

**PUBLIC HEARING COMMENT AND AGENCY RESPONSE
DEPARTMENT OF COMMERCE**

DIVISION OF SAFETY AND BUILDINGS

Rule Number: Chs. Comm 83, 85, 91

Relating To: POWTS

Hearing Location: Rice Lake, WI
Hearing Date: July 15, 1998

Commenting		Presenter, Group Represented, City, State	Comments/Recommendations	Agency Response
In	For Opp.			
Sup.	X	Darryll Farmer Eau Claire City County Health Dept. Eau Claire, WI	<ul style="list-style-type: none"> Two positive improvements are the elimination of any surface discharge of wastewater and clarification of what is a failing POWTS prior to 1969 and the authority to order them replaced. Comm 83.03 2.a. and 2.b. Change groundwater to <u>high</u> groundwater. By using groundwater, it limits determination of failure to only those systems that are less than two feet above saturated soil conditions which can vary significantly. Comm 83.03(2)(b)2.b. Add <u>and</u> is a failed POWTS. Clarifies what is a failed sewage system. Comm 83.04 Rewrite to allow local government to adopt rules that allow up to 18 months delay on any new POWTS packages approved by the state. This time is important to better assure the new system technology will perform and that an effective management and monitoring system is in place for the new technology. Comm 83.26(1)(b) Revise as follows: "(b) The department <u>or</u> governmental unit may issue an order . . ." Local governmental units also need the authority to immediately stop improper POWTS installations. Comm 83.29(2)(a) and (b) Revise to eliminate the word "and" between (a) and (b). By using "and" between (a) and (b) it means a potable water supply can be contaminated from a septic system as long as it is on the same property. 	<ul style="list-style-type: none"> No response necessary. The final draft of rules for s. Comm 83.03(2)(b)2. will be clarified to reflect the highest estimated groundwater elevation. The intent of the proposed rule is not to add a new classification for "failed private sewage system" which is already defined. The final draft of rules will be revised to allow an optional local 18 month delay for new design manuals and treatment components approved by the Department under s. Comm 84.10(3). The delay may begin from the date of the Department's approval of the technology. An enforcing governmental unit already has the ability to issue orders under s. 145.20(2)(f), Stats. The Department cannot bestow additional enforcement powers than those already acknowledged under the statutes; an enforcing governmental unit would seem to have the ability to "red tag" a project under ss. 59.54 and 59.70(1), Stats. The final draft of rules will be clarified to address the concern.

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			Darryll Farmer continued	<ul style="list-style-type: none"> • Comm 83.43(8) The final effluent quality of less than 200 CFU/100ml for fecal coliform should be changed to a standard of 0 CFU/100ml for coliform bacteria. The groundwater rule, NR 140, sets a standard of 0 per 100 ml for coliform bacteria. By using fecal coliform as a standard, especially at 200 CFU/100 ml, it greatly increases the risk of pathogenic bacteria and viruses being present. • Comm 83.44(3) This section which allows discharge into soils at less than 12 inches to highest groundwater should be deleted. This provision is very unclear as to how it would be applicable. Permitting the discharge of wastewater in such shallow soils could easily result in ponding of effluent on the ground surface or contamination of groundwater creating human health hazards. • Subchapter V-Management. The likelihood that a maintenance program approved for a more complex sewage system will be adequately followed is low. There is no disagreement that proper maintenance is important. The major concern is the level of maintenance that the more complex POWTS are going to require and the bureaucratic resources that will be needed to monitor them and prevent human health hazards or adverse impacts to the environment from occurring. It is for these very significant reasons that approval of POWTS that will utilize complex, high maintenance components for individual homes should not be approved. • Supports WCCA comments already submitted. Concerned with implementation of new technologies for some counties; there should be 18-month phase-in after new technology is developed. 	<ul style="list-style-type: none"> • Pursuant to s. 160.001(4), Stats., the proposed rules of ch. Comm 83 establish design and management practices conceived to attain compliance with the groundwater standards. The final effluent quality provisions identified in Comm 83.43(8) will be deleted from the final draft of rules. • The proposed rule establishes a minimum separation of 24 inches for the introduction of influent into a POWTS component using in situ soil for either treatment and/or dispersal purposes. Under s. Comm 83.44(4), the design of the POWTS is to reflect the site's soil characteristics so as to preclude surfacing. • The Department is in the process of completing the development of a maintenance tracking system. The proposed rules require that POWTS's be properly maintained. The enforcement of the code, including this rule, is a responsibility shared by the Department and the enforcing governmental unit. • The final draft of rules will be revised to allow an optional local 18 month delay for new design manuals and treatment components approved by the Department under s. Comm 84.10(3). The delay may begin from the date of the Department's approval of the technology.
	X		Craig Conroy Washburn County Zoning Dept. Shell Lake, WI		

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			Craig Conroy continued	<ul style="list-style-type: none"> Maintenance program of new technologies will be a problem; it needs to be in effect when new technologies are placed into service. Code is not clear as to who is proper enforcement agent. Comm 83.32(1)(g) Camping unit transfer container needs to be defined. In Comm 84, ASTM standard for aggregate is for ready-mix concrete and may not be proper standard for clean aggregate used in drain fields. Code is not consistent relative to local authority; counties must conform to new code but there is local authority to exempt certain things. Code is still unclear as to what counties are required to do and what they can elect to regulate. 	<ul style="list-style-type: none"> The Department is in the process of completing the development of a maintenance tracking system. The proposed rules require that POWTS's be properly maintained. The enforcement of the code, including this rule, is a responsibility shared by the Department and the enforcing governmental unit. The final draft of rules will include a definition for the term. The incorporation of the standard is intended to provide a measure and method for determining aggregate quality. At this time the Department is unaware of other alternatives to accomplish this purpose, but if new information, such as a different standard, is provided the Department will consider revising the rules. Under s. 145.20(2), Stats., each governmental unit responsible for regulating POWTS's has a great deal of latitude as to the breadth and degree of oversight activities to provide or exercise. Ordinances concerning administrative and enforcement matters such as the need for additional permits, or zoning standards may be enacted under the appropriate statutory powers.
X			Gary V. Kowalke WI Assoc. PHC Contractors Baraboo, WI (Small Business)	In favor of new code; it is time to move on. Private industry has people to handle enforcement and testing. In favor of uniformity statewide. Land use issues need to be resolved locally and not have the septic system dictate where it can be built. The technology is there to purify effluent; 18 months is long enough or municipalities to be trained and educated. Wisconsin is behind other states when it comes to private sewage.	No response necessary.

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X		7	Don Daniels Daniels P&H Siren, WI (Small Business)	Supports the views of the WAPHCC.	No response necessary.

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Hearing Location: Green Bay, WI
 Hearing Date: July 17, 1998

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	In	For				
X		Opp. Info.	11	Lee V. Small Water Watch Neenah, WI (Small Business)	Let's get the new code going and work out the details and rough spots later.	No response necessary.
X			12	David A. George George & Holt Soil Consulting Green Bay, WI (Small Business)	The code should move forward; more alternatives are needed. It becomes increasingly frustrating to explain to clients that the technology exists but we cannot apply the technology in Wisconsin. Using the code as a land use tool is simply wrong.	No response necessary.
X			13	Thomas J. Schaitel Self Union Grove, WI	The proposed code is well needed and very important. The counties and towns have been using existing codes to regulate building, which is unfair. The proposed code is using the best technology available to the public. This technology will allow safer and more quality systems to be used.	No response necessary.

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		John Robinson continued	<ul style="list-style-type: none"> Comm 85.65 should reference NR 141 for proper abandonment of monitoring wells. Counties are not having enough input on the technology and how it's going to be implemented. Counties are not happy that there is no phase-in provision and only having 18 months to adapt to this significant change. Questions how the counties can be held responsible for these technologies and new systems if they are not qualified to inspect the installation. 	<ul style="list-style-type: none"> The final draft of rules will be revised to address the concern. Treatment technologies submitted in the future to the Department under s. Comm 84.10(3) will be reviewed with input from a technical advisory committee on which the counties will have representation. The final draft of rules will be revised to allow an optional local 18 month delay for new design manuals and treatment components approved by the Department under s. Comm 84.10(3). The delay may begin from the date of the Department's approval of the technology. It is unclear as what responsibilities the inspector is assuming. The ultimate responsibility for the design and installation of a system rests with the designer and plumber, respectively, and the operation, use and maintenance responsibility falls upon the owner of the system. The final draft of rules will incorporate training requirements for certain technologies to be obtained by the installer and the enforcing governmental unit in order to use that technology within the specific jurisdiction.
X		Ted Rohloff Calumet County Planning Dept. Chilton, WI	<p>These rules are long overdue. Sanitary sewers should be controlled through sound science methods instead of the current process. Land use should be controlled through the planning process, not through the sewer permitting process.</p>	No response necessary.

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				Steven Osterman continued	<ul style="list-style-type: none"> Counties should be able to participate in selection and approval of treatment technologies. There is no adequate funding in place to absorb costs associated with this. (Submitted comments on Component Manuals from Dale Dimond, WCCA Secretary-Treasurer) 	<ul style="list-style-type: none"> Treatment technologies submitted in the future to the Department under s. Comm 84.10(3) will be reviewed with input from a technical advisory committee on which the counties will have representation. Under current statutory provisions, the governmental units have the ability and discretion in how to fund and to what level to fund their oversight activities and services. Comments relative to the component manuals were referred to the Technical Advisory Group for review. The component manuals were then modified as deemed appropriate.
X				Wayne Mink County Concrete Plover, WI	Supports new rules; it is time Wisconsin gets on board with new technology.	No response necessary.
X				Bill Baudhuin Baudhuin Inc. Sturgeon Bay, WI (Small Business)	<ul style="list-style-type: none"> There will be overlap between 8,000 and 12,000 gallons relative to MOU with DNR. The MOU should start at 12,000 gallons so that there is no overlap as an interim measure. DNR process is good for managing septic systems to limit failures, but review time of 1.5 years is too long. For systems over 12,000 gallons, the code is unclear as to DNR jurisdiction when system is modified. 	<ul style="list-style-type: none"> The MOU reflects current administrative rules. The Department of Natural Resources is in the process of reviewing its rules relative to the trigger for needing a WPPDES permit. Pursuant to s. Comm 83.03(1)(b) depending upon the type of modifications involved to an existing system, there are cases where the modification would result in the POWTS then falling under the jurisdiction of DNR. Currently, pursuant to ch. NR 206, systems over 8,000 gallons fall under the jurisdiction of DNR for WPPDES permits. The rules establish design and management practices to protect groundwater resources in accordance with chapter 160, Stats.
	X			John Robinson WI Water Well Assn. Wausau, WI	<ul style="list-style-type: none"> Levels of fecal coliform and other contaminants should be monitored to ensure protection of groundwater. 	

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X		8	Susan Johnson Marinette Wilbert Vault Works Marinette, WI (Small Business)	<ul style="list-style-type: none"> • The proposed code allows citizens to take advantage of new, sound technologies that produce high-quality effluent. Wisconsin has been a leader in developing effective POWTS; now the state is falling behind other states. • The code should incorporate ASTM standard 1227-95 for precast concrete septic tanks in Table 81.20. The code should also reference the National Precast Concrete Association's "Septic Tank Manufacturing Best Practices Manual." 	<ul style="list-style-type: none"> • No response necessary. • It is the Department's understanding that the referenced ASTM standard is currently being revised and once the revision is completed the Department will consider incorporating the standard as part of the rules. The Department does not consider the best practice manual as a technical standard under s. 227.21, Stats.
		X	Steven Osterman WCCA Rhineland, WI	<ul style="list-style-type: none"> • WCCA is not opposed to new technology, but questions how the Department is going to protect public health. • Department needs enforcement of code; past enforcement would have prevented some of today's problems. • There should be a reasonable schedule to implement these hi-tech systems. 	<ul style="list-style-type: none"> • The proposed code incorporates strategies to protect public health, including the establishment of standards to design, install and maintain a POWTS, permitting requirements, plan review and inspection procedures and tracking of POWTS maintenance. • The enforcement of the code is a responsibility shared by the Department and the enforcing local governmental unit with the governmental unit having primary responsibility under s. 59.70(5)(b), Stats. • The final draft of rules will be revised to allow an optional local 18 month delay for new design manuals and treatment components approved by the Department under s. Comm 84.10(3). The delay may begin from the date of the Department's approval of the technology.

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X		14	Len Linzmeier Madison, WI	Rule provides a new "performance-based" septic code that will protect the public health and the environment. It is time for the department to progress with the latest technology. Rule allows homeowner to select type of system that best suits his or her home and lot.	No response necessary.
X		15	David W. Crocker Midland Builders Madison, WI	Rule provides a new "performance-based" septic code that will protect the public health and the environment. It is not right that communities have used the septic code system as a land use development code. The septic system must work and be fundamentally sound. Septic system code and land use code are two entirely different issues and each must stand on its own merits.	No response necessary.
X		16	Paul Bautzmann, Pat Hoerth, Scott Lofy Town of Hartford Hartford, WI	The ability to match modern technology to site conditions for POWTS with the beneficial impact on groundwater quality far outweighs any potential for a burden on local governments related to the control and monitoring of such systems. Soil siting requirements should not be used by local governments as a land use tool. The inefficiencies, costs and problems associated with centralized collection systems provide a compelling reason to consider all alternatives that provide a safe and environmentally sound POWTS.	No response necessary.

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	X	17	Edward J. Huck WI Alliance of Cities Madison, WI	<ul style="list-style-type: none"> The 18-month moratorium that can be used by local governments to adopt more restrictive land use controls should be increased to 36 months. New Comm 83 is a defacto land use policy and the relaxed approach has left local government open and unprepared. The rule should require mandatory municipal ownership of cluster systems and abandonment of private systems when public sewer is available. While some may find the reduced need for expansion of current municipal treatment facilities to be a welcome relief, this is a major policy decision for Wisconsin and should not be made in an administrative rule. Cities must be responsible for surface water contamination; allowing towns to avoid similar responsibility will influence town government decisions as they relate to development. The ability of the Department to vary from any of the terms of the code and force new technology on local governments is unconscionable. Local governments should have the final word on any variances written in their jurisdiction. 	<ul style="list-style-type: none"> The proposed revisions to Comm 83 were first initiated in the spring of 1995 with the 18-month moratorium appearing in the 1997 revised hearing draft. Under the rule-making process the earliest the current proposed rules could be implemented and in effect would be the spring of 1999. The final draft of rules will be clarified to allow an optional local 18 month delay for new design manuals and treatment components approved by the Department under s. Comm 84.10(3). The delay may begin from the date of the Department's approval of the technology. The proposed rules do not prohibit municipalities from addressing ownership or abandonment concerns through local ordinances which may be enacted under such statutory authority as s. 281.45, Stats. Under s. 145.13, Stats., all plumbing installations shall so far as practicable be made to conform with the code; the petition for variance process allows an individual to request and the department to evaluate an alternative method, practice or product in fulfilling the intent of a rule.

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		18	David W. Mau Mau & Associates Green Bay, WI	<ul style="list-style-type: none"> The Department should approve this rule so that the latest technology can be used for on-site systems. Too often it seems that land use control gets in the middle of things. 	<ul style="list-style-type: none"> Under the current rules of s. Comm 84.10(4) the Department has the ability to revoke a product approval as a result of the product's failure or if future information indicates a potential health hazard or potential threat to the waters of the state.
X		19	Vincent Miller City of Lancaster Lancaster, WI	<ul style="list-style-type: none"> Opposes the elimination from the code the mandate to connect to public sewer and water. This type of requirement is a prerequisite for the protection of health and the environment. 	<ul style="list-style-type: none"> The proposed rules do not prohibit municipalities from addressing such issues as when sewers are available and connection thereto is to occur under local ordinances. Such ordinances may be enacted under the statutory authority of s. 281.45, Stats.
		20	Harriet Pedley Richland County Zoning Richland Center, WI	<ul style="list-style-type: none"> Supports the Wisconsin County Code Administrators position on the proposed Comm 83. 	<ul style="list-style-type: none"> See response to exhibit No. 5 for more specific information.
		21	Lara Pagel Waupaca County Zoning Waupaca, WI	<ul style="list-style-type: none"> Agrees with and submitted copy of "Comments on Proposed Changes to Comm 83 by the Wisconsin County Code Administrators" dated July 13, 1998. These changes will make the code more enforceable and better reflect the mission of preserving the groundwater of the state while treating the effluent. 	<ul style="list-style-type: none"> See response to exhibit No. 5 for more specific information.

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	X	22	Trent M. Strang Vernon County Zoning Viroqua, WI	<ul style="list-style-type: none"> Comm 81.01(152) For consistency sake, Commerce should adopt DOA's definition of three or more mobile homes as constituting a mobile home park instead of two. It is not enjoyable to work with conflicting definitions when dealing with the public. Comm 83.43(9)(c) This rule says nothing; delete it. It gives no authority to inspectors to order insulation of components. Comm 85.50(2)(c) Not all county departments have the staff to complete a written report of every site they are on. The rule should read "may complete a written report." (Submitted comments on several component manuals.) 	<ul style="list-style-type: none"> The term "mobile home park" is not used within the context of the proposed rules of ch. Comm 83, but only in the appendix for ch. Comm 83. The term is used in ch. Comm 82. The present definition reflects the statutory definition under s. 66.058(1)(e), Stats. The department will investigate later when reviewing ch. Comm 82 the ability and appropriateness of using another definition. The rule establishes a performance result which the designer and installer must take into account; the POWTS inspector can alert all the parties involved, including the owner and can issue the order "after the fact" if a freezing problem occurs. If the visit to the site by the inspector is for the purpose of rendering some type of decision, a confirmation or a rejection, documenting the visit and the decision is viewed by the Department as a reasonable responsibility. The Department will take the comments relevant to the manuals under advisement. However, the manuals referenced in ch. Comm 83 subch. VI are not rules, but rather are optional design or component solutions recognized by the Department to conform with the code.

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	X	23	James R. Sanborn Site Supply, Inc. Madison, WI	<ul style="list-style-type: none"> Landscape architects are now a registered profession and have specific training in soils and land analysis, synthesis and design; they are better qualified in this area than some architects and engineers. They should be listed in equivalent status with architects and engineers, or architects and engineers should be removed from the rules. Comm 83.32(2)(c) The DNR has opposed multi-user POWTS type systems, is over-protective of Wisconsin Fund funding, and has insisted on expensive system design studies and analysis. The way around this DNR blockade is to have a POWTS totally in private ownership, under 8,000 gal/day, with no involvement of a municipality, and no discharge to surface or groundwater. DNR should get out of POWTS business and new rules should provide incentives to get new technologies into place. Municipalities should not have the option to elect to require municipal ownership. Comm 83.32(3)(a) Under 12,000 gal/day, DNR should stay out of it, or provide some type of automatic approval. Comm 83.04 This could cause competitive non-uniformity among municipalities. Waiting an extra 1-1/2 years for the rules to take effect locally accomplishes absolutely nothing and the arbitrary nature of the clause ought to cause its removal. 	<ul style="list-style-type: none"> It is assumed that the comment is relevant to who may design a POWTS; a review of the statutory definition delineating the "practice of landscape architecture" does not include the purpose or recognition of designing structures or equipment in which public health is involved as noted under the "practice of architecture" or the "practice of professional engineering". The Department of Natural Resources has overlapping jurisdiction under chapters 281 and 283, Stats., in order to protect the waters of the state. The proposed draft reflects an agreement between the Department of Commerce and the Department of Natural Resources as to which state agency will provide the primary regulatory oversight for specific types of POWTS. See previous response. The purpose of the rule is to allow local governments time for staff to acquire training and experience in these types of technologies in order to be effective and knowledgeable in enforcing the code.

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	X	24	Patricia Williams Self Helenville, WI	The present code for private septic systems should be changed to include those which have been proven safe but are still called "experimental" in Wisconsin. The old code has been very detrimental to many communities. People have been threatened with many false statements about septic systems. (Submitted an article that should help to show how a very restrictive code has and will continue to hurt many citizens in Wisconsin.)	The proposed regulatory framework embodied in the proposed code is envisioned to recognize all valid POWTS technologies that will protect public health and the waters of the state.
	X	25	Dick and Donna Bennett Selves Horicon, WI	Property owners should be allowed to have the choice of holding tanks for summer property. Mound systems are too expensive, and have problems when not used year-round.	Under the proposed code owners would be offered such a choice.
X		26	Richard Jacob Self Larsen, WI	A recently-completed new home was required to have a holding tank; questioned if waste from two humans could pollute more than a herd of cows. Support for Comm 83; just hope it isn't too little too late.	No response necessary.
X		27	Leon and Ann Marie Luker Selves Oshkosh, WI	Support passage of the sand filter mound septic tank system.	No response necessary.
X		28	Harold R. DeBack Self Muskego, WI	The cost of extending municipal sewer to areas where it is too costly could be eliminated by using POWTS. Recharging groundwater to the same watershed is a very positive environmental concern; this is better than extending sewer to take water into another watershed and sending it out of the area. Proposed POWTS would let farm families build on their own farms rather than live in the city.	The proposed code is not intended to advocate one technological solution over another. If development is allowed to occur and if a POWTS is chosen to serve the development, the POWTS is to be designed, installed and maintained in accordance with the code in order to protect public health and the waters of the state.

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	X		29	Loyce Robinson WI Environmental Health Assoc. (WEHA) Madison, WI	<ul style="list-style-type: none"> Comm 83.52(2) This rule transfers enforcement responsibility for improperly maintained POWTS to the public health officer in each county, these officers do not supervise the private sewage program. Enforcement should remain with the offices doing the rest of the regulations of these systems. To do otherwise jeopardizes timely, effective and efficient responses to situations that are threats to groundwater quality and human health. Agrees with Wisconsin County Code Administrators' comments and shares the concerns raised by their analysis. Comm 83 will have negative impacts if implemented or proposed; the protection of our groundwater resources and the public health are too important to be compromised in this manner. 	<ul style="list-style-type: none"> Under s. 145.20(1)(a), Stats., the governmental unit may assign the responsibility of administering the POWTS program to any office or employee. Under 145.20(2)(f), Stats., the governmental unit shall investigate violations of the POWTS ordinances and s. 254.59(2), Stats., and issue orders to abate the violations. The proposed rules for the first time include numerical performance standards for the treatment of wastewater. The rules also establish design and management practices to protect groundwater resources in accordance with chapter 160, Stats. See response under exhibit No. 5.
X			30	Jerome G. Wegner Jahnke & Jahnke Associates, Inc. Waukeshia, WI	The new improved systems which were not available when the code was last revised will enable homeowners to utilize a system which would be suitable for the lot conditions. The approval of such a system should be regulated by local officials who are aware of local conditions and improving technology.	No response necessary.
		X	31	James E. Moyer Town of Yorkville Union Grove, WI	The current Comm 83 rules work well and cause a rate of residential growth which is pleasing to officials. A fair and equitable manner of implementation of these rules would be to allow the local unit of government to determine an appropriate time for the effective date. This will allow each local unit of government to control its own tax destiny.	The pressures of residential development involve many factors of which the current siting parameters for the POWTS is only one. The variability of site and soil conditions at each site does not assure any consistency in development. Local municipalities may determine under their zoning powers where and when development may occur.

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	X	32	Steven E. Sheffer City of Janesville Janesville, WI	<ul style="list-style-type: none"> Any liberalizing of the use of septic systems will encourage growth and development outside city limits in non-sewer areas. Eliminating the current rule that private systems must be abandoned when public sewer is available will cause much difficulty in financing new service extensions. It will also place a higher cost on homeowners who must connect. Communities will be more unlikely to extend sewer service beyond city limits. Eliminating municipal ownership of cluster systems will encourage more development than would be planned by communities under a municipal ownership requirement. Private ownership cannot assure the type of technical oversight that would ensure proper operation. A public wastewater utility is more responsible and responsive. The rule does not address the lack of certified operator oversight or the lack of local funding to implement meaningful oversight. An increase in county taxes will result in city residents paying for a service that is performed outside the city limits. 	<ul style="list-style-type: none"> Local municipalities may determine under their zoning powers where and when development may occur. The proposed rules do not prohibit municipalities from addressing such issues as when sewers are available and connection thereto is to occur under local ordinances. Such ordinances may be enacted under the statutory authority of s. 281.45, Stats. The proposed rules under s. Comm 83.32(2)(c) recognize a municipality's ability to dictate municipal ownership of cluster systems if desired. Also, the proposed rules do not prohibit municipalities from enacting other types of management/maintenance provisions or strategies relative to the operation of POWTS's. Under ss. Comm 83.52(3) and 5.36 certain types of POWTS's require the evaluation and monitoring in accordance with their management plan to be performed by individuals who have been registered with the Department. Under s. 145.20(2), Stats., each governmental unit responsible for regulating POWTS's has a great deal of latitude as to the breadth and degree of oversight activities to provide or exercise. Also, under current statutory provisions, the governmental units have the ability and discretion in how to fund and to what level to fund their oversight activities and services.

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Rule Number: Chs. Comm 83, 85, 91

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Hearing Location: N/A

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				Steven E. Sheffler continued	<ul style="list-style-type: none"> A moratorium of 36 months would provide a more reasonable timeframe for local governments to adopt more restrictive land use controls. It will still be difficult to develop effective land use regulations in 36 months. 	<ul style="list-style-type: none"> The proposed revisions to Comm 83 were first initiated in the spring of 1995 with the 18-month moratorium appearing in the 1997 revised hearing draft. Under the rule-making process the earliest the current proposed rules could be implemented and in effect would be the spring of 1999.
	X		33	Calumet County Board of Supervisors Chilton, WI	<p>Board strongly opposes the changes to Comm 83 and 85 for the following reasons:</p> <ul style="list-style-type: none"> These proposals would place significant additional responsibilities and encumbrances on local authorities; substantial increased expense to individuals, including taxpayers; and most significantly, cause adverse and irreparable change to the environment of the state. 	<ul style="list-style-type: none"> Under s. 145.20(2), Stats., each governmental unit responsible for regulating POWTS's has a great deal of latitude as to the breadth and degree of oversight activities to provide or exercise. Also, under current statutory provisions, the governmental units have the ability and discretion in how to fund and to what level to fund their oversight activities and services. The Department believes that many of the "new" technologies that would be utilized with the implementation of the code in reality are technologies that have been available for many years in other parts of the country or are merely variations of the current technologies.
	X		34	Allan Poeschl Poeschl Engineering Hartford, WI	<p>Conclusion is that we are opposed to the code changes, but given clarification and flexibility for creative designs we would be friendlier to the revisions. The following are specific reasons:</p>	

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		Allan Poeschl continued	<ul style="list-style-type: none"> The term "in situ" is used extensively throughout the document. This term means "in its natural position or place". It does not mean native soil as with the inferred usage in the code. It could mean old fill soil present on a site. It is not clear why old fill is not acceptable if properly analyzed. There is no allowance for using actual water meter readings to establish the 12,000 gallon threshold. There will be existing projects that generate only very small amounts of wastewater as compared to the classical design tables. It is not correct to subject small wastewater flow projects to the "experience" of the DNR. This 12,000 gallon limit (based on 1500 foot radius) seems to also include entire subdivisions when under one owner. Means that all subdivisions over 28 lots qualify for DNR approval as an aggregate. Comm 83.44 (4) does not allow the use of a weighted average of Table 83.44-1 and 2 when crossing soil horizons. Feels a weighted average should be allowed. Comm 83.44 (5): If a final highly treated effluent meets standards "at the pipe", sees no reason why the soils cannot be used for hydraulic disposal only. Loading rates on the soils can be much higher than the table suggests. Table 83.44-3 is the major problem with the code. Prudent to have 60" of coarse sand soil for treatment. To have no credit for the sand component when a higher gravel content is present has no basis. There should be a graduated scale that accumulates the sand until 60" of coarse (or 36" of medium) sand is present. Offers the following: 	<ul style="list-style-type: none"> The term will be defined in the final draft of rules. A single methodology was selected to provide a clear and distinct line of demarcation so that all interested parties would be aware of their obligations and responsibilities. When the subdivision lots are sold and the owner of each lot decides to build a POWTS is when the 12,000 gallon trigger will be evaluated. The use of a weighted average as an exception to Tables 83.44-1 and 2. would be recognized by the Department under s. Comm 83.44(4)(c). The table reflects data and information provided by the Small Scale Waste Management Project – U.W.-Madison The table will be revised in the final draft of the rules.

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				Allan Poeschl continued	<ul style="list-style-type: none"> • 120" of coarse sand with 50% of gravel is equivalent to 60" of coarse sand. • 24" of medium sand plus 24" of medium sand with 50% gravel is equivalent to 36" of medium sand. • 24" of imported medium sand blanket placed over 48" of coarse sand with 50% gravel is equivalent to 36" of medium sand. • Strongly emphasized the vast majority of sand and gravel soils in the counties where he works would have no treatment credit. Means that the 200 colonies would have to be met at the pipe. This would add about \$6000 to nearly every conventional septic system in his area. • Comments on the package manuals referenced in ch. 83 subch. VI: <p>In-Ground Systems:</p> <ul style="list-style-type: none"> • 1/8" holes are too small when using highly treated effluent. Has experienced more plugged laterals with aeration units than with STE. Suggest using 3/16" as a compromise. • 6 sq. ft. per orifice is too small. Understands the focus on equal light loading, but the consequence is higher cost. Smaller drill holes may be a compensator but clogging may also increase. Suggest using 10 sq. ft. as a compromise. 	<ul style="list-style-type: none"> • See previous response. • A POWTS Technical Advisory Group reviewed these comments and recommended changes where deemed appropriate. • Nothing precludes the development and submission under s. Comm 84, 10(3) of a design package that incorporates the details or options described. The manuals referenced in ch. Comm 83 subch. VI were developed with the input from representatives of the industry.

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		Allan Poeschl continued	<p>6 ft. system width is too small. Even with a 3 ft. distance between cells it will not fit on many lots and in particular replacement systems. In his experience only about 20% to 30% of replacement systems with soils for in-ground systems will allow a 6 ft. width. Recommends allowing 12 ft. for STE on new construction. On replacement and highly treated effluent there should be no limit. As a basis refer to the Chicago ASAE Symposium 1991 (page 241). The conclusions were that to maintain aerobic conditions the bed width limit should be 12 ft., spacing should be 20 ft. to 30 ft, and depth to groundwater was set at 5 ft.</p> <p>The slope of the gravity distribution line is set at 2" to 4" per 100 ft. Also, add that it can be laid level.</p> <p>At-Grade Systems:</p> <ul style="list-style-type: none"> Nothing precludes the development and submission under s. Comm 84.10(3) of a design package that incorporates the details or options described. The manuals referenced in ch. Comm 83 subch. VI were developed with the input from representatives of the industry. <p>With a linear loading rate of 4.5 and application rate of .3 the effective bed width would have to be 15 ft. Only 10 ft. will be allowed. With a bed width of 10 ft. and an application rate of .3 the linear loading is 3 gal/ft. This means that for a 4-bedroom house the at-grade would have to be 200 ft. long. The math is not correct. Recommendation is to set the linear loading at 4.5 gal/ft. for slowly permeable soils, 6.0 gal/ft for the moderate permeable and 8.0 gal for loamy sand and coarser. Forget the bed width issue as the linear loading dictates automatically.</p>	

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				Allan Poeschl continued	<ul style="list-style-type: none"> One orifice per 6 sq. ft. is not correct. This would require an orifice spacing of 7" apart. Recommendation is a net application of one orifice per 30". Allowing only one lateral upslope and then a second at midpoint if desired. Sees no reason to not have a close spaced double lateral upslope provided that the holes are staggered. Have been using this type of lateral layout on at least a hundred at-grades since inception. Creates a blanket application of water rather than a line load and I believe it to be better. <p>Mound Systems:</p> <ul style="list-style-type: none"> Suggested loading rate on the sand bed of 1.0 gal is correct for a normal 4-bedroom house. However, it is still too small for a 3 bedroom house because the density of occupants per bedroom is usually higher. My advise is to set a minimum of 500 sq. ft. bed and require a two chamber tank, or a quality exit filter for a 3-bedroom house. A 4-bedroom would be 600 sq. ft. This is based on my experience as to what has not failed and using our local good sand. If the sand is a little finer, then .8 may be more appropriate. Sand which appears on the fine side or "dirty" actually is in the center of the ASTM C33 gradation. This means that even if the sand meets C33 it still can be poor. 	<ul style="list-style-type: none"> Nothing precludes the development and submission under s. Comm 84.10(3) of a design package that incorporates the details or options described. The manuals referenced in ch. Comm 83 subch. VI were developed with the input from representatives of the industry.

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		Allan Poeschl continued	<ul style="list-style-type: none"> Linear loading of 4.5 is way too small. To have a weak silt loam topsoil and require a mound bed to be 134 ft. long for a 4-bedroom house is absurd. There is no engineering or experience basis to even consider this. Recommendation is to use 6.0 gal/ft. on the slowly permeable and 12.0 gal/ft on all others. Slowly permeable means that the underlying soils are such that the site has restricted hydraulic capabilities. I equate this with the red and brown clay tills and some lacustrine or lake clays. It is not recent farmer plowed topsoil which created a weak structure. Believes that .3 is too high to trigger a slowly permeable soil when considering a mound. The triggering number should be .2 gal/sq.ft. viewing Table 83.44. One orifice per 6 sq. ft. as previously stated has some cost and mechanics problems. Recommends 10 sq. ft. <p>Pressure Distribution Systems:</p> <ul style="list-style-type: none"> The friction loss table has been around for many years but may not be correct. The original derivation of the equations done by SSWMP in 1981 had a different table which may be the correct one. Recommends making the change now. Assumes all other tables are correct. 	<ul style="list-style-type: none"> Nothing precludes the development and submission under s. Comm 84.10(3) of a design package that incorporates the details or options described. The manuals referenced in ch. Comm 83 subch. VI were developed with the input from representatives of the industry.

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	X	35	Victor H. Hedman 1530 S. Norwood Dr. New Berlin, WI	<p>Single-Pass Sand Filter Systems:</p> <ul style="list-style-type: none"> Questions why this system is being limited to contained treatment tanks. If a mound is conceptually a single pass sand filter why can't any pressure distribution system be made to be a single pass sand filter. It would only require importing of a sand blanket. If silt loam is better than sand for treatment, why can't other finer soils be used? Finds the information to be very helpful in providing the technical advancement on waste disposal. As a property owner and as a neighborhood "volunteer reporter" we would like to see a reclassification of proven experimental units to be acceptable without requiring a variance. <p>The following comments pertain to the component manuals references under s. Comm 83.61:</p>	<ul style="list-style-type: none"> Nothing precludes the development and submission under s. Comm 84.10(3) of a design package that incorporates the details or options described. The manuals referenced in ch. Comm 83 subch. VI were developed with the input from representatives of the industry. No response necessary. The framework of the proposed code would reduce the necessity of requiring a petition for variance when technology has been recognized by the department. Comments relative to the component manuals were referred to the Technical Advisory Group for review. The component manuals were then modified as deemed appropriate.
	X	36	Dale Dimond, Secretary Treasurer Wisconsin County Code Administrators Marathon County Zoning Department 210 River Drive Wausau, WI		

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		Dale Dimond continued	<ul style="list-style-type: none"> In order for the manuals to be in sequence, and to place appropriate emphasis on the importance of plan preparation and installation inspections, these sections should be relocated. The Plan Submittal sections should follow, or be part of, the Design sections and the Installation Inspection sections should follow the Site Preparation and Construction sections. The Site Preparation and Construction sections should address the need for installation inspections. The Installation Inspection sections contain very few specifics. Some items are included in the model inspection report forms that are not referenced in the inspection sections. Although County ordinances can be expanded to cover what has been omitted by these manuals, it will not be possible to promptly amend the ordinances each time a new manual is approved by the Department. More detail concerning what and when to inspect, testing and documentation is needed in the manuals. The statement in each manual that installation inspections are to confirm that the systems at least conform to the specifications in appropriate tables would require verification of influent flows and loads. These sections should clarify that influent flow and quality verification are not part of the installation inspection procedure. 	<ul style="list-style-type: none"> The inspections referenced in the manuals relate to those required in accordance with ch 145.20 and s. Comm 83.26 of the proposed code. Plan submission requirements are covered under s. Comm 83.21. The manuals referenced in ch. Comm 83 subch. VI were developed with the input from representatives of the industry, including those of the WCCA. The requirement for regulatory inspections is addressed under s. Comm 83.26(1) to (4). Governmental units enforcing the code may also make or require other installation inspections under the authority of s. 145.20(2)(g), Stats. The inspections referenced in the manual relate to those required in accordance with ch 145.20 and s. Comm 83.26 of the proposed code. Other visits by an enforcing unit above and beyond those addressed under s. Comm 83.26(1) to (4) are solely at the discretion of the unit under the powers of s. 145.20(2)(g), Stats. The statement reflects the responsibility of the installer to evaluate whether the design and its components are to be appropriate and compatible for the known conditions or design parameters in order to achieve the expected performance.

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			Dale Diamond continued	<ul style="list-style-type: none"> Operation, Maintenance and Performance Monitoring sections do not adequately address the frequency of performing or reporting maintenance and/or performance monitoring. Although the Performance Monitoring sections list, in some detail, what must be inspected and what malfunctions may occur, there are no guidelines for correction if a problem is identified. In fact there is no requirement to correct the problem (Comm 83.29 lists a range of responses if preventive action limits are exceeded, however, performance monitoring does not include monitoring to check these). These sections must be expanded to specify what corrective measures are required if a problem occurs. Specific recommendations were submitted relative to each component manual. 	<ul style="list-style-type: none"> Section Comm 83.51(1) requires that when any part of a POWTS is found to be defective the part is to be repaired, renovated, replaced or removed.
	X	37	Thomas Favour, Executive Director Dane County Regional Planning Commission 217 S. Hamilton Street Suite 403 Madison, WI	<ul style="list-style-type: none"> Provided earlier comments and concerns regarding the proposal to repeal and recreate Comm 83. They attached their earlier submitted comments from 1995 and 1997. They are assuming that the principal changes from the August 1997 proposal are as described on page 3 of the current DEIS. 	<ul style="list-style-type: none"> Nothing precludes the development and submission under s. Comm 84.10(3) of a design package that incorporates other options or parameters. The manuals referenced in ch. Comm 83 subch. VI were developed with the input from a POWTS Technical Advisory Group that includes representatives of the industry, including those from the WCCA. No response necessary.

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			Thomas Favour continued	<ul style="list-style-type: none"> These changes do address one area of the earlier comments and concerns -that of outlining the appropriate jurisdiction over onsite wastewater system discharges and regulation between the Department of Commerce and the DNR. Hoped that the proposal and DEIS would be revised to reflect and address many of our other comments and concerns, however, the proposal and DEIS indicate that some of those concerns and comments remain. Earlier comments from 1995 and 1997 were attached. Would like to reiterate support for having a broader range of onsite systems and technologies to deal with specific circumstances and problems in Dane County. Most useful technological advance would be simple and low-cost approaches to reducing nitrogen discharged from onsite systems. Would allow more dense clustering of rural development without violating state groundwater standards. The research and development in this area has been very promising and recommend that the state include some form of nitrate standards in the code to add incentive for continued research and development. 	<ul style="list-style-type: none"> No response necessary. The Department under s. Comm 84.10(3) can recognize the treatment capabilities of any valid technology, including that relative to the reduction of nitrates.

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			Thomas Favour continued	<ul style="list-style-type: none"> Sees a need for an adequate regulatory framework which would ensure proper installation, operation and maintenance of all systems. Encourages further development of the elements necessary to ensure the continued safe, cost-effective and environmentally sound wastewater disposal for rural residents. Recommend strengthening the tracking system to be sure that operation and maintenance procedures are performed as scheduled and needed. Implementation of the statewide tracking system for maintenance prior to introduction of new technologies, as suggested by the Wisconsin Counties Association and Wisconsin County Code Administrators would be helpful. Believes it would be very helpful if the counties were provided greater flexibility and additional tools to properly implement and administer the code in a way that reflect local resources, concerns and capabilities. Since this will be a uniform code, where the counties cannot enforce conflicting rules or regulations, any flexibility or additional options for counties needs to be specifically described in the code. 	<ul style="list-style-type: none"> The proposed rules address many of these concerns with the implementation of POWTS management plans, credentialled POWTS maintainers and a Department maintenance tracking system. It would seem premature to impose additional schemes without having any experience or data by which to evaluate the effectiveness of the proposed regulatory strategies. Under s. 145.20(2), Stats., each governmental unit responsible for regulating POWTS's has a great deal of latitude as to the breadth and degree of oversight activities to provide or exercise. Also, under current statutory provisions, the governmental units have the ability and discretion in how to fund and to what level to fund their oversight activities and services. The uniformity applies to what and how plumbing is designed, installed and operated.

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			Thomas Favour continued	<ul style="list-style-type: none"> The DEIS and the code imply that counties have the authority to restrict systems or require nitrogen-removing systems in local areas of groundwater nitrate concern, citing the statutes outlining the general zoning powers of counties. Towns and counties are generally not considered to have much "home rule" authority, however, it is usually necessary to provide specific statutory or administrative rule authority to permit counties or towns to enact regulations or carry out programs not already specifically authorized. Since the code specifically exempts onsite systems from nitrate standards, it may result in a conflict if counties attempt to regulate or restrict onsite systems based on the groundwater nitrate standard. If it is intended to allow counties and towns to do this, it may be necessary to provide specific authorization in the code. Hope the Department finds ways to explicitly include in the code additional tools or flexibility for counties to deal with the inevitable problems of administering and implementing an entirely new code. Suggest the counties be allowed to delay implementation of newly introduced technology or systems at least 18 months from the date of the approval and introduction, rather than 18 months from the effective date of the new code as presently written. 	<ul style="list-style-type: none"> The Department cannot give municipalities any additional powers or authority other than those already granted under the statutes. Besides, s. 59.69, Stats., towns, villages and cities have broad zoning powers to be "liberally construed" to encourage groundwater protection, under ss. 60.61, 61.35, and 62.23, Stats. The final draft of rules will be revised to allow an optional local 18 month delay for new design manuals and treatment components approved by the Department under s. Comm 84.10(3). The delay may begin from the date of the Department's approval of the technology.
	X	38	Duane Haakenson Code Administrator Langlade County 837 Clermont Street Antigo, WI	<p>Langlade County opposes the changes to Comm 83 and 85. (Attached is a copy of a resolution adopted by the Langlade County Board of Supervisors on March 17, 1998 and a copy of the comments submitted by the Wisconsin County Code Administrators that they agree with).</p> <ul style="list-style-type: none"> Oppose the following changes: 	

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			Duane Haakenson continued	<ul style="list-style-type: none"> Allow the disposal of partially treated wastes to the surface of the ground and to surface waters of the state by "high-tech" systems with performance standards that have not yet been proved in Wisconsin climatic conditions. Overturn County's authority to prohibit holding tank use for new construction. Allow individuals to install holding tanks for new construction regardless of the availability of suitable alternative subsurface soil treatment systems. Provide management and accountability of holding tanks wastes and "high-tech" system maintenance by third-party entities that have yet to be defined. Cease and default to local governments, department regulations and review of proposed subdivisions. 	<ul style="list-style-type: none"> The proposed rule prohibits the dispersal of the final effluent to the ground surface or to the waters of the state. Under proposed s. Comm 83.32(2), municipalities may limit or prohibit the use of holding tanks. See previous response.
	X	39	David Venhuizen	<p>The Department should include a design package for recirculating sand filter systems. This technology offers an option for a code-approved package which can accomplish significant reduction in effluent total nitrogen for local jurisdictions where that strategy would provide benefit to public health and environmental values. Pretreatment in a recirculating sand filter system will also allow credit for soil treatment, thus affording local jurisdictions another code-compliant option for dealing with sites where adequate soil depth is available.</p>	<ul style="list-style-type: none"> The final draft of rules will be revised to allow an optional local 18 month delay for new design manuals and treatment components approved by the Department under s. Comm 84.10(3). The delay may begin from the date of the Department's approval of the technology. The current review of proposed subdivisions is limited to certain types. The review has been determined to be premature in light of the variety of technological solutions available and that each lot is reviewed when development occurs. <p>The Department is presently developing a "package" on recirculating sand filter systems, but this does not prevent or supersede any individual or entity from submitting a request to the Department under proposed s. Comm 84.10(3) to recognize such technology.</p>

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		40	Small Scale Waste Management Project (SSWMP) University of Wisconsin-Madison Department of Soil Science 263 Soils Building 1525 Observatory Drive Madison, WI	<ul style="list-style-type: none"> SSWMP commend staff of the Department of Commerce for their efforts in setting explicit standards for onsite wastewater treatment systems and to becoming more flexible in accepting options that will meet the standards. Feels the revision of Comm 83 is needed. The following comments and concerns are offered: <ul style="list-style-type: none"> Proposed Comm 83 is based on performance standards. Although the current code sets prescriptive limits these limits were based on goals or standards. Unfortunately, the goals and standards were not stated in the code. Comm 83 is a major improvement over the current code by stating some of the needed performance standards. Comm 83 is more flexible than the current code. Options for treatment of wastewater prior to dispersal into the soil will become available. Using treatment prior to dispersal permits the use of less soil to reach performance standards than if septic tank effluent were applied directly to the soil. 	<ul style="list-style-type: none"> No response necessary. No response necessary. No response necessary.

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			41	E. Jerry Tyler, James C. Converse and James O. Peterson University of Wisconsin-Madison Department of Soil Science 263 Soils Building 1525 Observatory Drive Madison, WI	<ul style="list-style-type: none"> Performance standards are important since they establish the goal for the site evaluator, designer, installer and manager. Wastewater generated in households contain many constituents. Final effluent quality performance standards should address all known input constituents in order to be consistent. It appears the only performance standard to be met is for bacteria at 200 CFU/100 mL. The statutes have eliminated for the need for a standard for nitrates. Other constituents need to be addressed to be complete and consistent. Members were uncertain where performance standards are to be applied. A specific location or a method to determine a specific location needs to be stated in the code. Members see no point in the lengthy exercise to establish the design wastewater flow volumes. Feel that regardless of how the calculation is done, design flows are 150 gpd/bedroom of which 90 gpd/bedroom is greywater. They have questions concerning Table 83.44-2, Maximum Soil Application Rates Based Upon Morphological Soil Evaluations. Table 83.44-2 would replace Table O in the current Comm 83. Table O was adapted from teaching materials of Jerry Tyler by the County Code Administrators and WOWDA. Recommends leaving the format as currently used only adding a column of loading rates for wastewater of BOD₅ <30mg/L and TSS<30mg/L. 	<ul style="list-style-type: none"> The proposed rule cites a variety of performance standards, including influent quality to soils under s. Comm 83.44(2)(a), and the responsibility to design for known contaminant loads under s. Comm 83.42(2). The performance standard for fecal coliform must be achieved at the outfall of the last treatment component. In the case of a conventional system, the last treatment component is typically the bottom of the 3-foot deep soil absorption area. The final draft of rules will be modified to address this suggestion. Table 83.44-2 will be revised in the final draft of the proposed rules.

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		Tyler, Converse and Peterson continued	<ul style="list-style-type: none"> Wastewater loading rates are for wastewater entering the soil through a clogging layer. Loading rates may or may not be related to the linear loading rates which are not affected by clogging layers. When increasing loading rates, linear loading rates must be considered. Table 83.44-2 does not include soil consistency. Soil consistency should be included as one of the soil morphological criteria for estimating loading rates. Many soils with consistency limiting loading rates will have redoximorphic features indicative of seasonal saturation and therefore be unacceptable. However, some soils exist with loading rate limitations but lack the redoximorphic features. It is possible to include a statement in the heading of Table 83.44-2 that would allow the table to be applied to horizons of firm moist consistency or weaker and not to those of stronger consistency. It is not realistic to estimate acceptable loading rates within 0.1 gpd/ft². If Table O is changed, consider loading rates in increments of 0.2 gpd/ft². There should be no (non zero) loading rates suggested less than 0.2 gpd/ft². Soils that accept water slower than this will probably not accept rainwater at an acceptable rate. Replace the 0.05 gpd/ft² with 0.0 gpd/ft². Many horizons <0.2 gpd/ft² have redoximorphic features and therefore would be determined to be unacceptable, however, some horizons are slowly permeable, saturate and do not have a redoximorphic features. There are other horizons on the table with questionable loading rates. Massive silty clay loam or clay loams should not have a suggested loading rate of 0.2 gpd/ft² but a loading rate of 0.0 gpd/ft² and fine sand should not be loaded at greater than 0.4 gpd/ft². 	<ul style="list-style-type: none"> When data becomes available substantiating the concern the Department will evaluate the rules for possible revision. Table 83.44-2 or the rules relating to the table will be revised to take into account concerns about soil consistency. The final draft of rules will be modified to reflect this suggestion.

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			Tyler, Converse and Peterson continued	<ul style="list-style-type: none"> A column could be added to a table for loading rates for wastewaters of BOD₅ <30-300 mg/L and TSS 30-150 mg/L. Table 83.44-2 currently does not offer enough difference in loading rates for these two constituent wastewaters compared to septic tank effluent to warrant the column. In Table 83.44-1 specific soil and tank loading rates were suggested (See page 2 of written comments for Table modifications). Suggests before adding higher loading rates to the code, a consideration of linear loading rates must be made Suggests that soil treatment and dispersal areas sized for wastewaters of BOD₅ <30mg/L and TSS <30 mg/L should never be allowed to receive wastewaters of higher BOD₅ <30mg/L and TSS. If wastewaters of higher strength are applied the soil component will likely clog and fail in a short time. Any system component prior to the soil component should be designed such that wastewater will not discharge waters except those meeting the BOD₅ <30mg/L and TSS <30 mg/L standard. In many cases using low loading rates for wastewater with constituents of higher concentration than standard septic tank effluent would be a cost effective option and require less maintenance than using a treatment component other than a septic tank prior to the soil component. There has not been much study of these loading rates. Siegrist (1987) suggested using a loading rate of 0.4 times that of septic tank effluent for some higher constituent wastewaters. Suggests formatting Table 83.44-2 so that a column for higher concentration wastewaters could easily be added in the future. 	<ul style="list-style-type: none"> When data becomes available the Department will evaluate the rules for possible revision. The concern is addressed under s. Comm 83.44(4)(a)1.a. When data becomes available substantiating the concern the Department will evaluate the rules for possible revision.

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	X	42	David H. Verhagen 1810 Midway Road DePere, WI	<ul style="list-style-type: none"> Supports that Comm 83 makes planning and zoning, not public health sanitation rules, the arbiter of what land may be developed in our state. Indicates that much of the state, including the township in which he lives, has neither a land use plan nor zoning to implement such planning. The development going in around his town is chaotic and simply extends the sprawl growing outward from Green Bay. Feels the reasoning behind Comm 83 is sound, but premature. Suggests it could be strengthened if it were made to apply only to those counties and townships that have in effect land use plans and zoning ordinances. 	<ul style="list-style-type: none"> No response necessary. No response necessary. Such a strategy would result in either no code being in effect in those municipalities without land use plans, or no POWTS's being allowed in such municipalities which would be a de facto land use plan inhibiting development.
	X	43	Thomas M. Yuill 4324 N. Deer Run Ct. Cross Plains, WI	<ul style="list-style-type: none"> Feels Comm 83 have unfortunate environmental impacts on our state and are premature for the following reasons: <ul style="list-style-type: none"> It would open almost 9 million acres (25% of the WI landscape) to new development pressures. 	<ul style="list-style-type: none"> The number of acres mentioned reflects the theoretical installation of POWTS's which may be sited on 6 inches of in situ soil and does not take into account whether development is allowed to occur under local zoning powers. Development is the result of many variables and factors.

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				Thomas Yuill continued	<ul style="list-style-type: none"> • These development pressures would occur in the 362 towns (28%) and 15 counties (21%) that have no zoning ordinances. Even more have no land use plans. • The DEIS glosses over the land use impacts. The law requires a best estimate be made of the land use and water quality impacts. Instead, the Department claims that impacts cannot be estimated. • Suggests that planning and zoning laws should be strengthened before the new rules go into effect since many towns and counties do not have zoning ordinances or land use plans. • Suggests the rules be put on hold until every town impacted by the development pressures from the rules have a comprehensive land use plan in place which is enforced by zoning and subdivision ordinances. 	<ul style="list-style-type: none"> • The pressures of residential development involve many factors of which the current siting parameters for the POWTS are only one. The variability of site and soil conditions at each site does not assure any consistency in development. Local municipalities may determine under their zoning powers where and when development may occur. • The Department will have completed the environmental disclosure responsibilities under s. 1.11, Stats., before forwarding the final draft of rules to the Legislature for standing committee review. • The decision to develop and/or exercise zoning or land use powers currently is the sole discretion of local municipalities. The Department still has the responsibility to enact a plumbing code in order to protect public health and the waters of the state. • The proposed revisions to Comm 83 were first initiated in the spring of 1995 with the 18-month moratorium appearing in the 1997 revised hearing draft. Under the rule-making process the earliest the current proposed rules could be implemented and in effect would be the spring of 1999. Also see previous response.

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			Thomas Yuill continued	<ul style="list-style-type: none"> Suggest the rule be amended to allow local governments to allow only those kinds of systems they believe are best for their communities. Feels Comm 83 does not promote responsible environmental stewardship and by rushing into this action will exacerbate urban sprawl and increase the likelihood of contamination of ground and surface water. 	<ul style="list-style-type: none"> Municipalities have the ability to either delay the implementation of or limit the use of certain technologies under ss. Comm 83.04 and 83.32(2). The final draft of rules will be clarified to allow an optional local 18 month delay for new design manuals and treatment components approved by the Department under s. Comm 84.10(3). The delay may begin from the date of the Department's approval of the technology. The proposed rules establish standards to protect public health and the waters of the state.
X		44	DeeAnn Dorman 2606 E. Park Place Milwaukee, WI	<ul style="list-style-type: none"> Feels the rules would open almost 9 million acres (25% of the WI landscape) to new development pressures. 	<ul style="list-style-type: none"> The number of acres mentioned reflects the theoretical installation of POWTS's which may be sited on 6 inches of in situ soil and does not take into account whether development is allowed to occur under local zoning powers. The pressures of residential development involve many factors of which the current siting parameters for the POWTS are only one. The variability of site and soil conditions at each site does not assure any consistency in development. Local municipalities may determine under their zoning powers where and when development may occur.

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X			45	Sharon L. Lear Town of Genesee S43 W31391 Hwy 83 P.O. Box 242 Genesee Depot, WI	<ul style="list-style-type: none"> • Suggests the rules be put on hold: • Require every town impacted to have a comprehensive land use plan in place which is enforced by zoning and subdivision ordinances. • Amend the rules to allow local governments to allow only those kinds of systems which they believe are best for their communities. • Designate holding tanks as systems of last resort. • Supports Comm 83 because it would allow for new technologies to be used in septic system construction. • Provides for a better effluent to be discharged into the ground water. • Does not feel the improvement in technology to treat wastewater should dictate land use. Land use planning should be handled separately through planning, zoning and subdivision ordinances. 	<ul style="list-style-type: none"> • The decision to develop and/or exercise zoning or land use powers currently is the sole discretion of local municipalities. The Department still has the responsibility to enact a plumbing code in order to protect public health and the waters of the state. • Municipalities have the ability to either delay the implementation of or limit the use of certain technologies under ss. Comm 83.04 and 83.32(2). The final draft of rules will be clarified to allow an optional local 18 month delay for new design manuals and treatment components approved by the Department under s. Comm 84.10(3). The delay may begin from the date of the Department's approval of the technology. • Under s. Comm 83.32(2) municipalities have the ability of implementing such an option. • No response necessary. • No response necessary. • No response necessary.

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X			46	Wayne Foster The Foster Group Real Estate Development/Consulting 11225 W. Bluemound Road Wauwatosa, WI	<ul style="list-style-type: none"> Supports Comm 83 because it provides for a performance based septic code in the state. This allows for the latest technology to be utilized to protect public health and the environment. Permits the home owner to select the system that best suits the application and soils. 	<ul style="list-style-type: none"> No response necessary. No response necessary.
X			47	Karen Schuh Wisconsin Towns Assoc. And Town of Vernon Big Bend, WI	<p>Submits a resolution by the Waukesha County Unit of the Wisconsin Towns Association supporting Comm 83. The points of the resolution are:</p> <ul style="list-style-type: none"> Comm 83 rules offer flexibility for rural homeowners while meeting required health and environmental standards. Current and past POWTS rules have been used as a policy to regulate rural land use. Land use planning, zoning, and subdivision ordinances are the proper tools to manage land use and growth, not POWTS rules. 	<ul style="list-style-type: none"> No response necessary. No response necessary. No response necessary. No response necessary. No response necessary.

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	X	48	Ann Bardeen-Henschel Self Economowoc, WI	Putting Comm 83 into effect now will put undue pressure on developing areas, such as small towns and counties, that do not currently have adequate planning in place. Comm 83 should be delayed until adequate planning is in place to regulate development.	The pressures of residential development involve many factors of which the current siting parameters for the POWTS are only one. The variability of site and soil conditions at each site does not assure any consistency in development. Local municipalities may determine under their zoning powers where and when development may occur. The decision to develop and/or exercise zoning or land use powers currently is the sole discretion of local municipalities. The Department still has the responsibility to enact a plumbing code in order to protect public health and the waters of the state.
	X	49	Herbert Wolf Washington County Land Use & Park Dept. West Bend, WI	Reiterates comments submitted by Wisconsin County Code Administrators Association dated 7/13/98.	See response under exhibit No. 5.
	X	50	Michelle Barolomei WI Liquid Waste Carriers Association Madison, WI	<ul style="list-style-type: none"> Physical access to POWTS must be considered. There should be an all-weather access road required within 25-30 feet and the vertical lift from the road to the bottom of the tank should not exceed 15 feet, due to pumping concerns Cleaning and maintenance openings in the tank, except for sampling ports, should be at least 24 inches in diameter. 	<ul style="list-style-type: none"> This is an issue to be decided by the owner, designer, installer and owner in relation to many variables, including how the lot is to be developed and used. The proposed code provision recognizes that one size will not be appropriate for the wide variety of treatment components and holding tanks available.

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			Michelle Bartolomei continued	<ul style="list-style-type: none"> If a permit is issued for a POWTS, the public street and access drive leading to the tank must be required to have adequate capacity to support the weight of the service vehicle plus the weight of product in the tank. The "1/3 solids" figure in s. 83.54 (3) (b) should be reduced to a lower figure. This amount of solids can make the tank difficult to pump and can allow solids to bypass the baffles. Wastewater treatment plants add surcharges for excessive solids. 	<ul style="list-style-type: none"> This concern is within the jurisdiction of local highway specifications and regulations. The provision reflects current rules and that of many states; when information becomes available substantiating the concern, the Department will evaluate the rules for possible revision.
	X	51	Ned Gatzke & Wesley Bangsberg Monroe County Dept. of Forestry, Zoning, Parks, Sanitation & Dog Control Sparta, WI	<ul style="list-style-type: none"> Reiterates comments submitted by Wisconsin County Code Administrators Association dated 7/13/98 Comm 83.03 (2) (b) 2. a. If 2 feet of suitable soil above groundwater or bedrock is acceptable for pre-1969 systems, why do new systems need 3 feet? Old systems need to be brought up to date Comm 83.04. Governmental units should be allowed to select the technologies they feel are appropriate for their area. Staffing and training will be affected by wholesale implementation of new technologies. 	<ul style="list-style-type: none"> See response to Exhibit No. 5. The rule takes into account the development and performance of a biomat that is found to occur in older systems. Municipalities have the ability to either delay the implementation of or limit the use of certain technologies under ss. Comm 83.04 and 83.32(2). The final draft of rules will be clarified to allow an optional local 18 month delay for new design manuals and treatment components approved by the Department under s. Comm 84.10(3). The delay may begin from the date of the Department's approval of the technology.

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			Gatzke and Wesley continued	<ul style="list-style-type: none"> Comm 83.25. What conditions trigger review of POWTS? These conditions are included in the current Comm 83.055. Comm 83.25 (2) (d). All 3 verifications should be included as documentation. What qualifications must a permit issuer possess? Municipalities without trained personnel should not be making determinations. POWTS capability should include verification that it's not failing. Retaining language in current 83.055 would clarify many questions. <ul style="list-style-type: none"> Comm 83.26. Who will enforce orders to abate human health hazards? Who will test POWTS components? Comm 83.32 (3). A municipality should be able to limit or prohibit all new and existing technologies. Comm 83.43 (7). How will contaminant constituent loads be estimated from a nonexistent structure? 	<ul style="list-style-type: none"> Pursuant to s. 66.036, Stats., s. Comm 83.25 addresses the potential impacts of construction projects on existing POWTS's. The trigger and mandate to require the evaluation of an existing POWTS to determine whether it is failing is at the discretion of the county under s. 145.20(2)(e) to (g), Stats. <ul style="list-style-type: none"> The proposed rule reflects the same type of documentation and decision making as under the current rules. The procedures and roles of a municipality issuing building permits and a county overseeing the private sewage code is a relationship based on mutual agreement or on the higher unit of government's mandates. <ul style="list-style-type: none"> Under s. 145.20(1)(a), Stats., the governmental unit may assign the responsibility of administering the POWTS program to any office or employee. Under 145.20(2)(f), Stats., the governmental unit shall investigate violations of the POWTS ordinances and s. 254.59(2), Stats., and issue orders to abate the violations. <ul style="list-style-type: none"> The responsibility rests with the installer. The proposed code is envisioned to recognize all valid POWTS technologies that will protect public health and the waters of the state. Contaminant loads may be documented by means of accepting engineering references or from information placed in the appendix of Comm 83.

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			Gatzke and Wesley continued	<ul style="list-style-type: none"> Comm 83.43 (9) (e) 3. How will seasonal soil saturation levels be monitored and measured? When the POWTS component is shut down, how is wastewater treated and dispersed? Comm 83.44 (2) (c). Should say that a filtering mechanism must be employed to trap solids $\geq 1/8$ inch in diameter. Comm 83.54 (1) (c). Who will conduct monitoring and inspections required by the management plan? What qualifications are required and will the individuals be certified by Commerce? Acceptable POWTS component monitoring and testing procedures must be stated. Comm 83.54 (5). How will the department enforce operation, maintenance & repair provisions of the code? Will counties have to provide additional staff? Maintenance systems must be in place before a new technology is allowed. 	<ul style="list-style-type: none"> This provision has been deleted out of the final draft of rules. The rule establishes a performance standard rather than a specific solution. Under ss. Comm 83.52(3) and 5.36 certain types of POWTS require evaluation and monitoring in accordance with their management plan to be performed by individuals who have been registered with the Department. All of the valid technologies that might be utilized for a POWTS design cannot be predicted, therefore, it is only reasonable to describe the parameters in general terms. The Department and governmental units share enforcement roles and responsibilities. Failure to fulfill maintenance obligations may result in an order being issued. Under s. 145.20(2), Stats., each governmental unit responsible for regulating POWTS's has a great deal of latitude as to the breath and degree of oversight activities to provide or exercise. Also, under current statutory provisions, the governmental units have the ability and discretion in how to fund and to what level to fund their oversight activities and services. The proposed draft of rules reflects the development and implementation of a Department maintenance tracking program.

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		X	52	David Holman Rock County Health Department Janesville, WI	<ul style="list-style-type: none"> Comm 5.36. Objects to adding another certification. Certified POWTS inspectors should have this training as part of their continuing ed. and should be exempt from this credential. Comm 81.01 (56). "considered harmful by the department" is subjective and will lead to problems if the department does not have guidelines. Comm 81.01 (78). Definition is too vague and could include just about anything. Adding the phrase, "produced from normal living activities and does not include industrial waste" would help. Comm 81.01 (89). Definition is too broad and gives the department a blank check to approve anything. The code is supposed to contain minimum, non-negotiable standards, so how can a system meet the intent of the code and not meet the specifications contained therein? Comm 81.20 (2) & (4). There are too many standards for any code official to be aware of or to have copies of. Comm 83.03 (1) (c). This section is impossible to enforce. Zoning officials and building inspectors have no way of tracking changes. How can a proposed change be evaluated if the wastewater decreases? Will part of the system have to be removed? 	<ul style="list-style-type: none"> Proposed s. Comm 5.36 does not pertain to POWTS inspectors or their activities, but to other individuals doing evaluation and maintenance functions for the owners of certain types of POWTS's in order to help ensure that the operation and management of the system will continue to be performed as designed and planned. The definition will be modified to include specific parameters. The suggested language is just as vague in interpreting what is "normal living activities". The definition of a term does not reflect a standard or predict a certain action by the Department. The term "engineered system" is not used in the text of ch. Comm 83, but appears in the current rules of chs. Comm 82 and 84. In lieu of reprinting the technical standards and specifications of many of the plumbing products, such as pipes, as administrative rules, the Department has incorporated them by reference as permitted under s. 227.21, Stats. This rule alerts the owner of his or her responsibilities and the possible consequences when a building undergoes a change of use whether or not building or zoning permits were needed or obtained.

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		David Holman continued	<ul style="list-style-type: none"> Comm 83.21 (4). Are permits still transferable between plumbers? Please clarify. Comm 83.22 (2) (a) 1. How does the county get a set of approved plans and specifications if the only approved set of specifications is still at the state? Need 3 copies of the specifications, also. Comm 83.22 (2) (b) 4. b. A property owner may want to have a shed or detached garage attached to the same system as the principal structure. This should be addressed differently from where multiple principal structures are served by a common system. Comm 83.22 (7) (c). The county should have a copy of the approved plans before they get to the job site. Comm 83.26 (5). Inspectors need to know what testing procedures are required. Table 83.29. All these responses seem "after the fact". If a system is installed according to code, this table should not be needed. How can Commerce determine a public health hazard without public health professionals on staff? Comm 83.32 (1) (f) seems to conflict with 83.03 (2) (b) 2. a. 	<ul style="list-style-type: none"> Pursuant to s. 145.19, Stats., sanitary permits are issued to the owner and transferable to a subsequent owner. The application form may be amended by the owner to list the new plumber. The proposed rules reflect current requirements. The Department is unaware of any problems associated with requiring only one set of specifications. The final draft of rules will clarify the standards as it pertains to accessory buildings serving an individual home. The rules under s. Comm 83.21(2)(c)2. reflect such a requirement. The responsibility for testing component under s. Comm 83.26(5) rests with the installer; the enforcing governmental unit always has the prerogative of requesting that this information be provided by the installer. The responses reflect the Department's enforcement abilities and powers. Under s. 145.02 POWERS OF DEPARTMENT. (2)(f) The department may issue an order under this paragraph to abate a violation of s. 254.59, a human health hazard. The two referenced rules address separate and distinct situations.

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			David Holman continued	<ul style="list-style-type: none"> Comm 83.43 (1). Acceptable materials should be "approved" not just "recognized". Comm 83.43 (3) (b). System size should not be based only on current occupancy. The system cannot be enlarged after installation if occupancy increases. Comm 83.43 (3) (c) is too subjective. What is a "period of time" and how does an inspector know if a true number is reported? Comm 83.43 (9) (a) 1. and 2. are too subjective and impossible to enforce. How does the county official know what velocity is needed and what pipe pitch will ensure 1 foot per second velocity when flowing 1/2 full? Comm 83.43(9)(b)-(d) are general statement that are unenforceable. Comm 83.43 (9) (e) 3. A sub-surface system should not be installed where it could be seasonally saturated. A mechanism that renders the system inoperable will be bypassed by the owner the first time the owner is unable to use the plumbing. Comm 83.44 (2) (a) & (b). Exceeding "any" of these constituents would be harmful to the system. Forcing the property owner to take measurements sounds good but is impossible to enforce. 	<ul style="list-style-type: none"> The proposed and current rules establish or reference many product standards or characteristics, such as those for plumbing pipes. The Department does not have the resources to "approve" every plumbing product. Under s. Comm 83.42(1) the system is to be designed to accommodate the known wastewater flows; s. Comm 83.43(3)(b) will reflect a situation where bedrooms were specifically designed and sized to accommodate more than 2 people or just one person. The final draft of rules will exclude this option for the design of a dwelling. The rule establishes a design standard. An inspector may always request the designer or the installer to provide documentation that demonstrates compliance. Note the flow velocity can be calculated as a function of the pipe pitch, the pipe wall smoothness, and the flow depth. See previous response. The concept has been deleted from the final draft of rules. The rule establishes a design standard. The rule in itself does not mandate monitoring.

**PUBLIC HEARING COMMENT AND AGENCY RESPONSE
DEPARTMENT OF COMMERCE**

DIVISION OF SAFETY AND BUILDINGS

Rule Number: Chs. Comm 83, 85, 91

Relating To: POWTS

Hearing Location: N/A

Hearing Date: Mailed in Comments

Commenting		Presenter, Group Represented, City, State	Comments/Recommendations	Agency Response
In Sup.	For Opp. Info. No.			
		David Holman continued	<ul style="list-style-type: none"> Comm 83.44 (3). What does this section refer to? Overland flow? Is the 3 foot soil separation required elsewhere in the code also required in this section? Comm 83.44 (4) (a) 2. Who would know if the "estimates" are accurate? What are the guidelines? Comm 83.44 (4) (b). Alternative capabilities should be put in the code and not left open-ended and subjective as in this section. Tables 83.44-1 and -2 don't give credit for long narrow systems (trenches) as opposed to wider systems (beds). Conventional package seems to limit width to 6 feet even though trenches are more efficient than beds. Table 2 should contain an incentive to use to put in extra pre-treatment. Table 83.44-3 is too restrictive in the 36 inch requirement for all soils. Eliminating gravelly and loamy sands without any provision for added depth of soil or sand blankets to supplement treatment unduly penalizes Rock County. See suggestion submitted in Exhibit XII submitted at the Madison public hearing. (copy attached) Comm 83.44 (7) is too subjective. What does "take into account" mean? Comm 83.45 (5). What is a "vessel"? Why couldn't the bedding requirements be included here rather than in a separate standards manual? Comm 83.51 (2). This section seems to be retroactive in requiring all systems to be brought up to current standards, whether failing or not. 	<ul style="list-style-type: none"> The rule establishes parameters for the subsurface discharge of effluent. This determination, the approval or denial of a design under s. Comm 83.22, would be made in light of the documentation submitted to support or validate the design. A request to recognize alternative capabilities would be determined by the Department based upon documentation submitted to substantiate the claims. The tables recognize the performance capabilities of in-situ soil. The tables are not intended to reflect the advantages or differences of various design features or characteristics in how treatment components are used or arranged. Table 83.44-3 will be revised in the final draft of rules. The rule establishes a standard which the design of the system should reflect. The dictionary definition would prevail and is appropriate in describing a class of items, such as a holding tank, septic tank, distribution box, or siphon. The final draft of rules will clarify the concern by including an additional note referring back to s. Comm 83.03(2).

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			David Holman continued	<ul style="list-style-type: none"> Comm 83.52 (2). Per the definition, a human health hazard must possibly cause illness or death. It would be hard to enforce a non-pumped septic tank as meeting this definition. Comm 83.54 (1). The management plan should work for the first owner of a new dwelling but will be impossible to enforce on a subsequent owner. Comm 83.55 (1) (a). This section implies the state will track maintenance of all systems. Unworkable. Comm 83.55 (1) (b). Counties have no way of tracking maintenance on systems installed prior to adopting the maintenance ordinance. Is that what this section is requiring? Comm 83.62 & 84.10 (3). The state is assuming too much authority in approving new technologies. There needs to be a public hearing process and other oversight of the approval process. 	<ul style="list-style-type: none"> Under s. Comm 83.52(2) the Department has classified the failure to maintain a POWTS as the potential to cause illness. Subsequent owners who fail to abide by the maintenance obligations established under the code are subject to orders issued by the department or the county. The Department is moving forward to implement a maintenance tracking program. The rule does not mandate that a county track system maintenance; records are to be forwarded to the Department by the owner if the county is not voluntarily tracking the maintenance. Under these sections the Department is recognizing certain design solutions which have been demonstrated to work under a given set of parameters. Nothing precludes the development and submission under s. Comm 84.10(3) of other design solutions conceived by others. The manuals referenced in ch. Comm 83 subch. VI were developed with input from a POWTS Technical Advisory Group that included representatives of the industry. Treatment technologies submitted in the future to the Department under s. Comm 84.10(3) will also be reviewed with input from a technical advisory committee.

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			David Holman continued	<ul style="list-style-type: none"> Table A-83.43-1 contains wastewater loads for uses that should not be allowed without public sewer. "Catch basins and "gas service station bays" may produce toxic and hazardous wastes. Comm 85.20 (3) (c) This requirement is impossible to comply with unless for a surface system where the pit is only 3-4 feet deep. A soil pit that is dug safely is difficult to evaluate properly. Vertical walls more than 4-5 feet deep violate OSHA regs. Comm 85.20(4)(a) "When natural light conditions permit accurate color determinations" needs further definition. Comm 85.30 (3) (a) 2. The 2-foot mottled zone still does not go far enough. In Rock County, systems are installed under 4-6 feet of mottled soil with no problems. The "sink effect" theory has not proved valid. The exception should not limit the thickness of the mottling as long as adequate well-drained soil exists below. The inclusion of certain sandy loam substrata at the discretion of the county should be put back in. Comm 85.40 (4) (b). System elevations and designs should not be left off the soil test. The soil tester knows most about the soil and the site. Leaving the design, depth and configuration up to the plumbers is a step back to the days when anyone could do a soil test. Comm 85.40. There doesn't appear to be a requirement for replacement area designation. This is essential. Comm 85.40 (3) (a) 4. is missing. 	<ul style="list-style-type: none"> The concern is addressed under s. Comm 83.32(3)(a). The rule and the subsequent note provide information on OSHA safety standards workers and employees are to be aware of. The rule establishes a performance standard; the term "natural" will be deleted from the final draft of rules. The proposed code section lists pre-determined soil color pattern exemptions. Nothing precludes a soil tester from preparing a soil and site evaluation report that substantiates the significance of soil colors of a mottled zone greater than two feet thick. Nothing prevents the soil tester or anyone else from providing recommendations to the designer on the type of design to be utilized or the designer from seeking such recommendations. A contingency plan is required under s. Comm 83.22(2)(b)1.f. in the event of system failure. The final draft of rules will correct the typographical error.

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In	Opp.				
			David Holman continued	<ul style="list-style-type: none"> Comm 85.40 (3) (a) 6. d. What is "an interval appropriate for the conditions present" and who will determine it? How will it be determined? Comm 85.60 (3) (f) should require that monitoring wells be checked immediately after a heavy rain. Comm 91 should mention somewhere that graywater still needs proper disposal. Comm 91.12. The rules for privy installation should be all in one place. Either put them all here or pull them all out and put them in a separate package. [INCLUDES COMMENTS ON PACKAGES.] 	<ul style="list-style-type: none"> The rule establishes a performance standard by which the individual responsible for the site plan uses their professional judgment to communicate the appropriate information. The suggestion reflects a current requirement that has been deemed to provide inaccurate or inappropriate data. In order to address the concern the final draft of rules will include a note referring to the plumbing code. The other requirements such as those found in the commercial building code address the structure that is situated above the privy.
X		53	David B. Johnson Self Madison, WI	Towns and counties need time to adopt zoning ordinances before these rules go into effect.	<ul style="list-style-type: none"> The proposed revisions to Comm 83 were first initiated in the spring of 1995 with the 18-month moratorium appearing in the 1997 revised hearing draft. Under the rule-making process the earliest the current proposed rules could be implemented and in effect would be the spring of 1999. The final draft of rules will be clarified to allow an optional local 18 month delay for new design manuals and treatment components approved by the Department under s. Comm 84.10(3). The delay may begin from the date of the Department's approval of the technology.
	X	54	Daniel Vander Leest CPSS Sturgeon Bay, WI	<ul style="list-style-type: none"> Comm 85.40 (3) 6. d. "Contour lines at intervals appropriate for the conditions present" is too vague. Two-foot contours are necessary to site and design aboveground systems. 	<ul style="list-style-type: none"> The rule establishes performance standards by which the individual responsible for the site plan uses their professional judgment to communicate the appropriate information.

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			Daniel Vander Leest continued	<ul style="list-style-type: none"> Comm 85.60(1)(b) 2. Even in loamy sand soils, the matrix potential will increase the height of the water table over the surrounding surface water. Is the capillary fringe a concern? If not, can it be discounted in other circumstances? Comm 85.60 (2). This section cannot be completed accurately by someone who has only passed the certified soil testing exam. Additional training in soil science is necessary to interpret redoximorphic features. How can an unqualified individual be allowed to submit a soils report when, for instance, an unlicensed plumber is not allowed to submit plans? Since soil science is a licensed profession, it must be kept to a high standard. 	<ul style="list-style-type: none"> Under the conditions described under s. Comm 85.60(1)(b) capillary fringe should be taken into account by whoever is performing the evaluation. A soil tester who undertakes such an analysis must document and substantiate their findings and conclusions in a manner prescribed under the rules; the analysis is subject to verification or acceptance by department or the enforcing governmental unit.
X		55	Walter Kuhlmann Municipal Environmental Group Madison, WI	<ul style="list-style-type: none"> Comm 83 should not be finalized until one or more middle ground alternatives are prepared and studied. Opposes wholesale expansion of POWTS in the state and opposes introduction of new technologies that have little technical support. Supports continued municipal ownership of cluster systems. Technical oversight is better insured with municipal ownership. 	<ul style="list-style-type: none"> The Department will have completed the environmental disclosure responsibilities under s. 1.11, Stats., before forwarding the final draft of rules to the Legislature for standing committee review. The Department believes that many of the "new" technologies that would be utilized with the implementation of the code in reality are technologies that have been available for many years in other parts of the country or are merely variations of the current technologies. The proposed rules under s. Comm 83.32(2)(c) recognize a municipality's ability to dictate municipal ownership of cluster systems if desired.