State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM with Germane Modifications

Rule No.: Chapters Comm 81 to 87

Relating to: Private Onsite Wastewater Treatment Systems

Clearinghouse Rule No.: 07-100

COM-10535 (N.03/97)

The Wisconsin Department of Commerce proposes an order:

to repeal Comm 83.04 (2), Comm 83.05 (1) (b) to (e), Comm 83.21 (6) (a) 1. Note, Comm 83.22 (4) (e), Comm 83.44 (5) (b), Comm 83.61, and Comm 84.25 (10) (b);

to renumber Comm 83.03 (5), Comm 83.04 (1) (a) and (b), Comm 83.22 (2) (a) 2. and 3., Comm 83.22 (4) (c), Comm 83.23 (4) (b), Comm 83.23 (7), Comm 83.25 (2) (e), Comm 83.44 (5) (c), Comm 83.52 (1) (a), Comm 83.62, Comm 84.01, Comm 84.25 (10) (a), and Comm 85.02;

to renumber and amend Comm 83.05 (1) (a), Comm 83.22 (4) (b) and (d), and Comm 83.32 (1) (h);

to amend Comm 2.66 (1) Table 2.66, Comm 2.66 (2), Comm 5.36 (1), Comm 82.40 (8) (b) 2., Comm 83.20 (2), Comm 83.21 (2) (a) Note, Comm 83.21 (2) (c) 4., Comm 83.22 Table 83.22-1 line 3., Comm 83.22 Table 83.22-2, Comm 83.22 Table 83.22-3, Comm 83.22 (2) (a) 1., Comm 83.22 (2) (b) 5. (intro.), Comm 83.22 (4) (a), Comm 83.22 (7) (a), Comm 83.32 (3) (c), Comm 83.43 Table 83.43-1, Comm 83.44 (3) (b) 1., Comm 83.44 Table 83.44-2, Comm 83.44 Table 83.44-3, Comm 83.45 (6), Comm 83.51 (2) Note, Comm 83.52 (1) (b), Comm 83.52 (1) (c) 1. (intro.), Comm 83.52 (3), Comm 83.53 (1) and (2), Comm 83.54 (4) (c), Comm 83.54 (4) (d) 1., Comm 83.55 (1), Comm 83.55 (2) (intro.) and (b), (3) (intro.), (c) and (d), (4) and (5), Comm 83.60 (1), Comm 84.25 (7) (h), Comm 84.30 (6) (j), Comm 85.30 (5), Comm 85.60 (3) (j) Note, Comm 85.60 (4) (c) 5. and Note, Comm 85.60 (4) (d) 3. and Note, Comm 85.60 (5) (b), Comm 87.30 (1), and Comm 87.30 Tables 87.30-3 to 87.30-5;

to repeal and recreate Comm 83.22 (2) (b) 1. a. Note, and Comm 83.50; and

to create Comm 81.01 (163s), Comm 81.20 (4), Comm 82.03 (3), Comm 83.03 (5) (b), Comm 83.03 (6), Comm 83.21 (3) (f), Comm 83.21 (6m), Comm 83.21 (9), Comm 83.22 (2) (a) 2., Comm 83.22 (4) (b), Comm 83.23 (4) (b), Comm 83.23 (7) (b), Comm 83.25 (2) (e), Comm 83.255, Comm 83.32 (1) (h) 1. and 2., Comm 83.44 Table 83.44-3 Footnote e, Comm 83.52 (1) (a) 2., Comm 83.54 (4) (d) 3., Comm 83.55 (1) (c), Comm 84.01 (2), and Comm 85.02 (2), relating to private onsite wastewater treatment systems, and affecting small businesses.

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4. Explanation of Agency Authority.

Under s. 145.02, Stats., the Department of Commerce has the responsibility of safeguarding public health and the waters of the state relative to the construction, installation and maintenance of plumbing. One mechanism of the Department to fulfill this responsibility has been the promulgation of rules under chapters Comm 81 to 87 establishing standards for the design, installation, inspection and maintenance of private onsite wastewater treatment systems, POWTS and for administration of the Private Onsite Wastewater Treatment System Replacement or Rehabilitation Financial Assistance Program.

Section 145.20 (5), Stats., directs the Department to establish a maintenance program for POWTS. This section was established as part of 2005 Wisconsin Act 347.

Section 145.245 (7) (c), Stats., directs the Department to revise grant funding tables when certain thresholds are exceeded.

5. Summary of Proposed Rules.

The proposed rule revisions are intended to update and clarify the existing rules governing the design, installation, inspection and maintenance for POWTS. The significant revisions proposed include:

- Section Comm 2.66 is amended to clarify fees charged for review of revisions of product submittals related to POWTS methods, technologies or site constructed components.

- Section Comm 5.36 (1) is amended to clarify what activities a POWTS Maintainer may perform.

- Chapter Comm 81 is amended to include a definition for "occasional occupancy". This is relative to maintenance intervals for POWTS.

- Section Comm 82.40 (8) (b) 2., is amended relating to terminology.

- Changes to ch. Comm 83 include numerous minor clarifications and additional administrative requirements and terminology.

- Additional administrative requirements include the implementation of a POWTS inventory and a maintenance reporting program as required by 2005 Wisconsin Act 347. Clarifications include delineation of governmental unit decision making authority and POWTS owner responsibilities.

- Changes to ch. Comm 84 include minor clarifications.

- Changes to ch. Comm 85 clarify language relating to processing of site and soil evaluation information.

- Changes to ch. Comm 87 revise the grant funding tables as required by s. 145.245 (7) (c), Stats.

6. Summary of, and Comparison with Existing or Proposed Federal Regulations.

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 making project.

7. Comparison with Rules in Adjacent States.

An internet search of the State of Illinois website revealed that the Illinois Private Sewage Code was last revised in 2003. Illinois Environmental Protection Agency regulates surface discharge (greater than 1,500 gpd) and "experimental" systems. Illinois Department of Public Health regulates surface discharging systems (less than 1,500 gpd) and all other systems that discharge below ground surface. The rule does not include requirements for maintenance reporting programs.

An internet search of the State of Iowa website revealed that the Iowa Onsite Wastewater Treatment and Disposal Code was last revised in 2003. In Iowa local boards of health have primary responsibility for onsite systems. The Iowa Department of Natural Resources has responsibility for systems that serve more than 15 people. The rule does not include requirements for maintenance reporting programs.

An internet search of the State of Michigan website revealed that Michigan does not have a statewide onsite sewage system code. Michigan Department of Environmental Quality under the authority of Part 22 Groundwater Quality Rules established the 1994 version of 'The Michigan Criteria for Subsurface Sewage Disposal. These criteria are used by the Michigan Department of Environmental Quality and by 44 local health departments that develop their own rules to regulate single and two family systems. The Michigan Criteria do not include requirements for maintenance reporting programs.

An internet search of the State of Minnesota website revealed that Minnesota Rules Chapter 7080, Individual Sewage Treatment Systems (ISTS) was last revised in 1999. Counties/Local Governments issue permits for systems with less than 10,000 gpd flows. Minnesota Pollution Control Agency issues permits for systems with greater than 10,000 gpd flows. Local rules may include a maintenance reporting requirement.

8. Summary of Factual Data and Analytical Methodologies.

The primary methodology for updating the POWTS rules, primarily chapters Comm 81 and 87, has been a review and assessment of the current rules by an advisory council. The members of the council represent many stakeholders involved in the POWTS industry, including designers, contractors, regulators, academics and manufacturers. (A listing of the council members is provided at the end of this analysis.)

The Department utilizes advisory councils to gather information on potential impacts in complying with the both the technical and administrative requirements of the codes. A responsibility of council members is to bring forth concerns their respective organizations may have with the requirements, including concerns regarding economic impacts. (Copies of the council meetings summaries are on file in the Safety and Building Division.)

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report.

The Department believes that the proposed rules would have a minimal additional impact on small business in light of the following:

The current chapter Comm 83 contains inspection, maintenance, servicing and reporting requirements for POWTS. Contractors involved in providing inspection, maintenance, servicing and reporting services will not have additional requirements to meet based on the proposed code revisions. The department does not believe that the proposed rules will increase the effect on small businesses over that imposed by the 2005 Wisconsin Act 347.

An economic impact report has not been required pursuant to s. 227.137, Stats.

Council Members and Representation

The proposed rules were developed with the assistance of the following Advisory Council:

POWTS Advisory Code Council
James Converse, Madison, UW Madison – Dept. of Biological Systems Engineering
Steven Crosby, Waunakee, Wisconsin Builders Association
Dale Dimond, Wausau, Marathon County Zoning
Patrick Essie, Madison, Wisconsin Precast Concrete Association
Thomas Gilbert, Madison, Wisconsin Department of Natural Resources
Don Murphy, Eagle, Wisconsin Liquid Waste Carrier Association
Michael O'Connell, Mount Horeb, Wisconsin Association of Plumbing, Heating, and Cooling Contractors
Chris Olson, Door County Sanitarian Office
Sue Schambureck, Reedsville, Wisconsin Onsite Wastewater Recycling Association
Todd Stair, Delafield, Wisconsin Onsite Wastewater Recycling Association
E. Jerry Tyler, Madison, UW Madison – Dept. of Soil Science

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SECTION 1. Comm 2.66 (1) Table 2.66 is amended to read:

Table 2.66
Plumbing Product and Alternate Standard Review Fees

Product or Standard	**Fee**	
	Type of Review	
	New Review	**Revision or Renewal**
1. Alternate standards	$400*	$200*
2. Chemical or biochemical treatment for ~~POWTs~~ POWTS	$200	$100
3. Health care plumbing appliance	$200	$100
4. ~~Physical~~ Chemical or physical restoration processes for ~~POWTs~~ POWTS	$200	$100
5. Prefabricated holding or treatment components for ~~POWTs~~ POWTS	$200	$100
6. Prefabricated plumbing	$200	$100
7. Water treatment device	$200	$100
8. Wastewater treatment device	$200	$100
9. Commercial water vending or dispensing machines	$200	$100
10. Exterior grease interceptors	$200	$100

* Per standard.

SECTION 2. Comm 2.66 (2) is amended to read:

Comm 2.66 (2) POWTS APPROVALS AND MANUFACTURER CHANGES. (a) 1. The fee for the request to have a method or technology reviewed as a POWTS holding, treatment or dispersal component or site constructed private onsite wastewater treatment system component by the department, in accordance with s. Comm 84.10 (3), shall be $300.00 per method, technology, or site constructed component.

2. The fee for the request of a revision or renewal of a method or technology reviewed as a POWTS holding, treatment or dispersal component or site constructed private onsite wastewater treatment system component by the department, in accordance with s. Comm 84.10 (3), shall be $150.00 per method, technology, or site constructed component.

SECTION 3. Comm 5.36 (1) is amended to read:

Comm 5.36 (1) GENERAL. Pursuant to s. Comm 83.52 (3), a person who holds a registration issued by the department as a registered POWTS Maintainer may evaluate, ~~and~~

monitor and maintain POWTS components for the purpose of providing the management of a POWTS under subch. V of ch. Comm 83.

SECTION 4. Comm 81.01 (163s) is created to read:

Comm 81.01 (163s) "Occasional occupancy" means occupying a building that is served by a POWTS for less than 120 calendar days per year.

SECTION 5. Comm 81.20 (4) is created to read:

Comm 81.20 (4) DEPARTMENT AUTHORITY. A department interpretation of an adopted standard under this chapter shall supersede any differing interpretation by either a lower level jurisdiction or an issuer of the adopted standard.

SECTION 6. Comm 82.03 (3) is created to read:

Comm 82.03 (3) A department interpretation of the requirements in this chapter shall supersede any differing interpretation by a lower level jurisdiction. A department decision on the application of the requirements in this chapter shall supersede any differing decision by a lower level jurisdiction.

Note: A decision of the department may be appealed. Section 101.02 (6) (e), Stats., outlines the procedure for submitting requests to the department for appeal hearings and the department procedures for hearing appeals.

SECTION 7. Comm 82.40 (8) (b) 2. is amended to read:

Comm 82.40 (8) (b) 2. Exterior water supply piping shall be located at least 10 feet horizontally away from a POWTS ~~treatment, holding or dispersal~~ component.

SECTION 8. Comm 83.03 (5) is renumbered Comm 83.03 (5) (a).

SECTION 9. Comm 83.03 (5) (b) is created to read:

Comm 83.03 (5) (b) Except as provided in s. Comm 83.25 (1) (b), a governmental unit shall submit to the department any proposed ordinance or proposed ordinance revision relating to POWTS. The proposed ordinance or revision shall be submitted for review a minimum of 30 calendar days prior to the first scheduled public hearing date regarding the ordinance.

SECTION 10. Comm 83.03 (6) is created to read:

Comm 83.03 (6) DEPARTMENT AUTHORITY. A department interpretation of the requirements in this chapter shall supersede any differing interpretation by a lower level jurisdiction. A department decision on the application of the requirements in this chapter shall supersede any differing decision by a lower level jurisdiction.

Note: A decision of the department may be appealed. Section 101.02 (6) (e), Stats., outlines the procedure for submitting requests to the department for appeal hearings and the department procedures for hearing appeals.

SECTION 11. Comm 83.04 (2) is repealed.

SECTION 12. Comm 83.04 (1) (a) and (b) are renumbered Comm 83.04 (1) and (2).

SECTION 13. Comm 83.05 (1) (b) to (e) is repealed.

SECTION 14. Comm 83.05 (1) (a) is renumbered Comm 83.05 (1) and amended to read:

Comm 83.05 (1) Only courses, programs and seminars approved in writing by the department ~~in accordance with this section~~ shall be used to fulfill the required training for the POWTS technologies and methods under ss. Comm 83.04 (1) and 83.21 (2) (c) 4.

SECTION 15. Comm 83.20 (2) is amended to read:

Comm 83.20 (2) ~~Nothing~~ Except as provided in this chapter nothing shall limit the authority and power of a governmental unit in exercising administration and enforcement responsibilities regarding a POWTS, including requiring and issuing other types of permits for activities not covered under this subchapter relating to sanitary permits.

SECTION 16. Comm 83.21 (2) (a) Note is amended to read:

Comm 83.21 (2) (a) **Note:** ~~An application for a~~ A sanitary permit application form (SBD-6398) may be obtained from the governmental unit administering and enforcing this chapter for the department. ~~See appendix for further information relative to the application format and addresses of governmental units and the department.~~ This form may also be downloaded from the Commerce webpage at: http://www.commerce.state.wi.us/SB/SB-DivForms.html#POWTS.

SECTION 17. Comm 83.21 (2) (c) 4. is amended to read:

Comm 83.21 (2) (c) 4. Documentation that the master plumber or master plumber-restricted service who is to be responsible for the installation or modification of the POWTS has completed approved training or has documentation that approved training will be provided during the installation of the POWTS, if the application for the sanitary permit involves one or more of the technologies or methods specified in s. Comm 83.04 (1).

SECTION 18. Comm 83.21 (3) (f) is created to read:

Comm 83.21 (3) (f) A governmental unit may deny the issuance of a sanitary permit only if the application does not comply with the requirements of chs. Comm 83, 84 or 85.

SECTION 19. Comm 83.21 (6) (a) 1. Note is repealed.

SECTION 20. Comm 83.21 (6m) is created to read:

Comm 83.21 (6m) SUSPENSION. (a) A governmental unit may temporarily suspend a sanitary permit issued under this section if it is determined prior to construction that a POWTS cannot be installed based on the information that was available when the permit was issued.

(b) The suspension of the sanitary permit shall terminate no later than the date the sanitary permit expires.

SECTION 21. Comm 83.21 (9) is created to read:

Comm 83.21 (9) PERMIT STORAGE. A governmental unit shall maintain a permanent record of each sanitary permit and permit application supporting information listed in s. Comm 83.21 (2) (c) until the property is no longer served by a POWTS.

SECTION 22. Comm 83.22 Table 83.22-1 line 3. is amended to read:

Table 83.22-1
(Partial Table)
PLAN SUBMISSIONS
TO DEPARTMENT

	Type of Installation
3.	POWTS that will not completely utilize treatment and dispersal technologies or methods either approved under s. Comm 84.10 (2) or (3) or recognized under s. Comm ~~83.61~~ 83.60 (1).

SECTION 23. Comm 83.22 Table 83.22-2 is amended to read:

Table 83.22-2
PLAN SUBMISSIONS TO DEPARTMENT OR DESIGNATED AGENT

	Type of Installation
1.	POWTS that will completely utilize treatment and dispersal technologies or methods either previously approved under s. Comm 84.10 (2) or (3) or recognized under s. Comm ~~83.61~~ 83.60 (1).
2.	POWTS that collect and hold all wastewater of the facilities served and utilize holding components designed based on ≥3,000 gpd estimated flow either recognized under s. Comm 84.10 (2) or (3) or recognized under s. Comm ~~83.61~~ 83.60 (1).

Note: Pursuant to s. 145.19 (2), Stats., governmental units may require separate plan examination fees or include these fees in the cost of the sanitary permit.

SECTION 24. Comm 83.22 Table 83.22-3 is amended to read:

Table 83.22-3
PLAN SUBMISSIONS TO GOVERNMENTAL UNIT

	Type of Installation
1.	POWTS that will not serve more than two one- or 2-family dwellings and their accessory buildings utilizing technologies or methods either recognized under s. Comm 84.10 (2) or (3) or recognized under s. Comm ~~83.61~~ 83.60 (1), and using gravity distribution of the effluent to an in-ground distribution cell.
2.	POWTS that collect and hold all wastewater of the facilities served and utilize holding components designed based on <3,000 gpd estimated flow either recognized under s. Comm 84.10 (2) or (3) or recognized under s. Comm 83.60 (1).

Note: Pursuant to s. 145.19 (2), Stats., governmental units may require separate plan examination fees or include these fees in the cost of the sanitary permit.

SECTION 25. Comm 83.22 (2) (a) 1. is amended to read:

Comm 83.22 (2) (a) 1. When plans are submitted to the department ~~or designated agent~~ for review, at least 3 sets of plans and one set of specifications shall be provided.

SECTION 26. Comm 83.22 (2) (a) 2. and 3. are renumbered Comm 83.22 (2) (a) 3. and 4.

SECTION 27. Comm 83.22 (2) (a) 2. is created to read:

Comm 83.22 (2) (a) 2. When plans are submitted to a designated agent or governmental unit for review, at least 2 sets of plans and one set of specifications shall be provided.

SECTION 28. Comm 83.22 (2) (b) 1. a. Note is repealed and recreated to read:

Comm 83.22 (2) (b) 1. a. **Note:** An application for review form (SBD-10577) may be downloaded from the Commerce webpage at: http://www.commerce.state.wi.us/SB/SB-DivForms.html#POWTS.

SECTION 29. Comm 83.22 (2) (b) 5. (intro.) is amended to read:

Comm 83.22 (2) (b) 5. In addition to the information required under subd. 1., plans for a POWTS which is to serve more than one structure or building, other than two one- or 2-family dwellings and their accessory buildings located on a single parcel of land, shall be accompanied by information that does all of the following:

SECTION 30. Comm 83.22 (4) (a) is amended to read:

Comm 83.22 (4) (a) ~~Except as provided in par. (e), a~~ A modification to the design of a POWTS for which a plan has been previously granted approval under sub. (3) (b) shall be submitted to the applicable reviewing agency for review in accordance with this section, if the proposed modification involves any ~~one~~ of the following:

1. ~~The replacement or addition of a POWTS treatment component.~~ A change in wastewater flow or contaminant load.

2. The replacement or addition of a POWTS ~~holding~~ component listed in Table 83.04-1.

3. The ~~replacement or~~ addition of a POWTS dispersal component.

4. A change to one or more dispersal components involving any of the following:

a. Location outside suitable evaluated areas or proposed depths or elevations.

b. ~~Size~~ Dimensions of any distribution cell or basal area.

c. Type of ~~pressure distribution~~ dispersal component.

d. Design of a pressure distribution component, except for changes to pumps, forcemain lengths, total dynamic head, (TDH), or pump control settings.

SECTION 31. Comm 83.22 (4) (e) is repealed.

SECTION 32. Comm 83.22 (4) (b) to (d) is renumbered Comm 83.22 (4) (c) to (e) and 83.22 (4) (c) and (e), as renumbered, is amended to read:

Comm 83.22 (4) (c) The installer of a POWTS may not implement or undertake the proposed revisions under par. (a) or (b) until written approval is obtained from the applicable reviewing agency.

(e) If revisions under par. (a) are submitted to and approved by the department, the owner of the site for the POWTS or the owner's agent shall file the revisions with the ~~county~~ governmental unit which issued the sanitary permit.

SECTION 33. Comm 83.22 (4) (b) is created to read:

Comm 83.22 (4) (b) A modification to the design of a POWTS for which a plan has been previously granted approval under sub. (3) (b) may be submitted to the governmental unit which issued the sanitary permit, if the proposed modification involves a change which is not listed in par. (a) and if the governmental unit agrees to review the proposed minor revision.

SECTION 34. Comm 83.22 (7) (a) is amended to read:

Comm 83.22 (7) (a) When plans are required to be approved by the department ~~or~~, designated agent or governmental unit under sub. (1), the plumber responsible for the installation of a POWTS or the modification of an existing POWTS shall keep at the construction site at least one set of plans bearing evidence of approval by the department ~~or~~, designated agent or governmental unit and at least one copy of specifications.

SECTION 34d. Comm 83.23 (4) (b) is renumbered Comm 83.23 (4) (c).

SECTION 34h. Comm 83.23 (4) (b) is created to read:

Comm 83.23 (4) (b) The department may deny a request for plan review delegation, if the governmental unit has not completed a POWTS inventory or is not operating a maintenance program required under s. Comm 83.255.

SECTION 34p. Comm 83.23 (7) is renumbered Comm 83.23 (7) (a).

SECTION 34t. Comm 83.23 (7) (b) is created to read:

Comm 83.23 (7) (b) The department may revoke the delegation as a plan review agent, if the governmental unit has not completed a POWTS inventory or is not operating a maintenance program required under s. Comm 83.255.

SECTION 35. Comm 83.25 (2) (e) is renumbered Comm 83.25 (2) (f).

SECTION 36. Comm 83.25 (2) (e) is created to read:

Comm 83.25 (2) (e) Where the performance capability of the existing POWTS serving a dwelling is not based on the number of bedrooms within the dwelling, information documenting that design condition shall be recorded as a covenant running with the deed for the property.

SECTION 37. Comm 83.255 is created to read:

Comm 83.255 Governmental inventory and maintenance program. (1) (a) 1. A governmental unit shall conduct, complete and maintain an inventory of all POWTS located in their jurisdictional area within 3 years after [the effective date of this paragraph . . . legislative reference bureau to insert effective date].

2. The inventory shall be updated as existing POWTS are identified and new POWTS are installed or constructed.

(b) At a minimum, a POWTS inventory shall consist of all of the following elements:

1. Legal description of all properties including tax parcel number where a POWTS is located within the governmental unit jurisdictional area.

2. Name and address of the owner of each POWTS located within the governmental unit jurisdictional area.

Note: The inventory does not require site visits, identification of the type of POWTS or an evaluation of the POWTS.

(2) (a) A governmental unit shall develop and implement a comprehensive POWTS maintenance program within 5 years after [the effective date of this paragraph . . . legislative reference bureau to insert effective date].

(b) At a minimum, a POWTS maintenance program shall consist of all of the following elements:

1. An inventory of all POWTS located within the governmental unit jurisdictional area.

2. A process that accepts and records inspection, evaluation, maintenance and servicing reports submitted by the POWTS owner or the owner's agent for POWTS listed in the governmental unit inventory.

3. A process that accepts and creates a record for each inspection, evaluation, maintenance and servicing report for a POWTS within the governmental unit jurisdictional area but not listed in the governmental unit inventory that is submitted by the POWTS owner or the owner's agent.

4. A process that notifies POWTS owners that are delinquent in submitting reports for inspection, evaluation, maintenance and servicing activities listed in ss. Comm 83.54 (3) and (4) and 83.55.

5. A process that includes measures meant to ensure that required inspection, evaluation, maintenance and servicing is performed and the results are reported to the governmental unit.

6. Reports summarizing the results of the maintenance program on an annual basis in a format requested by the department.

Note: Pursuant to s. 145.245 (9) (a), Stats., a governmental unit must comply with the maintenance provisions of this section as a condition for obtaining Wisconsin Fund grants.

(3) A governmental unit shall make available to the department, upon request, any and all records necessary to ascertain compliance with this chapter and the provisions as specified in s. 145.20 (2) (i), Stats.

SECTION 38. Comm 83.32 (1) (h) is renumbered Comm 83.32 (1) (h) (intro.) and is amended to read:

Comm 83.32 (1) (h) The use of camping unit transfer containers as a POWTS holding component shall be restricted to ~~campgrounds permitted by the department of health and family services under ch. HFS 178~~ <u>any of the following sites</u>:

SECTION 39. Comm 83.32 (1) (h) 1. and 2. are created to read:

Comm 83.32 (1) (h) 1. Campgrounds permitted by the department of health and family services under ch. HFS 178.

2. Properties where the use of the camping unit transfer container is permitted by an adopted governmental unit ordinance and monitored by the governmental unit.

SECTION 40. Comm 83.32 (3) (c) is amended to read:

Comm 83.32 (3) (c) Except as provided in ~~ch. NR 116~~ <u>ss. NR 116.12 (1) (e) and NR 116.15 (2) (b)</u>, no part of a POWTS may be installed in a floodway.

SECTION 41. Comm 83.43 Table 83.43-1 is amended to read:

Table 83.43-1
Horizontal Setback Parameters

Physical Feature	POWTS Treatment Component Consisting in Part of In Situ Soil or Dispersal Component	Exterior Subsurface Treatment Tank or Holding Tank Component	Servicing, Suction Lines and Pump Discharge Lines
Building	10 feet	5 feet[a]	none[b]
Property Line[c]	5 feet	2 feet	2 feet
Swimming Pool	15 feet	none[b]	none[b]
OHWM of Navigable Waters	50 feet	10 feet	10 feet
Water Service and Private Water Main	10 feet	10 feet	10 feet
Public Water Main	ch. NR 811	ch. NR 811	ch. NR 811
Well	chs. NR 811 & 812	chs. NR 811 & 812	chs. NR 811 & 812

OHWM = Ordinary High-Water Mark
[a] Except camping unit transfer containers
[b] See s. Comm 83.43 (8) (f) relative to accessibility.
[c] Road-right-of-way lines may be more restrictive than property lines.

Note: See s. Comm 82.365, Table 82.365-4 relative to horizontal setback distances to subsurface infiltrative systems.

Note: The department of transportation under s. Trans 233.08 establishes setback limits from the centerline of state trunk highways or connecting highways to structures and improvements which include septic systems.

SECTION 42. Comm 83.44 (3) (b) 1. is amended to read:

Comm 83.44 (3) (b) 1. ~~At~~ A POWTS designed utilizing a component manual recognized under Comm 83.60 (1) shall have at least 6 inches of the soil separation required under par. (a) ~~shall be~~ consisting of an in situ soil type for which soil treatment capability has been credited under Table 83.44-3.

SECTION 43. Comm 83.44 Table 83.44-2 is amended to read:

Table 83.44-2
(Partial)
Maximum Soil Application Rates
Based Upon Morphological Soil Evaluation
(in gals./sq.ft./day)

Soil Characteristics			Maximum Monthly Average	
Texture[d]	Structure[e]		BOD_5>30≤220mg/L	BOD_5≤30mg/L[c]
	Shape	Grade	TSS>30≤150mg/L	TSS≤30mg/L[c]

SECTION 44. Comm 83.44 (5) (b) is repealed.

SECTION 45. Comm 83.44 (5) (c) is renumbered 83.44 (5) (b).

SECTION 46. Comm 83.44 Table 83.44-3 is amended to read:

Table 83.44-3
(Partial)
Minimum Depth of Unsaturated Soil for Treatment Purposes[a]
(in inches)

Soil Characteristics	Influent Quality[e] and Percent of Coarse Fragments					
Texture[d]	Fecal Coliform >10^4 cfu/100mL			Fecal Coliform ≤10^4 cfu/100mL[b]		
	≤35%	>35 to ≤60%	>60 to ≤90%[b,c]	≤35%	>35 to ≤60%	>60 to ≤90%[c]

SECTION 47. Comm 83.44 Table 83.44-3 Footnote e is created to read:

Comm 83.44 Table 83.44-3 Footnote e: The values for fecal coliform are reported as a monthly geometric mean. The geometric mean shall be determined on the basis of measurements taken over 30 consecutive days, with at least 6 measurements occurring on 6 separate days.

SECTION 48. Comm 83.45 (6) is amended to read:

Comm 83.45 (6) ~~Flood Fringe~~ Floodplain. (a) All POWTS treatment tanks, holding and dispersal tanks that are located in ~~flood fringe~~ floodplain areas shall be made and maintained watertight to prevent infiltration.

(b) Vent pipes and observation pipes serving POWTS components that are located in ~~flood fringe~~ floodplain areas shall terminate at least 2 feet above regional flood levels.

SECTION 49. Comm 83.50 is repealed and recreated to read:

Comm 83.50 Purpose. The purpose of this subchapter is to accomplish all of the following:

(1) Establish monitoring, inspection, evaluation, maintenance and servicing requirements for all POWTS, in order to ensure that the POWTS will operate as designed and thereby protect the public health and waters of the state.

(2) Establish maintenance programs operated by governmental units to ensure that all POWTS will be inspected, evaluated, maintained and serviced so that the POWTS will operate as designed and thereby protect the public health and waters of the state.

(3) Provide the department with data by which to make regulatory decisions.

SECTION 50. Comm 83.51 (2) Note is amended to read

Comm 83.51 (2) Note: Section Comm ~~87.60 (5) (b) 4.~~ 87.04 (2) (a) to (e) also establishes management and maintenance requirements for a POWTS that is located in a governmental unit which participates in the replacement and rehabilitation program under s. 145.245, Stats.

SECTION 51. Comm 83.52 (1) (a) is renumbered 83.52 (1) (a) 1.

SECTION 52. Comm 83.52 (1) (a) 2. is created to read:

Comm 83.52 (1) (a) 2. The owner of a POWTS shall be responsible for ensuring that access opening covers remain locked or secured except for inspection, evaluation, maintenance or servicing purposes.

SECTION 53. Comm 83.52 (1) (b) is amended to read:

Comm 83.52 (1) (b) The owner of a POWTS existing prior to July 1, 2000, shall be responsible for ensuring that the maintenance of the POWTS occurs in accordance with s. Comm 83.54 (4).

SECTION 53g. Comm 83.54 (4) (d) 1. is amended to read:

Comm 83.54 (4) (d) 1. ~~A~~ Except as provided in subd. 3., a POWTS that exists prior to July 1, 2000, and that utilizes a treatment or dispersal component consisting in part of in situ soil shall be visually inspected at least once every 3 years to determine whether wastewater or effluent from the POWTS is ponding on the surface of the ground.

SECTION 53r. Comm 83.54 (4) (d) 3. is created to read:

Comm 83.54 (4) (d) 3. A governmental unit that has completed the inventory required under s. Comm 83.255 (1) (a) may, by ordinance, extend the visual inspection interval required under subd. 1., to a maximum period of 5-years for a POWTS serving an occasionally occupied structure or facility.

SECTION 54. Comm 83.52 (1) (c) 1. (intro.) is amended to read:

Comm 83.52 (1) (c) 1. The owner of a POWTS, including a POWTS existing prior to July 1, 2000, shall maintain a maintenance ~~or service~~ contract with a POWTS maintainer or business utilizing a POWTS maintainer for the POWTS as long as the POWTS is utilized and, if the management plan for the POWTS under s. Comm 83.54 (1) involves one of more of the following:

SECTION 55. Comm 83.52 (3) is amended to read:

Comm 83.52 (3) The activities relating to evaluating ~~and~~, monitoring and maintaining POWTS components after the initial installation of the POWTS in accordance with an approved management plan or as required by s. Comm 83.54 (4) (c) shall be conducted by a person who holds registration issued by the department as a registered POWTS maintainer.

SECTION 56. Comm 83.53 (1) and (2) is amended to read:

Comm 83.53 (1) No product for chemical or physical restoration or chemical or physical procedures for POWTS, including a POWTS existing prior to July 01, 2000, may be used unless approved by the department in accordance with ss. Comm 84.10 and ~~84.13~~ 84.14.

(2) Nothing in this subchapter shall limit a governmental unit's authority and power in establishing a mandatory POWTS maintenance program that is more restrictive than what is specified in this subchapter, including management or maintenance undertaken by the governmental unit.

SECTION 57. Comm 83.54 (4) (c) is amended to read:

Comm 83.54 (4) (c) The ~~servicing~~ inspection, evaluation, ~~or~~ maintenance or servicing of POWTS treatment components other than those under pars. (a) and (b) existing prior to July 1, 2000, shall be provided in accordance with the requirements specified by the manufacturer or designer of the component.

SECTION 58. Comm 83.55 (1) is amended to read:

Comm 83.55 (1) (a) The owner of a POWTS or his or her agent shall report to the governmental unit or designated agent at the completion of each inspection, evaluation, maintenance or servicing event specified in the approved management plan, except for camping transfer containers.

(b) The owner of a POWTS existing prior to July 1, 2000 or the owner's agent shall report to the governmental unit or designated agent the completion of each inspection, evaluation, maintenance or servicing event required under s. Comm 83.54 (4), except for camping transfer containers.

SECTION 59. Comm 83.55 (1) (c) is created to read:

Comm 83.55 (1) (c) The owner of a POWTS is responsible for fulfillment of the reporting requirements under this section.

SECTION 60. Comm 83.55 (2) (intro.) and (b), (3) (intro.), (c) and (d), (4) and (5) are amended to read:

Comm 83.55 (2) The inspection, evaluation, maintenance and servicing reports required under sub. (1) shall be submitted to the governmental unit or designated agent in accordance with all of the following:

(b) Within 30 calendar days from the date of inspection, evaluation, maintenance or servicing.

(3) The inspection, evaluation, maintenance and servicing reports required under sub. (1) shall include the following information:

(c) The date of inspection, evaluation, maintenance or servicing.

(d) The license, certification, or registration number of the individual performing the inspection, evaluation, maintenance or servicing.

(4) The department, governmental unit or designated agent may require verification of any information contained in an inspection, evaluation, maintenance and servicing report.

Note: This subsection does not require the maintaining of test data which is collected voluntarily and which is not being collected to determine compliance with this chapter.

(5) (a) The governmental unit or designated agent shall maintain records relating to the inspection, evaluation, maintenance and servicing of POWTS as specified in this section for a period of not less than 6 years.

(b) Upon request by a governmental unit and the agreement of the department, the governmental unit may delegate to the department the responsibility to maintain records relating to the inspection, evaluation, maintenance and inspection of POWTS as specified in this section.

SECTION 61. Comm 83.60 (1) is amended to read:

Comm 83.60 (1) ~~This subchapter identifies~~ ~~specific~~ Specific types of methods and technologies ~~that have been~~ may be recognized by the department under the voluntary product approval process in s. Comm 84.10 (3) ~~to conform~~ as conforming with subchs. IV and V and ~~that~~ may be utilized in the design of POWTS for a specific project.

Note: Subsection Comm 84.10 (3) delineates a process for the voluntary submittal of specific methods and technologies that are proposed to be utilized as POWTS holding, treatment or dispersal components and for the department's evaluation of such submittals. Methods and technologies recognized under this process may be utilized in any POWTS within the specifications and parameters of the method or technology. Methods and technologies recognized under this process do not require the submittal of data at the time of plan review and approval process under s. Comm 83.22 to substantiate the performance of the specific method or technology.

Note: Information regarding recognized methods and technologies may be downloaded from the Commerce webpage at: http://www.commerce.state.wi.us/SB/SB-PubsPlumbProdReg.html.

SECTION 62. Comm 83.61 is repealed.

SECTION 63. Comm 83.62 is renumbered Comm 83.61

SECTION 64. Comm 84.01 is renumbered Comm 84.01 (1).

SECTION 65. Comm 84.01 (2) is created to read:

Comm 84.01 (2) A department interpretation of the requirements in this chapter shall supersede any differing interpretation by a lower level jurisdiction. A department decision on the application of the requirements in this chapter shall supersede any differing decision by a lower level jurisdiction.

Note: A decision of the department may be appealed. Section 101.02 (6) (e), Stats., outlines the procedure for submitting requests to the department for appeal hearings and the department procedures for hearing appeals.

SECTION 66. Comm 84.25 (7) (h) is amended to read:

Comm 84.25 (7) (h) Covers located at or above ground for openings larger than 8 inches in diameter shall be provided with locking devices ~~and shall remain locked except for inspection, servicing or maintenance purposes~~ <u>or other effective measures to prevent unauthorized access</u>.

SECTION 67. Comm 84.25 (10) (b) is repealed.

SECTION 68. Comm 84.25 (10) (a) is renumbered Comm 84.25 (10).

SECTION 69. Comm 84.30 (6) (j) is amended to read:

Comm 84.30 (6) (j) *Sand.* Sand ~~which~~ <u>that</u> is placed as a filtering medium in a ~~treatment or distribution cell of a POWTS or~~ stormwater subsurface infiltration system shall conform to ASTM Standard C33 for fine aggregate.

SECTION 70. Comm 85.02 is renumbered Comm 85.02 (1).

SECTION 71. Comm 85.02 (2) is created to read:

Comm 85.02 (2) A department interpretation of the requirements in this chapter shall supersede any differing interpretation by a lower level jurisdiction. A department decision on the application of the requirements in this chapter shall supersede any differing decision by a lower level jurisdiction.

Note: A decision of the department may be appealed. Section 101.02 (6) (e), Stats., outlines the procedure for submitting requests to the department for appeal hearings and the department procedures for hearing appeals.

SECTION 72. Comm 85.30 (5) is amended to read:

Comm 85.30 (5) DETERMINATION REQUESTS. A certified soil tester may request ~~a determination~~ assistance by the governmental unit or department staff ~~on~~ in evaluating the significance of unusual soil color patterns as indicators of soil saturation that may not indicate saturated soil conditions ~~that will interfere with wastewater treatment~~. The governmental unit or department may decline to ~~make~~ provide such ~~determinations~~ assistance, and defer to the use of soil saturation determinations pursuant to s. Comm 85.60 or some other method ~~to make a determination~~.

SECTION 73. Comm 85.60 (3) (j) Note is amended to read:

Comm 85.60 (3) Note: ~~Soil~~ A soil saturation determination report ~~forms~~ form (SBD-6412) ~~in an acceptable format are available from the Safety and Buildings Division, P.O. Box 7162, Madison, WI 53707-7162~~ may be downloaded from the Commerce webpage at: http://www.commerce.state.wi.us/SB/SB-DivForms.html#POWTS.

SECTION 74. Comm 85.60 (4) (c) 5. and Note are amended to read:

Comm 85.60 (4) (c) 5. The hydrograph procedure shall be completed and the results shall be ~~reported~~ submitted for review to the governmental unit having jurisdiction in a format specified by the department.

Note: ~~Soil evaluation~~ A soil saturation determination report (Hydrograph Method) ~~forms~~ form (SBD-7987) ~~in an acceptable format are available from the Safety and Buildings Division, P.O. Box 7162, Madison, WI 53707-7162~~ may be downloaded from the Commerce webpage at: http://www.commerce.state.wi.us/SB/SB-DivForms.html#POWTS.

SECTION 75. Comm 85.60 (4) (d) 3. and Note are amended to read:

Comm 85.60 (4) (d) 3. The hydrograph procedure shall be completed and the results shall be ~~reported~~ submitted for review to the governmental unit having jurisdiction in a format specified by the department.

Note: ~~Hydrograph~~ A soil saturation determination report (Hydrograph Method) ~~forms~~ form (SBD-7987) ~~in an acceptable format are available from the Safety and Buildings Division, P.O. Box 7162, Madison, WI 53707-7162~~ may be downloaded from the Commerce webpage at: http://www.commerce.state.wi.us/SB/SB-DivForms.html#POWTS.

SECTION 76. Comm 85.60 (5) (b) is amended to read:

Comm 85.60 (5) (b) An artificially controlled navigable waters determination report shall be prepared and submitted for review to the governmental unit having jurisdiction upon completion of the determination and associated report.

SECTION 77. Comm 87.30 (1) is amended to read:

Comm 87.30 (1) ELIGIBLE REHABILITATION OR REPLACEMENT WORK. Except as provided under sub. (5) and s. Comm 87.72, POWTS work eligible for financial assistance awards shall be limited to those activities listed in the financial assistance awards under sub. (3), and Tables 87.30-1 to 87.30-6 and the maximum amount specified in s. 145.245 (7) (c), Stats.

Note: Section 145.245 (7) (c), Stats., limits the state grant share to $7,000.

SECTION 78. Comm 87.30 Tables 87.30-3 to 87.30-5 are amended to read:

Table 87.30-3
MAXIMUM ALLOWABLE FINANCIAL ASSISTANCE AMOUNT FOR INSTALLATION OF NON-PRESSURIZED AND IN-GROUND PRESSURE POWTS TREATMENT OR DISPERSAL COMPONENT

Installation Of A Non-Pressurized And In-Ground Pressure POWTS Treatment or Dispersal Component							
		Financial Assistance Amount by Number of Bedrooms					
Design Loading Rate in Gallons Per Square Foot Per Day	**Percolation Rate When Properly Filed with the Governmental Unit Before July 2, 1994 (minutes per inch)**	**1**	**2**	**3**	**4**	**5**	**Each Additional Bedroom**
0.7 or more	0 – less than 10	$ ~~925~~ 1,400	$~~1,200~~ 1,450	$~~1,400~~ 1,925	$~~1,450~~ 2,100	$2,100	$250
0.60 to 0.69	10 – less than 30	~~925~~ 1,475	~~1,200~~ 1,475	~~1,400~~ 2,100	~~1,800~~ 2,200	~~2,175~~ 2,250	250
0.50 to 0.59	30 – less than 45	~~1,375~~ 1,475	~~1,550~~ 1,475	~~1,650~~ 2,100	~~2,000~~ 2,400	~~2,225~~ 2,450	300
0.49 or less	45 - 60	~~1,375~~ 1,475	~~1,900~~ 1,550	~~2,200~~ 2,325	~~2,250~~ 2,725	~~2,275~~ 2,750	300

Table 87.30-4
MAXIMUM ALLOWABLE FINANCIAL ASSISTANCE AMOUNT FOR INSTALLATION OF AT-GRADE OR MOUND POWTS TREATMENT OR DISPERSAL COMPONENT

Installation Of An At-Grade Or Mound POWTS Treatment or Dispersal Component						
Type of Design	**Financial Assistance Amount by Number of Bedrooms**					
	1	**2**	**3**	**4**	**5**	**Each Additional Bedroom**
At-Grade	$~~1,975~~ 2,050	$2,350	~~$2,350~~ 2,600	~~$2,925~~ 3,200	~~$3,025~~ 3,800	$275
High Groundwater Mound	~~2,600~~ 2,550	~~3,150~~ 3,500	~~3,525~~ 4,100	~~4,250~~ 4,750	~~4,775~~ 4,775	300
High Bedrock Mound	~~3,300~~ 4,000	~~3,850~~ 4,600	~~3,975~~ 4,675	~~4,500~~ 4,775	~~4,725~~ 4,775	350
Slowly Permeable Mound [a]	3,250	3,600	~~3,600~~ 4,400	~~3,975~~ 4,750	~~4,775~~ 4,750	375
Less Than 24" or Greater Than 12% Slope Mound	3,050	~~3,450~~ 4,175	~~4,000~~ 4,400	~~4,550~~ 4,775	~~4,550~~ 4,775	375

[a] A slowly permeable mound may be designed based on a percolation rate of greater than 60 minutes per inch and less than or equal to 120 minutes per inch, or a soil application rate of 0.3 or less.

Table 87.30-5
MAXIMUM ALLOWABLE FINANCIAL ASSISTANCE AMOUNT FOR INSTALLATION OF A POWTS HOLDING TANK COMPONENT

Installation of a POWTS Holding Tank Component			
Number of Bedrooms	**Financial Assistance Amount**	**Number of Bedrooms**	**Financial Assistance Amount**
3 or fewer	$~~2,500~~ 2,800	6	$~~3,625~~ 4,400
4	~~3,150~~ 3,200	7	~~4,200~~ 4,775
5	~~3,225~~ 3,850	8	~~4,750~~ 4,775
		Each Additional Bedroom	400

END

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