

Rulemaking Report

Updated: [04/16/2007]

10 CSR 23-3.110

1. ****What is the purpose of this proposed rulemaking?**

There is an estimated 300,000 abandoned wells in the State of Missouri. These abandoned wells threaten the state's groundwater quality, because left unplugged; these wells present a direct pathway for contaminants to move from the surface to the groundwater system. These contaminants may then show up in nearby public or private wells used to provide drinking water. In fact, studies have shown that 56% of private wells in Missouri are contaminated with coliform bacteria. It is believed that unplugged abandoned wells may be a contributing factor to this alarming statistic.

Abandoned wells also present a safety hazard to humans and animals if left unplugged. Many abandoned wells are not marked and are left uncovered, allowing children, animals or even adults to fall into them, causing injury or death.

Many landowners would like to properly plug their abandoned wells, but the cost, which can be several hundred dollars, is often cost-prohibitive or more than many are willing to pay. Currently, the Missouri Well Construction Rules requires cement or bentonite to be used to plug wells. Although these materials are ideal for plugging wells, they are costly. Recently, the well drilling industry requested, through the variance procedure, to use concrete to plug abandoned wells in an effort to reduce the landowner's cost. Concrete is approximately ¼ the cost of cement or bentonite.

Current regulations do not reference the use of concrete as a material acceptable for plugging abandoned wells. This proposed rule will formally allow the use of concrete as a plugging material in well closure, significantly reducing the cost of plugging wells. This will make well plugging more affordable, thus making it possible for more abandoned wells to be plugged. The possibility of more abandoned wells being plugged will have an immediate and long-term positive impact on the protection of the State's groundwater resources.

2. ****Why is the rulemaking being proposed now?**

Requests for variances to allow the use of concrete for well plugging have increased in number; therefore, staff brought the issue before the Well Installation Board for discussion. Board members are very interested in this concept since they believe it will significantly reduce the cost of plugging wells, while maintaining protectiveness. After discussing at numerous meetings, the Board directed staff to begin the rulemaking process.

3. **** Is a Regulatory Impact Report required for this rulemaking?**

A Regulatory Impact Report will be required for this rulemaking.

4. **What authority does DNR have to carry out this rulemaking?**

Section 256.626 RSMo ("Water Well Drillers Act") authorizes the Well Installation Board to adopt and enforce rules and regulations pertaining to the construction and abandonment of wells.

10 CSR 23-3.100 (Missouri Well Construction Rules) describes the minimum standards to properly plug abandoned wells.

5. **What does the rulemaking require and how does it produce benefits?

Concrete with aggregate equal to or smaller than 1 inch would be allowed for well plugging in the same manner as cement and bentonite, which currently are allowed. Wells with water at the interval to be being plugged shall use a tremie pipe for placement of concrete or displacement of water.

This rulemaking will make the plugging of wells more affordable for well owners. Research has shown that concrete is an effective material for plugging wells. By lowering the cost of well plugging, more individuals may voluntarily plug abandoned wells. Also, state and/or federal funds that are used for plugging wells can be spread out more, allowing a larger number of wells to be plugged. The more wells that are plugged means that fewer conduits will be available for contamination to travel from the surface into Missouri's groundwater aquifers.

6. **Who is most likely affected by the rulemaking?

Beneficiaries of the rule amendment include well owners, the well construction industry and anyone who uses well water for drinking or other potable purposes. The impact on all of these groups is expected to be positive. Well owners will experience reduced costs for plugging wells. Well installation contractors may see an increase in work associated with plugging wells. And people who drink water from private or public drinking water wells will experience a greater degree of protection of Missouri's groundwater aquifers from contamination.

7. What impact will the proposed rulemaking have on small businesses? (A small business is defined by statute as a for-profit enterprise with fewer than 100 full or part-time employees.)

The impact on small businesses is expected to be positive in nature. Lowering the cost of plugging an abandoned wells will make it more affordable for Missourians to plug their abandoned wells. This may cause more people to decide to plug wells, generating more work for well installation contractors, all of whom are small businesses.

8. What are the probable costs for the department or any other public agency in the implementation and enforcement of the rulemaking?

The cost to the department or other public agency will be less than \$500 in the aggregate. There will be no additional personnel needed to implement this proposed rulemaking.

9. What is the anticipated effect of the rulemaking on state revenue?

The anticipated effect of the proposed rulemaking is neutral for state revenue since no new fees are imposed to implement this rulemaking.

10. Does the proposed rulemaking language attempt to incorporate any document or information by reference, rather than state the language within the rulemaking?

No.

11. Who was/will be involved in developing the rulemaking?

Stakeholders will be the public and members of the well drilling industry including the Missouri Water Well Association, Missouri Groundwater Association, members of the pump and heat pump industry and contractors not affiliated with any association. It is anticipated that there will be a stakeholder meeting held to gather interest on this proposal. The Well Installation Board will also be involved, as they possess the rulemaking authority under the Water Well Driller's Act.

12. How has/will the development of the rulemaking been/be shared with interested parties and the public at large?

Stakeholder meetings will be announced through the section newsletter, the Department web page and mass mailings to the industry and other interested parties. The Well Installation Board will also discuss and take comments from interested parties at their quarterly meetings.

13. Who may I contact to either ask questions or provide input on this rulemaking?

Questions and comments should be addressed to Sheri Fry, Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Public Drinking Water Branch, Wellhead Protection Section at PO Box 250, Rolla, Missouri, by telephone at (573) 368-2115 or by email at sheri.fry@dnr.mo.gov.

14. What are the expected dates for the comment period and public hearing?

The Well Installation Board will discuss at their May 2007 meeting, which is open to the public. The public comment period will be held no sooner than 30 days after filing with the Secretary of State's Office. The public hearing would be scheduled after the end of the public comment period.