

# STATEMENT OF SCOPE

## Department of Commerce

Rule No. : Chapters Comm 81-87

Relating to: Private Onsite Wastewater Treatment Systems (POWTS)

**1. Description of the objective of the rule.**

The objective is to update the department's administrative rules relating to POWTS. This code update may result in one or more rule packages to be presented for public hearings and may include minor changes to other department rules that are related to the POWTS program. A primary driver for the rule update is 2005 Wisconsin Act 347. Certain provisions of Act 347 give specific direction to the department and place additional responsibilities on the department and governmental units particularly with regard to POWTS maintenance. The department has determined that it must consider how to implement the applicable provisions of Act 347 in a timely and equitable manner by working with an advisory code council to review the portions of Act 347 that impact the POWTS program (primarily chapter Comm 83) and the WI Fund program (chapter Comm 87).

**2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.**

The current rules, chapters Comm 81-87 apply to POWTS program administrative functions, POWTS soil testing, design, construction, inspection and maintenance. The rules also apply to the WI Fund program.

Chapter Comm 83 was last revised effective February, 2004. Minor technical issues were addressed during that code revision. This code project will focus on the additional responsibilities placed on the department and governmental units by 2005 Wisconsin Act 347 specifically in the area of POWTS maintenance. In addition, administrative procedures and additional technical issues identified since the last revision will be addressed and updated. The target effective date for this revision is Spring, 2008.

The alternative of not revising these code chapters will result in the continued use of administrative rules that contain technical inaccuracies. It will also prevent the department from addressing the direction and responsibilities contained in Act 347.

**3. Statutory authority for the rule.**

Section 145.02(3)(d), Wis. Stats.  
Section 145.13, Wis. Stats.

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

The department estimates it will take approximately 600 hours to develop this rule. This time includes reviewing current code and national standards, drafting the rule and processing the rule through public hearings, legislative review and adoption. The department will assign existing staff to perform the rule development process.

**5. Description of all of the entities that will be affected by the rule.**

This rule will affect entities public and private that own POWTS or are involved in POWTS program administrative functions, POWTS soil testing, design, construction, inspection and maintenance.

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**6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.**

There are two existing federal regulations that address some of the activities that are regulated by this rule (Chapter Comm 83).

40 CFR 144.80(e) addresses Class V Wells also known as Shallow Injection Wells. Specifically, 40 CFR 144.3, defines "Sanitary Waste" as including domestic wastewater. Chapter Comm 83 addresses treatment and dispersal of domestic wastewater. Also, 40 CFR 144.3, defines "Wells or Injection Wells" as including certain septic systems. Class V regulations specifically address "Large Capacity Septic Systems" which are defined as systems receiving sanitary wastes from multiple dwellings or from non-residential establishments where the system has a capacity to serve 20 or more person per day. These systems are "authorized by rule" provided they meet two minimum federal requirements. 1. The owner or operator submits basic inventory information. 2. The injectate (wastewater) cannot endanger underground sources of drinking water. Chapter Comm 83, Wis. Adm. Code, addresses Private Onsite Wastewater Treatment Systems (POWTS) which include septic systems that serve all structures residential and non-residential regardless of capacity. Owner information is required as part of the permitting process. Section 145.13, Wis. Stats., requires that chapter Comm 83, Wis. Adm. Code, comply with the provisions of chapter 160, Wis. Stats. Chapter NR 140, Wis. Adm. Code, contains a list of substances that have preventative action limits and enforcement standards. This list is more specific than the current federal regulations. Chapter Comm 83, Wis. Adm. Code, incorporates the applicable provisions of chapter 160, Wis. Stats., and chapter NR 140, Wis. Adm. Code.

40 CFR Part 122 addresses National Pollutant Discharge Elimination System (NPDES) permits. Chapter Comm 83, Wis. Adm. Code, addresses large POWTS systems which are covered by Wisconsin Pollutant Discharge Elimination System (WPDES) permits that are issued by the Department of Natural Resources. The WPDES permit process is modeled after the NPDES permit process.

There are no proposed federal regulations that would address activities that are regulated by this rule (Chapter Comm 83).

Approved for publication in the Wisconsin Administrative Register at Madison, Wisconsin, this date: \_\_\_\_\_

DEPARTMENT OF COMMERCE

Approved for implementation at Madison, Wisconsin, this date: \_\_\_\_\_

DEPARTMENT OF COMMERCE

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Mary P. Burke, Secretary

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