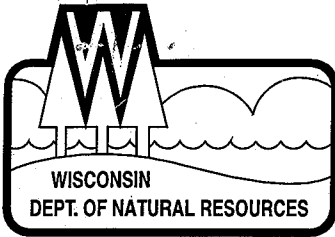


# Clearinghouse Rule 99-095

## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES



Tommy G. Thompson, Governor  
George E. Meyer, Secretary

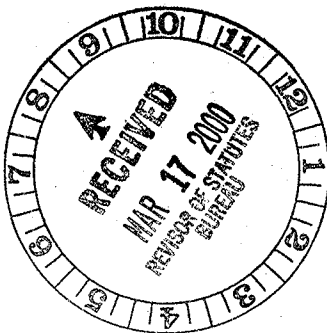
Box 7921  
101 South Webster Street  
Madison, Wisconsin 53707-7921  
TELEPHONE 608-266-2621  
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STATE OF WISCONSIN )  
 ) ss  
DEPARTMENT OF NATURAL RESOURCES )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. DG-24-99 was duly approved and adopted by this Department on December 8, 1999. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 15<sup>th</sup> day of March, 2000



(SEAL)

*George E. Meyer*  
George E. Meyer, Secretary

99-095

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ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
AMENDING RULES



The Wisconsin Natural Resources Board proposes an order to amend s. NR 812.05 relating to disposal of pollutants, injection prohibition.

DG-24-99

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 281.11, 281.12(1), 281.17(8), 280.11(1), 283.001(2), and  
s. 227.11(2)(a), Stats.  
Statutes interpreted: s. 281.17(8), Stats.

The proposed amendment of s. NR 812.05 clarifies existing Department of Natural Resources (DNR) policy regarding the underground disposal of a pollutant by means of well injection. The amended rule explicitly identifies the types of activities that are not prohibited under this section.

Changes to s. NR 812.05 are being proposed to ensure that common construction practices which involve the underground placement of cement, concrete or bentonite grout for the purposes of soil and excavation site stabilization, tunnel support, underpinning or foundation strengthening, groundwater control or diversion, or for limiting structural settlement are not prohibited. The proposed changes reflect existing Department policy and regulatory practices.

Amendment of the rule is intended to make it easier for any individual seeking to place materials underground to determine whether a proposed activity is prohibited or requires DNR approval.

Section 1. NR 812.05 is amended to read:

**NR 812.05 Disposal of pollutants; injection prohibition. (1) For the purposes of this section:**

(a) "Drillhole" includes any excavation or opening that is deeper than it is wide, even if it extends less than 10 feet below the ground surface.

(b) "Well" includes any excavation that is deeper than it is wide regardless of the excavation's depth or purpose.

(2) The use of any well, drillhole or water system for the ~~underground~~ placement of any waste, surface or subsurface water or any substance, as defined in s. 160.01(8), Stats., underground is prohibited unless ~~the~~ any of the following apply:

(a) The placement is a department-approved activity necessary for ~~the~~ any of the following:

1. The construction, rehabilitation or operation of ~~the~~ a well, drillhole or water system ~~or is a department-approved activity necessary for.~~

2. The construction of a cathodic protection drillhole approved under s. NR 812.09.

3. The remediation of contaminated soil, groundwater or an aquifer.

4. The study of groundwater conditions under sub. (4).

(b) The placement consists of grouting, sealing or abandonment materials as specified in s. NR 812.20 or 812.26; grouting or abandonment materials as specified in s. NR 811.16 or 811.17; sealing or abandonment materials specified in s. NR 141.13 or 141.25; or other similar materials containing additives approved under sub. (3).

(c) The placement consists of bentonite grout, cement or concrete, or other similar materials containing additives approved under sub. (3), for the purposes of soil or excavation site stabilization, tunnel support, underpinning or foundation strengthening, groundwater control or diversion or for limiting structural settlement.

(3) The department may approve alternative materials or additives that are to be used in conjunction with the activities noted under sub. (2). Approval shall be based on, but not limited to, such factors as the potential toxicity of an alternative material or additive, the effectiveness of an alternative material or additive for its specified use, the amount or quantity of material to be used, and the potential for use of an alternative material to result in groundwater contamination or otherwise harm human health or the environment.

(4) For the purposes of this section, the term "drillhole" includes any excavation or opening that is deeper than it is wide, even if it extends less than 10 feet below the ground surface and the term "well" includes any excavation that is deeper than it is wide regardless of its depth or purpose. Only department-approved groundwater tracers may be used for hydrogeologic studies. Approval shall be based on, but not limited to, such factors as the potential toxicity of a tracer, the effectiveness of a tracer for its use as specified in an application for approval, and the potential for use of a tracer to result in groundwater contamination or otherwise harm human health or the environment. A list of previously approved groundwater tracers is available from the department upon request.

(5) The following activities are not prohibited by this section:

(a) Circulation of water or a food-grade heat exchange fluid through a closed-loop heat pump system in a drillhole is not prohibited by this section. Groundwater tracers may only be used with approval.

(b) Construction of a structure such as, but not limited to, a building foundation, support footing, elevator shaft, lift station, utility conduit, sump, mine shaft or equipment vault.

(c) Except for the disposal of a waste material, the placement of a solid object such as, but not limited to, a cathodic protection device, coffin, piling, pole or post.

(d) Horticultural or agricultural practices, other than those activities that involve the use of a well or drillhole for the placement of a waste material or drainage water underground.

(e) Injection activities conducted in conjunction with a metallic mineral mining operation approved under ch. NR 132.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on December 8, 1999.

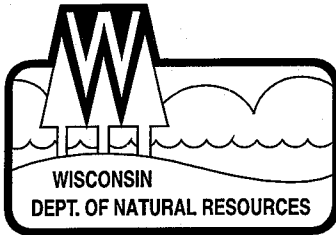
The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin March 15, 2000

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer  
George E. Meyer, Secretary

(SEAL)



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary

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March 14, 2000

Mr. Gary L. Poulson  
Assistant Revisor of Statutes  
131 West Wilson Street - Suite 800  
Madison, WI

*Gary*  
Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. DG-24-99. These rules were reviewed by the Assembly Committee on Environment and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

*George E. Meyer*  
George E. Meyer  
Secretary

Enc.

