

**Clearinghouse Rule 19-148**  
STATE OF WISCONSIN  
CEMETERY BOARD

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IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	CEMETERY BOARD
CEMETERY BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE )

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PROPOSED ORDER

An order of the Cemetery Board to amend CB 2.06 (1) (intro.) relating to maintenance of burial records.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** Section 157.62 (5), Stats.

**Statutory authority:** Sections 157.62 (5) and 440.905 (2), Stats.

**Explanation of agency authority:**

Section 157.62 (5), Stats. provides “[t]he cemetery board shall promulgate rules requiring cemetery authorities and licensees to maintain other records and establishing minimum time periods for the maintenance of those records.”

Section 440.905 (2), Stats. provides “[t]he board has rule-making authority and may promulgate rules relating to the regulation of cemetery authorities, cemetery salesperson, and cemetery preneed sellers...”

**Related statute or rule:** Section 157.62 (5), Stats.

**Plain language analysis:**

This rule brings ch. CB 2 into compliance with state law requiring that the Board set a minimum time period for which a cemetery authority must retain burial records. The rule project amends s. CB 2.06 to require that a cemetery authority retain burial records indefinitely.

**Summary of, and comparison with, existing or proposed federal regulation:** The federal government does not set time frames for maintaining cemetery burial records.

**Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:**

A preliminary public hearing on scope was held at the Cemetery Board's August 20, 2019 meeting. No comments were received.

**Comparison with rules in adjacent states:**

**Illinois:** Illinois requires cemetery authorities to keep a record of every interment, entombment, and inurnment. The record must include the deceased's name, age, date of burial, and the specific location of the interred, entombed, or inurned human remains. (225 ILCS 411/20-5 (d)). Neither statute nor rule specifies the length of time that the record must be retained for.

**Iowa:** Iowa requires cemeteries to keep a record of each interment in a cemetery, including the date the remains were interred, the name, date of birth, date of death, and a unique identifier for the location of the interment space. There is no specification regarding how long these records must be maintained. (Iowa Stats. s. 523I.311).

**Michigan:** Michigan does not appear to require that cemeteries maintain burial records.

**Minnesota:** Minnesota requires cemeteries to keep a register of burials including the date of each burial, entombment, or cremation, and the name, age, sex, nativity, and cause of death of every person interred or cremated in the cemetery. There is no specification regarding how long these records must be maintained. (Minn. Stats. s. 306.03).

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

The Cemetery Board performed a review of its administrative rules pursuant to s. 227.29, Stats. and determined that the rules did not provide for a minimum time period that cemetery authorities must retain burial records, as required by s. 157.62 (5), Stats. This rule project remedies that deficiency. The Cemetery Board determined that due to the importance of burial records, they ought to be retained indefinitely by the cemetery authority.

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

This rule will be posted for 14 days to receive public comment on the economic impact of the proposed rule.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis will be prepared upon the completion of the 14 day economic impact comment period.

**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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

**Agency contact person:**

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the hearing scheduled for 9:30 AM on January 21, 2020 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. CB 2.06 (1) (intro.) is amended to read:

**CB 2.06 (1) (intro.)** A cemetery authority or licensee shall maintain indefinitely a record for all human remains buried within a cemetery. This record shall include the following information:

SECTION 2. 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.

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(END OF TEXT OF RULE)

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date November 21, 2019
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) CB 2	
4. Subject Maintenance of burial records	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule This rule brings ch. CB 2 into compliance with state law requiring that the Board set a minimum time period for which a cemetery authority must retain burial records. The rule project amends s. CB 2.06 to require that a cemetery authority retain burial records indefinitely.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services's website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing the rule is to bring CB 2 into conformity with the statutory requirement that a minimum time period be set for which a cemetery authority must retain burial records. The alternative of implementing the rule is to leave the rules out of compliance with state statute, or to implement a rule requiring a shorter retention period. In the view of the board, it is reasonable to require a cemetery authority to retain indefinitely a record of the individuals buried within its cemetery.	
16. Long Range Implications of Implementing the Rule	

The long range implication of implementing the rule is that cemetery authorities will have clarity as to how long they must retain burial records.

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**ADMINISTRATIVE RULES**

**Fiscal Estimate & Economic Impact Analysis**

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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17. Compare With Approaches Being Used by Federal Government

The federal government does not set requirements for how long burial records must be retained.

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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

**Illinois:** Illinois requires cemetery authorities to keep a record of every interment, entombment, and inurnment. The record must include the deceased's name, age, date of burial, and the specific location of the interred, entombed, or inurned human remains. (225 ILCS 411/20-5 (d)). Neither statute nor rule specifies the length of time that the record must be retained for.

**Iowa:** Iowa requires cemeteries to keep a record of each interment in a cemetery, including the date the remains were interred, the name, date of birth, date of death, and a unique identifier for the location of the interment space. There is no specification regarding how long these records must be maintained. (Iowa Stats. s. 523I.311).

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19. Contact Name

Jon Derenne, Administrative Rules Coordinator

20. Contact Phone Number

(608) 266-0955

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This document can be made available in alternate formats to individuals with disabilities upon request.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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