

H 64



State of Wisconsin \ DEPARTMENT OF HEALTH AND SOCIAL SERVICES

July 31, 1974

DIVISION OF HEALTH
MAIL ADDRESS: P. O. BOX 309
MADISON, WISCONSIN 53701

IN REPLY PLEASE REFER TO:

Mr. James Burke
Revisor of Statutes
411 W. Capitol
Madison, WI

Dear Mr. Burke:

As provided in Section 227.023, Wis. Stats., there is hereby submitted a certified copy of Chapter H 64, Wisconsin Administrative Code, pertaining to soil tester certification, as adopted by the Health and Social Services Board on July 24, 1974. In accordance with Section 227.018(2), Wis. Stats., the 30-day review by the appropriate legislative committee members expired on July 26, 1974, with no objections being raised. A copy of the rules were also submitted to Gary Paulson, Revisor of Statutes, for review at the start of the 30-day period.

These rules are being submitted to the Governor as required by Section 14.06, Wis. Stats., and to the Secretary of State as required by Section 227.023, Wis. Stats.

It is hoped that the rules can be published in the August 1974 edition of the Wisconsin Administrative Register and become effective on September 1, 1974.

Sincerely,

A handwritten signature in cursive script that reads "George H. Handy M.D.".

George H. Handy, M.D.
State Health Officer

GHH/1a

Filed August 2, 1974
9:00 am B.L.F.

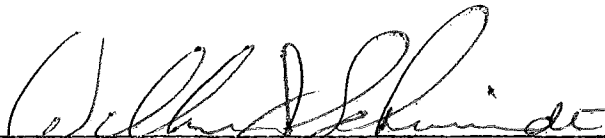
STATE OF WISCONSIN)
) ss
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Wilbur J. Schmidt, Secretary of the Department of Health and Social Services and custodian of the official records of said department, do hereby certify that the creation of the rules and regulations, relating to soil tester certification were duly approved and adopted by this department on July 24, 1974.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department in the city of Madison, this 1st day of August, 1974.



Wilbur J. Schmidt
Secretary
Department of Health & Social Services

SEAL

ORDER OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES ADOPTING RULES

Pursuant to authority vested in the Department of Health and Social Section 140.05, Wis. Stats., and in accordance with Chapter 227, Wis. Stats., the following rules are hereby promulgated.

Chapter H 64 of the WISCONSIN ADMINISTRATIVE CODE is created to read:

Chapter H 64

CERTIFICATION OF SOIL TESTERS

H 64.01 Applicability. The provision of this chapter shall apply to all persons engaged in the conducting and reporting of percolation tests, other tests required by applicable rules of the Wis. Adm. Code and the evaluation of bore holes or soil exposures for the purpose of determining the suitability of soils on a parcel or parcels of land for the absorption of effluents from sewage treatment tanks into the soil. The tests and soil evaluations and reporting thereof on forms supplied by the department shall apply to individual parcels on which a private sewage disposal system is proposed for installation and to lands proposed for subdivision, not served by public sewers.

H 64.02 Definitions. (1) DEPARTMENT means department of health and social services.

(2) APPROVED means acceptable to the department.

(3) CERTIFIED SOIL TESTER means a person satisfactorily passing the examination offered to achieve certification and possessing a current certificate.

(4) LANDS PROPOSED FOR SUBDIVISION means those land divisions not served by public sewers, as defined in chapter 236, Wis. Stats., and in any county land or subdivision control ordinance.

(5) PRIVATE SEWAGE DISPOSAL SYSTEM means a system comprised of a septic or other treatment tank and effluent absorption area designed for the purpose of processing sewage wherever public sewer facilities are not available.

H 64.03 Examining council. (1) CREATION. The state health officer, acting for the board of health and social services, shall appoint an examining council with the approval of the council on health, in accord with section 140.02 (1) (b), Wis. Stats.

(2) MEMBERSHIP. The council shall consist of 5 members. One member shall be an employe of the department and will serve as the council secretary. One member shall be a Wisconsin registered engineer or architect; one a Wisconsin registered land surveyor or sanitarian; one a Wisconsin licensed plumber having experience in the installation of private sewage disposal systems; and one a person educated and experienced in the field of soil science. The state health officer shall appoint the members for terms of 3 years. Members, other than the secretary, shall not be appointed for more than 2 successive terms. The council shall elect from its membership a chairman and vice-chairman, such election to be held at the first meeting of each year.

(3) RESTRICTION. All the members of the council, except the secretary, shall pass an examination designed to assure their qualifications. The examination shall be administered by the council secretary who shall not be eligible to become a certified soil tester.

(4) MEETINGS. The council shall hold such meetings as deemed necessary to fulfill its responsibilities.

(5) REIMBURSEMENT. Members of the council, excepting state employees, shall receive \$25 per meeting of the council and shall, in addition, be reimbursed by the department for their actual and necessary expenses incurred in the performance of their duties.

H 64.04 Application and examination. (1) APPLICATION. Any person seeking certification as a soil tester shall submit a completed application for examination on the form or forms supplied by the department. A non-returnable fee of \$15 shall accompany each application that is submitted to the department.

(2) EXAMINATION. All applicants shall be required to pass an examination conducted by the examining council. Examinations shall be conducted at such frequency as the examining council shall decide.

(3) NOTICE OF EXAMINATION TO APPLICANTS. Notice of the time and place of examination shall be sent by the department by first class mail to those who have completed and approved applications on file. At least 2 weeks' notice of examination shall be given to applicants. Such notice shall be mailed to the address given on the application blank and shall be presented by the applicant to gain admittance to the examination room. Failure to receive the notice due to change in address shall not be the responsibility of the department.

(4) NOTICE OF EXAMINATION RESULTS. Each person taking the examination shall receive notice of his examination grade. This notice shall be sent by the department by first class mail to the address given on the application.

H 64.05 Issuance of certificate. A person receiving an examination grade of at least 80 of a possible score of 100 shall upon receipt of a \$10 fee by the department be issued a certificate stating "Certified Soil Tester." Certificates shall expire on June 30 of each year unless duly renewed.

H 64.06 Appeal. Any applicant for certification may appeal from the examination findings of the examining council by appearing in person before the council. Request for appeal shall be filed in writing within 30 days after the department mailed notification of the results of the examination. Unless appealed, any examination papers may be destroyed after the 30-day appeal period.

H 64.07 Renewal of certificate; delinquency and reinstatement. Renewal of the certificate is required by July 1 of each year. Notice for the annual renewal of certificate and the renewal application shall be sent to all certified soil testers whose certificates were in force during the previous year. Such notice and application shall be sent by the department by first class mail to the address given on the latest renewal application on file unless written notice of another address has been given. Failure to receive the notice for renewal of certificate shall not be an excuse for failure to renew. If the renewal application and fee of \$10 are not postmarked by July 1, the certificate shall be revoked automatically. Within 12 months after revocation the department shall reinstate a revoked certificate upon receipt of a completed certification renewal application and payment of the \$10 renewal fee plus a late fee of \$5. After a 12-month period the department shall reinstate a revoked certificate upon the receipt of a new application for certification and payment of the \$10 certification fee. A certificate which has lapsed for a period of 2 or more years shall be reinstated by the department only after filing a new application, payment of \$15 examination fee, passing a written examination and payment of the \$10 certification fee.

H 64.08 Revocation or suspension of certificate; other penalties.

(1) EXAMINING COUNCIL. The examining council may, upon its own initiative, and shall, upon receipt of a duly signed and verified complaint, conduct an investigation of any alleged violation of this chapter. If it has reason to believe that this chapter was violated, the examining council shall report the results of its investigation to the department along with its recommendation for what action is to be taken. If the investigation had been commenced by

a verified complaint, the examining council shall within 60 days after receipt of said complaint conclude its investigation either by reporting the investigation to the department with a recommendation of what action is to be taken or by finding that the chapter was not violated. Within 10 days after conclusion of its investigation the council shall notify the complainant by first class mail to the address on the complaint of the action taken on his complaint. If the council determines that no action is warranted the complainant may appeal in writing to the department which shall review the council's decision.

(2) DEPARTMENTAL ACTION. Upon receipt of a report of an investigation the department shall order a public hearing to be held. Notice of the hearing shall be mailed to the alleged violator by registered mail return receipt requested and shall include a statement of all alleged violations substantially in the form contained in H 1.08. The notice must be mailed at least 20 days prior to the hearing. The alleged violator may file a verified answer within this 20-day period. The department may, after a duly noticed public hearing, revoke or suspend the certification of any soil tester for the practice of any fraud or deceit in obtaining the certificate or any gross negligence, incompetence or misconduct in the practice of soil testing. The hearing officer shall not be familiar with the investigation actions but may be a department employe. The suspension or revocation order shall be issued by the state health officer. Further, if the department finds that any of the provisions of H 64.09 were violated, it shall fine or imprison the violator in accordance with the penalty provisions of H 64.09.

H 64.09 Prohibitions and penalties. (1) IMPERSONATION. No person may hold himself out as a certified soil tester nor append to his name the title


"certified soil tester" or the initials "C.S.T." unless certified under this chapter. Any person violating this subsection shall be fined not less than \$10 nor more than \$100 or by imprisonment for not less than 30 days or both in accord with the penalty provisions of section 145.12 (1), Wis. Stats.

(2) SOIL TESTING. No person may conduct soil percolation tests; or construct or evaluate soil bore holes or soil exposures; or conduct other similar test specified by the department for determining the suitability of soils for absorption of effluent from sewage treatment tanks unless certified under this chapter. Any person violating this subsection shall be subject to the penalty provisions of section 145.12 (1), Wis. Stats.

(3) GROSS NEGLIGENCE, INCOMPETENCE OR MISCONDUCT. Any certified soil tester who is found to have performed any of the duties of a certified soil tester in a grossly negligent manner, incompetently or who is found to have been guilty of misconduct in the performance of said duties may be imprisoned for not more than 3 months or be fined not more than \$100 in accord with the penalty provisions of section 145.12 (2), Wis. Stats.

7/12/74

The rules contained herein shall take effect on September 1, 1974, as provided in Section 227.026(1), Wis. Stats., subject to the provisions of Section 14.06, Wis. Stats.



Wilbur J. Schmidt
Secretary
Department of Health & Social Services

Dated August 1, 1974

Seal

Chapter H 64

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7/12/74