

CR 85-40

# RULES CERTIFICATE

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STATE OF WISCONSIN )  
 ) SS  
DEPT. OF INDUSTRY, )  
LABOR & HUMAN RELATIONS)

AUG 22 1985  
3:40 pm  
Revisor of Statutes  
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Howard S. Bellman, Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to The Use of Holding Tanks as Private Sewage Systems were duly approved and adopted by this department on 8/21/85.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 4:15 pm in the city of Madison, this 21<sup>st</sup> day of August A.D. 1985.

Howard S. Bellman  
Secretary

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# ORDER OF ADOPTION

Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s) 101.02(1) and 145.02(2), Stats., the Department of Industry, Labor and Human Relations hereby  creates;  amends;  repeals and recreates; and  repeals and adopts rules of Wisconsin Administrative Code chapter(s):

ILHR 83.18 Private Sewage Systems; Holding Tanks  
(Number) (Title)

The attached rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to section 227.026, Stats.

Adopted at Madison, Wisconsin, this 21<sup>st</sup>  
day of August, A.D., 1985.

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

Howard S. Bellman  
Secretary



# RULES in FINAL DRAFT FORM

**Rule:** ILHR 83.18

**Relating to:** The Use of Holding Tanks as Private Sewage Systems

**Clearinghouse Rule No.:** 85-40

AN ORDER to repeal and recreate ILHR 83.18 (1), (2) and (4), relating to the use of holding tanks as private sewage systems.

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#### ANALYSIS OF PROPOSED RULES

Under s. 145.02, Stats., the Department of Industry, Labor and Human Relations has the responsibility of safeguarding public health relative to the construction, installation and maintenance of plumbing. One mechanism used by the department to fulfill this responsibility has been the promulgation of the state uniform plumbing code which includes requirements for the installation and use of holding tanks as private sewage systems.

Holding tanks are used when municipal sewers are not available and soil and site conditions are inadequate to allow the use of the soil on the property for sewage disposal. The wastes from holding tanks, called septage, must be periodically removed and disposed. The disposal of septage must be in accordance with the standards of the Department of Natural Resources and is to be accomplished either by delivering it to a municipal wastewater treatment facility or by land application. Land application of septage at improper rates or at locations with inadequate soil and site conditions can contaminate the groundwater resources of the state. Since groundwater is used daily by approximately 70% of the state's population as a source for drinking water and by 94% of Wisconsin municipalities for water supplies, contamination of the groundwater can threaten the health and safety of Wisconsin's citizens.

Based on the number of sanitary permits issued over the past several years the use of holding tanks as private sewage systems has steadily increased.

#### SANITARY PERMITS

Year	Holding Tanks	Total	Percent
1980	1,700	14,024	12.1%
1981	1,557	12,628	12.3%
1982	1,505	11,185	13.4%
1983	1,869	12,300	15.2%
1984	1,994	12,500	15.9%

Nearly 57% of the holding tank permits issued since 1981 have been in 16 counties in 4 sections of the state, northwest, central, northeast and southeast. Typically, these areas have limited land resources for the disposal of septage due to soil and sites characteristics. In some counties the holding tank permits account for 80 to 90% of the yearly total number of sanitary permits issued. The increased use of holding tanks and the concentrations of the installations can and have placed a great demand on municipal wastewater treatment facilities and on suitable land for the disposal of the septage. In some instances municipal wastewater treatment facilities have been unwilling to accept the septage if the septage is not compatible with the treatment facility, or the acceptance would cause the facility to exceed its operating design capacity. This has resulted in situations where most of the septage disposal is by land application. In many areas, there are concerns over the land disposal sites being now used. More and larger holding tanks may compound the problems throughout the state.

Presently, the state uniform plumbing code indicates that the department approval for the installation of holding tanks is on a case by case basis. The proposed rules are to clarify the administrative parameters which the department will use to determine whether the installation of a holding tank may be approved.

Since the wastes from holding tanks must be periodically removed and disposed in accordance with the regulations of the Department of Natural Resources, the department believes if the decision to approve the use of holding tanks is made without regard to the availability of waste disposal resources, the resultant disposal demand could exceed the assimilative capacity of the environment and the institutional controls for the proper use of holding tanks and the safe disposal of the wastes.

The proposed rules will allow the department the ability to withhold an approval if there are inadequate resources available for the disposal of holding tank septage. Under the rules the department may by order establish areawide prohibitions for the installation and use of holding tanks for new construction where:

- there is evidence of widespread abuse from holding tank installations in violation of the administrative rules concerning operation and maintenance; or
- there are inadequate resources for septage disposal.

The proposed rules will require that prior to the issuance of a sanitary permit for the installation of a holding tank the owner of the holding tank must make arrangements for the servicing of the holding tank in conformance with the standards of the Department of Natural Resources.

The department believes the rules are necessary in order to:

- protect public health and the water resources of the state; and
- coordinate its responsibilities with the implementation of the regulations of the Department of Natural Resources under chapters 146 and 160, Stats., and the Laws of 1983, Wisconsin Act 410.

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Pursuant to the authority vested in the state of Wisconsin, Department of Industry, Labor and Human Relations by ss. 101.02 (1) and 145.02 (2), Stats., the department hereby repeals and recreates rules interpreting ss. 145.02 (1) and (3) and 145.13, Stats., as follows:

SECTION 1. ILHR 83.18 (1) and (2) are repealed and recreated to read:

ILHR 83.18 HOLDING TANKS. (1) APPROVAL. Plans shall be submitted to the department for review, in accordance with ss. ILHR 83.07 and 83.08, for each application to install a holding tank. The installation and use of a holding tank shall be considered by the department on an individual basis. An application for a holding tank shall not be approved by the department, if:

- (a) Any other type of private sewage system may be utilized as permitted under this chapter or ch. 145, Stats.; and
- (b) The property contains an area of soil suitable for any other type of private sewage system as permitted under this chapter.

(2) PROHIBITION OF HOLDING TANKS. (a) Department. 1. The department may prohibit the installation and use of holding tanks for new construction in areas where:

- a. The methods of final disposal of septage from existing holding tanks are not in compliance with the rules adopted under s. 146.20 (4g), Stats.;
- b. There is insufficient disposal capacity for the septage at wastewater treatment facilities or land disposal sites;
- c. Previously installed holding tanks have been found not to be watertight by the department or county due to geological conditions;
- d. The county has failed to provide to the department accurate annual pumping reports required under sub. (4) (a) 3.; or
- e. The results of the department's audits under s. 145.20 (3), Stats., indicate that sanitary permits have been issued for holding tanks in violation of sub. (1).

2. A departmental prohibition for the installation and use of holding tanks shall be established by departmental orders in accordance with s. 145.02 (3) (f). The order shall specify the conditions which must be corrected before the order will be lifted.

(b) Local. 1. A county may prohibit by ordinance the installation and use of holding tanks for new construction. If a county does not prohibit the installation and use of a holding tank for new construction, then any city, village or town within that county may prohibit by ordinance the installation and use of holding tanks for new construction.

2. An ordinance adopted under subd. 1. may prohibit the installation and use of holding tanks for specific building occupancies or specific geographical areas.

3. Before adopting an ordinance prohibiting the installation and use of holding tanks for new construction the local governmental unit shall submit a copy of the proposed ordinance to the department for review.

4. If a local governmental unit prohibits the installation and use of holding tanks for new construction, the local governmental unit shall establish an appeal procedure to the prohibition. Under the appeal procedure the local governmental unit may grant variances to the prohibition. The local governmental unit shall inform the department in writing of each variance granted.

SECTION 2. ILHR 83.18 (4) is repealed and recreated to read:

ILHR 83.18 (4) SERVICING CONTRACTS, AGREEMENTS AND STATEMENTS. (a) 1. Prior to the issuance of a sanitary permit for the installation of a holding tank the owner of the holding tank shall, except as provided by s. 146.20 (3) (d), contract with a person who is licensed under ch. NR 113 to have the holding tank serviced. The owner shall file a copy of the contract or their registration with the local governmental unit which has signed the pumping agreement under par. (b) and with the county. The owner shall file a copy of any changes to the service contract or a copy of a new service contract with the local governmental unit within 10 business days from the date of change to the service contract.

Note: Section 146.20, Stats., relates to the servicing of septic tanks, soil absorption fields, holding tanks, greast traps and privies.

2. The person responsible for servicing a holding tank under subd. 1. shall submit to the local governmental unit which has signed the pumping agreement under par. (b) and to the county a report for the servicing on a semiannual basis. The service report shall include:

a. The name and address of the person responsible for servicing the holding tank;

b. The name of the owner of the holding tank;

c. The location of the property on which the holding tank is installed;

d. The sanitary permit number issued for the holding tank;

e. The dates on which the holding tank was serviced;

f. The volumes in gallons of the contents pumped from the holding tank for each servicing;

g. The disposal sites to which the contents from the holding tank were delivered.

3. The county shall submit to the department an annual report summarizing the seminannual service reports which it is required to receive under subd. 2.

(b) 1. The owner of a holding tank shall enter into agreement with the appropriate county, city, village or town guaranteeing that the county or local governmental unit which signed the agreement will service the holding tank, if the owner fails to have the holding tank properly serviced in response to orders issued by the department, county or local governmental unit to prevent or abate a nuisance as described in ss. 146.13 and 146.14, Stats.

2. The owner or agent shall submit a copy of the pumping agreement required under subd. 1. to the department when plans for the proposed holding tank are submitted to department for review under s. ILHR 83.08.

3. The pumping agreement required under subd. 1. shall be binding upon the owner, the heirs of the owner and assignees of the owner. The owner shall file the pumping agreement with the register of deeds. Upon receipt of a holding tank agreement, the register of deeds shall record the agreement in a manner which will permit the existence of the agreement to be determined by reference to the property where the holding tank is installed.

(c) Large holding tank systems. The owner of a building or facility which will discharge more than 3,000 gallons of wastewater per day, as determined under s. ILHR 83.15 (3) (c) 2., to one or more holding tanks shall provide a written statement to the department describing the method of final disposal for the septage from the holding tanks. The department may not approve these types of holding tanks until the department receives written verification that the proposed methods of final disposal are acceptable to the department of natural resources. The department shall notify the department of natural resources when a system of this type is approved.



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EFFECTIVE DATE

Pursuant to s. 227.026 (1) (intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

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*The Wisconsin Department of Industry, Labor and Human Relations*

August 22, 1985

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Gary Poulson  
Assistant Revisor of Statutes  
for Administrative Rules  
411 West, State Capitol  
Madison, Wisconsin

Douglas LaFollette  
Secretary of State  
Room 271, GEF-1  
201 East Washington Avenue  
Madison, Wisconsin

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO. 85-40

RULE NO. ILHR 83.18

RELATING TO: The Use of Holding Tanks as Private Sewage Systems

Pursuant to section 227.023, Stats., agencies are required to file a certified copy of every rule adopted by the agency in the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you.

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.016 (6), Stats., a summary of the final regulatory flexibility analysis is also included.

Respectfully submitted,



Howard S. Bellman  
Secretary

cc: Agency Contact Person

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