

Report From Agency

REPORT TO LEGISLATURE

NR 500 and 520, Wis. Adm. Code

Board Order No. WA-18-21
Clearinghouse Rule No. CR 23-002

Basis and Purpose of the Proposed Rule

2021 Wisconsin Act 93 (Act 93), effective July 1, 2022, directed the department to promulgate rules related to the disposal of dredged material from certain projects in Lake Michigan or Lake Superior conducted by municipalities and counties. Under Act 93, this dredged material can be disposed of in a solid waste facility that has not obtained a license or department approval of a plan of operation if the department determines that certain specified requirements are followed. The rule is needed to clarify the procedures and requirements in Act 93 and streamline applications for dredged material disposal facility proposals under the new law.

The rule is intended to list all requirements for the Act 93 dredge disposal process, making steps transparent for municipalities and counties that need to dispose of dredged material arising from eligible projects. This transparency will reduce costs and time for municipalities and counties when preparing and submitting documents for department review. The department is developing a companion application form that will ensure applicants supply the correct information and meet the key requirements of Act 93, such as sampling and analysis of the dredge material and satisfying all performance standards specified in the law.

Summary of Public Comments

See attached “Comments and DNR Responses Natural Resources Board Orders WA-17-21(E) and WA-18-21 Disposal of Material Dredged from the Great Lakes.”

Modifications Made

The department did not receive any comments on the proposed rule and therefore no modifications were made.

Appearances at the Public Hearing

A public comment period on the draft rule occurred from January 30, 2023 to March 21, 2023, and a public hearing was held for both the emergency rule and the proposed permanent rule on March 14, 2023. Three people attended for information only. They did not indicate an affiliation with an organization and did not provide any comments. The department did not receive any other comments during the public hearing comment period.

Changes to Rule Analysis and Fiscal Estimate

No changes were made to the rule analysis or fiscal estimate.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on statutory authority; conflict with or duplication of existing rules; adequacy of references; and clarity, grammar, punctuation and use of plain language. Changes to the proposed rule were made to address all recommendations by the Legislative Council Rules Clearinghouse.

Final Regulatory Flexibility Analysis

The rule is not expected to affect small businesses. The entities affected are municipalities and counties.

Response to Small Business Regulatory Review Board Report

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

