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FORM 2



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 01-104

AN ORDER to renumber NR 600.04 (2) to (4); to amend NR 600.03 (127), (244) and (263) and 600.04 (1); and to create NR 600.03 (128m) and 600.04 (2) and chapter NR 815, relating to the control of underground injection wells.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

09-10-01 RECEIVED BY LEGISLATIVE COUNCIL.

10-08-01 REPORT SENT TO AGENCY.

RNS:MCP:jal;ksm

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



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CLEARINGHOUSE RULE 01-104

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

Section NR 815.13 (4) refers to the methods for providing confidential treatment of records and other information. However, ch. 281, Stats., does not have a provision regarding confidentiality of records. Is there statutory authority to provide confidential status for these records?

2. Form, Style and Placement in Administrative Code

- a. In the treatment clause of SECTION 5, "are" should replace "is."
- b. Is there a need in s. NR 600.03 (244) to have two different terms with the same meaning? It is generally better drafting practice to use a single term consistently. Note also the use of "underground injection" and "well injection" which are given the same meaning in s. NR 815.03 (59). See also "wastewater" and "sewage" in s. NR 815.03 (61).
- c. Similarly, it is confusing in s. NR 815.03 (5) to state that a "borehole" is the same as a drillhole, when the terms have different definitions in the rule.
- d. Are the three subdefinitions in s. NR 815.03 (13) necessary? None of these terms appear to be used in the rule. If they serve some purpose, they should be placed in alphabetical order with the other terms that are defined.

e. The term "party," as defined in s. NR 815.03 (35) and used throughout the rule, is inappropriate. The conventional statutory terminology "person," as defined in s. 990.01 (26), Stats., should be used.

f. The defined term "state" should be used in s. NR 815.03 (36), and "of Wisconsin" should be eliminated." This occurs elsewhere in the rule.

g. Section NR 815.12 (2) should begin "No person may. . ."

4. Adequacy of References to Related Statutes, Rules and Forms

a. Can a more specific cross-reference or cross-references be substituted for the reference to ch. 281, Stats., in s. NR 815.01 (intro.)?

b. The cross-reference in the note after s. NR 815.03 (7) is incorrect. The proper reference should be to s. Comm 81.01 (53).

c. The reference to the form in s. NR 815.08 (3) should comply with the requirements of s. 227.14 (3), Stats.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The title of ch. NR 815 is "underground injection wells." However, it appears that the phrase "underground injection" is used only in the title. The remainder of the rule refers only to "injection wells."

b. It is not clear why "dug hole" and "bored, drilled or driven shaft" are used in s. NR 815.02 (2) (c) and (d). Is there a reason why "well" is not used in place of these terms?

c. The use of "all" should be reviewed in s. NR 815.03 (2). "Entirely" might be a better word choice.

d. Is "fluid" the correct term in s. NR 815.03 (3)? It is difficult to understand how "backfill" can be a fluid.

e. The definition of "conversion" in s. NR 815.03 (9) refers to both classes and types of injection wells. Section NR 815.04 defines classes of wells but nothing in the rule appears to define types of wells. That term could be clarified.

f. It is not clear what is meant by "commercial domestic establishments" in s. NR 815.03 (12).

g. The distinction between an existing injection well and a new injection well, based on the definitions in s. NR 815.03 (17) and (32), is not clear. For example, an injection well that is constructed before the effective date of the rule but is not in use on the effective date of the rule, and is used as an injection well after the effective date of the rule, does not fit either definition.

It is not a new injection well because it is not first used for underground injection after the effective date of the rule.

h. Is there a reason why both "fluid" and "substance" are used in s. NR 815.03 (25)? It appears that the definition of "substance" includes all fluids.

i. Should "municipal wastewater" be defined in s. NR 815.03 (31) as only the effluent from a treatment works? Should this term also include partially treated wastewater and wastewater prior to treatment?

j. It is not clear why the definition of "operator" in s. NR 815.03 (33) relates to a "facility or activity subject to regulation through the underground injection control program," while the definition of "owner" in s. NR 815.03 (34) refers simply to "an injection well."

k. Is there a reason why both "act" and "process" are used in the definition of "plugging" in s. NR 815.03 (37)? It appears that either term would be sufficient. Also, in the same definition, the use of "borehole" and "well" in the same definition is confusing. There is considerable overlap between these terms:

l. The definition of "injection well" refers to the placement of a fluid or substance underground. There does not appear to be a reason in the definition of "point of injection" in s. NR 815.03 (38) to refer to the release of a fluid or substance into the "subsurface environment." This definition should also use "underground."

m. The definition of "project" in s. NR 815.03 (41) refers to a group of wells in a single "operation." It is not clear what would be encompassed within an operation.

n. How does the term "sanitary waste" in s. NR 815.03 (46) differ from "domestic wastewater" as defined in s. NR 815.03 (12)? These terms appear to overlap substantially.

o. It is not clear why the definition of "septic system" in s. NR 815.03 (48) or the use of that term in the rule is necessary if the term "private onsite wastewater treatment system" is defined and used.

p. The reference to surface water and groundwater in the definition of "sewage" in s. NR 815.03 (49) is unclear. The definition refers to surface water and groundwater that "may be present." Sewage would thus include surface water and groundwater even if it is not mixed with the sewage. Does this also refer to groundwater beneath the residence or other structure?

q. Is the definition of "strata" in s. NR 815.03 (54) really necessary?

r. It is unclear how the definition of "stratum" relates to the definition of "formation." See s. NR 815.03 (19) and (55). There appears to be substantial overlap between these terms.

s. "Of hazardous waste" should be deleted in s. NR 815.04 (1) (a). This phrase is included in the definition of "generator." Also in that paragraph, note that "owner" and "operator" are used in a context that is not consistent with the definitions of those terms.

t. Section NR 815.05 (2) would be more useful if it specified who may provide an exemption from designation as an underground source of drinking water. Does this apply to the department? A regulatory agency?

u. Section NR 815.06 (1) and the following provisions might be rewritten in the following form: "Construction of a class I injection well or use of a well as a class I injection well."

v. Does "endangers" in s. NR 815.06 (6) have the same meaning as the defined term "endangerment"?

w. How does the prohibition of certain facilities in s. NR 815.06 (7) to (9) relate to the general prohibition of class V wells in s. NR 815.06 (5)? The prohibition in sub. (5) applies unless construction or use of the injection well is specifically authorized. It would thus appear unnecessary to prohibit the types of facilities listed in subs. (7) to (9), as those would appear to be class V wells.

x. When is it necessary to provide the information required in s. NR 815.08 (1)?

y. As mentioned earlier, it is not clear what is meant by "type" of injection well, as well as "type" of ownership, in s. NR 815.08 (1) (c) and (d).

z. Section NR 815.08 (2) provides exemptions from reporting requirements for certain injection wells. Does the placement of objects as described in s. NR 815.08 (2) (e) fit within the definition of "injection well."

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

The Wisconsin Natural Resources Board proposes an order to renumber NR 600.04(2) to (4); to amend NR 600.03(127), (244) and (263) and 600.04(1); and to create NR 600.03(128m), 600.04(2) and ch. NR 815 pertaining to the control of underground injection wells.

DG-22-01

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 280.11(1), 281.11, 281.12(1), 281.17(8), 283.001(2), 291.07(1) and (2), 292.31(3), 293.13(1) and (2), 295.35 (2) and (3) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 281.17(8) and 283.001(2), Stats.

This action clarifies existing Department of Natural Resources (DNR) policies regarding the underground placement of substances by means of injection wells. The chapter being created uses terms and definitions and restates regulatory requirements that are consistent with those currently found in the Code of Federal Regulations (CFR). Prohibited activities are identified. Requirements for allowed activities are specified.

Federal regulations promulgated under the authority of Part C of the Safe Drinking Water Act (SDWA) of 1974 [Public Law 93-523, 42 U.S.C. 300h *et seq.*] require that an Underground Injection Control (UIC) program be established for each state. Should a state decline to develop its own UIC program, the United States Environmental Protection Agency (EPA) is instructed to directly implement the federal UIC program requirements enumerated in 40 CFR Parts 144 and 146. Any administrative rules enacted as part of a state-administered UIC program must contain provisions that are at least as stringent as the provisions that would be enforced through an EPA-implemented UIC program. A state may also adopt more stringent regulations should it choose to do so.

The primary purpose of this chapter is to restate the various injection-related requirements that have been previously adopted by the DNR and which are currently enforced through various programs within the Department. The creation of Chapter NR 815 will make it easier for any party that seeks to use an injection well to determine whether a proposed activity is prohibited or requires approval of a state regulatory authority. Creation of this chapter will also assist the DNR in demonstrating to EPA that a comprehensive, state-directed UIC program has been established for the State of Wisconsin.

Chapter NR 600 is being amended to allow for reinjection of groundwater containing a hazardous waste at clean-up sites when the injection is conducted as part of a Department-approved remedial activity.

SECTION 1. NR 600.03(127) is amended to read:

NR 600.03(127) "Land treatment" means the application of waste onto the soil surface or into the soil surface through incorporation. This term does not include the placement of waste in a landfill cell. This term does not include the underground injection of waste through a subsurface fluid distribution system or a well.

SECTION 2. NR 600.03(128m) is created to read:

NR 600.03(128m) "Subsurface fluid distribution system" means an assemblage of perforated pipes or drain tiles, or any similar conveyance, intended to place or distribute a fluid underground.

811.11(12)
0

SECTION 3. NR 600.03(244) and (263) are amended to read:

NR 600.03(244) “Underground injection” or “well injection” means the subsurface emplacement of fluids through a bored, drilled or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension placement of a fluid or any substance underground through a well.

Note: See also the definition of “injection” in this section.

(263) “Well” means a bored, drilled or driven shaft, or a dug hole where the depth of the dug hole is greater than the largest surface dimension, and which is terminated above, within or below an aquifer any of the following:

(a) A bored, drilled or driven shaft.

(b) A dug hole whose depth is greater than its largest surface dimension.

(c) An improved sinkhole.

(d) A subsurface fluid distribution system.

SECTION 4. Section NR 600.04(1) is amended to read:

NR 600.04(1) Underground ~~Except as provided in sub. (2), underground injection of any hazardous waste through a well is prohibited.~~

Note: Section NR 812.05 prohibits the use of any well for the disposal of solid wastes, sewage, surface water or wastewater, except for certain listed activities, including remediation.

SECTION 5. NR 600.04(2) to (4) ^{are} is renumbered NR 600.04(3) to (5).

SECTION 6. NR 600.04(2) is created to read:

NR 600.04(2) Underground injection of contaminated groundwater, that meets the definition of a hazardous waste or contains a hazardous waste, may be allowed as part of a remedial action necessary for the cleanup of soil or groundwater contamination, and is not subject to the requirements of chs. NR 630, 660, 675, 680 and 685, provided all of the following:

(a) The person who proposes to perform the injection obtains written approval from the department.

(b) The criteria in s. NR 140.28(5) are met.

(c) The contaminated groundwater is treated before it is injected.

(d) The groundwater is injected into the same formation from which it was withdrawn.

Note: Injection for remediation purposes requires a written approval from the department in order to meet the requirements of ss. NR 140.28(5), NR 812.05 and NR 815.06(4). Injection as allowed under this section requires that a written exemption be granted under s. NR 140.28(5).

SECTION 7. Chapter NR 815 is created to read:

only used in this title

**CHAPTER NR 815
UNDERGROUND INJECTION WELLS**

**SUBCHAPTER I
GENERAL**

NR 815.01 Purpose. The purpose of this chapter is to establish uniform minimum standards and methods in conformity with ch. 281, Stats., for the following:

- (1) Construction or use of a well for the purpose of placing a fluid or substance underground.
- (2) Protection of underground sources of drinking water, aquifers and groundwater from contamination that may occur as a result of the use of an injection well.

NR 815.02 Applicability. The provisions of this chapter apply to new and existing injection wells as follows:

(1) **SPECIFIC INCLUSIONS.** Injection wells that are governed by this chapter include, but are not limited to:

(a) Any injection well on a drilling platform that is located within the jurisdictional boundaries of the state of Wisconsin.

(b) Except as provided in sub. (2), any well that is constructed or used to place a fluid or substance underground.

(c) Any well used by a generator of hazardous waste, or by the owner or operator of a hazardous waste management facility, to dispose of a fluid containing hazardous waste. This includes the disposal of hazardous waste into a waste disposal system that would otherwise be a septic system or cesspool regardless of the capacity of the waste disposal system.

(d) Any septic system, cesspool or other injection well used by a multiple-family dwelling, multiple dwellings, or a community or regional system for the disposal of fluids.

Section 83.32(1)(d) prohibited or

(2) **SPECIFIC EXCLUSIONS.** The following are not governed by this chapter:

(a) Any injection well on a drilling platform or other site that is located in its entirety beyond the jurisdictional boundaries of the state of Wisconsin.

(b) Any private onsite wastewater treatment system that is used solely to dispose of sanitary waste from an individual single-family dwelling.

(c) Any dug hole that is not used to place a fluid or substance underground.

(d) Any bored, drilled or driven shaft that is not used to place a fluid or substance underground.

definition of "well" def - not a well well?

NR 815.03 Definitions. In this chapter:

(1) "Approval" means any of the following: authorization by statute or administrative rule, written letter of authorization or issuance of a permit.

(2) "Aquifer" means a geological layer consisting of unconsolidated material, usually sand or gravel or both, or bedrock lying below the ground surface that is all or partially saturated with water and permeable enough to allow water to be extracted, as from a well.

(3) "Backfill" means a fluid containing, but not limited to, any of the following: sand, gravel, cement, mill tailings, mill refuse, fly ash or other solids used as part of the mining process or for the purpose of closing a mine shaft or reclaiming an area subjected to mining activities.

(4) "Bedrock" means any naturally formed consolidated or coherent material of the earth's crust, composed of one or more minerals, rock fragments or organic material that underlies any soil or other unconsolidated surficial material or is exposed at the surface. Bedrock includes, but is not limited to limestone, dolomite, sandstone, shale and igneous and metamorphic crystalline rock, including granite, rhyolite, quartzite, gabbro, basalt, gneiss, schist, diorite and greenstone.

(5) "Borehole" means a circular hole deeper than it is wide, constructed in earth material for the purpose of either installing a well or obtaining geologic or groundwater related data. Boreholes are also referred to as drillholes. *but not same def.*

(6) "By-product solids" means waste materials from the animal product or food processing industry including, but not limited to remains of butchered animals, paunch manure and vegetable waste materials such as leaves, cuttings, peelings and actively fermenting sweet corn silage.

(7) "Cesspool" means a drywell that solely receives untreated sanitary waste and which sometimes has an open bottom or perforated sides or both.

Note: As used in this chapter, the term includes those excavations that are defined as cesspools in s. Comm 83.02(6). *83.01(53) necessary*

(8) "Closure" means ceasing the discharge of a fluid or substance to a well.

(9) "Conversion" means a change in the operation of an injection well that results in a change in the designated class or type of the injection well. *is 8.5.1 has classes - what are types*

(10) "Department" means the department of natural resources.

(11) "Discharge" has the meaning given in s. 292.01(3), Stats.

Note: "Discharge" in s. 292.01(3), Stats., means, but is not limited to, any of the following: spilling, leaking, pumping, pouring, placing, emitting, emptying or dumping.

(12) "Domestic wastewater" means the wastewater normally discharged from plumbing facilities in private dwellings or commercial domestic establishments and includes, but is not limited to sanitary, bath, laundry, dishwashing, garbage disposal and cleaning wastes.

bad intro. (13) "Drillhole" means an excavation, opening or driven point well deeper than it is wide that extends more than 10 feet below the ground surface. *necessary? have used?*

(a) "Heat exchange drillhole" means a drillhole used for closed loop heat exchange purposes.

(b) "Lower drillhole" means that part of a drillhole below the vertical zone of contamination or below the well casing.

(c) "Upper enlarged drillhole" means a drillhole larger in diameter than the well casing pipe.

(14) "Drywell" means a well, other than an improved sinkhole or subsurface fluid distribution system, that is completed above the water table so that its bottom or sides are typically dry except when receiving or draining fluids.

(15) "Dwelling" means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(16) "Endangerment" means the movement of a fluid containing any substance into an underground source of drinking water, if the presence of the substance may cause a violation of a primary drinking water maximum contaminant level established in 40 CFR part 142 or otherwise adversely affect the health of persons.

Note: Exceedance of an enforcement standard established in ch. NR 140 is comparable to endangerment as defined above.

(17) "Existing injection well" means any injection well in use on the effective date of this rule ... [revisor insert date] other than a new injection well.

not needed

scope of these 2 terms was changed

(18) "Fluid" means any material or substance that flows or moves whether a semisolid, liquid, sludge, gas or any other form or state.

(19) "Formation" means a body of consolidated or unconsolidated geologic materials characterized by a degree of lithologic homogeneity that is prevailing, but not necessarily, tabular and may be mapped on the earth's surface or traced in the subsurface.

(20) "Generator" means the party responsible for an act or process that produces hazardous waste.

(21) "Groundwater" has the meaning given in s. 160.01(4), Stats.

Note: "Groundwater" in s. 160.01(4), Stats., means any of the waters of the state, as defined in s. 281.01(18), Stats., occurring in a saturated subsurface geological formation of rock or soil.

(22) "Hazardous waste" has the meaning given in s. 291.01(7), Stats.

Note: "Hazardous waste" in s. 291.01(7), Stats., means any solid waste identified by the department as hazardous waste under s. 291.05(1), (2) or (4), Stats.

(23) "Hazardous waste facility" has the meaning given in s. 291.01(8), Stats.

Note: "Hazardous waste facility" in s. 291.01(8), Stats., means a site or structure for the treatment, storage or disposal of hazardous waste and includes all of the contiguous property under common ownership or control surrounding the site or structure.

(24) "Improved sinkhole" means a naturally occurring karst depression or opening, or any other natural crevice found in volcanic terrain or other geologic settings, that has been modified by a party for the purpose of directing or placing fluids into the subsurface.

(25) "Injection well" means a well that is used to place a fluid or substance underground.

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(26) "Injection zone" means a geological formation, a portion of a formation or a group of formations that is intersected by a well and that receives or may receive a fluid from an injection well.

(27) "Land disposal" means placement of hazardous waste in or on the land and includes, but is not limited to placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine, cave or a concrete vault or bunker that is intended for disposal purposes.

(28) "Land treatment" means the discharge of a fluid by means of a system that utilizes the physical, chemical and biological abilities of the soil to decompose any pollutant contained in the fluid.

(29) "Large-capacity cesspool" means any cesspool that is designed to receive untreated sanitary waste from 20 or more people per day.

(30) "Liquid waste" means process wastewater and waste liquid products including, but not limited to silage leachate, whey, whey permeate, whey filtrate, contact cooling water, cooling or boiler water containing water treatment additives, and wash water generated in industrial, commercial and agricultural operations that result in a point source discharge to a land treatment system.

Note: As used in this chapter, "liquid waste" does not include the following: alcohol fuel production wastes from systems defined as private alcohol fuel production systems under s. 289.44(1)(c), Stats., that are operated in accordance with s. 283.61(2), Stats., animal waste regulated under ch. NR 243 or liquid manure applied in accordance with sound agricultural practices, domestic sewage from systems defined as private sewage systems in s. 145.01(12), Stats., effluent from publicly owned or privately owned wastewater treatment works regulated under ch. NR 206, or mining wastes backfilled or otherwise disposed of in a prospecting excavation or a mine in accordance with a prospecting permit or a mining permit issued under ch. NR 131 or 132, except runoff, leachate, decantate or other wastewater collected for disposal on land outside of the permitted prospecting or mining site.

(31) "Municipal wastewater" means effluent from a publicly owned wastewater treatment works or a privately owned domestic wastewater treatment works.

(32) "New injection well" means a well that is first constructed or used for underground injection after the effective date of this rule ... [revisor insert date].

(33) "Operator" means the party responsible for the supervision, management or operation of any facility or activity subject to regulation through the underground injection control program.

(34) "Owner" means the party holding title to the property upon which an injection well is located.

(35) "Party" means a person, association, partnership, corporation, municipal, county, state, federal or tribal agency, or any employee thereof.

(36) "Permit" means an authorization, license or equivalent control document issued by the state of Wisconsin through a regulatory agency that has been delegated responsibility for managing any activity that would be subject to regulation as an injection well through the federal underground injection control program.

Note: A permit may be issued as an individual, group, area or emergency permit; however, a permit does not include authorization by rule or any draft permit that has not yet been the subject of final action by the regulatory agency.

(37) "Plugging" means the act or process of stopping the flow of water, oil or gas into or out of a formation through a borehole or well penetrating that formation.

(38) "Point of injection" means the last accessible point, as determined by the department, where a sample of a fluid or substance may be collected prior to the release of the fluid or substance into the subsurface environment through an injection well.

Note: The point of injection for a subsurface fluid distribution system may be a septic tank or distribution box located prior to the drainfield. The point of injection for a drywell or well may be at or just prior to the wellbore itself.

(39) "Pollutant" has the meaning given in s. 283.01(13), Stats.

Note: "Pollutant" in s. 283.01(13), Stats., means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

(40) "Private onsite wastewater treatment system" has the meaning given for private sewage system in s. 145.01(12), Stats.

Note: "Private sewage system" in s. 145.01(12), Stats., means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the department of commerce including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure. A private sewage system may be owned by the property owner or by a special purpose district.

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(194)*

(41) "Project" means a group of wells in a single operation.

(42) "Radioactive waste" means any waste that contains radioactive material in concentrations that exceed those listed in 10 CFR part 20, appendix B, table II, column 2.

(43) "RCRA" means the solid waste disposal act as amended by the resource conservation and recovery act of 1976, Pub. L. 94-580, as amended by Pub. L. 95-609, Pub. L. 96-510, 42 U.S.C. 6901 *et seq.*

(44) "Regulatory agency" has the meaning given in s. 160.01(7), Stats.

Note: "Regulatory agency" in s. 160.01(7), Stats., means the department of agriculture, trade and consumer protection, the department of commerce, the department of transportation, the department of natural resources and other state agencies which regulate activities, facilities or practices which are related to substances which have been detected in or have a reasonable probability of entering the groundwater resources of the state.

(45) "Safe drinking water act" or "SDWA" means the safe drinking water act, Pub. L. 93-523, as amended; 42 U.S.C. 300f *et seq.*

(46) "Sanitary waste" means sewage containing wastes primarily from humans and housekeeping activities, such wastes include those collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for domestic food preparation, domestic clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses and utensils are cleaned.

Note: Sanitary waste may be generated at residential, commercial, industrial or recreational facilities provided that the waste is not mixed with the waste from an industrial process.

(47) "Schedule of compliance" means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements, that leads to compliance with a specified statute or administrative rule.

(48) "Septic system" means a sewage treatment and disposal system consisting of a septic tank and a soil absorption field that is used to place sanitary waste underground.

(49) "Sewage" means the water-carried wastes created in and to be conducted away from residences, industrial establishments and public buildings as defined in s. 101.01(12), Stats., with any surface water or groundwater as may be present.

(50) "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

(51) "Sludge" means the accumulated solids generated during the biological, physical or chemical treatment of potable water or wastewater.

(52) "State" means the state of Wisconsin.

(53) "State director" means the chief administrative officer of the state regulatory agency operating an approved underground injection control program, a delegated representative of the chief administrative officer, or both.

Note: If responsibility for administering portions of the underground injection control program is divided among 2 or more state regulatory agencies, state director means the chief administrative officer, or a delegated representative of the chief administrative officer, of the state regulatory agency authorized to perform the procedure or function to which reference is made.

(54) "Strata" means the plural of stratum.

(55) "Stratum" means a single stratigraphic bed or layer, regardless of thickness, that consists throughout its thickness of approximately the same kind of geologic material.

*of formation
what
difference*

(56) "Substance" has the meaning given in s. 160.01(8), Stats.

Note: "Substance" in s. 160.01(8), Stats., means any solid, liquid, semisolid, dissolved solid or gaseous material, naturally occurring or man-made chemical, parameter for measurement of water quality or biological organism which, in its original form, or as a metabolite or a degradation or waste product, may decrease the quality of groundwater.

(57) "Subsurface fluid distribution system" means an assemblage of perforated pipes or drain tiles, or any similar conveyance, intended to place or distribute a fluid underground.

(58) "UIC program" or "underground injection control program" means the federal underground injection control program authorized by part C of the safe drinking water act or an approved state underground injection control program.

(59) "Underground injection" means well injection.

*why come underground
forms*

(60) "Underground source of drinking water" means any aquifer or groundwater, or portion of any aquifer or groundwater, located within the jurisdictional boundaries of the state of Wisconsin.

(61) "Wastewater" means all sewage.

why 2 words for same thing

(62) "Well" means any of the following:

- (a) A bored, drilled or driven shaft.
- (b) A dug hole whose depth is greater than its largest surface dimension.
- (c) An improved sinkhole.
- (d) A subsurface fluid distribution system.

(63) "Well injection" means the placement of a fluid or any substance underground through a well.

**SUBCHAPTER II
INJECTION WELL CLASSES AND
UNDERGROUND SOURCES OF DRINKING WATER**

NR 815.04 Classification of injection wells. Injection wells are classified as follows:

(1) **CLASS I INJECTION WELL.** A class I well is any of the following:

*note that there are
defined
concepts
meaning
here*

(a) A well used by a generator of hazardous waste or the owner or operator of a hazardous waste facility to inject a fluid classified as a hazardous waste or a fluid containing a hazardous waste below the lowermost formation containing an underground source of drinking water.

(b) A well used to inject a fluid containing an industrial or municipal waste below the lowermost formation containing an underground source of drinking water.

(c) A well used to inject a fluid containing a radioactive waste below the lowermost formation containing an underground source of drinking water.

(2) **CLASS II INJECTION WELL.** A class II well is any of the following:

(a) A well used to inject a fluid that was brought to the surface in connection with activities that are related to the conventional production of oil or natural gas, or the underground storage of natural gas, that may be commingled with wastewater that is produced during production operations, except for any wastewater that is classified as a hazardous waste at the time of injection

(b) A well used for enhanced recovery of oil or natural gas.

(c) A well used for storage of hydrocarbons that are liquid at standard temperature and pressure.

(3) **CLASS III INJECTION WELL.** A class III well is a well used for solution mining of minerals including, but is not limited to:

(a) A well used to mine sulfur by the Frasch process.

(b) A well used for in-situ production of uranium or other metals from ore bodies that have not been conventionally mined.

Note: A well used for solution mining of conventional mines, such as stopes leaching, is classified as a class V injection well.

(c) A well used for solution mining of salts or potash.

(4) **CLASS IV INJECTION WELL.** A class IV well is any of the following:

(a) A well used by a generator of a hazardous waste or radioactive waste, the owner or operator of a hazardous waste facility, or the owner or operator of a radioactive waste disposal site to dispose of a hazardous waste or radioactive waste into a formation that contains an underground source of drinking water.

(b) A well used by a generator of a hazardous waste or radioactive waste, the owner or operator of a hazardous waste facility, or the owner or operator of a radioactive waste disposal site to dispose of hazardous waste or radioactive waste above a formation which contains an underground source of drinking water.

(5) **CLASS V INJECTION WELL.** Any well that is used to place a fluid or substance underground that is not classifiable as a class I, II, III or IV injection well.

NR 815.05 Underground source of drinking water. (1) Any aquifer or groundwater, or portion of any aquifer or groundwater, located within the jurisdictional boundaries of the state of Wisconsin is an underground source of drinking water.

(2) No aquifer or groundwater, or portion of an aquifer or groundwater, located within the jurisdictional boundaries of the state of Wisconsin may be exempted from designation as an underground source of drinking water.

**SUBCHAPTER III
REGULATED ACTIVITIES**

NR 815.06 Prohibitions. The following activities are prohibited:

(1) Construction or use of a well as a class I injection well.

Note: Use of a well to place a hazardous waste underground is prohibited as specified in s. NR 600.04. Use of a well to place municipal or domestic wastewater underground is prohibited as specified in s. NR 206.07(2)(d). Use of a well to place a pollutant underground is prohibited as specified in s. NR 214.04(3).

(2) Construction or use of a well as a class II injection well.

(3) Construction or use of a well as a class III injection well.

(4) Construction or use of a well as a class IV injection well, unless the well is to be used to reinject treated contaminated groundwater back into the formation from which the groundwater was drawn and is approved by the department as part of a remedial action necessary for the cleanup of soil or groundwater contamination.

Note: Injection for remediation purposes requires a written approval from the department in order to meet the requirements of ss. NR 140.28(5) and NR 812.05. Such injection requires a written exemption be granted under s. NR 140.28(5). Injection of groundwater that meets the definition of hazardous waste or contains a hazardous waste for remediation purposes requires a written approval under s. NR 600.04(2).

(5) Construction or use of a well as a class V well without the approval of the department, or other designated regulatory agency as specified in subch. IV, unless the construction or use of the injection well is allowed by statute or specifically authorized by administrative rule.

Note: Use of any unauthorized injection well is prohibited under federal law, as specified in 40 CFR 144.11.

(6) Operation, maintenance, conversion, plugging, closure or any other alteration of an injection well in a manner that results in an exceedance of the groundwater standards in ch. NR 140 or endangers an underground source of drinking water.

Note: Endangerment of an underground source of drinking water is prohibited under federal law, as specified in 40 CFR 144.12.

(7) Construction or use of a large-capacity cesspool.

Note: Use of a large-capacity cesspool is prohibited under federal law, as specified in 40 CFR 144.85. Use of any cesspool is prohibited as specified in ch. Comm 83.

(8) Construction or use of a new injection well to place a fluid containing a waste from motorized vehicle repair or maintenance activities underground.

Note: Construction or use of an injection well to dispose of fluids containing wastes from motorized vehicle repair or maintenance activities was prohibited as of April 5, 2000, as specified in 40 CFR 144.85. Any subsurface fluid distribution system constructed prior to this date which continues to be used to dispose of wastes from motorized vehicle repair or maintenance activities must comply with the land treatment provisions of s. NR 214.16 or it is prohibited. Discharge of waste fluids from motorized vehicle repair or maintenance activities to any other well is prohibited.

(9) Construction or use of an improved sinkhole to place surface or subsurface drainage water, wastewater or any other fluid containing a pollutant or substance underground.

NR 815.07 Approval of injection wells. (1) A regulatory agency may not approve the construction or use of a class I, II, or III injection well.

(2) Subject to the limitation contained in sub. (4), the department may only approve the construction or use of a class IV well, if the well is to be used to reinject treated contaminated groundwater back into the formation from which the groundwater was withdrawn and is approved by the department as part of a remedial action necessary for the cleanup of soil or groundwater contamination.

(3) Subject to the limitation contained in sub. (4), a regulatory agency may approve a class V well as specified in subch. IV.

(4) A regulatory agency may not approve the construction or use of any injection well that endangers an underground source of drinking water, does not comply with ch. 160, Stats. or does not comply with the requirements of this chapter.

*This endangers
groundwater?
See 815.07*

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"Handwritten notes in left margin, possibly 'NR 815.07' and other illegible text."

Note: An exceedance of a maximum contaminant level established for a substance in drinking water is considered to endanger an underground source of drinking water and is comparable to the exceedance of an enforcement standard established in ch. NR 140.

Note: Section 160.19(4), Stats., prohibits a state regulatory agency from promulgating a rule defining design and management practice criteria that permits a preventive action limit to be attained or exceeded in groundwater except as allowed under s. 160.19(2), Stats. A state regulatory agency may not promulgate a rule defining design and management practice criteria that permits an enforcement standard to be attained or exceeded at the point of standards application.

(5) Failure to comply with any condition of an injection well approval voids the approval.

NR 815.08 Reporting of injection wells. (1) Except as specified in sub. (2), the owner or operator of an injection well shall provide the following inventory information to the department:

- (a) Injection well facility name and location. *where?*
- (b) Name and address of the injection well operator or operator.
- (c) Type of ownership. *not clear what this is*
- (d) Class and type of injection well.
- (e) Number and operating status of injection wells on a property or in a project.

(2) The following activities are exempt from the reporting requirements of this section:

- (a) Use of department approved products for drilling, rehabilitation or abandonment of any water supply well, groundwater monitoring well, or any other department approved borehole or drillhole.
- (b) Use of bentonite grout, cement grout, concrete grout, cement or concrete, or other similar department approved materials containing additives, for the purposes of soil or excavation site stabilization, tunnel support, underpinning or foundation strengthening, groundwater control or diversion or for limiting structural settlement.
- (c) Construction of a structure such as, but not limited to, a building foundation, support footing, elevator shaft, lift station, utility conduit, sump, equipment vault or mine shaft.
- (d) Horticultural or agricultural practices, other than those activities that involve the use of an injection well for the disposal of drainage water or other fluids containing a pollutant underground.
- (e) Underground placement of solid objects such as, but not limited to, pilings, posts, coffins or department approved cathodic protection devices.

(3) Information required under sub. (1) shall be submitted on department form 3300-253, or in an alternative format acceptable to the department, to the department's bureau of drinking water and groundwater within one year of the effective date of this chapter ... [revisor inserts date].

(4) The department may also require the owner or operator of an injection well to submit additional information including, but not limited to:

- (a) Location of a well or project by township, range, section and quarter-section.
- (b) Location of a well by coordinates of latitude and longitude to the nearest second.
- (c) Date of construction of a well or project.
- (d) Total depth of a well.

only apply to injection wells do that what (e) is

2007/12/13

- (e) Identification of the geologic formation into which a well is injecting.
- (f) A narrative that describes the construction features of the well.
- (g) A schematic drawing that describes the construction features of the well.
- (h) A map or plan drawing that shows the location of a well in relation to other structures or adjacent property boundaries.
- (i) A description of the nature or quality of the fluid being injected.
- (j) The average and maximum injection pressure at the wellhead.
- (k) The average and maximum rate of injection.
- (L) The date of the last well inspection or any maintenance activities.

(5) If the owner or operator of an injection well fails to submit any of the information that is required or requested under subs. (1) and (4) and the well has not been approved by the department, or other regulatory agency as specified in subch. IV, the department may order the owner or operator of the unauthorized well to cease injection until the time that the required or requested information is received by the department and an approval for the well is obtained from the regulatory agency having jurisdiction.

NR 815.09 Operation of injection wells. No injection well may be operated in a manner that fails to comply with ch. 160, Stats., or endangers an underground source of drinking water.

Note: Section 160.19(4), Stats., specifies that if a state regulatory agency promulgates a rule that is designed to maintain compliance with a preventive action limit and if a preventive action limit is attained or exceeded at a point of standards application, the agency shall review its rule and, if necessary, revise the rule to maintain compliance with the preventive action limit. If an enforcement standard is attained or exceeded at a point of standards application, the agency shall review its rule and, if necessary, revise the rule to ensure that the enforcement standard is not attained or exceeded at a point of standards application or other locations in the future.

NR 815.10 Closure of injection wells. (1) All large-capacity cesspools shall be closed by no later than April 5, 2005 in a manner that is approved by the regulatory agency having jurisdiction.

(2) All existing wells that have been used for the disposal of a fluid containing a waste from motorized vehicle repair or maintenance activities shall be converted or closed by no later than January 1, 2005 in a manner that is approved by the department.

Note: With the approval of the United States environmental protection agency, the department may extend the deadline for conversion or closure of a well that has been used to dispose of a fluid containing a waste from motorized vehicle repair or maintenance activities to January 1, 2006.

SUBCHAPTER IV ADDITIONAL REQUIREMENTS BY WELL CLASS

NR 815.11 Class V well injection. Class V well injection is subject to the following:

(1) Construction or use of a well, other than a subsurface fluid distribution system, to place any waste, surface water, subsurface water or substance underground is prohibited except as specified in ss. NR 811.11(7) and 812.05.

Note: Section NR 811.11(7) prohibits the use of any well, drillhole or water system for the underground placement of any substance unless it is a department approved activity necessary for the construction, rehabilitation or routine operation of a well or water system. This section applies only to wells and water systems governed under ch. NR 811.

Note: Section NR 812.05 applies to wells, drillholes and water systems other than those subject to s. NR 811.11(7). Section NR 812.05(2) prohibits the use of any well, drillhole or water system for the placement of any waste, surface or subsurface

water or any substance underground unless any of the following apply: (a) the placement is a department-approved activity necessary for any of the following: construction, rehabilitation or operation of a well, drillhole or water system, construction of an approved cathodic protection drillhole, remediation of contaminated soil, groundwater or an aquifer, or the study of groundwater conditions, (b) placement of grouting, sealing or well abandonment materials, and (c) placement of approved materials for the purposes such as, but not limited to, soil or excavation site stabilization, foundation strengthening, or groundwater diversion. Section NR 812.05(5) contains a list of activities that are not prohibited by this section.

(2) Construction or use of a subsurface fluid distribution system that has a design capacity of 12,000 gallons per day or less and is defined as a private sewage system in s. 145.01(12), Stats., for disposal of domestic sewage is subject to the provisions of ch. Comm 83.

(3) Construction or use of a subsurface fluid distribution system that has a design capacity greater than 12,000 gallons per day for disposal of domestic or municipal wastewater is subject to the provisions of ch. NR 206.

(4) Construction or use of a subsurface fluid distribution system for land treatment of industrial liquid wastes, by-product solids or sludges is subject to the provisions of ch. NR 214.

(5) Construction or use of a well to dispose of storm water runoff directly into groundwater is prohibited. Construction or use of a subsurface fluid distribution system for disposal of storm water runoff above an aquifer shall be done in a manner that complies with the groundwater standards in ch. NR 140, complies with the requirements of ch. Comm 82 and does not endanger an underground source of drinking water.

Note: Use of a subsurface fluid distribution system for disposal of storm water runoff may also require a permit as specified in ch. NR 216.

(6) Construction or use of a well to place backfill into an underground mine shall be done in accordance with the provisions of ch. NR 132 and shall comply with the requirements of s. NR 132.07(4)(e).

SUBCHAPTER V ENFORCEMENT

NR 815.12 Visitorial powers of the department. (1) Any duly authorized officer, employee or representative of the department shall have the right to enter upon or through any premises in which a well governed by this chapter is located or in which any records required by this chapter are kept. Any duly authorized officer, employee or representative of the department may at reasonable times have access to and copy any records, inspect any equipment or method required by this chapter and collect samples of any fluid or substance being placed into a well for the purpose of obtaining information related to the administration of the requirements of this chapter.

(2) No party shall refuse entry or access to any authorized representative of the department who presents department credentials and requests entry under this section, nor shall any party obstruct, hamper or interfere with any such entry or inspection.

NR 815.13 Records. (1) As specified in s. 281.97, Stats., records required by the department shall be kept by the owner and operator of an injection well and the department supplied with certified copies and other information as the department may require.

(2) Except as provided under sub. (4), any record, report or other information submitted to or obtained by the department in the administration of this chapter shall be a public record.

(3) The department shall make available and provide facilities for the public to inspect and copy any public record maintained by the department in the administration of the requirements of this chapter.

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records as
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(4) If confidential status is sought for any record, report or other information furnished to or obtained by the department under this chapter, the standards and procedures in s. NR 2.19 shall apply

*ch. 287 Act
won't have
confidentiality
provision*

(5) Records, reports and other information for which the department has granted confidential status may be:

(a) Used by the department in compiling or publishing analyses or summaries relating to the general condition of the environment if the analyses or summaries do not identify a specific person or responsible party and the analyses or summaries do not reveal records or other information granted confidential status.

(b) Released by the department to the U.S. environmental protection agency or its authorized representative, if the U.S. environmental protection agency or its authorized representative agrees to protect the confidentiality of the records, reports or other information.

(c) Released for general distribution if the party who provided the information to the department expressly agrees to the release of the information.

(d) Released on a limited basis if the department is directed to take action by a judge or administrative law judge under an order that protects the confidentiality of the record, report or other information.

NR 815.14 Penalties. The owner or operator of any injection well that is found in violation of a provision of this chapter is subject to the penalties specified in s. 281.98, Stats.

Note: Any person who violates ch. 281, Stats., or any rule promulgated or any plan approval, license or special order issued under this chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of continued violation is a separate offense. While an order is suspended, stayed or enjoined, this penalty does not accrue.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____

The rule 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 _____
Darrell Bazzell, Secretary

(SEAL)

State of Wisconsin
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. DG-22-01

Legislative Council Rules Clearinghouse Number 01-104

Subject of Rules Control of underground injection wells

Date of Transmittal to Presiding Officers January 30, 2002

Send a copy of any correspondence or notices pertaining to this rule to:

Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LS/5, 101 South Webster

Telephone: 266-1959
e-mail: turnec@dnr.state.wi.us

An electronic copy of the proposed rule may be obtained by contacting Ms. Turner

REPORT TO LEGISLATURE

NR 600 and 815, Wis. Adm. Code
Control of underground injection wells

Board Order No. DG-22-01
Clearinghouse Rule No. 01-104

Statement of Need

Federal regulations promulgated under Part C of the Safe Drinking Water Act of 1974 require that an underground injection control (UIC) program be developed in each state. The purpose of a UIC program is to protect underground sources of drinking water from contamination that may result from the use of injection wells. A state may establish its own UIC program; however, any state-managed program must be administered in a manner that is at least as stringent as the federal requirements for a UIC program.

Proposed revisions to ch. NR 600 allow the Department to approve the reinjection of hazardous wastes at clean-up sites and are comparable to what is currently allowed by federal law.

Proposed ch. NR 815 has been developed in response to new federal rules for Class V injection wells that went into effect on April 5, 2000. The new regulations expanded the definition of an injection well, prohibited the construction or use of a large-capacity cesspool, and prohibited the disposal of waste fluids from the repair or maintenance of motorized vehicles via an injection well.

The proposed ch. NR 815 utilizes definitions that are consistent with those used in the federal regulations and establishes an injection well classification scheme similar to that used in those states where U.S. EPA implements the UIC program. The proposed chapter provides references to existing requirements already found in other parts of the Wisconsin Administrative Code that apply to the use of injection wells in Wisconsin. The proposed chapter also adopts prohibitions and injection well reporting requirements that are consistent with those imposed under federal law.

Modifications as a Result of Public Hearing

Section NR 815.03(1) has been amended to remove authorization by statutes from the definition of "approval".

Section NR 815.08(2)(b) has been amended to remove the words "concrete grout".

Appearances at the Public Hearing and Their Position

October 17, 2001 – Madison

In support:

Gary Edelstein, DNR Bureau of Remediation & Redevelopment, P.O. Box 7921, Madison, WI 53707

In opposition:

Caryl Terrell, Sierra Club – John Muir Chapter, 222 S. Hamilton St., #1, Madison, WI 53703

As interest may appear:

Lawrie Kobza, Municipal Environmental Group, Boardman Law Firm, 1 S. Pinckney Street,
Madison, WI 53703

James P. Clark, 5675 Mary Lake Road West, Waunakee, WI 53597

October 18, 2001 – Oshkosh – there were no appearances

October 24, 2001 – Eau Claire

In support – none

In opposition – none

As interest may appear:

LeRoy G. Jansky, Wis. Dept. of Commerce, 13 E. Spruce Street, Chippewa Falls, WI 54729

Response to Legislative Council Rules Clearinghouse Report

Comment 1. – Section 281.17(8), Stats., provides the DNR with discretionary authority to establish a program that is at least as stringent as the federal program. Federal UIC regulations and s. 283.55(2)(c), Stats., also contain confidentiality provisions. The draft rule has been amended to reflect this.

Comment 2. – Several different terms are listed and have the same meaning; however, these terms are used independently in other existing administrative rules so one term cannot be used consistently.

Comment 5. – The items identified were either amended as suggested or clarified by the insertion of a note into the appropriate section of the rule text. Several of the suggested changes to definitions were not made in order to retain consistency with the usage of those terms in existing sections of the Wisconsin Administrative Code or to be consistent with the definitions contained in federal regulations.

Final Regulatory Flexibility Analysis

The Department does not expect any negative impact on small businesses as a result of this action. It is believed that this action will save money for responsible parties, including small businesses, which conduct remediation of soil and groundwater.

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

The Wisconsin Natural Resources Board proposes an order to renumber NR 600.04(2) to (4); to amend NR 600.03(127), (244) and (263) and 600.04(1); and to create NR 600.03(218m), 600.04(2) and ch. NR 815 pertaining to the control of injection wells.

DG-22-01

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 280.11(1), 281.11, 281.12(1), 281.17(8), 283.001(2), 291.07(1) and (2), 292.31(3), 293.13(1) and (2), 295.35 (2) and (3) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 281.17(8) and 283.001(2), Stats.

Federal regulations promulgated under the authority of Part C of the Safe Drinking Water Act (SDWA) of 1974 [Public Law 93-523, 42 U.S.C. 300h *et seq.*] require that an Underground Injection Control (UIC) program be established for each state. Should a state decline to develop its own UIC program, the United States Environmental Protection Agency (EPA) is instructed to directly implement the federal UIC program requirements enumerated in 40 CFR Parts 144 and 146. Any administrative rules enacted as part of a state-administered UIC program must contain provisions that are at least as stringent as the provisions that would be enforced through an EPA-implemented UIC program. A state may also adopt more stringent regulations should it choose to do so.

This action clarifies existing Department of Natural Resources (DNR) policies regarding the underground placement of fluids and other substances by means of injection wells. The rules being promulgated use terms and definitions and identify regulatory requirements that are consistent with those currently found in the Code of Federal Regulations (CFR). Prohibited activities are specified. Requirements for allowed activities are referenced.

Chapter NR 600 is being amended to allow the reinjection of groundwater containing a hazardous waste at clean-up sites when such injection is conducted as part of a Department-approved remedial activity.

In creating Chapter NR 815, the Department is primarily identifying and restating various injection-related requirements that have been previously adopted by the DNR or other designated state agencies and which are currently enforced through regulatory programs administered by these agencies. The creation of this chapter will make it easier for a person that seeks to use an injection well to determine whether a proposed activity is prohibited or requires the approval of a regulatory authority. Creation of Chapter NR 815 will also enable the DNR to continue to demonstrate that a comprehensive, state-directed UIC program has been established for the State of Wisconsin.

SECTION 1. NR 600.03(127) is amended to read:

NR 600.03(127) "Land treatment" means the application of waste onto the soil surface or into the soil surface through incorporation. This term does not include the placement of waste in a landfill cell. This term does not include the underground injection of waste through a subsurface fluid distribution system or a well.

SECTION 2. NR 600.03(218m) is created to read:

NR 600.03(218m) "Subsurface fluid distribution system" means an assemblage of perforated pipes or drain tiles, or any similar conveyance, intended to place or distribute a fluid underground.

SECTION 3. NR 600.03(244) and (263) are amended to read:

NR 600.03(244) “Underground injection” or “well injection” means the subsurface emplacement of fluids through a bored, drilled or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension placement of a fluid or any substance underground through a well.

Note: See also the definition of “injection” in this section.

(263) “Well” means a bored, drilled or driven shaft, or a dug hole where the depth of the dug hole is greater than the largest surface dimension, and which is terminated above, within or below an aquifer any of the following:

- (a) A bored, drilled or driven shaft.
- (b) A dug hole whose depth is greater than its largest surface dimension.
- (c) An improved sinkhole.
- (d) A subsurface fluid distribution system.

SECTION 4. Section NR 600.04(1) is amended to read:

NR 600.04(1) Underground Except as provided in sub. (2), underground injection of any hazardous waste through a well is prohibited.

Note: Section NR 812.05 prohibits the use of any well for the disposal of solid wastes, sewage, surface water or wastewater, except for certain listed activities, including remediation.

SECTION 5. NR 600.04(2) to (4) are renumbered NR 600.04(3) to (5).

SECTION 6. NR 600.04(2) is created to read:

NR 600.04(2) Underground injection of contaminated groundwater, that meets the definition of a hazardous waste or contains a hazardous waste, may be allowed as part of a remedial action necessary for the cleanup of soil or groundwater contamination, and is not subject to the requirements of chs. NR 630, 660, 675, 680 and 685, provided all of the following requirements are met:

- (a) The person who proposes to perform the injection obtains written approval from the department.
- (b) The criteria in s. NR 140.28(5) are met.
- (c) The contaminated groundwater is treated before it is injected.
- (d) The groundwater is injected into the same formation from which it was withdrawn.

Note: Injection for remediation purposes requires a written approval from the department in order to meet the requirements of ss. NR 140.28(5), 812.05 and 815.06(4). Injection as allowed under this section requires that a written exemption be granted under s. NR 140.28(5).

SECTION 7. Chapter NR 815 is created to read:

CHAPTER NR 815 INJECTION WELLS

SUBCHAPTER I GENERAL

NR 815.01 Purpose. The purpose of this chapter is to establish uniform minimum standards and methods in conformity with s. 281.18(8), Stats., for the following:

- (1) Construction or use of a well for the purpose of placing a fluid underground.
- (2) Protection of underground sources of drinking water, aquifers and groundwater from contamination that may occur as a result of the use of an injection well.

NR 815.02 Applicability. The provisions of this chapter apply to new and existing injection wells as follows:

(1) **SPECIFIC INCLUSIONS.** Injection wells that are governed by this chapter include, but are not limited to:

- (a) Any injection well on a drilling platform that is located within the jurisdictional boundaries of the state.
- (b) Except as provided in sub. (2), any well that is constructed or used to place a fluid underground.
- (c) Any well used by a generator of hazardous waste, or by the owner or operator of a hazardous waste management facility, to dispose of a fluid containing hazardous waste. This includes the disposal of hazardous waste into a waste disposal system that would otherwise be a septic system or cesspool regardless of the capacity of the waste disposal system.
- (d) Any septic system, cesspool or other well that is used by a multiple-family dwelling, multiple dwellings, community system or regional system to place a fluid underground.

(2) **SPECIFIC EXCLUSIONS.** The following are not governed by this chapter:

- (a) Any injection well on a drilling platform or other site that is located in its entirety beyond the jurisdictional boundaries of the state.
- (b) Any private onsite wastewater treatment system approved according to the provisions of ch. Comm 83 that is used to dispose of sanitary waste from an individual single-family dwelling.
- (c) Any well that is not used to place a fluid underground.

NR 815.03 Definitions. In this chapter:

- (1) "Approval" means any of the following: authorization by administrative rule, written letter of authorization or issuance of a permit.
- (2) "Aquifer" means a geological layer consisting of unconsolidated material, usually sand or gravel or both, or bedrock lying below the ground surface that is entirely or partially saturated with water and permeable enough to allow water to be extracted, as from a well.
- (3) "Backfill" means a substance containing, but not limited to, any of the following: sand, gravel, cement, mill tailings, mill refuse, fly ash or other solids used as part of the mining process or for the purpose of closing a mine shaft or reclaiming an area subjected to mining activities.
- (4) "Bedrock" means any naturally formed consolidated or coherent material of the earth's crust, composed of one or more minerals, rock fragments or organic material that underlies any soil or other unconsolidated surficial material or is exposed at the surface. Bedrock includes, but is not limited to limestone, dolomite, sandstone, shale

and igneous and metamorphic crystalline rock, including granite, rhyolite, quartzite, gabbro, basalt, gneiss, schist, diorite and greenstone.

(5) "Borehole" means a circular hole that is deeper than it is wide, constructed in earth material for the purpose of either installing a well or obtaining geologic or groundwater related data.

Note: The department recognizes a borehole to be a type of a drillhole.

(6) "By-product solids" means waste materials from the animal product or food processing industry including, but not limited to remains of butchered animals, paunch manure and vegetable waste materials such as leaves, cuttings, peelings and actively fermenting sweet corn silage.

(7) "Cesspool" means a drywell that solely receives untreated sanitary waste and which sometimes has an open bottom or perforated sides or both.

Note: As used in this chapter, the term includes those excavations that are defined as cesspools in s. Comm 81.01(53).

(8) "Closure" means ceasing the discharge of a fluid to a well.

(9) "Conversion" means a change in the operation of an injection well that results in a change in the existing classification of the injection well or results in a change in the injection well's type designation within a specific class of injection wells.

(10) "Department" means the department of natural resources.

(11) "Discharge" has the meaning given in s. 292.01(3), Stats.

Note: "Discharge" in s. 292.01(3), Stats., means, but is not limited to, any of the following: spilling, leaking, pumping, pouring, placing, emitting, emptying or dumping.

(12) "Domestic wastewater" means the wastewater normally discharged from plumbing facilities in private dwellings or commercial domestic establishments and includes, but is not limited to sanitary, bath, laundry, dishwashing, garbage disposal and cleaning wastes.

Note: A commercial domestic establishment is a business providing lodging facilities such as, but not limited to, a motel, hotel, boarding house or assisted-living center.

(13) "Drillhole" means an excavation, opening or driven point well deeper than it is wide that extends more than 10 feet below the ground surface.

(14) "Drywell" means a well, other than an improved sinkhole or subsurface fluid distribution system, that is completed above the water table so that its bottom or sides are typically dry except when receiving or draining fluids.

(15) "Dwelling" means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(16) "Endangerment" means the movement of a fluid containing any substance into an underground source of drinking water, if the presence of the substance may cause a violation of a primary drinking water maximum contaminant level established in 40 CFR part 142 or otherwise adversely affect the health of persons.

Note: Exceedance of an enforcement standard established in ch. NR 140 is comparable to endangerment as defined above if the exceedance of the enforcement standard occurs at the point of injection.

(17) "Existing injection well" means any injection well constructed or in use prior to the effective date of this rule ... [revisor insert date].

(18) "Fluid" means any material that flows or moves whether a semisolid, liquid, sludge, gas or any other form or state.

(19) "Formation" means a body of consolidated or unconsolidated geologic materials characterized by a degree of lithologic homogeneity that is prevailing, but not necessarily, tabular and may be mapped on the earth's surface or traced in the subsurface.

(20) "Generator" means the person responsible for an act or process that produces hazardous waste.

(21) "Groundwater" has the meaning given in s. 160.01(4), Stats.

Note: "Groundwater" in s. 160.01(4), Stats., means any of the waters of the state, as defined in s. 281.01(18), Stats., occurring in a saturated subsurface geological formation of rock or soil.

(22) "Hazardous waste" has the meaning given in s. 291.01(7), Stats.

Note: "Hazardous waste" in s. 291.01(7), Stats., means any solid waste identified by the department as hazardous waste under s. 291.05(1), (2) or (4), Stats.

(23) "Hazardous waste facility" has the meaning given in s. 291.01(8), Stats.

Note: "Hazardous waste facility" in s. 291.01(8), Stats., means a site or structure for the treatment, storage or disposal of hazardous waste and includes all of the contiguous property under common ownership or control surrounding the site or structure.

(24) "Improved sinkhole" means a naturally occurring karst depression or opening, or any other natural crevice found in volcanic terrain or other geologic settings, that has been modified by a person for the purpose of dispersing or otherwise discharging fluids into the subsurface.

(25) "Injection well" means a well that is used to place a fluid underground.

(26) "Injection zone" means a geological formation, a portion of a formation or a group of formations that is intersected by a well and that receives or may receive a fluid from an injection well.

(27) "Land disposal system" means a facility for disposing of liquid wastes consisting of any of the following:

- (a) An absorption or seepage pond system.
- (b) A ridge and furrow system.
- (c) A spray irrigation system.
- (d) A subsurface soil absorption system or mound system.
- (e) An overland flow system.
- (f) Any other land area receiving liquid waste discharges.

(28) "Land treatment" means the discharge of a fluid by means of a system that utilizes the physical, chemical and biological abilities of the soil to decompose any pollutant contained in the fluid. Land treatment systems include:

- (a) Absorption or seepage pond systems.
- (b) Ridge and furrow systems.
- (c) Spray irrigation systems.

- (d) Overland flow systems.
- (e) Subsurface absorption field systems.
- (f) Landspreading systems for liquid wastes or organic by-product solids.
- (g) Sludge spreading systems.
- (h) Any other land area receiving liquid wastes, by-product solids or sludge discharges.

(29) "Large-capacity cesspool" means any cesspool that is designed to receive untreated sanitary waste from 20 or more people per day.

(30) "Liquid waste" means process wastewater and waste liquid products including, but not limited to silage leachate, whey, whey permeate, whey filtrate, contact cooling water, cooling or boiler water containing water treatment additives, and wash water generated in industrial, commercial and agricultural operations that result in a point source discharge to a land treatment system.

Note: As used in this chapter, "liquid waste" does not include the following: alcohol fuel production wastes from systems defined as private alcohol fuel production systems under s. 289.44(1)(c), Stats., that are operated in accordance with s. 283.61(2), Stats., animal waste regulated under ch. NR 243 or liquid manure applied in accordance with sound agricultural practices, domestic sewage from systems defined as private sewage systems in s. 145.01(12), Stats., effluent from publicly owned or privately owned wastewater treatment works regulated under ch. NR 206, or mining wastes backfilled or otherwise disposed of in a prospecting excavation or a mine in accordance with a prospecting permit or a mining permit issued under ch. NR 131 or 132, except runoff, leachate, decantate or other wastewater collected for disposal on land outside of the permitted prospecting or mining site.

(31) "Municipal wastewater" means effluent from a publicly owned wastewater treatment works or a privately owned domestic wastewater treatment works.

(32) "New injection well" means a well that is constructed or first used for underground injection on or after the effective date of this rule ... [revisor insert date].

(33) "Operator" means the person responsible for the supervision, management or operation of any facility or activity subject to regulation through the underground injection control program.

(34) "Owner" means the person holding title to the property upon which an injection well is located.

(35) "Permit" means an authorization, license or equivalent control document issued by the state through a regulatory agency that has been delegated responsibility for managing any activity that would be subject to regulation as an injection well through the federal underground injection control program.

Note: A permit may be issued as an individual, group, area or emergency permit; however, a permit does not include authorization by rule or any draft permit that has not yet been the subject of final action by the regulatory agency.

(36) "Person" has the meaning given in s. 990.01(26), Stats.

Note: "Person" in s. 990.01(26), Stats., is to be construed according to common and approved usage and by definition includes all partnerships, associations and bodies politic or corporate.

(37) "Plugging" means the act of stopping the flow of water, oil or gas into or out of a formation through a well penetrating that formation.

(38) "Point of injection" means the last accessible point, as determined by the department or other designated regulatory agency, where a sample of a substance may be collected prior to placement of the substance underground through an injection well.

Note: The point of injection for a subsurface fluid distribution system may be a septic tank or distribution box located prior to the drainfield. The point of injection for a drywell or well may be at or just prior to the wellbore itself.

(39) "Pollutant" has the meaning given in s. 283.01(13), Stats.

Note: "Pollutant" in s. 283.01(13), Stats., means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

(40) "Private onsite wastewater treatment system" has the meaning given for private sewage system in s. 145.01(12), Stats.

Note: "Private sewage system" in s. 145.01(12), Stats., means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the department of commerce including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure. A private sewage system may be owned by the property owner or by a special purpose district.

(41) "Privately owned domestic wastewater treatment work" means facilities which treat domestic wastewater, permitted under ch. 283, Stats., and owned and operated by non-municipal entities or enterprises such as, but not limited to, mobile home parks, restaurants, hotels, motels and country clubs.

(42) "Project" means a group of wells under the control of a single person and managed as a single facility or activity.

(43) "Publicly owned treatment work" has the meaning specified under s. NR 211.03(11).

Note: Section NR 211.03(11) defines "publicly owned treatment work" as a treatment works which is owned by a municipality and any sewers that convey wastewater to such a treatment works. This definition includes any devices or systems used by a municipality in the storage, treatment, recycling and reclamation of municipal sewage or liquid industrial wastes. The term also means the municipality or local unit of government which has jurisdiction over the indirect discharges to, and the discharges from, such a treatment works.

(44) "Radioactive waste" means any waste that contains radioactive material in concentrations that exceed those listed in 10 CFR part 20, appendix B, table II, column 2.

(45) "RCRA" means the solid waste disposal act as amended by the resource conservation and recovery act of 1976, Pub. L. 94-580, as amended by Pub. L. 95-609, Pub. L. 96-510, 42 U.S.C. 6901 *et seq.*

(46) "Regulatory agency" has the meaning given in s. 160.01(7), Stats.

Note: "Regulatory agency" in s. 160.01(7), Stats., means the Department of Agriculture, Trade and Consumer Protection, the Department of Commerce, the Department of Transportation, the Department of Natural Resources and other state agencies which regulate activities, facilities or practices which are related to substances which have been detected in or have a reasonable probability of entering the groundwater resources of the state.

(47) "Safe drinking water act" or "SDWA" means the safe drinking water act, Pub. L. 93-523, as amended; 42 U.S.C. 300f *et seq.*

(48) "Sanitary waste" means sewage containing wastes primarily from humans and housekeeping activities, such wastes include those collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for domestic food preparation, domestic clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses and utensils are cleaned.

Note: Sanitary waste may be generated at residential, commercial, industrial or recreational facilities provided that the waste is not mixed with the waste from an industrial process. Sanitary waste may also include clearwater, filter backwash or effluent from water treatment devices or similar discharges from other household appliances as approved by the Department of Commerce.

(49) "Schedule of compliance" means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements that leads to compliance with a specified statute or administrative rule.

(50) "Septic system" means a sewage treatment and disposal system consisting of a septic tank and a soil absorption field that is used to disperse or otherwise discharge sanitary waste underground.

Note: A septic system may also be a private onsite wastewater treatment system or a private sewage system as defined in s. 145.01(12), Stats.

(51) "Sewage" means the water-carried wastes created in and to be conducted away from residences, industrial establishments and public buildings as defined in s. 101.01(12), Stats., with any surface water or groundwater as may be present in the water-carried wastes.

(52) "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

(53) "Sludge" means the accumulated solids generated during the biological, physical or chemical treatment of potable water or wastewater.

(54) "State" means the state of Wisconsin.

(55) "State director" means the chief administrative officer of the state regulatory agency operating an approved underground injection control program, a delegated representative of the chief administrative officer, or both.

Note: If responsibility for administering portions of the underground injection control program is divided among 2 or more state regulatory agencies, state director means the chief administrative officer, or a delegated representative of the chief administrative officer, of the state regulatory agency authorized to perform the procedure or function to which reference is made.

(56) "Stratum" means a single stratigraphic bed or layer, regardless of thickness, that consists throughout its thickness of approximately the same kind of geologic material.

(57) "Substance" has the meaning given in s. 160.01(8), Stats.

Note: "Substance" in s. 160.01(8), Stats., means any solid, liquid, semisolid, dissolved solid or gaseous material, naturally occurring or man-made chemical, parameter for measurement of water quality or biological organism which, in its original form, or as a metabolite or a degradation or waste product, may decrease the quality of groundwater.

(58) "Subsurface fluid distribution system" means an assemblage of perforated pipes or drain tiles, or any similar conveyance, intended to disperse or otherwise discharge a fluid underground.

(59) "UIC program" or "underground injection control program" means the federal underground injection control program authorized by part C of the safe drinking water act or an approved state underground injection control program.

(60) "Underground injection" means well injection.

(61) "Underground source of drinking water" means any aquifer or groundwater, or portion of any aquifer or groundwater, located within the jurisdictional boundaries of the state.

(62) "Wastewater" means all sewage.

(63) "Well" means any of the following:

(a) A bored, drilled or driven shaft.

(b) A dug hole whose depth is greater than its largest surface dimension.

(c) An improved sinkhole.

- (d) A subsurface fluid distribution system.

Note: For the purposes of this chapter, a nonperforated underground piping system such as a sanitary sewer, storm sewer, conductor, telecommunications conduit, petroleum or natural gas pipeline or other similar conveyance is not considered to be a well.

- (64) "Well injection" means the placement of a fluid underground through a well.

SUBCHAPTER II INJECTION WELL CLASSES AND UNDERGROUND SOURCES OF DRINKING WATER

NR 815.04 Classification of injection wells. Injection wells are classified as follows:

- (1) **CLASS I INJECTION WELL.** A class I well is any of the following:

- (a) A well used for underground injection of a fluid classified as a hazardous waste or a fluid containing any substance classified as a hazardous waste below the lowermost formation containing an underground source of drinking water.

- (b) A well used for underground injection of a fluid containing an industrial or municipal waste below the lowermost formation containing an underground source of drinking water.

- (c) A well used for underground injection of a fluid containing a radioactive waste below the lowermost formation containing an underground source of drinking water.

- (2) **CLASS II INJECTION WELL.** A class II well is any of the following:

- (a) A well used for underground injection of a fluid that was brought to the surface in connection with activities that are related to the conventional production of oil or natural gas, or the underground storage of natural gas, that may be commingled with wastewater that is produced during production operations, except for any wastewater that is classified as a hazardous waste at the time of injection.

- (b) A well used for enhanced recovery of oil or natural gas.

- (c) A well used for storage of hydrocarbons that are liquid at standard temperature and pressure.

- (3) **CLASS III INJECTION WELL.** A class III well is a well used for solution mining of minerals including, but is not limited to:

- (a) A well used to mine sulfur by the Frasch process.

- (b) A well used for in-situ production of uranium or other metals from ore bodies that have not been conventionally mined.

Note: A well used for solution mining of conventional mines, such as stopes leaching, is classified as a class V injection well.

- (c) A well used for solution mining of salts or potash.

- (4) **CLASS IV INJECTION WELL.** A class IV well is any of the following:

- (a) A well used for underground injection of a hazardous waste or radioactive waste or a fluid containing a hazardous waste or radioactive waste into a formation that contains an underground source of drinking water.

- (b) A well used for underground injection of hazardous waste or radioactive waste or a fluid containing a hazardous waste or radioactive waste above a formation which contains an underground source of drinking water.

(5) CLASS V INJECTION WELL. Any well used for underground injection that is not classifiable as a class I, II, III or IV injection well.

NR 815.05 Underground source of drinking water. (1) Any aquifer or groundwater, or portion of any aquifer or groundwater, located within the jurisdictional boundaries of the state is an underground source of drinking water.

(2) No regulatory agency may exempt any aquifer or groundwater, or portion of an aquifer or groundwater, located within the jurisdictional boundaries of the state from designation as an underground source of drinking water.

SUBCHAPTER III REGULATED ACTIVITIES

NR 815.06 Prohibitions. The following activities are prohibited:

(1) Construction of a class I injection well or use of a well as a class I injection well.

Note: Use of a well to place a hazardous waste underground is prohibited as specified in s. NR 600.04. Use of a well to place municipal or domestic wastewater underground is prohibited as specified in s. NR 206.07(2)(d). Use of a well to place a pollutant underground is prohibited as specified in s. NR 214.04(3).

(2) Construction of a class II injection well or use of a well as a class II injection well.

(3) Construction of a class III injection well or use of a well as a class III injection well.

(4) Construction of a class IV injection well or use of a well as a class IV injection well, unless the well is to be used to reinject treated contaminated groundwater back into the formation from which the groundwater was drawn and is approved by the department as part of a remedial action necessary for the cleanup of soil or groundwater contamination as specified in s. NR 600.04(2).

Note: Injection for remediation purposes requires a written approval from the department in order to meet the requirements of ss. NR 140.28(5) and 812.05. Injection requires a written exemption be granted under s. NR 140.28(5). Injection of groundwater that meets the definition of hazardous waste or contains a hazardous waste for remediation purposes requires a written approval under s. NR 600.04(2).

(5) Construction of a class V injection well or use of a well as a class V injection well without the approval of the department, or other designated regulatory agency as specified in subch. IV, unless the construction or use of the class V injection well is specifically allowed by administrative rule.

Note: Use of any unauthorized injection well is prohibited under federal law, as specified in 40 CFR 144.11.

(6) Operation, maintenance, conversion, plugging, closure or any other alteration of an injection well in a manner that results in an exceedance of the groundwater standards in ch. NR 140 or results in the endangerment of an underground source of drinking water.

Note: Endangerment of an underground source of drinking water is prohibited under federal law, as specified in 40 CFR 144.12.

(7) Construction or use of a large-capacity cesspool.

Note: Use of a large-capacity cesspool is prohibited under federal law, as specified in 40 CFR 144.85. Use of any cesspool is prohibited as specified in ch. Comm 83.

(8) Construction or use of a new injection well to disperse or otherwise discharge a fluid containing a waste from motorized vehicle repair or maintenance activities underground.

Note: Construction or use of an injection well to dispose of fluids containing wastes from motorized vehicle repair or maintenance activities was prohibited as of April 5, 2000, as specified in 40 CFR 144.85. Any subsurface fluid distribution system constructed prior to this date which continues to be used to dispose of wastes from motorized vehicle repair or maintenance activities must comply with the land treatment

provisions of s. NR 214.16 or it is prohibited. The discharge of waste fluids from motorized vehicle repair or maintenance activities to any other well is prohibited.

(9) Construction or use of an improved sinkhole to place drainage water, wastewater or any other fluid containing a pollutant or substance underground.

NR 815.07 Approval of injection wells. (1) A regulatory agency may not approve the construction or use of a class I, II or III injection well.

(2) Subject to the limitation contained in sub. (4), the department may only approve the construction or use of a class IV injection well, if the well is to be used to reinject treated contaminated groundwater back into the formation from which the groundwater was withdrawn and is approved by the department as part of a remedial action necessary for the cleanup of soil or groundwater contamination.

(3) Subject to the limitation contained in sub. (4), a regulatory agency may approve a class V injection well as specified in subch. IV.

(4) A regulatory agency may not approve the construction or use of any injection well that would violate the provisions of ch. 160, Stats., result in the endangerment of an underground source of drinking water or otherwise fail to comply with the other applicable requirements of this chapter.

Note: Section 160.19(4), Stats., prohibits a state regulatory agency from promulgating a rule defining design and management practice criteria that permits a preventive action limit to be attained or exceeded in groundwater except as allowed under s. 160.19(2), Stats. A state regulatory agency may not promulgate a rule defining design and management practice criteria that permits an enforcement standard to be attained or exceeded at the point of standards application.

Note: An exceedance of a maximum contaminant level established for a substance in drinking water at the point of injection is considered to endanger an underground source of drinking water and is comparable to the exceedance of an enforcement standard established in ch. NR 140.

(5) Failure to comply with any condition of an injection well approval voids the approval.

NR 815.08 Reporting of injection wells. (1) Except as specified in sub. (2), by no later than 30 days after becoming the owner or operator, the owner or operator of an injection well shall provide the following inventory information to the department:

- (a) Injection well facility name and location.
- (b) Name and address of the injection well owner or operator.
- (c) Type of ownership such as, but not limited to, private, federal, state, local government or tribal.
- (d) Well class and type of injection well.

Note: Federal regulations designate subsets, or "types", of injection wells within the 5 injection well classes. "Type," as it is used in this section, refers to those subsets identified in the federal Underground Injection Control program regulations.

(e) Number and operating status of injection wells on a property or in a project.

(2) The following activities are exempt from the reporting requirements of this section:

(a) Use of department approved products for drilling, rehabilitation or abandonment of any water supply well, groundwater monitoring well, or any other department approved borehole or drillhole.

(b) Use of bentonite grout, cement grout, cement, concrete or other similar department approved materials containing additives, for the purposes of soil or excavation site stabilization, tunnel support, underpinning or foundation strengthening, groundwater control or diversion or for limiting structural settlement.

(c) Construction of a structure such as, but not limited to, a building foundation, support footing, elevator shaft, lift station, utility conduit, cathodic protection device, sump, equipment vault, sanitary sewer, storm sewer or mine shaft.

(d) Horticultural or agricultural practices, other than those activities that involve the use of an injection well for the disposal of drainage water or other fluids containing a pollutant underground.

(3) Information required under sub. (1) shall be reported in a format acceptable to the department. The owner or operator of an existing injection well shall submit the required information to the department's bureau of drinking water and groundwater within one year of the effective date of this chapter... [revisor inserts date]. The owner or operator of a new injection well shall submit the required information to the department's bureau of drinking water and groundwater prior to operation of the injection well.

Note: Form 3300-253, Inventory of Injection Wells, is available for use in submitting the information required in this section. Copies of Form 3300-253 may be obtained by contacting the Wisconsin Department of Natural Resources, Bureau of Drinking Water and Groundwater, Post Office Box 7921, Madison, Wisconsin, 53707-7921.

(4) The department may also require the owner or operator of an injection well to submit additional information including, but not limited to:

- (a) Location of a well or project by township, range, section and quarter-section.
- (b) Location of a well by coordinates of latitude and longitude to the standard of accuracy established by the department for geographic information system records.
- (c) Date of construction of a well or project.
- (d) Total depth of a well.
- (e) Identification of the geologic formation into which a well is injecting.
- (f) A narrative that describes the construction features of the well.
- (g) A schematic drawing that describes the construction features of the well.
- (h) A map or plan drawing that shows the location of a well in relation to other structures or adjacent property boundaries.
- (i) A description of the nature or quality of the fluid being injected.
- (j) The average and maximum injection pressure at the wellhead.
- (k) The average and maximum rate of injection.
- (L) The date of the last well inspection or any maintenance activities.

(5) If the owner or operator of an injection well fails to submit any of the information that is required or requested under subs. (1) and (4) and the well has not been approved by the department or other regulatory agency as specified in subch. IV, the department may order the owner or operator of the unauthorized well to cease injection until the time that the required or requested information is received by the department and an approval for the well is obtained from the regulatory agency having jurisdiction.

NR 815.09 Operation of injection wells. No injection well may be operated in a manner that fails to comply with ch. 160, Stats., or results in endangerment of an underground source of drinking water.

Note: Section 160.19(4), Stats., specifies that if a state regulatory agency promulgates a rule that is designed to maintain compliance with a preventive action limit and if a preventive action limit is attained or exceeded at a point of standards application, the agency shall review

its rule and, if necessary, revise the rule to maintain compliance with the preventive action limit. If an enforcement standard is attained or exceeded at a point of standards application, the agency shall review its rule and, if necessary, revise the rule to ensure that the enforcement standard is not attained or exceeded at a point of standards application or other locations in the future.

Note: An exceedance of a maximum contaminant level established for a substance in drinking water at the point of injection is considered to be endangerment of an underground source of drinking water and is comparable to the exceedance of an enforcement standard established in ch. NR 140.

NR 815.10 Closure of injection wells. (1) All large-capacity cesspools shall be closed by no later than April 5, 2005 in a manner that is approved by the regulatory agency having jurisdiction.

(2) All existing wells that have been used for the disposal of a fluid containing a waste from motorized vehicle repair or maintenance activities shall be converted or closed by no later than January 1, 2005 in a manner that is approved by the department.

Note: With the approval of the United States environmental protection agency, the department may extend the deadline for conversion or closure of a well that has been used to dispose of a fluid containing a waste from motorized vehicle repair or maintenance activities to January 1, 2006.

SUBCHAPTER IV ADDITIONAL REQUIREMENTS BY WELL CLASS

NR 815.11 Class V well injection. Class V well injection is subject to the following:

(1) Construction or use of a well, other than a subsurface fluid distribution system, for underground injection of any waste, surface water, subsurface water or substance underground is prohibited except as specified in ss. NR 811.11(7) and 812.05.

Note: Section NR 811.11(7) prohibits the use of any well, drillhole or water system for the underground placement of any substance unless it is a department approved activity necessary for the construction, rehabilitation or routine operation of a well or water system. This section applies only to wells and water systems governed under ch. NR 811.

Note: Section NR 812.05 applies to wells, drillholes and water systems other than those subject to s. NR 811.11(7). Section NR 812.05(2) prohibits the use of any well, drillhole or water system for the placement of any waste, surface or subsurface water or any substance underground unless any of the following apply: (a) the placement is a department-approved activity necessary for any of the following: construction, rehabilitation or operation of a well, drillhole or water system, construction of an approved cathodic protection drillhole, remediation of contaminated soil, groundwater or an aquifer, or the study of groundwater conditions, (b) placement of grouting, sealing or well abandonment materials, and (c) placement of approved materials for purposes such as, but not limited to, soil or excavation site stabilization, foundation construction or strengthening, or groundwater diversion. Section NR 812.05(5) contains a list of activities that are not prohibited by this section.

(2) Construction or use of a subsurface fluid distribution system that is defined as a private sewage system in s. 145.01(12), Stats., and used for the dispersal of domestic or municipal wastewater is subject to the provisions of ch. Comm 83. Except as exempted in s. NR 200.03(3), any person discharging domestic or municipal wastewater to a disposal system defined as a private sewage system is also required to apply for a discharge permit issued by the department as specified in s. NR 200.03(1).

Note: Private sewage system, as defined in s. 145.01(12), Stats., means a sewage treatment system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Department of Commerce including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure. A private sewage system may be owned by the property owner or by a special purpose district.

Note: Section NR 200.03(3)(d) exempts certain smaller capacity domestic wastewater disposal systems from the permit requirement contained in s. NR 200.03(1). Methods for calculating the design capacity of a domestic wastewater disposal system that is eligible for an exemption from the permit requirement are specified in s. NR 200.03(4).

(3) Discharge of liquid wastewaters from a publicly owned treatment works or privately owned domestic wastewater treatment works to a subsurface fluid distribution system or other land disposal system is subject to the provisions of ch. NR 206 as specified in s. NR 206.02.

(4) Construction or use of a subsurface fluid distribution system for land treatment of industrial liquid wastes, by-product solids or sludges is subject to the provisions of ch. NR 214.

(5) Construction or use of a well to dispose of storm water runoff directly into groundwater is prohibited. Construction or use of a subsurface fluid distribution system for dispersal of storm water runoff into unsaturated material overlying the uppermost underground source of drinking water shall be done in a manner that complies with the groundwater standards in ch. NR 140, complies with the requirements of ch. Comm 82 and does not result in the endangerment of an underground source of drinking water.

Note: Use of a subsurface fluid distribution system for disposal of storm water runoff may also require a permit as specified in ch. NR 216.

(6) Construction or use of a well to place backfill into an underground mine shall be done in accordance with the provisions of ch. NR 132 and shall comply with the requirements of s. NR 132.07(4)(e).

SUBCHAPTER V ENFORCEMENT

NR 815.12 Visitorial powers of the department. (1) Any duly authorized officer, employee or representative of the department shall have the right to enter upon or through any premises in which a well governed by this chapter is located or in which any records required by this chapter are kept. Any duly authorized officer, employee or representative of the department may at reasonable times have access to and copy any records, inspect any equipment or method required by this chapter and collect samples of any fluid or substance being placed into a well for the purpose of obtaining information related to the administration of the requirements of this chapter.

(2) No person may refuse entry or access to any authorized representative of the department who presents department credentials and requests entry under this section, nor shall any person obstruct, hamper or interfere with any entry or inspection.

NR 815.13 Records. (1) As specified in s. 281.97, Stats., the owner or operator of an injection shall keep records required by the department well and the department supplied with certified copies and other information as the department may require.

(2) Except as provided under sub. (4), any record, report or other information submitted to or obtained by the department in the administration of this chapter shall be a public record.

(3) The department shall make available and provide facilities for the public to inspect and copy any public record maintained by the department in the administration of the requirements of this chapter.

(4) As specified in s. 283.55(2), Stats., records or other information, except effluent data, provided to the department may be treated as confidential upon a showing to the department's secretary that said records or information is entitled to protection as a trade secret as defined in s. 134.90(1)(c), Stats.

(5) Records, reports and other information for which the department has granted confidential status may be:

(a) Used by the department in compiling or publishing analyses or summaries relating to the general condition of the environment if the analyses or summaries do not identify a specific person or responsible party and the analyses or summaries do not reveal records or other information granted confidential status.

(b) Released by the department to the U.S. environmental protection agency or its authorized representative, if the U.S. environmental protection agency or its authorized representative agrees to protect the confidentiality of the records, reports or other information.

(c) Released for general distribution if the party who provided the information to the department expressly agrees to the release of the information.

(d) Released on a limited basis if the department is directed to take action by a judge or administrative law judge under an order that protects the confidentiality of the record, report or other information.

NR 815.14 Penalties. The owner or operator of any injection well that is found in violation of a provision of this chapter is subject to the penalties specified in s. 281.98, Stats.

Note: Any person who violates ch. 281, Stats., or any rule promulgated or any plan approval, license or special order issued under this chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of continued violation is a separate offense. While an order is suspended, stayed or enjoined, this penalty does not accrue.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on January 23, 2002.

The rule 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 _____
Darrell Bazzell, Secretary

(SEAL)