

# Statement of Scope

## Department of Natural Resources

Rule No.:	WY-18-18
Relating to:	Revisions to chapters NR 113 and 114 for the purpose of clarifying and streamlining certain regulatory requirements for septage servicing.
Rule Type:	Permanent

### 1. Finding/nature of emergency (Emergency Rule only):

The rules will be proposed as permanent rules.

### 2. Detailed description of the objective of the proposed rule:

The proposed rule updates are responsive to stakeholders' interest in streamlining and clarifying regulatory requirements for septage servicing. Suggested changes include revisions to the regulation of septage storage facilities, written log and septage operator requirements, and septage disposal methods. The department is pursuing these changes in large part based on recommendations from a DNR-sponsored Wastewater Septage Study Group (study group). The study group is comprised of representatives from the following organizations: DNR, other state agencies, the Wisconsin County Code Administrators, environmental groups, industry groups, and septage servicing business owners and septage operators located throughout the state. Additionally, the department is proposing minor changes to clean up code language and to move some of the existing provisions in chapter NR 114 to chapter 113 because the requirements more appropriately fit within the scope of chapter 113. Additional rule changes may be pursued which are reasonably related to the changes discussed above.

### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Existing policy and practices relating to the regulation of septage storage facilities are found in s. NR 113.12 as well as a general permit (effective August 1, 2018) for the storage of domestic septage (Permit Number WI-0066435-01). Section NR 113.12 outlines different regulatory requirements for Large Existing Facilities, New Large Facilities, Small Facilities, and Other Storage Facilities. The department proposes to streamline and clarify certain regulatory requirements for septage storage facilities.

The proposed rule package may also include revisions to septage vehicle identification requirements, regulations for portable restroom waste, and operator-in-charge provisions. For example, the department will evaluate the potential to reduce log requirements for portable restroom servicing. Cross-references will also be updated. Definitions will be revised or deleted.

The majority of proposed changes will be made to chapter NR 113; however, there will also be minor revisions to chapter NR 114. Chapter NR 114 requires individuals that conduct septage servicing to hold a septage operator certificate. Some of the code requirements in chapter NR 114 will be moved to chapter NR 113 and other clarifying changes will be made to chapter NR 114.

The alternative to the proposed updates is to not make any changes to the rule to streamline and clarify requirements. This would be inconsistent with the recommendation of the study group.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

- Section 281.48(4g), Wis. Stats., authorizes the department to promulgate rules related to septage servicing, including septage disposal and recordkeeping.
- Section 281.41(2), Wis. Stats., authorizes the department to promulgate rules to specify plan approval requirements for septage storage facilities.
- Section 281.17 (3), Wis. Stats., authorizes the department to promulgate rules establishing an examining program for the certification of operators of septage servicing vehicles operated under a license issued under s. 281.48(3), Wis. Stats.
- Section 227.11(2), Wis. Stats., provides the department with the authority to promulgate rules that are necessary to administer the specific statutory directives in s. 281.48, Wis. Stats.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :**

The department anticipates that 1,500 hours of DNR staff time (including legal services) will be necessary to update the rules.

**6. List with description of all entities that may be affected by the proposed rule :**

The proposed septage storage changes may increase storage opportunities for septage servicing business/industry statewide. The impact from increased storage includes:

- Septage servicing businesses that install storage facilities can store septage during periods of inclement weather. This will reduce compaction to soils and potential runoff events from fields.
- Tank manufacturing businesses will increase production of septage storage facilities including both large and small storage structures.
- Homeowners' concern about runoff issues associated with landspreading septage may be lessened as storage allows septage servicing businesses to land apply wastes to agricultural fields at more appropriate times throughout the year.
- Increased storage may impact counties that monitor storage structures within the private onsite wastewater treatment system authorized by the Department of Safety and Professional Services.
- Neighbors to septage servicing businesses may have concerns about the increased number of storage structures installed.

Proposed changes for reducing daily log requirements for portable restroom servicing businesses may reduce some paperwork requirements for those businesses.

Septage vehicle operators including certified operators, master operators and operators in training, as well as the general public, may have increased understanding of the regulatory requirements from the proposed rule clarification.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :**

The Wisconsin Legislature through s. 281.48(2m), Wis. Stats., provides general supervision and control power to the department for regulating the servicing of septage. Furthermore, s. 281.48(4g), Wis. Stats., requires the department to promulgate rules relating to servicing septage, such as licenses, certifications, and site approvals for landspreading septage.

There are federal regulations (40 CFR 503) that apply to the use and disposal of septage. The proposed revisions to chapter NR 113 will remain consistent with the federal regulation and state statutory authority.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The economic impact level is expected to be minimal (less than \$50,000). Most of the proposed revisions are minor in nature and should not result in major changes to current practices. The changes in the rules are expected to result in a reduction of costs to businesses.

**9. Anticipated number, month and locations of public hearings:**

The Department anticipates holding four public hearings in the months of September to November 2019. The hearings will be in the following communities: Rhinelander, Eau Claire, Fitchburg, and Oshkosh.

The Department will hold these hearings in these locations to gather stakeholder input on a rule package that is widely used statewide.

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