

# STATEMENT OF SCOPE

## Department of Natural Resources

**Rule No.:** DG-25-19

**Relating to:** NR 812 – Well Construction and Pump Installation

**Rule Type:** Permanent

### 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 objective of the NR 812 revisions is to address issues raised during public comment and Board discussion at the May 2019 Natural Resources Board meeting regarding proposed Rule No. DG-16-16, while maintaining protection of public health and groundwater. During the Natural Resources Board meeting, the Board requested the Department further address the following specific issues:

- a. standards for the use of thermoplastic (PVC) casing pipe in bedrock and unconsolidated formations;
- b. whether well casing depth requirements in limestone and dolomite should be modified where the depth to bedrock is less than 20 feet, including the possibility of a modified variance process;
- c. whether well drillers should be allowed to address flowing wells on a case-by-case basis, including the possibility of a modified variance process.

The rulemaking process for DG-16-16 is not yet fully concluded. This proposed rule will address any of the above issues that are not resolved during the completion of the DG-16-16 rulemaking process.

### 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:

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 drillholes, for the filling and sealing of wells and drillholes, and for the installation and maintenance of pumping and treatment equipment. Policies to be evaluated are:

Policy Area	Alternatives	Comments
PVC well casing	<ol style="list-style-type: none"><li>1. No rule revision</li><li>2. Allow PVC well casing in bedrock with specified standards for location and construction</li><li>3. Other</li></ol>	Evaluation will consider how other states regulate use of PVC well casing in bedrock, what standards are used to address concerns with grout materials and casing integrity, and whether appropriate standards can be applied in Wisconsin to ensure adequate protection of drinking water and groundwater.

Casing Depth in Limestone/Dolomite Bedrock	<ol style="list-style-type: none"> <li>1. No rule revision</li> <li>2. Casing depth modified if depth to bedrock &lt; 20 feet</li> <li>3. Casing depth modified statewide</li> <li>4. Casing depth modified in targeted areas</li> <li>5. Modified variance process</li> <li>6. Other</li> </ol>	<p>Evaluation will include data from well construction and related water quality tests to consider whether statewide or targeted approach is appropriate to establish increased casing depth in limestone/dolomite, and whether standards for special well casing depth areas require any revision to effectively implement. Evaluation will consider whether additional evidence should be included as part of the criteria for granting a variance.</p>
Flowing Wells	<ol style="list-style-type: none"> <li>1. No rule revision</li> <li>2. Special construction methods required if flowing well within 500-feet</li> <li>3. Special construction methods required based on drilling results and/or driller's professional judgment</li> <li>4. Modified variance process</li> <li>5. Other</li> </ol>	<p>Evaluation will consider what standards are enforceable and appropriate to effectively anticipate and respond to flowing well situations.</p> <p>Evaluation will consider whether additional evidence should be included as part of the criteria for granting a variance.</p>

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Section 227.11(2)(a)(intro.), Wis. Stats., provides that a state agency, “may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute,” subject to certain restrictions.

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.

Section 280.13(1), Wis. Stats., provides authority to promulgate rules to administer and enforce the requirements for well drilling and pump installation.

Chapter 281, Wis. Stats., gives the department authority to regulate groundwater withdrawals, and includes enforcement authorities.

Section 281.17(8)(a) Wis. Stats., provides authority for the department to administer a safe drinking water program no less stringent than the requirements of the federal Safe Drinking Water Act.

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

NR 812 rule revisions are expected to require approximately 720 department employee hours.

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

- a. Private well owners
- b. Licensed well drillers, heat exchange drillers and pump installers
- c. Noncommunity public water system owners
- d. Wisconsin Water Well Association
- e. Wisconsin Geothermal Association
- f. Wisconsin Department of Health Services
- g. Wisconsin Geologic and Natural History Survey

**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 construction of wells or heat exchange drillholes, and does not regulate the installation of pumps. For public drinking water systems, Wisconsin is a primacy state, 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 the design and construction of new or substantially modified public water system facilities will be capable of compliance with the State primary drinking water regulations. For noncommunity public drinking water systems, 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 proposed rule changes to NR 812 will have minimal economic impact (less than \$50,000 per year and with unquantifiable environmental benefits). The "information and advice period" is anticipated to be 30 days to ensure adequate time for affected entities to provide input. Overall the proposed changes are expected to reduce regulatory burden and result in a net positive economic impact on small businesses.

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

The Department anticipates holding four concurrent public hearings in October 2021. Hearing cities are anticipated to be: Eau Claire, Wausau, Green Bay, Madison. Technology will be used to hold all hearings concurrently, reducing DNR staff time and travel costs. These four locations are expected to provide convenient access to public hearings for interested parties around the state.

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