

Comments and DNR Responses Natural Resources Board Order DG-08-22

April 4, 2023

This document presents a summary of public comments received on proposed rules affecting chapter NR 812 related to the use of new cement formulations for the construction of water wells.

OVERVIEW

The proposed rule revisions will update the material requirements found in ch. NR 812, Wis. Adm. Code, to allow the use of Type IL Portland cement in the grouting and sealing of water wells and drillholes. This change will allow well drillers and pump installers to use the only readily available type of Portland cement when required by other portions of ch. NR 812.

Public outreach consisted of information sent out via GovDelivery to identified stakeholder lists, and information posted to the DNR Proposed Emergency and Permanent Rules Web Pages. In addition, DNR Private Water Program staff announced and updated the Private Water Advisory Council about the proposed emergency and permanent rules in the Private Water Advisory Council Meetings held 3 times annually. These announcements and updates started in April of 2022 and continued through the meeting held in January 2023.

Finally, 2 public hearings were held that also included public input periods. The first was for the scope statement on August 18, 2022, and the second, for the proposed rule, on March 22, 2023. Summaries of comments from the latter hearing are included herein.

ECONOMIC IMPACT ANALYSIS

A public comment period on the draft economic impact analysis (EIA) occurred from November 14-28, 2022. The department received comments from 1 organization on the EIA during this period. The single comment was from a representative for the Wisconsin Water Well Association (WWWA) and was in favor, with no suggested changes. As a result, no changes were made to the EIA or rule.

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

The Legislative Council Rules Clearinghouse submitted comments on Statutory Authority; and Form, Style and Placement in Administrative Code. Changes to the proposed rule were made to address all recommendations by the Legislative Council Rules Clearinghouse, except for those discussed below.

Comment 2. The proposed rule incorporates a new ASTM standard that is not identified under the current rule. A rule may, in certain circumstances, incorporate or update standards from technical societies and organizations, with the consent of the Attorney General. The rule summary should be revised to include a comment on compliance with that requirement.

Response: The referenced ASTM standard (ASTM C595) for Type IL cement was included as an identifier for the correct product type to assist the regulated public in ensuring they are using the correct product. The department does not rely on or enforce the standards required by ASTM C595, only that the cement is Type IL, consisting of 10% -15% limestone, which is generally labelled with the ASTM standard. For these reasons, the department did not incorporate the standards by reference.

PUBLIC COMMENTS ON DRAFT RULE

A public comment period on the draft rule occurred from February 6, 2023 to March 29, 2023, with a public hearing on March 22, 2023. Three members of the public attended the hearing, which was held virtually. Only one person elected to testify, and he also submitted his comments in written form. His comments were one of two written comments in support of the permanent rule. No one at the hearing registered in opposition, and no comments in opposition to the permanent rule were received. The following is a summary of comments received and the department's response.

Jeff Beiriger, Government Relations Advisor to the Wisconsin Water Well Association testified (and submitted his written testimony) in favor of the emergency and permanent rule, and commended the DNR staff with a quick response to the issue.

No department response or changes to the rule was necessary.

One additional commenter submitted testimony in favor of the rule, citing the impact of type I cement on global carbon dioxide emissions. The commenter also urged the DNR to continue to research Type II cement for well use.

No department response or changes to the rule were necessary.