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Details:

(FORM UPDATED: 07/12/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Commerce, Utilities and Rail (SC-CUR)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Terri Dopp Paukstat
W5408 Cumberland Lane
Neshkoro, WI 54960

Date: November 20, 2007

To: Roman Kaminski
Department of Commerce
P.O. Box 2689
Madison, WI 53701-2689

Dear Roman,

As you are already aware, I work in the Waushara County Zoning Office as the Assistant Zoning Administrator. Among our many duties is the local administration of the plumbing codes that pertain to private onsite wastewater treatment systems or POWTS. However, I am writing this letter to offer my comments on the proposed changes to the plumbing code (Comm 83) as a private citizen, albeit one with a unique perspective.

I understand the desire to institute a statewide inventory and maintenance program to try to get a handle on the myriad of POWTS in the rural areas of the state, and to provide some kind of systematic maintenance of those systems. However, I feel the directives contained in Section 83.255(1)(a) will do injustice to both the environment and the people of the state of Wisconsin.

First any inventory, no matter how well intended and carefully executed, will be extremely expensive, yet woefully incomplete in documenting the number, type, efficiency, treatment capability, and overall safety of individual systems.

Second, if these regulations are instituted, it will force counties to inventory old, outdated, and pollution causing systems. Then the counties would have to enter these undocumented and possibly dangerous systems into a maintenance program so they can be periodically pumped. This could add to the longevity of those systems, and therefore allow systems, both good and bad, to continue to operate, possibly polluting ground and water resources for far longer than if these old polluting systems were not regularly maintained.

It seems to me that the best way to institute a complete inventory and maintenance program is to slowly locate individual POWTS and then require a thorough inspection of each system. I feel this could best be accomplished by a statewide inspection program at the time of a real estate sale. Then those systems that document they are not causing any environmental or health hazards could be entered into a regular maintenance program. Those systems that do not meet minimum standards for health and safety would have to be upgraded with a new system. This would all be done in conjunction with requiring all new systems to submit to regular maintenance as well, which most counties have already been doing for a number of years.

This would make an inventory and maintenance program more uniform statewide, would upgrade the worst systems rather than perpetuate their use by maintenance, and allow the program requirements to be spread out over a reasonable time period with some of the cost being born by the general public looking to turn a profit from the sale of their property while providing a measure of protection to new buyers of older POWTS.

The rest of the proposed updates appear reasonable and prudent. However, I cannot support the mandatory inventory and maintenance of all POWTS by the individual counties without first making sure the systems are safe to the environment as well as safe to the citizens and wildlife of the state. In addition, as a taxpayer, I cannot support these codes as written without some financial support from the state or the Department of Commerce.

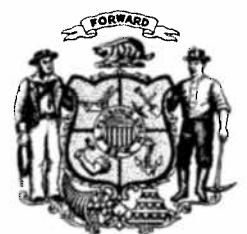
Thank you for allowing me to comment. I look forward to seeing what actions the Department will take.

Sincerely,

Terri Dopp Paukstat



WISCONSIN STATE LEGISLATURE



Terri Dopp Paukstat
W5408 Cumberland Lane
Neshkoro, WI 54960

Date: November 21, 2007

To: Senator Luther Olson
Senator Julie Lassa
Representative Joan Ballweg
Representative Louis Molepske, Jr.

Please consider my comments regarding changes being proposed to the Wisconsin Administrative Code, specifically Comm 83, by the Department of Commerce. I am a citizen of Waushara County in the state of Wisconsin, and I work in the Waushara County Zoning Office as the Assistant Zoning Administrator. Among our many duties is the local administration of the plumbing codes that pertain to private onsite wastewater treatment systems or POWTS. The proposed changes are directed at the counties responsibilities in the administration of the plumbing code, and I am opposed to specific sections of these proposals as both a private citizen, and as an employee of a county charged with enforcing the proposed regulations.

I understand the desire to institute a statewide inventory and maintenance program to try to get a handle on the myriad of POWTS in the rural areas of the state, and to provide some kind of systematic maintenance of those systems. However, I feel the directives contained in Section 83.255(1)(a) will do injustice to both the environment and the people of this state, and are not what the legislature intended to inflict on the counties when ACT 347 was adopted.

Specifically Section 83.255(1)(a)-(f) would require that all counties make a complete inventory of all existing private onsite wastewater treatment systems or POWTS within 2 years of the passage of the amendments, and then requires the counties to institute and administer a maintenance program of all these POWTS within 5 years of the adoption of these code amendments, all without financial or other assistance being provided by the Department of Commerce or the State. And this is the section of the changes that I am adamantly opposed to.

First any inventory, no matter how well intended and carefully executed, will be extremely expensive, yet woefully incomplete in documenting the number, type, efficiency, treatment capability, and overall safety of individual systems.

Second, if these regulations are instituted, it will force counties to inventory old, outdated, and pollution causing systems. Then the counties would have to enter these undocumented and possibly dangerous systems into a maintenance program so they can be periodically pumped. This could add to the longevity of those systems, and therefore allow systems, both good and bad, to continue to operate, possibly polluting ground and water resources for far longer than if these old polluting systems were not regularly maintained.

It seems to me that the best way to institute a complete inventory and maintenance program is to have a mechanism that gradually locates individual POWTS and then requires a thorough inspection of each system. I feel this could best be accomplished by a statewide inspection program at the time of a real estate sale. Then those systems that document they are not causing any environmental or health hazards could be entered into a regular maintenance program. Those systems that do not meet minimum standards for health and safety would have to be upgraded with a new system. This would all be done in conjunction with requiring all new systems to submit to regular maintenance as well, which most counties have already been doing for a number of years.

This would make an inventory and maintenance program more uniform statewide, would upgrade the worst systems rather than perpetuate their use by maintenance, and allow the program requirements to be spread out over a reasonable time period with some of the cost being born by the general public looking to turn a profit from the sale of their property while providing protection to new buyers of older homes and systems.

The rest of the proposed updates appear reasonable and prudent. However, I cannot support the mandatory inventory and maintenance of all POWTS by the individual counties without first making sure the systems are safe to the environment as well as safe to the citizens and wildlife of the state. In addition, as a taxpayer, I cannot support these codes as written without some financial support from the state or the Department of Commerce.

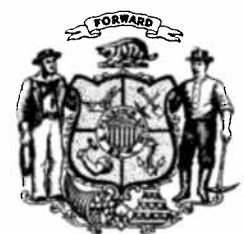
Thank you for allowing me to comment. I look forward to seeing what actions the legislature will take.

Sincerely,

Terri Dopp Paukstat



WISCONSIN STATE LEGISLATURE



COPY



**Wisconsin
County Code
Administrators**

November 27, 2007

Roman Kaminski
Department of Commerce
PO Box 2689
Madison WI 53701-2689

PUBLIC HEARING COMMENTS: PROPOSED RULES

CHAPTERS COMM 81 - 87

As representatives of the Wisconsin County Code Administrators (WCCA) on the POWTS Advisory Code Council and members of the WCCA Sanitation Committee, we are submitting the following comments on behalf of WCCA:

The Wisconsin County Code Administrators support the changes in the Hearing Draft of these proposed rules, except for portions of proposed Section 36 [Comm 83.255(1)].

A majority of WCCA members are opposed to changes in Section 36, which mandate a governmental unit (county) inventory of ALL POWTS in their jurisdiction and implementation of a comprehensive maintenance program for these systems. While we support development and implementation of maintenance programs for POWTS installed in 1980 or later (or after the date a county adopts the Wisconsin Fund program), we do not support the proposed mandate for maintenance of older systems. Requiring maintenance of and prolonging the life of POWTS which are over 30 years old, may have no records and may meet the statutory definition of a failing system (i.e., discharging sewage to surface water, groundwater and/or bedrock) does little to protect the public health and the waters of the state. Additionally, many counties have limited budgets and may not be able to implement an unfunded mandate such as this.

We recommend that proposed Comm 83.255(1)(d) be revised so that mandatory maintenance program requirements apply to all POWTS installed after the date on which the county adopts the Wisconsin Fund program. We also suggest giving counties the authority, as an individual county option, to include POWTS installed before that date. Such a change would be consistent with statutes. [*§145.20(5)(a) states "At a minimum the maintenance program is applicable to all.. " POWTS constructed "...on or after the date on which a governmental unit adopts this program" ("this program" referring to the Wisconsin Fund).*]

If you are unwilling or unable to make such a change to proposed language in sub. (d), we would recommend a change to proposed 83.255(1)(c) extending the 5 year deadline. This would allow counties more time to phase in a maintenance program for older systems, and would accommodate programs which provide full evaluation of a POWTS prior to inclusion in a maintenance program (such as real estate evaluation programs).

We respectfully request that you consider these comments and make appropriate changes to proposed Comm 83.255(1) before adoption of these revisions.

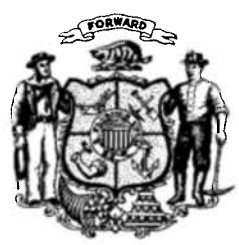
If you have any questions, feel free to contact us.

Dale Dimond, Chris Olson, and Brian Cunningham
Sanitation Committee Members
Wisconsin County Code Administrators

cc Duane Greuel, President WCCA



WISCONSIN STATE LEGISLATURE





**Wisconsin
County Code
Administrators**

Senator Jeffrey Plale
Room 303 South
State Capitol
PO Box 7882
Madison, WI 53707-7882

April 11, 2008

Re: Testimony for COMM 81-87 Revision Package Hearing

Dear Senator Plale,

I understand that there will be a public hearing scheduled later this month before the Senate Committee on Commerce, Utilities and Rail, which you are Chair, on the proposed revisions to the state private septic code, COMM 81-87. I ask that you consider the enclosed position of my organization which remains unchanged.

For your benefit, WCCA is a statewide organization of professionals that are employed by counties to administer a wide range of state and local regulations pertaining to land-use and environmental health. We are the professionals who will be responsible for implementing the provisions as proposed in the revision package.

I thank you in advance for your consideration of our position.

Scott A. Godfrey
President, WCCA
Director, Iowa County Planning & Development
222 N. Iowa Street
Dodgeville, WI 53533
608-935-0398
Scott.godfrey@iowacounty.org



**Wisconsin
County Code
Administrators**

November 27, 2007

Roman Kaminski
Department of Commerce
PO Box 2689
Madison WI 53701-2689

PUBLIC HEARING COMMENTS: PROPOSED RULES

CHAPTERS COMM 81 - 87

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We recommend that proposed Comm 83.255(1)(d) be revised so that mandatory maintenance program requirements apply to all POWTS installed after the date on which the county adopts the Wisconsin Fund program. We also suggest giving counties the authority, as an individual county option, to include POWTS installed before that date. Such a change would be consistent with statutes. [*§145.20(5)(a) states "At a minimum the maintenance program is applicable to all.. POWTS constructed "...on or after the date on which a governmental unit adopts this program" ("this program" referring to the Wisconsin Fund).*]

If you are unwilling or unable to make such a change to proposed language in sub. (d), we would recommend a change to proposed 83.255(1)(c) extending the 5 year deadline. This would allow counties more time to phase in a maintenance program for older systems, and would accommodate programs which provide full evaluation of a POWTS prior to inclusion in a maintenance program (such as real estate evaluation programs).

We respectfully request that you consider these comments and make appropriate changes to proposed Comm 83.255(1) before adoption of these revisions.

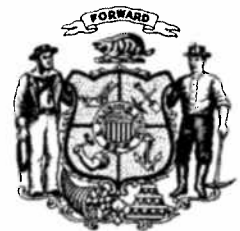
If you have any questions, feel free to contact us.

Dale Dimond, Chris Olson, and Brian Cunningham
Sanitation Committee Members
Wisconsin County Code Administrators

cc Duane Greuel, President WCCA



WISCONSIN STATE LEGISLATURE



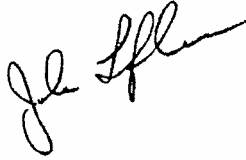


LAND INFORMATION DEPARTMENT

John Lefebvre
Director

Greg Cleereman
Conservationist

Linda Christensen
Property Lister

TO: Senator Breske
FROM: John Lefebvre, Director 
DATE: April 22, 2008
RE: Testimony Regarding the Proposed Amendments to Comm. 81 – 87

Senator Breske, thank you for this opportunity to comment on the amendments to Comm. 81-87 specifically Comm 83.255 (1) (a), (b), (c) and (d). The requirements found in Comm. 83.255 will require Marinette County to hire additional staff and modify the existing sanitary computer program. As the Director of the Land Information Department I have experienced first hand the elimination of 3 ½ full time positions in the Land Information Department in the last few years to remain within the levy limits placed on the County by the State. If the Marinette County is required to inventory all private onsite wastewater treatment systems and once inventoried place these systems on a mandatory maintenance program it will take additional staffing and computer programming. What services will the County need to eliminate to comply with this mandate or will the County need to raise user fees or place a special assessment on the tax bills? These provisions will not only place a burden on the County Land Information staff but enforcement of the maintenance requirements will affect the work load of the County Corporation Counsel and the Court system.

In addition to not having the necessary funds to administer such a program I question the following: How is a seasonal property owner going to find their 30 plus year old private onsite wastewater treatment system without digging up their entire yard in the process? Once this 30 plus year old system is located why prolong the life of this system by maintaining it when it is likely that the system does not meet the existing code. There is no provision to have a non code compliant system replaced until this system meets the definition of failing as defined in WI Stats 145.

I question the Department of Commerce's interpretation of section 145.20 (5), Wis. Stats., which directs the Department to establish a maintenance program for POWTS. Why is the Department passing the burden of the maintenance program onto the County?

I also heard recently that the Department of Commerce is proposing to raise the sanitary permit fees due the State by the Counties from \$75 to \$150 per permit. I was told that the fees haven't been increased since the early 1990's thus the justification for such a large



increase. There is no justification in my book for a 100% increase in any given year. So if I have this figured right in 2009 Marinette County will be faced with funding additional staff for inventorying and maintenance of existing systems and have to increase permit fees to cover the Department of Commerce deficits. How is this going to go over with the taxpayers?

Has the Department of Commerce given any consideration to whether or not there are enough septage hauling firms available to maintain all the systems and whether there is enough capacity available at the municipal treatment plants to accept the septage and/or enough land available for land spreading of septage?

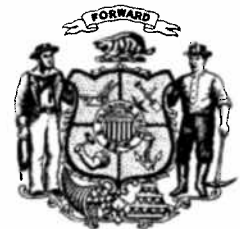
A number of counties require a mandatory evaluation of private onsite wastewater treatment systems upon the sale or transfer of property. This appears to be a more realistic option than what is being proposed. I suggest that the State require evaluations upon the sale or transfer of parcels as an alternative to requiring the Counties to inventory all systems within a 2 year period. This would allow the Counties to slowly work up to a complete inventory of all systems and give the industry an opportunity to vamp up for the increased number of systems that will be added to the maintenance requirements.

Attached is a resolution adopted by the Marinette County Board of Supervisors Opposing Revisions to the Wisconsin Administrative Code Comm. 83.255 which Mandates the Inventory and Maintenance of Private Onsite Wastewater Treatment Systems (POWTS).

Thank you again for this opportunity to comment on the proposed revisions to WI Admin. Code Comm. 83 specifically Comm. 83.255 (1) (a), (b), (c) and (d).



WISCONSIN STATE LEGISLATURE



Hodgson, Amber

From: Stritchko, Megan
Sent: Thursday, April 24, 2008 2:30 PM
To: Hodgson, Amber
Subject: FW: Ch 07-100

From: Lara Pagel [mailto:Lpagel@co.waupaca.wi.us]
Sent: Thursday, April 24, 2008 1:01 PM
To: Sen.Plale
Subject: Ch 07-100

Dear Honorable Senator Plale:

As the chairman of the Senate Committee on Commerce, Rail and Utilities, I would like to address for you my opinions on this clearinghouse rule. I am sure that you will hear much testimony specifically regarding the septic inventory deadlines proposed in this rule.

I am employed with the Waupaca County Zoning Office and have done the inventory for our county. We accomplished this task in 2001, and easily did it in a years time. We assumed the writing of Comm 83.54 made the "retro" maintenance a requirement in and of itself and set about to accomplish the task. Since the implementation of the revised Comm 83 in 2000, counties have debated how seriously this rule should be taken. I point out this fact because it has indeed been a requirement for 7 years now that a "retro" maintenance program be in place. However, many counties have opted to whine about how it is impossible instead of undertaking the task even a little at a time over the past 7 years.

Last winter I was at the Code Committee meeting where the language addressing deadlines for inventory and maintenance were introduced. It was understood by the citizen members of the committee that a "non-deadline" was not working and that in order to obtain this valuable inventory of the State's septic systems, a tangible deadline must be set. Two years from implementation was seen as being more than fair for all except counties without computers.

Let me take a moment of your time to outline how we in Waupaca County did our inventory. We had a maintenance program in place as required by the Wisconsin Fund Grant Program. However, the inventory in that program was only back to systems installed since 1991, when we entered the Program. My first step in the winter of 2001 was to add all the sanitary permits that we had in the system that were not in the maintenance program already. And let me be honest, this was the hardest part. Our main system is a program called the AS400 system. From what I understand, many counties use this program. It is easily accessed as a database by Access, a Microsoft Database program. Our computer department created a program for me that allowed me to access all our permit subfiles. From that list I removed all holding tanks and outhouses as they do not have septic tanks. I then needed to sort the list by parcel number so that I could find the parcels where the new systems had been replaced and were already in the program. This was my project for the winter of 2001 and was putsy. But frankly, the winters are for putsy projects.

By the spring of 2001, our computer department had created another program through Access. This one could not have been simpler for me to use. A query had been done to include all properties that had residential improvements (our Zoning Administrator was concerned about missing low cost mobile homes and cabins, so he asked to include ALL residential improvements), were not in a sanitary district, city or village (presumably on sewer) and did not already have a sanitary permit issued on that property (those were already entered).

From that query resulted a list of properties we assumed had septic systems and were not in the maintenance program already. I requested this list be ordered alphabetically so that we would distribute the work around the county and not cluster the work for specific septage haulers at any one time. As the list was of parcel numbers, the database easily grabbed the property owner information from our tax rolls. My only task was to go through the list as I had time to create a file number and add due dates to these parcels. I could work on it for a minute or a half hour and when I was done, I uploaded those files to the maintenance program.

We realized we had about 12,000 systems in our county and we send out 6 batches of initial notices in a year. I aimed to have roughly 600 properties per batch. When I had that many for a month, I changed my due dates to the next month and so on.

This is all that is needed for an inventory. The tax parcel number and name and address of each parcel.

We went from inventory to implementation immediately. The 12,000 properties were spread out over a three year time period. We did get calls the first year. We were informed of some properties that didn't have septic systems and verified those primarily by GIS aerial photo and property assessments.

After everyone had received their first notice, the fourth year was so quiet, it shocked us. When the first batch goes out in the spring we actually look forward to the calls to break up the monotony that was winter. The fourth spring, those calls were a tiny fraction of what they had been. We are now 7 years into the retro program and our primary phone calls are - we lost our form, could you print another one?

Was it all smooth going? No. Everyone in our office has been called a communist at some point, among other names. However, overall it has been an excellent program for our county. We found many septic systems that discharged directly to ditches and streams.

I stress to you that by inventory all the counties need to obtain is a list of parcel numbers, names and addresses within 2 years. Of course it won't be without some errors, but those are weeded out over the years. Every year we add more properties as we work in the churches, farms and other businesses that didn't count as residential improvements. We also removed some properties that were merely outbuildings or cabins with outhouses. We have made some field visits, but the nature of our business is that we are always travelling around the county doing septic inspections or visits for Land Use permits. It isn't hard to make a list of sites to drive by on the way. We have never made a specific trip just to verify something for maintenance.

This is not the impossible task that some may claim, and fees can be charged to recuperate expenses that do occur. Thank you for taking the time to consider my testimony.

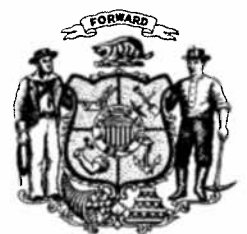
Lara Pagel
Waupaca County Zoning
FAX: 715-258-6212
PHONE: 715-258-6255

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WISCONSIN STATE LEGISLATURE



Planning & Zoning Department

Mark W. Steward, Director

West Square Building

Telephone (608) 355-3285/Fax (608) 355-4440 505 Broadway, Baraboo, WI 53913



April 25, 2008

Senator Jeff Plale
Chairperson/ Committee on Commerce, Utilities and Rail
Room 313 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

RE: Clearinghouse Rule 07-100 Public Hearing Comments

Dear Senator Jeff Plale:

I am writing to you on behalf of the Sauk County Planning & Zoning Department. Our Department supports the Clearinghouse Rule 07-100.

Sauk County started a proactive maintenance program in 2003 and finished the project last year in 2007. Although it was a lot of work, the project was a success. There is no question we have fewer septic systems polluting our water resources because of our proactive maintenance program. Some examples I would like to share with you is one septic pumper actually found a 1949 Dodge Sedan that was being used for a septic tank. Locals have told us the plumber use to use two cars for larger houses. Another house actually had a new well located through there existing septic tank. There were also sites found with straight pipes to streams and ditches. Other benefits of the program include the following; everyone is treated equal, an increase educational benefit to property owners, an license individual will be inspecting all septic systems at least every three years, and we now have a record of all septic systems to start comparing septic effluent gallons to septic spreading.

Although I support the Wisconsin County Code Administrators (WCCA) concerns, this clearinghouse rule (07-100) is a step in the right direction. However, one major concern I do have is the Wisconsin Fund Program. If this rule is passed there is going to be a huge increase for the need of Wisconsin Fund money. Our program was a success because we had a tool (Wisconsin Fund Program), please look into ways to increase the Wisconsin Fund and make sure it survives future budget cuts in the future if you want this rule to be effective and protect the water resources of Wisconsin.

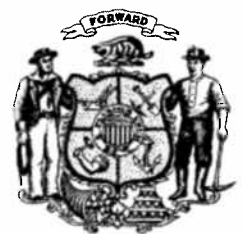
If you have any questions or concerns regarding this correspondence please feel free to contact me at 608-333-3285.

Sincerely,

Mark Steward
Sauk County Planning & Zoning Director



WISCONSIN STATE LEGISLATURE





COUNTY OF MARATHON

CONSERVATION, PLANNING AND ZONING DEPARTMENT

210 River Drive
Wausau, Wisconsin 54403-5449
www.co.marathon.wi.us

Phone: (715) 261-6000
Marathon County: (800) 236-0153
Fax: (715) 261-6016

April 22, 2008

Senator Jeffrey Plale, Chairman
Committee on Commerce, Utilities & Rail
Room 313 South, State Capitol
PO Box 7882
Madison WI 53707-7882

MAY 1, 2008 PUBLIC HEARING – CLEARINGHOUSE RULE 07-100: PROPOSED REVISIONS TO COMM 81-87, WISCONSIN ADMINISTRATIVE CODE

I am an On-Site Waste Specialist for Marathon County, with twenty nine years of experience enforcing private sewage system (POWTS) regulations. I also serve as the Vice-Chairman of the POWTS Advisory Code Council, representing the Wisconsin County Code Administrators. As such, I am very familiar with the proposed revisions to Comm 81-87.

I am opposed to portions of proposed Section 37 which mandate that a governmental unit (county) inventory ALL POWTS in their jurisdiction and implement a comprehensive maintenance program for these systems. Marathon County's current POWTS maintenance program includes nearly 12,000 POWTS which were installed after July 1, 1980 (the date we adopted the Wisconsin Fund grant program). Proposed Comm 83.255(1) would mandate that Marathon County complete an inventory of an estimated 8,500 additional POWTS and then include them in a maintenance program designed to maintain code compliant POWTS, not to evaluate or upgrade old existing POWTS. **Requiring maintenance of and prolonging the life of POWTS which are over 30 years old, have no records and may meet the statutory definition of a failing system (i.e., discharging sewage into surface water, groundwater and/or bedrock) does little to protect the public health and the waters of the state.**

Although the rule summary states that this maintenance program is required by 2005 Wisconsin Act 347, **the statutes do not require inclusion of all older POWTS.** Section 145.20(5)(a), Wis. Statutes, states "At a minimum the maintenance program is applicable to all...private sewage systems constructed...on or after the date on which a governmental unit adopts this program" ("this program" referring to the Wisconsin Fund). Therefore, **I recommend that proposed Comm 83.255(1)(d) be revised so that mandatory maintenance program requirements apply only to POWTS installed after the date on which the county adopted the Wisconsin Fund program** or, for uniformity, after the date the state established the Wisconsin Fund program (1978). Comm 83.53(2) would still give counties the authority to include older systems in a maintenance program, if they chose to do so.

At a minimum, the deadline in proposed 83.255(1)(c) should be extended. **Allowing counties more time to phase in a maintenance program for older systems would reduce the financial burden of this mandate. It would also accommodate county programs which provide for full evaluation of a POWTS prior to inclusion in a maintenance program,** such as the real estate evaluation program recommended by the POWTS Advisory Code Council, but not included in the Department of Commerce's proposed revisions (which would more effectively and fairly address existing failing POWTS).

I respectfully request that you consider these comments and request appropriate changes to proposed Comm 83.255(1) before adoption of these revisions.

If you have any questions feel free to contact me at 715-261-6028. Thank you for your attention to this matter.

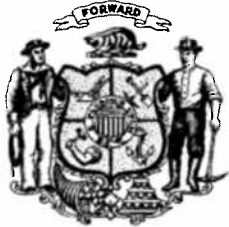
Dale Dimond
On-Site Waste Specialist
Marathon County

cc Senator Roger Breske; Committee on Commerce, Utilities & Rail
Senator Robert Wirsch; Committee on Commerce, Utilities & Rail
Senator David Hansen; Committee on Commerce, Utilities & Rail
Senator Robert Cowles; Committee on Commerce, Utilities & Rail
Senator Sheila Harsdorf; Committee on Commerce, Utilities & Rail

Conservation Services:	(715) 261-6000	Regulatory Services:	(715) 261-6020	Surveyor:	(715) 261-6025
Planning:	(715) 261-6040	(Land Division, Nonmetallic Mining, Onsite Waste, Zoning)		Technical Services:	(715) 261-6000



WISCONSIN STATE LEGISLATURE



MEMORANDUM

TO: Honorable Members of the Senate Committee on Commerce, Utilities and Rail

FROM: Monica Groves Batiza, Legislative Associate *MGB*

DATE: April 29, 2008

SUBJECT: Opposition to Clearinghouse Rule 07-100, relating to private onsite wastewater treatment systems, and affecting small businesses.

The Wisconsin Counties Association (WCA) opposes Clearinghouse Rule 07-100 (CR 07-100) relating to private onsite wastewater treatment systems, and affecting small businesses. Of specific concern is the creation of Comm 83.225, which mandates Wisconsin counties to inventory all Private Onsite Wastewater Treatment Systems (POWTS) in their jurisdiction and implement a comprehensive maintenance program for these systems. Along with the Wisconsin County Code Administrators (WCCA), WCA believes that this is an unrealistic expectation for counties to track and enforce.

Under Comm 83.225 counties will be required to inventory all POWTS within two years of the effective date of the code revision, and will mandate a comprehensive POWTS maintenance program within five years of the effective code revision date. As counties are asked to do more with less, this mandate is impossible to implement without additional funding. The response from individual county code administrators is that the added expense and burden to their office is simply too much for them to shoulder.

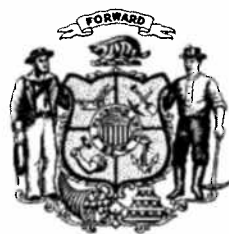
This code language is also problematic because many counties do not have records of existing systems prior to the date that they established a sanitation office. Requiring counties to inventory POWTS that they do not have adequate records for is a time consuming and costly task. It would be more reasonable for counties to be responsible for a maintenance program that is applicable to the date that the governmental unit *adopted* a sanitation program.

WCA respectfully requests that you oppose CR 07-100 in its current draft. It is our hope that a compromise can be reached after continuing discussion with county code administrators as to the best means of enforcement of this important code.

Thank you for considering our comments. Please contact me if you have any questions.



WISCONSIN STATE LEGISLATURE



To: Members, Assembly Natural Resources Committee and Senate Commerce,
Utilities and Rail Committee

From: Tom Larson, Director of Regulatory and Legislative Affairs

Date: April 30, 2008

RE: Concerns regarding CR 07-100 – Proposed Changes to Private Onsite Wastewater
Treatment System Regulations

The Wisconsin REALTORS® Association (WRA) has significant concerns about Clearinghouse Rule 07-100, relating to private onsite wastewater treatment systems (POWTS) because the rule will likely increase the costs of housing and make the dream of homeownership less affordable for Wisconsin families. While the WRA recognizes that proper maintenance of POWTS is necessary to protect the quality of our groundwater and surface waters, as well as the health and safety of the public, we are concerned that proper consideration has not been given to the potential financial impacts of the rule on homeowners. Specifically, we are concerned about the following provisions in the rule:

Concerns

No homeowner representation on advisory committee

The POWTS advisory code council, who provided input into the proposed changes, consisted primarily of county code administrators, engineers, POWTS manufacturers, and POWTS installers. (See page 5 of the code for the complete list of advisory code council members.) Noticeably absent from this list is anyone who represents the interests of homeowners. Given that the proposed changes to the code has a direct impact on the legal and financial obligations of homeowners, it seems unfair not to have the interests of homeowners represented on the advisory code council.

Costs Related to County Inventory of All POWTS

Section 36 (Comm 83.255) requires all counties to conduct and complete an inventory of all POWTS located in their jurisdiction within 2 years of the effective date of the rule. This will be a significant undertaking for most counties; many of which are already understaffed and/or are experiencing tight budget constraints.

While we recognize that the rule is simply trying to implement current law (see Wis. Stat. § 145.20(5)), counties will be unable to manage the costs related to such an inventory without increasing fees or taxes paid by homeowners. Homeowners are already having difficulty paying their property taxes and a county-wide inventory of all POWTS will only exacerbate the problem.

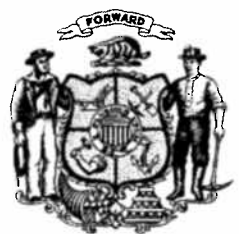
Exception to the Uniform State Code Requirement

In various sections of the code, the Department of Commerce makes a concerted effort to create a uniform statewide code. (See e.g., Section 4 (Comm 81.20(4)), Section 5 (Comm 82.03(3)), Section 9 (Comm 83.03(6)) However, Section 54 of the code (Comm 83.53(2)) indicates that local governments are allowed to have a maintenance program that is “more restrictive” than the proposed state standards. It is not clear what constitutes “more restrictive” maintenance, nor is it clear why counties need this authority. Allowing each county to adopt its own unique, more restrictive maintenance standards seems inconsistent with one of the objectives of the code (uniformity) and will likely create confusion among property owners as to what is necessary to be in compliance. (Note – Section 52 of the code (Comm 83.52(1)) makes the property owner responsible for maintaining POWTS in compliance with the code. Current law holds the property owner or owner’s agent responsible for code compliance. By deleting “owner’s agent” from the code, the proposed changes essentially absolves the owner’s agent (the person who maintains the POWTS) from any liability.) Moreover, allowing each county to adopt more restrictive maintenance requirements will likely increase maintenance costs for property owners.

Evaluation of POWTS

The code adds the word “evaluation” to the current “inspection and maintenance” requirements for POWTS. However, the term is undefined, so it is unclear what it means or how it will impact homeowners.

We appreciate the opportunity to comment on the proposed rules and we respectfully request that legislators delay the adoption of these proposed changes to the code until the interests of homeowners has been adequately addressed. If you have any questions, please contact me at (608) 212-0066.



Waushara County
Land Conservation & Zoning
P.O. Box 1109
Wautoma, WI 54982-1109
(920) 787-0453
Fax (920) 787-6516
E mail lcdzoning.courthouse@co.waushara.wi.us

DATE: 5-1-08

TO: Members of the Senate Committee on Commerce, Utilities and Rail
Members of the Assembly Committee on Natural Resources

RE: Clearinghouse Rule 07-100 - private onsite wastewater treatment systems

I appreciate the opportunity to appear before your Committee to speak to you about our concerns relating to Clearinghouse Rule 07-100 and its impacts on Counties in the State of Wisconsin. I have been the Zoning Administrator of Waushara County for the last 26 years. I have also served as President of the Wisconsin County Code Administrators, and have had the opportunity to serve as an Advisor to the Wisconsin Land and Water Conservation Board, and also in various capacities on several Legislative Council Study Committees.

The Waushara County Planning and Zoning Committee, a Committee of the Waushara County Board, and myself would like to go on record as **opposing the creation of Comm 83.255 which mandates Wisconsin Counties inventory all POWTS in their jurisdiction and implement a comprehensive maintenance program for these systems.** I call your attention to a letter we sent to our Legislators in November of 2007, a copy of which is attached. The reasons for our opposition are as follows:

- **Plain and simple, this is an unfunded mandate** – With the passage of these amendments you will be requiring Wisconsin Counties to inventory and implement a mandatory maintenance program that we are not required to do now – without any funding, you are putting us in a very difficult situation.
- **The Department of Commerce has informed us that it is the Legislators, not them, that are requiring us to implement this** – We respectfully request you direct them to do otherwise.
- **Wisconsin limits our ability to raise taxes by setting levy limits, expecting us to do more with less** – It is impossible for most of Wisconsin Counties to meet the unrealistic deadlines of this proposed administrative rule without funding. This mandate will force us to go to our respective County Boards and ask for more money and staff to meet these deadlines. We have been operating under a hiring and budget freeze for the last 8 years, which means this request will be refused by the Waushara County Board of Supervisors, and we will be **forced to break the law by not meeting these unrealistic deadlines.**

-
- **The existing Comm 83 gives Counties the ability to address local issues, as long as they meet the performance standards contained within the existing administrative codes** – Again, plain and simple, the existing laws allows Counties the option to address maintenance of private onsite wastewater systems, if the County feels this is priority in their Community. Many, like Waushara County are gradually bringing properties into a maintenance program, as systems are replaced and properties improved, landowners are being placed into maintenance programs. **The point is, if you leave us alone, we will gradually get there, just not as fast as what the Department of Commerce wants us to with these unrealistic deadlines.**
 - **Do not let the Department of Commerce fool you into believing that this will improve water quality or the environment – nothing could be further from the truth** – Mandatory maintenance is simply that – maintenance. Waushara County currently has approximately 3,000 systems under mandatory maintenance. We have been under this program since 1999. **Not a single system that is currently contributing to ground or surface water degradation has been replaced in Waushara County as a result of mandatory maintenance.** Septic pumpers merely pump the tank and report the system as operating, without regard to surface or groundwater discharge. If you truly want to “clean up” existing, polluting systems, **you need to require a comprehensive evaluation of the existing system, along with mandatory maintenance.**
 - **With a reduction in new residential construction, these are difficult times for Wisconsin Counties. Do not make it worse by enacting unrealistic laws that we are unable to meet.**
 - **Waushara County respectfully requests you consider eliminating Section 83.255 from these proposed code changes.**

On behalf of Waushara County, I would like to personally thank you for this opportunity to comment on these important proposed Administrative Code changes.

Mark Schumacher

Mark Schumacher, Director
Waushara County Land Conservation & Zoning

attachments

Waushara County
Land Conservation & Zoning
P.O. Box 1109
Wautoma, WI 54982-1109
(920) 787-0453
Fax (920) 787-6516
E mail lcdzoning.courthouse@co.waushara.wi.us

DATE: 11-15-07

TO: Senator Luther Olsen
Senator Julie Lassa
Representative Joan Ballweg
Representative Louis Molepske, Jr.

RE: Comments on proposed revisions to Comm 83

As the Waushara County Planning and Zoning Committee and the Waushara County Zoning Administrator, we respectfully want to bring to your attention the changes that the Department of Commerce is proposing to the Counties of Wisconsin relating to POWTS (septic systems).

Specifically, Comm 83.255(1)(a)-(f) is being proposed which would require all counties to inventory every existing POWTS (septic system) in their respective county, and then develop and implement a comprehensive mandatory maintenance program for these existing systems. **We strongly believe this is an unfunded mandate being imposed upon the Counties and should not be proposed unless full and complete funding is also provided.**

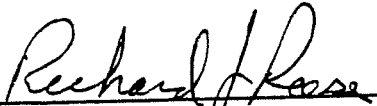
Please refer to the attached letter Waushara County has mailed to the Department of Commerce, and the excerpts from the proposed code change. The fiscal impacts just to complete such an inventory are astronomical. It is impossible to complete this at existing staffing and funding levels, yet the Department of Commerce is telling us that this proposal is the will of the State Legislators to complete this inventory and implement this mandatory maintenance program, not the Department of Commerce.

In closing we appreciate the opportunity to comment, and encourage you to oppose these unfunded mandates, and urge the Department of Commerce to to eliminate Comm 83.255(1)(a)-(f) and not adopt this administrative code as it is currently written.

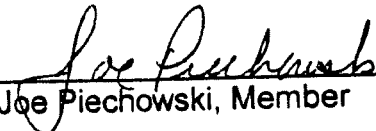
Once again, we thank you for this opportunity to comment

Sincerely,

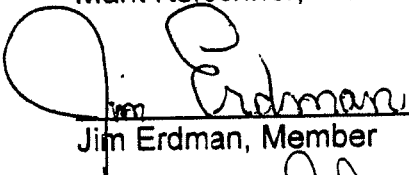
The Waushara County Planning and Zoning Committee and
The Waushara County Zoning Administrator

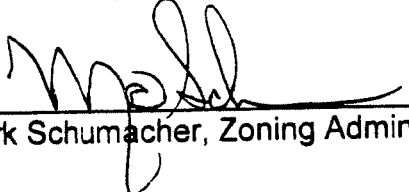

Richard Reese, Chairman


Betty Eannelli, Secretary


Joe Piechowski, Member

ABSENT
Mark Kerschner, Vice Chairman


Jim Erdman, Member

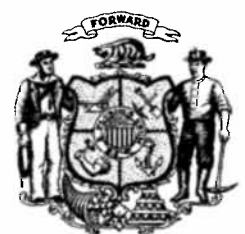

Mark Schumacher, Zoning Administrator

cc: Waushara County Board
Waushara County Board of Adjustments
Waushara County Legislative Committee
Matthew Stohr, Legislative Associate, Wisconsin Counties Association
Ruth Zouski, Waushara County Corporation Counsel
Deb Behringer, Waushara County Administrative Personnel Coordinator
Dustin Grant, WCCA District Representative

attachments



WISCONSIN STATE LEGISLATURE



Hodgson, Amber

From: Stritchko, Megan
Sent: Thursday, May 01, 2008 4:00 PM
To: Hodgson, Amber
Subject: FW: Public Hearing Clearinghouse Rule 07-100

From: Olson, Chris [mailto:colson2@co.door.wi.us]
Sent: Wednesday, April 30, 2008 8:21 PM
To: Sen.Plale
Cc: Sen.Cowles; Rep.Bies; Kaminski, Roman - COMMERCE; Lara Pagel; Duane Greuel; TEICHTLER, JOHN; Thiede, Greg; Dale Dimond
Subject: Public Hearing Clearinghouse Rule 07-100

Senator Plale,

I'm providing input to the proposed public hearing scheduled tomorrow morning, regarding Clearinghouse Rule 07-100.

Despite my role on the WCCA POWTS (Private On-Site Wastewater Treatment System) Code Council, representing the group and their subsequent majority in opposition to the proposed changes to maintenance for all of Wisconsin's septic systems, I support the inventory and maintenance steps outlined in the revisions to COMM 83.

I'm casting this position from my role, as an Assistant Sanitarian, solely representing my Door County position, and not the WCCA.

Door County has begun to inventory all of its systems. It began a program in 2002 to evaluate, making a determination of pass or fail based on soil conditions and tank integrity, all existing systems in the county. We've evaluated roughly 400-500 systems a year and find that over 80% of those systems evaluated are passing. Those systems not already in the county's septic tank maintenance program found passing, are added to the 3-year program, following the evaluation.

I believe it's necessary to begin a proactive approach to managing every septic system in the state. It's not prudent that we wait and react to the federal government and their implementation plans for states to manage their septic systems.

Wisconsin has long been a leader in governing successful programs in relation to wastewater, nationwide. We have an opportunity now, with your support, to keep moving forward with a management plan for all systems in Wisconsin, that will in turn, provide an avenue to lead the nation once again.

I understand the task ahead of us as a state, keeping in mind that a number of counties throughout the state have begun a process to manage all of their POWTS already, while some have done nothing, and others await the state's guidance.

The program has to start somewhere, it has to start sometime. What better place than here, what better place than now.

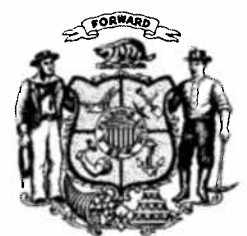
5/1/2008

Thank you for the opportunity to provide input in this process.
Please let me know if you have any questions.
chris

Chris Olson
Assistant Sanitarian
Door County Sanitarian's Department
920.746.2308, M-F 8 AM-4:30 PM



WISCONSIN STATE LEGISLATURE



May 2, 2008

Terri Dopp Paukstat
W5408 Cumberland Lane
Neshkoro, WI 54960
(920) 566-2889

To: Honorable Senators Plale, Breske, Cowles, Hansen, Harsdorf, Kedzie, and Wirch, & Representatives Gunderson, Ott, Bies, LeMahieu, Williams, Moulton, Nerison, Mursau, Black, Molepske, Steinbrink, Hraychuck, Hebl, and Mason.

I would like to thank you all again for listening to the views of the attendees at the hearing regarding the proposed amendments to Comm 83, the state plumbing code that pertains to septic systems. Following the hearing, I feel there are still a few things that should be clarified, and hope that you will consider the following afterthoughts as the process moves forward.

First, I believe that the maintenance program being proposed should be described. The Department of Commerce proposes a maintenance program that requires a tri-annual inspection of septic tanks, and when the solids have accumulated to a pre-determined percentage of the tank volume, the tank contents are pumped. The only other requirement is that the inspector/pumper visually check the system and verify it is not discharging to the ground surface.

While this is an effective monitoring program for POWTS that are known to be installed in suitable soils, with proper separation distances to groundwater, wells, surface waters, and structures, this is not effective for older systems for a number of reasons.

First, there is no way for the pumper to know the underlying soil conditions or the distance to seasonally saturated soils, nor is there a requirement that the pumper verify any setback distances are being met. This means that pumpers are routinely servicing systems that could be discharging into ground or surface waters. They could even be servicing systems that are tied into tile lines, or that discharge directly to a lake or stream without knowing about it. Everyone that testified agreed that there are many old polluting systems out there, but merely pumping the tank and making sure the system has not surfaced on the ground will not get the worst systems upgraded.

Even Brian McQuestion's testimony seemed to reinforce this. He is a self described leader in the onsite industry both statewide and nationally, and I am sure that he and his family have practiced recommended maintenance procedures for years. During his testimony, he noted that his mother's system was replaced last year with a mound system because her old system discharged directly into groundwater. It is obvious to me that this was not something that was brought to their attention when they had the tank serviced periodically over the many years the system was in place. The person servicing the system would have had no knowledge of the soil conditions or depth to groundwater or seasonal saturation at the site, but would have only inspected and/or pumped the tank and noted any surface discharge.

As I have stated before, I believe that all counties are in favor of routine maintenance on systems that are known to be safe and effective. The problem lies with those old, undocumented, and unevaluated systems that are out there. I, along with many others, do not believe that we should be forcing routine pumping on

these possibly polluting systems. Routine maintenance could prolong the life of these systems, and county inspectors do not want to be proponents of prolonging the contamination of our states waters in any way. Rather we would like to see a way to get these systems upgraded first and then entered into a maintenance program in a way that would be more gradual and thus better assimilated into our other duties.

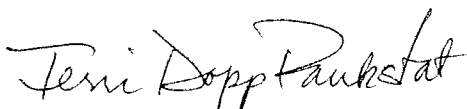
Therefore, as a compromise, I would once again point out that all counties have relatively good records back to 1980 when the mandatory inspection of new systems was directed by Commerce. These systems were proven to be installed in suitable soils and met minimum setback distances at the time of installation. Given adequate time, the counties could research these records and add these code compliant systems into their maintenance program.

Another alternative is a statewide mandatory and uniform inspection at the time of real estate sale. WOWRA has been developing a program to certify inspectors so that there is a uniform set of criteria that older systems must meet depending on the age of the system and the documentation available at the County. I realize it might be difficult to get all the interested players to join in this approach, but it certainly provides a way of protecting the new home buyer as well as the seller, protects the environment by getting old systems upgraded or documented to be safe, and then the county could enter all of the evaluated or newly installed systems into maintenance program. With the changeover in properties that takes place yearly, this would ultimately garner all systems into a maintenance program at a pace counties can handle, while providing documentation that the systems are compliant with minimum environmental and health standards.

And finally, another way is to require a complete evaluation of systems serving older homes that are being extensively remodeled or added onto. This requirement used to be a part of Comm 83 prior to 2000, but during the last code update, Commerce felt that these decisions should be made on the county level, so they dropped the statewide threshold for mandatory evaluations of older systems at the time of addition or remodeling. Many counties felt this was very important to insure water quality and health standards, so many counties adopted a requirement for a complete system evaluation before issuing building permits when extensive remodeling was taking place. Waushara County currently requires an evaluation of these systems when remodeling is taking place, and then adds these systems into our mandatory maintenance program. These account for about 20% of the systems entered into our maintenance program each year.

In conclusion I would like to reiterate I don't believe anyone will tell you maintenance is not a good idea, but it is the systems that we want to maintain that become the contentious issue. Maintenance of unknown systems seems to be counterproductive to what everyone would like to accomplish, and hopefully a mutually agreeable solution can be found. Thank you for your time and attention once again.

Sincerely,

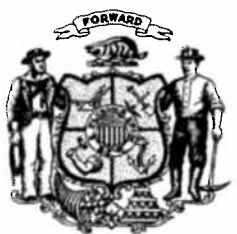


Terri Dopp Paukstat

cc: Senator Olsen
Senator Lassa
Representative Ballweg



WISCONSIN STATE LEGISLATURE





Wisconsin
County Code
Administrators

May 5, 2008

Senator Jeffrey Plale
Room 313 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

RE: Clearinghouse Rule 07-100 -- Relating to private onsite wastewater treatment systems, and affecting small businesses.

Dear Senator Plale:

This letter is in response to the comments and concerns expressed in the testimony presented to the committees on May 1, 2008. At the public hearing, it was said that counties were disregarding environmental concerns. This is far from the truth. The purpose and intent of county zoning and sanitation ordinances are to promote the safety, health, and general welfare of the public and to prevent and control water pollution. Mr. Schumacher was conveying that the majority of the counties in our organization believe that it is more harmful to the environment to maintain these older systems than it is to let them naturally fail on their own. These systems were installed under no regulations and prolonging the life of these systems would be a detriment to the environment. Another environmental concern from the counties is when these systems are pumped the majority of the waste is land applied. When this rule is passed, lands are going to be experiencing twice as much application of human waste, in addition to agricultural waste, creating a potential threat to the surface water of the State simply because the Wisconsin Department of Natural Resources program that regulates land-spreading is grossly understaffed.

It was stated that when pumped, the systems would also be inspected. A pumping license is different from a POWTS inspector license. A pumper is not licensed to inspect the system and a POWTS inspector is not licensed to pump the tank. Furthermore, many times a failed system is underground and there is no evidence on the land surface that it is failing. It is only when the system backs up into the structure it serves that the system becomes obviously failed and must be replaced. Unless a system is inspected through a process of boring at the ends of the field to confirm adequate treatment by the present soil conditions, there is no reasonable certainty that an older system is actually treating effluent before it reaches groundwater. The old axiom "if it goes away when flushed, its working" simply doesn't apply. Continuing to maintain these older systems will prolong this contamination to the ground water.

At the hearing, it was implied that the Counties have had “13 years” to develop a maintenance program. I would like to **STRESS** that counties were not required to establish a maintenance program in the code change in 2000. Rather, this code change simply required system owners to properly maintain their systems and report the maintenance to the county where the information will be kept. The Counties that do have a maintenance program do so because it is a requirement of belonging to the Wisconsin Fund (state fund to assist replacement of failed systems), not because of the 2000 code change. It was also implied since many counties have a maintenance program it would be easy to add additional systems. This is simply not true. In order to comply with this proposed code change, each county will first need to complete a countywide inventory of systems, confirm their status and then introduce those that are compliant into the maintenance program. The Wisconsin Fund maintenance requirement is initiated once a system is reported as failing, thus there is not the need for counties to find said systems.

It was mentioned that since the housing market is down, counties “would have more time” to implement this program. Again, this is a false statement because similar to State government, when county governments have budgetary restraints, county staffing is reduced and the remaining staff is asked to do more with less. In addition, our department administers many other programs, such as NR115, NR116, UDC Inspections, Comprehensive Planning, Sanitary programs, in addition to our own County Ordinance. Furthermore, it is not the Legislature’s prerogative to determine the staffing status of any county.

WCCA believes there is a fair compromise to this rule, and that is to require counties to have a maintenance program for systems installed from 1980 to date. We believe this is a good compromise because 1980 was when regulating of systems started as well as the time when the Wisconsin Fund was created. Systems that are older will be replaced as they fail and/or when they are requested to be proven as code-compliant, such as at the time when property sells. Requiring these systems to be maintained is actually requiring noncompliant systems to remain a potential environmental threat.

Sincerely,



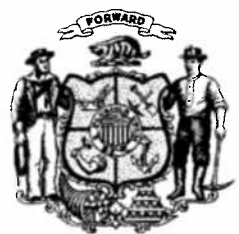
Michelle J. Staff

1st Vice President of the WCCA
Jefferson County Planning and Zoning
320 S. Main St. Room 201
Jefferson, WI 53549

RE: Scott Godfrey – President WCCA -- Iowa County Planning and Zoning
WCCA Executive Board
Monica Groves Batiza – Wisconsin Counties Association
File



WISCONSIN STATE LEGISLATURE





COUNTY OF MARATHON

CONSERVATION, PLANNING AND ZONING DEPARTMENT

210 River Drive
Wausau, Wisconsin 54403-5449
www.co.marathon.wi.us

Phone: (715) 261-6000
Marathon County: (800) 236-0153
Fax: (715) 261-6016

May 6, 2008

Senator Jeffrey Plale, Chairman
Committee on Commerce, Utilities & Rail
Room 313 South, State Capitol
PO Box 7882
Madison WI 53707-7882

CLEARINGHOUSE RULE 07-100: REVISIONS TO COMM 81-87, WISCONSIN ADMINISTRATIVE CODE

I mailed comments to you concerning this proposed rule and appeared at the public hearing on May 1st. Some of my statements were misquoted or misinterpreted during later testimony at that hearing. Therefore, I am sending this letter in an attempt to clarify what Marathon County's POWTS maintenance program includes and why I am opposed to these proposed rule changes:

- We have nearly 12,000 septic systems (POWTS) in our current maintenance program. All of these were installed after July 1, 1980, under "modern" regulations, and all have been inspected by our county's staff. We have a high degree of confidence that these systems are not discharging sewage into groundwater, drain tiles, or bedrock. Therefore, it is appropriate to include them in our maintenance program and assure they continue to function properly.
- We estimate that there are 8,500 older POWTS which are not included in our current program. Most of these systems have no records and were not installed with the benefit of proper soil and site evaluation or county inspection. Many, if not most, of these systems discharge sewage directly into groundwater, drain tiles or bedrock. If you are concerned about groundwater, as I am, these are the systems to be worried about.

So, if these older POWTS are a threat to groundwater, why not include them in our maintenance program? Because the proposed inventory and maintenance will not identify illegal discharges and will not get polluting POWTS replaced!

- The proposed inventory does not determine what type of system exists or where wastes go, it is simply a list of properties which "probably" have a POWTS.
- The "maintenance" required is simply pumping of tanks and a cursory look for sewage on top of the ground. **It does not check for and will not find sewage discharging into groundwater, surface water or bedrock.**

So then, how should we address this problem? By changing proposed Comm 83 so that mandatory maintenance programs apply only to POWTS installed after a county adopts the Wisconsin Fund Grant program. Doing so would comply with minimum requirements of 2005 Act 347 [§145.20(5)(a), Wis. Stats.], and would **allow each county to choose an approach which will best protect groundwater and public health.**

Marathon County is currently developing a real estate transfer program which would require a complete evaluation of hundreds of existing POWTS each year, replacement of those found to be failing, and gradually expand enrollment in our maintenance program. **Adoption of proposed changes to Comm 83 would force us to waste our efforts on a maintenance program which could prolong the use of polluting POWTS and may prevent us from implementing a real estate program which would actually get these systems replaced.**

Contrary to the impression given at the public hearing, counties are very concerned about our groundwater. We are not neglecting the problem. We are trying to use our limited resources in a manner which we believe will actually get results.

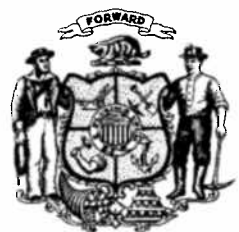
Please request that proposed Comm 83 be changed so that counties have the flexibility to regulate existing POWTS in the most effective manner possible.

Dale Dimond
On-Site Waste Specialist
Marathon County

cc Members of Committee on Commerce, Utilities & Rail



WISCONSIN STATE LEGISLATURE





COUNTY OF MARATHON

CONSERVATION, PLANNING AND ZONING DEPARTMENT

210 River Drive
Wausau, Wisconsin 54403-5449
www.co.marathon.wi.us

Phone: (715) 261-6000
Marathon County: (800) 236-0153
Fax: (715) 261-6016

July 22, 2008

Senator Jeffrey Plale, Chairman
Committee on Commerce, Utilities & Rail
Room 313 South, State Capitol
PO Box 7882
Madison WI 53707-7882

CLEARINGHOUSE RULE 07-100: REVISIONS TO COMM 81-87, WISCONSIN ADMINISTRATIVE CODE

I have reviewed the Germane Modifications made to Clearinghouse Rule #07-100 and find that **modifications made by the Department of Commerce do not resolve any of my concerns with this proposal.** In fact, the only significant change is the addition of penalties for counties who do not comply with this mandate:

- **No change has been made to any requirements of the maintenance program itself or which POWTS must be included in the program** (please refer to attached correspondence).
- The modification to Section 37 (proposed Comm 83.255) **still requires counties to complete an inventory of all existing POWTS and implement a comprehensive POWTS maintenance program within a 5 year period.** The additional year for inventory does not affect the 5 year deadline. meaning any county who needs this extra year will have even less time to complete the implementation/enforcement phase.
- Sections 34h, 34t and 53r have been added to this draft, **each of which includes a new penalty for counties who cannot comply with this mandate** (revoking agent status &/or preventing implementation of an alternative maintenance program for seasonal uses). A note has also been added in Section 37 reminding counties that we must comply if our residents are to receive Wisconsin Fund Grant monies.

It appears that the Department of Commerce either does not understand, or does not care about, our concerns. Rather than address any of our concerns or recognize that the counties may not be able to comply with this mandate, their response was an insignificant time frame change and a threat of new penalties (penalties which would revoke valuable services we offer to our citizens).

Please do not allow this rule to be implemented as currently written. Please request that proposed Comm 83 be changed so that mandatory maintenance program requirements apply only to POWTS installed after the date a county adopts the Wisconsin Fund program, in conformance with §145.20(5)(a), Wisconsin Statutes. At a minimum, the deadline in proposed 83.255(2)(a) should be eliminated or significantly extended.

Thank you for your continued attention to this issue.

A handwritten signature in black ink, appearing to read "Dale Dimond".

Dale Dimond
On-Site Waste Specialist
Marathon County

cc Members of Committee on Commerce, Utilities & Rail

Conservation Services: (715) 261-6000
Planning: (715) 261-6040

Regulatory Services: (715) 261-6020
(Land Division, Nonmetallic Mining,
Onsite Waste, Zoning)

Surveyor: (715) 261-6025
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COUNTY OF MARATHON

CONSERVATION, PLANNING AND ZONING DEPARTMENT

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Marathon County: (800) 236-0153
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May 6, 2008

Senator Jeffrey Plale, Chairman
Committee on Commerce, Utilities & Rail
Room 313 South, State Capitol
PO Box 7882
Madison WI 53707-7882

CLEARINGHOUSE RULE 07-100: REVISIONS TO COMM 81-87, WISCONSIN ADMINISTRATIVE CODE

I mailed comments to you concerning this proposed rule and appeared at the public hearing on May 1st. Some of my statements were misquoted or misinterpreted during later testimony at that hearing. Therefore, I am sending this letter in an attempt to clarify what Marathon County's POWTS maintenance program includes and why I am opposed to these proposed rule changes:

- We have nearly 12,000 septic systems (POWTS) in our current maintenance program. All of these were installed after July 1, 1980, under "modern" regulations, and all have been inspected by our county's staff. We have a high degree of confidence that these systems are not discharging sewage into groundwater, drain tiles, or bedrock. Therefore, it is appropriate to include them in our maintenance program and assure they continue to function properly.
- We estimate that there are 8,500 older POWTS which are not included in our current program. Most of these systems have no records and were not installed with the benefit of proper soil and site evaluation or county inspection. Many, if not most, of these systems discharge sewage directly into groundwater, drain tiles or bedrock. If you are concerned about groundwater, as I am, these are the systems to be worried about.

So, if these older POWTS are a threat to groundwater, why not include them in our maintenance program? Because the proposed inventory and maintenance will not identify illegal discharges and will not get polluting POWTS replaced!

- The proposed inventory does not determine what type of system exists or where wastes go, it is simply a list of properties which "probably" have a POWTS.
- The "maintenance" required is simply pumping of tanks and a cursory look for sewage on top of the ground. **It does not check for and will not find sewage discharging into groundwater, surface water or bedrock.**

So then, how should we address this problem? By changing proposed Comm 83 so that mandatory maintenance programs apply only to POWTS installed after a county adopts the Wisconsin Fund Grant program. Doing so would comply with minimum requirements of 2005 Act 347 [§145.20(5)(a), Wis. Stats.], and would **allow each county to choose an approach which will best protect groundwater and public health.**

Marathon County is currently developing a real estate transfer program which would require a complete evaluation of hundreds of existing POWTS each year, replacement of those found to be failing, and gradually expand enrollment in our maintenance program. **Adoption of proposed changes to Comm 83 would force us to waste our efforts on a maintenance program which could prolong the use of polluting POWTS and may prevent us from implementing a real estate program which would actually get these systems replaced.**

Contrary to the impression given at the public hearing, counties are very concerned about our groundwater. We are not neglecting the problem. We are trying to use our limited resources in a manner which we believe will actually get results.

Please request that proposed Comm 83 be changed so that counties have the flexibility to regulate existing POWTS in the most effective manner possible.

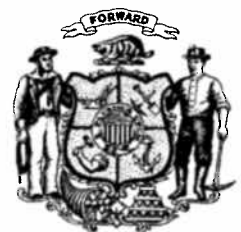
Dale Dimond
On-Site Waste Specialist
Marathon County

cc Members of Committee on Commerce, Utilities & Rail

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WISCONSIN STATE LEGISLATURE



Good Morning,

My name is Terri Dopp Paukstat, and I am the Assistant Zoning Administrator for Waushara County. I would like to take this opportunity to thank you all for the opportunity to testify today. I would also like to note that my comments should not be construed as representative of Waushara County. Mr. Schumacher, the Zoning Administrator, is testifying on that behalf, but I will instead represent my personal convictions as a private citizen and advocate for the environment, although because of my profession, a citizen and advocate with a somewhat unique perspective.

The only section of the Clearinghouse Rule before these Committees that greatly concerns me is the portion that requires all Counties to institute a mandatory maintenance program in the manner and time periods specified. I feel this will force all counties into guessing which lots might have a septic system on them, without actually knowing where all of the systems are. For anyone to say that a quick review of the assessment records will provide a county with an accurate picture of the properties that have septic systems present, is in my view, naïve, at best. There are many septic systems located on virtually vacant properties, as well as many properties with fairly large improvements that do not have any septic systems on them. There are also properties with multiple systems present that will not be picked up when merely checking the assessment records.

Furthermore, the rule forces the counties to enforce a prescribed maintenance program on the selected properties without regard to the safety or efficacy of the septic systems that might be present. I believe the greatest threat to the health of the citizens of this state and to the environment in general, is the forced maintenance of old, outdated, and polluting systems, which is exactly what is proposed in this rule.

At this time, I would like to emphasize that I am not against maintenance of septic systems. As a matter of fact, I believe that maintenance can be an important part of environmental protection and certainly serves to enhance effective wastewater treatment as well as promote a system's longevity. But this is only effective if the maintenance is performed on systems that are documented to be located in suitable soils, properly setback from water supplies and surface waters, and that can be shown to be operating and treating wastewater properly. To order maintenance on undocumented older septic systems that pose a danger to groundwater, drinking water, and the environment seems reckless at best. The bottom line for me is that maintenance should not be required on systems that do not have a complete and proper evaluation, or that are not new enough to have proper documentation on file that they are safe and effective.

Most counties have accurate records back to 1980, and some counties have instituted a mandatory inspection and maintenance program at the time of real estate sale, or when major remodeling is proposed to an existing home.

Incorporating the systems installed since 1980 and/or those that are properly evaluated, possibly at the time of real estate sale or remodeling, seem to be much more effective methods of incorporating all systems into a maintenance program. This would have the added advantage of adding systems at a pace the counties could handle. In addition it would provide a much better level of protection for our water, citizens, and the environment, because mandatory maintenance would apply only to those systems that are documented as safe and functioning.

In addition, I believe Commerce has indicated that a mandatory maintenance program as prescribed in the code update, will lead to the reporting and upgrading of old non-compliant systems. Unfortunately, I do not believe this will happen. This past winter we had a report of a possible failed system. Because of the location of the home, the presence of a locked gate and the heavy snow, we could not get into the property for several weeks. The landowner mentioned he had recently had his tank pumped and asked if we would accept an evaluation of the septic tank from his pumper. We said we would, but we would also need to follow up with a field visit as soon as weather conditions permitted.

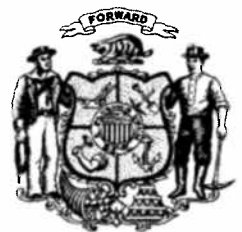
The licensed septage hauler submitted a report that stated the tank was in good shape, was in proper operating condition and accepting all of the wastewater generated in the home, and all pertinent parts of the tank were intact. However, when we visited the property, our findings were quite different. We noted the cover over the manhole opening was missing and instead just a small piece of plywood had been placed over the exposed access opening. In addition, the liquid level in the tank was above the inlet to the tank indicating all of the wastewater being generated in the home was not being accepted, treated and dispersed. And finally, when the tank was pumped, there were no baffles present in the tank, so even rudimentary treatment was not taking place.

Furthermore, after inspection of the area, we concluded that the drainfield or absorption area most likely consists of an outfall pipe to the nearby marsh. It is obvious to me that this would never have been reported by the pumper had he been hired to do routine maintenance as currently is proposed in the clearinghouse rule.

In conclusion, although maintenance of all systems may look good on paper, it is impractical, and will only prolong the use of dangerous and polluting systems around the state. Maintenance without evaluation is a no win situation for the environment, the people, and the governmental units charged with the job. Please consider having this portion of the rule stricken or substituted with a section that requires a complete evaluation of older systems before maintenance is required. Thank you.



WISCONSIN STATE LEGISLATURE





WISCONSIN LIQUID WASTE CARRIERS ASSOCIATION, INC.

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Telephone: (608) 255-2770
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IN SUPPORT OF CODE PACKAGE, ESPECIALLY:

Comm 83.255, establishing a two-year deadline for counties to complete an inventory of systems and a five-year deadline for counties to implement a maintenance tracking program.

- The deadlines are reasonable. In Waupaca County, they completed their inventory and inclusion into their maintenance program in less than a year. The inventory was done using computers to query according to residential improvements and eliminate those in cities and villages or with sewage district codes. Now's a good time to do an inventory, due to low numbers of building permits and sanitary permits being issued by municipalities.
- Beginning in 2000, counties are already required to implement a maintenance tracking program – this code package simply puts a timeline for compliance.

OPPOSED TO THE 'OCCASIONAL OCCUPANCY' LANGUAGE:

Comm 83.255, which allows counties to establish different maintenance schedules for POWTS serving buildings that are "occasionally occupied."

- 1) While most vacation homes receive only light, seasonal usage, some are heavily used. Some people rent their cabins out whenever they are not using them themselves (to help pay for property taxes, maintenance, and provide some additional income). And, sometimes the occupancy in terms of people is high since extended families may use the cabin for joint vacations.
- 2) It is common for vacation homes to be converted to full-time residences without any notification, and then expanded. Frequently, the septic systems for these cabins were not sized for the load they receive if they are converted to full-time residences.
- 3) Vacation homes are often located in sensitive areas such as lakefronts or adjacent to forests or state parks, etc. A small percentage of failed systems could potentially impair high-quality natural resources.