural Resources Committee

FROM: DuWayne Johnsrud, Chair

RE: rule referral

The following Rules have been referred to our committee:

| | |
|---------------------------|---|
| Clearinghouse Rule 94-181 | Relating to groundwater quality standards. Submitted by Department of Natural Resources. |
| Clearinghouse Rule 94-187 | Relating to the county administration of the private well code. Submitted by Department of Natural Resources. |

Our current review period extends through May 30, 1995. Copies of each rule summary are enclosed. Please contact my office if you would like a copy of any rule.

Also, I am including a copy of the signed letter which the committee sent to the Joint Finance Committee for your files.

REPORT TO LEGISLATURE

NR 145, Wis. Adm. Code
County administration of the private well code

Board Order No. WS-52-94
Clearinghouse Rule No. 94-187

Statement of Need

Chapter NR 145 contains requirements for the voluntary county administration of the private well code. The counties involved include Chippewa, Dane, Eau Claire, LaCrosse and Washington. The code changes currently being considered will affect the well location permit application process by eliminating unnecessary paperwork, allowing for greater flexibility in the application process, and better clarifying the responsibilities of the licensed well driller.

The most significant change will remove the responsibility of obtaining the county well location permit from the well constructor and transfer that responsibility to the property owner. The well constructor will be responsible for ascertaining that the permit has been obtained or that arrangements were made to obtain the permit before proceeding with the construction of the well. The rule will include some clarifying language as to when a well can be installed before the permit is issued.

Chapter NR 145 is also renumbered to be ch. NR 845 so that it will be published as a part of the administrative code book containing the private well code.

Modifications as a Result of Public Hearing

No modifications were made as a result of comments at the public hearings.

Appearances at the Public Hearing and Their Position

November 14, 1994 - Eau Claire

In support:

Darryll Farmer, Eau Claire City-Co. Health, 3391 Delbert Road, Eau Claire, WI 54203

In opposition - none

As interest may appear:

John Robinson, Wisconsin Water Well Assoc., 115 N. 6th St., P.O. Box 31, Wausau, WI 54402

November 15, 1994 - Juneau -- no appearances

November 16, 1994 - Madison

In support:

James P. Clark, Dane Co. Dept. of Human Services, 1206 Northport Dr., Room 107, Madison, WI 53704

In opposition:

John Hyink, 618 W. Riverside Drive, Kohler, WI 53044
Edwin Huntoon, Wis. Water Well Assoc., E2223 King Road, Waupaca, WI 54981
Rod Pfeiffer, 6225 60th Avenue, Kenosha, WI 53142

As interest may appear:

Terry L. Marshall, Wis. Water Well Assoc., 1055 Gillette Lane, Wis. Dells, WI 53965
Byron Wickham, Wis. Water Well Assoc., P.O. Box 91, Lodi, WI 53555
John Robinson, Wis. Water Well Assoc., 115 N. 6th St., P.O. Box 31, Wausau, WI 54402-0031

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted, except for those relating to giving prior notice. The language, as being proposed, will more clearly state that a well permit shall be required before installation of a well can occur and that for those situations where failure to make application prior to installation occurs, the county will be authorized to grant permission for installation to occur as long as arrangements are made to make application at a later date. The intent of this provision is to allow counties some flexibility to make such arrangements.

Final Regulatory Flexibility Analysis

the rule changes should have no significant economic impact on small businesses. The changes, as proposed, will reduce the amount of paperwork and should in turn reduce the expense associated with it for the small businesses associated with private well construction. The proposed changes should simplify the administrative process by eliminating the required need for well constructors or pump installers to conduct a pre-site development inspection, prepare the site plan and make application to the county. This should result in time and cost savings to both the well constructors, pump installers and property owners.

FISCAL ESTIMATE

DOA-2048 (R 11/90)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject

Ch. NR 145 County Administration of Chapter NR 112, The Private Well Code

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

- 1. Increase Costs
- Permissive Mandatory
- 2. Decrease Costs
- Permissive Mandatory

- 3. Increase Revenues
- Permissive Mandatory
- 4. Decrease Revenues
- Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
 - School Districts VTAE Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed amendments to ch. NR 145 will impose no additional requirements on state or local government.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Natural Resources

Authorized Signature/Telephone No.

De Blase
62794

Date

07/08/94

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, RENUMBERING, RENUMBERING AND AMENDING, AND CREATING RULES

The Wisconsin Natural Resources Board adopts an order repealing NR 145.09(5) and (8); renumbering NR 145.01 to 145.09(2), (4), (6), (9), (11) and 145.10 to 145.16: renumbering and amending NR 145.09(3), (7), (10) and (12); and creating NR 845.04(38m) and 845.09(8) relating to the county administration of the private well code.

WS-52-94

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 162.07 and 227.11(2)(a), Stats.

Statutes interpreted: s. 162.07, Stats.

Section 162.07, Stats., provides the department the authorization to delegate authority to counties to adopt and administer ordinances to regulate well location, well construction, well abandonment or pump installation, and for department review of county delegation programs for the purpose of protecting Wisconsin's drinking water. These changes affect the well location permit application process by eliminating the duplication of information provided by the well constructors and allows greater flexibility as to who may make application for the permit.

Prior to these revisions well constructors had to apply for all well construction permits for all new wells constructed in a delegated county. The revisions will transfer the permit application responsibility from the well constructor to the property owner or the property owner's designated agent. Clarifying language makes allowances for emergency well construction and also addresses situations where a well can be installed prior to the issuance of a permit.

The parties affected by these changes include licensed well drillers and pump installers, well constructors, property owners and the counties participating in the county well delegation program. Collectively these changes could reduce paperwork for the well constructor, reduce costs for the property owner, and not adversely affect the well inspection process or record keeping services provided by the participating counties.

These changes are reflective of the issues that were identified as a result of several meetings with representatives from the delegated counties (Chippewa, Dane, Eau Claire, La Crosse, Washington and Waukesha) and the Wisconsin Water Well Association (WWWA).

SECTION 1. NR 145.01 to 145.09(2) is renumbered NR 845.01 to 845.09(2).

SECTION 2. NR 145.09(3) is renumbered NR 845.09(3) and amended to read:

NR 845.09(3) The property owner shall be responsible for obtaining all permits. The well constructor or pump installer shall be responsible for ascertaining that all permits have been obtained or arrangements as specified in sub. (7) were made to obtain the permits before proceeding with well construction or pump installation. The county may grant authorization to proceed with well construction or pump installation after the required notification as specified in sub. (7) has been made. Well location permit applications and pump installation permit applications shall be signed by the well constructor property owner or the property owner's designated agent. Pump installation permit applications shall signed by the pump installer. Permits shall be issued to the property owner. Well location and pump installation permit applications shall be submitted to the administrator at least 2 working days prior to construction or installation if the owner, well constructor or pump installer is interested in receiving information about potential contamination sources such as landfills; underground storage tanks; primary and replacement on site sewage disposal system areas on the development site and on adjacent properties; and special casing areas. The permit application may be submitted by the owner or the well constructor or pump installer but shall be issue to the property owner. Where a well location or pump installation permit application is submitted less than 2 working days prior to construction, the well constructor or pump installer shall be responsible for maintaining full compliance with all provisions of ch. NR 812.

SECTION 3. NR 145.09(4) is renumbered NR 845.09(4).

SECTION 4. NR 145.09(5) is repealed.

SECTION 5. NR 145.09(6) is renumbered NR 845.09(6).

SECTION 6. NR 145.09(7) is renumbered NR 845.09(7) and amended to read:

NR 845.09(7) ~~In emergency situations~~ The well construction, pump installation or both may proceed immediately without the required county permit provided the property owner or the property owner's designated agent gives notice to the administrator prior to construction or installation. Notification shall include the owner's name, address, property legal description, proposed starting date and identification of the person who will be obtaining the permit. Unless other

arrangements are made with the administrator the permit shall be applied for on the first workday following initial construction or installation. The well constructor and/or pump installer ~~remains~~ shall be responsible for ~~construction and installation~~ in maintaining full compliance with all provisions of ch. NR 112 and for obtaining the required county well location and/or pump installation permit after the emergency work is completed 812.

SECTION 7. NR 145.09(8) is repealed.

SECTION 8. NR 145.09(9) is renumbered NR 845.09(9).

SECTION 9. NR 145.09(10) is renumbered NR 845.09(10) and amended to read:

NR 845.09(10) ~~The~~ As soon as the well location or pump installation permit is received, it shall be displayed conspicuously at the well site during construction or installation and for a minimum of 7 days following completion of construction or installation or until the well and/or pump has been inspected by county staff, whichever occurs first.

SECTION 10. NR 145.09(11) is renumbered NR 845.09(11).

SECTION 11. NR 145.09(12) is renumbered NR 845.09(12) and amended to read:

NR 845.09(12) A well location or pump installation permit shall be valid for a period of one year or until construction or installation is completed, whichever occurs first. If the permit expires, a new application shall be submitted to the administrator. Reapplications shall be evaluated so that construction or installation will comply with the provisions of ch. NR ~~112~~ 812 in effect at the time of the reapplication. The administrator may require additional inspection and fees for reapplications.

SECTION 12. NR 145.10 to 145.16 are renumbered NR 845.10 to 845.16.

SECTION 13. NR 845.04 (38m) is created to read:

NR 845.04(38m) "Well constructor" means any person who constructs a well.

SECTION 14. NR 845.09(8) is created to read:

NR 845.09(8) When construction or installation occurs on a weekend or holiday, notification shall be provided to the administrator on the first workday following the weekend or holiday in the manner described in sub. (7). Unless other arrangements are made with the administrator, the permit application shall be obtained on the first workday following the weekend or holiday. The well constructor or pump installer shall be responsible for maintaining full compliance with all provisions of ch. NR 812.

SECTION 9. CROSS-REFERENCE CHANGES. In the section of the code listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C.

| <u>A</u> | <u>B</u> | <u>C</u> |
|-----------------|---------------|---------------|
| Title | NR 112 | NR 812 |
| NR 145.02 | NR 112 | NR 812 |
| NR 145.02(Note) | NR 112 | NR 812 |
| NR 145.03 | NR 111 | NR 811 |
| NR 145.04(1) | NR 112 | NR 812 |
| NR 145.04(2) | NR 109.60 | NR 809.60 |
| NR 145.04(5) | NR 111.03(2) | NR 811.03(2) |
| NR 145.04(8) | NR 112 | NR 812 |
| NR 145.04(13) | NR 112.03(24) | NR 812.03(24) |
| NR 145.04(14) | NR 112 | NR 812 |
| NR 145.04(16) | NR 112 | NR 812 |
| NR 145.04(20) | NR 109 | NR 809 |
| NR 145.04(32) | NR 112 | NR 812 |
| NR 145.04(33) | NR 112.04 | NR 812 |
| NR 145.04(33) | NR 112 | NR 812 |
| NR 145.04(36) | NR 112 | NR 812 |
| NR 145.04(39) | NR 112 | NR 812 |
| NR 145.05 | NR 112 | NR 812 |
| NR 145.05(1)(c) | NR 112 | NR 812 |
| NR 145.05(1)(d) | NR 112 | NR 812 |
| NR 145.05(2)(d) | NR 112 | NR 812 |
| NR 145.05(3)(e) | NR 112 | NR 812 |
| NR 145.05(4)(a) | NR 112 | NR 812 |
| NR 145.05(5) | NR 112.26 | NR 812.26 |

| <u>A</u> | <u>B</u> | <u>C</u> |
|----------------------|-----------------------|-----------------------|
| NR 145.05(5) | NR 109 | NR 809 |
| NR 145.06(1)(a) | NR 112 | NR 812 |
| NR 145.06(1)(c)1.b. | NR 112 | NR 812 |
| NR 145.06(1)(c)1.c. | NR 112 | NR 812 |
| NR 145.06(1)(c)1.c. | NR 109 | NR 809 |
| NR 145.06(1)(c)2.b. | NR 112.26 | NR 812.26 |
| NR 145.06(1)(c)2.d. | NR 112 (Two places) | NR 812 (Two places) |
| NR 145.06(1)(d) | NR 111 | NR 811 |
| NR 145.06(1)(f) | NR 112 | NR 812 |
| NR 145.06(2) | NR 112 | NR 812 |
| NR 145.06(3)(a)2. | NR 112 | NR 812 |
| NR 145.06(3)(b)5. | NR 112 | NR 812 |
| NR 145.06(3)(b)5. | NR 109 | NR 809 |
| NR 145.06(3)(b)6. | NR 112 | NR 812 |
| NR 145.08(2)(a) | NR 112 | NR 812 |
| NR 145.08(2)(c) | NR 112 | NR 812 |
| NR 145.09(2) | NR 112 | NR 812 |
| NR 145.09(5) | NR 112 (Three places) | NR 812 (Three places) |
| NR 145.09(7) | NR 112 | NR 812 |
| NR 145.09(11) | NR 112 | NR 812 |
| NR 145.09(12) | NR 112 | NR 812 |
| NR 145.10(1) | NR 112 | NR 812 |
| NR 145.10(2) | NR 112 | NR 812 |
| NR 145.10(3) | NR 112 | NR 812 |
| NR 145.10(5) | NR 112 | NR 812 |
| NR 145.10(6) | NR 112 (Two places) | NR 812 (Two places) |
| NR 145.11 | NR 112 | NR 812 |
| NR 145.11(2) | NR 112 | NR 812 |
| NR 145.11(3) | NR 112 | NR 812 |
| NR 145.12 (Table II) | NR 112 | NR 812 |
| NR 145.13(1) | NR 112 | NR 812 |
| NR 145.13(1)(a)2. | NR 112 | NR 812 |
| NR 145.13(1)(c) | NR 112 | NR 812 |
| NR 145.13(1)(e) | NR 112 | NR 812 |
| NR 145.14(1) | NR 112 | NR 812 |
| NR 145.16(2) | NR 112 | NR 812 |
| NR 145.16(4) | NR 112.04 | NR 812.04 |

A
NR 145.16(4)
NR 145.16(8)

B
NR 112
NR 112

C
NR 812
NR 812

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 23, 1995.

The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
Department of Natural Resources

by _____

George E. Meyer, Secretary

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