

STATE OF WISCONSIN
Department of Veterans Affairs

Report from Agency

RULEMAKING REPORT TO LEGISLATURE

Clearinghouse Rule 20-011

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA are attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

On December 1, 2011, the Wisconsin Department of Veterans Affairs enacted a moratorium on its primary mortgage loan program for veterans due to housing market conditions that rendered the self-amortizing program insolvent. No new primary mortgage loans have been made since November 2009.

The *Veterans Housing Loan Program* under ch. 45, subch. III, Stats., was repealed as affected by 2019 Wisconsin Act 9 (biennial budget bill), thus eliminating the Department's administrative requirements and authority relating to the Veteran's Housing Loan Program. Several references to the housing loan program appear in ch. VA 1. The proposed rule will eliminate obsolete and unauthorized language and obsolete statute references in ch. VA 1 relating to the housing loan program.

The proposed rule also includes general updates throughout the chapter that revise or eliminate outdated and unnecessary provisions, modifies language for clarity, and amends provisions for conformity with current drafting standards for style and form.

V. SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

No public comments were received.

Pursuant to ss. 45.03 (2m) and 227.14 (2) (a) 6m., Stats., administrative rules prepared by the Department of Veterans Affairs must be provided to the Board of Veterans Affairs. The Board may prepare a report containing written comments and its opinion regarding the proposed rules. The Board of Veterans Affairs was provided a copy of the proposed rules and offered no comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All recommendations in the Clearinghouse Report were accepted and incorporated into the proposed rule.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

N/A

Clearinghouse Rule 20-011

STATE OF WISCONSIN
Department of Veterans Affairs

In the matter of rulemaking proceedings before the Department of Veterans Affairs.

PROPOSED ORDER OF THE
DEPARTMENT OF VETERANS AFFAIRS ADOPTING RULES

PROPOSED ORDER

A proposed order of the Department of Veterans Affairs *to repeal* VA 1.06, (Notes) [1] and [2], 1.07, 1.09, 1.10 (2), (4), (5), (7) and (13), 1.11, 1.12, 1.17, 1.18, and 1.19 ; *to renumber* VA 1.15 (1), (2), and (3); *to renumber and amend* VA 1.01, 1.03 (4), 1.10 (intro.), (1), (8) (intro.) and (a), 1.13, 1.15 (intro.); *to amend* VA 1 (title), 1.02, 1.03 (1), (2), (3), (5), (7), (8), and (9), 1.04, 1.05, 1.08 (1) (a) and (c) and (2), 1.10 (3), (6) (a) and (b), (8) (b) and (c), (9) to (12), (15), and (16), and 1.16; *to repeal and recreate* VA 1.14 *and to create* VA 1.001 (3), (4), (4m), (6), and (7), 1.01 (title), (1) and (2), 1.02 (Note), and 1.03 (3) (Note); relating to general updates.

The scope statement for this rule, SS 102-19, was approved by the Governor on October 3, 2019, published in Register No. 766A1 on October 7, 2019, and approved for implementation by the Secretary of the Department of Veterans Affairs on October 17, 2019.

ANALYSIS

Analysis prepared by the Department of Veterans Affairs.

Statutes interpreted:

Sections 45.03 (2), Stats., and 2019 Wisconsin Act 9

Statutory authority:

Sections 45.03 (2), Stats.

Explanation of agency authority:

Section 45.03 (2), Stats., authorizes the secretary of the department to promulgate rules necessary to carry out the purposes of this chapter and the powers and duties conferred upon it.

Related statute or rule:

None

Plain language analysis:

On December 1, 2011, the Wisconsin Department of Veterans Affairs enacted a moratorium on its primary mortgage loan program for veterans due to housing market conditions that rendered the self-amortizing program insolvent. No new primary mortgage loans have been made since November 2009.

The *Veterans Housing Loan Program* under ch. 45, subch. III, Stats., was repealed as affected by 2019 Wisconsin Act 9 (biennial budget bill), thus eliminating the Department's administrative requirements and authority relating to the Veteran's Housing Loan Program. Several references to the housing loan program appear in ch. VA 1. The proposed rule will eliminate obsolete and unauthorized language and obsolete statute references relating to the housing loan program.

The proposed rule also includes general updates throughout the chapter that revise or eliminate outdated and unnecessary provisions, modifies language for clarity, and amends provisions for conformity with current drafting standards for style and form.

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

None

Comparison with rules in adjacent states:

Illinois: Illinois administrative rules relating to general requirements for veterans programs and benefits, administered by the Illinois Department of Veterans Affairs, are spread over multiple chapters and include requirements for Specially Adaptive Housing, Tax Exemptions, Government Marker Reimbursement, Survivors Compensation, and Burial Benefits. The administrative codes relating to Veterans' Homes are administered by the Illinois Department of Public Health.

Iowa: Iowa administrative code Chapter 1, *Organization and Procedures*, contains general requirements relating to the duties of the Iowa Department of Veterans Affairs, Commission of Veterans Affairs, Commandant of the Iowa Veterans Home, and requirements pertaining to the Iowa Veterans Cemetery.

Michigan: Michigan administrative rules relating to general requirements for veterans programs and benefits are administered by the Michigan Department of Military and Veterans Affairs and are spread over multiple sections. Sections within chapter R. 32 contain provisions relating to veterans homes, R. 35 contains provisions relating to grants for eligible veterans, and sections within chapter R. 200 contain provisions relating to Michigan's military family relief fund.

Minnesota: Minnesota administrative rule Chapter 9055 governs the *Administration and Operation* of the Minnesota Department of Veterans Affairs. This chapter contains provisions relating to the State Soldiers Assistance Fund, types of assistance authorized,

duties of the claims division, educational benefits, and the maintenance and release of veterans records.

Summary of factual data and analytical methodologies:

On December 1, 2011, the Wisconsin Department of Veterans Affairs enacted a moratorium on its primary mortgage loan program for veterans due to housing market conditions that rendered the self-amortizing program insolvent. No new primary mortgage loans have been made since November 2009.

The *Veterans Housing Loan Program* under ch. 45, subch. III, Stats., was repealed as affected by 2019 Wisconsin Act 9 (biennial budget bill), thus eliminating the Department's administrative requirements and authority relating to the Veteran's Housing Loan Program. The proposed rule eliminates references to the housing loan program in ch. VA 1.

Pursuant to ss. 45.03 (2m) and 227.14 (2) (a) 6m., Stats., administrative rules prepared by the Department of Veterans Affairs must be provided to the Board of Veterans Affairs. The Board may prepare a report containing written comments and its opinion regarding the proposed rules. The Board voted unanimously to approve the proposed rules and offered no additional comments.

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

The Fiscal Estimate and Economic Impact Analysis is attached.

Fiscal Estimate and Economic Impact Analysis:

The department solicited information and advice from businesses, associations, local governmental units, and individuals in order to prepare the Economic Impact Analysis. No comments were received.

Effect on small business:

The proposed rules do not affect small business.

Agency contact person:

Mindy Allen, Administrative Rules Coordinator
Department of Veterans Affairs, Office of the Secretary
P.O. Box 7843, Madison, WI 53707-7843
(608) 264-6085, DVAAdminRules@DVA.Wisconsin.gov

Place and deadline for the submission of public comments:

The deadline to submit public comments was April 17, 2020.

TEXT OF RULE

SECTION 1. Chapter VA 1 (title) is amended to read:

Chapter VA 1 (title) GENERAL PROVISIONS

SECTION 2. VA 1.001 (3), (4), (4m), (6), and (7) are created to read:

VA 1.001 (3) “Dependent” has the meaning given under s. 45.01 (6), Stats.

(4) “Duly authorized representative” means any person authorized in writing by the veteran to act for the veteran, the veteran’s guardian if the veteran is adjudicated incompetent, or a personal representative of the estate if the veteran is deceased. Where for proper reason, as determined by the department, no duly authorized representative has been or will be appointed, the applicant’s spouse, an adult child, or if the applicant is unmarried, “duly authorized representative” means either of the applicant’s parents.

(4m) “Member” means an individual who is eligible for membership in a veterans home as specified under s. 45.51, Stats.

(6) “USDVA” means the U.S. department of veterans affairs.

(7) “Veteran” has the meaning given under s. 45.01 (12), Stats.

SECTION 3. VA 1.01 is renumbered VA 1.01 (3) and amended to read:

VA 1.01 (3) ~~Liberal statutory construction~~ LIBERAL APPLICATION OF STATUTES. The department of veterans affairs shall ~~administer~~ interpret and apply the provisions of ch. 45, Stats., ~~in an expeditious a broad~~ and liberal manner, resolving all reasonable doubt in favor of the veteran, to ~~the end~~ ensure that available benefits are provided to ~~veterans~~ the veteran and ~~their~~ the veteran’s eligible dependents as promptly and effectively as possible.

SECTION 4. VA 1.01 (title), (1) and (2) are created to read:

VA 1.01 (title) **Department authority.** (1) Chapters VA 1 to 18 are promulgated under the authority of s. 45.03 (2), Stats., for implementation of ch. 45, Stats.

(2) **INTERPRETATION.** The department reserves the right to interpret the requirements of ch. 45, Stats., and chs. VA 1 to 18.

SECTION 5. VA 1.02 is amended to read:

VA 1.02 **Application for benefits.** An application for benefits from the department ~~must~~ shall be made on ~~approved departmental forms~~ a form approved by the department, signed by an eligible dependent, ~~and/or by the veteran, and/or such or both, or any other~~ person as the department may require in connection with the specific benefit application

involved. ~~The department may require that a loan application or a credit instrument executed in connection with a loan be signed by the veteran's spouse only in a case where such requirement may legally be imposed under s. DFI-WCA 1.85, and under the provisions of the Equal Credit Opportunity Act and regulations adopted thereunder. It is unlawful for anyone to charge an applicant, ~~or spouse, or dependent~~ a commission for ~~assisting them in~~ assistance with completing or securing the approval of an application for benefits from the department.~~

SECTION 6. VA 1.02 (Note) is created to read:

VA 1.02 (Note) Note: All forms required under this chapter may be obtained on the Department's website at dva.wi.gov, or by request from the Department of Veterans Affairs, 2135 Rimrock Road, P.O. Box 7843, Madison, WI 53707-7843, or call 800-WIS-VETS (947-8387).

SECTION 7. VA 1.03 (1), (2), and (3) are amended to read:

VA 1.03 (1) APPEALABLE ACTIONS. ~~Any An~~ applicant for ~~any benefit available through benefits from~~ the department may appeal ~~from~~ a decision of the department concerning ~~any such an~~ application. Any applicant for benefits whose benefits have been suspended pursuant to s. 45.03 (16), Stats., may appeal such suspension.

(2) APPLICATIONS PENDING APPEAL FOR DENIAL OF SUSPENSION OF BENEFITS. During the pendency of an appeal of a suspension of benefits from the department, no decision shall be issued by the department concerning any of the appellant's applications for benefits from the department ~~which that~~ were pending in the department at the time of the decision to suspend benefits, or ~~which that~~ are submitted by the applicant during the pendency of the appeal even if the decision is not related to the matter being appealed. If the final decision in the appeal affirms the suspension of benefits, the department may deny any of the appellant's applications ~~shall be denied by the department~~. If the final decision in the appeal reverses the suspension of benefits, the department shall then determine whether ~~or not~~ the applications should be approved.

(3) TIME AND MANNER FOR FILING APPEAL. An appeal shall be in writing and shall be filed with the ~~state of Wisconsin, Department of Veterans Affairs, 30 W. Mifflin St., Madison, WI 53703.~~ An appeal must be received by the department within 60 calendar days after the date of the ~~department~~ department's decision ~~appealed~~. Any questions about time computations for procedural matters shall be resolved by reference to s. 801.15 (1), Stats.

SECTION 8. VA 1.03 (3) (Note) is created to read:

VA 1.03 (3) (Note) Note: The address to deliver an appeal is: Department of Veterans Affairs, 2135 Rimrock Road, P.O. Box 7843, Madison, WI 53707-7843.

SECTION 9. VA 1.03 (4) is renumbered VA 1.03 (4) (intro.) and amended to read:

VA 1.03 (4) (intro.) CONDUCT OF HEARING. The hearing on the appeal shall be held before a hearing examiner designated by the ~~secretary~~ department in accordance with all of the following:

(a) The hearing examiner shall have the powers enumerated under s. 227.46, Stats.

(b) The department shall present evidence first unless the hearing examiner varies the order of proceeding in the interest of obtaining the most cogent presentation of the case.

(c) ~~An~~ The department may schedule an appellant may to appear at an in-person, or telephonic hearing.

(d) An appellant may appear with or without counsel; or by counsel or other agent of the appellant's choice. If an appellant intends to be represented by counsel, the counsel shall file a notice of appearance with the department.

SECTION 10. VA 1.03 (5), and (7), (8), and (9) are amended to read:

VA 1.03 (5) EVIDENCE. In accordance with s. 227.45, Stats., the hearing examiner ~~shall~~ may not be bound by common law or statutory rules of evidence. Parties may stipulate to some or all of the facts, and the hearing examiner may base the proposed decision upon the stipulation. All exhibits shall be marked and made available for inspection by the opposing party before being shown to a witness, unless the exhibit shall have been marked and a copy made available to the opposing party prior to hearing.

(7) PROPOSED DECISION. The hearing examiner shall issue a proposed written decision to the ~~secretary~~ department, including findings of fact, conclusions of law, order, and opinion pursuant to s. 227.46 (2), Stats. The proposed decision shall be served on all parties at least 20 calendar days before it is submitted to the ~~secretary~~ department for final decision unless all parties waive the 20 calendar day period ~~is waived by all parties~~. Each party adversely affected may file objections to the proposed decision, briefly stating the reasons and authorities for each objection, and may file a brief and present oral argument to the ~~secretary~~ department at the time scheduled for a hearing.

(8) FINAL DECISION. The ~~secretary~~ department shall issue in writing the final decision, findings of fact, and conclusion of law. ~~The board shall be furnished with a copy of the final decision, findings of fact and conclusions of law and a brief explanation of the case involved.~~

(9) PETITION FOR REHEARING. A party aggrieved by a final decision may petition the ~~secretary~~ department for a rehearing pursuant to s. 227.49, Stats. Any other party

shall have 20 days from the date the petition for rehearing is mailed to them at their last known address to file a reply to the petition. The department shall grant or deny a petition for a rehearing in accordance with s. 227.49, Stats.

SECTION 11. VA 1.04 is amended to read:

VA 1.04 Benefits to those who qualify. The department shall ~~give assistance to all assist~~ resident ~~ex-servicepersons~~ veterans and their eligible dependents in all matters connected with the securing of any aid or benefit ~~which that they~~ may be due them entitled under federal or state law by reason of service in the U.S. armed forces of the United States. Financial ~~aid~~ assistance from the department ~~shall may~~ not be extended to veterans or dependents when the need for the aid arises or results from the willful misconduct of the veteran or the beneficiary.

SECTION 12. VA 1.05 is amended to read:

VA 1.05 Cooperation with other agencies. In addition to coordinating the activities of all state agencies relating to the medical, educational, economic, or vocational rehabilitation of veterans and their dependents, the department shall cooperate with all federal, state, county, or other agencies whose functions include rehabilitation of veterans.

SECTION 13. VA 1.06, (Notes) [1] and [2], and 1.07 are repealed.

SECTION 14. VA 1.08 (1) (a) and (c) and (2) are amended to read:

VA 1.08 (1) (a) Investigation and suspension. ~~When it appears that a false statement has been made in connection with an application for benefits from the department, the department shall use such means of investigating such apparent false statement as it deems advisable. In any case where~~ If the department finds after an investigation that any applicant for benefits from the department has willfully made or caused to be made, or conspired, combined, aided or assisted in, agreed to, arranged for, or in any wise way procured the making of a false or fraudulent affidavit, declaration, certificate, statement, or other writing, ~~it~~ the department may suspend or deny all benefits available to such applicant from the department.

(c) Reinstatement of benefits. A veteran may petition for reinstatement of suspended benefits. The department after investigation may reinstate benefits. If the department ~~shall find~~ finds that an application a petition for reinstatement is made without sufficient cause to justify reinstatement, ~~it~~ the department shall deny the same petition.

(2) CRIMINAL PROSECUTION. In proper cases, where the department is satisfied finds after an investigation that a false statement has been made in connection with an

application for benefits, ~~it~~ the department may forward the relevant facts to the appropriate district attorney for necessary action pursuant to s. 45.03 (16) (b), Stats.

SECTION 15. VA 1.09 is repealed.

SECTION 16. VA 1.10 (intro.) is renumbered (1m) and amended to read:

VA 1.10 Release of information and records. (1m) RECORDS PRIVACY. All records and papers of the department or of a county veterans service office, ~~hereinafter in this section referred to as service office,~~ are to be utilized in a manner to best serve the public interest, but the veteran's right of privacy as to information pertaining to military ~~or naval~~ service and to confidential information contained in applications for benefits ~~will shall~~ be ~~respected~~ protected. The release of a veteran's record containing confidential information, protected health information, or personally identifiable information shall conform with the Health Insurance Portability and Accountability Act (HIPAA) and other applicable federal and state confidentiality and privacy laws and regulations.

SECTION 17. VA 1.10 (1) is renumbered (2m) and amended to read:

VA 1.10 (2m) VETERANS ADMINISTRATION RECORDS AND SEPARATION DOCUMENTS. Notwithstanding anything to the contrary contained in subs. ~~(4) through (13)~~ (6) to (12), separation documents and copies thereof evidencing service in the U.S. armed forces ~~of the United States~~ and records and papers in the possession of the department or county veterans service office ~~which that~~ are released to the department or county veterans service office, by or from the ~~veterans administration~~ USDVA, or ~~which that~~ contain information provided by the ~~veterans administration~~ USDVA are confidential. Release of information from such documents, records, or papers may be made only as provided in s. 45.04 (2) and (3), Stats. The department may, however, confirm the veteran status of a person where such confirmation will assist the person in obtaining benefits.

SECTION 18. VA 1.10 (2) is repealed.

SECTION 19. VA 1.10 (3) is amended to read:

VA 1.10 (3) RECORDS ARE CONFIDENTIAL. Records pertaining to any application for benefits, whether pending or adjudicated, ~~will~~ shall be deemed confidential and no disclosure ~~therefrom will shall~~ be made except in the circumstances and under the conditions set forth in subs. ~~(4) through (6) to (15)~~, ~~and any person making application for benefits shall hereinafter be referred to as the applicant.~~

SECTION 20. VA 1.10 (4) and (5) are repealed.

SECTION 21. VA 1.10 (6) (a) and (b) are amended to read:

VA 1.10 (6) (a) *To veterans.* Information contained in medical records pertaining to applications for benefits from the department ~~which that~~ are on file with the department or county veterans service office may be released to the veteran upon receipt of a written request, except information contained in the medical record which would prove injurious to his or her physical or mental health, in which case information will be released only to a duly authorized representative.

(b) *To physicians and hospitals.* Information contained in medical records of ~~veterans a veteran and beneficiaries or a member~~ pertaining to medical history, diagnosis, findings, or treatment contained in ~~applications an application~~ for benefits from the department may be disclosed directly to ~~physicians and hospitals a physician or hospital~~ upon written request and the submission of a written authorization from the veteran or ~~beneficiary the member~~, or, in the event ~~he or she~~ the veteran is incompetent, from ~~his or her the veteran's~~ duly authorized representative. This information will be released only with the consent of the patient and on the condition that it is to be treated as a privileged communication in accordance with sub. (1m). ~~However, the~~ The information may be released without the consent of the veteran or ~~his or her the veteran's~~ representative when a written request for the information is received from the ~~United States department of veterans affairs~~ USDVA, the United States public health service, the superintendent of a state hospital, a commissioner or head of a state department of mental hygiene, or head of a state, county, or city health department.

SECTION 22. VA 1.10 (7) is repealed.

SECTION 23. VA 1.10 (8) (intro.) and (a) are renumbered VA 1.10 (8) (ag) and (ar) and amended to read:

VA 1.10 (8) (ag) Information contained in department or county veterans service office files pertaining to ~~applications an application~~ for benefits from the department ~~which that~~ is required for official use by any agency of the United States government, by any agency of the state of Wisconsin, by any law enforcement or social service agency of any Wisconsin county or municipality, or by any school participating in the department's grants programs, may be furnished in response to official requests in accordance with the provision of pars. ~~(a) (ar)~~ to (c). ~~Such requests must~~ Requests shall include information as to the purpose for which the information is to be used.

(ar) Information relevant to a determination of the amount of benefits, if any, ~~for which veterans that the veteran and their or the veteran's~~ eligible dependents may be entitled, information ~~which that~~ is requested on ~~their~~ behalf of or information ~~which that~~ is requested for the purpose of assisting ~~them~~ the veteran or the veteran's eligible dependent in obtaining rights and benefits to which ~~they~~ the veteran or the veteran's

eligible dependent may be entitled, may be released ~~in response to official~~ only upon receipt of a written or oral requests request.

SECTION 24. VA 1.10 (8) (b) and (c) and (9) to (12) are amended to read:

VA 1.10 (8) (b) Information ~~which that~~ identifies ~~individual veterans~~ a veteran or their the veteran's dependents, and ~~which that~~ is requested for purposes other than those set forth in par. ~~(a) (ar)~~, may be released only upon receipt of ~~an official~~ a written request. Within 5 working days after response to ~~such~~ a written request, the department or county veterans service office will make a reasonable effort to contact the individual concerning whom the request has been made and notify the individual of the request for information and provide the individual with a statement of the action taken on such request.

(c) The department may ~~routinely~~ furnish data or statistical information to other agencies ~~which does but will not identify individual veterans~~ provide confidential information, protected health information, or personally identifiable information about a veteran or the veteran's dependents.

(9) DISCLOSURE TO STATE LEGISLATORS. Individual members of the senate and assembly may be ~~furnished such~~ provided information contained in department or county veterans service office files ~~which that~~ pertains to applications an application for benefits from the department as may be requested, ~~orally or~~ in writing, on behalf of ~~the veterans a veteran or their the veteran's dependents~~ or for the purpose of assisting ~~them the veteran or the veteran's dependent~~ to obtain the rights and benefits to which ~~they the veteran or the veteran's dependent~~ may be entitled. Committees of the senate and assembly may be ~~furnished such~~ provided information contained in department or county veterans service office files ~~which that~~ pertains to applications an application for benefits from the department as may be requested for official use. The department may not provide any information that is considered by law to be non-disclosable without the written consent of the applicant.

(10) DISCLOSURE TO COUNTY VETERANS SERVICE OFFICERS. A county veterans service officer may be permitted to inspect records pertaining to any application for benefits in which ~~such the county veterans service office may be is involved~~. or The department may be furnished provide information or exhibits from such an application or the payment status or the payment history pertinent to department loans upon the condition that only such information contained therein or furnished therefrom as may be properly disclosed will be disclosed for benefits to the applicant only. ~~or, if~~ If the applicant is incompetent, the information may be provided to the applicant's legally constituted legal representative. Any disclosure of information shall be made in accordance with sub. (1m). The department shall inform a county veterans service officer whose office is involved in an application for benefits of information necessary to complete such application and of action taken by the department ~~thereon~~.

(11) DISCLOSURE TO AUDITORS. Department records and files shall be made available for inspection by, and information contained in department files shall be made available to, the legislative audit bureau or the legislative fiscal bureau in accordance with ss. 13.94 (1) to (4) and 13.95 (1) and (2), Stats., or to independent auditors only for statistical or audit reporting purposes upon the condition that information reported by such auditors or bureaus will not identify contain any specific individual by name or be reported in such manner as to clearly identify a specific individual confidential or personally identifiable information.

(12) APPLICATION STATUS INFORMATION. Information on the status of an application for a department benefit, or for the establishment of eligibility for a department benefit, may be released to a party having an interest in the veteran or dependent obtaining the benefit applied for or establishing eligibility to apply for a specific department benefit, or to a person who is calling on behalf of an applicant for a department benefit. The department will not disclose or release confidential information, protected health information, or personally identifiable information pertaining to the application without the written consent of the applicant.

SECTION 25. VA 1.10 (13) is repealed.

SECTION 26. VA 1.10 (15) and (16) are amended to read:

VA 1.10 (15) JUDICIAL PROCEEDINGS. When records pertaining to ~~any an~~ application for benefits are requested for use in any judicial proceedings, they will the records shall be released only upon service of a proper subpoena, ~~and upon the condition that they will be returned~~ The requester shall return to the department all furnished records upon conclusion of such proceedings the judicial proceeding unless the records become part of the official court records.

(16) ADDRESSES OF APPLICANTS. Addresses of applicants for benefits from the department ~~which that~~ are contained in department or county veterans service office records ~~will may~~ not be ~~furnished released~~, except as provided in subs. ~~(5) through (6) to~~ (15). ~~When an address is requested by a person to whom it may not be furnished, the person making the written request will be informed that correspondence enclosed in an unsealed envelope showing no return address, with the name of the addressee thereon and bearing sufficient postage to cover mailing costs, will be forwarded by the department or service office to such addressee's last known address. At the time the correspondence is forwarded, the return address of only the department or service office will be placed on the envelope. If such forwarded mail is returned to the department or service office as not deliverable, the original sender will be notified thereof, but the envelope will be retained by the department or service office. In no case will letters be forwarded for the purposes of debt collection, canvassing, or harassment. This section shall subsection~~ does not apply to the furnishing of addresses by county veterans service officers to the department or vice versa.

SECTION 27. VA 1.11 and 1.12 are repealed.

SECTION 28. VA 1.13 is renumbered VA 1.13 (1) and (2) and amended to read:

VA 1.13 Discrimination prohibited. (1) Discrimination against properly qualified persons in the provision of veterans assistance under ch. 45, Stats., on the basis of age, race, ~~creed~~ religion, color, disability, sex, national origin ~~or ancestry~~, sexual orientation, physical condition, developmental disability, military or veteran status, gender identity or expression, marital or familial status, genetic information, political affiliation or beliefs, or arrest or conviction records, is prohibited; ~~and except that all persons~~

(2) Persons employed by the department shall, if possible, be veterans as defined in s. 45.01 (12), Stats., ~~and that with preference shall be given to disabled veterans;~~ discrimination ~~Discrimination~~ against qualified persons in the employment of staff on the basis of ~~age, race, creed, color, disability, sex, national origin or ancestry, sexual orientation, political affiliation or beliefs, or arrest or conviction records~~ any of the classes listed under sub. (1) is prohibited.

SECTION 29. VA 1.14 is repealed and recreated to read:

VA 1.14 Periods of war. For the purposes of determining a veteran's eligibility, the department shall use the beginning and ending dates during a period of war, campaign, or expedition as specified under ch. 45, Stats., 38 USC 101, and the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.

SECTION 30. VA 1.15 (intro.), (1), (2) and (3) are renumbered VA 1.001 (intro.), (1), (2) and (5), and as renumbered, VA 1.001 (intro.) is amended to read:

VA 1.001 (intro.) Definitions. For the purposes of ~~this chapter and chs. VA 21 to 818,~~ the following terms shall have the designated meanings, unless a different meaning is expressly indicated:

SECTION 31. VA 1.16 is amended to read:

VA 1.16 Veteran-owned business. Upon the written request of an owner, the department shall certify as a veteran-owned business a small business, as defined in s. 16.75 (4) (c), Stats., whenever the business is at least 51% percent owned by one or more veterans, as defined in s. 45.01 (12), Stats. An owner shall submit evidence of the ownership interest and veteran status of each owner with the written request for certification.


SECTION 32. VA 1.17, 1.18, and 1.19 are repealed.

SECTION 33. 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 RULE TEXT)

This Proposed Order of the Department of Veteran Affairs is approved for submission to the Governor and Legislature.

Dated February 15, 2021

Agency 
Mary M. Kolar, Secretary
Department of Veterans Affairs

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date 02/03/2020</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) VA 1 - General</p>	
<p>4. Subject General update</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected 20.485 (3) (q), (3)(r) and (3)(sm)</p>
<p>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</p>	
<p>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)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0.00</p>	
<p>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</p>	
<p>11. Policy Problem Addressed by the Rule The proposed rule will eliminate obsolete language and references relating to the housing loan program under ch. 45, Stats., which was repealed by 2019 WI Act 9. The proposed rules also include general updates throughout the chapter.</p>	
<p>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 rules do not have an anticipated effect on businesses or local governmental units. The rule was posted for 14 days on the Department of Veterans Affairs' website for economic impact comments.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local government units participated in the development of the EIA.</p>	
<p>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 rule will not have an anticipated economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the State's economy as a whole.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefits of implementing the proposed rules is to bring the rule into compliance with ch. 45, Stats., and ensure the rule represents current department operations.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implications will bring the agency's rules into conformity with ch. 45, Stats., and keep the rules up to date, thus ensuring standardization, consistency, and efficiency.</p>	
<p>17. Compare With Approaches Being Used by Federal Government None.</p>	
<p>18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota) Illinois rules relating to general requirements for veterans programs and benefits are spread over multiple chapters of</p>	

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

their administrative code. Iowa's chapter 1 of the administrative code, Organization and Procedures, contains the department's general requirements. Michigan's general requirements are spread over multiple chapters. Minnesota's general requirements are contained in ch. 9055 and titled Administration and Operation.

19. Contact Name

20. Contact Phone Number

Mindy Allen, Administrative Rules Coordinator

(608) 264-6085

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



May 7, 2020

Secretary Mary M. Kolar
Department of Veterans Affairs
2135 Rimrock Road
Madison, WI 53707

RE: VA 1 – General Updates

Dear Secretary Kolar:

Pursuant to s. 45.03 (2m), Stats., the Secretary shall provide the Board with a copy of any rule that the department is preparing as a proposed rule under s. 227.14 (1), Stats., and the Board may prepare a report containing written comments and its opinion regarding the proposed rule.

The proposed rules to amend Chapter VA 1, relating to general updates, were provided to the Board at its meeting on February 6, 2020. At the Board's meeting on May 7, 2020, the Board voted to support the proposed rules and offers no additional comments.

Sincerely,

Vern Larson, Chair
Wisconsin Board of Veterans Affairs