

# STATEMENT OF SCOPE

## Department of Natural Resources

**Rule No.:** DG-03-23

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**Relating to:** Revisions to subch. III of ch. NR 812, Wis. Adm. Code, to update, correct and clarify existing code requirements and add requirements for new pump installations and water treatment and other specified code requirements within ch. NR 812, Wis. Adm. Code.

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**Rule Type:** Permanent

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### 1. Finding/nature of emergency (Emergency Rule only):

Not applicable. The rules will be proposed as permanent rules.

### 2. Detailed description of the objective of the proposed rule:

The primary objectives of ch. NR 812, Wis. Adm. Code, revisions are to correct and clarify, streamline processes, update construction standards, and ensure consistency with federal and state law. Specific objectives include:

- A. Correct grammatical, spelling and punctuation errors throughout the rule.
- B. Address redundancies, omissions and clarify to improve understanding and readability where identified throughout the rule.
- C. Update, correct and clarify Subchapter III - Requirements for New Pump Installations and Water Treatment.
- D. Expand the allowed use of bentonite chips as an annular space seal in unconsolidated formations (s. NR 812.13, Wis. Adm. Code) and bedrock formations (s. NR 812.14, Wis. Adm. Code).
- E. Clarify/update the casing diameter standards for existing installations in ss. NR 812.42 and 812.44, Wis. Adm. Code.
- F. Clarify/update requirements and standards for dewatering wells.
- G. Make additional rule changes within ch. NR 812, Wis. Adm. Code, and other administrative rule chapters which are reasonably related to rule revisions specified in Items A. through F. in this scope statement and required for consistency with the revised ch. NR 812, Wis. Adm. Code.

### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter NR 812, Wis. Adm. Code, establishes uniform standards for the location, construction or reconstruction, maintenance and inspection of wells and water systems and heat exchange drill

holes, for the filling and sealing of wells and drillholes, and for the installation and maintenance of pumping and treatment equipment.

Specific revisions within this rule are listed below:

<b>Policy Area</b>	<b>Alternatives</b>	<b>Comments</b>
Correct grammatical, spelling and punctuation errors, address redundancies, omissions, and clarify to improve understanding and readability where identified throughout the rule.	<ul style="list-style-type: none"> <li>a. No rule revision</li> <li>b. Program guidance</li> <li>c. Correct errors only</li> <li>d. Clarify language only</li> </ul>	<ul style="list-style-type: none"> <li>a. Failure to clarify code language maintains confusion for the regulated community, inconsistent implementation, and inefficiency for department staff.</li> <li>b. Program guidance has been issued to provide implementation clarity but does not have force of law.</li> <li>c. Correcting errors in the rule will clarify regulatory requirements and reduce confusion for the regulated community.</li> <li>d. Clarifying language will reduce confusion for the regulated community.</li> </ul>
Update standards for subchapter III	<ul style="list-style-type: none"> <li>a. No rule revision</li> <li>b. Program guidance</li> </ul>	<ul style="list-style-type: none"> <li>a. Failure to update standards maintains outdated code language that does not match current industry practices, is inconsistent with state and federal law, and misses the opportunity to improve groundwater protection during well construction and pump installing activities.</li> <li>b. Program guidance cannot be used to update standards.</li> </ul>
Update standards for use of bentonite chips as an annular space seal	<ul style="list-style-type: none"> <li>a. No rule revision</li> <li>b. Program guidance</li> </ul>	<ul style="list-style-type: none"> <li>a. Failure to update standards maintains outdated code language that does not match current industry practices, is inconsistent with state and federal law, and misses the opportunity to improve groundwater protection during well construction.</li> <li>b. Program guidance cannot be used to update standards.</li> </ul>
Update standards for casing diameter of existing wells	<ul style="list-style-type: none"> <li>a. No rule revision</li> <li>b. Program guidance</li> </ul>	<ul style="list-style-type: none"> <li>a. Failure to update standards maintains outdated code language that does not match current industry practices, is inconsistent with state and federal law, and misses the opportunity to improve groundwater protection during well construction.</li> <li>b. Program guidance cannot be used to update standards.</li> </ul>

Update standards for dewatering wells	<ul style="list-style-type: none"> <li>a. No rule revision</li> <li>b. Program guidance</li> </ul>	<ul style="list-style-type: none"> <li>a. Failure to update standards maintains outdated code language that does not match current industry practices, is inconsistent with state and federal law, and misses the opportunity to improve groundwater protection during well construction.</li> <li>b. Program guidance cannot be used to update standards.</li> </ul>
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**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Chapter 280, Wis. Stats., establishes the statutory authority and framework for regulation of well drilling, heat exchange drilling and pump installation. Section 280.11, Wis. Stats., specifically directs the department to prescribe, publish and enforce minimum reasonable standards and rules for methods to be pursued to obtain pure drinking water for human consumption, and to establish safeguards deemed necessary in protecting the public health against the hazards of polluted sources of impure water supplies intended or used for human consumption. This statute gives the department general supervision and control over all methods of obtaining groundwater for human consumption including the construction or reconstruction of wells, authority to prescribe, amend, modify or repeal any applicable rule and to perform any act deemed necessary for the safeguarding of public health. Additionally, s. 280.13, Wis. Stats., states that the department may promulgate rules that are reasonably necessary to carry out and enforce the provisions of ch. 280, Wis. Stats.

Chapter 281, Wis. Stats., gives the department authority to regulate groundwater withdrawals, and includes enforcement authority. Section 281.11, Wis. Stats., names the department as the central state government entity to protect, maintain and improve the quality and management of the waters of the state, ground and surface, public and private. Section 281.19(1), Wis. Stats., gives the department authority to adopt rules applicable throughout the state for the construction, installation, use and operation of practicable and available systems, methods and means for preventing and abating pollution of the waters of the state.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

The department estimates that approximately 860 hours of staff time will be required to complete the proposed rule.

**6. List with description of all entities that may be affected by the proposed rule:**

- The proposed rule will affect the following entities:
- Private well owners
  - Non-Electric well and water system owners
  - Licensed pump installers and licensed well drillers

- Noncommunity public water system owners
- Certified laboratories
- Public health officials
- Wisconsin Water Well Association
- Wisconsin Geothermal Association
- Wisconsin Department of Health Services

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

Federal law does not directly regulate the well construction standards involved in this rule revision. For public drinking water systems, Wisconsin has state primacy, with the primary responsibility to enforce state drinking water regulations consistent with the federal Safe Drinking Water Act. One federal requirement of Wisconsin's primacy role is that the state assures that the design and construction of new or modified public water system facilities will be capable of compliance with the state and federal primary drinking water regulation. For noncommunity public drinking water systems, ch. NR 812, Wis. Adm. Code, provides the design and construction standards to meet this federal requirement.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):**

The department's preliminary determination is that the proposed rule changes to ch. NR 812, Wis. Adm. Code, will have a moderate economic impact, with no expected significant additional equipment or workload requirements anticipated (and with unquantifiable environmental and human health benefits). Overall, the proposed changes are expected to clarify and update existing code requirements as well as add requirements that allow the use of new technologies and water industry standards. Clarifications will help make program administration more efficient and the allowance of new technologies will allow industry to react to business opportunities and market changes in a timely and competitive manner.

**9. Anticipated number, month and locations of public hearings:**

The department anticipates holding a virtual public hearing in March 2025. Video conferencing will be used to hold the hearing, reducing department staff time and travel costs. This virtual hearing is expected to provide convenient access to the public hearing for interested parties around the state.

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