

Report From Agency

REPORT TO LEGISLATURE

NR 146 and 812, Wis. Adm. Code

Board Order No. DG-03-13
Clearinghouse Rule No. 13-099

Commented [CNH1]: The content of this form are prescribed under Wis. Stat. § 227.19(3).

Basis and Purpose of the Proposed Rule

The proposed rules amend chs. NR 146 and NR 812, Wis. Adm. Code, to create specific requirements for property transfer well inspections to help protect sources of drinking water as well the health of consumers. The proposed rules do not require inspections of wells at time of property transfer, but set uniform minimum standards if an inspection is performed. The proposed rule changes will reduce the amount of time staff currently spend answering questions and writing variances because several requirements for existing wells have been simplified and/or eliminated. Inspection forms and laboratory reports will not be submitted to the department.

Commented [CNH2]: Cut and paste from scope statement or plain language analysis of Board order (if scope statement is too general). See Wis. Stat. § 227.19(3)(a)

The proposed rules make other changes in chs. NR 146 and 812 to conform the provisions of the rules with existing statutes. Specifically, the rule order includes provisions in NR 146 for:

1. The qualifications and training for a registered water well drilling rig operator to become a licensed water well driller.
2. The requirements for department issuance of citations related to water well drilling and pump installing.
3. The qualifications for performing property transfer well inspections and well filling and sealing.

The proposed order includes provisions in NR 812 for

1. Procedures and requirements for property transfer well inspections.
2. Well filling and sealing procedures.
3. Eliminating some separation distance requirements that are no longer considered a health hazard for wells.
4. Citation procedures

Summary of Public Comments

Comments were received on approximately 18 different items. Of those, 9 were general questions or requests for clarification, 2 were related to minimum separation distances between wells and potential contaminant sources; 3 related to water samples; 4 were comments on property transfer well inspections; The policy matter related to property transfer well inspections was a request to eliminate the sunset date for wells in basements or pits.

Commented [CNH3]: The background memo attached to the green sheet for Board adoption should include a summary of public comments and the Department's response to those comments. Cut and paste that here. See Wis. Stat. § 227.19(3)(b).

Modifications Made

The most significant change to the rule order relates to the elimination of a proposed sunset date for wells located in basements or pits as requested by the Wisconsin Realtors Association.

Commented [CNH4]: Describe any modifications made to the proposed rule as a result of public comments and testimony received at the public hearing. See Wis. Stat. § 227.19(3)(b)

Appearances at the Public Hearing

There were a total of 20 attendees at the eight public hearings. Two persons testified on the record regarding DG-03-13 and the Department received one letter and three e-mails in addition to the Clearinghouse Report to the Agency regarding DG-03-13. Of the 20 hearing attendees, two indicated general support of the draft code changes (Mr. Terry Marshall, a licensed well driller representing the Wisconsin Water Well Association and Mr. Dennis Crow, a licensed pump installer and well inspector representing himself) and no one at the hearings indicated general opposition to the draft code changes.

Commented [CNH5]: Identify the persons who appeared or registered for or against the proposed rule at the public hearing. This does not apply to persons who submitted written comments. See Wis. Stat. § 227.19(3)(c). If practicable, list the names and affiliations of persons, as listed on the appearance slip.

Changes to Rule Analysis and Fiscal Estimate

No changes were made to the plain language rule analysis, the fiscal estimate or the economic impact analysis.

Commented [CNH6]: This section refers to the plain language rule analysis contained in the Board order, as required under Wis. Stat. § 227.14(2)(a). Highlight what changes, if any, were made to this analysis or the fiscal estimate as a result of public comments and testimony. Although it is not statutorily required, you should also explain changes made to the economic impact analysis.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on December 16, 2013 related to Form, Style and Placement; and Clarity, Grammar, Punctuation and Use of Plain language. All changes suggested by the Legislative Clearinghouse have been made with the exception of four suggestions that would have either resulted in lack of clarity in the rule or would have changed the meaning of a requirement.

Commented [CNH7]: List categories from the report received from LCRC.

Final Regulatory Flexibility Analysis

The final regulatory flexibility analysis is not required as the small business regulatory review board did not determine that the rule will have a significant economic impact on a substantial number of small businesses.

Commented [CNH8]: Cut and paste from background memo attached to the green sheet for Board adoption. See Wis. Stat. § 227.19 (3) (e) for required content.

Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not prepare a report on this rule proposal.

Commented [CNH9]: If the SBRRB prepared a report on the proposed rule, you must include a response. Otherwise, write: "The Small Business Regulatory Review Board did not prepare a report on this rule proposal." See Wis. Stat. § 227.19(3)(h).

Commented [CNH10]: You must submit this document, along with the following attachments, to the Department Rules Coordinator:

- Copy of Board Order, with any changes made as directed by the Board
- If amended, fiscal estimate and economic impact analysis
- For rules with \$20,000,000 or more in implementation or compliance costs, a copy of any report prepared by DOA
- Copy of any energy impact report received from the PSC [Wis. Stat. § 227.117(2)]