

Chapter Comm 83

PRIVATE ONSITE WASTEWATER TREATMENT SYSTEMS

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Note: Chapter H 63 was created as an emergency rule effective 6-21-80; section H 62.20 as it existed on June 30, 1983 was renumbered to chapter ILHR 83. Chapter ILHR 83 was renumbered chapter Comm 83 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, February, 1997, No. 494. Chapter Comm 83 as it existed on June 30, 2000 was repealed and a new chapter Comm 83 was created, Register, April, 2000, No. 532, eff. 7-1-00.

Subchapter I — Scope and Application

Comm 83.01 Purpose. The purpose of this chapter is to establish uniform standards and criteria for the design, installation, inspection and management of a private onsite wastewater treatment system, POWTS, so that the system is safe and will protect public health and the waters of the state.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: am. Register January 2004 No. 577, eff. 2-1-04.

Comm 83.02 Scope. (1) WASTEWATER GENERATION. Except as delineated in sub. (2), this chapter applies to all of the following:

(a) A situation where domestic wastewater is collected and conducted by means of plumbing drain systems and is not conveyed to a wastewater treatment facility regulated by the department of natural resources.

(b) A POWTS where domestic wastewater is treated and dispersed to the subsurface.

(c) A holding tank that is utilized as a POWTS or as part of a POWTS to collect and hold domestic wastewater for transport and treatment elsewhere.

Note: Section Comm 82.10 (8) states that where plumbing fixtures exist in a building which is not connected to a public sewer system, suitable provision shall be made for treating and recycling the sewage and wastewater by a method of holding or treatment and dispersal satisfactory to the department.

Note: The department of natural resources is responsible for establishing, administering and enforcing standards relative to domestic wastewater treatment systems which either disperse to the surface or to surface waters. The department of natural resources also establishes effluent limitations and monitoring requirements where the design daily influent wastewater flow to a POWTS exceeds 12,000 gallons per day for the purpose of fulfilling WPDES permit requirements under ch. 283, Stats.

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.

(2) EXEMPTIONS. This chapter does not apply to:

(a) A POWTS owned by the federal government and located on federal lands; and

(b) A POWTS located or to be located on land held in trust by the federal government for Native Americans.

(3) SUBDIVISION STANDARDS. This chapter does not establish minimum lot sizes or lot elevations under s. 145.23, Stats., for the purpose of the department reviewing proposed subdivisions which will not be served by public sewers under s. 236.12, Stats.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.03 Application. (1) INSTALLATIONS. (a) *New POWTS installations.* The design, installation and management of a new POWTS shall conform with this chapter.

Note: Pursuant to s. 145.135 (2) (b), Stats., the approval of a sanitary permit is based on the rules in effect on the date of the permit approval.

(b) *Modifications to existing POWTS.* A modification to an existing POWTS, including the replacement, alteration or addition of materials, appurtenances or POWTS components, shall require that the modification conform to this chapter.

Note: The modification of one part of a POWTS may affect the performance or the operation of other parts of the POWTS thereby necessitating further modifications for the 'other parts' to be or remain compliant with the appropriate edition of the state plumbing code; see sub. (2) (b) 1.

(c) *Modifications to existing structures served by existing POWTS.* When an addition or alteration is proposed to an existing building, structure or facility that is served by an existing POWTS and the proposed addition or alteration will result in a change that affects the wastewater flow or wastewater contaminant load beyond the minimum or maximum capabilities of the existing POWTS, the POWTS shall be modified to conform to the rules of this chapter.

Note: See s. Comm 83.25 (2) relating to the issuance of building permits.

(2) RETROACTIVITY. (a) This chapter does not apply retroactively to an existing POWTS installed prior to July 1, 2000, or for which a sanitary permit has been issued prior to July 1, 2000, except as provided in ss. Comm 83.32 (1) (a) and (c) to (g), 83.54 (4) and 83.55 (1) (b).

(b) 1. Except as provided in subd. 2. and ss. Comm 83.32 (1) (a) and (c) to (g), 83.54 (4) and 83.55 (1) (b), an existing POWTS installed prior to July 1, 2000, shall conform to the siting, design, construction and maintenance rules in effect at the time the sanitary permit was obtained or at the time of installation, if no permit was issued.

2. a. An existing POWTS installed prior to December 1, 1969 with an infiltrative surface of a treatment and dispersal component that is located 2 feet or more above groundwater or bedrock shall be considered to discharge final effluent that is not sewage, unless proven otherwise.

b. An existing POWTS installed prior to December 1, 1969 with an infiltrative surface of a treatment and dispersal component that is located less than 2 feet above groundwater or bedrock shall be considered to discharge final effluent that is sewage, unless proven otherwise.

(c) An existing POWTS which conforms with this chapter shall be permitted to remain as installed.

(3) **PLAT RESTRICTIONS.** The department shall consider a restriction or a prohibition placed on a lot or an outlet prior to July 1, 2000, as a result of its plat review authority under s. 236.12, Stats., waived, if a POWTS proposed for the lot complies with this chapter.

Note: The waiving of a restriction or prohibition placed on a lot or outlet by the department is a review action. Pursuant to s. Comm 2.635, a fee is needed to initiate the review action.

Note: Under the provisions of ch. 236, Stats., the department of administration and local municipalities have review authority over lots in subdivisions not served by public sewers. A written release of a restriction or prohibition may be required by the department of administration and local municipality. A Correction Instrument may be required under the provisions of s. 236.295, Stats.

(4) **GROUNDWATER STANDARDS.** (a) Pursuant to s. 160.255, Stats., the design, installation, use or maintenance of a POWTS is not required to comply with the nitrate standard specified in ch. NR 140 Table 1, except as provided under sub. (5).

(b) Pursuant to s. 160.19 (2) (a), Stats., the department has determined that it is not technically or economically feasible to require that a POWTS treat wastewater to comply with the preventative action limit for chloride specified in ch. NR 140 Table 2 as existed on June 1, 1998.

Note: The prevention action limit for chloride as a performance standard relative to the design and management of a POWTS has been determined to be unfeasible because anion exchange is the only chemical process capable of removing chloride from water. The physical processes of removing chloride, such as through evaporation and reverse osmosis, would separate feedwater into two streams, one with a reduced chloride content and the other with an increased chloride content, and result in still having to treat and dispose of chloride contaminated wastewater. The design and management practice to address the enforcement standard for chloride as it relates to a POWTS is addressed under s. Comm 82.40 (8) (j).

(5) **LOCAL ORDINANCES.** (a) Pursuant to ss. 59.70 (5) (a), 145.02 (2) and 145.13, Stats., this chapter is uniform in application and a governmental unit may not enact an ordinance for the design, installation, inspection and management of a POWTS which is more or less stringent than this chapter, except as specifically permitted by rule.

(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.

Note: Pursuant to ss. 59.69, 60.62, 61.35 and 62.23, Stats., this chapter does not affect municipal authority for zoning, including establishing nitrate standards as part of a zoning ordinance to encourage the protection of groundwater resources.

(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.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: am. (2) (b) 1., r. and recr. (5) Register January 2004 No. 577, eff. 2-1-04; CR 07-100: renum. (5) to be (5) (a), cr. (5) (b) and (6) Register September 2008 No. 633, eff. 10-1-08.

Comm 83.04 Implementation. (1) For the purpose of facilitating inspection responsibilities and services, a governmental unit may not issue a sanitary permit for the construction or use of a POWTS that utilizes any of the technologies, designs or

methods delineated in Table 83.04-1 and that has been recognized under s. Comm 84.10 (3) or 83.22, unless the governmental unit utilizes one or more individuals, who have obtained approved training under s. Comm 83.05 for the POWTS technology, design or method, to provide the inspections under s. Comm 83.26 (2) to (4), except as provided in sub. (2).

(2) A governmental unit may issue a sanitary permit for the construction or use of a POWTS that utilizes any of the technologies, designs or methods delineated in Table 83.04-1 and that has not been recognized under s. Comm 84.10 (3), but has been approved by the department under s. Comm 83.22, provided that governmental unit has arranged with the department to provide the inspections under s. Comm 83.26 (2) to (4).

Table 83.04-1
Restricted Technologies

	Technology
1.	Pressurized distribution component with less than 1/8 inch orifice diameter. ^a
2.	Mechanical POWTS treatment component. ^b
3.	Disinfection unit. ^c
4.	Sand, gravel or peat filter as a POWTS treatment component. ^d

^a Includes drip distribution.

^b Includes an aerobic treatment tank or a complete treatment unit within a tank.

^c Includes a chlorinator, ozonation unit, and ultraviolet light unit.

^d Does not include a mound system.

Note: The provisions of this section relating to a governmental unit's ability to limit the issuance of sanitary permits for new development does not dictate a specific strategy as to the scope of the limitation. Therefore, limitation options include, but are not limited to, a prohibition for all new development or in certain geographical areas, a quota system for new development, a requirement for a permit to operate for a specific POWTS method or technology, or a service/performance bond for a specific POWTS method or technology.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: am. Table 83.04-1 footnote ^a, r. (2) and Table 83.04-2, renum. (3) to be (2) Register January 2004 No. 577, eff. 2-1-04; CR 07-100: renum. (1) (a) and (b) to be (1) and (2), r. (2) Register September 2008 No. 633, eff. 10-1-08; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register September 2008 No. 633.

Comm 83.05 Installation and inspection training.

(1) **PROGRAM SPECIFICATIONS.** Only courses, programs and seminars approved in writing by the department 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.

(2) **EVIDENCE OF COMPLIANCE.** An individual who has completed the installation and inspection training shall be responsible for retaining evidence of achieving the training in order to fulfill the obligations under ss. Comm 83.04 (1) and 83.21 (2) (c) 4.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 07-100: renum. (1) (a) to be (1) and am., r. (1) (b) to (e) Register September 2008 No. 633, eff. 10-1-08.

Subchapter II — Administration and Enforcement

Comm 83.20 Purpose. (1) This subchapter establishes the following:

(a) Regulatory processes and procedures which are to be followed when designing, installing or maintaining a POWTS; and

(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 systems may assign the duties of administering the private sewage system program to any office, department, committee, board, commission, position or employee of that governmental unit.

(2) 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.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 07-100: am. (2) Register September 2008 No. 633, eff. 10-1-08.

Comm 83.21 Sanitary permits. (1) GENERAL. (a) Pursuant to ss. 145.135 and 145.19, Stats., the installation or construction of a POWTS may not commence or continue unless all of the following have been fulfilled:

1. The owner of the property on which the POWTS is to be installed possesses a valid sanitary permit.

2. Plan approval for the POWTS has been obtained in accordance with s. Comm 83.22.

(b) The modification of an existing POWTS may not commence or continue unless the owner of the property on which the POWTS is located possesses a valid sanitary permit and has obtained plan approval for the modification under s. Comm 83.22, if the modification involves the addition or replacement of any of the following:

1. A POWTS holding component.
2. A POWTS treatment component.
3. A POWTS dispersal component.

(2) **APPLICATION.** (a) The application for a sanitary permit shall be made in a format prescribed by the department.

Note: A sanitary permit application form (SBD-6398) may be obtained from the governmental unit administering and enforcing this chapter for the department. This form may also be downloaded from the Commerce webpage at: <http://www.commerce.state.wi.us/SB/SB-DivForms.html#POWTS>.

(b) 1. Except as provided in subd. 2., the application for a sanitary permit shall be submitted to the appropriate governmental unit where the POWTS is located or will be located.

2. The application for a sanitary permit shall be submitted to the department for a POWTS that is located or will be located on property owned by the state.

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

(c) The application for a sanitary permit to the governmental unit shall be accompanied by all of the following:

1. At least one set of clear and legible plans and specifications delineating the information under s. Comm 83.22 (2) (a) 3. and (c).

2. A set of plans bearing the department's conditional approval and the approval letter issued by the department, if required to be reviewed by the department under s. Comm 83.22 (1).

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.

4. Documentation that the master plumber or the 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).

5. Documentation that maintenance requirements for the proposed POWTS technology or method have been recorded with the deed for the property, if the management plan for the installation or modification under s. Comm 83.54 (1) involves one or more of the following:

a. Evaluating or monitoring any part of the system at an interval of 12 months or less.

b. Servicing or maintaining any part of the system at an interval of 12 months or less.

6. Any other information as specified by local ordinance relating to POWTS installations.

7. A fee as specified by the governmental unit.

Note: Section 145.19 (2) to (6) reads:

"(2) **FEE.** No fee for a sanitary permit may be less than \$61, or the amount determined under department rule. The governing body for the governmental unit responsible for the regulation of private sewage systems may establish a fee for a sanitary

permit which is more than \$61, or the amount determined under department rule. [Pursuant to s. Comm 2.67 (1), the minimum sanitary permit fee is \$116.]

(3) **COPY OF PERMIT FORWARDED TO THE DEPARTMENT.** The governmental unit responsible for the regulation of private sewage systems shall forward a copy of each valid sanitary permit and \$20, or the amount determined under department rule, of the fee to the department within 90 days after the permit is issued. [Pursuant to s. Comm 2.67 (2), \$50 of the sanitary permit fee is to be forwarded to the department.]

(4) **USE OF FEE.** The portion of this fee retained by the governmental unit responsible for the regulation of private sewage systems shall be used for the administration of private sewage system programs.

(5) **FEE ADJUSTMENT.** The department, by rule promulgated under ch. 227, may adjust the minimum permit fee under sub. (2) and the fee portion forwarded under sub. (3).

(6) **GROUNDWATER FEE.** In addition to the fee under sub. (2), the governmental unit responsible for the regulation of private sewage systems shall collect a groundwater fee of \$25 for each sanitary permit. The governmental unit shall forward this fee to the department together with the copy of the sanitary permit and the fee under sub. (3). The moneys collected under this subsection shall be credited to the environmental fund for environmental management."

(3) **PROCESSING.** (a) A sanitary permit may not be issued until the plans and specifications have been approved by the department or governmental unit having jurisdiction.

(b) A governmental unit may not issue a sanitary permit for the installation or modification of the POWTS that involves one or more of the technologies or methods specified in s. Comm 83.04 (1) unless the master plumber or the master plumber-restricted who is to be responsible for the installation or modification has completed approved training or has documentation that approved training will be provided during the installation of the POWTS.

(c) A governmental unit shall review and make a determination on the submission of an application for a sanitary permit within 30 days after receiving all the required information and fees under sub. (2) (c).

(d) 1. If upon review of the application and the supporting information, the governmental unit or the department determines that the proposed design, installation and management of the POWTS or the proposed modification of an existing POWTS conforms with this chapter, a sanitary permit shall be issued.

2. a. If upon review of the application and the supporting information, the governmental unit or the department determines that the proposed design, installation and management of the POWTS or the proposed modification of an existing POWTS does not conform with this chapter, a sanitary permit may not be issued.

b. When the issuance of a sanitary permit is denied, the governmental unit or department reviewing the application shall provide in writing to the applicant the reasons for denial, a notice for the right to appeal and the procedures for appeal.

c. An applicant denied a sanitary permit by a governmental unit may appeal the decision in accordance with ch. 68, Stats.

d. The appeal of the denial by the department for a sanitary permit shall be made in writing within 30 days from the date of the decision.

(e) A sanitary permit shall be issued by the appropriate governmental unit or the department in a format prescribed by the department.

Note: See appendix for further information relative to the permit format.

(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.

(4) **TRANSFERS.** A sanitary permit may be transferred from an owner to a subsequent owner, pursuant to s. 145.135 (1), Stats.

Note: Section 145.135 (1), Stats., reads in part: "A sanitary permit may be transferred from the holder to a subsequent owner of the land, except that the subsequent owner must obtain a new copy of the sanitary permit from the issuing agent."

(5) **EXPIRATION.** Pursuant to s. 145.135 (1), Stats., a sanitary permit shall expire 2 years from the date of issuance unless renewed in accordance with sub. (6).

(6) **RENEWALS.** (a) 1. The application for renewal of a sanitary permit shall be made in a format prescribed by the department.

2. The application for renewal of a sanitary permit shall be submitted to the department or the appropriate governmental unit in accordance with sub. (2) (b).

(b) The renewal of a sanitary permit shall be contingent upon the proposed POWTS or the proposed modification of an existing POWTS conforming with the rules of this chapter in effect at the time the sanitary permit is renewed.

(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.

(7) REVOCATION. (a) The department may revoke a sanitary permit issued under this section for any false statements or misrepresentation of facts on which the sanitary permit was issued.

(b) A governmental unit may revoke a sanitary permit that the governmental unit has issued under this section for any false statements or misrepresentation of facts on which the sanitary permit was issued.

(c) The revocation of a sanitary permit and the reasons for revocation shall be conveyed in writing to the individual to whom the sanitary permit was issued or transferred.

(d) If a sanitary permit is revoked, the installation or modification of a POWTS may not commence or continue until another sanitary permit is obtained.

(8) POSTING. When a sanitary permit is obtained under sub. (2), the sanitary permit shall:

(a) 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

(b) Remain posted until:

1. The POWTS installation or modification is completed; and
2. An opportunity for a final inspection occurs in accordance with s. Comm 83.26.

(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.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: am. (2) (c) 4., (3) (b) and (c) Register January 2004 No. 577, eff. 2-1-04; CR 07-100: am. (2) (c) 4., cr. (3) (f), (6m) and (9) Register September 2008 No. 633, eff. 10-1-08.

Comm 83.22 Plan review and approval. (1) SUBMISSION OF PLANS. (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:

1. The installation or construction of a POWTS.
2. The replacement or addition of a POWTS treatment component.
3. The replacement or addition of a POWTS holding component.
4. The replacement or addition of a POWTS dispersal component.

(b) Plans for the types of POWTS delineated in Table 83.22-1 shall be submitted to the department for review.

(c) Plans for the types of POWTS delineated in Table 83.22-2 shall be submitted for review to the department or a designated agent.

Note: See s. Comm 83.23 for more information relative to designated agents.

(d) Plans for the types of POWTS delineated in Table 83.22-3 shall be submitted for review to the appropriate governmental unit where the POWTS is located or will be located.

**Table 83.22-1
Plan Submissions to Department**

Type of Installation	
1.	POWTS owned by the state.
2.	Facilities owned by the state and served by POWTS.
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 83.60 (1).
4.	POWTS treating domestic wastewater combined with industrial wastes. ^a
5.	Experiments under s. Comm 83.27.

^a See s. Comm 83.32 (3) (a).

**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 approved under s. Comm 84.10 (2) or (3) or recognized under s. Comm 83.60 (1).
2.	POWTS that collect and hold all wastewater of the facilities served and utilize holding components designed based on $\geq 3,000$ 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.

**Table 83.22-3
Plan Submissions to Governmental Unit**

Type of Installation	
1.	POWTS that will serve not 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 83.60 (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.

(2) PLANS AND SPECIFICATIONS. (a) 1. When plans are submitted to the department for review, at least 3 sets of plans and one set of specifications shall be provided.

Note: Specifications for a project do not have to be a separate document but may be delineated on the plans.

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.

3. Plans and specifications submitted for review shall be clear, legible and permanent copies.

4. Plans submitted for review shall include all of the following:

a. Details and configuration layouts depicting how the design is to be constructed and how the design is to accomplish the treatment in accordance with ss. Comm 83.43 and 83.44 and dispersal that is claimed or the holding of wastewater.

b. Specifications, including a description of the materials for the project and the installation or construction practices and methods to be employed.

c. A site plan with a bench mark either scaled or dimensioned, delineating all treatment and dispersal components and their relationship to any items listed in Table 83.43-1.

(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. Comm 82 to 84 including, but not limited to all of the following:

a. A plan review application form specified by the department.

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>.

b. The minimum and maximum wastewater flow and load of the proposed project and the method or rationale for determining the flow and load.

c. Documentation to support treatment and dispersal claims.

d. A management plan for the proposed design reflecting conformance to subch. V.

e. A soil and site evaluation report in accordance with s. Comm 85.40 for those POWTS components that consist in part of in situ soil.

f. A description of a contingency plan in the event the proposed POWTS fails and cannot be repaired.

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).

Note: Section NR 113.07 (1) (c) reads as follows:

Large commercial, industrial, recreational or residential development holding tank systems that singly or when added together or increased by successive additions generate 3000 gallons of septage per day or greater shall contract with a wastewater treatment facility for treatment of the septage. The contract terms shall provide assurance that the septage from the system will continually be conveyed to, and accepted, at the wastewater treatment facility. If a service area designation exists, the wastewater treatment facility shall amend the service area to include the commercial, industrial, recreational or residential development. The department may not indicate sufficient disposal capacity to the department of commerce, until the service area adjustments have been completed and approved.

3. In addition to the information required under subd. 1., plans for a POWTS that is to serve a dwelling where the design of the POWTS is not based upon the number of bedrooms within the dwelling shall be accompanied by information documenting that design condition on the deed for the property.

4. In addition to the information required under subd. 1., plans for an experimental POWTS shall be accompanied by information required under s. Comm 83.27 (3).

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 two-family dwellings and their accessory buildings located on a single parcel of land, shall be accompanied by information that does all of the following:

a. Describes the legal entity, public or private, that has responsibility for the operation and maintenance of the POWTS.

b. Includes a copy of a recorded legal document that identifies all the parties that have ownership rights and are responsible for the operation and maintenance of the POWTS.

6. a. In addition to the information required under subd. 1., plans for a POWTS with a design wastewater flow exceeding 12,000 gallons per day shall not be approved until documentation has been submitted to the department indicating that the department of natural resources has concurred with the design of the POWTS.

Note: The Wisconsin department of natural resources requires that a Wisconsin Pollutant Discharge Elimination System (WPDES) permit must be obtained prior to the start of operation for a POWTS with a design flow exceeding 12,000 gallons per day pursuant to ch. 283, Stats.

b. Solely for the purpose of determining the applicability of subd. 6. a., the design wastewater flow of 12,000 gpd shall be

deemed equivalent to 85 bedrooms for residential dwellings, including one- and two-family dwellings, multi-family dwellings and mobile homes.

c. Solely for the purpose of determining the applicability of subd. 6. a., the design wastewater flow of 12,000 gpd for commercial facilities shall be calculated using the estimated wastewater flows specified in s. A-83.43 (6) of the appendix.

d. Solely for the purpose of determining the applicability of subd. 6. a., for residential dwellings combined with commercial facilities the design wastewater flow of 12,000 gpd shall be calculated by prorating the number of bedrooms on the basis of 85 bedrooms equaling 12,000 gpd for the residential dwellings and using the estimated flow under s. Comm 83.43 (3) (a) and s. A-83.43 (6) of the appendix to calculate the design flow for the commercial facilities.

e. For the purpose of determining the applicability of subd. 6. a., the design wastewater flow of 12,000 gpd shall include the design wastewater flow of all POWTS that are located on the same property or on properties under the same ownership and where the perimeter of a distribution cell of a POWTS dispersal component for one POWTS is less than 1,500 feet from the perimeter of a distribution cell of a POWTS dispersal component of any other POWTS under the same ownership.

f. For the purpose of determining the applicability of subd. 6. a., the combined design wastewater flow shall include that of any existing POWTS which falls within the parameters of subd. 6. c.

g. Under subd. 6. a., the same ownership is defined to be a person, group of persons or a corporation which owns a majority interest in the properties where majority ownership is based upon a majority of the issued voting stock, a majority of the members if no voting stock is issued, a majority of the board of the directors or comparable governing body or participation of each general partner in the profits of a partnership.

(c) Plans and specifications which are required to be submitted for review under sub. (1) shall be one of the following:

1. Signed and sealed in accordance with s. A-E 2.02 by an individual who is registered by the department of regulation and licensing as an architect, engineer, designer of plumbing systems or designer of private sewage systems.

2. Signed, including license number, and dated by an individual who is responsible for the installation of the POWTS and who is licensed by the department as a master plumber or master plumber-restricted service.

(d) Plans submitted to the department for review shall be accompanied by a fee in accordance with ss. Comm 2.61 and 2.65.

(3) PLAN REVIEW PROCESS. (a) *Time limits.* Pursuant to s. Comm 2.07 (3), the department shall review and make a determination on an application for plan review within 15 business days.

(b) *Conditional approval.* 1. If, upon review, the applicable reviewing agency determines that the plans conform to this chapter and chs. Comm 82 and 84, a conditional approval shall be granted in writing.

2. All conditions indicating nonconformance to this chapter and chs. Comm 82 and 84 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 or chs. Comm 82 and 84, the request for conditional approval shall be denied in writing.

(4) REVISIONS. (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 of the following:

1. A change in wastewater flow or contaminant load.
2. The replacement or addition of a POWTS component listed in Table 83.04-1.
3. The 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. Dimensions of any distribution cell or basal area.
 - c. Type of dispersal component.
 - d. Design of a pressure distribution component, except for changes to pumps, forcemain lengths, total dynamic head, (TDH), or pump control settings.
- (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.
- (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.
- (d) Revisions to previously approved plans shall be reviewed in accordance with sub. (3).
- (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 governmental unit which issued the sanitary permit.

(5) LIMITATION OF RESPONSIBILITY. A conditional approval of a plan by the department may not be construed as an assumption by the department of any responsibility for the design of the POWTS or any component of the system. The department does not hold itself liable for any defects in construction, or for any damages that may result from a specific installation.

(6) REVOCATION OF APPROVAL. (a) The department may revoke any plan approval issued under this section for any false statements or misrepresentation of facts on which the approval was based.

(b) The designated agent or governmental unit may revoke any plan approval issued by the designated agent or governmental units for any false statements or misrepresentation of facts on which the approval was based.

(c) The revocation of a plan approval and the reasons for revocation shall be conveyed in writing to the submitter of the plans as noted on the application.

(d) If a plan approval is revoked, the installation or alteration of a POWTS may not continue until another plan approval is obtained.

(7) EVIDENCE OF APPROVAL. (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.

(b) The plans and specifications shall be maintained at the construction site until the POWTS installation or modification is completed and an opportunity for a final inspection occurs in accordance with s. Comm 83.26.

(c) The plans and specifications shall be made available to the department or the governmental unit upon request.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: am. (2) (b) 6. a. and (4) (a) (intro.), r. (4) (a) 4. c., renum. and am. (4) (a) 4. d. to be (4) (a) 4. c., cr. (4) (e) Register January 2004 No. 577, eff. 2-1-04; CR 06-119: am. (3) (a) Register July 2007 No. 619, eff. 8-1-07; CR 07-100: am. Tables 83.22-1 to 3, (2) (a) 1., (b) 5. (intro.), (4) (a) and (7) (a), renum. (2) (a) 2. and 3. and (4) (b) to (d)

to be (2) (a) 3. and 4. and (4) (c) to (e) and am. (4) (c) and (e), cr. (2) (a) 2. and (4) (b), r. (4) (e) Register September 2008 No. 633, eff. 10-1-08.

Comm 83.23 Review agent status. (1) Upon request from a governmental unit, the department may delegate to the governmental unit the responsibility to review plans for one or more of the types of POWTS delineated in Table 83.22-2 which are to be or are located within the jurisdiction of that governmental unit.

(2) A request by a governmental unit to review plans for the types of POWTS delineated in Table 83.22-2 shall be made in writing. The request shall include all of the following:

(a) The types of POWTS for which delegation is desired.

(b) Information delineating how the plans are to be processed and reviewed.

(c) Information on how plan review decisions are to be recorded and maintained.

(3) The delegation of plan review by the department shall be contingent upon a governmental unit's request demonstrating sufficient capabilities to complete the reviews, including all of the following:

(a) The utilization of one or more individuals who are certified by the department as a POWTS inspector to perform the plan review.

(b) The utilization of one or more individuals, who are certified soil testers, to provide assistance in the plan review process.

Note: The requirements of this subsection do not require the utilization of 2 individuals to perform plan review. A single individual who holds a certification as a certified POWTS inspector and as a certified soil tester may fulfill the requirements under pars. (a) and (b).

(4) (a) The department shall provide the governmental unit with a written decision of delegation or denial of delegation relative to a request under this section concerning plan review.

(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.

(c) The delegation for plan review shall be contingent upon the governmental unit acknowledging that the submission and review of plans under s. Comm 83.22 (1) may, at the discretion of the submitter, be made to the department or the designated agent.

(5) The department shall include as part of governmental unit audits conducted under s. 145.20 (3) (b), Stats., an evaluation of the plan review functions which are delegated to a governmental unit under this section.

(6) A governmental unit that wishes to discontinue the delegated plan review function under this section shall notify the department in writing at least 30 days prior to the discontinuance.

(7) (a) The recognition as a review agent may be revoked by the department in accordance with s. 145.20 (3) (a) 2., Stats.

(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.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: am. (3) (a) and (b) Register January 2004 No. 577, eff. 2-1-04; CR 07-100: renum. (4) (b) and (7) to be (4) (c) and (7) (a), cr. (4) (b) and (7) (b) Register September 2008 No. 633, eff. 10-1-08.

Comm 83.24 Petitions for variance. (1) The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. Comm 3.

Note: The petition for variance process is to allow the owner of a proposed or existing POWTS to ask the department's recognition of an alternative method or means for complying with the intent of a specific rule.

(2) (a) Pursuant to s. 145.24, Stats., the department may not approve a petition for variance for an existing POWTS which is determined to be a failing private onsite wastewater treatment system.

(b) For the purposes of this subsection, the department shall consider a petition for variance if the existing POWTS is not considered a failing private onsite wastewater treatment system.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.25 Governmental programs. (1) DELEGATION OF RESPONSIBILITIES. (a) Pursuant to s. 145.20 (1) (am), Stats., the delegation by a governmental unit of the administration and enforcement of this chapter to a town sanitary district or public inland lake protection and rehabilitation district shall be by ordinance.

(b) A copy of an ordinance delegating administration and enforcement of this chapter to a town sanitary district or public inland lake protection and rehabilitation district shall be forwarded to the department at least 30 days prior to the effective date of the ordinance.

(2) ISSUANCE OF BUILDING PERMITS. (a) *General.* Pursuant to s. 145.195, Stats., the issuance of building permits by a municipality for unsewered properties shall be in accordance with this subsection.

Note: See appendix for a reprint of s. 145.195, Stats.

(b) *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:

1. The owner of the property possesses a sanitary permit for the installation of a POWTS in accordance with s. Comm 83.21; or

Note: Section Comm 83.21 outlines the procedures for the issuance of sanitary permits. Sections 145.135 and 145.19, Stats., mandate that no private sewage system may be installed unless the owner of the property holds a valid sanitary permit.

2. A POWTS of adequate capability and capacity to accommodate the wastewater flow and contaminant load already exists to serve the structure.

Note: See ss. Comm 83.02 and 83.03 concerning the application of current code requirements to existing POWTS.

(c) *Construction affecting wastewater flow or contaminant load.* 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:

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

b. Provides documentation to verify that the existing POWTS is sufficient to accommodate the modification in wastewater flow or contaminant load, or both.

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

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

b. For dwellings, when there is an increase or decrease in the number of bedrooms.

(d) *Documentation of existing capabilities.* Documentation to verify whether an existing POWTS can accommodate a modification in wastewater flow or contaminant load, or both, shall include at least one of the following:

1. A copy of the plan for the existing POWTS that delineates minimum and maximum performance capabilities and which has been previously approved by the department or the governmental unit.

2. Information on the performance capabilities for the existing POWTS that has been recognized through a product approval under ch. Comm 84.

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

(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.

(f) *Setbacks.* 1. A municipality may not issue a building permit for construction of any structure or addition to a structure on a site where there exists a POWTS, unless the proposed construction conforms to the applicable setback limitations under s. Comm 83.43 (8) (i).

2. The applicant for a building permit shall provide documentation to the municipality issuing the building permit showing the location and setback distances for the proposed construction relative to all of the following:

- a. Existing POWTS treatment components.
- b. Existing POWTS holding components.
- c. Existing POWTS dispersal components.

Note: A municipality which issues building permits may delegate to the governmental unit responsible for issuing sanitary permits the determination of whether the proposed construction will affect or interfere with an existing POWTS relating to capability or location of the existing POWTS.

Note: See appendix for further information regarding setbacks.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: am. (2) (a) Register January 2004 No. 577, eff. 2-1-04; CR 07-100: renum. (2) (e) to be (2) (f), cr. (2) (e) Register September 2008 No. 633, eff. 10-1-08.

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 October 1, 2008.

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 October 1, 2008.

(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.

History: CR 07-100: cr. Register September 2008 No. 633, eff. 10-1-08.

Comm 83.26 Inspections and testing. (1) (a) Pursuant to s. 145.02 (3) (c), Stats., the department or governmental unit may inspect the construction, installation, operation or maintenance of a POWTS to ascertain whether the POWTS conforms to plans approved by the department or governmental unit, the conditions of approval and this chapter.

(b) The department may issue an order directing an immediate cessation of the installation of a POWTS or the modification to an existing POWTS for failure to comply with a corrective order.

(c) Pursuant to ss. 145.02 (3) (f) and 145.20 (1) (a) and (2) (f), Stats., an individual authorized by the department or a governmental unit to administer and enforce this chapter may issue orders to abate human health hazards relating to this chapter.

Note: Section Comm 5.66 delineates qualifications and responsibilities for POWTS inspectors.

(d) Pursuant to s. 145.20 (2) (e) and (g), Stats., nothing in this chapter shall limit a governmental unit's authority and power to inspect or require an evaluation of a POWTS, including an existing POWTS at times or for activities not covered under this section.

(2) (a) When a sanitary permit is required under s. Comm 83.21 (1), no part of a POWTS component may be covered nor any POWTS component put into service until the governmental unit or the department has had an opportunity to inspect the system in accordance with this subsection.

Note: Pursuant to s. 145.20 (2), Stats., an individual authorized by a governmental unit to administer and enforce the provisions of chs. Comm 82 to 87 relative to POWTS is required to be a certified POWTS inspector under s. Comm 5.66.

(b) The master plumber or the master plumber-restricted service responsible for the installation of a POWTS or the modification to an existing POWTS shall notify the governmental unit when the work will be or is ready for inspection. The notification shall be in person, in writing or by telephone or other electronic communication in a format acceptable to the governmental unit performing the inspection.

(c) The master plumber or the master plumber-restricted service responsible for the installation of a POWTS or the modification shall maintain records of the inspection notifications. The records shall include the date and time of notification and the name of the person contacted.

(d) The master plumber or master plumber-restricted service responsible for the POWTS installation or modification shall provide the necessary equipment and properly licensed personnel required for the inspection as requested by the governmental unit or department.

(e) If an inspection is not made by the end of the next workday, excluding Saturdays, Sundays and holidays, after the requested inspection day, the master plumber or the master plumber-restricted service may proceed with the installation of the POWTS, including backfilling and covering.

(3) Pursuant to s. 145.20 (2) (g), Stats., a governmental unit by ordinance may require other inspections in addition to that specified under this section.

(4) A governmental unit shall maintain a written record of each inspection conducted for a POWTS. The record shall include information relative to all of the following:

- (a) The location of the POWTS.
- (b) The date of the inspection.

(c) The nature and findings of the inspection.

(5) Before being put into service, components of a POWTS shall be tested in accordance with the manufacturer's specifications or as specified as a condition of approval under ss. Comm 83.22 and 84.10.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.27 Experiments. (1) The provisions of this chapter or ch. Comm 84 are not intended to prevent the design and use of an innovative method or concept for the treatment or dispersal of domestic wastewater which is not specifically addressed by this chapter, provided the experiment has been first approved by the department in accordance with s. Comm 84.50 (3).

(2) The department shall review a submittal of an experiment under this section with input from the technical advisory committee assembled under s. Comm 84.10 (3) (d).

(3) The protocol for a proposed experiment submitted to the department for consideration shall include all of the following:

(a) The experiment shall be supervised by a professional who has experience in small-scale wastewater treatment.

(b) The professional shall submit a vita of training and experience relative to small-scale wastewater treatment along with the application for the experiment.

(c) A proposal shall be submitted for the experiment that includes at least all of the following:

1. The purpose of the experiment.
2. The theory and science behind the proposed experiment including a description of the systems or processes to be used as part of the experiment.

3. The number of systems or components to be installed or modified as part of the experiment.

4. The identification of the initial sites, if known, that will take part in the experiment.

5. A letter of comment from the governmental unit or units where the experiment is to be conducted.

6. The data to be collected and the method to be employed to collect the data.

7. The duration of the proposed experiment.

(d) The experiment may not involve less than 5, and not more than 50 individual installations.

(e) An experiment shall be designed to provide definitive results within 5 years from the start of the experiment.

(f) An experiment on a site not previously developed shall include a contingency plan that provides for a code complying replacement POWTS, if the experiment fails to meet the required performance standards of this chapter.

(g) If the experiment is approved, the experimenter shall execute a signed agreement with the department setting forth the obligations of the parties.

(h) Within 6 months of the completion of the experiment, the results or conclusions shall be forwarded to the department.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.28 Penalties. Penalties for violations of this chapter shall be assessed in accordance with s. 145.12, Stats.

Note: Section 145.12 (4), Stats., indicates that any person who violates any order under s. 145.02 (3) (f) or 145.20 (2) (f) or any rule or standard adopted under s. 145.13 shall forfeit not less than \$10 nor more than \$1,000 for each violation. Each violation of an order under s. 145.02 (3) (f) or 145.20 (2) (f) or any rule or standard adopted under s. 145.13 constitutes a separate offense and each day of continued violation is a separate offense.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.29 Range of responses. (1) (a) Pursuant to s. 160.21, Stats., the department shall respond with any one or more of the actions delineated under Table 83.29 if the preventive action limits or enforcement standards enumerated in ch. NR 140 Tables 1 and 2 are exceeded at a point of standards application as

a result of the performance of a POWTS, including a POWTS existing prior to July 1, 2000, except as provided in par. (b).

(b) Pursuant to s. 160.255, Stats., the design, installation, use or maintenance of a POWTS is not required to comply with the nitrate standard specified in ch. NR 140 Table 1, except as provided under s. Comm 83.03 (5).

Table 83.29
Department Range of Responses

- Gather more data relative to the cause and significance of the exceedance.
- Determine whether the situation is a human health hazard.
- Issue orders to change or comply with the management or maintenance plan of a specific POWTS or type of onsite wastewater system.
- Issue orders to conform with this chapter, including the prohibition of an activity or practice.
- Determine whether the exceedance is an isolated problem, or is likely to recur.
- Revise or revoke a product approval issued under ch. Comm 84 for a treatment or dispersal component.
- Revise the rules of this chapter or ch. Comm 81, 82, 84 or 85.

(2) Pursuant to s. 160.21 (2), Stats., the point of standards application relative to the performance of POWTS shall be:

(a) Any point of present groundwater use for potable water supply; and

(b) Any point beyond the boundary of the property on which the facility, practice or activity is located.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129; am. (1) (a) Register January 2004 No. 577, eff. 2-1-04.

Subchapter III — General Requirements

Comm 83.30 Purpose. This subchapter establishes parameters for the types of POWTS that may be used and how a POWTS may be used.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.31 Principles. A POWTS shall be operated and used in such a manner so as not to render the POWTS inoperative or beyond its capabilities, and thereby, create a human health hazard.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.32 Prohibitions and limitations. (1) PROHIBITIONS. (a) Except as provided in s. Comm 83.03 (4), the introduction of wastewater or substances in such quantities or concentrations to a POWTS, including a POWTS existing prior to July 1, 2000, that results in exceeding the enforcement standards and preventive action limits specified in ch. NR 140 Tables 1 and 2 at a point of standards application shall be prohibited.

Note: Section Comm 83.03 (4) reads:

(4) GROUNDWATER STANDARDS. (a) Pursuant to s. 160.255, Stats., the design, installation, use or maintenance of a POWTS is not required to comply with the nitrate standard specified in ch. NR 140 Table 1, except as provided under sub. (5).

(b) Pursuant to s. 160.19 (2) (a), Stats., the department has determined that it is not technically or economically feasible to require that a POWTS treat wastewater to comply with the preventive action limit for chloride specified in ch. NR 140, Table 2, as existed on June 1, 1998.

(c) Substances deleterious to a POWTS shall be intercepted, diluted or treated in accordance with s. Comm 82.34 prior to the substance discharging into a POWTS.

(d) The use of a cesspool as a POWTS is prohibited, including any cesspool existing prior to July 1, 2000.

(e) The final discharge of domestic wastewater or POWTS effluent to open bodies of water is prohibited, including by means of plumbing outfall pipes existing prior to July 1, 2000.

(f) The final discharge of domestic wastewater or POWTS effluent to the ground surface is prohibited, including by means of plumbing outfall pipes existing prior to July 1, 2000.

(g) The infiltrative surface of a treatment or dispersal component of a POWTS existing prior to December 1, 1969, which consists in part of soil may not be located in bedrock or groundwater.

(h) The use of camping unit transfer containers as a POWTS holding component shall be restricted to any of the following sites:

1. Campgrounds permitted by the department of health 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.

(2) LOCAL PROHIBITIONS. (a) A municipality may by ordinance prohibit or limit the installation and use of the following technologies, designs or methods as POWTS components:

1. A holding tank.

2. A constructed wetland as a POWTS treatment component.

3. An evapotranspiration bed as a POWTS treatment component.

(b) A municipality may enact ordinances that are more restrictive than the applicable state minimum standards for those POWTS existing prior to December 1, 1972, except as provided in s. Comm 83.03 (2) (b) 2.

Note: The date, December 1, 1972, reflects the point in time at which the state plumbing code became a state-wide uniformly applied code rather than just a minimum standard. Since December 1, 1969 to July 1, 2000, the state plumbing code required 36 inches of soil between the infiltrative surface of a POWTS and high groundwater or bedrock.

(c) A municipality may by ordinance restrict the ownership of a POWTS to a governmental entity or agency when the POWTS is to serve 2 or more structures or buildings that are located on more than one property.

(3) LIMITATIONS. (a) Industrial wastes and wastewater may not, unless approved by the department of natural resources, be introduced into a POWTS.

Note: The department of natural resources regulates the discharge of industrial wastes to land treatment systems under ch. NR 214. Section NR 214.02 reads in part:

"This chapter applies to those discharges of industrial wastes to land treatment systems not regulated under ch. NR 518. This includes but is not limited to liquid wastes, by-product solids and sludges generated by: fruit and vegetable processing, dairy products processing, meat, fish and poultry products processing, milk raising operations, aquaculture, commercial laundromat and motor vehicle cleaning operations and any other industrial, commercial or agricultural operation which results in a point source discharge that has no detrimental effects on the soils, vegetation or groundwater of a land treatment system."

(b) Storm and clear water may be introduced into a POWTS, if the POWTS is designed to accept that wastewater. A POWTS may accept wastewater permitted under s. Comm 82.36 (3).

Note: Section Comm 82.36 (3) (a) permits the discharge of a maximum of 50 gallons per day of clear water wastes to a sanitary drain system connected to a publicly owned treatment works.

(c) Except as provided in ss. NR 116.12 (1) (e) and 116.15 (2) (b), no part of a POWTS may be installed in a floodway.

Note: See s. Comm 83.45 (6) for installations in a floodfringe.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129; am. (1) (e) and (f), (3) (a) and (b) Register January 2004 No. 577, eff. 2-1-04; CR 07-100; renum. (1) (h) to be (1) (h) (infra.) and am., cr. (1) (h) 1. and 2., am. (3) (c) Register September 2008 No. 633, eff. 10-1-08; correction in (1) (h) 1. made under s. 13.92 (4) (b) 6., Stats., Register September 2008 No. 633.

Comm 83.33 Abandonment. A subsurface tank or pit that is no longer used as a POWTS component shall be abandoned by complying with all of the following:

(1) Disconnecting all piping to the tanks and pits.

(2) Sealing all disconnected piping to the tanks and pits in accordance with s. Comm 82.21 (2) (h).

(3) Pumping and disposing of the contents from all tanks and pits.

Note: The disposal of the contents from treatment tanks, distribution tanks, seepage pits and holding components is addressed in ch. NR 113 which is administered by the department of natural resources.

(4) Removing all tanks or removing the covers of the tanks or pits and filling the tanks and pits with soil, gravel or an inert solid material.

Note: Pursuant to s. 281.45, Stats., municipalities and sanitary districts may determine the availability of, and require connection to, public sewers. Section 281.45, Stats., reads in part:

"HOUSE CONNECTIONS. To assure preservation of public health, comfort and safety, any city, village or town or town sanitary district having a system of waterworks or sewerage, or both, may by ordinance require buildings used for human habitation and located adjacent to a sewer or water main, or in a block through which one or both of these systems extend, to be connected with either or both in the manner prescribed. If any person fails to comply for more than 10 days after notice in writing the municipality may impose a penalty or may cause connection to be made, and the expense thereof shall be assessed as a special tax against the property."

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Subchapter IV — Design and Installation

Comm 83.40 Purpose. This subchapter establishes minimum parameters for the design and installation of a POWTS for the purpose of:

- (1) Safeguarding public health;
- (2) Minimizing the level of substances which have a reasonable probability of entering waters of the state; and
- (3) Delineating measures, conditions and performance standards by which to evaluate designs.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.41 Principles. (1) A POWTS shall be designed to hold wastewater or reduce the contaminant load and disperse the flow of wastewater as specified in this subchapter.

(2) A POWTS shall be designed to have sufficient capacity to accommodate the anticipated quantities of wastewater that will be discharged into the system.

(3) A POWTS intended to treat and disperse wastewater shall be designed to have sufficient ability to treat or separate out the anticipated types, quantities and concentrations of wastewater contaminants to be discharged into the system so that the dispersed wastewater will not create a human health hazard.

(4) A POWTS shall be designed to disperse wastewater below the surface of the ground at a rate that promotes long term assimilation into the soil and limits the possibility of surfacing.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.42 Application. (1) DESIGN BASIS. The design of a POWTS shall be based on the methods and limitations outlined in this subchapter or on other documented data acceptable to the department.

(2) DESIGN RELATION TO ACTUAL FLOWS AND CONTAMINANT LOADS. For any situation where it is known that the wastewater flow or contaminant load exceeds the parameters of this subchapter, the POWTS shall be designed in relation to the known flow or load.

(3) DESIGN CONSIDERATIONS. The evidence to support assertions relative to contaminant reduction and hydraulic dispersal shall include at least all of the following:

- (a) The flow and contaminant load of the influent wastewater.
- (b) The ability of all treatment and dispersal components to reduce contaminant load and disperse hydraulic flow into the environment.
- (c) The flow velocities and friction losses throughout the system based upon accepted engineering practice.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.43 General requirements. (1) MATERIALS. The components of a POWTS shall be constructed of materials

and products that are of a type recognized under this chapter or ch. Comm 84.

(2) DESIGN FLOW. In order to accommodate peak wastewater flow, the design wastewater flow of a POWTS shall equal at least 150% of the estimated daily flow generated from the source or sources, unless otherwise approved by the department.

(3) ESTIMATED DAILY COMBINED FLOW FOR A POWTS SERVING A DWELLING. The estimated daily wastewater flow of combined graywater, clear water and blackwater from a dwelling shall be based on one or more of the following:

(a) The following equation:

$$100 \text{ gallons} \times B = F$$

Where: B = number of bedrooms, based on 2 persons per bedroom, unless otherwise approved by the department.

F = Estimated daily wastewater flow per dwelling per day (in gallons), excluding storm water discharges.

(b) A detailed estimate of wastewater flow based upon per capita occupancy or usage of the dwelling or per function occurrence within the dwelling.

(4) ESTIMATED DAILY SEGREGATED GRAYWATER FLOW FOR A POWTS SERVING A DWELLING. The estimated daily wastewater flow of graywater and clear water from a dwelling shall be based on one or more of the following:

(a) The following equation:

$$60 \text{ gallons} \times B = F$$

Where: B = number of bedrooms, based on 2 persons per bedroom, unless otherwise approved by the department.

F = Estimated daily graywater flow per dwelling per day (in gallons), excluding storm water discharges.

(b) A detailed estimate of graywater flow based upon per capita occupancy or usage of the dwelling or per function occurrence within the dwelling.

(5) ESTIMATING SEGREGATED BLACKWATER FLOW FOR A POWTS SERVING A DWELLING. The estimated daily wastewater flow of blackwater from a dwelling shall be based on one or more of the following:

(a) The following equation:

$$40 \text{ gallons} \times B = F$$

Where: B = number of bedrooms, based on 2 persons per bedroom, unless otherwise approved by the department.

F = Estimated daily blackwater flow per dwelling per day (in gallons).

(b) A detailed estimate of blackwater flow based upon per capita occupancy or usage of the dwelling or per function occurrence within the dwelling.

(6) ESTIMATING WASTEWATER FLOW FOR COMMERCIAL FACILITIES. The estimated daily wastewater flow of clear water, graywater, blackwater, or combined graywater-blackwater flow from public buildings and places of employment shall be based on one or more of the following:

(a) Measured daily wastewater flow over a period of time representative of the facility's use or occupancy.

(b) A detailed estimate of wastewater flow based upon per capita occupancy or usage of the facility or per function occurrence within the facility.

Note: See appendix for further information.

(7) ESTIMATING CONTAMINANT LOADS. Estimates of contaminant loads from dwellings and public facilities shall be based on a detailed analysis including all contaminants listed in s. Comm 83.44 (2) (a).

Note: See appendix for further information.

Note: See Note under s. Comm 83.32 (3) for information relative to industrial wastes.

(8) GENERAL DESIGN REQUIREMENTS. (a) *Flow velocity.* 1. Piping within a POWTS shall be designed and installed to supply wastewater to POWTS treatment and dispersal components while maintaining the velocity required to ensure operation of the POWTS.

2. Gravity flow piping between POWTS components shall be installed at a pitch that produces a computed flow velocity of at least one foot per second when flowing half full.

3. Pressurization equipment or devices and piping to be utilized upstream of a POWTS treatment or dispersal component consisting in part of in situ soil shall be designed and installed to produce a computed velocity of at least 2 feet per second.

4. Gravity piping within a POWTS treatment or dispersal component consisting in part of in situ soil shall be installed level or pitched downstream a maximum 4 inches per 100 feet.

(b) *Distribution and drain pipe sizing.* The piping within a POWTS shall be of a diameter to permit the operation of the POWTS.

(c) *Frost protection.* All POWTS components shall be protected from freezing temperatures that could detrimentally affect component operation to provide wastewater conveyance, treatment or dispersal.

(d) *Component placement.* The orientation of a POWTS treatment or dispersal component consisting in part of in situ soil shall take into account landscape variations in elevation, slope orientation, and other conditions that could affect component performance relative to dispersal or aeration.

(e) *Alarms or warning systems.* 1. a. A POWTS component utilizing a mechanical device to treat wastewater or to distribute effluent shall be provided with an automatic visual or audible means of notifying the user of the POWTS of the failure of the mechanical device.

Note: In accordance with s. Comm 16.28, an alarm that is electrically powered is to be on a separate circuit from the circuit supplying power to the mechanical device.

b. An alarm indicating the failure of a pump shall remain audible or visible until manually turned off.

c. Where duplex pumping equipment is employed to provide continuous component operation in the event that one pump fails, the pumps shall be installed in such a manner so as to provide the continuous operation automatically.

2. A POWTS holding tank shall be provided with an automatic visual or audible means of notifying the user of the POWTS of the necessity for servicing.

(f) *Accessibility.* The design of a POWTS shall include provisions to provide access to all components that require maintenance or observation.

(g) *Anchoring system components.* An exterior subsurface POWTS treatment tank or POWTS holding component to be installed in an area subject to saturated conditions shall be installed so as to prevent flotation of the tank or component.

Note: See appendix for further information.

(h) *Treatment byproducts.* 1. All treatment byproducts discharged from or as a result of operating a POWTS shall be disposed of so as not to create a human health hazard.

Note: The disposal of the contents of holding tanks and the sludge, scum, and contaminated liquids from treatment tanks and components is regulated by the department of natural resources under chs. NR 113 and NR 204.

2. Deleterious or hazardous materials segregated out from effluent flows shall be disposed of in a manner conforming with the rules of the state agency having jurisdiction.

3. Effluent from a POWTS shall be dispersed so as not to create a human health hazard.

4. All POWTS components within a building or structure shall be gas tight unless provisions are made assuring the safety of individuals entering the building or structure.

(i) *Site parameters and limitations.* POWTS treatment, holding and dispersal components shall be located so as to provide the minimum horizontal setback distances as outlined in Table 83.43-1 as safety factors for public health, waters of the state and structures in the event of component failure.

Note: Chapter NR 812 establishes upslope location criteria for wells relative to contamination sources.

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
OHWL of Navigable Waters	50 feet	10 feet	10 feet
Water Service and Private Water Main	10 feet	10 feet	10 feet
Public Water Main	chs. NR 811	chs. NR 811	chs. NR 811
Well	chs. NR 811 & 812	chs. NR 811 & 812	chs. NR 811 & 812

OHWL = 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.

(j) *Service suction and discharge lines.* 1. A suction line or discharge line serving a holding tank for servicing purposes shall comply with all of the following:

a. A pipe serving as the suction or discharge line shall be of an acceptable type in accordance with ch. Comm 84.

b. A suction or discharge line shall terminate with a service port consisting of a quick disconnect fitting with a removable plug.

c. The service port of a suction or discharge line shall terminate at least 2 feet above final grade.

d. The service port of a suction or discharge line shall be identified as such with a permanent sign with lettering at least ½ inch in height.

e. The service port of a suction or discharge line shall be secured to a permanent support that is capable of withstanding the loads and forces placed on the port.

f. A suction or discharge line shall be at least 3 inches in diameter.

2. A suction line serving a holding tank may not be installed in such a manner or arrangement that the tank can be drained by gravity or siphonic action.

3. Where a lift station is employed for servicing a holding tank, the pump discharge line shall conform with subd. 1., except as provided in subd. 3. a. and b.

a. A discharge line from the lift station shall be at least 2 inches in diameter.

b. The lift station pump shall be activated by means of a keyed-switch at the service port.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129; am. (2), (6) (intro.), and Table 83.43-1 Register January 2004 No. 577, eff. 2-1-04; CR 07-100; am. Table 83.43-1 Register September 2008 No. 633, eff. 10-1-08.

Comm 83.44 Parameters for POWTS components consisting of in situ soil. (1) **EVALUATION.** POWTS treatment and dispersal components consisting in part of in situ soil shall be evaluated in accordance with ch. Comm 85.

(2) **INFLUENT QUALITY.** (a) The quality of influent discharged into a POWTS treatment or dispersal component consisting in part of in situ soil shall be equal to or less than all of the following:

1. A monthly average of 30 mg/L fats, oil and grease.

2. A monthly average of 220 mg/L BOD₅.

3. A monthly average of 150 mg/L TSS.

(b) The monthly average under par. (a) shall be calculated as the sum of all measurements taken over 30 consecutive days, with at least 6 measurements occurring on 6 separate days, and divided by the number of measurements taken during that period.

(c) Influent discharged to a POWTS treatment or dispersal component that consists in part of unsaturated soil may not contain any solid or suspended solid exceeding 1/8 inch in diameter.

Note: Under s. Comm 83.03 (1) (b), the replacement of a POWTS anaerobic treatment tank (septic tank) in conjunction with this rule would limit any solids within the effluent leaving the tank to a maximum of 1/8-inch diameter.

(3) **INFILTRATIVE SURFACE.** (a) The infiltrative surface of unsaturated soil to which influent is discharged shall be located at least 24 inches above the estimated highest groundwater elevation and bedrock.

(b) 1. A POWTS designed utilizing a component manual recognized under s. Comm 83.60 (1) shall have at least 6 inches of the soil separation required under par. (a) consisting of an in situ

soil type for which soil treatment capability has been credited under Table 83.44-3.

2. The purpose of the 6 inches of in situ soil under subd. 1. shall be to assure that the influent will be assimilated into the original subsurface soils without ponding on the ground surface.

(c) The infiltrative surface of unsaturated soil to which influent is discharged shall be located at least one inch below the finished grade.

(4) **CAPABILITIES.** (a) 1. a. Except as provided under subd. 2., the dispersal capability of a POWTS treatment or dispersal component consisting in part of unsaturated soil shall be limited to that specified in Table 83.44-1 or Table 83.44-2 based upon the influent quality concentrations being applied.

b. Under subd. 1. a., the influent quality parameter with the highest concentration shall determine the maximum application rate.

c. Except as provided in par. (c), the soil conditions at the infiltrative surface of unsaturated soil to which influent is to be discharged shall be used to establish the maximum application rate for a POWTS dispersal design.

d. The moist soil consistence of the soil horizon in which the infiltrative surface of a POWTS treatment or dispersal component will be located may not be stronger than firm or any cemented classification.

e. The maximum soil application for soil with moderate to strong platy structure shall not exceed 0.2 gals./sq. ft./day for effluent concentrations of ≤30 mg/L BOD₅ and TSS and shall be 0.0 gals./sq. ft./day for effluent concentrations of > 30 mg/L BOD₅ and TSS.

f. The application rates specified under Table 83.44-1 shall only be recognized where the percolation results have been filed with the governmental unit before July 2, 1994.

2. Maximum soil application rates other than those specified in Tables 83.44-1 or 83.44-2 may be employed for the design of a POWTS treatment or dispersal component consisting in part of in situ soil if documentation is submitted and approved under s. Comm 83.22 and is based on soil permeability and evapotranspiration estimates correlated to specific soil characteristics described in a detailed morphological soil evaluation.

(b) The treatment capability of a POWTS treatment component consisting of unsaturated soil shall be limited to that specified in Table 83.44-3, unless otherwise approved by the department.

(c) The design of a treatment or dispersal component consisting in part of in situ soil shall reflect restrictive soil horizons that affect treatment or dispersal.

(5) **EFFLUENT DISTRIBUTION.** (a) 1. Except as provided in subd. 2., the distribution of effluent to a treatment or dispersal component shall be by means of pressure distribution as specified in Tables 83.44-2 and 83.44-3.

2. Pressure distribution is not required when rehabilitating an existing non-pressurized in situ soil treatment or dispersal component that is persistently ponded and that has at least 24 inches of unsaturated soil beneath the infiltrative surface of the component.

(b) Each dose of effluent by means of pressurized distribution into a treatment or dispersal component consisting in part of in situ soil may not be less than 5 times the void volume of the POWTS distribution laterals.

Table 83.44-1
Maximum Soil Application Rates Based Upon Percolation Rates

Percolation Rate (minutes per inch)	Maximum Monthly Average	
	BOD ₅ > 30mg/L ≤ 220 mg/L TSS > 30 mg/L ≤ 150 mg/L (gals/sq ft/day)	BOD ₅ ≤ 30 mg/L TSS ≤ 30 mg/L (gals/sq ft/day)
	0 to less than 10	0.7
10 to less than 30	0.6	0.9
30 to less than 45	0.5	0.7
45 to less than 60	0.3	0.5
60 to 120	0.2	0.3
greater than 120	0.0	0.0

Note: > means greater than
≤ means less than or equal to

Table 83.44-2
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 TSS >30 ≤150mg/L		BOD ₅ ≤30 mg/L ^c TSS ≤30 mg/L ^c	
	Shape	Grade				
COS, S, LCOS, LS	---	0	0.7 ^a	0.5 ^{b,c}	1.6 ^a	0.5 ^b
FS, LFS	---	0	0.5		1.0	
VFS, LVFS	---	0	0.4		0.6	
COSL, SL	---	0M	0.2		0.6	
	PL	1	0.4		0.6	
		2, 3	0.0		0.2	
	PR, BK, GR	1	0.4		0.7	
2, 3		0.6		1.0		
FSL, VFSL	---	0M	0.2		0.5	
	PL	2, 3	0.0		0.2	
	PL, PR, BK, GR	1	0.2		0.6	
	PR, BK, GR	2, 3	0.4		0.8	
L	---	0M	0.2		0.5	
	PL	2, 3	0.0		0.2	
	PL, PR, BK, GR	1	0.4		0.6	
	PR, BK, GR	2, 3	0.6		0.8	
SIL	---	0M	0.0		0.2	
	PL	2, 3	0.0		0.2	
	PL, PR, BK, GR	1	0.4 ^c		0.6	
	PR, BK, GR	2, 3	0.6		0.8	
SI	---	---	0.0		0.0	
SCL, CL, SICL	---	0M	0.0		0.0	
	PL	1, 2, 3	0.0		0.2	
	PR, BK, GR	1	0.2		0.3	
		2, 3	0.4		0.6	
SC, C, SIC	---	0M	0.0		0.0	
	PL	1, 2, 3	0.0		0.0	
	PR, BK, GR	1	0.0		0.0	
		2, 3	0.2		0.3	

Note a: With ≤60% rock fragments

Note b: With >60 to <90% rock fragments

Note c: Requires pressure distribution under sub. (5) (a)

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|---------|--------------------------|-----------------------------|------------------------|
| Note d: | COS - Coarse Sand | LVFS - Loamy Very Fine Sand | SI - Silt |
| | S-Sand | COSL - Coarse Sandy Loam | SCL - Sandy Clay Loam |
| | LCOS - Loamy Coarse Sand | SL - Sandy Loam | CL - Clay Loam |
| | LS - Loamy Sand | FSL - Fine Sandy Loam | SICL - Silty Clay Loam |
| | FS - Fine Sand | VFSL - Very Fine Sandy Loam | SC - Sandy Clay |
| | LFS - Loamy Fine Sand | L - Loam | C - Clay |
| | VFS - Very Fine Sand | SIL - Silt Loam | SIC - Silty Clay |
| Note e: | PL - Platy | 0 - Structureless | |
| | PR - Prismatic | 1 - Weak | |
| | BK - Blocky | 2 - Moderate | |
| | GR - Granular | 3 - Strong | |
| | M - Massive | | |

Table 83.44-3

Minimum Depth of Unsaturated Soil for Treatment Purposes^a (in inches)

Soil Characteristics Texture ^d	Influent Quality ^e and Percent Coarse Fragments					
	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
COS, S, LCOS, LS	36	60	60	24	36	60
FS, VFS, LFS, LVFS	36			24		
COSL, SL	36			24		
FSL, VFSL	36			24		
L	36			24		
SIL	36			24		
SI	36			24		
SCL, CL, SICL	36			24		
SC, C, SIC	36			24		

Note a: Influent quality as per s. Comm 83.44 (2)

Note b: Requires pressure distribution under sub. (5) (a)

Note c: All coarse fragment voids must be filled with fine earth

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|---------|--------------------------|-----------------------------|------------------------|
| Note d: | COS - Coarse Sand | LVFS - Loamy Very Fine Sand | SI - Silt |
| | S-Sand | COSL - Coarse Sandy Loam | SCL - Sandy Clay Loam |
| | LCOS - Loamy Coarse Sand | SL - Sandy Loam | CL - Clay Loam |
| | LS - Loamy Sand | FSL - Fine Sandy Loam | SICL - Silty Clay Loam |
| | FS - Fine Sand | VFSL - Very Fine Sandy Loam | SC - Sandy Clay |
| | LFS - Loamy Fine Sand | L - Loam | C - Clay |
| | VFS - Very Fine Sand | SIL - Silt Loam | SIC - Silty Clay |

Note 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.

(6) ORIENTATION. (a) 1. The infiltrative surface of a distribution cell within a POWTS treatment or dispersal component consisting in part of in situ soil and located in fill material above original grade shall be level.

2. The longest dimension of a POWTS treatment or dispersal component consisting in part of in situ soil shall be oriented along the surface contour of the component site location unless otherwise approved by the department.

(b) The infiltrative surface of a distribution cell within a POWTS treatment or dispersal component consisting in part of in situ soil and located below the surface of the original grade shall be level.

(c) POWTS treatment or dispersal components consisting in part of in situ soil shall be so located as to minimize the infiltration of storm water into the component.

(7) GEOMETRY. The geometry of a subsurface treatment or dispersal component consisting in part of the in situ soil shall take into account linear loading rates that are based on soil texture, structure, consistence and distance to seasonal soil saturation and restrictive soil horizons.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129; (3) (b) and (4) (c), r. and recr. (5) (a) and Tables 83.44-2 and 83.44-3 Register January 2004 No. 577, eff. 2-1-04; CR 07-100: am. (3) (b) 1, and Tables 83.44-2 and 3, r. (5) (b), renum. (5) (c) to be (5) (b) Register September 2008 No. 633, eff. 10-1-08.

Comm 83.45 Installation. (1) GENERAL. A POWTS shall be constructed and installed in such a manner to hold wastewater or reduce the contaminant load and disperse the flow of wastewater in accordance with this subchapter and the plan approval under s. Comm 83.22.

(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 the infiltrative surface of the component.

(3) SNOW COVER. Snow cover shall be removed before excavating or installing POWTS treatment and dispersal components consisting in part of in situ soil.

(4) MOISTURE. The soil moisture content for a POWTS treatment or dispersal component consisting in part of in situ soil shall be evaluated immediately prior to installation of the component. If the soil at the infiltrative surface can be rolled into a ¼-inch wire, the installation may not proceed.

(5) BEDDING. All vessels and pipes of a POWTS shall be bedded in accordance with a product approval under s. Comm 84.10 or a plan approval under s. Comm 83.22.

(6) FLOODPLAIN. (a) All POWTS treatment tanks, holding and dispersal tanks that are located in floodplain areas shall be made and maintained watertight to prevent infiltration.

(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.

Note: See s. Comm 83.43 (8) (g) relative to anchoring provisions.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 07-100: am. (6) Register September 2008 No. 633, eff. 10-1-08.

Subchapter V — Management

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.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 07-100: r. and recr. Register September 2008 No. 633, eff. 10-1-08.

Comm 83.51 Principles. (1) A POWTS, including a POWTS existing prior to July 1, 2000, shall be maintained at all times so as not to create a human health hazard.

(2) When upon inspection of a POWTS, including a POWTS existing prior to July 1, 2000, any part of the system that is found to be defective in conformance with the applicable provisions of this chapter, the installation or modification plan, or the approvals, the part shall be repaired, renovated, replaced or removed.

Note: Section Comm 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.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.52 Responsibilities. (1) (a) 1. The owner of a POWTS shall be responsible for ensuring that the operation and maintenance of the POWTS occurs in accordance with this chapter and the approved management plan under s. Comm 83.54 (1).

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.

(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).

(c) 1. The owner of a POWTS, including a POWTS existing prior to July 1, 2000, shall maintain a maintenance contract with a POWTS maintainer or a 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 or more of the following:

a. Evaluating or monitoring any part of the system at an interval of 12 months or less.

b. Maintaining any part of the system at an interval of 12 months or less.

2. The owner of a POWTS, including a POWTS existing prior to July 1, 2000, shall maintain a maintenance or service contract with a certified septage servicing operator under ch. NR 114 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 the servicing of any holding, treatment or dispersal component at an interval of 12 months or less.

(2) A POWTS, including a POWTS existing prior to July 1, 2000, that is not maintained in accordance with the approved management plan or as required under s. Comm 83.54 (4) shall be considered a human health hazard.

(3) The activities relating to evaluating, 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.

Note: See s. Comm 5.36 concerning the application and qualification requirements to become a registered POWTS maintainer.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: am. (3) Register January 2004 No. 577, eff. 2-1-04; CR 07-100: renum. (1) (a) to be (1) (a) 1., cr. (1) (a) 2., am (1) (b), (c) 1. (intro.) and (3) Register September 2008 No. 633, eff. 10-1-08.

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

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 07-100: am. Register September 2008 No. 633, eff. 10-1-08.

Comm 83.54 Management requirements. (1) MANAGEMENT PLAN. (a) The management plan for each POWTS shall include information and procedures for maintaining the POWTS to operate and function within the standards of this chapter and as designed and approved.

(b) The management plan for a POWTS shall be a part of the plan submitted under s. Comm 83.22 or 84.10.

(c) The management plan for POWTS shall specify all necessary maintenance and servicing information which may include, but is not limited to all of the following:

1. Accumulated solids or byproduct removal requirements.
2. Influent quantities and qualities and effluent quantities and qualities.
3. Metering, sampling and monitoring schedules and requirements.
4. Load and rest schedules.
5. Servicing frequency requirements.
6. Installation and inspection checklists.
7. Evaluation, monitoring and maintenance schedules for mechanical POWTS components.
8. Start up and shutdown procedures.
9. Procedure for abandonment.

(d) If the owner of the POWTS wishes to operate or maintain a POWTS differently than that specified in the approved management plan, a written request for approval to amend the management plan shall be submitted to the agency that initially reviewed the installation plan under s. Comm 83.22.

(e) The management plan for a POWTS shall specifically address the servicing mechanics of an aerobic or anaerobic treatment tank or a holding tank where either of the following conditions exist:

1. The bottom of the tank is located more than 15 feet below the elevation where the servicing pad is located.
2. The bottom of the tank is located more than 150 feet horizontally from where the servicing pad is located.

(2) METERING AND MONITORING. (a) *General.* The management plan specified in sub. (1) shall include the metering or monitoring of POWTS influent or effluent as specified in this subsection.

(b) *Department option.* The department may require the metering or monitoring of any POWTS to evaluate the operation of the POWTS.

(c) *Governmental unit option.* A governmental unit may require the metering or monitoring of a POWTS holding component as part of a maintenance and monitoring tracking program.

(d) *Metering influent flows.* 1. When and where the metering of a POWTS is required, influent flows to POWTS shall be metered by one of the following methods:

- a. Installing event counters and elapsed time meters.
- b. Installing water meters to meter the water distribution system flow to the POWTS.
- c. Metering wastewater flow from all parts of the plumbing system discharging to the POWTS.
- d. Metering the water distribution system and metering exterior hydrant use, except as provided in subd. 2.

2. Where meters are installed on water distribution systems existing prior to July 1, 2000, the entire water distribution system may be metered and the exterior hydrant usage estimated and subtracted from the total flow to meet the requirements of this paragraph.

(e) *Monitoring influent and effluent loads.* 1. When and where the monitoring of groundwater is required, groundwater monitoring wells constructed in accordance with ch. NR 141 shall be utilized.

2. When influent or effluent contaminants are to be monitored, samples shall be collected in accordance with the requirements of the approved management plan or, where no procedures are specified, in accordance with published sampling procedures accepted by the department.

Note: Acceptable sampling procedures include those contained in the following sources:

"Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Sites," 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," Wisconsin DNR, PUBL-WR-153, February 1987.

"Groundwater Sampling Procedures Field Manual," Wisconsin DNR, PUBL-WR-168, September 1987.

3. All groundwater samples collected to evaluate influent or effluent quality, except samples collected for total coliform bacteria analysis and the field analyses for pH, specific conductance and temperature, shall be analyzed by a laboratory certified under s. 299.11, Stats., and rules adopted under that section.

4. The results of the analysis required under subd. 2. shall be maintained and reported as required in the approved management plan and in accordance with s. Comm 83.55 (1) (a).

(3) SERVICING REQUIREMENTS. (a) The management plan specified in sub. (1) shall reflect the servicing schedules of POWTS components as specified in this subsection

(b) The servicing frequency of an anaerobic treatment tank for a POWTS shall occur at least when the combined sludge and scum volume equals 1/3 of the tank volume.

(c) The servicing frequency of a holding tank for a POWTS, except for camping unit transfer containers, shall occur at least when the wastewater of the tank reaches a level of one foot below the inlet invert of the tank.

Note: The servicing of POWTS holding and treatment components, including septic tanks and holding tanks, is required to be performed by licensed pumpers under chs. NR 113 and NR 114.

(4) EXISTING POWTS. (a) The servicing frequency of an anaerobic treatment tank for a POWTS existing prior to July 1, 2000, shall occur at least when the combined sludge and scum volume equals 1/3 of the tank volume.

(b) The servicing of a holding tank for a POWTS existing prior to July 1, 2000, except for camping unit transfer containers, shall occur at least when the wastewater of the tank reaches a level of one foot below the inlet invert of the tank.

(c) The 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.

(d) 1. 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.

2. The inspection required by subd. 1. shall be performed by one of the following:

- a. A licensed master plumber.
- b. A licensed master plumber-restricted service.
- c. A certified POWTS inspector.
- d. A certified septage servicing operator under ch. NR 114.
- e. A registered POWTS maintainer.

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.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: cr. (1) (e) and (4) (d) 2. e., r. and recr. (2) (c), am. (2) (d) 1. (intro.) Register January 2004 No. 577, eff. 2-1-04; CR 07-100: am. (4) (c) and (d) 1., cr. (4) (d) 3. Register September 2008 No. 633, eff. 10-1-08.

Comm 83.55 Reporting requirements. (1) (a) The owner of a POWTS or the owner's 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 unit 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 at the completion of each inspection, evaluation, maintenance or servicing event required under s. Comm 83.54 (4), except for camping unit transfer containers.

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

(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:

(a) In a manner specified by the governmental unit or designated agent.

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

(c) By the owner or the owner's agent.

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

(a) A POWTS identifying number.

(b) The location of the POWTS.

(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.

(e) Other information required by the approved management plan.

(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 servicing of POWTS as specified in this section.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: am. (1), (2), and (5) Register January 2004 No. 577, eff. 2-1-04; CR 07-100: am. (1), (2) (intro.), (b), (3) (intro.), (c), (d), (4) and (5), cr. (1) (c) Register September 2008 No. 633, eff. 10-1-08.

Subchapter VI — Recognized Methods and Technologies

Comm 83.60 Purpose. (1) Specific types of methods and technologies may be recognized by the department under the voluntary product approval process in s. Comm 84.10 (3) as conforming with subchs. IV and V and 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>.

(2) This subchapter does not limit the use of other methods and technologies for POWTS or POWTS components the performance of which has been recognized under the plan review and approval process of s. Comm 83.22 or the voluntary product approval process of s. Comm 84.10 (3) or both.

Note: Section Comm 83.22 delineates the process for the submittal of a plan for a POWTS design to be utilized for a specific project at a specific site. Under this section methods and technologies for POWTS holding, treatment or dispersal components that have not been recognized under s. Comm 84.10 (3), require the submittal to the department of data or information to substantiate performance claims. The approval of a POWTS plan by the department under this section covers only a specific project at a specific site, and does not constitute the recognition of a method or technology for other projects or sites.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 07-100: am. (1) Register September 2008 No. 633, eff. 10-1-08.

Comm 83.61 Acceptable methods and technologies. **History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: am. (4) Register January 2004 No. 577, eff. 2-1-04; CR 07-100: r. Register September 2008 No. 633, eff. 10-1-08

Comm 83.61 Parameters for using acceptable methods and technologies. When a design of a POWTS for a specific project utilizes a method or technology recognized under s. Comm 84.10 (3), a deviation from the specifications and limitations relative to the installation and maintenance of that method or technology shall constitute a violation of this chapter.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 07-100: renum. from Comm 83.62 Register September 2008 No. 633, eff. 10-1-08.

Subchapter VII — Department Performance Monitoring

Comm 83.70 Purpose. (1) To address the desire for an ongoing source of information on the performance of POWTS system designs, the department shall maintain an ongoing

performance-monitoring program for the various POWTS methods and technologies. The monitoring program shall be in addition to the periodic inspection and monitoring of POWTS under subch. V. The monitoring program shall be coordinated by the department in conjunction with the ongoing POWTS experimental and research program.

(2) The purpose of the performance monitoring program is to:

(a) Provide additional information on the long-term performance of the various POWTS methods and technologies, to confirm their reliability, and to provide data for improvements; and

(b) Monitor the various methods and technologies relative to long-term compliance with the groundwater standards.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 83.71 Department procedures. (1) Both currently installed POWTS and newly installed POWTS may be included in the performance monitoring program conducted by the department.

(2) The department may include both the performance of individual POWTS treatment components as well as the output of components at the edge of the design treatment zone as part of the monitoring program.

(3) The department shall support the performance-monitoring program from Wisconsin Fund allocations and program revenue funds generated from POWTS plan review and sanitary permits. If funds for this purpose become available from other sources, those funds may be used to support the monitoring program.

(4) The department shall utilize the technical advisory committee assembled under s. Comm 84.10 (3) (c) 2. to advise the department on the performance-monitoring program. The committee shall advise the department in at least the following areas:

(a) Development of performance monitoring protocols.

(b) Selection of the POWTS methods and technologies to be monitored.

(c) Identification of funding sources.

(d) The interpretation of the results of the monitoring program.

(5) The decision by the department on the number, types and locations of methods and technologies to be monitored shall take into consideration at least the following factors:

(a) The availability of other scientific data on the performance of a specific method or technology.

(b) The number times of each method or technology may be utilized annually.

(c) The likelihood that the method or technology will be adapted for soil and site conditions not previously utilized.

(d) The availability of funds.

(e) The risk factors associated with public health concerns and groundwater and surface water standards.

(6) The initial performance monitoring program undertaken by the department shall emphasize at least the following two circumstances:

(a) Monitoring where there is a high density of systems.

Note: The initial focus would be on subdivisions with lots of 1.5 acres or less.

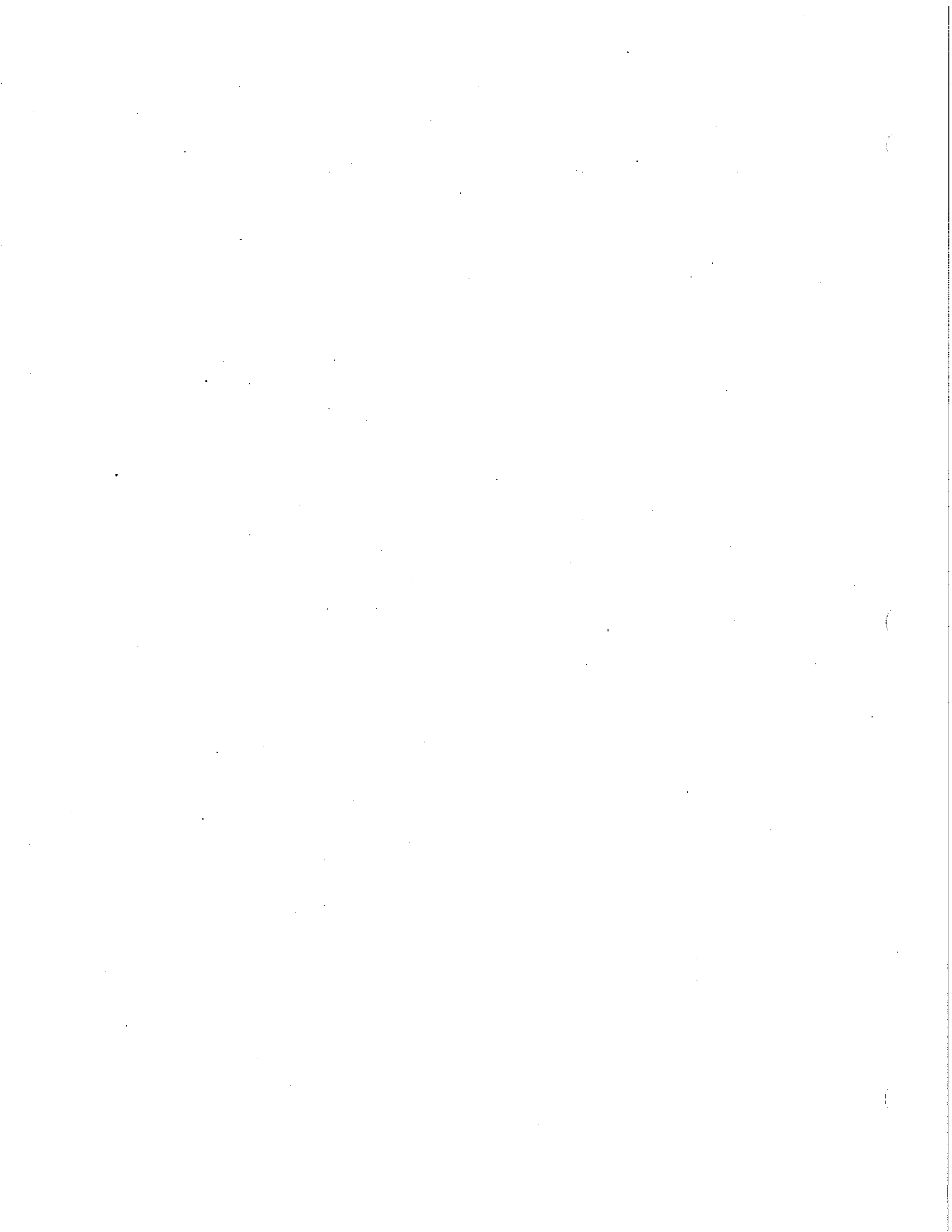
(b) Monitoring where the depth of suitable in situ soil is near the minimum 6 inches specified under s. Comm 83.44 (3) (b) 1.

(7) (a) The department shall prepare an annual written report of performance-monitoring activities undertaken and the results of those activities.

(b) The report under par. (b) shall be prepared annually and provided to the groundwater coordinating council assembled under s. 160.50, Stats.

(c) The department shall prepare the first report no later than December 31, 2001.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.



Chapter Comm 83

APPENDIX

The material and information contained in this appendix is for clarification purposes only. Appendix material and information are numbered to correspond to the rule number as it appears in the text of the code. Material and information included in this appendix is subject to change without notice, including names, addresses, phone numbers and forms, and reflects information known at the time of publication.

A-83.21 (3) PROCESSING. The specific format of a sanitary permit application is specified by the department and may change depending on the data tracking needs of the department. The uniform application form issued by the department is to be used by all permit issuing agents. It may consist of a paper or electronic format, or both. The sanitary permit application form will require the applicant to report information pertinent to the ownership, use, location, system type, maintenance schedule, and responsible installer. Additionally, plans and specifications for the project must also be submitted with, and are part of, the permit application. Fees for the sanitary permit are based on a statutory minimum as cited in s. 145.19 (2), Wis. Stats., and any additional costs levied by the issuing agent.

The state sanitary permit is issued when evidence and documentation is presented by the owner of the property that minimum code standards have been or will be met.

_____ COUNTY NO. _____

STATE SANITARY PERMIT

TRANSFER/RENEWAL PREVIOUS NO. _____

OWNER _____

PLUMBER _____ LIC.# _____

TOWN OF _____

SEC _____, T _____ N, R _____ E/W

AND/OR LOT _____ BLOCK _____

_____ SUBDIVISION

_____ AUTHORIZED ISSUING OFFICER - DATE _____

THIS PERMIT EXPIRES _____ UNLESS RENEWED BEFORE THAT DATE

DO NOT REPRODUCE

POST IN PLAIN VIEW

VISIBLE FROM THE ROAD FRONTING THE LOT DURING CONSTRUCTION

CHAPTER 145.133 (2) WISCONSIN STATUTES

- (a) The purpose of the sanitary permit is to allow installation of the private sewage system described in the permit.
- (b) The approval of the sanitary permit is based on regulations in force on the date of approval.
- (c) The sanitary permit is valid and may be renewed for a specified period.
- (d) Changed regulations will not impair the validity of a sanitary permit.
- (e) Renewal of the sanitary permit will be based on regulations in force at the time renewal is sought, and that changed regulations may impede renewal.
- (f) The sanitary permit is transferable.

History: 1977 c. 168; 1979 c. 34,221; 1981 c. 314

Note: If you wish to renew the permit, or transfer ownership of the permit, please contact the county authority.

SBD-06499 (R. 7/00)

Chapter 145 Wisconsin Statutes provides some direction as to the issuance of sanitary permits as follows:

145.135 Sanitary permits.

(1) **Validity.** In this section, "sanitary permit" means a permit issued by the department or any governmental unit responsible for the regulation of private sewage systems for the installation of a private sewage system. No person may install a private sewage system unless the owner of the property on which the private sewage system is to be installed holds a valid sanitary permit. A sanitary permit is valid for 2 years from the date of issue and renewable for similar periods thereafter. A governmental unit responsible for the regulation of private sewage systems may not charge more than one fee for a sanitary permit or the renewal of a sanitary permit in any 12-month period. A sanitary permit shall remain valid to the end of the established period, notwithstanding any change in the state plumbing code or in any private sewage system ordinance during that period. A sanitary permit may be transferred from the holder to a subsequent owner of the land, except that the subsequent owner must obtain a new copy of the sanitary permit from the issuing agent. The results of any percolation test or other test relating to the disposal of liquid domestic wastes into the soil shall be retained by the governmental unit responsible for the regulation of private sewage systems where the property is located. The governmental unit responsible for the regulation of private sewage systems shall make the test results available to an applicant for a sanitary permit and shall accept the test results as the basis for a sanitary permit application unless the soil at the test site is altered to the extent that a new soil test is necessary.

(2) **Notice.** A sanitary permit shall include a notice displayed conspicuously and separately on the permit form, to inform the permit holder that:

- (a) The purpose of the sanitary permit is to allow installation of the private sewage system described in the permit.
- (b) The approval of the sanitary permit is based on regulations in force on the date of approval.
- (c) The sanitary permit is valid and may be renewed for a specified period.
- (d) Changed regulations will not impair the validity of a sanitary permit.
- (e) Renewal of the sanitary permit will be based on regulations in force at the time renewal is sought, and that changed regulations may impede renewal.
- (f) The sanitary permit is transferable.

145.19 Sanitary permit.

(1) **Requirement; information; forms.** No septic tank may be purchased and no private sewage system may be installed unless the owner of the property on which the private sewage system is to be installed holds a valid sanitary permit from the governmental unit responsible for the regulation of private sewage systems in which the property is located. The department shall prescribe the information to be included in the sanitary permit and furnish sanitary permit forms to the governmental unit. The applicant shall submit the completed sanitary permit to the governmental unit. The governmental unit shall approve or disapprove the sanitary permit according to the rules promulgated by the department under this chapter. No person may sell at retail, as defined under s. 100.201 (1) (d), a septic tank for installation in this state unless the purchaser holds a valid sanitary permit issued under this section.

(2) **Fee.** No fee for a sanitary permit may be less than \$61, or the amount determined under department rule. The governing body for the governmental unit responsible for the regulation of private sewage systems may establish a fee for a sanitary permit which is more than \$61, or the amount determined under department rule.

(3) **Copy of permit forwarded to the department.** The governmental unit responsible for the regulation of private sewage systems shall forward a copy of each valid sanitary permit and \$20, or the amount determined under department rule, of the fee to the department within 90 days after the permit is issued.

(4) **Use of fee.** The portion of this fee retained by the governmental unit responsible for the regulation of private sewage systems shall be used for the administration of private sewage system programs.

(5) **Fee adjustment.** The department, by rule promulgated under ch. 227, may adjust the minimum permit fee under sub. (2) and the fee portion forwarded under sub. (3).

(6) **Groundwater fee.** In addition to the fee under sub. (2), the governmental unit responsible for the regulation of private sewage systems shall collect a groundwater fee of \$25 for each sanitary permit. The governmental unit shall forward this fee to the department together with the copy of the sanitary permit and the fee under sub. (3). The moneys collected under this subsection shall be credited to the environmental fund for environmental management.

A-83.22 (3) **PLAN REVIEW PROCESS.** All proposed POWTS installations require plan review prior to sanitary permit issuance. Projects subject to department review include all projects under Table 83.22-1, and many of the projects under Table 83.22-2. Designated agents may review projects included in Table 83.22-2.

A-83.25 (2) ISSUANCE OF BUILDING PERMITS. A building permit is defined in s. Comm 81.01 (43), Wis. Adm. Code, as any written permission from a municipality that allows construction to commence on a structure. In effect, this means that land use and zoning permits, as well as other similar permits that constitute permission to construct are considered building permits.

Prior to building permit issuance, the issuing agent has a statutory responsibility, under s. 145.195, Wis. Stats., to consider whether or not the proposed structure requires connection to a private onsite wastewater treatment system (POWTS), or if the construction will interfere with the operation of an existing POWTS.

Section 145.195, Stats. Building on unsewered property. (1) No county, city, town or village may issue a building permit for construction of any structure requiring connection to a private domestic sewage treatment and disposal system unless a system satisfying all applicable regulations already exists to serve the proposed structure or all permits necessary to install such a system have been obtained.

(2) Before issuing a building permit for construction on any structure on property not served by a municipal sewage treatment plant, the county, city, town or village shall determine that the proposed construction does not interfere with a functioning private domestic sewage treatment and disposal system. The county, city, town or village may require building permit applicants to submit a detailed plan of the owner's existing private domestic sewage treatment and disposal system.

A-83.25 (2) (f) Setbacks. Horizontal setbacks from encumbrance for new POWTS installations are in conformance with Table Comm 83.43-1 or the rules in effect at the time the system was installed, which ever is less. For setback distances associated with previous administrative codes refer to the previous code issue or the following table.

Code Comparison - POTWS Code Setback Encumbrances (ft)																	
Effective Date	Vertical Separation SAS		Horizontal Separation Soil Absorption System (SAS)								Horizontal Separation Treatment Tank ^a						
	Ground-water	Bedrock	Well	Lake ^b	Cistern	Building	Lot Line	Swimming Pool	Water Service	Public W Main	Well	Lake ^c	Cistern	Building	Lot Line	Swimming Pool	Water Service
2/1/04	2/3/5	2/3/5	50 ^d	50 ^e		10	5	15	10	25 ^f	25 ^f	10 ^m		5	2	0	10
7/1/00	2/3/5/10	2/3/5/10	50 ^d	50 ^e		10	5	15	10	25 ^f	25 ^f	10 ^m		5	2	0	10
3/1/87	3/6 ^h	3/6 ^h	50	50	25	25/15/10 ^h	5	15	10	25	25	25	10	5	2	5	10
3/1/94	3/6 ^h	3/6 ^h	50	50	25	25/15/10 ^h	5	15	10	25	25	25	10	5	2	5	10
3/1/92	3/6 ^h	3/6 ^h	50	50	25	25/15/10 ^h	5	15	10	25	25	25	10	5	2	5	10
7/1/91	3/6 ^h	3/6 ^h	50	50	25	25/15/10 ^h	5	15	10	25	25	25	10	5	2	5	10
10/1/85	3	3	50	50	25	25/15/10 ^h	5	15	10	25	25	25	10	5	2	15	10
7/1/83	3	3	50	50	25	25/15/10 ^h	5	15	10	25	25	25	10	5	2	15	10
1/1/81	3	3	50	50	25	25/15/10 ^h	5	15	10	25	25	25	10	5	2	15	10
6/2/80	3	3	50	50	25	25/15/10 ^h	5	15	10	25	25	25	10	5	2	15	10
2/1/79	3	3	50	50	25	25/10 ⁱ	5	25/15 ^j	10	25	25	25	10	5	2	25	10
8/1/77	3 ^d	3 ^d	50	50	25	25/10 ⁱ	5	25/15 ^j	10	25	25	25	10	5	2	25	?
8/1/76	3 ^d	3 ^d	50	50	25	25/10 ⁱ	5	25/15 ^j	10	25	25	25	10	5	2	25	?
12/1/72	3	3	50	50	25	25	5	50	25		25	25	10	5	2	25	?
11/1/71	3	3	50	50	25	25	5	50	25		25	25	10	5	2	25	?
12/1/69	3	3	50	50	25	25	5	50	25		25	25	10	5	2	25	?
3/1/63		0 ^g	50	25	25	25 ^g	5				25		10		2		
5/1/62		0 ^g	50	25	25	25 ^g	5				25		10		2		
3/1/57		0 ^g	50	25	25	25 ^g	5				25		10		2		
9/1/54		0 ^g	50	25	50	50 ^g	5				25		10		2		
1948			50	25	50	50 ^g					25		10		2		
1941			150 ^l		50	50 ^g					25		10		2		
1937			150 ^l		50	50 ^g					25		10		2		
1932			150 ^l		50	50 ^g					25		10		2		
1925			150 ^l		50	50 ^g					25		10		2		
1917			150 ^l		50	50 ^g					25		10		2		
1916			150 ^l		50	50 ^g					25		10		2		
1914			150 ^l		50	50 ^g					25		10	10	2		

Footnotes:

- a. Includes water-tight cesspools, sewage tanks, septic tanks, dosing chambers.
- b. Lake category includes lakes, streams or other watercourses.
- c. Lake category includes lakes, streams, rivers, ponds, flowages and reservoirs.
- d. The code required 5 feet of soil over GW or BR. It is assumed that a 3 foot separation was maintained.
- e. Seepage pits shall not extend into creviced rock formations.
- f. May be reduced to 50 feet if well is drilled and cased to 100 ft.
- g. Means a dwelling.
- h. Refers to habitable or occupied bldg with below grade foundation/habitable bldg on slab/uninhabited bldg on slab.
- i. Refers to habitable buildings/uninhabited buildings.
- j. Refers to below ground/above ground swimming pools.
- k. Refers to normal soil/very coarse textured soil.
- l. Distance listed is an example typical for residential application. Code references NR 811 and NR 812.
- m. Code references Ordinary High Water Mark (OHWM) of navigable waters
- n. Distance listed is an example of a typical setback. Code references NR 811.

A-83.43 (6) COMMERCIAL FACILITIES. Table A-83.43-1 may be used to estimate wastewater flows from a commercial building.

**Table A-83.43-1
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)	Patron (10 sq. ft./patron)	4
Bar or cocktail lounge* (w/meals – all paper service)	Patron (10 sq. ft./patron)	8
Beauty salon	Station	90
Bowling alley	Bowling lane	80
Bowling alley (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	Camping unit or RV served	25
Catch basin	Basin	65
Church (no kitchen)	Person	2
Church* (with kitchen)	Person	5
Dance hall	Person (10 sq. ft./person)	2
Day care facility (no meals prepared)	Child	12
Day care facility* (with meal preparation)	Child	16
Dining hall* (kitchen waste only without dishwasher and/or food waste grinder)	Meal served	2
Dining hall* (toilet and kitchen waste without dishwasher and/or food waste grinder)	Meal served	5
Dining hall* (toilet and kitchen waste with dishwasher and/or food waste grinder)	Meal served	7
Drive-in restaurant* (all paper service with inside seating)	Patron seating space	10
Drive-in restaurant* (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	Patron	3
Gas station (with service bay)		
Patron	Patron	3
Service bay	Service bay	50
Hospital*	Bed space	135
Hotel, motel or tourist rooming house	Room	65
Medical office building		
Doctors, nurses, medical staff	Person	50
Office personnel	Person	13
Patients	Person	6.5
Migrant labor camp (central bathhouse)	Employee	20
Mobile Home (Manufactured home) (served by its own POWTS)	Bedroom	100
Mobile home park	Mobile home site	200

Table A-83.43-1 (Continued)
Public Facility Wastewater Flows

Source	Unit	Estimated Wastewater Flow (gpd)
Nursing, Rest Home, Community Based Residential Facility	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*, 24-hr. (dishwasher and/or food waste grinder only)	Patron seating space	4
Restaurant*, 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*, 24-hr. (toilet and kitchen waste without dishwasher and/or food waste grinder)	Patron seating space	40
Restaurant*, 24-hr. (toilet and kitchen waste with dishwasher and/or food waste grinder)	Patron seating space	44
Restaurant* (dishwasher and/or food waste grinder only)	Patron seating space	2
Restaurant* (kitchen waste only without dishwasher and/or food waste grinder)	Patron seating space	6
Restaurant (toilet waste)	Patron seating space	14
Restaurant* (toilet and kitchen waste without dishwasher and/or food waste grinder)	Patron seating space	20
Restaurant* (toilet and kitchen waste with dishwasher and/or food waste grinder)	Patron seating space	22
Retail store	Patron (70% of total retail area ÷ 30 sq. ft. per patron)	1
School* (with meals and showers)	Classroom (25 students/classroom)	500
School* (with meals or showers)	Classroom (25 students/classroom)	400
School (without meals or showers)	Classroom (25 students/classroom)	300
Self-service laundry (toilet waste only)	Clothes washer	33
Self-service laundry (with only residential clothes washers)	Clothes washer	200
Swimming pool bathhouse	Patron	6.5

* = May be high strength waste

A-83.43 (6) (a). Actual meter readings may be used to calculate the combined estimated design wastewater flow from a dwelling. To calculate the estimated design wastewater flow use the following formula and compare the answer to the peak metered flow. Choose the larger of the two estimated design flows.

$(\text{total meter flow}/\text{number of readings})(1.5) = \text{estimated design wastewater flow}$

The frequency of meter readings should be daily for commercial.

A-83.43 (6) (b) A detailed per capita and per function flow may be established for commercial facilities. The per function flow ratings shall be substantiated by manufactures data of the per function flow and detailed use data from the facility in question or a similar facility under similar conditions of use. Estimated design wastewater flow shall be at least 1.5 times the total estimated daily flow calculated from the per capita and per function flow information.

A-83.43 (7) ESTIMATING CONTAMINANT LOADS

Pathogenic contaminant load may be estimated based on data collected by a reputable testing or research facility.

**Typical Data on the Unit Loading Factors and Expected Wastewater
Contaminant Loads from Individual Residences**

Contaminant	Unit Loading Factor lb/capita per day	Value		
		Unit	Range	Typical
BOD ₅	0.180	mg/L	216-540	392
SS	0.200	mg/L	240-600	436
NH ₃ as N	0.007	mg/L	7-20	14
Org. N as N	0.020	mg/L	24-60	43
TKN as N	0.027	mg/L	31-80	57
Org P as P	0.003	mg/L	4-10	7
Inorg. P as P	0.006	mg/L	6-17	12
Grease		mg/L	45-100	70
Total Coliform		cfu/100mL	10 ⁷ -10 ¹⁰	10 ⁸

A-83.43 (8) (g) ANCHORING SYSTEM COMPONENTS.

The anchoring of components to counter buoyant forces due to saturated soil conditions can be determined using the following formula:

$$\begin{array}{l} \text{Weight of the component} \\ \text{plus the weight of the anchor} \end{array} = 1.5 \text{ times (volume of water the} \\ \text{component displaces) times} \\ \text{[the weight of water (62.4} \\ \text{pounds/cubic foot at 39}^{\circ}\text{F)]}$$

Chapter Comm 85

SOIL AND SITE EVALUATIONS

Comm 85.01	Purpose.
Comm 85.02	Scope.
Comm 85.10	Qualifications.
Comm 85.20	Soil evaluations.

Comm 85.30	Soil profile description and interpretations.
Comm 85.40	Evaluation reports.
Comm 85.50	Governmental unit review.
Comm 85.60	Soil saturation determinations.

Note: Chapter H 65 as it existed on May 31, 1983 was repealed and a new Chapter ILHR 85 was created effective June 1, 1983. Chapter ILHR 85 was renumbered Chapter Comm 85 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 7., Stats., Register, February, 1997, No. 494. Chapter Comm 85 as it existed on June 30, 2000 was repealed and a new chapter Comm 85 was created, Register, April, 2000, No. 532, eff. 7-1-00.

Comm 85.01 Purpose. The purpose of this chapter is to establish the minimum requirements for evaluating and reporting soil and site characteristics that may affect treatment or dispersal of wastewater, treated wastewater, final effluent or nonwater-carried human wastes.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 85.02 Scope. (1) Pursuant to s. 145.02, Stats., this chapter applies to all soil and site evaluations conducted relative to the treatment or dispersal of wastewater, treated wastewater, final effluent or nonwater-carried human wastes into soil.

(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) (c), Stats., outlines the procedure for submitting requests to the department for appeal hearings and the department procedures for hearing appeals.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 07-100: renum. to (1), cr. (2) Register September 2008 No. 633, eff. 10-1-08.

Comm 85.10 Qualifications. (1) SOIL EVALUATION. A soil evaluation for treatment or dispersal of wastewater, treated wastewater, final effluent or nonwater-carried human wastes regulated by chs. Comm 83 and 91 shall be performed by an individual who is a certified soil tester. A soil evaluation for the treatment or dispersal of stormwater regulated under ch. Comm 82 shall be performed by an individual who is either a certified soil tester or one who holds a professional soil scientist license under ch. GHSS 4.

Note: Section Comm 5.33 delineates the qualifications and certification procedures for certified soil testers.

(2) SITE EVALUATION. A site evaluation, relative to the installation of a POWTS treatment, holding or dispersal component location, or to determine land slope or setback distances to topographic or other site features shall be performed by a Wisconsin registered architect, professional engineer, designer of plumbing systems, designer of private sewage systems or land surveyor; a certified soil tester or POWTS inspector; or a licensed master plumber or master plumber-restricted service.

(3) SOIL SATURATION DETERMINATIONS. Soil saturation determinations may only be conducted and reported by an individual who is a certified soil tester.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 04-035: am. (1) Register November 2004 No. 587, eff. 12-1-04.

Comm 85.20 Soil evaluations. (1) GENERAL. (a) Soil boring methods and procedures shall comply with this section.

(b) Maximum soil application rates shall be determined relative to the soil texture, structure and consistence for each soil horizon or layer.

Note: Section Comm 83.44 establishes maximum soil application rates and soil treatment capability for the design of POWTS treatment or dispersal components consisting in part of in situ soil.

(2) NUMBER, TYPE AND DEPTH OF EVALUATIONS. (a) General. The number, type, depth and location of soil profile evaluations shall be sufficient to delineate the area under investigation and to assure consistency of the data within that area.

(b) Number and area. 1. a. Except as provided in subd. 1. d. and subd. 2., a minimum of 3 soil profile evaluation excavations shall be used to delineate a site within which POWTS treatment or dispersal components consisting in part of in situ soil are to be located.

b. For estimated daily flows of 1,000 gallons per day or less, at least one soil profile evaluation excavation per treatment or dispersal site shall be constructed as a soil pit, and described in accordance with s. Comm 85.30 (1) (c).

c. For estimated daily flows greater than 1,000 gallons per day, at least 3 soil profile evaluations per treatment or dispersal site shall be constructed as soil pits, and described in accordance with s. Comm 85.30 (1) (c).

d. The department or governmental unit may require additional soil profile evaluation excavations to be constructed where soil variability considerations may not be adequately addressed. The department or governmental unit may specify that soil profile descriptions in accordance with s. Comm 85.30 (1) (c) be conducted for any additional soil profile evaluation excavations.

2. At least one soil pit or soil boring shall be used to establish soil suitability for a pit privy.

Note: Sections Comm 83.44 (3) and 91.12 (1) (b) 1. contain further information regarding privy siting and soil requirements.

(c) Type. 1. Soil profile evaluations used to determine soil application rates shall be conducted using soil pits.

2. Soil profile evaluations used to determine or identify soil horizon depths, soil color, soil texture, redoximorphic feature colors or depth to groundwater or bedrock shall be conducted using either soil pits or soil borings.

(d) Depth. Soil profile evaluations shall extend an adequate depth below the land surface to identify soil properties critical to soil treatment or dispersal of wastewater, treated wastewater, final effluent or nonwater-carried human waste.

(3) EXCAVATION METHODS. (a) Soil profile excavations. A soil profile excavation shall be of such size and construction to allow accurate determination of soil characteristics.

(b) Soil borings. 1. Soil borings shall be created by means of a soil bucket auger, soil probe, split-spoon sampler or Shelby tube having at least a 2 inch diameter.

2. A soil boring may not be created by means of a power auger.

(c) *Soil pits.* A soil pit shall be of adequate size, depth and construction to enable a person to safely enter and exit the pit and to complete a morphological soil profile description.

Note: Occupational safety and health administration regulations (29 CFR 1926, Subpart P) apply to certain types of excavations, and the persons entering such excavations need to be familiar with those regulations.

(4) **SOIL EVALUATION CONDITIONS.** (a) Soil color evaluations shall be performed on days when light conditions permit accurate color determinations.

(b) Frozen soil material shall be thawed prior to conducting evaluations for soil color, texture, structure and consistence.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 85.30 Soil profile description and interpretations. (1) **GENERAL.** (a) A soil profile description shall be prepared for each soil profile excavation constructed.

(b) Soil profile descriptions shall be written in accordance with the descriptive procedures, terminology and interpretations found in Chapter 3 of the *Soil Survey Manual*, USDA, October, 1993, except where modified by, or in conflict with, this chapter.

(c) A soil profile description to substantiate soil application rates shall include at least all of the following morphological information for each soil horizon or layer:

1. Thickness in inches or decimal feet.
2. Munsell soil color notation.
3. Soil mottle or redoximorphic feature color, abundance, size and contrast.
4. United States Department of Agriculture, USDA, soil textural class with rock fragment modifiers.
5. Soil structure grade, size and shape.
6. Soil consistence.
7. Root abundance and size.
8. Soil boundary.
9. Occurrence of saturated soil, groundwater, bedrock or disturbed soil.

(d) A soil profile description to substantiate soil characteristics other than for application rates shall include the information specified in par. (c) 1. to 4. and 9.

(2) **SOIL INTERPRETATIONS.** (a) Redoximorphic features or mottles shall be interpreted as zones of seasonal or periodic soil saturation or groundwater, except as provided under sub. (3).

(b) Unless otherwise determined under s. Comm 85.60, the highest elevation of seasonal soil saturation shall be the ground surface where redoximorphic features are present within 4 inches of any of the following:

1. An A horizon that extends to the ground surface.
2. The lower boundary of overlying fill material where no buried A horizon exists.
3. An A horizon buried by overlying fill material.

(3) **SOIL COLOR PATTERN EXEMPTIONS.** (a) Without filing a report under s. Comm 85.60 (2), a certified soil tester may discount the following conditions, not limited by enumeration, as indicators of seasonally saturated soil:

1. Fossilized soil color patterns formed by historic periodic soil saturation.
2. A soil profile where redoximorphic features are confined within 12 inches of tension saturated silt loam or finer textured soil immediately overlying unsaturated coarse sandy loam or coarser textured soil that has a depth in the coarser material adequate to accommodate a distribution cell and dispersal zone.
3. A soil profile where redoximorphic features are confined within 24 inches of tension saturated silt loam or finer textured soil immediately overlying unsaturated coarse loamy sand or coarser textured soil that has a depth in the coarser material adequate to accommodate a distribution cell and dispersal zone.
4. Residual sandstone colors.

5. Unevenly weathered glacially deposited material, glacially deposited material naturally gray in color, or concretionary material in various stages of decomposition.

6. Deposits of lime.

7. Light colored silt or fine sand coatings on soil ped surfaces.

(b) Without filing a report under s. Comm 85.60 (2) for a specific site, the department may accept the results of soil saturation determinations or of the hydrograph procedure under s. Comm 85.60 previously conducted for areas adjacent to the site, provided that the soil profile descriptions and interpretations confirms that the soil and site conditions are similar for the specific site and the adjacent areas.

(4) **SOIL COLOR PATTERN REPORTS.** The certified soil tester shall report and describe any soil color pattern exemptions encountered.

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

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129; r. and rec. (2) (b) and (3) (a) 2. and 3. Register January 2004 No. 577, eff. 2-1-04; CR 07-100; am. (5) Register September 2008 No. 633, eff. 10-1-08.

Comm 85.40 Evaluation reports. (1) **GENERAL.** A soil evaluation report shall be prepared and submitted to the governmental unit having jurisdiction upon the completion of the evaluation and associated report form.

(2) **SOIL REPORT CERTIFICATION AND FORMAT.** (a) *Soil evaluation reports.* Soil evaluation reports shall be prepared in a format specified by the department and this chapter.

Note: Soil evaluation report forms in an acceptable format are available from the Safety and Buildings Division, P.O. Box 7162, Madison, WI 53707-7162.

(b) *Certification.* 1. Except as provided in subd. 2., each page of a soil evaluation report shall bear:

- a. The original signature of the certified soil tester who collected the data;
- b. The certified soil tester's identification number; and
- c. The date the report is signed.

2. When more than one sheet of a soil evaluation report is bound together into one volume, only the title sheet shall:

- a. Be required to be signed, dated and bear the identification number of the certified soil tester who collected the data; and
- b. Clearly identify all other sheets comprising the bound volume.

(3) **REPORT CONTENTS.** (a) *Site report.* A site evaluation report shall include at least all of the following:

1. The site's legal description to within 40 acres.
2. The date the data was collected.
3. A legible and permanent site plan that complies with all of the following:
 - a. Is presented on paper no smaller than 8 1/2 inches by 11 inches in size.
 - b. Is drawn to scale or fully dimensioned.
 - c. Shows the extent of the site evaluated for soil dispersal or treatment.

4. Location information for all points under investigation including structures, property lines and other encumbrances to the treatment or dispersal component placement on the site.

5. Pertinent elevation data, such as:

- a. A reference to, and description of, a permanent vertical and horizontal reference point or bench mark from which all distances and elevations are delineated on the site plan;
- b. The natural, undisturbed surface grade elevation for all soil profile excavations;

c. The percent and direction of land slope for the site under evaluation;

d. Ground surface contour lines at an interval appropriate for the conditions present;

e. The floodplain elevation, if established, and current surface elevation of any adjacent navigable waters or reservoir; and

f. The existing grade adjacent to the groundwater elevation observation pipe, the top of the observation pipe, and the bottom of the observation pipe.

(b) *Soil report.* A soil evaluation report shall include at least all of the following:

1. A site evaluation report pursuant to par. (a).

2. The date soil evaluations were conducted.

3. The site's legal description to within 40 acres.

4. Soil profile descriptions pursuant to s. Comm 85.30 for all soil profile evaluation excavations.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129; am. (3) (a) 3. (intro) Register January 2004 No. 577, eff. 2-1-04.

Comm 85.50 Governmental unit review. (1) *GENERAL.* (a) A governmental unit shall review all soil evaluation reports and site evaluation reports within 6 months of receipt.

(b) Upon completing the review of a soil evaluation report a governmental unit shall accept the report, reject the report, request additional information or clarification, or require verification under sub. (2).

(c) When a report is deemed acceptable, a governmental unit shall so indicate on the report and file the report for future reference.

(d) If the report is not acceptable, a governmental unit shall notify the submitter in writing and shall state the deficiencies or actions, or both, necessary to bring the report into compliance with this chapter or ch. Comm 83.

(2) *VERIFICATION.* (a) *Soil.* 1. The governmental unit or the department may require the property owner or the certified soil tester to provide soil pits in accordance with s. Comm 85.20 (3) for verification of soil profile evaluation data.

2. The certified soil tester who is responsible for the soil report shall be present at the site during the verification of soil profile evaluation data if so requested by the governmental unit or the department.

3. Soil verifications may not be conducted under adverse weather or light conditions that may lead to inaccurate results.

(b) *Site.* 1. The governmental unit or the department may require the property owner or certified individual who prepared the site report to provide assistance and equipment to verify site conditions.

2. The certified individual who is responsible for the site report shall be present at the site during the verification of site conditions if so requested by the governmental unit or department.

(c) *Report.* The governmental unit or the department shall complete a written report for each soil or site verification completed, and the results or findings of the report shall be filed with the soil and site evaluation report for future reference.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00.

Comm 85.60 Soil saturation determinations.

(1) *GENERAL.* (a) A property owner, or the owner's agent, may submit documentation to prove that redoximorphic features, or other soil color patterns, at a particular site are not indicative of periodically saturated soil conditions or high groundwater elevation.

(b) Documentation shall be in the form of an interpretive determination, soil saturation determination, hydrograph procedure or artificially controlled navigable water determination pursuant to this section.

(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 current conditions of periodic soil saturation.

(b) The department shall make a determination on the validity of the data, results and conclusions set forth in the report.

(c) The written report shall include, but is not limited to, all of the following information:

1. A soil evaluation report pursuant to s. Comm 85.40.

2. An interpretive review of the site including, but not limited to, all of the following:

a. Local hydrology.

b. A historical interpretation of the local geomorphology.

c. Soil disturbance and hydraulic modification.

d. The landscape position and local topography in the area under investigation.

3. Soil series and mapping units, if available, for the immediate area, as listed in the USDA soil survey.

4. Data, if any, from previous soil saturation determinations in similar soil conditions and landscape position.

5. Any written reports, comments or recommendations by the governmental unit or department staff.

(3) *SOIL SATURATION DETERMINATION.* (a) *General.* Actual elevations of soil saturation may be determined at specific sites in accordance with the soil saturation determination procedures in par. (c).

(c) *Precipitation.* 1. Precipitation data reported for soil saturation determination purposes shall include monthly totals for September through May, and daily totals for February through May.

2. Precipitation data totals under subd. 1. shall be from either the closest local station to the site where the observation pipe is installed, or the average from the 3 closest local stations to the site. If averaging is used, the totals under subd. 1. shall be submitted for all 3 stations.

(d) *Regional water tables.* 1. Where sites are subject to a broad, relatively uniform, regional water table, the fluctuation observed over a several year cycle shall be considered.

2. At such sites, and where free water levels are more than 5 feet below grade, determinations shall be made using the hydrograph procedures contained in sub. (4).

3. Areas affected by a regional water table shall be delineated by the department in consultation with the affected counties and the Wisconsin Geological and Natural History Survey.

(e) *Fine textured soil.* 1. The department may prohibit soil saturation determinations in fine textured soil with high matric potentials where determination results may be inconclusive.

2. In such cases, the department may approve alternative methods to address the direct determination of saturated or near saturated soil conditions not enumerated in this section.

(f) *Groundwater elevation observation pipe installation and construction.* 1. Number of observation pipes. a. At least 3 groundwater elevation observation pipes shall be installed to delineate the area under investigation.

b. The governmental unit or department may require more than 3 observation pipes to adequately evaluate potential soil saturation conditions.

2. Observation pipe depth. a. At the request of the department or governmental unit, at least one observation pipe shall be constructed to a depth of 15 feet below the ground surface to determine if high groundwater elevation conditions are due to a perched water table and the possible extent of the saturated zone.

b. Other observation pipes shall terminate at specific depths below grade that will serve to evaluate where shallow perched zones of soil saturation occur within the soil profile.

c. The governmental unit or department may designate specific observation pipe depths and locations based on soil and site conditions, or experience in a particular geographic area or topographic position.

d. An observation pipe may not be less than 24 inches deep.

3. Observation pipe construction. The direct observation of soil saturation conditions shall be accomplished by means of observation pipes conforming to this subdivision and Figure 85.60-1.

a. The observation pipe shall be of a material meeting the standards in s. Comm 84.30 Table 84.30-1, except that lead pipe may not be used.

b. The inside diameter of an observation pipe may not be less than 2 inches or more than 4 inches nominal size.

c. The borehole diameter shall be 2 to 4 inches larger than the outside diameter of the observation pipe.

d. The top of the observation pipe shall terminate at least 18 inches above grade and be provided with a vented cap.

e. The bottom of the observation pipe shall terminate with a slotted, or screened pipe. The slots or screen shall extend 6 to 18 inches above the bottom of the pipe and be at least 4 inches below the filter pack seal. The slots or screen shall not be hand cut and shall be designed to retain soil particles with a diameter of greater than 0.02 inch.

f. Except for the vented end cap, joints between lengths of pipe and fittings shall conform to s. Comm 84.40.

g. Finished grade around the observation pipe shall be sloped away from the observation pipe using soil material.

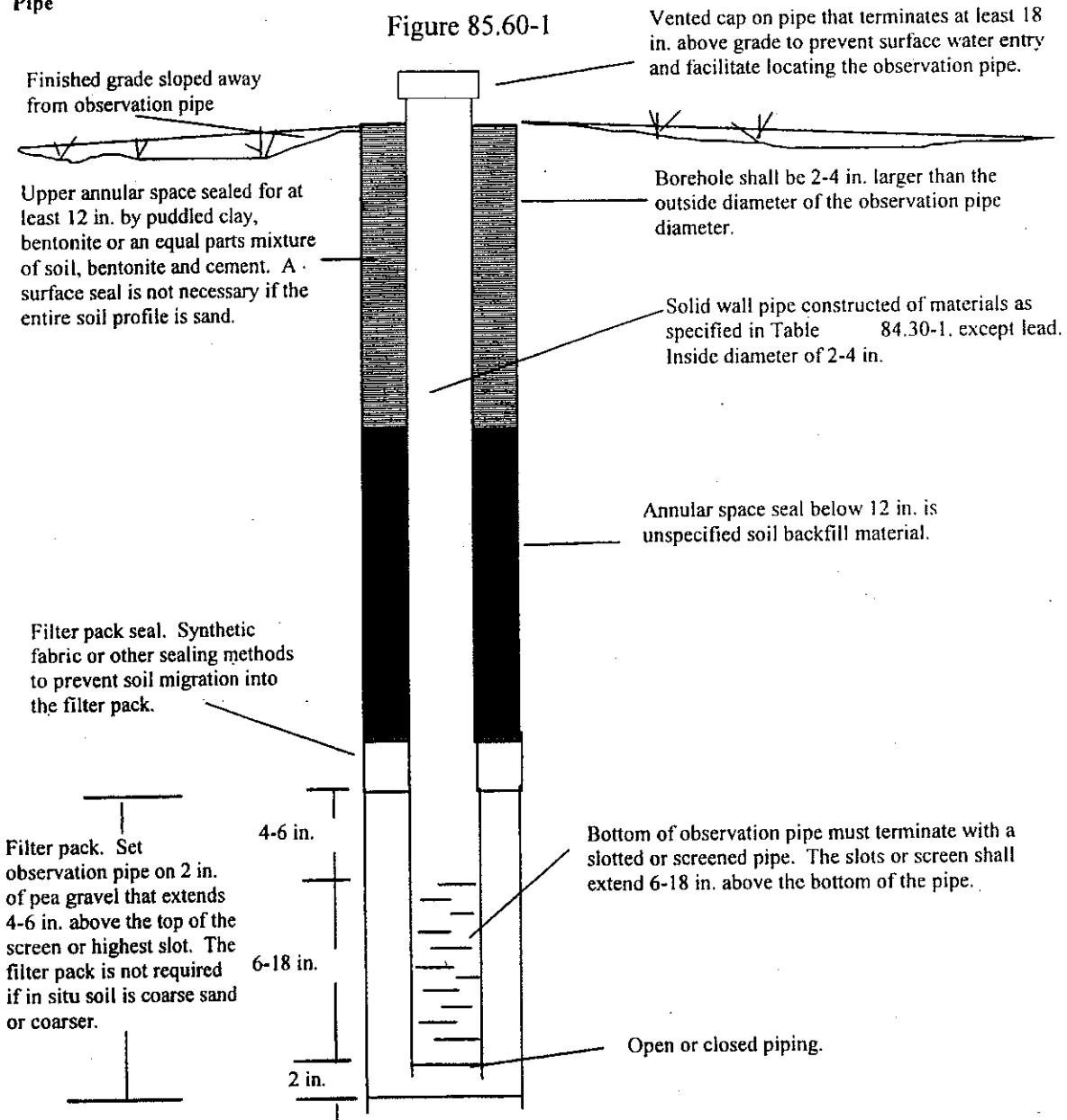
h. At a minimum, the upper 12 inches of annular space surrounding the observation pipe shall be sealed by puddled clay, bentonite, or an equal-parts mixture of soil, bentonite and cement. A surface seal may not be necessary if the entire soil profile is sand.

i. The annular space seal below 12 inches and to the top of the filter pack seal may be of unspecified soil material.

j. A filter pack seal shall be installed above the filter pack to prevent soil migration downward into the filter pack.

k. The observation pipe shall be set on at least 2 inches of pea gravel that extends 4 to 6 inches above the top of the screen or highest slot. The gravel filter pack is not necessary if the natural soil is coarse sand or coarser.

Groundwater Elevation Observation Pipe



(g) *Observations.* 1. Observation period. The observation period for soil saturation determinations shall begin on or before the appropriate date specified in Figure 85.60-2, and end June 1st.

2. Alternate observation period. The department may approve an alternate observation period if the data presented conclusively demonstrates equivalency to conditions encountered during a normal spring observation period.

3. Minimum frequency. Observations shall be made on the first day of the observation period and at least every 7 days thereafter until the observation period is complete.

(h) *Conclusions.* 1. The highest level of soil saturation shall be considered the highest level of free water observed in an observation pipe on 2 occasions 7 days apart during the observation period.

2. The results of soil saturation determinations under this section shall be considered inconclusive if the precipitation totals under par. (c) do not equal or exceed:

- a. 8.5 inches from September 1st through the last day of February; and
- b. 7.6 inches from March 1st through May 31st.

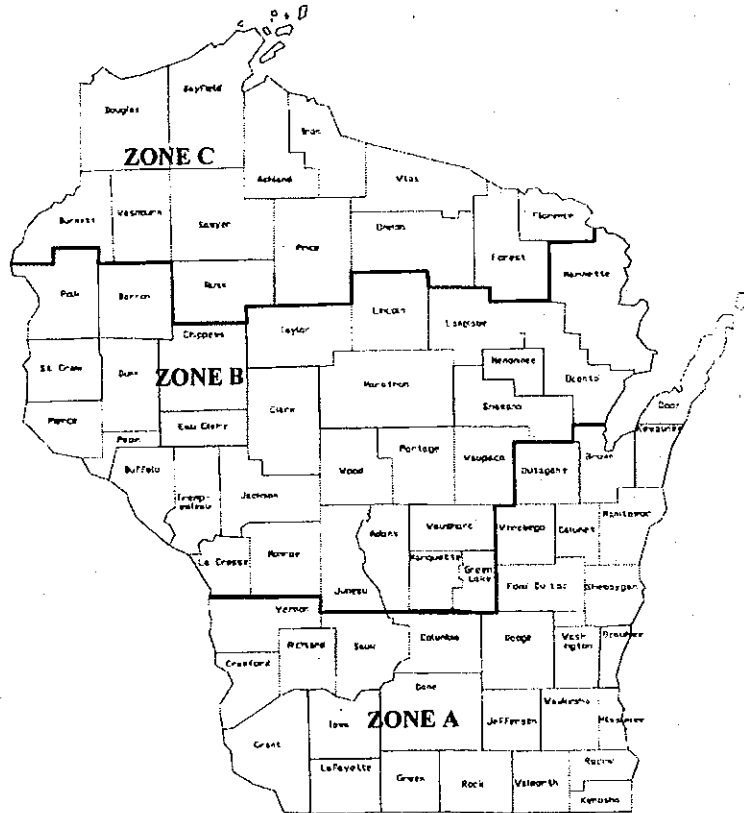


Figure 85.60-2
Latest Date to Begin Spring Soil Saturation Monitoring

Zone A	February 15
Zone B	March 1
Zone C	March 15

(i) *Reporting data.* 1. Within 180 days of the completion of the observations, 3 copies of the following data shall be submitted to the department for review:

- a. A soil and site evaluation report pursuant to s. Comm 85.40.
- b. Observation pipe installation, depth, location and elevation information.
- c. Precipitation data and name of any local station used.
- d. Observation dates.
- e. Current and any prior observation results.
- f. Any governmental unit observations or reports pertaining to the soil saturation determination observations, observation pipe construction or soil/site conditions.

2. Within 180 days of the completion of the observations, one copy of the data specified in subd. 1. shall be filed with the governmental unit having jurisdiction.

(j) *Report forms.* Soil saturation determination results shall be reported on forms specified by the department.

Note: A soil saturation determination report form (SBD-6412) may be downloaded from the Commerce webpage at: <http://www.commerce.state.wi.us/SB/SB-DivForms.html#POWTS>.

(k) *Failure to report.* Failure to file soil saturation determination results with the governmental unit and department within 60 days may disqualify the site from future soil saturation or interpretive determinations.

(4) **HYDROGRAPH PROCEDURE.** (a) 1. Except as provided in subd. 3., where regional water table fluctuations are considered in deep sandy soil, the predicted high groundwater elevation shall be established using hydrograph documentation.

2. Except as provided in subd. 3., the highest groundwater elevation shall be determined by direct observation during the soil profile evaluation or by one of the hydrograph methods outlined in pars. (b) to (d), whichever is highest.

3. The department or governmental unit may accept use of the hydrograph procedure to predict regional water table levels on sites where inclusions of sandy loam or finer soil material, or massive conditions exist.

(b) 1. If there is less than 5 feet to free water below original grade, the procedures detailed in sub. (2) or (3) shall be used to determine the highest predicted groundwater elevation at the site.

2. If there is 5 feet or more to free water below original grade, the hydrograph procedure may be used to determine the highest predicted groundwater elevation at the site.

(c) When free water at the site is 5 to 10 feet below grade, all of the following procedures apply:

1. A completed soil and site evaluation report pursuant to s. Comm 85.40 that confirms the elevation of free water, if observed, shall be prepared.

2. a. A slotted or screened groundwater elevation observation pipe shall be installed at the proposed system location to a depth of at least 12 inches below the free water elevation.

b. The observation pipe shall be installed pursuant to sub. (3) (f) 3.

3. a. The water level in the observation pipe shall be recorded after completion of the observation pipe installation and 7 days later.

b. The highest of the 2 water levels shall be used to complete the hydrograph procedure.

4. The permanent USGS groundwater elevation well or wells as assigned by the governmental unit or department shall be read within 24 hours of establishing the actual free water elevation at the site.

5. The hydrograph procedure shall be completed and the results shall be submitted for review to the governmental unit having jurisdiction in a format specified by the department.

Note: A soil saturation determination report (Hydrograph Method) form (SBD-7987) may be downloaded from the Commerce webpage at: <http://www.commerce.state.wi.us/SB/SB-DivForms.html#POWTS>.

(d) When free water at the site is more than 10 feet below grade, all of the following procedures apply:

1. A completed soil and site evaluation report pursuant to s. Comm 85.40 that confirms the elevation of free water, if observed, shall be prepared.

2. The permanent USGS groundwater elevation well or wells assigned to the project by the governmental unit or department shall be read within 24 hours of the actual free water determination at the site.

3. The hydrograph procedure shall be completed and the results shall be submitted for review to the governmental unit having jurisdiction in a format specified by the department.

Note: A soil saturation determination report (Hydrograph Method) form (SBD-7987) may be downloaded from the Commerce webpage at: <http://www.commerce.state.wi.us/SB/SB-DivForms.html#POWTS>.

(e) The governmental unit or the department may request more than one USGS groundwater well or other wells assigned by the governmental unit or the department be used to complete the hydrograph procedure.

(f) The governmental unit or the department may reject or suspend use of the hydrograph procedure when erratic groundwater tables are present due to recent, significant recharge events.

(5) ARTIFICIALLY CONTROLLED NAVIGABLE WATERS DETERMINATION. (a) If the groundwater elevation at a site is influenced by the artificial control of navigable waters by a recognized management entity, all of the following conditions shall be addressed:

1. If loamy sand or coarser soil textures prevail at a site, the groundwater elevation at the site shall be compared to the current and highest controlled navigable water elevation.

2. The highest normal groundwater elevation at such sites shall be the higher of either the observed elevation or an adjusted elevation based on the controlled water.

(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.

(6) SOIL SATURATION OBSERVATION PIPE REMOVAL. The following requirements shall apply to all groundwater elevation observation pipes installed pursuant to this section:

(a) *Removal timeline.* Unless specifically approved by the governmental unit or department, all groundwater elevation observation pipes shall be removed within 60 days after the completion of soil saturation determination.

(b) *Contamination conduit.* Any groundwater elevation observation pipe found by the department or governmental unit to be acting as a conduit for groundwater contamination shall be ordered removed immediately.

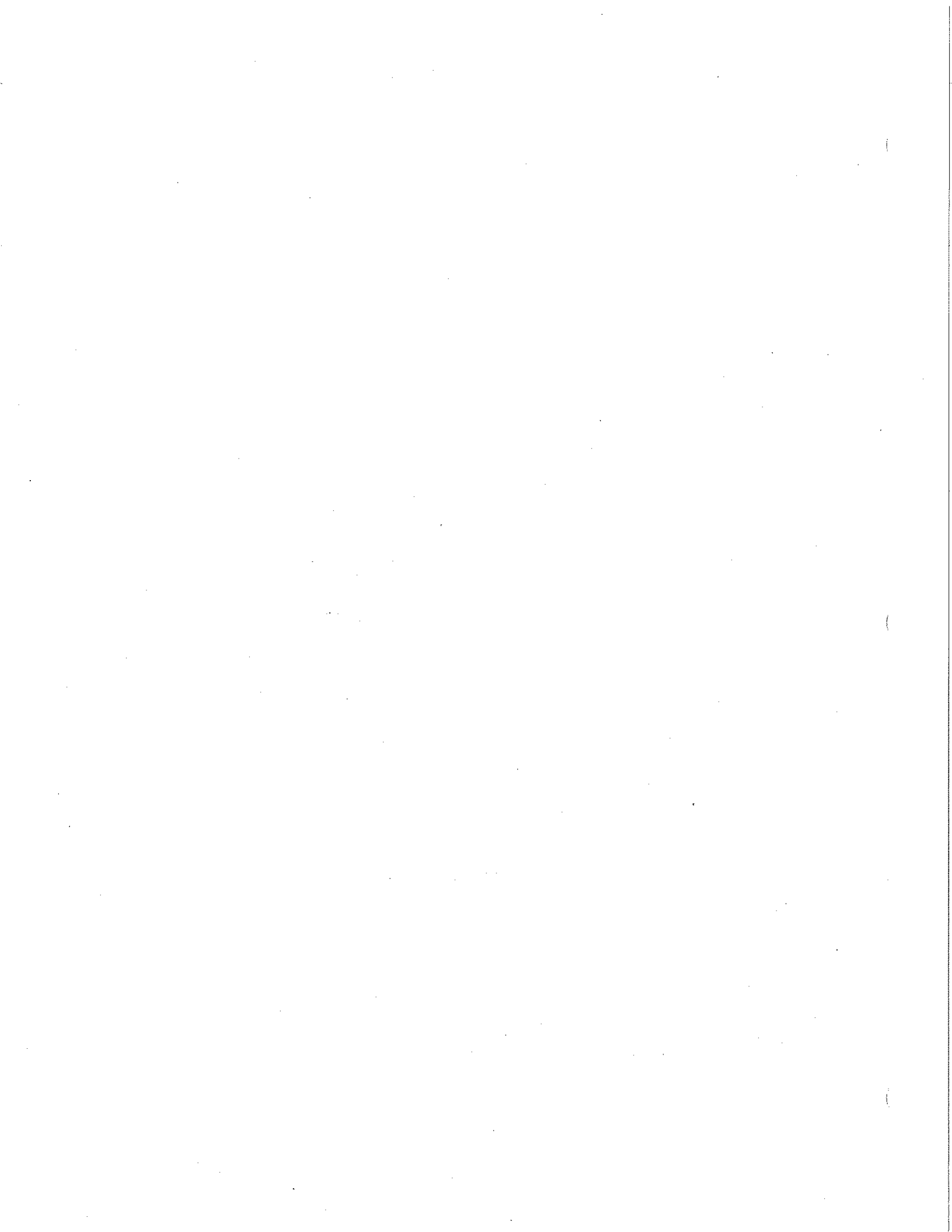
(7) VERIFICATION. (a) *Verification.* 1. The governmental unit or department may request verification of soil saturation determinations pursuant to s. Comm 85.50 (2), and proper observation pipe installation pursuant to this section.

2. The governmental unit or the department may require any groundwater elevation observation pipe deemed by the governmental unit or the department to be in poor contact with the surrounding soil to be reinstalled pursuant to this section.

(b) *On-site visits.* 1. The governmental unit or department may visit sites during soil saturation determination periods or at other reasonable times to determine the accuracy of data.

2. A written record of on-site visits in subd. 1. shall be maintained by the agency conducting the visits.

History: Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 02-129: r. and recr. (1) and (3) (h) 1., am. (2) (c) (intro.), (2) (c) 2. b., (3) (i) 1. (intro.) and 2., (4) (a) 1. and 2., (4) (c) (intro.), 2. b., 5., (d) (intro.) and 3., r. (3) (b), cr. (4) (a) 3., (4) (e) and (f), and (5), renum. (5) and (6) to be (6) and (7) Register January 2004 No. 577, eff. 2-1-04; corrections in (3) (a) and (h) made under s. 13.93 (2m) (b) 7., Stats., Register January 2004 No. 577; CR 07-100: am. (4) (c) 5., (d) 3. and (5) (b) Register September 2008 No. 633, eff. 10-1-08.



Chapter Comm 87

PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM REPLACEMENT OR REHABILITATION FINANCIAL ASSISTANCE PROGRAM

Comm 87.01	Purpose.	Comm 87.32	Ineligible rehabilitation or replacement work.
Comm 87.02	Applicability.	Comm 87.40	Application by owners.
Comm 87.03	Definitions.	Comm 87.50	Alternate evidence of income.
Comm 87.04	Application by governmental units to participate.	Comm 87.70	Allocation of funds and financial assistance awards.
Comm 87.05	Grant application by participating governmental units.	Comm 87.71	Payments to participating governmental units.
Comm 87.10	Categories of POWTS.	Comm 87.72	Payments for monitoring of experimental systems.
Comm 87.20	Eligibility of owners.	Comm 87.80	Program enforcement.
Comm 87.21	Ineligibility of owners.	Comm 87.81	Program audit.
Comm 87.30	Maximum allowable financial assistance amount.	Comm 87.90	Petition for variance.
Comm 87.31	Maximum allowable financial assistance amount for experimental POWTS.	Comm 87.91	Process for appeal.

Note: Chapter NR 124 as it existed on February 29, 1992, was repealed and a new Chapter ILHR 87 was created effective March 1, 1992. Chapter ILHR 87 was renumbered Chapter Comm 87 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, February, 1997, No. 494. Chapter Comm 87 as it existed on December 31, 1998 was repealed and a new chapter Comm 87 was created effective February 1, 1999.

Comm 87.01 Purpose. The purpose of this chapter is to establish rules under s. 145.245, Stats., for the implementation and administration of a financial assistance program to reimburse eligible property owners a portion of the cost of replacing or rehabilitating failing private onsite wastewater treatment systems (POWTS).

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. Register January 2005 No. 589, eff. 2-1-05.

Comm 87.02 Applicability. For applications received under the provisions of this chapter, subs. (1) and (2) shall apply. For date of installation of existing systems, sub. (3) shall apply.

(1) This chapter applies to applications received by the department on or after February 1, 2005.

(2) Applications received by the department prior to February 1, 2005 are governed by the rules as they existed on or before January 31, 2005.

(3) This chapter applies to existing failing POWTS installed prior to July 1, 1978.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. (1) and (2), cr. (3) Register January 2005 No. 589, eff. 2-1-05.

Comm 87.03 Definitions. The following definitions apply to this chapter.

(1) "Department" means the department of commerce.

(2) "Determination of failure" has the meaning given in s. 145.245 (1) (a), Stats.

Note: Section 145.245 (1) (a), Stats., reads:

"Determination of failure" means any of the following:

1. A determination that a private sewage system is failing, according to the criteria under s. 145.245 (4), Stats., based on an inspection of the private sewage system by an employee of the state or a governmental unit who is certified to inspect private sewage systems by the department.

2. A written enforcement order issued under s. 145.02 (3) (f), 145.20 (2) (f) or 281.19 (2), Stats.

3. A written enforcement order issued under s. 254.59 (1), Stats., by a governmental unit.

(3) "Failing private sewage system" has the meaning given in s. 145.245 (4), Stats.

Note: Section 145.245 (4), Stats., reads:

"The department shall establish criteria for determining if a private sewage system is a failing private sewage system. A failing private sewage system is one which causes or results in any of the following conditions:

(a) The discharge of sewage into surface water or groundwater.

(b) The introduction of sewage into zones of saturation which adversely affects the operation of a private sewage system.

(c) The discharge of sewage to a drain tile or into zones of bedrock.

(d) The discharge of sewage to the surface of the ground.

(c) The failure to accept sewage discharges and back up of sewage into the structure served by the private sewage system.

(4) "Governmental unit" has the meaning as given in s. 145.01 (5), Stats.

Note: Section 145.01 (5), Stats., reads:

"Governmental unit responsible for regulation of private sewage systems" or "governmental unit", unless otherwise qualified, means the county, except that in a county with a population of 500,000 or more these terms mean the city, village or town where the private sewage system is located. "Governmental unit" also includes a federally recognized American Indian tribe or band.

(5) "Owner", for the purposes of this chapter, means the person that owns the structure that is served by a failing POWTS.

(6) "Participating governmental unit" means a governmental unit which applies to the department for financial assistance under this chapter, and which meets the conditions as specified in s. 145.245 (9), Stats.

(7) "Person" means any one of the following:

(a) Any individual including the estate of an individual.

(b) Two or more individuals having a joint or common interest in a principal residence, as defined in s. 145.245 (1) (c), Stats., which uses a POWTS.

Note: Section 145.245 (1) (c), Stats., reads: "Principal residence" means a residence which is occupied at least 51% of the year by the owner.

(c) A nonprofit corporation as defined in s. 181.0103 (17), Stats.

(7m) "POWTS" has the same meaning as s. Comm 81.01 (182) and (194).

Note: Sections Comm 81.01 (182) and (194) read: '(182) "POWTS" means a private onsite wastewater treatment system.

(194) "Private onsite wastewater treatment system" has the meaning given for 'private sewage system' under s. 145.01 (12), Stats.'

Note: Section 145.01 (12), Stats., reads: "'Private sewage system' means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the department including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure. A private sewage system may be owned by the property owner or by a special purpose district.'

(8) "Principal residence" means a residence which is occupied at least 51% of the year by the owner. Principal residence includes a residence owned by a trust or an estate of an individual, if the residence is occupied at least 51% of the year by a person who has an ownership interest as a beneficiary of the trust or estate.

(9) "Project period" means any of the following:

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

(b) For applications submitted to the department for annual costs of monitoring replacement experimental sewage systems, project period means the period beginning on February 1 and ending on December 31 of the 5th year after the date of installation.

(c) For applications for loans as provided in s. 145.245 (12m), Stats., the project period means the period beginning on February 1 and ending on December 31 of the following year after the date of installation.

Note: Records of applications are retained for the current project period only. Any loan applications, therefore, should be made in the current project period.

(10) "Small commercial establishment" has the meaning given in s. 145.245 (1) (e), Stats. Small commercial establishment includes a farm, including a residence on a farm, if the residence is occupied by a person who is an operator of the farm and if the maximum daily wastewater flow rate of the farm and residence is less than 5,000 gallons per day as determined by the design criteria of the state plumbing code.

Note: Section 145.245 (1) (e), Stats., defines small commercial establishment as a commercial establishment or a business place with a maximum daily wastewater flow rate of less than 5,000 gallons per day.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; correction in (7) (c) made under s. 13.93 (2m) (b) 7., Register, April, 2000, No. 532; CR 04-068: am. (5), (7) (b) and (9) (intro.), cr. (7m) and (9)(c) Register January 2005 No. 589, eff. 2-1-05; correction in (7m) made under s. 13.92 (4) (b) 7., Stats., Register September 2008 No. 633.

Comm 87.04 Application by governmental units to participate. An application by a governmental unit to participate in this program shall include at least all of the following:

(1) Certified copies of the following approved resolutions of the governing body of the governmental unit as follows:

(a) A resolution designating an authorized representative and authorizing such representative to apply for a grant under s. 145.245, Stats., and this chapter on behalf of the governmental unit. The authorized representative shall be an official or employee of the governmental unit.

(b) A resolution certifying that grants will be used for rehabilitation or replacement of a POWTS for a principal residence or small commercial establishment owned by a person who meets the eligibility requirements of s. 145.245 (5), Stats., that the funds will be used as provided under s. 145.245 (6), Stats., and that the maximum allowable amount of financial assistance will not exceed the amount permitted under s. 145.245 (7), Stats., and Tables 87.30-1 to 87.30-6.

(c) A resolution certifying that grants will be used for replacement or rehabilitation of POWTS which will be properly installed and maintained.

(d) A resolution certifying that financial assistance provided to the governmental unit will be disbursed to eligible owners, as specified in s. Comm 87.30 and s. 145.245, Stats.

(2) Documentation of a regulatory program to insure proper installation and maintenance of all new or replacement POWTS constructed in the area of jurisdiction of the governmental unit. An approvable regulatory program shall include the following:

(a) Adoption of an ordinance that specifically requires compliance with the maintenance program set forth in par. (d). and that specifically grants enforcement authority to the governmental unit.

(b) A system for providing written notice of the maintenance program requirements to each owner applying for a sanitary permit.

(c) An inspection program, that includes at least one inspection during installation of a POWTS.

(d) A maintenance program in effect.

Note: For additional maintenance program requirements, refer to ch. Comm 83.

(e) A central record keeping system, capable of maintaining records for a period of not less than six years from the date of a POWTS installation and capable of providing evidence that the governmental unit is administering the program as specified in this chapter.

(f) Where considered appropriate by the governmental unit, a system of user charges and cost recovery that assures that each recipient of service under this program will pay a proportionate share of the program costs. User charges and cost recovery may

include the cost of the grant application fee and the cost of supervising and maintaining an installation and maintenance program.

(3) Other information as requested by the department.

History: CR 04-068: cr. Register January 2005 No. 589, eff. 2-1-05.

Comm 87.05 Grant application by participating governmental units. (1) (a) The participating governmental unit shall review information received from owners and determine eligibility under s. 145.245, Stats., and this chapter, except for applications for monitoring as specified in s. Comm 87.31.

(b) In order to receive an allocation of financial assistance, the participating governmental unit shall prepare and submit an application to the department. The application shall be on forms acceptable to the department.

Note: All forms referenced in this chapter are available at no charge from the Department of Commerce, Safety and Buildings Division, P.O. Box 2658, Madison, WI 53701-2658, telephone 608/266-3151, or at the Safety and Buildings Web site at www.commerce.wi.gov/SB/.

(2) An application from a participating governmental unit for financial assistance to replace or rehabilitate a POWTS shall include all of the following:

(a) A list of owners approved as eligible by the participating governmental unit. The list shall include, at a minimum, the name of each owner and the maximum allowable amount of financial assistance as determined under s. Comm 87.30 or 87.31.

(b) Other information as requested by the department.

(3) Governmental units may request pre-application assistance including technical assistance from the department.

(4) Applications for grants from participating governmental units shall be postmarked no later than January 31 for consideration in the following project period. Participating governmental units may request in writing to the department prior to December 31, a six-month extension to the project period.

History: CR 04-068: cr. Register January 2005 No. 589, eff. 2-1-05.

Comm 87.10 Categories of POWTS. The department and the participating governmental unit shall use the following categories of failing POWTS to determine financial assistance eligibility under s. 145.245 (5), Stats., and s. Comm 87.20, to financial assistance under s. 145.245 (7), Stats., and ss. Comm 87.30 and 87.31:

(1) ELIGIBLE FOR FINANCIAL ASSISTANCE AWARD. As specified in s. 145.245 (5), Stats., only category 1 or category 2 failing POWTS are eligible for assistance under this chapter.

Note: Section 145.245 (5), Stats., defines failure for two categories which are eligible for grant awards-- Category 1, failing private sewage system as defined in s. 145.245 (4) (a) to (c), Stats.; Category 2, failing private sewage system as defined in s. 145.245 (4) (d), Stats.

(2) INELIGIBLE FOR FINANCIAL ASSISTANCE AWARD. As specified in s. 145.245 (5), Stats., those systems that fail as a result of back up of sewage into the structure served, are not eligible for assistance under this chapter.

Note: Section 145.245 (5), Stats., defines Category 3, failing private sewage system as defined in s. 145.245 (4) (e), Stats., as ineligible for a grant award.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. (intro.), (1) and (2) Register January 2005 No. 589, eff. 2-1-05.

Comm 87.20 Eligibility of owners. (1) GENERAL. A person who owns a principal residence served by a category 1 or 2 failing POWTS installed prior to July 1, 1978 or a business which owns a small commercial establishment served by a category 1 or 2 failing POWTS installed prior to July 1, 1978 is eligible for financial assistance under this chapter if the person or business:

(a) Meets the eligibility requirements set forth in s. 145.245, Stats., and this chapter.

Note: Section 145.245 (5) (c) 1., Stats., specifies that in order to be eligible for grant awards under this section, the annual family income of the person who owns the principal residence may not exceed \$45,000. Section 145.245 (5) (d) 1., Stats., specifies that in order to be eligible for grant awards under this section, the annual gross revenue of the business that owns the small commercial establishment may not exceed \$362,500.

(b) Submits an application to the participating governmental unit in which the failing POWTS is located.

(c) Has completed all rehabilitation or replacement work in accordance with the enforcement order and the state plumbing code, chs. Comm 82 to 84. Any variances or petitions to modify specific state plumbing code requirements shall be approved in writing by the department prior to the installation of the system.

(d) Owned the principal residence or small commercial establishment which is served by the category 1 or 2 failing POWTS. A person does not meet this condition if he or she did not own the property at the time the POWTS was failing and subject to a determination of failure. The buyer of the property is not eligible if the failing POWTS was replaced prior to the date of sale. The seller of the property is not eligible if the determination of failure was made after the date of sale.

(2) PRIVATE NONPROFIT ENTITIES. For the purposes of this chapter a small commercial establishment may be owned by a private nonprofit corporation as defined in s. 181.0103 (17), Stats.

Note: Section 181.0103 (17), Stats., means a nonstock nonprofit corporation subject to the provisions of this chapter, except a foreign corporation.

(3) INELIGIBLE ENTITIES. Structures owned by any of the following entities are not eligible for financial assistance awards:

(a) The state.

(b) An office, department, independent agency, institution of higher education, association, society or other body in state government.

(c) An authority created under ch. 231 or 234, Stats.

(d) A city, village, town or county.

(e) A federal agency, department or instrumentality.

(f) An interstate agency.

(4) REPLACEMENT AND EXISTING STRUCTURES. (a) For a principal residence or small commercial establishment that meets all of the requirements of s. 145.245, Stats., the maximum allowable financial assistance amount shall be limited to the minimum POWTS capacity that would have been necessary to serve the original structure. Any increase in capacity required to serve a larger replacement structure shall not be eligible.

Note: An example where par. (a) applies would be a POWTS that once served a 3-bedroom structure and the replacement structure is 4 or more bedrooms; the financial assistance would be based on the maximum allowable amount for a POWTS sized for 3-bedrooms.

(b) For a principal residence or small commercial establishment that meets all of the requirements of s. 145.245, Stats., the maximum allowable financial assistance amount shall be limited to the minimum POWTS capacity that would have been necessary to serve the existing structure. Any increase in capacity required to serve the existing structure may be eligible.

Note: An example where par. (b) applies would be a POWTS that once served a 2-bedroom structure and such POWTS was later determined to be acceptable for a 3-bedroom structure. The existing structure served by such POWTS contains 3 bedrooms; the financial assistance would be based on the maximum allowable amount for a POWTS sized for 3-bedrooms.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; correction in (2) made under s. 13.93 (2m) (b) 7., Register, April, 2000, No. 532; CR 04-068: am. (1) (intro.), (1) (b), (d) and (3) (intro.), f. and recr. (4) Register January 2005 No. 589, eff. 2-1-05.

Comm 87.21 Ineligibility of owners. (1) As specified under s. 145.245 (5m) (b), Stats., the department shall notify a governmental unit if it receives a certification under s. 49.855 (3), Stats., that an individual is delinquent in child support or maintenance payments or owes past support, medical expenses or birth expenses.

(2) The department or a governmental unit shall deny an application under sub. (1) if the department receives a certifica-

tion under s. 49.855 (3), Stats., that the owner or an individual who would directly benefit by the financial assistance is delinquent in child support or maintenance payments or owes past support, medical expenses or birth expenses.

(3) The department or a governmental unit shall deny an application if a financial assistance amount under this chapter has been previously awarded for rehabilitation or replacement work at the same site, except for financial assistance awarded on an annual basis for monitoring of approved experimental POWTS, as specified in s. Comm 87.31.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. (2) and (3) Register January 2005 No. 589, eff. 2-1-05; correction in (1) and (2) made under s. 13.93 (2m) (b) 7., Stats., Register January 2005 No. 589.

Comm 87.30 Maximum allowable financial assistance amount. (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.

(2) LEAST COSTLY METHODS. As specified in s. 145.245 (7) (b), Stats., costs allowable in determining financial assistance funding under this section may not exceed the costs of rehabilitating or replacing a POWTS by the least costly methods. Only eligible work necessary to meet the minimum requirements of the state plumbing code by the least costly methods may be allowed in determining financial assistance awards under this chapter.

Note: Section 145.245 (7) (b) reads: "Except as provided in par. (e), costs allowable in determining grant funding under this section may not exceed the cost of rehabilitating or replacing a private sewage system by the least costly method, except that a holding tank may not be used as the measure of the least costly method for rehabilitating or replacing a private sewage system other than a holding tank."

(3) FINANCIAL ASSISTANCE AWARDS. Financial assistance awards shall be determined by calculating the maximum allowable financial assistance amount by type of system, system component, or service provided.

(a) *Site evaluation and soil testing.* The maximum allowable financial assistance amount for site evaluation and soil testing is \$250.

(b) *Installation of a replacement or additional POWTS anaerobic treatment component.* The maximum allowable financial assistance amount for installation of a replacement POWTS anaerobic treatment component is listed in Table 87.30-1.

(c) *Installation of a POWTS dosing component and lift pump or siphon.* The maximum allowable financial assistance amount for installation of a POWTS dosing component and lift pump or siphon is listed in Table 87.30-2.

(d) *Installation of a non-pressurized and in-ground pressure POWTS treatment or dispersal component.* The maximum financial assistance amount for installation of non-pressurized and in-ground pressure POWTS treatment or dispersal component is listed in Table 87.30-3.

(e) *Installation of an at-grade or mound POWTS treatment or dispersal component.* The maximum allowable financial assistance amount for installation of at-grade or mound POWTS treatment or dispersal component is listed in Table 87.30-4.

(f) *Installation of a POWTS holding tank component.* The maximum allowable financial assistance amount for installation of a POWTS holding tank component is listed in Table 87.30-5.

(g) *Replacement exterior grease interceptor.* The maximum allowable financial assistance amount for installation of a replacement exterior grease interceptor is listed in Table 87.30-6.

Table 87.30-1
MAXIMUM ALLOWABLE FINANCIAL ASSISTANCE AMOUNT FOR INSTALLATION OF A REPLACEMENT
POWTS ANAEROBIC TREATMENT COMPONENT

Installation of a Replacement POWTS Anaerobic Treatment Component by Number of Bedrooms			
Number of Bedrooms	Financial Assistance Amount	Number of Bedrooms	Financial Assistance Amount
1 or 2	\$500	6	\$750
3	550	7	875
4	650	8 or more	950
5	725		

Table 87.30-2
MAXIMUM ALLOWABLE FINANCIAL ASSISTANCE AMOUNT FOR INSTALLATION OF A POWTS DOSING
COMPONENT AND LIFT PUMP OR SIPHON

Installation of a POWTS Dosing Component and Lift Pump or Siphon	
Number of Bedrooms	Financial Assistance Amount
1 or 2	\$1,100
3 or 4	1,200
5 or more	1,250

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							
Design Loading Rate in Gallons Per Square Foot Per Day	Percolation Rate When Properly Filled with the Governmental Unit Before July 2, 1994 (minutes per inch)	Financial Assistance Amount by Number of Bedrooms					
		1	2	3	4	5	Each Additional Bedroom
0.7 or more	0 - less than 10	\$1,400	\$1,450	\$1,925	\$2,100	\$2,100	\$250
0.60 to 0.69	10 - less than 30	1,475	1,475	2,100	2,200	2,250	250
0.50 to 0.59	30 - less than 45	1,475	1,475	2,100	2,400	2,450	300
0.49 or less	45 - 60	1,475	1,550	2,325	2,725	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	\$2,050	\$2,350	\$2,600	\$3,200	\$3,800	\$275
High Groundwater Mound	2,550	3,500	4,100	4,750	4,775	300
High Bedrock Mound	4,000	4,600	4,675	4,775	4,775	350
Slowly Permeable Mound ^a	3,250	3,600	4,400	4,750	4,750	375
Less Than 24" or Greater Than 12% Slope Mound	3,050	4,175	4,400	4,775	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	\$2,800	6	\$4,400
4	3,200	7	4,775
5	3,850	8	4,775
		Each Additional Bedroom	400

Table 87.30-6
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	\$550	1,500 to 1,749	\$750
1,250 to 1,499	650	1,750 to 1,999	800
		2,000 or more	900

(4) USE OF FINANCIAL ASSISTANCE AWARD TABLES FOR SMALL COMMERCIAL ESTABLISHMENTS. In order to use Tables 87.30-1 to 87.30-6 for small commercial establishments, where applicable, divide the design daily wastewater flow rate in gallons per day by 150, round off to the next highest whole number and use the result in place of the number of bedrooms.

(5) EXCEPTIONS TO THE FINANCIAL ASSISTANCE AWARD TABLES. (a) The department may determine on a case-by-case basis the maximum allowable financial assistance amount for types of POWTS which are not covered under sub. (3) and Tables 87.30-1 to 87.30-6.

(b) The maximum allowable financial assistance amount for POWTS work done on property owned by a licensed plumber or contractor engaged in the business of installing POWTS shall be limited to two-thirds of the financial assistance amount or \$4,667, whichever is less.

(c) The maximum allowable financial assistance amount for each principal residence or small commercial establishment shall be limited to 60% of the total cost of replacement or the amount determined under sub. (3) and Tables 87.30-1 to 87.30-6, whichever is less.

Note: Under s.145.245 (7) (d), Stats., if the income of the person who owns a principal residence exceeds \$32,000 and the residence is served by a category 1 or category 2 failing private sewage system, the amount of the grant award under this section is limited to the amount determined in par. (c) less 30% of the amount which the person's income exceeds \$32,000.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. Register January 2005 No. 589, eff. 2-1-05; CR 07-100: am. (1) and Tables 87.30-3 to 5 Register September 2008 No. 633, eff. 10-1-08.

Comm 87.31 Maximum allowable financial assistance amount for experimental POWTS. (1) Pursuant to s. 145.245 (7) (e), Stats., this section establishes the parameters for allocating the maximum allowable state financial assistance award for experimental POWTS.

(2) The department may determine on a case-by-case basis the maximum allowable financial assistance amount for the installation and monitoring of an experimental POWTS installed under s. 145.02 (3) (b), Stats.

(3) As specified in s. 145.245 (11m) (d), Stats., the department may prorate available funds for the installation and monitoring of an experimental POWTS.

Note: Section 145.245 (7) (e), Stats., reads: "Costs allowable for experimental private sewage systems shall include the costs of installing and monitoring experimental private sewage systems installed under s. 145.02 (3) (b) and this section."

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. Register January 2005 No. 589, eff. 2-1-05.

Comm 87.32 Ineligible rehabilitation or replacement work. For the purposes of establishing work which is not eligible for a financial assistance award under this chapter, the following items or projects are considered ineligible work:

(1) (a) Rehabilitation or replacement of a failing POWTS conducted before the date on which the governmental unit adopts this program.

(b) Rehabilitation or replacement of a failing POWTS with an experimental POWTS conducted without department pre-approval as specified under s. Comm 87.40 (1) (b).

(2) Except for site evaluation, soil testing under s. Comm 87.30 (3) (a) and issuing the sanitary permit, rehabilitation or replacement of a failing POWTS done before the determination of failure was made.

(3) Rehabilitation or replacement of a failing POWTS where a determination is made that public sewer is available to the property as determined by the municipality that owns or operates the public sewer.

(4) Connection to a municipal sewage treatment works.

(5) Installation of a small sewage treatment plant with a surface discharge.

(6) Installation of a POWTS to replace a privy.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. (1) to (3) and (6) Register January 2005 No. 589, eff. 2-1-05.

Comm 87.40 Application by owners. (1) CONTENTS.

(a) In order to be eligible to receive a financial assistance award under this chapter, the owner of a failing POWTS shall submit an application to the participating governmental unit in which the POWTS is located. The application shall be made on forms that are acceptable to the department.

(b) In order to be eligible to receive a financial assistance award for experimental systems under this chapter, an owner shall receive written pre-approval for such system from the department and submit information, in addition to those items specified in par. (a), that:

1. Documents that the experimental system is being conducted by an individual or entity as a research project under the management of the department.

2. Indicates the objectives of the experiment relative to treatment capabilities.

3. Delineates proposed sampling protocols of influent and effluent loads and flows.

4. Includes a proposed schedule for the installation, monitoring, reporting and conclusion.

5. Includes a copy of the monitoring contract with an estimate of the costs of monitoring for the project period.

6. Provides other documentation as requested by the department or participating governmental unit.

(2) **PRINCIPAL RESIDENCE.** The application by the owner of a principal residence shall be made on forms acceptable to the department and shall include all of the following:

(a) *Evidence of annual family income.* A person who owns a principal residence shall provide the evidence of income required under s. 145.245 (5) (c) 2. and 3., Stats., or the alternative evidence of income required under s. 145.245 (5) (c) 4., Stats., and s. Comm 87.50.

(b) *Sanitary permit number and date of issuance.* A legible copy of the application for the sanitary permit issued by the governmental unit in which the POWTS is located.

(c) *Additional information.* If within three years of the date in which the enforcement order was issued or determination of failure was made, the applicant has bought or sold the principal residence served by a failing POWTS, the person shall provide the following additional information:

1. A copy of the closing statement, the sale contract, escrow agreement or other documentation which shows the date of sale of the property.

2. A copy of the closing statement, sale contract, escrow agreement or other documentation which shows that the cost of replacing the failing POWTS has or will be incurred at the owner's expense.

(3) **SMALL COMMERCIAL ESTABLISHMENTS.** The application for eligible owners of small commercial establishments, as specified in s. 145.245 (5) (a) 2., Stats., shall be made on forms acceptable to the department and shall include all of the following:

(a) *Evidence of annual business income.* As specified in s. 145.245 (5) (d) 2., Stats., a business which owns a small commercial establishment shall provide one of the following as evidence of annual gross revenue:

1. A copy of the federal income tax return filed by the business for the tax year prior to the year in which the enforcement order was issued or determination of failure was made or for the tax year in which the determination of failure was made.

2. If the small commercial establishment is owned by a private nonprofit corporation as defined in s. 560.038 (1) (b), Stats., the nonprofit corporation shall provide a profit and loss statement for the commercial establishment for the tax year prior to the year in which the enforcement order was issued or determination of failure was made or for the tax year in which the enforcement order was issued or determination of failure was made.

Note: Section 560.038, Stats., was repealed by 2007 Wis. Act 125.

Note: As specified in s. 145.245 (11) (d), Stats., the department may not allocate more than 10% of the funds available under this subsection each fiscal year for grants for small commercial establishments.

Note: As specified in s. 145.245 (5) (a) 2., Stats., a business must own the small commercial establishment in order to be eligible for a grant amount. A business which leases a small commercial establishment is not eligible. Therefore, the application and income eligibility requirements must be met by the owners of the property served by the failing private sewage system.

(b) *Sanitary permit number and date of issuance.* A legible copy of the application for the sanitary permit issued by the county in which the POWTS is located.

(c) *Additional information.* If within 3 years of the date that the enforcement order was issued or determination of failure was made, and an owner has bought or sold the small commercial establishment served by a failing POWTS, the person shall provide the following additional information:

1. A copy of the closing statement, sale contract, escrow agreement or other documentation which shows the date of sale of the property.

2. A copy of the closing statement, sale contract, escrow agreement or other documentation which shows that the cost of replacing the failing POWTS has or will be incurred at the owner's expense.

(d) *Other information.* Any other information that may be requested by the department or participating governmental unit.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; correction in (3) (a) 2., made under s. 13.93 (2m) (b) 7., Register, April, 2000, No. 532; CR 04-068: am. (1) (a), (b), (2), (3) (a) 1., 2., (b) and (c) Register January 2005 No. 589, eff. 2-1-05.

Comm 87.50 Alternate evidence of income. A participating governmental unit may consider any of the following criteria as satisfactory evidence of income:

(1) A copy of the owner's federal income tax return or federal income tax forms for the taxable year in which the enforcement order was issued or determination of failure was made and, if married and filing separately, a copy of the federal income tax return or federal income tax forms for that same year for the owner's spouse.

(2) In conjunction with the evidence of income required under sub. (1), an affidavit from the owner. The affidavit shall state the reason that a reduction in net income or adjusted gross income is expected in the year in which the enforcement order was issued or determination of failure was made, and the estimated amount of that reduction, for the taxable year in which the enforcement order is issued or determination of failure is made.

(3) An affidavit from the owner of the principal residence or small commercial establishment stating the reason that he or she was not required to file a federal income tax return or federal income tax forms in the year prior to the year in which the enforcement order was issued or for the year in which the determination of failure was made.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. Register January 2005 No. 589, eff. 2-1-05.

Comm 87.70 Allocation of funds and financial assistance awards. (1) **GENERAL.** The department shall allocate funds available for financial assistance awards to participating governmental units as provided in s. 145.245 (11), Stats., except for funds so specified in s. Comm 87.72.

(2) **PRORATION.** (a) If available funds are not sufficient to fully fund all applications, the department shall prorate available funds under s. 145.245 (11m), Stats. A prorated payment shall be deemed full payment of the financial assistance.

(b) A financial assistance application denied under s. 145.245 (11m) (c), Stats., is not eligible for awards in a later fiscal year.

(3) **REVISION OF ALLOCATION OR AWARD.** (a) If the department finds that an owner listed in the application of a governmental unit does not meet the eligibility requirements under s. 145.245 (5), Stats., the department may reduce an allocation to the governmental unit in the current or in a following fiscal year.

(b) The department may withhold funds allocated to a governmental unit and initiate enforcement under s. Comm 87.80, if a governmental unit does not meet the conditions specified under s. 145.245 (9), Stats.

(c) The department may reallocate any withheld or recovered funds in the following fiscal year.

(4) **EXPERIMENTAL SYSTEMS.** The allocation and payment of financial assistance awards for experimental POWTS shall be in accordance with ss. Comm 87.31 and 87.72.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. (1), (2) and (4) Register January 2005 No. 589, eff. 2-1-05.

Comm 87.71 Payments to participating governmental units. (1) Except as provided in s. Comm 87.72, financial assistance payments shall be made to the participating governmental unit which shall be responsible for disbursing all funds received from the department for the purposes for which the financial assistance award was made.

(2) A participating governmental unit shall request payment on forms acceptable to the department and shall include such information as required by the department to document satisfactory completion of eligible work. Payments shall be requested in accordance with the payment schedule included in the financial assistance award conditions.

(3) The total financial assistance amount payable to a participating governmental unit is limited to the amount of funds awarded to the participating governmental unit under this chapter. The specific financial assistance amount for individual owners of a POWTS is limited to the maximum allowable financial assistance amount under s. Comm 87.30. Payment based on a prorated financial assistance amount shall constitute a complete payment for that owner.

(4) At any time before final payment of the financial assistance, the department may review and audit any request for payment. Based on the review or audit, any payment may be reduced for prior overpayment or increased for prior underpayment.

(5) The participating governmental unit shall return to the department any funds, including any interest derived therefrom, received under this chapter which are not disbursed to eligible owners.

(6) The department may authorize the withholding of a financial assistance payment where it determines in writing that a participating governmental unit has failed to comply with program objectives, financial assistance award conditions, or reporting requirements. Such withholding shall be limited to only that amount necessary to assure compliance.

(7) The department shall withhold a financial assistance payment to the extent of any indebtedness, relating to the provisions of this chapter, of the participating governmental unit to the state of Wisconsin, unless it determines that collection of the indebtedness will impair accomplishment of the program objectives and that continuation of the specific project is in the best interest of the state of Wisconsin.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. (1) to (4), (6) and (7) Register January 2005 No. 589, eff. 2-1-05.

Comm 87.72 Payments for monitoring of experimental systems. (1) Except as provided in ss. Comm 87.70 and 87.71, the department shall make financial assistance payments for monitoring of experimental POWTS to the individual or entity performing the monitoring for the maximum allowable amount on an annual basis up to the approved estimated costs for monitoring for eligible work for a project period.

(2) (a) The individual or entity performing the monitoring shall request payment on forms acceptable to the department and shall provide such information as required by the department to document satisfactory completion of eligible work. Subsequent annual payments for monitoring shall be requested in accordance with the payment schedule included in the financial assistance award conditions as approved by the department.

(b) The individual or entity performing the monitoring shall make a request to the department for payment of monitoring costs on an annual basis by submitting paid invoices documenting the eligible work provided as included in the financial assistance award conditions. Payments shall be awarded to the eligible individual or entity in accordance with the payment schedule included in the conditions of the financial assistance, the maximum allowable financial assistance amount, and usual and customary costs for monitoring of an experimental POWTS.

(c) A direct payment of monitoring costs shall be made to the individual or entity in accordance with this section.

(3) The total financial assistance amount payable to the individual or entity for monitoring shall be limited to the amount of funds available for allocation in the project period for experimental systems under this chapter.

(4) At any time before final payment of the approved financial assistance amount, the department may review and audit any request for payment. Based on the review or audit, any payment may be reduced for prior overpayment or increased for prior underpayment.

(5) The department may authorize the withholding of a financial assistance payment where it determines in writing that an owner has failed to comply with program objectives, financial assistance award conditions, or reporting requirements. Such withholding shall be limited to only that amount necessary to assure compliance.

(6) The department shall withhold a financial assistance payment to the extent of any indebtedness, relating to the provisions of this chapter, unless it determines that collection of the indebtedness will impair accomplishment of the program objectives and that continuation of the specific project is in the best interest of the state of Wisconsin.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. (1), (2) (a), (b) and (3) to (6) Register January 2005 No. 589, eff. 2-1-05.

Comm 87.80 Program enforcement. If the department has reason to believe that a violation of the provisions of this chapter or of any financial assistance award or financial assistance award amendment made under this chapter has occurred, the department may take any of the following actions:

(1) Under s. 145.245 (14), Stats., the department may cause written notice to be served upon the alleged violator, and in conjunction with that notice may either:

(a) Issue an order that corrective action be taken by the alleged violator within a reasonable time.

(b) Require that the alleged violator appear before the department for a hearing to answer the charges that a violation has occurred.

(2) Under s. 145.245 (14), Stats., the department may terminate or annul financial assistance made under this section and seek recovery of some or all financial assistance funds previously paid to the participating governmental unit or owner, if an order issued under s. 145.02 (3) (f), Stats., is violated.

(3) Under s. 145.245 (14) (d), Stats., the department may suspend or terminate additional financial assistance awards made under this chapter if the department finds that a POWTS previously funded by the participating governmental unit with financial assistance awarded under this chapter is not being or has not been properly rehabilitated, constructed, installed or maintained.

(4) The department may declare as ineligible project costs directly related to the violation.

(5) The department may seek an injunction or other appropriate relief under s. 145.02 (3) (f), Stats.

(6) The department may seek the imposition of a forfeiture for each violation, pursuant to s. 145.245 (15), Stats.

Note: Section 145.245 (15), Stats., reads:

"Any person who violates this section or a rule or order promulgated under this section shall forfeit not less than \$10 or more than \$5,000 for each violation. Each day of continued violation is a separate offense. While an order is suspended, stayed or enjoined, this penalty does not accrue.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. (intro.), (2) and (3) Register January 2005 No. 589, eff. 2-1-05.

Comm 87.81 Program audit. (1) A governmental unit, owner or any other individual or entity receiving financial assistance award under this chapter 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. 145.245, Stats.

(2) The department may require documentation of monitoring and an audit of the individual or entity providing monitoring.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. (1) Register January 2005 No. 589, eff. 2-1-05.

Comm 87.90 Petition for variance. (1) PROCEDURE. Under ch. Comm 3, the department shall consider and may grant a variance to an administrative rule upon receipt of a fee, a completed petition for variance form from the owner, and a completed municipal recommendation from the participating governmental unit having responsibility and an interest in the rule, provided an equivalency is established in the petition for variance which meets the intent of the rule being petitioned. The department may impose specific conditions in granting a variance to promote the protection of the health, safety or welfare of employees or the public. Violation of those conditions under which the variance is granted constitutes a violation of these rules.

(2) PETITION PROCESSING TIME. Except for priority petitions, the department shall review and make a determination on a petition for variance within 30 business days of receipt of all calculations, documents and fees required to complete the review. The department shall process priority petitions within 10 business days.

Note: The petition for variance form (SBD-9890) is available, at no charge, from the Department of Commerce, Safety and Buildings Division, P.O. Box 2658, Madison, WI 53701-2658, telephone 608/266-3151, or at the Safety and Buildings web-

page at: www.commerce.wi.gov/SB/. Refer to s. Comm 2.52 for fees and processing of priority petitions. This form may be downloaded from the Commerce webpage at: <http://commerce.wi.gov/Index.html/SB/SB-FormPetition9890X.pdf>.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. (1) and (2) Register January 2005 No. 589, eff. 2-1-05.

Comm 87.91 Process for appeal. (1) DETERMINATION OF INELIGIBILITY BY A PARTICIPATING GOVERNMENTAL UNIT. When a decision by a participating governmental unit is that the applicant does not meet the eligibility criteria as established in this chapter and s. 145.245, Stats., the owner may appeal the decision of the governmental unit in accordance with ch. 68, Stats.

(2) DETERMINATION OF INELIGIBILITY BY THE DEPARTMENT. When a decision by the department is that the applicant does not meet the eligibility criteria as established in this chapter and s. 145.245, Stats., the owner may appeal the decision of the department in writing within 30 days from the date of said decision in accordance with s. 227.42, Stats.

Note: Section 101.02 (6), Stats., outlines the procedure for submitting requests to the department for appeal hearings and the department procedures for hearing appeals.

History: Cr. Register, December, 1998, No. 516, eff. 2-1-99; CR 04-068: am. (1) and (2) Register January 2005 No. 589, eff. 2-1-05.