

**CERTIFICATE**

**STATE OF WISCONSIN**

**DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

*I, Laura Gutiérrez, Secretary, Wisconsin Department of Safety and Professional Services and custodian of the official records of the Department of Safety and Professional Services, do hereby certify that the annexed rules relating to private onsite wastewater treatment systems (POWTS) and the Wisconsin Fund are duly approved and adopted by the Department of Safety and Professional Services.*

*I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.*

*IN TESTIMONY WHEREOF, I have hereunto set my hand at 1400 East Washington Avenue, Madison, Wisconsin this 7 day of May, 2018.*



*Laura E. Gutiérrez*  
Laura Gutiérrez, Secretary  
Department of Safety & Professional Services

CR 17-065

STATE OF WISCONSIN  
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

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IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	DEPARTMENT OF SAFETY AND
DEPARTMENT OF SAFETY	:	PROFESSIONAL SERVICES
AND PROFESSIONAL	:	ADOPTING RULES
SERVICES	:	(CLEARINGHOUSE RULE 17-065)

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ORDER

An order of the department of safety and professional services *to repeal* SPS 381.01 (71) (Note) and (92) (Note) and (111) (Note) and (114) (Note) and (194) (Note) and (215) (Note), 383.21 (4) (Note), 383.21 (8) (b) (intro), 383.22 (2) (b) 2. (Note), 383.44 (4) (a) 1. f., Table 383.44-1, 384.03, 384.10 (3) (e) 2. b., 384.30 (4) (Note), Ch. 387, 387.03 (1) to (4) and (6) and (7) (b) (Note) and (7m) and (8) and (9) (c) and (Note) and (10), 387.20 (2) (Note), 387.30 (2) (Note) and (4), 387.31(3) (Note), 387.80 (6) (Note), and 391.03 (1) (Note) and (4) (Note) and (8) (Note); *to renumber* SPS 384.10 (2) (b) *to renumber and amend* SPS 384.10 (3) (e) 2. a.; *to consolidate, renumber, and amend* SPS 383.21 (8) (b) 1. and 2.; *to amend* SPS 381.01 (194), 381.20 (2) (a) and (b) and (c) and (3) (intro.) and (Note), Table 381.20-11, 383.21 (2) (a) (Note) and (b) 2. (Note) and (c) 3., 383.21 (8) (intro.) and (a), 383.02 (1) (c) (Note) [3], 383.20 (1) (b) and (Note), 383.22 (1) (a) and (2) (a) 3. and (b) 1. and a. (Note) and 2. and (c) 1. and (3) (b) 1. and 2. and (c) and (7) (a), 383.25 (2) (b) (intro.) and 1. and (c) 1. and a. and 2. and a. and (d) 3., 383.255 (1) (a) 1. and (2) (a), 383.44 (6) (a) 2., 383.45 (2) and (6) (b), 383.54 (2) (a) and (e) 2. (Note), Table A-383.43-1, 384.10 (intro.) and (2) (a) 2. and (a) and (c) and (d) and (3) (title) and (c) and (d) and 1. and 2. and (e) 1. and (f) 1. and (g), 384.20 (5) (s), 384.25 (12), 384.30 (4), 385.40 (2) (b) 1. a., 385.60 (2) (a), 387.03 (9) (a), 387.90 (2) (Note), 391.10 (4) (a), 391.11 (2) and (4) (a) (Note), 391.14 (1) (b), and 391.20 (1) and (2) and (3) (intro.); *to repeal and recreate* SPS 383.21 (2) (c) 7. (Note) and (8) (b) (intro.) and 1. and 2., 384.10 (3) (e) 2. a. (Note), and Tables 387.30-1 to 6, and 391.20 (3) (a) and (b); *to create* SPS 381.01 (13m) and (93m) and (183), 383.21 (2) (c) 2. (Note), 383.22 (2) (b) 1. g. and (d) (Note), 383.44 (2) (d), 383.45 (7), 384.10 (2) (b) 2. and (3) (c) 12. and (d) 2. h. and i., 385.40 (2) (b) 2. (Note), and 391.20 (3) (c), relating to Private Onsite Wastewater Treatment Systems and the Wisconsin Fund.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** s. 145.20, Stats.

**Statutory authority:** Sections 145.02, 145.23, and 145.245 (7), Stats., 227.11 (2) (a)

**Explanation of agency authority:**

Section 145.02, Stats. - Provides the department with general authority to establish standards and rules to ensure that buildings and facilities in the state shall be safe, sanitary and safeguard the public health.

Section 145.23, Stats. - Authorizes the department to make and enforce rules relating to lot size and lot elevation necessary for proper sanitary conditions in the development and maintenance of subdivisions not served by a public sewer, where provision for such service has not been made.

Section 145.245 (7), Stats. - The department shall prepare and publish private on-site wastewater treatment system grant funding tables which specify the maximum state share limitation for various components and costs involved in the rehabilitation or replacement of a private on-site wastewater treatment system based upon minimum size and other requirements specified in the state plumbing code promulgated under s. 145.02, Stats. The maximum state share limitations shall be designed to pay approximately 60 percent of the average allowable cost of private on-site wastewater treatment system rehabilitation or replacement based upon estimated or actual costs of that rehabilitation or replacement. The department shall revise the grant funding tables when it determines that 60 percent of current costs of private on-site wastewater treatment system rehabilitation or replacement exceed the amounts in the grant funding tables by more than 10 percent, except that the department may not revise the grant funding tables more often than once every 2 years.

Section 227.11 (2) (a), Stat. - (2) Rule-making authority is expressly conferred on an agency as follows:

- (a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:
  1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
  2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
  3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

**Related statute or rule:** Not applicable.

**Plain language analysis:** The objective of this rule revision was to review and update administrative rules, SPS 381 to 387 and 391, related to private onsite wastewater treatment systems (POWTS) and the POWTS replacement and rehabilitation financial assistant fund,

otherwise known as the Wisconsin Fund. The rule was reviewed to identify and update outdated provisions, to improve language clarity, and to update references and notes as needed.

This rule revision also updates funding tables for the Wisconsin Fund. The Wisconsin Fund is a program that provides grants to offset a portion of the cost for the repair, rehabilitation of existing or failing POWTS. Sixty-seven counties, the City of Franklin, and the Oneida Tribe of Wisconsin participate in the program. The department is currently required under s. 145.245 (7) (c), Stats., to review and update funding tables for the Wisconsin Fund if it is determined that 60 percent of costs for rehabilitating or replacing private sewage systems exceeds the amounts in the grant funding tables by more than 10 percent. The funding tables were last revised in February 1999.

In addition, the rule revision incorporates the requirements of 2017 Wisconsin Act 59. With the Act's repeal of s. 145.245, Stats., the rule revision repeals Chapter SPS 387 - Private Onsite Wastewater Treatment System Replacement or Rehabilitation Financial Assistance Program (the Wisconsin Fund), effective June 30, 2021.

The proposed rule does the following:

- Sections SPS 381.01 (13m), (93m)-and (183) create definitions for an “at-risk” POWTS; “Fats, Oil, and Grease” or “FOG” and “POWTS component manual”.
- Section SPS 381.01 (92) is revised to incorporate the requirements of 2017 Wis. Act 59, which eliminates the definition of “failing private on-site wastewater treatment system” in s. 145.245 (4) and places the definition in s. 145.01 (4m), Stats.
- Section SPS 381.01 (111) (Note) updates the definition for “governmental unit” in accordance with s. 145.01 (5), Stats., and 2013 Act 124.
- Table SPS 381.20-11 is updated to include recent editions of POWTS-related national standards incorporated by reference.
- Creates notes throughout the rule clarifying that nothing prohibits the submission and acceptance of planning documents in an electronic or digital media. To further facilitate the submission of planning documents electronically, SPS 385.40 (2) (b) 1. a. is revised to remove the requirement that an original signature is needed on soil evaluation reports.
- Section SPS 383.44 (2) (d) allows the Department to require facilities determined to be “at-risk” to submit additional testing data to the Department and local governmental unit within one year of installation of the POWTS component to determine whether the facility is producing influent in excess of the quantities specified. If the facility exceeds the specified parameters, then the owner will be required to reduce wastewater strength in accordance with the facility’s management plan.
- Revisions within s. SPS 383.44 remove references to percolation rates. Previously, percolation testing was used to determine the suitability of soil for a POWTS. Since this approach is no longer used, the rule removes these outdated references to percolation rates.

- Section SPS 383.44 (6) (a) 2. allows systems to be constructed *within 1 percent* of the surface contour. This rule revision clarifies requirements to provide a basis for more consistent interpretation of the rule.
- Section SPS 383.45 (2) revises the installation requirement relating to frozen soil to include *below* the infiltrative surface of the component.
- Section SPS 383.45 (6) (b) removes the requirement for observation pipes to terminate at least 2 feet above regional flood levels when located in floodplain areas.
- Section SPS 383.45 (7) requires the top of effluent lines and forcemains to be covered by *a minimum of 12 inches* of soil to prevent freezing and provide protection from damage.
- Section SPS 383.255 (1) (a) 1. is amended to eliminate the date of October 1, 2017, which was the deadline for governmental units to conduct an inventory of POWTS located in the governmental unit.
- Section SPS 383.255 (2) (a) is amended to eliminate the date of October 1, 2019, which is the deadline for governmental units to develop and implement a comprehensive POWTS maintenance program. The amended provision will take effect on October 1, 2019.
- Amends the Table A383.43-1 in SPS 383 Appendix and updates the footnotes regarding public facility wastewater flows.
- Section SPS 384.10 (2) (b) 2. creates a provision that allows the Department to consult with the technical advisory committee to review submittals for products.
- Section SPS 384.10 (3) (d) 1. clarifies that the Department shall seek input from the technical advisory committee to review *initial* applications of POWTS component manuals.
- Section SPS 384.10 (3) (d) 2. revises the composition of the technical advisory committee.
- Section SPS 384.10 (3) (e) 1. Clarifies that the Department shall seek public comments for *new* submittals under this section.
- Section SPS 384.10 (3) (e) 2. modernizes and clarifies the process for soliciting public input on POWTS component manuals and clarifies that public comment will be solicited *for a minimum of 14 days*. The proposed rule removes the requirement that solicitations for public comment be published in the official state newspaper and allows the Department to post notices for seeking public comment on the Department's website. This change will decrease associated costs and provide the public with improved access to information about POWTS components.
- Section SPS 385.60 (2) is revised to adequately reflect the current use of Interpretative Determination Reports (IDR).

- The rule revises the format and updates the financial tables (Tables 387.30-1 to 387.30-6) used for the Wisconsin Fund.
- SECTION 59 repeals ch. SPS 387 effective June 30, 2021 as required by 2017 Act 59.
- Section SPS 387.03 (9) (c) is repealed to incorporate 2017 Wisconsin Act 59, relating to loans to governmental units.
- Several definitions in ch. SPS 387 are repealed due to redundancy. These terms are already defined in ch. SPS 381, which apply to chs. 381 to 387.
- Section SPS 391.11 (2) amends the NSF standard from NSF 41 to NSF Protocol P157 to reflect the appropriate standard for electric incinerating toilets.
- Section SPS 391.20 (3) (c) creates a provision to incorporate by reference NSF Protocol P157.
- Additional revisions were made throughout the rule to improve clarity and comply with rule drafting requirements.

**Summary of, and comparison with, existing or proposed federal regulation:**

Under 7 CFR 1924.107, utilities, all development under this subpart must have adequate, economic, safe, energy efficient, dependable utilities with sufficient easements for installation and maintenance. (Utilities include POWTS.)

Under 40 CFR 35.918, individual systems and the requirements for discharge of effluents, the U.S. EPA has the authority to prescribe requirements for individual on-site wastewater treatment systems, as well as the provisions of financial assistance. In addition, best practicable waste treatment criteria published by EPA under section 304 (d) (2) of this Act shall be met for disposal of effluent on or into the soil from individual POWTS systems.

Under 40 CFR, subch. B, part 31, this rule establishes uniform criteria for POWTS where financial assistance is available on the state and local levels.

**Comparison with rules in adjacent states:**

**Illinois:** The Illinois Department of Public Health (IDPH) regulates the installation of all private sewage disposal systems that have no surface discharge. There are approximately 90 local health agencies in Illinois that review plans, either by authority of a local ordinance or as an *agent* of the Department. IDPH also licenses or certifies Private Sewage Disposal Installation Contractors, Private Sewage Disposal Pumping Contractors, Portable Sanitation Businesses, Portable Sanitation Technicians and Portable Sanitation Technician Trainees. Effective January 1, 2014, the State of Illinois enacted new changes to the Private Sewage Disposal Code. The new changes included new approval, inspection, maintenance, and record-keeping requirements. No state funding program or mechanism exists in Illinois to assist homeowners replacing failing systems or installing new systems.

**Iowa:** Requirements relating to the design, location, installation, use and maintenance of installation private sewage systems can be found in Chapters 64 and 69 of the Iowa Administrative Code. IAC 567-Chapter 69, Private Sewage Disposal Systems of the Iowa Department of Natural Resources, regulates domestic wastewater from 4 homes or less or non-residential wastewater with a flow of less than 1,500 gallons per day. Private sewer systems are regulated by local boards of health in conjunction with the Iowa Department of Natural Resources. The DNR standards are primarily a prescriptive code giving design criteria for each alternative type of secondary treatment system permitted. Counties have the authority to allow alternative or innovative performance based systems and are required to enter basic information about the systems into the state onsite wastewater database system. An estimated 100,000 septic systems in Iowa are at substandard levels. Funding assistance is available to individuals to replace inadequate onsite sewer systems.

**Michigan:** Michigan is the only state in the nation without uniform standards governing how on-site sewage treatment systems are designed, built, installed, and maintained. Eleven counties exercise some oversight of septics, including regular inspections, but they are unregulated in the remaining 72 counties. Michigan also does not have a statewide licensing/certification program for individual onsite wastewater systems. Standardized criteria is used by the Michigan Department of Environmental Quality and by 44 local health departments, which develop their own local rules to regulate single- and two-family systems. Reports conservatively estimate that nearly 10 percent of the state's septic systems – about 130,000 systems – are failing. There is no funding assistance program available to homeowners replacing failing systems or installing new systems.

**Minnesota:** Onsite wastewater regulations are split between one or more agencies in Minnesota. Statute, Chapter 115, relating to water pollution control and sanitary districts, establishes rules for “Individual and Alternative Discharging Sewage Treatment Systems.” The rules require counties to adopt local ordinances *containing minimum standards and criteria for the design, location, installation, use, maintenance, and closure of subsurface sewage treatment systems (SSTS)*. These regulations detail: Minimum technical standards for individual and mid-size SSTS (Chapter 7080 and 7081); A framework for local administration of SSTS programs (Chapter 7082) and; Statewide licensing and certification of SSTS professionals, SSTS product review and registration, and establishment of the SSTS Advisory Committee (Chapter 7083). The Minnesota Pollution Control Agency (MPCA) administers MN Rule 7080, the statewide rule regarding onsite sewage treatment systems and licensing program for onsite professionals. In 2004, 39 percent of all Minnesota septics were failing. In 2015, the legislature passed regulations requiring permits and regular inspections to be conducted once every three years for existing systems. Permit fees cover the program costs. A funding program is available to assist low-income homeowners to replace failing systems or install new systems.

### **Summary of factual data and analytical methodologies:**

The Department established an advisory committee to comprehensively review administrative rules related to POWTS. The committee members represent stakeholders involved in the private sewage system industry including designers, contractors, regulators, academics, and manufacturers. The committee met periodically from November 2015 to March 2017 to review rule provisions and best

practice standards and to make recommendations for revising the department’s rules relating to POWTS.

The Department solicited financial information from private onsite wastewater treatment system installers and used financial information collected as part of the replacement and rehabilitation program to estimate the maximum state share of support for rehabilitation or replacement of private onsite wastewater treatments as currently authorized under s. 145.245, Stats.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:**

The proposed rules was posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect small businesses, local government units, and individuals.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis document is attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

**Agency contact person:**

Mindy Allen, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2112; email at DSPSAdminRules@wisconsin.gov.

**Place where comments are to be submitted and deadline for submission:**

The deadline for submitting comments was October 17, 2017.

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TEXT OF RULE

SECTION 1. SPS 381.01 (13m) is created to read:

**SPS 381.01 (13m)** “At-risk” means a POWTS serving a new public or commercial facility that may produce influent to a POWTS treatment or dispersal component, consisting in part of in situ soil in excess of the quantities specified in s. SPS 383.44 (2). This definition does not include existing facilities where the influent has been tested and determined to produce influent below the quantities specified in s. SPS 383.44 (2) or facilities that are known to produce influent exceeding the influent quantities.



SECTION 2. SPS 381.01 (71) (Note) is repealed.

SECTION 3. SPS 381.01 (92) is amended to read:

**SPS 381.01 (92)** “Failing private onsite wastewater treatment system” has the meaning specified under s. ~~145.245 (4)~~ 145.01 (4m), Stats.

SECTION 4. SPS 381.01 (92) (Note) is repealed.

SECTION 5. SPS 381.01 (93m) is created to read:

**SPS 381.01 (93m)** “Fats, oil, and grease” and “FOG” mean organic polar compounds derived from vegetable, plant, or animal sources that are composed of long chain triglycerides that are insoluble in water. Fats are generally solid particles, oils are usually liquid at room temperature, and grease is usually solid at room temperature.

SECTION 6. SPS 381.01 (111) (Note) and (114) (Note) are repealed.

SECTION 7. SPS 381.01 (183) is created to read:

**SPS 381.01 (183)** “POWTS component manual” means a document that contains detailed design, installation, and operation and maintenance procedures for POWTS components. A component manual that is approved under s. SPS 384.10 (3) (c) is an acceptable method under s. SPS 383.61.

SECTION 8. SPS 381.01 (194) is amended to read:

**SPS 381.01 (194)** “Private onsite wastewater treatment system” has the meaning given for ~~private sewage system~~ under s. 145.01 (12), Stats.

SECTION 9. SPS 381.01 (194) (Note) and (215) (Note) are repealed.

SECTION 10. SPS 381.20 (2) (a), (b), (c), and (3) (intro.) and (Note) are amended to read:

**SPS 381.20 (2)** (a) Alternate standards that are equivalent to or more stringent than the standards referenced in ~~this code chs. SPS 381 to 387~~ may be used in lieu of the referenced standards when approved by the department or if written approval is issued by the department in accordance with par. (b).

(b) Determination of approval shall be based on an analysis of the alternate standard and the standard referenced in ~~this code chs. SPS 381 to 387~~, prepared by a qualified independent third party or the organization that published the standard contained in ~~this code chs. SPS 381 to 387~~.

(c) The department may include specific conditions in issuing an approval, including an expiration date for the approval. Violations of the conditions under which an approval is issued shall constitute a violation of ~~this code~~ chs. SPS 381 to 387.

(3) (intro.) ADOPTION OF STANDARDS. The standards referenced in Tables 381.20-1 to 381.20-13 are ~~hereby~~ incorporated by reference into this chapter.

**Note:** The tables in this section provide a comprehensive listing of all of the standards adopted by reference in ~~this code~~ chs. SPS 381 to 387. For requirements or limitations in how these standards are to be applied, refer to the code section that requires compliance with the standard.

SECTION 11. Table SPS 381.20-11 is amended to read:

Table 381.20-11		
NSF		<del>NSF</del> <b><i>International International</i></b> <b>789 N. Dixboro Road</b> <b>P.O. Box 130140</b> <b>Ann Arbor, Michigan <del>48113-0140</del> 48105</b> <b>Phone: (800) 673-6275</b> <del>Web page</del> <b>Website: <a href="http://www.nsf.org">www.nsf.org</a></b>
Standard Reference Number		Title
1.	Standard 14-2007	Plastic Piping System Components and Related Materials
2.	Standard <del>40-2005</del> <u>40-2013</u>	Residential Wastewater Treatment Systems
3.	Standard <del>41-2005</del> <u>41-2016</u>	Non-liquid Saturated Treatment Systems
3m.	<del>Standard 41-2005 Addendum 1</del> <u>P157-2000</u>	<del>Non-liquid Saturated Treatment Systems</del> <u>Electrical Incinerating Toilets - Health and Sanitization</u>
4.	Standard 44-2004	Residential Cation Exchange Water Softeners
5.	Standard 51-2007	Food Equipment Materials
6.	Standard 61-2012	Drinking Water System Components - Health Effects
7.	Standard 372-2011	Drinking Water System Components - Lead Content

SECTION 12. SPS 383.02 (1) (c) (Note) [3] is amended to read:

**SPS 383.02 (1) (c) (Note) [3] Note:** Pursuant to s. 281.17 (5), Stats., the department of natural resources may also restrict or specify the type of wastewater treatment necessary. ~~Section 281.17 (5) reads: The department [department of natural resources] may prohibit the installation or use of septic tanks in any area of the state where the department finds that the use of septic tanks would impair water quality. The department shall prescribe alternate methods for waste treatment and disposal in such prohibited areas.~~

SECTION 13. SPS 383.20 (1) (b) and (Note) are amended to read:

**SPS 383.20 (1) (b)** Responsibilities and actions of the various governmental agencies involved with the administration and enforcement of this chapter.

**Note:** Section 145.20 (1) (a), Stats., states that the governing body of the governmental unit responsible for the regulation of private sewage onsite wastewater treatment systems may assign the duties of administering the private sewage onsite wastewater treatment system program to any office, department, committee, board, commission, position or employee of that governmental unit.

SECTION 14. SPS 383.21 (2) (a) (Note) and (b) 2. (Note) are amended to read:

**SPS 383.21 (2) (a) (Note) Note:** The Department forms required in this chapter are available for a nominal fee at telephone 800-DOC-SALE or 411 (Telecommunications Relay) or at ~~doesales@doa.state.wi.us~~, or at no charge at on the Department's ~~Web site~~ website at ~~http://dsps.wi.gov through links to Division of Industry Services forms~~ dsps.wi.gov.

(b) 2. (Note) **Note:** Section 145.20 (2) (b), Stats., states that the governmental unit responsible for regulation of private ~~sewage~~ onsite wastewater treatment systems shall approve or disapprove applications for sanitary permits and assist applicants in preparing an approvable application.

SECTION 15. SPS 383.21 (2) (c) 2. (Note) is created to read:

**SPS 383.21 (2) (c) 2. (Note) Note:** Nothing in this chapter is intended to prohibit the submission and acceptance of planning documents in an electronic or digital media.

SECTION 16. SPS 382.21 (2) (c) 3. is amended to read:

**SPS 382.21 (2) (c) 3.** Sufficient supporting information to determine whether the proposed design, installation, and management of the POWTS or the proposed modification to an existing POWTS conforms with this chapter.

SECTION 17. SPS 383.21 (2) (c) 7. (Note) is repealed and recreated to read:

**SPS 383.21 (2) (c) 7. (Note) Note:** See s. 145.19 (2) to (6), Stats., for more information relative to fees.

SECTION 18. SPS 383.21 (4) (Note) is repealed.

SECTION 19. SPS 383.21 (8) (intro.) and (a) are amended to read:

**SPS 383.21 (8) (intro.) POSTING.** When a sanitary permit is obtained under sub. (2), the sanitary permit shall comply with all of the following:

(a) ~~Be~~ The sanitary permit shall be posted in such a location and manner on the proposed site where the POWTS is to be installed or modified so that the information on the permit is visible for inspection; ~~and~~.

SECTION 20. SPS 383.21 (8) (b) (intro) is repealed.

SECTION 21. SPS 383.21 (8) (b) 1. and 2. are consolidated, renumbered SPS 383.21 (8) (b) and amended to read:

**SPS 383.21 (8) (b) 1.** The sanitary permit shall be posted until a POWTS installation or modification is completed; and ~~2. An~~ an opportunity for a final inspection occurs in accordance with s. SPS 383.26.

SECTION 22. SPS 383.22 (1) (a), (2) (a) 3., (b) 1., a. (Note), and 2. are amended to read:

**SPS 383.22 (1)** (a) Plans shall be submitted to the department, a designated agent, or the governmental unit in accordance with this section for all of the following types of installations or modifications:

(2) (a) 3. Plans and specifications submitted for review shall be clear, legible, and permanent copies.

(b) 1. All plans submitted for review shall be accompanied by sufficient data and information to determine if the proposed POWTS or modification of an existing POWTS and their performance will conform with chs. SPS 382 to 384 including, ~~but not limited to~~ all of the following:

a. (Note) **Note:** The Department forms required in this chapter are available ~~for a nominal fee at telephone 800-DOC-SALE or 411 (Telecommunications Relay) or at docsales@doa.state.wi.us, or at no charge at~~ on the Department's ~~Web site~~ website at ~~http://dsps.wi.gov through links to Division of Industry Services forms~~ dsps.wi.gov.

2. In addition to the information required under subd. 1., plans for one or more holding tanks serving a large commercial, industrial, recreational, or residential development with an estimated daily wastewater flow of 3,000 gallons or more shall include information pursuant to s. NR 113.07 (1) (e).

SECTION 23. SPS 382.22 (2) (b) 1. g. is created to read:

**SPS 382.22 (2)** (b) 1. g. Other information requested by the department.

SECTION 24. SPS 383.22 (2) (b) 2. (Note) is repealed.

SECTION 25. SPS 383.22 (2) (c) 1. is amended to read:

**SPS 383.22 (2)** (c) 1. Signed and sealed in accordance with s. A-E 2.02 by an individual who is registered by the department as an architect, engineer, designer of plumbing systems, or designer of private ~~sewage~~ onsite wastewater treatment systems.

SECTION 26. SPS 383.22 (2) (d) (Note) is created to read:

**SPS 383.22 (2)** (d) (Note) **Note:** Nothing in this chapter is intended to prohibit the submission and acceptance of planning documents in an electronic or digital media.

SECTION 27. SPS 383.22 (3) (b) 1., 2., (c), and (7) (a) are amended to read:

**SPS 383.22 (3)** (b) *Conditional approval.* 1. If, upon review, the applicable reviewing agency determines that the plans conform to ~~this chapter and~~ chs. SPS 382 ~~and to~~ 384, a conditional approval shall be granted in writing.

2. All conditions indicating nonconformance to ~~this chapter and~~ chs. SPS 382 ~~and to~~ 384 shall be corrected before or during installation.

(c) *Denial of approval.* If, upon review, the applicable reviewing agency determines that the plans do not conform to ~~this chapter and~~ chs. SPS 382 ~~and to~~ 384, the request for conditional approval shall be denied in writing.

(7) (a) When plans are required to be approved by the department, 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, designated agent, or governmental unit and at least one copy of specifications.

SECTION 28. SPS 383.25 (2) (b) (intro.) and 1., (c) 1., a., 2. and a., and (d) 3. are amended to read:

**SPS 383.25 (2) (b) (intro.)** *New construction.* A municipality may not issue a building permit to commence construction or installation of a structure that necessitates the use of a POWTS to serve the structure; unless one of the following conditions apply:

1. The owner of the property possesses a sanitary permit for the installation of a POWTS in accordance with s. SPS 383.21; ~~or.~~

(c) 1. A municipality may not issue a building permit to commence construction of any addition or alteration to an existing structure when the proposed construction will modify the design wastewater flow or contaminant load, or both, to an existing POWTS, unless the owner of the property complies with at least one of the following:

a. Possesses a sanitary permit to either modify the existing POWTS or construct a POWTS to accommodate the modification in wastewater flow or contaminant load, or both; ~~or.~~

2. For the purpose of this paragraph, a modification in wastewater flow or contaminant load shall be considered to occur for both of the following:

a. For commercial facilities, public buildings, and places of employment, when there is a proposed change in occupancy of the structure; or the proposed modification affects either the type or number of plumbing appliances, fixtures or devices discharging to the system; ~~and.~~

(d) 3. A written investigative report prepared by an architect, engineer, designer of plumbing systems, designer of private ~~sewage onsite wastewater treatment~~ systems, master plumber, master plumber-restricted service or certified POWTS inspector analyzing the proposed modification and the performance capabilities of the existing POWTS.

SECTION 29. SPS 383.255 (1) (a) 1. and SPS 383.255 (2) (a) are amended to read:

**SPS 383.255 (1)** (a) 1. A governmental unit shall ~~conduct, complete, and~~ maintain an inventory of all POWTS located in its jurisdictional area ~~by October 1, 2017.~~

**(2)** (a) A governmental unit shall ~~develop and implement a comprehensive~~ be responsible for administering a POWTS maintenance program ~~by October 1, 2019.~~

SECTION 30. SPS 383.255 (2) (a) 6. (Note) is repealed.

SECTION 31. SPS 383.44 (2) (d) is created to read:

**SPS 383.44 (2)** (d) The department may designate a new facility as “at-risk” if the department determines that the facility may generate waste with influent quality in excess of the parameters under par. (a). A facility designated as “at-risk” shall submit additional testing data as specified in par. (b) to the department and the governmental unit within one year of installation of the POWTS components. A facility that continues to produce influent with parameters above the limits in par. (a) or the approved design shall reduce wastewater strength according to the facility’s management plan required under s. SPS 383.54 (1).

SECTION 32. SPS 383.44 (4) (a) 1. f. and Table 383.44-1 are repealed.

SECTION 33. SPS 383.44 (6) (a) 2. is amended to read:

**SPS 383.44 (6)** (a) 2. The longest dimension of a POWTS treatment or dispersal component ~~consisting in part of in situ soil~~ located at or above the original grade shall be oriented along within 1 percent of the surface contour of the component site location unless otherwise approved by the department.

SECTION 34. SPS 383.45 (2) and (6) (b) are amended to read:

**SPS 383.45 (2)** FROZEN SOIL. POWTS treatment and dispersal components consisting in part of in situ soil may not be installed if the soil is frozen at or below the infiltrative surface of the component.

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

SECTION 35. SPS 383.45 (7) is created to read:

**SPS 383.45 (7)** MINIMUM DEPTH. The top of the effluent lines and forcemains shall be covered by a minimum of 12 inches of soil.

SECTION 36. SPS 383.54 (2) (a) and (e) 2. (Note) are amended to read:

**SPS 383.54 (2)** (a) *General.* The management plan specified in sub. (1) shall include ~~the~~ procedures for metering or monitoring of POWTS influent or effluent as specified in this subsection.

(e) 2. (Note) **Note:** Acceptable sampling procedures include those contained in the following sources:

“Procedures Manual for Ground Water Monitoring at Solid Waste Disposal ~~Sites~~ Facilities,” EPA SW-611, Office of Water and Waste Management, U. S. Environmental Protection Agency, December 1980, Washington, D. C.

“Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground Water Samples for Selected Unstable Constituents,” Book I, Chapter D2, U.S. Geological Survey, Washington, D. C.

“Procedures for the Collection of Representative Water Quality Data from Monitoring Wells,” Cooperative Groundwater Report 7, Illinois State Water Survey, 1981, Champaign, Illinois.

“Manual of Ground Water Sampling Procedures,” NWWA/EPA Series, Robert S. Kerr Environmental Research Laboratory, 1981, Ada, Oklahoma.

“Groundwater Sampling ~~Procedures~~ Guidelines Desk Reference – Parts 1 and 2,” Wisconsin DNR, ~~PUBL-WR-153~~ PUBL-DG-037 96, ~~February 1987~~ September 1996.

“Groundwater Sampling ~~Procedures~~ Field Manual,” Wisconsin DNR, ~~PUBL-WR-168~~ PUBL-DG-038 96, ~~September 1987~~ 1996.

SECTION 37. SPS 383 Appendix Table A-383.43-1 is amended to read:

**Table A-383.43-1  
Public Facility Wastewater Flows**

Source	Unit	Estimated Wastewater Flow (gpd)
Apartment or condominium	Bedroom	100
Assembly hall (no kitchen)	Person (10 sq. ft./person)	1.3
Bar or cocktail lounge (no meals served) <sup>a</sup>	Patron (10 sq. ft./patron)	4
Bar or cocktail lounge <sup>a</sup> (w/meals – all paper service) <sup>a</sup>	Patron (10 sq. ft./patron)	8
Beauty salon	Station	90
Bowling alley	Bowling lane	80
Bowling alley <sup>a</sup> (with bar)	Bowling lane	150
Camp, day and night	Person	25
Camp, day use only (no meals served)	Person	10
Campground or camping resort	Space, with sewer connection and/or service building	30
Campground sanitary dump station <sup>a</sup>	Camping unit or RV served	25
Catch basin	Basin	65
Church (no kitchen)	Person	2

Church <sup>a b</sup> (with kitchen)	Person	5
Dance hall	Person (10 sq. ft./person)	2
Day care facility (no meals prepared)	Child	12
Day care facility <sup>ab</sup> (with meal preparation)	Child	16
Dining hall <sup>a</sup> (kitchen waste only without dishwasher and/or food waste grinder)	Meal served	2
Dining hall <sup>a</sup> (toilet and kitchen waste without dishwasher and/or food waste grinder)	Meal served	5
Dining hall <sup>a</sup> (toilet and kitchen waste with dishwasher and/or food waste grinder)	Meal served	7
Drive-in restaurant <sup>a</sup> (all paper service with inside seating)	Patron seating space	10
Drive-in restaurant <sup>a</sup> (all paper service without inside seating)	Vehicle space	10
Drive-in theater	Vehicle space	3
Employees (total all shifts)	Employee	13
Floor drain (not discharging to catch basin)	Drain	25
Gas station / convenience store <sup>b</sup>	Patron	3
<del>Gas station (with service bay)</del>		
<del>— Patron</del>	<del>Patron</del>	<del>3</del>
<del>— Service bay</del>	<del>Service bay</del>	<del>50</del>
Hospital <sup>a</sup>	Bed space	135
Hotel, motel, or tourist rooming house	Room	65
Manufactured home (served by its own POWTS)	Bedroom	100
Manufactured home community	Manufactured home site	200
Medical office building <sup>b</sup>		
Doctors, nurses, medical staff	Person	50
Office personnel	Person	13
Patients	Person	6.5
Migrant labor camp (central bathhouse)	Employee	20
Nursing, rest home, community-based residential facility <sup>a-b</sup>	Bed space	65
Outdoor sport facilities (toilet waste only)	Patron	3.5
Parks (toilets waste only)	Patron (75 patrons/acre)	3.5
Parks (toilets and showers)	Patron (75 patrons/acre)	6.5
Public shower facility	Shower taken	10
Restaurant <sup>a</sup> , 24-hr. (dishwasher and/or food waste grinder only)	Patron seating space	4
Restaurant <sup>a</sup> , 24-hr. (kitchen waste only without dishwasher and/or food waste grinder)	Patron seating space	12
Restaurant, 24-hr. (toilet waste)	Patron seating space	28
Restaurant <sup>a</sup> , 24-hr. (toilet and kitchen waste without dishwasher and/or food waste grinder)	Patron seating space	40
Restaurant <sup>a</sup> , 24-hr. (toilet and kitchen waste with dishwasher and/or food waste grinder)	Patron seating space	44
Restaurant <sup>a</sup> (dishwasher and/or food waste grinder only)	Patron seating space	2



Restaurant <sup>a</sup> (kitchen waste only without dishwasher and/or food waste grinder)	Patron seating space	6
Restaurant (toilet waste)	Patron seating space	14
Restaurant <sup>a</sup> (toilet and kitchen waste without dishwasher and/or food waste grinder)	Patron seating space	20
Restaurant <sup>a</sup> (toilet and kitchen waste with dishwasher and/or food waste grinder)	Patron seating space	22
Retail store ( <u>no food preparation</u> )	Patron (70% of total retail area / 30 sq. ft. per patron)	1
School <sup>a</sup> (with meals and showers)	Classroom (25 students/classroom)	500
School <sup>a</sup> (with meals or showers)	Classroom (25 students/classroom)	400
School (without meals or showers)	Classroom (25 students/classroom)	300
Self-service laundry <sup>e</sup> (toilet waste only)	Clothes washer	33
Self-service laundry <sup>e</sup> (with only residential clothes washers)	Clothes washer	400
Swimming pool bathhouse	Patron	6.5

<sup>a</sup> ~~May~~ Expected to be high in Biochemical Oxygen Demand biological oxygen demand (BOD), and total suspended solids (TSS), or Fats, Oils or Grease fats, oils, and grease (FOG).

<sup>b</sup> ~~May be high in medication and personal care products~~ At-risk system (potentially high in biochemical oxygen demand (BOD), total suspended solids (TSS), or fats, oils, and grease (FOG)).

<sup>e</sup> ~~May contain a high level of lint.~~

SECTION 38. SPS 384.03 is repealed.

SECTION 39. SPS 384.10 (intro.) and (2) (a) 2. are amended to read:

**SPS 384.10** (intro.) No fixture, appliance, appurtenance, material, device or product may be sold for use in a plumbing system or may be installed in a plumbing system, unless it is of a type conforming to the standards or specifications of chs. SPS 382 ~~and 383 and this chapter~~ to 384 and ch. 145, Stats.

**(2)** (a) 2. Specifications and plans or drawings for each type of product shall be submitted to the department for review. The submittal shall be accompanied by sufficient data and information to determine if the product and its performance comply with the provisions of chs. SPS 382, ~~383 and this chapter~~ to 384 and ch. 145, Stats.

SECTION 40. SPS 384.10 (2) (b) is renumbered to SPS 384.10 (2) (b) 1.

SECTION 41. SPS 384.10 (2) (b) 2. is created to read:

**SPS 384.10 (2)** (b) 2. The department may consult with the technical advisory committee for guidance in the review of submittals under this subsection.

SECTION 42. SPS 384.10 (2) (c) and (d) and (3) (title) and (a) and (c) and (d) are amended to read:

**SPS 384.10 (2)** (c) If, upon review, the department determines that a product conforms to the provisions of chs. SPS 382, ~~383 and this chapter to 384~~ and ch. 145, Stats., the department shall issue an approval in writing. The department may impose specific conditions in granting an approval. Violations of the conditions under which an approval is granted shall constitute a violation of this chapter.

(d) If, upon review, the department determines that a product does not conform to provisions of chs. SPS 382, ~~383 and this chapter to 384~~ and ch. 145, Stats., the request for approval shall be denied in writing.

**(3) (title)** VOLUNTARY POWTS COMPONENT MANUAL REVIEW.

(a) The department may issue an approval, upon request and review, for specific methods or technologies that are proposed to be utilized as POWTS holding, treatment or dispersal components which conform to the standards or specifications referenced in chs. SPS 381, ~~382 and 383, and this chapter to 384~~, but do not require approval under sub. (2) or s. SPS 384.50.

(c) The submittal shall be accompanied by sufficient data and information to determine if the method or technology complies with the provisions of chs. SPS 381, ~~382 and 383, and this chapter to 384~~. The submittal shall include, ~~but not be limited to~~, all of the following:

(d) If, upon review, the department determines that a product does not conform to provisions of chs. SPS 382, ~~383 and this chapter to 384~~ and ch. 145, Stats., the request for approval shall be denied in writing.

SECTION 43. SPS 384.10 (3) (c) 12. is created to read:

**SPS 384.10 (3) (c) 12.** Other information requested by the department.

SECTION 44. SPS 384.10 (3) (d) 1. and 2. are amended to read:

**SPS 384.10 (3) (d) 1.** The department shall review ~~a submittal~~ an initial application submitted under this subsection with input from a technical advisory committee.

2. The members on the technical advisory committee under subd. 1. shall be appointed by the department for staggered 3-year terms and shall include representatives of ~~at least~~ all of the following groups or organizations:

a. ~~The~~ A representative of the department of natural resources familiar with large scale POWTS systems to serve as a nonvoting member.

b. ~~Local~~ A representative of a governmental unit responsible for the regulation of POWTS.

c. A POWTS designer.

- d. ~~Academic~~ A member of the academic or scientific community.
- e. ~~Plumber~~ A journeyman or master plumber involved in POWTS installation.
- f. ~~Environmental group~~ A professional soil scientist or certified soil tester.
- g. A POWTS component manufacturer.

SECTION 45. SPS 384.10 (3) (d) 2. h. and i. are created to read:

**SPS 384.10 (3) (d) 2. h.** An at-large member.

i. A representative from the department of safety and professional services familiar with POWTS approval to serve as a nonvoting member.

SECTION 46. SPS 384.10 (3) (e) 1. is amended to read:

**SPS 384.10 (3) (e) 1.** After review by the technical advisory committee under par. (d) but prior to issuing an approval under par. (f), the department shall seek public comments on ~~a new submittal~~ submittals under this subsection.

SECTION 47. SPS 384.10 (3) (e) 2. a. is renumbered SPS 384.10 (3) (e) 2. and, as renumbered, is amended to read:

**SPS 384.10 (3) (e) 2.** The department shall ~~place the notice requesting~~ provide an opportunity for public comment under subd. 1. ~~in the official state newspaper~~ for a minimum of 14 days.

SECTION 48. SPS 384.10 (3) (e) 2. a. (Note) is repealed and recreated to read:

**SPS 384.10 (3) (e) 2. (Note) Note:** Notices to seek public comment are posted on the department's website at [dpsps.wi.gov](http://dpsps.wi.gov).

SECTION 49. SPS 384.10 (3) (e) 2. b. is repealed.

SECTION 50. SPS 384.10 (3) (f) 1. and (g) are amended to read:

**SPS 384.10 (3) (f) 1.** If, upon review, the department determines that the method or technology conforms to the provisions of chs. SPS 381, ~~382 and 383~~ and this chapter to 384, the department shall issue an approval in writing.

(g) If, upon review, the department determines that the method or technology does not conform to the provisions of chs. SPS 381, ~~382 and 383~~ and this chapter to 384, the request for approval shall be denied in writing.

SECTION 51. SPS 384.20 (5) (s) is amended to read:

**SPS 384.20 (5) (s) *Other plumbing fixtures, appliances and equipment.*** Plumbing fixtures, appliances and equipment not specifically covered in this subsection shall conform to the applicable performance standards of ~~this chapter and chs. SPS 382 and 383~~ to 384.

SECTION 52. SPS 384.25 (12) is amended to read:

**SPS 384.25 (12) OTHER TREATMENT COMPONENTS.** A treatment component not specifically covered in this section may not be sold for use in a POWTS or may not be installed in a POWTS, unless it has received department approval and conforms to the applicable performance standards of ~~this chapter and chs. SPS 382 and 383~~ to 384, and ch. 145, Stats.

SECTION 53. SPS 384.30 (4) is amended to read:

**SPS 384.30 (4) WATER SUPPLY SYSTEMS.** Water supply systems shall be of such material and workmanship as set forth in this subsection. All materials in contact with water, in a water supply system, shall be suitable for use with the water within the system. All pipes and pipe fittings for water supply systems shall be made of a material that contains a weighted average of not more than 0.25 percent ~~lead~~ lead in the wetted surface material.

SECTION 54. SPS 384.30 (4) (Note) is repealed.

SECTION 55. SPS 385.40 (2) (b) 1. a. is amended to read:

**SPS 385.40 (2) (b) 1. a.** The ~~original~~ signature of the certified soil tester who collected the data;

SECTION 56. SPS 385.40 (2) (b) 2. (Note) is created to read:

**SPS 385.40 (2) (b) 2. (Note) Note:** Nothing in this chapter is intended to prohibit the submission and acceptance of planning documents in an electronic or digital media.

SECTION 57. SPS 385.60 (2) (a) is amended to read:

**SPS 385.60 (2) INTERPRETIVE DETERMINATIONS.** (a) A written report by a certified soil tester evaluating and interpreting redoximorphic soil features, or other soil color patterns, may be submitted to the department in lieu of high groundwater determination data. The written report shall conclusively ~~demonstrate that the existing soil morphological features or color patterns are not indicative of~~ determine current conditions of periodic soil saturation and assess their effect upon the operation of a POWTS.

SECTION 58. Chapter SPS 387 is repealed.

SECTION 59. SPS 387.03 (1) to (4) and (6) and (7) (b) (Note) and (7m) and (8) are repealed.

SECTION 60. SPS 387.03 (9) (a) is amended to read:

**SPS 387.03 (9)** (a) For applications submitted to the department for installations of replacement of private sewage onsite wastewater treatment systems, project period means the period of time beginning on February 1 and ending on December 31 of the following year.

SECTION 61. SPS 387.03 (9) (c) and (Note) and (10) are repealed.

SECTION 62. SPS 387.20 (2) (Note) and SPS 387.30 (2) (Note) are repealed.

SECTION 63. SPS Tables 387.30-1 to 387.30-6 are repealed and recreated to read:

**Table 387.30-1**

**MAXIMUM ALLOWABLE FINANCIAL ASSISTANCE AMOUNT FOR INSTALLATION OF A REPLACEMENT POWTS ANAEROBIC TREATMENT COMPONENT**

**Installation of a Replacement POWTS Anaerobic Treatment Component by Design Flow**

Design Flow in Gallons per Day	Financial Assistance Amount
≤ 300 gpd	\$2,280
301-450 gpd	\$2,400
451-600 gpd	\$3,000
601+ gpd	\$4,200

**Table 387.30-2**

**MAXIMUM ALLOWABLE FINANCIAL ASSISTANCE AMOUNT FOR INSTALLATION OF A REPLACEMENT COMPONENT AND LIFT PUMP OR SIPHON**

**Installation of a POWTS Dosing Component and Lift Pump or Siphon**

Design Flow in Gallons per Day	Financial Assistance Amount
≤ 300 gpd	\$2,400
301-450 gpd	\$2,700
451-600 gpd	\$3,000
601+ gpd	\$3,600

**Table 387.30-3**

**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**

Design Loading Rate in Gallons Per Square Foot Per Day	≤300 gpd	301-450 gpd	451-600 gpd	601+ gpd
0.7 or more	\$3,300	\$3,900	\$5,100	\$6,300
0.60 to 0.69	\$3,600	\$4,200	\$5,400	\$6,600
0.50 to 0.59	\$3,900	\$5,100	\$5,700	\$6,900
0.49 or less	\$4,200	\$5,400	\$6,000	\$7,000

**Table 387.30-4**

**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	≤300 gpd	301-450 gpd	451-600 gpd	601+ gpd
At-Grade	\$5,400	\$6,000	\$6,600	\$7,000

Greater than 24" of Suitable Soil Mound	\$7,000	\$7,000	\$7,000	\$7,000
Less than 24" of Suitable Soil Mound	\$7,000	\$7,000	\$7,000	\$7,000

**Table 387.30-5**  
**MAXIMUM ALLOWABLE FINANCIAL ASSISTANCE AMOUNT FOR INSTALLATION OF A POWTS HOLDING TANK COMPONENT**  
**Installation of a POWTS Holding Tank Component**

Estimated Flow of Gallons Per Day	Financial Assistance Amount
≤400	\$3,900
401-600	\$4,200
601+	\$4,500

**Table 387.30-6**  
**MAXIMUM ALLOWABLE FINANCIAL ASSISTANCE AMOUNT FOR INSTALLATION OF REPLACEMENT EXTERIOR GREASE INTERCEPTOR**  
**Installation of Replacement Exterior Grease Interceptor by Capacity**

Capacity (in gallons)	Financial Assistance Amount	Capacity (in gallons)	Financial Assistance Amount
Up to 1,249	\$3,000	1,750 to 1,999	\$3,900
1,250 to 1,499	\$3,300	2,000 or more	\$4,500
1,500 to 1,749	\$3,600		

SECTION 64. SPS 387.30 (4), SPS 387.31 (3) (Note), and SPS 387.80 (6) (Note) are repealed.

SECTION 65. SPS 387.90 (2) (Note) is amended to read:

**SPS 387.90 (2) (Note) Note:** Form SBD-9890-X is available on request at no charge from the department at the Division of Industry Services, P.O. Box 8935, Madison WI 53708-8935, telephone (608) 266-2112, or at the Department web site at <http://www.dri.wisconsin.gov/Plan-Review/Petition-Variance/Petition-for-Variance-Forms> the Department's website at [dpsps.wi.gov](http://dpsps.wi.gov).

SECTION 66. SPS 391.03 (1) (Note) and (4) (Note) and (8) (Note) are repealed.

SECTION 67. SPS 391.10 (4) (a) is amended to read:

**SPS 391.10 (4) (a)** The disposal of the compost shall be in accordance with ~~EPA~~ 40 CFR part 503.

SECTION 68. SPS 391.11 (2) and (4) (a) (Note) are amended to read:

**SPS 391.11 (2)** The materials, design, construction, and performance of an electric-fired incinerating toilet shall conform to NSF ~~Standard 41~~ Protocol P157.

**(4) (a) (Note) Note:** ~~EPA materials~~ Materials relating to ~~EPA~~ 40 CFR part 503, including, "Domestic Septage Regulatory Guidance: A Guide to the EPA 503 Rule", are available from the Office of Water Resource, US EPA, 401 M Street SW, Washington D. C. 20460 at epa.org.

SECTION 69. SPS 391.14 (1) (b) is amended to read:

**SPS 391.14 (1) (b)** More than 50% percent of the square footage of an existing separate gender restroom is renovated, in which case this section applies only to the renovated portion.

SECTION 70. SPS 391.20 (1), (2), and (3) (intro.) are amended to read:

**SPS 391.20 (1) CONSENT.** Pursuant to s. 227.21, Stats., the attorney general and the revisor of statutes have has consented to the incorporation by reference of the standards listed in sub. (3).

**(2) COPIES.** Copies of the adopted standards are on file in the offices of the department, the secretary of state and the legislative reference bureau. Copies of the standards may be purchased through the respective organizations listed in sub. (3).

**(3) (intro.) ADOPTION OF STANDARDS.** The standards referenced in pars. (a) and (b) are hereby incorporated by reference into this chapter.

SECTION 71. SPS 391.20 (3) (a) and (b) are repealed and recreated to read:

**SPS 391.20 (3) (a)** ANSI Z21.61-1983: Gas-Fired Toilets, American National Standard Institute, 25 West 43<sup>rd</sup> Street, 4<sup>th</sup> Floor, New York, NY 10036.

**(b)** NSF 41-2016: Non-Liquid Saturated Treatment Systems, NSF International, 6300 Interfirst Drive, Ann Arbor, MI 48108.

SECTION 72. SPS 391.20 (3) (c) is created to read:

**SPS 391.20 (3) (c)** NSF Protocol P157-2014: Electrical Incinerating Toilets – Health and Sanitation, NSF International, 6300 Interfirst Drive, Ann Arbor, MI 48108.

SECTION 73. **EFFECTIVE DATE.** The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats., except for the treatment of s. SPS 383.255 (2) (a) in SECTION 29, which shall take effect on October 1, 2019, and the treatment of SECTION 58, which shall take effect on June 30, 2021.

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(END OF TEXT OF RULE)  
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Dated May 7, 2018

Agency Laura E. Gutierrez  
Secretary  
Department of Safety and Professional Services

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

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2. Administrative Rule Chapter, Title and Number

SPS 381-Definitions and Standards, SPS 382- Design, Construction, Installation, Supervision, Maintenance and Inspection of Plumbing, SPS 383-Private Onsite Wastewater Treatment Systems, SPS 383-Appendix, SPS 384-Plumbing Products, SPS 384-Appendix, SPS 385-Soil and Site Evaluations, SPS 386-Boat and On-Shore Sewage Facilities, SPS 387-Private Onsite Wastewater Treatment System Replacement of Rehabilitation Financial Assistance Program, SPS 391-Sanitation

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3. Subject

Comprehensive update of Private Onsite Wastewater Treatment Systems (POWTS) and the Wisconsin Fund codes.

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165(2)(j); 20.165(2)(ke)

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6. Fiscal Effect of Implementing the Rule

<input type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Could Absorb Within Agency's Budget
		<input type="checkbox"/> Decrease Cost

---

7. The Rule Will Impact the Following (Check All That Apply)

<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers
	<input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes    No

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9. Policy Problem Addressed by the Rule

The POWTS code has not been reviewed in its entirety since April 2000. Recent technological advances and improved methodologies were reviewed for inclusion in this revision. Under s. 145.245 (7) (c), Stats., the funding tables for the Wisconsin Fund code, ch. SPS 387, are to be revised when it is determined that 60% of current costs of private sewage system rehabilitation or replacement exceed the amounts in the grant funding tables by more than 10%. The tables were last revised in February 1999.

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10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. Stakeholders, which include local purveyors, product manufacturers and distributors, plumbing designers and inspectors, were notified of the open comment period via an electronic announcement disseminated by the Department. One comment was received, stating support of maintaining the Wisconsin Fund.

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11. Identify the local governmental units that participated in the development of this EIA.

No local governmental units participated in the development of this EIA.

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12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The Department has determined a fiscal impact exists due to costs associated with training POWTS staff on the code changes. The estimate is about \$3,800.00 and can be absorbed into the existing budget. The proposed changes are not expected to result in significant additional costs and are unlikely to have a negative economic impact on small businesses or the affected entities.

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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### 13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

This update is necessary to keep Wisconsin's POWTS code consistent with regional and national standards and with legislation enacted since the previous update of the POWTS code. Changes to the rule will ensure Wisconsin's POWTS meet current standards for public health and environmental protection. The rule revision also ensure that the grant funding tables for the Wisconsin Fund are adequately updated pursuant to s. 145.245 (7) (c), Stats.

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### 14. Long Range Implications of Implementing the Rule

Adopting this rule will keep Wisconsin's POWTS code current with industry practices and new technologies designed to increase public health and safety.

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### 15. Compare With Approaches Being Used by Federal Government

Under 40 CFR 35.918, individual systems and the requirements for discharge of effluents, the U.S. EPA has the authority to prescribe requirements for individual on-site wastewater treatment systems, as well as the provisions of financial assistance. In addition, best practicable waste treatment criteria published by EPA under section 304 (d) (2) of the Act shall be met for disposal of effluent on or into the soil from individual POWTS systems.

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### 16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

**Illinois:** The Illinois Department of Public Health (IDPH) regulates the installation of all private sewage disposal systems that have no surface discharge. There are approximately 90 local health agencies in Illinois that review plans, either by authority of a local ordinance or as an "agent" of the Department. All Illinois Onsite Wastewater Treatment Systems (OWTS) must be installed and operated in accordance with the requirements specified in the Illinois Private Sewage Disposal Code and Operation of Onsite Wastewater Treatment Systems. In accordance with Illinois law, malfunctioning systems must be remediated, repaired, and/or replaced in accordance with the requirements specified in the code. Effective January 1, 2014, the State of Illinois enacted new changes to the Private Sewage Disposal Code. The new changes included new approval, inspection, maintenance, and record-keeping requirements. No state funding program or mechanism exists in Illinois to assist homeowners replacing failing systems or installing new systems.

**Iowa:** The Iowa Department of Natural Resources regulates domestic wastewater from 4 homes or less or non-residential wastewater with a flow of less than 1,500 gallons per day. Private sewer systems are regulated by local boards of health in conjunction with the Iowa Department of Natural Resources. The DNR standards are primarily a prescriptive code giving design criteria for each alternative type of secondary treatment system permitted. Counties have the authority to allow alternative or innovative performance based systems and are required to enter basic information about the systems into the state onsite wastewater database system. An estimated 100,000 septic systems in Iowa are at substandard levels. Funding assistance is available for the replacement of inadequate private onsite sewer systems.

**Michigan:** Michigan is the only state in the nation without uniform standards governing how on-site sewage treatment systems are designed, built, installed, and maintained. Eleven counties exercise some oversight of private septic systems, including regular inspections, but they are unregulated in the remaining 72 counties. Michigan also does not have a statewide licensing/certification program for individual onsite wastewater systems. Criteria is used by the Michigan Department of Environmental Quality and by 44 local health departments that develop their own local rules to regulate single- and two-family systems. Reports conservatively estimate that nearly 10 percent of the state's septic systems – about 130,000 systems – are failing. There is no funding program or mechanism to assist homeowners replacing failing systems or installing new systems.

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

**Minnesota:** Onsite wastewater regulations are split between one or more agencies in Minnesota. State rule requires counties to adopt local ordinances “containing minimum standards and criteria for the design, location, installation, use, maintenance, and closure of subsurface sewage treatment systems (SSTS).” The Minnesota Pollution Control Agency (MPCA) administers the statewide rule regarding onsite sewage treatment systems and licensing program for onsite professionals. A funding program is available to assist homeowners to replace failing systems or install new systems. In 2004, 39 percent of all Minnesota septic systems were failing. In 2015, the legislature passed regulations requiring permits and regular inspections to be conducted once every three years for existing systems. Permit fees cover the program costs. A funding program is available to assist low-income homeowners to replace failing systems or install new systems.

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17. Contact Name	18. Contact Phone Number
Mindy Allen	608-261-4463

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