

**Clearinghouse Rule 13-056**

STATE OF WISCONSIN  
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

-----  
IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : DEPARTMENT OF SAFETY AND  
DEPARTMENT OF SAFETY AND : PROFESSIONAL SERVICES  
PROFESSIONAL SERVICES : ADOPTING RULES  
: (CLEARINGHOUSE RULE )  
-----

PROPOSED ORDER

An order of the Department of Safety and Professional Services to amend s. SPS 128.04 (6) (a) and to create s. SPS 128.04 (6) (d), relating to course instructors.

Analysis prepared by the Department of Safety and Professional Services.

-----  
ANALYSIS

**Statutes interpreted:**

ss. 480.04 (1) and (2), 480.08 (6), Stats.

**Statutory authority:**

ss. 15.405 (3), 480.08 (6), Stats.

**Explanation of agency authority:**

Pursuant to s. 15.405 (3), Stats., the Department of Safety and Professional Services has oversight of the Auctioneer Board as an attached board of the Department. Per, s. 480.04 (2), Stats., the Auctioneer Board does not have rule-making authority. However, under s. 480.04 (1), Stats., the Auctioneer Board may advise the Department on matters relating to auctioneers. Per section 480.08 (6), Stats., states that the department may promulgate rules, on behalf of the Auctioneer Board, governing the requirements and procedures for auctioneers obtaining continuing education. The topic of these proposed rules is the requirements concerning instructors administering continuing education courses. Therefore, the Department is authorized both generally and specifically to promulgate these proposed rules.

**Related statute or rule:**

s. SPS §128.04

**Plain language analysis:**

Currently, per Wis. Admin. Code s. SPS 128.04 (6), course instructors offering continuing education for auctioneers in Wisconsin must be either an auctioneer registered in this state, actively practicing auctioneering for the past five years; or an attorney that practices in the area of auctioneering, or an appraiser approved by the Appraiser Qualifications Board (AQB). The Auctioneer Board reviewed s. SPS §128.04 (6) and determined that the rule limited the number of eligible course instructors by excluding instructors from other disciplines that may be knowledgeable about auctioneering. By promulgating these proposed rules, the Department and the Auctioneer Board seek to enlarge the pool of eligible instructors to those who are experts in their field, have the required years of experience, and have a course approved by the Department.

**Summary of, and comparison with, existing or proposed federal regulation:**

None.

**Comparison with rules in adjacent states:**

**Illinois:** In Illinois auctioneers are regulated by the Department of Financial and Professional Regulation, Division of Professional Regulation. Continuing education courses must be approved by the Division. Illinois further requires that continuing education must be, “developed and presented by persons with education and/or experience in subject matter of the CE course”. 68 Ill. Adm. Code 1440.310 (b) (8) (c).

**Iowa:** Iowa does not regulate continuing education requirements for auctioneers.

**Michigan:** Michigan does not regulate continuing education requirements for auctioneers.

**Minnesota:** Minnesota does not regulate the continuing education requirements for auctioneers.

**Summary of factual data and analytical methodologies:**

The Auctioneer Board reviewed Wis. Admin. Code s. SPS 128.04 and determined a revision to the rule was necessary because the rule limited the type of course instructors that may conduct continuing education in Wisconsin. The pool of eligible instructors is currently restricted to auctioneers registered in Wisconsin, attorneys who are engaged in the field of auctioneering law, and an appraisers approved by the AQB. The Board sought to enlarge the pool of course instructors by drafting this proposed rule. No other factual data or analytical methodologies were used.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis are attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

**Agency contact person:**

Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

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

Comments may be submitted to Shawn Leatherwood Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received on or before October 15, 2013 to be included in the record of rule-making proceedings.

-----  
TEXT OF RULE

SECTION 1. SPS 128.04 (6) (a) is amended to read:

**SPS 128.04 (6) (a)** Be an auctioneer ~~registered in this state~~ who is currently practicing auctioneering, and who has engaged in such practices for at least 5 years.

SECTION 2. SPS 128.04 (6) (d) is created to read:

**SPS 128.04 (6) (d)** Be an instructor in a course approved under s. SPS 128.04 (1) and be a person, in good standing in the jurisdiction in which he or she is credentialed, with at least 5 years of education and experience in the subject matter of the approved course.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

-----  
(END OF TEXT OF RULE)  
-----

Dated \_\_\_\_\_

Agency \_\_\_\_\_

Secretary Ross  
Department of Safety and Professional  
Services