

Report From Agency

REPORT TO LEGISLATURE

NR 812, Wis. Adm. Code

Board Order No. DG-08-22
Clearinghouse Rule No. CR 23-004

Basis and Purpose of the Proposed Rule

Companies that manufacture cement for sale and distribution in Wisconsin and surrounding states have switched from producing Type I Portland cement and are now only producing Type IL cement, which does not meet ASTM C150 or API-10A standards. Type IL cement meets ASTM C595 standards and performs similarly to Type I cement. Individual manufacturers made the change to reduce the carbon footprint of their product. This was not prompted by a change in regulations. Over the last year, it has become difficult or impossible to find Type I cement, which is needed for grouting or sealing of water wells or drillholes with neat cement as required by ch. NR 812, Wis. Adm. Code. It is paramount that well drillers have access to code-compliant materials they need to seal an annular space on a new well or fill and seal an unused well or drillhole. Properly grouting, sealing, and filling water wells and drillholes is necessary to ensure safe drinking water and to prevent contamination of the State's groundwater.

The proposed rule revisions 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.

Summary of Public Comments

See attached "Comments and DNR Responses Natural Resources Board Order DG-08-22."

Modifications Made

No modifications to the proposed rule were made as a result of public comments or testimony at the hearing.

Appearances at the Public Hearing

Jeff Beiriger, Government Relations Advisor to the Wisconsin Water Well Association testified in favor of the emergency and permanent rules at the public hearing.

Changes to Rule Analysis and Fiscal Estimate

No changes were made to rule analysis or fiscal estimate in response to public comments or testimony.

Response to Legislative Council Rules Clearinghouse Report

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.

Final Regulatory Flexibility Analysis

Since the rule is intended to maintain the current supply of materials, there is no anticipated economic impact of the rule. The rule will prevent a disruption to small businesses by allowing them to use materials that are readily available for a similar cost to the previously available materials.

Response to Small Business Regulatory Review Board Report

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