

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: DG-04-23

Relating to: Revisions to ch. NR 146 related to water well driller, heat exchange driller, and pump installer licensing and registration, and drilling rig operator registration

Rule Type: Permanent

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

The rules will be proposed as permanent rules.

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

Chapter NR 146, Wis. Adm. Code, is promulgated under ch. 280, Stats., and establishes rules and regulations by which the department administers water well driller, heat exchange driller, and pump installer licensing and registration as well as water well drilling and heat exchange drilling rig operator registrations. The proposed rule would address needed changes in administrative processes and prerequisite requirements for license eligibility, align administrative processes with current tools and technology, and provide for automated and efficient online renewal application processing to replace the current manual processing of license renewal applications, which is inefficient and susceptible to error. The proposed rule would allow for flexibility in continuing education attendance requirements. In addition, the proposed rule would provide additional detail in assignment of responsibility in licensed pump installer and driller contractual agreements, and correct inconsistencies and errors in current code language.

The general objective is to provide a clear understanding of rule language and intent, to make provision for more efficient administrative processes, and to revise license and registration requirements where needed. Additional rule changes may be pursued which are reasonably related to those discussed here. Specific objectives include:

- Correction of grammatical, spelling and punctuation errors
- Definition of key terms used in rule language
- Amendment of redundancies and omissions
- Revisions to improve understanding and to clarify intent
- Provisions for flexibility in continuing education attendance requirements
- Leveraging available technology to streamline administrative processes
- Revisions to prerequisite license and registration requirements
- Revisions to language assigning responsibility in contractual agreements

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 146, Wis. Adm. Code, applies to any individual or person engaging in or intending to engage in the business of water well drilling, heat exchange drilling, and pump installing. Certain processes used by the department to administer the licensing program are dated and inefficient. This rule revision proposes greater use of technology in the administration of licensing requirements. Certain policies established under prior rule revisions inhibit completion of prerequisite license eligibility requirements.

Proposed revisions intend to address the following:

Policy Area	Alternatives	Comments
Correct errors, omissions, and clarify language	<ol style="list-style-type: none"> 1. No rule revision. 2. Program guidance. 3. Correct errors and omissions only. 4. Clarify language only 	<ul style="list-style-type: none"> • Failure to clarify code language will result in continued confusion within the regulated community as well as inconsistent and inefficient implementation by department staff. • Program guidance has been issued to provide clarity in implementation but does not have force of law. • Failure to define terms, training requirements and licensing requirements will maintain confusion for the regulated community and sustain rules in code that are inconsistent in statute requirements.
Annual continuing education attendance requirement	<ol style="list-style-type: none"> 1. No rule revision. 2. Revise rule language to include a provision for licensee completion of attendance requirements outside of the current calendar year. 	<ul style="list-style-type: none"> • Failure to complete attendance requirements within a calendar year results in license expiration without eligibility for renewal. • Existing rule language does not provide for personal hardship, pandemic or other extenuating circumstances that may impede continuing education attendance completion within a calendar year.
Licensing and registration renewal processes	<ol style="list-style-type: none"> 1. No rule revision. 2. Rule revision to limit applications submitted by mail. 3. Rule revision to require use of available online approaches. 	<ul style="list-style-type: none"> • Mailed renewal application processing is inefficient and susceptible to error. • Online renewal processing is available to the regulated community. • Program guidance has requested use of the online renewal option over mailed renewal applications but does not have force of law.

<p>License and registration application and exam eligibility requirements</p>	<ol style="list-style-type: none"> 1. No rule revision. Continue to administer requirements under existing language. 2. Rule revision to adjust prerequisite license eligibility requirements. 3. Rule revision to merge license types with similar prerequisite requirements. 	<ul style="list-style-type: none"> • Existing training requirements are impeding well driller license exam eligibility. • Evaluation will consider whether merging of similar license types will streamline administrative processes and reduce costs for the department and regulated community.
<p>Authorized licensed pump installer activities as derived from “pump installing” definition.</p>	<ol style="list-style-type: none"> 1. No rule revision 2. Revise the definition of “pump installing” 3. Revise existing rule language to categorize “pump installing” activities and designate classifications where demonstration of competency by classification is required. 4. Revise existing rule language to provide a pump installer employee credential. 	<ul style="list-style-type: none"> • Evaluation will consider whether categorization of activities authorized by license will improve alignment of competency and authorized pump installer activity. • Rules that promulgate the proposed pump installing license classification framework may be loosely similar to rules promulgated under s. NR 114.29, Wis. Adm. Code, by the department’s Operator Certification Program for water treatment plant operators. • Existing rule language allows authorized “pump installing” to be completed by an unlicensed individual if employed by a licensed or registered pump installer. No credential exists for tracking and documenting “pump installing” work completed by an unlicensed employee of a pump installer licensee or registrant.
<p>Licensee and registrant responsibilities</p>	<ol style="list-style-type: none"> 1. No rule revision. 2. Program guidance. 3. Rule revision to codify assignment of licensee and registrant responsibility when contractual agreements are entered into for the purpose of engaging in the business of pump installing, water well drilling or heat exchange drilling. 	<ul style="list-style-type: none"> • Failure to address and clarify assignment of responsibility will result in continued confusion within the regulated community. • Program guidance has addressed questions on assignment of responsibility in contractual agreements, but it does not have force of law. • Evaluation will consider where responsibility in contractual agreements lies. Rule language will protect parties involved in these agreements.

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

[Section 280.11, Wis. Stats.](#), 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, Wis. Stats.](#), authorizes the department to promulgate rules that are reasonably necessary to carry out and enforce the provisions of ch. 280, Wis. Stats.

[Section 280.15\(2m\), Wis. Stats.](#), establishes the statutory authority and framework for driller and pump installer licensing, including applications, prerequisites and examinations, renewals, fees, and continuing education requirements.

[Section 280.30, Wis. Stats.](#), establishes the statutory authority required for well and heat exchange drillhole abandonment, as well as property transfer well inspection license requirements. This section authorizes licensed pump installers to conduct property transfer well inspections and to engage in water well abandonment activities.

[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 800 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:

- Licensed well drillers, heat exchange drillers and pump installers.
- Registered water well drilling and heat exchange drilling rig operators.
- Registered well driller, heat exchange driller and pump installer businesses.
- Out-of-state drillers seeking Wisconsin driller license eligibility.
- Wisconsin Water Well Association.
- Other Wisconsin driller and pump installer continuing education providers.

- Department Operator Certification Program staff who manually process paper renewal applications.
- Wisconsin licensed home inspectors who engage in or intend to engage in the business of property transfer well inspections.
- Welders who are contracted by Wisconsin licensed well drillers and pump installers to engage in the business of water well drilling or pump installing.

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 regulate licensing and registration requirements of well drillers, heat exchange drillers and pump installers.

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. Federal law requires the primacy state to assure 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.

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 146, Wis. Adm. Code, will have minimal economic impact. Overall, the proposed changes are expected to clarify and update existing code requirements as well as add requirements that allow more extensive use of online licensing and registration services.

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

The department anticipates holding one public hearing in the month of April 2025. The hearing will be in Madison and held in-person as well as virtually to allow for as many people to attend as possible.

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