WACE
WISCONSIN ASSOCIATION OF CONSULTING ENGINEERS

WISCONSIN ASSOCIATION OF CONSULTING ENGINEERS
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May 7, 2001

Honorable Judith Robson
Co Chair Joint Committee on
Administrative Rules
Wisconsin State Senate
P O Box 7882
Madison, WI 53707-7882

Honorable Glenn Grothman
Co Chair Joint Committee on
Administrative Rules
Wisconsin State Assembly
P O Box 8952
Madison, WI 53708 8952

Dear Senator Robson and Representative Grothman:

The Wisconsin Association of Consulting Engineers (WACE) wishes to express our strong concern with the Department of Commerce (COMM) PECFA program and the bidding for professional consulting services. Changes within the program's staff have resulted in re-opening dialogue on this issue and we would like to share these thoughts with the Joint Committee on Administrative Rules.

WACE is a statewide trade association whose members provide independent professional engineering and related services. These member firms employ more than 4,000 engineers, geologists, soil scientists, architects, and other licensed, highly educated, and experienced professionals.

Recently, WACE sent surveys to responsible parties who have entered into the PECFA remediation bidding process from late 1998 through the fall of 1999 (see attached summary). Of the 109 "bid" sites surveyed, 23 were returned as address unknown, one was returned although not completed, and 11 were returned with comments. As a footnote, one respondent had two sites let for bid; her comments could be counted as 2 responses. While this is a relatively small return, these comments clearly outline a disturbing trend.

The Survey

According to the respondents to WACE's survey:

- Less than half of the respondents thought they'd get the project closed within the cost cap established by the bid, PECFA's reason to bid projects.
- Most respondents preferred using a Quality Based Selection (QBS) process to select their consultant, with 90% indicating that cost is not the primary factor for selecting a remedial action or a consultant.
- Only 1 thought the bid process would get the project closed more efficiently.
- All believed their personal/business use of their property should be a factor in the bid process.
- None of the respondents indicated that the public bid process was going to save money.
- None of the surveyed sites have been closed. Over 60% indicated the bidding process will not result in faster closure.
- 70% indicated satisfaction with their original consultant selected through the QBS process and felt pressured into retaining the PECFA "low bid" consultant.

- The survey notes many RPs were very dissatisfied with the communications (or lack of) from PECFA and/or the "low bid consultant."

The Problem

COMM has instituted a cost-based selection process for remediation projects, awarding work based solely on price (low bid). WACE firmly believes bidding of professional services will lead to inferior service. In 1972, the Federal Government passed the Brooks Law, its intent being that sole consideration of price within the quality selection process is not in the public's best interest. Fundamentally, the bidding of professional services is flawed public policy and has precluded the most qualified firms from participating in the PECFA program. We believe this is a detriment to the program, owners, and the environment.

The majority of engineering consultant services is procured using a qualifications based selection (QBS) basis. Using a two step process, first the selection of a consultant is made and then the financial arrangements are agreed upon. Currently, selecting consultants using the QBS process effectively fills major contracts within the DNR, DOT, and DOA/DFD. Projects awarded solely on cost usually are less cost-effective over the life of the project than those following the QBS process. WACE believes the current remedial consultant selection process needs to be improved.

The Solution

We believe a two part QBS process would save the program considerable funds, provide a better method for initially selecting the remedial consultant.

Part One

Consultants participating in the program have a track record and statistical data on past performance. These data could be provided to potential clients for review and consideration. Statistics might include number of projects, cost-effectiveness, average costs for investigation/remedial action plan, average remediation costs, average PECFA claim ineligibles per milestone, number of COMM audits, etc. A potential client can then make a more educated consultant selection based on factual information.

Part Two

Upon submittal to COMM and the DNR, remedial action plans should continue to be placed through a criteria matrix. Plans failing the initial screening would be peer reviewed. The peer review team would be comprised of:

- a PE board member
- a PG board member
- a registered PE, PS, or PG from each department, both COMM and the DNR
- two peers with environmental expertise

By making the peer review decisions binding, the remedial approach and costs could be reviewed in a meaningful way.

Annually, COMM, using QBS, could create a list of "acceptable" PECFA consultants. Using this list, RPs, whose site plans fail the initial screening and subsequent technical peer review, may select another consultant, with assistance from COMM/DNR. WACE would be happy to be involved with establishment of a system that would be fair to PECFA consultants and in the best interest of the PECFA program and the environment.

Past Suggestions

WACE has offered literally dozens of ideas to COMM over the past several years; however, most have never received serious consideration. Some of those suggestions include:

- Manage consultant costs by making the consultant a true team member. For example, meet with RP's consultants to discuss, review, negotiate and approve the scope of work prior to investigation and remedial plan development.
- Give prior approvals by COMM staff into the decisions made on a remediation project.
- Ask the DOT, DOA/DFD, and DNR, how these Agencies have successfully managed consultants. There are long standing positive relationships between the two groups.
- Suggest COMM work with PECFA claimants to select qualified consultants.

Conclusion

WACE believes both COMM and the DNR want to enact changes to the program that will both save money and time in the remediation of contaminated sites while maintaining the integrity of the Wisconsin environment. We can help COMM be an active part of the solution. WACE would enthusiastically welcome the opportunity to participate in partnership with COMM and DNR to develop fair and effective revisions to, or complete restructuring of, the PECFA program. We want this program to work and to further develop a professional relationship with COMM and DNR.

We look forward to your response to our concerns and suggestions.

Sincerely,

Roccy Raymond, PE
WACE President

cc: Brenda Blanchard, Secretary, Dept of Commerce
Louis Cornelius, Director, Dept of Commerce Bureau of Policy & Budgets
Martha Kerner, Executive Assistant, Dept of Commerce
Chris Spooner, Dept of Commerce Policy Administration
Ronald Buchholz, Deputy Administrator, Dept of Commerce Div of Safety & Buildings
WACE Board of Directors
Carol Godiksen, Executive Director
PECFA Committee Members

enclosure: survey

PECFA Bidding Program Responsible Party Feedback Questionnaire
Response

Please rate your experience in the PECFA bidding process on the following:

(1 = Very Satisfied 3 = Average 5 = Very Dissatisfied)

	1	2	3	4	5	Don't Know
Communications with PECFA Staff	1	1	4	2	0	3 (2) none
Communications with the "low bid consultant"	3	1	3	1	3	0 (2) didn't know it was based on low bid.
Project remediation cost estimating by consultant	2	3	1	0	2	3 (2) never told
Contracting procedures with low bid consultant	2	3	0	2	1	3; (1a) did not use him (2) never told
Clarity and accuracy of PECFA bid documents	2	4	1	1	1	2; (1a) 2nd consultant-low bidder, (2) do not have any

The goal of the public bid process is to select the lowest cost-remedial action to close your project. Do you feel that goal was accomplished?

Yes 4 No 3 No Opinion 4
(7) yet

If you had the choice, would you bid your project?

Yes 3 No 6 No Opinion 1
(2) don't understand question. I can't bid the project.

Do you agree with Commerce (PECFA) putting your site out to bid without your input?

Yes 2 No 8 No Opinion 1

Did you select the low bidder (versus keeping your existing consultant) to complete the remedial action at your site?

Yes 5 No 3 Don't Know 1
(2) Didn't bid
(3) didn't have a choice?

Should cost to the PECFA program be the primary factor for selecting a remedial action?

Yes 1 No 9 No Opinion 0

(2) Don't know. I don't have any paperwork on PECFA.

(3) True remediation should be goal

Are you satisfied that the consultant who performed your site investigation did a good job?

Yes 7 No 3 No Opinion 1

(7) yet

Do you feel the PECFA bidding process has or will result in your site being closed within the cost cap established by the low bidder?

Yes 3 No 5 No Opinion 3

(1b) its been 6 years!!!!!

(3) I'm told its questionable

(7) yet

Did the bidding process save you money?

Yes 0 No 7 Don't Know 3

(2) You have got to be kidding! Never given any figures.

Did you change consultants because of the bidding process?

Yes 6 No 5 No Opinion 0

(2) it was not an option for me

(3) "PECFA" forced it

Were you satisfied with the competence of the new consultant?

Yes 4 No 4 No Opinion 2

Are you happy with the outcome of the remediation?

Yes 0 No 4 No Opinion 6

(1b) its taking way too long!!!!

(2) What remediation? Never done!

(3) not done yet

(7) yet

Has your remediation work been completed?

Yes 0 No 11 No Opinion

(2) No!!!

Have you obtained closure on your site from the WDNR or COMM?

Yes 0 No11 No Opinion 0

Should the PECFA staff and bidders be required to consider the impact of the remedial action on your business/personal use of the property as part of the public bid/remedial action selection process?

Yes 8	No 0	No Opinion 2
		(2) don't quite know what you mean by "impact"

If your business use of the property requires a more expensive remedial action, are you willing to pay the additional cost?

Yes 1	No 9	No Opinion 1
		(2) it doesn't even need anything! Nature is doing a great job (7) no choice

Are you satisfied with the closure and any conditions imposed on your property in the future?

Yes 1	No 2	No Opinion 6
		(3) not sure what that will be (7) yet

Overall, were you pleased with the bidding process and its outcomes for your property?

Yes 2	No 3	No Opinion 5
		(2) never informed. None consulted me. (7) yet

Would you prefer a qualification-based selection process for retaining an environmental consultant versus the financial-based bid process?

Yes 5	No 1	No Opinion 4
		(2) can't answer since I have no paperwork on either to make any intelligent decisions

Do you feel the PECFA bidding process has or will result in your site getting to a closed status more efficiently?

Yes 1	No 6	Don't Know 3
		(1b) not sure, still open after six years! (7) yet

Did or will the low bidder on your project use a remedial strategy that was not considered by the environmental consultant who performed the site investigation?

Yes 4 No 4 Don't Know 0

(1a) Using original consultant

(2) I don't know. They do not talk to me.

COMMENTS ATTACHED TO WACE-PECFA BIDDERS QUESTIONNAIRE
Compiled Thursday, November 16, 2000

Sunshine Auto & Detail Center (Bid Round #3)

It really seems the rules keep changing. We have waited and spent a lot of time, business loss, and money to not really gain anything. We still aren't closer. Why couldn't the remedial been done 3 years and $60,000 sooner? You need to make decisions sooner than later.

Diane and Gene Keatty (Bid Round #1)

1. We used original consultant rather than low bidder. The low bid would not have been able to perform work for price quote. However, we had a contract clause wherein we could have charged more. Work will actually cost $65,000 more to even hope to get closure.
2. I have already lost two potential buyers because of limited clean-up proposal. Otherwise, the property value dropped to almost half its value.
3. Other buyers we've talked to have been unable to get loans because of residual contaminators.

Michael Boss (Property Owner) (Bid Round #1)

This has gone on way too long. I am the property owner and the longer this stretches out without closure, the more it costs me. After 6 years from the date of determination, this site is still not closed. I am very disappointed and frustrated with this. My site is MIKES KITCHEN, E11394 Hwy 12, Sauk City, WI 53583. Responsible party: Walter Wendt

Tom Garwood (Bid Round #9)

No comments attached.

Suzanne Spiegel (Bid Round #4)

This is a difficult survey to answer as I have two separate clean-up sites with totally different circumstances. Neither of them has been completed. Beyond that, I am a widow who inherited these sites and really knows nothing about the processes and programs. I feel I am at the mercy of the consultants and PECFA. My biggest concern is that the low bidder on the clean up at one of the sites has a totally different plan for clean up than the original consultant. If the site is not cleaned up at the proposed cost, where does that leave me? With all of these unknowns, I'm not sure you can consider my survey answers valid.

Jackie Burlingame (Bid Round #3)

Project is not completed so it's hard to answer some of the questions until I can see what is actually done, after it is completed.

Jim Sommer (Bid Round #1)

No comments attached.

Garth Schuman (Bid Round #7)

I would like to know the cost of what has to be done and would like to know a time limit. I don't like that the fund doesn't pay all the interest. There should be an easier way for us to get finances. I didn't understand the PECFA program before now. They did things they shouldn't have. I am retired now, and have no way of paying extra charges.

Maurice Schaller (Bid Round #6)

The remediation work has not been completed and I do not know what the final closure statement(s) will be. After closure, I will be better able to evaluate the bid process as to its usability to what is necessarily the cheapest way possible.

Nicholas Hem (Bid Round #7)

No comments attached.

Marie Prielipp (Bid Round #2)

I didn't know the project was bid and/or rebid. Communication would be nice, don't you think? All in all, I am disgusted with the whole clean-up program. Just another way for some people to make big bucks at the expense of the poor people. I strongly feel the ones responsible for the clean up are the ones who caused leaky underground storage tanks. In my case, Cities Service Oil Company, (1951-1959) and the Kickapoo Oil Company (1963-1977). When Art Lee purchased property in 1985, he had all underground tanks removed and was told by DNR, by doing so at the time, he would not be subject to clean up. This is what I was told when I purchased. What happened??????

Names of Questionnaire receiptients that wish to be contacted by the State about their project.

November 7, 2001

✓Senator Judith Robson, Co-Chair
Joint Committee for Review of Administrative Regulations
P.O. Box 7882
Madison, WI 53707-7882

Representative Glenn Grothman, Co-Chair
Joint Committee for Review of Administrative Regulations
P.O. Box 8952
Madison, WI 53708-8952

RE: THE NEW COMM 108 RULE

To the Chairmen and Members of the
Joint Committee for Review of Administrative Regulations:

I am a municipal consultant who has been working with small communities throughout Wisconsin for many years. I am writing to you about the proposed changes to the administrative rule governing public facility block grants, COMM 108. This program provides critical CDBG grant funding for communities too small to afford their own repairs and improvements.

After reading the proposed rule and discussing it with associates, I am concerned that the new grant award process will be entirely too arbitrary and capricious. We will be transcending from a process of known criteria to one of discretion and influence. I fear that the potential for cronyism and favoritism will increase with this new awards procedure. Hence, I am withholding my name due to the possible retribution that may be exercised against our company and clients. We cannot afford to be blackballed.

The current rule or grant awards are based upon parameters that we can measure and understand. All applicants submit their applications for Public Facility Block Grant dollars once a year and compete against each other based upon the degree of threat the deficiency poses to public health and safety. The remaining criteria such as economic measures, debt capacity, utility rates and grant leveraging are quantifiable and not subject to interpretation or discretion. At the end of the review period, the Department makes available a numerical analysis to the public so we can understand why some projects are funded and others are denied. The scoring system referenced in the new rule is meaningless and superficial since the numbers are not compared with the other applicants! The new rule eliminates this annual competition so all applicants are judged independently. The new scoring system creates a façade of numbers that stand by themselves. Funding decisions will be based upon a much more subjective, stand-alone review instead of the objective and competitive analysis of the past. Mr. Frymark, the program director, was even quoted as saying that receiving a high score in the new independent review process was no guarantee of funding and that it was also possible that a low scoring application could be granted an award under certain hardship conditions. So what does the new system accomplish? Which ones will be funded?

Which ones will be denied? I do not understand what the new program objectives will be.

Also, the new grant process substitutes "significant impact" in the place of "threat to public health and safety" as the primary reason some projects will be funded and some will not. *Significant impact* is not defined! It is vague and hazy. It could be interpreted to be anything the administration or staff wants it to be. What are they getting at?

If we were to challenge their funding decisions, there will no longer be any objective standard or comparative analysis we could refer to since each application will no longer be compared against the competition of other applicants. We won't even know who else applied, who was funded, who was denied, what projects are similar, are the reviews equitable, etc. etc. We would probably need to initiate an open records request for basic information that is now easily accessible under the current rule. This would be a time consuming and confrontational process that none of us could afford. Since "significant impact" is undefined and subjective, we would never be able to nail down what makes a project significant and worthy of grant dollars.

Even more perplexing is the need for change. The current system appears to me and others, to be fair, unbiased, and analytical. The criteria are relevant given the wide scope of different CDBG projects funded. We understand it. We can make reasonable projections of a project's fundability based upon established safety standards, comparable projects and known criteria. We can review the Department's decisions and understand their methods. We are reasonably assured that all applicants are treated openly, fairly and equitably. We can explain with numbers why some projects are not funded. Who are the disappointed applicants going to call if they don't understand why they were denied? Why would we want to forego the current rule for a system that offers no quantifiable parameters? A system that might hold politics, influence and fuzzy objectives to a higher standard than public safety, merit and things we can measure?

Proponents of the rule say that the annual competition creates delay and seasonal workloads. Since most public deficiencies are the result of neglect and deferral, an annual competition should not be a big problem for a utility system that has been deficient for the last 10 or 20 years. From my point of view, the only real problem is the administration's inability to make timely grant announcements. It is evident that for the last several years, grant announcements have been delayed for many months for the mere benefit of the Governor's public relations schedule. This delay causes the grant recipients higher construction costs due to a loss of peak-season contract bidding (winter bidding) and the frustration of project uncertainty while the governor perpetually contemplates his announcement and photo opportunity schedule. A simple rule change requiring the Department to make a decision within several months of receiving the applications should solve the biggest problem of the current program. Another simple improvement to the current process would be a preliminary award announcement allowing denied applications an opportunity to review Department findings ***before*** all funds are committed to other applicants. Currently, when mistakes are discovered, there

is no recourse for denied applications because all available grant funds have already been committed to the winners. "Sorry about the mistake, but the money is all gone", is the typical reply we get.

Another point of concern is the repeal of the financial commitment component of the current rule. This requirement favors smaller communities with very limited borrowing capacity over larger ones. Under the proposed change, a community with a $20,000,000 legal borrowing capacity would receive equal treatment with a community with only a $2,000 borrowing capacity. So if everything else were equal, why would we want to give a $500,000 grant to a large city that could easily afford the improvement themselves instead of a very small community that simply cannot afford to fix their problem without outside help? The new rule proposes to drop financial capacity from the grant review process.

With that thought in mind, why do we want to increase the leveraging requirement from a 1 to 1, grant to match ratio, to a 1 to 1.5, grant to match ratio? The purpose of the CDBG program is to assist poorer communities. In most situations, it is the smaller rural communities suffering from financial constraint than larger ones. This miserly approach towards grant leveraging hurts the very applicants that Congress intended the program to assist. As a result, I suspect fewer small communities will be able to participate in this program because the grant is too small compared to the total cost of the project.

Unfortunately, I suspect that a much more likely reason for the new rule is that it would give unelected bureaucrats the authority to hand out **millions of grant dollars** at their own discretion for nebulous program objectives and to better accommodate political problems of the day. It will be a policy immune from public scrutiny via objective comparative analysis. We will not be able to hold them accountable to any standard that denied applicants will be able to understand.

Verifying equitable treatment here is a very big issue. I am asking that you exercise your Committee prerogative and review this proposed rule. If proponents of the new rule cannot answer these questions and others to your satisfaction, then perhaps the rule should be tabled for further consideration.

Thank you for your consideration to this matter,

cc
Senator Richard Grobschmidt
Senator Dave Hansen
Senator Robert Cowles
Senator Dale Schultz
Representative Scott Gunderson
Representative Lorraine Seratti
Representative Jim Kreuser
Representative Robert Turner

Austin, David

From: Property Rights [PropertyRights@excite.com]
Sent: Monday, October 08, 2001 1:26 PM
To: *DOA All DOA - Department; *Legislative Everyone; Commerce Madison Staff; Commerce Non-Madison Staff
Cc: PropertyRights@excite.com
Subject: Comm 83 opposition

Dear Sirs,
I am sending this to inform you of our concerns with these Administrative Rules and to give you the facts about who we are. State officials, legislators, and the media have been demonizing us and trying to discredit our concerns (it is my personal opinion that most of these people use these tactics as a defense of indefensible positions). We have been called radicals and been accused of trying to inflame the public.

The truth could not be any different. We are an informal group of residents and property owners of Douglas County who came together after a County Board meeting trying to enforce these rules. In our group we have engineers, scientists, and people experienced in the development and enforcement of laws and codes. All of whom believe that Comm 83 will have undue financial effects on all Wisconsin residents (not just POWTS owners). We believe these rules are indefensible and unjustified and were promulgated with false and misleading information. We oppose the rules because of the affects they will have on all residents and taxpayers of Wisconsin and we believe any plumbing rule or code should include all safe and reliable technologies.

Our group has been informing the public of our concerns since June of 2001 and found almost unanimous support, not only in the public but at the County and Township levels of government. We have also tried to contact our state level elected officials (including Boyle and Jauch among others). However, instead of supporting us or even responding to our concerns, they have tried to demonize and vilify us as a group. In recent newspaper articles and letters to constituents, these officials and Dept. of Commerce officials have tried to misinform the public about us.

We should note that we have no association with the environmental groups opposed to these rules. It is our understanding that these groups are opposed to these rules because of the effects they will have on the environment (i.e. increased residential development). We condemn these groups for trying to misuse science and the health and welfare of the public for their own greedy conservation agendas. A plumbing code or any code developed to protect the health and welfare of the public should be based solely on sound science and engineering principles and should not be used to deter residential development……. And also in response to comments made by

Mr. Corry of the Department of Commerce concerning these rules; As much as
a plumbing code should not be used for zoning purposes it should also not be
used for the creation of new jobs or the promotion of economic businesses.
This is what we believe, among other things, is the intention of Comm 83 through the Department of Commerce.

"When science and fact is wrongly used for financial purposes or special interest agendas, it is not only science that is hurt but also the public
trust in all science and fact."

The following include the information we have supplied to the public:
- information packet provided to the Douglas County Towns Association
- opposition flyers ran in a Superior newspaper (using our own funds)
- opposition flyer handed out to the public from volunteers of our group

Thank you for your time and if you should have any questions please feel free to respond and we can setup a phone call with one of our group who can
best respond to any of your questions.

PLEASE NOTE: as of Sept. 18, the Douglas County Towns Assoc. passed a resolution condemning Comm 83 and opposing enforcement of it.
!!!

Handout for opposition to the new septic system rules/code known as Comm 83.

Presented to: Douglas County Towns Association
Presented by: -----------------
Presented: September 18, 2001

The State of Wisconsin Administrative Rules-Commerce 83 through 85 (Comm 83)
is a new code that was promulgated to regulate all private septic systems
(POWTS). We, as an informal group of property owners and residents of Douglas County, are opposed to these rules and are attempting to have them
suspended by our state legislators. We are attempting to do this by informing the public of the implications and our interpretations of the rules and by trying to gain the support of our local elected officials to do
so.

The four primary reasons we are opposed to these rules include:

++THE UNPRECEDENTED INFRINGEMENT ON PRIVATE PROPERTY RIGHTS.
++THE UNDUE FINANCIAL HARDSHIPS THESE RULES WILL HAVE ON ALL RESIDENTS AND
TAXPAYERS IN WISCONSIN BECAUSE OF THE UNJUSTIFIED REQUIREMENTS.
++THE UNPRECEDENTED REPORTING, RECORDING AND MAINTENANCE REQUIREMENTS THAT
WILL CAUSE FURTHER UNDUE FINANCIAL AFFECTS ON ALL TAXPAYERS IN WISCONSIN
++THE UNJUSTIFIED AND INDEFENSIBLE DESIGN REQUIREMENTS WHICH PROMOTE AND REQUIRE THE INSTALLATION OF HIGH MAINTENANCE SYSTEMS IN ALMOST ALL CONDITION
WITH ABSOLUTELY NO EVIDENCE THAT PASSIVE, LOW MAINTENANCE SYSTEMS ARE A HEALTH HAZARD.

THE UNPRECEDENTED INFRINGEMENT ON PRIVATE PROPERTY RIGHTS include the allowance of any governmental unit or Department of Commerce representative

to enter and inspect private property with no warrant. It should also be noted that the stated reasons for the inspection requirements, including determination of surface ponding of water, are unjustified and occurrences of such events are so uncommon, that a "typical" inspection is unlikely to uncover such events.

The long time implications of these rules must also be considered. These rules, in effect, make all private septic systems PUBLIC DOMAIN and thereby public property. This can easily be verified by the rules that state only certified personnel may do repairs, maintenance, or inspecting; all of these activities must be reported to the department and/or governmental unit; and the allowance of entering private property without a warrant to conduct these activities.

If these rules are allowed to stand, they will set precedent for all systems in your home and on your property to be required to follow under a similar same set of rules. This possibly could pertain to heating and air conditioning systems, electrical systems, and possibly all components of a home or property. All of which would be hidden under the guise of environmental protection or protection of our health and safety.

THE UNDUE FINANCIAL HARDSHIPS THESE RULES WILL HAVE ON ALL RESIDENTS AND TAXPAYERS IN WISCONSIN not only include system owners but also all taxpayers and home owners on public systems. The undue financial for system owners include the requirement for replacement of existing systems, the maintenance and inspection requirements, and permitting requirements for all repairs.

These rules require a permit for the repair or replacement of any part of a system. Under this permitting process, a system must meet the current code thereby requiring all systems that do not meet the current code to be upgraded or replaced with a system that meets the current code. This requirement is called "retroactivity". This retroactivity WILL cause undue financial hardship on almost all system owners with no evidence that the existing system is causing a health hazard.

The inspection, maintenance, and monitoring requirements for all systems are unjustified and indefensible. All systems are required to be inspected every 3 years with the high-maintenance systems requiring inspections and maintenance every 6 months. These activities can only be done by certified personnel who must take annual classes and testing (this also include all county personnel involved in these activities). Reporting of all these activities is also required at both the county and state level. Considering there are over 8,600 systems in Douglas County alone, the county personnel

(our tax dollars) required to inspect, monitor, and track/enter this information will be great. What all this information could be used for is
still unknown.

Another aspect of these rules include system operation including startup and
shutdown requirements. A management plan is required for all systems which
shall include amount of wastewater going into system, loading and resting
schedules, metering and sampling requirements, and startup and shutdown procedures (along with many other items). Only certified personnel may shutdown or startup a system and written permission from the Department of
Commerce is required to operate a system differently then prescribed in the
management plan. This means that we must call a plumber if the power goes
out in our home or we must obtain written permission to increase or decrease
the loads in our systems.

All of these requirements will have financial impacts on all residents and
taxpayers of the state with NO evidence that existing systems are causing a
human or environmental health hazard.

THE UNJUSTIFIED AND INDEFENSIBLE DESIGN REQUIREMENTS include the soils classification, ground water elevation determination, pressurized distribution, and many others. However, the primary driving force behind
the design requirements are the application of a "clean drinking water" standard to final system effluent. All of these are in direct contradiction
with nationally accepted engineering and scientific standards throughout the
United States.

The soils classification system utilized by this code is the US Department
of Agriculture (USDA) soils classification system. This system was developed and is utilized for agricultural purposes and typically only extend 50" to 60" under the ground surface. Also, to obtain the needed engineering properties, such as hydraulic conductivity, from this classification system, extrapolation and comparison to other soils classification systems is required. This classification system was never
intended to be utilized for engineering purposes such as this and is not only prone to erroneous interpretations, it is not used in the state for any
other deign purposes. A soils classification system utilized by the DOT and
others such as the Unified or AASHTO system more closely interprets the engineering properties required for a system design. It must be noted that
percolation tests will soon be phased out as a way of determining the hydraulic conductivity of a soil even though this method most closely determines those properties in the field.

The default indicator for determination of the high ground water location is
based on a soil characteristic which can be found in almost every differing
soil layer. This soil characteristic is called redoximorphic and is primarily caused by the reduction of certain soil elements by the

presence
of water. These processes occur at all differing soil layers and types.

Therefore, it can be easily seen that the use of this indicator will cause
numerous erroneous ground water elevations, all of which will require the
installation of high-maintenance systems. It must be noted that there are
other procedures for determining the groundwater elevation. However, all of
these procedures require costly and timely engineering reports and
monitoring wells.

One of the major requirements of the code is the requirement for
"pressurized distribution" in place of gravity flow. These systems require
mechanical equipment and are high maintenance many of which require
maintenance and inspecting every ix months. This requirement is not only
indefensible but based on misleading conclusions reached by the developers
of the code (these conclusions can be found in the papers of the Small Scale
Waste Management Project at the UW-Madison).

The primary goal of the developers of these rules, as stated in Final
Environmental Impact Statement, is to develop and mandate a system that
RECYCLES the water used in a home. This means that they are mandating the
waters from a septic system meet clean drinking water standards at a
location where these standards can never be met in a natural environment and
was never mandated by the legislature. It is well known that potable water
must be obtained from a certain distance below the surface of the ground.
State well installation laws require a minimum of 25ft of casing for any
well utilized for potable water.

Because there is no "baseline" standards for naturally occurring
groundwater, the Department of Commerce and the developers of this code have
used clean drinking water standards for the baseline. This standard is not
only unrealistic, it cannot be met in the most pristine of swamps and lakes.
The supposed contaminants that the developers of this code use to justify
these rules are naturally occurring and have been documented by both the DNR
and EPA to be so.

We would be remiss if we were opposed to these rules and had no alternatives
to them. Therefore we must state what we believe should be included in any
plumbing code or rule.

-- We believe it is in an owner's best interest to install, operate and
maintain a septic system properly. With this being true, it is our belief
and trust that people will install, operate and maintain a system properly.
-- We believe that property owners that utilize that property for their own

homes are trustworthy and have the best interests of their own and their neighbors health and welfare in mind.
-- Believing this, a plumbing code or rule should put forth a set of standards for a property owner to follow without any restriction and regulations on how it is operated. With this, we also believe that any owners that do pollute or cause harm to their neighbor should be prosecuted.
-- We believe a plumbing code should include all safe and reliable technologies available for the public to use.
-- We believe as much as a plumbing code should not be used as a tool to deter development of residential homes, it should not be used to promote economic development in any one industry or be used as tool to fund any special interest.

Our intentions are to live under defensible and justifiable laws, which these are not. We care about our neighbors and family and believed that if
any of this was justified, we would support it. We also believe in the right of people to live on their land and that they are responsible enough
people to do what is best for them and their neighbors. It is obvious that
these officials and many others do not trust us and believe we need them to
protect us from ourselves. WE BELIEVE INDIVIDUAL PROPERTY RIGHTS ARE A CORNERSTONE OF OUR DEMOCRACY AND WAY OF LIFE.

Thank you for your time and we hope you consider passing a resolution asking
for the suspension of these rules and the promulgation of defensible and justified rules.

The following is a summarized list of our concerns which we have included in
our fliers. These are our interpretations followed by excerpts from the actual administrative rules. These rules are found in the State of Wisconsin Administrative Code - Commerce 83 through 85 known s Comm 83. For
the full txt of the code please see printed volumes.

++ DEPARTMENT OR GOVERNMENTAL UNIT MAY INSPECT A SYSTEM DURING OPERATION AT
ANY TIME DURING REASONABLE HOURS. With no warrant or probable cause. {83.26(1)(a)}

[Comm 83.26 Inspections and testing. (1) (a) Pursuant to s. 145.02 (3) (c),
Stats., the department or governmental unit may inspect the construction,
installation, operation or maintenance of a POWTS to ascertain whether the
POWTS conforms to plans approved by the department or governmental unit, the
conditions of approval and this chapter.]

[145.02 Powers of department. (3) The department may exercise such powers as
are reason-ably necessary to carry out the provisions of this chapter. It
may, among other things:
(c) Enter and inspect at reasonable hours plumbing installations on private
or public property and may disseminate information relative to the provisions of this chapter.]

++ Replacement or repair of any part of a system shall require upgrading the entire system to meet the new code. Includes ALL parts no matter how small. {83.03(1)(b)} The technical design requirements of Comm 83 require the installation of high-maintenance, high-tech systems in almost all instances {Comm 83 through 85}. These requirements can be proven to be indefensible.

[Comm 83.03 Application. (1) (b) Modifications to existing POWTS. A modification to an existing POWTS, including the replacement, alteration or addition of materials, appurtenances or POWTS components, shall require that the modification conform to this chapter.]

++ A MANGEMENT PLAN shall be recorded for every system. This plan shall include amount of wastewater going into system, loading and resting schedules, metering and sampling requirements, and startup and shutdown procedures (along with many other items). {83.54(1)(c)} This plan must be recorded with the department or governmental unit and will be recorded with your property.

[Comm 83.54 Management requirements. (1)(c) The management plan for POWTS shall specify all necessary maintenance and servicing information which may include, but is not limited to all of the following:
1. Accumulated solids or byproduct removal requirements.
2. Influent quantities and qualities and effluent quantities and qualities.
3. Metering, sampling and monitoring schedules and requirements.
4. Load and rest schedules.
5. Servicing frequency requirements.
6. Installation and inspection checklists.
7. Evaluation, monitoring and maintenance schedules for mechanical POWTS components.
8. Start up and shutdown procedures.
9. Procedure for abandonment.]

++ All service, maintenance, repair, inspection, startup, or shutdown events shall be conducted by a person who holds a registration issued by the department. {83.52(3) and others} Only a certified and registered individual may conduct these events. Some of the events include startup of a system after a power outage or after a vacation or shutdown before a vacation. I doubt any of these activities would be for FREE and almost all are required to be reported to the county or department. Our local county taxes must pay for the inspecting, enforcement, recording and reporting.

[Comm 83.52 (3) The activities relating to evaluating and monitoring mechanical POWTS components after the initial installation of the POWTS in accordance with an approved management plan shall be conducted by a person who holds a registration issued by the department as a registered POWTS maintainer.]

[Comm 83.54 Management requirements. (4) (d) 1. A POWTS that exists prior to July 1, 2000, and that utilizes a treatment or dispersal component consisting in part of in-situ soil shall be visually inspected at least once every 3 years to determine whether wastewater or effluent from the POWTS is ponding on the surface of the ground.
2. The inspection required by subd. 1. shall be performed by one of the following:
a. A licensed master plumber.
b. A licensed master plumber-restricted service.
c. A certified POWTS inspector.
d. A certified septage servicing operator under ch. NR 114.]

++ If the owner of the POWTS wishes to operate or maintain a POWTS differently than that specified in the approved MANAGEMENT PLAN, a written request for approval to amend the management plan shall be submitted to the agency. {83.54(1)(d)} If an owner wants to use their system differently than the management plan states approval for change is required, some examples include:
- if you want to go on vacation and need your system shut down - approval is needed for decrease in system flow and any startup and shutdown occurrences;

- if you wish to stay on vacation longer and need to change your system startup schedule - approval is needed for change in schedules and decreases in flow;
- if family or guests stay (say during holidays) - approval is needed for increase in system flow; and
- seasonal owners who wish to stay longer at their home or cannot make it on time - approval is needed or change in schedule.

[Comm 83.54 Management requirements. (1)(d) If the owner of the POWTS wishes to operate or maintain a POWTS differently than that specified in the approved management plan, a written request for approval to amend the management plan shall be submitted to the agency that initially reviewed the installation plan under s. Comm 83.22.]

++ A system that is not maintained in accordance with the approved management plan or as required shall be considered a human health hazard.
{83.52(2)}

[Comm 83.52 Responsibilities. 2) A POWTS, including a POWTS existing prior to July 1, 2000, that is not maintained in accordance with the approved management plan or as required under s. Comm 83.54 (4) shall be considered a human health hazard.]

++ NO PRODUCT MAY BE PUT INTO A SYSTEM UNLESS APPROVED BY STATE. {83.53(1)}
This limits what an owner may pour down a drain in their home and makes it criminal to do otherwise.

[Comm 83.53 General. (1) No product for chemical or physical restoration or chemical or physical procedures for POWTS, including a POWTS existing prior to July 1, 2000, may be used unless approved by the department in accordance with ss. Comm 84.10 and 84.13.]

++ THE DEPARTMENT MAY REQUIRE THE METERING OR MONITORING OF ANY PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM. {83.54(2)(b)} This means that the state may, at their wishes, install meters on private wells with the intention of charging private well owners a consumption fee similar to public systems.
{Comm 82}

[Comm 83.54 Management requirements.2) METERING AND MONITORING. (a) General.
The management plan specified in sub. (1) shall include the metering or monitoring of POWTS influent or effluent as specified in this subsection.]

++ CONVENTIONAL SYSTEMS SHALL BE INSPECTED EVERY 3 YEARS. {83.54(4)(d)1.}
Note that hi-tech mechanical systems are required to have a minimum inspection and maintenance program every 6 months to 1 year. The new code not only promotes but requires the installation of "high-tech systems". This section requires inspection of existing systems every 3 years to determine whether wastewater or effluent is ponding on the ground surface.
This ponding event typically only (if ever) occurs during or immediately after a heavy rain when and during the soils are completely saturated. Considering that there are approximately 8,700 systems in Douglas County and this would require that approximately 3,000 systems/year be inspected (only during the summer months of the year), it seems impossible to inspect all systems in the county for this event. However, when it is known that people will typically have their systems pumped during this required inspection, it could be concluded that this inspection requirement is really a way to have people pump their systems more often. If these systems are pumped every 3 years, this will also likely require many municipal systems to be enlarged and upgraded to accept this increased amount of wastewater (many counties that have adopted these rules have seen very large increases already). Note that in some areas a pumper/hauler is still allowed to discharge the effluent from a septic tank to an open field or ditch, which is NOT considered a human health hazard (interesting).

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ponding on the surface of the ground.]

++ Every service, inspection, or maintenance shall be reported and recorded by the governmental unit. {83.55} There are approximately 8,650 systems in Douglas county and considering the new monitoring and reporting requirements for all service, inspection, and maintenance occurrences, a large staff of people will be required just for the record keeping not including the inspection personnel requirements.

[Comm 83.55 Reporting requirements. (1) (a) The owner of a POWTS or his or her agent shall report to the department or department authorized agent at the completion of each inspection, maintenance or servicing event specified in the approved management plan, except for camping [unit] transfer containers.]

++ COSTS - Installation costs for the new required "high-tech" systems typically exceed $10,000.00 which does not include the initial soils and water determinations. Along with these costs there are also the maintenance and monitoring costs which are mandated to be completed by registered professionals for the LIFE of the system. When all of the costs are considered, including the plan preparation, permitting, installation, monitoring, maintenance, and reporting requirements, the costs to owners will likely surpass that of owners on public systems. It should also be noted that local taxes WILL be raised to provide the new local government reporting, monitoring, and recording requirements.

[The costs listed are estimates and the full extent of the increase in taxes will vary from county to county. However, there is no doubt that these numbers are conservative.]

WE believe that with this new code and the upcoming indefensible zoning regulations, we property owners and our children will no longer have any private property rights. We are asking for your support in these issues. We are also asking that you contact your state and local representatives in opposition to this code and upcoming zoning regulations. If you feel compelled, please sign below and send this to your local and state representatives (we have provided the address for Douglas County). Douglas County Board of Supervisors, 1313 Belknap Street, Superior Wisconsin 54880.

WE COULD FIND NO EVIDENCE IN DOUGLAS COUNTY OR WISCONSIN OF ANY PEOPLE BECOMING SICK OR DYING FROM A FAILING SEPTIC SYSTEM OR THE CONTAMINATION THEY CLAIM TO BE PROVEN TO BE CAUSED BY FAILING SEPTIC SYSTEMS. ACTUALLY WE HAVE FOUND THAT BOTH THE DNR, DOCOMM, AND OTHER STATE AGENCIES HAVE IDENTIFIED THE CONTAMINATION THAT IS CLAIMED TO BE CAUSED BY POWTS TO HAVE NATURAL CAUSES (what does a bear and every other animal do in the woods?). Contaminating surface waters, such as rivers and lakes, is already illegal

under different laws. And POWTS that are found to be contaminating these
waters are required to be replaced under existing different laws and rules.

PROTECTION OF OUR RIGHTS AND LIBERTIES ARE AN EVER VIGILANT FIGHT THAT CAN
ONLY BE ENTRUSTED TO THE PEOPLE THAT HAVE THOSE RIGHTS.

!!

NOTICE TO ALL WISCONSIN RESIDENTS

To all property owners who use a private septic system and all taxpayers of
the State of Wisconsin. The new building code for septic systems, identified as Comm 83 through 85 and related rules, will effect every property owner and taxpayer in the state. The following are just a few interpretations of the code that we feel THE PUBLIC should be informed about. For reference please see printed volumes of the Wisconsin Administrative Rules - Department of Commerce.

++DEPARTMENT OR GOVERNMENTAL UNIT MAY INSPECT A SYSTEM DURING OPERATION AT
ANY TIME DURING REASONABLE HOURS. With no warrant or probable cause. {83.26(1)(a)}

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This limits what an owner may pour down a drain in their home and makes it
criminal to do otherwise.

++THE DEPARTMENT MAY REQUIRE THE METERING OR MONITORING OF ANY PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM. {83.54(2)(b)} This means that the state
may, at their wishes, install meters on private wells with the intention of
charging private well owners a consumption fee similar to public systems.
{Comm 82}

++CONVENTIONAL SYSTEMS SHALL BE INSPECTED EVERY 3 YEARS. {83.54(4)(d)1.}

Note that hi-tech mechanical systems are required to have a minimum inspection and maintenance program every 6 months to 1 year. The new code
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Replacement of any part of a system shall require upgrading the entire system to meet the new code. Includes ALL parts no matter how small. {83.03(1)(b)}

++Every service, inspection, or maintenance shall be reported and recorded
by the governmental unit. {83.55} There are approximately 8,650 systems in
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for all service, inspection, and maintenance occurrences, a large staff of
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reporting, monitoring, and recording requirements.

This new code was adopted to regulate all private septic systems and attempt
to enforce a clean drinking water standard to all waters of the state regardless if they are sources of drinkable water. This will be done by trying to convince the public that all the waters directly below the ground
surface are sources of drinking water with complete disregard for any natural purification processes that occur below the ground surface. It should also be noted that these standards cannot be met in the most pristine
of lakes, rivers, or swamps which is why these are not direct sources of drinking water.

Please keep in mind as property owners, that any permit is a requirement for
PERMISSION to use your land as you see fit and has very little regard to defensible safety concerns. For further information please feel free to contact us at PropertyRights@excite.com or PO Box 1176, Superior, Wisconsin
54880.

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I want the Administrative Rules Comm 83 through 85 POWTS and related rules
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I want the Administrative Rules Comm 83 through 85 POWTS and related rules to be suspended!

Wisconsin
Concrete
Masonry Association

August 27, 2001

Senator Mark Meyer
Chair, Senate Universities, Housing,
And Government Operations Committee
State Capitol, Room 131-S
Madison, WI 53707-7882

Representative Tom Sykora
Chair, Assembly Housing Committee
State Capitol, Room 3-N
Madison, WI 53708

Re: Adoption of Wisconsin-modified IBC

Dear Chairpersons Meyer and Sykora:

I write, on behalf of our statewide membership, to express our sincere appreciation for your efforts to have the Department of Commerce improve the fire-safety provisions of the proposed Wisconsin-modified International Building Code.

Even though the time was short and you had many other issues pending before your Committees, you gave this matter a high priority. You invested a significant amount of time in the subject, through your personal involvement and that of your Committee staff and legal counsel.

As you know, the Department of Commerce staff rejected each of our proposals to make apartments, offices, commercial buildings and manufacturing facilities more fire-safe at no additional cost and to return to the current Wisconsin code. That is very disappointing to us, especially given the Department's stated "mission" and how they say they regard their "customers."

The objective of a uniform code has already been broken by states such as South Carolina and North Carolina, and complete rejected by California. Why do we want to drop our current code and meet only a minimum standard?

We expect this Code will come up in the legislature again. Most likely that will be close to the planned September 1, 2002 effective date.

Very truly yours,

Paul Wank
WCMA President

cc: Senator Robson and Representative Grothman, Co-chairs
Joint Committee for Review of Administrative Rules
Senator Mike Ellis

Judith B. Robson
Wisconsin State Senator

August 21, 2001

Senator Alberta Darling
Room 127 South
State Capitol

Dear Senator Darling:

Thank you for writing to request that the Joint Committee for Review of Administrative Rules hold a hearing on administrative code chapter PI 16.

The Department of Public Instruction is currently revising PI 16. A draft rule has been reviewed by the Legislative Council Rules Clearinghouse and I presume that the department will submit the rule for legislative review in the near future.

The entire subsection relating to testing of individuals with disabilities is being repealed. An analysis of the proposed rule by the department notes that testing requirements for disabled children have changed in recent years because of new state and federal legislation. The analysis goes on to say,

> Because the provisions in the current rule under chapter PI 16 conflict with provisions in state statute and federal law, the proposed rule repeals the subchapter relating to testing children with disabilities. New rule language in this area is not necessary because testing and assessment issues relating to children with disabilities are already comprehensively addressed in state and federal special education statutes and regulations.

Given the Department's intent to completely repeal the rule provisions relating to testing of disabled children, a hearing on possible changes to the rule would not be productive.

I am enclosing a copy of the draft PI 16 and the comments of the Legislative Council Rules Clearinghouse for your review. If I can be of additional assistance on this matter, please do not hesitate to contact me again.

Sincerely,

Senator Judith B. Robson
15th Senate District

JBR:da

State Capitol, Post Office Box 7882, Madison, WI 53707-7882 • Telephone (608) 266-2253
District Address: 2411 East Ridge Road, Beloit, WI 53511
Toll-free 1-800-334-1468 • E-Mail: sen.robson@legis.state.wi.us

Alberta Darling

Wisconsin State Senator

Member, Joint Committee on Finance

August 14, 2001

Representative Glen Grothman, Co-chairperson
Senator Judith Robson, Co-chairperson
Joint Committee for Review of Administrative Rules
State Capitol
Madison, WI 53707
Hand-delivered

Dear Representative Grothman and Senator Robson,

I am writing to respectfully request you hold a public hearing with regard to 3rd, 4th, 8th and 10th grade testing accommodations for a special group of children with special needs. Under Chapter PI-16, there are specific rules related to accommodations for children who receive special services, but this group does not fit that category. These are those children who have been medically diagnosed with Attention Deficit Disorder (ADD).

A constituent of mine has a son entering 8th grade who was diagnosed with ADD at the Medical College of Wisconsin. As you probably know, many children with ADD do not qualify for special education and do not have Individualized Educational Plans (IEP's). My constituent's child would qualify for a 504 designation (under the Civil rights Act), but the 504 does not cover special education services. Thanks to the willingness of his school to institute an accommodation plan informally, this child is excelling academically, and doing so without having a special education "label" on his record.

It appears the administrative rules do not take into consideration children who have a medical diagnosis of ADD. According to those rules, without an I.E.P. or 504 label, these children are not permitted to receive accommodations on the state tests, including testing untimed. While the child was allowed to take the S.A.T. (administered by Princeton) untimed because he had a medically recognized diagnosis, he isn't allowed the same accommodations under current testing rules.

The parent agrees that testing is crucial for successful acquisition of knowledge, but especially since the high school he will attend uses test scores in class placement. However, requiring the child to be labeled in order to take the state tests when he needs no other special services appears contrary to the legislative intent.

I would appreciate your consideration of my request. Please contact me if I can provide you with further information.

Sincerely,

ALBERTA DARLING
State Senator

Capitol Office:

P.O. Box 7882
Madison, Wisconsin, 53707-7882
Phone: 608-266-5830
Fax: 608-267-0588

Toll-free: 1-800-863-1113
Email: Alberta.Darling@legis.state.wi.us
http://www.legis.state.wi.us/senate/sen08/news/

District Office:

N88 W16621 Appleton Avenue, Suite 200
Menomonee Falls, WI 53051
Phone: 262-250-9440
Fax: 262-250-8510

LAFARGE
CORPORATION

June 19, 2001

Senator Judith Robson
Rm 15 South, State Capitol
PO Box 7882
Madison, WI 53707-7882

RE: Opposition to the Adoption of the International Building Code

Dear Senator Robson :

I am writing to urge you to oppose adoption of the International Building Code in the State of Wisconsin, on behalf of the construction industry across Wisconsin.

I am pleased to see the actions of the Department of Commerce to provide a uniform model building code. I cannot condone, however, the adoption of a code that will compromise the fire safety of the Wisconsin public if the current version of the International Building Code, IBC, is selected as that document by the State of Wisconsin and you as an Administrative Rules Committee member.

A uniform code is indeed necessary to promote interstate commerce of goods and services in the construction industry, this much I know. It seems that the Committee has been judicious in excluding IBC Chapter 17, Structural Tests and Special Inspections, which has its place in areas of high seismic activity, unlike Wisconsin. That decisive move will help to ensure that we do not unduly increase construction costs and possibly slow the entire construction process due to lack of qualified seismic inspectors.

Unfortunately, while the items mentioned above are positive, fire safety has been greatly reduced as a result. It is for this reason that I urge you to oppose the adoption of the IBC code. The proposed Wisconsin version if the IBC draws off of the three major US model building codes: BOCA, SBCCI and UBC, as its basis. In the instances where the three differ, the least restrictive requirements have been favored, leading to less stringent rules. In effect, future buildings in Wisconsin will have a reduced quality, fewer fire walls, and will put more people at risk than do buildings under the jurisdiction of the present UBC.

I urge you to oppose the adoption of the currently proposed IBC. Please demand, on behalf of your constituents in Wisconsin, that more stringent fire safety regulations be required before moving forward on this code.

Sincerely,
Lafarge Corporation

Andréa L. Breen

Andréa L. Breen
Technical Sales Engineer

CEMENTITIOUS GROUP/NORTH CENTRAL SALES
10201 W. Lincoln Avenue, #202, Milwaukee, WI 53227
Office: (414) 545-6220 Fax: (414) 545-5453

Austin, David

From: Austin, David
Sent: Tuesday, July 03, 2001 12:12 PM
To: 'Douglas_Williams0t12@excite.com'
Subject: Comm 83

Dear Mr. Williams:

Senator Robson asked me to respond to your email regarding administrative rules Comm 83-85.

You asked what procedures are in place to review the development and promulgation of these rules. A number of possibilities exist.

If you are interested in the history of how the rules were promulgated, including different draft versions, public hearings, changes made because of public comments and so forth, you could do an open records request to the Department of Commerce. This is the department that wrote the rule and put it into effect.

There is also a statutory procedure through which the Legislature can look at rules that are in effect and decide whether to suspend the operation of those rules. That procedure is spelled out in section 227.26 of the statutes. If you would like to begin this procedure, you should contact the Representative or Senator who represents the area in which you live and make that request.

I hope this information is helpful to you.

Sincerely,

David Austin
Senator Robson's office

-----Original Message-----

From: **Douglas Williams [mailto:Douglas_Williams0t12@excite.com] <mailto:**
[mailto:Douglas_Williams0t12@excite.com]>
Sent: Monday, June 18, 2001 1:18 PM
To: Sen.Robson@legis.state.wi.us
Subject: POWTS , Comm 83 through 85 information

Dear Ms. Robson,

I have information pertaining to the development and promulgation of Administrative Rules Comm 83 through 85 and related rules. I am looking for guidance on these matters and what steps to take reveal these parties.

I believe that through a network of influential people within the following agencies/entities the referenced rules were developed and promulgated by the use of misinformation and misrepresentation of nationally accepted engineering and scientific standards. I also believe that these rules will benefit only these entities with little to no environmental impacts and NO increase in the health and safety of the people of Wisconsin.

These agencies/entities include:

- State Officials and employees within the DOC / DNR / Health and Family Services / Agriculture, Trade and Consumer Protection / and University of Wisconsin system - Madison;
- Special interest groups such as the (SSWMP) SMALL SCALE WASTE MANAGEMENT PROJECT (UW-Madison) / WOWDA Wisconsin Onsite Waste Disposal Association / NOWRA National Onsite Wastewater Recycling Association, Inc. / WAPHCC Wisconsin Association of Plumbing, Heating, Cooling Contractors / and industry and engineering entities involved in the design, installation, and monitoring of wastewater and septic systems; and
- A few of the entities involved in these actions include the Wisconsin Groundwater Coordinating Council and the POWTS Advisory Council.

All of the following special interest groups WILL have enormous financial gains with these rules with little to no improvement or impact in/to our state's groundwater or to the health and safety of the populace.

For just a short list of potential income sources:

- SSWMP-UW-Madison-continued education, training, and research/development for private industry (note that a number of the researchers are also employed or own private businesses that will gain from these rules)
- Industry-including the designers, installers, maintainers, and monitoring entities all will have greatly increased revenues.
- State Agencies (and quasi informational sources)-the listed state agencies (to name a few) have employees with either relatives or personal connections to the industry who will also benefit financially from these rules.

I would like to know what procedures are in place to review, inspect, and investigate these rules' development and promulgation.

Thank you for your time.