

RULE REPORT

Department of Commerce

Clearinghouse Rule No.: 09-021

Rule No.: Comm 5.12

Relating to: Administrative Forfeiture for POWTS Governmental Unit Employees

Contact person for substantive questions:

Contact person for internal processing:

Name Jim Quast

Name Lori Ann Curley

Title Program Manager

Title Communications Specialist

Telephone Number 608/266-9292

Telephone Number 608/261-8504

1. Basis and purpose of the proposed rule.

Section 145.02, Stats., grants the Department of Commerce general authority for protecting the health, safety and welfare of the public by establishing reasonable and effective standards for Private Onsite Wastewater Treatment Systems (POWTS) including the licensing of individuals to inspect POWTS. Section 145.20, Stats., delineates the responsibilities and duties of governmental units administering and enforcing the laws and rules pertaining to POWTS.

2. How the proposed rule advances relevant statutory goals or purposes.

Section 145.12 (5) (a), Stats., as affected by 2007 Wisconsin Act 197, authorizes the Department to directly assess forfeitures to governmental unit employees who violate the limitations under s. 145.20, Stats., for POWTS employees that perform work outside of the scope of their governmental unit responsibilities.

3. Changes to the rule analysis or fiscal estimate that was prepared for public hearing.

No changes were made to the rule analysis or the fiscal estimate.

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 09-021

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RELATING TO: Administrative Forfeitures for POWTS Governmental Unit Employees

Agency contact person for substantive questions.

Name: Jim Quast

Title: Program Manager

Telephone No. 608/266-9292

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority [s. 227.15(2)(a)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

(Continued)

3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
7. Review rules for permit action deadline [s. 227.15(2)(h)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

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Final regulatory flexibility analysis not required. (Statement of determination required.)

The proposed rules implement the mandates imposed by 2007 Wisconsin Act 197. The Act affects governmental unit employees who administer and enforce regulations pertaining to design, installation and maintenance of POWTS by limiting the activities that such employees may undertake outside of their governmental employment. The department does not believe that the proposed rules will increase the effect on small businesses over that imposed by the Act.

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.
2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

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**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 09-021		Hearing Location: Conference Room 3B, 201 W. Washington Ave.	
Rule Number: Comm 5.12		Hearing Date: Wednesday, April 15, 2009	
Relating to: Administrative Forfeitures for POWTS Governmental Unit Employees			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
Speaker #1	Ann Gryphan, Wisconsin Onsite Water Recycling Association	Supports the rule changes, but would like to add “and adjacent counties” to Comm. 5.33 (6).	The rules have been modified to incorporate this suggestion.
Exhibit #2	Ted Weier Iowa County Sanitarian	“I personally feel this bill is biggest waste of money, time and resources in state history, but it must make someone feel special.”	The proposed rules implement the enacted legislation, 2007 Wisconsin Act 197.