

STATEMENT OF SCOPE

Department of Commerce

Rule No. : Chapters Comm 2, 5 and 10

Relating to Training for Operators of Underground Storage Tank Systems
:

1. Description of the objective of the rule.

The proposed rules would primarily implement the operator-training requirements issued by the United States Environmental Protection Agency in response to the federal Energy Policy Act of 2005.

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 Department currently has rules for construction, maintenance and abandonment of storage tank systems for flammable, combustible or hazardous liquids – and has credential rules for several categories of contractors who perform those activities. However, those rules do not require any training for operators of these tank systems.

The proposed rules are expected to address (1) the operator-training requirements issued by the US EPA in response to the federal Energy Policy Act of 2005; (2) any corresponding changes that are needed in chapters Comm 2, 5 and 10 to effectively apply these requirements in Wisconsin; and (3) any other changes that may be needed in Comm 2, 5 or 10 as a follow-up to repealing and recreating Comm 10 in 2008.

The alternative of not promulgating these rules would conflict with a directive in Section 9010(b)(2) of the federal Solid Waste Disposal Act, as enacted in the federal Energy Policy Act of 2005, to develop these state-specific requirements; and would conflict with a US EPA mandate to develop these requirements by August 8, 2009.

3. Statutory authority for the rule.

Sections 101.09 (3) (a) and 227.11 (2) (a).

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 staff time needed to develop the rules is expected to range from 200 to 400 hours, depending upon the associated complexity. This includes research, rule drafting, and processing the rules through public hearings, legislative review, and adoption. There are no other resources necessary to promulgate the rules.

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

The proposed rules would affect all or nearly all entities that operate underground storage tank systems for flammable, combustible or hazardous liquids; and may affect entities that operate aboveground storage tank systems for these liquids.

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.

The operator-training requirements in Section 9010 of the federal Solid Waste Disposal Act, and the US EPA requirements issued in conjunction with Section 9010, establish three classes of operators; i.e., Class A operators have primary responsibility for on-site operation and maintenance of underground storage tank systems, Class B operators have daily on-site responsibility for the operation and maintenance of underground storage tank systems, and Class C operators have daily on-site responsibility for addressing emergencies presented by a spill or release from an underground storage tank system. The US EPA criteria further specify (1) which facilities are subject to the training requirements, (2) who is subject to the training requirements, (3) minimum components of the training programs for each class of operator, (4) a 3-year timeframe for completing the training of all the operators, (5) establishment of a state-level system for ensuring all operators are trained in accordance with the requirements, (6) methods for states to demonstrate compliance with the requirements, and (7) methods the US EPA will use to enforce state-level compliance with the requirements.

The proposed rules are expected to match or otherwise comply with these federal requirements.

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

DEPARTMENT OF COMMERCE

Aaron Olver, Deputy Secretary

Approved for implementation at Madison, Wisconsin, this date: _____

DEPARTMENT OF COMMERCE

Aaron Olver, Deputy Secretary