



**VIRTUAL/TELECONFERENCE
AUCTIONEER BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Will Johnson (608) 266-2112
April 2, 2024**

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-3)**
- B. Approval of Minutes of January 16, 2024 (4-6)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns**
- D. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff, and Board Updates
 - 2) Board Members – Term Expiration Date
 - a. Berlinski, Heather – 5/1/2016
 - b. Hansen, Bryce L. – 5/1/2024
 - c. Jones, Stanley D. – 5/1/2026
 - d. Stockwell, Randy J. – 5/1/2024
 - e. Thiel, Jerry L. – 5/1/2018
 - f. Zentner, Deana M. – 5/1/2027
- E. Administrative Rule Matters – Discussion and Consideration (7-19)**
 - 1) Discussion: SPS 120 to 126, relating to online auctions. **(8-18)**
 - 2) Pending or Possible Rulemaking Projects **(19)**
- F. Discussion and Consideration of Items Added After Preparation of Agenda**
 - 1) Introductions, Announcements and Recognition
 - 2) Nominations, Elections, and Appointments
 - 3) Administrative Matters
 - 4) Election of Officers
 - 5) Appointment of Liaisons and Alternates
 - 6) Delegation of Authorities
 - 7) Education and Examination Matters
 - 8) Credentialing Matters
 - 9) Practice Matters
 - 10) Legislative and Policy Matters

- 11) Administrative Rule Matters
- 12) Liaison Reports
- 13) Board Liaison Training and Appointment of Mentors
- 14) Public Health Emergencies
- 15) Division of Legal Services and Compliance (DLSC) Matters
- 16) Presentations of Petitions for Summary Suspension
- 17) Petitions for Designation of Hearing Examiner
- 18) Presentation of Stipulations, Final Decisions and Orders
- 19) Presentation of Proposed Final Decisions and Orders
- 20) Presentation of Interim Orders
- 21) Petitions for Re-Hearing
- 22) Petitions for Assessments
- 23) Petitions to Vacate Orders
- 24) Requests for Disciplinary Proceeding Presentations
- 25) Motions
- 26) Petitions
- 27) Appearances from Requests Received or Renewed
- 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports

G. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

H. Deliberation on Division of Legal Services and Compliance (DLSC) Matters

I. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Monitoring Matters
- 4) Professional Assistance Procedure (PAP) Matters
- 5) Petitions for Summary Suspensions
- 6) Petitions for Designation of Hearing Examiner
- 7) Proposed Stipulations, Final Decisions and Orders
- 8) Proposed Interim Orders
- 9) Administrative Warnings
- 10) Review of Administrative Warnings
- 11) Proposed Final Decisions and Orders
- 12) Matters Relating to Costs/Orders Fixing Costs
- 13) Case Closings
- 14) Board Liaison Training
- 15) Petitions for Assessments and Evaluations
- 16) Petitions to Vacate Orders
- 17) Remedial Education Cases
- 18) Motions
- 19) Petitions for Re-Hearing
- 20) Appearances from Requests Received or Renewed

J. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- K. Vote on Items Considered or Deliberated Upon in Closed Session if Voting is Appropriate
- L. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING: JULY 23, 2024

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board’s agenda, please visit the Department website at <https://dsps.wi.gov>. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, or the Meeting Staff at 608-267-7213.

**VIRTUAL/TELECONFERENCE
AUCTIONEER BOARD
MEETING MINUTES
JANUARY 16, 2024**

PRESENT: Heather Berlinski, Bryce Hansen, Stanley Jones, Randy Stockwell, Jerry Thiel

EXCUSED: Deana Zentner

STAFF: Will Johnson, Executive Director; Joseph Ricker, Legal Counsel; Sofia Anderson, Administrative Rules Coordinator; Tracy Drinkwater, Board Administrative Specialist; and other DSPS Staff

CALL TO ORDER

Jerry Thiel, Chairperson, called the meeting to order at 12:37 p.m. A quorum was confirmed with five (5) members present.

ADOPTION OF AGENDA

MOTION: Bryce Hansen moved, seconded by Heather Berlinski, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF OCTOBER 24, 2023

MOTION: Stanley Jones moved, seconded by Randy Stockwell, to approve the Minutes of October 24, 2023 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Election of Officers

Slate of Officers

NOMINATION: Randy Stockwell nominated the 2023 slate of officers to continue in 2024. All officers accepted their nominations.

Will Johnson, Executive Director, called for nominations three (3) times.

The Slate of Officers was elected by unanimous voice vote.

ELECTION RESULTS	
Chairperson	Jerry Thiel
Vice Chairperson	Randy Stockwell
Secretary	Heather Berlinski

Appointments of Liaison and Alternates

LIAISON APPOINTMENTS	
Credentialing Liaison(s)	Jerry Thiel <i>Alternate: Randy Stockwell</i>
Education and Exams Liaison(s)	Stanley Jones <i>Alternate: Heather Berlinski</i>
Monitoring Liaison(s)	Jerry Thiel <i>Alternate: Randy Stockwell</i>
Professional Assistance Procedure (PAP) Liaison(s)	Jerry Thiel <i>Alternate: Stanley Jones</i>
Legislative Liaison(s)	Stanley Jones <i>Alternate: Randy Stockwell</i>
Website Liaison(s)	Heather Berlinski <i>Alternate: Bryce Hansen</i>
Screening Panel Members	Randy Stockwell, Jerry Thiel, Stanley Jones <i>Alternate: Deana Zentner</i>

COMMITTEE APPOINTMENTS	
Draft Auction Contract Review Committee	Randy Stockwell, Stanley Jones, Jerry Thiel

Review and Approval of 2023 Delegations

MOTION: Stanley Jones moved, seconded by Bryce Hansen, to reaffirm all delegation motions from 2023 as reflected in the agenda materials. Motion carried unanimously.

Document Signature Delegations

MOTION: Heather Berlinski moved, seconded by Randy Stockwell, in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director, Board Counsel or DPD Division Administrator, the authority to sign on behalf of a board member as necessary. Motion carried unanimously.

Monitoring Delegations

Delegation of Authorities for Monitoring

MOTION: Randy Stockwell moved, seconded by Bryce Hansen, to adopt the “Roles and Authorities Delegated for Monitoring” document as presented in the January 16, 2024, agenda materials. Motion carried unanimously.

Randy Stockwell excused at 1:26 p.m.

ADJOURNMENT

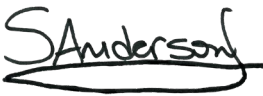
MOTION: Stanley Jones moved, seconded by Heather Berlinski, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:31 p.m.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Sofia Anderson – Administrative Rules Coordinator		2) Date when request submitted: March 15, 2024 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Auctioneer Board			
4) Meeting Date: April 2, 2024	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rules Matters – Discussion and Consideration 1. Discussion: SPS 120 to 126, relating to online auctions. 2. Pending and possible rulemaking projects.	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Attachments: 1. Scope Statement for SPS 120 to 126, relating to online auctions. 2. Chapters 120 to 126. 3. Rules list chart.			
11) Authorization <div style="display: flex; justify-content: space-between; align-items: flex-end; margin-top: 20px;"> <div style="text-align: center;">  <hr/> Signature of person making this request </div> <div style="text-align: center;"> 03/15/2024 <hr/> Date </div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-end; margin-top: 20px;"> <div style="width: 60%;"> Supervisor (if required) </div> <div style="width: 35%;"> Date </div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-end; margin-top: 20px;"> <div style="width: 70%;"> Executive Director signature (indicates approval to add post agenda deadline item to agenda) </div> <div style="width: 25%;"> Date </div> </div>			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATEMENT OF SCOPE

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

Rule No.: SPS 120 to 126

Relating to: Online Auctions

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A.

2. Detailed description of the objective of the proposed rule:

The objective of the rule is to review the definition of auctions and to conduct a comprehensive review of chapters SPS 120 to 126 in order to bring them into compliance with current standards of practice.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

SPS 120 contains the definitions for auctions and bids. The department will review these definitions in light of the increasing popularity of online auctions. Additionally, the department will conduct a comprehensive review of chapters 120 to 126 to review necessary updates and remove obsolete or unnecessary references.

The policy alternative is to leave the chapters unchanged, which would fail to address stakeholder questions and allow confusion to persist as practitioners have attempted to apply outdated rules to modern-day auctions and technology.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 227.11 (2) (a), Stats. provides “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute . . .”

Although as stated in section 480.04 (2), Stats. the Auctioneer Board does not have rule-making authority, pursuant section 480.04 (1), Stats., “the board shall advise the secretary on matters relating to auctioneers or auction companies or to the board.” Section 480.06, Stats., details the relationship between the Department as the rule-making authority and the board as the subject matter experts when promulgating rules.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

60 hours

6. List with description of all entities that may be affected by the proposed rule:

Licensed auctioneers and auction companies.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

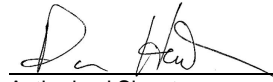
There is no existing or proposed federal regulation that addresses auctioneers or auction companies.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule is likely to have minimal or no economic impact on small businesses and the state's economy as a whole.

Contact Person: Sofia Anderson, DSPSAdminRules@wisconsin.gov

Approved for publication:




Authorized Signature

6/22/2023

Date Submitted

Approved for implementation:



Authorized Signature

2/19/2024

Date Submitted

Chapter SPS 120

AUTHORITY AND DEFINITIONS

SPS 120.01 Authority.

SPS 120.02 Definitions.

Note: Chapter RL 120 was renumbered chapter SPS 120 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 120.01 Authority. The rules in this chapter are adopted under authority of s. 227.11 (2), Stats., and ch. 480, Stats.
History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 120.02 Definitions. As used in chs. SPS 120 to 128:

(1) “Absolute auction” means an auction in which:

- (a) The goods or real estate are sold to the highest bidder.
- (b) No minimum price will limit the bid.
- (c) The seller may not withdraw the goods or real estate from the auction after the first bid is received.
- (d) The seller may not nullify the sale by bidding himself or herself or through an agent.

Note: An “absolute auction” is also known as an “auction without reserve”. The department will construe written statements of an auctioneer or auction company in advertising or in other written materials relating to an auction, such as “everything will be sold” or “everything goes,” as being indicative of the auctioneer’s intent to conduct an absolute auction.

(2) “Auction with reserve” means an auction where the seller or his or her agent reserves the right to establish a minimum bid, to accept or reject any and all bids or to withdraw the goods or real estate from sale at any time prior to the announcement of the completion of the sale by the auctioneer.

(3) “Board” means the auctioneer board.

(4) “Buyer’s fee or surcharge” means an amount of money, usually based on a percentage of the successful bid, charged to the

successful bidder and either added to the successful bid to determine the final selling price or paid separately by the successful bidder in addition to the successful bid.

(5) “Consignor” means the owner or representative of the owner who places goods or real estate with a registrant for sale at auction.

(6) “Department” means the department of safety and professional services.

(7) “False bid” means a non-existent bid acknowledged by an auctioneer in an attempt to escalate bidding.

(8) “Minimum bid” means the lowest acceptable price at which the seller agrees to complete the sale.

(9) “Registrant” means a person registered as an auctioneer or auction company by the department.

(10) “Shill” means an employee or agent of the registrant who bids against legitimate bidders at an auction to escalate bidding.

(11) “State registration number” means the number issued to a registrant by the department, as indicated upon the certificate of registration.

(12) “Trade name” means a name other than the name appearing on an auctioneer’s or auction company’s registration certificate, under which an auctioneer or an auction company advertises or does business.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; am. Register, November, 1996, No. 491, eff. 12-1-96; am. (4) and cr. (12), Register, July, 1999, No. 523, eff. 8-1-99; correction in (intro.), (6) made under s. 13.92 (4) (b) 6., 7., Stats., Register November 2011 No. 671.

Chapter SPS 121

APPLICATIONS

SPS 121.01	Authority.		
SPS 121.02	Initial registration.	SPS 121.04	Renewal of registration.
SPS 121.025	Temporary registration.	SPS 121.05	Cause for denial of registration.
SPS 121.03	Consent by nonresident for service of process.	SPS 121.06	Change of name.
SPS 121.035	Reciprocal credentials for service members, former service mem-	SPS 121.07	Use of trade name.

Note: Chapter RL 121 was renumbered chapter SPS 121 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 121.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 440.03, 440.05, 440.08, 480.06, 480.08 and 480.10, Stats.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 121.02 Initial registration. (1) AUCTIONEER. The department may register as an auctioneer an applicant who satisfies the requirements in s. 480.08 (2) or (2m), Stats. The department shall consider s. 480.08 (2) (d), Stats., as having been satisfied, if the applicant has either received a seller's permit from the department of revenue under s. 77.52 (9), Stats., or the applicant has determined that he or she is not required to have a seller's permit and is, therefore, not eligible to obtain a permit.

(2) AUCTION COMPANY. The department may register as an auction company an applicant who satisfies the requirements in s. 480.08 (3), Stats. The department shall consider s. 480.08 (3) (d), Stats., as having been satisfied, if the applicant has either received a seller's permit from the department of revenue under s. 77.52 (9), Stats., or the applicant has determined that it is not required to have a seller's permit and is, therefore, not eligible to obtain a permit. An auction company is not required to have any of its officers, partners or directors registered as an auctioneer unless such officers, partners or directors engage in acts specified in s. 480.08 (1) (a), Stats.

Note: Applications may be obtained from the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708. An otherwise qualified applicant shall be provided with reasonable accommodations.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 121.025 Temporary registration. A temporary registration certificate issued under s. 480.08 (7), Stats., shall be valid for no more than 60 days after the date that the applicant has filed an application for registration as an auctioneer with the department.

History: Cr. Register, January, 2001, No. 541, eff. 2-1-01.

SPS 121.03 Consent by nonresident for service of process. The application of a nonresident person for registration as an auctioneer or auction company constitutes the appointment of the secretary of the department as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of a transaction or operation connected with or incidental to the business of an auctioneer or auction company.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 121.035 Reciprocal credentials for service members, former service members, and their spouses. The department shall grant a reciprocal credential under this chapter to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09, Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this section.

bers, and their spouses.
 SPS 121.04 Renewal of registration.
 SPS 121.05 Cause for denial of registration.
 SPS 121.06 Change of name.
 SPS 121.07 Use of trade name.

Note: Application forms are available from the Department of Safety and Professional Services' website at <http://dsps.wi.gov>.

Note: Section 480.12, Stats., contains requirements for general reciprocity.

History: CR 22-047; cr. Register July 2023 No. 811, eff. 8-1-23.

SPS 121.04 Renewal of registration. (1) AUCTIONEER. (a) Except as provided in s. SPS 121.05, the department shall renew the credential of an auctioneer who files a completed application for renewal of registration before the renewal date, as defined in s. 440.01 (1) (dm), Stats., if all of the following conditions are satisfied:

1. The applicant has paid the renewal fee specified in s. 440.08 (2) (a) 14r., Stats.

2. The applicant continues to meet the registration criteria in s. 480.08 (2) (a) to (d), Stats.

(b) Except as provided in s. SPS 121.05, the department shall renew the credential of an auctioneer who files a completed application for renewal of registration after the renewal date, as defined in s. 440.01 (1) (dm), Stats., but less than 5 years after the renewal date, if all of the following conditions are satisfied:

1. The applicant has paid the renewal fee specified in s. 440.08 (2) (a) 14r., Stats., and the late renewal fee specified in s. 440.08 (3), Stats.

2. The applicant continues to meet the registration criteria in s. 480.08 (2) (a) to (d), Stats.

(c) The department shall renew the credential of an auctioneer who files a completed application for renewal of registration 5 years or more after the renewal date, as defined in s. 440.01 (1) (dm), Stats., if the following conditions are satisfied:

1. The applicant has paid the renewal fee specified in s. 440.08 (2) (a) 14r., Stats., and the late renewal fee specified in s. 440.08 (3), Stats.

2. The applicant continues to meet the registration criteria in s. 480.08 (2) (a) to (d), Stats.

3. The applicant has taken and passed the registration examination within one year prior to the date of the application for renewal of registration.

(2) AUCTION COMPANY. (a) Except as provided in s. SPS 121.05, the department shall renew the credential of an auction company which files a completed application for renewal of registration before the renewal date, as defined in s. 440.01 (1) (dm), Stats., if all of the following conditions are satisfied:

1. The applicant has paid the renewal fee specified in s. 440.08 (2) (a) 14g., Stats.

2. The applicant continues to meet the registration criteria in s. 480.08 (3) (a) to (d), Stats.

(b) Except as provided in s. SPS 121.05, the department shall renew the credential of an auction company which files a completed application for renewal of registration at any time after the renewal date, as defined in s. 440.01 (1) (dm), Stats., if all of the following conditions are satisfied:

1. The applicant has paid the renewal fee specified in s. 440.08 (2) (a) 14g., Stats., and the late renewal fee specified in s. 440.08 (3), Stats.

2. The applicant continues to meet the registration criteria in s. 480.08 (3) (a) to (d), Stats.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; am. (1) (c) 3., Register, July, 1999, No. 523, eff. 8-1-99; correction in (1) (a) (intro.), (b) (intro.), (2) (a) (intro.), (b) (intro.) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

SPS 121.05 Cause for denial of registration. The department may deny an application for registration as an auctioneer or auction company submitted by a person or entity who or which has committed fraud or misrepresentation in the application or who or which has done any acts which are grounds for discipline under s. 480.24, Stats.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 121.06 Change of name. If the name of a registered auctioneer or auction company appearing on the current registration certificate changes, written notice of the name change shall be sent to the department within 30 days after the name change.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 121.07 Use of trade name. A registered auctioneer or auction company, before doing business under any trade name, shall notify the department in writing of the trade name.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; r. (1) and renum. (2) to be RL 121.07, Register, July, 1999, No. 523, eff. 8-1-99.

Chapter SPS 122

EXAMINATIONS

SPS 122.01 Authority.
 SPS 122.02 Public notice.
 SPS 122.03 Subjects tested.
 SPS 122.04 Cheating on examination.

SPS 122.05 Passing score.
 SPS 122.06 Examination review.
 SPS 122.07 Claim of examination error.
 SPS 122.08 Examination retakes.

Note: Chapter RL 122 was renumbered chapter SPS 122 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 122.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 480.06, 480.08 (2) (e) and (2m), and 480.10, Stats.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 122.02 Public notice. The department shall prepare an examination application form and informational materials which list the examination dates which have been scheduled by the department for no less than the 6 months following publication.

Note: Applications may be obtained from the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708. An otherwise qualified applicant shall be provided with reasonable accommodations.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 122.03 Subjects tested. The department shall prepare examinations as required under s. 480.10, Stats. The examination shall be a written examination that tests the applicant's knowledge or competence in all of the following areas:

- (1) Solicitation.
- (2) Contracts.
- (3) Pre-auction preparation.
- (4) Conducting an auction.
- (5) Closing and sales records.
- (6) Statutes and administrative rules substantially related to conducting an auction.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 122.04 Cheating on examination. An applicant may not give or receive unauthorized assistance during the examination, improperly remove notes, examination questions or secure documents from the examination setting, sell or distribute actual examination questions from the examination, buy or obtain unauthorized access to examination questions, or otherwise violate the published rules of conduct of the examination.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; am. Register, July, 1999, No. 523, eff. 8-1-99.

SPS 122.05 Passing score. The score required to pass the examination shall be based on the department's determination of the level of examination performance required for minimum acceptable competence in the profession. The department shall make the determination after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing score for the examination at that point which represents minimum acceptable competence in the profession.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 122.06 Examination review. (1) An applicant who fails the examination may request a review of that examination by filing a written request to the department within 30 days after the date on which the examination results were mailed to the applicant.

(2) An examination review shall be conducted under the following conditions:

- (a) The time for review shall be limited to one hour.
- (b) The examination shall be reviewed only by the applicant and in the presence of a proctor.
- (c) The proctor may not respond to inquiries by the applicant regarding allegations of examination error.
- (d) Any comments or claims of error regarding specific questions or procedures in the examination may be placed in writing by the applicant on the form provided for this purpose. The request shall be reviewed by the department in consultation with a subject matter expert. The applicant shall be notified in writing of the department's decision. If the decision does not result in a passing grade, the applicant may retake the examination.

(e) An applicant shall be permitted only one review of the failed examination each time it is taken and failed.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 122.07 Claim of examination error. (1) An applicant wishing to claim examination error must file a written request for department review in the department office within 30 days after the date the examination was reviewed. The request shall include:

- (a) The applicant's name and address.
- (b) The type of registration applied for.
- (c) A description of the perceived error, including reference text citations or other supporting evidence for the applicant's claim.

(2) The request shall be reviewed by the department in consultation with a subject matter expert. The applicant shall be notified in writing of the department's decision. If the decision does not result in a passing grade, the applicant may retake the examination.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 122.08 Examination retakes. (1) There is no limit to the number of times any applicant may retake the examination.

(2) An applicant who passes the examination and remains unregistered for one year or more after the date of the examination shall again take and pass the examination before being registered.

(3) An applicant who reviews an examination pursuant to s. SPS 122.06 may not retake the examination within 30 days after the date on which the examination was reviewed.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

Chapter SPS 123

ADVERTISING

SPS 123.01 Authority.
SPS 123.02 False advertising.

SPS 123.03 Contents of advertising.

Note: Chapter RL 123 was renumbered chapter SPS 123 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 123.01 Authority. The rules in this chapter are adopted under authority of ss. 227.11 (2), 480.06, 480.20 and 480.24 (2) (d), Stats.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 123.02 False advertising. No registrant may advertise in a manner which is false, deceptive or misleading.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 123.03 Contents of advertising. All advertisements that an auction will be conducted shall contain the follow-

ing information:

(1) The name or trade name of an auctioneer responsible for the auction conducted pursuant to the contract required under s. 480.14 (1), Stats., and the name or trade name of any auction company that is managing the auction.

(2) A statement that the auctioneer is a 'registered Wisconsin auctioneer' and the state registration number of the auctioneer.

(3) A statement of the terms and conditions under which the registrant will accept payment by buyers at the auction.

(4) The percentage or other amount of any buyer's fee or surcharge which is a condition to sale.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; r. and recr., Register, July, 1999, No. 523, eff. 8-1-99.

Chapter SPS 124

WRITTEN CONTRACTS

SPS 124.01 Authority.
SPS 124.02 Written contracts; terms.

SPS 124.03 Written contracts; copies.

Note: Chapter RL 124 was renumbered chapter SPS 124 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 124.01 Authority. The rules in this chapter are adopted under authority in ss. 227.11 (2), 480.06 and 480.14, Stats.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 124.02 Written contracts; terms. No auctioneer may conduct an auction unless the auctioneer or the auction company that is managing the auction has entered into a prior written contract with each owner or consignor of goods or real estate that may be sold at the auction. The contract shall specify the terms and conditions upon which the auctioneer or auction company accepts the goods or real estate for sale and must contain:

- (1) The registrant's name, trade or business name, state registration number, business address and business telephone number.
- (2) The name and address of the owner or consignor.
- (3) A general description of the property to be sold at auction, any restrictions relating to conducting the auction and a statement indicating whether the registrant is authorized to purchase at the auction.

(4) A description of the services to be provided and the consideration for the services. The description must state which party is responsible for advertising and other expenses.

(5) A statement of whether a buyer's fee or surcharge will be assessed and, if so, the percentage or other amount to be charged to the successful bidder.

(6) The date, dates or time period during which the items will be sold at auction.

(7) A statement by the seller that he or she has title and right to sell all property to be sold at auction free of encumbrances and liens; or, if some or all of the property to be sold is subject to encumbrances or liens, a specific itemization of such property.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; am. (5), Register, July, 1999, No. 523, eff. 8-1-99.

SPS 124.03 Written contracts; copies. An auctioneer or auction company shall give the owner or consignor a legible copy of the contract referred to in s. SPS 124.02 at the time of signing.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; correction made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

Chapter SPS 125

MAINTENANCE OF RECORDS

SPS 125.01	Authority.	SPS 125.05	Time of trust account deposit.
SPS 125.02	Definition.	SPS 125.06	Opening and closing trust accounts.
SPS 125.025	Use of computers.	SPS 125.07	Trust account designation.
SPS 125.03	Account summary sheet for registrants not maintaining a trust account.	SPS 125.08	Notification of the department regarding trust account.
SPS 125.035	Trust account required.	SPS 125.09	Withdrawal of trust funds.
SPS 125.04	Type of account.	SPS 125.10	Commingling prohibited.
		SPS 125.12	Trust account bookkeeping system.

Note: Chapter RL 125 was renumbered chapter SPS 125 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 125.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 480.06, 480.14, 480.16 and 480.18, Stats.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 125.02 Definition. In this chapter, “trust funds” means cash, checks, share drafts, drafts or notes received by an auctioneer or an auction company on behalf of any other person while acting as an auctioneer or auction company for an auction of goods. “Trust funds” does not include proceeds received by an auctioneer or an auction company on behalf of any other person pursuant to an auction in which the written contract under s. 480.14, Stats., requires the registrant to pay the owner or consignor within 24 hours after the auction.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; am. Register, July, 1999, No. 523, eff. 8-1-99.

SPS 125.025 Use of computers. An auctioneer or an auction company may maintain any records required by this chapter in a computerized system, provided that:

(1) A backup copy of the bookkeeping records is made on any day on which entries are made in the computerized bookkeeping system. The backup copy shall be made on a disk or other medium which is separate and distinct from that on which the source documents reside.

(2) All records which are not maintained as written paper records are capable of being immediately converted to written paper records and immediately made available without charge to the department for the purposes of department audit or investigation.

History: Renum. from RL 125.12 and am. (intro.), Register, July, 1999, No. 523, eff. 8-1-99.

SPS 125.03 Account summary sheet for registrants not maintaining a trust account. An auctioneer or auction company that is not required to maintain a trust account shall maintain an account summary sheet which shows the receipts, deposits, expenses and disbursements of each individual auction.

Note: This provision applies only to registrants not required to maintain a trust account. Registrants for whom a trust account is required must use the trust account bookkeeping system described in s. SPS 125.12.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; r. and recr., Register, July, 1999, No. 523, eff. 8-1-99.

SPS 125.035 Trust account required. An auctioneer or auction company shall maintain a trust account when the registrant receives and holds auction funds which are not disbursed to the owner or consignor under a written contract under s. 480.14, Stats., within 24 hours after the auction.

History: Cr. Register, July, 1999, No. 523, eff. 8-1-99.

SPS 125.04 Type of account. An auctioneer or auction company may place trust funds in an interest-bearing or non-

interest-bearing account, provided that none of the interest inures to the benefit of the auctioneer or auction company.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 125.05 Time of trust account deposit. An auctioneer or auction company shall deposit trust funds in a trust account within 48 hours after receipt by the auctioneer or auction company.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 125.06 Opening and closing trust accounts.

(1) The department may not require an auctioneer or auction company to open a trust account before the auctioneer or auction company receives trust funds which must be deposited, unless the department finds, in a specific case, that an earlier opening of an account is needed in order to assure compliance with this chapter.

(2) An auctioneer or auction company may close a trust account when no trust funds remain in the auctioneer’s or auction company’s possession.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 125.07 Trust account designation. An auctioneer or auction company shall:

(1) Include the words “trust account” in the name of the trust account maintained by the auctioneer or auction company.

(2) Imprint the name of the auctioneer or auction company on the trust account checks, share drafts or drafts.

(3) Designate the account with the name appearing on the auctioneer’s or auction company’s registration certificate or with a trade name submitted to the department under s. SPS 121.07.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

SPS 125.08 Notification of the department regarding trust account. (1) An auctioneer or an auction company shall provide the department with the name and number of every trust account maintained by the auctioneer or auction company and the name of the depository institution in which the auctioneer or auction company holds each trust account. The auctioneer or auction company shall provide this notification to the department on a form prepared by the department no later than 10 days after opening a trust account. The auctioneer or auction company shall authorize representatives of the department to examine and audit all of the auctioneer’s or auction company’s trust accounts.

(2) An auctioneer or an auction company shall obtain the certification of every depository institution in which the auctioneer or auction company maintains a trust account, in which the depository institution attests to the existence of the account and consents to the examination and audit of the account by a duly authorized representative of the department.

Note: A Consent to Examine and Audit Auctioneer Trust Account form may be obtained from the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(3) An auctioneer or auction company shall notify the department no later than 10 days after a change has been made to an auction trust account name, auction trust account number or deposi-

tory institution name. The notification shall be provided on a form prepared by the department.

Note: Forms may be obtained from the department at 1400 East Washington Avenue, P. O. Box 8935, Madison, Wisconsin 53708.

(4) An auctioneer or auction company shall notify the department no later than 10 days after an auction trust account has been closed. This notification shall be made in written correspondence to the department.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; cr. (3) and (4), Register, July, 1999, No. 523, eff. 8-1-99.

SPS 125.09 Withdrawal of trust funds. An auctioneer or auction company shall withdraw funds to reimburse the auctioneer or auction company for expenses incurred and commissions and fees earned by the auctioneer or auction company within the 30 days specified in s. 480.14 (3), Stats., or as otherwise provided by the terms of a contract.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 125.10 Commingling prohibited. (1) Except as provided in subs. (2) and (3), an auctioneer or an auction company may not commingle the auctioneer's or auction company's personal or company funds which are not trust funds in a trust account maintained pursuant to this chapter.

(2) An auctioneer or auction company may place personal or company funds in a trust account under the following conditions:

(a) Funds equal to the amount of any checks received by the auctioneer or auction company on behalf of an owner or consignor when such funds are deposited by the auctioneer to cover potential or actual "non-sufficient funds" checks received from purchasers.

(b) Funds sufficient to cover service charges relating to the trust account.

(3) An auctioneer or an auction company shall deposit additional personal or other funds in the trust account within 10 busi-

ness days following receipt of a statement or other notification from a depository institution that the trust account is overdrawn.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 125.12 Trust account bookkeeping system. An auctioneer or an auction company required to maintain a trust account shall maintain a bookkeeping system that enables the auctioneer or auction company to adequately account for all trust funds in a trust account, to maintain an accurate and sufficient balance in the account and to account for all trust funds received from specified buyers and paid to specified sellers for specified purchases. The bookkeeping system shall consist of at least the following:

(1) CHECK REGISTER. An auctioneer or an auction company shall maintain a record regarding a trust account, called a check register, which shall show the date, the payee, the number of the check, share draft or draft and the amount.

(2) BANK RECONCILIATION. An auctioneer or an auction company shall reconcile the trust account in writing each month unless there has been no activity during the month. The written reconciliation shall include all of the following:

(a) The ending bank statement balance.

(b) The date and amounts of the deposits in transit.

(c) The check number and amounts of outstanding checks.

(d) The resulting reconciled bank statement ending balance.

(3) VALIDATION. The auctioneer or auction company shall review the reconciled bank statement ending balance, the account summary sheets described in sub. (4), and the check register to ensure that all of the records are accurate and in agreement as of the date the trust account statement has been reconciled.

(4) ACCOUNT SUMMARY SHEET. An auctioneer or auction company shall maintain a record regarding a trust account, called an account summary sheet, which shows the receipts, deposits, expenses and disbursements as they affect each individual auction.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; renum. from RL 125.11, am. (intro.), cr. (1) to (4), Register, July, 1999, No. 523, eff. 8-1-99.

Chapter SPS 126

CONDUCT

SPS 126.01 Authority.
SPS 126.02 Unprofessional conduct.

SPS 126.03 Effect of suspension or revocation on registrant.

Note: Chapter RL 126 was renumbered chapter SPS 126 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 126.01 Authority. The rules in this chapter are adopted under authority in ss. 227.11 (2), 480.06 and 480.24 (2) (b), Stats.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

SPS 126.02 Unprofessional conduct. Conduct evidencing a lack of knowledge or ability to apply professional principles or skills, within the meaning of s. 480.24 (2) (b), Stats., includes, but is not limited to, engaging in or aiding or abetting the following conduct:

(1) Performing or offering to perform services for which the registrant is not qualified by education, training or experience.

(2) Violating a law or rule of any jurisdiction, the circumstances of which substantially relate to the practice under the registration.

(3) Advertising an auction as an absolute auction if any item or items are to be sold with reserve or with minimum bids.

(4) Engaging in false, fraudulent, deceptive or misleading billing practices.

(5) Obtaining or attempting to obtain compensation by fraud or deceit.

(6) Reporting distorted, false or misleading information or making false statements in practice.

(7) Discriminating on the basis of age, race, color, sex, religion, creed, national origin, ancestry, disability or sexual orientation by means of service provided or denied.

(8) Knowingly escalating or attempting to escalate bidding through false bids, shills or through collusion with another.

(9) Violating or attempting to violate any formal disciplinary order of the auctioneer board.

(10) Knowingly providing false information to the board, the department or their agents.

(11) Cheating on the registration examination contrary to s. SPS 122.04.

(12) Failing to post written notice at the location where the auction is to be conducted, prior to the commencement of an auction, of the terms and conditions under which the registrant will accept payment by buyers.

(13) If a buyer's fee or surcharge is a condition of sale, failing to post written notice at the location where the auction is to be conducted, prior to the commencement of an auction, of the percentage or other amount of the buyer's fee or surcharge.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95; cr. (11), (12) and (13), Register, July, 1999, No. 523, eff. 8-1-99; am. (13), Register, January, 2001, No. 541, eff. 2-1-01; correction in (11) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

SPS 126.03 Effect of suspension or revocation on registrant. (1) An auctioneer or auction company whose registration has been suspended or revoked shall notify all persons with whom the auctioneer or auction company has a contract for services to be performed during the period of suspension or following revocation. The notice shall be in writing, state that the registration of the auctioneer or auction company has been suspended or revoked, and describe the terms of the suspension or revocation.

(2) An auctioneer or auction company whose registration has been suspended or revoked by the board may not engage in the following activities during the term of the suspension or revocation:

(a) Call an auction by calling for, recognizing, or accepting offers for the purchase of goods or real estate at an auction.

(b) Advertise, represent or otherwise hold out as being available to call or manage an auction.

(c) Advertise, represent or otherwise hold out as being an auctioneer or auction company or use the title "auctioneer," "registered auctioneer," "certified auctioneer," "licensed auctioneer," "auction company," "auction sales staff," "auction team member" or any similar title.

(d) Solicit, negotiate or enter into any auction contract, auction listing, auction consignment, or related auction agreement, including assisting or aiding another registrant to perform auction-related duties.

(e) Perform, manage or supervise any of the following:

1. Call for bids at any type of auction, including auctions under s. 480.02 (2) (a) to (h), Stats.

2. Oversee, in any manner, the conducting of any auction.

3. Accept any form of referral fee, finder's fee, commission, commission sharing or splitting, or related compensation from any auctioneer, auction company, or auctioneer-related professional.

4. Participate in any form of auctioneer-related bid-calling.

5. Suggest or imply to the public, privately or through advertising, that he or she is able to perform any of the activities in subs. 1. to 4.

(3) An auctioneer or auction company may not employ, retain or otherwise utilize an auctioneer or auction company whose registration has been suspended or revoked to perform any auction-related activity described in sub. (2). This section does not prohibit an auctioneer or auction company from contracting to perform services that an auctioneer or auction company is unable to perform because of a registration suspension or revocation and which the auctioneer or auction company contracted to perform prior to the license suspension or revocation.

History: Cr. Register, January, 2001, No. 541, eff. 2-1-01.

**DSPS Auctioneer Board
Rule Projects (updated 03/15/2024)**

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause	Synopsis	Current Stage	Next Step
			SPS 120 to 126	Online Auctions	The objective of the rule is to review the definition of auctions and to conduct a comprehensive review of chapters SPS 120 to 126 in order to bring them into compliance to current standards of practice.	Drafting rule	EIA Comment Period, Clearinghouse Review, and Public Hearing.