

# STATEMENT OF SCOPE

## Department of Safety and Professional Services

Rule No.: Chs. SPS 381-387 and 391

Relating to: Comprehensive update of the POWTS (private onsite wastewater treatment systems) and Wisconsin Fund (POWTS replacement and rehabilitation financial assistance fund) codes

Rule Type: Permanent

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

N/A

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

The major objective of this proposed rule is to conduct a comprehensive update of the POWTS, (private onsite wastewater treatment systems) and the Wisconsin Fund (POWTS replacement and rehabilitation financial assistance fund) codes. This revision may result in revisions being made to other chapters in the state plumbing code, specifically: ch. SPS 381, definitions and standards, ch. 382 plumbing installation, ch. SPS 384, plumbing products, ch. SPS 385 soil and site evaluation, and possibly ch. SPS 391, sanitation.

The POWTS code, ch. SPS 383, has not been reviewed in its entirety since April 2000. Recent technological advances and improved methodologies will be reviewed for possible inclusion in this revision.

Under s. 145.245 (7) (c), Stats., the funding tables for the Wisconsin Fund code, ch. SPS 387, are to be revised when it is determined that 60% of current costs of private sewage system rehabilitation or replacement exceed the amounts in the grant funding tables by more than 10% and shall not revise these table more than every two years. These tables were last revised in February 1999.

The provisions of Executive Order 61 establish the basis for the department's comprehensive review with respect to assisting small business owners, reducing economic impact on small business, creating job growth, and identifying strategies for increasing code compliance. Any statutory changes enacted after the last revision that affect these rules will also be used as a basis for revision, as well as incorporating by reference updated national standards and recognizing current technology and methodology where related to the POWTS code. In developing the proposed rules, the department expects to utilize the input from an advisory code council with representatives from various sectors of the industry.

In addition, corrections may be made to correct typographical errors, and update statutory references, internal cross references, and Notes to reflect current information. Appendix material, where appropriate, will direct readers to the information via a URL link; some material now copied in whole or part in the Appendix may be deleted; Notes within the rule text will include a URL link to the appropriate information.

### 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:

These revisions may be based on one or more of the following: petitions received since the last code update, comparison of the 2012 International Private Sewage Disposal Code, field observations, and

knowledge of improved technology, processes and methods. A review of the funding requests for the Wisconsin Fund will also be undertaken to determine any changes needed in the funding assistance tables.

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

s. 227.11 (2) (a), Stats.: Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

s. 145.02, Stats.: The authority provides that all plumbing in connection with buildings and facilities in the state, including buildings owned by the state or any political subdivision thereof, shall be safe, sanitary and such as to safeguard the public health and the waters of the state.

s. 145.245 (5) (c) 4., Stats.: The department shall promulgate rules establishing criteria for determining what constitutes satisfactory evidence of federal adjusted gross income or projected federal adjusted gross income in a current year.

s. 145.245 (5) (d) 2. , Stats.: The department shall promulgate rules establishing criteria for determining what constitutes satisfactory evidence of gross revenue in a prior taxable year.

s. 145.245 (5) (d) 4. , Stats.: The department shall promulgate rules establishing criteria for determining what constitutes satisfactory evidence of gross revenue in a current year.

s. 145.245 (7) (c), Stats.: The department shall prepare and publish private on-site wastewater treatment system grant funding tables which specify the maximum state share limitation for various components and costs involved in the rehabilitation or replacement of a private on-site wastewater treatment system based upon minimum size and other requirements specified in the state plumbing code promulgated under s. 145.02, Stats.

**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 estimates approximately 650 hours will be needed to perform the review and develop the proposed rule revisions. This time includes comparing updated national standards, meeting with stakeholders, drafting the rule revisions, and processing the revisions through public hearings, legislative review, and adoption. The Department will assign existing staff to perform the review and develop the rule revisions, and no other resources will be needed.

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

Public and private entities that own private sewage systems (POWTS) or are involved in program administrative functions such as soil testing, design, installation and construction, inspection and maintenance, as well as product manufacture and sales. Homeowners and small business owners that may be eligible for financial assistance in the replacement or rehabilitation of a POWTS.

**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:**

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

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

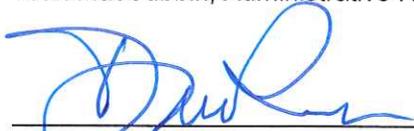
Under 40 CFR, subch. B, part 31, this rule establishes uniform criteria for POWTS where financial assistance is available on the state and local levels.

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

The review is being conducted with the provisions of Executive Order 61 in mind; therefore, the rule changes contemplated in this project are not expected to have any negative economic impacts on any of the affected entities listed above.

**Contact Person:**

Jean MacCubbin, Administrative Rules Coordinator, phone 608.266.0955.

  
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Dave Ross, Secretary  
Department of Safety and Professional Services

  
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Date Submitted

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Dave Ross, Secretary  
Department of Safety and Professional Services

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Approved for implementation on this date