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State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM

Rule No.: Chapters Comm 2, 81-85 and 91

Relating to: Private Onsite Wastewater Treatment Systems and
Sanitation

Clearinghouse Rule No.: 02-129

COM-10535 (N.03/97)

The Wisconsin Department of Commerce proposes an order to repeal ss. Comm 82.33(9)(d)3., 82.33 Table 82.33-3, Comm 83.04(2), 83.22(4)(a)4.c., Comm 84.20(5)(h)3., 84.30(4)(i), and Comm 85.60(3)(b);

to renumber ss. Comm 83.04(3), Comm 84.20(5)(h)4., 84.30(4)(d), and Comm 85.60(5) and (6);

to renumber and amend s. Comm 83.22(4)(a)4.d.;

to amend ss. Comm 2.645, 2.65 Table 2.65 items 1. and 2., 2.66(1)(a), 2.66 Table 2.66(title), Comm 81.20 Table 81.20-8, Comm 82.01, 82.20(title), (1)(intro.) and (c) and (13)(e), 82.32(3)(intro.), 82.33(9)(c)1.b., 82.34(4)(a)2.b., 82.34(5)(b)1.g., 82.38 Table 82.38-1 line 15, 82.40(4)(c)1.b., Comm 83.01, 83.03(2)(b)1., 83.04 Table 83.04-1 footnote a, 83.21(2)(c)4., 83.21(3)(b), 83.21(3)(c), 83.22 Table 83.22-3, 83.22(2)(b)6.a. and e., 83.22(4)(a)(intro.), 83.23(3)(a), 83.23(3)(b) and Note, 83.25(2)(a) and Note, 83.29(1)(a), 83.32(1)(e) and (f), 83.32(3)(a) and Note and (b), 83.43(2), 83.43(6)(intro.), 83.43(7) Note 2, 83.43 Table 83.43-1, 83.44(3)(b), 83.44(4)(c), 83.52(3), 83.54(2)(d)1.(intro.), 83.55(1) and (2), 83.55(5) and (title), Comm 84.30(2)(j), 84.30(4)(e)2., Comm 85.40(3)(a)3.(intro.), 85.60(2)(c)(intro.), 85.60(2)(c)2.b., 85.60(3)(i)1.(intro.) and 2., 85.60(4)(a)1. and 2., and 85.60(4)(c)(intro.), 2.b., 5., (d)(intro.) and 3.;

to repeal and recreate ss. Comm 83.03(5), 83.44(5)(a), 83.44 Table 83.44-2 and Table 83.44-3, 83.54(2)(c), Comm 84.25(7), 84.25(11), 84.30(4)(e)3., Comm 85.30(2)(b), 85.30(3)(a) 2. and 3., 85.60(1), and 85.60(3)(h)1.;

and to create ss. Comm 2.675, Comm 81.01(2m), 81.01(168m), Comm 82.33(9)(k), Comm 83.03(3) Notes, 83.22(4)(e), 83.25(2)(e)Note, 83.44(2)(c) Note, 83.54(1)(e), 83.54(4)(d)2.e., Comm 84.30(4)(d)2., 84.30(4)(e)4., Comm 85.60(4)(a)3., 85.60(4)(e) and (f), 85.60(5) and Comm 91.04, relating to private onsite wastewater treatment systems and sanitation.

ANALYSIS OF PROPOSED RULES

Statutory authority: ss. 101.02 (1) and 145.02 (3) and (4), Stats.

Statutes interpreted: ss. 145.02 (4), 145.045, 145.13, 145.135, 145.19, 145.20, Stats.

Under s. 145.02, Stats., the Department of Commerce has the responsibility of safeguarding public health and the waters of the state relative to the construction, installation and maintenance of plumbing. One mechanism of the Department to fulfill this responsibility has been the promulgation of rules under chapter Comm 83 establishing standards for the design, installation, inspection and maintenance of private onsite wastewater treatment systems, POWTS.

The current chapter Comm 83 was implemented on July 1, 2000. Since implementation, a number of issues have been brought to the attention of the Department regarding inconsistencies in the current code language, requests for clarification of current code language, and requests for additional code language to address issues not covered.

The following summarizes by chapter the more significant revisions proposed in this rule package.

Chapter Comm 2 Fee Schedule; The revision clarifies how fees are calculated for larger systems and sets registration fees for privies that serve state-owned facilities.

Chapter Comm 81 Definitions and Standards; The revision adds two definitions to clarify chapter Comm 83 code language.

Chapter Comm 82 Design, Construction, Installation, Supervision and Inspection of Plumbing; The change revises the manhole opening for a grease interceptor to be consistent with POWTS treatment and holding tanks.

Chapter Comm 83 Private Onsite Wastewater Treatment Systems; The most significant revisions include:

- Clarification that the code is a uniform code statewide.
- Clarification that municipalities generally cannot enact plumbing ordinances that are more or less restrictive than this chapter.
- Allows governmental units to review certain POWTS designs that are intended to serve not more than two one- or 2-family dwellings and their accessory buildings.
- Modification of language that addresses large system plan review to clarify that DNR concurrence is required.
- Clarification that the Department must respond with one or more actions delineated under Table 83.29.
- Addition of Public Water Main horizontal setbacks to Table 83.43-1.
- Clarification that existing, non-pressurized components can be rehabilitated using higher quality effluent without using pressure distribution piping.
- Table 83.44-2 is revised to provide more soil related information and adjustments to soil application rates for effluent.
- Table 83.44-3 is revised to reflect additional treatment information and requirements for coarse sandy soils.
- Horizontal and vertical distance information for the purpose of servicing of tanks has been added for inclusion in management plans.
- Clarification that inspection, maintenance and servicing events must be reported to governmental units.
- Modification of the time period for filing of reports from 10 business days to 30 calendar days.
- Clarification that the governmental units must maintain records related to inspection, maintenance and servicing events.

Chapter Comm 84 Plumbing Products; The revisions involve:

- Clarification relative to minimum size access openings and their locations.
- Clarification regarding labeling requirements for tanks.

Chapter Comm 85 Soil and Site Evaluations; The revisions involve:

- Clarification of how abrupt soil texture changes are to be evaluated and reported.
- Clarification on reporting seasonal soil saturation that occurs at shallow depths.

- Modification of report filing deadlines from 60 days to 180 days.
- Clarifications relative to the hydrograph procedure.

Chapter Comm 91 Sanitation; The revisions involve:

-Addition of language that addresses the registration of vault and pit privies that are designed to serve state-owned facilities.

Miscellaneous Revisions; Several technical and editorial revisions are included in order to address corrections needed as a result of recent plumbing code changes.

The proposed rules have been developed with the assistance of the POWTS Advisory Code Council. The members of that citizen advisory council are as follows:

<u>Name</u>	<u>Representing</u>
James C. Converse	UW Madison Biological Systems Engineering
Steven Crosby	Wisconsin Builders Association
Thomas A. Gilbert	Wisconsin Department of Natural Resources
Duane Greuel	Wisconsin County Code Administrators
Dave Jones	Wisconsin Association of Plumbing-Heating-Cooling Contractors
Wayne Mink	Wisconsin Precast Concrete Association
Don Murphy	Wisconsin Liquid Waste Carriers Association
Sue Schambureck	Wisconsin Onsite Waste Disposal Association
Todd Stair	Wisconsin Onsite Waste Disposal Association
CeCe Tesky	Wisconsin County Code Administrators
E. Jerry Tyler	UW Madison Biological Systems Engineering

SECTION A1. Comm 2.645 is amended to read:

Comm 2.645 (title) Cross connection control device or assembly registration. A registration fee of \$125.00 per ~~device or assembly~~ shall be submitted to the department in accordance with s. Comm 82.20 (1) (c).

SECTION 1. Comm 2.65 Table 2.65 items 1. and 2. are amended to read:

**Table 2.65
(partial table)
Plan Review
Private Onsite Wastewater Treatment Systems**

Type of Project	Fee
1. All treatment components are approved under s. Comm 84.10 (2) or (3):	
Design wastewater flow of the proposed system:	
1,000 gpd or less	\$175.00
1,001 - 2,000 gpd	\$225.00
2,001 - 5,000 gpd	\$275.00
greater than 5,000 gpd	\$300.00 plus \$0.05/g/d <u>\$0.05 for each gpd over 5,000</u>
2. One or more treatment components are not approved under s. Comm 84.10 (2) or (3):	
Design wastewater flow of the proposed system:	
1,000 gpd or less	\$300.00
1,001 - 2,000 gpd	\$400.00
2,001 - 5,000 gpd	\$500.00
greater than 5,000 gpd	\$600.00 plus \$0.05/g/d <u>\$0.05 for each gpd over 5,000</u>

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

Comm 2.66 (1) (a) Except as provided in par. (b), the fee for the request of a review by the department for a plumbing product under s. Comm 84.10 (2) or for an alternate standard under s. Comm 81.20 (2) shall be determined in accordance with Table 2.66.

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

Table 2.66 (title) Plumbing Product and Alternate Standard Review Fees

SECTION 2. Comm 2.675 is created to read:

Comm 2.675 Privy registrations. (1) VAULT PRIVY. The fee for registering a vault privy that is to serve a state-owned facility shall be \$40.00.

(2) PIT PRIVY. The fee for registering a pit privy that is to serve a state-owned facility shall be \$60.00.

SECTION 3. Comm 81.01 (2m) is created to read:

Comm 81.01 (2m) “Accessory building” means a detached building, not used as a dwelling unit but is incidental to that of the dwelling.

SECTION 4. Comm 81.01 (168m) is created to read:

Comm 81.01 (168m) “Open bodies of water” means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water, natural or artificial, public or private within the state or under its jurisdiction.

SECTION 4B. Comm 81.20 Table 81.20-8 is amended to read:

Table 81.20-8		
Cast Iron Soil Pipe Institute 5959 Shallowford Road, Suite 419 Chattanooga, Tennessee 37421 Web page: www.cispi.org		
Standard Reference Number		Title
1.	<u>301-97</u>	<u>Hubless Cast Iron Soil Pipe and Fittings for Sanitary and Storm Drain, Waste, and Vent Piping Applications, Standard Specification for</u>
2.	310-97	Coupling for Use in Connection with Hubless Cast Iron Soil Pipe and Fittings for Sanitary and Storm Drain, Waste, and Vent Piping Applications, Specification for

SECTION 4C. Comm 82.01 is amended to read:

Comm 82.01 Scope. The provisions of this chapter apply uniformly to the design, construction, installation, supervision, maintenance and inspection of plumbing, including but not limited to sanitary and storm drainage, water supplies, wastewater treatment, and dispersal or discharge for buildings, except for POWTS systems as regulated by ch. Comm 83.

Note: Chapter Comm 83 contains provisions for the siting, design, installation, inspection and maintenance of private onsite wastewater treatment systems. Chapter Comm 84 contains provisions and standards for plumbing materials, plumbing fixtures and plumbing appliances.

~~Note: For treatment and dispersal of domestic wastewater by means of a POWTS, refer to ch. Comm 83.~~

SECTION 4E. Comm 82.20 (title), (1) (intro.) and (c), and (13) (e) are amended to read:

Comm 82.20 (title) Plan review and cross connection control ~~device or assembly~~ registration. (1) GENERAL. Plans and specifications shall be submitted to the department or to an approved agent municipality for review in accordance with pars. (a) and (b). All registrations for cross connection control ~~devices or assemblies~~ shall be submitted to the department in accordance with par. (c).

(c) (title) *Cross connection control ~~device or assembly~~ registration.* The initial installation of each reduced pressure principle backflow preventer, back siphonage backflow vacuum breaker, reduced pressure detector backflow preventer, ~~double check valve, double detector check valve,~~ or pressure vacuum breaker, shall meet all of the following:

1. a. Except for the provisions as provided under subpar. b., for initial installation in any building or facility, each ~~device or assembly~~ covered under this paragraph shall be registered with the department.

b. Plan review approval for a cross connection control ~~device or assembly~~ issued prior to May 1, 2003 is considered in compliance with this paragraph.

2. For each ~~device or assembly~~ covered under this paragraph registration shall be submitted prior to the initial test.

(13) (e) Upon permanent removal or replacement of any reduced pressure principle backflow preventer, back siphonage backflow vacuum breaker, reduced pressure detector backflow preventer, pressure vacuum breaker, ~~double check or double check detector,~~ the owner shall notify the department, in writing using a format acceptable to the department.

SECTION 4H. Comm 82.32 (3) (intro.) is amended to read:

Comm 82.32 (3) GENERAL. Each plumbing fixture, each compartment of a plumbing fixture and each floor drain shall be separately trapped by a water seal trap, except as provided in par. (a) or as otherwise permitted by this chapter. A fixture shall not be double trapped.

SECTION 4L. Comm 82.33 (9) (c) 1. b. is amended to read:

Comm 82.33 (9) (c) 1. b. A 1 ½-inch ~~or larger~~ diameter standpipe receptor shall terminate at least 32" but not more than 48" above the floor on which the clothes washer is located.

SECTION 4P. Comm 82.33 (9) (d) 3. is repealed.

SECTION 4T. Comm 82.33 (9) (k) is created to read:

Comm 82.33 (9) (k) *Swimming pools.* 1. The backwash and drain wastewater from a swimming pool, wading pool or whirlpool shall discharge in accordance with Table 82.38-1.

2. The discharge from deck drains serving indoor pools shall be directed to the sanitary sewer via an air-gap.

3. The discharge from deck drains serving outdoor pools shall be directed to the storm sewer by way of an air-gap or to grade.

4. The requirements for sewer connections as specified in ch. Comm 90 applies to all public swimming pools.

SECTION 4V. Comm 82.33 Table 82.33-3 is repealed.

SECTION 4X. Comm 82.34 (4) (a) 2. b. is amended to read:

Comm 82.34 (4) (a) 2. b. The catch basin shall have ~~inside~~ a minimum inside diameter of 36".

SECTION 5. Comm 82.34 (5) (b) 1. g. is amended to read:

Comm 82.34 (5) (b) 1. g. Each compartment of an interceptor tank shall be provided with at least one manhole opening located over either the inlet or outlet opening. Additional manhole openings shall be provided such that no interior compartment wall is more than 4 feet from the edge of the manhole opening. The distance between the manhole openings serving the same compartment shall not exceed 8 feet. Manhole openings shall be not less than ~~24~~ 23" in the least dimension. Manholes shall terminate at or above ground surface and be of approved materials. Steel tanks shall have a minimum 2" collar for the manhole extensions permanently welded to the tank. The manhole extension of fiberglass tanks shall be of the same material as the tank and an integral part of the tank. The collar shall have a minimum height of 2".

SECTION 5M. Comm 82.38 Table 82.38-1 line 15 is amended to read:

**Table 82.38–1
(Partial Table)
ALLOWABLE DISCHARGE POINTS BY FIXTURE OR SPECIFIC USES**

Use or Fixture	Allowable Discharge Points					
	POWTS ^a	Municipal Sanitary Sewer	Municipal Storm Sewer	Ground Surface	Combined Sanitary-Storm Sewer	Subsurface Dispersal
15. Wastewater from water treatment device	X	X ^e	X ^c	X ^{b, c}	X	X ^d

SECTION 5S. Comm 82.40 (4) (c) 1. b. is amended to read:

Comm 82.40 (4) (c) 1. b. A control valve shall be installed in the supply piping to each water heater and water treatment device and in the fixture supply to each plumbing fixture, plumbing appliance and piece of equipment. The control valve may be part of the bypass piping or an internal part of a water treatment device. When the valve is an internal part of the water treatment device, the device shall be ~~capable to be~~ removable for service.

SECTION 6. Comm 83.01 is amended to read:

Comm 83.01 Purpose. The purpose of this chapter is to establish ~~minimum~~ 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.

SECTION 7. Comm 83.03 (2) (b) 1. is amended to read:

Comm 83.03 (2) (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 ~~sanitary~~ permit was issued.

SECTION 8. Comm 83.03 (3) Notes are created to read:

Comm 83.03 (3) Note: The waiving of a restriction or prohibition placed on a lot or outlot 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.

SECTION 9. Comm 83.03 (5) is repealed and recreated to read:

Comm 83.03 (5) LOCAL ORDINANCES. 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.

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.

SECTION 10. Comm 83.04 Table 83.04-1 footnote a is amended read:

Table 83.04-1 footnote ^a Includes drip ~~irrigation~~ distribution.

SECTION 10E. Comm 83.04 (2), including Table 83.04-2, is repealed.

SECTION 10H. Comm 83.04 (3) is renumbered Comm 83.04 (2).

SECTION 10M. Comm 83.21 (2) (c) 4. is amended to read:

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

SECTION 11. Comm 83.21 (3) (b) is amended to read:

Comm 83.21 (3) (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 ~~on the proposed POWTS technology or method in accordance with s. Comm 83.05~~ or has documentation that approved training will be provided during the installation of the POWTS.

SECTION 12. Comm 83.21 (3) (c) is amended to read:

Comm 83.21 (3) (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) ~~(e)~~ (c).

SECTION 13. Comm 83.22 Table 83.22-3 is amended to read:

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

Type of Installation
1. POWTS that will serve a single <u>not more than two</u> one- or 2-family <u>dwelling</u> s and their <u>accessory buildings</u> utilizing technologies or methods either recognized under s. Comm 84.10 (2) or (3) or recognized under s. Comm 83.61, and using gravity distribution of the effluent to an in-ground distribution cell.

SECTION 14. Comm 83.22 (2) (b) 6. a. and e. are amended to read:

Comm 83.22 (2) (b) 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 ~~be~~ not be approved until documentation has been submitted to the department indicating that the department of natural resources has ~~issued a WPDES permit for the project under ch. 283, Stats.~~ 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.

e. For the purpose of determining the applicability of subpar. 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.

SECTION 15. Comm 83.22 (4) (a) (intro.) is amended to read.

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

SECTION 16. Comm 83.22 (4) (a) 4. c. is repealed.

SECTION 17. Comm 83.22 (4) (a) 4. d. is renumbered 83.22 (4) (a) 4. c. and amended to read:

Comm 83.22 (4) (a) 4. c. Type of pressure distribution dispersal component.

SECTION 18. Comm 83.22 (4) (e) is created to read:

Comm 83.22 (4) (e) 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 agency responsible for issuing the sanitary permit, if the proposed modification involves a change to one or more dispersal components involving the orientation with respect to the slope of the landscape.

SECTION 19. Comm 83.23 (3) (a) is amended to read:

Comm 83.23 (3) (a) The ~~employment~~ utilization of one or more individuals who are certified by the department as a POWTS inspector to perform the plan review.

SECTION 20. Comm 83.23 (3) (b) and Note are amended to read:

Comm 83.23 (3) (b) The ~~involvement~~ 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 ~~employment~~ 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).

SECTION 21. Comm 83.25 (2) (a) and Note are amended to read:

Comm 83.25 (2) ISSUANCE OF BUILDING PERMITS. (a) *General.* Pursuant to s. ~~66.036~~ 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. ~~66.036~~ 145.195, Stats.

[NOTE TO REVISOR: In appendix section A-83.25 (2), change "66.036" to "145.195".]

SECTION 21M. Comm 83.25 (2) (e) Note 2 is created to read:

Comm 83.25 (2) (e) Note: See appendix for further information regarding setbacks.

SECTION 22. Comm 83.29 (1) (a) is amended to read:

Comm 83.29 (1) (a) Pursuant to s. 160.21, Stats., the department ~~may~~ 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).

SECTION 23. Comm 83.32 (1) (e) and (f) are amended to read:

Comm 83.32 (1) (e) The final discharge of domestic wastewater or POWTS effluent to ~~the surface waters of the state~~ 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.

SECTION 24. Comm 83.32 (3) (a) and Note and (b) and Note are amended to read:

Comm 83.32 (3) LIMITATIONS. (a) Industrial wastes and wastewater may not, unless approved by the department of natural resources, be introduced into ~~a plumbing drain system that is served by 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, mink 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 wastes may be introduced into ~~a plumbing drain system that is served by a~~ POWTS, if the POWTS is designed to accept ~~those wastes~~ that wastewater. A POWTS may accept ~~wastes~~ wastewater permitted under s. Comm 82.36 (3) ~~(b)~~.

Note: Section Comm 82.36 (3) ~~(b)~~ 4. (a) permits the discharge of a maximum of ~~20~~ 50 gallons per day of clear water wastes to a sanitary drain system connected to a publicly owned treatment works.

SECTION 25. Comm 83.43 (2) is amended to read:

Comm 83.43 (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.

SECTION 26. Comm 83.43 (6) (intro.) is amended to read:

Comm 83.43 (6) ESTIMATING WASTEWATER FLOW FOR COMMERCIAL FACILITIES. The estimated daily wastewater flow of clear water, graywater, blackwater, or combined graywater-blackwater flow from commercial facilities public buildings and places of employment shall be based on one or more of the following:

SECTION 27. Comm 83.43 (7) Note 2 is amended to read:

Comm 83.43 (7) Note: See Note under s. Comm 83.32 ~~(2)~~ (3) for information relative to industrial wastes.

SECTION 28. Comm 83.43 Table 83.43-1 is amended to read:

**Table 83.43-1
Horizontal Setback Parameters**

Physical Feature	POWTS Treatment Component Consisting in Part of In Situ Soil or Dispersal Component	Exterior Subsurface Treatment Tank or Holding Tank Component	Servicing, Suction Lines and Pump Discharge Lines
Building	10 feet	5 feet ^a	5 feet ^a <u>none</u> ^b
Property Line	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
<u>Public Water Main</u>	<u>ch. NR 811</u>	<u>ch. NR 811</u>	<u>ch. NR 811</u>
Well	chs. NR 811 & 812 ^e	chs. NR 811 & 812 ^e	chs. NR 811 & 812 ^e

OHWL = Ordinary High-Water Mark

Note a: Except camping unit transfer containers

Note b: See s. Comm 83.43 (8) (f) relative to accessibility.

~~Note c: Portions of chs. NR 811 & 812 are reprinted in the appendix.~~

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

SECTION 29. Comm 83.44 (2) (c) Note is created to read:

Comm 83.44 (2) (c) 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.

SECTION 30. Comm 83.44 (3) (b) is amended to read:

Comm 83.44 (3) (b) 1. At least 6 inches of the ~~24-inch~~ soil separation required under par. (a) shall be 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.

SECTION 31. Comm 83.44 (4) (c) is amended to read:

Comm 83.44 (4) (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.

SECTION 32. Comm 83.44 (5) (a) is repealed and recreated to read:

Comm 83.44 (5) (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.

SECTION 33. Comm 83.44 Table 83.44-2 and Table 83.44-3 are repealed and recreated to read:

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		BOD ₅ ≤30mg/L	
	Shape	Grade	TSS>30≤150mg/L		TSS≤30mg/L ^c	
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	0.20
	PR, BK, GR	1	0.0	0.0
		2, 3	0.2	0.3

Note a: With \leq 60% rock fragments

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

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

Note d:

COS – Coarse Sand

S – Sand

LCOS – Loamy Coarse Sand

LS – Loamy Sand

FS – Fine Sand

LFS – Loamy Fine Sand

VFS – Very Fine Sand

LVFS – Loamy Very Fine Sand

COSL – Coarse Sandy Loam

SL – Sandy Loam

FSL – Fine Sandy Loam

VFSL – Very Fine Sandy Loam

L – Loam

SIL – Silt Loam

SI – Silt

SCL – Sandy Clay Loam

CL – Clay Loam

SICL – Silty Clay Loam

SC – Sandy Clay

C – Clay

SIC – Silty Clay

Note e:

PL – Platy

PR – Prismatic

BK – Blocky

GR – Granular

M – Massive

0 – Structureless

1 – Weak

2 – Moderate

3 – Strong

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

Soil Characteristics	Influent Quality and Percent Coarse Fragments					
	Fecal Coliform $>10^4$ cfu/100mL			Fecal Coliform $\leq 10^4$ cfu/100mL ^b		
	$\leq 35\%$	35 to $\leq 60\%$	>60 to $\leq 90\%$ ^{b,c}	$\leq 35\%$	35 to $\leq 60\%$	>60 to $\leq 90\%$ ^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
 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

SECTION 34. Comm 83.52 (3) is amended to read:

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

SECTION 35. Comm 83.54 (1) (e) is created to read:

Comm 83.54 (1) (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.

SECTION 36. Comm 83.54 (2) (c) is repealed and recreated to read:

Comm 83.54 (2) (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.

SECTION 36H. Comm 83.54 (2) (d) 1. (intro.) is amended to read:

Comm 83.54 (2) (d) 1. ~~Influent~~ When and where the metering of a POWTS is required, influent flows to POWTS shall be metered by one of the following methods:

SECTION 37. Comm 83.54 (4) (d) 2. e. is created to read:

Comm 83.54 (4) (d) 2. e. A registered POWTS maintainer.

SECTION 38. Comm 83.55 (1) and (2) are amended to read:

Comm 83.55 (1) (a) The owner of a POWTS or ~~his or her~~ the owner's agent shall report to the ~~department~~ governmental unit or ~~department-authorized~~ designated agent at the completion of each inspection, 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 ~~their~~ the owner's agent shall report to the ~~department~~ governmental unit or designated agent ~~shall report to the department or designated agent~~ at the completion of each inspection, maintenance or servicing event required under s. Comm 83.54 (4), except for camping {unit} transfer containers.

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

- (a) In a manner specified by the ~~department~~ governmental unit or designated agent;
- (b) Within ~~10-business~~ 30 calendar days from the date of inspection or pumping; ~~and~~;
- (c) By the owner or the owner's agent.

SECTION 39. Comm 83.55 (5) and (title) are amended to read:

Comm 83.55 (5) DEPARTMENT RESPONSIBILITY. (a) The ~~department~~ governmental unit or designated agent shall maintain records relating to the inspection, 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, maintenance and ~~inspection~~ {servicing} of POWTS as specified in this section.

SECTION 39M. Comm 83.61 (4) is amended to read:

Comm 83.61 (4) Conventional In-Ground Soil Absorption Component Manual for Private Onsite Wastewater Systems, June 11, 1999.

SECTION 39S. Comm 84.20 (5) (h) 3. is repealed.

SECTION 39T. Comm 84.20 (5) (h) 4. is renumbered 3.

SECTION 40. Comm 84.25 (7) is repealed and recreated to read:

Comm 84.25 (7) ACCESS. (a) Each covered tank shall be provided with one or more openings of sufficient size and located in such a manner to provide a means for inspection or required servicing or maintenance of the tank.

(b) Manhole openings shall be at least 23 inches in the least dimension.

(c) Anaerobic treatment tanks located below ground shall have a manhole opening over the inlet of the most upstream compartment, in each compartment, and over all treatment apparatuses and pumps.

(d) 1. Except as provided in subd. 2., manhole openings for anaerobic treatment tanks located below ground shall extend to a distance not greater than 6 inches below finished grade.

2. Manhole openings over all anaerobic treatment apparatuses and pumps shall extend to at least 4 inches above finished grade.

(e) Servicing and maintenance openings for holding components shall comply with all of the following:

1. Extend to at least 4 inches above finished grade.

2. Be at least 23 inches in the least dimension and be located above pumps or siphons located in the holding component.

(f) Inspection openings for tanks located below ground shall extend at least to the finished grade.

(g) Inspection, servicing and maintenance openings shall terminate with a means that prevents entrance of deleterious materials.

(h) Covers located at or above ground for openings larger than 8 inches in diameter shall be provided with locking devices and shall remain locked except for inspection, servicing or maintenance purposes.

SECTION 41. VACANT.

SECTION 42. Comm 84.25 (11) is repealed and recreated to read:

Comm 84.25 (11) TANK LABEL. (a) *Anaerobic treatment tanks.* Each treatment tank which has an anaerobic treatment compartment shall be labeled with a permanent label located near an inlet or outlet opening of the tank. The label shall be embossed, impressed, or securely attached to the tank. The label shall include all of the following information:

1. Name or trademark of the manufacturer.
2. Capacity of each compartment of the tank or the manufacturer's model number.

(b) *Aerobic treatment tanks.* 1. Each aerobic treatment tank complying with NSF Standard 40 and listed by a nationally recognized ANSI accredited third party certified listing agency acceptable to the department shall be provided with 2 label plates. The labels shall conform with all of the following:

- a. Label plates shall be inscribed to be easily read and understood, and be securely attached.
- b. One label plate shall be attached to the front of the electrical control box and the second label plate shall be attached to the aeration equipment assembly, tank, or riser at a location normally subject to access during inspection of the unit.
- c. Each label plate shall include name or trademark of the manufacturer, model number, and rated daily flow capacity of the unit.

Note: See appendix section A-84.11 for acceptable listing agencies.

(c) *Other treatment, holding and combination treatment-holding tanks.* Except as required in par. (a) or (b), each treatment tank and holding tank shall be labeled with a permanent label located near an inlet or outlet opening. The label shall be embossed, impressed, or securely attached to the tank. The label shall include all of the following information:

1. Name or trademark of the manufacturer.
2. Capacity of each compartment of the tank or the manufacturer's model number.

SECTION 42D. Comm 84.30 (2) (j) is amended to read:

Comm 84.30 (2) (j) *POWTS inspection and observation pipe.* A POWTS inspection and observation pipe shall conform to at least one of the standards listed in Table 84.30-1.

SECTION 42H. Comm 84.30 (4) (d) is renumbered (4) (d) 1.

SECTION 42J. Comm 84.30 (4) (d) 2. is created to read:

Comm 84.30 (4) (d) 2. A local governmental unit may by ordinance restrict the types of materials for water services and private water mains which are to be located within or beneath an area subject to an easement for a highway, street or public service right-of-way. Before adopting an ordinance restricting the types of materials for water services, the local governmental unit shall submit a copy of the proposed ordinance to the department for review and approval.

SECTION 42M. Comm 84.30 (4) (e) 2. is amended to read:

Comm 84.30 (4) (e) 2. Cold water distribution pipe installed underground shall have a minimum working pressure of 100 psig at 73.4°F and shall conform to one of the standards listed in Table 84.30-7 or 84.30-8.

SECTION 42P. Comm 84.30 (4) (e) 3. is repealed and recreated to read:

Comm 84.30 (4) (e) 3. Pipe and tubing for cold water distribution systems downstream of water treatment devices designed to serve fixtures, appliances and devices that provide ≤ 1 gpm at each outlet shall conform to one of the standards listed in Table 84.30-8 or 84.30-11, and shall have a minimum working pressure of 100 psig at 73.4°F.

SECTION 42R. Comm 84.30 (4) (e) 4. is created to read:

Comm 84.30 (4) (e) 4. Plastic pipe and tubing for water distribution systems downstream of water treatment devices designed to serve fixtures, appliances and devices that provide ≤ 1 gpm at each outlet shall be marked at intervals not to exceed 4 feet with the following information:

- a. The manufacturer's name.
- b. The trade designation of the pipe or tubing.
- c. The type of material.
- d. The minimum working temperature and pressure of the pipe or tubing.
- e. The mark of the certifying agency.

SECTION 42V. Comm 84.30 (4) (i) is repealed.

SECTION 43. Comm 85.30 (2) (b) is repealed and recreated to read:

Comm 85.30 (2) (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.

SECTION 44. Comm 85.30 (3) (a) 2. and 3. are repealed and recreated to read:

Comm 85.30 (3) (a) 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.

SECTION 45. Comm 85.40 (3) (a) 3. (intro.) is amended to read:

Comm 85.40 (3) (a) 3. A legible and permanent site plan that complies with all of the following:

SECTION 46. Comm 85.60 (1) is repealed and recreated to read:

Comm 85.60 (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.

SECTION 47. Comm 85.60 (2) (c) (intro.) is amended to read:

Comm 85.60 (2) (c) The written report shall include, but is not limited to, all of the following information:

SECTION 48. Comm 85.60 (2) (c) 2. b. is amended to read:

Comm 85.60 (2) (c) 2. b. ~~An~~ A historical interpretation of the local geomorphology.

SECTION 49. Comm 85.60 (3) (b) is repealed.

SECTION 50. Comm 85.60 (3) (h) 1. is repealed and recreated to read:

Comm 85.60 (3) (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.

SECTION 51. Comm 85.60 (3) (i) 1. (intro.) and 2. are amended to read:

Comm 85.60 (3) (i) Reporting data. 1. Within ~~60~~ 180 days of the completion of the observations, 3 copies of the following data shall be submitted to the department for review:

2. Within ~~60~~ 180 days of the completion of the observations, one copy of the data specified in subd. 1. shall be filed with the governmental unit exercising jurisdiction.

SECTION 52. Comm 85.60 (4) (a) 1. and 2. are amended to read:

Comm 85.60 (4) (a) 1. ~~Where Except as provided is subd. 3., where~~ regional water table fluctuations are considered in deep sandy soils, the predicted high groundwater elevation shall be established using hydrograph documentation.

2. ~~The 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.

SECTION 53. Comm 85.60 (4) (a) 3. is created to read:

Comm 85.60 (4) (a) 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.

SECTION 54. Comm 85.60 (4) (c) (intro.), 2. b., 5., (d) (intro.) and 3. are amended to read:

Comm 85.60 (4) (c) ~~Where the water table~~ When free water at the site is 5 to 10 feet below grade, all of the following procedures of subds. 1. to 5. shall be followed apply:

2. b. The observation pipe shall be installed ~~and tested~~ pursuant to sub. (3) (f) 3.

5. The hydrograph procedure shall be completed and the results shall be reported to the ~~department~~ governmental unit in a format specified by the department.

(d) ~~Where the water table~~ When free water at the site is more than 10 feet below grade, all of the following procedures of subds. 1. to 3. shall be followed apply:

3. The ~~standard~~ hydrograph procedure shall be completed and the results shall be reported to the ~~department~~ governmental unit in a format specified by the department.

SECTION 55. Comm 85.60 (4) (e) and (f) are created to read:

Comm 85.60 (4) (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.

SECTION 56. Comm 85.60 (5) and (6) are renumbered 85.60 (6) and (7).

SECTION 57. Comm 85.60 (5) is created to read:

Comm 85.60 (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 to the governmental unit having jurisdiction upon the completion of the determination and associated report.

SECTION 58. Comm 91.04 is created to read:

Comm 91.04 Registrations. The installation of a vault privy or a pit privy to serve a state-owned facility shall be registered with the department prior to installation. The registration of a vault privy shall be accompanied by sufficient information to determine compliance with s. Comm 84.25. The registration of a pit privy shall be accompanied by sufficient soil information to determine compliance with s. Comm 83.44 (4) (b).

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2)(intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.
