

DRAFT
September 14, 2020

The statement of scope for this rule, SS 110-18, was approved by the Governor on November 6, 2018, published in Register No. 755A2 on November 12, 2018, and approved by the Natural Resources Board on January 23, 2019. This rule was approved by the Governor on insert date.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, RENUMBERING, RENUMBERING AND AMENDING, AMENDING, REPEALING
AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 113.03 (11), (29), (49), (61), and (62), 113.04 (1) (Note), 113.05 (4) (b), (d) and (Note), 113.08 (1) (Note), 114.17 (2), (3) and 114.20 (3) (Note); **renumber** NR 113.09 (6) (a); **renumber and amend** NR 113.03 (7), (32), (38) and (55), 113.04 (1), 113.05 (4) (intro.), (a) and (c), 113.06 (2) (b) and (3) (b), 113.07, (1) (a) and (g), 113.08 (1), 113.09 (1) and (6), 113.11 (3) (a) 3., (c) and 2., 114.16 (2), 114.19 (3) and 114.22 (3); to **amend** NR 113.01, 113.02 (intro.), 113.03 (6) Table, (9), (15), (24), (25), (31), (34), (57), (60), (65) and (74), 113.04 (2), 113.05 (1) (intro.), (a), (2) (intro.), (b), (3) (intro.) and (d), 113.06 (2) (intro.), (d) (intro.), 1., 2., (f), (m) (intro.), 2., 3., (3) (e) and (f), 113.07 (intro.), (1) (b) (intro.), 1., 2., 3., (Note), (c) (Note), (d), (e), (Note), (f) (intro.), 1., 2., 3., 4., 5. (intro.), (3) (a), (b) 1. Table, 6., (b) 12. Table 3, (c) 2., (d) 1. a., b., 2. (intro.) and (e) 3., 113.08 (title), (2) (a), 113.09 (2), (4), (6) (b) Table 4, 113.10 (2) (intro.), (a), (c), (d), (e), (f), (3) (intro.), (a), (b), (5), 113.11 (1) (intro.), (c), (2) (a), (b), (c), (3) (intro.), (a), 1. (Note), (b) (intro.), 3. (Note), (c) 3. (intro.), a., g., h. and i., 113.15 (1), (3) (intro.), (a), (b) and (c), 114.153 (5), (6), (8), (9), (10), 114.17 (1), 114.18 (title), (1) (intro.), (2), (3) and (4), 114.19 (4), (8), 114.20 (1) (b), (e) and (2), 114.21, 114.23 (1), (2) and (4), 114.24 (2) (intro.) and (c) and 114.25 (3) (title); to **repeal and recreate** NR 113.03 (43), 113.06 (2) (d) 3., (3) (c), 113.07 (3) (b) 11. and (Note), (c) 3., 113.09 (5) and 113.12; and to **create** NR 113.03 (7) (a), (b), (8m) and (Note), (13m), (16m), (26m), (31m), (34d), (34h), (34p), (34t), (35g), (35r), (39m), (42m), (55) (a), (b), (56m), (57m), (58m), (61m), (62m), (64m), (65m), (Note) and (68m), 113.04 (1) (a), (b), (c), (d) and (e), 113.05 (1) (c), (3) (dg), (dr), (3m), (4) (e), 1., 2., (f) and (g), 113.06 (2) (b) 2. a., b. and 3., (m) 2m., (3) (g) (intro.), 1., 2. and 3., 113.07 (1) (a) 1., (g) 1., 2., 3. and (3) (d) 1. b. (Note), 113.08 (1) (a) (Note), (2) (c) and (3), 113.09 (1) (a), (2) (Note), (4) (Note 1) and (Note 2), 113.11 (1) (cg), (cr), (Note), (2) (d), (e), (3) (a) 5., (b) 4., (c) 2. b., 7. (intro.), a., b., 8. and 9., 113.15 (4) and (5), 114.153 (3e), (Note), (3m), (3s), (4e), (8g) and (8r), 114.16 (2) (c) and (d), 114.17 (2m), 114.18 (5) and (6), 114.19 (3) (b), 114.195, 114.22 (3) (b), 114.245 and 114.25 (4), relating to clarifying and streamlining certain regulatory requirements for septage servicing, and affecting small business.

WY-18-18

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted: Sections 281.41 and 281.48, Wis. Stats., and subsection 281.17 (3). Also, sections 23.50 to 23.99, 281.98, 145.20, 49.857, 73.0301, 108.227 and subsection 145.01(5).

2. Statutory Authority: Sections 281.41 and 281.48 and subsection 281.17 (3), Wis. Stats.

3. Explanation of Agency Authority: Section 281.48, Wis. Stats., requires the department to promulgate rules relating to septage as the department is provided general supervision and control for servicing and disposal of septage.

- Subsection 281.48 (2m) states, “the department has general supervision and control of servicing septic tanks, soil absorption fields, holding tanks, grease interceptors, privies and other

components of private on-site wastewater treatment systems.”

- Subsection 281.48 (4g) states in part “The department shall promulgate rules relating to servicing septic tanks, soil absorption fields, holding tanks, grease interceptors, privies, and other components of private on-site wastewater treatment systems in order to protect the public health against unsanitary and unhealthful practices and conditions, and to protect the surface waters and groundwaters of the state from contamination by septage.”

Section 281.41 (1), Wis. Stats., provides authority to the department to review and approve plans for septage storage. Further, 281.41 (2) provides the department the authority to exempt or modify the requirements for plan submittal.

- Subsection 281.41 (1) states in part, “...every owner within the time prescribed by the department, shall file with the department a certified copy of complete plans of a proposed system or plant or extension thereof, in scope and detail satisfactory to the department, and, if required, of existing systems or plants, and any other information concerning maintenance, operation and other details that the department requires, including the information specified under s. 281.35 (5) (a), if applicable.”
- Subsection 281.41 (2) states, “The department may, by rule, exempt an owner of a specific type of system or plant from the requirements of sub. (1) or modify the requirements of sub. (1) for a specific type of system or plant.”

Section 281.17 (3), Wis. Stats., requires the department to promulgate rules for operating a septage vehicle operator certification program that includes examination requirements, continuing education requirements, and suspension and revocation requirements.

- Subsection 281.17 (3) states in part, “The department shall promulgate rules establishing an examining program for the certification of operators of water systems, wastewater treatment plants and septage servicing vehicles operated under a license issued under s. 281.48 (3), setting such standards as the department finds necessary to accomplish the purposes of this chapter and chs. 285 and 289 to 299, including requirements for continuing education.”

4. Related Statutes or Rules: Ch 145, Wis. Stats., Plumbing and Fire Protection Systems and Swimming Pool Plan Review. This chapter includes specific requirements relating to servicing private onsite wastewater treatment systems (POWTS.) The statute provides authority to the Department of Safety and Professional Services to create rules relating to plumbing systems and specifically relating to POWTS including POWTS maintenance programs to be implemented by governmental units (typically counties). The POWTS maintenance programs require licensed septage businesses and certified individuals to conduct servicing and to report to counties. Subsection 145.20 (5), Wis. Stats., authorizes DNR to suspend or revoke a license or a certificate issued to the operator of a septage servicing vehicle if the licensee or operator falsified information on inspection forms.

Section 281.49, Wis. Stats. Disposal of Septage in Municipal Sewage Systems. This statutory section specifies requirements for licensed disposers and municipal sewage systems. Requirements include: disposal plans for accepting wastes from licensed disposers, analysis requirements, fees, fee review and disputing fees.

Chapter ATCP 50, Wis. Adm. Code. Soil and Water Resource Management Program, specifically s. ATCP 50.04 (3) (g), exempts the nutrient management planning requirements of this chapter if septage is the primary nutrient source.

Section ATCP 65.22, Wis. Adm. Code. Farm Premises, specifically s. ATCP 65.22 (6) (c), prohibits the mixing or storage of human waste or septage with animal manure on a dairy farm.

Chapter NR 151, Wis. Adm. Code, Runoff Management, specifically s. NR 151.07, Nutrient Management. Septage is exempted from nutrient management planning requirements as specified in ch. NR 151 provided septage is not commingled with manure.

Chapter SPS 383, Wis. Adm. Code, Private Onsite Wastewater Treatment Systems, specifically ss. SPS 383.54 and 383.55 relating to management plans and reporting requirements when inspecting and servicing POWTS.

5. Plain Language Analysis: This rule package updates the current rules by streamlining, clarifying, and providing more detail relating to current requirements. The rules detail septage storage requirements and provide additional options to businesses desiring to use septage storage.

Specific proposed changes in ch. NR 113, Wis. Adm. Code, include:

- Purpose and Applicability sections are updated.
- The Definition section is modified to include several definitions that were formerly notes within the existing ch. NR 113. Additional definitions were added, modified, and removed to provide additional clarity.
- The General Requirements section is updated to include clarifying details surrounding business operation requirements including moving several requirements relating to business requirements from ch. NR 114.
- The Licensing section changes include clarity relating to:
 - Applications for new businesses relating to non-sole proprietorships;
 - The requirement to name an operator-in-training for the business with valid credentials;
 - Statutory requirements required of the department by the Departments of Children and Family, Workforce Development, and Revenue;
 - Servicing the wastewater generated at campgrounds including portable restrooms; and
 - Farmer exemption requirements where the changed language is now consistent with statutory requirements.
- The Vehicle Inspections and Servicing section changes include additional detailed language for clarity purposes. This includes providing:
 - More detailed language for using septage vehicle operations for non-septage wastes;
 - Flexibility for servicing septage on islands;
 - Clarity relating to spill plans and spill reporting;
 - Details associated with trailer mounted portable restrooms; and
 - Additional cab required documents for clarifying land application disposal details.
- The Disposal of Septage section changes clarify:
 - Disposal consistencies associated with WPDES permitted facilities;
 - Differences between private onsite wastewater treatment tanks non-holding tanks (septic tanks and similar) and private onsite wastewater treatment holding tanks, as the characteristics are commonly different;
 - Application rates associated with high-use fields;
 - Non-frozen, non-snow covered situations as compared to the term winter;
 - The department's authority relating to site approvals and the information used to evaluate the site approval request;
 - pH measurements when using lime.
- The Site and Soil Evaluations section improves and clarifies the language relating to morphological soil testing for soil characteristics such as texture and structure, and nutrient soil testing requirements used for determining crop need. Soil saturation requirements are included to clarify existing department requirements.

- The Application Rates section clarifies language and specifies the proper UW-Extension bulletin. Increased weekly applications are allowed when using incorporation and injection on sites that have soils suitable for the increased application rate. The purpose for this increase in weekly allowance is in line with increased septage storage and the need to land apply septage within specific windows on agricultural lands.
- The County Regulation section has slight modifications for consistency and clarity.
- The Department Regulation section clarifies:
 - Land application site request submittal requirements for businesses;
 - Land application requirements for those farmers who intend to land apply septage through the farmer exemption allowed by statute;
 - Record keeping and reporting requirements; and
 - Electronic record keeping is allowed.
 This section also provides:
 - Increased flexibility in record keeping for portable restroom servicing, and
 - An alternate certification statement for non-land application businesses.
- The Septage Storage Facilities section is completely rewritten to provide increased options to businesses for septage storage. This section also details submittal, review, management plan, inspection and reporting requirements for a wider variety of situations including using new and existing storage facilities as well as using manure storage facilities. Thresholds for many specific requirements have increased from 25,000 to 50,000-gallon capacities. WPDES permitting threshold requirements are proposed at 550,000 gallons.
- The Variance section is modified to:
 - Include more contact information during the submittal process;
 - Require the department to approve or deny the variance in writing; and
 - Clarify that the variance may be cancelled due to noncompliant activities.

Specific proposed changes in ch. NR 114, Wis. Adm. Code, include:

- The Definition section is updated by adding and modifying definitions for clarity and consistency with ch. NR 113.
- The General Requirements section includes:
 - Added flexibility for operators-in-training to be rehired after the initial 12-month registration period expires;
 - Clarifications and details for operators-in-training registration;
 - Removed language that was inserted into ch. NR 113; and
 - Clarifications on portable restroom servicing assistant.
- The Certification Grades section is updated to reflect current practices and provides flexibility to operators to convert grades.
- The Operator-in-Charge and Master Operator section include:
 - Minor clarifications and increased flexibility to master operators to reduce their certification to a certified operator; and
 - Clarifications for the department to reduce a master operator to a certified operator through sanctions consistent with statutes.
- The Examinations and Applications sections clarify master operator exam registration requirements.
- A new section for Non-delinquency Certification from the Department of Children and Families and the Department of Revenue is added. This section includes the multiple statutory requirements required of the department before the department issues or renews operator certifications. The section combines these requirements to provide more transparency to the and provides clear instruction to the department.
- The Fees and Issuances of Certifications sections are clarified.

- The Certificate Renewals section is clarified. Language is added to clarify requirements for reissuance of master operator certifications when those certifications have lapsed for more than one year, but less than five years.
- The Continuing Education and Training Requirements and the Sanctions sections are clarified.
- A new Enforcement section is added to ch. NR 114, subchapter II. This section is inserted consistent with ch. NR 113.
- The Variance section is modified for consistency to ch. NR 113 changes.

6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

General. Wisconsin regulates septage (ch. NR 113) separately from sewage sludge (ch. NR 204). Both rules have unique requirements yet have some overlapping requirements. Federal Standards for the Use or Disposal of Sewage Sludge, 40 CFR 503, defines septage as sewage sludge, but also provides numerous exemptions for septage.

Delegation and land application. The Wisconsin septage program, while not a delegated program through the U.S. Environmental Protection Agency (US EPA), incorporates the federal septage land application requirements into ch. NR 113 and is consistent with 40 CFR 503. US EPA operates its septage program independently and follows up on complaints in Wisconsin when necessary. No known federal septage penalties have been assessed in Wisconsin in the last 12 years.

Grease. Chapter NR 113 also regulates sanitary grease interceptor wastes as septage. Federal requirements for all grease interceptors are regulated under 40 CFR 257. In Wisconsin, the land application of industrial grease interceptors is regulated under ch. NR 214.

Violations. US EPA operates its septage program independently and follows up on complaints in Wisconsin when necessary. No known septage penalties have been assessed in Wisconsin in the last 12 years.

Penalties. Violations of 40 CFR 503 may be considered a criminal activity with penalties of \$25,000 per day of violation. Violations of ch. NR 113 are considered civil activities with penalties up to \$5,000 per day of violation. Wisconsin most often uses citation authority under ch. NR 113 with Conservation Wardens issuing citations.

7. Comparison with Similar Rules in Adjacent States (Illinois, Iowa, Michigan and Minnesota):

Similar to Wisconsin, Illinois, Iowa, Michigan and Minnesota are not delegated by US EPA to regulate septage servicing and disposal on behalf of US EPA. Each of the adjacent states have varying septage regulatory programs but generally include the requirements of 40 CFR 503 within their regulations.

Iowa. Iowa Department of Natural Resources regulates septage servicing companies through an annual licensing requirement. Each business entity designates one person to be the representative for the company. Each business must submit a waste management plan detailing the volume of septage collected, historical and proposed disposal at publicly operated treatment works (POTW), letters of acceptance from each POTW, location and areas of sites that are used for land application, crop type, septage application methods, and anticipated volumes of septage to be applied. Iowa has specific change in ownership and change in address requirements. Continuing education is required prior to renewal. Prior to using additional or different sites, the management plan must be amended. Annual fees are required. Septage servicing and disposal equipment must meet specific requirements to avoid public health and nuisance related issues. Equipment when used for land application is required to meet additional requirements related to application and pathogen controls. Land application sites require annual inspection. Waste from toilet units (portable restrooms and privies) is required to be treated at a POTW. Required records and

records retention is similar to 40 CFR 503. Civil penalties are used. The department may suspend, revoke and deny licenses. Land application sites require prior department approval and required a soil fertility test (nutrient soil testing.)

Illinois. The Illinois Department of Public Health (IDPH) regulates the installation of private sewage disposal systems with no surface discharge and those that discharge up to 1,500 gallons per day to the ground surface. Approximately 90 local health agencies regulate these same plans as agents of IDPH and also regulate pumping contractors, portable sanitation businesses, portable sanitation technicians and portable sanitation technician trainees. Local ordinances vary between health departments.

Michigan. Septage is regulated by the Michigan Department of Environmental Quality. Michigan issues septage waste servicing licenses and requires a licensing package that includes written approvals from each receiving facility where the septage is treated and a location of sites where the septage will be disposed. A representative must be designated to represent the business. The representative is required to show successful continuing education completion. The septage servicing equipment is required to be licensed. Identification of the vehicle is similar to Wisconsin with required lettering on each side of the vehicle. Setbacks from wells range from 150 feet minimum to 2,000 feet to Type I and IIa wells and are further based on application methods. Michigan requirements include frozen ground prohibitions. Land application sites require prior department approval and required a soil fertility test (nutrient soil testing). Required records and records retention is similar to 40 CFR 503. Storage is allowed. An operating permit with logging requirements is required for greater than 50,000 gallons. Enforcement includes criminal (imprisonment and monetary) and civil penalties.

Minnesota. The Minnesota Pollution Control Agency (MPCA) licenses septage maintenance businesses that pump out solids from septic tanks. Individuals performing the work require individual certifications and require continuing education. The licensing and certification program is part of the design and installation for onsite wastewater treatment systems. Disposal is allowed at treatment plants if willing to accept. Bonding is required. Land application of septage is allowed with many regulations following 40 CFR 503. Local ordinances have specific requirements and vary across the state. Storage less than 50,000 gallons is allowed by obtaining local construction permits and may include operating permits at local discretion. Storage greater than 50,000 gallons is allowed through MPCA with initial plan review fee of \$9,300, an annual operating fee of \$500 and permit renewal fee of \$1,240. Enforcement includes penalties, revocations, and suspensions.

8. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen: The rule will impact septage businesses and the department. There should be no impact to any other business, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

Modifications to chs. NR 113 and 114 primarily focused on: a) increased flexibility and direction to businesses relating to septage storage, b) clarifying language and requirements that promote compliance, level playing field competition, and c) providing flexibility to businesses. Septage businesses in Wisconsin are small businesses.

The septage storage requirements of s. NR 113.12 were revised to provide more flexibility to septage servicing businesses. Requirements from chs. NR 110, 213, 214 and SPS 383 and corresponding DSPS component manuals were included to provide increased thresholds for many storage requirements. These increased thresholds promote cost efficiencies to businesses while at the same time promote septage reuse as a beneficial use of nutrients. The septage storage section also improves communication relating to requirements so applicants may more easily obtain their approvals in a timely manner. This improved

communication of requirements improves efficiencies to the businesses.

Language improvements included:

- Adding statutory requirements relating to the Departments of Revenue, Children and Families, and Workforce Development for issuing and reissuing certifications and licenses. This additional language promotes transparencies and provide the requirements in a single location for septage businesses.
- Moving business related requirements from the certification requirements of ch. NR 114 to more closely tie those requirements with other business requirements of ch. NR 113.
- Definitions were improved and clarified.
- Clarifications throughout chs. NR 113 and 114 to improve the functionality of the requirements.
- Modifying the farmer exemption requirements to align the requirements of ch. NR 113 with statutory requirements in statute.

Additional flexibility was added into the chapters. Some of these increased flexibilities include:

- Increase weekly land application rates for particular soils and methods of applications.
- Ability for portable restroom servicing companies to maintain less restrictive daily logs.
- An alternative certification statement for “T” grade businesses.

Technical information was also gathered from University of Wisconsin-Extension A-2809 technical bulletin title Nutrient application guidelines for field, vegetable, and fruit crops in Wisconsin and University of Wisconsin-Extension A-2100 technical bulletin titled, Sampling soils for testing.

Additional technical information was gathered from other regulatory requirements from the Department of Agriculture, Trade and Consumer Protection, the Department of Natural Resources, and the Department of Safety and Professional Services (DPS). A partial list of those chapters and their titles are shown below:

- SPS 381-SPS 387: Plumbing
- Several DPS private onsite wastewater treatment system component manuals
- NR 110: Sewerage Systems
- NR 151: Runoff Management
- NR 204: Domestic Sewage Sludge Management
- NR 214: Land Treatment of Industrial Liquid Wastes, By-Product Solids and Sludges
- ATCP 50: Soil and Water Resource Management
- ATCP 65: Milk and Milk Products
- ATCP 79: Campgrounds

9. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report: There are approximately 420 septage businesses licensed to perform servicing and disposal activities in Wisconsin. These licensed businesses utilize approximately 1000 licensed trucks. In addition, there are approximate 1200 certified operators including certified master operators, septage vehicle operators and operators-in-training. Of these there are approximately 400 master operators. The department maintains this information in the operator certification database known as the environmental licensing and certification (ELC) database.

There are approximately 10 Wisconsin Pollution Discharge Elimination System (WPDES) permits issued to septage only servicing companies or entities. These WPDES permits are issued to entities that have a

combined septage storage capacity of greater than 25,000 gallons. These WPDES permits contain similar language as those issued to publicly owned wastewater treatment plants. Requirements within these permits focus on storage and land application requirements. These septage only storage WPDES permits do not have effluent requirements. These WPDES permits do include many of the standard requirements of ch. 283, Wis. Stats. The permitting information is maintained in the wastewater database known as the System for Wastewater Application, Monitoring and Permitting (SWAMP).

Approximately 40 businesses possess septage storage less than 25,000 gallons. Many of these businesses have storage tanks that were installed under a combination of requirements of ch. NR 113 relating to septage storage and requirements of chs. SPS 383 and 384 that regulate private onsite wastewater treatment system holding tank. These small septage storage facilities typically are not required to possess WPDES permits due to their size and relatively low risk of leaking to the environment.

The department collected additional information from the Septage Study Group, an advisory committee assembled to provide input relating to septage topics. The Wisconsin Liquid Waste Carriers Association, the primary industry association that represents septage businesses is represented on this study group with multiple members. Other members of this group include: a licensed septic system installer, county land and water conservation department employees, county sanitarian responsible for regulating septic system installations in their county, several non WLWCA members, a portable restroom business representative, state employees representing the departments of safety and professional services (DSPS), and department of agriculture, trade and consumer protection (DATCP), a representative of municipal environment group (MEG),

Input was collected by the department through the department's Septage Study Group, ongoing trainings and DNR Help Booths at WLWCA sponsored winter and summer conventions, numerous Master Operator training sessions, numerous septage audits and many conversations with county officials.

Hours of information was collected from the advisory septage study group consisting of the following associations, trade groups and departments:

- Representatives from Wis. Liquid Waste Carriers Assn (WLWCA) including public affairs strategist
- Independent septage business owners
- Certified septage operators
- Certified Soil Testers and Septic System Installation Contractor
- Portable restroom servicing business representative
- County sanitary code administrator(s)
- County land and water conservation department
- DATCP representative
- DSPS representative
- DOA small business representatives
- Municipal Environmental Group (MEG)

In preparation of the code changes, the department worked with the Septage Study Group and the Wisconsin Liquid Waste Carriers Association to develop a WPDES general permit for septage storage. As part of that effort, department work resulted in creating checklists and model plans as tools to assist businesses to when developing their management plans. Additionally, workshops were also held. These efforts will be supplemented when rolling out the changes in s. NR 113.12 relating to septage storage.

Septage business costs:

- Storage. Increased storage opportunities provide businesses generally with reduced costs to implement and maintain storage.
 - Statewide savings to business (i.e., benefit) approximated at \$25,000 per year.
 - Potential increased business costs through management plan and spill plan for a one-time cost of \$500 per business for storage <25,000 gal for approximately 40 businesses. Statewide one-time cost \$20,000.
 - Potential statewide business costs per year for storage inspections <25,000 gal is approximated \$1,000 per year.
- Farmer Exemption Requirements:
 - Changes in rule language relating to business and land application requirements were made to conform to existing statutory requirements.
 - Little or no fiscal changes anticipated.
- Land Application Disposal Businesses:
 - Weekly Max Application Rates: Some businesses may apply greater weekly maximum loadings resulting in a significant cost reduction when land application large volumes of septage. These savings will be realized by being able to access potentially more sites due to the decreased window for land application septage and a savings of fuel.
 - Difficult to quantify the savings as each circumstance is different. However, increased flexibilities in the rule will allow businesses to use flexibilities for their maximum efficiencies.
- Maps: Spreading maps will be required in vehicles.
 - Photocopying and binder costs might be incurred.
 - Statewide fiscal impact estimated at \$18,000 one-time cost with \$3,000 cost per year.
- Portable Restroom Servicing Vehicle Logs
 - Alternative record keeping requirements provide additional flexibility to businesses that operator portable restroom servicing vehicles.
 - A statewide fiscal decrease is expected.
- Island Servicing. More flexibility included into rule relating to servicing equipment used for servicing POWTS on islands.
 - A statewide fiscal decrease ranges between \$25,000 to \$125,000 per year is expected.
- Counties: Code language was modified to conform to statutory language.
 - No fiscal changes anticipated.
- Enforcement Related: Consistent with ch. NR 113, an enforcement provision is included into ch. NR 114 to allow citations to be issued instead of implementing civil actions through the Department of Justice.
 - Fiscal benefits estimate a reduction of approximately \$78,000 per year for potential violations based on recent DOJ septage cases.
- Holds on License and Certificate Issuance and Reissuances.
 - The Departments of Revenue, Children and Family and Workforce Development have specific statutory requirements that impact the DNR by requiring DNR to verify “holds” for arrears. While this information is in statute, many individuals and business do not know about these issues. These “holds” prevent the department from issuing or reissuing certifications and licenses.
 - No fiscal changes anticipated.
- Language Clarity. Language in rules were clarified for easier understanding and transparency. These changes will improve communication between industry and the department.

- No fiscal costs are expected.
- Benefits are numerous, but difficult to quantify.

10. Effect on Small Business (initial regulatory flexibility analysis):

The rule will impact septage businesses and the department. The rule changes should have no impact to any other business, business sectors, public utility rate payers, local governmental units or the state’s economy as a whole.

All septage businesses are small businesses. Flexibilities have been included into the rule changes for all septage businesses.

- Increased the ability of septage businesses to increase septage storage volumes:
 - Plan and Specification requirements: Increased the ch. NR 110 requirements exemption threshold to 50,000 gallons, and
 - WPDES permit requirements: Increased the WPDES permit requirement threshold to 550,000 gallons.
 - Statewide business savings are expected to be about \$25,000 per year.
 - Statewide costs on businesses during the first year are expected to be approximately \$40,000.
 - Statewide costs on businesses after initial year are \$4,000 per year.
 - Statewide business flexibility is significantly increased.

- Increased the ability of septage businesses to increase the maximum application rate according to site conditions such as soil texture.
 - Business flexibilities are significantly increased for businesses utilizing storage.

- Inserted enforcement provision into ch. NR 114 consistent with ch. NR 113 to reduce the need to utilize DOJ.
 - Estimated annual business savings of \$78,000 per year.

- Provided alternative certification statements for “T” grade businesses.
 - Improved flexibility over current regulations.

- Provided alternative daily log requirements for portable restroom servicing vehicles.
 - Improved flexibility.

- Clarity and transparencies were incorporated into rules so that businesses are more aware of the rules and regulations that they face. This results in improved opportunities for business compliance.
 - There are numerous changes for clarity which many are unquantifiable.
 - There is an undetermined annual savings.

11. Agency Contact Person:

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12. Place where comments are to be submitted and deadline for submission:

Written comments may be submitted at the public hearings, by regular mail, or by email to:

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Written comments may also be submitted to the Department at
DNRAAdministrativeRulesComments@wisconsin.gov.

An online hearing will be held on November 12, 2020 at 9:00 a.m. Virtual location link:
<https://zoom.us/j/99815431205> .

The deadline for submitting public comments is November 19, 2020.

The consent of the Attorney General will be requested for the incorporation by reference of UW-Extension Bulletins A2809 (Rev. Nov 2012) and A2100 (Jan 2013), and U.S. Department of Agriculture, Natural Resources Conservation Service Code 313.

SECTION 1. NR 113.01 is amended to read:

NR 113.01 Purpose. The purposes of this chapter are to establish standards for the servicing of private sewage systems including septic and holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, distribution cells, privies, and portable restrooms; to provide for the use and disposal of wastewaters from these sources while protecting public health from unsanitary and unhealthful practices and conditions; and to protect surface waters and groundwaters of the state from contamination by septage. The beneficial use of septage and its recycling to the land as a fertilizer or soil conditioner is encouraged.

SECTION 2. NR 113.02 (intro.) is amended to read:

NR 113.02 Applicability. This chapter applies to licensed haulers, certified operators, owners, and any person servicing private sewerage systems including septic and holding tanks,

dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, distribution cells, privies, and portable restrooms. The following services are exempt from these rules:

SECTION 3. NR 113.03 (6) Table is amended to read:

NR 113.03 (6) Table

Textural Classification System		Factor for Use in Calculation of Available Water Capacity (inch/inch)
Commercee	USDA	
Sand	Sand	0.02
	Loamy Sand	
Sandy Loam	Sandy Loam	0.10
Loam	Loam	0.20
Silt Loam	Silt Loam	0.22
	Silt	
Clay Loam	Sandy Clay Loam	0.19
	Clay Loam	
	Silty Clay Loam	
Clay	Sandy Clay	0.17
	Silty Clay	
	Clay	

Note: The following method can be used to show that the soil has 5 inches of available water capacity:

Multiply the number of inches of each soil texture in the soil profile (above groundwater and bedrock) by the appropriate factor given above.

Example:

10 inches of sandy loam	10 x .1 =	1
20 inches of loam	20 x .2 =	4
<u>10 inches of silt loam</u>	10 x .22 =	<u>2.2</u>

Calculated available water table	7.2
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SECTION 4. NR 113.03 (7) is renumbered (7) (intro.) and amended to read:

NR 113.03 (7) “Bedrock” means ~~the rocks that underlie soil material. Bedrock is present at the earth’s surface when the weathered in place consolidated material, larger than 2mm in size, is greater than 50% by volume.~~ rock that is exposed at the earth’s surface or underlies soil material and includes any of the following:

SECTION 5. NR 113.03 (7) (a), (b), (8m), and (8m) Note are created to read:

NR 113.03 (7) (a) Weathered in-place consolidated material, larger than 2 mm in size and greater than 50 percent by volume.

(b) Weakly consolidated sandstone at the point of increased resistance to penetration of a knife blade.

(8m) “Centralized septage treatment facility” means a treatment facility that accepts septage from multiple sources and treats the septage prior to discharge or disposal.

Note: Centralized septage treatment facilities are regulated under ch. NR 204.

SECTION 6. NR 113.03 (9) is amended to read:

NR 113.03 (9) “Certified operator” means any person servicing private sewage systems such as septic and holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, distribution cells, privies, or portable restrooms who holds a valid Wisconsin septage servicing operator’s certificate under ch. NR 114.

SECTION 7. NR 113.03 (11) is repealed.

SECTION 8. NR 113.03 (13m) is created to read:

(13m) “Distribution cell” means a dimensional zone that is part of a POWTS treatment or dispersal component where wastewater is disseminated into in situ soil or engineered soil.

SECTION 9. NR 113.03 (15) is amended to read:

NR 113.03 (15) “Dosing chamber” or “pumping chamber” means a water tight receptacle that employs a pump or automatic siphon to elevate or distribute effluent to the private sewage system.

SECTION 10. NR 113.03 (16m) is created to read:

NR 113.03 (16m) “DPS” means the department of safety and professional services.

SECTION 11. NR 113.03 (24) and (25) are amended to read:

NR 113.03 (24) “High use field” means a field that ~~receives~~ is approved to receive more than ~~3 complete applications~~ 39,000 gallons per acre of septage per crop year and the ~~number of applications~~ are volume applied is limited to the crop nutrient requirements.

(25) “Historical site” means any historic property ~~designated as a historical site~~ listed under s. 44.40 (2) (a), Stats.

SECTION 12. NR 113.03 (26m) is created to read:

NR 113.03 (26m) “Holding tank POWTS” means a holding tank component of a POWTS used for the collection and holding of sewage.

SECTION 13. NR 113.03 (29) is repealed.

SECTION 14. NR 113.03 (31) is amended to read:

NR 113.03 (31) “Land application” or “landspreading” or “land applied” or “landspread” means the ~~spraying or~~ spreading of septage onto the land surface, the injection of septage below the land surface, or the incorporation of septage into the soil, so that the septage can either condition the soil or fertilize crops or vegetation grown in the soil.

SECTION 15. NR 113.03 (31m) is created to read:

NR 113.03 (31m) “Land management plan” or “management plan” means a plan for optimizing land application of septage and demonstrating compliance with the requirements of this chapter that may include standard operating procedures for various processes or procedures.

SECTION 16. NR 113.03 (32) is renumbered NR 113.03 (32) (a) and amended to read:

NR 113.03 (32) (a) “Land with a high potential for public exposure” means land that the public uses frequently or may readily come in contact with and has received land application of septage or septage byproducts within the last 12 months.

(b) "Land with a high potential for public exposure" includes, ~~but is not limited to,~~ public parks, ball fields, cemeteries, plant nurseries, turf farms, ~~and~~ golf courses, and other similarly used lands.

SECTION 17. NR 113.03 (34) is amended to read:

(34) "Low use field" means a field ~~that receives 3 or less complete applications~~ approved to receive 39,000 gallons or less of septage per crop year.

SECTION 18. NR 113.03 (34d), (34h), (34p), (34t), (35g) and (35r) are created to read:

NR 113.03 (34d) "Manure" has the meaning given under s. NR 151.015 (12).

(34h) "Master Operator" means a certified operator who has met the requirements under s. NR 114.18 (2) and holds a valid Wisconsin master operator certificate for servicing septage.

(34p) "Natural resources conservation service" or "NRCS" means United States department of agriculture, natural resources conservation service, formerly known as soil conservation service, or SCS.

(34t) "Non-holding tank POWTS" means POWTS or POWTS components, excluding a holding tank.

(35g) "Nutrients" means plant nutrients derived from commercial fertilizers, manure, organic wastes, soil reserves, legumes, or other sources.

(35r) "Operator-in-charge" or "OIC" means the master operator who has been designated by the owner to be responsible for the operation of a septage servicing business.

SECTION 19. NR 113.03 (38) is renumbered 113.03 (38) (a) and (b) and amended to read:

NR 113.03 (38) (a) "Pathogens" means disease causing organisms. ~~This~~

(b) "Pathogens" includes, ~~but is not limited to,~~ certain bacteria, protozoa, viruses and viable helminth ova.

SECTION 20. NR 113.03 (39m) and (42m) are created to read:

NR 113.03 (39m) “pH” means the logarithm of the reciprocal of the hydrogen ion concentration measured at 25 degree Centigrade or measured at another temperature and then converted to an equivalent value at 25 degrees Centigrade. For the purposes of measuring septage at a pH of 12.0 standard units, the pH shall be measured to 3 significant digits.

(42m) “Private onsite wastewater treatment systems” or “POWTS” has the meaning given under s. 145.01 (12), Stats.

SECTION 21. NR 113.03 (43) is repealed and recreated to read:

NR 113.03 (43) (a) “Privy” means an enclosed nonportable toilet into which human wastes not carried by water are deposited to a subsurface storage chamber that may or may not be watertight.

(b) “Privy” includes all of the following:

1. Pit privies for which a cavity in the ground is constructed for toilet uses or that contain a portable above-ground storage device constructed for toilet uses receives human excrement to be partially absorbed directly by the surrounding soil.
2. Vault privies in which human excrement is stored for decomposition and periodic servicing.

SECTION 22. NR 113.03 (49) is repealed.

SECTION 23. NR 113.03 (55) is renumbered (55) (intro.) and amended to read:

NR 113.03 (55) “Septage” means the wastewater or contents of ~~septic or holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies or portable restrooms.~~any of the following:

SECTION 24. NR 113.03 (55) (a), (b) and (56m) are created to read:

NR 113.03 (55) (a) A septic or holding tank, dosing chamber, grease interceptor, seepage bed, seepage pit, seepage trench, dispersal cell, or other component of private onsite wastewater treatment systems.

(b) A privy or portable restroom.

(56m) “Service shop” means a shop from which septage servicing is dispatched.

SECTION 25. NR 113.03 (57) is amended to read:

NR 113.03 (57) ~~”Servicing”~~ “Service” or “servicing” means removing the scum, liquid, sludge or other wastes from a private sewage system such as septic or holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, distribution cells, privies, or portable restrooms and properly disposing or recycling of the contents as provided in this chapter.

SECTION 26. NR 113.03 (57m) and (58m) are created to read:

NR 113.03 (57m) “Sewage” has the meaning given under s. 281.01 (13), Stats.

(58m) “Site evaluation” means an evaluation of land slope, topographic or other features, or other limiting characteristics.

SECTION 27. NR 113.03 (60) is amended to read:

NR 113.03 (60) “Soil” means ~~unconsolidated material which overlies bedrock. the~~ naturally occurring pedogenically developed and undeveloped regolith overlying unconsolidated material that overlies bedrock.

SECTION 28. NR 113.03 (61) is repealed.

SECTION 29. NR 113.03 (61m) is created to read:

NR 113.03 (61m) “Soil evaluation” means a field observation and report of soil morphology including a map showing locations of each soil evaluation.

SECTION 30. NR 113.03 (62) is repealed.

SECTION 31. NR 113.03 (62m) and (64m) are created to read:

NR 113.03 (62m) “Soil morphology” means the physical or structural characteristics of a soil profile, particularly as related to the arrangement of soil horizons based on color, texture, structure, consistence, and porosity.

(64m) “Soil scientist” means a person that meets any of the following criteria:

- (a) Holds a professional soil scientist license issued under ch. GHSS 4.
- (b) Holds a certified soil tester classification from the department of safety and professional services issued under ch. SPS 305.
- (c) Holds a bachelor of science degree in soil science from a 4-year accredited college.
- (d) Is a certified professional soil scientist in good standing with the American society of agronomy.

SECTION 32. NR 113.03 (65) is amended to read:

NR 113.03 (65) “Spill” means the uncontrolled discharge, dumping, or leaking of any septage ~~so that 50 gallons or more of septage~~ or any of its constituents may be ~~admitted~~ emitted into the air, be discharged into any waters of the state, or otherwise enter the environment.

SECTION 33. NR 113.03 (65m) and (Note) and (68m) are created to read:

NR 113.03 (65m) “Standard operating procedure” or “SOP” means a set of step-by-step instructions compiled by a business to help workers carry out complex routine operations.

Note: SOPs aim to achieve efficiency, quality output and uniformity of performance, while reducing miscommunication and non-compliance with industry regulations. SOPs may be part of a land management plan.

(68m) “Uniform application” means evenly spreading septage over a site through the use of a splash plate, injector, or other department approved spreading method.

SECTION 34. NR 113.03 (74) is amended to read:

NR 113.03 (74) “Wisconsin sanitary license” means a license to service private sewage systems, such as septic and holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, distribution cells, privies, or portable restrooms, issued by the department ~~pursuant to~~ under s. 281.48 (3), Stats.

SECTION 35. NR 113.04 (1) is renumbered 113.04 (1) (intro.) and amended to read:

NR 113.04 General requirements. (1) LICENSE REQUIREMENTS. No business, unless exempted by statute, may engage in servicing unless the vehicle and equipment used have been initially inspected by the department and issued a license indicating conformity with all requirements of this chapter. A business license fee is based on the number of vehicles used by the business. Businesses shall adhere to all of the following:

SECTION 36. NR 113.04 (1) (a), (b), (c), (d) and (e) are created to read:

NR 113.04 (1) (a) A valid business license is required for a business to continue septage servicing operations.

(b) For a business to continue servicing, the designated operator-in-charge shall possess a valid master operator certification otherwise the business shall designate a replacement operator-in-charge with a valid master operator certification.

(c) A vehicle used by different businesses, under a single owner or separate owners, shall be registered under each business license and each business license number shall be displayed on the vehicle.

(d) A business license is not transferable between businesses. A business license may remain with a business or business entity when the business or business entity transfers ownership. If only assets of the business entity are transferred, a new business license is required.

(e) Each business shall have a unique business license issued under s. NR 113.05 for any service shop that is more than 25 miles from another service shop owned by that business.

SECTION 37. NR 113.04 (1) (Note) is repealed.

SECTION 38. NR 113.04 (2) is amended to read:

NR 113.04 (2) CHANGES. Every business required to be licensed by this chapter shall notify the department in writing within 15 days of any change in address, change of servicing vehicle, ~~or change of owner,~~ or change of the operator-in-charge.

SECTION 39. NR 113.05 (1) (intro.) and (a) are amended to read.

NR 113.05 Licensing. (1) INITIAL LICENSURE; APPLICANT REQUIREMENTS. Applicants for licensure shall meet all of the following requirements:

(a) Every business, before engaging in servicing in this state, shall submit an application on forms prepared by the department. The application shall clearly denote the owner and legal entity applying for the business license. The application shall designate an operator-in-charge for the business in accordance with ch. NR 114 and that operator-in-charge shall possess a valid master operator certificate for the duration of the business license period. License fees ~~in~~ under par. (b) shall accompany each application.

SECTION 40. NR 113.05 (1) (c) is created to read:

NR 113.05 (1) (c) 1. The department shall request a non-delinquency certificate from the departments of children and families, revenue, and workforce development under ss. 49.857, 73.0301, and 108.227, Stats., prior to issuing a license, renewing a license, or allowing a business to designate a master operator as the operator-in-charge.

2. If the department receives notice that a non-delinquency certificate cannot be issued from the department of children and families or the department of revenue, the application is denied.

SECTION 41. NR 113.05 (2) (intro.), (b), (3) (intro.) and (d) are amended to read:

NR 113.05 (2) INITIAL LICENSURE; DEPARTMENT REQUIREMENTS. Prior to issuance of a license, the department shall ~~assure~~ensure that all of the following requirements are met:

(b) Each designated operator in charge shall ~~pass an oral or written operator certification examination under the requirements~~ obtain a master operator certification as required under ch. NR 114.

(3) LICENSE RENEWAL. ~~Prior to July 1, 1997, all licenses expire on June 30 on an annual basis. On or after July 1, 1997, all~~ All licenses expire on June 30 on a biennial basis. Businesses seeking license renewal shall meet all of the following renewal requirements:

(d) The department may not issue or renew a license for a business ~~which~~ that has accumulated violations, as summarized in the following table, for the following: ss. NR 113.04, ~~(1) and (2), 113.05 (3), 113.06 (1), (2) and (3), 113.07 (1) and (3), 113.09, 113.11 (1) and (3), and 113.12,~~ and s. 29.601, Stats., during the last license period. The department may not reissue a license for a period of at least one year after revocation under s. NR 113.13.

Number of vehicle stickers issued to the business	Number of violations that result in the nonrenewal of the business license
1 to 3	6
4 to 9	12
Greater than 9	18

SECTION 42. NR 113.05 (3) (dg), (dr) and (3m) are created to read:

NR 113.05 (3) (dg) The business owner shall designate the operator-in-charge for the business. The designated operator-in-charge shall possess a valid master operator certification. The business shall possess an operator-in-charge with a valid master operator certification for the duration of the business license period.

(dr) 1. The department shall request a non-delinquency certificate from the departments of children and families, revenue, and workforce development under ss. 49.857, 73.0301 and 108.227, Stats., prior to issuing a license, renewing a license, or allowing a business to designate a master operator as the operator-in-charge.

2. If the department receives notice that a non-delinquency certificate cannot be issued from the departments of children and families, revenue or workforce development, the application is denied.

(3m) WASTEWATER GENERATED AT CAMPGROUNDS AND FROM RECREATIONAL VEHICLES.

(a) Wastewaters generated at campgrounds and from recreational vehicles are not subject to the requirements of this chapter if, under s. ATCP 79.15, all of the following apply:

1. The wastewater is discharged to any of the following:

a. A public sewer.

b. A POWTS approved by the department of safety and professional services or a governmental unit under s. 145.01 (5), Stats., that complies with chs. SPS 382 to 385.

c. A sanitary dump station.

2. The POWTS and sanitary dump stations are serviced according to this chapter.

(b) Septage generated from portable restrooms at campgrounds shall be serviced according to this chapter.

SECTION 43. NR 113.05 (4) (intro.) and (a) are renumbered NR 113.05 (4) (a) (intro.) and 1. and amended to read:

NR 113.05 (4) EXEMPTION. ~~_(a) A farmer, or his or her designee, who disposes of septage on land owned or leased by the farmer, is exempt from the licensing requirements of this section if all of the following apply~~ is exempt from the licensing requirement under s. 281.48 (3) (d), Stats., if all of the following conditions apply:

1. The septage is removed from a ~~septage system~~ septic tank that is located on the same parcel of land ~~on which~~ where the septage is disposed.

SECTION 44. NR 113.05 (4) (b) is repealed.

SECTION 45. NR 113.05 (4) (c) is renumbered (a) 2. and amended to read:

NR 113.05 (4) (e)(a) 2. The farmer, ~~or his or her designee,~~ complies with all applicable statutes and rules ~~applicable to~~ for servicing and land application of the septage.

SECTION 46. NR 113.05 (4) (d) and (Note) are repealed.

SECTION 47. NR 113.05 (4) (e), 1., 2., (f) and (g) are created to read:

113.05 (4) (e) 1. If a farmer is exempt under par. (a), the department may require the farmer to provide the department with information that shows that sufficient land area is available for disposal. Land area shall meet the requirements under s. NR 113.07 (3) (b).

2. The department may provide a non-commercial registration number to allow the farmer to report POWTS servicing events required under s. SPS 383.55 to governmental units under s. 145.01 (5), Stats., or to designated agents.

(f) While a person may be exempted from business licensing requirements by s. 281.48, Stats, servicing shall be in conformity with this chapter.

(g) A person that fails to comply with the requirements of this chapter is subject to enforcement under s. NR 113.14.

SECTION 48. NR 113.06 (2) (intro) is amended to read:

NR 113.06 (2) EQUIPMENT REQUIREMENTS. Vehicles and operations shall conform to this chapter and vehicles shall display a license sticker in accordance with par. (m) 1. All vehicles and equipment used in servicing shall conform to all of the following:

SECTION 49. NR 113.06 (2) (b) is renumbered (b) 1. and amended to read:

NR 113.06 (2) (b) 1. The vehicles and implements used in servicing shall routinely be used for no other purpose except the hauling or servicing of septage, grease interceptors, municipal wastewater treatment sludges or ~~animal wastes.~~ However manure.

2. Except as required under subd. 3., use of the vehicle for fire protection service, oil recovery, and industrial wastes not regulated under chs. NR 500 to 538 or 660 to 670 ~~or 500 to~~

538 is permissible if the tank is flushed or cleaned as necessary prior to and after use, provided all of the following are completed:

SECTION 50. NR 113.06 (2) (b) 2. a., b. and 3. are created to read:

NR 113.06 (2) (b) 2. a. An SOP is developed, maintained, and implemented for flushing or cleaning the tank.

b. The flushing or cleaning activity is logged in a daily log book that includes the date, time, and disposal details of the cleaning or flushing water.

3. If the vehicle is used only for treatment plant disposal activities, the vehicle is not required to be flushed or cleaned.

SECTION 51. NR 113.06 (2) (d) (intro.), 1. and 2. are amended to read:

NR 113.06 (2) (d) ~~The~~ Except in any of the following cases, minimum allowable tank size capacity is 1000 gallons, ~~with the following exceptions:~~

1. ~~Tanks~~ A Tank only used for servicing ~~only~~ portable restrooms;

2. ~~Tanks~~ A tank put into service prior to October 1, 1987;

SECTION 52. NR 113.06 (2) (d) 3. is repealed and recreated to read:

NR 113.06 (2) (d) 3. A tank that is demonstrated by the licensed business and found by the department to be necessary and adequate.

SECTION 53. NR 113.06 (2) (f), (m) (intro.) and 2. are amended to read:

NR 113.06 (2) (f) Portable tanks or containers used for servicing, other than approved trailer-mounted servicing equipment, are prohibited. All approvable tanks or containers shall be attached to the vehicle by welding or bolts and cannot be used for containing liquids that are intended for direct contact with humans or animals. Equipment used for servicing on islands shall be evaluated by the department on a case-by-case basis.

(m) Vehicles, with the exception of vehicles used by farmers, used in servicing shall meet all of the following identification requirements:

2. ~~Every~~ Each licensee ~~is required to paint~~ shall display on ~~the each~~ side of each vehicle the words “Wisconsin Sanitary Licensee” and immediately under these words “License No. ” with the number of its license in the space provided with letters and numbers at least 2 inches high with 1/2-inch minimum ~~brush strokes~~ width and in a color distinct from its background.

SECTION 54. NR 113.06 (2) (m) 2m. is created to read:

NR 113.06 (2) (m) 2m. Each business that uses a vehicle that is used by more than one business, whether under a single owner or separate owners, shall register the vehicle under each business’s license and each business license number shall be displayed on the vehicle.

SECTION 55. NR 113.06 (2) (m) 3. is amended to read:

NR 113.06 (2) (m) 3. ~~The~~ Each licensee shall display on each vehicle registered under subd. 2m. the capacity of the tank in gallons, in lettering and numbers at least 2 inches high with 1/2-inch minimum brush strokes width, shall be painted in a color distinct from the background and readily visible on the rear of any registered vehicle. If a vehicle carries clear water and septage, only the septage capacity shall be listed.

SECTION 56. NR 113.06 (3) (b) is renumbered (b) (intro.) and amended to read:

NR 113.06 (3) (b) Any ~~accidental spillage~~ spill shall be cleaned up and the area restored to render it harmless to humans and animals. Spills of 50 gallons or greater shall be reported, within 24 hours, to ~~the~~ all of the following:

~~the~~ 1. The department or the by directly contacting the 24-hour spill hotline at 800-943-0003.

~~or the~~ 2. The county, if the county has been delegated septage regulation by the department.

SECTION 57. NR 113.06 (3) (c) is repealed and recreated to read:

NR 113.06 (3) (c) All of the following shall be maintained in each vehicle used in servicing:

1. A copy of the current ch. NR 113, which shall be placed in the vehicle cab.

2. A written procedure for spill and accident cleanup, which shall be placed in the vehicle cab and include all of the following:

a. Department emergency hotline contact information including the phone number of the hotline 800-943-0003.

b. Mutual aid or equivalent contact information for removing wastes due to an accident.

c. Cleanup procedures for spills less than 50 gallons.

d. Cleanup procedures for spills 50 gallons or more.

e. Procedures for rendering spills harmless.

3. Supplies including tools, lime and disinfectant for rendering spills harmless.

SECTION 58. NR 113.06 (3) (e) and (f) are amended to read:

NR 113.06 (3) (e) All businesses servicing portable restrooms shall empty the septage from the portable restroom prior to transporting the portable restroom for any purpose. An exception may be granted by the department for portable ~~toilets~~ restrooms that are permanently affixed to a trailer, integral restroom trailers where the holding tank for the trailer is properly designed to transport wastes and so designated by the manufacturer, or other mobile structure where the design and intent is to transport the ~~toilet~~ restroom with materials contained in the integral holding tank to a POTW.

(f) Water used for flushing servicing tanks or containers shall be disposed of in the same manner as the septage. Water used for flushing servicing tanks or containers is not included into annual disposal reports under pars. NR 113.11 (3) (a) and (b). Water used for flushing servicing tanks or containers is included onto daily logs under par. NR 113.11 (3) (c).

SECTION 59. NR 113.06 (3) (g) (intro.), 1., 2. and 3. are created to read:

NR 113.06 (3) (g) When disposing at a land application site, all of the following site related information shall be kept in the vehicle cab:

1. A copy of the site request and related submittal information under s. NR 113.11 (1).
2. A copy of the department approval form 3400-122.
3. A copy of site approval maps under s. NR 113.11 (1).

SECTION 60. NR 113.07 (intro.) is amended to read:

NR 113.07 **Disposal of domestic septage.** Every business engaged in servicing or authorizing servicing shall comply with all of the following requirements for disposal of septage:

SECTION 61. NR 113.07 (1) (a) is renumbered (a) (intro.) and amended to read:

NR 113.07 (1) DISPOSAL. (a) Disposal of septage shall be by discharge into a POTW or other facility for treatment or storage under a WPDES permit or to approved agricultural lands, subject to all of the following:

2. Septage from systems that have contracted for reserved capacity at a POTW shall be taken to that specific POTW.

SECTION 62. NR 113.07 (1) (a) 1. is created to read:

NR 113.07 (1) (a) 1. Septage disposal at WPDES permitted facilities shall be consistent with the WPDES permit requirements for that facility. An allowable WPDES permitted facility is one that meets requirements under ch. NR 204 for septage treatment which may be defined as a centralized septage treatment facility.

SECTION 63. NR 113.07 (1) (b) (intro.), 1., 2., 3. and 3. (Note), (c) (Note), (d), (e) and (e) (Note), (f) (intro.), 1., 2., 3., 4. and 5. (intro.) are amended to read:

NR 113.07 (1) (b) ~~The~~ All of the following restrictions apply to the land application of wastes septage from septic systems non-holding tank POWTS on frozen or snow covered ground:

1. Land application of septage removed from septic systems non-holding tank POWTS due to emergencies, including ~~but not limited to~~ situations such as freeze-ups, is allowed if no other reasonable disposal methods are available. Reasonable disposal options include, ~~but are not limited to,~~ hauling the waste to a nearby treatment plant ~~which~~ that will accept the septage in accordance with sub. (2). ~~Land applicators~~ Businesses using land application for disposal shall obtain special written approval in advance from the department for specific sites ~~which~~ that may be used for emergency situations. In addition, all of the following restrictions, at a minimum, will apply:

2. ~~Waste~~ Septage removed from septic systems non-holding tank POWTS due to a routine pumping may not be land applied during months when the ground is frozen or snow covered. Waste Septage removed in these pumping situations from non-holding tank POWTS shall be taken to disposed at a POTW or stored under the requirements of this chapter.

3. Except as provided ~~in under~~ par. (f), ~~waste septage~~ removed from ~~septic tanks non-holding tank POWTS~~ ~~which that~~ are regularly pumped more frequently than once every 6 months may be land applied during the months when the ground is frozen or snow covered. The restrictions ~~in under~~ par. (c) apply to the ~~land applications~~ application of this septage.

Note: During months when the ground is frozen or snow covered, the land application of waste from ~~septic systems non-holding tank POWTS~~ is strongly discouraged. During these months, hauling ~~waste septage from septic tanks non-holding tank POWTS~~ to a POTW or stored until land application can be completed on non-frozen, non-snow covered land application sites ~~is~~ are the preferred method methods of disposal.

(c) Note: During months when the ground is frozen or snow covered, the land application of wastewater septage from holding tank systems POWTS is strongly discouraged. During these months, hauling ~~wastewater septage from holding tanks tank POWTS~~ to a POTW

or stored until land application can be completed on non-frozen, non-snow covered land application sites is-are the preferred method methods of disposal.

(d) Any land application of ~~holding tank waste or septic tank waste~~ septage from holding tank POWTS or non-holding tank POWTS on frozen or snow covered ground is also subject to restrictions ~~in~~under sub. (3). Injection or incorporation may be utilized while the depth of frost is less than 4 inches.

(e) Large commercial, industrial, recreational, or residential development holding tank ~~systems~~ POWTS that singly or when added together or increased by successive additions generate 3000 gallons of septage per day or greater shall contract with a wastewater treatment facility for treatment of the septage. The contract terms shall provide assurance that the septage from the system will continually be conveyed to, and accepted, at the wastewater treatment facility. If a service area designation exists under s. 281.41 (3), Stats., the wastewater treatment facility shall amend the service area to include the commercial, industrial, recreational or residential development. The department may not indicate sufficient disposal capacity to the department of safety and professional services, until the service area adjustments have been completed and approved.

Note: By agreement and administrative code, the department of safety and professional services will not issue a plan approval for a 3000 gallons per day or greater holding tank ~~system~~ POWTS without the department's approval of the method of wastewater disposal as provided ~~in~~under s. SPS 383.22 (2) (b) 2.

(f) Disposal of wastewater from small holding tank and ~~septic tank systems~~ non-holding tank POWTS that generate less than 3000 gallons of septage per day shall be by discharge into a POTW if any of the following conditions apply:

1. The holding tank POWTS is located in the POTW's sewer service or holding tank service areas.

2. The ~~septic tank~~ non-holding tank POWTS is located in the POTW's sewer service area.

3. The holding tank POWTS is located outside the POTW's sewer service and holding tank service areas if the POTW will accept the wastewater and if the cost to the hauler is less than or equal to the costs in Table 2.

4. The holding tank POWTS or ~~septic tank~~ non-holding tank POWTS is located outside of Wisconsin and the point at which the wastewater is conveyed into the state is within 20 miles (shortest direct route by road) of a POTW that is willing to accept, treat and dispose of the wastewater at a cost of less than or equal to the amount in Table 2.

TABLE 2

Years	Maximum Fee/1000 Gallons
1996-1998	\$16.00
1999-2001	\$18.00
2002-2004	\$20.00

5. The holding tank POWTS is located within 20 miles (shortest direct route by road) of a POTW that is willing to accept, treat, and dispose of the wastewater at a cost of less than or equal to the amount in Table 2. This provision only applies to those holding tank ~~systems~~ POWTS located in any of the following counties:

SECTION 64. NR 113.07 (1) (g) is renumbered (g) (intro.) and amended to read:

NR 113.07 (1) (g) The requirement ~~in~~ under par. (f) does not apply if ~~storage has been utilized and the wastewater from small holding tank and septic tank systems will be landspread or treated and disposed of in accordance with a WPDES permit, or if the owner of the holding or septic tank is exempt from licensing under s. 281.48, Stats. any of the following conditions are met:~~

SECTION 65. NR 113.07 (1) (g) 1., 2., and 3. are created to read:

NR 113.07 (1) (g) 1. Storage has been utilized and the septage from holding tank POWTS generating less than 3,000 gallons per day and non-holding tank POWTS will be land applied in accordance with a WPDES permit.

2. Septage from holding tank POWTS generating less than 3,000 gallons per day and non-holding tank POWTS is treated and disposed of in accordance with a WPDES permit.

3. The owner of the septic tank component of the POWTS is exempt from licensing under s. 281.48, Stats.

SECTION 66. NR 113.07 (3) (a) and (b) 1. Table and 6. are amended to read:

NR 113.07 (3) LAND DISPOSAL OF SEPTAGE. (a) No business may dispose of septage by a ~~landspreading~~ land application method unless the ~~spreading~~ land application is done in accordance with this chapter and is consistent with the grade designation of the operator-in-charge.

(b) 1. Table

Textural Classification System		
Commerce	USDA	Permeability Inches/Hour
Sand	Sand Loamy Sand	Greater Than 6
Sandy Loam	Sandy Loam	2.0 - 6.0
Loam	Loam	0.6 - 2.0
Silt Loam	Silt Loam Silt	0.6 - 2.0
Clay Loam	Sandy Clay Loam Clay Loam Silty Clay Loam	0.6 - 2.0
Clay	Sandy Clay Silty Clay Clay	0.1 - 2.0

6. ~~Landspreading~~Land application vehicles shall be moving forward at all times while septage is being uniformly spread. Ponding of septage is prohibited.

SECTION 67. NR 113.07 (3) (b) 11. and 11. (Note) are repealed and recreated to read:

NR 113.07 (3) (b) 11. a. Each business proposing to use a high use field shall establish the nitrogen need of the crop to be grown as determined by the analysis of soil samples.

b. The nitrogen recommendations shall be in accordance with the University of Wisconsin - Extension bulletin A-2809 dated November 2012, which is incorporated by

reference or other soil nutrient determination and soil sampling guidance approved by the department.

Note: Copies of Bulletin A-2809 dated November 2012 are available for inspection in the offices of the department of natural resources and legislative reference bureau.

SECTION 68. NR 113.07 (3) (b) 12. Table 3 and (c) 2. are amended to read:

NR 113.07 (3) (b) 12.

TABLE 3

	Spreading	Incorporation	Injection
Minimum depth from surface to bedrock and groundwater	3.0 ft	3.0 ft	3.0 ft
Maximum allowable slope (nonwinter non-frozen, non-snow covered)	6.0%	12.0%	12.0%
Maximum allowable slope (winter frozen, snow covered) ⁽³⁾	2.0%	N/A ⁽⁴⁾	N/A
Minimum distance to a community well	1000 ft	1000 ft	1000 ft
Minimum distance to other well ⁽⁵⁾	250 ft	250 ft	250 ft
Minimum distance to a residence, business or recreational area without permission from the owner or occupant	500 ft	500 ft ⁽¹⁾ 200 ft ⁽²⁾	200 ft
Minimum distance to a residence or business with written permission from the owner or occupant	250 ft	200 ft ⁽¹⁾ 100 ft ⁽²⁾	100 ft
Minimum distance to rural schools and health care facilities	1000 ft	1000 ft	500 ft
Minimum distance to a stream, river, pond, lake, sinkhole, flowage, ditch or wetland (greater than 6% to 12% slope)	N/A	200 ft	150 ft
Minimum distance to a stream, river, pond, lake, sinkhole, flowage, ditch or wetland (0% to 6% slope; nonwinter)	200 ft	150 ft	100 ft
Minimum distance to a stream, river, pond, lake, sinkhole, flowage or wetland (0% to 2% slope; winter frozen, snow covered) ⁽³⁾	750 ft	N/A	N/A
Minimum distance to a dry run			
Slope 0-6%	100 ft	50 ft	25 ft
Slope 6-12%	N/A	100 ft	50 ft
Minimum distance to a property line ⁽⁶⁾	50 ft	25 ft	25 ft

⁽¹⁾ If not lime stabilized but incorporated within 6 hours.

⁽²⁾ If lime stabilized and incorporated within 6 hours.

⁽³⁾ See sub. (1) (b) for further limitations on winter application.

⁽⁴⁾ "N/A" means not allowed.

⁽⁵⁾ Separation distances to non-potable wells used for irrigation or monitoring may be reduced to 50 ft. if the septage is incorporated or injected and the department does not determine that a greater distance to the wells is required to protect the groundwater.

⁽⁶⁾ The distances to property lines may be reduced with the written permission of both property owners.

(c) 2. Septage may be surface applied to hay fields after the hay has been harvested but not after the new growth of hay has reached a height of 6 inches above cut height.

SECTION 69. NR 113.07 (3) (c) 3. is repealed and recreated to read:

NR 113.07 (3) (c) 3. a. A site shall be approved by the department based on information available to the department at the time of the site request.

b. A site approval may be rescinded if information is provided or available to the department showing the information used by the department to approve a site is not consistent with the new information and the site is deemed by the department to be inadequate to protect public health and waters of the state.

c. The department may request a site to be re-reviewed when ownership issues are unclear, violations such as overapplication are identified, or other potential concerns are identified about a specific site.

d. A site that is approved by the department or by a county and meets all the separation requirements at the time of approval may not have the site approval rescinded for separation distance encroachment by residences, businesses, or recreational areas for a period of 5 years. This 5-year period shall run from the occupancy date of the encroachment.

SECTION 70. NR 113.07 (3) (d) 1. a. and b. are amended to read:

NR 113.07 (3) (d) 1. a. The site restrictions ~~in~~under subd. 2. shall be met when septage is applied to agricultural land, forest, or a reclamation site;~~or~~.

b. The pH of septage applied to agricultural land, forest, or a reclamation site shall be raised to ~~12~~ 12.0 or higher by alkali addition and, without the addition of more alkali, shall remain at ~~12~~ 12.0 or higher for 30 minutes, and the site restrictions ~~in~~under subd. 2. a. to d. shall be met. When this option is utilized, each container of septage ~~which~~that is applied shall be monitored for compliance.

SECTION 71. NR 113.07 (3) (d) 1. b. (Note) is created to read:

NR 113.07 (3) (d) 1. b. Note: To achieve accurate pH monitoring results use 3 lots of narrow range pH paper or strips with 3 distinct lot numbers, or calibrate pH meters frequently with appropriate buffer solutions.

SECTION 72. NR 113.07 (3) (d) 2. (intro.) and (e) 3. are amended to read:

NR 113.07 (3) (d) 2. Pathogen reduction is achieved by all of the following site restrictions:

(e) 3. The pH of septage shall be raised to ~~12~~ 12.0 or higher by alkali addition and, without the addition of more alkali, shall remain at ~~12~~ 12.0 or higher for 30 minutes. When this option is utilized, each container of septage ~~which~~that is applied shall be monitored for compliance.

SECTION 73. NR 113.08 (title) is amended to read:

NR 113.08 ~~Site evaluation and soil evaluations.~~

SECTION 74. NR 113.08 (1) is renumbered (1) (a) and amended to read:

113.08 (1) GENERAL. ~~Site evaluation~~—(a) Soil nutrient samples, when required under s. NR 113.07 (3) (b) 11., shall be collected pursuant to University of Wisconsin--Extension bulletin A-2809, dated November 2012, which is incorporated by reference, consistent with s. ATCP 50.50 (2) (d) and submitted to a department of agriculture, trade and consumer protection approved laboratory for analysis.

(b) Morphological soil evaluations shall be conducted by a soil scientist.—~~Site evaluations are under sub. NR 113.03 (64m), subject to all of the following requirements:~~

1. Morphological soil evaluations are required for any of the following:

Higha. High use fields.

b. Low use fields when detailed soil conservation or survey maps are not available, ~~shall have a site evaluation conducted.~~

c. When there are conflicting results of soil conservation or soil maps.

2. The evaluation shall include soil conditions, and properties, and permeability, available water capacity, depth of zones of soil saturation, depth to bedrock, slope, topography, ~~all~~ setback requirements, and the potential for flooding.

3. Evaluation data shall be reported on forms acceptable to the department and signed by the soil scientist. Reports shall be filed with the department for all sites investigated within 30 days of evaluation completion ~~of testing~~. No evaluation data may be omitted from reporting.

SECTION 75. NR 113.08 (1) (a) (Note) is created to read:

NR 113.08 (1) (a) Note: Copies of Bulletin A-2809, dated November 2012, are available for inspection in the offices of the department of natural resources and legislative reference bureau.

SECTION 76. NR 113.08 (1) (Note) is repealed.

SECTION 77. NR 113.08 (2) (a) is amended to read:

NR 113.08 (2) (a) Low use fields ~~in~~ for which ~~no~~ limited soil information is available are required to have soil borings.

SECTION 78. NR 113.08 (2) (c) and (3) are created to read:

NR 113.08 (2) (c) Additional soil borings may be required by the department when limited soil information exists or when soils information is determined to be insufficient.

(3) SOIL SATURATION DETERMINATIONS. Soil saturation determinations may only be conducted and reported by an individual who is a soil scientist unless an alternative method is approved by the department.

SECTION 79. NR 113.09 (1) is renumbered (1) (b) and amended to read:

NR 113.09 Application rates. (1) GENERAL. (b) ~~Septage shall~~ may only be applied ~~only~~ to agricultural lands and may not be applied at rates ~~which~~ that will supply available nitrogen at amounts greater than the agronomic need for the crop grown as calculated ~~by~~ under sub. (4).

(c) Yearly loading rates listed in Table 4 may be used if the crop grown on a low use field requires 100 lbs-N/ac or more. If the crop requires less than 100 lbs-N/ac, the loadings shall be reduced in accordance with the equation ~~in~~ under sub. (4).

SECTION 80. NR 113.09 (1) (a) is created to read:

NR 113.09 (1) (a) Land application to a site may not exceed the maximum hydraulic loading rates specified in Table 4 or nitrogen needs of the crop.

SECTION 81. NR 113.09 (2) is amended to read:

NR 113.09 (2) HIGH USE FIELDS. The volume of septage applied annually on a high use field may not exceed the amount calculated under sub. (4) ~~which~~ that is necessary to supply the nitrogen needs of the crop to be grown, as determined by the analysis of soil samples. The nitrogen crop needs shall be based on the ~~university of Wisconsin extension~~ University of Wisconsin-Extension bulletin A-2100, dated April 1991 ("~~soil information sheet~~") ~~A-2809~~ nutrient application guidelines for field, vegetable and fruit crops in Wisconsin, dated November 2012, which is incorporated by reference and soil samples shall be collected based on the university of Wisconsin extension bulletin A-2100, sampling soils for testing, dated January 2013, which is incorporated by reference or guidance approved by the department, except as allowed ~~in~~ under sub. (3).

SECTION 82. NR 113.09 (2) (Note) is created to read:

NR 113.09 (2) Note: Copies of Bulletin A-2100, dated January 2013, and Bulletin A-2809, dated November 2012, are available for inspection in the offices of the department of natural resources and legislative reference bureau.

SECTION 83. NR 113.09 (4) is amended to read:

NR 113.09 (4) ANNUAL AGRONOMIC RATE. For the purpose of implementing this section, septage may not be applied at a rate that exceeds the following:

$$\begin{array}{l} \text{Annual Agronomic Rate} \quad = \quad \text{Pounds of Nitrogen Required} \\ \text{(Gallons per acre per year)} \quad \quad \quad \text{For the Expected Crop Yield per Acre} \times 0.0026 \end{array}$$

SECTION 84. NR 113.09 (4) (Note 1) and (Note 2) are created to read:

NR 113.09 (4) Note: Under the federal nitrogen-hydraulic formula this estimates 2.5 lbs of nitrogen per 1000 gallons of septage.

Note: The landowner or farmer may be subject to compliance with s. ATCP 50.04 (3) and s. NR 151.07. Any application of nutrients shall be consistent with nutrient management plans under these state requirements and with any local requirements.

SECTION 85. NR 113.09 (5) is repealed and recreated to read:

NR 113.09 (5) MAXIMUM WEEKLY LOADING OF NON-GREASE INTERCEPTOR WASTE. (a) *Weekly hydraulic rates.* The maximum weekly hydraulic loading rate of septage application shall be limited by soil characteristics, and application method. The maximum weekly hydraulic loading rate is limited to 13,000 gallons per acre per week except that injection and incorporation on sites of 6 percent slope or less may be increased as follows:

1. For sites with predominately sandy loam, loam and silt loam, the weekly application rate may be increased with department approval to 27,000 gallon per acre per week.
2. For sites with predominately clay loam, the weekly application rate may be increased with department approval to 20,000 gallon per acre per week.
3. Prior to hydraulic application of septage greater than 13,000 gallons per acre per week, the licensee or WPDES permit holder shall submit a written request to the department for an increase in weekly hydraulic loading. The request shall include supporting information and be submitted under s. NR 113.11 (1).

4. After receiving a written request for an increased weekly hydraulic application rate from an applicant, the department shall determine the predominant soil texture at that site and evaluate if an increased weekly hydraulic loading rate is supported. The department, when making the determination of predominate soil texture, shall ensure the predominate soil texture within the top 12 inches of the soil profile and within the top 36 inches of the soil profile. The department shall document the evaluation in writing and provide the evaluation to the licensee or WPDES permit holder.

5. When weekly application rates are approved by the department for greater than 13,000 gallon per acre per week, the department may require a management plan.

(b) *Ponding Prohibited.* Ponding of septage shall be prohibited.

SECTION 86. NR 113.09 (6) is renumbered NR 113.09 (6) (ag) and amended to read:

NR 113.09 (6) GREASE INTERCEPTORS. (ag) Waste from grease interceptors shall be disposed of at a department licensed sanitary landfill, discharged for treatment at a WPDES permitted POTW, land applied, or disposed or treated through some other department approved method.

SECTION 87. NR 113.09 (6) (a) is renumbered NR 113.09 (6) (ar).

SECTION 88. NR 113.09 (6) (b) Table 4 is amended to read:

NR 113.09 (b) (table 4)

	Maximum Weekly Hydraulic Loading ³		Low Use Field ² Yearly Hydraulic Loading		High Use Field Yearly Hydraulic Loading
	Gal/Ac	Inches	Gal/Ac	Inches	
Septic Tank Non-Holding Tank POWTS Wastewater	13000 ³	1/2	39000	1-1/2	Loading is based on crop requirements ¹
Septic Tank Non-Holding Tank POWTS Wastewater (75% or More) with Grease Trap	13000 ³	1/2	39000	1-1/2	"

Wastewater (25% or Less)					
Holding Tank POWTS Wastewater	13000 ³	1/2	39000	1-1/2	"
<u>Holding Tank Non POWTS Wastewater</u>	<u>13000³</u>	<u>1/2</u>	<u>39000</u>	<u>1-1/2</u>	<u>"</u>
Holding Tank POWTS Wastewater (75% or More) Grease Trap Wastewater (25% or Less)	13000 ³	1/2	39000	1-1/2	"
Grease Trap Wastewater (All or Greater than 25% of a Mixed Load of Septage)	4300	1/6	12900	1/2	N/A

1 The maximum annual hydraulic loading that will be permitted for any high use field will be based on the annual agronomic application rate computed by using the formula in sub.(4).

2 If the crop grown on a low use field requires less than 100 lbs N/ac, the max. annual hydraulic loading that is permitted is based on the annual agronomic application rate in sub.(4).

3 Weekly application rates may be increased over the standard rate of 13,000 gallon per acre per week under sub. (5) (a).

SECTION 89. NR 113.10 (2) (intro.), (a), (c), (d), (e), (f), (3) (intro.), (a) and (b) are amended to read:

NR 113.10 (2) A county request shall include all of the following:

- (a) A complete description of the proposed county-wide program;
- (c) Plans for personnel, budget, equipment, records system, and forms;
- (d) Authority and capability to regulate and enforce the proposed regulatory program;
- (e) A description of the mechanism for generating money to finance the regulatory program;
- (f) A description of the records system, which shall include field locations, field tests, field owners, field users, loading rates, county inspection, annual field licenses, and enforcement actions; ~~and.~~

(3) The department shall complete all of the following:

(a) Investigate the capability of the county to successfully implement the proposed regulatory program;

(b) Approve, conditionally approve, or deny the proposed county regulatory program. Department action shall be based on the county's capability to successfully implement the proposed regulatory program;

SECTION 90. NR 113.10 (3) (c) is renumbered 113.10 (3m) and amended to read:

113.10 (3m) ~~(e)~~ ~~In~~ The department may in no case delegate authority for the issuance of WPDES permits for the management of septage storage facilities, under s. NR 113.12 or centralized septage treatment facilities under ch. NR 204; and,

SECTION 91. NR 113.10 (5) is amended to read:

NR 113.10 (5) No county may direct the disposal of wastewater from large holding tank ~~systems~~ POWTS from a POTW that is presently accepting the wastewater for treatment to another POTW without the consent of both ~~POTW's~~ POTWs and the owner of the holding tank ~~system~~ POWTS.

SECTION 92. NR 113.11 (1) (intro.) and (c) are amended to read:

NR 113.11 (1) SITE INFORMATION. Businesses shall only apply septage to land application sites that meet the requirements of this chapter. Each business disposing of septage to a land application site shall, at least 7 days prior to using a disposal a land application field site, submit all of the following to the department or its designee:

(c) Completed ~~department~~ land application site and evaluation ~~form~~ reports.

SECTION 93. NR 113.11 (1) (cg), (cr) and (cr) (Note) are created to read:

NR 113.11 (1) (cg) Proof of ownership of property and a landowners' signed statement accepting septage onto the site.

(cr) Completed department land application site request form 3400-053.

Note: The land application site request form is available by contacting the Department of Natural Resources, Water Quality Bureau, P.O. Box 7921, Madison, WI 53707-7921 or by making a request through a regional septage coordinator.

SECTION 94. NR 113.11 (2) (a), (b) and (c) are amended to read:

NR 113.11 (2) EXCEPTION TO THE 7-DAY SUBMITTAL REQUIREMENT FOR FARMS. (a) ~~A licensed business may service and spread wastewater on the farm where the septage was generated without prior field approval~~ farmer who generates septage from a septic tank may land apply the septage from that septic tank generated on that farm provided the farm has proven to the department that adequate land is available for land application under s. 281.48 (4m), Stats.

(b) ~~A business farmer may spread land apply only on soils land~~ that meets the requirements of this chapter and s. 281.48 (4m), Stats.

(c) ~~Each vehicle operator~~ The farmer shall record in the log book system all information required by the department under sub. (3) (b).

SECTION 95. NR 113.11 (2) (d) and (e) are created to read:

NR 113.11 (2) (d) The farmer shall comply with all applicable statutes and rules in removing and disposing of septic tank waste under s. 281.48 (4m), Stats.

(e) The farmer shall report to the governmental unit under s. 145.01 (5), Stats., or designated agent all servicing events under s. SPS 383.55. Service event reporting requires providing the governmental unit or designated agent with a registration number. The non-commercial registration number is provided by the department when the farmer proves to the department that sufficient land is available under s. 281.48 (4m), Stats.

SECTION 96. NR 113.11 (3) (intro.), (a) and 1. (Note) are amended to read:

NR 113.11 (3) RECORD KEEPING AND REPORTING INFORMATION. Each business engaging in septage servicing shall submit or keep all of the following information on department approved forms, as indicated in this subsection, and submit it to the department or its designee:

(a) *Annual submittals for land application.* An annual land application report that includes all of the following shall be submitted annually to the department, on electronic forms provided by the department by January 31, following the calendar year in which land application occurs. ~~Information to be submitted includes, but is not limited to, the following:~~

1. Note: Department form 3400-55 is provided ~~shall be used~~ for this purpose. ~~Form 3400-55 will be mailed to each licensed business on an annual basis. Forms may also be obtained at no charge by writing: Department of Natural Resources, Bureau of Watershed Management, P. O. Box 7921, Madison, WI 53707-7921. The licensed septage business shall complete the online form generated for each business is accessed through the Wisconsin web access management system (WAMS) and using DNR switchboard identification information issued to the business.~~

SECTION 97. NR 113.11 (3) (a) 3. is renumbered 3. is amended to read:

NR 113.11 (3) (a) 3. ~~For high use fields, actual annual~~ Annual nitrogen application rate in pounds per acre. ~~Application~~

3m. Documentation of the application of nutrients from all other sources ~~shall be documented.~~

SECTION 98. NR 113.11 (3) (a) 5. is created to read:

NR 113.11 (3) (a) 5. Any other information required by the department.

SECTION 99. NR 113.11 (3) (b) (intro.) and 3. (Note) are amended to read:

NR 113.11 (3) (b) *Annual submittals for other methods of septage disposal.* An other method of disposal or distribution report that includes all of the following shall be submitted annually to the department on electronic forms provided by the department by January 31, following the calendar year in which the disposal of septage occurs. ~~Information to be submitted includes, but is not limited to, all of the following:~~

3. Note: Department form 3400-52 is provided ~~shall be used~~ for this purpose. ~~Form 3400-55 will be mailed to each licensed business on an annual basis. Forms may also be obtained at no charge by writing: Department of Natural Resources, Bureau of Watershed Management, P.~~

~~O. Box 7921, Madison, WI 53707-7921. The licensed septage business shall complete the online form generated for each business is accessed through the Wisconsin web access management system (WAMS) and using DNR switchboard identification information issued to the business.~~

SECTION 100. NR 113.11 (3) (b) 4. is created to read:

NR 113.11 (3) (b) 4. Any other information required by the department.

SECTION 101. NR 113.11 (3) (c) is renumbered (c) (intro.) and amended to read:

NR 113.11 (3) (c) *Vehicle log book or invoice records system.* Each licensed business and any person who services a septage system shall keep all of the following records and make these records available to department representatives upon request:

SECTION 102. NR 113.11 (3) (c) 2. is renumbered 2. (intro.) and amended to read:

NR 113.11 (3) (c) 2. ~~Daily~~ Vehicle copies of daily log books and invoice records systems shall meet any of the following requirements:

a. Daily log books and invoice records systems shall be kept in the vehicle for a minimum of 2 days after servicing a system, except as provided under this subd. 2. b.

SECTION 103. NR 113.11 (3) (c) 2. b. is created to read:

NR 113.11 (3) (c) 2. b. Daily log books and invoice records systems are not required for vehicles solely used for servicing portable restrooms when those records are available at the business location and are made available to the department representatives upon request.

SECTION 104. NR 113.11 (3) (c) 3. (intro.), a., g., h. and i. are amended to read:

NR 113.11 (3) (c) 3. Daily log books and invoice records systems shall, at a minimum, contain all of the following information:

a. ~~Name, and address or location of system serviced.~~ address, and identifying description of service location.

g. Written certification by the designated operator-in-charge ~~regarding the pathogen and vector attraction reduction requirements. The certification statement shall read as follows: “I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements [insert either NR 113.07 (3) (d) 1. a. or NR 113.07 (3) (d) 1. b.] and the vector attraction reduction requirement in [insert NR. 113.07 (3) (e) 1., NR 113.07 (3) (e) 2., or NR 113.07 (3) (e) 3.] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification.” This requirement may be satisfied by having the certification statement on annual year to date loading summaries for each site and vehicle operator as required under subd. 7.~~

h. A description or SOP of how the pathogen reduction requirements are met.

i. A description or SOP of how the vector attraction reduction requirements are met.

SECTION 105. NR 113.11 (3) (c) 7. (intro.), a., b., 8. and 9. are created to read:

NR 113.11 (3) (c) 7. The written certifications of daily logs and invoice system shall include any of the following, as applicable:

a. For businesses that land apply septage for disposal purposes, the certification statement shall read as follows: “I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements under [insert either NR 113.07 (3) (d) 1. a. or NR 113.07 (3) (d) 1. b.] and the vector attraction reduction requirement under [insert NR. 113.07 (3) (e) 1., NR 113.07 (3) (e) 2., or NR 113.07 (3) (e) 3.] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. Further, the information recorded is true and accurately portrays servicing and disposal activities as required pursuant to ch. NR 113, Wis. Adm. Code, where this information has been prepared under my direction and supervision. I am aware that there are significant penalties for false certification.”

b. For businesses that do not land apply septage for disposal purposes, the certification statement shall read as follows: “I certify, under penalty of law, that the information recorded has been prepared under my direction and supervision to ensure that qualified personnel properly

gather and evaluate this information. Further, the information recorded is true and accurately portrays servicing and disposal activities as required pursuant to ch. NR 113, Wis. Adm. Code. I am aware that there are significant penalties for false certification.”

8. The certification statement shall be signed and dated for each day’s logs and records. This requirement may be satisfied by having a signed and dated certification statement accompany all daily logs and on annual year-to-date loading summaries.

9. Daily logs, other records, and additionally required information may be maintained in electronic format by the business and, if used, shall meet the requirements of this chapter.

SECTION 106. NR 113.12 is repealed and recreated to read:

NR 113.12 Septage storage facilities. (1) GENERAL. (a) *Applicability.* The owner or operator of a septage only storage facility shall adhere to the requirements of this chapter. The owner or operator of a storage facility that stores septage mixed with other wastes or materials shall adhere to the requirements of this chapter in addition to the regulations that apply to those other wastes.

(b) *Compliance with this chapter.* The owner or operator of a septage storage facility shall comply with the provisions of this chapter unless specifically exempted by provisions of this section.

(c) *Storage duration.* No business or person may store septage for longer than 2 years.

(d) *WPDES permit requirement.* The department may on a case-by-case basis determine that the owner or operator of a septage storage facility shall obtain a WPDES general permit coverage, obtain a specific WPDES permit or modify an existing WPDES permit when the department determines it to be necessary to protect public health or the environment under sub. (5).

(2) APPROVALS REQUIRED PRIOR TO USE. Prior to receiving septage, the owner or operator of a septage storage facility, unless exempted by rule or statute, shall obtain all of the following:

(a) Department plan and specification conditional approval or conditional acceptance of the storage facility.

(b) A WPDES permit or WPDES general permit coverage, if required under sub. (1) (d).

(c) A department approved spill plan under sub. (7) (a).

(d) A department approved management plan under sub. (7) (a).

(e) Department approval of land application sites submitted under NR 113.11 in conformity with this chapter if disposal of septage will include land application.

(3) PLAN AND SPECIFICATION REQUIREMENTS-GENERAL. Prior to use, the owner or operator of a septage storage facility shall obtain a department plan and specification conditional approval or conditional acceptance and meet all of the following additional requirements as applicable:

(a) *Septage facilities approved prior to the effective date of this rule order [LRB inserts date].* A storage facility approved before the effective date of this rule order [LRB inserts date] that receives only septage and possesses written approval from the department may continue in operation. Within 24 months after the effective date of this rule order [LRB inserts date], the facility shall provide to the department all of the following:

1. A department approvable spill plan in conformance under sub. (7).

2. A department approvable management plan in conformance under sub. (7).

3. If available, a copy of the construction inspection report. If this report is unavailable, the facility owner or operator shall provide an inspection report completed by a qualified inspector for each storage unit completed within the last 2 years.

(b) *Transfer ownership of previously approved septage storage facilities.* A septage only storage facility for which the department has issued written approval may continue in operation after the transfer of ownership and upon the new owner of the septage storage facility completing all of the following:

1. Within 15 days of ownership transfer notifying the department of the change of ownership and provide contact information including legal entity name, address, phone number and email address.

2. Within 15 days of ownership transfer providing to the department a copy of the plan and specification approval, conditional approval, or acceptance.

3. Within 60 days of ownership transfer, submitting to the department all of the following:

a. A spill plan in conformance with sub. (7) (a).

b. A management plan in conformance with sub. (7) (d).

c. A reevaluation inspection report in conformance with sub. (6).

d. If available, a copy of the construction inspection report under (6) (a). If this report is unavailable, the facility owner shall provide an inspection report completed by a qualified inspector for each storage unit completed within the last 2 years.

e. Department approval of land application sites submitted under NR 113.11 in conformity with this chapter if disposal of septage will include land application.

(c) *Proposed new septage storage facilities.* The owner or operator of a septage storage facilities constructed after the effective date of this rule order [LBR inserts date] shall adhere to all of the following requirements:

1. A septage structure constructed after the effective date of this rule order [LBR inserts date] shall be designed and constructed to the requirements under ch. NR 110 unless exempted under par. (d).

2. The separation distances shall meet the requirements under sub. (4).

3. Plans and specifications shall be submitted to the department for review and approval.

4. Within 60 days of construction completion and prior to use, the owner or operator of the septage storage facility shall submit to the department all of the following:

- a. A spill plan in conformance with sub. (7) (a).
- b. A management plan in conformance with sub. (7) (d).
- c. A copy of the construction inspection report in conformance with sub. (6).

(d) *Exemptions from ch. NR 110 for septage storage facilities constructed after the effective date of this rule order*[LRB inserts date]. The department may issue exemptions from the design and submittal requirements of ch. NR 110 for a septage storage facility constructed after the effective date of this rule order [LRB inserts date] when the new septage storage facility meets all of the following:

1. The proposed septage storage facility possesses a maximum capacity of 50,000 gallons or less when singly or added together, and located on the same parcel.

2. The proposed septage storage facility includes only tanks approved under ch. SPS 384.

3. All storage tank installations comply with the applicable sections of the DSPPS holding tank component manual that is in effect at the time of installation and ch. SPS 384.

4. The exemption application to the department shall include all of the following:

a. A completed application providing facts as required by the department.

b. A septage storage plan index and cover sheet that is properly signed, dated and properly labeled with page numbers. The index and cover sheet shall be included with submittal by a registered designer of plumbing system, master plumber, master plumber restricted, or professional engineer.

c. A copy of the tank DSPPS tank approval letter.

d. DSPPS approved tank plans and specifications.

e. Design and Layout. Plans including design plans and layout that clearly indicate existing and proposed tank locations, buildings and building uses, driveways, property boundaries, wells, waterbodies, slopes, driveways, supplementary equipment such as screens, filters, refuse receptacles, receiving station, land uses in the vicinity, and any other relevant information as deemed necessary by the department. The north arrow shall be included for orientation. The drawing shall be drawn to scale and indicate the scale. If using an index sheet, the index sheet shall indicate each page and page number, total number of pages, the name of the submitter, the submitter's signature, and the date of submittal. Each additional page shall be clearly numbered.

f. A design report that includes plans and specifications for all septage storage facilities. The design report shall show calculations used to design the septage storage facilities. The report shall show proof that the designer considered factors relevant in preparing the plans and specifications. Factors include all of the following: volume of septage, types of septage, screen for debris, degree or extent of mixing, any lime addition and mixing for meeting vector attraction reduction, sediment removal, odor controls, pumps for removal, and other factors as necessary to provide an adequate description of the storage facility. The design report shall be included with submittal by the registered designer of plumbing system, master plumber, master plumber restricted, or professional engineer.

g. A statement from the owner that indicates the tank is not part of a private onsite water treatment system that discharges to the waters of the state.

(e) *Delegation of Review Authority.* The department shall not delegate review authority for septage storage facilities to counties or other local governmental entities.

Note: See ss. 281.41 and 281.48, Stats., and s. NR 113.10. Governmental units responsible for regulation of private onsite wastewater treatment systems as defined under s. 145.01 (5), Stats., do not possess the regulatory authority under s. 145.20, Stats., for septage storage as septage storage is not defined as a private onsite wastewater treatment system under s. NR 145.01 (12).

(f) *Proposed conversion of existing storage facility to septage only storage facility.* When an owner or operator of an existing storage facility proposes to convert the storage facility to septage storage, the storage facility shall adhere to all of the following prior to use:

1. The existing storage facility, after modifications if necessary, shall adhere to all of the requirements under ch. NR 110.

2. The department may allow exemptions from ch. NR 110 design standards and materials requirements if all of the following conditions are met:

a. The owner or operator can demonstrate that the design standards and material requirements are more stringent than necessary to comply with the provisions of ch. NR 140 and chs. 160 and 283, Stats. The owner or operator shall justify such an exemption from the design standards and material requirements by demonstrating the alternative design will not contribute to the exceedance of applicable groundwater and surface water standards.

b. The department shall consider all of the following factors when reviewing an alternative design in consideration of granting an exemption: physical characteristics of the site, such as soil texture, soil permeability, depth to groundwater, and depth to and type of bedrock; age and condition of the existing structure; analytical data from existing groundwater monitoring wells or any that may be installed as part of the demonstration; the quantity and composition of the materials stored or treated at the facility; the compatibility between the materials stored or treated at the facility; proximity of storage to surface waters, secondary containment, and any other information relevant to the environmental impacts of the facility's operations.

3. The owner or operator of the storage facility may request an exemption from the design standards and material standards by submitting facts to the department in the application for plans and specifications.

4. The separation distances shall meet the requirements under sub. (4).

5. Plans and specifications shall be submitted to the department for review and acceptance.

6. Prior to use of the septage storage facility the owner or operator of the septage storage facility shall submit to the department all of the following:

a. A spill plan in conformance with sub. (7) (a).

b. A management plan in conformance with sub. (7) (d).

c. A conversion inspection report in conformance with sub. (6).

d. A report of department approved land application sites if disposal of septage will include land application.

7. Prior to use, the owner or operator of the septage storage facility shall submit to the department a report indicating that any deficiencies identified in the conversion inspection report were corrected.

(g) *Proposed conversion of manure storage facility to a storage facility mixing septage with manure.* When the owner or operator of an existing manure storage facility proposes to accept septage into the manure storage facility, all of the following requirements shall apply:

1. Septage may not be stored in the manure storage facility if the storage facility is located under a building where animals are housed.

2. Septage may not be mixed or stored with manure at a dairy farm regulated under ch. ATCP 65.

Note: Section ATCP 65.22 (6) (c) prohibits the mixing of human waste or septage with animal manure on a dairy farm.

3. The septage-manure mixture is subject to all ch. ATCP 50 requirements.

4. The septage-manure mixture shall comply with the requirements under county land and water conservation ordinance requirements and local ordinance requirements together with all of the following requirements:

a. The existing manure storage facility shall adhere to all applicable design standards and material requirements under U.S. department of agriculture, natural resources conservation service, code 313, NRCS standard 313, dated May 2016, or equivalent. The owner or operator of the manure storage facility shall collect records from the county land and water conservation department and submit those documents to the department for review and acceptance.

Note: Copies of Bulletin NRCS Standard 313, May 2016 are available for inspection in the offices of the department of natural resources, and U.S. Department of Agriculture, Natural Resources Conservation Service Code 313. NRCS 313 can be downloaded at the following link: https://www.nrcs.usda.gov/wps/PA_NRCSCConsumption/download?cid=stelprdb1254945&ext=pdf.

b. The owner or operator of the manure storage facility shall provide evidence to the department that the addition of septage to the manure storage structure is not contrary to county manure storage structure requirements and that enough acreage exists for compliance with county land and water conservation nutrient management requirements.

c. The manure storage facility shall provide a copy of an inspection report to the department under s. NR 113.12 (6) (d).

5. The septage storage shall adhere to the requirements under ch. NR 110.

6. The department may allow exemptions from the ch. NR 110 design standards and materials requirements under par. (h).

7. The separation distances shall meet the requirements under sub. (4).

8. The department shall review and accept an operations report from the facility that shows the septage and manure mixture is protective of public health and the environment. The operations report shall include all of the following:

a. The location of the facility.

b. The type and volume of the storage facility including construction and sealing details.

c. Sufficient site characteristics information to evaluate the environmental impact and suitability of the waste storage.

d. The name and address of the owner and operator of the storage facility.

e. Any contractual arrangements involved.

f. The type and composition of any wastes other than septage to be stored at the facility.

g. Sampling and analysis results of the combined waste in accordance with requirements of a WPDES permit or as required to provide nutrient analysis to comply with management planning requirements under ch. ATCP 50.

h. The methods to be used for land application the septage-manure mixture.

9. The owner or operator of the septage-manure storage facility shall determine the volume of septage to be placed into the manure storage facility and a calculation of the percentage of septage to manure. Upon determination, the following requirements apply:

a. If septage makes up 10 percent or more of the septage-manure mixture in the storage facility, or if there are greater than 50,000 gallons of septage in the septage-manure mixture, then the facility owner or operator shall submit a certification statement and corresponding documentation that the facility owner or operator land applies the entire contents of the storage facility in accordance with this chapter.

b. If septage makes up less than 10 percent of the mixture in the storage facility and there are 50,000 gallons or less of septage in the mixture storage facility, the septage shall be treated with lime or alkali prior to mixing with the manure to meet pathogen control and vector attraction reduction requirements of this chapter.

(h) *Exemptions from ch. NR 110 for converting combined septage and manure storage facilities.* 1. Exemptions from the design and submittal requirements under ch. NR 110 may be allowed by the department for converting manure storage into combined manure and septage storage facilities if the owner or operator can demonstrate that the design standards and material requirements are more stringent than necessary to comply with the provisions under ch. NR 140

and chs. 160 and 283, Stats. The owner or operator shall justify such an exemption from the design standards and material requirements by demonstrating the alternative design will not exceed applicable groundwater and surface water standards.

2. The department may consider any of the following factors when reviewing an alternative design in consideration of granting an exemption under this paragraph:

a. Physical characteristics of the site, such as soil texture, soil permeability, depth to groundwater, and depth to and type of bedrock.

b. Age and condition of existing structures.

c. Analytical data from existing groundwater monitoring wells or any that may be installed as part of the demonstration.

d. The quantity and composition of the materials stored or treated at the facility.

e. The compatibility between the materials stored or treated at the facility.

f. Any other information relevant to the environmental impacts of the facility's operations.

3. The owner or operator of the storage facility may request an exemption from the design standards and material standards by submitting facts to the department in the application for plans and specifications.

(i) *Delegation of Review Authority.* The department may not delegate review authority for septage storage facilities to counties or other local governmental entities.

(4) PLAN AND SPECIFICATION REQUIREMENTS--SEPARATION DISTANCES. (a) *Separation Distances.* When evaluating septage storage facilities, the owner or operator of the storage facility shall ensure the separation distances for septage storage adhere to the requirements under ch. NR 110 at the time of construction except as provided as provided under pars. (b) and (c).

(b) *DSPS Approvals.* Tanks approved by DSPS under ch. SPS 384 with a maximum capacity of 50,000 gallons or less singly or when added together shall meet the separation

requirements under ch. SPS 383 and be consistent with any DSPS approved component manual at the time of construction.

(c) *Conversion of use.* Conversion of existing storage facilities to septage storage facilities shall meet the separation requirements under ch. NR 110. Case-by-case exemptions under s. NR 110.04 may be approved by the department when the owner or operator of the septage storage facility is able to show adequate protections are available to protect public health and the environment.

Note: Well and water supply setback requirements are located under chs. NR 811 and 812.

(5) WPDES PERMIT REQUIREMENTS. (a) *WPDES permit requirement.* Except as provided under par. (b), no septage storage facility may be operated until the department issues a WPDES permit to the owner or operator, or the department notifies the owner or operator that a WPDES general permit coverage covers the facility.

(b) *WPDES permit exemptions.* 1. On a case-by-case basis, the department may require a septage storage facility to obtain a WPDES permit for violations of this chapter or to protect public health, groundwater, and surface waters.

2. A WPDES permit is not required for septage only storage facilities when all of the following occur:

- a. The storage unit is owned and operated by a licensed septage business.
- b. When singly or when added together, the septage storage capacity is less than or equal to 550,000 gallons.
- c. The septage storage facility submits plans and specifications to the department in conformance with sub. (3) and receives department conditional approval or conditional acceptance.
- d. The septage storage facility complies with all other applicable requirements of sub. (3).

3. A WPDES permit is not required for septage-manure storage facilities when all of the following occur:

a. Septage makes up 10 percent or less of the septage-manure mixture in the storage facility and there are 50,000 gallons or less of septage in the septage-manure storage facility.

b. The septage is treated with lime or alkali prior to mixing with manure to meet pathogen control and vector attraction reduction requirements under s. NR 113.07 (3) (d) and (e).

c. The department provides in writing that a WPDES permit is not required to the applicant.

(c) *Required for operation.* No septage storage facility may operate until a WPDES permit has been issued to the owner or operator of the facility, the department notifies the owner or operator that a WPDES general permit coverage covers the facility, or that a WPDES permit is not required.

(6) INSPECTIONS, INSPECTION REPORTS, FREQUENCY. (a) *Construction inspection and report.* During construction of a septage storage facility a qualified person shall observe and review the installation. Upon completion, the qualified person shall develop and submit a construction inspection report to the department verifying the storage facility was installed according to the plans and specifications conditionally approved by the department under par. (2) (a). The construction report shall indicate any deviations from the plans and specifications and include information relating to any difficulties experienced during construction. When deviations from plans and specifications occurred or difficulties were experienced, the report shall include an evaluation by the qualified designer or engineer as to the impacts upon the integrity of the storage facility and address any deficiencies. The report shall be approved by the department prior to any use of the septage storage facility. The report shall contain information establishing the qualification of the person to adequately evaluate the integrity of the storage facility.

(b) *Reevaluation inspection and report.* 1. The owner or operator of a septage storage facility shall complete a reevaluation inspection once every 10 years.

2. The owner or operator of each septage storage facility shall have the septage storage facility reevaluated by a qualified person. The reevaluation inspection shall include an in-depth inspection of the multiple components of the septage storage facility including piping, valves, tank integrity, foundation, receiving facilities, and mixing facilities. If the facility is a lagoon, the lagoon shall comply with the sealing requirements under s. NR 110.24. The findings of the reevaluation inspection shall be compiled into a report. The report shall be submitted to the department. The report shall contain information establishing the qualifications of the inspector to adequately evaluate the integrity of the storage facility.

3. The owner or operator of the septage storage facility shall report in writing to the department any deficiencies and identify plans and timeframes to correct the deficiencies identified by a reevaluation inspection under this paragraph. A qualified inspector shall verify that deficiencies have been corrected and communicate that information to the department in writing. The owner or operator shall indicate to the department in writing if the septage storage will be removed from service immediately.

4. The owner or operator of the septage storage facility shall provide regular and timely communication to the department until the septage storage facility is remedied or permanently abandoned.

(c) *Maintenance inspections and reporting.* 1. The owner or operator of the septage storage facility, or another person qualified to inspect the septage storage facility that is designated by the owner or operator of the septage storage facility, shall inspect each septage storage facility as part of ongoing maintenance of the septage storage facility. Each inspection shall include observations and recording of all of the follows:

- a. Any evidence of tank leakage.
- b. Any evidence of pipe or valve leakage.
- c. Missing equipment including caps or plugs.
- d. Any evidence of visible cracks or rusting that indicate future potential issues.

e. Disappearance of volumes of septage within the septage storage facility.

2. Maintenance inspections under subd. 1. shall be conducted and recorded monthly.

3. The owner or operator of the septage storage facility shall notify the department within 30 days of becoming aware of findings that require the owner or operator to minimize or prevent the likelihood of any adverse impacts to public health, the waters of the state, or the environment. The owner or operator shall develop, communicate, and implement a plan to further identify and resolve any potential impacts.

(d) *Conversion inspection and report.* When an owner or operator proposes to convert an existing non-septage storage facility to a septage storage facility, a qualified inspector shall evaluate the existing facility. The evaluation shall review the existing storage facility under ch. NR 110 requirements. The evaluation shall compare the existing design with the proposed use, assess whether the existing design is compatible with septage storage, assess the structural integrity of the storage facility, determine if the storage facility will protect public health and the environment, and determine if there are any deficiencies of the existing facility that require repairs prior to using the existing storage structure. Additionally, the qualified person shall submit a report to the department, providing an assessment with the supporting information, and submit additional information collected that may be relevant to reviewing the structure. When repairs are required, a follow-up report shall be submitted to the department and indicate the repairs made and whether the repairs were made to satisfy any department concerns.

(7) ADDITIONAL REQUIREMENTS FOR ALL SEPTAGE STORAGE. (a) *Spills, spill reporting and spill plan.* The owner or operator of a septage storage facility shall conform to all of the following:

1. 'Spills and Spill Reporting.' Any spill shall be cleaned up and the area shall be restored to render it harmless to humans and animals. Spills of 50 gallons or greater shall be reported, within 24 hours, to the department by directly contacting the 24-hour spill hotline at 800-943-0003.

Note: Spill reporting shall be consistent with s. 292.11, Stats., and ch. NR 706.

2. 'Spill Plan.' A written procedure for spill and accident cleanup shall be developed prior to the use of the storage facility. The spill plan shall address examples of different types and quantities of spills, procedures, and equipment to render the spills harmless, and contact information including the DNR spills hotline for reporting purposes. The spill plan shall include contact names and contact information for individuals and businesses that will provide additional servicing vehicles and response services. A current version or copy of the written procedure shall be a part of the management plan for the storage facility under sub. (7) (d), shall be made available upon department inspection, and shall be placed and maintained in all of the following locations:

a. Included in the cab of each vehicle that discharges to the storage facility and removes septage from the storage facility.

b. Onsite at the storage facility.

(b) *Nuisance abatement.* The owner or operator of the septage storage facility shall conform to all of the following:

1. Operations shall be conducted in a manner that does not cause a nuisance or health hazard.

2. Discharge valves on tanks, piping and other equipment shall be watertight, capped when not in use, and constructed and located so as to minimize any accidental spills.

3. Hoses and piping, when not in actual use, shall be stored so as to prevent leakage or dripping of septage.

4. To minimize unsanitary conditions, solid waste receptacles shall be used and serviced when equipment including screening, lime-mixing, and other equipment are used.

(c) *Recordkeeping and reporting information.* The owner or operator of the septage storage facility shall conform to all of the following:

1. 'General.' a. Daily logs shall describe all daily activities pertaining to discharging into or out of the septage storage facility. Daily logs shall provide a clear description of daily activities.

b. Land application records shall include pathogen control and vector attraction reduction requirements, including daily records of testing results, durations, and completion times under ss. NR 113.07 and 113.11.

c. Originals of the daily log sheets and other records including influent logs shall be maintained by the septage storage facility for a minimum of 5 years and made available upon department inspection.

2. 'Influent Logs.' The septage storage facility shall record each load of septage hauled into the septage storage facility in daily logs, and include all of the following:

- a. Pick-up or service date and time.
- b. Waste type and quantity.
- c. POWTS location and name of POWTS owner.
- d. Other information as specified under s. NR 113.11(3) (c).

3. 'Daily Discharge Logs.' The septage storage facility shall maintain a daily discharge log of wastes removed from the septage storage facility. The daily discharge logs shall include all of the following information, if applicable:

- a. DNR approved site number.
- b. Type of waste applied to approved sites.
- c. Acres applied at each approved site.
- d. Gallons of waste applied to approved site.
- e. Application method approved under ch. NR 113.

f. Methods, description of those methods, and results of how pathogen control requirements are met under s. NR 113.07 (3).

g. Methods, descriptions of those methods, and results of how vector attraction reduction requirements are met under s. NR 113.07 (3).

h. WPDES permitted facility name and number or name and permit number of treatment facility if hauled out of state.

i. Gallons discharged at WPDES permitted facility.

j. Date and time of discharge.

k. Certification statement consistent with s. NR 113.07 (3).

4. 'Tracking of segregated septage wastes.' If the septage storage facility possesses the ability to separate different types of septage waste, the facility shall track and differentiate the different septage wastes individually.

5. 'Annual Reporting.' The total quantity of waste applied to any site, discharged at treatment facilities or stored at storage facilities shall be reported on annual reports under s. NR 113.11.

6. 'Outfall assignment.' The department may assign an identification number to different parts or entities of the septage storage facility and may require the septage storage facility to report discharge volumes for the septage storage facility.

(d) *Management plan.* The owner or operator of a septage storage facility shall prepare and submit for approval to the department a management plan for each septage facility. Each management plan shall meet all of the following requirements:

1. The management plan shall provide for optimizing system performance and demonstrating compliance with the requirements of this chapter. Following approval by the department, the septage storage facility shall be operated in conformance with the management plan. If the owner or operator of the septage storage facility wishes to operate differently than

specified in the approved management plan, the owner or operator shall submit a written request to the department for approval of the amendment of the management plan. The amendment approval request shall include a copy of the complete amended plan.

2. The management plan and amendments shall include all of the following:

a. Information on any pretreatment processes.

b. Site identification on plat and soil maps.

c. Aerial photographs, if available.

d. Description of all site limitations, vegetative cover management and removal, availability of storage, type of transporting and spreading vehicle, load and rest schedules, and monitoring procedures.

e. Contingency plans for periods of adverse weather.

f. Pathogen control, vector reduction, odor or nuisance abatement.

g. Any other pertinent information required by the department.

2. The operation and management of the septage storage facility and land application activities shall be consistent with and in compliance with the department approved management plan. The management plan shall be consistent with the requirements under this chapter. A copy of the management plan shall be retained by the owner and operator and be made available upon department inspection.

3. The management plan shall include all of the following:

a. The method utilized to discharge septage to the storage units.

b. The type of wastes to be land applied or disposed.

c. The record keeping system for septage being added to and removed from the storage units.

- d. The description of how septage will be mixed in the storage units.
- e. The description of how septage will be removed from the storage units.
- f. The methods and description of equipment to be used to land apply the storage facility contents.
- g. A description of procedures for regularly inspecting and maintaining each storage unit.
- h. The method to be used to track application and loading rates to ensure septage is not overapplied.
- i. Procedures describing the storage facility operation and maintenance during inclement weather.
- j. A description of procedures and equipment available to monitor and control emergency events such as a large spill.
- k. A description of the notification method and procedures that the owner or operator will use to submit to the department notifying the department 7-days prior to land application events. The department may waive the 7-day notification requirement when regular or ongoing land application events are proposed and details of the regular or ongoing land application events are included in the management plan.
- L. Notification procedures in case of spills or emergency situations.
- m. A description of the methods utilized to comply with pathogen and vector control requirements.
- n. Land application site information summaries providing acreage secured for land application and the process to secure additional acreage as needed.
- o. A description of steps the owner or operator will take to ensure that sites remain litter free, including any screening processes, litter removal from sites, and litter disposal.

p. A listing and description of any approved variances under s. NR 113.15 (4) and the circumstances in which the variances are used.

q. Additional information as required by the department relating to the operation of the facility and disposal of wastes.

(e) *Free board.* Free board for lagoons shall be 3 feet from the top of the lagoon to prevent overflowing. For all other storage structures except those approved under sub. (3) (d) 2., the septage storage facility shall maintain no less than 18 inches of free board from the top of walls to prevent overflowing the septage storage facility.

Note: Septage storage structures approved under sub. (3) (d) 2., include DSPS approved tanks. DSPS approved tanks are reviewed case by case and have differing free board.

(f) *Grit, screenings, and other waste.* Any bulky or non-organic waste that is removed from the septage storage facility during the cleanout or maintenance or any grit or screenings collected shall be properly disposed of at a licensed landfill. The landfill shall be licensed under chs. NR 500 to 538.

(g) *Abandonment.* In the event of abandonment of a septage storage facility, the owner of the septage storage facility shall be responsible for all abandonment procedures. Six months prior to abandoning the septage storage facility, the owner shall submit an abandonment plan and schedule of accomplishment to the department for its review and approval. The abandonment plan shall be in compliance with local, state, and federal rules and regulations. The owner within 12 months of the plan approval shall complete the abandonment.

(8) DEPARTMENT REQUIREMENTS. As required under s. 281.41 (1) (b), Stats., within 90 days from the time of receipt of complete plans, the department or its authorized representative shall examine and take action to approve, approve conditionally, or reject the plans and shall state in writing the department's determination of any conditions of approval or reasons for rejection and issue that determination to the applicant.

SECTION 107. NR 113.15 (1), (3) (intro.), (a), (b) and (c) are amended to read:

NR 113.15 (1) GENERAL. The department may approve a variance from the requirements of this chapter when it determines that special circumstances make compliance impractical or not in the best interests of the state and the department is satisfied that issuance of a variance will not ~~be detrimental to public health or the environment~~ contaminate any lands or waters of the state or make any lands or waters of the state injurious to public health, harmful to commercial or agricultural use, or deleterious to animal or plant life.

(3) REQUEST FOR VARIANCE. ~~A~~ An owner may submit a written request for a variance shall be submitted in writing to the department for a variance under this section. Each request for a variance shall contain all of the following:

- (a) The name, address, phone number, and business license number of the applicant;
- (b) The section of this chapter from which a variance is sought and a statement explaining why the variance is necessary;
- (c) An adequate description of the variance and the circumstances in which it will be used, including any pertinent background information ~~which~~ that is relevant to making a determination on the justification of granting the variance; ~~and.~~

SECTION 108. NR 113.15 (4) and (5) are created to read:

NR 113.15 (4) WRITTEN DETERMINATION. The department shall approve or deny the variance request in writing. The business shall retain a copy of each variance request and the department's decision.

(5) VARIANCE CANCELLATION. Violations of this chapter may result in the cancellation of a previously approved variance.

SECTION 109. NR 114.153 (3e), (Note), (3m), (3s) and (4e) are created to read:

NR 114.153 (3e) "Certified operator continuing education" means continuing education approved by the department with a focus on code compliance with chs. NR 113, 114, and other relevant provisions in the administrative code.

Note: Certified operator continuing education is commonly known in the industry as “compliance” training.

(3m) “Department” means the department of natural resources.

(3s) “Disposal” means the controlled discharge of septage to a POTW, treatment or storage lagoon, or agricultural field for the purpose of recycling nutrients back into the environment.

(4e) “Land application” or “landspreading” or “land applied” or “landspread” means the spreading of septage onto the land surface, the injection of septage below the land surface, or the incorporation of septage into the soil, so that the septage can either condition the soil or fertilize crops or vegetation grown in the soil.

SECTION 110. NR 114.153 (5), (6) and (8) are amended to read:

NR 114.153 (5) “Operator-in-charge” or “OIC” means the master operator who has been designated by the owner to be ~~in direct~~ directly responsible ~~charge~~ for the operation of the septage servicing business.

(6) “Operator-in-training” or “OIT” means a person who has been properly registered as an operator-in-training with the department by the operator-in-charge under s. NR 114.16 (2) (c).

(8) “Portable restroom servicing assistant” means a person who ~~maintains, services or transports~~ portable restrooms under the supervision of an operator-in-charge.

SECTION 111. NR 114.153 (8g) and (8r) are created to read:

NR 114.153 (8g) “Private on-site wastewater treatment system” or “POWTS” has the meaning given under s. 145.01 (12), Stats.

(8r) “Publicly owned treatment works” or “POTW” has the meaning given under s. NR 211.03 (11).

SECTION 112. NR 114.153 (9) and (10) are amended to read:

NR 114.153 (9) ~~“Septage” means the wastewater or contents of septic or holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies or portable restrooms~~ has the meaning given under s. NR 113.03 (55).

(10) ~~“Septage servicing” “Service” or “Servicing” means removing septage from a system and disposing of or recycling the septage~~ has the meaning given under s. NR 113.03 (57).

SECTION 113. NR 114.16 (2) is renumbered (2) (a) and amended to read:

NR 114.16 (2) (a) ~~An operator-in-training may engage in septage servicing for up to 12 months without being certified. After 5 years from the end of the last operator-in-training 12-month term, a person that was registered with the department as an operator-in-training may be re-registered with the department as an operator-in-training and engage in septage servicing for up to 12 months without being certified.~~

~~(b) The operator-in-training shall be considered to be doing septage servicing under the certificate of the designated operator-in-charge. The operator in charge shall notify the department, in writing, of the starting date, name and address of the operator in training and pay the operator in training fee before the person begins septage servicing. The operator-in-charge is responsible for the actions of the operator-in-training.~~

SECTION 114. NR 114.16 (2) (c) and (d) are created to read:

NR 114.16 (2) (c) The operator-in-charge shall register the operator-in-training by notifying the department, in writing, of the starting date, name, and address of the operator-in-training, pay the operator-in-training registration fee, and receive written confirmation from the department that the operator-in-training meets the requirements of registration prior to the operator-in-training beginning septage servicing.

(d) Upon receiving an operator-in-training registration request from the operator-in-charge of a licensed septage business, the department shall follow the procedures under s. NR 114.195 prior to registering the person as an operator-in-training.

SECTION 115. NR 114.17 (1) is amended.

NR 114.17 (1) The following ~~Two~~ 2 general certification grades of septage servicing operators are established-;

SECTION 116. NR 114.17 (2) is repealed.

SECTION 117. NR 114.17 (2m) is created to read:

NR 114.17 (2m) (a) The department may convert a grade L certification to a grade T certification in any of the following circumstances:

1. A grade L certified operator requests the department in writing to convert the certification to a grade T certified operator.

2. A grade L master operator requests the department in writing to convert the certification to a grade T master operator.

3. The department converts the certification as specified under s. NR 114.24 (2).

(b) After reviewing the request under par. (a) 1. or 2. and upon satisfaction that the request meets the requirements of this chapter, the department shall issue a converted grade T certification.

SECTION 118. NR 114.17 (3) is repealed.

SECTION 119. NR 114.18 (title), (1) (intro.), (2), (3) and (4) are amended to read:

NR 114.18 Operator-in-charge ~~or~~ and master operator. (1) The owner of a licensed business shall in writing designate to the department the operator-in-charge of the business based upon ~~their~~ the type of business and method of septage disposal as follows:

(2) ~~Persons~~Applicants for master operator shall accrue at least 1600 hours of experience working in -the operator's designated grade certification, including land application experience if grade L, over at least one calendar year, participate in a mandatory training class sponsored by the department, and pass ~~an examination~~ examinations associated with that training class in order to become certified as a master operator. The class and examination may be taken prior to obtaining the required experience. The time and experience requirements shall be documented

by the applicant through submittal of a notarized certification statement. The department may verify information submitted on a case-by-case basis. Master operator grade certification shall be consistent with ~~the~~the person's operator certification grade.

(3) The mandatory training class for ~~designation as~~ certifying a master operator shall be offered at least twice a year and ~~will~~ shall cover topics relevant to the septage servicing business and ~~will~~ shall cover both land application and ~~disposition~~ disposal of septage at wastewater treatment facilities.

(4) Owners shall notify the department in writing of any change of the designated operator-in-charge within 15 days of the change.

SECTION 120. NR 114.18 (5) and (6) are created to read:

NR 114.18 (5) The master operator designated by the owner as the operator-in-charge shall agree to the designation in writing. The written agreement shall be submitted and approved by the department prior to approving the master operator as the operator-in-charge of the business.

NR 114.18 (6) The department may convert a master operator to a certified operator in any of the following circumstances:

(a) A grade L master operator requests the department in writing to convert the certification to a grade L certified operator.

(b) A grade T master operator requests the department in writing to convert the certification to a grade T certified operator.

(c) The department converts the certification as specified under s. NR 114.24 (2).

SECTION 121. NR 114.19 (3) is renumbered (3) (a) is and amended to read:

(3) (a) A person desiring to be certified shall file an application with the department at least 28 days prior to the established date of a written examination on an application form provided by the department.

(c) Fees shall accompany the completed application.

SECTION 122. NR 114.19 (3) (b) is created to read:

NR 114.19 (3) (b) A person wishing to register for the master operator exam shall file an application with the department at least 28 days prior to the established date of a written examination on an application form provided by the department.

SECTION 123. NR 114.19 (4) and (8) are amended to read:

NR 114.19 (4) Written examinations may not be issued to applicants who have not properly registered 28 days prior to the examination date, or who fail to identify themselves on request when appearing to take an examination.

(8) ~~The~~Notwithstanding the requirements of sub. (6) ~~notwithstanding~~, applicants who fail the examination associated with the mandatory training class required ~~in~~under s. NR 114.18 (2) may retake the examination at a regional office whenever a mutually agreed time can be scheduled.

SECTION 124. NR 114.195 is created to read:

NR 114.195 Non-delinquency certification from the department of children and families and the department of revenue. (1) The department shall request a non-delinquency certificate from the department of children and families and the department of revenue under ss. 49.857 and 73.0301, Stats., prior to issuing or renewing an operator certificate, or registering a person as an operator-in-training.

(2) If the department receives notice that a non-delinquency certificate cannot be issued from the department of children and families or the department of revenue the application is denied.

SECTION 125. NR 114.20 (1) (b), (e) and (2) are amended to read:

NR 114.20 (1) (b) Certificate renewal for certified operator other than master operator
— \$65.00

(e) Master operator certificate initial issuance and renewal — \$100.00

(2) The department may not refund fees to an applicant who fails to pass an examination, who fails to appear to take an examination, or who fails to identify themselves on request when appearing to take an examination.

SECTION 126. NR 114.20 (3) (Note) is repealed.

SECTION 127. NR 114.21 is amended to read:

NR 114.21 Issuance of certificates. Upon satisfactory fulfillment of the qualifications required ~~by~~under this subchapter and receipt of the certification fee, the department shall issue a certificate to an applicant indicating the operator certification and grade for which the applicant has qualified.

SECTION 128. NR 114.22 (3) is renumbered (3) (a), (c) and (d) and amended to read:

NR 114.22 (3) (a) A person whose certificate has expired may within one year of the expiration date be reinstated by paying the renewal fee, the late penalty fee, and fulfilling the continuing education requirements. ~~Operators~~

(c) An operator, including a master operator, may not renew ~~their certificates~~ a certificate by taking certification examinations in lieu of obtaining continuing education credits unless ~~the~~the certificate has been expired for at least one year. ~~Operators~~

(d) An operator, including a master operator, may not continue to ~~work~~ service with an expired certificate.

SECTION 129. NR 114.22 (3) (b) is created to read:

NR 114.22 (3) (b) If a person's master operator certificate is expired less than 5 years but more than 1 year, the person may use previous septage operator work experience from the 2 years prior to the expiration date to fulfill the 1600-hour master operator experience requirement. The department may require the person to participate in the required master operator training

class and pass the appropriate the master operator examinations to fulfill the master operator requirements.

SECTION 130. NR 114.23 (1), (2) and (4) are amended to read:

NR 114.23 Continuing education and training requirements. (1) ~~Grade~~ All grade T and grade L ~~certified~~ septage operators shall obtain 3 hours of certified operator continuing education ~~credits every 3 years~~ within the 3-year term of the certificate.

(2) All grade T and grade L master operators shall obtain 18 hours of department approved continuing education credits every 3 years, including not less than 3 hours of certified operator continuing education, within the 3-year term of the certificate.

(4) Any ~~certified~~ septage operator may voluntarily participate in the mandatory training class required under s. NR 114.18 (2) and (3), even if not required to, and may receive the associated hours of continuing education~~credit~~.

SECTION 131. NR 114.24 (2) (intro.) and (c) are amended to read:

NR 114.24 (2) ~~The~~ department may under s. 299.07 (3), Stats., on its own motion, make investigations and conduct hearings and may, on its own motion or on a signed and verified written complaint, revoke, suspend, refuse to issue, convert certification grade, or refuse to renew any operator's certificate if the department finds that the holder of or applicant for a certificate does any of the following:

(c) Falsifies any required applications, operating records, or any other records submitted to the department.

SECTION 132. NR 114.245 is created to read:

NR 114.245 Enforcement. (1) CITATIONS. Under s. 281.48 (3) (e), and (5s), Stats., the department may follow the procedures for the issuance of a citation under ss. 23.50 to 23.99, Stats., to collect a forfeiture for a violation of ss. NR 114.16 to 114.23. Deposit amounts are listed under sub. (2).

(2) DEPOSIT SCHEDULE. Deposit amounts, not including applicable court costs, surcharges, and assessments, for violations of ss. NR 114.16 to 114.23 are \$500.00 for each violation.

(3) PENALTIES. Any person who violates ss. NR 114.16 to 114.23 shall be subject to penalties as provided under s. 281.98, Stats.

SECTION 133. NR 114.25 (3) (title) is amended to read:

NR 114.25 (3) (title) ~~APPROVAL OF VARIANCE~~ WRITTEN DETERMINATION.

SECTION 134. NR 114.25 (4) is created to read:

NR 114.25 (4) VARIANCE CANCELLATION. Violations of chs. NR 113 and NR 114 may result in the cancellation of a previously approved variance.

SECTION 135. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 136. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

BY _____

Preston D. Cole, Secretary

(SEAL)

