



Private On-Site Wastewater Treatment Systems

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BACKGROUND

In many rural areas, where connections to municipal wastewater treatment systems or other collective wastewater treatment systems are unavailable, wastewater and sewage from each home or other facility must be treated by a private on-site wastewater treatment system (POWTS). [s. 145.01 (12), Stats.]

State law requires local governments – typically counties – to enact ordinances regulating POWTS. [s. 59.70 (5), Stats.] Ordinances must be administered in accordance with state law and administrative rules promulgated by the Department of Safety and Professional Services (DSPS). [See ss. 145.01 (5) and 145.20, Stats.; ch. DSPS 383, Wis. Adm. Code.]

The design, installation, and management requirements of ch. SPS 383 apply to new POWTS installations. Modifications to existing POWTS, including the replacement, alteration, or addition of materials, appurtenances or POWTS components, must also generally conform to requirements of that chapter. In general, new or changed standards are not applied retroactively to a POWTS installed prior to July 1, 2000, or for a POWTS that was issued a sanitary permit prior to that date. POWTS installed prior to July 1, 2000, must conform to the standards in effect at the time the sanitary permit was obtained, or at the time of installation. Application of ch. SPS 383 is also limited for certain POWTS installed prior to December 1, 1969. [s. DSPS 383.03, Wis. Adm. Code.]

LOCAL REGULATION

Local governments must issue a sanitary permit, a plan approval, and charge a fee before a person may install any POWTS. Sanitary permit applications and POWTS plans must include the information specified by DSPS rule. A local government's permit fee may be more than the amount determined by DSPS rule. After a permit is issued, a copy of the permit is forwarded to DSPS, as well as a portion of the permit fee. The portion of the fee retained by the local government must be used for the administration of POWTS programs. [See s. 145.19, Stats.; s. DSPS 383.22, Wis. Adm. Code.]

Sanitary Permits

A sanitary permit is issued based on regulations in force on the date of approval, may be renewed for a specified period, and is transferable.

In addition to issuing sanitary permits, local governments are also required to do all of the following:

- Review certified soil tester reports for proposed POWTS and verify each report at the proposed site, if necessary.
- Issue a written notice to each applicant whose sanitary permit application is disapproved, including the specific reasons for disapproval; any amendments which would make the application approvable; and notice of the applicant's right to appeal and the appeal procedures.
- Inspect all POWTS after construction but before backfilling, no later than the end of the next workday, excluding Saturdays, Sundays and holidays, after receiving notice from the plumber in charge. No part of a POWTS component may be covered nor any POWTS component put into service until the county inspects the system in accordance with state rules. Inspections in addition to the minimum inspections required under state law are permissible.
- File reports and conduct surveys and inspections as required by the local government or DSPS.

- Investigate violations of the POWTS ordinance, issue orders to abate the violations, and submit orders to the district attorney, corporation counsel, or attorney general for enforcement.
- Perform other duties as considered appropriate by the local government or as required by DSPS rules.
- Inspect existing POWTS to determine compliance if a building or structure is being constructed which requires connection to an existing POWTS. The local government is not required to conduct an on-site inspection if a building or structure is being constructed which does not require connection to an existing POWTS.
- Adopt and enforce the maintenance program that conforms with state law, as described in more detail below. [s. 145.20 (2), Stats.]

Maintenance and Inspection

State law requires that each local government responsible for regulating POWTS must adopt and administer a maintenance program before October 1, 2019. As part of the maintenance program, a local government must conduct and maintain an inventory of all the POWTS located there, and was required to complete the initial inventory by October 1, 2017. [s. 145.20 (5) (b), Stats.]

A POWTS inventory must, at a minimum, consist of a legal description of all properties including tax parcel number where a POWTS is located, and the name and address of the owner of each POWTS. To establish an inventory, a local government is not required to perform site visits, identify the type of POWTS, or evaluate the POWTS. The inventory must be updated as existing POWTS are identified and new POWTS are installed or constructed. [s. DSPS 383.255, Wis. Adm. Code.]

Maintenance programs must generally require inspection or pumping of POWTS at least once every three years. At a minimum, a POWTS maintenance program must consist of all of the following elements:

- An inventory of all POWTS located within the local government's jurisdictional area.
- A process that accepts and records inspection, evaluation, maintenance, and servicing reports for POWTS listed in the governmental unit inventory.
- A process that accepts and creates a record for each inspection, evaluation, maintenance, and servicing report for a POWTS within the county but not listed in the inventory.
- A process that notifies POWTS owners who are delinquent in submitting reports for inspection, evaluation, maintenance, and servicing activities.
- A process that includes measures meant to ensure that required inspection, evaluation, maintenance, and servicing are performed and the results are reported to the county.
- Reports summarizing the results of the maintenance program on an annual basis.

[s. DSPS 383.255, Wis. Adm. Code.]

In order to be eligible for grant funding under a program often referred to as the "Wisconsin Fund," a local government must comply with both the prescribed inventory and maintenance program deadlines. The Wisconsin Fund provides grants for the repair, rehabilitation, or replacement of a failing POWTS that meets eligibility requirements. Statutory authorization for that grant program sunsets on June 30, 2021. [s. 145.20 (5) (am), Stats.]