

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 98-030

### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### 1. Statutory Authority

The agency may wish to review SECTION 57 of the rule. It appears that the current rule is inconsistent with the relevant statute, s. 443.037, Stats., relating to experience requirements for professional geologists. Further, the proposed requirement that experience be completed *within the previous 10 years*, is a limitation that is not in the applicable statutory provisions. After a review of the rule, if the final rule retains the provisions of SECTION 57, the express statutory authority should be cited for their inclusion in the rule.

#### 2. Form, Style and Placement in Administrative Code

a. In several provisions, “all of the following” is correctly inserted in an (intro.). However, this was not done in all provisions. For example, in SECTION 12, see s. A-E 4.03 (1) (d) (intro.), (2) (a) (intro.), (c) (intro.) and (d) (intro.), (3) (b) (intro.) and (4) (b) (intro.).

b. Several notes require that an otherwise qualified applicant with a disability be provided with reasonable accommodations. If these notes are creating a substantive requirement, they should be placed in the text of the rule. If they do not, they should refer to the provision that sets forth the requirement; e.g., “The federal Americans with Disabilities Act requires . . . .”

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The rule contains several identical provisions relating to cheating on various examinations. (See, for example, SECTIONS 16, 38, 53 and 59.) In these SECTIONS, the rule

provides that any applicant who “receives aid” or “cheats in any other manner” during an examination will be barred from completing the examination or will not be given a passing grade, or both. As drafted, the provisions should be reviewed for the following clarity issues:

- (1) The intended scope of the term “aid” and the phrase “receives aid.” The common meaning of “aid” is quite broad and could include “assistance” and other “aid” that is not in any way related to cheating. This aspect of the rule should be reviewed and revised to clarify the intended scope of the term and phrase.
- (2) The rule uses “will” in the provisions; this term is unclear. The term should be changed to “shall” if that is the intent of the agency.

b. SECTION 34 contains provisions relating to educational requirements for land surveyors. The amended rule refers to semester credits granted “by a college or university accredited by a regional accrediting agency approved by the state board of education” in the state in which the college or university is located. The reference to the “state board of education” may be too narrow to cover states that do not have such entities (like in Wisconsin, for example). Further, it is not clear that all “regional accrediting” agencies are “approved by” a state department. These aspects of the rule should be reviewed for clarity and accuracy.

c. The agency may wish to include an “initial applicability” section to provide for a clear transition between the prior rules and the revised rules, especially for pending applications.