

Chapter HS 1

BURIAL SITES PRESERVATION BOARD

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Note: Chapter BB 1 as it existed on September 30, 1993 was repealed and now ch. HS 1, as renumbered under s. 13.93 (2m) (b) 1, Stats., was created effective October 1, 1993.

HS 1.01 Authority and purpose. This chapter is promulgated under the authority of ss. 157.70 and 227.11 (2) (a), Stats. and provides a process to implement s. 157.70, Stats. This chapter establishes procedures that the burial sites preservation board will use to determine which Indian tribes and other applicants to the registry have an interest in a cataloged burial site or class of cataloged burial sites and establishes the procedure through which persons may appeal decisions on disturbing cataloged burial sites under s. 157.70 (5), Stats.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

HS 1.02 Definitions. In this chapter:

- (1) "Board" means the burial sites preservation board.
- (2) "Burial site" means any place where human remains are buried.
- (3) "Cataloged" means recorded under s. 157.70 (2) (a), (4) (e), or (6) (c), Stats.
- (4) "Director" means the director of the state historical society of Wisconsin.
- (5) "Respondent" means the person named as a party in any appeal and against whom a board decision may be issued in that proceeding.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

HS 1.03 Registry of interested persons. (1) **PURPOSE.** The registry of interested persons establishes those persons who have an interest, as defined by s. 157.70 (1) (g), Stats. in any particular cataloged burial site or class of cataloged burial sites.

(2) **APPLICATION FOR ENTRY IN THE REGISTRY.** An applicant shall complete the appropriate form provided by the board. This form shall include all of the following:

- (a) The applicant's name and address.
- (b) The name and exact location of the pertinent burial site, or description of the class of burial sites in which the applicant has an interest.
- (c) The documentation of the applicant's interest under at least one of the following categories as established in s. 157.70 (1) (g), Stats.:

1. To demonstrate direct kinship, an applicant shall submit at least 2 documents in one or more of the following categories:

a. Legal documents, including birth and death records, wills, or marriage certificates.

b. Affidavits.

c. Other historical documents, including genealogies, letters, and family histories.

2. To demonstrate an interest under the other categories, cultural, tribal or religious affiliation; a scientific, environmental, or educational purpose; land use; a commercial purpose not related to land use; or an interest which the board considers to be in the public interest, the applicant shall provide a written statement explaining the type of interest the applicant has as well as information about why the applicant claims that interest.

Note: The application form for entry in the registry can be obtained at no charge by writing to the burial sites preservation program, The State Historical Society of Wisconsin, 816 State Street, Madison, Wisconsin 53706.

(3) **INCOMPLETE APPLICATIONS.** An application for entry in the registry shall be sent to the board. If the application is incomplete, the request shall be returned to the applicant within 30 days with an explanation of the deficiencies.

(4) **BOARD REVIEW.** (a) The board shall review a completed application at its next quarterly meeting, provided that the application is received by the board at least 30 days prior to that meeting.

(b) The board shall notify the applicant of the time and place of the meeting at which the application to the registry will be considered.

(c) Based on the documentation presented, the board, by majority vote, shall determine if the applicant has an interest as defined by s. 157.70 (1) (g), Stats., in the particular cataloged burial site or class of cataloged burial sites.

(5) **REMOVAL FROM THE REGISTRY.** (a) If compelling evidence is ever presented to the board to indicate that a person on the registry does not have an interest as defined by s. 157.70 (1) (g), Stats., the board shall notify this person and give this person an opportunity to respond to the board at its next meeting.

(b) If the board decides, by a majority vote, that there is sufficient evidence to indicate that a person on the registry does not have an interest in a cataloged burial site or class of cataloged burial sites, the board shall remove the person's name from the registry.

(c) A person may request his or her own removal from the registry by notifying the board in writing.

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(d) If notices are mailed to an individual on the registry and referred without a forwarding address, the board may, by a majority vote, remove this person from the registry after 6 months from the date of the returned notice.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

HS 1.04 Appeals. (1) **TIME FOR FILING.** Any party in a hearing under s. 157.70 (5), Stats., may appeal the determination of the director or the division of hearings and appeals on whether to allow the disturbance of a cataloged burial site to the board within 15 business days of when the notice of the determination was mailed.

(2) **FORM FOR APPEAL.** A petition for appeal shall be in writing to the Burial Sites Preservation Board, State Historical Society of Wisconsin, 816 State Street, Madison, WI 53706-1488 and shall contain:

(a) Full name and address of the person making the appeal.

(b) A clear and concise statement of the petitioner's objections and reasons for reconsideration of the decision made by the director or division of hearings and appeals.

(3) **NUMBER OF COPIES.** The petitioner shall submit an original and one copy of the petition for appeal and accompanying documentation to the board. The petitioner shall also notify, by telephone, the burial sites preservation office, at 1 (800) 342-7834, that the appeal was sent by certified mail, return receipt requested.

(4) **NOTICE OF APPEAL.** After receiving a petition for appeal, the board shall send one copy of the proceedings to all other parties and respondents by certified mail, return receipt requested, within 10 business days of receiving the petition for appeal.

(5) **ANSWERS.** A respondent shall file a written response by certified mail, return receipt requested, with an original and one copy, to the board within 10 business days of receipt of the a copy of the petition for appeal and shall state the respondent's position regarding the points made in the appeal. The respondent shall also notify, by telephone, the burial sites preservation office, at 1 (800) 342-7834, that the response was sent by certified mail, return receipt requested. If the respondent fails to file a timely response, the allegations of the petition for appeal may be taken as true and the board may rule on the petition for appeal without further notice or hearing.

(6) **HEARINGS.** (a) The hearing shall be placed on the calendar for the board's next scheduled meeting if the petition for appeal is received at least 30 business days prior to the meeting. If received within 30 business days the board has the option to place the hearing on the agenda for its next meeting if the time requirements in subs. (4) and (5) have been met.

(b) The chairperson of the board shall preside at the hearing unless the chairperson is the director and it is the director's decision being appealed. In such cases, the vice chair shall preside.

(c) The board shall review the existing record and shall not accept evidence that was not introduced at a previous hearing.

(d) The board may accept written or oral arguments.

(7) **TRANSCRIPTS.** The board shall make an electronic record of the proceedings. Copies of tapes shall be provided at cost upon request.

History: Cr. Register, September, 1993, No. 453 eff. 10-1-93.