WISCONSIN STATUTES

AND

ADMINISTRATIVE CODE

RELATING TO

ELECTRICAL CODES

OCTOBER 2012

State of Wisconsin
Department of Safety and Professional Services
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TABLE OF CONTENTS
ELECTRICAL CODES- Code Book

Introduction ii

Excerpts from the Wisconsin Statutes

Chapter 101 - DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES —REGULATION OF INDUSTRY, BUILDINGS AND SAFETY 1

Excerpts from the Administrative Code

SPS 316 - Electrical 70
SPS 324 Electrical Standards 78
SPS 305 - LICENSES, CERTIFICATIONS AND REGISTRATIONS 79

Excerpts from Related Administrative Codes

SPS 328 Smoke Detectors
SPS 302 Fee Schedule
SPS 303 Petition for Variance Procedures
SPS 360 Erosion Control, Sediment Control, and Storm Water Management
SPS 367 Rental Unit Energy Efficiency

INTRODUCTION

Electrical codes

The development of statutes and rules is ongoing. Therefore, these statutes and rules may be revised subsequent to the printing of this book. Most local libraries maintain current sets of the Wisconsin Statutes. Both statutes and rules are available at Web pages of the Wisconsin Legislature.

All Wisconsin Statutes and Administrative Codes are available on the Internet at the following addresses:

Statutes: http://www.legis.state.wi.us/rsb/statutes.html
Rules: http://www.legis.state.wi.us/rsb/code/codtoc.html

Division of Industry Services staff provide electrical consultation to owners, builders, inspectors, electricians, and designers. Electrical inspections are made upon special request. Training is offered.

Credentials are administered for electricians and electrical inspectors. (There are municipalities in Wisconsin which have local electrical credential regulations.) A person who holds a electrical credential issued by the division as an electrical contractor, electrical contractor - restricted, master electrician, journeyman electrician, or beginning electrician may perform electrical construction work in a Wisconsin municipality which requires licensure. Whether an electrical certification is required and what category of certification is needed are determined by individual municipalities.

Mandatory Statewide Electrical Licensing will go into effect April 1, 2013
Applications for six new electrical credentials that become effective April 1, 2013, are now available for download. THE DIVISION will begin giving exams for the three that require exams in May, 2011, in case someone wishes to get the credentials early. The other three credentials involve apprenticeships. See all electrical credential applications;

If the locality currently does not require electrical credentials, a person working under the electrical code still must at least have a Wisconsin contractor credential of some sort.

The new electrical credential system, defined in SPS 305, Licenses, Certifications, and **Registrations Code, creates six new credentials:**

- Residential Master Electrician License;
- Residential Journeyman Electrician License;
- Residential Electrical Apprentice Registration;
- Industrial Journeyman Electrician License;
- Industrial Electrical Apprentice Registration; and
- Electrical Apprentice Registration.

These credentials will not be required until April 1, 2013.

These are the licenses that existed before the August, 2010, publication of the 2013 new system: Electrical Contractor License; Electrical Contractor - Restricted License; Master Electrician License; Journeyman Electrician License; Beginning Electrician Registration. These licenses are currently effective where required by local ordinance and will continue after April 1, 2013, with one exception, the

Electrical Contractor - Restricted License. That license will be combined with the Electrical Contractor License.

There is a good amount of variability as to what people with the new credentials may do.

The code language describing the new credentials is below. The complete set of rules regarding all electrical credentials is in SPS 305.40. SPS 305 (PDF file) is part of the Code Book. Email questions regarding electrical credentials to DspsSbElectricTech@wi.gov. Because of limited staff availability, those questions may not get an immediate response.

Excerpted from Admin. Code ch. SPS 305.
SPS 305.40 Electricians. (1) Except as provided under s. 101.862 (4), Stats., no person as of April 1, 2013 may install, repair or maintain electrical wiring unless the person holds a license or registration issued by the department as one of the following:
(a) A licensed master electrician.
(b) A licensed residential master electrician.
(c) A licensed journeyman electrician.
(d) A licensed industrial journeyman electrician.
(e) A licensed residential journeyman electrician.
(f) A registered beginning electrician.
(g) A registered electrical apprentice.
(h) A registered industrial electrical apprentice.
(i) A registered residential electrical apprentice.

(2) (a) Except as provided in par. (b), the electrical wiring activities that may be undertaken by a person who holds a license or registration as a **licensed residential master electrician, a licensed residential journeyman electrician or a registered residential electrical apprentice** shall be limited to wiring associated with dwellings, dwelling units and detached accessory buildings and structures serving the dwellings or the dwelling units, such as garages, carports, gazebos and swimming pools.
(b) A person who holds a license or registration as a **licensed residential master electrician, a licensed residential journeyman electrician or a registered residential electrical apprentice** may perform electrical wiring not associated with dwellings and dwelling units, provided the person is under the direct supervision of a licensed master electrician or a licensed journeyman electrician.

(3) (a) The electrical wiring activities that may be undertaken by a person who holds a license or registration as a **licensed industrial journeyman electrician or a registered industrial electrical apprentice** shall be limited to wiring within the facilities or properties of the business establishment where the person is employed.
(b) A person who holds a license or registration as a **licensed industrial journeyman electrician or a registered industrial electrical apprentice** may perform electrical wiring not associated with the facilities or properties of the business establishment where the person is employed, provided the person is under the direct supervision of a licensed master electrician or a licensed journeyman electrician.

(4) (a) 1. A person who holds a license as a **licensed journeyman electrician or a registration as a registered electrical apprentice** shall perform electrical wiring activities under the general supervision of a person who holds a license as a licensed master electrician, except as provided in subd. 2.
2. A person who holds a license as a **licensed journeyman electrician or a registration as a registered**

electrical apprentice may perform electrical wiring activities under the general supervision of a person who holds a license as a licensed residential master electrician provided the wiring is associated with dwellings, dwelling units and detached accessory buildings and structures serving the dwellings or the dwelling units, such as garages, carports, gazebos and swimming pools.
(b) A person who holds a license as a **licensed industrial journeyman electrician or a registration as a registered industrial electrical apprentice** shall perform electrical wiring within the facilities or properties of the business establishment where the person is employed under the general supervision of a person who holds a license as a licensed master electrician.
(c) A person who holds a license as a **licensed residential journeyman electrician or a registration as a registered residential electrical apprentice** shall perform electrical wiring activities associated with dwellings and dwelling units under the general supervision of a person who holds a license either as a licensed master electrician or a licensed residential master electrician.
(d) 1. Except as provided in subd. 2., a person who holds a registration as a **registered beginning electrician** shall perform electrical wiring activities under the direct supervision of a person who holds a license either as a licensed master electrician or a licensed journeyman electrician.
2. A person who holds a registration as a **registered beginning electrician** may perform electrical wiring activities under the direct supervision of a person who holds a license as a licensed residential master electrician or licensed residential journeyman electrician provided the wiring is associated with dwellings, dwelling units and detached accessory buildings and structures serving the dwellings or the dwelling units, such as garages, carports, gazebos and swimming pools.
3. A person who holds a registration as a **registered beginning electrician** may perform electrical wiring activities under the direct supervision of a person who holds a license as a licensed industrial journeyman electrician provided the wiring is within the facilities or properties of the business establishment where the industrial journeyman electrician is employed.

(5) At any time, for any electrical wiring project the total number of **registered beginning electricians** at an installation site may not exceed twice the total number of licensed master electricians and journeyman electricians at the installation site plus two.
Lighting Plan Submittals No Longer Required Effective immediately, Safety Buildings Division's Commercial Building Program will no longer require the submittal of either emergency egress lighting plans or lighting energy conservation plans to our agency. Instead following are revised expectations:

Emergency Egress Lighting - Building designers shall provide at the project site an egress plan showing where exit lights and emergency egress lighting will be required for new buildings, additions and alterations that create new egress paths. Effective July 1, 2012, this egress plan shall be included with the building plan submittal to our agency. In addition to the egress plan at the jobsite, there shall be emergency lighting cut-sheets, calculations or other means to show compliance of the installed fixtures. Local inspectors may request additional information.

Energy Conservation – Building designers, electrical designers or electrical contractors shall provide fixture layouts, fixture cut-sheet, energy calculations or other documentation at the project site.

These changes are the result of observed, improved compliance in lighting designs and installation since we instituted a temporary enforcement emphasis several years ago. We appreciate the efforts of designers, contractors and code officials to allow these changes. These changes will allow our agency to re-order our priorities as building plan submittals increase this year

CHAPTER 101

DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES — REGULATION OF INDUSTRY, BUILDINGS AND SAFETY

SUBCHAPTER I
REGULATION OF INDUSTRY: GENERAL PROVISIONS
101.01 Definitions.
101.02 Powers, duties and jurisdiction of department.
101.025 Ventilation requirements for public buildings and places of employment.
101.027 Energy conservation code for public buildings and places of employment.
101.03 Testimonial powers of secretary and deputy.
101.05 Exempt buildings and projects.
101.055 Public employee safety and health.
101.09 Storage of flammable, combustible and hazardous liquids.
101.10 Storage and handling of anhydrous ammonia; theft of anhydrous ammonia and anhydrous ammonia equipment.
101.11 Employer's duty to furnish safe employment and place.
101.111 Excavations; protection of adjoining property and buildings.
101.12 Approval and inspection of public buildings and places of employment and components.
101.1206 Erosion control; construction of public buildings and buildings that are places of employment.
101.121 State historic building code.
101.1215 Abrasive cleaning of historic buildings.
101.122 Rental unit energy efficiency.
101.123 Smoking prohibited.
101.125 Safety glazing in hazardous locations.
101.126 Recycling space.
101.127 Building requirements for certain residential facilities.
101.128 Restroom equity.
101.13 Physically disabled persons; place of employment and public building requirements.
101.132 Physically disabled persons; housing requirements.
101.135 Uniform firewall identification.
101.137 Fire suppression; ozone−depleting substances.
101.14 Fire inspections, prevention, detection and suppression.
101.141 Record keeping of fires.
101.142 Inventory of petroleum product storage tanks.
101.143 Petroleum storage remedial action; financial assistance.
101.1435 Removal of abandoned underground petroleum storage tanks.
101.144 Petroleum storage tank discharges.
101.145 Smoke detectors.
101.147 Contractor registration.
101.148 Contractor notices.
101.149 Carbon monoxide detectors.
101.15 Mines, tunnels, quarries and pits.
101.16 Liquefied petroleum gas.
101.17 Machines and boilers, safety requirement.
101.175 Local energy resource systems.
101.178 Installation and servicing of heating, ventilating and air conditioning equipment.
101.18 Electric fences.
101.19 Fees and records.
101.211 Lunchrooms.
101.31 Construction career academy grant program.
101.45 Diesel truck idling reduction grants.
101.55 Executive agreements to control sources of radiation.
101.573 Fire dues distribution.
101.575 Entitlement to dues.
101.578 Protection of medical waste incinerator employees.
101.58 Employees' right to know.
101.581 Notice requirements.
101.583 Toxic substance information requirements; employer to employee.
101.585 Infectious agent information requirements; employer to employee.
101.586 Pesticide information requirements; employer or agricultural employer to employee.
101.587 Information requirements; employer or agricultural employer to department.
101.588 Information collection and maintenance; department.
101.589 Extended time periods; exceptions.
101.59 Manufacturer, supplier; requirements.
101.592 Confidential information.
101.595 Employee rights.
101.596 Building inspector review board.
101.597 Education and training programs.
101.598 Rules.
101.599 Remedies; civil forfeitures.
SUBCHAPTER II
ONE− AND 2−FAMILY DWELLING CODE
101.60 Purpose.
101.61 Definitions.
101.615 Application.
101.62 Dwelling code council; power.
101.625 Contractor certification council; duties.
101.63 Departmental duties.
101.64 Departmental powers.
101.642 Certain rules prohibited.
101.645 Smoke detectors.
101.647 Carbon monoxide detectors.
101.65 Municipal authority.
101.651 Special requirements for smaller municipalities.
101.653 Construction site erosion control.
101.654 Contractor certification; education.
101.657 Education contracts for builders and consumers.
101.66 Compliance and penalties.
SUBCHAPTER III
MODULAR HOME CODE
101.70 Purpose.
101.71 Definitions.
101.715 Application.
101.72 Dwelling code council.
101.73 Departmental duties.
101.74 Departmental powers.
101.743 Certain rules prohibited.
101.745 Smoke detectors.
101.75 Inspections, insignia and alterations.
101.76 Municipal authority.
101.761 Certain municipalities excepted.
101.77 Penalties.
SUBCHAPTER IV
ELECTRICAL WIRING AND ELECTRICIANS
101.80 Definitions.
101.82 Departmental duties.
101.84 Departmental powers.
101.86 Municipal authority.
101.861 Municipal licensing authority.
101.862 License, registration, or certification required.
101.87 Requirements for journeymen electricians.
101.88 Compliance and penalties.
SUBCHAPTER V
MANUFACTURED HOMES AND MOBILE HOMES
101.91 Definitions.
101.92 Departmental powers and duties.
101.9202 Excepted liens and security interests.
101.9203 When certificate of title required.
101.9204 Application for certificate of title.
101.9205 When department to issue certificate and to whom; maintenance of records.
101.9206 Contents of certificate of title.
101.9207 Lost, stolen or mutilated certificates.
101.9208 Fees.
101.9209 Transfer of interest in a manufactured home.
101.921 Transfer to or from dealer.
101.9211 Involuntary transfers.
101.9212 When department to issue a new certificate.
101.9213 Perfection of security interests.
101.9214 Duties on creation of security interest.
101.9215 Assignment of security interest.
101.9216 Release of security interest.
101.9217 Secured party's and owner's duties.
101.9218 Applicability of manufactured home security provisions.
101.9219 Withholding certificate of title; bond.
101.922 Suspension or revocation of certificate.
101.9221 Grounds for refusing issuance of certificate of title.
101.9222 Previously certificated manufactured homes.
101.933 Manufactured housing code council duties.
101.934 Manufactured housing rehabilitation and recycling.
101.935 Manufactured home community regulation.
101.937 Water and sewer service to manufactured home communities.
101.94 Manufactured home and mobile home manufacturers, distributors and dealers: design and construction of manufactured homes and mobile homes.
101.95 Manufactured home manufacturers regulated.
101.951 Manufactured home dealers regulated.
101.952 Manufactured home salespersons regulated.
101.953 Warranty and disclosure.

101.954 Sale or lease of used manufactured homes.
101.955 Jurisdiction and venue over out−of−state manufacturers.
101.957 Nonjudicial resolution of manufactured housing industry disputes.
101.96 Manufactured home installation regulated.
101.965 Penalties.

SUBCHAPTER VI
MULTIFAMILY DWELLING CODE

101.971 Definitions.
101.972 Multifamily dwelling code council duties.
101.973 Department duties.
101.974 Department powers.
101.975 Local government authority.
101.976 Fire chief and inspector powers and duties.
101.977 Compliance.
101.978 Penalties.

SUBCHAPTER VII
ELEVATORS, ESCALATORS, AND OTHER CONVEYANCES

101.981 Definitions; modification by rule.
101.982 Conveyance safety code.
101.983 Conveyance permits required.
101.984 Licenses and supervision required.
101.985 Licensing qualifications and procedure.
101.986 Conveyance safety code council duties.
101.988 Enforcement and penalties.

SUBCHAPTER I

REGULATION OF INDUSTRY: GENERAL PROVISIONS

101.01 Definitions. In this chapter, the following words and phrases have the designated meanings unless a different meaning is expressly provided:

(1m) "Department" means the department of safety and professional services.

(2m) "Deputy" means any person employed by the department designated as a deputy, who possesses special, technical, scientific, managerial or personal abilities or qualities in matters within the jurisdiction of the department, and who may be engaged in the performance of duties under the direction of the secretary, calling for the exercise of such abilities or qualities.

(3) "Employee" means any person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go or work or be at any time in any place of employment.

(4) "Employer" means any person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district, long−term care district and other public or quasi−public corporations as well as any agent, manager, representative or other person having control or custody of any employment, place of employment or of any employee.

(5) "Employment" means any trade, occupation or process of manufacture, or any method of carrying on such trade, occupation or process of manufacture in which any person may be engaged, except in such private domestic service as does not involve the use of mechanical power and in farm labor as used in sub. (11).

(6) "Frequenter" means every person, other than an employee, who may go in or be in a place of employment or public building under circumstances which render such person other than a trespasser. Such term includes a pupil or student when enrolled in or receiving instruction at an educational institution.

(7) "General order" means such order as applies generally throughout the state to all persons, employments, places of employment or public buildings, or all persons, employments or places of employment or public buildings of a class under the jurisdiction of the department. All other orders of the department shall be considered special orders.

(8) "Local order" means any ordinance, order, rule or determination of any common council, board of alderpersons, board of trustees or the village board, of any village or city, a regulation or order of the local board of health, as defined in s. 250.01 (3), or an order or direction of any official of a municipality, upon any matter over which the department has jurisdiction.

(9) "Order" means any decision, rule, regulation, direction, requirement or standard of the department, or any other determination arrived at or decision made by the department.

(10) "Owner" means any person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi−public corporations as well as any manager, representative, officer, or other person having ownership, control or custody of any place of employment or public building, or of the construction, repair or maintenance of any place of employment or public building, or who prepares plans for the construction of any place of employment or public building. This subchapter shall apply, so far as consistent, to all architects and builders.

(11) "Place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade, or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade, or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. "Farming" includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies, or equipment directly to the farm by the operator of the farm or employees for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, "place of employment" does not include any of the following:

(a) An adult family home, as defined in s. 50.01 (1).

(b) Except for the purposes of s. 101.11, a previously constructed building used as a community−based residential facility, as defined in s. 50.01 (1g), which serves 20 or fewer residents who are not related to the operator or administrator.

(c) A home−based business, as defined by the department by rule.

(12) "Public building" means any structure, including exterior parts of such building, such as a porch, exterior platform, or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants. When used in relation to building codes, "public building" does not include any of the following:

(a) A previously constructed building used as a community−based residential facility as defined in s. 50.01 (1g) which serves 20 or fewer residents who are not related to the operator or administrator.

(b) An adult family home, as defined in s. 50.01 (1).

(c) A home−based business, as defined by the department by rule.

(13) "Safe" or "safety", as applied to an employment or a place of employment or a public building, means such freedom from danger to the life, health, safety or welfare of employees or frequenters, or the public, or tenants, or fire fighters, and such reasonable means of notification, egress and escape in case of fire, and such freedom from danger to adjacent buildings or other property, as the nature of the employment, place of employment, or public building, will reasonably permit.

(14) "Secretary" means the secretary of safety and professional services.

(15) "Welfare" includes comfort, decency and moral well−being.

History: 1971 c. 185 ss. 1, 5; 1971 c. 228 ss. 15, 44; 1975 c. 413, 421; 1977 c. 29; 1983 a. 189 ss. 142, 143, 329 (4); 1985 a. 135 s. 83 (3); 1987 a. 161; 1993 a. 27, 184, 327; 1995 a. 27 ss. 3611 to 3629, 9116 (5); 1997 a. 237; 1999 a. 9; 2001 a. 16; 2007 a. 20; 2011 a. 32, 146.

In a safe place action by a plaintiff injured through contact with home power lines while installing aluminum trim on the premises, the power lines did not constitute a place of employment under sub. (2) (a) [now sub. (11)]. Although a "process or operation" was carried on by the transmission of electricity through the lines, no person was employed by the power company on the premises at the time of the injury. Barthel v. Wisconsin Electric Power Co. 69 Wis. 2d 446, 230 N.W.2d 863 (1975).

A vocational school was not place of employment. Korenak v. Curative Workshop Adult Rehabilitation Center, 71 Wis. 2d 77, 237 N.W.2d 43 (1976).

The right to make progress inspections and to stop construction for noncompliance with specifications is not an exercise of control sufficient to make an architect an owner under (2) (i) [now sub. (10)]. Luterbach v. Mochon Schutte Hackworthy Juerisson, Inc. 84 Wis. 2d 1, 267 N.W.2d 13 (1978).

"Safe employment" and "safe place of employment" are distinguished. There is a duty to provide safe employment to employees that does not extend to frequenters, while the duty to provide a safe place of employment does extend to frequenters. Leitner v. Milwaukee County, 94 Wis. 2d 186, 287 N.W.2d 803 (1980).

An Elks Club was a "place of employment." Schmorrow v. Sentry Ins. Co., 138 Wis. 2d 31, 405 N.W.2d 672 (Ct. App. 1987).

A person seeking directions to the location of an intended, but unknown, destination is a frequenter under sub. (2) (d) [now sub. (6)]. When such inquiry is not made, or has concluded, and the person deviates into an area he or she is not explicitly or impliedly invited into, frequenter status is lost. Monsivais v. Winzenried, 179 Wis. 2d 758, 508 N.W.2d 620 (Ct. App. 1993).

The duty of an owner of a multiple−unit residential dwelling under the safe place statute extends only to common areas. Antwaun A. v. Heritage Mutual Insurance Co. 228 Wis. 2d 44, 596 N.W.2d 456 (1999), 97−0332.

"Tenants" under sub. (12) refers to the number of units available in the building, not to the number of individuals in the building. Raymaker v. American Family Mutual Insurance Co. 2006 WI App 117, 293 Wis. 2d 392, 718 N.W.2d 154, 05−1557.

101.02 Powers, duties and jurisdiction of department.

(1) The department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings.

(2) The department may sue and be sued.

(3) The department shall employ, promote and remove deputies, clerks and other assistants as needed, to fix their compensation, and to assign to them their duties; and shall appoint advisers who shall, without compensation except reimbursement for actual and necessary expenses, assist the department in the execution of its duties.

(4) The department shall collect, collate and publish statistical and other information relating to the work under its jurisdiction and shall make public reports in its judgment necessary.

(5) (a) The department shall conduct such investigations, hold such public meetings and attend or be represented at such meetings, conferences and conventions inside or outside of the state as may, in its judgment, tend to better the execution of its functions.

(b) For the purpose of making any investigation with regard to any employment or place of employment or public building, the secretary may appoint, by an order in writing, any deputy who is a citizen of the state, or any other competent person as an agent whose duties shall be prescribed in such order.

(c) In the discharge of his or her duties such agent shall have every power of an inquisitorial nature granted in this subchapter to the department, the same powers as a supplemental court commissioner with regard to the taking of depositions and all powers granted by law to a supplemental court commissioner relative to depositions.

(d) The department may conduct any number of such investigations contemporaneously through different agents, and may delegate to such agent the taking of all testimony bearing upon any investigation or hearing. The decision of the department shall be based upon its examination of all testimony and records. The recommendations made by such agents shall be advisory only and shall not preclude the taking of further testimony if the department so orders nor preclude further investigation.

(e) The secretary may direct any deputy who is a citizen to act as special prosecutor in any action, proceeding, investigation, hearing or trial relating to the matters within its jurisdiction.

(f) Upon the request of the department, the department of justice or district attorney of the county in which any investigation, hearing or trial had under this subchapter is pending, shall aid the department in the investigation, hearing or trial and, under the supervision of the department, prosecute all necessary actions or proceedings for the enforcement and punishment of violations of this subchapter and all other laws of this state relating to the protection of life, health, safety and welfare.

(6) (a) All orders of the department in conformity with law shall be in force, and shall be prima facie lawful; and all such orders shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise upon judicial review thereof pursuant to ch. 227 or until altered or revoked by the department.

(b) All general orders shall take effect as provided in s. 227.22. Special orders shall take effect as therein directed.

(c) The department shall, upon application of any employer or owner, grant such time as may be reasonably necessary for compliance with any order.

(d) Any person may petition the department for an extension of time, which the department shall grant if it finds such an extension of time necessary.

(e) Any employer or other person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition for a hearing on the reasonableness of any order of the department in the manner provided in this subchapter.

(f) Such petition for hearing shall be by verified petition filed with the department, setting out specifically and in full detail the order upon which a hearing is desired and every reason why such order is unreasonable, and every issue to be considered by the department on the hearing. The petitioner shall be deemed to have finally waived all objections to any irregularities and illegalities in the order upon which a hearing is sought other than those set forth in the petition. All hearings of the department shall be open to the public.

(g) Upon receipt of such petition, if the issues raised in such petition have theretofore been adequately considered, the department shall determine the same by confirming without hearing its previous determination, or if such hearing is necessary to determine the issues raised, the department shall order a hearing thereon and consider and determine the matter or matters in question at such times as shall be prescribed. Notice of the time and place of such hearing shall be given to the petitioner and to such other persons as the department may find directly interested in such decision.

(h) Upon such investigation, if it shall be found that the order complained of is unjust or unreasonable the department shall substitute therefor such other order as shall be just and reasonable.

(i) Whenever at the time of the final determination upon such hearing it shall be found that further time is reasonably necessary for compliance with the order of the department, the department shall grant such time as may be reasonably necessary for such compliance.

(7) (a) Nothing contained in this subchapter may be construed to deprive the common council, the board of alderpersons, the board of trustees or the village board of any village or city, or a local board of health, as defined in s. 250.01 (3), of any power or jurisdiction over or relative to any place of employment or public building, provided that, whenever the department shall, by an order, fix a standard of safety or any hygienic condition for employment or places of employment or public buildings, the order shall, upon the filing by the department of a copy of the order with the clerk of the village or city to which it may apply, be held to amend or modify any similar conflicting local order in any particular matters governed by the order of the department. Thereafter no local officer may make or enforce any order contrary to the order of the department.

(b) Any person affected by any local order in conflict with an order of the department, may in the manner provided in s. 101.02

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(6) (e) to (i), petition the department for a hearing on the ground that such local order is unreasonable and in conflict with the order of the department. The petition for such hearing shall conform to the requirements set forth for a petition in s. 101.02 (6) (e) to (i).

(c) Upon receipt of such petition the department shall order a hearing thereon, to consider and determine the issues raised by such appeal, such hearing to be held in the village, city or municipality where the local order appealed from was made. Notice of the time and place of such hearing shall be given to the petitioner and such other persons as the department may find directly interested in such decision, including the clerk of the municipality or town from which such appeal comes. If upon such investigation it shall be found that the local order appealed from is unreasonable and in conflict with the order of the department, the department may modify its order and shall substitute for the local order appealed from such order as shall be reasonable and legal in the premises, and thereafter the said local order shall, in such particulars, be void and of no effect.

(7m) Notwithstanding sub. (7) (a), no city, village or town may make or enforce any ordinance that is applied to any multifamily dwelling, as defined in s. 101.971 (2), and that does not conform to subch. VI and this section or is contrary to an order of the department under this subchapter, except that if a city, village or town has a preexisting stricter sprinkler ordinance, as defined in s. 101.975 (3) (a), that ordinance remains in effect, except that the city, village or town may take any action with regard to that ordinance that a political subdivision may take under s. 101.975 (3) (b).

(8) (a) No action, proceeding or suit to set aside, vacate or amend any order of the department or to enjoin the enforcement thereof, shall be brought unless the plaintiff shall have applied to the department for a hearing thereon at the time and as provided in s. 101.02 (6) (e) to (i), and in the petition therefor shall have raised every issue raised in such action.

(b) Every order of the department shall, in every prosecution for violation thereof, be conclusively presumed to be just, reasonable and lawful, unless prior to the institution of prosecution for such violation a proceeding for judicial review of such order shall have been instituted, as provided in ch. 227.

(9) A substantial compliance with the requirements of this subchapter shall be sufficient to give effect to the orders of the department, and no order may be declared inoperative, illegal or void for any omission of a technical nature with respect to the requirements of this subchapter.

(10) Orders of the department under this subchapter shall be subject to review in the manner provided in ch. 227.

(11) Proof by any person, firm or corporation employing a contractor to construct, repair, alter or improve any building or structure, that such contractor in performing such work has failed to comply with any applicable order or regulation of the department promulgated under this chapter shall constitute a defense to any action for payment by such contractor to the extent that it shall bar recovery for any part of the work which fails to comply. Advancements paid to the contractor for work which fails to comply as well as any reasonable amount expended to effectuate compliance with any applicable order or regulation may be recovered from such contractor by way of counterclaim or in a separate action. This section shall not apply where plans or specifications were prepared by an architect or engineer licensed to do business in this state and the contract performed in accordance therewith.

(12) Every day during which any person or corporation, or any officer, agent or employee of a person or corporation, fails to observe and comply with any order of the department or to perform any duty specified under this subchapter shall constitute a separate and distinct violation of the order or of the requirements of this subchapter, whichever is applicable.

(13) (a) If any employer, employee, owner, or other person violates this subchapter, or fails or refuses to perform any duty specified under this subchapter, within the time prescribed by the department, for which no penalty has been specifically provided, or fails, neglects or refuses to obey any lawful order given or made by the department, or any judgment or decree made by any court in connection with this subchapter, for each such violation, failure or refusal, such employer, employee, owner or other person shall forfeit and pay into the state treasury a sum not less than $10 nor more than $100 for each such offense.

(b) It shall be the duty of all officers of the state, the counties and municipalities, upon request of the department, to enforce in their respective departments, all lawful orders of the department, insofar as the same may be applicable and consistent with the general duties of such officers.

(14) (a) The secretary or any examiner appointed by the secretary may hold hearings and take testimony.

(b) Each witness who appears before the department by its order shall receive for attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of properly verified vouchers approved by the secretary, and charged to the proper appropriation for the department. No witness subpoenaed at the instance of an attorney under par. (cm) or at the instance of a party other than the department is entitled to compensation from the state for attendance or travel unless the department certifies that the testimony was material to the matter investigated.

(c) The department or any party may in any investigation cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in circuit courts. The expense incurred by the state in the taking of such depositions shall be charged against the proper appropriations for the department.

(cm) A party's attorney of record may issue a subpoena to compel the attendance of a witness or the production of evidence. A subpoena issued by an attorney must be in substantially the same form as provided in s. 805.07 (4) and must be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of issuance, send a copy of the subpoena to the appeal tribunal or other representative of the department responsible for conducting the proceeding.

(d) A full and complete record shall be kept of all proceedings had before the department on any investigation and all testimony shall be taken down by the stenographer appointed by the department.

(15) (a) The department has such supervision of every employment, place of employment and public building in this state as is necessary adequately to enforce and administer all laws and all lawful orders requiring such employment, place of employment or public building to be safe, and requiring the protection of the life, health, safety and welfare of every employee in such employment or place of employment and every frequenter of such place of employment, and the safety of the public or tenants in any such public building. This paragraph does not apply to occupational safety and health issues covered by standards established and enforced by the federal occupational safety and health administration.

(b) The department shall administer and enforce, so far as not otherwise provided for in the statutes, the laws relating to laundries, stores, licensed occupations, school attendance, bakeries, intelligence offices and bureaus, manufacture of cigars, sweatshops, corn shredders, woodsawing machines, fire escapes and means of egress from buildings, scaffolds, hoists, ladders and other matters relating to the erection, repair, alteration or painting of buildings and structures, and all other laws protecting the life, health, safety and welfare of employees in employments and places of employment and frequenters of places of employment.

(c) Upon petition by any person that any employment or place of employment or public building is not safe, the department shall proceed, with or without notice, to make such investigation as may be necessary to determine the matter complained of.

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(d) After such hearing as may be necessary, the department may enter such order relative thereto as may be necessary to render such employment or place of employment or public building safe.

(e) Whenever the department shall learn that any employment or place of employment or public building is not safe it may of its own motion, summarily investigate the same, with or without notice, and enter such order as may be necessary relative thereto.

(f) The department shall investigate, ascertain and determine such reasonable classifications of persons, employments, places of employment and public buildings, as shall be necessary to carry out the purposes of this subchapter.

(g) The secretary or any deputy of the department may enter any place of employment or public building, for the purpose of collecting facts and statistics, examining the provisions made for the health, safety and welfare of the employees, frequenters, the public or tenants therein and bringing to the attention of every employer or owner any law, or any order of the department, and any failure on the part of such employer or owner to comply therewith. No employer or owner may refuse to admit the secretary or any deputy of the department to his or her place of employment or public building.

(h) The department shall investigate, ascertain, declare and prescribe what safety devices, safeguards or other means or methods of protection are best adapted to render the employees of every employment and place of employment and frequenters of every place of employment safe, and to protect their welfare as required by law or lawful orders.

(i) The department shall ascertain and fix such reasonable standards and shall prescribe, modify and enforce such reasonable orders for the adoption of safety devices, safeguards and other means or methods of protection to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life, health, safety and welfare of employees in employments and places of employment or frequenters of places of employment.

(j) The department shall ascertain, fix and order such reasonable standards or rules for the construction, repair and maintenance of places of employment and public buildings, as shall render them safe.

(jm) Paragraphs (a) to (j) do not apply to public employee occupational safety and health issues covered under s. 101.055.

(k) Every employer and every owner shall furnish to the department all information that the department requires to administer and enforce this subchapter, and shall provide specific answers to all questions that the department asks relating to any information that the department requires.

(L) Any employer receiving from the department any form requesting information that the department requires to administer and enforce this subchapter, along with directions to complete the form, shall properly complete the form and answer fully and correctly each question asked in the form. If the employer is unable to answer any question, the employer shall give a good and sufficient reason for his or her inability to answer the question. The employer's answers shall be verified under oath by the employer, or by the president, secretary or other managing officer of the corporation, if the employer is a corporation, and the completed form shall be returned to the department at its office within the period fixed by the department.

(16) The department shall comply with the requirements of ch. 160 in the administration of any program, responsibility or activity assigned or delegated to it by law.

(18) The department may establish a schedule of fees for publications and seminars provided by the department for which no fee is otherwise authorized, required or prohibited by statute. Fees established under this subsection for publications and seminars provided by the department may not exceed the actual cost incurred in providing those publications and seminars.

(18m) The department may perform, or contract for the performance of, testing of petroleum products other than testing provided under ch. 168. The department may establish a schedule of fees for such petroleum product testing services. The department shall credit all revenues received from fees established under this subsection to the appropriation account under s. 20.165 (2) (ga). Revenues from fees established under this subsection may be used by the department to pay for testing costs, including laboratory supplies and equipment amortization, for such products.

(19) (a) The department shall, after consulting with the department of health services, develop a report form to document contact with blood or body fluids that constitutes a significant exposure, for use under s. 252.15 (5g) (c). The form shall contain the following language for use by a person who may have had a significant exposure: "REMEMBER — WHEN YOU ARE INFORMED OF AN HIV TEST RESULT BY USING THIS FORM, IT IS A VIOLATION OF THE LAW FOR YOU TO REVEAL TO ANYONE ELSE THE IDENTITY OF THE PERSON WHO IS THE SUBJECT OF THAT TEST RESULT. (PENALTY: POSSIBLE JAIL AND UP TO $50,000 FINE)".

(b) The department shall determine whether a report form that is not the report form under par. (a) that is used or proposed for use to document significant exposure to blood or body fluids, is substantially equivalent to the report form under par. (a).

(20) (a) For purposes of this subsection, "license" means a license, permit, or certificate of certification or registration issued by the department for an occupation or profession under s. 101.09 (3) (c), 101.122 (2) (c), 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.96 (2), 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

(b) Except as provided in par. (e), the department of safety and professional services may not issue or renew a license unless each applicant who is an individual provides the department of safety and professional services with his or her social security number and each applicant that is not an individual provides the department of safety and professional services with its federal employer identification number. The department of safety and professional services may not disclose the social security number or the federal employer identification number of an applicant for a license or license renewal except to the department of revenue for the sole purpose of requesting certifications under s. 73.0301.

(c) The department of safety and professional services may not issue or renew a license if the department of revenue certifies under s. 73.0301 that the applicant or licensee is liable for delinquent taxes.

(d) The department of safety and professional services shall revoke a license if the department of revenue certifies under s. 73.0301 that the licensee is liable for delinquent taxes.

(e) 1. If an applicant who is an individual does not have a social security number, the applicant, as a condition of applying for or applying to renew a license shall submit a statement made or subscribed under oath or affirmation to the department of safety and professional services that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families.

2. Any license issued or renewed in reliance upon a false statement submitted by an applicant under subd. 1. is invalid.

(21) (a) In this subsection, "license" means a license, permit, or certificate of certification or registration issued by the department for an occupation or profession under s. 101.09 (3) (c), 101.122 (2) (c), 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.96 (2), 101.985 (1) to (3), 145.02 (4),

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145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

(b) As provided in the memorandum of understanding under s. 49.857 and except as provided in par. (e), the department of safety and professional services may not issue or renew a license unless the applicant provides the department of safety and professional services with his or her social security number. The department of safety and professional services may not disclose the social security number except that the department of safety and professional services may disclose the social security number of an applicant for a license under par. (a) or a renewal of a license under par. (a) to the department of children and families for the sole purpose of administering s. 49.22.

(c) As provided in the memorandum of understanding under s. 49.857, the department may not issue or renew a license if the applicant or licensee is delinquent in making court−ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse or if the applicant or licensee fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and relating to paternity or child support proceedings.

(d) As provided in the memorandum of understanding under s. 49.857, the department shall restrict or suspend a license issued by the department if the licensee is delinquent in making court−ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse or if the licensee fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and relating to paternity or child support proceedings.

(e) 1. If an applicant who is an individual does not have a social security number, the applicant, as a condition of applying for or applying to renew a license shall submit a statement made or subscribed under oath or affirmation to the department of safety and professional services that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families.

2. Any license issued or renewed in reliance upon a false statement submitted by an applicant under subd. 1. is invalid.

(22) (a) In this subsection, "insulating concrete form" means a hollow expandable polystyrene form that is filled with concrete.

(b) Except as provided in par. (c), no later than April 1, 2007, the department shall provide a designation on every standard building permit form prescribed by the department under this chapter to indicate whether insulating concrete forms are being used in the construction of the building for which the permit is issued.

(c) No later than June 1, 2006, the department shall provide the designation described under par. (b) on all electronic versions of every standard building permit form prescribed by the department under this chapter.

(23) The department shall include the following language on every standard building permit form prescribed by the department under this chapter: "YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER."

(24) (a) In this subsection:

1. "Instruction" means any education, training, instruction or other experience related to an occupation or profession.

2. "License" means a license, permit, or certificate of certification or registration issued by the department for an occupation or profession under s. 101.09 (3) (c), 101.122 (2) (c), 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.654, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

Note: Section 101.177 was repealed. Corrective legislation is pending.

(b) The department shall count any relevant instruction that an applicant for a license has obtained in connection with any military service, as defined in s. 111.32 (12g), toward satisfying the requirements for instruction for that license if the applicant demonstrates to the satisfaction of the department that the instruction obtained by the applicant is substantially equivalent to the instruction required for the license.

History: 1971 c. 185 ss. 1 to 5, 7; 1971 c. 228 ss. 16, 42; Stats. 1971 s. 101.02; 1975 c. 39, 94; 1977 c. 29; 1981 c. 360; 1983 a. 410; 1985 a. 182 s. 57; 1987 a. 343; 1989 a. 31, 56, 139; 1991 a. 39, 269; 1993 a. 27, 184, 252, 414, 492; 1995 a. 27 ss. 3631 to 3649r, 9126 (19); 1995 a. 215; 1997 a. 191, 237; 1999 a. 9; 2001 a. 61; 2005 a. 251, 456; 2007 a. 20 ss. 2609 to 2613, 9121 (6) (a); 2007 a. 63, 203; 2009 a. 16, 28, 209, 373; 2011 a. 32, 120, 146.

Cross−reference: See also SPS, Wis. adm. code.

Cross−reference: See s. 66.0119 for a provision authorizing special inspection warrants.

Safety rules promulgated under sub. (15) (h) applied to a frequenter of a new home construction site. Failure to instruct the jury that a violation of a safety standard constituted negligence per se was reversible error. Nordeen v. Hammerlund, 132 Wis. 2d 164, 389 N.W.2d 878 (Ct. App. 1986).

Every infrequent business−related activity in the home does not subject the homeowner to liability under the safe place statute. Geiger v. Milwaukee Guardian Insurance Co. 188 Wis. 2d 333, 524 N.W.2d 909 (Ct. App. 1994).

When an inspector determines that there is a violation of safety orders and a condition of extreme and imminent danger to a worker's life exists, the inspector may seek the assistance of a local law enforcement officer. The local law enforcement officer has a duty to render assistance unless in the officer's opinion other priority assignments take precedence. 59 Atty. Gen. 12.

The department's authority to adopt rules covering the safety of frequenters engaged in recreational activities at youth camps is limited to orders relating to the construction of public buildings on the premises, but only as to the structural aspects thereof, and to places of employment, but only as to those camps operated for profit. 59 Atty. Gen. 35.

The department has the power to promulgate reasonable safety standards for the protection of employees while working in and around motor vehicles used on the job. 59 Atty. Gen. 181.

The department may inspect those parts of boarding homes designed for 3 or more persons where employees work or those used by the public, but not interiors of private dwellings. It has no authority to license or register boarding homes nor to charge an inspection fee based upon the number of beds or rooms. 62 Atty. Gen. 107.

The department cannot enact a rule that would alter the common law rights and duties of adjoining landowners with respect to lateral support, although the department may specify 30 days as the minimum safety period in which an excavating owner must give notice to a neighbor of an intent to excavate. 62 Atty. Gen. 287.

101.025 Ventilation requirements for public buildings and places of employment. (1) Notwithstanding s. 101.02 (1) and (15), any rule which requires the intake of outside air for ventilation in public buildings or places of employment shall establish minimum quantities of outside air that must be supplied based upon the type of occupancy, the number of occupants, areas with toxic or unusual contaminants and other pertinent criteria determined by the department. The department shall set standards where the mandatory intake of outside air may be waived. The department may waive the requirement for the intake of outside air where the owner has demonstrated that the resulting air quality is equivalent to that provided by outdoor air ventilation. The department may not waive the mandatory intake of outside air unless smoking is prohibited in the building or place of employment. In this subsection "smoking" means carrying any lighted tobacco product.

(2) In the case where the intake of outside air is waived, any person may file a written complaint with the department requesting the enforcement of ventilation requirements for the intake of outside air for a particular public building or place of employment. The complaints shall be processed in the same manner and be sub-

ject to the same procedures as provided in s. 101.02 (6) (e) to (i) and (8).

(3) The department may order the owner of any public building or place of employment which is the subject of a complaint under sub. (2) to comply with ventilation requirements adopted under sub. (1) unless the owner can verify, in writing, that the elimination of the provision for outside air in the structure in question does not impose a significant detriment to the employees or frequenters of the structure and that the health, safety and welfare of the occupants is preserved. Upon receipt of a written verification from the owner, the department shall conduct an investigation, and the department may issue an order to comply with ventilation requirements under sub. (1) if it finds that the health, safety and welfare of the employees or frequenters of the structure in question is best served by reinstating the ventilation requirements for that structure.

(4) For ventilation systems in public buildings and places of employment, the department shall adopt rules setting:

(a) A maximum rate of leakage allowable from outside air dampers when the dampers are closed.

(b) Maintenance standards for ventilation systems in public buildings and places of employment existing on April 30, 1980.

(5) To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a qualified historic building if the owner elects to be subject to s. 101.121.

History: 1979 c. 221; 1981 c. 341.

Cross−reference: See also ch. SPS 364, Wis. adm. code.

101.027 Energy conservation code for public buildings and places of employment. (1) In this section, "energy conservation code" means the energy conservation code promulgated by the department that sets design requirements for construction and equipment for the purpose of energy conservation in public buildings and places of employment.

(2) The department shall review the energy conservation code and shall promulgate rules that change the requirements of the energy conservation code to improve energy conservation. No rule may be promulgated that has not taken into account the cost of the energy conservation code requirement, as changed by the rule, in relationship to the benefits derived from that requirement, including the reasonably foreseeable economic and environmental benefits to the state from any reduction in the use of imported fossil fuel. The proposed rules changing the energy conservation code shall be submitted to the legislature in the manner provided under s. 227.19. In conducting a review under this subsection, the department shall consider incorporating, into the energy conservation code, design requirements from the most current national energy efficiency design standards, including the International Energy Conservation Code or an energy efficiency code other than the International Energy Conservation Code if that energy efficiency code is used to prescribe design requirements for the purpose of conserving energy in buildings and is generally accepted and used by engineers and the construction industry.

(3) (a) The department shall begin a review under sub. (2) whenever one of the following occurs:

1. A revision of the International Energy Conservation Code is published.

2. Three years have passed from the date on which the department last submitted to the legislature proposed rules changing the energy conservation code.

(b) The department shall complete a review under sub. (2) as follows:

1. If the department begins a review under sub. (2) because a revision of the International Energy Conservation Code is published, the department shall complete its review of the energy conservation code, as defined in sub. (1), and submit to the legislature proposed rules changing the energy conservation code, as defined in sub. (1), no later than 18 months after the date on which the revision of the International Energy Conservation Code is published.

2. If the department begins a review under sub. (2) because 3 years have passed from the date on which the department last submitted to the legislature proposed rules changing the energy conservation code, the department shall complete its review of the energy conservation code and submit to the legislature proposed rules changing the energy conservation code no later than 9 months after the last day of the 3−year period.

History: 1993 a. 242; 2005 a. 141.

Cross−reference: See also ch. SPS 363, Wis. adm. code.

101.03 Testimonial powers of secretary and deputy. The secretary or any deputy secretary may certify to official acts, and take testimony.

History: 1971 c. 228 s. 21; Stats. 1971 s. 101.03; 1977 c. 29; 1995 a. 27.

101.05 Exempt buildings and projects. (1) No building code adopted by the department under this chapter shall affect buildings located on research or laboratory farms of public universities or other state institutions and used primarily for housing livestock or other agricultural purposes.

(2) A bed and breakfast establishment, as defined under s. 254.61 (1), is not subject to building codes adopted by the department under this subchapter.

(3) No standard, rule, code or regulation of the department under this subchapter applies to construction undertaken by the state for the purpose of renovation of the state capitol building.

(4) No standard, rule, order, code or regulation adopted, promulgated, enforced or administered by the department under this chapter applies to a rural school building if all of the following are satisfied:

(a) The school building consists of one classroom.

(b) The school building is used as a school that is operated by and for members of a bona fide religious denomination in accordance with the teachings and beliefs of the denomination.

(c) The teachings and beliefs of the bona fide religious denomination that operates the school prohibit the use of certain products, devices or designs that are necessary to comply with a standard, rule, order, code or regulation adopted, promulgated, enforced or administered by the department under this chapter.

(5) No standard, rule, order, code, or regulation adopted, promulgated, enforced, or administered by the department under s. 101.025, 101.027, 101.12, 101.121, or 101.125 to 101.135 applies to a building used for farming, as defined by the department by rule.

History: 1971 c. 329; 1983 a. 163; 1983 a. 538 s. 271; 1989 a. 31, 354; 1993 a. 27, 117; 1995 a. 27; 1999 a. 135; 2011 a. 146.

Cross−reference: See also ch. SPS 361, Wis. adm. code.

101.055 Public employee safety and health. (1) INTENT. It is the intent of this section to give employees of the state, of any agency and of any political subdivision of this state rights and protections relating to occupational safety and health equivalent to those granted to employees in the private sector under the occupational safety and health act of 1970 (5 USC 5108, 5314, 5315 and 7902; 15 USC 633 and 636; 18 USC 1114; 29 USC 553 and 651 to 678; 42 USC 3142−1 and 49 USC 1421).

(2) DEFINITIONS. In this section, unless the context requires otherwise:

(a) "Agency" means an office, department, independent agency, authority, institution, association, society, or other body in state government created or authorized to be created by the constitution or any law, and includes the legislature and the courts, but excludes the Health Insurance Risk−Sharing Plan Authority.

(b) "Public employee" or "employee" means any employee of the state, of any agency or of any political subdivision of the state.

(c) "Public employee representative" or "employee representative" means an authorized collective bargaining agent, an employee who is a member of a workplace safety committee or any person chosen by one or more public employees to represent those employees.

(d) "Public employer" or "employer" means the state, any agency or any political subdivision of the state.

(3) STANDARDS. (a) The department shall adopt, by administrative rule, standards to protect the safety and health of public employees. The standards shall provide protection at least equal to that provided to private sector employees under standards promulgated by the federal occupational safety and health administration, but no rule may be adopted by the department which defines a substance as a "toxic substance" solely because it is listed in the latest printed edition of the national institute for occupational safety and health registry of toxic effects of chemical substances. The department shall revise the safety and health standards adopted for public employees as necessary to provide protection at least equal to that provided to private sector employees under federal occupational safety and health administration standards, except as otherwise provided in this paragraph. Notwithstanding ss. 35.93 and 227.21, if the standards adopted by the department are identical to regulations adopted by a federal agency, the standards need not be duplicated as provided in ss. 35.93 and 227.21 if the identical federal regulations are made available to the public at a reasonable cost, promulgated in accordance with ch. 227, except s. 227.21, and distributed in accordance with s. 35.84.

(b) Standards adopted by the department shall contain appropriate provisions for informing employees about hazards in the workplace, precautions to be taken and emergency treatment practices to be used in the event of an accident or overexposure to a toxic substance. Standards shall include provisions for providing information to employees through posting, labeling or other suitable means. Where appropriate, standards adopted by the department shall contain provisions for the use of protective equipment and technological procedures to control hazards.

(c) Standards adopted by the department relating to toxic substances or harmful physical agents, such as noise, temperature extremes and radiation, shall assure to the extent feasible that no employee will suffer material impairment of health or functional capacity through regular exposure. Where appropriate, standards adopted by the department relating to toxic substances and physical agents shall require the monitoring and measuring of employees' exposure to the substance or agent.

(d) No standards adopted under this subsection may require a member of a volunteer or paid fire department maintained by a political subdivision of this state to complete more than 60 hours of training prior to participating in structural fire fighting.

(4) VARIANCES. (a) *Procedure.* A public employer may apply to the department for a temporary variance under par. (b), an experimental variance under par. (c) or a permanent variance under par. (d) to any standard adopted under sub. (3) by filing a petition with the department specifying the standard for which the public employer seeks a variance and the reasons for which the variance is sought. In addition, the public employer seeking the variance shall provide a copy of the application to the appropriate public employee representatives and post a statement at the place where notices to employees are normally posted. The posted statement shall summarize the application, specify a place where employees may examine the application and inform employees of their right to request a hearing. Upon receipt of a written request by the employer, an affected employee or a public employee representative, the department shall hold a hearing on the application for a variance and may make further investigations. If a hearing has been requested, the department may not issue a variance until a hearing has been held. A variance issued under par. (b), (c) or (d) shall prescribe the methods and conditions which the employer must adopt and maintain while the variance is in effect.

(b) *Temporary variance.* The department may grant a temporary variance before a standard goes into effect if the public employer complies with par. (a) and establishes that it is unable to comply with a standard by the standard's effective date because of unavailability of professional or technical personnel or of necessary materials or equipment or because necessary construction or alteration of facilities cannot be completed by the effective date. The employer shall also show that it is taking all available steps to safeguard employees against the hazard covered by the standard from which the variance is sought and shall possess and describe a program for coming into compliance with the standard as quickly as possible. If a hearing is requested, the department may state in writing that noncompliance with the standard is permitted for 180 days or until a decision is made after the hearing, whichever is earlier. A temporary variance shall be in effect for the period of time needed by the employer to achieve compliance with the standard or for one year, whichever is shorter. A temporary variance may be renewed no more than twice, and only if the public employer files an application for renewal at least 90 days before expiration of the temporary variance and complies with this paragraph and par. (a).

(c) *Experimental variance.* The department may grant an experimental variance if the public employer complies with par. (a) and the department determines that the variance is necessary to permit the employer to participate in an experiment approved by the department to demonstrate or validate new or improved techniques to safeguard the health or safety of employees.

(d) *Permanent variance.* The department may grant a permanent variance if the public employer complies with par. (a) and the department finds the employer has demonstrated by a preponderance of the evidence that the conditions and methods the employer uses or proposes to use provide employment or a place of employment which is as safe and healthful as that provided under the standard from which the employer seeks a permanent variance. A permanent variance may be modified or revoked upon application by the employer, an affected employee, a public employee representative or the department and after opportunity for a hearing, but not sooner than 6 months after issuance of the permanent variance.

(5) INSPECTIONS. (a) A public employee or public employee representative who believes that a safety or health standard or variance is being violated, or that a situation exists which poses a recognized hazard likely to cause death or serious physical harm, may request the department to conduct an inspection. The department shall provide forms which may be used to make a request for an inspection. If the employee or public employee representative requesting the inspection so designates, that person's name shall not be disclosed to the employer or any other person, including any agency except the department. If the department decides not to make an inspection, it shall notify in writing any employee or public employee representative making a written request. A decision by the department not to make an inspection in response to a request under this subsection is reviewable by the department under sub. (6) (a) 3. and is subject to judicial review under sub. (6) (a) 4.

(b) An authorized representative of the department may enter the place of employment of a public employer at reasonable times, within reasonable limits and in a reasonable manner to determine whether that employer is complying with safety and health standards and variances adopted under subs. (3) and (4) or to investigate any situation which poses a recognized hazard likely to cause death or serious physical harm to a public employee regardless of whether a standard is being violated. No public employer may refuse to allow a representative of the department to inspect a place of employment. If an employer attempts to prevent a representative of the department from conducting an inspection, the department may obtain an inspection warrant under s. 66.0119. No notice may be given before conducting an inspection under this paragraph unless that notice is expressly authorized by the secretary or is necessary to enhance the effectiveness of the inspection.

(c) A representative of the employer and a public employee representative shall be permitted to accompany a representative of the department on an inspection made under this subsection to aid in the inspection and to notify the inspector of any possible violation of a safety and health standard or variance or of any situation which poses a recognized hazard likely to cause death or serious

physical harm to a public employee. The public employee representative accompanying the representative of the department on an inspection shall, with respect to payment received or withheld for time spent accompanying the department representative, receive treatment equal to that afforded to any representative of the employer who is present during an inspection, except that a public employer may choose to allow only one public employee representative at a time to accompany the department representative on an inspection without a reduction in pay. If a representative of the employer does not accompany the representative of the department on an inspection, at least one public employee representative shall be allowed to accompany the representative of the department on the inspection without a loss of pay. Where no public employee representative accompanies the representative of the department on an inspection, the representative of the department shall consult with a reasonable number of employees concerning matters of employee safety and health. The department shall keep a written record of the name of any person accompanying the department representative during the inspection, the name of any employee consulted and the name of any authorized collective bargaining agent notified of the inspection by the public employer under sub. (7) (e).

(d) When making an inspection, a representative of the department may question privately any public employer or employee. No public employee shall suffer a loss in wages for time spent responding to any questions under this paragraph.

(e) A representative of the department shall have access to the records required under sub. (7) (a) and (b) and to any other records maintained by a public employer which are related to the purpose of the inspection.

(6) ENFORCEMENT. (a) *Orders.* 1. 'Issuance.' If, as a result of inspection, the department finds a violation of a safety and health standard or variance or a condition which poses a recognized hazard likely to cause death or serious physical harm to a public employee, the department shall issue an order to the employer. A public employer who is in compliance with any standards or variances is deemed to be in compliance to the extent of the condition, practice, means, method, operation or process covered by that standard. The order shall describe the nature of the violation and the period of time within which the employer shall correct the violation. The department shall send a copy of the order to the top elected official of the political subdivision of which the public employer is a part and to the appropriate collective bargaining agent for the employees affected by the violation cited in the order, if a collective bargaining agent exists. If the order is issued as a result of an inspection requested by an employee or public employee representative, the department shall also send a copy of the order to that employee or public employee representative. Upon receipt of an order, the employer shall post the order at or near the site of violation for 3 days, or until the violation is abated, whichever is longer. The order shall be posted regardless of whether there has been a petition for a variance under sub. (4) or for a hearing under subd. 3. The employer shall ensure that the order is not altered, defaced or covered by other materials.

2. 'Decision not to issue.' If the department decides not to issue an order in response to a request for inspection filed under sub. (5) (a), it shall mail written notice of that decision to the public employee or public employee representative who requested the investigation. A decision under this subdivision is reviewable by the department under subd. 3.

3. 'Review by department.' A public employer or employee affected by an order or decision issued by the department under subd. 1. or 2. or sub. (5) (a) may obtain review of the order or decision by filing with the department a petition requesting a hearing and specifying the modification or change desired in the order or decision. A petition for a hearing must be filed with the department not later than 30 days after the order is issued or the written notification is mailed. If the department denies the request for a hearing, the denial shall be in writing and shall state the reasons for denial. If the department holds a hearing, it shall issue an order affirming, vacating or modifying the order or decision under subd. 1. or 2. or sub. (5) (a), within 30 days after the close of the hearing.

4. 'Judicial review.' Orders and denials of requests for hearings under subd. 3. are subject to judicial review under ch. 227.

(b) *Injunction.* Whenever a hazard exists in a public employer's place of employment which could reasonably be expected to cause death or serious physical harm before other procedures under this section can be carried out, the department may seek relief through an injunction or an action for mandamus as provided in chs. 783 and 813.If the department seeks an injunction or an action for mandamus, it shall notify the affected public employer and public employees of the hazard for which relief is being sought.

(7) EMPLOYER OBLIGATIONS FOR RECORD KEEPING AND NOTIFICATION. (a) A public employer shall maintain records of work−related injuries and illnesses and shall make reports of these injuries and illnesses to the department at time intervals specified by rule of the department. These records shall be available to the department, the employer's employees and the employees' representatives. This paragraph does not authorize disclosure of patient health care records except as provided in ss. 146.82 and 146.83.

(b) A public employer shall maintain records of employee exposures to toxic materials and harmful physical agents which are required by safety and health standards adopted under sub. (3) to be monitored or measured. A representative of the department and any affected public employee and his or her public employee representative shall be permitted to observe the monitoring and measuring and shall have access to the employer's records of the monitoring and measuring. This paragraph does not authorize disclosure of patient health care records except as provided in ss. 146.82 and 146.83.

(c) A public employer shall promptly notify a public employee who has been or is being exposed to any toxic material or harmful physical agent at a level which exceeds that prescribed by the safety and health standards of the department and shall inform that public employee of any corrective action being taken.

(d) A public employer shall notify its employees of their protections and rights under this section by posting a summary of these protections and rights in the place of employment where notices to employees are usually posted.

(e) When a representative of the department enters a public employer's place of employment to make an inspection, the employer shall notify an appropriate representative of any collective bargaining unit which represents the employer's employees. The employer shall give the name of the collective bargaining unit representatives notified of the inspection to the department representative making the inspection.

(8) PROTECTION OF PUBLIC EMPLOYEES EXERCISING THEIR RIGHTS. (ag) In this subsection, "division of equal rights" means the division of equal rights in the department of workforce development acting under the authority provided in s. 106.54 (4).

(ar) No public employer may discharge or otherwise discriminate against any public employee it employs because the public employee filed a request with the department, instituted or caused to be instituted any action or proceeding relating to occupational safety and health matters under this section, testified or will testify in such a proceeding, reasonably refused to perform a task which represents a danger of serious injury or death or exercised any other right related to occupational safety and health which is afforded by this section.

(b) A public employee who believes that he or she has been discharged or otherwise discriminated against by a public employer in violation of par. (ar) may file a complaint with the division of equal rights alleging discrimination or discharge, within 30 days after the employee received knowledge of the discrimination or discharge.

(c) Upon receipt of a complaint, the division of equal rights shall, except as provided in s. 230.45 (1m), investigate the com-

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plaint and determine whether there is probable cause to believe that a violation of par. (ar) has occurred. If the division of equal rights finds probable cause it shall attempt to resolve the complaint by conference, conciliation or persuasion. If the complaint is not resolved, the division of equal rights shall hold a hearing on the complaint within 60 days after receipt of the complaint unless both parties to the proceeding agree otherwise. Within 30 days after the close of the hearing, the division of equal rights shall issue its decision. If the division of equal rights determines that a violation of par. (ar) has occurred, it shall order appropriate relief for the employee, including restoration of the employee to his or her former position with back pay, and shall order any action necessary to ensure that no further discrimination occurs. If the division of equal rights determines that there has been no violation of par. (ar), it shall issue an order dismissing the complaint.

(d) Orders of the division of equal rights under this subsection are subject to judicial review under ch. 227.

Cross−reference: See also ch. DWD 223, Wis. adm. code.

(9) COORDINATION OF STATE SAFETY AND HEALTH PROGRAMS. The department shall coordinate state safety and health programs and shall plan and conduct comprehensive safety and health loss prevention programs for state employees and facilities.

(10) EXCEPTION FOR CERTAIN POLITICAL SUBDIVISIONS. The department is not required to expend any resources to enforce this section in political subdivisions having 10 or less employees unless it has received a complaint.

History: 1981 c. 360, 391; 1985 a. 182 s. 57; 1991 a. 39; 1995 a. 27 ss. 3652 to 3659, 9130 (4); 1995 a. 342; 1997 a. 3; 1999 a. 82; 1999 a. 150 s. 672; 2003 a. 33; 2005 a. 74.

Cross−reference: See also chs. SPS 303, 330, and 332, Wis. adm. code.

This section extends the coverage of OSHA to government employees. OSHA was meant to address tangible, measurable workplace hazards. The threat of on−the−job violence to a campus police officer is too abstract to be within the coverage afforded. The denial of a request for a hearing on a complaint seeking to require the provision of firearms to officers was proper. West v. Department of Commerce, 230 Wis. 2d 71, 601 N.W.2d 307 (Ct. App. 1999), 98−1693.

101.09 Storage of flammable, combustible and hazardous liquids. (1) DEFINITIONS. In this section:

(a) "Combustible liquid" means a liquid having a flash point at or above 100 degrees fahrenheit and below 200 degrees fahrenheit.

(am) "Federally regulated hazardous substance" means a hazardous substance, as defined in 42 USC 9601 (14).

(b) "Flammable liquid" means a liquid having a flash point below 100 degrees fahrenheit.

(c) "Flash point" means the minimum temperature at which a flammable or combustible liquid will give off sufficient flammable vapors to form an ignitable mixture with air near the surface of the liquid or within the vessel which contains the liquid.

(cm) "Secondary containment" means a barrier, approved by the department, that is installed around a storage tank system and that is designed to prevent a leak from a primary tank or piping from contacting the surrounding earth or waters of the state.

(d) "Waters of the state" has the meaning specified under s. 281.01 (18).

(2) STORAGE TANKS. (a) Except as provided under pars. (b) to (d), every person who constructs, owns or controls a tank for the storage, handling or use of liquid that is flammable or combustible or a federally regulated hazardous substance shall comply with the standards adopted under sub. (3).

(b) This section does not apply to storage tanks which require a hazardous waste license under s. 291.25.

(c) This section does not apply to storage tanks which are installed above ground level and which are less than 5,000 gallons in capacity.

(cm) Any rules promulgated under sub. (3) requiring an owner to test the ability of a storage tank, connected piping or ancillary equipment to prevent an inadvertent release of a stored substance do not apply to storage tanks that satisfy all of the following:

1. Are installed before October 29, 1999.

2. Have a capacity of less than 1,100 gallons.

3. Are used to store heating oil for residential, consumptive use on the premises where stored.

(d) This section does not apply to a pressurized natural gas pipeline system regulated under 49 CFR 192 and 193.

(3) RULES. (a) The department shall promulgate by rule construction, maintenance and abandonment standards applicable to tanks for the storage, handling or use of liquids that are flammable or combustible or are federally regulated hazardous substances, and to the property and facilities where the tanks are located, for the purpose of protecting the waters of the state from harm due to contamination by liquids that are flammable or combustible or are federally regulated hazardous substances. The rule shall comply with ch. 160. The rule may include different standards for new and existing tanks, but all standards shall provide substantially similar protection for the waters of the state. The rule shall include maintenance requirements related to the detection and prevention of leaks. The rule may require any person supplying heating oil to any noncommercial storage tank for consumptive use on the premises to submit to the department, within 30 days after the department requests, the location, contents and size of any such tank.

(b) The department may transfer any information which the department receives under par. (a) to any other agency or governmental unit. The department and any such agency shall treat the name of the owner and the location of any noncommercial storage tank which stores heating oil for consumptive use on the premises, required to be submitted to the department under par. (a), as confidential and shall not permit inspection or copying under s. 19.35 of any record containing the information.

(c) The rule promulgated under par. (a) may require the certification or registration of persons who install, remove, clean, line, perform tightness testing on and inspect tanks and persons who perform site assessments. Any rule requiring certification or registration shall also authorize the revocation or suspension of the certification or registration.

(d) The department shall promulgate a rule specifying fees for plan review and inspection of tanks for the storage, handling, or use of flammable or combustible liquids and for any certification or registration required under par. (c).

(3m) SECONDARY CONTAINMENT REQUIREMENTS. (a) In this subsection, "hazardous substance" means a combustible liquid, a flammable liquid, or a federally regulated hazardous substance.

(b) The department may not impose any requirement that specifies that pipe connections at the top of a storage tank and beneath all freestanding pumps and dispensers that routinely contain a hazardous substance be placed within secondary containment sumps, if the pipe connections were installed or in place on or before February 1, 2009. This subsection does not apply after December 31, 2020.

(4) ENFORCEMENT. (a) The department shall enforce this section.

(b) The department shall issue orders directing and requiring compliance with the rules and standards of the department adopted under this section whenever, in the judgment of the department, the rules or standards are threatened with violation, are being violated or have been violated.

(c) The circuit court for any county where violation of such an order occurs has jurisdiction to enforce the order by injunctive and other appropriate relief.

(5) PENALTIES. Any person who violates this section or any rule or order adopted under this section shall forfeit not less than $10 nor more than $5,000 for each violation. Each violation of this section or any rule or order under this section constitutes a separate offense and each day of continued violation is a separate offense.

History: 1983 a. 410; 1987 a. 399; 1991 a. 269; 1993 a. 416.; 1995 a. 227; 1999 a. 9; 2001 a. 16; 2007 a. 20; 2011 a. 32.

Cross−reference: See also ch. SPS 310, Wis. adm. code.

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101.10 Storage and handling of anhydrous ammonia; theft of anhydrous ammonia and anhydrous ammonia equipment. (1) DEFINITIONS. In this section:

(a) "Agricultural activity" means planting, cultivating, propagating, fertilizing, nurturing, producing, harvesting, or manufacturing agricultural, horticultural, viticultural, or dairy products; forest products; livestock; wildlife; poultry; bees; fish; shellfish; or any products of livestock, wildlife, poultry, bees, fish, or shellfish.

(b) "Anhydrous ammonia equipment" means any equipment that is used in the application of anhydrous ammonia for an agricultural purpose or that is used to store, hold, transport, or transfer anhydrous ammonia.

(c) "Transfer" means to remove from a container.

(2) RULES. The department shall promulgate rules that prescribe reasonable standards relating to the safe storage and handling of anhydrous ammonia.

(3) PROHIBITIONS. No person may do any of the following:

(a) Store, hold, or transport anhydrous ammonia in a container that does not meet all applicable requirements established by rules of the department promulgated under sub. (2).

(b) Transfer or attempt to transfer anhydrous ammonia into a container that does not meet all applicable requirements established by rules of the department promulgated under sub. (2).

(c) Transfer or attempt to transfer anhydrous ammonia without the consent of the owner of the anhydrous ammonia.

(d) Intentionally cause damage to anhydrous ammonia equipment without the consent of the owner of the anhydrous ammonia equipment.

(e) Intentionally take, carry away, use, conceal, or retain possession of anhydrous ammonia belonging to another or anhydrous ammonia equipment belonging to another, without the other's consent and with intent to deprive the owner permanently of possession of the anhydrous ammonia or anhydrous ammonia equipment.

(f) Intentionally release or allow the escape of anhydrous ammonia belonging to another into the atmosphere. This paragraph does not apply if the owner has authorized the actor to exercise control over the anhydrous ammonia or has consented to its release.

(4) PENALTIES. (a) Any person who violates a rule of the department promulgated under sub. (2) may be required to forfeit not less than $10 nor more than $100 for each violation.

(b) Except as provided in par. (c), any person who violates sub. (3) is guilty of a Class I felony. Notwithstanding s. 101.02 (12), each act in violation of sub. (3) constitutes a separate offense.

(c) Any person who violates sub. (3) (a) or (b) while performing an agricultural activity or while performing an activity related to the construction, repair, alteration, location, installation, inspection, or operation of anhydrous ammonia equipment with the consent of the owner of the anhydrous ammonia equipment may be required to forfeit not less than $10 nor more than $100 for each violation.

History: 2001 a. 3, 16, 73, 109; 2005 a. 14.

Cross−reference: See also ch. SPS 343, Wis. adm. code.

101.11 Employer's duty to furnish safe employment and place. (1) Every employer shall furnish employment which shall be safe for the employees therein and shall furnish a place of employment which shall be safe for employees therein and for frequenters thereof and shall furnish and use safety devices and safeguards, and shall adopt and use methods and processes reasonably adequate to render such employment and places of employment safe, and shall do every other thing reasonably necessary to protect the life, health, safety, and welfare of such employees and frequenters. Every employer and every owner of a place of employment or a public building now or hereafter constructed shall so construct, repair or maintain such place of employment or public building as to render the same safe.

(2) (a) No employer shall require, permit or suffer any employee to go or be in any employment or place of employment which is not safe, and no such employer shall fail to furnish, provide and use safety devices and safeguards, or fail to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and no such employer shall fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employees and frequenters; and no employer or owner, or other person shall hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which shall fail to provide for making the same safe.

(b) No employee shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, nor interfere in any way with the use thereof by any other person, nor shall any such employee interfere with the use of any method or process adopted for the protection of any employee in such employment or place of employment or frequenter of such place of employment, nor fail or neglect to do every other thing reasonably necessary to protect the life, health, safety or welfare of such employees or frequenters.

(3) This section applies to community−based residential facilities as defined in s. 50.01 (1g).

History: 1971 c. 185; Stats. 1971 s. 101.11; 1975 c. 413; 1987 a. 161 s. 13m.

Cross−reference: See also chs. SPS 361, 362, 363, 364, and 365, Wis. adm. code.

Ordinary negligence can be compared with negligence founded upon the safe place statute. In making the comparison, a violation of the statute is not to be considered necessarily as contributing more than the common−law contributory negligence. Lovesee v. Allied Development Corp. 45 Wis. 2d 340, 173 N.W.2d 196 (1970).

When an apartment complex was managed for a fee by a management company, the company was carrying on a business there. Reduction of rent to one of the tenants for caretaking services constituted employment on the premises. A tenant who fell on the icy parking lot after the caretaker knew of the condition need only prove negligence in maintaining the premises. Wittka v. Hartnell, 46 Wis. 2d 374, 175 N.W.2d 248 (1970).

A public sidewalk is not made a place of employment merely because an employer constructed it and kept it free of ice and snow. Petroski v. Eaton Yale & Towne, Inc. 47 Wis. 2d 617, 178 N.W.2d 53 (1970).

The fact that a violation of the safe place statute is found puts the burden on the owner to rebut the presumption of causation but does not establish as a matter of law that the defendant's negligence was greater than the plaintiff's. Frederick v. Hotel Investments, Inc. 48 Wis. 2d 429, 180 N.W.2d 562 (1970).

A store must be held to have had constructive notice of a dangerous condition when it displayed shaving cream in spray cans on a counter and a 70−year old woman fell in cream sprayed on the white floor. Steinhorst v. H. C. Prange Co. 48 Wis. 2d 679, 180 N.W.2d 525 (1970).

The mere existence of a step up into a hospital lavatory was not an unsafe condition. Prelipp v. Wausau Memorial Hospital, 50 Wis. 2d 27, 183 N.W.2d 24 (1971).

Failure to light a parking lot can support a safe place action, but the evidence must show how long the light was burned out to constitute constructive notice. Low v. Siewert, 54 Wis. 2d 251, 195 N.W.2d 451 (1972).

A parking lot owned by a city that is a continuation of a store parking lot used by the public for attending the city zoo and the store, even though maintained by the private property owner, is not a place of employment. Gordon v. Schultz Savo Stores, Inc. 54 Wis. 2d 692, 196 N.W.2d 633 (1972).

Detailed construction specifications and the presence of engineers to insure compliance does not manifest control over the project so as to make the commission liable. Berger v. Metropolitan Sewerage Commission of Milwaukee, 56 Wis. 2d 741, 203 N.W.2d 87 (1973).

In a safe place action the employee's contributory negligence is less when his or her act or omission has been committed in the performance of job duties. McCrossen v. Nekoosa−Edwards Paper Co. 59 Wis. 2d 245, 208 N.W.2d 148 (1973).

A pier at a beach open to the public for a fee constitutes a place of employment. Any distinction between licensees and invitees is irrelevant, and the statute imposes a higher duty as to safety than the common law. Gould v. Allstar Insurance Co. 59 Wis. 2d 355, 208 N.W.2d 388 (1973).

A private road on the ground of a private racetrack that connected the track and a parking lot was subject to this section as to frequenters. Gross v. Denow, 61 Wis. 2d 40, 212 N.W.2d 2 (1973).

A one−eighth−inch variance in elevation between the sides of a ramp joint was too slight, as a matter of law, to constitute a violation of the safe place statute. Balas v. St. Sebastian's Congregation, 66 Wis. 2d 421, 225 N.W.2d 428 (1975).

An employer may be held liable under the safe place statute not only for failing to construct or maintain safety structures such as fences, but also for knowingly permitting employees or frequenters to venture into a dangerous area. Kaiser v. Cook, 67 Wis. 2d 460, 227 N.W.2d 50 (1975).

The safe place statute applies only to unsafe physical conditions, not to activities conducted on a premises. Korenak v. Curative Workshop Adult Rehabilitation Center, 71 Wis. 2d 77, 237 N.W.2d 43 (1976).

The duty to furnish a safe place of employment to employees does not impose a duty on a contractor for subcontractor's employees. A contractor can owe a duty to a frequenter, but only when a hazardous condition is under the supervision or control of the contractor. Barth v. Downey Co., Inc. 71 Wis. 2d 775, 239 N.W.2d 92 (1976).

Retention of control and supervision is required for recovery against a general contractor by a subcontractor's employee. Lemacher v. Circle Construction Co., Inc. 72 Wis. 2d 245, 240 N.W.2d 179 (1976).

The length of time a safe place defect must exist, in order to impose constructive notice of it on an owner, varies according to the nature of the business, the nature of the defect, and the public policy involved. May v. Skelley Oil Co. 83 Wis. 2d 30, 264 N.W.2d 574 (1978).

In safe place cases, comparative negligence instructions need not direct the jury to consider the defendant's higher duty of care. Brons v. Bischoff, 89 Wis. 2d 80, 277 N.W.2d 854 (1979).

Indemnity in a safe place action creates an effect identical to that of contribution. Barrons v. J. H. Findorff & Sons, Inc. 89 Wis. 2d 444, 278 N.W.2d 827 (1979).

A non−negligent indemnitor was liable to an indemnitee whose breach of a safe place duty was solely responsible for damages under the circumstances of the case. Dykstra v. Arthur G. McKee & Co. 92 Wis. 2d 17, 284 N.W.2d 692 (Ct. App. 1979); (aff'd) 100 Wis. 2d 120, 301 N.W.2d 201 (1981).

Architects have liability under the safe place statute only if they have a right of supervision and control, which must be determined from the agreement between the owner and the architect. If the duty exists, it is nondelagable. Hortman v. Becker Construction Co., Inc. 92 Wis. 2d 210, 284 N.W.2d 621 (1979).

"Safe employment" and "safe place of employment" are distinguished. There is a duty to provide safe employment to employees that does not extend to frequenters, while the duty to provide a safe place of employment does extend to frequenters. Leitner v. Milwaukee County, 94 Wis. 2d 186, 287 N.W.2d 803 (1980).

Evidence of a prior accident was admissible to prove notice of an unsafe condition. Callan v. Peters Construction Co. 94 Wis. 2d 225, 288 N.W.2d 146 (Ct. App. 1979).

That a lease allocates safe place duties between an owner and an employer/tenant does not nullify mutually shared statutory duties. Hannebaum v. Dirienzo & Bomier, 162 Wis. 2d 488, 469 N.W.2d 900 (Ct. App. 1991).

The safe place duty to keep a swimming pool in a condition to protect customers from injury was overcome when a person unreasonably dove into a pool of unknown depth. Wisnicky v. Fox Hills Inn, 163 Wis. 2d 1023, 473 N.W.2d 523 (Ct. App. 1991).

A county house of correction is subject to the safe place statute. Henderson v. Milwaukee County, 198 Wis. 2d 748, 543 N.W.2d 544 (Ct. App. 1995).

An alarm system does not relate to the structure of a building and therefore does not relate to a safe place of employment. It is a safety device that is the responsibility of the employer and not the building owner. Naaj v. Aetna Insurance Co. 218 Wis. 2d 121, 579 N.W.2d 815 (Ct. App. 1998), 96−3640.

The obligation of a lessor of a building is limited to structural or physical defects. A temporary condition maintained by the lessee does not impose safe place liability on the lessor. Powell v. Milwaukee Area Technical College District Bd. 225 Wis. 2d 794, 594 N.W.2d 403 (Ct. App. 1999), 97−3040.

A defect is "structural" if it resulted from materials used in its construction or from improper layout or construction. Conditions "associated with the structure" are those that involve the structure being out of repair or not being maintained in a safe manner. An owner sustains safe place liability for a structural defect regardless of knowledge of the defect, but with conditions related to the structure, no liability attaches without actual or constructive notice. Barry v. Employers Mutual Casualty Co. 2001 WI 101, 245 Wis. 2d 560, 630 N.W.2d 517, 98−2557.

The duties imposed on employers and property owners under this section are nondelegable. Barry v. Employers Mutual Casualty Co. 2001 WI 101, 245 Wis. 2d 560, 630 N.W.2d 517, 98−2557.

This section does not apply to unsafe conditions caused by an injured party's own negligence or recklessness. If a structure's alleged disrepair requires reckless or negligent conduct by the plaintiff for the plaintiff to injure herself or himself, the initial disrepair may not be construed as having caused the injury. Hofflander v. St. Catherine's Hospital, 2003 WI 77, 262 Wis. 2d 539, 664 N.W.2d 545, 00−2467.

Land that is merely appurtenant to a place where business is carried on is not a place of employment under s. 101.01 (11). An owner must have ownership, custody, or control of the place of employment and the premises appurtenant thereto. An owner of appurtenant land who does not also have ownership, custody, or control of the place cannot be liable for injuries sustained at the place. Binsfeld v. Conrad, 2004 WI App 77, 272 Wis. 2d 341, 679 N.W.2d 341, 03−1077.

If constructive notice is relied on, generally, evidence of the length of time that the unsafe condition existed is required to establish it. Constructive notice, without a showing of temporal evidence of the unsafe condition, may be imputed in a narrow class of cases where the method of merchandizing articles for sale to the public in the area where the harm occurred should have made that harm reasonably foreseeable at that location. Megal v. Green Bay Area Visitor & Convention Convention Bureau, Inc. 2004 WI 98, 274 Wis. 2d 162, 682 N.W.2d 857, 02−2932.

Ten years after a structure is substantially completed, s. 893.89 bars safe place claims under this section resulting from injuries caused by structural defects, as opposed to safe place claims resulting from injuries caused by unsafe conditions associated with the structure. Mair v. Trollhaugen Ski Resort, 2006 WI 61, 291 Wis. 2d 132, 715 N.W.2d 598, 04−1252.

The owner of a public building is liable for: 1) structural defects; and 2) unsafe conditions associated with the structure of the building. A structural defect is a hazardous condition inherent in the structure by reason of its design or construction. An unsafe condition arises from the failure to keep an originally safe structure in proper repair or properly maintained. A property owner is liable for injuries caused by a structural defect regardless of whether it had notice of the defect, but only liable for an unsafe condition when it had actual or constructive notice of the condition. Rosario v. Acuity, 2007 WI App 194, 304 Wis. 2d 713, 738 N.W.2d 608, 06−2421.

Safe is a relative term that does not mean completely free of any hazards. What constitutes a safe place depends on the facts and conditions present and the use to which the place is likely to be put. That a place could be made more safe does not mean that an owner has breached the duty of care established by sub. (1). When the agency having power to adopt orders to secure the safety of employees and frequenters of public buildings has issued a safety order concerning a particular situation, it establishes what is safe, and a jury or court cannot establish any other standard. Szalacinski v. Campbell, 2008 WI App 150, 314 Wis. 2d 286, 760 N.W.2d 420, 07−0667.

The trial court erred in finding no unsafe condition under the safe place statute when it applied a height requirement to a sidewalk crack. There is no mathematical deviation rule that is a standard for a safe sidewalk. The ultimate question is not what is a defect, or how many inches high was the obstruction or deep the depression, but solely whether under all circumstances affecting the sidewalk it was in a reasonably safe condition for public travel by persons exercising ordinary care for their own safety. Gulbrandsen v. H & D, Inc. 2009 WI App 138, 321 Wis. 2d 410, 773 N.W.2d 506, 08−2990.

The safe place statute includes a duty on employers to inspect premises to ensure that they are safe. Failure to comply renders the employer liable for the violation of the safe place statute. The duty to maintain does not arise until constructive knowledge of the defect exists, but if an adequate inspection would have revealed the defect and that inspection was not performed, the jury may infer constructive notice of the defect. The safe place statute applies the duty to maintain to both owners and employers alike. Gennrich v. Zurich American Insurance Company, 2010 WI App 117, 329 Wis. 2d 91, 789 N.W.2d 106, 09−2111.

A "structural defect" for which an owner sustains safe place liability for the defect regardless of knowledge of the defect arises from design or construction flaws when a building element is put in place, whether as an original part of a structure or as a replacement. This contrasts with features of a structure that were installed safely and then developed into a hazard. Wagner v. Cincinnati Casualty Co. 2011 WI App 85, 334 Wis. 2d 516, 800 N.W.2d 27, 10−1195.

The safe place statute does not extend to vehicles. Hopkins v. Ros Stores, Inc. 750 F. Supp. 379 (1990).

101.111 Excavations; protection of adjoining property and buildings. (1) DEFINITION. In this section "excavator" means any owner of an interest in land making or causing to be made an excavation.

(2) CAVE−IN PREVENTION. Any excavator shall protect the excavation site in such a manner so as to prevent the soil of adjoining property from caving in or settling.

(3) LIABILITY FOR UNDERPINNING AND FOUNDATION EXTENSIONS. (a) If the excavation is made to a depth of 12 feet or less below grade, the excavator may not be held liable for the expense of any necessary underpinning or extension of the foundations of buildings on adjoining properties.

(b) If the excavation is made to a depth in excess of 12 feet below grade, the excavator shall be liable for the expense of any necessary underpinning or extension of the foundations of any adjoining buildings below the depth of 12 feet below grade. The owners of adjoining buildings shall be liable for the expense of any necessary underpinning or extension of the foundations of their buildings to the depth of 12 feet below grade.

(4) NOTICE. Unless waived by adjoining owners, at least 30 days prior to commencing the excavation the excavator shall notify, in writing, all owners of adjoining buildings of his or her intention to excavate. The notice shall state that adjoining buildings may require permanent protection. The owners of adjoining property shall have access to the excavation site for the purpose of protecting their buildings.

(5) EMPLOYEES NOT LIABLE. No worker who is an employee of an excavator may be held liable for his or her employer's failure to comply with this section.

(6) FAILURE TO COMPLY; INJUNCTION. If any excavator fails to comply with this section, any aggrieved person may commence an action to obtain an order under ch. 813 directing such excavator to comply with this section and restraining the excavator from further violation thereof. If the aggrieved person prevails in the action, he or she shall be reimbursed for all his or her costs and disbursements together with such actual attorney fees as may be approved by the court.

(7) APPLICATION OF THIS SECTION. (a) Subject to par. (b), this section applies to any excavation made after January 1, 1978.

(b) This section does not apply to any excavation made under a contract awarded on or before January 1, 1978.

History: 1977 c. 88.

Cross−reference: See also s. SPS 362.3300, Wis. adm. code.

101.12 Approval and inspection of public buildings and places of employment and components. (1) Except for plans that are reviewed by the department of health services under ss. 50.02 (2) (b) and 50.36 (2), the department shall require the submission of essential drawings, calculations and specifications for public buildings, public structures and places of employment including the following components:

(a) Heating, ventilation, air conditioning and fire detection, prevention or suppression systems.

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(b) Industrial exhaust systems.

(c) Elevators, escalators, lifts, as defined in s. 167.33 (1) (f), and power dumbwaiters.

(d) Stadiums, grandstands and bleachers.

(e) Amusement and thrill rides equipment.

(2) Plans of said buildings, structures and components shall be examined for compliance with the rules of the department and a statement of the examination returned to the designer and owner before construction is started. Nothing in this section shall relieve the designer of the responsibility for designing a safe building, structure or component.

(3) The department shall:

(a) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) performed by cities of the 1st class provided the same are examined in a manner approved by the department.

(am) 1. Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) performed by a 2nd class city in conformity with the requirements of this paragraph.

2. The department shall promulgate rules for the administration of a program to certify 2nd class cities to perform the examination of essential drawings, calculations and specifications in accordance with sub. (1).

3. A 2nd class city may apply for certification by the department for the purposes of this paragraph if that city employs at least one architect or one professional engineer who has been granted a certificate of registration under s. 443.10. The department shall certify a 2nd class city when the department determines and certifies the competency of all examiners employed by the city. The department shall review the competency of the examiners of a city that is certified under this paragraph on a regular basis and may revoke the certification of a city if the examiners do not meet standards specified by the department.

4. Owners within the 2nd class city may obtain examinations from the city or the department.

5. The department shall by rule set fees, to be collected by the 2nd class city and remitted to the department, to meet the department's costs in enforcing and administering its duties under this paragraph.

(b) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) for buildings containing less than 50,000 cubic feet of volume and alterations to buildings containing less than 100,000 cubic feet of volume performed by cities, villages, towns or counties, provided the same are examined in a manner approved by the department. The department shall determine and certify the competency of all such examiners.

(bm) Accept the review and determination performed by 1st class cities on variances for buildings if the variances are reviewed and decided on in a manner approved by the department.

(br) Accept the review and determination on variances for buildings containing less than 50,000 cubic feet of volume and alterations to buildings containing less than 100,000 cubic feet of volume performed by certified municipalities if the department has certified the competency of a municipality to issue variances and if the variances are reviewed in a manner approved by the department. Owners may submit variances to the municipality or the department.

(c) Determine and certify the competency of inspectors of boilers, unfired pressure vessels, refrigeration plants, elevators, escalators and power dumbwaiters.

(d) Accept inspections at no cost performed by inspectors for whom evidence of competency has been furnished to the department.

(e) Approve inspection service maintained or employed by owners or operators of boilers and unfired pressure vessels.

(f) Accept inspections at no cost performed by approved owner or operator inspection service and provide shop inspection service when deemed necessary.

(g) Accept inspection at no cost when performed by qualified and authorized inspectors for a city, village, town or county for the inspection of buildings and equipment located within the city, village, town or county. The department shall determine and certify the competency of all such inspectors.

(h) Require all local officers not authorized by the department to grant approvals as provided in pars. (a) and (b) to deny permits or licenses for construction or use of public buildings, public structures and places of employment until the required drawings and calculations have been examined by the department.

(5) (a) In this subsection:

1. "Plans" means construction plans, designs, specifications and related materials filed with the department, city, village, town or county concerning a structure.

2. "Secure structure" means a building or other structure of a type which the department, city, village, town or county determines to have extraordinary security requirements, including but not limited to structures used:

a. For the safekeeping of large sums of money, negotiable instruments, securities or other valuables;

b. As a jail, correctional facility or other secure facility for persons in detention;

c. For the safekeeping or evaluation of evidence in criminal proceedings or investigations;

d. For the safekeeping of weapons, ordnance or explosives; or

e. In the generation, transmission or distribution of electric power, fuels or communications.

(b) A person requesting to inspect or copy plans shall submit a written application identifying the structure or proposed structure whose plans are sought to be inspected or copied, providing the full name and address of the requester and stating that any information obtained from the inspection or copying will not be used for any unlawful or unfair competitive purpose and that the information set forth in the application is true and correct. The department, city, village, town or county shall promptly transmit a copy of the application to the owner of the structure or proposed structure and the submitter of the plans being inspected or copied.

(c) If an application submitted under par. (b) requests inspection or copying of plans for a secure structure or proposed secure structure that is or is anticipated to be owned by or leased to the state, the plans are not subject to the right of inspection or copying except as the department of administration otherwise provides by rule. If an application submitted under par. (b) requests inspection or copying of plans for any other secure structure or proposed secure structure, the department, city, village, town or county shall consider the information supplied in the application and weigh the possible harm to the public interest which may result from permitting inspection and copying of the plans against the benefits of allowing such inspection or copying. If the department, city, village, town or county determines that the possible harm to the public interest outweighs the benefit to the requester and to the public interest of allowing such inspection or copying, it may deny the application or grant it upon such conditions as it determines are necessary to protect the public interest. This paragraph does not apply to an application submitted by a law enforcement agency or person authorized to have access to the plans by lawful subpoena.

(d) The department, city, village, town or county may charge a reasonable amount to defray its costs in providing copies of the plans.

(6) (a) By January 1, 1990, the department shall inspect all public schools constructed prior to January 1, 1950, to determine whether the schools comply with this subchapter and subch. IV, ch. 145 and life−safety plans established under par. (b) and to

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review the maintenance schedules established by school boards under s. 120.12 (5).

(b) The department shall promulgate rules relating to the enforcement of this subchapter and subch. IV and ch. 145 for public schools constructed before 1930 and establishing life−safety plans for all public schools.

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.12; 1973 c. 326; 1979 c. 64, 243; 1983 a. 27; 1989 a. 31, 347; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 3660, 3660m, 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2011 a. 199.

Cross−reference: See also chs. SPS 318, 334, and 361, Wis. adm. code.

The state statutes and building code have not preempted the field as to school buildings; local building codes apply to the extent that they are not inconsistent. Hartford Union High School v. Hartford, 51 Wis. 2d 591, 187 N.W.2d 849 (1971).

Plans and specifications filed under s. 101.12 are public records and are available for public inspection. 67 Atty. Gen. 214.

101.1206 Erosion control; construction of public buildings and buildings that are places of employment. **(1)** The department shall establish statewide standards for erosion control at building sites for the construction of public buildings, as defined in s. 101.01 (12), and buildings that are places of employment, as defined in s. 101.01 (11).

(2) The department shall require the submission of plans for erosion control at construction sites described in sub. (1) to the department or to a county, city, village, or town to which the department has delegated authority under sub. (4) and shall require approval of those plans by the department or the county, city, village, or town.

(3) The department shall require inspection of erosion control activities and structures at construction sites described in sub. (1) by the department or a county, city, village, or town to which the department has delegated authority under sub. (4).

(4) The department may delegate authority under this section to a county, city, village or town.

(5) Except as provided in sub. (5m), the authority of a county, city, village, or town with respect to erosion control at sites described in sub. (1) is limited to that authority delegated under sub. (4) and any other authority provided in rules promulgated under this section.

(5m) Notwithstanding subs. (1) and (5), a county, city, village, or town that has in effect on January 1, 1994, an ordinance that establishes standards for erosion control at building sites for the construction of public buildings and buildings that are places of employment may continue to administer and enforce that ordinance if the standards in the ordinance are more stringent than the standards established under sub. (1).

(6) The department, or a county, city, village, or town to which the department delegates the authority to act under this subsection, may issue a special order directing the immediate cessation of work on a construction site described in sub. (1) until any required plan approval is obtained or until the site complies with standards established by rules promulgated under this section.

(7) The department shall promulgate rules for the administration of this section.

History: 2011 a. 32 ss. 2331, 2898c to 2905; Stats. 2011 s. 101.1206.

101.121 State historic building code. **(1)** PURPOSE. It is the purpose of this section to provide alternative standards, when necessary, for the preservation or restoration of buildings or structures designated as historic buildings. The development and application of these alternative standards is a matter of statewide concern. These alternative standards are intended to facilitate the restoration of historic buildings so as to preserve their original or restored architectural elements and features, to encourage energy conservation, to permit a cost−effective approach to preservation and restoration and to provide for the health, safety and welfare of occupants and visitors in historic buildings.

(2) DEFINITIONS. In this section:

(a) "Certified local register of historic property" means a register of historic property which is part of a historic preservation ordinance promulgated by a city, village, town or county if the ordinance is certified by the state historical society under s. 44.44.

(am) "Historic building" means any building or structure that is significant in the history, architecture or culture of this state, its rural or urban communities or the nation.

(b) "National register of historic places in Wisconsin" means the places in Wisconsin that are listed on the national register of historic places maintained by the U.S. department of the interior.

(c) "Qualified historic building" means a historic building which:

1. Is listed on, or has been nominated by the state historical society for listing on, the national register of historic places in Wisconsin or the state register of historic places;

2. Is included in a district which is listed on, or has been nominated by the state historical society for listing on, the national register of historic places in Wisconsin or the state register of historic places, and has been determined by the state historical society to contribute to the historic significance of the district;

2m. Is determined by the state historical society to be eligible for listing on the national register of historic places in Wisconsin or the state register of historic places;

3. Is listed on a certified local register of historic property; or

4. Is included in a district which is listed on a certified local register of historic property, and has been determined by the city, village, town or county to contribute to the historic significance of the district.

(d) "State register of historic places" means the places in Wisconsin listed by the state historical society under s. 44.36, except for a place listed as an interim listing by the state historical society under s. 44.36 (5) (a) 3.

(3) RULES. (a) For any rule under this chapter or ch. 145 which applies to buildings, the department may provide an alternative rule which accomplishes the same general purpose and applies only to qualified historic buildings. These alternative rules shall permit, to the maximum extent possible, the use of original or duplicates of original materials, the maintenance of the original appearance of all components of a historic building and the use of original construction techniques. The department shall consult with the historic building code council regarding the development of alternative rules. All alternative rules taken together constitute the historic building code.

(b) In order to permit the proper preservation or restoration of a qualified historic building, the department may grant a variance to any rule or alternative rule under this chapter or ch. 145 if the owner demonstrates that an alternative proposed by the owner accomplishes the same purpose as the rule or alternative rule. With respect to any variances requested under this chapter or ch. 145, the department shall give priority to processing variance requests by owners of qualified historic buildings. The department shall maintain a list of variances granted under this paragraph to owners of qualified historic buildings.

(4) ELECTION. (a) Except as provided in par. (b), the owner of any qualified historic building may elect to be subject to the historic building code promulgated under sub. (3). Except as provided in s. 101.127, no owner who elects to be subject to the historic building code may be required to comply with any provision of any other building code, including but not limited to any county or municipal building code, or of any other local ordinance or regulation, if that provision concerns a matter dealt with in the historic building code.

(b) Paragraph (a) does not apply to any owner of a nursing home as defined in s. 50.01 (3), a hospital as defined in s. 50.33 (2) (a) and (c) or an approved public or private treatment facility for alcoholics as defined in s. 51.45 (2) (b) and (c).

History: 1981 c. 341; 1981 c. 391 s. 210; 1983 a. 189 s. 329 (5); 1985 a. 332; 1987 a. 395; 1991 a. 39; 1993 a. 471.

Cross−reference: See also ch. SPS 366, 375, 376, 377, 378, and 379, Wis. adm. code.

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101.1215 Abrasive cleaning of historic buildings. (1) In this section:

(a) "Abrasive cleaning method" means any cleaning procedure that uses any of the following materials or tools:

1. Abrasive materials, including sand, glass beads, ground slag, volcanic ash, crushed nutshells, rice husks, ground corncobs or crushed eggshells, carried in high−pressure or low−pressure air or water.

2. High−pressure water.

(b) "Qualified historic building" has the meaning given in s. 101.121 (2) (c).

(2) No person may use an abrasive cleaning method on the exterior of qualified historic buildings, except as authorized by department rule.

(3) The department, in consultation with the state historical society and the department of administration, shall promulgate rules on the use of abrasive cleaning methods on the exterior of qualified historic buildings. The department may permit the use of any specific abrasive cleaning method on any specific building material only if it determines that the abrasive cleaning method will not cause irreparable damage to the building material to which it is applied.

(4) (a) Any person who uses an abrasive cleaning method in violation of this section may be required to forfeit not less than $100 nor more than $1,000 for each offense. Each day of continued violation constitutes a separate offense.

(b) Any owner of a qualified historic building who causes or permits the use of an abrasive cleaning method in violation of this section may be required to forfeit not less than $100 nor more than $1,000 for each offense. Each day of continued violation constitutes a separate offense.

History: 1993 a. 471.

Cross−reference: See also ch. SPS 372, Wis. adm. code.

101.122 Rental unit energy efficiency. (1) DEFINITIONS. In this section:

(a) "Dwelling unit" means a building or that part of a building which is used as a home or residence.

(b) "Energy conservation measure" means any measure which increases the energy efficiency of a rental unit, including, but not limited to, the installation of caulking, weatherstripping, insulation and storm windows.

(c) "Inspector" means a person certified under sub. (2) (c).

(d) "Owner" means any person having a legal or equitable interest in a rental unit.

(e) "Rental unit" means any rented dwelling units. "Rental unit" does not include:

1. Any building containing up to 4 dwelling units, one of which is owner−occupied.

2. Any building constructed after December 1, 1978, which contains up to 2 dwelling units.

3. Any building constructed after April 15, 1976, which contains more than 2 dwelling units.

4. Any dwelling unit not rented at any time from November 1 to March 31.

5. A building that is subject to a condominium declaration under ch. 703 and that contains 3 or more units, as defined in s. 703.02 (15).

(em) "Thermal performance" means the gross heat loss from the building.

(f) "Transfer" means a conveyance of an ownership interest in a rental unit by deed, land contract or judgment or conveyance of an interest in a lease in excess of one year. "Transfer" does not include a conveyance under chs. 851 to 879.

(2) DEPARTMENTAL DUTIES. The department shall:

(a) 1. Promulgate rules which establish a code of minimum energy efficiency standards for the attics, sill boxes, heat and plumbing supply systems in unheated crawl spaces, shower heads, furnaces, boilers, air conditioners, appliances, lighting systems and storm windows and doors of rental units. The rules shall include a standard that establishes a maximum air infiltration rate of the thermal envelope, as defined by the department by rule. At the request of the owner of a rental unit, the department shall apply this air infiltration standard in lieu of the standard for storm windows and doors. The rules shall require installation of specified energy conservation measures. The present value benefits of each energy measure, in terms of saved energy over a 5−year period after installation, shall be more than the total present value cost of installing the measures.

2. In the rules adopted under this paragraph, the department may include a separate standard based on thermal performance.

(b) Adopt rules setting standards for inspections and certifications under sub. (4), including but not limited to prescription of a standard certificate form.

(c) Adopt rules for the certification, including provisions for suspension and revocation thereof, of inspectors for the purpose of inspecting rental units subject to any rule under this section. The rules shall include a maximum fee schedule for inspection and certification of rental units under sub. (4) by inspectors not employed by the department.

(d) Provide training, assistance and information services to any inspector or person seeking to be certified as an inspector under par. (c).

(e) Review the rules adopted under this section at least once every 5 years and may determine whether new energy conservation technologies meet the standards under sub. (3) (a) and whether the rules promulgated under par. (a) should require the use of those technologies.

(f) Issue special orders which it deems necessary to secure compliance with this section and enforce the same by appropriate administrative and judicial proceedings.

(g) Hear petitions regarding the enforcement of rules and special orders under this section according to the procedure established under s. 101.02 (6) (e) to (i) and (8).

(3) DEPARTMENTAL POWERS. The department may:

(a) In rules adopted under sub. (2) (a), incorporate nationally recognized energy efficiency standards and vary standards according to:

1. Classes of energy use systems, including, but not limited to, building envelopes; heating, ventilating and air conditioning systems; lighting systems; appliances; and other fixtures which consume energy resources.

2. Climatic regions.

(b) Hold hearings on any matter relating to this section and issue subpoenas to compel the attendance of witnesses and the production of evidence at the hearings.

(c) Enforce stipulations entered into under sub. (4) (c) by use of the citation procedure under s. 778.25.

(4) CERTIFICATION. (a) Except as provided under pars. (b) and (c), no owner may transfer a rental unit unless an inspector has inspected the unit and has issued a certificate stating that the unit satisfies applicable standards under sub. (2) (a) 1. or 2.

(b) The department or an inspector employed by the city, village or town within which a rental unit scheduled for demolition within 2 years is located may issue a written waiver of the requirements of par. (a). The waiver shall be conditioned on demolition of the rental unit within 2 years of the date of the waiver. If demolition does not take place within 2 years of the issuance of the waiver, the department or the city, village or town may do one or more of the following:

1. Order demolition of the rental unit no sooner than 90 days after the order.

2. Withdraw any certificate of occupancy.

3. Order energy conservation measures necessary to bring the rental unit into compliance with applicable standards under sub. (2) (a).

(c) The transferee of a rental unit may present a stipulation signed by the transferee and by the department or by the city, village or town within which the rental unit is located stating that the owner of the rental unit will bring the rental unit into compliance with the standards under sub. (2) (a) no later than one year after the date of the first transfer of the rental unit after the standards take effect under par. (a). The department, city, village or town signing the stipulation shall keep a copy of the stipulation and shall conduct an inspection of the rental unit no later than 180 days after the stipulated compliance date.

(5) INSPECTION. Any owner of a rental unit may request that an inspector inspect the owner's rental unit for the purpose of determining whether to issue a certificate under sub. (4). If an owner, after reasonable effort, is unable to procure an inspection, the department, within 14 days after receipt of a request by the owner shall perform the inspection and determine whether to issue a certificate. The department may establish a special fee under s. 101.19 (1g) for an inspection under which it performs this subsection. If any inspector determines not to issue a certificate, the inspector shall specify in writing the energy conservation measures necessary to make the rental unit comply with applicable standards under sub. (2) (a).

(6) PROOF OF CERTIFICATION OR EXCLUSION REQUIRED FOR RECORDATION. A register of deeds may not accept for recording any deed or other document of transfer of real estate which includes a rental unit unless the deed or document is accompanied by the certificate required under sub. (4) (a), a waiver under sub. (4) (b) or a stipulation under sub. (4) (c). The department shall prescribe for use under s. 77.22 (2) a form setting forth the reasons why transferred real estate is not subject to certification under sub. (4) (a), waiver under sub. (4) (b) or stipulation under sub. (4) (c). A register of deeds shall record the certificate, waiver or stipulation.

(6m) REPORT TO LEGISLATURE. Annually, before March 1, the department shall submit a written report to the chief clerk of each house of the legislature, for distribution to the legislature, under s. 13.172 (2), on the impact of the requirements of this section.

(6r) MUNICIPAL CODES. After the effective date of the rules under sub. (4) (a), no city or village may enforce a code of minimum energy efficiency standards for rental units in the city or village unless the requirements of the code are at least as strict as the requirements of the code under sub. (2) (a).

(6w) EXCEPTION. To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a qualified historic building, as defined under s. 101.121 (2) (c), if the owner elects to be subject to s. 101.121.

(7) PENALTY. (a) *Inspectors.* Any inspector falsifying a certificate issued under sub. (4) shall have his or her certification revoked and may be required to forfeit not more than $500 per dwelling unit in the rental unit for which the certificate is issued.

(b) *New owners.* Any person who offers documents evidencing transfer of ownership for recordation and who, with intent to evade the requirements of this section, falsely states on the form under s. 77.22 (1) that the real property involved does not include a rental unit may be required to forfeit not more than $500 per dwelling unit in the rental unit being transferred.

(c) *Waiver.* Any person who fails to comply with the requirements of a waiver issued under sub. (4) (b) may be required to forfeit not more than $500 per dwelling unit in the rental unit for which the waiver is issued.

(d) *Stipulation.* Any person who fails to comply with the requirements of a stipulation under sub. (4) (c) may be required to forfeit not more than $500 per dwelling unit.

(e) *Citation.* If a person fails to comply with the requirements of a stipulation under sub. (4) (c) by the date specified in the stipulation, the department or the city, village or town that entered into the stipulation with the person may, anytime after the first day of the first month beginning after the date specified in the stipulation, proceed under s. 778.25 to recover a forfeiture under par. (d). A person may be charged with multiple violations under par. (d) if each violation covers a period of at least 90 consecutive days of continued failure to comply, if there is no overlap between periods and if each period begins after the date by which a rental unit was to have been brought into compliance.

History: 1979 c. 221; 1981 c. 341; 1983 a. 27, 233; 1985 a. 174; 1987 a. 186, 399; 1989 a. 56; 1991 a. 269; 1997 a. 288; 2011 a. 209.

Cross−reference: See also ss. SPS 366.0711 and 366.0808 and ch. SPS 367, Wis. adm. code.

This section applies to the state. 76 Atty. Gen. 207.

101.123 Smoking prohibited. (1) DEFINITIONS. In this section:

(ab) "Assisted living facility" means a community−based residential facility, as defined in s. 50.01 (1g), a residential care apartment complex, as defined in s. 50.01 (6d), or an adult family home, as defined in s. 50.01 (1) (b).

Note: The cross−reference to s. 50.01 (6d) was changed from s. 50.01 (1d) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering under s. 13.92 (1) (bm) 2. of s. 50.01 (1d).

(abm) "Child care center" has the meaning given in s. 49.136 (1) (ad).

(ac) "Correctional facility" means any of the following:

1. A state prison, as defined or named in s. 302.01, except a correctional institution under s. 301.046 (1) or 301.048 (4) (b) if the institution is the prisoner's place of residence and no one is employed there to ensure the prisoner's incarceration.

2. A juvenile detention facility, as defined in s. 938.02 (10r), or a juvenile correctional facility, as defined in s. 938.02 (10p), except a juvenile correctional facility authorized under s. 938.533 (3) (b), 938.538 (4) (b), or 938.539 (5) if the facility is a private residence in which the juvenile is placed and no one is employed there to ensure that the juvenile remains in custody.

3. A jail, as defined in s. 165.85 (2) (bg), a Huber facility under s. 303.09, a work camp under s. 303.10, a reforestation camp under s. 303.07, or a lockup facility under s. 302.30.

(ae) "Educational facility" means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.

(aj) Notwithstanding s. 101.01 (5), "employment" means any trade, occupation, or process of manufacture or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged.

(ak) "Enclosed place" means a structure or area that has all of the following:

1. A roof.

2. More than 2 substantial walls.

(ar) "Immediate vicinity of the state capitol" means the area directly adjacent to the state capitol building, as determined by rule of the department of administration. "Immediate vicinity of the state capitol" does not include any location that is more than six feet from the state capitol building.

(b) "Inpatient health care facility" means a hospital, as defined in s. 50.33 (2), a county home established under s. 49.70, a county infirmary established under s. 49.72, a nursing home, as defined in s. 50.01 (3), a hospice, as defined in s. 50.90 (1), a Wisconsin veterans home under s. 45.50, or a treatment facility.

(bn) "Lodging establishment" means any of the following:

1. A bed and breakfast establishment, as defined in s. 254.61 (1).

2. A hotel, as defined in s. 254.61 (3).

3. A tourist rooming house, as defined in s. 254.61 (6).

(d) "Person in charge" means the person, or his or her agent, who ultimately controls, governs or directs the activities aboard a public conveyance or at a location where smoking is prohibited or regulated under this section.

(dj) Notwithstanding s. 101.01 (11), "place of employment" means any enclosed place that employees normally frequent during the course of employment, including an office, a work area, an

elevator, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle, or an employee cafeteria.

(dn) "Private club" means a facility used by an organization that limits its membership and is organized for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose.

(e) "Public conveyance" means a mass transit vehicle as defined in s. 340.01 (28m), a school bus as defined in s. 340.01 (56), or any other device by which persons are transported, for hire, on a highway or by rail, water, air, or guidewire within this state, but does not include such a device while providing transportation in interstate commerce.

(eg) "Public place" means any enclosed place that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.

(f) "Restaurant" means an establishment as defined in s. 254.61 (5).

(g) "Retail establishment" means any store or shop in which retail sales is the principal business conducted.

(gg) "Retail tobacco store" means a retail establishment that does not have a "Class B" intoxicating liquor license or a Class "B" fermented malt beverages license and that generates 75 percent or more of its gross annual income from the retail sale of tobacco products and accessories.

(h) "Smoking" means burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco:

1. A lighted cigar.
2. A lighted cigarette.
3. A lighted pipe.
4. Any other lighted smoking equipment.

(hm) "Sports arena" means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.

(i) "State institution" means a mental health institute, as defined in s. 51.01 (12), a center for the developmentally disabled, as defined in s. 51.01 (3), or a secure mental health facility at which persons are committed under s. 980.06.

(id) "Substantial wall" means a wall with no opening or with an opening that either does not allow air in from the outside or is less than 25 percent of the wall's surface area.

(im) "Tavern" means an establishment, other than a restaurant, that holds a "Class B" intoxicating liquor license or Class "B" fermented malt beverages license.

(in) "Tobacco bar" means a tavern that generates 15 percent or more of its annual gross income from the sale on the tavern premises, other than from a vending machine, of cigars and tobacco for pipes.

(io) "Tobacco product" means any form of tobacco prepared in a manner suitable for smoking but not including a cigarette.

(ip) "Treatment facility" means a publicly or privately operated inpatient facility that provides treatment of alcoholic, drug dependent, mentally ill, or developmentally disabled persons.

(j) "Type 1 juvenile correctional facility" has the meaning given in s. 938.02 (19).

(2) PROHIBITION AGAINST SMOKING. (a) Except as provided in sub. (3), no person may smoke in any of the following enclosed places:

1g. The state capitol.

1m. Residence halls or dormitories owned or operated by a college or university.

1r. Child care centers.

2. Educational facilities.

3. Inpatient health care facilities.

4. Theaters.

5m. Correctional facilities.

5t. State institutions.

7. Restaurants.

7m. Taverns.

7r. Private clubs.

8. Retail establishments.

8d. Common areas of multiple−unit residential properties.

8g. Lodging establishments.

8r. State, county, city, village, or town buildings.

9. All enclosed places, other than those listed in subds. 1g. to 8r., that are places of employment or that are public places.

(d) No person may smoke at any of the following outdoor locations:

1. In the immediate vicinity of the state capitol.

2. Anywhere on the premises of a child care center when children who are receiving child care services are present.

3. Anywhere on the grounds of a Type 1 juvenile correctional facility.

4. A location that is 25 feet or less from a residence hall or dormitory that is owned or operated by the Board of Regents of the University of Wisconsin System.

(e) No person may smoke in any of the following:

1. A sports arena.

2. A bus shelter.

3. A public conveyance.

(2m) RESPONSIBILITY OF PERSONS IN CHARGE. (a) No person in charge may allow any person to smoke in violation of sub. (2) at a location that is under the control or direction of the person in charge.

(b) A person in charge may not provide matches, ashtrays, or other equipment for smoking at the location where smoking is prohibited.

(c) A person in charge shall make reasonable efforts to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:

1. Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.

2. Refusing to serve a person, if the person is smoking in a restaurant, tavern, or private club.

3. Asking a person who is smoking to refrain from smoking and, if the person refuses to do so, asking the person to leave the location.

(d) If a person refuses to leave a location after being requested to do so as provided in par. (c) 3., the person in charge shall immediately notify an appropriate law enforcement agency of the violation.

(e) A person in charge may take measures in addition to those listed in pars. (b) and (c) to prevent persons from being exposed to others who are smoking or to further ensure compliance with this section.

(3) EXCEPTIONS. The prohibition against smoking in sub. (2) (a) does not apply to the following:

(h) A private residence.

(i) A room used by only one person in an assisted living facility as his or her residence.

(j) A room in an assisted living facility in which 2 or more persons reside if every person who lives in that room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.

(L) A retail tobacco store that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.

(m) A tobacco bar that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.

(4m) LOCAL AUTHORITY. This section does not limit the authority of any county, city, village or town to enact ordinances or of any school district to adopt policies that, complying with the

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purpose of this section, protect the health and comfort of the public. If a county, city, village, or town enacts an ordinance, or if a school district adopts a policy, regulating or prohibiting outside smoking in certain areas as authorized under this subsection, the ordinance may apply only to public property under the jurisdiction of the county, city, village, town, or school district. Such ordinance shall provide that the person in charge of a restaurant, tavern, private club, or retail establishment located in an area subject to the ordinance may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke. Such ordinance may not define the term "reasonable distance" or set any specified measured distance as being a "reasonable distance."

(6) UNIFORM SIGNS. The department shall, by rule, specify uniform dimensions and other characteristics of the signs required under sub. (2m). These rules may not require the use of signs that are more expensive than is necessary to accomplish their purpose.

(7) SIGNS FOR STATE AGENCIES. The department shall arrange with the department of administration to have signs prepared and made available to state agencies for use in state facilities that set forth the prohibition against smoking.

(8) PENALTIES. (a) Any person who violates sub. (2) shall be subject to a forfeiture of not less than $100 nor more than $250 for each violation.

(d) Except as provided in par. (dm) or (em), any person in charge who violates sub. (2m) (b) to (d) shall be subject to a forfeiture of $100 for each violation.

(dm) For violations subject to the forfeiture under par. (d), if the person in charge has not previously received a warning notice for a violation of sub. (2m) (b) to (d), the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation.

(em) No person in charge may be required under par. (d) to forfeit more than $100 in total for all violations of sub. (2m) (b) to (d) occurring on a single day.

(9) INJUNCTION. Notwithstanding s. 165.60, state or local officials or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this section.

History: 1983 a. 211; 1985 a. 332 s. 253; 1987 a. 161 s. 13m; 1987 a. 403 s. 256; 1989 a. 97, 107, 251, 336; 1991 a. 28, 39, 130; 1993 a. 27, 313; 1995 a. 27 ss. 3661, 9126 (19); 1995 a. 77, 201, 404; 1999 a. 9, 72; 2001 a. 16; 2003 a. 268; 2005 a. 344; 2007 a. 20 s. 9121 (6) (a); 2009 a. 12, 185, 276; s. 13.92 (1) (bm) 2.

101.125 Safety glazing in hazardous locations. **(1)** DEFINITIONS. In this section:

(a) "Building" means a place of employment or a public building and includes, without limitation because of enumeration, wholesale and retail stores, storerooms, office buildings, factories, warehouses, governmental buildings, hotels, hospitals, motels, dormitories, sanatoriums, nursing homes, retirement homes, theaters, stadiums, gymnasiums, amusement park buildings, schools and other buildings used for educational purposes, places of worship and other places of public assembly and all residences including mobile homes, manufactured homes, industrialized housing, lodging homes, and any other building used as a dwelling for one or more persons.

(b) "Entrance and exit door" means a hinged, pivoting, revolving or sliding door which is used alone or in combination with other such doors on interior or exterior walls of a residential, commercial or public building for passage, ingress or egress.

(c) "Fixed or operating, flat panels immediately adjacent to an entrance or exit door" means the first fixed or operating, flat panel on either or both sides of an interior or exterior door if:

1. The nearest vertical edge of such panel is located within 2 feet of the nearest vertical edge of the door; and

2. The lower horizontal edge of such panel is less than 2 feet from the floor.

(d) "Hazardous location" means the location of a structural element in a building which is used as an entrance and exit door to a compartment, room or building; the fixed or operating, flat panels immediately adjacent to an entrance or exit door; a sliding glass door unit; a storm or combination door; a shower and bathtub enclosure; and the adjacent sidelites of a door. In the case of a public building, the term also includes any other location designated by the department.

(e) "Safety glazing material" means any transparent or translucent material, including tempered glass, laminated glass, wire glass and rigid plastic, which is constructed, treated or combined with other materials to minimize the likelihood of cutting or piercing injuries to humans, and which is approved by rule of the department as meeting departmental standards for the location in which it is to be applied.

(f) "Sliding glass door unit" means a panel or an assembly of panels contained in a frame designed so that at least one panel is movable in a horizontal direction.

(g) "Storm or combination door" means a door which protects an entrance or exit door against weather elements and affects indoor temperature control.

(2) LABELING REQUIRED. (a) Except as provided in par. (b), each lite of safety glazing material manufactured, distributed, imported, sold or installed for use in a hazardous location shall be permanently labeled with a label which:

1. States the nominal thickness and the type of safety glazing material;

2. Identifies the labeling seller, manufacturer, fabricator or installer;

3. Is legible and so positioned as to be legible after installation; and

4. Is distinctive in design and is not used on materials other than safety glazing materials.

(b) The department may by rule provide that in new construction or remodeling, the installation of safety glazing material may be recorded with the department or other appropriate agency designated by it, by the filing of an affidavit certifying the installation, in lieu of the labeling requirement of par. (a), if it finds that enforcement of this section will not be hindered by such substitute procedure.

(3) SAFETY GLAZING MATERIALS REQUIRED. No material supplier, builder, contractor or subcontractor may knowingly install, cause to be installed, consent to the installation, or sell for installation in any hazardous location, transparent or translucent materials other than safety glazing materials, except that:

(a) In buildings contracted for or existing on or before November 30, 1976, the department may by rule require the installation of a vertical or horizontal bar, rail, grill or screen as a protective device in lieu of safety glazing material in hazardous locations where safety glazing would be impractical because of the size of the lite required.

(b) The department may by rule exempt from the requirements of this section and, if it deems necessary, prescribe other less stringent protective requirements for:

1. Any lite which is 8 inches or less in the least dimension, or no more than 4 inches in either dimension, and which is used in an application which the department finds is not hazardous.

2. Leaded stained glass which is used in an application which the department finds is not hazardous.

(c) Any mirror, framed glazed picture or similar decorative object which is attached to a door or wall in a hazardous location and which does not in whole or in part conceal any opening in such door or wall is exempt from the requirements of this section.

(4) LIABILITY OF EMPLOYERS AND SELLERS. (a) No employee of a person responsible for compliance with this section is liable for the employer's failure to comply.

(b) No seller of glazing materials is subject to the penalty under sub. (5) or is liable for injuries occurring to any person if the seller

has exercised reasonable care to see that the glazing materials sold by him or her are properly used.

(4m) EXCEPTION. To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a qualified historic building, as defined under s. 101.121 (2) (c), if the owner elects to be subject to s. 101.121.

(5) PENALTY. Whoever violates this section may be required to forfeit not less than $100 nor more than $500.

History: 1975 c. 293; 1981 c. 341; 1983 a. 189 s. 329 (4); 1995 a. 27; 2005 a. 45.

101.126 Recycling space. (1) The department shall establish, by rule, requirements for a person engaging in any of the following to provide adequate space in or adjacent to the building for the separation, temporary storage and collection of the materials listed in s. 287.07 (3) or (4), likely to be generated by the occupants of the building:

(a) The construction of a public building.

(b) An increase in the size of a public building by 50% or more.

(c) An alteration of 50% or more of the existing area of a public building that is 10,000 square feet or more in area.

(1m) In developing the requirements under sub. (1), the department shall consult with the council on recycling.

History: 1989 a. 335, 359; 1995 a. 227.

Cross−reference: See also s. SPS 362.0400, Wis. adm. code.

101.127 Building requirements for certain residential facilities. The department, after consultation with the department of health services, shall develop a building code for previously constructed buildings converted to use as community−based residential facilities as defined in s. 50.01 (1g) which serve between 9 and 20 residents who are not related to the operator or administrator. In setting standards, the department shall consider the criteria enumerated in ss. 46.03 (25) and 50.02 (3) (b), and in addition shall consider the relationship of the development and enforcement of the code to any relevant codes of the department of health services. The objectives of the code shall be to guarantee health and safety and to maintain insofar as possible a homelike environment. Notwithstanding s. 101.121, a historic building as defined in s. 101.121 (2) (am) which is converted to use as a community−based residential facility serving between 9 and 20 residents who are not related to the operator or administrator is governed only by the building code promulgated under this section.

History: 1975 c. 413; 1975 c. 422 s. 163; Stats. 1975 s. 101.125; Stats. 1975 s. 101.127; 1981 c. 341; 1987 a. 161 s. 13m; 1995 a. 27 s. 9126 (19); 1997 a. 237; 2007 a. 20 s. 9121 (6) (a); 2007 a. 144.

Cross−reference: See also s. SPS 362.0400 (4), Wis. adm. code.

101.128 Restroom equity. (1) DEFINITIONS. In this section:

(a) "Amusement facility" means any zoo, state or local park, amusement or theme park, state fair park, county or other local fairgrounds, or any similar facility, as determined by department rule.

(b) "Facility where the public congregates" means any of the following that has a general capacity or a seating capacity of 500 or more persons:

1. An amusement facility.
2. A convention or trade hall or center.
3. A specialty event center.
4. A sports or entertainment arena, center or building.
5. A stadium.
6. An airport, bus terminal, train station or other transportation center.

(c) "Hotel" has the meaning given in s. 254.61 (3).

(d) "Renovation" means any structural remodeling, improvement or alteration of an existing facility where the public congregates. "Renovation" does not include any of the following:

1. Reroofing.
2. Cosmetic remodeling, including painting or the installation of wall covering, of paneling, of floor covering or of suspended ceilings.
3. An alteration to an electrical or mechanical system.

(e) "Restaurant" has the meaning given in s. 254.61 (5).

(f) "School" means a public or private elementary or secondary school.

(g) "Specialty event center" means an open arena used for rallies, concerts, exhibits or other assemblies, with no permanent structure for such assembly.

(2) RESTROOM REQUIREMENTS. (a) *Equal speed of access required.* The owner of a facility where the public congregates shall equip and maintain the restrooms in the facility where the public congregates with a sufficient number of permanent or temporary toilets to ensure that women have a speed of access to toilets in the facility where the public congregates that equals the speed of access that men have to toilets and urinals in that facility where the public congregates when the facility where the public congregates is used to its maximum capacity.

(b) *Standards.* The department shall promulgate rules that establish standards that the owner of a facility where the public congregates shall meet to achieve the equal speed of access required under par. (a).

(3) EXEMPTIONS. (a) *Exemptions established.* This section does not apply to any of the following:

1. A hotel.
2. A restaurant.
3. A school.

(b) *Mixed−use facilities.* If a facility where the public congregates contains a hotel, restaurant or school, the requirements of this section shall apply only to the portion of the facility where the public congregates that is not part of the hotel, restaurant or school.

(4) APPLICABILITY. (a) *Six months after rules promulgated.* This section applies to any facility where the public congregates at which the following events begin on or after the first day of the 7th month beginning after the department promulgates rules under this section:

1. If the facility is a new structural facility, initial construction of any structure.
2. If the facility is a new facility that will contain no permanent structure to serve the public, other than structures to house restrooms or other minor structures, the establishment of the facility.
3. If the facility is an existing structural facility, renovations that affect more than 50% of the facility's square footage.
4. If the facility is an existing structural facility, the initial construction of any structural addition to the facility that has a square footage equal to or larger than 51% of the existing facility's square footage.
5. If the facility is an existing facility with no permanent structure to serve the public, other than structures to house restrooms or other minor structures, the addition of land to the facility that has an acreage equal to or larger than 51% of the existing facility's acreage.

(b) *Renovations or additions.* In any existing facility where the public congregates to which this section applies under par. (a) 3. to 5., the requirements of this section apply only to the renovated portion of the facility or to the structural or land addition of the facility.

History: 1991 a. 110; 1993 a. 27.

101.13 Physically disabled persons; place of employment and public building requirements. (1) In this section, "access" means the physical characteristics of a place which allow persons with functional limitations caused by impairments of sight, hearing, coordination or perception or persons with semiambulatory or nonambulatory disabilities to enter, circulate

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within and leave a place of employment or public building and to use the public toilet facilities and passenger elevators in the place of employment or public building without assistance.

(1m) (a) Except as provided in par. (b), the department shall by rule provide minimum requirements to facilitate the use of public buildings and places of employment by physically disabled persons where traffic might reasonably be expected by such persons.

(b) The department may not promulgate a rule requiring that a unisex toilet room be provided in any public building or place of employment.

(2) (a) Any place of employment or public building, the initial construction of which is commenced after July 1, 1970, but prior to May 27, 1976, shall be so designed and constructed as to provide reasonable means of ingress and egress by the physically disabled with the exception of:

1. Apartment houses with less than 20 units, row houses and rooming houses;

2. Convents and monasteries;

3. Jails or other places of detention;

4. Garages, hangars and boathouses;

5. All buildings classified as hazardous occupancies;

6. Warehouses;

7. State buildings specifically built for field service purposes such as but not limited to conservation fire towers, fish hatcheries, tree nursery buildings; and

8. University residence halls at universities which have at least 3 residence halls for men and 3 residence halls for women so constructed as to allow physically disabled persons reasonable means of ingress and egress to such buildings.

(b) The requirements of par. (a) may be accomplished by at least one ground or street level entrance and exit without steps, by ramps with slopes not more than one foot of rise in 12 feet, coated with a nonskid surface, or by elevator or such other arrangement as may be reasonably appropriate under the circumstances and which meets with the approval of the department or in lieu thereof with the approval of the municipality wherein the building is located. The doors of such entrance and exit must have a clear opening of at least 40 inches in width and shall otherwise conform to the department building code.

(c) If any ground or street level entrance or exit is not so designed or constructed a sign shall be placed at such entrance or exit indicating the location of the entrance or exit available for wheelchair service.

(d) Any place of employment or public building, unless exempted by rule of the department, the initial construction of which is commenced on or after May 27, 1976, shall be designed and constructed so as to provide reasonable means of access. Buildings, as defined in s. 703.02 (5), 1975 stats., of 2 stories or less in height shall be exempt from requirements relating to parking space, ramps and grade−level entrances.

(e) The department shall by rule provide minimum regulations to ensure the access to and use of buildings prescribed in pars. (a) to (d).

(f) 1. Except as provided in subd. 2., no governmental unit may issue any authorization to occupy any place of employment or public building prescribed in pars. (a) to (d) unless the owner thereof files with that governmental unit a true certification of compliance with the rules under par. (e) applicable to that place of employment or public building relating to the reservation and marking of parking spaces for use by a motor vehicle used by a physically disabled person.

2. An authorization to occupy a place of employment or public building prescribed in pars. (a) to (d) may be issued prior to the completion of parking facilities for that place of employment or public building if the owner files a true certification that upon completion of any parking facility for that place of employment or public building that parking facility shall comply with the rules under par. (e) applicable to that place of employment or public building as specified in subd. 1.

(3) Any place of employment or public building subject to sub. (2) shall be so designed and constructed to allow physically disabled persons reasonable means of access from a parking lot, if any, ancillary to such buildings.

(4) The owner of any building who fails to meet the requirements of this section may be required to reconstruct the same by mandatory injunction in a circuit court suit brought by any interested person. Such person shall be reimbursed, if successful, for all costs and disbursements plus such actual attorney fees as may be allowed by the court.

(5) (a) Every place of employment and public building, except those described in sub. (2) (a) 1. to 8., the construction of which is begun after May 24, 1974 but prior to May 27, 1976, on each floor that is accessible to disabled persons, including persons in wheelchairs, which has public toilets shall have:

1. All public toilet rooms and at least one toilet compartment therein so designed and constructed that they will be suitable for entry and use by handicapped persons, including persons in wheelchairs;

2. The toilet compartment specified under par. (a) so designed and constructed to allow sufficient space between the front entrance of the compartment and adjacent furniture, fixtures or walls to permit the compartment door to open at least 95° and to allow a person in a wheelchair ample room to readily maneuver himself or herself or the wheelchair into the compartment; and

3. At least one lavatory, sink, mirror and towel dispenser or hand drier in each public toilet room accessible to a disabled person, including a person in a wheelchair, if such item is provided.

(b) Within 90 days after May 24, 1974, the department shall adopt, by rule, specifications to effect the requirements of par. (a). The department, in so adopting rules, shall consider the specifications established in the most current revision of "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped", published by the American standards association of New York.

(6) (g) The owner of any public building who fails to comply with this subsection may be compelled to meet its requirements in a circuit court suit by any interested person. Such person shall be reimbursed, if successful, for all costs and disbursements plus such actual attorney fees as may be allowed by the court.

(h) Each toilet room accommodation provided for disabled persons as required under this section shall be identified on its entrance as a disabled accommodation, and directions to such accommodations shall appear at the building's primary entrance.

(7) The international symbol of accessibility as adopted by the rehabilitation international in 1969 is established as the official state symbol designating buildings and facilities constructed and designed to be accessible. The symbol may be used only in buildings or other facilities, or parts thereof, which meet the standards for access established by rule of the department. If anyone uses or causes the use of the symbol in violation of department standards, the department shall order the discontinuance of such use until such standards are met. Whoever fails to comply with a department order under this subsection shall be fined $50.

(8) Every passenger elevator installed in a place of employment or public building after October 1, 1978 shall be equipped with raised letters and numerals on the operating panel and the external door frame on each floor, and the letters and numerals shall be designed and placed to maximize the ability of persons with functional limitations to use the passenger elevator without assistance.

(9) To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a quali-

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fied historic building, as defined under s. 101.121 (2) (c), if the owner elects to be subject to s. 101.121.

History: 1971 c. 185; 1971 c. 228 ss. 17, 42, 44; Stats. 1971 s. 101.13; 1973 c. 201, 202, 336; 1975 c. 276; 1977 c. 249, 407; 1981 c. 341; 1983 a. 77, 246; 1987 a. 260; 1993 a. 492; 1995 a. 27, 225, 285; 1997 a. 237.

Cross−reference: See also ch. SPS 318, Wis. adm. code.

While neither the U.S. nor Wisconsin constitutions compel states to require that public buildings and seats of government be constructed and maintained to be accessible to the physically handicapped, the legislature has an affirmative duty to address this problem and assure equal access to all constituted classes of citizens, including the physically handicapped. 63 Atty. Gen. 87.

101.132 Physically disabled persons; housing requirements. (1) DEFINITIONS. In this section:

(a) "Accessible" means able to be approached, entered and used by persons with disabilities.

(b) "Accessible route" means a continuous, unobstructed path connecting accessible elements and spaces in a building, within a site or from a site to a vehicular route, that can be negotiated by all persons with a disability.

(c) "ANSI A117.1" means the 1986 edition of the American national standards institute's code for buildings and facilities providing accessibility and usability for people with physical disabilities.

(d) "Covered multifamily housing" means any of the following:

1. Housing that is first ready for occupancy on or after October 1, 1993, consisting of 3 or more dwelling units if the housing has one or more elevators.

2. Grade−level dwelling units, in housing without elevators, that are first ready for occupancy on or after October 1, 1993, consisting of 3 or more dwelling units.

(e) "Disability" has the meaning given in s. 106.50 (1m) (g).

(f) "Dwelling unit" has the meaning given in s. 106.50 (1m) (i).

(g) "Housing" has the meaning given in s. 106.50 (1m) (L).

(h) "Remodel" means to substantially improve, alter, extend or otherwise change the structure of a building or change the location of exits, but does not include maintenance, redecoration, reroofing or alteration of mechanical or electrical systems.

(i) "Vehicular route" means a route intended for vehicular traffic including, but not limited to, a street, driveway or parking lot.

(2) DISCRIMINATION AGAINST PERSONS WITH PHYSICAL DISABILITIES PROHIBITED. (a) In addition to discrimination prohibited under s. 106.50 (2), (2m) and (2r) (b) and (bm), no person may design or construct covered multifamily housing unless it meets all of the following standards:

1. There is at least one accessible entrance for each building and that entrance is on an accessible route. All other entrances that are at grade level shall be accessible to the greatest extent feasible. The department shall promulgate rules that define "to the greatest extent feasible" to ensure maximum accessibility in a way that is not disproportionate to the entire project's cost and scope. If the covered multifamily housing units are at grade level and are served by separate entrances, each unit shall be on an accessible route. If the units have a minimum number of required exits, as determined by rules that shall be promulgated by the department, all required grade−level exits shall be accessible.

2. Public and common use areas are accessible to persons with disabilities.

3. Interior and exterior doors, and interior passages, are sufficiently wide to allow passage by persons with disabilities who use wheelchairs.

4. Light switches, electrical outlets, circuit controls, thermostats and other environmental controls are all located in accessible locations; reinforcements in bathroom walls are installed to allow later installation of grab bars around the toilet, tub, shower stall and shower seat, when such facilities are provided; kitchens and bathrooms allow an individual in a wheelchair to maneuver about the space; and, upon the request of a renter and without cost to a renter, lever door handles are on all doors and single lever controls, or other controls that are approved by the department by rule, are on all plumbing fixtures used by residents.

(b) *Remodeling.* 1. If more than 50% of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, the entire housing shall conform to the standards in par. (a), regardless of when the housing was first intended for occupancy.

2. If 25% to 50% of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, that part of the housing that is to be remodeled shall conform to the standards in par. (a), regardless of when the housing was first intended for occupancy.

3. If less than 25% of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, the remodeling is not subject to the standards in par. (a) unless the alteration involves work on doors, entrances, exits or toilet rooms, in which case the doors, entrances, exits or toilet rooms shall conform to the standards in par. (a) regardless of when the housing was first intended for occupancy.

4. The department may grant a variance or waiver from the requirements under this paragraph relating to exterior accessibility using the standards and procedures under par. (c).

(c) *Permit and variance procedures.* 1. Plans and specifications for all covered multifamily housing subject to par. (a) and proposed remodeling subject to par. (b) shall be submitted to the department or its authorized representative for examination and approval before commencing work. The department shall promulgate rules that specify the materials to be included in the submittal, the procedures to be followed upon receipt of a submittal, reasonable time limitations for reviewing submittals and issuing or denying permits and qualifications for authorized representatives.

2. The department may grant a variance from the requirements relating to exterior accessibility under par. (a) 1. or (b), or from administrative rules promulgated under par. (e) 2., if the person designing, constructing or remodeling the housing shows that meeting those requirements is impractical because of the terrain or unusual characteristics of the site. The department shall use a slope analysis of the undisturbed site for covered multifamily housing under par. (a) or the existing site for remodeling under par. (b) to determine the minimum number of accessible entrances at each site, with a minimum goal of exterior accessibility of 50% of the dwelling units of covered multifamily housing at one site. The department may impose specific conditions in granting a variance to promote exterior accessibility of the housing to persons with disabilities. If the department finds that exterior accessibility is impractical as to all dwelling units at a site, it may grant a waiver from the requirements under par. (a) 1. or (b).

(d) *Safe harbor.* 1. Except as provided in subd. 2., covered multifamily housing and remodeled housing are accessible for purposes of this subsection if they comply with one of the following:

a. The applicable requirements of ANSI A117.1.

b. Final guidelines issued by the federal department of housing and urban development, published in the federal register on March 6, 1991.

c. Another standard that affords persons with disabilities access that is essentially equivalent to or greater than that required by ANSI A117.1.

2. Subdivision 1. does not apply to remodeled or covered multifamily housing for which a building permit is issued on or after January 1, 1995.

(e) *General powers and duties of department.* 1. The requirements under this subsection are in addition to, and do not supplant, the requirements under s. 101.13 relating to the use of public buildings by persons with disabilities. Any conflict between this subsection and s. 101.13 or the rules promulgated under s. 101.13 shall be resolved in favor of the provision providing the greatest

degree of access by persons with disabilities, as determined by the department.

2. The department shall promulgate rules establishing minimum accessibility requirements for the design and construction of covered multifamily housing and the remodeling of housing that are consistent with this subsection, that incorporate the applicable standards under ANSI A117.1 and that set forth permit and variance procedures for purposes of par. (c).

History: 1997 a. 237 ss. 330, 335 to 351; 1999 a. 32, 82.

101.135 Uniform firewall identification. (1) The department shall promulgate rules that specify uniform dimensions, design and other characteristics for signs used to identify firewalls. The rules may not specify firewall signs that are more expensive than necessary to accomplish their purpose.

(2) Whenever a city, village or town provides by ordinance for the identification of firewalls, the provisions of the ordinance shall conform to the rules promulgated under sub. (1).

History: 1991 a. 269.

101.137 Fire suppression; ozone−depleting substances. (1) DEFINITION. In this section, "class I substance" has the meaning given in 42 USC 7671 (3).

(2) SERVICING PORTABLE FIRE EXTINGUISHERS. Beginning on August 1, 1994, no person may perform portable fire extinguisher servicing that releases or may release a class I substance unless the person uses equipment approved by the department or an independent testing organization approved by the department to capture the class I substance for recycling or reclaiming.

(3) FIRE FIGHTING TRAINING. Beginning on August 1, 1994, no person may conduct fire fighting training using a portable fire extinguisher that contains a class I substance.

(4) TESTING FIRE SUPPRESSION SYSTEMS. Beginning on August 1, 1994, no person may test a fire suppression system that contains a class I substance by releasing the class I substance into the air from the system. This subsection does not apply to the testing of a fire suppression system on a ship that was constructed or is being constructed for an agency of the federal government.

(4m) SERVICING FIRE SUPPRESSION SYSTEMS. Beginning on August 1, 1994, no person may perform servicing on a fire suppression system that releases or may release a class I substance unless the person uses equipment approved by the department or an independent testing organization approved by the department to capture the class I substance for recycling or reclaiming.

(5) PENALTY. Any person who violates this section shall be required to forfeit not less than $250 nor more than $1,000. Each act of servicing in violation of sub. (2) constitutes a separate offense.

History: 1993 a. 243.

101.14 Fire inspections, prevention, detection and suppression. (1) (a) The department may make reasonable orders for the repair or removal of any building or other structure which for want of repair or by reason of age or dilapidated condition or for any other cause is especially liable to fire, and which is so situated as to endanger other buildings or property and for the repair or removal of any combustible or explosive material or inflammable conditions, dangerous to the safety of any building or premises or the occupants thereof or endangering or hindering fire fighters in case of fire.

(am) Notwithstanding par. (a), the department may not require the owner or operator of a mobile kitchen to install or maintain an automatic fire suppression system or an exhaust hood in, or as part of, the mobile kitchen if all of the following apply:

1. The mobile kitchen is less than 365 square feet in size.

2. The mobile kitchen is used on fewer than 12 days a year for the purpose of cooking.

(b) The secretary and any deputy may at all reasonable hours enter into and upon all buildings, premises and public thoroughfares excepting only the interior of private dwellings, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violation of any law or order relating to the fire hazard or to the prevention of fire.

(bm) The secretary and any deputy may, at all reasonable hours, enter the interior of private dwellings at the request of the owner or renter for the purpose of s. 101.145 (6) or 101.645 (4).

(c) The department is hereby empowered and directed to provide the form of a course of study in fire prevention for use in the public schools, dealing with the protection of lives and property against loss or damage as a result of preventable fires, and transmit the same by the first day of August in each year to the state superintendent of public instruction.

(2) (a) The chief of the fire department in every city, village or town, except cities of the 1st class, is constituted a deputy of the department, subject to the right of the department to relieve any such chief from duties as such deputy for cause, and upon such suspension to appoint some other person to perform the duty imposed upon such deputy. The department may appoint either the chief of the fire department or the building inspector as its deputy in cities of the 1st class.

(b) The chief of every fire department shall provide for the inspection of every public building and place of employment to determine and cause to be eliminated any fire hazard or any violation of any law relating to fire hazards or to the prevention of fires.

(c) 1. Except as provided under subd. 2., the chief of every fire department shall provide that the inspections required under par. (b) be made at least once in each nonoverlapping 6−month period per calendar year in all of the territory served by his or her fire department. The chief of a fire department may require more frequent inspections than required under this subdivision. The department by rule shall provide for general exceptions, based on the type of occupancy or use of the premises, where less frequent inspections are required. Upon written request by the chief of a fire department, the department by special order may grant an exception to a city, village or town to conduct less frequent inspections than required under this subdivision.

2. In 1st class cities, the fire chief may establish the schedule of fire inspections in that city. The fire chief shall base the frequency of the inspections on hazardous classification, the proportion of public area, the record of fire code violations, the ratio of occupancy to size and any other factor the chief deems significant. Property other than residential property with 4 dwelling units or less shall be inspected at least once annually.

(cm) In addition to the requirements of pars. (b) and (c), a fire department shall provide public fire education services.

(d) The chief of every fire department, or, in 1st class cities, the building inspector appointed by the department under par. (a), shall designate a sufficient number of inspectors to make the inspections required under pars. (b) and (c).

(e) Written reports of inspection shall be made and kept on file by the authority having jurisdiction to conduct inspections, or its designee, in the manner and form required by the department.

(f) Every inspection required under pars. (b) and (c) is subject to the supervision and direction of the department, which shall, after audit, certify to the commissioner of insurance after the expiration of each calendar year each city, village or town where the inspections for the year have been made, and where records have been made and kept on file as required under par. (e).

(3) The department shall annually conduct training sessions and provide manuals and other materials and services to assist deputies and inspectors in the fulfillment of their duties under sub. (2).

(4) (a) The department shall make rules, pursuant to ch. 227, requiring owners of places of employment and public buildings to install such fire detection, prevention or suppression devices as will protect the health, welfare and safety of all employers,

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employees and frequenters of places of employment and public buildings.

(b) 1m. In this paragraph, "private student residential building" means a privately owned and operated residential building that has a capacity of at least 100 occupants, that is occupied by persons at least 80 percent of whom are enrolled in an institution of higher education, and that has attributes usually associated with a student residence hall or dormitory such as a food service plan or occupancy by a resident advisor.

1r. Except as provided in subds. 2. and 3., the rules of the department shall require all such places and buildings over 60 feet in height, the construction of which is begun after July 3, 1974, to contain an automatic fire sprinkler system on each floor.

2. a. Subdivision 1r. does not apply to any open parking structure, as defined by the department.

b. If the department determines that water would cause irreparable damage and undue economic loss if discharged in such places or buildings, it shall require a suppression device which has a substance other than water.

c. Except as provided in subd. 3., subd. 1r. does not apply to any building over 60 feet in height the construction of which is completed or is begun prior to July 3, 1974.

3. The rules of the department shall require all of the following:

a. Every residence hall and dormitory over 60 feet in height, the initial construction of which was begun before April 26, 2000, that is owned or operated by the board of regents of the University of Wisconsin System to contain an automatic fire sprinkler system on each floor by January 1, 2006.

b. Every residence hall and dormitory, the initial construction of which is begun on or after April 26, 2000, that is owned or operated by the board of regents of the University of Wisconsin System to have an automatic fire sprinkler system installed on each floor at the time the residence hall or dormitory is constructed.

c. Every residence hall and dormitory over 60 feet in height, the initial construction of which was begun before January 7, 2006, that is owned or operated by an institution of higher education, other than a residence hall or dormitory that is owned or operated by the Board of Regents of the University of Wisconsin System, to contain an automatic fire sprinkler system on each floor by January 1, 2014.

d. Every residence hall and dormitory, the initial construction of which is begun on or after January 7, 2006, that is owned or operated by an institution of higher education, other than a residence hall or dormitory that is owned or operated by the Board of Regents of the University of Wisconsin System, to have an automatic fire sprinkler system installed on each floor at the time the residence hall or dormitory is constructed.

e. Every student residential facility operated by a fraternity, sorority, or other organization authorized or sponsored by an institution of higher education, the initial construction of which was begun before January 7, 2006, and every private student residential building over 60 feet in height, the initial construction of which was begun before January 7, 2006, to contain an automatic fire sprinkler system on each floor by January 1, 2014.

f. Every student residential facility operated by a fraternity, sorority, or other organization authorized or sponsored by an institution of higher education, the initial construction of which is begun on or after January 7, 2006, and every private student residential building, the initial construction of which is begun on or after January 7, 2006, to have an automatic fire sprinkler system installed on each floor at the time the facility is constructed.

(c) The rules of the department governing such places and buildings under 60 feet in height shall be based upon but may vary from those provisions in the International Code Council, Inc., building code which relate to fire detection, prevention and suppression in public buildings and places of employment.

(d) To the extent that the historic building code applies to the subject matter of this subsection, each qualified historic building, as defined under s. 101.121 (2) (c), is exempt from this subsection if the owner elects to be subject to s. 101.121.

(dm) Each building required by rule under this subsection to contain fire detection, prevention and suppression devices shall have the necessary devices installed at the time of its construction.

(e) Whoever violates this subsection may be fined not less than $100 but not more than $500 for each day of violation.

(f) The department may inspect all buildings covered by this subsection and may issue such orders as may be necessary to assure compliance with it.

(g) As used in this subsection:

1. "Automatic fire sprinkler system" has the meaning provided in s. 145.01 (2).

2. "Fire detection, prevention and suppression devices" include but are not limited to manual fire alarm systems, smoke and heat detection devices, fire extinguishers, standpipes, automatic fire suppression systems and automatic fire sprinkler systems.

(4m) (a) In this subsection:

1. "Automatic fire sprinkler system" has the meaning given in s. 145.01 (2).

2. "Dwelling unit" has the meaning given in s. 101.61 (1).

3. "Multifamily dwelling" has the meaning given in s. 101.971 (2).

4. "Nondwelling unit portions" means the common use areas of a multifamily dwelling, including corridors, stairways, basements, cellars, vestibules, atriums, community rooms, laundry rooms or swimming pool rooms.

5. "Political subdivision" means a county, city, village or town.

5m. "Two−hour fire resistance" means 2−hour fire separations for all walls that separate dwelling units, exit corridors and exit stair enclosures and for all floors and ceilings, so that the specified walls, floors and ceilings are capable of resisting fire for a period not shorter than 2 hours.

(am) A political subdivision may enact ordinances, as provided in this paragraph, that require an automatic fire sprinkler system or 2−hour fire resistance in every multifamily dwelling. Any ordinance enacted under this paragraph shall meet the standards established under pars. (b) and (c) or under pars. (d) and (e).

(b) The department shall require an automatic fire sprinkler system or 2−hour fire resistance in every multifamily dwelling that contains any of the following:

1. Total floor area, for all individual dwelling units, exceeding 16,000 square feet.

2. More than 20 dwelling units.

3. Total floor area of its nondwelling unit portions exceeding the limits established in par. (c).

(c) An automatic fire sprinkler system or 2−hour fire resistance is required under par. (b) in a multifamily dwelling constructed by any of the following types of construction if the total floor area of the nondwelling unit portions in the multifamily dwelling exceeds the following:

1. Type 1 fire resistive construction, 16,000 square feet.

2. Type 2 fire resistive construction, 12,000 square feet.

3. Type 3 metal frame protected construction, 8,000 square feet.

4. Type 4 heavy timber construction, 5,600 square feet.

5. Type 5A exterior masonry protected, 5,600 square feet.

6. Type 5B exterior masonry unprotected, 5,600 square feet.

7. Type 6 metal frame unprotected, 5,600 square feet.

8. Type 7 wood frame protected construction, 5,600 square feet.

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9. Type 8 wood frame unprotected construction, 4,800 square feet.

(d) A political subdivision's ordinances, enacted to meet the requirements of this paragraph and par. (e), shall require an automatic fire sprinkler system or 2−hour fire resistance in every multifamily dwelling that contains any of the following:

1. Total floor area, for all individual dwelling units, exceeding 8,000 square feet.

2. More than 8 dwelling units.

3. Total floor area of its nondwelling unit portions exceeding the limits established in par. (e).

(e) A political subdivision's ordinances, enacted to meet the standards established in par. (d) and this paragraph, shall require an automatic fire sprinkler system or 2−hour fire resistance in every multifamily dwelling that is constructed by any of the following types of construction if the total floor area of the nondwelling unit portions in the multifamily dwelling exceeds the following:

1. Type 1 fire resistive construction, 12,000 square feet.

2. Type 2 fire resistive construction, 10,000 square feet.

3. Type 3 metal frame protected construction, 8,000 square feet.

4. Type 4 heavy timber construction, 5,600 square feet.

5. Type 5A exterior masonry protected, 5,600 square feet.

6. Type 5B exterior masonry unprotected, 5,600 square feet.

7. Type 6 metal frame unprotected, 5,600 square feet.

8. Type 7 wood frame protected construction, 5,600 square feet.

9. Type 8 wood frame unprotected construction, 4,800 square feet.

(5) (a) Subject to par. (b), in addition to any fee charged by the department by rule for plan review and approval for the construction of a new or additional installation or change in operation of a previously approved installation for the storage, handling or use of a liquid that is flammable or combustible or a federally regulated hazardous substance, as defined in s. 101.09 (1) (am), the department shall collect a groundwater fee of $100 for each plan review submittal. The moneys collected under this subsection shall be credited to the environmental fund for environmental management.

(b) Notwithstanding par. (a), an installation for the storage, handling or use of a liquid that is flammable or combustible or a federally regulated hazardous substance, as defined in s. 101.09 (1) (am), that has a capacity of less than 1,000 gallons is not subject to the groundwater fee under par. (a).

History: 1971 c. 185 s. 1; 1971 c. 228; Stats. 1971 s. 101.14; 1973 c. 324, 326, 336; 1975 c. 39, 94; 1977 c. 29, 413; 1979 c. 221; 1981 c. 320, 341; 1983 a. 36; 1983 a. 189 s. 329 (8); 1983 a. 295, 410; 1985 a. 29; 1985 a. 135 s. 83 (3); 1987 a. 288, 321, 399; 1989 a. 31, 109, 359; 1991 a. 187, 269; 1993 a. 261; 1995 a. 27; 1997 a. 27; 1999 a. 9, 43, 186; 2003 a. 269; 2005 a. 78, 220; 2007 a. 148, 149, 173; 2011 a. 257.

Cross−reference: See s. 66.0119 for provision authorizing special inspection warrants.

Cross−reference: See also chs. SPS 314 and 362, Wis. adm. code.

Inspection of buildings for safety and fire prevention purposes under s. 101.14 does not involve a quasi−judicial function within meaning of s. 895.43 (3) [now 893.80 (4)]. Coffey v. Milwaukee, 74 Wis. 2d 526, 247 N.W.2d 132 (1976).

Sub. (4m) (b) limits the authority of the department of commerce under s. 101.02 (15) and sub. (4) (a) only insofar as it mandates the department to require sprinkler systems in multifamily dwellings that exceed twenty units or the specified floor area. Sub. (4m) (b) plainly does not restrict the authority of the department under other statutory provisions to promulgate rules requiring fire protection devices in multifamily dwellings that have fewer dwelling units or a smaller floor area than that specified in the statute. Wisconsin Builders Association v. Department of Commerce, 2009 WI App 20, 316 Wis. 2d 301, 762 N.W.2d 845, 08−1438.

101.141 Record keeping of fires. (1) Each city, village, and town fire department shall file a report for each fire that involves a building and that occurs within the boundaries of the city, village, or town with the U.S. fire administration for placement in the fire incident reporting system maintained by the U.S. fire administration. The report shall be filed within 60 days after the fire occurs.

(2) Each report filed under sub. (1) shall include all of the following information:

(a) The age of the building.

(b) The purpose for which the building was used at the time of the fire.

(c) If the building was used as a home, whether the building was a multifamily dwelling complex, a single−family dwelling, or a mixed−use building with one or more dwelling units.

(d) The number of dwelling units in the building, if the building was a multifamily dwelling complex or a mixed−use building.

(e) Whether the building had an automatic fire sprinkler system at the time of the fire and, if so, whether the system was operational.

(f) Whether the building had a fire alarm system at the time of the fire and, if so, whether the system was operational.

(g) The cause of the fire.

(gg) An estimate of the amount of damages to the building as a result of the fire.

(gm) The number of human deaths due to the fire, if any.

(gr) The number of human injuries due to the fire, if any.

(h) Any other relevant information concerning the building, as determined by the fire department.

(3) The department may review, correct, and update any report filed by a fire department under this section.

History: 1975 c. 224; 2007 a. 75.

101.142 Inventory of petroleum product storage tanks. (1) DEFINITIONS. In this section:

(a) "Petroleum product" means materials derived from petroleum, natural gas or asphalt deposits and includes gasoline, diesel and heating fuels, liquefied petroleum gases, lubricants, waxes, greases and petrochemicals.

(b) "Storage tank" means an enclosed container with a capacity in excess of 60 gallons which is used to hold a petroleum product, regardless of the duration of storage and which is intended for use as a fixed, rather than as a portable, installation.

(2) INVENTORY OF STORAGE TANKS. The department shall undertake a program to inventory and determine the location of aboveground storage tanks and underground storage tanks. The department may require its deputies and any person engaged in the business of distributing petroleum products to provide information on the location of aboveground storage tanks and underground storage tanks. The department shall develop uniform procedures for reporting the location of aboveground storage tanks and underground storage tanks.

History: 1983 a. 410; 1989 a. 254; 1991 a. 82.

Cross−reference: See also s. SPS 347.11, Wis. adm. code.

101.143 Petroleum storage remedial action; financial assistance. (1) DEFINITIONS. In this section:

(ad) "Bodily injury" does not include those liabilities which are excluded from coverage in liability insurance policies for bodily injury other than liabilities excluded because they are caused by a petroleum product discharge from a petroleum product storage system.

(am) "Case closure letter" means a letter provided by the department of natural resources that states that, based on information available to the department of natural resources, no further remedial action is necessary with respect to a discharge.

(b) "Discharge" has the meaning designated under s. 292.01 (3).

(bm) "Enforcement standard" has the meaning given in s. 160.01 (2).

(c) "Groundwater" has the meaning designated under s. 281.75 (1) (c).

(cm) "Home oil tank system" means an underground home heating oil tank used for consumptive use on the premises together with any on−site integral piping or dispensing system.

(cq) "Natural attenuation" means the reduction in the concentration and mass of a substance, and the products into which the substance breaks down, due to naturally occurring physical, chemical and biological processes.

(cs) "Occurrence" means a contiguous contaminated area resulting from one or more petroleum products discharges.

(d) "Operator" means any of the following:

1. A person who operates a petroleum product storage system, regardless of whether the system remains in operation and regardless of whether the person operates or permits the use of the system at the time environmental pollution occurs.

2. A subsidiary or parent corporation of the person specified under subd. 1.

(e) "Owner" means any of the following:

1. A person who owns, or has possession or control of, a petroleum product storage system, or who receives direct or indirect consideration from the operation of a system regardless of whether the system remains in operation and regardless of whether the person owns or receives consideration at the time environmental pollution occurs.

2. A subsidiary or parent corporation of the person specified under subd. 1.

3. A person who formerly owned a farm tank and who satisfies the criteria in sub. (4) (ei) 1m. b.

(f) "Petroleum product" means gasoline, gasoline−alcohol fuel blends, kerosene, fuel oil, burner oil, diesel fuel oil or used motor oil.

(fg) "Petroleum product storage system" means a storage tank that is located in this state and is used to store petroleum products together with any on−site integral piping or dispensing system. The term does not include pipeline facilities; tanks of 110 gallons or less capacity; residential tanks of 1,100 gallons or less capacity storing petroleum products that are not for resale; farm tanks of 1,100 gallons or less capacity storing petroleum products that are not for resale, except as provided in sub. (4) (ei); tanks used for storing heating oil for consumptive use on the premises where stored, except for heating oil tanks owned by school districts and heating oil tanks owned by technical college districts and except as provided in sub. (4) (ei); or tanks owned by this state or the federal government.

(g) "Program year" means the period beginning on August 1, and ending on the following July 31.

(gm) "Property damage" does not include those liabilities that are excluded from coverage in liability insurance policies for property damage, other than liability for remedial action associated with petroleum product discharges from petroleum product storage systems. "Property damage" does not include the loss of fair market value resulting from contamination.

(gs) "Service provider" means a consultant, testing laboratory, monitoring well installer, soil boring contractor, other contractor, lender or any other person who provides a product or service for which a claim for reimbursement has been or will be filed under this section, or a subcontractor of such a person.

(h) "Subsidiary or parent corporation" means a business entity, including a subsidiary, parent corporation or other business arrangement, that has elements of common ownership or control or that uses a long−term contractual arrangement with a person to avoid direct responsibility for conditions at a petroleum product storage system site.

(hm) "Terminal" means a petroleum product storage system that is itself connected to a pipeline facility, as defined in 49 USC 60101 (18) or is one of a number of connected petroleum product storage systems at least one of which is connected to a pipeline facility, as defined in 49 USC 60101 (18).

(i) "Underground petroleum product storage tank system" means an underground storage tank used for storing petroleum products together with any on−site integral piping or dispensing system with at least 10% of its total volume below the surface of the ground.

(1m) RULES CONCERNING 3RD−PARTY COMPENSATION. The commissioner of insurance shall promulgate rules defining "liabilities which are excluded from coverage in liability insurance policies for bodily injury" and "liabilities which are excluded from coverage in liability insurance policies for property damage" for the purposes of sub. (1) (ad) and (gm). The definitions shall be consistent with standard insurance industry practices.

(2) POWERS AND DUTIES OF THE DEPARTMENT. (b) The department shall promote the program under this section to persons who may be eligible for awards under this section.

(c) The department shall keep records and statistics on the program under this section and shall periodically evaluate the effectiveness of the program.

(d) The department shall reserve a portion, not to exceed 20%, of the amount annually appropriated under s. 20.165 (2) (v) for awards under this section to be used to fund emergency remedial action and claims that exceed the amount initially anticipated.

(e) The department shall promulgate rules, with an effective date of no later than January 1, 1996, specifying the methods the department will use under sub. (3) (ae), (ah), (am) and (ap) to identify the petroleum product storage system or home oil tank system which discharged the petroleum product that caused an area of contamination and to determine when a petroleum product discharge that caused an area of contamination occurred. The department shall write the rule in a way that permits a clear determination of what petroleum product contamination is eligible for an award under sub. (4) after December 31, 1995.

(em) 1. The department may promulgate rules that specify a fee that must be paid by a service provider as a condition of submitting a bid to conduct an activity under sub. (3) (c) for which a claim for reimbursement under this section will be submitted. Any fees collected under the rules shall be deposited into the petroleum inspection fund.

2. If the department promulgates rules under subd. 1., the department may purchase, or provide funding for the purchase of, insurance to cover the amount by which the costs of conducting activities under sub. (3) (c) exceed the amount bid to conduct those activities.

(f) The department shall promulgate a rule establishing a priority system for paying awards under sub. (4) for petroleum product storage systems that are owned by school districts and that are used for storing heating oil for consumptive use on the premises where stored.

(g) The department may promulgate, by rule, requirements for the certification or registration of persons who provide consulting services to owners and operators who file claims under this section. Any rule requiring certification or registration shall also authorize the revocation or suspension of the certification or registration.

(h) The department of safety and professional services and the department of natural resources, jointly, shall promulgate rules designed to facilitate effective and cost−efficient administration of the program under this section that specify all of the following:

1. Information that must be submitted under this section, including quarterly summaries of costs incurred with respect to a discharge for which a claim is intended to be submitted under sub. (3) but for which a final claim has not been submitted.

2. Formats for submitting the information under subd. 1.

3. Review procedures that must be followed by employees of the department of natural resources and the department of commerce in reviewing the information submitted under subd. 1.

(i) The department of safety and professional services and the department of natural resources, jointly, shall promulgate rules specifying procedures for evaluating remedial action plans and procedures to be used by employees of the department of safety and professional services and the department of natural resources

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while remedial actions are being conducted. The departments shall specify procedures that include all of the following:

1. Annual reviews that include application of the method in the rules promulgated under sub. (2e) (b) to determine the risk posed by discharges that are the subject of the remedial actions.

2. Annual reports by consultants estimating the additional costs that must be incurred to comply with sub. (3) (c) 3. and with enforcement standards.

3. A definition of "reasonable time" for the purpose of determining whether natural attenuation may be used to achieve enforcement standards.

4. Procedures to be used to measure concentrations of contaminants.

(j) The department of safety and professional services and the department of natural resources, jointly, shall promulgate rules specifying all of the following:

1. The conditions under which employees of the department of commerce and the department of natural resources must issue approvals under sub. (3) (c) 4.

2. Training and management procedures to ensure that employees comply with the requirements under subd. 1.

(k) In promulgating rules under pars. (h) to (j), the department of safety and professional services and the department of natural resources shall attempt to reach an agreement that is consistent with those provisions. If the department of safety and professional services and the department of natural resources are unable to reach an agreement, they shall refer the matters on which they are unable to agree to the secretary of administration for resolution. The secretary of administration shall resolve any matters on which the departments disagree in a manner that is consistent with pars. (h) to (j). The department of safety and professional services and the department of natural resources, jointly, shall promulgate rules incorporating any agreement between the department of safety and professional services and the department of natural resources under this paragraph and any resolution of disagreements between the departments by the secretary of administration under this paragraph.

(L) The department may promulgate rules for the assessment and collection of fees to recover its costs for providing approval under sub. (3) (c) 4. and for providing other assistance requested by applicants under this section. Any moneys collected under this paragraph shall be credited to the appropriation account under s. 20.165 (2) (Lm).

(2e) RISK−BASED ANALYSIS. (a) The department of safety and professional services and the department of natural resources shall attempt to agree on a method, which shall include individualized consideration of the routes for migration of petroleum product contamination at each site, for determining the risk to public health, safety and welfare and to the environment posed by discharges for which the department of safety and professional services receives notification under sub. (3) (a) 3.

(b) If the department of safety and professional services and the department of natural resources are unable to reach an agreement under par. (a), they shall refer the matters on which they are unable to agree to the secretary of administration for resolution. The secretary of administration shall resolve any matters on which the departments disagree in a manner that is consistent with par. (a). The department of safety and professional services and the department of natural resources, jointly, shall promulgate rules incorporating any agreement between the department of safety and professional services and the department of natural resources under par. (a) and any resolution of disagreements between the departments by the secretary of administration under this paragraph.

(c) The department of natural resources or, if the discharge is covered under s. 101.144 (2) (b), the department of safety and professional services shall apply the method in the rules promulgated under par. (b) to determine the risk posed by a discharge for which the department of safety and professional services receives notification under sub. (3) (a) 3.

(2m) INTERDEPARTMENTAL COORDINATION. Whenever the department of safety and professional services receives a notification under sub. (3) (a) 3. or the department of natural resources receives a notification of a petroleum product discharge under s. 292.11, the department receiving the notification shall contact the other department and shall schedule a meeting of the owner or operator or person owning a home oil tank system and representatives of both departments.

(3) CLAIMS FOR PETROLEUM PRODUCT INVESTIGATION, REMEDIAL ACTION PLANNING AND REMEDIAL ACTION ACTIVITIES. (a) *Who may submit a claim.* Subject to pars. (ae), (ah), (am) and (ap), an owner or operator or a person owning a home oil tank system may submit a claim to the department for an award under sub. (4) to reimburse the owner or operator or the person for the eligible costs under sub. (4) (b) that the owner or operator or the person incurs because of a petroleum products discharge from a petroleum product storage system or home oil tank system if all of the following apply:

1. The owner or operator or the person is able to document that the source of a discharge is from a petroleum product storage system or home oil tank system.

3. The owner or operator or the person notifies the department, before conducting a site investigation or remedial action activity, of the discharge and the potential for submitting a claim under this section, except as provided under par. (g).

4. The owner or operator registers the petroleum product storage system or the home oil tank system is registered with the department under s. 101.09.

5. The owner or operator or the person reports the discharge in a timely manner to the division of emergency management in the department of military affairs or to the department of natural resources, according to the requirements under s. 292.11.

6. The owner or operator or the person investigates the extent of environmental damage caused by the petroleum product storage system or home oil tank system.

7. The owner or operator or the person recovers any recoverable petroleum products from the petroleum products storage system or home oil tank system.

8. The owner or operator or the person disposes of any residual solid or hazardous waste in a manner consistent with local, state and federal laws, rules and regulations.

9. The owner or operator or the person follows standards for groundwater restoration in the groundwater standards in the rules promulgated by the department of natural resources under ss. 160.07 and 160.09 and restores the environment, to the extent practicable, according to those standards at the site of the discharge from a petroleum product storage system or home oil tank system.

(ae) *New systems.* An owner or operator or a person owning a home oil tank system is not eligible for an award under this section for costs incurred because of a petroleum product discharge from an underground petroleum product storage tank system or a home oil tank system that meets the performance standards in 40 CFR 280.20 or in rules promulgated by the department relating to underground petroleum product storage tank systems installed after December 22, 1988, if the discharge is confirmed after December 31, 1995.

(ah) *New aboveground systems.* An owner or operator is not eligible for an award under this section for costs incurred because of a petroleum product discharge from a petroleum product storage system that is not an underground petroleum product storage tank system and that meets the performance standards in rules promulgated by the department relating to petroleum product storage systems that are not underground petroleum product storage tank systems and that are installed after April 30, 1991, if the discharge is confirmed after December 22, 2001.

(am) *Upgraded underground systems.* 1. An owner or operator or a person owning a home oil tank system is not eligible for an award under this section for costs incurred because of a petroleum product discharge from an underground petroleum product storage tank system or a home oil tank system if the discharge is confirmed after December 31, 1995, and the discharge is confirmed, or activities under par. (c) or (g) are begun with respect to that discharge, after the day on which the underground petroleum product storage tank system or home oil tank system first meets the upgrading requirements in 40 CFR 280.21 (b) to (d) or in rules promulgated by the department relating to the upgrading of existing underground petroleum product storage tank systems, except as provided in subd. 2.

2. If an underground petroleum product storage tank system or home oil tank system first meets the upgrading requirements in 40 CFR 280.21 (b) to (d) or in rules promulgated by the department relating to the upgrading of existing underground petroleum product storage tank systems, after December 31, 1993, and the owner or operator or person owning the home oil tank system applies for private pollution liability insurance covering the underground petroleum product storage tank system or home oil tank system within 30 days after the day on which the underground petroleum product storage tank system or home oil tank system first meets those upgrading requirements, then the owner or operator or person remains eligible for an award for costs incurred because of a petroleum product discharge, from that underground petroleum product storage tank system or home oil tank system, which is confirmed, and with respect to which activities under par. (c) or (g) are begun, before the 91st day after the day on which the underground petroleum product storage tank system or home oil tank system first meets those upgrading requirements.

(ap) *Upgraded aboveground systems.* An owner or operator is not eligible for an award under this section for costs incurred because of a petroleum product discharge from a petroleum product storage system that is not an underground petroleum product storage tank system if the discharge is confirmed after December 22, 2001, and the discharge is confirmed, or activities under par. (c) or (g) are begun with respect to that discharge, after the day on which the petroleum product storage system first meets the upgrading requirements in rules promulgated by the department relating to the upgrading of existing petroleum product storage systems that are not underground petroleum product storage tank systems.

(av) *Claims submitted for petroleum product storage systems on tribal trust lands.* The owner or operator of a petroleum product storage system located on trust lands of an American Indian tribe may submit a claim for an award under sub. (4) if the owner or operator otherwise satisfies par. (a) and complies with the rules promulgated under this section and any other rules promulgated by the department concerning petroleum product storage systems.

(b) *Claims submitted by owners or operators who were not owners or operators, or a person owning a home oil tank system when a petroleum product discharge occurred.* An owner or operator who was not the owner or operator, or a person who owns a home oil tank system who did not own the home oil tank system, when a petroleum product discharge occurred and who meets the requirements of this section may submit a claim for an award under sub. (4) unless the owner or operator or the person knew or should have known of the ineligibility of the previous owner or operator or of the person who previously owned the home oil tank system as a result of actions under sub. (4) (g) 4., 5. or 6.

(bm) *Agents.* Except as provided in par. (bn), an owner or operator or a person owning a home oil tank system may enter into a written agreement with a county or any other person under which that county or other person acts as an agent for the owner or operator or person owning a home oil tank system in conducting the activities required under par. (c). The owner or operator or person owning a home oil tank system and the agent shall jointly submit the claim for an award under sub. (4).

(bn) *Department of transportation as agent.* With the prior approval of the department and the owner or operator or person owning a home oil tank system, the department of transportation may act as an agent for an owner or operator or a person owning a home oil tank system whose petroleum product storage system or home oil tank system is located on property that is or may be affected by a transportation project under the jurisdiction of the department of transportation. The scope of the department of transportation's agency shall be limited to conducting the activities required under par. (c) and submitting the claim for an award under sub. (4) to be jointly paid to the owner or operator or person and the department of transportation for the eligible costs incurred by the department of transportation in conducting the activities required under par. (c).

(c) *Investigations, remedial action plans and remedial action activities.* Before submitting an application under par. (f), except as provided under par. (g), an owner or operator or the person shall do all of the following:

1. Complete an investigation to determine the extent of environmental damage caused by a discharge from a petroleum product storage system or home oil tank system.

2. Prepare a remedial action plan that identifies specific remedial action activities proposed to be conducted under subd. 3. and submit the remedial action plan to the department.

3. Conduct all remedial action activities at the site of the discharge from the petroleum product storage system or home oil tank system necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge as required under s. 292.11.

4. Receive written approval from the department of natural resources or, if the discharge is covered under s. 101.144 (2) (b), from the department of safety and professional services that the remedial action activities performed under subd. 3. meet the requirements of s. 292.11.

(cm) *Monitoring as remedial action.* An owner or operator or person owning a home oil tank system may, with the approval of the department of natural resources or, if the discharge is covered under s. 101.144 (2) (b), the department of safety and professional services, satisfy the requirements of par. (c) 2. and 3. by proposing and implementing monitoring to ensure the effectiveness of natural attenuation of petroleum product contamination.

(cp) *Bidding process.* 1. Except as provided in subds. 2. to 5., if the department of natural resources or, if the site is covered under s. 101.144 (2) (b), the department of safety and professional services estimates that the cost to complete a site investigation, remedial action plan and remedial action for an occurrence exceeds $60,000, the department of safety and professional services shall implement a competitive public bidding process to obtain information to assist in making the determination under par. (cs).

2. The department of safety and professional services or the department of natural resources may waive the requirement under subd. 1. if an enforcement standard is exceeded in groundwater within 1,000 feet of a well operated by a public utility, as defined in s. 196.01 (5), or within 100 feet of any other well used to provide water for human consumption.

5. The department of safety and professional services or the department of natural resources may waive the requirement under subd. 1. after providing notice to the other department.

6. The department of safety and professional services may disqualify a bid received under subd. 1. if, based on information available to the department and experience with remedial action at other sites, the bid is unlikely to establish an amount to sufficiently fund remedial action that will comply with par. (c) 3. and with enforcement standards.

7. The department of safety and professional services may disqualify a person from submitting bids under subd. 1. if, based on past performance of the bidder, the department determines that

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the person has demonstrated an inability to complete remedial action within established cost limits.

(cs) *Determination of least costly method of remedial action.* 1. The department of safety and professional services shall review the remedial action plan for a site that is classified as low or medium risk under s. 101.144 and shall determine the least costly method of complying with par. (c) 3. and with enforcement standards. The department shall notify the owner or operator of its determination of the least costly method and shall notify the owner or operator that reimbursement for remedial action under this section is limited to the amount necessary to implement that method.

2. The department of natural resources and the department of safety and professional services shall review the remedial action plan for a site that is classified as high risk under s. 101.144 and shall jointly determine the least costly method of complying with par. (c) 3. and with enforcement standards. The departments shall notify the owner or operator of their determination of the least costly method and shall notify the owner or operator that reimbursement for remedial action under this section is limited to the amount necessary to implement that method.

3. In making determinations under subds. 1. and 2., the department of natural resources and the department of safety and professional services shall determine whether natural attenuation will achieve compliance with par. (c) 3. and with enforcement standards.

4. The department of safety and professional services may review and modify an amount established under subd. 1. if the department determines that new circumstances, including newly discovered contamination at a site, warrant those actions. The department of safety and professional services and the department of natural resources may review and modify an amount established under subd. 2. if the departments determine that new circumstances, including newly discovered contamination at a site, warrant those actions.

(cw) *Annual reviews.* 1. The department of safety and professional services shall conduct the annual review required under sub. (2) (i) 1. for a site that is classified as low or medium risk under s. 101.144 and shall determine the least costly method of completing remedial action at the site in order to comply with par. (c) 3. and with enforcement standards. The department shall notify the owner or operator of its determination of the least costly method and shall notify the owner or operator that reimbursement under this section for any remedial action conducted after the date of the notice is limited to the amount necessary to implement that method.

2. The department of natural resources and the department of safety and professional services shall conduct the annual review required under sub. (2) (i) 1. for a site that is classified as high risk under s. 101.144 and shall jointly determine the least costly method of completing remedial action at the site in order to comply with par. (c) 3. and with enforcement standards. The departments shall notify the owner or operator of their determination of the least costly method and shall notify the owner or operator that reimbursement under this section for remedial action conducted after the date of the notice is limited to the amount necessary to implement that method.

3. In making determinations under subds. 1. and 2., the department of natural resources and the department of safety and professional services shall determine whether natural attenuation will achieve compliance with par. (c) 3. and with enforcement standards.

4. The department of safety and professional services may review and modify an amount established under subd. 1. if the department determines that new circumstances, including newly discovered contamination at a site, warrant those actions. The department of safety and professional services and the department of natural resources may review and modify an amount established under subd. 2. if the departments determine that new circumstances, including newly discovered contamination at a site, warrant those actions.

(d) *Final review of remedial action activities.* The department of natural resources or, if the discharge is covered under s. 101.144 (2) (b), the department of safety and professional services shall complete a final review of the remedial action activities within 60 days after the claimant notifies the appropriate department that the remedial action activities are completed.

(e) *Notifications.* The department of natural resources shall notify the department when it gives a claimant written approval under par. (c) 4.

(f) *Application.* A claimant shall submit a claim on a form provided by the department. The claim shall contain all of the following documentation of activities, plans and expenditures associated with the eligible costs incurred because of a petroleum products discharge from a petroleum product storage system:

1. A record of investigation results and data interpretation.

2. A remedial action plan.

3. Contracts for eligible costs incurred because of the discharge and records of the contract negotiations.

4. Accounts, invoices, sales receipts or other records documenting actual eligible costs incurred because of the discharge.

5. The written approval of the department of natural resources or the department of safety and professional services under par. (c) 4.

6. Other records and statements that the department determines to be necessary to complete the application.

(g) *Emergency situations.* Notwithstanding pars. (a) 3. and (c) 1. and 2., an owner or operator or the person may submit a claim for an award under sub. (4) after notifying the department under par. (a) 3., without completing an investigation under par. (c) 1. and without preparing a remedial action plan under par. (c) 2. if an emergency existed which made the investigation under par. (c) 1. and the remedial action plan under par. (c) 2. inappropriate and, before conducting remedial action, the owner or operator or person notified the department of safety and professional services and the department of natural resources of the emergency and the department of safety and professional services and the department of natural resources authorized emergency action.

(h) *Initial eligibility review.* When an owner or operator or the person notifies the department under par. (a) 3., the department shall provide the owner or operator or the person with information on the program under this section and the department's estimate of the eligibility of the owner or operator or of the person for an award under this section.

(4) AWARDS FOR PETROLEUM PRODUCT INVESTIGATION, REMEDIAL ACTION PLANNING AND REMEDIAL ACTION ACTIVITIES. (a) *Awards.* 1. If the department finds that the claimant meets all of the requirements of this section and any rules promulgated under this section, the department shall issue an award to reimburse a claimant for eligible costs incurred because of a petroleum products discharge from a petroleum product storage system or home oil tank system.

2. The department may not issue an award before all eligible costs have been incurred and written approval is received under sub. (3) (c) 4., except as follows:

a. The department may issue an award before all eligible costs have been incurred and written approval is received under sub. (3) (c) 4. if the department determines that the delay in issuing the award would cause a financial hardship to the owner or operator or the person.

b. The department shall issue an award if the owner or operator or the person has incurred at least $50,000 in unreimbursed eligible costs and has not submitted a claim during the preceding 12 months.

5. The department shall review claims related to home oil tank discharges as soon as the claims are received. The department

shall issue an award for an eligible home oil tank discharge as soon as it completes the review of the claim.

5m. The department shall review claims related to discharges from farm tanks described in par. (ei) as soon as the claims are received. The department shall issue an award for an eligible discharge from a farm tank described in par. (ei) as soon as it completes the review of the claim.

6. In any fiscal year, the department may not award more than 5% of the amount appropriated under s. 20.165 (2) (v) as awards for petroleum product storage systems described in par. (ei).

7. In any fiscal year, the department may not award more than 5% of the amount appropriated under s. 20.165 (2) (v) as awards for petroleum product storage systems that are owned by school districts and that are used for storing heating oil for consumptive use on the premises where stored.

8. If an owner or operator or person owning a home oil tank system is conducting approved remedial action activities that were necessitated by a petroleum product discharge from a petroleum product storage system or home oil tank system and those remedial action activities have not remedied the discharge, then the department may approve financial assistance under this section for enhancements to the approved remedial action activities or different remedial action activities that the department determines will remedy the discharge without increasing the overall costs of remedying the discharge. The total amount of an original award under this section plus additional financial assistance provided under this subdivision is subject to the limits in pars. (d) to (e), (ei) and (em) on amounts of awards.

(b) *Eligible costs.* Except as provided in par. (c) or (cc), eligible costs for an award under par. (a) include actual costs or, if the department establishes a usual and customary cost under par. (cm) for an item, usual and customary costs for the following items:

1. Testing to determine tightness of tanks and lines if the method used is approved by the department.

2. Removal of petroleum products from surface waters, groundwater or soil.

3. Investigation and assessment of contamination caused by a petroleum product storage system or a home oil tank system.

4. Preparation of remedial action plans.

5. Removal of contaminated soils.

6. Soil treatment and disposal.

7. Environmental monitoring.

8. Laboratory services.

9. Maintenance of equipment for petroleum product recovery or remedial action activities.

10. Restoration or replacement of a private or public potable water system.

11. Restoration of environmental quality.

12. Contractor costs for remedial action activities.

13. Inspection and supervision.

14. Other costs identified by the department as necessary for proper investigation, remedial action planning and remedial action activities to meet the requirements of s. 292.11.

15. For an owner or operator only, compensation to 3rd parties for bodily injury and property damage caused by a petroleum products discharge from an underground petroleum product storage tank system.

Cross−reference: See also s. Ins 6.35, Wis. adm. code.

(c) *Exclusions from eligible costs.* Eligible costs for an award under par. (a) do not include the following, regardless of whether a competitive bidding process is used:

1. Costs incurred before August 1, 1987.

2. Costs of retrofitting or replacing a petroleum product storage system or home oil tank system.

3. Other costs that the department determines to be associated with, but not integral to, the eligible costs incurred because of a petroleum products discharge from a petroleum product storage system or home oil tank system.

4. Costs, other than costs for compensating 3rd parties for bodily injury and property damage, which the department determines to be unreasonable or unnecessary to carry out the remedial action activities as specified in the remedial action plan.

5. Costs for investigations or remedial action activities conducted outside this state.

6. Costs for remedial action activities funded under 42 USC 6991, unless the owner or operator or the person repays the funds provided under 42 USC 6991.

7. Costs of emptying, cleaning and disposing of the tank and other costs normally associated with closing or removing any petroleum product storage system or home oil tank system unless those costs were incurred before November 1, 1991, or unless the claimant had signed a contract for services for activities required under sub. (3) (c) or a loan agreement, note or commitment letter for a loan for the purpose of conducting activities required under sub. (3) (c) before November 1, 1991.

8. Interest costs incurred by an applicant that exceed interest at the following rate:

a. If the applicant has gross revenues of not more than $25,000,000 in the most recent tax year before the applicant submits a claim, 1% under the prime rate.

d. If the applicant has gross revenues of more than $25,000,000 in the most recent tax year before the applicant submits a claim, 4%.

9. Loan origination fees incurred by an applicant that exceed 2% of the principal amount of the loan.

10. Fees charged under sub. (2) (L) or s. 292.55 (2).

11. Costs that exceed the amount necessary to comply with sub. (3) (c) 3. and with enforcement standards using the least costly method.

12. Costs that are incurred after the date of a notice under sub. (3) (cw) 1. or 2. and that exceed the amount necessary to comply with sub. (3) (c) 3. and with enforcement standards using the method specified in the notice.

(cc) *Ineligibility for interest reimbursement.* 1. a. Except as provided in subd. 1m. or 2., if an applicant's final claim is submitted more than 120 days after receiving written notification that no further remedial action is necessary with respect to the discharge, interest costs incurred by the applicant after the 60th day after receiving that notification are not eligible costs.

c. Except as provided in subd. 2., if an applicant does not complete the investigation of the petroleum product discharge by the first day of the 61st month after the month in which the applicant notified the department under sub. (3) (a) 3. or October 1, 2003, whichever is later, interest costs incurred by the applicant after the later of those days are not eligible costs.

1m. If an applicant received written notification that no further remedial action is necessary with respect to a discharge before September 1, 2001, and the applicant's final claim is submitted more than 120 days after September 1, 2001, interest costs incurred by the applicant after the 120th day after September 1, 2001, are not eligible costs.

2. Subdivision 1. does not apply to any of the following:

a. An applicant that is a local unit of government, if federal or state financial assistance other than under this section, has been provided for that expansion or redevelopment.

b. An applicant that is engaged in the expansion or redevelopment of brownfields, as defined in s. 238.13 (1) (a), if federal or state financial assistance other than under this section, has been provided for that expansion or redevelopment.

(ce) *Eligible cost; service providers.* The department may promulgate rules under which the department selects service providers to provide investigation or remedial action services in specified areas. The rules may provide that the costs of a service for which the department has selected a service provider in an area are

not eligible costs under par. (b), or that eligible costs are limited to the amount that the selected service provider would have charged, if an owner or operator of a petroleum product storage system located in that area, or a person owning a home oil tank system located in that area, uses a service provider other than the service provider selected by the department to perform the services. If the department selects service providers under this paragraph, it shall regularly update the list of service providers that it selects.

(cm) *Usual and customary costs.* The department shall establish a schedule of usual and customary costs for items under par. (b) that are commonly associated with claims under this section. The department shall use that schedule to determine the amount of eligible costs for an occurrence for which a competitive bidding process is not used, except in circumstances under which higher costs must be incurred to comply with sub. (3) (c) 3. and with enforcement standards. For an occurrence for which a competitive bidding process is used, the department may not use the schedule. In the schedule, the department shall specify the maximum number of reimbursable hours for particular tasks and the maximum reimbursable hourly rates for those tasks. The department shall use methods of data collection and analysis that enable the schedule to be revised to reflect changes in actual costs.

(d) *Awards for claims; underground systems.* 1. The department shall issue an award under this paragraph for a claim filed after July 31, 1987, for eligible costs, under par. (b), incurred on or after August 1, 1987, and before December 22, 2001, by the owner or operator of an underground petroleum product storage tank system and for eligible costs, under par. (b), incurred on or after December 22, 2001, by the owner or operator of an underground petroleum product storage tank system if the petroleum product discharge on which the claim is based is confirmed and activities under sub. (3) (c) or (g) are begun before December 22, 2001.

2. The department shall issue the award under this paragraph without regard to fault in an amount equal to the amount of the eligible costs that exceeds the deductible amount under par. (dg). An award issued under this paragraph may not exceed the following for each occurrence:

a. For an owner or operator of an underground petroleum product storage tank system that is located at a facility at which petroleum is stored for resale or an owner or operator of an underground petroleum product storage tank system that handles an annual average of more than 10,000 gallons of petroleum per month, $1,000,000.

b. For an owner or operator other than an owner or operator under subd. 2. a., c. or d., $500,000.

c. For an owner or operator of a petroleum product storage system described in par. (ei), $100,000.

d. For a school district or a technical college district with respect to a discharge from a petroleum product storage system that is used for storing heating oil for consumptive use on the premises where stored, $190,000.

3. The department may not issue awards under this paragraph to an owner or operator for eligible costs incurred in one program year that total more than the following:

a. For an owner or operator of 100 or fewer underground petroleum product storage tank systems, $1,000,000.

b. For an owner or operator of more than 100 underground petroleum product storage tank systems, $2,000,000.

4. The department shall recalculate all awards issued under this paragraph, or under s. 101.143 (4) (e), 1987 stats., before May 3, 1990, according to all of the requirements of those provisions at the time that the award was made, except that the award shall be based on 100% of the eligible costs and except that the award shall be subject to the maximum amounts under subds. 2. and 3. The department shall issue an award under this subdivision for the difference between the award as recalculated under this subdivision and the award issued before May 3, 1990.

(dg) *Deductible; underground systems.* The amount of the deductible for an award under par. (d) is as follows for each occurrence:

2. For a school district or a technical college district with respect to a discharge from an underground petroleum product storage tank system that is used for storing heating oil for consumptive use on the premises, 25% of eligible costs.

4. For an owner or operator other than an owner or operator described in subd. 2., $2,500, plus 5% of eligible costs.

(di) *Rules concerning deductible for underground systems.* The department may promulgate rules describing a class of owners and operators of underground petroleum product storage tank systems otherwise subject to par. (dg) for whom the deductible is based on financial hardship.

(dm) *Awards for aboveground systems for a specified period.* 1. The department shall issue an award under this paragraph for a claim for eligible costs, under par. (b), incurred on or after August 1, 1987, and before December 22, 2001, by the owner or operator of a petroleum product storage system that is not an underground petroleum product storage tank system and for eligible costs, under par. (b), incurred on or after December 22, 2001, by the owner or operator of a petroleum product storage system that is not an underground petroleum product storage tank system if the petroleum product discharge on which the claim is based is confirmed and activities under sub. (3) (c) or (g) are begun before December 22, 2001.

2. The department shall issue the award under this paragraph without regard to fault in an amount equal to the amount of the eligible costs that exceeds the following deductible:

a. For the owner or operator of a terminal, $15,000 plus 10% of the amount by which eligible costs exceed $200,000.

b. For a school district or a technical college district with respect to a discharge from a petroleum product storage system that is used for storing heating oil for consumptive use on the premises where stored, 25% of eligible costs.

c. For the owner or operator of a petroleum product storage system that is described in par. (ei), $2,500 plus 5% of eligible costs per occurrence.

d. For an owner or operator other than an owner or operator under subd. 2. a., b. or c., $15,000 plus 2% of the amount by which eligible costs exceed $200,000.

3. An award issued under this paragraph may not exceed the following for each occurrence:

a. For an owner or operator of a petroleum product storage system that is located at a facility at which petroleum is stored for resale or an owner or operator of a petroleum product storage system that handles an annual average of more than 10,000 gallons of petroleum per month, $1,000,000.

b. For a school district or a technical college district with respect to a discharge from a petroleum product storage system that is used for storing heating oil for consumptive use on the premises where stored, $190,000.

c. For an owner or operator of a petroleum product storage system described in par. (ei), $100,000.

d. For an owner or operator other than an owner or operator under subd. 3. a., b. or c., $500,000.

4. The department may not issue awards under this paragraph to an owner or operator for eligible costs incurred in one program year that total more than the following:

a. For an owner or operator of 100 or fewer petroleum product storage systems that are not underground petroleum product storage tank systems, $1,000,000.

b. For an owner or operator of more than 100 petroleum product storage systems that are not underground petroleum product storage tank systems, $2,000,000.

5. The department shall recalculate all awards issued under par. (e) before July 29, 1995, for eligible costs incurred before May 7, 1994, by the owner or operator of a petroleum product stor-

age system that is not an underground petroleum product storage tank system according to the eligibility requirements at the time that the awards were made except that the awards shall be subject to the deductible amounts under subd. 2. and the maximum amounts under subds. 3. and 4. The department shall issue an award under this subdivision for the difference between the award as recalculated under this subdivision and the award issued before July 29, 1995.

(dr) *Deductible in certain cases.* If a person is the owner or operator of an underground petroleum product storage tank system and a petroleum product storage system that is not an underground petroleum product storage tank system, both of which have discharged resulting in one occurrence, and if the person is eligible for an award under pars. (d) and (dm), the department shall calculate the award using the deductible determined under par. (d) 2. if the predominant method of petroleum product storage at the site, measured in gallons, is underground petroleum product storage tank systems or using the deductible determined under par. (dm) 2. if the predominant method of petroleum product storage at the site is not underground petroleum product storage tank systems.

(e) *Awards for certain owners or operators.* 1. The department shall issue an award under this paragraph for a claim for any of the following:

b. Eligible costs, under par. (b), incurred on or after December 22, 2001, by the owner or operator of a petroleum product storage system that is not an underground petroleum product storage system if those costs are not reimbursable under par. (dm) 1.

c. Eligible costs, under par. (b), incurred on or after December 22, 2001, by the owner or operator of an underground petroleum product storage tank system if those costs are not reimbursable under par. (d) 1.

2. The department shall issue the award under this paragraph without regard to fault in an amount equal to the amount of the eligible costs that exceeds a deductible amount of $10,000, except that the deductible amount for a petroleum product storage system that is owned by a school district or a technical college district and that is used for storing heating oil for consumptive use on the premises where stored is 25% of eligible costs and except that the deductible for a petroleum product storage system that is described in par. (ei) is $2,500 plus 5% of the eligible costs, but not more than $7,500 per occurrence without regard to when the eligible costs are incurred.

2m. An award issued under this paragraph may not exceed $190,000 for each occurrence, except that an award under this paragraph to the owner or operator of a petroleum product storage system described in par. (ei) may not exceed $100,000 per occurrence.

3. The department may not issue awards under this paragraph to an owner or operator for eligible costs incurred in one program year that total more than $190,000.

(ee) *Waiver of deductible.* Notwithstanding par. (d) 2., (dm) 2. or (e) 2., the department may waive the requirement that an owner or operator pay the deductible amount if the department determines that the owner or operator is unable to pay. If the department waives the requirement that an owner or operator pay the deductible, the department shall record a statement of lien with the register of deeds of the county in which the petroleum product storage system is located. If the department records the statement of lien, the department has a lien on the property on which the petroleum product storage system is located in the amount of the deductible that was waived. The property remains subject to the lien until that amount is paid in full.

(ei) *Awards for certain farm tanks.* A farm tank of 1,100 gallons or less capacity storing petroleum products that are not for resale, together with any on−site integral piping or dispensing system, is a petroleum product storage system for the purposes of this section, if all of the following apply:

1m. One of the following conditions is satisfied:

a. The owner or operator of the farm tank owns a parcel of 35 or more acres of contiguous land, on which the farm tank is located, which is devoted primarily to agricultural use, as defined in s. 91.01 (2), including land designated by the department of natural resources as part of the ice age trail under s. 23.17, which during the year preceding submission of a first claim under sub. (3) produced gross farm profits, as defined in s. 71.58 (4), of not less than $6,000 or which, during the 3 years preceding that submission produced gross farm profits, as defined in s. 71.58 (4), of not less than $18,000, or a parcel of 35 or more acres, on which the farm tank is located, of which at least 35 acres, during part or all of the year preceding that submission, were enrolled in the conservation reserve program under 16 USC 3831 to 3836.

b. The claim is submitted by a person who, at the time that the notification was made under sub. (3) (a) 3., was the owner of the farm tank and owned a parcel of 35 or more acres of contiguous land, on which the farm tank is or was located, which was devoted primarily to agricultural use, as defined in s. 91.01 (2), including land designated by the department of natural resources as part of the ice age trail under s. 23.17, which during the year preceding that notification produced gross farm profits, as defined in s. 71.58 (4), of not less than $6,000 or which, during the 3 years preceding that notification, produced gross farm profits, as defined in s. 71.58 (4), of not less than $18,000, or a parcel of 35 or more acres, on which the farm tank is located, of which at least 35 acres, during part or all of the year preceding that notification, were enrolled in the conservation reserve program under 16 USC 3831 to 3836.

2m. The owner or operator of the farm tank has received a letter or notice from the department of safety and professional services or department of natural resources indicating that the owner or operator must conduct a site investigation or remedial action because of a discharge from the farm tank or an order to conduct such an investigation or remedial action.

(em) *Awards for claims for home oil tank system discharges.* 1. The department shall issue an award for a claim filed after May 17, 1988, for eligible costs, under par. (b), incurred on or after August 1, 1987, by a person who owns a home oil tank system.

2. The department shall issue the award under this paragraph without regard to fault for each home oil tank system in an amount equal to 75% of the amount of the eligible costs, except that, if the home oil tank system is owned by a nonprofit organization that provides housing assistance to families with incomes below 80% of the median family income, as determined annually by the U.S. department of housing and urban development for each county in the state, of the county in which the home oil tank system is located, then the award shall equal 100% of the amount of the eligible costs. The department shall recalculate any award made to such a nonprofit organization under this paragraph before May 7, 1994, based on 100% of eligible costs and shall issue an award for the difference between the award as recalculated and the award issued before May 7, 1994.

3. An award issued under this paragraph may not exceed $7,500.

(es) *Awards for claims for investigations.* 1. The department shall issue an award for a claim filed after August 9, 1989, for eligible costs, under par. (b), incurred on or after August 1, 1987, by an owner or operator or a person owning a home oil tank system in investigating the existence of a discharge or investigating the presence of petroleum products in soil or groundwater if the investigation is undertaken at the written direction of the department of safety and professional services or the department of natural resources and no discharge or contamination is found.

2. The department shall issue the award under this paragraph without regard to fault for each petroleum product storage system or home oil tank system in an amount equal to the eligible costs incurred.

3. If an award has been made under this paragraph and a discharge or contamination is found in a subsequent investigation,

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the department shall reduce the award under par. (d) or (e) by the amount paid under this paragraph.

(f) *Contributory negligence.* Contributory negligence shall not be a bar to submitting a claim under this section and no award under this section may be diminished as a result of negligence attributable to the claimant or any person who is entitled to submit a claim.

(g) *Denial of claims, limits on awards.* The department shall deny a claim under par. (a) if any of the following applies:

1. The claim is not within the scope of this section.

2. The claimant submits a fraudulent claim.

3. The claimant has been grossly negligent in the maintenance of the petroleum product storage system or home oil tank system.

4. The claimant intentionally damaged the petroleum product storage system or home oil tank system.

5. The claimant falsified storage records.

6. The claimant willfully failed to comply with laws or rules of this state concerning the storage of petroleum products.

7. The petroleum product discharge was caused by a person who provided services or products to the claimant or to a prior owner or operator of the petroleum product storage system or home oil tank system.

(h) *Reductions of awards.* 1. Notwithstanding pars. (d) 2. (intro.), (dm) 2. (intro.), (e) 2. and (em) 2., if an owner or operator or person owning a home oil tank system prepares and submits a claim that includes ineligible costs that are identified under subd. 2., the department shall calculate the award by determining the amount that the award would otherwise be under par. (d), (dm), (e) or (em) based only on the eligible costs and then by reducing that amount by 50% of the amount of the ineligible costs identified under subd. 2. that are included in the claim.

1m. If a consultant prepares a claim that is submitted by a claimant and that includes ineligible costs that are identified under subd. 2., the consultant shall pay to the department an amount equal to 50% of the ineligible costs identified under subd. 2. that are included in the claim. A consultant may not charge the owner or operator for any amount that the consultant is required to pay under this subdivision. Payments made under this subdivision shall be deposited in the petroleum inspection fund.

2. The department shall promulgate a rule identifying the ineligible costs to which subds. 1. and 1m. apply.

(4e) PAYMENTS TO LENDERS. (a) Notwithstanding sub. (4) (g), when the department denies a claim under sub. (3) because of fraud, gross negligence or willful misconduct on the part of an owner or operator, the department shall pay, to a person who loaned money to the owner or operator for the purpose of conducting activities under sub. (3) (c), an amount equal to the amount that would have been paid under sub. (4) for otherwise eligible expenses actually incurred, but not more than the amount specified under par. (b), if all of the following conditions are satisfied:

1. The lender assigns to the department an interest in the collateral pledged by the owner or operator for the sole purpose of securing the loan that was made to finance the activities under sub. (3) (c). If the amount of the payment under this subsection is less than the amount of the loan, the lender shall assign to the department that fraction of the lender's interest in the collateral that equals the ratio of the amount of the payment under this subsection to the amount of the loan.

2. For a loan that is made after July 29, 1995, before the lender made any disbursement of the loan the department provided a letter indicating its preliminary determination that the owner or operator was eligible for an award under sub. (4).

3. For a loan that is made after July 29, 1995, claims for payment under sub. (3) are made after completion of the site investigation and remedial action plan, after completion of the remedial action and annually for any continuing maintenance, monitoring and operation costs.

(b) Payment under this section may not exceed the amount of the loan. If the loan is made after July 29, 1995, payment under this section may not exceed the amount of the loan disbursements made before the department notifies the lender that the claim may be denied.

(c) Assignment of an interest in collateral to the department under par. (a) 1. does not deprive a lender of its right to any cause of action arising out of the loan documents.

(d) Any payments made by the department under this subsection constitute a lien upon the property on which the remedial action is conducted if the department records the lien with the register of deeds in the county in which the property is located.

(4m) ASSIGNMENT OF AWARDS. The filing by a claimant with the department of an assignment of an award under sub. (4) to a person who loans money to the claimant for the purpose of conducting activities required under sub. (3) (c) creates and perfects a lien in favor of the assignee in the proceeds of the award. The lien secures all principal, interest, fees, costs and expenses of the assignee related to the loan. The lien under this subsection has priority over any previously existing or subsequently created lien, assignment, security interest or other interest in the proceeds of the award.

(5) RECOVERY OF AWARDS. (a) *Sale of remedial equipment or supplies.* If a person who received an award under this section sells equipment or supplies that were eligible costs for which the award was issued, the person shall pay the proceeds of the sale to the department. The proceeds shall be paid into the petroleum inspection fund.

(am) *Right of action.* A right of action under this section shall accrue to the state against an owner, operator or other person only if one of the following applies:

1. The owner, operator or other person submits a fraudulent claim or does not meet the requirements under this section and an award is issued under this section to the owner, operator or other person for eligible costs under this section or payment is made to a lender under sub. (4e).

2. A person fails to make a payment required under par. (a).

(b) *Action to recover awards.* The attorney general shall take action as is appropriate to recover moneys to which the state is entitled under par. (am). The department shall request that the attorney general take action if the department discovers a fraudulent claim after an award is issued.

(c) *Disposition of funds.* The net proceeds of a recovery under par. (b) shall be paid into the petroleum inspection fund.

(6) REQUIREMENT FOR PROOF OF FINANCIAL RESPONSIBILITY. (a) An owner or operator covered under sub. (4) (d) shall provide to the department proof of financial responsibility for the first $5,000 of eligible costs incurred because of a petroleum products discharge. The proof of financial responsibility shall be in a form determined by the department to provide assurance equal to that provided under 40 CFR 280.97 (b) (1) 2. b. that may include a bond, an irrevocable letter of credit, a deposit or an escrow account made payable to or established for the benefit of the department.

(b) The department shall determine whether proof of financial responsibility submitted under par. (a) satisfies par. (a).

(6s) ARBITRATION. Upon the request of a person who files an appeal of a decision of the department under this section, if the amount at issue is $100,000 or less, the appeal shall be heard by one or more individuals designated by the department to serve as arbitrator under rules promulgated for this purpose by the department. In such an arbitration, the arbitrator shall render a decision at the conclusion of the hearing, or within 5 business days after the conclusion of the hearing if the arbitrator determines that additional time is needed to review materials submitted during the hearing, affirming, modifying or rejecting the decision of the department. The arbitrator shall promptly file his or her decision with the department. The decision of the arbitrator is final and

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shall stand as the decision of the department. An arbitrator's decision may not be cited as precedent in any other proceeding before the department or before any court. A decision under this subsection is subject to review under ss. 227.53 to 227.57 only on the ground that the decision was procured by corruption, fraud or undue means. The record of a proceeding under this subsection shall be transcribed as provided in s. 227.44 (8).

(7) LIABILITY. (a) No common law liability, and no statutory liability which is provided in a statute other than this section, for damages resulting from a petroleum product storage system or home oil tank system is affected by this section. Except as provided in par. (am), the authority, power and remedies provided in this section are in addition to any authority, power or remedy provided in any statute other than this section or provided at common law.

(am) An award under this section is the exclusive method for the recovery of the amount of eligible costs equal to the amount of the award that may be issued under this section.

(b) If a person conducts a remedial action activity for a discharge at a petroleum product storage system or home oil tank system site, whether or not the person files a claim under this section, the claim and remedial action activity conducted are not evidence of liability or an admission of liability for any potential or actual environmental pollution.

(7m) INTERVENTION IN 3RD−PARTY ACTIONS. An owner or operator of an underground petroleum product storage tank system shall notify the department of any action by a 3rd party against the owner or operator for compensation for bodily injury or property damage caused by a petroleum products discharge from the underground petroleum product storage tank system if the owner or operator may be eligible for an award under this section. The department may intervene in any action by a 3rd party against an owner or operator for compensation for bodily injury or property damage caused by a petroleum products discharge from an underground petroleum product storage tank system if the owner or operator may be eligible for an award under this section for compensation awarded in the action.

(9) RECORDS. (a) The department shall promulgate rules prescribing requirements for the records to be maintained by an owner or operator, person owning a home oil tank system or service provider and the periods for which they must retain those records.

(b) The department may inspect any document in the possession of an owner or operator, person owning a home oil tank system or service provider or any other person if the document is relevant to a claim for reimbursement under this section.

(9m) REVENUE OBLIGATIONS. (a) For purposes of subch. II of ch. 18, the petroleum storage remedial action program is a special fund program, and the petroleum inspection fund is a special fund. The petroleum inspection fund is a segregated fund created by the imposition of fees, penalties or excise taxes. The legislature finds and determines that a nexus exists between the petroleum storage remedial action program and the petroleum inspection fund in that fees imposed on users of petroleum are used to remedy environmental damage caused by petroleum storage.

(b) Deposits, appropriations or transfers to the petroleum inspection fund for the purposes of the petroleum storage remedial action program may be funded with the proceeds of revenue obligations issued subject to and in accordance with subch. II of ch. 18 and, if designated a higher education bond, in accordance with subch. IV of ch. 18.

(e) The department shall have all other powers necessary and convenient to distribute the special fund revenues and to distribute the proceeds of the revenue obligations in accordance with subch. II of ch. 18 and, if designated a higher education bond, in accordance with subch. IV of ch. 18, and to make payments under an agreement or ancillary arrangement entered into under s. 18.55 (6) with respect to revenue obligations issued under this subsection.

(f) The department may enter into agreements with the federal government or its agencies, political subdivisions of this state, individuals or private entities to insure or in any other manner provide additional security for the revenue obligations issued under this subsection.

(g) 1. Subject to the limitation under subd. 2., the building commission shall contract revenue obligations under this subsection, as soon as practicable after October 29, 1999, in the maximum amount that the building commission believes can be fully paid on a timely basis from moneys received or anticipated to be received.

2. Revenue obligations issued under this subsection may not exceed $386,924,000 in principal amount, excluding any obligations that have been defeased under a cash optimization program administered by the building commission. In addition to this limit on principal amount, the building commission may contract revenue obligations under this subsection as the building commission determines is desirable to fund or refund outstanding revenue obligations, to pay issuance or administrative expenses, to make deposits to reserve funds, to pay accrued or capitalized interest, and to make payments under an agreement or ancillary arrangement entered into under s. 18.55 (6) with respect to revenue obligations issued under this subsection.

(h) Unless otherwise expressly provided in resolutions authorizing the issuance of revenue obligations or in other agreements with the owners of revenue obligations, each issue of revenue obligations under this subsection shall be on a parity with every other revenue obligation issued under this subsection and in accordance with subch. II of ch. 18 and, if designated a higher education bond, in accordance with subch. IV of ch. 18.

(i) Recognizing its moral obligation to do so, the legislature expresses its expectation and aspiration that, if the legislature reduces the rate of the petroleum inspection fee and if the funds in the petroleum inspection fund are insufficient to pay the principal and interest on the revenue obligations issued under subch. II or IV of ch. 18 pursuant to this subsection, the legislature shall make an appropriation from the general fund sufficient to pay the principal and interest on the obligations.

(10) PENALTIES. (a) Any owner or operator, person owning a home oil tank system or service provider who fails to maintain a record as required by rules promulgated under sub. (9) (a) may be required to forfeit not more than $5,000. Each day of continued violation constitutes a separate offense.

(b) Any owner or operator, person owning a home oil tank system or service provider who intentionally destroys a document that is relevant to a claim for reimbursement under this section is guilty of a Class G felony.

History: 1987 a. 399; 1989 a. 31, 254, 255; 1991 a. 39, 82, 269; 1993 a. 16, 301, 416, 491; 1995 a. 27 ss. 3665 to 3683m, 9116 (5); 1995 a. 227, 247, 378, 417; 1997 a. 27, 35, 237, 252, 283; 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33; 2005 a. 75; 2007 a. 20, 145; 2009 a. 28, 240; 2011 a. 32.

Cross−reference: See also chs. SPS 346 and 347, Wis. adm. code.

That the commingling of contaminants from separate tanks was below DNR clean−up levels did not eliminate the fact that commingling can still occur resulting in one occurrence under sub. (1) (cs). Mews v. Department of Commerce, 2004 WI App 24, 269 Wis. 2d 641, 676 N.W.2d 160, 03−0055.

The meeting described in sub. (2m) is intended to promote interagency coordination and is directory in nature rather than mandatory. Interdepartmental coordination may occur outside of meetings. However, the commerce department is not absolved of its responsibility to hold the interdepartmental meeting with the site owner required under sub. (2m). Mews v. Department of Commerce, 2004 WI App 24, 269 Wis. 2d 641, 676 N.W.2d 160, 03−0055.

The proceeds of general obligation bonds may be used to fund awards under this section. 81 Atty. Gen. 114.

101.1435 Removal of abandoned underground petroleum storage tanks. (1) In this section:

(a) "Backfill" does not include landscaping or replacing sidewalk, asphalt, fence, or sod or other vegetation.

(b) "Underground petroleum product storage tank system" has the meaning given in s. 101.143 (1) (i).

(2) The department may contract with a person registered or certified under s. 101.09 (3) to empty, clean, remove, and dispose

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of an underground petroleum product storage tank system; to assess the site on which the underground petroleum product storage tank system is located; and to backfill the excavation if all of the following apply:

(a) The department determines that the underground petroleum product storage tank system is abandoned.

(b) Using the method that the department uses to determine inability to pay under s. 101.143 (4) (ee), the department determines that the owner of the underground petroleum product storage tank system is unable to pay to empty, clean, remove, and dispose of the underground petroleum product storage tank system; to assess the site on which the underground petroleum product storage tank system is located; and to backfill the excavation.

(3) If the department incurs costs under sub. (2), the department shall record a statement of lien with the register of deeds of the county in which the underground petroleum product storage tank system was located. Upon recording the statement of lien, the department has a lien on the property on which the underground petroleum product storage tank system was located in the amount of the costs incurred. The property remains subject to the lien until that amount is paid in full to the department. The department shall deposit payments received under this subsection into the petroleum inspection fund.

History: 2009 a. 28.

101.144 Petroleum storage tank discharges. (1) In this section:

(a) "Discharge" has the meaning given in s. 292.01 (3).

(ae) "Enforcement standard" has the meaning given in s. 160.01 (2).

(am) "Hazardous substance" has the meaning given in s. 299.01 (6).

(aq) Except as provided under sub. (3g), "high−risk site" means the site of a discharge of a petroleum product from a petroleum storage tank if at least one of the following applies:

1. Repeated tests show that the discharge has resulted in a concentration of contaminants in a well used to provide water for human consumption that exceeds a preventive action limit, as defined in s. 160.01 (6).

2. Petroleum product that is not in dissolved phase is present with a thickness of 0.01 feet or more, as shown by repeated measurements.

3. An enforcement standard is exceeded in groundwater within 1,000 feet of a well operated by a public utility, as defined in s. 196.01 (5), or within 100 feet of any other well used to provide water for human consumption.

4. An enforcement standard is exceeded in fractured bedrock.

(b) "Petroleum product" has the meaning given in s. 101.143 (1) (f).

(bm) "Petroleum storage tank" means a storage tank that is used to store petroleum products together with any on−site integral piping or dispensing system. "Petroleum storage tank" does not include a pipeline facility.

(c) "Remedial action" means action that is taken in response to a discharge and that is necessary to restore the environment to the extent practicable and to minimize the harmful effects of the discharge to the air, lands and waters of this state.

(d) "Responsible person" means a person who owns or operates a petroleum storage tank, a person who causes a discharge from a petroleum storage tank or a person on whose property a petroleum storage tank is located.

(2) (a) The department shall administer a program under which responsible persons investigate, and take remedial action in response to, those discharges of petroleum products from petroleum storage tanks that are covered under par. (b). The department may issue an order requiring a responsible person to take remedial action in response to a discharge of a petroleum product from a petroleum storage tank if the discharge is covered under par. (b). In administering this section, the department shall follow rules promulgated by the department of natural resources for the cleanup of discharges of hazardous substances.

(b) The program under this section covers a discharge of a petroleum product from a petroleum storage tank if all of the following apply:

1. The site of the discharge is classified, as provided under sub. (3m) (a) 3., as medium risk or low risk, based on the threat that the discharge poses to public health, safety and welfare and to the environment.

2. The site of the discharge is not contaminated by a hazardous substance other than the petroleum product, including any additive, that was discharged from the petroleum storage tank.

(3) The department of natural resources may take action under s. 292.11 (7) (a) or may issue an order under s. 292.11 (7) (c) in response to a discharge that is covered under sub. (2) (b) only if one or more of the following apply:

(a) The action or order is necessary in an emergency to prevent or mitigate an imminent hazard to public health, safety or welfare or to the environment.

(b) The department of safety and professional services requests the department of natural resources to take the action or issue the order.

(c) The secretary of natural resources approves the action or order in advance after notice to the secretary of safety and professional services.

(d) The department of natural resources takes action under s. 292.11 (7) (a) after the responsible person fails to comply with an order that was issued under s. 292.11 (7) (c) in compliance with this subsection.

(e) The department of natural resources takes the action under s. 292.11 (7) (a) because the identity of the responsible person is unknown.

(3g) (a) If, on December 1, 1999, more than 35% of sites classified under this section, excluding sites that are contaminated by a hazardous substance other than a petroleum product or an additive to a petroleum product, are classified as high−risk sites, the department of safety and professional services and the department of natural resources shall attempt to reach an agreement that specifies standards for determining whether the site of a discharge of a petroleum product from a petroleum storage tank is classified as high risk. The standards shall be designed to classify no more than 35% of those sites as high−risk sites and may not classify all sites at which an enforcement standard is exceeded as high−risk sites. If the department of safety and professional services and the department of natural resources are unable to reach an agreement, they shall refer the matters on which they are unable to agree to the secretary of administration for resolution. The secretary of administration shall resolve any matters on which the departments disagree in a manner that is consistent with this paragraph. The department of safety and professional services shall promulgate rules incorporating any agreement between the department of safety and professional services and the department of natural resources under this paragraph and any resolution of disagreements between the departments by the secretary of administration under this paragraph.

(b) If, 6 months after rules under par. (a) are in effect, more than 35% of the sites classified under this section, excluding sites that are contaminated by a hazardous substance other than a petroleum product or an additive to a petroleum product, are classified as high−risk sites, the department of safety and professional services shall revise the rules using the procedure for promulgating the rules in par. (a).

(3m) (a) The department of safety and professional services and the department of natural resources shall enter into a memorandum of understanding that does all of the following:

1. Establishes the respective functions of the 2 departments in the administration of this section and s. 101.143.

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2. Establishes procedures to ensure that remedial actions taken under this section are consistent with actions taken under s. 292.11 (7).

3. Establishes standards for determining whether the site of a discharge of a petroleum product from a petroleum storage tank is classified as medium risk or low risk and establishes procedures and schedules for classifying sites of discharges of petroleum products from petroleum storage tanks.

(b) The department of safety and professional services and the department of natural resources shall submit a memorandum of understanding under this subsection to the secretary of administration for review. A memorandum of understanding under this subsection does not take effect until it is approved by the secretary of administration.

(4) Any person who violates a rule promulgated or an order issued under this section shall forfeit not less than $10 nor more than $5,000 for each violation. Each day of continued violation is a separate offense.

History: 1995 a. 27 ss. 3685 and 9116 (5); 1995 a. 227; 1999 a. 9; 2011 a. 32.
Cross−reference: See also chs. SPS 346 and 347, Wis. adm. code.

101.145 Smoke detectors. (1) DEFINITIONS. As used in this section:

(a) "Residential building" means any public building which is used for sleeping or lodging purposes and includes any apartment house, rooming house, hotel, children's home, community−based residential facility or dormitory but does not include a hospital or nursing home.

(b) "Sleeping area" means the area of the unit in which the bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.

(c) "Smoke detector" means a device which detects particles or products of combustion other than heat.

(d) "Unit" means a residential building or that part of a residential building which is intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(2) APPROVAL. A smoke detector required under this section shall bear an Underwriters Laboratories, Inc., listing mark or similar mark from an independent product safety certification organization.

(3) INSTALLATION AND MAINTENANCE. (a) The owner of a residential building shall install any smoke detector required under this section according to the directions and specifications of the manufacturer of the smoke detector.

(b) The owner of a residential building shall maintain any such smoke detector that is located in a common area of that residential building.

(c) The occupant of a unit in a residential building shall maintain any smoke detector in that unit, except that if an occupant who is not an owner, or a state, county, city, village or town officer, agent or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that a smoke detector in the unit is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional.

(4) REQUIREMENT. The owner of a residential building the initial construction of which is commenced before, on or after May 23, 1978, shall install and maintain a functional smoke detector in the basement and at the head of any stairway on each floor level of the building and shall install a functional smoke detector either in each sleeping area of each unit or elsewhere in the unit within 6 feet of each sleeping area and not in a kitchen.

(5) PENALTY. Whoever violates this section shall forfeit to the state not more than $50 for each day of violation.

(6) DEPARTMENT INSPECTION AND ORDERS. The department may inspect all residential buildings, except the interior of private dwellings, as may be necessary to ensure compliance with this section. The department may inspect the interior of private dwellings at the request of the owner or renter as may be necessary to ensure compliance with this section. The department may issue orders as may be necessary to ensure compliance with this section.

History: 1977 c. 388; 1983 a. 189; 1987 a. 376; 1989 a. 109; 2007 a. 205; 2011 a. 146.

101.147 Contractor registration. (1) No person may hold himself or herself out or act as a construction contractor unless that person is registered as a construction contractor by the department.

(2) The department shall promulgate rules to administer and enforce this section.

(3) The department may directly assess a forfeiture by issuing an order against any person who violates this section.

(4) The registration requirement under sub. (1) does not apply to any of the following:

(a) A person who engages in construction on property owned or leased by that person.

(b) A state agency or local governmental unit.

(c) A person who engages in construction in the course of his or her employment by a state agency or local governmental unit.

History: 2009 a. 28.

101.148 Contractor notices. (1) DEFINITIONS. In this section:

(a) "Consumer" means a person who enters into a written or oral contract with a contractor to construct or remodel a dwelling.

(b) "Contractor" means a person who enters into a written or oral contract with a consumer to construct or remodel a dwelling.

(c) "Deliver" means any of the following:

1. Depositing the document or written notice in the U.S. mail or with a commercial delivery service, addressed to the applicable person.

2. Giving the document or written notice personally to the applicable person.

(d) "Dwelling" means any premises or portion of a premises that is used as a home or a place of residence and that part of the lot or site on which the dwelling is situated that is devoted to residential use. "Dwelling" includes other existing structures on the immediate residential premises such as driveways, sidewalks, swimming pools, terraces, patios, fences, porches, garages, and basements.

(e) "Remodel" means to alter or reconstruct a dwelling. "Remodel" does not include maintenance or repair work.

(2) NOTICE REQUIRED AT TIME OF CONTRACTING. (a) Before entering into a written contract to construct or remodel a dwelling, or, if the parties enter into an oral contract, as soon as reasonably possible, but before commencing any work to construct or remodel a dwelling, the contractor shall deliver to the consumer a copy of the brochure prepared under s. 895.07 (13) and a notice worded substantially as follows:

NOTICE CONCERNING CONSTRUCTION DEFECTS

Wisconsin law contains important requirements you must follow before you may file a lawsuit for defective construction against the contractor who constructed your dwelling or completed your remodeling project or against a window or door supplier or manufacturer. Section 895.07 (2) and (3) of the Wisconsin statutes requires you to deliver to the contractor a written notice of any construction conditions you allege are defective before you file your lawsuit, and you must provide your contractor or window or door supplier the opportunity to make an offer to repair or remedy the alleged construction defects. You are not obligated to accept any offer made by the contractor or window or door supplier. All parties are bound by applicable warranty provisions.

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(b) The notice required under par. (a) shall be conspicuous and in writing and may be included within the contract between the contractor and the consumer.

History: 2005 a. 201.

101.149 Carbon monoxide detectors. (1) DEFINITIONS. In this section:

(ag) "Bed and breakfast establishment" has the meaning given in s. 254.61 (1).

(am) "Carbon monoxide detector" means an electronic or battery−operated device that sounds an alarm when an unsafe level of carbon monoxide is in the air.

(b) "Residential building" means a tourist rooming house, a bed and breakfast establishment, or any public building that is used for sleeping or lodging purposes. "Residential building" does not include a hospital or nursing home.

(c) "Sleeping area" has the meaning given in s. 101.145 (1) (b).

(cm) "Tourist rooming house" has the meaning given in s. 254.61 (6).

(d) "Unit" means a part of a residential building that is occupied by one or more persons as a home, residence, or sleeping place.

(2) INSTALLATION REQUIREMENTS. (a) Except as provided in par. (b), the owner of a residential building shall install a carbon monoxide detector in all of the following places not later than the date specified under par. (c):

1. In the basement of the building if the basement has a fuel−burning appliance.

2. Within 15 feet of each sleeping area of a unit that has a fuel−burning appliance.

3. Within 15 feet of each sleeping area of a unit that is immediately adjacent to a unit that has a fuel−burning appliance.

4. In each room that has a fuel−burning appliance and that is not used as a sleeping area. A carbon monoxide detector shall be installed under this subdivision not more than 75 feet from the fuel−burning appliance.

5. In each hallway leading from a unit that has a fuel−burning appliance, in a location that is within 75 feet from the unit, except that, if there is no electrical outlet within this distance, the owner shall place the carbon monoxide detector at the closest available electrical outlet in the hallway.

(b) If a unit is not part of a multiunit building, the owner of the residential building need not install more than one carbon monoxide detector in the unit.

(c) 1. Except as provided under subd. 2., the owner of a residential building shall comply with the requirements of this subsection before the building is occupied.

2. The owner of a residential building shall comply with the requirements of this subsection not later than April 1, 2010, if construction of the building was initiated before October 1, 2008, or if the department approved the plans for the construction of the building under s. 101.12 before October 1, 2008.

(d) Any carbon monoxide detector that bears an Underwriters Laboratories, Inc., listing mark or similar mark from an independent product safety certification organization satisfies the requirements of this subsection.

(e) The owner shall install every carbon monoxide detector required by this subsection according to the directions and specifications of the manufacturer of the carbon monoxide detector.

(3) MAINTENANCE REQUIREMENTS. (a) The owner of a residential building shall reasonably maintain every carbon monoxide detector in the residential building in the manner specified in the instructions for the carbon monoxide detector.

(b) An occupant of a unit in a residential building may give the owner of the residential building written notice that a carbon monoxide detector in the residential building is not functional or has been removed by a person other than the occupant. The owner of the residential building shall repair or replace the nonfunctional or missing carbon monoxide detector within 5 days after receipt of the notice.

(c) The owner of a residential building is not liable for damages resulting from any of the following:

1. A false alarm from a carbon monoxide detector if the carbon monoxide detector was reasonably maintained by the owner of the residential building.

2. The failure of a carbon monoxide detector to operate properly if that failure was the result of tampering with, or removal or destruction of, the carbon monoxide detector by a person other than the owner or the result of a faulty detector that was reasonably maintained by the owner as required under par. (a).

(4) TAMPERING PROHIBITED. No person may tamper with, remove, destroy, disconnect, or remove batteries from an installed carbon monoxide detector, except in the course of inspection, maintenance, or replacement of the detector.

(5) EXCEPTIONS. Subsections (2) and (3) do not apply to the owner of a residential building if the residential building does not have an attached garage and any of the following applies:

(a) The residential building does not have any fuel−burning appliances.

(b) All of the fuel−burning appliances in the residential building have sealed combustion units that are covered by the manufacturer's warranty against defects.

(c) All of the fuel−burning appliances in the residential building have sealed combustion units that are inspected as provided in the rules promulgated by the department under sub. (6) (b) or in the rules promulgated by the department of health services under s. 254.74 (1) (am).

(6) RULES. (a) The department shall promulgate rules establishing a procedure under which the owner of a residential building may apply to the department for a waiver of the requirements under sub. (2).

(b) The department shall promulgate rules, in consultation with the department of health services, under which the department of safety and professional services shall authorize certified heating, ventilating, and air conditioning inspectors to conduct regular inspections of sealed combustion units, as required under sub. (5) (c), for carbon monoxide emissions in residential buildings other than hotels, tourist rooming houses, and bed and breakfast establishments. The rules shall specify conditions under which it may issue orders as specified under sub. (8) (a). The rules may not require the department of safety and professional services to authorize inspection of sealed combustion units during the period in which the sealed combustion units are covered by a manufacturer's warranty against defects.

(7) INSPECTION. To ensure compliance with subs. (2) and (3), the department, or a building inspector certified by the department, shall inspect the common area of residential buildings other than hotels, tourist rooming houses, and bed and breakfast establishments and may inspect a unit within such buildings at the request of the owner or occupant of the unit to be inspected.

(8) PENALTIES. (a) If the department of safety and professional services or the department of health services determines after an inspection of a building under this section or s. 254.74 (1g) that the owner of the building has violated sub. (2) or (3), the respective department shall issue an order requiring the person to correct the violation within 5 days or within such shorter period as the respective department determines is necessary to protect public health and safety. If the person does not correct the violation within the time required, he or she shall forfeit $50 for each day of violation occurring after the date on which the respective department finds that the violation was not corrected.

(b) If a person is charged with more than one violation of sub. (2) or (3) arising out of an inspection of a building owned by that person, those violations shall be counted as a single violation for the purpose of determining the amount of a forfeiture under par. (a).

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(c) Whoever violates sub. (4) is subject to the following penalties:

1. For a first offense, the person may be fined not more than $10,000 or imprisoned for not more than 9 months, or both.

2. For a 2nd or subsequent offense, the person is guilty of a Class I felony.

History: 2007 a. 20 s. 9121 (6) (a); 2007 a. 205; 2011 a. 32.

Cross−reference: See also ss. SPS 321.095, 362.1200, and 366.0911 (2), Wis. adm. code.

101.15 Mines, tunnels, quarries and pits. (1) If any shaft or workings of a mine, or any tunnel, trench, caisson, quarry, or gravel or sand pit is being operated or used in violation of the safety orders of the department applicable thereto, the owner or operator upon receiving notice of such violation from the department shall immediately cease such operation or use. The operation or use of such shaft or workings of a mine, or of such tunnel, trench, caisson, quarry or gravel or sand pit, shall not be resumed until such safety orders have been complied with.

(2) (a) For the purpose of this section:

1. "Excavation" or "workings" means any or all parts of a mine excavated or being excavated, including shafts, tunnels, drifts, cross cuts, raises, winzes, stopes and all other working places in a mine.

2. "Mineral" means a product recognized by standard authorities as mineral, whether metalliferous or nonmetalliferous.

3. "Shaft" means an opening made for mining minerals, for hoisting and lowering persons or material, or for ventilating underground workings.

(b) No excavation of a shaft may be commenced unless a permit is first issued therefor by the department. Permits for such excavation shall be issued upon fee payment and application filed with the department, if the department is satisfied that the shaft or the excavation and workings will be in compliance with the safety orders adopted by the department and applicable thereto. Application shall be made upon forms prescribed by the department and shall be furnished upon request.

(c) Paragraph (b) does not apply to shafts which will be less than 50 feet in depth wherein persons are not employed, or which are not equipped with power driven hoists used for hoisting persons in and out of the shafts, or which are not covered with a flammable building.

(d) The department may:

1. Employ additional mining inspectors, who shall have had at least 10 years experience in underground mining or be a graduate of a recognized college with a degree of mining engineering.

2. Cause the inspection of all underground mines, quarries, pits, zinc works or other excavations.

(e) The department shall promulgate rules to effect the safety of mines, explosives, quarries and related activities. Such rules shall provide for the establishment of uniform limits on permissible levels of blasting resultants to reasonably assure that blasting resultants do not cause injury, damage or unreasonable annoyance to any person or property outside any controlled blasting site area.

(f) 1. The department shall cause the inspections of underground mines and similar establishments at least once every 2 months and shall cause the inspections of surface mines and similar establishments at least once each year. In the making of the inspections the owner and the labor union identified as the bargaining representative of the employees of the mine or establishment shall be permitted to accompany the inspector engaged in the tour of inspection. The department shall cause a report of any inspection so made, to be submitted to representatives of the operator and of the employees.

2. The department may apply to a court of record for the closing of any underground mine, quarry, pit, zinc works or other excavation where the same is being operated in violation of any of its rules or orders, and the owners or operators have failed within a reasonable time to correct any unsafe methods of operation. The failure of any owner or operator to comply with the order or judgment of the court subjects the party or parties to contempt proceedings.

History: 1971 c. 185; 1971 c. 228 s. 44; Stats. 1971 s. 101.15; 1975 c. 94 s. 91 (9); 1977 c. 29; 1979 c. 257; 1983 a. 189; 1985 a. 29; 1993 a. 16.

Cross−reference: See also chs. SPS 307 and 308, Wis. adm. code.

When an inspector determines that there is a violation of safety orders and a condition of extreme and imminent danger to a worker's life exists, the inspector may seek the assistance of a local law enforcement officer. The local law enforcement officer has a duty to render assistance unless in the officer's opinion other priority assignments take precedence. 59 Atty. Gen. 12.

101.16 Liquefied petroleum gas. (1) DEFINITIONS. In this section:

(a) "Department of transportation cylinder" means a container that holds liquefied petroleum gas and that meets the specifications established by the federal department of transportation.

(b) "Liquefied petroleum gas" means any material which is composed predominantly of, or any mixtures of, any of the following hydrocarbons including their isomers:

1. Propane.

2. Propylene.

3. Butane.

4. Butylene.

(c) "Propane gas system" means an assembly consisting of one or more containers that has a total water capacity of at least 100 gallons and a means of conveying propane gas from the container or containers to a point of connection with devices used to consume the propane gas. A "propane gas system" includes all piping and other components associated with the assembly that are used to control the quantity, flow, pressure, and physical state of the propane gas.

(d) "Retail supplier" means a person engaged in the business of filling containers that have a water capacity of at least 4 pounds with liquefied petroleum gas that is intended to be used directly from the containers as fuel. "Retail supplier" does not include a person who fills such containers with liquefied petroleum gas for the person's own use.

(2) RULES. The department shall promulgate rules to ascertain, fix, and order such reasonable standards, rules, or regulations for the design, construction, location, installation, operation, repair, and maintenance of equipment for storage, handling, use, and transportation by tank truck or tank trailer, of liquefied petroleum gases for fuel purposes, and for the odorization of said gases used therewith, as shall render such equipment safe.

(3) FILLING, EVACUATING, AND USE OF CONTAINERS. (a) Except as provided in par. (b), no person, other than the owner of a liquefied petroleum gas container or a person authorized by the owner, may fill, refill, evacuate, or use in any other manner the container for any purpose.

(b) A retail supplier may evacuate a liquefied petroleum gas container not under its ownership in order to transfer the remaining liquefied petroleum gas that is in that container into a container that is under its ownership.

(3g) LICENSE REQUIRED. (a) No retail supplier may distribute liquefied petroleum gas without holding a license issued by the department. The department, subject to s. 101.02 (20) and (21), shall issue a license to be a retail supplier upon receiving the fee established under s. 101.19 (1g) (L) or (1m) and upon obtaining proof of financial responsibility as required under sub. (3r) (c). The term of the license shall be set by the department, not to exceed 2 years.

(b) The department shall publish an annual list of all retail suppliers holding valid licenses under par. (a).

(3r) FINANCIAL RESPONSIBILITY. (a) Except as provided in par. (b), a retail supplier shall maintain proof of financial responsibility in the amount of $1,000,000 per occurrence with an annual aggregate of $2,000,000 for compensating 3rd parties for bodily injury and property damages for incidents associated with the release of liquefied petroleum gas.

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(b) A retail supplier who only fills department of transportation cylinders or who only fills containers for engine and recreational vehicle fueling systems shall maintain proof of financial responsibility in the amount of $500,000 per occurrence with an annual aggregate of $1,000,000 for compensating 3rd parties for bodily injury and property damages for incidents associated with the release of liquefied petroleum gas.

(c) A retail supplier may obtain any of the following to prove financial responsibility as required under par. (a) or (b):

1. A surety bond that is issued by a surety company that is listed as an acceptable surety for federal bonds on the date that the surety bond is obtained in the most recently published U.S. department of the treasury's circular 570.

2. An irrevocable letter of credit that is issued by a financial institution that is authorized to do business in this state or that is federally chartered. The letter of credit shall be for an initial period of at least one year.

3. Commercial general liability insurance as an endorsement to an existing policy or as a separate policy from an insurer, or a risk retention group, that is licensed to transact the business of insurance in this state or that is eligible to provide insurance as a surplus lines insurer in one or more states.

(d) A retail supplier who fails to maintain proof of financial responsibility as required under par. (a) or (b), may not distribute liquefied petroleum gas at retail until such proof is obtained.

(e) Each retail supplier shall file proof of financial responsibility as required under this subsection with the department.

(f) A 3rd party that issues a surety bond, a letter of credit, or general liability insurance to a retail supplier for purposes of this subsection shall provide written notice to the retail supplier and to the department at least 60 days before canceling, revoking, suspending, or failing to renew the bond, letter, or insurance.

(g) A retail supplier that cancels or fails to renew a surety bond, a letter of credit, or general liability insurance shall notify the department at least 60 days before cancelling or failing to renew the bond, letter, or insurance. Upon receipt of the notice, the department shall revoke the retail supplier's license issued under sub. (3g).

(h) A financial institution that issues an irrevocable letter of credit to a retail supplier for purposes of this subsection shall renew the letter automatically unless notice is given as required under par. (f).

(4) REQUIREMENTS TO PROVIDE INFORMATION. (a) The person actually performing the work of installing equipment utilizing liquefied petroleum gas for fuel purposes shall furnish the user of the equipment a statement, the form of which shall be prescribed by the department, showing that the design, construction, location, and installation of the equipment conforms with the rules promulgated by the department under this section.

(b) 1. A person who owns, leases, or uses a propane gas system and who is a customer of a retail supplier shall notify the retail supplier of propane gas for the propane gas system of any interruption in the operation of the propane gas system due to the replacement, modification, repair, or servicing of the propane gas system by any person other than the retail supplier. The customer shall provide the notice at least 7 days in advance of the interruption in the operation of the propane gas system, except as provided in subd. 2. The retail supplier, or the person replacing, modifying, repairing, or servicing the propane gas system, shall perform a check for leaks or other defects in the propane gas system before placing the propane gas system back into operation in the manner required by rule.

2. If the interruption of a propane gas system subject to subd. 1. is due to emergency repair or servicing, the customer shall provide the notice to the retail supplier as soon as possible and no later than 24 hours after the repair or servicing is completed.

(c) Each retail supplier filling a container that is part of a propane gas system shall provide written notice to each customer subject to par. (b) of the customer's duty under par. (b) before the retail supplier's first delivery of propane gas to that customer and shall provide subsequent notices on an annual basis. The notice shall include all of the following information concerning the duty to notify under par. (b):

1. The name, address, and telephone number of the retail supplier.

2. The purpose of giving the notification to the retail supplier.

3. A description of the type of propane gas system that is subject to the notification requirement.

4. A description of the types of activities that constitute a replacement, modification, repair, or servicing of a propane gas system.

5. A copy of the provisions under s. 101.16 (4) (b).

(5) PENALTIES. (ac) Except as provided in par. (am), any person who violates sub. (3) or (4) or any rule promulgated under sub. (2) shall forfeit not less than $10 nor more than $1,000.

(am) Any person who intentionally violates sub. (3) or (4) or any rule promulgated under sub. (2) shall be fined not less than $25 nor more than $2,000, or shall be imprisoned not less than 30 days nor more than 6 months.

(b) Except as provided in par. (c), any retail supplier who violates sub. (3g) or (3r) shall forfeit not less than $500 and not more than $1,000 for the first offense and not less than $2,000 but not more than $5,000 for each subsequent offense.

(c) Any retail supplier who violates sub. (3g) or (3r) shall forfeit not less than $200 and not more than $400 for the first offense and not less than $800 but not more than $2,000 for each subsequent offense if the retail supplier is one of the following:

1. A retail supplier who only fills department of transportation cylinders.

2. A retail supplier who only fills containers for engine and recreational vehicle fueling systems.

(cg) Paragraphs (b) and (c) do not apply to intentional violations of subs. (3g) or (3r).

(cm) Except as provided in par. (cn), any retail supplier who intentionally violates sub. (3g) or (3r) shall be imprisoned not less than 30 days nor more than 6 months or shall be fined not less than $500 nor more than $1,000 for the first offense and not less than $2,000 nor more than $5,000 for each subsequent offense.

(cn) Any retail supplier who only fills department of transportation cylinders or containers for engine and recreational vehicles and who intentionally violates sub. (3g) or (3r) shall be imprisoned not less than 30 days nor more than 6 months or shall be fined not less than $200 nor more than $400 for the first offense and not less than $800 nor more than $2,000 for each subsequent offense.

(cr) 1. Each day of violation of sub. (3) constitutes a separate offense.

2. Each day of violation of sub. (3g) constitutes a separate offense.

3. Each day of violation of sub. (3r) constitutes a separate offense.

4. Each day of violation of sub. (4) constitutes a separate offense.

(d) If a retail supplier is found in violation of sub. (3g) or (3r), the court shall require that the retail supplier cease distributing liquefied petroleum gas at retail until the retail supplier is issued the license required under sub. (3g).

(5m) CIVIL LIABILITY. (a) Any retail supplier who is licensed under sub. (3g) and who suffers damages caused by the filling of a container that is not a department of transportation cylinder by another retail supplier who is not so licensed may bring an action against the unlicensed retail supplier to do any of the following:

1. Enjoin the unlicensed retail supplier from distributing liquefied petroleum gas at retail until the retail supplier receives the required license.

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2. Receive monetary damages equal to 3 times the amount of any monetary loss sustained or $2,000, whichever is greater, multiplied by each day that the unlicensed supplier is not licensed under sub. (3g).

(b) Notwithstanding s. 814.04 (1), a retail supplier who prevails in an action under par. (a) shall be awarded reasonable attorney fees.

(c) An action under this subsection shall be commenced within 180 days after the cause of action accrues or be barred.

(6) EXEMPTION. This section does not apply to railroads engaged in interstate commerce or to equipment used by them.

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

Cross−reference: See also ss. SPS 305.73 and 340.40, Wis. adm. code.

101.17 Machines and boilers, safety requirement. No machine, mechanical device, or steam boiler shall be installed or used in this state which does not fully comply with the requirements of the laws of this state enacted for the safety of employees and frequenters in places of employment and public buildings and with the orders of the department adopted and published in conformity with this subchapter. Any person violating this section shall be subject to the forfeitures provided in s. 101.02 (12) and (13).

History: 1971 c. 185 ss. 1, 7; 1971 c. 228 ss. 19, 43; Stats. 1971 s. 101.17; 1995 a. 27.

Cross−reference: See also chs. SPS 318, 333, 334, 341, 343, and 345, Wis. adm. code.

101.175 Local energy resource systems. (1) In this section:

(a) "Local energy resource system" means a solar energy system, a wind energy system or a wood energy system.

(b) "Solar energy system" means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy.

(c) "Wind energy system" means equipment which converts and then transfers or stores energy from the wind into usable forms of energy.

(d) "Wood energy system" means woodburning stove or furnace.

(1m) The purpose of this section is to establish statewide local energy resource system standards to promote accurate consumer evaluation of local energy resource systems and components thereof.

(2) Any manufacturer or retailer prior to the sale in this state of any local energy resource system or components thereof may request the department to issue a seal of quality for each system or component which meets or exceeds the quality standards established by the department under sub. (4).

(3) The department, in consultation with the department of agriculture, trade and consumer protection, shall establish by rule quality standards for local energy resource systems which do not impede development of innovative systems but which do:

(a) Promote accurate consumer evaluation of local energy resource systems and components thereof.

(b) Conform, where feasible, with national performance standards promulgated or recognized by the federal government for local energy resource systems.

(c) Promote the production, marketing and installation of local energy resource systems.

(4) The quality standards under sub. (3) shall include but are not limited to:

(a) The requirement of a warranty and minimum requirements for the contents thereof.

(b) The requirement of an operation and maintenance manual and minimum requirements for the contents thereof.

(c) Minimum specifications for materials, workmanship, durability and efficiency.

(5) Upon request by any manufacturer or retailer of any local energy resource system or components thereof which meet or exceed the quality standards established under sub. (4), the department shall issue an appropriate seal of quality. The department may charge a fee to cover the cost of the seal and to cover the cost of examining the system or its components.

(6) Misrepresentation, misuse or duplication of the department seal of quality issued under sub. (5) shall be deemed deceptive advertising under s. 100.18 (9m).

(7) At the request of any buyer of a local energy resource system the department may inspect any local energy resource system necessary to ascertain compliance with this section.

History: 1979 c. 350; 1983 a. 27 s. 2202 (25); 1985 a. 120.

Cross−reference: See also ch. SPS 371, Wis. adm. code.

101.178 Installation and servicing of heating, ventilating and air conditioning equipment. (1) In this section, "political subdivision" means a city, village, town or county.

(2) No person may engage in the business of installing or servicing heating, ventilating or air conditioning equipment unless the person registers with the department.

(3) (a) The department shall promulgate rules for a voluntary program under which a person who engages in the business of installing or servicing heating, ventilating or air conditioning equipment may obtain certification by passing an examination developed or selected by the department.

(b) A political subdivision may not require a person to obtain certification under par. (a) in order to engage in the business of installing or servicing heating, ventilating or air conditioning equipment in that political subdivision unless all of the following apply:

1. On April 23, 1994, the political subdivision requires certification, licensure or other approval by the political subdivision in order to engage in that business in the political subdivision.

2. The political subdivision allows a person who has the approval under subd. 1. on April 23, 1994, to continue to engage in that business in the political subdivision without obtaining certification under par. (a).

(c) A political subdivision may not require a person who is certified under par. (a) to obtain certification, licensure or other approval by the political subdivision in order to engage in the business of installing or servicing heating, ventilating or air conditioning equipment in that political subdivision.

(d) A political subdivision may not require a person to obtain certification, licensure or other approval by the political subdivision in order to engage in the business of installing or servicing heating, ventilating or air conditioning equipment in the political subdivision unless the political subdivision requires that approval before November 1, 1993.

(4) The department may establish fees to cover the costs of administering this section.

(5) Any person who violates sub. (2) shall be required to forfeit not less than $50 nor more than $1,000. Each installation or servicing in violation of sub. (2) constitutes a separate violation.

History: 1993 a. 243.

Cross−reference: See also ss. SPS 305.70, 305.71, and 305.72, Wis. adm. code.

101.18 Electric fences. The department shall ascertain, fix and order such reasonable standards, rules or regulations for the erection, construction, repair and maintenance of electric fences as shall render them safe.

History: 1971 c. 185 s. 1; 1971 c. 228; Stats. 1971 s. 101.18.

101.19 Fees and records. (1b) In this section:

(a) "Amusement attraction" means any game of skill, show, or exhibition that does not constitute an amusement or thrill ride entertainment device.

(b) "Amusement or thrill ride" means any device that carries frequenters in an unusual, entertaining or thrilling mode of motion

or any vehicle providing entertainment or transportation to, from or within an amusement area.

(1g) The department, by rule promulgated under ch. 227, shall fix and collect fees which shall, as closely as possible, equal the cost of providing the following services:

(a) The examination of plans for public buildings, public structures, places of employment and the components thereof.

(am) The services specified by s. 101.12 (3) (am).

(b) The required inspection of boilers, pressure vessels, refrigeration plants, liquefied petroleum gas vessels, anhydrous ammonia tanks and containers, escalators, dumbwaiters, and amusement or thrill rides but not of amusement attractions.

(bm) The inspection by the department of lifts, as defined in s. 167.33 (1) (f).

(c) Determining and certifying the competency of inspectors, blasters and welders.

(d) Each inspection of a facility conducted to ensure that the construction is in accordance with the plans approved by the department.

(f) Administration of the manufactured dwelling program, the one− and two−family dwelling programs, the manufactured home and mobile home program, and the multifamily dwelling program.

(g) The inspection and investigation of accidents.

(h) Inspections of mines, tunnels, quarries, pits and explosives.

(i) Inspecting and certifying rental units under s. 101.122 (4) and certifying and training inspectors under s. 101.122 (2) (c) and (d).

(j) The licensing and inspection of fireworks manufacturers under s. 167.10 (6m).

(k) Administering subch. VII, except that the department may not charge a fee for an emergency elevator mechanic's license under s. 101.985 (2) (c).

(L) Issuing licenses to retail suppliers of liquefied petroleum gas under s. 101.16 (3g), except as provided in sub. (1m).

(m) Registering construction contractors under s. 101.147.

(1m) The department shall collect an annual fee of $20 for issuing a license under s. 101.16 (3g) to a retail supplier who only fills department of transportation cylinders.

(1r) Notwithstanding subs. (1g) and (1m), the department shall waive any fee imposed on an individual who is eligible for the veterans fee waiver program under s. 45.44 for a license, permit, or certificate of certification or registration issued by the department under ss. 101.09 (3) (c), 101.122 (2) (c), 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.07 (12), 145.15, 145.16, 145.165, 145.17, 145.175, 145.18, or 167.10 (6m).

Note: Section 101.177 was repealed. Corrective legislation is pending.

(2) The department shall issue and record required certificates of inspection or of registration for equipment listed in sub. (1g) (b).

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.19; 1975 c. 39; 1977 c. 29; 1979 c. 221; 1983 a. 27, 94, 446; 1987 a. 343; 1991 a. 39, 269; 1993 a. 414; 1999 a. 53; 2001 a. 16; 2005 a. 45, 456; 2007 a. 203; 2009 a. 28; 2011 a. 32, 199, 209.

Cross−reference: See also chs. SPS 302 and 361, Wis. adm. code.

101.211 Lunchrooms. The department shall require a suitable space in which lunches may be eaten in any place of employment if found by the department to be reasonably necessary for the protection of the life, health, safety and welfare of employees therein.

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; Stats. 1971 s. 101.211; 1977 c. 29.

101.31 Construction career academy grant program. (1) The department shall award grants to eligible organizations that operate a construction career academy that provides high school pupils with training in construction−related careers.

(2) An organization is eligible for a grant under this section if it proposes to operate a construction career academy that meets the following minimum criteria:

(a) It has established a partnership between a school board operating a high school, or a local business or sponsoring organization, and a technical college district board or baccalaureate degree granting institution in which the partners have committed to participate in the operation of the construction career academy for a minimum of 3 years.

(b) It provides high school pupils with the opportunity to receive up to 3 years of training in construction−related careers.

(c) It incorporates industry concepts into core academic areas.

(d) It incorporates into its curriculum work experience in construction−related industries.

(e) It coordinates classroom credits with a technical college district or with a baccalaureate degree granting institution.

(f) It uses a learning community curriculum approved by the department in consultation with the department of public instruction.

(g) It awards a certificate of recognition to each pupil who successfully completes the construction career academy's plan of study.

(3) The recipient of a grant under this section shall provide matching funds equal to 50 percent of the grant amount awarded to the recipient.

(4) The recipient of a grant under this section may use the grant funds only for the following purposes:

(a) To purchase materials and equipment, fund field trips, and make improvements to facilities, or for other specific needs relating to the construction career academy.

(b) For developing a core curriculum, for professional development, or for other administrative needs of the recipient.

(5) (a) The department may award a grant for the purposes described under sub. (4) (a) in an amount that equals not more than $900 for each pupil enrolled in the construction career academy at the time that the award is granted.

(b) The department may award a grant for the purposes described under sub. (4) (b) in an amount not exceeding $50,000.

(6) The department shall promulgate rules to administer this section.

History: 2007 a. 20.

101.45 Diesel truck idling reduction grants. (1) DEFINITIONS. In this section:

(a) "Common motor carrier" has the meaning given in s. 194.01 (1).

(b) "Contract motor carrier" has the meaning given in s. 194.01 (2).

(c) "Idling reduction unit" means a device that is installed on a diesel truck to reduce the long−duration idling of the truck by providing heat, air conditioning, or electricity to the truck while the truck is stationary and the main drive engine of the truck is not operating.

(d) "Post−1998 diesel truck engine" means a heavy−duty highway diesel engine that complies with the air pollutant emission standards promulgated by the federal environmental protection agency under 42 USC 7521 for engine model year 1998 or a later engine model year.

(e) "Private motor carrier" has the meaning given in s. 194.01 (11).

(f) "Truck tractor" has the meaning given in s. 340.01 (73).

(2) AUTHORITY. Beginning on July 1, 2006, and ending on June 30, 2015, the department may award a grant to an eligible applicant for the purchase and field testing of one or more idling reduction units as provided in subs. (3) and (4).

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(3) ELIGIBLE APPLICANTS. An applicant is eligible for a grant under this section only if all of the following apply:

(a) The applicant is a common motor carrier, contract motor carrier, or private motor carrier that transports freight.

(b) The applicant is headquartered in this state.

(c) The applicant pays 50 percent of the eligible costs for each idling reduction unit covered by a grant under this section without the use of grants, loans, or other financial assistance from this state or from a local governmental unit in this state.

(d) The applicant agrees to collect information relating to the operation and performance of each idling reduction unit covered by a grant under this section, as required by the department, and to report that information to the department.

(4) GRANTS. (a) Except as provided in par. (b), the costs that an applicant has incurred or will incur to purchase and install an idling reduction unit on a truck tractor that is owned and operated by the applicant and that has a post−1998 diesel truck engine are eligible costs under this section if the use of the idling reduction unit will result, in the aggregate, in a decrease in the emissions of one or more air contaminants, as defined in s. 285.01 (1), from the truck tractor on which the idling reduction unit is installed or in a decrease in the use of energy by the truck tractor on which the idling reduction unit is installed.

(b) The following costs are not eligible costs:

1. The cost of shipping an idling reduction unit from the manufacturer to the facility where the idling reduction unit will be installed on the truck tractor.

2. The cost of operating an idling reduction unit.

3. The cost of maintaining an idling reduction unit.

(cm) Subject to par. (d), the department may make grants under this section from July 1, 2009 to June 30, 2015, of 50 percent of the eligible costs for an idling reduction unit installed on a truck tractor, unless the department has previously awarded a grant under this section for an idling reduction unit installed on the truck tractor.

(d) In any fiscal year, the department may not pay to any one applicant more than 20 percent of the amount appropriated under s. 20.165 (2) (sm) for the fiscal year.

(e) The department may pay a grant over more than one fiscal year, subject to the availability of funds and to par. (d).

(5) INFORMATION. The department shall collect information from recipients of grants under this section relating to the operation and performance of idling reduction units. The department shall summarize the information collected and make it available to common motor carriers, contract motor carriers, and private motor carriers in an accessible and cost−effective manner, such as on department's Internet site.

(5m) RULES. The department shall promulgate rules for the administration of the program under this section.

(6) SUNSET. Subsections (2) to (4) do not apply after December 31, 2016.

History: 2005 a. 25; 2007 a. 20; 2009 a. 28; 2011 a. 32 ss. 3335 to 3338; Stats. 2011 s. 101.45.

Cross−reference: See also ch. SPS 431, Wis. adm. code.

101.55 Executive agreements to control sources of radiation. When the joint legislative council determines that it is in the interest of the state to enter into agreement with the government of the United States to provide for the discontinuance of certain of the federal government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by the state pursuant to authority granted by P.L. 86−373, it shall convey its determination to the governor together with its estimate of the initial and ultimate cost of the assumption of this responsibility by the state and the governor, on behalf of the state, may, after a finding by both the governor and the U.S. nuclear regulatory commission as to the adequacy of the state's program of regulation, enter into such an agreement.

History: 1977 c. 29; 1993 a. 52.

101.573 Fire dues distribution. (1) The department shall include in the compilation and certification of fire department dues under sub. (3) 2% of the premiums paid to the state fire fund for the insurance of any public property, other than state property. The department shall notify the secretary of administration of the amount certified under this subsection and the secretary of administration shall charge the amount to the state fire fund.

(3) (a) On or before May 1 in each year, the department shall compile the fire department dues paid by all insurers under s. 601.93 and the dues paid by the state fire fund under sub. (1) and funds remaining under par. (b), withhold .5% and certify to the secretary of administration the proper amount to be paid from the appropriation under s. 20.165 (2) (L) to each city, village, or town entitled to fire department dues under s. 101.575. Annually, on or before August 1, the secretary of administration shall pay the amounts certified by the department to the cities, villages and towns eligible under s. 101.575.

(b) The amount withheld under par. (a) shall be disbursed to correct errors of the department or the commissioner of insurance or for payments to cities, villages, or towns which are first determined to be eligible for payments under par. (a) after May 1. The department shall certify to the secretary of administration, as near as is practical, the amount which would have been payable to the municipality if payment had been properly disbursed under par. (a) on or prior to May 1, except the amount payable to any municipality first eligible after May 1 shall be reduced by 1.5% for each month or portion of a month which expires after May 1 and prior to the eligibility determination. The secretary of administration shall pay the amount certified to the city, village, or town. The balance of the amount withheld in a calendar year under par. (a) which is not disbursed under this paragraph shall be included in the total compiled by the department under par. (a) for the next calendar year. If errors in payments exceed the amount set aside for error payments, adjustments shall be made in the distribution for the next year.

(4) The department shall transmit to the treasurer of each city, village, and town entitled to fire department dues, a statement of the amount of dues payable to it, and the commissioner of insurance shall furnish to the secretary of administration, upon request, a list of the insurers paying dues under s. 601.93 and the amount paid by each.

(5) The department shall promulgate a rule defining "administrative expenses" for purposes of s. 20.165 (2) (La).

History: 1981 c. 20 s. 1752; Stats. 1981 s. 101.58; 1981 c. 364 s. 3; Stats. 1981 s. 101.573; 1987 a. 27; 1995 a. 27; 2001 a. 109; 2003 a. 33, 219; 2011 a. 32.

101.575 Entitlement to dues. (1) (a) Except as provided in par. (am), every city, village or town maintaining a fire department that complies with this subsection and the requirements of subs. (3) to (6) is entitled to a proportionate share of all fire department dues collected under ss. 101.573 and 601.93 after deducting the administrative expenses of the department under s. 101.573, based on the equalized valuation of real property improvements upon land within the city, village or town, but not less than the amount the municipality received under s. 601.93 (3), 1977 stats., and chapter 26, laws of 1979, in calendar year 1979.

(am) If the department determines that a city, village or town fire department has failed to satisfy the requirements of this subsection or subs. (3) to (6), the department shall nonetheless pay dues for that calendar year to that city, village or town. The department shall issue a notice of noncompliance to the chief of the fire department, the governing body and the highest elected official of the city, village or town. If the fire department cannot demonstrate to the department that the fire department has met all requirements

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within one year after receipt of the notice or prior to the next audit by the department, whichever is later, the city, village or town shall not be entitled to dues under par. (a) for that year in which the city, village or town becomes not entitled to dues and for all subsequent calendar years until the requirements are met.

(b) Every city, village or town that contracts for fire protection and fire prevention services that comply with s. 101.14 (2) from another city, village or town is entitled to the dues specified in par. (a) if the department determines that the fire department furnishing the protection can provide the agreed protection without endangering property within its own limits and the fire prevention services comply with s. 101.14 (2).

(c) Any city, village or town, not maintaining a fire department, that for the purpose of obtaining fire protection and prevention services for itself enters into an agreement with another city, village or town, is entitled to the dues specified in par. (a) if the department determines that the fire prevention services comply with s. 101.14 (2). Two or more municipalities that together have entered into a fire protection agreement in the manner prescribed in this paragraph shall each be entitled to dues under par. (a).

(2) If a city or village contracts to provide fire protection and the services of its fire department outside of its boundaries, it is subject to the same liability for property damage and personal injury when responding to calls and providing services outside of its boundaries as when providing the same services within its boundaries.

(3) No city, village or town is entitled to receive dues under this section unless the city, village or town complies with pars. (a) and (b).

(a) No city, village or town may receive fire department dues under this section unless it has a fire department which satisfies all of the following requirements:

1. Is organized to provide continuous fire protection in that city, village or town and has a designated chief.

2. Singly, or in combination with another fire department under a mutual aid agreement, can ensure the response of at least 4 fire fighters, none of whom is the chief, to a first alarm for a building.

3. Provides a training program prescribed by the department by rule.

4. Provides facilities capable, without delay, of receiving an alarm and dispatching fire fighters and apparatus.

(b) Each city, village or town eligible for dues under this section shall maintain either a voluntary fire department that holds a meeting at least once each month, or a paid or partly paid fire department with sufficient personnel ready for service at all times.

(4) (a) The department may not pay any fire department dues for any year to a city, village, town or fire department unless all of the following conditions are satisfied:

1. The department determines that the city, village, town or fire department is in substantial compliance with sub. (6) and s. 101.14 (2). The department shall establish by rule the meaning of "substantial compliance" for purposes of this subdivision.

2. The city, village or town has submitted a form which is signed by the clerk of the city, village or town and by the chief of the fire department providing fire protection to that city, village or town, which is provided by the department by rule and which certifies that the fire department is in substantial compliance with this section or the department has audited the city, village, town or fire department and determined that it is in substantial compliance with sub. (6) and s. 101.14 (2). The department shall establish by rule the meaning of "substantial compliance" for purposes of this subdivision.

(b) If dues which would have been paid into any fire fighter's pension fund or other special funds for the benefit of disabled or superannuated fire fighters are withheld under this subsection, an amount equal to the fire department dues withheld shall be paid into the pension fund from any available fund of the city, village or town, and, if no fund is available, an amount equal to the amount withheld shall be included in and paid out of the next taxes levied and collected for the city, village or town.

(5) No city, village or town which has contracted with another city, village or town or any part thereof for fire protection may be paid any fire department dues unless the contract or contracts are sufficient to provide fire protection to the entire city, village or town for which the fire protection service is being provided.

(6) (a) No city, village or town maintaining a fire department under this section may use any dues received under s. 101.573 and this section for any purpose except the direct provision of the following:

1. The purchase of fire protection equipment.

2. Fire inspection and public education.

3. Training of fire fighters and fire inspectors performing duties under s. 101.14.

4. To fund wholly or partially fire fighters' pension funds or other special funds for the benefit of disabled or superannuated fire fighters.

(b) Any city, village or town that contracts for fire protection service shall give dues received under s. 101.573 and this section to the fire department providing the fire protection service. That fire department shall use those dues for any of the purposes specified in par. (a).

History: 1971 c. 185 s. 7; 1975 c. 94 s. 91 (9); 1975 c. 372 s. 15; Stats. 1975 s. 601.95; 1977 c. 29; 1979 c. 34, 221; 1981 c. 20 ss. 1754 to 1758, 2202 (26) (b); Stats. 1981 s. 101.59; 1981 c. 364 s. 3; Stats. 1981 s. 101.575; 1987 a. 399; 1989 a. 31; 1991 a. 187; 1993 a. 213; 1997 a. 27; 2003 a. 219.

Cross−reference: See also ch. SPS 314, Wis. adm. code.

101.578 Protection of medical waste incinerator employees. (1) In this section, "medical waste incinerator" has the meaning given in s. 287.07 (7) (c) 1. cr.

(2) The department shall promulgate rules establishing requirements that protect persons who work at medical waste incinerators from exposure to blood and other potentially infectious materials. The rules shall be at least as strict as any federal requirements.

History: 1991 a. 39; 1995 a. 227.

101.58 Employees' right to know. (1) SHORT TITLE. Sections 101.58 to 101.599 shall be known as the "Employees' Right to Know Law".

(2) DEFINITIONS. In ss. 101.58 to 101.599:

(a) "Agricultural employer" means any person, including the state and its political subdivisions, who engages the services of any employee to perform agricultural labor. If any employee is present at the workplace of an agricultural employer under an agreement between that agricultural employer and another agricultural employer or employer, "agricultural employer" means the agricultural employer with control or custody of a pesticide. An agricultural employer who engages some employees to perform agricultural labor and other employees for other purposes is only an agricultural employer with respect to the employees engaged to perform agricultural labor.

(b) "Agricultural labor" has the meaning provided in s. 108.02 (2).

(c) "Employee" means any person whose services are currently or were formerly engaged by an employer or an agricultural employer, or any applicant at the time an employer or agricultural employer offers to engage his or her services.

(d) "Employee representative" means an individual or organization to whom an employee gives written authorization to exercise his or her rights to request information under s. 101.583, 101.585 or 101.586, a parent of a minor employee or a recognized or certified collective bargaining agent.

(e) "Employer" means any person, except an agricultural employer, with control or custody of any employment or workplace who engages the services of any employee. "Employer" includes the state and its political subdivisions. If any employee

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is present at the workplace of an employer under an agreement between that employer and another employer or agricultural employer, "employer" means the employer with control or custody of a toxic substance or infectious agent. An employer who engages some employees to perform agricultural labor and other employees for other purposes is only considered an employer with respect to the employees engaged for other purposes.

(f) "Infectious agent" means a bacterial, mycoplasmal, fungal, parasitic or viral agent identified by the department by rule as causing illness in humans or human fetuses or both, which is introduced by an employer to be used, studied or produced in the workplace. "Infectious agent" does not include such an agent in or on the body of a person who is present in the workplace for diagnosis or treatment.

(g) "Legal holiday" has the meaning provided in s. 995.20.

(h) "Overexposure" means any chronic or acute exposure to a toxic substance or infectious agent which results in illness or injury.

(i) "Pesticide" means any substance or mixture of substances which is registered with the federal environmental protection agency under 7 USC 136 to 136y or the department of agriculture, trade and consumer protection under ch. 94, and which is labeled, designed or intended to prevent, destroy, repel or mitigate any pest or as a plant regulator, defoliant or desiccant.

(j) 1. "Toxic substance" means any substance or mixture containing a substance regulated by the federal occupational safety and health administration under title 29 of the code of federal regulations part 1910, subpart z, which is introduced by an employer to be used, studied or produced in the workplace.

2. "Toxic substance" does not include:

a. Any article, including but not limited to an item of equipment or hardware, which contains a substance regulated by the federal occupational safety and health administration under title 29 of the code of federal regulations part 1910, subpart z, if the substance is present in a solid form which does not cause any acute or chronic health hazard as a result of being handled by an employee.

b. Any mixture containing a substance regulated under title 29 of the code of federal regulations part 1910, subpart z, if the substance is less than one percent, or, if the substance is an impurity, less than 2%, of the product.

c. Any consumer product packaged for distribution to and used by the general public, for which the employee's exposure during use is not significantly greater than the consumer's exposure occurring during the principal use of the product.

d. Any substance received by an employer in a sealed package and subsequently sold or transferred in that package, if the seal remains intact while the substance is in the employer's workplace.

e. Any waste material regulated under the federal resource conservation and recovery act, P.L. 94−580.

f. Lutefisk.

(k) "Workplace" means any location where an employee performs a work−related duty in the course of his or her employment, except a personal residence.

(3) RELATIONSHIP TO FEDERAL REGULATIONS. (a) If the federal occupational safety and health administration promulgates a hazards communication regulation which, with respect to toxic substances, has requirements comparable to those in s. 101.583, 101.59 or 101.597 (1), and has time periods no less stringent than s. 101.589 and confidentiality requirements no less stringent than s. 101.592, an employer, manufacturer or supplier may apply to the department for an exemption from s. 101.583, 101.59 or 101.597 (1).

(b) An employer applying to the department for an exemption under par. (a) shall provide a copy of the application to appropriate certified collective bargaining agents and shall post a statement at the place where notices to employees are normally posted. The posted statement shall summarize the application, specify a place where employees may examine it and inform employees of their right to request a hearing on it.

(c) Upon receipt of a written request from an affected employer, manufacturer, supplier, employee or employee representative, the department shall hold a hearing on the application. If a hearing has been requested, the department is prohibited from approving the application until a hearing has been held. In no case may the department approve the application within less than 60 days after receiving it.

History: 1981 c. 364, 391; 1983 a. 189 s. 329 (28); 1983 a. 192 s. 304; 2005 a. 155.

Cross−reference: See also ch. SPS 335, Wis. adm. code.

Wisconsin's new "right to know" law. McCauley. WBB Jan. 1983.

101.581 Notice requirements. (1) EMPLOYER. An employer who uses, studies or produces a toxic substance, infectious agent or pesticide shall post in every workplace at the location where notices to employees are usually posted a sign which informs employees that the employer is required, upon request, to provide an employee or employee representative with all of the following:

(a) The identity of any toxic substance or infectious agent which an employee works with or is likely to be exposed to.

(b) A description of any hazardous effect of the toxic substance or infectious agent.

(c) Information regarding precautions to be taken when handling the toxic substance or infectious agent.

(d) Information regarding procedures for emergency treatment in the event of overexposure to the toxic substance or infectious agent.

(e) Access to the information contained on the label of any pesticide with which the employee works or to which the employee is likely to be exposed.

(2) AGRICULTURAL EMPLOYER. An agricultural employer who uses pesticides shall post in a prominent place in the workplace a sign which informs employees that the agricultural employer is required, upon request, to provide an employee or employee representative with access to the information contained on the label of any pesticide with which the employee works or to which the employee is likely to be exposed.

(3) MINOR EMPLOYEE. If an employee is a minor, an employer or agricultural employer shall send to the employee's parent or guardian, at the address provided by the employee, notice of the employee's rights under sub. (1) or (2).

History: 1981 c. 364; 1983 a. 392.

Cross−reference: See also ch. SPS 335, Wis. adm. code.

"Produces" under sub. (1) means to create, bring forth, or cause hazardous substances to exist in the work place. Door County Highway Department v. DILHR, 137 Wis. 2d 280, 404 N.W.2d 548 (Ct. App. 1987).

101.583 Toxic substance information requirements; employer to employee. (1) RETENTION OF INFORMATION; LISTS. Except as provided by department rule under s. 101.598, an employer shall:

(a) Retain any material safety data sheet relating to a toxic substance and containing the information required to be provided to employees under sub. (2) for 30 years after the date upon which the employer last received the toxic substance in the workplace; or

(b) 1. Maintain a written list identifying any toxic substance present in a workplace on or after May 10, 1984, except as provided in subd. 2., and the dates that the toxic substance is present in the workplace. If a list is maintained, each toxic substance required to be on the list shall be included on the list until 30 years after the last date on which the substance is received in the workplace. Within 30 days after a written request by an employee or employee representative, exclusive of weekends and legal holidays, the employer shall provide to the employee or employee representative a copy of any list maintained for the employee's workplace or the workplace of the employees represented by the employee representative.

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2. a. A toxic substance need not be included on a list if in the area in which any employee usually works the toxic substance is received in packages of one kilogram or less and if no more than 10 kilograms of the toxic substance are used in or purchased for that area per year.

b. A toxic substance need not be included on a list if it is a mixture containing one or more mineral dusts listed in 29 CFR 1910.1000, table z−3.

(1m) Any employer with less than 10 employees and less than $750,000 in gross sales in the most recent calendar or fiscal year, whichever the employer uses for income or franchise tax purposes, is not subject to the requirements of sub. (1).

(2) INFORMATION. (a) Except as provided in s. 101.589, within 15 days after a written request by an employee or employee representative, exclusive of weekends and legal holidays, an employer shall provide to the employee or employee representative in writing the following information regarding any toxic substance with which the employee works or worked or to which the employee is likely to be or has been exposed:

1. The trade name of the toxic substance.

2. The chemical name and any commonly used synonym for the toxic substance and the chemical name and any commonly used synonym for its major components.

3. The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the toxic substance.

4. The flash point and flammable limits of the toxic substance.

5. Any permissible exposure level, threshold limit value or other established limit value for exposure to the toxic substance.

6. The stability of the toxic substance.

7. Recommended fire extinguishing media, special fire fighting procedures and any unusual fire and explosion hazard information for the toxic substance.

8. Any effect of overexposure to the toxic substance, emergency and first aid procedures and a telephone number to be called in an emergency.

9. Any condition or material which is incompatible with the toxic substance and must be avoided.

10. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the toxic substance.

11. Procedures for the handling, cleanup and disposal of toxic substances leaked or spilled.

(b) An employer is not required to provide information regarding a toxic substance under par. (a) if the employee or employee representative making the request has requested information about the toxic substance under par. (a) within the preceding 12 months, unless the employee's job assignment has changed or there is new information available concerning any of the subjects about which information is required to be provided.

History: 1981 c. 364; 1983 a. 392; 1991 a. 39.
Cross−reference: See also ch. SPS 335, Wis. adm. code.

101.585 Infectious agent information requirements; employer to employee. (1) Except as provided in s. 101.589 (1) and (3), within 72 hours after a written request by an employee or employee representative, exclusive of weekends and legal holidays, an employer shall provide in writing to the employee or employee representative the following information regarding any infectious agent which the employee works with or is likely to be exposed to if the infectious agent is present in the workplace when the request is made or at any time during the 30 days immediately preceding the request:

(a) The name and any commonly used synonym of the infectious agent.

(b) Any method or route of transmission of the infectious agent.

(c) Any symptom or effect of infection, emergency and first aid procedures and a telephone number to be called in an emergency.

(d) Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the infectious agent.

(e) Procedures for handling, cleanup and disposal of infectious agents leaked or spilled.

(2) An employer is not required to provide information regarding an infectious agent under sub. (1) if the employee or employee representative making the request has requested information about the infectious agent under sub. (1) within the preceding 12 months, unless the employee's job assignment has changed or there is new information available concerning any of the subjects about which information is required to be provided.

History: 1981 c. 364.
Cross−reference: See also ch. SPS 335, Wis. adm. code.

101.586 Pesticide information requirements; employer or agricultural employer to employee. Within 72 hours of a request from an employee or employee representative, exclusive of weekends and legal holidays, an employer or agricultural employer shall provide the requesting employee or employee representative with access to the container label or the information required by the federal environmental protection agency or the department of agriculture, trade and consumer protection to be on the container label, for any pesticide with which the employee works or to which the employee is likely to be exposed.

History: 1981 c. 364; 1983 a. 392.
Cross−reference: See also ch. SPS 335, Wis. adm. code.

101.587 Information requirements; employer or agricultural employer to department. The department or the department of health services may request the information required to be provided to employees under ss. 101.583, 101.585 and 101.586. The employer or agricultural employer shall provide the information within the time periods provided in ss. 101.583, 101.585, 101.586 and 101.589.

History: 1981 c. 364; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a).
Cross−reference: See also ch. SPS 335, Wis. adm. code.

101.588 Information collection and maintenance; department. If an employer ceases business operations in this state, the employer shall provide the department with the information required under s. 101.583 or 101.585 relating to that employer. The department shall maintain that information and provide it to any employee upon request.

History: 1983 a. 392.
Cross−reference: See also ch. SPS 335, Wis. adm. code.

101.589 Extended time periods; exceptions. (1) If an employer has not obtained the information required to be provided under ss. 101.583 (2) (a) and 101.585 (1) at the time of a request made under s. 101.583 (2) (a) or 101.585 (1), the employer shall provide the information within 30 days after the request, exclusive of weekends and legal holidays.

(2) If a toxic substance was present in the workplace at any time on or after December 1, 1982, but is not present in the workplace when a request is made under s. 101.583 (2) (a), the employer shall provide the information within 30 days after the request, exclusive of weekends and legal holidays.

(3) An employer who has requested from the manufacturer or supplier of a toxic substance or from the supplier of an infectious agent any information required to be provided under s. 101.583 (2) (a) or 101.585 (1), but who has not received and does not already have that information, is not required to provide the information but shall notify any requesting employee or employee representative that the employer has requested, has not received and does not otherwise have the information.

History: 1981 c. 364; 1981 c. 391 s. 210.
Cross−reference: See also ch. SPS 335, Wis. adm. code.

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101.59 Manufacturer, supplier; requirements. Within 15 days, exclusive of weekends and legal holidays, after receipt of a request from an employer, any manufacturer or supplier of a toxic substance transported or sold for use in this state, or any supplier of an infectious agent transported or sold for use in this state, shall provide to that employer the information the employer is required to provide employees under s. 101.583 (2) (a) or 101.585 (1).

History: 1981 c. 364.

Cross−reference: See also ch. SPS 335, Wis. adm. code.

101.592 Confidential information. (1) A manufacturer or supplier of a toxic substance, a supplier of an infectious agent or an employer may declare that information required to be provided under s. 101.583, 101.585, 101.59 or 101.597, except information described in ss. 101.583 (2) (a) 7. to 11., 101.585 (1) (b) to (e) and 101.597 (5) (a) 2. to 7. and (b) 2. and 3., relates to a process or production technique which is unique to, or is information the disclosure of which would adversely affect the competitive position of, the manufacturer, supplier or employer. If an employer, employee or employee representative requests information under s. 101.583, 101.585 or 101.59 that is confidential, the manufacturer, supplier or employer shall inform the requester that part of the requested information is confidential, but shall provide any part of the requested information that is not confidential or that, under this subsection, may not be declared confidential. When a manufacturer, supplier or employer declares information confidential, it shall notify the department and shall state the general use of the toxic substance or infectious agent and the items of information which it did and did not provide to the requester.

(2) Notwithstanding sub. (1), a manufacturer, supplier or employer shall provide the information specified in s. 101.583 (2) (a) 1. and 2. or 101.585 (1) (a) upon a request from an employee's authorized physician stating that the information is necessary for medical treatment of the employee. No physician receiving information under this subsection may disclose it to any person without the written consent of the patient and of the manufacturer, supplier or employer.

History: 1981 c. 364; 1983 a. 392 s. 20.

Cross−reference: See also ch. SPS 335, Wis. adm. code.

101.595 Employee rights. (1) NOT TO WORK WITH TOXIC SUBSTANCE, INFECTIOUS AGENT OR PESTICIDE. Except as provided in ss. 101.589 (3) and 101.592, if an employee has requested information about a toxic substance, infectious agent or pesticide under s. 101.583, 101.585 or 101.586 and has not received the information required to be provided under s. 101.583, 101.585, 101.586 or 101.589 (1) or (2), the employee may refuse to work with or be exposed to the toxic substance, infectious agent or pesticide until such time as the employer or agricultural employer supplies the information under s. 101.583, 101.585 or 101.586 to the employee who has made the request.

(2) RETALIATION PROHIBITED. (a) No employer or agricultural employer may discharge or otherwise discipline or discriminate against any employee because the employee has exercised any rights under ss. 101.58 to 101.599.

(b) Section 111.322 (2m) applies to discharge and other discriminatory acts arising in connection with any proceeding under ss. 101.58 to 101.599.

(3) WAIVER PROHIBITED. No person may request or require any employee to waive any rights under ss. 101.58 to 101.599.

History: 1981 c. 364; 1983 a. 392; 1989 a. 228.

Cross−reference: See also ch. SPS 335, Wis. adm. code.

101.596 Building inspector review board. (1) DEFINITIONS. In this section:

(a) "Board" means the building inspector review board.

(b) "Building inspector" means any of the following:

1. A person who is certified under rules promulgated by the department to make inspections of public buildings and places of employment.

2. A person who is certified under rules promulgated by the department to make inspections under subch. II.

(c) "Permittee" means a person who is issued a building permit for a public building or a place of employment or a person who is issued a building permit under subch. II.

(2) RESPONSIBILITIES. (a) The review board shall review complaints received from permittees concerning possible incompetent, negligent, or unethical conduct by building inspectors.

(b) After reviewing a complaint received under par. (a), the review board may revoke the certification of a building inspector if the board determines that the building inspector has engaged in incompetent, negligent, or unethical conduct.

(c) The review board may modify or reverse decisions made by building inspectors if the board finds that the decision by the building inspector was made in error.

(3) PROCEDURES; CONFIDENTIALITY. (a) If a permittee makes a complaint to the review board concerning a building inspector, the permittee may do one of the following:

1. Request that the complaint remain anonymous, subject to par. (b).

2. Allow the complaint to be presented to the building inspector and not remain anonymous.

(b) If the permittee chooses to request that the permittee's complaint remain anonymous, the board may not review the complaint or modify or revoke the permit unless the board receives 2 additional anonymous complaints regarding the inspector. If 2 or more additional complaints are made, the review board shall proceed with its review, and none of the complaints may continue to be anonymous.

(c) If the permittee allows his complaint to be presented to the inspector without requesting anonymity, the review board shall proceed with the review.

History: 2005 a. 457.

101.597 Education and training programs. (1) BY EMPLOYER; TOXIC SUBSTANCE, INFECTIOUS AGENT OR PESTICIDE. Except as provided in sub. (5) (b), prior to an employee's initial assignment to a workplace where the employee may be routinely exposed to any toxic substance, infectious agent or pesticide, an employer shall provide the employee with an education or training program under sub. (5) (a) or (c). The employer shall provide additional instruction whenever the employee may be routinely exposed to any additional toxic substance or infectious agent.

(2) BY AGRICULTURAL EMPLOYER; PESTICIDE. Prior to an agricultural employee's initial assignment to a workplace where the employee may be routinely exposed to a pesticide, an agricultural employer shall provide the employee with an education or training program under sub. (5) (c). The agricultural employer shall provide additional instruction whenever the employee may be routinely exposed to any additional pesticide.

(3) BY DEPARTMENT. The department shall inform manufacturers, suppliers, employers, agricultural employers and employees of their duties and rights under ss. 101.58 to 101.599. As part of this program, the department shall cooperate with the department of revenue to notify any employer commencing operations on or after May 8, 1982, of that employer's duties and rights.

(4) DEFINITION. In this section, "routinely exposed to any toxic substance" means exposure of at least 30 days per year at exposure levels exceeding 50% of the permissible exposure level established by the federal occupational safety and health administration, or any exposure exceeding 100% of the permissible exposure level, regardless of the exposure period.

(5) PROGRAM CONTENTS. (a) *Toxic substances and infectious agents.* For each toxic substance or infectious agent to which the employee may be routinely exposed, the education or training program shall include:

1. a. For a toxic substance, the trade name, generic or chemical name and any commonly used synonym for the toxic substance and the trade name, generic or chemical name and any commonly used synonym for its major components.

b. For an infectious agent, its name and any commonly used synonym.

2. The location of the toxic substance or infectious agent.

3. Any symptom of acute or chronic effect of overexposure to the toxic substance or infectious agent.

4. For a toxic substance, the potential for flammability, explosion and reactivity.

5. Proper conditions for safe use of and exposure to the toxic substance or infectious agent.

6. Special precautions to be taken and personal protective equipment to be worn or used, if any, when handling or coming into contact with the toxic substance or infectious agent.

7. Procedures for handling, cleanup and disposal of toxic substances or infectious agents leaked or spilled.

(b) *Toxic substances and infectious agents; exception.* In an area where employees usually work with a large number of toxic substances or infectious agents which are received in packages of one kilogram or less and no more than 10 kilograms of which are used or purchased per year, the employer may provide a general education or training program in lieu of the education or training program described in par. (a). The general training program shall be provided prior to an employee's initial assignment to the area and shall include:

1. The information specified in par. (a) 1. and 2.

2. The nature of the hazards posed by the toxic substances or infectious agents or both.

3. General precautions to be taken when handling or coming into contact with the toxic substances or infectious agents.

(c) *Pesticides.* For each pesticide to which the employee may be routinely exposed the education or training program shall include:

1. The trade name, generic or chemical name and any commonly used synonym for the pesticide and the trade name, generic or chemical name and any commonly used synonym for its major ingredients.

2. The location of the pesticide and the location where it is used.

3. Any symptom of acute or chronic effect of overexposure to the pesticide.

4. Proper conditions for safe use of and exposure to the pesticide.

5. Special precautions to be taken and personal protective equipment to be worn or used, if any, when handling or coming into contact with the pesticide.

6. Procedures for handling, cleanup and disposal of leaks or spills of the pesticide.

History: 1981 c. 364, 391; 1983 a. 392; 1995 a. 27.
Cross−reference: See also ch. SPS 335, Wis. adm. code.

101.598 Rules. (1) The department shall, by rule, identify as an infectious agent any bacterial, mycoplasmal, fungal, parasitic or viral agent which causes illness in humans or human fetuses or both. The department shall consult with the department of health services in promulgating these rules.

(2) The department may, by rule, exempt employers from retaining a data sheet or maintaining a list, under s. 101.583 (1), regarding any mixture containing a toxic substance if the nature of the toxic substance or the quantity of toxic substance present in the mixture is such that the mixture is highly unlikely to pose an unreasonable acute or chronic health hazard to an employee who works with or is likely to be exposed to the mixture.

History: 1981 c. 364, 391; 1983 a. 392; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a).
Cross−reference: See also ch. SPS 335, Wis. adm. code.

101.599 Remedies; civil forfeitures. (1) COMPLAINT. An employee or employee representative who has not been afforded his or her rights by an employer or agricultural employer in violation of s. 101.583, 101.585, 101.586, 101.595 (1), (2) (a) or (3) or 101.597 (1) or (2) may, within 30 days after the violation occurs or the employee or employee representative first obtains knowledge of the violation, whichever is later, file a complaint with the department alleging the violation. The department shall investigate the complaint and shall attempt to resolve the complaint by conference, conciliation or persuasion. If the complaint is not resolved and the department finds probable cause to believe a violation has occurred, the department shall proceed with notice and a hearing on the complaint as provided in ch. 227. The hearing shall be held within 60 days after receipt by the department of the complaint.

(2) REMEDIES. The department shall issue its decision and order within 30 days after the hearing. If the department finds that an employer or agricultural employer has violated s. 101.583, 101.585, 101.586, 101.595 (1), (2) (a) or (3) or 101.597 (1) or (2), it may order the employer or agricultural employer to take such action as will remedy the effects of the violation, including instituting an education or training program, providing the requested information, reinstating an employee or providing back pay to an employee.

(3) CIVIL FORFEITURE. (a) Except as provided in par. (b), any person who violates ss. 101.58 to 101.599 or an order of the department issued under ss. 101.58 to 101.599 shall forfeit not more than $1,000 for each violation.

(b) Any person who willfully violates or exhibits a pattern of violation of ss. 101.58 to 101.599 or an order of the department issued under ss. 101.58 to 101.599 shall forfeit not more than $10,000 for each violation.

History: 1981 c. 364; 1981 c. 391 ss. 101, 102; 1983 a. 392; 1989 a. 228.
Cross−reference: See also ch. SPS 335, Wis. adm. code.

SUBCHAPTER II

ONE− AND 2−FAMILY DWELLING CODE

101.60 Purpose. The purpose of this subchapter is to establish statewide construction standards and inspection procedures for one− and 2−family dwellings and to promote interstate uniformity in construction standards by authorizing the department to enter into reciprocal agreements with other states which have equivalent standards.

History: 1975 c. 404; 1977 c. 369, 447.
Cross−reference: See also chs. SPS 320, 321, 322, 323, 324, and 325, Wis. adm. code.

101.61 Definitions. In this subchapter:

(1) "Dwelling" means any building that contains one or 2 dwelling units. "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(2) "Owner" means any person having a legal or equitable interest in the dwelling. "Owner" does not include any person whose legal or equitable interest in the dwelling is a security interest derived solely from the extension of credit to permit construction or remodeling of the dwelling or purchase of the dwelling by a 3rd party.

History: 1975 c. 404; 1979 c. 89, 148; 1989 a. 109.

The dwelling code applies to additions to buildings initially constructed after the effective date of the one− and two−family dwelling code act. 67 Atty. Gen. 191.

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101.615 Application. This subchapter applies to a dwelling the initial construction of which was commenced on or after December 1, 1978, except as follows:

(1) Section 101.645 applies to a dwelling the initial construction of which was commenced before, on or after May 23, 1978.

(1m) Section 101.647 applies to a dwelling the initial construction of which was commenced before, on, or after the effective date of this subsection.

(2) Section 101.653 applies to a dwelling the initial construction of which was commenced on or after May 16, 1992.

(3) Sections 101.65 (1m) and (1r) and 101.654 apply to an application for a building permit filed on or after April 1, 1995, to perform work on a dwelling the initial construction of which was commenced before, on or after December 1, 1978.

History: 1989 a. 109; 1991 a. 309; 1993 a. 126; 1995 a. 392; 2009 a. 158.

Cross−reference: See also chs. SPS 320, 321, 322, 323, 324, and 325, Wis. adm. code.

101.62 Dwelling code council; power. The dwelling code council shall review the standards and rules for one− and 2−family dwelling construction and recommend a uniform dwelling code for adoption by the department which shall include rules providing for the conservation of energy in the construction and maintenance of dwellings and for costs of specific code provisions to home buyers to be related to the benefits derived from such provisions. The council shall study the need for and availability of one−family and 2−family dwellings that are accessible to persons with disabilities, as defined in s. 106.50 (1m) (g), and shall make recommendations to the department for any changes to the uniform dwelling code that may be needed to ensure an adequate supply of one−family and 2−family dwellings. Upon its own initiative or at the request of the department, the council shall consider and make recommendations to the department pertaining to rules and any other matters related to this subchapter. The council shall recommend variances for different climate and soil conditions throughout the state.

History: 1975 c. 404; 1991 a. 295; 1995 a. 27; 1999 a. 82.

101.625 Contractor certification council; duties. The contractor certification council shall do all of the following:

(1) Recommend for promulgation by the department rules for certifying the financial responsibility of contractors under s. 101.654. These rules shall include rules providing for the assessment of fees upon applicants for certification of financial responsibility under s. 101.654 and for the suspension and revocation of that certification. The amount of the fees recommended under this subsection may not exceed an amount that is sufficient to defray the costs incurred in certifying the financial responsibility of applicants under s. 101.654.

(2) Recommend to the department for approval under s. 101.654 (1m) (b) 1. courses that meet continuing education requirements.

(3) Advise the department on the development of course examinations for those persons who are required to pass an examination under s. 101.654 (1m) (b).

History: 1993 a. 126; 2005 a. 200.

101.63 Departmental duties. The department shall:

(1) Adopt rules which establish standards for the construction and inspection of one− and 2−family dwellings and components thereof. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be adopted which has not taken into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions. Rules promulgated under this subsection do not apply to a bed and breakfast establishment, as defined under s. 254.61 (1), except that the rules apply to all of the following:

(a) The 3rd floor level of a bed and breakfast establishment that uses that level other than as storage.

(b) A structural addition that is made to a bed and breakfast establishment that alters the dimensions of the structure.

(2) Adopt rules for the certification, including provisions for suspension and revocation thereof, of inspectors for the purpose of inspecting building construction, electrical wiring, heating, ventilating, air conditioning and other systems, including plumbing, as defined in s. 145.01 (10), of one− and 2−family dwellings under sub. (1). The rules shall specify that the department may suspend or revoke the certification of an inspector under this subsection for knowingly authorizing the issuance of a building permit to a contractor who is not in compliance with s. 101.654. Persons certified as inspectors may be employees of the department, a city, village, town, county or an independent inspection agency. The department may not adopt any rule which prohibits any city, village, town or county from licensing persons for performing work on a dwelling in which the licensed person has no legal or equitable interest.

(2m) Promulgate rules for certifying the financial responsibility of contractors under s. 101.654. These rules shall include rules providing for the assessment of fees upon applicants for certification of financial responsibility under s. 101.654 and for the suspension and revocation of that certification. The amount of the fees assessed under this subsection may not exceed an amount that is sufficient to defray the costs incurred in certifying the financial responsibility of applicants under s. 101.654.

(3) Contract to provide inspection services, at municipal expense, to any municipality which requires such service under s. 101.65.

(5) Biennially review the rules adopted under this subchapter.

(6) Issue special orders which it deems necessary to secure compliance with this subchapter and enforce the same by all appropriate administrative and judicial proceedings.

(7) Prescribe and furnish to municipalities a standard building permit form for all new one− and 2−family dwellings. The standard permit form shall include a space in which the municipal authority issuing the permit shall insert the name and license number of the master plumber engaged in supervising the installation of plumbing or installing the plumbing at a new one− or 2−family dwelling.

(8) Hear petitions regarding the dwelling code, rules and special orders in accordance with s. 101.02 (6) (e) to (i) and (8).

(9) Establish by rule a schedule of fees sufficient to defray the costs incurred under this subchapter.

History: 1975 c. 404; 1979 c. 221; 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (8); 1987 a. 343; 1993 a. 26, 126, 414; 1999 a. 9, 135; 2003 a. 90; 2005 a. 25, 200; 2007 a. 67; 2011 a. 78.

Cross−reference: See also chs. SPS 316, 320, 321, 322, 323, 324, 325, 381, 382, 383, 384, 385, 386, and 387, Wis. adm. code.

101.64 Departmental powers. The department may:

(1) Hold hearings on any matter relating to this subchapter and issue subpoenas to compel the attendance of witnesses and the production of evidence at such hearings.

(2) At the request of the owner or renter enter, inspect and examine dwellings, dwelling units or premises necessary to ascertain compliance with the rules and special orders under this subchapter.

(3) Revise the rules under this subchapter after consultation with the dwelling code council or with the contractor certification council, as appropriate.

(4) Provide for or engage in the testing, approval and certification of materials, devices and methods of construction.

(5) Collect and publish data secured from the building permits.

(6) Adopt rules prescribing procedures for approving new building materials, methods and equipment.

(7) Enter into reciprocal agreements with other states regarding the approval of building materials and methods where the

standards of the other state meet the intent of the dwelling code and the rules promulgated under this subchapter.

(8) Study the operation of the dwelling construction code and other laws related to the construction of dwelling units to determine their impact upon the cost of building construction and their effectiveness upon the health, safety and welfare of the occupants.

History: 1975 c. 404; 1993 a. 126; 2005 a. 200.

101.642 Certain rules prohibited. The department may not promulgate or enforce a rule that requires that any one−family or 2−family dwelling that uses electricity for space heating be superinsulated.

History: 2007 a. 67.

101.645 Smoke detectors. (1) DEFINITION. The definition of "smoke detector" under s. 101.145 (1) (c) also applies to this section.

(2) APPROVAL AND INSTALLATION. A smoke detector required under this section shall be approved and installed as required under s. 101.145 (2) and (3) (a).

(3) REQUIREMENT. The owner of a dwelling shall install a functional smoke detector in the basement of the dwelling and on each floor level except the attic or storage area of each dwelling unit. The occupant of such a dwelling unit shall maintain any smoke detector in that unit, except that if any occupant who is not the owner, or any state, county, city, village or town officer, agent or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that the smoke detector is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional.

(4) INSPECTION. The department or a municipal authority may inspect new dwellings, may inspect the common areas of dwellings and, at the request of the owner or renter, may inspect the interior of a dwelling unit in a dwelling to ensure compliance with this section.

History: 1977 c. 388; 1983 a. 189 s. 329 (4); 1987 a. 376; 1989 a. 109.

Cross−reference: See also ch. SPS 328, Wis. adm. code.

This section is a safety statute the violation of which constitutes negligence per se. Johnson v. Blackburn, 220 Wis. 2d 260, 582 N.W.2d 488 (Ct. App. 1998), 97−1414.

101.647 Carbon monoxide detectors. (1) DEFINITIONS. In this section:

(a) "Carbon monoxide detector" has the meaning given in s. 101.149 (1) (am).

(am) Notwithstanding s. 101.61 (1), "dwelling" does not include a tourist rooming house, as defined in s. 254.61 (6).

(b) "Fuel−burning appliance" means a device that is installed in a dwelling, that burns fossil fuel or carbon−based fuel, and that produces carbon monoxide as a combustion by−product.

(2) INSTALLATION AND SAFETY CERTIFICATION. The owner of a dwelling shall install any carbon monoxide detector required under this section according to the directions and specifications of the manufacturer of the carbon monoxide detector. A carbon monoxide detector required under this section shall bear an Underwriters Laboratories, Inc., listing mark and may be a device that is combined with a smoke detector.

(3) REQUIREMENTS. (a) The owner of a dwelling shall install a functional carbon monoxide detector in the basement of the dwelling and on each floor level except the attic, garage, or storage area of each dwelling unit. A carbon monoxide detector wired to the dwelling's electrical wiring system shall have a backup battery power supply. Except as provided under par. (b), the occupant of the dwelling unit shall maintain any carbon monoxide detector in that unit. This paragraph does not apply to the owner of a dwelling that has no attached garage, no fireplace, and no fuel−burning appliance.

(am) 1. If the building permit for the initial construction of a dwelling was issued on or after February 1, 2011, and the electrical service for the dwelling is provided by a public utility, as defined in s. 196.01 (5), the owner of the dwelling shall install each carbon monoxide detector required under par. (a) so that it is powered by the dwelling's electrical wiring system, except as provided under subd. 2.

2. The requirement that each carbon monoxide detector be installed in the manner provided under subd. 1. does not apply to a dwelling if the dwelling, when initially constructed, had no attached garage, no fireplace, and no fuel−burning appliance.

(b) If any occupant who is not the owner of a dwelling, or any person authorized by state law or by city, village, town, or county ordinance or resolution to exercise powers or duties involving inspection of real or personal property, gives written notice to the owner that the carbon monoxide detector is not functional, the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that carbon monoxide detector functional.

(4) INSPECTION. The department or person authorized by state law or by city, village, town, or county ordinance or resolution to exercise powers or duties involving inspection of real or personal property may inspect new dwellings and, at the request of the owner or renter, may inspect the interior of a dwelling unit in a dwelling to ensure compliance with this section.

(5) LIABILITY EXEMPTION. The owner of a dwelling is not liable for damages resulting from any of the following:

(a) A false alarm from a carbon monoxide detector if the carbon monoxide detector was reasonably maintained by the owner of the dwelling.

(b) The failure of a carbon monoxide detector to operate properly if that failure was the result of tampering with, or removal or destruction of, the carbon monoxide detector by a person other than the owner of the dwelling or the result of a faulty detector that was reasonably maintained by the owner of the dwelling.

(6) TAMPERING PROHIBITED. No person may tamper with, remove, destroy, disconnect, or remove batteries from an installed carbon monoxide detector, except in the course of inspection, maintenance, or replacement of the detector.

History: 2009 a. 158.

Cross−reference: See also ch. SPS 328, Wis. adm. code.

101.65 Municipal authority. Except as provided by s. 101.651, cities, villages, towns and counties:

(1) May:

(a) Exercise jurisdiction over the construction and inspection of new dwellings by passage of ordinances, provided such ordinances meet the requirements of the one− and 2−family dwelling code adopted in accordance with this subchapter. Except as provided by s. 101.651, a county ordinance shall apply in any city, village or town which has not enacted such ordinance.

(b) Under s. 66.0301, jointly exercise the jurisdiction granted under par. (a).

(c) By ordinance establish and collect fees to defray the cost of jurisdiction exercised under par. (a) or (b).

(d) By ordinance provide remedies and penalties for violation of the jurisdiction exercised under par. (a) or (b).

(1m) May not issue a building permit to a person who is required to be certified under s. 101.654 unless that person, on applying for a building permit, produces a certificate issued by the department or other evidence satisfactory to the department showing that the person is in compliance with s. 101.654.

(1r) Shall require an owner who applies for a building permit to sign a statement advising the owner that if the owner hires a contractor to perform work under the building permit and the contractor is not bonded or insured as required under s. 101.654 (2) (a), the following consequences might occur:

(a) The owner may be held liable for any bodily injury to or death of others or for any damage to the property of others that arises out of the work performed under the building permit or that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit.

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(b) The owner may not be able to collect from the contractor damages for any loss sustained by the owner because of a violation by the contractor of the one− and 2−family dwelling code or an ordinance enacted under sub. (1) (a), because of any bodily injury to or death of others or damage to the property of others that arises out of the work performed under the building permit or because of any bodily injury to or death of others or damage to the property of others that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit.

(2) Shall contract with the department for those inspection services which the municipality does not perform or contract for under sub. (1) (a) or (b) and reimburse the department for its reasonable and necessary expenses incurred in the performance of such services pursuant to s. 101.63 (9).

(3) Shall use the standard building permit form prescribed and furnished by the department and file a copy of each such permit issued with the department.

History: 1975 c. 404; 1979 c. 221 s. 2025 (12); 1979 c. 355 s. 238; 1981 c. 20; 1993 a. 126; 1999 a. 150 s. 672; 2005 a. 200; 2009 a. 276.

Cross−reference: See also s. SPS 320.06, Wis. adm. code.

Municipalities may contract with independent contractors to provide inspection services under this section. Giffin v. Poetzl, 2001 WI App 207, 247 Wis. 2d 906, 634 N.W.2d 901, 00−2633.

101.651 Special requirements for smaller municipalities. (1) DEFINITION. In this section, "municipality" means a city, village or town with a population of 2,500 or less.

(2m) ENFORCEMENT OPTIONS. A municipality shall exercise jurisdiction over the construction and inspection of new one− and 2−family dwellings by enacting ordinances under s. 101.65 (1) (a) or shall exercise the jurisdiction granted under s. 101.65 (1) (a) jointly under s. 101.65 (1) (b), unless any of the following conditions are met:

(a) The municipality adopts a resolution requesting under sub. (3) (a) that a county enforce this subchapter or an ordinance enacted under s. 101.65 (1) (a) throughout the municipality and that a county provide inspection services in the municipality to administer and enforce this subchapter or an ordinance enacted under s. 101.65 (1) (a).

(c) Under sub. (3) (b), the department enforces this subchapter throughout the municipality and provides inspection services in the municipality to administer and enforce this subchapter.

(3) DEPARTMENTAL AND COUNTY AUTHORITY IN MUNICIPALITIES; GENERALLY. (a) Except as provided in par. (b), the department or a county may not enforce this subchapter or provide inspection services in a municipality unless requested to do so by a person with respect to a particular dwelling or by the municipality. A request by a person or a municipality with respect to a particular dwelling does not give the department or a county authority with respect to any other dwelling. Costs shall be collected under s. 101.65 (1) (c) or ss. 101.63 (9) and 101.65 (2) from a person or municipality making a request under this subsection.

(b) The department shall provide inspection services and shall enforce this subchapter throughout any municipality that does not exercise jurisdiction under sub. (2m) and that has not adopted a resolution under sub. (2m) (a).

(4) DATA RELATING TO HOUSING STARTS IN MUNICIPALITIES. Municipalities shall furnish statistical data relating to housing starts to the department as requested by the department.

(5) EFFECT OF SECTION ON CERTAIN LAWS. This section does not affect the applicability of rules or an ordinance adopted under this subchapter to builders, designers and owners of dwellings located in a municipality.

History: 1981 c. 20; 1989 a. 31; 1991 a. 309; 1999 a. 9; 2003 a. 90.

101.653 Construction site erosion control. (1) DEFINITION. In this section, "best management practices" means practices, techniques or measures that the department determines to be effective means of preventing or reducing pollutants of surface water generated from construction sites.

(2) SOIL EROSION PREVENTION RULES. The department shall promulgate rules that establish standards for practices to prevent soil erosion related to the construction of one− and 2−family dwellings, subject to all of the following requirements:

(a) At a minimum, the rules shall require the use of best management practices.

(b) The rules shall require the use of more restrictive or additional practices on an area with a slope that is greater than 12%.

(2m) RULES FOR ADMINISTRATION. The department shall promulgate rules for the administration of construction site erosion control under this subchapter by counties, cities, villages and towns, including provisions regarding the issuance of permits and the collection and distribution of fees.

(4) APPLICABILITY OF LOCAL SUBDIVISION REGULATION. All powers granted to a county, city, village or town under s. 236.45 may be exercised by it with respect to construction site erosion control regulation if the county, city, village or town has or provides a planning commission or agency.

(5) MUNICIPAL RESPONSIBILITIES; DEPARTMENT REVIEW. (a) Each city, village, town or county that enforces those provisions of an ordinance enacted under s. 101.65 (1) (a) related to construction site erosion shall do all of the following:

1. Obtain the services of an inspector certified to conduct all inspections related to the soil erosion control standards under this section.

2. Obtain the services of a plan reviewer certified to review all erosion control plans submitted under this section.

3. Review erosion control plans, conduct inspections of erosion control practices and enforce the requirements of this section as provided in s. 101.65 (1) (d).

4. Complete the review of an erosion control plan no later than the 15th working day after the day that the erosion control plan is submitted.

(b) The department shall review the construction site erosion control program for one− and 2−family dwellings of each city, village, town or county that enforces those provisions of an ordinance enacted under s. 101.65 (1) (a) related to construction site erosion to ascertain compliance with par. (a) and the rules promulgated under this section. This review shall include all of the following:

1. A performance audit of the erosion control program of the county, city, village or town.

2. A written determination by the department, issued every 3 years, of whether or not the county, city, village or town complies with par. (a).

(6m) REVIEW. The department and the department of natural resources shall enter into a memorandum of agreement that establishes a process for reviewing the standards established under sub. (2), periodically updating those standards and reviewing the training program. The memorandum of understanding shall ensure that local officials and other persons interested in the standards established under sub. (2) and the training program may participate in the process.

(7) ENFORCEMENT; REMEDIES. (a) A county, city, village or town may submit orders to abate violations of those provisions of an ordinance enacted under s. 101.65 (1) (a) related to construction site erosion to the district attorney, the corporation counsel or the attorney general for enforcement. The district attorney, the corporation counsel or the attorney general may enforce those orders.

(b) The department or a city, village, town or county may issue a special order directing the immediate cessation of work on a one− or 2−family dwelling until the necessary plan approval is

obtained or until the site complies with the rules promulgated under sub. (2).

History: 1991 a. 309.

Cross−reference: See also s. SPS 321.125 and ch. SPS 360, Wis. adm. code.

101.654 Contractor certification; education. (1) (a) Subject to par. (b), no person may obtain a building permit unless the person annually obtains from the department a certificate of financial responsibility showing that the person is in compliance with sub. (2), completes the continuing education requirements described under sub. (1m), and furnishes to the issuer of the permit proof of completion of those continuing education requirements.

(b) Paragraph (a) does not apply to an owner of a dwelling who resides or will reside in the dwelling and who applies for a building permit to perform work on that dwelling.

(c) 1. In this paragraph, "license" has the meaning given in s. 101.02 (21) (a).

2. The continuing education requirements under par. (a) and the rules promulgated by the department under sub. (1m) do not apply to any person who holds a current license issued by the department at the time that the person obtains a building permit if the work the person does under the permit is work for which the person is licensed.

(1m) (a) The department shall promulgate rules establishing continuing education requirements for persons seeking to obtain a building permit under sub. (1) (a).

(b) The rules promulgated under this subsection shall require all of the following:

1. Completion every 2 years of at least 12 hours of continuing education relevant to the professional area of expertise of the person seeking to obtain a building permit, approved by the department.

2. Attendance at one or more professional meetings or educational seminars designed for both building contractors and building inspectors.

3. For a person who does not hold a certificate of financial responsibility on April 11, 2006, successful completion of an examination developed by the department on the continuing education courses required under this subsection.

(c) The rules promulgated under this subsection may not require a person who holds a certificate of financial responsibility on April 11, 2006, to take an examination on the continuing education courses required under this subsection.

(cm) The rules promulgated under this subsection may not require a person to take continuing education courses, or to take an examination on continuing education courses, that are not relevant to that person's professional area of expertise.

(d) Subject to the continuing education requirements under pars. (b) and (c), the rules promulgated under par. (a) may specify different continuing education course requirements for persons who hold a certificate of financial responsibility on April 11, 2006, and for persons who do not hold a certificate of financial responsibility on April 11, 2006.

(e) The continuing education approved by the department under par. (b) 1. shall include courses offered by private organizations with whom the department contracts under s. 101.657. The department may approve courses that are offered by other states.

(2) An applicant for a certificate of financial responsibility shall provide to the satisfaction of the department proof of all of the following:

(a) That the applicant has in force one of the following:

1. A bond endorsed by a surety company authorized to do business in this state of not less than $5,000, conditioned upon the applicant complying with all applicable provisions of the one− and 2−family dwelling code and any ordinance enacted under s. 101.65 (1) (a).

2. A policy of general liability insurance issued by an insurer authorized to do business in this state insuring the applicant in the amount of at least $250,000 per occurrence because of bodily injury to or death of others or because of damage to the property of others.

(b) If the applicant is required under s. 102.28 (2) (a) to have in force a policy of worker's compensation insurance or if the applicant is self−insured in accordance with s. 102.28 (2) (b), that the applicant has in force a policy of worker's compensation insurance issued by an insurer authorized to do business in this state or is self−insured in accordance with s. 102.28 (2) (b).

(c) If the applicant is required to make state unemployment insurance contributions under ch. 108 or is required to pay federal unemployment compensation taxes under 26 USC 3301 to 3311, that the applicant is making those contributions or paying those taxes as required.

(2m) If an applicant wishes to use a bond under sub. (2) (a) 1. of less than $25,000 to comply with sub. (2) (a), the applicant shall agree not to perform any work on a dwelling for which the estimated cost of completion is greater than the amount of the bond. The department shall indicate any restriction under this subsection on the certificate of financial responsibility issued under sub. (3).

(3) Upon receipt of the proof required under sub. (2) and the fee required by rules promulgated under s. 101.63 (2m), the department shall issue to the applicant a certificate of financial responsibility. A certificate of financial responsibility issued under this subsection is valid for one year after the date of issuance, unless sooner suspended or revoked.

(4) (a) A bond or insurance policy required under sub. (2) may not be canceled by the person insured under the bond or policy or by the surety company or insurer except on 30 days' prior written notice served on the department in person or by 1st class mail or, if the cancellation is for nonpayment of premiums to the insurer, on 10 days' prior written notice served on the department in person or by 1st class mail. The person insured under the bond or policy shall file with the department proof to the satisfaction of the department of a replacement bond or replacement insurance within the 30−day notice period or 10−day notice period, whichever is applicable, and before the expiration of the bond or policy. The department shall suspend without prior notice or hearing the certificate of financial responsibility of a person who does not file satisfactory proof of a replacement bond or replacement insurance as required by this subsection.

(b) A bond under sub. (2) (a) 1. shall be executed in the name of the state for the benefit of any person who sustains a loss as a result of the person insured under the bond not complying with an applicable provision of the one− and 2−family dwelling code or any ordinance enacted under s. 101.65 (1) (a), except that the aggregate liability of the surety to all persons may not exceed the amount of the bond.

(5) The department may revoke or suspend a certificate of financial responsibility if any of the following apply:

(a) The holder fails to comply with the continuing education requirements specified under subs. (1) and (1m).

(b) The holder engages in the construction of a dwelling without a permit required under this chapter.

(c) The holder is convicted of a crime related to the construction of a dwelling.

(d) The holder has been adjudged bankrupt on 2 or more occasions.

History: 1993 a. 126; 1995 a. 392; 1997 a. 39; 2005 a. 200; 2007 a. 14; 2009 a. 276.

Cross−reference: See also ss. SPS 305.31 and 305.315, Wis. adm. code.

A particular municipal licensure requirement may be preempted if that requirement logically conflicts with, defeats the purpose of, or violates the spirit of state contractor financial responsibility and continuing education requirements. Ordinances requiring local licensure are preempted if they impose on persons seeking a building permit for one− or 2−family dwellings greater financial responsibility, education, or examination requirements than required by state law. OAG 6−10.

101.657 Education contracts for builders and consumers. (1) The department shall contract with a private organization to provide education regarding construction standards

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and inspection requirements under this subchapter and under rules promulgated under this subchapter to builders of dwellings in this state.

(2) The department shall contract with a private organization to provide education regarding business practices to builders of dwellings in this state.

(3) The department shall contract with a private organization to provide education regarding the dwelling building process to consumers in this state. The education curriculum shall include selecting a contractor, the construction process, and consumer protection.

(4) Each contract under sub. (1), (2), and (3) shall be a separate contract. The department is limited for these contracts to contracting only with organizations that are described in section 501 (c) (6) of the Internal Revenue Code and are exempt from federal income tax under section 501 (a) of the Internal Revenue Code.

(5) From the appropriation under s. 20.165 (2) (j), beginning with fiscal year 2005−06, the department shall allocate $100,000 annually for the contract required under sub. (2) and at least $600,000 annually for the contract required under sub. (3).

History: 2005 a. 25 ss. 1830e to 1830m; 2011 a. 32.

101.66 Compliance and penalties. (1) Except as provided in sub. (1m), every builder, designer, and owner shall use building materials, methods, and equipment which are in conformance with the one− and 2−family dwelling code.

(1m) (a) No person may use in a one− or 2−family dwelling load−bearing dimension lumber that has not been tested and approved for conformance as required by the department unless the lumber is approved for use under par. (c) and one of the following applies:

1. The lumber has been milled at the request of the person owning the lumber for use in the construction of the dwelling, and the dwelling will be inhabited by the person owning the lumber.

2. The person milling the lumber sells the lumber directly to a person who will inhabit the dwelling or to a person acting on his or her behalf and for whom a building permit has been issued for the dwelling.

(b) The lumber shall be milled so that it meets or exceeds the requirements of the one− and 2−family dwelling code. The person milling the lumber shall provide to the person receiving the lumber a written certification that the lumber meets or exceeds these requirements. The department shall design and provide forms for this purpose.

(bn) A person may not provide a written certification under par. (b) unless the person has been issued a certificate of accomplishment evidencing certification or recertification under the lumber grading training program under s. 36.25 (48) and the person has received the certificate within the 5 years before providing the written certification. The person shall attach to the written certification a copy of his or her certificate of accomplishment.

(c) Upon receipt of a copy of the certification required under par. (b) an inspector who is certified under sub. (2) may either authorize the use of the lumber, reject the use of the lumber, or authorize its use subject to more restrictive construction requirements, including requirements as to size, spacing, length of spans, and design.

(2) All inspections shall be by persons certified by the department.

(3) Whoever violates this subchapter shall forfeit to the state not less than $25 nor more than $500 for each violation. Each day that such violation continues constitutes a separate offense.

History: 1975 c. 404; 2007 a. 208; 2009 a. 180.

Cross−reference: See also s. SPS 305.63, Wis. adm. code.

SUBCHAPTER III

MODULAR HOME CODE

101.70 Purpose. The purpose of this subchapter is to establish statewide standards and inspection procedures for the manufacture and installation of modular homes and to promote interstate uniformity in standards for modular homes by authorizing the department to enter into reciprocal agreements with other states that have equivalent standards.

History: 1975 c. 405; 2007 a. 11.

Cross−reference: See also s. SPS 305.327 and chs. SPS 320, 321, 322, 323, 324, and 325, Wis. adm. code.

101.71 Definitions. In this subchapter:

(1) "Closed construction" means any building, building component, assembly or system manufactured in such a manner that it cannot be inspected before installation at the building site without disassembly, damage or destruction.

(2) "Dwelling" means any building that contains one or more dwelling units. "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(3) "Insignia" means a device or seal approved by the department to certify compliance with this subchapter.

(4) "Installation" means the assembly of a modular home on−site and the process of affixing a modular home to land, a foundation, footing, or an existing building.

(5) "Manufacture" means the process of making, fabricating, constructing, forming or assembling a product from raw, unfinished, semifinished or finished materials.

(6) (a) "Modular home" means any structure or component thereof which is intended for use as a dwelling and:

1. Is of closed construction and fabricated or assembled on−site or off−site in manufacturing facilities for installation, connection, or assembly and installation, at the building site; or

2. Is a building of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation, on the building site and for which certification is sought by the manufacturer.

(b) "Modular home" does not mean any manufactured home under s. 101.91 or any building of open construction which is not subject to par. (a) 2.

(7) "Open construction" means any building, building component, assembly or system manufactured in such a manner that it can be readily inspected at the building site without disassembly, damage or destruction.

History: 1975 c. 405; 1979 c. 89; 1983 a. 27, 189; 1989 a. 109; 1999 a. 53; 2007 a. 11.

101.715 Application. This subchapter applies to a dwelling the initial construction of which was commenced on or after December 1, 1978, except that s. 101.745 applies to a modular home the initial manufacture of which was commenced on or after May 23, 1978.

History: 1989 a. 109; 2007 a. 11.

101.72 Dwelling code council. The dwelling code council shall review the standards and rules for modular homes for dwellings and recommend a statewide modular home code for adoption by the department which shall include rules providing for the conservation of energy in the construction and maintenance of dwellings. Such rules shall take into account the costs to home buyers of specific code provisions in relation to the benefits derived therefrom. Upon its own initiative or at the request of the department, the council shall consider and make recommendations to the department pertaining to rules and any other matters related to this subchapter.

History: 1975 c. 405; 2007 a. 11.

101.73 Departmental duties. The department shall:

(1) Adopt rules which establish standards for the use of building materials, methods and equipment in the manufacture and installation of modular homes for use as dwellings or dwelling

units. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems. Such rules shall take into account the conservation of energy in construction and maintenance of dwellings and the costs to home buyers of specific code provisions in relation to the benefits derived therefrom.

(2) Adopt rules for the examination of plans and specifications and for periodic in−plant and on−site inspections of manufacturing facilities, processes, fabrication, assembly and installation of modular homes to ensure that examinations and inspections are made in compliance with the rules adopted for construction, electrical wiring, heating, ventilating, air conditioning and other systems under ss. 101.70 to 101.77 and with the rules for indoor plumbing adopted by the department under ch. 145.

(3) Provide for examination of plans and specifications and in−plant inspections when contracted for by the manufacturer under s. 101.75 (1) and shall contract to provide on−site inspection services for the installation of modular homes for dwellings, at municipal expense, for any municipality which requires such service under s. 101.76 or 101.761.

(5) Adopt rules for the certification, including provisions for suspension and revocation thereof, of on−site inspectors of the installation of modular homes for dwellings. Persons certified as on−site inspectors may be employees of the department, a city, village, town or county or an independent agency.

(6) Adopt rules for the certification, including provisions for suspension and revocation thereof, of independent inspection agencies to conduct in−plant inspections of manufacturing facilities, processes, fabrication and assembly of modular homes for dwellings and to certify compliance with this subchapter.

(7) Issue or recognize an insignia of compliance for dwellings which conform to the modular home code.

(8) Biennially review the rules promulgated under this subchapter.

(9) Issue special orders which it deems necessary to secure compliance with this subchapter and enforce the same by all appropriate administrative and judicial proceedings.

(10) Prescribe and furnish to municipalities a standard building permit form for all new one− and 2−family dwellings.

(11) Hear petitions regarding the modular home code, rules and special orders in accordance with s. 101.02 (6) (e) to (i) and (8).

(12) Establish by rule a schedule of fees sufficient to defray the costs incurred under this subchapter.

History: 1975 c. 405; 1979 c. 221; 1981 c. 20; 1983 a. 27; 1987 a. 343; 1993 a. 414; 2007 a. 11, 67.

Cross−reference: See also ch. SPS 316, Wis. adm. code.

101.74 Departmental powers. The department may:

(1) Hold hearings on any matter relating to this subchapter.

(2) At the request of the owner or renter enter, inspect and examine dwellings, dwelling units and premises necessary to ascertain compliance with the rules and special orders under this subchapter.

(2m) Study the operation of the dwelling construction code and other laws related to the construction of dwelling units to determine their impact upon the cost of building construction and their effectiveness upon the health, safety and welfare of the occupants.

(3) Revise the rules under this subchapter after consultation with the dwelling code council.

(4) Provide for or engage in the testing, approval and certification of materials, devices and methods for the manufacture or installation of modular homes.

(5) Collect and publish data secured from the examinations and inspections under s. 101.73 (2) and (3), and from building permits.

(6) Adopt rules prescribing procedures for approving new building materials, devices and methods for the manufacture or installation of modular homes for dwellings.

(7) Enter into reciprocal agreements with other states regarding the design, construction, inspection and labeling of modular homes where the laws or rules of other states meet the intent of the modular home code and the rules promulgated under this subchapter.

History: 1975 c. 405; 2007 a. 11.

101.743 Certain rules prohibited. The department may not promulgate or enforce a rule that requires any manufactured building that uses electricity for space heating to be superinsulated.

History: 2007 a. 67.

101.745 Smoke detectors. (1) DEFINITION. The definition of smoke detector under s. 101.145 (1) (c) also applies to this section.

(2) APPROVAL. A smoke detector required under this section shall bear an Underwriters Laboratories, Inc., listing mark or similar mark from an independent product safety certification organization.

(3) INSTALLATION. A smoke detector required under this section shall be installed according to the directions and specifications of the manufacturer.

(4) REQUIREMENT. The manufacturer of a modular home shall install a functional smoke detector on each floor level except the attic or storage area of each dwelling unit.

History: 1977 c. 388; 1983 a. 189 s. 329 (4); 1987 a. 376; 1989 a. 109; 2007 a. 11; 2011 a. 146.

101.75 Inspections, insignia and alterations. (1) INSPECTIONS AND COMPLIANCE. Manufacturers of modular homes shall contract with a certified independent inspection agency or the department to conduct in−plant inspections and certify compliance with this subchapter. Manufacturers shall reimburse the independent inspection agency in accordance with the terms of the contract or reimburse the department in accordance with fees established under s. 101.73 (12). All inspections shall be performed by persons certified by the department.

(2) DISPLAY OF INSIGNIA REQUIRED. All modular homes manufactured, sold for initial use or installed within this state shall display, in a manner determined by the department, the insignia issued or recognized under ss. 101.73 (7) and 101.74 (7). All modular homes bearing such insignia shall be deemed to comply with the requirements of all building ordinances and regulations of any local government except those related to zoning and siting requisites including but not limited to building setback, side and rear yard requirements and property line requirements.

(3) DEPARTMENT APPROVAL OF ALTERATIONS. No person shall alter an approved modular home in any way prior to or during installation without the approval of the department.

(4) COUNTERFEIT INSIGNIA. No person may falsely or fraudulently make, forge, alter or counterfeit any insignia issued or recognized under ss. 101.73 (7) and 101.74 (7).

History: 1975 c. 405; 2007 a. 11.

101.76 Municipal authority. Except as provided by s. 101.761, cities, villages, towns and counties:

(1) May:

(a) With the approval of the department, exercise jurisdiction over the installation of modular homes for dwellings by passage of ordinances, provided such ordinances are in strict conformance with this subchapter and the on−site inspection is performed by persons certified by the department. Except as provided by s. 101.761, a county ordinance shall apply in any city, village or town which has not enacted such ordinance.

(b) Under s. 66.0301, jointly exercise the jurisdiction granted under par. (a).

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(c) By ordinance establish and collect fees to defray the cost of jurisdiction exercised under par. (a) or (b).

(d) By ordinance provide remedies and penalties for violation of the jurisdiction exercised under par. (a) or (b).

(2) Shall contract with the department for on−site installation inspection services which the municipality does not perform under sub. (1) (a) or (b) and reimburse the department for its reasonable and necessary expenses incurred in the performance of such services pursuant to s. 101.73 (12).

(3) Shall use the standard building permit form prescribed by the department and file a copy of each such permit issued with the department.

History: 1975 c. 405; 1981 c. 20; 1999 a. 150 s. 672; 2007 a. 11.
Cross−reference: See also s. SPS 320.06, Wis. adm. code.

101.761 Certain municipalities excepted. (1) In this section, "municipality" means a city, village or town with a population of 2,500 or less.

(2) Except as provided under sub. (6), a municipality is exempt from:

(a) The requirements under s. 101.76 (2).

(b) Any rule adopted under s. 101.73 regarding suspension or revocation of standard building permits.

(3) The department or a county may not enforce this subchapter or an ordinance adopted under s. 101.76 (1) (a) or provide inspection services in a municipality unless requested to do so by a person with respect to a particular modular home or by the municipality. A request by a person or a municipality with respect to a particular modular home does not give the department or a county authority with respect to any other modular home. Costs shall be collected under s. 101.76 (1) (c) or ss. 101.73 (12) and 101.76 (2) from the person or municipality making the request.

(4) Municipalities shall furnish statistical data relating to housing starts to the department as requested by the department.

(5) This section does not affect the applicability of or ordinances adopted under this subchapter to manufacturers, builders and owners of modular homes located in a municipality.

(6) Any dwelling not inspected under s. 101.76 shall comply with the rules adopted under s. 101.73 (1) which take into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions.

History: 1981 c. 20, 314; 1989 a. 31; 1997 a. 35; 2007 a. 11.

101.77 Penalties. Whoever violates this subchapter shall forfeit to the state not less than $25 nor more than $500 for each violation and each day that such violation continues constitutes a separate offense.

History: 1975 c. 405.

SUBCHAPTER IV

ELECTRICAL WIRING AND ELECTRICIANS

101.80 Definitions. In this subchapter:

(1g) "Electric cooperative" has the meaning given in s. 196.025 (5) (ag).

(1j) "Electricity provider" means a public utility, an electric cooperative, or a wholesale merchant plant operator.

(1m) "Electrical wiring" means all equipment, wiring, material, fittings, devices, appliances, fixtures, and apparatus used for the production, modification, regulation, control, distribution, utilization, or safeguarding of electrical energy for mechanical, chemical, cosmetic, heating, lighting, or similar purposes, as specified under the state electrical wiring code. "Electrical wiring" does not include the equipment, wiring, material, fittings, devices, appliances, fixtures, and apparatus used by a public utility, an electric cooperative, or a wholesale merchant operator for the purpose of generating, transmitting, distributing, or controlling heat, light, power, or natural gas to its customers or members.

(1r) "Municipality" means a city, town, village, or county.

(3) "Public utility" has the meaning given in s. 196.01 (5).

(4) "State electrical wiring code" means the rules promulgated under s. 101.82 (1) for electrical wiring.

(5) "Wholesale merchant plant operator" means the operator of a wholesale merchant plant, as defined in s. 196.491 (1) (w).

History: 1979 c. 309; 1983 a. 189; 1995 a. 27; 2007 a. 63.

101.82 Departmental duties. The department shall:

(1) Promulgate by rule a state electrical wiring code that establishes standards for installing, repairing, and maintaining electrical wiring. Where feasible, the rules shall reflect nationally recognized standards.

(1m) Promulgate rules that establish criteria and procedures for the registration of beginning electricians and for the examination and licensing of different types of electricians, including journeymen electricians and master electricians.

(1r) Promulgate rules that establish requirements for the supervision of beginning electricians.

(1v) Promulgate rules that establish criteria and procedures for the licensing of electrical contractors.

(2) Promulgate rules that establish criteria and procedures for the certification of electrical inspectors for the purpose of inspecting electrical wiring.

(2m) Promulgate rules that establish standards and a process for the inspection of electrical wiring, including the inspection of electrical wiring for which a municipality does not provide inspection under s. 101.86 (1).

(3r) Promulgate rules that establish criteria and a process for the suspension or revocation of registrations issued to beginning electricians, licenses issued to electricians and electrical contractors, and certifications issued to electrical inspectors.

(4) Establish by rule a schedule of fees sufficient to defray the costs incurred under this subchapter.

History: 1979 c. 309; 1989 a. 348; 1995 a. 27; 2007 a. 63.
Cross−reference: See also ch. SPS 316, Wis. adm. code.

101.84 Departmental powers. The department may:

(1) Hold hearings on any matter relating to this subchapter and issue subpoenas to compel the attendance of witnesses and the production of evidence at the hearings.

(3) Promulgate rules to differentiate the scope of installation, repair, or maintenance of electrical wiring that may be performed by electrical contractors and by different types of electricians, including beginning electricians, journeymen electricians, and master electricians.

History: 1979 c. 309; 2007 a. 63.

101.86 Municipal authority. (1) Municipalities may:

(a) Enact an electrical code or otherwise exercise jurisdiction over electrical wiring and inspection of electrical wiring by enactment of ordinances. An ordinance enacted under this paragraph may not be less restrictive than this subchapter. A county ordinance shall apply in any city, village or town which has not enacted such an ordinance.

(b) Under s. 66.0301, jointly exercise the jurisdiction granted under par. (a).

(c) By ordinance, establish and collect fees to defray the cost of jurisdiction exercised under par. (a) or (b).

(d) By ordinance, provide remedies and penalties for violation of the jurisdiction exercised under par. (a) or (b).

(3) (a) The cost of inspection services provided by any county that has enacted an ordinance under sub. (1), if not defrayed by fees, shall be charged to or taxed against the property within those cities, villages, and towns in the county that have not enacted an ordinance under sub. (1).

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(b) No part of the cost of inspection services, if not defrayed by fees, may be charged to or taxed against the property within any city, village, or town that has enacted an ordinance under sub. (1).

History: 1979 c. 309; 1999 a. 150 s. 672; 2007 a. 63.

101.861 Municipal licensing authority. Any ordinance enacted by a municipality that relates to licensure or certification of electrical contractors or electricians pursuant to the municipality's authority under s. 101.865, 2005 stats., or s. 101.87, 2005 stats., and that is in existence on March 19, 2008, shall remain in effect until April 1, 2013, but may not be amended or repealed during this time period. Beginning on April 1, 2013, such an ordinance is no longer in effect, and municipalities may no longer impose any registration, licensing, or certification requirements on electrical contractors, electricians, or electrical inspectors.

History: 2007 a. 63.

101.862 License, registration, or certification required. (1) No person may engage in the business of installing, repairing, or maintaining electrical wiring unless the person is licensed as an electrical contractor by the department.

(2) No person may install, repair, or maintain electrical wiring unless the person is licensed as an electrician by the department or unless the person is registered as a beginning electrician by the department.

(3) No person who is not a master electrician may install, repair, or maintain electrical wiring unless a master electrician is at all times responsible for the person's work.

(4) Subsections (1) to (3) do not apply to any of the following:

(a) A residential property owner who installs, repairs, or maintains electrical wiring on premises that the property owner owns and occupies as a residence, unless a license or registration issued by the department is required by local ordinance.

(b) A person engaged in maintaining or repairing electrical wiring within a facility or on premises owned or leased by the person or by an entity for which the person is an agent.

(c) A person engaged in installing, repairing, or maintaining electrical wiring, apparatus, or equipment for elevators and escalators.

(d) A person engaged in installing, repairing, or maintaining equipment or systems that operate at 100 volts or less.

(e) A person engaged in installing, repairing, or maintaining an electronic system designed to monitor a premises for the presence of an emergency, to issue an alarm for an emergency, or to detect and summon aid for an emergency.

(f) A person engaged in installing, repairing, or maintaining electrical wiring of transmission facilities, as defined in s. 196.01 (12).

(g) A person engaged in installing, repairing, or maintaining manufactured equipment or a manufactured system that is designed to provide a function that is not primarily electrical in nature if the installation, repair, or maintenance does not involve the modification or installation of conductors beyond the disconnecting point or beyond the last junction, pull, or device box, whichever is nearer to the point where the person is performing the installation, repair, or maintenance.

(h) A person engaged in installing electrical wiring for components of a manufactured home, as defined in s. 101.91 (2), or a manufactured building, as defined in s. 101.71 (6), while the manufactured home or the manufactured building is at or in the facility at which it is being manufactured.

(i) A person employed by an electricity provider, or a subcontractor of an electricity provider, who installs, repairs, or maintains electrical wiring for equipment that is installed in the normal course of providing utility services by the electricity provider.

(j) A person engaged in installing, repairing, or maintaining electrical wiring that provides lighting or signals for public thoroughfares and for public airports.

(k) A person engaged in installing, repairing, or maintaining electric lines on the utility side of substations and other distribution facilities owned or operated by customers or members of electricity providers.

(L) A person employed by an electricity provider, or a subcontractor of an electricity provider, who installs, repairs, or maintains primary voltage electric facilities that are owned by the electricity provider's customers or members and that operate at greater than 600 volts.

(m) A person employed by an electricity provider, or a subcontractor of an electricity provider, who restores service during an emergency.

Note: This section is created eff. 4−1−13 by 2007 Wis. Act 63.

History: 2007 a. 63.

101.87 Requirements for journeymen electricians. (1) The rules governing the licensing of journeymen electricians under s. 101.82 (1m) shall require that an applicant for licensure as a journeyman electrician who is not a residential journeyman electrician have at least one of the following qualifications:

(a) Completion of an apprenticeship program in installing, repairing, and maintaining electrical wiring that has a duration of at least 4 years and that is approved by the U.S. department of labor and by the department of workforce development.

(b) Experience in installing, repairing, and maintaining electrical wiring for at least 60 months and passage of an examination required by the department.

(5) The rules promulgated under s. 101.82 (1m) shall require that an applicant for licensure as a residential journeyman electrician have at least one of the following qualifications:

(a) Completion of an apprenticeship program in installing, repairing, and maintaining residential electrical wiring that has a duration of at least 3 years and that is approved by the U.S. department of labor and by the department of workforce development.

(b) Experience in installing, repairing, and maintaining electrical wiring for at least 36 months, and passage of an examination required by the department.

History: 1983 a. 164; 1989 a. 348; 1993 a. 112; 2007 a. 63.

Cross−reference: See also ss. SPS 305.40, 305.41, 305.42, 305.43, 305.44, and 305.45, Wis. adm. code.

101.88 Compliance and penalties. (1) Every person installing, repairing, or maintaining electrical wiring shall use materials, methods, and equipment that are in conformance with the rules promulgated by the department under this subchapter.

(2) All inspections of electrical wiring shall be made by persons certified by the department.

(3) Any person who violates this subchapter or any rule promulgated under this subchapter shall forfeit to the state not less than $25 nor more than $500 for each violation. Each day of violation constitutes a separate offense.

History: 1979 c. 309; 1983 a. 164; 2007 a. 63.

Cross−reference: See also s. SPS 305.62, Wis. adm. code.

SUBCHAPTER V

MANUFACTURED HOMES AND MOBILE HOMES

101.91 Definitions. In this subchapter:

(1g) "Delivery date" means the date on which a manufactured home is physically delivered to the site chosen by the owner of the manufactured home.

(1i) "Installation standards" means specifications for the proper installation of manufactured homes at their place of occupancy to ensure proper siting, the joining of all sections of the manufactured home, connection to existing utility services and the installation of stabilization, support, or anchoring systems.

(1j) "Installer" means a person who is in the business of installing new manufactured homes.

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(1m) "License period" means the period during which a license issued under s. 101.951 or 101.952 is effective, as established by the department under s. 101.951 (2) (b) 1. or 101.952 (2) (b) 1.

(1t) "Licensed installer" means an installer licensed under s. 101.96 (2) (b).

(1v) "Licensed manufacturer" means a manufactured home manufacturer licensed under s. 101.95.

(2) "Manufactured home" means any of the following:

(am) A structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the federal department of housing and urban development as complying with the standards established under 42 USC 5401 to 5425.

(c) A mobile home, unless a mobile home is specifically excluded under the applicable statute.

(3) "Manufactured home dealer" means a person who, for a commission or other thing of value, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale or exchange of an interest in, manufactured homes or who is engaged wholly or partially in the business of selling manufactured homes, whether or not the manufactured homes are owned by the person, but does not include:

(a) A receiver, trustee, personal representative, guardian, or other person appointed by or acting under the judgment or order of any court.

(b) Any public officer while performing that officer's official duty.

(c) Any employee of a person enumerated in par. (a) or (b).

(d) Any lender, as defined in s. 421.301 (22).

(e) A person transferring a manufactured home used for that person's personal, family or household purposes, if the transfer is an occasional sale and is not part of the business of the transferor.

(4) "Manufactured home owner" means any person who purchases, or leases from another, a manufactured home primarily for use for personal, family or household purposes.

(5m) "Manufactured home community" means any plot or plots of ground upon which 3 or more manufactured homes that are occupied for dwelling or sleeping purposes are located. "Manufactured home community" does not include a farm where the occupants of the manufactured homes are the father, mother, son, daughter, brother or sister of the farm owner or operator or where the occupants of the manufactured homes work on the farm.

(6m) "Manufactured home community contractor" means a person, other than a public utility, as defined in s. 196.01 (5) (a), who, under a contract with a manufactured home community operator, provides water or sewer service to a manufactured home community occupant or performs a service related to providing water or sewer service to a manufactured home community occupant.

(7) "Manufactured home community occupant" means a person who rents or owns a manufactured home in a manufactured home community.

(8) "Manufactured home community operator" means a person engaged in the business of owning or managing a manufactured home community.

(9) "Manufactured home salesperson" means any person who is employed by a manufactured home manufacturer or manufactured home dealer to sell or lease manufactured homes.

(10) "Mobile home" means a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of 45 feet. "Mobile home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

(11) "New manufactured home" means a manufactured home that has never been occupied, used or sold for personal or business use.

(12) "Used manufactured home" means a manufactured home that has previously been occupied, used or sold for personal or business use.

History: 1973 c. 116, 132; 1983 a. 27, 192; 1995 a. 362; 1999 a. 9, 53; 2001 a. 16 ss. 2533 to 2539, 2975 to 2977; 2001 a. 102; 2005 a. 45.

101.92 Departmental powers and duties. The department:

(3) Shall review annually the rules adopted under this subchapter.

(4) Shall provide for announced or unannounced inspection of manufacturing facilities, processes, fabrication and assembly of manufactured homes to ensure compliance with the rules adopted under this subchapter.

(6) May enter into reciprocal agreements with other states regarding the inspection, installation, and labeling of manufactured homes where the laws or rules of other states meet the intent of this subchapter and where the laws or rules are actually enforced.

(7) Shall establish a staff for the administration and enforcement of this subchapter.

(8) May revoke the license of any manufacturer who violates this subchapter or any rules promulgated thereunder.

(9) Shall promulgate rules and establish standards necessary to carry out the purposes of ss. 101.951 and 101.952.

History: 1973 c. 116; 1979 c. 221; 1983 a. 27 ss. 1375pr, 1375q, 2200 (25); 1995 a. 27, 362; 1999 a. 9, 53; 2005 a. 45.

Cross−reference: See also s. SPS 305.32, Wis. adm. code.

101.9202 Excepted liens and security interests. Sections 101.9203 to 101.9218 do not apply to or affect:

(1) A lien given by statute or rule of law to a supplier of services or materials for the manufactured home.

(2) A lien given by statute to the United States, this state or any political subdivision of this state.

(3) A security interest in a manufactured home created by a manufactured home dealer or manufacturer who holds the manufactured home for sale, which shall be governed by the applicable provisions of ch. 409.

History: 1999 a. 9, 53.

101.9203 When certificate of title required. (1) Except as provided in subs. (3) and (4), the owner of a manufactured home situated in this state or intended to be situated in this state shall make application for certificate of title under s. 101.9209 for the manufactured home if the owner has newly acquired the manufactured home.

(2) Any owner who situates in this state a manufactured home for which a certificate of title is required without the certificate of title having been issued or applied for, knowing that the certificate of title has not been issued or applied for, may be required to forfeit not more than $200. A certificate of title is considered to have been applied for when the application accompanied by the required fee has been delivered to the department or deposited in the mail properly addressed and with postage prepaid.

(3) Unless otherwise authorized by rule of the department, a nonresident owner of a manufactured home situated in this state may not apply for a certificate of title under this subchapter unless the manufactured home is subject to a security interest or except as provided in s. 101.9209 (1) (a).

(4) The owner of a manufactured home that is situated in this state or intended to be situated in this state is not required to make application for a certificate of title under s. 101.9209 if the owner of the manufactured home intends, upon acquiring the manufactured home, to make the manufactured home a fixture to land in

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which the owner of the manufactured home has an ownership or leasehold interest subject to ch. 706.

History: 1999 a. 9, 53; 2001 a. 16; 2005 a. 45.

101.9204 Application for certificate of title. (1) An application for a certificate of title shall be made to the department upon a form or in an automated format prescribed by it and shall be accompanied by the required fee. Each application for certificate of title shall include the following information:

(a) The name and address of the owner.

(b) A description of the manufactured home, including make, model, identification number and any other information or documentation that the department may reasonably require for proper identification of the manufactured home.

(c) The date of purchase by the applicant, the name and address of the person from whom the manufactured home was acquired and the names and addresses of any secured parties in the order of their priority.

(d) If the manufactured home is a new manufactured home being titled for the first time, the signature of the manufactured home dealer. The document of origin shall contain the information specified by the department.

(e) Any further evidence of ownership which the department may reasonably require to enable it to determine whether the owner is entitled to a certificate of title and the existence or nonexistence of security interests in the manufactured home.

(f) If the identification number of the manufactured home has been removed, obliterated or altered, or if the original casting has been replaced, or if the manufactured home has not been numbered by the manufacturer, the application for certificate of title shall so state.

(g) If the manufactured home is a used manufactured home that was last previously titled in another jurisdiction, the applicant shall furnish any certificate of ownership issued by the other jurisdiction and a statement, in the form prescribed by the department, pertaining to the title history and ownership of the manufactured home.

(1m) On the form or in the automated format for application for a certificate of title, the department may show the fee under s. 101.9208 (4m) separately from the fee under s. 101.9208 (1) or (4).

(2) Any person who knowingly makes a false statement in an application for a certificate of title is guilty of a Class H felony.

History: 1999 a. 9, 53, 185; 2001 a. 38, 109; 2005 a. 45, 253.

101.9205 When department to issue certificate and to whom; maintenance of records. (1) The department shall maintain a record of each application for certificate of title received by it and, when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue and deliver a certificate to the owner of the manufactured home.

(2) The department shall maintain a record of all applications, and all certificates of title issued by the department, indexed in the following manners:

(a) According to title number.

(b) Alphabetically, according to the name of the owner.

(c) In any other manner that the department determines to be desirable.

(3) The department shall establish, by rule under s. 101.19, a fee of not less than $2 for conducting a file search of manufactured home title records.

History: 1999 a. 9, 53, 185; 2005 a. 45.

101.9206 Contents of certificate of title. (1) Each certificate of title issued by the department shall contain all of the following:

(a) The name and address of the owner.

(b) The names of any secured parties in the order of priority as shown on the application or, if the application is based on another certificate of title, as shown on that certificate.

(c) The title number assigned to the manufactured home.

(d) A description of the manufactured home, including make, model and identification number.

(e) Any other data that the department considers pertinent and desirable.

(2) (a) The certificate of title shall contain spaces for all of the following:

1. Assignment and warranty of title by the owner.

2. Reassignment and warranty of title by a manufactured home dealer.

(b) The certificate of title may contain spaces for application for a certificate of title by a transferee and for the naming of a secured party and the assignment or release of a security interest.

(3) (a) Unless the applicant fulfills the requirements of par. (b), the department shall issue a distinctive certificate of title for a manufactured home last previously registered in another jurisdiction if the laws of the other jurisdiction do not require that secured parties be named on a certificate of title to perfect their security interests. The certificate shall contain the legend "This manufactured home may be subject to an undisclosed security interest" and may contain any other information that the department prescribes. If the department receives no notice of a security interest in the manufactured home within 4 months from the issuance of the distinctive certificate of title, the department shall, upon application and surrender of the distinctive certificate, issue a certificate of title in ordinary form.

(b) The department may issue a nondistinctive certificate of title if the applicant fulfills either of the following requirements:

1. The applicant is a manufactured home dealer and is financially responsible as substantiated by the last financial statement on file with the department, a finance company licensed under s. 138.09, a bank organized under the laws of this state, or a national bank located in this state.

2. The applicant has filed with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to 1.5 times the value of the manufactured home as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the manufactured home or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney fees, by reason of the issuance of the certificate of title for the manufactured home or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the manufactured home. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of 5 years or prior thereto if, apart from this section, a nondistinctive certificate of title could then be issued for the manufactured home.

(4) A certificate of title issued by the department is prima facie evidence of the facts appearing on it.

(5) The department may issue a certificate of title in an automated format.

History: 1999 a. 9, 53, 185.

101.9207 Lost, stolen or mutilated certificates. (1) If a certificate of title is lost, stolen, mutilated or destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a replacement upon furnishing information satisfactory to the department. The

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replacement certificate of title shall contain the legend "This is a replacement certificate and may be subject to the rights of a person under the original certificate".

(2) A person recovering an original certificate of title for which a replacement has been issued shall promptly surrender the original certificate to the department.

History: 1999 a. 9.

101.9208 Fees. The following fees shall be determined by the department by rule under s. 101.19:

(1) For filing an application for the first certificate of title, to be paid by the owner of the manufactured home.

(2m) Upon filing an application under sub. (1) or (4), a manufactured housing rehabilitation and recycling fee, to be paid by the person filing the application.

(3) For the original notation and subsequent release of each security interest noted upon a certificate of title, a single fee to be paid by the owner of the manufactured home.

(4) For a certificate of title after a transfer, to be paid by the owner of the manufactured home.

(4m) Upon filing an application under sub. (1) or (4), a supplemental title fee to be paid by the owner of the manufactured home, except that this fee shall be waived with respect to an application under sub. (4) for transfer of a decedent's interest in a manufactured home to his or her surviving spouse or domestic partner under ch. 770. The fee required under this subsection shall be paid in addition to any other fee specified in this section.

(5) For each assignment of a security interest noted upon a certificate of title, to be paid by the assignee.

(6) For a replacement certificate of title, to be paid by the owner of the manufactured home.

(7) For processing applications for certificates of title that have a special handling request for fast service, which fee shall approximate the cost to the department for providing this special handling service to persons so requesting.

(8) For the reinstatement of a certificate of title previously suspended or revoked.

History: 1999 a. 9, 53, 185; 2001 a. 16; 2005 a. 45; 2009 a. 28.

101.9209 Transfer of interest in a manufactured home. **(1)** (a) If an owner transfers an interest in a manufactured home, other than by the creation of a security interest, the owner shall, at the time of the delivery of the manufactured home, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate, and cause the certificate to be mailed or delivered to the transferee. This paragraph does not apply if the owner has no certificate of title as a result of the exemption under s. 101.9203 (4).

(b) Any person who holds legal title of a manufactured home with one or more other persons may transfer ownership of the manufactured home under this subsection if legal title to the manufactured home is held in the names of such persons in the alternative, including a manufactured home held in a form designating the holder by the words "(name of one person) or (name of other person)".

(2) Except as otherwise provided in this subsection, promptly after delivery to him or her of the manufactured home, the transferee shall execute the application for a new certificate of title in the space provided therefor on the certificate or as the department prescribes, and cause the certificate and application to be mailed or delivered to the department. This subsection does not apply to a transferee who is exempt from making application for a certificate of title under s. 101.9203 (4).

(3) A transfer by an owner is not effective until the applicable provisions of this section have been complied with. An owner who has delivered possession of the manufactured home to the transferee and has complied with the provisions of this section requiring action by him or her is not liable as owner for any damages thereafter resulting from use of the mobile home.

(4) Any owner of a manufactured home for which a certificate of title has been issued, who upon transfer of the manufactured home fails to execute and deliver the assignment and warranty of title required by sub. (1), may be required to forfeit not more than $500.

(5) (a) Any transferee of a manufactured home who fails to make application for a new certificate of title immediately upon transfer to him or her of a manufactured home as required under sub. (2) may be required to forfeit not more than $200.

(b) Any transferee of a manufactured home who, with intent to defraud, fails to make application for a new certificate of title immediately upon transfer to him or her of a manufactured home as required under sub. (2) may be fined not more than $1,000 or imprisoned for not more than 30 days or both.

(c) A certificate is considered under this subsection to have been applied for when the application accompanied by the required fee has been delivered to the department or deposited in the mail properly addressed with postage prepaid.

History: 1999 a. 9, 53; 2001 a. 16.

101.921 Transfer to or from dealer. (1) (a) Except as provided in par. (b), if a manufactured home dealer acquires a manufactured home and holds it for resale or accepts a manufactured home for sale on consignment, the manufactured home dealer may not submit to the department the certificate of title or application for certificate of title naming the manufactured home dealer as owner of the manufactured home. Upon transferring the manufactured home to another person, the manufactured home dealer shall immediately give the transferee, on a form prescribed by the department, a receipt for all title, security interest and sales tax moneys paid to the manufactured home dealer for transmittal to the department when required. Unless the manufactured home has no certificate of title as a result of the exemption under s. 101.9203 (4), the manufactured home dealer shall promptly execute the assignment and warranty of title, showing the name and address of the transferee and of any secured party holding a security interest created or reserved at the time of the resale or sale on consignment, in the spaces provided therefor on the certificate or as the department prescribes. Within 7 business days following the sale or transfer, the manufactured home dealer shall mail or deliver the certificate or application for certificate to the department with the transferee's application for a new certificate, unless the transferee is exempt from making application for a certificate of title under s. 101.9203 (4). A nonresident who purchases a manufactured home from a manufactured home dealer in this state may not, unless otherwise authorized by rule of the department, apply for a certificate of title issued for the manufactured home in this state unless the manufactured home dealer determines that a certificate of title is necessary to protect the interests of a secured party. The manufactured home dealer is responsible for determining whether a certificate of title and perfection of security interest is required. The manufactured home dealer is liable for any damages incurred by the department or any secured party for the manufactured home dealer's failure to perfect a security interest that the manufactured home dealer had knowledge of at the time of sale.

(b) Except when all available spaces for a manufactured home dealer's reassignment on a certificate of title have been completed or as otherwise authorized by rules of the department, a manufactured home dealer who acquires a manufactured home and holds it for resale or accepts a manufactured home for sale on consignment may not apply for a certificate of title naming the manufactured home dealer as owner of the manufactured home.

(c) Unless exempted by rule of the department, a manufactured home dealer who acquires a manufactured home and holds it for resale shall make application for a certificate of title naming the manufactured home dealer as owner of the manufactured home when all of the available spaces for a manufactured home dealer's reassignment on the certificate of title for such manufactured home have been completed.

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(2) Every manufactured home dealer shall maintain for 5 years a record of every manufactured home bought, sold or exchanged, or received for sale or exchange. The record shall be open to inspection by a representative of the department or by a peace officer during reasonable business hours. The dealer shall maintain the record in the form prescribed by the department.

(3) Any manufactured home dealer who fails to comply with this section may be required to forfeit not more than $200.

History: 1999 a. 9, 53, 185; 2001 a. 16.

101.9211 Involuntary transfers. (1) If the interest of an owner in a manufactured home passes to another other than by voluntary transfer, the transferee shall, except as provided in sub. (2), promptly mail or deliver to the department the last certificate of title, if available, and any documents required by the department to legally effect such transfer. The transferee shall also promptly mail or deliver to the department an application for a new certificate in the form that the department prescribes, unless the transferee is exempt from making application for a certificate of title under s. 101.9203 (4).

(2) If the interest of the owner is terminated or the manufactured home is sold under a security agreement by a secured party named in the certificate of title, the transferee shall promptly mail or deliver to the department the last certificate of title, unless there is no certificate of title as a result of the exemption under s. 101.9203 (4), an application for a new certificate in the form that the department prescribes, unless the transferee is exempt from making application for a certificate of title under s. 101.9203 (4), and a statement made by or on behalf of the secured party that the manufactured home was repossessed and that the interest of the owner was lawfully terminated or sold under the terms of the security agreement.

(3) A person holding a certificate of title whose interest in the manufactured home has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the department upon request of the department. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate, and the action of the department in issuing a new certificate of title is not conclusive upon the rights of an owner or secured party named in the old certificate.

(4) (a) In all cases of the transfer of a manufactured home owned by a decedent, except under par. (b), ward, trustee or bankrupt, the department shall accept as sufficient evidence of the transfer of ownership all of the following:

1. Evidence satisfactory to the department of the appointment of a trustee in bankruptcy or of the issuance of letters testamentary or other letters authorizing the administration of a decedent's estate, letters of guardianship, or letters of trust.

2. The title executed by the personal representative, guardian, or trustee, except that this subdivision does not apply if there is no certificate of title as a result of the exemption under s. 101.9203 (4).

(b) 1. Except as provided under subd. 1m., the department shall transfer the decedent's interest in any manufactured home to his or her surviving spouse upon receipt of the title executed by the surviving spouse and a statement by the spouse that states all of the following:

a. The date of death of the decedent.

b. The approximate value and description of the manufactured home.

c. That the spouse is personally liable for the decedent's debts and charges to the extent of the value of the manufactured home, subject to s. 859.25.

1m. The department may not require a surviving spouse to provide an executed title to a manufactured home under subd. 1. if the manufactured home has no certificate of title as a result of the exemption under s. 101.9203 (4).

2. The transfer of a manufactured home under this paragraph shall not affect any liens upon the manufactured home.

3. Except as provided in subd. 4., this paragraph is limited to no more than 5 manufactured homes titled in this state that are less than 20 years old at the time of the transfer under this paragraph. There is no limit on transfer under this paragraph of manufactured homes titled in this state that are 20 or more years old at the time of transfer under this paragraph.

4. The limit in subd. 3. does not apply if the surviving spouse is proceeding under s. 867.03 (1g) and the total value of the decedent's property subject to administration in the state, including the manufactured homes transferred under this paragraph, does not exceed $50,000.

(c) Upon compliance with this subsection, the department shall bear neither liability nor responsibility for the transfer of such manufactured homes in accordance with this section.

(d) This subsection does not apply to transfer of interest in a manufactured home under s. 101.9209 (1) (b).

History: 1999 a. 9, 53, 185; 2001 a. 16, 102; 2005 a. 216.

101.9212 When department to issue a new certificate. (1) Except as otherwise provided in this subsection, the department, upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, the required fee and any other transfer documents required by law, to support the transfer, shall issue a new certificate of title in the name of the transferee as owner. The department may not require a person to provide a properly assigned certificate of title if the manufactured home for which the new certificate of title is requested has no certificate of title as a result of the exemption under s. 101.9203 (4).

(2) The department, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer, the required fee and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner. If the transfer constituted a termination of the owner's interest or a sale under a security agreement by a secured party named in the certificate, under s. 101.9211 (2), the new certificate shall be issued free of the names and addresses of the secured party who terminated the owner's interest and of all secured parties subordinate under s. 101.9213 to such secured party. If the outstanding certificate of title is not delivered to it, the department shall make demand therefor from the holder of such certificate.

(3) The department shall retain for 5 years a record of every surrendered certificate of title, the record to be maintained so as to permit the tracing of title for the manufactured home designated therein.

History: 1999 a. 9, 53, 185; 2001 a. 16.

101.9213 Perfection of security interests. (1) Unless excepted by s. 101.9202, a security interest in a manufactured home of a type for which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or secured parties of the manufactured home unless perfected as provided in ss. 101.9202 to 101.9218.

(2) Except as provided in sub. (3), a security interest is perfected by the delivery to the department of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the secured party, and the required fee. The security interest is perfected as of the later of the time of its delivery or the time of the attachment of the security interest.

(3) If a secured party whose name and address is contained on the certificate of title for a manufactured home acquires a new or additional security interest in the manufactured home, such security interest is perfected at the time of its attachment under s. 409.203.

(4) An unperfected security interest is subordinate to the rights of persons described in s. 409.317.

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(5) The rules of priority stated in s. 409.322, the other sections therein referred to, and subch. III of ch. 409 shall, to the extent appropriate, apply to conflicting security interests in a manufactured home of a type for which a certificate of title is required, or in a previously certificated manufactured home, as defined in s. 101.9222 (1). A security interest perfected under this section or under s. 101.9222 (4) or (5) is a security interest perfected otherwise than by filing for purposes of s. 409.322.

(6) The rules stated in subch. VI of ch. 409 governing the rights and duties of secured parties and debtors and the requirements for, and effect of, disposition of a manufactured home by a secured party, upon default shall, to the extent appropriate, govern the rights of secured parties and owners with respect to security interests in manufactured homes perfected under ss. 101.9202 to 101.9218.

(7) If a manufactured home is subject to a security interest when brought into this state, s. 409.316 states the rules that apply to determine the validity and perfection of the security interest in this state.

(8) Upon request of a person who has perfected a security interest under this section, as shown by the records of the department, in a manufactured home titled in this state, whenever the department receives information from another state that the manufactured home is being titled in the other state and the information does not show that the security interest has been satisfied, the department shall notify the person. The department shall establish, by rule under s. 101.19, a fee of not less than $2 for each notification.

History: 1999 a. 9, 53, 185; 2001 a. 10; 2005 a. 45.

101.9214 Duties on creation of security interest. If an owner creates a security interest in a manufactured home, unless the name and address of the secured party already is contained on the certificate of title for the manufactured home:

(1) The owner shall immediately execute, in the space provided therefor on the certificate of title or on a separate form or in an automated format prescribed by the department, an application to name the secured party on the certificate, showing the name and address of the secured party, and cause the certificate, application and the required fee to be delivered to the secured party.

(2) The secured party shall immediately cause the certificate, the application and the required fee to be mailed or delivered to the department.

(3) Upon receipt of the certificate of title, the application and the required fee, the department shall issue to the owner a new certificate containing the name and address of the new secured party. The department shall deliver to the new secured party and to the register of deeds of the county of the owner's residence memoranda, in such form as the department prescribes, evidencing the notation of the security interest upon the certificate; and thereafter, upon any assignment, termination or release of the security interest, additional memoranda evidencing such action.

(4) The register of deeds may record, and maintain a file of, all memoranda received from the department under sub. (3). Such recording, however, is not required for perfection, release or assignment of security interests, which shall be effective upon compliance with ss. 101.9213 (2), 101.9215 and 101.9216 (1) and (2).

History: 1999 a. 9, 53.

101.9215 Assignment of security interest. (1) Except as otherwise provided in s. 409.308 (5), a secured party may assign, absolutely or otherwise, the party's security interest in the manufactured home to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but any person without notice of the assignment is protected in dealing with the secured party as the holder of the security interest and the secured party remains liable for any obligations as a secured party until the assignee is named as secured party on the certificate.

(2) Subject to s. 409.308 (5), the assignee may but need not, to perfect the assignment, have the certificate of title endorsed or issued with the assignee named as secured party, upon delivering to the department the certificate and an assignment by the secured party named in the certificate in the form that the department prescribes.

History: 1999 a. 9, 53; 2001 a. 10.

101.9216 Release of security interest. (1) Within one month, or within 10 days following written demand by the debtor, after there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, secured by the security interest in a manufactured home under any security agreement between the owner and the secured party, the secured party shall execute and deliver to the owner, as the department prescribes, a release of the security interest in the form and manner prescribed by the department and a notice to the owner stating in no less than 10−point boldface type the owner's obligation under sub. (2). If the secured party fails to execute and deliver the release and notice of the owner's obligation as required by this subsection, the secured party is liable to the owner for $25 and for any loss caused to the owner by the failure.

(2) The owner, other than a manufactured home dealer holding the manufactured home for resale, upon receipt of the release and notice of obligation shall promptly cause the certificate and release to be mailed or delivered to the department, which shall release the secured party's rights on the certificate and issue a new certificate.

(3) The department may remove information pertaining to a security interest perfected under s. 101.9213 from its records when 20 years after the original perfection has elapsed unless the security interest is renewed in the same manner as provided in s. 101.9213 (2) for perfection of a security interest.

(4) Removal of information pertaining to a security interest from the records of the department under sub. (3) does not affect any security agreement between the owner of a manufactured home and the holder of security interest in the manufactured home.

History: 1999 a. 9, 53, 185.

101.9217 Secured party's and owner's duties. (1) A secured party named in a certificate of title shall, upon written request of the owner or of another secured party named on the certificate, disclose any pertinent information as to the party's security agreement and the indebtedness secured by it.

(2) (a) An owner shall promptly deliver the owner's certificate of title to any secured party who is named on it or who has a security interest in the manufactured home described in it under any other applicable prior law of this state, upon receipt of a notice from such secured party that the security interest is to be assigned, extended or perfected. Any owner who fails to deliver the certificate of title to a secured party requesting it under this paragraph shall be liable to such secured party for any loss caused to the secured party thereby and may be required to forfeit not more than $200.

(b) No secured party may take possession of any certificate of title except as provided in par. (a). Any person who violates this paragraph may be required to forfeit not more than $1,000.

(3) Any secured party who fails to disclose information under sub. (1) shall be liable for any loss caused to the owner by the failure to disclose information.

History: 1999 a. 9, 53, 185.

101.9218 Applicability of manufactured home security provisions. (1) METHOD OF PERFECTING EXCLUSIVE. Subject to s. 409.311 (4) and except as provided in sub. (2), the method provided in ss. 101.921 to 101.9217 of perfecting and giving notice

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of security interests subject to ss. 101.921 to 101.9217 is exclusive. Security interests subject to ss. 101.921 to 101.9217 are exempt from the provisions of law that otherwise require or relate to the filing of instruments creating or evidencing security interests.

(2) FIXTURES EXCLUDED. Notwithstanding ss. 101.921 to 101.9217, the method provided in ss. 101.921 to 101.9217 of perfecting and giving notice of security interests does not apply to a manufactured home that is a fixture to real estate or to a manufactured home that the owner intends, upon acquiring, to permanently affix to land that the owner of the manufactured home owns.

History: 1999 a. 9, 53, 185; 2001 a. 10, 16.

101.9219 Withholding certificate of title; bond. (1) The department may not issue a certificate of title until the outstanding evidence of ownership is surrendered to the department.

(2) If the department is not satisfied as to the ownership of the manufactured home or that there are no undisclosed security interests in it, the department, subject to sub. (3), shall either:

(a) Withhold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the manufactured home and that there are no undisclosed security interests in it; or

(b) Issue a distinctive certificate of title pursuant to s. 101.9206 (3) or 101.9222 (3).

(3) Notwithstanding sub. (2), the department may issue a nondistinctive certificate of title if the applicant fulfills either of the following requirements:

(a) The applicant is a manufactured home dealer licensed under s. 101.951 and is financially responsible as substantiated by the last financial statement on file with the department, a finance company licensed under ss. 138.09 or 218.0101 to 218.0163, a bank organized under the laws of this state, or a national bank located in this state.

(b) The applicant has filed with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to 1.5 times the value of the manufactured home as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the manufactured home or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney fees, by reason of the issuance of the certificate of title for the manufactured home or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the manufactured home. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of 5 years or prior thereto if, apart from this section, a nondistinctive certificate of title could then be issued for the manufactured home, or if the currently valid certificate of title for the manufactured home is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

History: 1999 a. 9, 53, 185; 2001 a. 38.

101.922 Suspension or revocation of certificate. (1) The department shall suspend or revoke a certificate of title if it finds any of the following:

(a) That the certificate of title was fraudulently procured, erroneously issued or prohibited by law.

(b) That the manufactured home has been scrapped, dismantled or destroyed.

(c) That a transfer of title is set aside by a court of record by order or judgment.

(2) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

(3) When the department suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the department.

(4) The department may seize and impound any certificate of title that has been suspended or revoked.

History: 1999 a. 9, 53, 185.

101.9221 Grounds for refusing issuance of certificate of title. The department shall refuse issuance of a certificate of title if any required fee has not been paid or for any of the following reasons:

(1) The department has reasonable grounds to believe that:

(a) The person alleged to be the owner of the manufactured home is not the owner.

(b) The application contains a false or fraudulent statement.

(2) The applicant has failed to furnish any of the following:

(a) If applicable, the power of attorney required under 15 USC 1988 or rules of the department.

(b) Any other information or documents required by law or by the department pursuant to authority of law.

(3) The applicant is a manufactured home dealer and is prohibited from applying for a certificate of title under s. 101.921 (1) (a) or (b).

(4) Except as provided in ss. 101.9203 (3) and 101.921 (1) (a) for a certificate of title and registration for a manufactured home owned by a nonresident, the applicant is a nonresident and the issuance of a certificate of title has not otherwise been authorized by rule of the department.

History: 1999 a. 9, 53.

101.9222 Previously certificated manufactured homes. (1) In this section, "previously certificated manufactured home" means a manufactured home for which a certificate of title has been issued by the department of transportation prior to July 1, 2000.

(2) Sections 101.9213 to 101.9218 do not apply to a previously certificated manufactured home until one of the following occurs:

(a) There is a transfer of ownership of the manufactured home.

(b) The department issues a certificate of title for the manufactured home under this chapter.

(3) If the department is not satisfied that there are no undisclosed security interests, created before July 1, 2000, in a previously certificated manufactured home, the department shall, unless the applicant fulfills the requirements of s. 101.9219 (3), issue a distinctive certificate of title for the manufactured home containing the legend "This manufactured home may be subject to an undisclosed security interest" and any other information that the department prescribes.

(4) After July 1, 2000, a security interest in a previously certificated vehicle may be created and perfected only by compliance with ss. 101.9213 and 101.9218.

(5) (a) If a security interest in a previously certificated manufactured home is perfected under any other applicable law of this state on July 1, 2000, the security interest continues perfected:

1. Until its perfection lapses under the law under which it was perfected, or until its perfection would lapse in the absence of a further filing or renewal of filing, whichever occurs sooner.

2. If, before the security interest lapses as described in subd. 1., there is delivered to the department the existing certificate of title together with the application and fee required by s. 101.9214 (1). In such case the department shall issue a new certificate pursuant to s. 101.9214 (3).

(b) If a security interest in a previously certificated manufactured home was created, but was unperfected, under any other

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applicable law of this state on July 1, 2000, it may be perfected under par. (a).

History: 1999 a. 9, 53, 185; 2001 a. 10.

101.933 Manufactured housing code council duties. The manufactured housing code council shall review this subchapter and rules promulgated under this subchapter and recommend a statewide manufactured housing code for promulgation by the department. The council shall consider and make recommendations to the department pertaining to rules and any other matter related to this subchapter, including recommendations with regard to licensure and professional discipline of manufacturers of manufactured homes, manufactured home dealers, manufactured home salespersons, and installers, and with regard to consumer protection applicable to consumers of manufactured homes. In making recommendations, the council shall consider the likely costs of any proposed rules to consumers in relation to the benefits that are likely to result therefrom.

History: 2005 a. 45.

101.934 Manufactured housing rehabilitation and recycling. (2) GRANT PROGRAM. (a) The department may make grants under this section to provide financial assistance to persons engaged in the disposal of abandoned manufactured homes and to municipalities, for the purpose of supporting environmentally sound disposal practices.

(b) The department may make grants under this section to provide financial assistance to individuals who reside in manufactured homes that are in need of critical repairs. An individual is eligible for a grant under this paragraph only if the individual is otherwise unable to finance the critical repairs.

(3) ADMINISTRATION. The department shall contract with one or more entities that are exempt from taxation under section 501 (a) of the Internal Revenue Code and that employ individuals with technical expertise concerning manufactured housing for the administration of the grant program under this section. The department shall promulgate rules to establish the grant program under this section. To the extent feasible, the department shall coordinate the program under this section with the state housing strategy plan under s. 16.302.

History: 2005 a. 45; 2011 a. 32 ss. 3380m to 3381f; Stats. 2011 s. 101.934.

Cross−reference: See also ch. SPS 456, Wis. adm. code.

101.935 Manufactured home community regulation. (1) The department shall license and regulate manufactured home communities. The department may investigate manufactured home communities and, with notice, may enter and inspect private property.

(2) (a) The department or a village, city or county granted agent status under par. (e) shall issue permits to and regulate manufactured home communities. No person, state or local government who has not been issued a permit under this subsection may conduct, maintain, manage or operate a manufactured home community.

(b) The department may, after a hearing under ch. 227, refuse to issue a permit or suspend or revoke a permit for violation of this section or any regulation or order that the department issues to implement this section.

(c) 1. Permits issued under this subsection are valid for a 2−year period that begins on July 1 of each even−numbered year and that expires on June 30 of the next even−numbered year. If a person applies for a permit after the beginning of a permit period, the permit is valid until the end of the permit period.

2. The department shall establish, by rule under s. 101.19, the permit fee and renewal fee for a permit issued under this subsection. The department may establish a fee that defrays the cost of administering s. 101.937. An additional penalty fee, as established by the department by rule under s. 101.19, is required for each permit if the biennial renewal fee is not paid before the permit expires.

(d) A permit may not be issued under this subsection until all applicable fees have been paid. If the payment is by check or other draft drawn upon an account containing insufficient funds, the permit applicant shall, within 15 days after receipt of notice from the department of the insufficiency, pay by cashier's check or other certified draft, money order or cash the fees to the department, late fees and processing charges that are specified by rules promulgated by the department. If the permit applicant fails to pay all applicable fees, late fees and the processing charges within 15 days after the applicant receives notice of the insufficiency, the permit is void. In an appeal concerning voiding of a permit under this paragraph, the burden is on the permit applicant to show that the entire applicable fees, late fees and processing charges have been paid. During any appeal process concerning a payment dispute, operation of the manufactured home community in question is considered to be operation without a permit.

(e) Section 254.69 (2), as it applies to an agent for the department of health services in the administration of s. 254.47, applies to an agent for the department of safety and professional services in the administration of this section.

(2m) (a) The department shall inspect a manufactured home community in the following situations:

1. Upon completion of the construction of a manufactured home community.

2. Whenever a manufactured home community is modified, as defined by the department by rule.

3. Whenever the department receives a complaint about a manufactured home community.

(b) The department may, with notice, inspect a manufactured home community whenever the department determines an inspection is appropriate.

(3) The department may promulgate rules and issue orders to administer and enforce this section.

History: 1991 a. 39; 1993 a. 16, 27, 491; 1995 a. 27 s. 9126 (19); 1999 a. 9 ss. 64g to 64r; Stats. 1999 s. 101.935; 1999 a. 53; 2001 a. 16; 2005 a. 45; 2007 a. 11; 2007 a. 20 s. 9121 (6) (a); 2011 a. 32.

Cross−reference: See also ch. SPS 326, Wis. adm. code.

101.937 Water and sewer service to manufactured home communities. (1) RULES. The department shall promulgate rules that establish standards for providing water or sewer service by a manufactured home community operator or manufactured home community contractor to a manufactured home community occupant, including requirements for metering, billing, depositing, arranging deferred payment, installing service, refusing or discontinuing service, and resolving disputes with respect to service. Rules promulgated under this subsection shall ensure that any charge for water or sewer service is reasonable and not unjustly discriminatory, that the water or sewer service is reasonably adequate, and that any practice relating to providing the service is just and reasonable.

(2) PERMANENT IMPROVEMENTS. A manufactured home community operator may make a reasonable recovery of capital costs for permanent improvements related to the provision of water or sewer service to manufactured home community occupants through ongoing rates for water or sewer service.

(3) ENFORCEMENT. (a) On its own motion or upon a complaint filed by a manufactured home community occupant, the department may issue an order or commence a civil action against a manufactured home community operator or manufactured home community contractor to enforce this section, any rule promulgated under sub. (1), or any order issued under this paragraph.

(b) The department of justice, after consulting with the department, or any district attorney may commence an action in circuit court to enforce this section.

(4) PRIVATE CAUSE OF ACTION. Any person suffering pecuniary loss because of a violation of any rule promulgated under sub. (1) or order issued under sub. (3) (a) may sue for damages and shall recover twice the amount of any pecuniary loss, together with

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costs, and, notwithstanding s. 814.04 (1), reasonable attorney fees.

(5) PENALTIES. (a) Any person who violates any rule promulgated under sub. (1) or any order issued under sub. (3) (a) shall forfeit not less than $25 nor more than $5,000. Each violation and each day of violation constitutes a separate offense.

(b) Any person who intentionally violates any rule promulgated under sub. (1) or order issued under sub. (3) (a) shall be fined not less than $25 nor more than $5,000 or imprisoned not more than one year in the county jail or both. Each violation and each day of violation constitutes a separate offense.

History: 2001 a. 16 ss. 2541, 3003 to 3007; 2005 a. 45.

101.94 Manufactured home and mobile home manufacturers, distributors and dealers: design and construction of manufactured homes and mobile homes. (1) Mobile homes manufactured, distributed, sold or offered for sale in this state shall conform to the code promulgated by the American national standards institute and identified as ANSI 119.1, including all revisions thereof in effect on August 28, 1973, and further revisions adopted by the department and the department of health services. The department may establish standards in addition to those required under ANSI 119.1. This subsection applies to units manufactured or assembled after January 1, 1974, and prior to June 15, 1976.

(2) No person may manufacture, assemble, distribute or sell a manufactured home unless the manufactured home complies with 42 USC 5401 to 5425 and applicable regulations.

(7) The department shall hear and decide petitions brought under this subchapter in the manner provided under s. 101.02 (6) (e) to (i) and (8) for petitions concerning property.

(8) (a) Except as provided in par. (c), a person who violates this subchapter, a rule promulgated under this subchapter or an order issued under this subchapter shall forfeit not more than $1,000 for each violation. Each violation of this subchapter constitutes a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required by this subchapter, except the maximum forfeiture under this subsection may not exceed $1,000,000 for a related series of violations occurring within one year of the first violation.

(b) Any individual or a director, officer or agent of a corporation who knowingly and willfully violates this subchapter in a manner which threatens the health or safety of a purchaser may be fined not more than $10,000 or imprisoned for not more than 9 months or both.

(c) A person who violates s. 101.935, a rule promulgated under s. 101.935 or an order issued under s. 101.935 may be required to forfeit not less than $10 nor more than $250 for each violation. Each day of continued violation constitutes a separate violation.

History: 1973 c. 116; 1977 c. 29; 1979 c. 221 ss. 552 to 556, 2202 (25); 1983 a. 27 ss. 1375r to 1375s, 2200 (25); 1989 a. 31; 1995 a. 27 s. 9126 (19); 1997 a. 283; 1999 a. 9, 53; 2001 a. 109; 2005 a. 45; 2007 a. 20 s. 9121 (6) (a).

101.95 Manufactured home manufacturers regulated. The department shall by rule prescribe the manner by which a manufacturer shall be licensed for the manufacture, distribution or selling of manufactured homes in this state, including fees for the licensing of manufacturers.

History: 1973 c. 116; 1983 a. 27 ss. 1375t, 2200 (25); 1999 a. 53; 2005 a. 45.

101.951 Manufactured home dealers regulated. (1) No person may engage in the business of selling manufactured homes to a consumer or to the retail market in this state unless first licensed to do so by the department as provided in this section.

(2) (a) Application for a license or a renewal license shall be made to the department on forms prescribed and furnished by the department, accompanied by the license fee required under par. (bm).

(b) 1. The department shall, by rule, establish the license period under this section.

2. The department may promulgate rules establishing a uniform expiration date for all licenses issued under this section.

(bm) Fees for licensing of persons under this section shall be established by the department by rule under s. 101.19.

(3) The department shall issue a license only to a person whose character, fitness and financial ability, in the opinion of the department, are such as to justify the belief that the person can and will deal with and serve the buying public fairly and honestly, will maintain a permanent office and place of business in this state during the license year and will abide by all of the provisions of law and lawful orders of the department.

(5) A licensee shall conduct the licensed business continuously during the license year.

(6) The department may deny, suspend or revoke a license on any of the following grounds:

(a) Proof of unfitness.

(b) A material misstatement in the application for the license.

(c) Filing a materially false or fraudulent income or franchise tax return as certified by the department of revenue.

(d) Willful failure to comply with any provision of this section or any rule promulgated by the department under this section.

(e) Willfully defrauding any retail buyer to the buyer's damage.

(f) Willful failure to perform any written agreement with any retail buyer.

(g) Failure or refusal to furnish and keep in force any bond required.

(h) Having made a fraudulent sale, transaction or repossession.

(i) Fraudulent misrepresentation, circumvention or concealment, through any subterfuge or device, of any of the material particulars or the nature thereof required hereunder to be stated or furnished to the retail buyer.

(j) Use of fraudulent devices, methods or practices in connection with compliance with the statutes with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods.

(k) Having indulged in any unconscionable practice relating to the business of selling manufactured homes to a consumer or to the retail market.

(m) Having sold a retail installment contract to a sales finance company, as defined in s. 218.0101 (34) (a), that is not licensed under ss. 218.0101 to 218.0163.

(n) Having violated any law relating to the sale, distribution or financing of manufactured homes.

(7) (a) The department of safety and professional services may, without notice, deny the application for a license within 60 days after receipt thereof by written notice to the applicant, stating the grounds for the denial. Within 30 days after such notice, the applicant may petition the department of administration to conduct a hearing to review the denial, and a hearing shall be scheduled with reasonable promptness. The division of hearings and appeals shall conduct the hearing. This paragraph does not apply to denials of applications for licenses under s. 101.02 (21).

(b) No license may be suspended or revoked except after a hearing thereon. The department of safety and professional services shall give the licensee at least 5 days' notice of the time and place of the hearing. The order suspending or revoking such license shall not be effective until after 10 days' written notice thereof to the licensee, after such hearing has been had; except that the department of safety and professional services, when in its opinion the best interest of the public or the trade demands it, may suspend a license upon not less than 24 hours' notice of hearing and with not less than 24 hours' notice of the suspension of the license. Matters involving suspensions and revocations brought before the department of safety and professional services shall be heard and decided upon by the department of administration. The division of hearings and appeals shall conduct the hearing. This

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paragraph does not apply to licenses that are suspended or revoked under s. 101.02 (21).

(c) The department of safety and professional services may inspect the pertinent books, records, letters and contracts of a licensee. The actual cost of each such examination shall be paid by such licensee so examined within 30 days after demand therefor by the department, and the department may maintain an action for the recovery of such costs in any court of competent jurisdiction.

(8) Any person who violates any provision of this section shall be fined not less than $25 nor more than $100 for each offense.

101.952 Manufactured home salespersons regulated. **(1)** No person may engage in the business of selling manufactured homes to a consumer or to the retail market in this state without a license therefor from the department. If a manufactured home dealer acts as a manufactured home salesperson the dealer shall secure a manufactured home salesperson's license in addition to the license for engaging as a manufactured home dealer.

(2) (a) Applications for a manufactured home salesperson's license and renewals thereof shall be made to the department on such forms as the department prescribes and furnishes and shall be accompanied by the license fee required under par. (bm). The application shall include the applicant's social security number. In addition, the application shall require such pertinent information as the department requires.

(b) 1. The department shall, by rule, establish the license period under this section.

2. The department may promulgate rules establishing a uniform expiration date for all licenses issued under this section.

(bm) Fees for licensing of manufactured home salespersons shall be established by the department by rule under s. 101.19.

(3) Every licensee shall carry his or her license when engaged in his or her business and display the same upon request.

(5) The provision of s. 218.0116 relating to the denial, suspension and revocation of a motor vehicle salesperson's license shall apply to the denial, suspension and revocation of a manufactured home salesperson's license so far as applicable, except that such provision does not apply to the denial, suspension or revocation of a license under s. 101.02 (21) (b).

(6) The provisions of ss. 218.0116 (9) and 218.0152 shall apply to this section, manufactured home sales practices and the regulation of manufactured home salespersons, as far as applicable.

History: 1999 a. 9, 53, 186; 2005 a. 45; 2011 a. 146.

101.953 Warranty and disclosure. **(1)** A one−year written warranty is required for every new manufactured home sold, or leased to another, by a manufactured home manufacturer, manufactured home dealer or manufactured home salesperson in this state, and for every new manufactured home sold by any person who induces a resident of the state to enter into the transaction by personal solicitation in this state or by mail or telephone solicitation directed to the particular consumer in this state. The warranty shall contain all of the following:

(a) A statement that the manufactured home meets those standards prescribed by law or administrative rule of the department of administration or of the department of safety and professional services that are in effect at the time of the manufacture of the manufactured home.

(b) A statement that the manufactured home is free from defects in material and workmanship and is reasonably fit for human habitation if it receives reasonable care and maintenance as defined by rule of the department.

(c) 1. A statement that the manufactured home manufacturer and manufactured home dealer shall take corrective action for defects that become evident within one year from the delivery date and as to which the manufactured home owner has given notice to the manufacturer or dealer not later than one year and 10 days after the delivery date and at the address set forth in the warranty; and that the manufactured home manufacturer and manufactured home dealer shall make the appropriate adjustments and repairs, within 30 days after notification of the defect, at the site of the manufactured home without charge to the manufactured home owner. If the manufactured home dealer makes the adjustment, the manufactured home manufacturer shall fully reimburse the dealer.

2. If a repair, replacement, substitution or alteration is made under the warranty and it is discovered, before or after expiration of the warranty period, a statement that the repair, replacement, substitution or alteration has not restored the manufactured home to the condition in which it was warranted except for reasonable wear and tear, such failure shall be considered a violation of the warranty and the manufactured home shall be restored to the condition in which it was warranted to be at the time of the sale except for reasonable wear and tear, at no cost to the purchaser or the purchaser's assignee notwithstanding that the additional repair may occur after the expiration of the warranty period.

(d) A statement that if during any period of time after notification of a defect the manufactured home is uninhabitable, as defined by rule of the department, that period of time shall not be considered part of the one−year warranty period.

(e) A list of all parts and equipment not covered by the warranty.

(2) Action by a lessee to enforce the lessee's rights under this subchapter shall not be grounds for termination of the rental agreement.

(3) The warranty required under this section shall apply to the manufacturer of the manufactured home as well as to the manufactured home dealer who sells or leases the manufactured home to the consumer, and shall be in addition to any other rights and privileges that the consumer may have under any instrument or law. The waiver of any remedies under any law and the waiver, exclusion, modification or limitation of any warranty, express or implied, including the implied warranty of merchantability and fitness for a particular purpose, is expressly prohibited. Any such waiver is void.

(4) The transfer of a manufactured home from one manufactured home owner to another during the effective period of the warranty does not terminate the warranty, and subsequent manufactured home owners shall be entitled to the full protection of the warranty for the duration of the warranty period as if the original manufactured home owner had not transferred the manufactured home.

History: 1999 a. 9, 53, 185; 2011 a. 32.

101.954 Sale or lease of used manufactured homes. In the sale or lease of any used manufactured home, the sales invoice or lease agreement shall contain the point of manufacture of the used manufactured home, the name of the manufacturer and the name and address of the previous owner of the manufactured home.

History: 1999 a. 9, 53.

101.955 Jurisdiction and venue over out−of−state manufacturers. **(1)** The importation of a manufactured home for sale in this state by an out−of−state manufacturer is considered an irrevocable appointment by that manufacturer of the department of financial institutions to be that manufacturer's true and lawful attorney upon whom may be served all legal processes in any action or proceeding against such manufacturer arising out of the importation of such manufactured home into this state.

(2) The department of financial institutions upon whom processes and notices may be served under this section shall, upon being served with such process or notice, mail a copy by registered mail to the out−of−state manufacturer at the nonresident address given in the papers so served. The original shall be returned with proper certificate of service attached for filing in court as proof of service. The service fee shall be $4 for each defendant so served.

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The department of financial institutions shall keep a record of all such processes and notices, which record shall show the day and hour of service.

History: 1999 a. 9, 53.

101.957 Nonjudicial resolution of manufactured housing industry disputes. The department, by rule, shall establish an alternative dispute resolution program for the timely resolution of any dispute that concerns a defect in a manufactured home, or in the installation of a manufactured home, reported to the department within one year of the date on which the manufactured home was installed and that occurs between parties, each of which is a manufacturer of manufactured homes, manufactured home salesperson, manufactured home dealer, or installer. The rules may require the parties to submit to an alternative dispute resolution program before bringing an action in another forum. This section does not affect the rights of any consumer to commence an action or the rights of any person to commence an action against a consumer.

History: 2005 a. 45.

101.96 Manufactured home installation regulated. (1) INSTALLATION STANDARDS. (a) *Promulgation of standards.* The department shall, by rule, establish installation standards for the safe installation of manufactured homes in this state. In promulgating rules under this paragraph, the department shall consider the recommendations of the manufactured housing code council under s. 101.933.

(b) *Enforcement of standards.* The department shall, by rule, establish a method for ensuring compliance with the rules promulgated under par. (a). The department shall require inspections of manufactured home installations by 3rd−party inspectors licensed by the department. The department shall, by rule, establish criteria for the licensure of 3rd−party inspectors that include a requirement that an individual may not serve as a 3rd−party inspector if the individual is, is employed by, or is an independent contractor of any of the following:

1. A manufactured home manufacturer who was directly involved in the sale of the particular manufactured home.

2. A manufactured home salesperson who was directly involved in the sale of the particular manufactured home.

3. An installer who was directly involved in the sale of the particular manufactured home.

(2) MANUFACTURED HOME INSTALLERS. (a) *License required; exceptions; liability.* Except as otherwise provided in this paragraph, beginning on January 1, 2007, no person may act as an installer in this state unless the person is a licensed installer or employs one or more licensed installers to generally supervise each of the person's installations of manufactured homes in this state. This requirement does not apply to an individual who installs a manufactured home on his or her own property for his or her personal use or to an individual who installs a manufactured home under the general supervision of a licensed installer. A licensed installer is liable for all acts and omissions related to the installation of each individual who performs an installation under the licensed installer's general supervision.

(b) *License eligibility.* The department may issue an installer's license only to an individual to whom all of the following apply:

1. The individual is at least 18 years old.

2. The individual files with the department a license application on a form prescribed by the department.

3. The individual completes, to the satisfaction of the department, an examination approved by the department that tests the skills necessary to properly install manufactured homes and knowledge of the laws applicable to manufactured home installation.

4. The individual has not been found responsible in any judicial or administrative forum for any violation of this section during the 2 years before the date on which the individual's license application is submitted.

5. The individual has not been found responsible in any judicial or administrative forum during the 2 years before the date on which the individual's license application is submitted for any failure to perform an installation of a manufactured home as required under contract or for defrauding any person with regard to the provision of installation services.

6. The individual meets the standards of financial responsibility established by rule of the department.

(br) *Examination waiver.* The department shall, by rule, establish a procedure under which it may waive the examination requirement under par. (b) 3. for individuals that demonstrate sufficient experience installing manufactured homes including active participation in the installation of at least 10 manufactured homes. This paragraph does not apply after June 1, 2007.

(c) *License term and fee.* The department, by rule shall establish the term of installers' licenses and the conditions under which the department may revoke or suspend installers' licenses. The department shall establish an initial installer's license fee and license renewal fee by rule under s. 101.19.

History: 2005 a. 45.

Cross−reference: See also s. SPS 305.327 and ch. SPS 320, Wis. adm. code.

101.965 Penalties. (1) Any person who violates ss. 101.953 to 101.955, or any rule promulgated under ss. 101.953 to 101.955, may be fined not more than $1,000 or imprisoned for not more than 6 months or both.

(1p) Any person who violates s. 101.96 or any rule promulgated under that section may be required to forfeit not less than $25 nor more than $500 for each violation. Each day of continued violation constitutes a separate violation.

(1t) Upon request of the department, the attorney general may commence an action in a court of competent jurisdiction to enjoin any installer from installing a manufactured home in violation of s. 101.96 (2).

(2) In any court action brought by the department for violations of this subchapter, the department may recover all costs of testing and investigation, in addition to costs otherwise recoverable, if it prevails in the action.

(3) Nothing in this subchapter prohibits the bringing of a civil action against a manufactured home manufacturer, manufactured home dealer or manufactured home salesperson by an aggrieved consumer. If judgment is rendered for the consumer based on an act or omission by the manufactured home manufacturer, manufactured home dealer or manufactured home salesperson, that constituted a violation of this subchapter, the plaintiff shall recover actual and proper attorney fees in addition to costs otherwise recoverable.

History: 1999 a. 9, 53, 185; 2005 a. 45.

SUBCHAPTER VI

MULTIFAMILY DWELLING CODE

101.971 Definitions. In this subchapter:

(1) "Dwelling unit" has the meaning given in s. 101.61 (1).

(2) "Multifamily dwelling" means an apartment building, rowhouse, town house, condominium, or modular home, as defined in s. 101.71 (6), that does not exceed 60 feet in height or 6 stories and that consists of 3 or more attached dwelling units the initial construction of which is begun on or after January 1, 1993. "Multifamily dwelling" does not include a facility licensed under ch. 50.

(3) "Owner" means a person having a legal or equitable interest in a multifamily dwelling.

(4) "Political subdivision" means a county, city, village or town.

History: 1991 a. 269; 2007 a. 11.

Cross−reference: See also chs. SPS 360, 361, 362, 363, 364, and 365, Wis. adm. code.

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101.972 Multifamily dwelling code council duties. The multifamily dwelling code council shall review the rules for multifamily dwelling construction and recommend a uniform multifamily dwelling code for promulgation by the department. The council shall consider and make recommendations to the department pertaining to rules and any other matters related to this subchapter. The council shall identify, consider and make recommendations to the department regarding variances in the rules for different climate and soil conditions and the variable conditions created by building and population densities.

History: 1991 a. 269.

101.973 Department duties. The department shall:

(1) Promulgate rules that establish standards for the construction of multifamily dwellings and their components.

(2) Biennially review the rules promulgated under this subchapter.

(3) Issue any special order that it considers necessary to secure compliance with this subchapter.

(4) Prescribe and furnish to political subdivisions a standard building permit format for all multifamily dwellings subject to this subchapter.

(5) Collect and publish the data secured from the building permits.

(6) Hear under s. 101.02 (6) (e) to (i) and (8) petitions regarding the rules promulgated and special orders issued under this subchapter.

(7) Establish by rule a schedule of fees sufficient to defray the costs incurred by the department under this subchapter.

(8) Deposit the moneys received from the fees under sub. (7) in the appropriation under s. 20.165 (2) (j).

(9) Incorporate by reference in the rules promulgated under this subchapter all rules promulgated under subch. I that apply to multifamily dwellings.

(10) Establish a program of quality control training for all inspectors who inspect multifamily dwellings for compliance with this subchapter.

(11) Contract with the legislative audit bureau to make periodic performance audits of any division of the department that is responsible for inspections of multifamily dwellings.

History: 1991 a. 269; 1995 a. 27; 2011 a. 32.

101.974 Department powers. The department may:

(1) Hold hearings on any matter relating to this subchapter and issue subpoenas to compel the attendance of witnesses and the production of evidence at such hearings.

(2) Promulgate the rules under this subchapter after consultation with the multifamily dwelling code council.

(3) Provide for or engage in the testing, approval and certification of materials, methods and equipment of construction.

(4) Promulgate rules prescribing procedures for approving new building materials, methods and equipment.

(5) Study the administration of the rules promulgated under this subchapter and other laws related to the construction of multifamily dwelling units to determine their impact on the cost of building construction and their effectiveness in ensuring the health, safety and welfare of the occupants.

History: 1991 a. 269.

Cross−reference: See also chs. SPS 360, 361, 362, 363, 364, and 365, Wis. adm. code.

101.975 Local government authority. (1) A political subdivision may regulate the construction and installation of windows and doors in multifamily dwellings if the regulation is related to preventing illegal entry.

(2) A political subdivision shall use the standard building permit format prescribed and furnished by the department under s. 101.973 (4) and file a copy of each permit issued with the department.

(3) (a) In this subsection, "preexisting stricter sprinkler ordinance" means an ordinance that fulfills all of the following requirements:

1. The ordinance requires an automatic sprinkler system in multifamily dwellings containing 20 or less attached dwelling units.

2. The ordinance was in effect on January 1, 1992, and remains in effect on May 1, 1992.

3. The ordinance does not conform to this subchapter and s. 101.02 (7m) or is contrary to an order of the department under subch. I.

4. The ordinance is more stringent than the corresponding provision of this subchapter or s. 101.02 or the contrary provision of an order of the department under subch. I.

(b) If a political subdivision has a preexisting stricter sprinkler ordinance, that ordinance remains in effect, except that the political subdivision may amend the ordinance to conform to this subchapter and s. 101.02 (7m) and to be not contrary to an order of the department under subch. I.

History: 1991 a. 269; 1995 a. 27.

101.976 Fire chief and inspector powers and duties. This subchapter does not restrict the duties and powers of fire chiefs or inspectors under s. 101.14 (2).

History: 1991 a. 269.

101.977 Compliance. (1) Except as provided in sub. (2), a person who constructs a multifamily dwelling shall use building materials, methods, and equipment that are in conformance with the standards prescribed under s. 101.973 (1).

(2) (a) No person may use in a multifamily dwelling load−bearing dimension lumber that has not been tested and approved for conformance as required by the department unless the lumber is approved for use as provided under par. (c) and if one of the following applies:

1. The lumber has been milled at the request of the person owning the lumber for use in the construction of the multifamily dwelling, a dwelling unit of which will be inhabited by that person.

2. The person milling the lumber sells the lumber directly to a person who will inhabit the dwelling unit in the multifamily dwelling, or to a person acting on his or her behalf and for whom a building permit has been issued for the multifamily dwelling.

(b) The lumber shall be milled so that it meets or exceeds the requirements of the standards prescribed in s. 101.973. The person milling the lumber shall provide to the person receiving the lumber a written certification that the lumber meets or exceeds these requirements. The department shall design and provide forms for this purpose.

(bn) A person may not provide a written certification under par. (b) unless the person has been issued a certificate of accomplishment evidencing certification or recertification under the lumber grading training program under s. 36.25 (48) and the person has received the certificate within the 5 years before providing the written certification. The person shall attach to the written certification a copy of his or her certificate of accomplishment.

(c) Upon receipt of a copy of the certification required under par. (b), an inspector who inspects multifamily dwellings for compliance with this subchapter may either authorize the use of the lumber, reject the use of the lumber, or authorize its use subject to more restrictive construction requirements, including requirements as to size, spacing, length of spans, and design.

History: 1991 a. 269; 2007 a. 208; 2009 a. 180.

101.978 Penalties. Any person who violates this subchapter or any rules promulgated under this subchapter shall forfeit not less than $25 nor more than $500 for each offense. Each day of continued violation constitutes a separate offense.

History: 1991 a. 269.

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SUBCHAPTER VII

ELEVATORS, ESCALATORS, AND OTHER CONVEYANCES

101.981 Definitions; modification by rule. (1) Except as provided in sub. (2), in this subchapter:

(a) "Amusement or thrill ride" has the meaning given s. 101.19 (1b) (b).

(b) "Belt manlift" means a power−driven, looped belt equipped with steps or platforms and a hand hold for the transportation of people from one floor of a building or structure to another.

(c) "Conveyance" means an elevator, an escalator, a dumbwaiter, a belt manlift, a moving walkway, a platform lift, and a stairway chair lift, and any other similar device, such as an automated people mover, used to elevate or move people or things, as provided in the rules of the department. "Conveyance" does not include a personnel hoist; a material hoist; a grain elevator; a lift as defined in s. 167.33 (1) (f); an amusement or thrill ride; or a vertical platform lift, inclined platform lift, or a stairway chair lift that serves an individual residential dwelling unit.

(d) "Dumbwaiter" means a hoisting and lowering mechanism that satisfies all of the following conditions:

1. Is equipped with a compartment that moves in guides in a substantially vertical direction and has a floor area of not more than 9 square feet.

2. Has a maximum lifting and lowering capacity of not more than 500 pounds.

3. Is used exclusively for carrying materials

(e) "Elevator" means a hoisting or lowering machine, other than a dumbwaiter, equipped with a compartment or platform that moves in guides and serves 2 or more floors or landings of a building or structure.

(f) "Escalator" means a power−driven, moving stairway used for raising and lowering people.

(g) "Material hoist" means a hoist, other than a personnel hoist, that is used to raise or lower materials during construction, alteration, or demolition of a building or structure.

(h) "Personnel hoist" means a hoist that is installed inside or outside a building or structure during the construction, alteration, or demolition of the building or structure and that is used to raise and lower workers, other personnel, and materials which the hoist is designed to carry.

(2) The department shall promulgate rules establishing additional definitions to the extent the department deems necessary for the proper administration and enforcement of this subchapter. The department, by rule, may modify definitions established under sub. (1). To the extent practicable, the department shall ensure that any definitions or modifications promulgated under this subsection are consistent with national, industry−wide safety standards governing matters regulated by this subchapter.

History: 2005 a. 456; 2011 a. 32, 199, 209.

101.982 Conveyance safety code. The department shall promulgate rules establishing standards for the safe installation and operation of conveyances. In promulgating rules under this section the department shall consider the recommendations of the conveyance safety code council under s. 101.986. The rules shall be consistent, to the extent practicable, with national, industry−wide safety standards applicable to conveyances. The rules shall require any testing of conveyances or related equipment required under the rules to be performed by an elevator mechanic licensed under s. 101.985 (2). The rules shall require any person who installs a new conveyance to give the owner of the building in which the conveyance is installed, before the conveyance is placed in operation, a written certification indicating that the installation complies with the rules promulgated under this section. The rules shall include an enforcement procedure and a procedure pursuant to which the department may grant a variance from the rules if the variance would not jeopardize public safety.

History: 2005 a. 456.

101.983 Conveyance permits required. (1) CONSTRUCTION, INSTALLATION, AND ALTERATION. (a) *Permit required.* No person may construct, install, or alter a conveyance in this state unless an elevator contractor licensed by the department under s. 101.985 (1) has received a permit for the construction, installation, or alteration from the department.

(b) *Application.* A person applying for a permit under par. (a) shall include, along with the application, copies of specifications and accurately scaled and fully dimensioned plans showing the location of the construction, installation, or alteration in relation to the plans and elevation of the building; the location of the applicable machinery room, if any, and the equipment to be constructed, installed, or altered; and all structural supporting members relevant to the construction, installation, or alteration, including foundations. The specifications and plans shall be sufficiently complete to illustrate all details of design and construction, installation, or alteration. The application shall specify all materials to be used and all loads to be supported or conveyed. The department may authorize a person to include the application and other information required under this paragraph with any submission required under s. 101.12 (1) to avoid duplicative filing of information.

(c) *Revocation.* The department may revoke a permit issued under this subsection if the department finds any of the following:

1. That information submitted under par. (b) by the person obtaining the permit contains false statements or misrepresentations of material fact.

2. That the permit was issued in error.

3. That the work performed under the permit is not consistent with information submitted under par. (b) by the person obtaining the permit or is in violation of this subchapter or rules promulgated under this subchapter.

(d) *Expiration.* A permit issued under this subsection expires under any of the following circumstances:

1. If the work authorized under the permit is not commenced within 6 months after the date on which the permit is issued, or within a shorter period of time as specified by the department at the time the permit is issued.

2. If the work authorized under the permit is suspended or abandoned for 60 consecutive days at any time following the commencement of the work, or for a shorter period of time as specified by the department at the time the permit is issued.

(2) OPERATION. (a) *Permit required.* No person may allow a conveyance to be operated on property owned by the person unless the person has received a permit for the operation from the department. The department may not issue a permit required under this paragraph until all inspections required under par. (c) are completed.

(b) *Application.* For a newly installed conveyance, the elevator contractor that contracted to perform the installation shall apply for the initial permit required under par. (a) on behalf of the owner of the building in which the conveyance is located. Applications for renewal of the permit shall be made by the owner.

(c) *Inspections.* The department may not issue or renew a permit under this subsection unless the department has received an inspection report for the conveyance issued by an elevator inspector licensed under s. 101.985 (3) indicating that the conveyance complies with this subchapter and any applicable rules promulgated under this subchapter. This inspection by the department does not exempt the owner from the requirement to ensure that the department receives an inspection report from a licensed elevator inspector. Upon performing this inspection, the department shall give the owner notice of relevant conveyance safety requirements

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and shall instruct the owner as to the procedure for obtaining periodic inspections and renewing the permit under which the lift or equipment is operated.

(d) *Term and posting requirements.* A permit issued under this subsection has a term of one year. The owner of the building or residence in which a conveyance is located shall display the permit under par. (a) applicable to the conveyance on or in the conveyance or, if applicable, in the machinery room.

History: 2005 a. 456; 2011 a. 32.

101.984 Licenses and supervision required. (1) ELEVATOR CONTRACTOR. No person may engage in the business of constructing, installing, altering, servicing, replacing, or maintaining conveyances in this state unless the person is licensed as an elevator contractor under s. 101.985 (1).

(2) ELEVATOR MECHANIC. (a) *Generally.* Except as provided in par. (c), no individual may erect, construct, alter, replace, maintain, repair, remove, or dismantle any conveyance in this state unless the individual is licensed as an elevator mechanic under s. 101.985 (2) or is under the direct supervision of a person licensed as an elevator contractor under s. 101.985 (1).

(b) *Electrical construction.* Except as provided in par. (c), no individual may wire any conveyance in this state from the mainline feeder terminals on the controller unless the individual is licensed as an elevator mechanic under s. 101.985 (2) or is under the direct supervision of a person licensed as an elevator contractor under s. 101.985 (1).

(c) *Exceptions.* 1. Paragraph (a) does not apply to an individual who removes or dismantles a conveyance that is destroyed as a result of a complete demolition of a building or where the hoistway or wellway is demolished back to the basic support structure such that the hoistway or wellway is inaccessible.

2. Paragraphs (a) and (b) do not apply to any of the following:

a. An individual who is enrolled in and performing tasks that are within the scope of an elevator mechanic's apprenticeship program that is approved by the U.S. department of labor or by the department of workforce development.

b. An individual performing tasks under the direct supervision of and as a helper to an individual licensed as an elevator mechanic under s. 101.985 (2).

c. An individual who performs work described under par. (a) or (b) during the 5−day period preceding the date on which the individual is issued an emergency elevator mechanic's license under s. 101.985 (2) (c).

(3) ELEVATOR INSPECTOR. No individual may perform an elevator inspection in this state unless the individual is licensed as an elevator inspector under s. 101.985 (3) and holds a certification as an elevator inspector issued by a person approved by the American Society of Mechanical Engineers.

History: 2005 a. 456.

101.985 Licensing qualifications and procedure. (1) ELEVATOR CONTRACTOR. Except as otherwise provided in this subsection, the department shall issue an elevator contractor's license to each person who demonstrates to the satisfaction of the department that the person is adequately qualified and able to engage in business as an elevator contractor. The department may summarily issue an elevator contractor's license to a person who is licensed as an elevator contractor under the laws of another state, if, in the opinion of the department, that state's regulation of elevator contractors is substantially the same as this state's. Every person who applies for a license under this subsection shall provide the department with a certificate of insurance issued by one or more insurers authorized to do business in this state, indicating that the person is insured in the amount of at least $1,000,000 per occurrence because of bodily injury to or death of others, is insured in the amount of at least $500,000 per occurrence because of damage to the property of others, and is insured to the extent required under ch. 102. A person who is issued a license under this subsection shall notify the department in writing of any material change in these insurance coverages at least 10 days before the change takes effect.

(2) ELEVATOR MECHANICS' LICENSES. (a) *Issuance.* The department shall issue an elevator mechanic's license to each individual who meets the requirements in either par. (ab) or (ad).

(ab) *Requirements; apprenticeship and journeyman level.* An individual is eligible for an elevator mechanic's license if he or she satisfactorily completes an elevator mechanic's apprenticeship program that is approved by the U.S. department of labor or by the department of workforce development or if he or she satisfies all of the following requirements:

2. During the 3 years preceding the date of application, he or she was continuously employed in a position requiring the individual to perform work that is at a journeyman level and that is relevant to the erection, construction, alteration, replacement, maintenance, repair, or servicing of conveyances, as verified by the individual's employers.

3. He or she satisfactorily completes a written examination administered by the department covering the provisions of this subchapter, and rules promulgated under this subchapter, that are relevant to the license applied for or satisfactorily completes an elevator mechanic's examination approved by the department and administered by a nationally recognized training program established by the elevator industry.

(ad) *Requirements; training program.* 1. An individual is eligible for an elevator mechanic's license if he or she satisfies all of the following requirements:

a. He or she verifies to the department that he or she has been certified as having successfully completed a 4−year program established by the National Elevator Industry Educational Program or an equivalent nationally recognized 4−year training program that is approved by the department.

b. He or she meets one of the requirements specified in subd. 2.

2. In order to meet the requirement under subd. 1. b. for an elevator mechanic's license, an individual applying for a license shall satisfy one of the following requirements:

a. He or she verifies to the department that, during the 5 years immediately preceding the date of the license application, he or she was employed for at least 1,000 hours in each of the 5 years performing work described under s. 101.984 (2) (a) or (b).

b. He or she verifies to the department that he or she has continuous experience in the elevator industry for at least 5 years immediately preceding the date of the license application in a capacity, other than in the capacity of preforming work described under s. 101.984 (2) (a) or (b), that has allowed him or her to remain familiar with elevator equipment, technology, and industry practices. This experience may include performing management activities for a company that engages in the sale, installation, repair, or maintenance of conveyances, being involved in elevator industry labor relations, or supervising elevator mechanics.

c. He or she verifies to the department that he or she, during any 5 years preceding the date of the license application, was employed for at least 1,000 hours in each of those 5 years performing work that is relevant to the erection, construction, alteration, replacement, maintenance, repair, or servicing of conveyances and that this work included work described under s. 101.984 (2) (a) or (b). If the 5 years were not the 5 years immediately preceding the date of application, the applicant shall verify that this is due to the applicant's work being disrupted by high unemployment in the elevator industry, military service, illness, disability, or another factor beyond the applicant's control in order to meet the requirement under this subd. 2. c.

(am) *Requirements for individuals with prior experience.* The department shall promulgate rules that establish requirements for issuing an elevator mechanic's license to an individual who has performed work described under s. 101.984 (2) (a) or (b) within the scope of his or her employment before June 1, 2007, but who does not satisfy the requirements under par. (ab) or (ad) to be

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issued a license. The rules may contain a deadline before which an individual must apply for a license issued under this paragraph.

(b) *Licensing out−of−state mechanics.* The requirements under pars. (ab) and (ad) do not apply to an individual who is licensed as an elevator mechanic under the laws of another state, if, in the opinion of the department, that state's regulation of elevator mechanics is substantially the same as this state's. The department may summarily issue an elevator mechanic's license to such an individual.

(c) *Emergency licensing.* If the governor declares that a state of emergency exists in this state under s. 323.10 and the department determines that the number of individuals in the state who hold an elevator mechanic's license issued by the department under this section on the date of the declaration is insufficient to cope with the emergency, the department shall summarily issue an emergency elevator mechanic's license to any individual who is certified by an elevator contractor licensed under this subchapter as adequately qualified and able to perform the work of an elevator mechanic without direct and immediate supervision, who the department determines is so qualified and able, and who applies for an emergency elevator mechanic's license on a form prescribed by the department. An individual certified by a contractor under this paragraph may perform work as an elevator mechanic for up to a total of 5 days preceding the date the individual is issued the license. An emergency elevator mechanic's license has a term of 30 days and may be renewed by the department in the case of a continuing emergency. The department shall specify on an emergency elevator mechanic's license the geographic area in which the licensee may provide services under the license. The requirements under pars. (ab) and (ad) do not apply to an individual who applies for an emergency elevator mechanic's license.

(d) *Temporary licensing.* If there are no elevator mechanics licensed under this subchapter available to provide services contracted for by an elevator contractor licensed under this subchapter, the elevator contractor may notify the department and request the issuance of a temporary elevator mechanic's license to any individual who is certified by the elevator contractor as adequately qualified and able to perform the work of an elevator mechanic without direct and immediate supervision and who applies for a temporary elevator mechanic's license on a form prescribed by the department. A temporary elevator mechanic's license has a term of 30 days and may be renewed by the department in the case of a continuing shortage of licensed elevator mechanics. The department shall specify on a temporary elevator mechanic's license the elevator contractor in whose employ the licensee must remain to provide services under the temporary elevator mechanic's license. The requirements under pars. (ab) and (ad) do not apply to an individual who applies for a temporary elevator mechanic's license.

(3) ELEVATOR INSPECTOR. The department shall issue an elevator inspector license to each individual who demonstrates to the satisfaction of the department that the individual is adequately qualified and able to provide elevator inspection services. The department shall promulgate rules that establish the qualifications required for issuance of an elevator inspector license.

(4) CRIMINAL BACKGROUND CHECK. Upon receipt of an application for a license under sub. (1), (2) (ab) or (ad), or (3), the department, with the assistance of the department of justice, shall conduct a background investigation of the applicant to determine if the information provided by the applicant under sub. (7) (a) 10. is true and if the applicant has any arrests or convictions tending to indicate that the applicant is not adequately qualified and able to provide services authorized under the license applied for.

(5) ISSUANCE, TERM, RENEWAL, AND CONTINUING EDUCATION. (a) *Issuance and term.* Except as provided under s. 101.02 (20) (b) and (21) (b), the department shall issue a license to any applicant who satisfies the applicable requirements of subs. (1) to (3) and any rules promulgated under subs. (1) to (3) and who pays any applicable fee required by rule of the department under s. 101.19 (1g) (k). Except as provided under sub. (2) (c) and (d), the term of each license is 2 years.

(b) *Renewal and continuing education.* 1. Except as otherwise provided in this subdivision, an applicant for renewal of a license under sub. (1), (2) (ab), (ad), or (b), or (3) shall provide to the department a certificate indicating that, during the one−year period before the date on which the applicant's license expires, the applicant has satisfactorily met the education requirements established by rule under subd. 2. If the applicant is not an individual, the certificate shall indicate that the education requirements were satisfactorily met by an individual who, as of the date of the application, is an agent of the applicant.

2. The department shall promulgate rules that establish the education requirements for purposes of subd. 1. The rules shall include all of the following:

a. Standards for certification of specific programs.

b. The number of hours of education required on an annual basis.

c. Criteria for receiving a waiver from the department of the education requirements.

(6) REVOCATION AND SUSPENSION. The department may revoke or suspend a license issued under subs. (1) to (3) if the department finds any of the following:

(a) That the licensee made a false statement of material fact in an application submitted to the department.

(b) That the license was obtained by fraud, misrepresentation, or bribery.

(c) That the licensee failed to notify the department and the owner or lessee of a conveyance that the conveyance failed to meet any of the requirements of this subchapter or of the rules promulgated under this subchapter.

(d) That the licensee violated this subchapter or any rule promulgated under this subchapter.

(7) APPLICATION. (a) Each application for a license under subs. (1), (2) (ab) or (ad), or (3) shall be made on a form prescribed by the department, and each application shall contain at least the following information:

1. If the applicant is an individual, the applicant's name and residential address.

2. If the applicant is a sole proprietorship, the applicant's name and residential and business addresses.

3. If the applicant is a partnership, the name and business address of the partnership and the names and residential addresses of each partner.

4. If the applicant is a corporation, the name and principal business address of the corporation and the name and address of the corporation's registered agent for service of process.

5. If the applicant is a limited liability company, the name and principal business address of the limited liability company and the name and address of the limited liability company's registered agent for service of process.

6. The number of years the applicant has performed work or engaged in the business to be authorized under the license.

7. If the application is for an elevator contractor's license, the approximate number of individuals, if any, the applicant will employ upon licensure.

8. If the application is for an elevator contractor's license, a certification that all work described in s. 101.984 (2) (a) and (b) that the person will contract to perform under the license will be performed by elevator mechanics licensed under sub. (2).

9. Satisfactory evidence that the applicant is or, upon licensure, will be insured to the extent required under sub. (1) or (3).

10. A description of each of the applicant's criminal arrests and convictions, if any.

(b) Each application for a license under sub. (2) (am) shall be made on a form prescribed by the department, and each applica-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

tion shall contain the relevant information necessary to issue the license, as determined by the department.

History: 2005 a. 456; 2007 a. 20, 96; 2009 a. 42; 2011 a. 146, 209.

101.986 Conveyance safety code council duties. The conveyance safety code council shall review this subchapter and rules promulgated under this subchapter and recommend a statewide conveyance safety code for promulgation by the department. The council shall consider and make recommendations to the department pertaining to rules for the enforcement of this subchapter, the granting of variances, administrative appeal procedures, fees, and any other matter under this subchapter.

History: 2005 a. 456.

101.988 Enforcement and penalties. (1) INVESTIGATIONS. (a) *Initiated by department.* The department may perform investigations to aid in the enforcement of this subchapter and rules promulgated under this subchapter.

(b) *Initiated by public.* Any person may file a written notice with the department, requesting the department to investigate an alleged violation of this subchapter or rules promulgated under this subchapter or a dangerous condition involving a conveyance. The notice shall set forth the specific grounds for the request and shall be signed by the person filing the notice. Upon request of the person filing the notice, the department shall keep the person's name confidential and shall withhold the name from public inspection under s. 19.35 (1), except that the department may disclose the name to a law enforcement officer for official purposes. If the department determines that there are reasonable grounds to believe that the alleged violation or dangerous condition exists, the department shall investigate to determine if the alleged violation or dangerous condition exists. If the department determines that there are no such reasonable grounds, the department shall notify the person filing the notice.

(2) ORDERS OF THE DEPARTMENT. The department may issue orders to enforce this subchapter and rules promulgated under this subchapter.

(3) PENALTIES. Any person who violates this subchapter or rules promulgated under this subchapter may be fined not more than $1,500 or imprisoned for not more than 30 days or both, except that, notwithstanding s. 939.61 (1), the owner of a private residence in which a conveyance is located may not be fined or required to pay a forfeiture to this state as a result of any violation involving that conveyance.

History: 2005 a. 456.

2009−10 Wis. Stats. database current through 2011 Wis. Act 286. Includes all Legislative Acts and all Supreme Court Orders enacted before Oct. 1, 2012. Statutory changes effective on or prior to Oct. 1, 2012 are printed as currently in effect. Changes effective after Oct. 1, 2012 are designated by NOTES. See Are the Statutes on this Website Official? (10−18−12)

Chapter SPS 316

ELECTRICAL

Subchapter I — Administration and Enforcement
SPS 316.001 Purpose.
SPS 316.002 Scope.
SPS 316.003 Application of rules.
SPS 316.004 Authority.
SPS 316.005 Petition for variance.
SPS 316.006 Penalties.
SPS 316.007 Fees.
SPS 316.008 Appeals.

Subchapter II — General Requirements
SPS 316.009 Construction and operation.
SPS 316.010 Inspection and maintenance.
SPS 316.011 Electrical inspection of public buildings and places of employment.
SPS 316.012 Use of approved materials and construction methods.
SPS 316.013 Electric fences.
SPS 316.014 Adoption of standards by reference.

Subchapter III — Changes, Additions or Omissions to the NEC
SPS 316.015 Changes, additions or omissions to NEC.
SPS 316.090 Purpose, scope and enforcement.
SPS 316.100 Definitions.
SPS 316.110 Requirements for electrical installation.
SPS 316.210 Branch circuits.
SPS 316.220 Branch−circuit, feeder and service calculations.
SPS 316.225 Outside branch circuits and feeders.
SPS 316.230 Services.
SPS 316.250 Grounding and bonding.
SPS 316.300 Wiring methods.
SPS 316.310 More than three current−carrying conductors in a raceway or cable.
SPS 316.312 Cabinets, cutout boxes and meter socket enclosures.
SPS 316.314 Outlet, device, pull and junction boxes; conduit bodies; fittings; and manhole enclosures.
SPS 316.334 Nonmetallic−sheathed cable: Types NM, NMC and NMS.
SPS 316.358 Uses permitted.
SPS 316.400 Uses not permitted.
SPS 316.406 Tamper−resistant receptacles in dwelling units.
SPS 316.450 Transformers and transformer vaults.
SPS 316.511 Classifications of locations.
SPS 316.620 Branch circuits for other utilization equipment.
SPS 316.675 Disconnecting means.
SPS 316.680 Equipotential bonding.
SPS 316.700 Emergency systems.
SPS 316.701 Legally required standby systems.

Subchapter IV — Electrical Inspection
SPS 316.900 Purpose.
SPS 316.905 Scope.
SPS 316.910 Application.
SPS 316.915 Definitions.
SPS 316.920 Authority.
SPS 316.930 Electrical plan review.
SPS 316.940 Inspections.
SPS 316.950 Connection of electric service.
SPS 316.960 Technical assistance.

Note: Chapter ILHR 16 as it existed on October 31, 1984 was repealed and a new chapter ILHR 16 was created effective November 1, 1984; Chapter ILHR 16 as it existed on February 29, 1988 was repealed and a new chapter ILHR 16 was created effective March 1, 1988; Chapter ILHR 16 as it existed on October 31, 1990, was repealed and a new chapter ILHR 16 was created effective November 1, 1990. Chapter ILHR 16 was renumbered chapter Comm 16 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1996, No. 488. **Chapter Comm 16 was renumbered chapter SPS 316 under s. 13.92 (4) (b) 1., Stats., Register December 2011 No. 672.**

Note: Chapter Comm 17 was repealed effective October 1, 1999. Sections Comm 16.60 to 16.67 were created to replace ch. Comm 17.

Note: Subchapter III of Ch. Comm 16 (sections Comm 16.15 through 16.52) as it existed on February 28, 2009 was repealed and a new subchapter III was created effective March 1, 2009.

Subchapter I — Administration and Enforcement

SPS 316.001 Purpose. (1) PRACTICAL SAFEGUARDING. Pursuant to ss. 101.02 (1), 101.63 (1), 101.73 (1), and 101.82 (1), Stats., the purpose of this chapter is the practical safeguarding of persons and property from hazards arising from the installation and use of electricity.

Note: Hazards often occur because of overloading of wiring systems by methods or usage not in conformity with this chapter. This occurs because initial wiring did not provide for increases in the use of electricity. An adequate initial installation and reasonable provisions for system changes will provide for future increases in the use of electricity.

(2) CODE INTENTION. This chapter is not intended as a design specification or as an instruction manual for untrained persons.

Note: The Wisconsin state electrical code is issued and administered by the department and by the public service commission in 2 chapters of the Wisconsin administrative code. The department has the responsibility for issuance and administration of this chapter, and the public service commission has the responsibility for issuance and administration of ch. PSC 114.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; CR 08−047: renum. from Comm 16.01 and am. (2) Register February 2009 No. 638, eff. 3−1−09; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register February 2009 No. 638.

SPS 316.002 Scope. (1) COVERED. This chapter covers:

(a) Installations of electric and communication conductors and equipment in places of employment, within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating buildings; and other premises such as yards, carnivals, parking and other lots, mines, trenches and tunnels, and industrial substations.

(b) Installations of conductors and equipment that connect to the supply of electricity.

(c) Installations of other outside conductors and equipment on the premises.

(d) Installations of optical fiber cable.

(e) Installations in buildings used by the electric utility, such as office buildings, warehouses, garages, machine shops and recreational buildings, that are not an integral part of a generating plant, substation or control center.

(f) Inspections of electrical construction of farms, public buildings and places of employment.

(2) NOT COVERED. This chapter does not cover:

(a) Installations of electric conductors and equipment in ships, watercraft other than floating buildings, railway rolling stock, aircraft, or automotive vehicles other than mobile homes and recreational vehicles.

(b) Installations of electric conductors and equipment for generation, transformation or distribution of power used exclusively by railways for signaling and communication purposes.

(c) Installations of communication equipment under exclusive control of communication utilities, located outdoors or in building spaces used exclusively for such installations.

(d) Installations, including associated lighting, under the exclusive control of electric utilities for the purpose of communications, metering, generation, control, transformation, transmission or distribution of electric energy. Such installations shall be located in buildings used exclusively by utilities for such purposes; outdoors on property owned or leased by the utility; on or along public highways, streets, roads or similar public thoroughfares; or outdoors on private property by established rights such as easements.

(e) Installations for the purpose of street or area lighting owned and under exclusive control of electrical utilities or municipal electric departments where located outdoors on property owned

or leased by the utility; on or along public highways, streets, roads or similar public thoroughfares; or outdoors on private property by established rights such as easements, where such installations are in compliance with ch. PSC 114.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; am. (1) (b) and (c), Register, March, 1994, No. 459, eff. 4−1−94; cr. (1) (e), r. and recr. (2) (d), (e), Register, August, 1996, No. 488, eff. 9−1−96; cr. (1) (f), Register, September, 1999, No. 525, eff. 10−1−99; CR 02−072: am. (2) (e) Register April 2003 No. 568, eff. 5−1−03; CR 08−047: renum. from Comm 16.02 Register February 2009 No. 638, eff. 3−1−09.

SPS 316.003 Application of rules. (1) TYPES OF INSTALLATIONS. The provisions of this chapter apply to all new installations, reconstructions, alterations and extensions.

(2) TESTING. Rooms which are used exclusively for routine or special electrical test work and are under the supervision of a qualified person, shall comply with this chapter where practicable for the character of the testing done.

(3) EXISTING INSTALLATIONS. Existing electrical installations shall conform to the electrical code that applied when the installations were installed. An existing electrical installation may be required to be brought into compliance with the current code's requirements by the department and within the time period determined by the department when a hazard to life, health or property exists or is created by the installation.

(4) REPAIRS. Repairs to electrical installations shall conform to the electrical code that applied when the installations were installed. A repair may be required to be brought into compliance with the current code's requirements by the department and within the time period determined by the department when a hazard to life, health or property exists or is created by the repair.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; CR 02−072: r. and recr. (3), cr. (4) Register April 2003 No. 568, eff. 5−1−03; CR 08−047: renum. from Comm 16.03 Register February 2009 No. 638, eff. 3−1−09.

SPS 316.004 Authority. (1) DEPARTMENT AUTHORITY. The department shall have the authority and responsibility for interpreting this chapter and the National Electrical Code, and granting special permission as specified in this chapter. A formal interpretation of this chapter shall remain in effect until rescinded or changed or until the edition of the National Electrical Code is changed in s. SPS 316.014.

(2) MUNICIPAL AUTHORITY. Municipalities may exercise jurisdiction over inspection of electrical construction covered by the scope of this chapter. For public buildings and places of employment, s. SPS 316.920 (2) specifies the conditions required for municipalities to exercise this jurisdiction.

Note: Section SPS 320.02 (1) (a) prohibits any municipality from adopting an ordinance establishing restrictions on the electrical construction of one− and two−family dwellings covered by the Uniform Dwelling Code.

Note: Subsection (2) provides municipalities with the authority to enforce this chapter and the National Electrical Code. See sub. (1) for the authority for interpreting the rules of this chapter and the National Electrical Code.

Note: Section SPS 361.03 (4) (b) prohibits any municipality from adopting an ordinance establishing restrictions on the electrical construction of multifamily dwellings as defined in s. SPS 362.0202.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; am. (1), Register, August, 1996, No. 488, eff. 9−1−96; am. (2) and r. (3), Register, September, 1999, No. 525, eff. 10−1−99; CR 08−047: renum. from Comm 16.04 Register February 2009 No. 638, eff. 3−1−09; corrections made under s. 13.92 (4) (b) 7., Stats., Register February 2009 No. 638; **correction in (1), (2) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.**

SPS 316.005 Petition for variance. The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. SPS 303. The petition for variance shall include, where applicable, a position statement from the fire department having jurisdiction.

Note: Chapter SPS 303 requires the submittal of a petition for variance form (SBD−9890) and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule being petitioned. Chapter SPS 303 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days.

Note: Form SBD−9890 is available at no charge from the department at the Safety and Buildings Division, P.O. Box 2509, Madison WI 53701, telephone 608/266−1818 or 608/264−8777 (TTY), or at the Safety and Buildings web site: http://dsps.state.wi.us.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; r. and recr., Register, September, 1999, No. 525, eff. 10−1−99; CR 08−047: renum. from Comm 16.05 Register February 2009 No. 638, eff. 3−1−09; **correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.**

SPS 316.006 Penalties. Penalties for violations of this chapter shall be assessed in accordance with s. 101.02 (12) and (13), or s. 101.88 (3), Stats.

Note: Section 101.02 (13) (a), Stats., indicates penalties will be assessed against any employer, employee, owner or other person who fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or who fails, neglects or refuses to comply with any lawful order made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25, Stats. For each violation, failure or refusal, the employee, owner or other person must forfeit and pay into the state treasury a sum not less than $10 nor more than $100 for each violation.

Note: Section 101.02 (12), Stats., indicates that every day during which any person, persons, corporation or any officer, agent or employee thereof, fails to observe and comply with an order of the department will constitute a separate and distinct violation of such order.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; am., Register, September, 1999, No. 525, eff. 10−1−99; CR 08−047: renum. from Comm 16.06 Register February 2009 No. 638, eff. 3−1−09.

SPS 316.007 Fees. Fees for petitions for variance, electrical plan review and electrical inspections issued under this chapter shall be submitted as specified in ch. SPS 302.

History: Cr. Register, September, 1999, No. 525, eff. 10−1−99; CR 02−072: am. Register April 2003 No. 568, eff. 5−1−03; CR 08−047: renum. from Comm 16.065 Register February 2009 No. 638, eff. 3−1−09; **correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.**

SPS 316.008 Appeals. (1) APPEAL OF LOCAL ORDER. Any person affected by a local order which may be in conflict with a provision of this chapter may petition the department for a hearing on the grounds that the local order is unreasonable and in conflict with the provision of this chapter. All appeals shall be acted on and a decision in writing shall be issued by the department within 30 business days of receiving an appeal.

Note: Section 101.01 (l) (f), Stats., defines "local order" as any ordinance, order, rule or determination of any common council, board of aldermen, board of trustees or the village board, of any village or city, or the board of health of any municipality, or an order or direction of any official of such municipality, upon any matter over which the department has jurisdiction.

(2) PETITION OF ADMINISTRATIVE RULE. Pursuant to s. 227.12, Stats., any municipality, corporation or any 5 or more persons having an interest in an administrative rule may petition the department requesting the adoption, amendment or repeal of the rule.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; CR 08−047: renum. from Comm 16.07 Register February 2009 No. 638, eff. 3−1−09.

Subchapter II — General Requirements

SPS 316.009 Construction and operation. (1) GENERAL. All electrical power and communication equipment and lines shall be constructed, installed, operated and maintained so as to minimize hazards to life and property. All electrical installations shall conform to the National Electrical Code, incorporated by reference in this chapter, and the requirements specified in this chapter.

Note: The federal and state Fair Housing Acts, the federal Americans with Disabilities Act and the Wisconsin Commercial Building Code (chs. SPS 361 to 366) contain requirements relating to making buildings accessible to and usable by people with disabilities. Some of those requirements apply to the installation of various electrical devices. For example, in the federal fair housing accessibility guidelines, devices such as light switches, electrical outlets, thermostats and other environmental controls would meet the requirements if operable parts of the controls are located no higher than 48 inches, and no lower than 15 inches, above the floor. If the reach is over an obstruction between 20 and 25 inches in depth, the maximum height is reduced to 44 inches for forward approach; or 46 inches for side approach, provided the obstruction is no more than 24 inches in depth. Complete copies of the federal Fair Housing Accessibility Guidelines or the federal Americans with Disabilities Act Accessibility Guidelines can be obtained from the Superintendent of Documents, New Orders, P.O. Box 371954, Pittsburgh, PA 15250−7954.

The Wisconsin Administrative Code on this web site is current through the last published Wisconsin Register. See also Are the Codes on this Website Official?

(2) INSTALLATIONS OVER 600 VOLTS. Installations over 600 volts shall, in addition to the requirements of this chapter, comply with ch. PSC 114.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; CR 08−047: renum. from Comm 16.08 Register February 2009 No. 638, eff. 3−1−09.

SPS 316.010 Inspection and maintenance. All electrical installations and equipment shall be cleaned and inspected at intervals as experience has shown to be necessary. Any equipment or electrical installation known to be defective so as to endanger life or property shall be promptly repaired, permanently disconnected, or isolated until repairs can be made. Construction, repairs, additions and changes to electrical equipment and conductors shall be made by qualified persons only.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; CR 08−047: renum. from Comm 16.09 Register February 2009 No. 638, eff. 3−1−09.

SPS 316.011 Electrical inspection of public buildings and places of employment. Inspection of electrical construction relating to public buildings and places of employment shall comply with the requirements of subch. IV.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; am., Register, September, 1999, No. 525, eff. 10−1−99; CR 08−047: renum. from Comm 16.10 Register February 2009 No. 638, eff. 3−1−09.

SPS 316.012 Use of approved materials and construction methods. (1) MATERIALS. Materials, equipment and products which do not comply with the requirements of this chapter shall not be used unless approved in writing by the department. Approval of materials, equipment and products shall be based on sufficient data, tests and other evidence that prove the material, equipment or product meets the intent of the requirements of this chapter. Data, tests and other evidence shall be provided by a qualified independent third party.

Note: Examples of a qualified independent third party include a nationally recognized testing laboratory and a professional engineer.

(2) METHODS OF INSTALLATION. Methods of installation which do not comply with the regulations of this chapter shall not be used unless approved by the department.

(3) NEW PRODUCTS, CONSTRUCTIONS OR MATERIALS. The incorporated National Electrical Code may require new products, constructions or materials which may not be available at the time this chapter is adopted. In such event, the department may permit the use of the products, constructions or materials which comply with a previous edition of the National Electrical Code.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; CR 02−072: r. and recr. (1) Register April 2003 No. 568, eff. 5−1−03; CR 08−047: renum. from Comm 16.11 Register February 2009 No. 638, eff. 3−1−09.

SPS 316.013 Electric fences. The following are department rules in addition to the requirements of the NEC:

(1) ELECTRIC FENCE CONTROLLERS. (a) Electric fence controllers shall be of a type listed by a nationally recognized testing laboratory.

(b) Electric fence controllers shall be installed and used in the exact manner and for the exact purpose indicated by the manufacturer's instructions, markings, listings or labels.

(2) GROUNDING. Electric fence controllers shall be grounded as specified in NEC 250, except that where stray voltages in dairy barns or milking parlors create physical problems to the animals, the use of a single made electrode shall be permitted.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.014 Adoption of standards by reference. The National Electrical Code, NEC−2008, subject to the changes, additions or omissions specified in subch. III, is hereby incorporated by reference into this chapter.

Note: Copies of the National Electrical Code are on file in the offices of the department and the legislative reference bureau.

Note: Copies of the National Electrical Code can be obtained from the National Fire Protection Association, Fulfillment Center, 11 Tracy Drive, Avon, MA 02322−9908, telephone 1−800−344−3555.

History: Cr. Register, October, 1990, No. 418, eff. 11−1−90; am. (1), Register, March, 1994, No. 459, eff. 4−1−94; am. (1), Register, August, 1996, No. 488, eff. 9−1−96; r. and recr., Register, September, 1999, No. 525, eff. 10−1−99; CR 02−072: r. (1), renum. (2) to be Comm 16.12 and am. Register April 2003 No. 568, eff. 5−1−03; CR 05−010: am. Register August 2005 No. 596, eff. 9−1−05; CR 08−047: renum. from Comm 16.12 and am. Register February 2009 No. 638, eff. 3−1−09.

Subchapter III — Changes, Additions or Omissions to the NEC

SPS 316.015 Changes, additions or omissions to NEC. Changes, additions or omissions to the National Electrical Code (NEC) are specified in this subchapter and are rules of the department and not requirements of the NEC.

Note: The referenced NEC article or section number will correspond with the SPS designation number and title and will precede the text of the rule. Example: SPS 316.100 [NEC 100].

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.090 Purpose, scope and enforcement. The requirements specified in NEC 90.1, NEC 90.2 and NEC 90.4 are not included as part of this chapter.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.100 Definitions. (1) ADDITIONS. The following are department definitions in addition to the definitions in NEC 100:

(a) "Department" means the department of safety and professional services.

(b) "Floors" means stories as specified in chs. SPS 361 to 366.

(c) "Nonrated construction" means Types III, IV and V construction in accordance with chs. SPS 361 to 366 and is considered to be nonfire−rated for the purposes of this chapter.

(d) "Private sewage system" has the meaning specified under s. 145.01 (12), Stats.

Note: Under s. 145.01 (12), Stats., "private sewage system" means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the department including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure. A private sewage system may be owned by the property owner or a special purpose district.

(2) SUBSTITUTIONS. The following department definitions are substitutions for the respective definitions in NEC 100:

(a) "Building" means a structure that stands alone or is separated from adjoining structures by fire walls having not less than a 3−hour fire−resistance rating with all openings in the wall protected with 3−hour rated fire door assemblies.

Note: See chs. SPS 361 to 366 for fire−resistance standards.

(b) "Special permission" means a petition for variance in accordance with s. SPS 316.005.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09; **correction in (1) (a), (b), (c), (2) (b) made under s. 13.92 (4) (b) 6., 7., Stats., Register December 2011 No. 672.**

SPS 316.110 Requirements for electrical installation. (1) INSTALLATION AND USE. Substitute the following wording for the requirements in NEC 110.3 (B): Listed or labeled equipment shall be installed or used, or both, in accordance with any instructions included in the listing or labeling, provided the instructions, listing or labeling do not conflict with this chapter.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.210 Branch circuits. (1) IDENTIFICATION FOR BRANCH CIRCUITS. This is a department informational note to be used under NEC 210.5 (C):

Note: For 277/480 volt systems, the recommended wire colors are brown, orange and yellow. For 120/208 volt systems, the recommended wire colors are black, red and blue.

(2) GROUND−FAULT CIRCUIT−INTERRUPTER PROTECTION FOR PERSONNEL. (a) *Dwelling units*. Substitute the following wording for NEC 210.8 (A) (7): Laundry, utility, bedroom and wet bar

sinks, where the receptacles are installed within 6 feet of the outside edge of the sink.

(b) *Exception.* This is a department exception to the requirements in NEC 210.8 (A).

Exception: Ground−fault circuit−interrupter protection shall not be required for a single receptacle providing power for sump or sewage pumps where an accessible ground−fault circuit−interrupter protected receptacle is located within 900 mm (3 ft) of the non−GFCI protected receptacle.

(c) *Other than dwelling units.* This is a department rule in addition to the requirements of NEC 210.8: All 125−volt single phase 15− and 20−ampere receptacles installed in the repair areas and storage areas in commercial garages where electrical diagnostic equipment, electric hand tools or portable lighting equipment may be used shall have ground fault circuit−interrupter protection for personnel.

(3) BRANCH CIRCUITS REQUIRED. This is a department rule in addition to the requirements of NEC 210.11: Where an air conditioner sleeve is provided in a building wall, a receptacle outlet shall be located within 4 feet of the sleeve. If a circuit is not run to the outlet, a raceway shall be provided. When the air conditioner is installed in the sleeve, it shall be supplied by an individual branch circuit. A receptacle outlet installed for an air conditioner may not be counted as one of the receptacles required by NEC 210.52 (A).

(4) ARC−FAULT CIRCUIT−INTERRUPTER PROTECTION. (a) *Exception*. This is a department exception to the requirements in NEC 210.12.

Exception: The requirements regarding arc−fault circuit−interrupter protection shall take effect on January 1, 2010.

(b) *Dwelling units.* Substitute the following wording for NEC 210.12 (B) Exception No. 1: Where RMC, IMC, EMT or steel armored cable, Type AC or Type MC, meeting the requirements of 250.118 using metal outlet and junction boxes is installed for the portion of the branch circuit between the branch−circuit overcurrent device and the first outlet, a combination AFCI at the first outlet may be installed to provide protection for the remaining portion of the branch circuit.

(5) COMMON AREA BRANCH CIRCUITS. This is a department rule in addition to the requirements of NEC 210.25: For service upgrades for existing 2−family dwellings only, separation of common area branch circuits is not required.

(6) LIGHTING OUTLETS REQUIRED. Substitute the following wording for NEC 210.70 (A) (1): At least one wall switch−controlled lighting outlet shall be installed in every habitable room, kitchen and bathroom.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.220 Branch−circuit, feeder and service calculations. (1) GENERAL. Substitute the following wording for NEC 220.10: Branch−circuit loads shall be calculated as shown in NEC 220.12, 220.14 and 220.16, or under the supervision of a Wisconsin professional engineer, architect or designer of electrical systems, circuit load calculations may use a lower unit load than identified in NEC Table 220.12 when energy codes restrict lighting loads to an amount lower than the table values.

(2) EXCEPTION. This is a department exception to the requirements in NEC 220.40:

Exception: Under the supervision of a Wisconsin professional engineer, architect or designer of electrical systems, the feeder or service size may be computed using diversity factors or historical data of a similar type of building, other than one− and 2−family dwelling units.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.225 Outside branch circuits and feeders. (1) CLEARANCE FOR OVERHEAD CONDUCTORS AND CABLES. This is a department rule in addition to the requirements of NEC 225.18: Conductors of not over 600 volts nominal shall have a clearance of at least 24.5 feet over track rails of railroads.

(2) CLEARANCES FROM BUILDINGS FOR CONDUCTORS NOT OVER 600 VOLTS. Substitute the following wording for NEC 225.19 (A) Exception No. 4: The requirement for maintaining the vertical clearance 3 feet from the edge of the roof does not apply to the final conductor span to the building.

(3) NUMBER OF SUPPLIES. The following are department rules in addition to the requirements in NEC 225.30:

(a) For the purpose of this section, multiple feeders that are supplied from the same distribution point, rated 300 amperes or greater and supply not more than 6 disconnecting means grouped at the same location are considered one supply.

(b) Multi−occupancy buildings or structures may have one set of branch circuit conductors installed from a dwelling unit to the second building or structure's respective occupied space.

(4) LOCATION. This is a department rule in addition to the requirements of NEC 225.32: The building disconnect required by NEC 225.31 shall be located in accordance with s. SPS 316.230 (3).

Note: See ch. PSC 114 regarding clearances of conductors of over 600 volts and for prohibition of constructing dwellings under or near overhead lines.

(5) CLEARANCES OVER ROADWAYS, WALKWAYS, RAIL, WATER AND OPEN LAND. Substitute the following wording for the note to NEC 225.60 (C):

Note: For clearances of conductors of over 600 volts, see ch. PSC 114.

(6) CLEARANCES OVER BUILDINGS AND OTHER STRUCTURES. Substitute the following wording for the note to NEC 225.61 (B):

Note: See ch. PSC 114 regarding clearances of conductors of over 600 volts and for prohibition of constructing dwellings under or near overhead lines.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09; **correction in (4) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.**

SPS 316.230 Services. (1) NUMBER OF SERVICES. (a) These are department informational notes to be used under NEC 230.2 (intro.):

Note: See definition of building in s. SPS 316.100 (2) (a).

Note: It is recommended that the electric utility or cooperative supplying electric current be contacted prior to service equipment installations for any special requirements.

(b) Substitute the following wording for NEC 230.2 (B) (2): Two or more service drops or laterals for the same class of service if located more than 150 feet apart, measured in a straight line, and provided that all electrical wiring supplied by each service has no common raceway or connection with any other service.

(c) This is a department rule in addition to the requirements of NEC 230.2 (B): For a building which is not more than 3 stories in height and which contains only 3 or more attached, vertically separated, side−by−side or back−to−back dwelling units, with each dwelling unit served by an individual exterior exit within 6 feet of the exit discharge grade, a separate service drop or lateral shall be permitted for each 2 attached units.

(2) NUMBER OF SERVICE−ENTRANCE CONDUCTOR SETS. The requirements specified in NEC 230.40 Exception No. 3 are not included as part of this chapter.

(3) LOCATION. This is a department rule in addition to the requirements of NEC 230.70 (A): Raceways containing service conductors or cables, or service entrance cable not contained within a raceway, may not extend longer than 8 feet into a building to the service disconnect or the first service disconnect of a group of disconnects as permitted by NEC 230.71. The raceways or conductors shall be considered to have entered the building at the point where they pass through the outer surface of the building exterior, except as permitted by NEC 230.6.

The Wisconsin Administrative Code on this web site is current through the last published Wisconsin Register. See also Are the Codes on this Website Official?

(4) GENERAL. This is a department rule in addition to the requirements of NEC 230.70: Disconnecting means shall be provided to disconnect the utility wiring from the premises wiring at any point where utility wiring terminates and premises wiring extends overhead or underground to more than one building or structure.

(5) RATING OF SERVICE DISCONNECTING MEANS. This is a department rule in addition to the requirements of NEC 230.79:

(a) *Two− or multi−family dwellings*. Except as provided in par. (b), for 2−family or multi−family dwellings, the service equipment shall have a rating of not less than 150 amperes, 3−wire or 4−wire. Where the combined rating of all service disconnecting means is 150 amperes or larger, the service or feeder equipment rating for each dwelling unit shall have a rating of not less than 60 amperes.

(b) *Exception*. Service equipment having a rating of not less than 100 amperes, 3−wire or 4−wire, may be installed in an existing 2−family dwelling only where both of the following conditions are complied with:

1. The load computed in accordance with NEC 220 does not exceed 80 amperes.

2. Specific written approval is granted by the municipal inspection department having jurisdiction.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.250 Grounding and bonding. (1) RESISTANCE OF ROD, PIPE, AND PLATE ELECTRODES. Substitute the following wording for NEC 250.56: A single electrode consisting of a rod, pipe or plate shall be augmented by one additional electrode of any of the types specified 250.52 (A) (4) to (A) (8). Where multiple rod, pipe or plate electrodes are installed to meet the requirements of this section, they may not be less than 1.8 m (6 ft) apart.

(2) TYPES OF EQUIPMENT GROUNDING CONDUCTORS. This is a department rule in addition to the requirements of NEC 250.118: A metallic raceway installed in direct contact with earth, in concrete slabs or floors poured on earth, or in exterior concrete walls below grade shall be augmented with a supplemental equipment grounding conductor identified in NEC 250.118 (1). This supplemental conductor shall be sized in accordance with NEC 250.122. An aluminum equipment grounding conductor used for this purpose shall be insulated.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.300 Wiring methods. (1) ELECTRICAL REQUIREMENTS FOR PRIVATE SEWAGE SYSTEMS. These department rules apply to private sewage systems and are in addition to the requirements of NEC 300:

(a) *Wiring methods.* All effluent pump circuit wiring shall comply with the approved wiring methods as specified in NEC 300 and all of the following requirements:

1. Effluent pumps shall be supplied by a separate branch circuit supplying no other loads.

2. Alarm wiring may not be connected to the pump circuit.

3. All aboveground cables and flexible cords shall be enclosed to protect against physical damage.

4. The neutral conductor may not be common to both alarm and pump circuits.

Note: This prohibits use of a multi−wire branch circuit to supply both the alarm and pump.

Note: See NEC 430.102 for location of disconnects.

(b) *Ground−fault circuit protection.* A single receptacle located at the pump chamber that has an alarm or pump connected to it does not require ground−fault circuit−interrupter protection.

(2) PROTECTION AGAINST PHYSICAL DAMAGE. The requirements specified in NEC 300.4 (D) are not included as part of this chapter.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.310 More than three current−carrying conductors in a raceway or cable. This is a department exception in addition to the exceptions specified in NEC 310.15 (B) (2) (a):

Exception No. 6: The derating factors shown in NEC Table 310.15 (B) (2) (a) do not apply to branch circuits supplying an individual dwelling unit except under the following conditions:

(1) Where more than two NM cables containing two or more current−carrying conductors are installed, without maintaining spacing between the cables, through the same opening in wood framing that is to be fire− or draft−stopped using thermal insulation, caulk or sealing foam, the allowable ampacity of each conductor shall be adjusted in accordance with Table 310.15 (B) (2) (a) and the provisions of 310.15 (A) (2) shall not apply.

(2) Where more than two NM cables containing two or more current−carrying conductors are installed in contact with thermal insulation without maintaining spacing between cables, the allowable ampacity of each conductor shall be adjusted in accordance with Table 310.15 (B) (2) (a).

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.312 Cabinets, cutout boxes and meter socket enclosures. (1) CABLES. Substitute the following wording for NEC 312.5 (C) Exception (intro.):

Exception: Cables with entirely nonmetallic sheaths may enter an enclosure through one or more nonflexible raceways of not less than 12 inches and not more than 10 feet in length, provided all of the following conditions are met:

(2) OMISSION. The requirements specified in NEC 312.5 (C) Exception paragraph (b) are not included as part of this chapter.

(3) FITTING. Substitute the following wording for NEC 312.5 (C) Exception paragraph (c): A fitting is provided on each end of the raceway to protect the cable from abrasion.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.314 Outlet, device, pull and junction boxes; conduit bodies; fittings; and manhole enclosures. (1) CONDUCTORS ENTERING BOXES, CONDUIT BODIES, OR FITTINGS. This is a department exception to the requirements of NEC 314.17 (B) and (C):

Exception: Nonmetallic sheathed cable is not required to be secured to the box or conduit body where it is installed in accordance with the wiring method specified in s. SPS 316.312.

(2) OUTLET BOXES. This is a department rule in addition to the requirements of NEC 314.27 (A): In a dwelling unit, a ceiling outlet box installed for use as a lighting fixture outlet in a habitable room or kitchen and located where a ceiling fan could be installed shall be a type listed for ceiling fan support.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09; **correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.**

SPS 316.334 Nonmetallic−sheathed cable: Types NM, NMC and NMS. (1) USES PERMITTED. Substitute the following wording for NEC 334.10 (3): Other structures permitted to be of Types III, IV, and V construction except as prohibited in NEC 334.12.

(2) DELETION. The requirements specified in NEC 334.12 (A) (2) are not included as part of this chapter.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.358 Uses permitted. This is a department rule in addition to the requirements of NEC 358.12: Electrical metallic tubing may not be used in direct contact with earth, in concrete slabs or floors poured on earth, or in exterior concrete walls below grade.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.400 Uses not permitted. This is a department exception in addition to the exception in NEC 400.8 (4):

Exception No. 2: Flexible cords and cables permitted by NEC 400.7 (A) that are connected to sources other than busways may be attached to adequately supported equipment or building surfaces provided the type of cord or cable, the attachment to the building and equipment, and the support comply with the provisions of NEC 368.56 (B).

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.406 Tamper−resistant receptacles in dwelling units. This is a department exception to the requirements specified in NEC 406.11.

Exception: The requirements regarding tamper resistant receptacles in dwelling units shall take effect on January 1, 2010.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.450 Transformers and transformer vaults. (1) OVERCURRENT PROTECTION. This is a department rule in addition to the requirements in NEC Table 450.3 (A) Note 3: The qualified person can be either an employee at that location or an employee contracted for this purpose who is readily available.

(2) LOCATION. Substitute the following wording for NEC 450.41: Vaults containing oil−insulated transformers shall be located where the vaults can be ventilated to the outside air without using flues or ducts, except where a petition for variance is approved.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.511 Classifications of locations. The requirements specified in NEC 511.3 (C) (1) (a) and 511 (C) (2) (a) are not included as part of this chapter.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.620 Branch circuits for other utilization equipment. This is a department informational note to be used under NEC 620.25:

Note: See NEC 620.53, 620.54 and 620.55 for additional requirements.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.675 Disconnecting means. This is a department rule in addition to the requirements of NEC 675.8: A service disconnecting means with overcurrent protection shall be provided at the service point in accordance with NEC 230 VI.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.680 Equipotential bonding. (1) PERIMETER SURFACES. This is a department rule in addition to the requirements of NEC 680.26 (B) (2). The requirements specified in NEC 680.26 (B) (2) does not apply to a listed self−contained spa or hot tub constructed with nonmetallic walls.

(2) POOL WATER. This is a department rule in addition to the requirements of NEC 680.26 (C). The requirements specified in NEC 680.26 (C) does not apply to a listed self−contained spa or hot tub constructed with nonmetallic walls.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.700 Emergency systems. (1) WIRING, EMERGENCY SYSTEM. This is a department rule in addition to the requirements of NEC 700.9 (B):

(a) Except as provided in par. (b), emergency circuit wiring shall be listed raceways, Type AC cable or Type MC cable.

(b) Emergency lighting fixtures may use flexible cord connections in compliance with NEC 410.62 (C) for electric discharge luminaries.

(2) GENERAL REQUIREMENTS. This is a department rule in addition to the requirements in NEC 700.12 (intro.): The enclosure of the alternate source of power located outdoors for emergency systems shall be located at least 10 feet horizontally from any combustible portion of a Type III, Type IV, or Type V building and at least 20 feet from an outdoor electrical transformer, electrical metering, service equipment or normal power distribution equipment. These dimensions may be reduced where a noncombustible barrier is installed that extends at least 3 feet beyond each side of the alternate power source and transformer. The height of the barrier shall be at least one foot above the top of the transformer, electrical metering, service equipment, or alternate power source, whichever is higher.

(3) DELETION. The requirements specified in NEC 700.12 (B) (3) are not included as part of this chapter.

Note: See chs. SPS 361 to 366 for further requirements.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.701 Legally required standby systems. (1) ADDITION. This is a department rule in addition to the requirements in NEC 701.11 (intro.): The enclosure of the alternate source of power located outdoors for legally required standby systems shall be located at least 10 feet horizontally from any combustible portion of a Type III, Type IV, or Type V building and at least 20 feet from an outdoor electrical transformer, electrical metering, service equipment or normal power distribution equipment. These dimensions may be reduced where a noncombustible barrier is installed that extends at least 3 feet beyond each side of the alternate power source and transformer. The height of the barrier shall be at least one foot above the top of the transformer, electrical metering, service equipment, or alternate power source, whichever is higher.

(2) DELETION. The requirements specified in NEC 701.11 (B) (3) are not included as part of this chapter.

Note: See chs. SPS 361 to 366 for further requirements.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register February 2009 No. 638.

Subchapter IV — Electrical Inspection

SPS 316.900 Purpose. Pursuant to s. 101.82, Stats., the purpose of this subchapter is to establish rules for the inspection of electrical construction of farms, public buildings and places of employment.

History: Cr. Register, September, 1999, No. 525, eff. 10−1−99; CR 08−047: renum. from Comm 16.60 Register February 2009 No. 638, eff. 3−1−09.

SPS 316.905 Scope. This subchapter specifies the electrical construction to be inspected, the inspection procedures to be followed and the procedures for connection of electric service.

History: Cr. Register, September, 1999, No. 525, eff. 10−1−99; CR 08−047: renum. from Comm 16.61 Register February 2009 No. 638, eff. 3−1−09.

SPS 316.910 Application. This subchapter applies to persons, independent inspection agencies, municipalities and state governmental agencies engaged in the inspection of electrical construction for the purposes of administering and enforcing this chapter on farms and in public buildings and places of employment, and to companies or utilities providing connection of electric service.

History: Cr. Register, September, 1999, No. 525, eff. 10−1−99; CR 08−047: renum. from Comm 16.62 Register February 2009 No. 638, eff. 3−1−09.

SPS 316.915 Definitions. In this subchapter:

(1) "Certified inspector" means a certified commercial electrical inspector.

(2) "Commercial electrical inspector" means a person who conducts inspections of electrical construction of farms, public buildings and places of employment.

(3) "Department" means the department of safety and professional services.

(4) "Electrical construction" means the installation of electrical wiring.

(5) "Electrical contractor" means any person, firm or corporation engaged in the business of erecting, installing, altering, repairing, servicing or maintaining electrical wiring.

(6) "Electrical wiring" means all equipment, wiring, material, fittings, devices, appliances, fixtures and apparatus used for the production, modification, regulation, control, distribution, uti-

lization or safeguarding of electrical energy for mechanical, chemical, cosmetic, heating, lighting or similar purposes as covered by the scope of this chapter.

(7) "Farm" means a place where farming is conducted.

(8) "Farming" has the meaning specified under s. 102.04 (3), Stats.

Note: Under s. 102.04 (3), Stats., "farming" means the operation of farm premises owned or rented by the operator. "Farm premises" means areas used for operations herein set forth, but does not include other areas, greenhouses or other similar structures unless used principally for the production of food and farm plants.

Note: Section 102.04 (3), Stats., states that the operation of farm premises shall be deemed to be the planting and cultivating of the soil thereof; the raising and harvesting of agricultural, horticultural or arboricultural crops thereon; the raising, breeding, tending, training and management of livestock, bees, poultry, fur–bearing animals, wildlife or aquatic life, or their products, thereon; the processing, drying, packing, packaging, freezing, grading, storing, delivering to storage, to market or to a carrier for transportation to market, distributing directly to consumers or marketing any of the above−named commodities, substantially all of which have been planted or produced thereon; the clearing of such premises and the salvaging of timber and management and use of wood lots thereon, but not including logging, lumbering or wood cutting operations unless conducted as an accessory to other farming operations; the managing, conserving, improving and maintaining of such premises or the tools, equipment and improvements thereon and the exchange of labor, services or the exchange of use of equipment with other farmers in pursuing such activities.

(9) "Independent inspection agency" means any corporation, partnership or sole proprietor, other than a municipal corporation, that performs inspections of buildings.

(10) "Municipality" means a city, village, town or county in this state.

(11) "Person" includes all partnerships, associations, and bodies politic or corporate.

(12) "Place of employment" has the meaning specified under s. 101.01 (11), Stats.

Note: Under s. 101.01 (11), Stats., "place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. "Farming" includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or employees for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, "place of employment" does not include an adult family home, as defined in s. 50.01 (1), or, except for the purposes of s. 101.11, a previously constructed building used as a community−based residential facility, as defined in s. 50.01 (1g), which serves 20 or fewer residents who are not related to the operator or administrator.

(13) "Public building" has the meaning specified under s. 101.01 (12), Stats.

Note: Under s. 101.01 (12), Stats., "public building" means any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy or use by the public or by 3 or more tenants. When used in relation to building codes, "public building" does not include a previously constructed building used as a community−based residential facility as defined in s. 50.01 (1g) which serves 20 or fewer residents who are not related to the operator or administrator or an adult family home, as defined in s. 50.01 (1).

History: Cr. Register, September, 1999, No. 525, eff. 10−1−99**;** CR 08−047: renum. from Comm 16.63 Register February 2009 No. 638, eff. 3−1−09; **correction in (3) made under s. 13.92 (4) (b) 6., Stats., Register December 2011 No. 672.**

SPS 316.920 Authority. (1) DEPARTMENTAL AUTHORITY. Pursuant to ss. 101.82 and 101.84, Stats., the department is granted the authority and jurisdiction over the inspection of electrical construction of farms, public buildings and places of employment.

(2) MUNICIPAL AUTHORITY. (a) *Jurisdiction conditions.* Pursuant to s. 101.86 (1), Stats., municipalities may exercise jurisdiction over inspection of electrical construction in public buildings and places of employment by passage of ordinances, providing all of the following conditions are complied with:

1. The municipality's ordinances meet the minimum requirements of this subchapter.

2. The municipality notifies the department at least 30 days prior to the date upon which the municipality intends to assume the jurisdiction.

3. The municipality provides the department with a copy of its electrical ordinances and subsequent revisions to the ordinances.

4. The municipality's ordinances adopt this chapter in its entirety.

5. The municipality employs or contracts with certified inspectors or independent inspection agencies to perform electrical inspection functions.

6. The municipality provides the department with the names of its certified inspectors or independent inspection agencies employed or contracted by the municipality.

7. The municipality provides the department with any information requested by the department relative to the electrical inspection of public buildings and places of employment.

Note: Section 13.48 (13), Stats., exempts state buildings from local ordinances or regulations relating to building construction, permits and similar restrictions.

(b) *Joint jurisdiction.* Municipalities may jointly exercise the jurisdiction granted in par. (a).

(c) *Municipal contracts.* A municipality may contract with a certified inspector, independent inspection agency or the department for those inspection services which the municipality does not perform under par. (a) or (b).

(d) *County.* 1. Ordinances enacted by a county under this subsection establishing electrical inspection functions shall apply to all municipalities within that county which have not assumed jurisdiction.

2. Ordinances enacted by a county under this subsection establishing county electrical inspection functions may not prevent or prohibit a municipality within that county from assuming those functions at any time.

(e) *Relinquishing of jurisdiction.* The municipality shall notify the department, in writing, at least 30 days prior to the date upon which the municipality intends to relinquish jurisdiction responsibilities.

History: Cr. Register, September, 1999, No. 525, eff. 10−1−99**;** CR 08−047: renum. from Comm 16.64 Register February 2009 No. 638, eff. 3−1−09.

SPS 316.930 Electrical plan review. Upon request, the department may perform electrical plan review for dwellings, public buildings, places of employment and electrical services.

History: CR 08−047: cr. Register February 2009 No. 638, eff. 3−1−09.

SPS 316.940 Inspections. (1) PERSONS AUTHORIZED TO PERFORM INSPECTIONS. (a) *General.* Inspections performed for a municipality, independent inspection agency or the department for the purpose of administering and enforcing this chapter shall be performed by a certified inspector.

(b) *Right of entry.* A certified inspector performing inspections under par. (a) may, during reasonable hours, enter any building or premises in the discharge of his or her official duties for the purpose of making inspections, re−inspections or testing of electrical construction.

Note: Section SPS 305.63 contains requirements pertaining to the certification of commercial electrical inspectors.

(2) MUNICIPAL INSPECTIONS. (a) *Electrical wiring requiring inspection.* Municipalities exercising jurisdiction under s. SPS 316.920 (2) shall provide for inspection of all electrical wiring in all of the following:

1. New construction, additions, alterations and changes of use of public buildings and places of employment requiring submittal of building plans under s. SPS 361.30 for the classes of occupancies specified under sub. (4) (a).

2. Such other installations as required by the municipality.

(b) *Inspection types.* Inspections required to be performed shall be of all of the following types for the purpose of determining if the electrical construction complies with this chapter:

1. An inspection before the construction is concealed.

2. Re−inspections, as necessary, to confirm compliance and satisfactory completion of all electrical construction.

3. A final inspection.

(c) *Permit required.* 1. Except as provided in subd. 2., no electrical wiring specified in par. (a) may be installed unless an application for a permit and the required fees have been submitted to the municipality exercising jurisdiction under s. SPS 316.920 (2).

2. Under emergency conditions, the necessary electrical construction may be commenced without submitting an application for a permit; however, the person performing the emergency construction shall report the construction to the municipality no later than the next business day. The emergency installation shall conform to this chapter.

(d) *Inspection.* 1. Upon completion of the electrical wiring required to be inspected under par. (a) or before any electrical wiring is to be hidden from view, the person, firm or corporation installing the electrical wiring shall notify the municipality that the installation is ready for inspection.

2. The certified inspector responsible for the inspection shall perform the requested inspection within 2 business days after receiving notification.

3. If upon inspection, it is found that the installation is fully in compliance with this chapter and the municipal ordinances, the certified inspector shall approve the installation and authorize concealment of the electrical wiring or connection of electric service. For connection of electric service, the certified inspector shall issue the certificate required in s. SPS 316.950 (1).

4. If the installation is incomplete or not in compliance with this chapter or the municipal ordinances, orders to correct shall be issued in accordance with the municipal ordinances.

(3) INDEPENDENT AGENCY INSPECTIONS. (a) *Municipalities.* Independent inspection agencies performing inspections for municipalities exercising jurisdiction under s. SPS 316.920 (2) shall provide inspections in accordance with the requirements of sub. (2) for municipalities.

(b) *Department.* Independent inspection agencies performing inspections for the department shall provide inspections as specified in the contract with the department.

(4) DEPARTMENT INSPECTION PROGRAM. (a) *Specific inspections.* The department may inspect all electrical wiring in new construction, additions, alterations and change of use of public buildings and places of employment requiring submittal of building plans under s. SPS 361.30 in all of the following occupancies that are not within the boundaries of municipalities exercising jurisdiction:

1. Nursing homes and health care facilities.

2. Hotels, motels, and other buildings that provide overnight accommodations.

3. Day care centers and schools.

4. Community−based residential facilities.

5. Restaurants having a capacity of 100 or more occupants.

6. All indoor theaters.

(b) *Random inspections.* The department may perform random inspections of electrical wiring in any new construction, additions, alterations and change of use of public buildings and places of employment, that are not within the boundaries of municipalities exercising jurisdiction.

(c) *Requested or complaint inspections.* The department may perform inspection of electrical construction in public buildings or places of employment in any municipality upon written request or complaint.

(d) *Farm inspections.* The department may inspect electrical construction on farms.

History: Cr. Register, September, 1999, No. 525, eff. 10−1−99; CR 01−139: am. (2) (a) 1. and (4) (a) (intro.) Register June 2002 No. 558, eff. 7−1−02**;** CR 08−047: renum. from Comm 16.65 Register February 2009 No. 638, eff. 3−1−09; corrections in (2) (a) (intro.), (c) 1., (d) 3. and (3) (a) made under s. 13.92 (4) (b) 7., Stats., Register February 2009 No. 638; **correction in (2) (a) 1., (c) 1., (d) 3., (3) (a), (4) (a) (intro.) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.**

SPS 316.950 Connection of electric service. The company or utility furnishing electric current shall obtain proof that electrical wiring complies with this chapter before furnishing the service, as follows:

(1) CERTIFICATE REQUIRED. The electrical wiring required to be inspected under s. SPS 316.940 (2) (a) may not be connected for use until a certificate is filed with the company or utility furnishing electric current. The certified inspector authorized to perform the inspection shall complete and file the certificate with the company or utility.

(2) STATEMENT REQUIRED. Electrical wiring not requiring a certificate under sub. (1) may not be connected for use until a written statement is filed with the company or utility furnishing electric current indicating that the electrical wiring complies with this chapter. The electrical contractor or other person doing the wiring shall complete and file the written statement with the company or utility.

History: Cr. Register, September, 1999, No. 525, eff. 10−1−99**;** CR 08−047: renum. from Comm 16.66 Register February 2009 No. 638, eff. 3−1−09; corrections in (intro.) and (1) made under s. 13.92 (4) (b) 7., Stats., Register February 2009 No. 638; **correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.**

SPS 316.960 Technical assistance. The department shall provide technical assistance to the extent possible with the available resources to any person, upon written request, regarding interpretation and application of this chapter. The technical assistance may consist of telephone, written, in−office or on−site review of specific problems.

History: Cr. Register, September, 1999, No. 525, eff. 10−1−99**;** CR 08−047: renum. from Comm 16.67 Register February 2009 No. 638, eff. 3−1−09.

Chapter SPS 324

ELECTRICAL STANDARDS

SPS 324.01 Electrical standards.

Note: Chapter Ind 24 was renumbered to be chapter ILHR 24, Register, February, 1985, No. 350, effective 3−1−85. Chapter ILHR 24 was renumbered to be chapter Comm 24 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 7., Stats., Register, January, 1999, No. 517, eff. 2−1−99. **Chapter Comm 24 was renumbered chapter SPS 324 under s. 13.92 (4) (b) 1., Stats., Register December 2011 No. 672.**

SPS 324.01 Electrical standards. All electrical wiring, installations, equipment and materials used in the construction of dwellings shall comply with the requirements of the Wisconsin Administrative Electrical Code, Vol. 2., ch. SPS 316.

Note: Section 101.865, Stats., requires that the company furnishing the electric current obtain proof that the wiring complies with these standards before furnishing the current. Proof must be a certificate furnished by the inspection department or officer, or if there is no officer, an affidavit furnished by the person doing the wiring.

History: Cr. Register, November, 1979, No. 287, eff. 6−1−80; am. Register, March, 1992, No. 435, eff. 4−1−92; **correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.**

Chapter SPS 305

LICENSES, CERTIFICATIONS AND REGISTRATIONS

SPS 305.001 Purpose.
SPS 305.002 Scope.
SPS 305.003 Definitions.
SPS 305.004 Incorporation of standards by reference.

Subchapter I — General Requirements
SPS 305.01 Application.
SPS 305.02 Fees.
SPS 305.03 Petitions for variance.
SPS 305.04 Processing times.
SPS 305.05 Mailing.
SPS 305.06 Terms.
SPS 305.07 Renewal.
SPS 305.08 Continuing education.
SPS 305.09 Examinations.
SPS 305.10 Denial, suspension and revocation.
SPS 305.11 Responsibilities.
SPS 305.12 Penalties.
SPS 305.125 Administrative forfeitures.

Subchapter II — Blasting and Fireworks
SPS 305.20 Blasters.
SPS 305.21 Fireworks manufacturers.

Subchapter III — Dwellings, Structures and Sites
SPS 305.30 Building contractor.
SPS 305.31 Dwelling contractor.
SPS 305.315 Dwelling contractor qualifier.
SPS 305.32 Manufactured home manufacturers.
SPS 305.323 Manufactured home dealer.
SPS 305.325 Manufactured home salesperson.
SPS 305.327 Manufactured home installer.
SPS 305.33 Soil testers.
SPS 305.34 Welders.
SPS 305.35 Weld test conductors.
SPS 305.36 POWTS maintainers.

Subchapter IV — Electrical
SPS 305.40 Electricians.
SPS 305.405 Terminology.
SPS 305.41 Electrical contractors.
SPS 305.42 Electrical contractors−restricted.
SPS 305.43 Master electricians.
SPS 305.435 Residential master electricians.
SPS 305.44 Journeyman electricians.
SPS 305.443 Industrial journeyman electricians.
SPS 305.447 Residential journeyman electricians.
SPS 305.45 Beginning electricians.
SPS 305.46 Electrical apprentices.

Subchapter V — Fire Sprinkler
SPS 305.50 Fire sprinkler installers.
SPS 305.51 Sprinkler contractors.
SPS 305.52 Journeyman sprinkler fitters.
SPS 305.53 Sprinkler system apprentices.
SPS 305.54 Sprinkler maintenance contractors.
SPS 305.55 Sprinkler maintenance fitters.
SPS 305.56 Sprinkler testers.
SPS 305.57 Sprinkler tester learners.

Subchapter VI — Inspection
SPS 305.60 Boiler−pressure vessel inspectors.
SPS 305.61 Commercial building inspectors.
SPS 305.62 Commercial electrical inspectors.
SPS 305.625 Commercial plumbing inspectors.
SPS 305.63 Dwelling inspectors.
SPS 305.635 UDC inspection agency.
SPS 305.64 Elevator inspectors.
SPS 305.66 POWTS inspectors.
SPS 305.67 Rental weatherization inspectors.
SPS 305.68 Tank system inspectors.

Subchapter VII — Mechanical
SPS 305.70 HVAC contractors.
SPS 305.71 HVAC qualifiers.
SPS 305.72 Refrigerant handling technicians.
SPS 305.73 Liquefied gas suppliers.

Subchapter VIII — Storage Tanks
SPS 305.80 PECFA consulting firms.
SPS 305.81 PECFA consultants.
SPS 305.82 Tank specialty firms.
SPS 305.83 Tank−system site assessors.
SPS 305.84 Aboveground tank system installers.
SPS 305.85 Underground tank system installers.
SPS 305.86 Underground tank system liners.
SPS 305.87 Tank system removers and cleaners.
SPS 305.88 Tank system tightness testers.
SPS 305.89 Cathodic protection specialties.

Subchapter IX — Plumbing
SPS 305.90 Plumbing.
SPS 305.91 Master plumbers.
SPS 305.92 Master plumbers−restricted.
SPS 305.93 Journeyman plumbers.
SPS 305.94 Journeyman plumbers−restricted.
SPS 305.95 Plumbing apprentices.
SPS 305.96 Plumbing learners.
SPS 305.97 Utility contractors.
SPS 305.98 Pipelayers.
SPS 305.99 Cross connection control testers.

Subchapter X — Conveyances
SPS 305.9905 Elevator contractor.
SPS 305.991 Elevator installers.
SPS 305.992 Elevator mechanic.
SPS 305.993 Elevator mechanic−restricted.
SPS 305.994 Elevator apprentice.
SPS 305.995 Elevator apprentice−restricted.
SPS 305.996 Elevator helpers.
SPS 305.997 Lift mechanic.
SPS 305.998 Lift apprentice.
SPS 305.999 Lift helpers.

Note: Corrections made in this chapter were made under s. 13.93 (2m) (b) 1., 7. and 14. Stats., Register, October, 1996, No. 490 and February, 1997, No. 494. Sections Comm 5.003 (10g), (27y) and (32s), 5.37, 5.38, 5.383, 5.385 and 5.387 were created as emergency rules, effective June 1, 2007, but were not adopted as permanent rules. Chapter Comm 5 was renumbered chapter SPS 305 under s. 13.92 (4) (b) 1., Stats., Register December 2011 No. 672.

SPS 305.001 Purpose. This chapter is to protect public and employee health, safety and welfare by establishing minimum standards for the qualifications and responsibilities of persons and businesses that are required or permitted to obtain licenses, certifications or registrations under chs. 101, 145 and 167, Stats.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96.

SPS 305.002 Scope. This chapter applies to any person or business engaging or offering to engage in an activity or provide a service for which a license, certification or registration is required or desired under chs. 101, 145 and 167, Stats.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. Register, April, 2000, No. 532, eff. 5−1−00.

SPS 305.003 Definitions. In this chapter:

(1) "Approved" means accepted by the department.

(2) "ASME" means American society of mechanical engineers.

(3) "Automatic fire sprinkler contractor" has the meaning specified under s. 145.01 (1), Stats.

Note: Under section 145.01 (1), Stats., "automatic fire sprinkler contractor" means any individual, firm or corporation who has paid the annual license fee and obtained a license to conduct a business in the design, installation, maintenance or repair of automatic fire sprinkler systems.

(4) "Automatic fire sprinkler system" has the meaning specified under s. 145.01 (2), Stats.

Note: Under s. 145.01 (2), Stats., "automatic fire sprinkler system", for fire protection purposes, means an integrated system of underground and overhead piping designed in accordance with fire protection engineering standards. The system includes a suitable water supply, such as a gravity tank, fire pump, reservoir or pressure tank or connection beginning at the supply side of an approved gate valve located at or near the property line where the pipe or piping system provides water used exclusively for fire protection and related appurtenances and to standpipes connected to automatic sprinkler systems. The portion of the sprinkler system above ground is a network of specially sized or hydraulically designed piping installed in a building, structure or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes a controlling valve and a device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area.

(5) "Automatic fire sprinkler system apprentice" has the meaning specified under s. 145.01 (3), Stats.

Note: Under s. 145.01 (3), Stats., "automatic fire sprinkler system apprentice" means any person other than an automatic fire sprinkler system contractor or a journeyman automatic fire sprinkler system fitter who is engaged in learning and assisting in the installation of automatic fire sprinkler systems and who is indentured under ch. 106, Stats.

(6) "Blasting" means any method of loosening, moving or shattering masses of solid matter by use of an explosive.

(7) "Blasting operation" means any enterprise or activity involving blasting.

(8) "Branch" means an office, other than the main business office, involved in the sales of manufactured homes that advertises as a sales location, displays new or used homes, takes sales calls, is staffed by licensed salespersons, has signage of a licensed dealer, and accepts offers or contracts on manufactured homes.

(9) "Broker" means a manufactured home dealer who has no sales lot, no inventory and no ownership interest in the manufactured homes being sold.

(10) "Building permit" means an official document or certificate granting permission to perform construction or erosion control work, except for electrical, plumbing or HVAC, on a one− or 2−family dwelling.

(11) "Business establishment" means any industrial or commercial organization or enterprise, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

(12) "Cash price" means the manufactured home dealer asking price including dealer installed options and accessories and additional dealer mark−up, profit and transportation charges, minus the dollar value of cash discounts.

(13) "Cathodic protection tester" means a person who demonstrates an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping systems and metal tanks.

(14) "Conflict of interest" means a certified inspector inspecting work in which the inspector or the inspector's employer, other than the state or a municipality, has participated or has a monetary or personal interest.

(15) "Conveyance" has the meaning as given in s. 101.981 (1) (c), Stats., except it does not include any of the following:

(a) A platform lift, stairway chair lift and any other similar device serving an individual residential dwelling unit.

(b) A personnel hoist.

(c) A material hoist.

Note: Section 101.981 (1) (c), Stats., reads: "Conveyance" means an elevator, an escalator, a dumbwaiter, a belt manlift, a moving walkway, a platform lift, a personnel hoist, a material hoist and a stairway chair lift, and any other similar device, such as an automated people mover, used to elevate or move people or things, as provided in the rules of the department. "Conveyance" does not include a grain elevator a ski lift or towing device, or an amusement or thrill ride.

Section 101.981 (2), Stats., allows the department to modify the definitions under s. 101.981 (1), Stats.

(16) "Corrosion expert" means a person who is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience.

(17) "Damage" means defects caused by reasons other than normal wear through home age and usage.

(18) "Department" means the department of safety and professional services.

(19) "Direct supervision" means to assume the responsibility of an activity of others and its results by providing oversight and guidance at the site where the activity is being conducted.

(20) "Dwelling contractor" means any person, firm or corporation engaged in the business of performing construction or erosion control work on a one− or 2− family dwelling.

Note: Pursuant to s. 101.654 (1) (b), Stats., "dwelling contractor" does not include an owner of a dwelling who resides or will reside in the dwelling.

(21) "Electrical construction" means the installation of electrical wiring. "Electrical construction" does not include the maintenance, repair or fabrication of electrical equipment or the installation of electrical wiring and equipment covered by ch. PSC 114.

(22) "Electrical wiring" has the meaning given in s. 101.80 (1m), Stats.

Note: Under s. 101.80 (1m), Stats., "electrical wiring" means all equipment, wiring, material, fittings, devices, appliances, fixtures, and apparatus used for the production, modification, regulation, control, distribution, utilization, or safeguarding of electrical energy for mechanical, chemical, cosmetic, heating, lighting, or similar purposes, as specified under the state electrical wiring code. "Electrical wiring" does not include the equipment, wiring, material, fittings, devices, appliances, fixtures, and apparatus used by a public utility, an electric cooperative, or a wholesale merchant operator for the purpose of generating, transmitting, distributing, or controlling heat, light, power, or natural gas to its customers or members.

(23) "Financial statement" means a balance sheet showing assets, liabilities and net worth.

(24) "Fireworks" has the meaning specified under s. 167.10 (1), Stats.

Note: Under s. 167.10 (1), Stats., "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

(a) Fuel or a lubricant.

(b) A firearm cartridge or shotgun shell.

(c) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.

(d) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.

(e) A cap containing not more than one−quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.

(f) A toy snake which contains no mercury.

(g) A model rocket engine.

(h) Tobacco and a tobacco product.

(i) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.

(j) A device designed to spray out paper confetti or streamers and which contains less than one−quarter grain of explosive mixture.

(k) A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one−quarter grain of explosive mixture.

(L) A device that is designed primarily to burn pyrotechnic smoke−producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.

(m) A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(n) A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(25) "General supervision" means to assume the responsibility of an activity of others and its results without being present at the site where the activity is being conducted.

(26) "HVAC" means heating, ventilating and air conditioning.

(27) "HVAC equipment" means materials, piping, fittings, devices, appliances, apparatus, controls and control wiring used as part of or in connection with permanent heating, ventilating, air conditioning or exhausting systems serving buildings. HVAC equipment does not include residential bathroom fans and kitchen hoods, water heaters, process heating equipment, and space heaters such as masonry fireplaces and chimneys, factory−built fireplaces and venting systems, decorative gas fireplaces, and wood−burning stoves.

(28) "Incompetence" means conduct which evidences a lack of competence or ability to discharge the duty required to protect the health, safety and welfare of the public, lack of knowledge of

the fundamental principles of a particular trade or practice, or an inability to apply those principles, or failure to maintain competency in the current practices and methods applicable to the activity and the state statutes and rules governing the activity.

(29) "Journeyman automatic fire sprinkler fitter" has the meaning specified under s. 145.01 (6), Stats.

Note: Under s. 145.01 (6), Stats., "journeyman automatic fire sprinkler fitter" means any person other than an automatic fire sprinkler contractor who is engaged in the practical installation of automatic fire sprinkler systems.

(30) "Journeyman plumber" has the meaning specified under s. 145.01 (7), Stats.

Note: Under s. 145.01 (7), Stats., "journeyman plumber" means any person other than a master plumber, who is engaged in the practical installation of plumbing.

(31) "Journeyman plumber−restricted" means a person licensed under s. 145.14, Stats.

Note: See appendix for further explanatory material.

(32) "Licensee" means any manufactured home dealer or manufactured home salesperson or any person who is both a manufactured home dealer and a manufactured home salesperson.

(33) "Lift" means a conveyance device covered under the scope of American Society of Mechanical Engineers (ASME) A18.1a – Safety Standard for Platform Lifts and Stairway Chairlifts.

(34) "Liquefied petroleum gas" has the meaning specified under s. 101.16 (1) (b), Stats.

Note: Section 101.16 (1) (b), Stats., reads: " 'Liquefied petroleum gas' means any material which is composed predominantly of, or any mixtures of, any of the following hydrocarbons including their isomers:

1. Propane.
2. Propylene.
3. Butane.
4. Butylene."

(35) "Listed device" has the meaning specified under s. 167.10 (1) (e), (f) and (i) to (n), Stats.

Note: See the note after the definition of "fireworks", sub. (18), for the statutory language of s. 167.10 (1) (e), (f) and (i) to (n).

(36) "Main business office" means an office involved in the sales of manufactured homes that is the primary management location of the licensed manufactured home dealer.

(37) "Manufactured home" has the meaning given in s. 101.91 (2), Stats.

Note: Under s. 101.91 (2), Stats., "manufactured home" means any of the following:

(am) A structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the federal department of housing and urban development as complying with the standards established under 42 USC 5401 to 5425.

(c) A mobile home, unless a mobile home is specifically excluded under the applicable statute.

(38) "Manufactured home dealer" has the meaning given in s. 101.91 (3), Stats., except for a person who sells no more than one new or used manufactured home in any one calendar year.

Note: Under s. 101.91 (3), Stats., "manufactured home dealer" means a person who, for a commission or other thing of value, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale or exchange of an interest in, manufactured homes or who is engaged wholly or partially in the business of selling manufactured homes, whether or not the manufactured homes are owned by the person, but does not include:

(a) A receiver, trustee, personal representative, guardian, or other person appointed by or acting under the judgment or order of any court.

(b) Any public officer while performing that officer's official duty.

(c) Any employee of a person enumerated in par. (a) or (b).

(d) Any lender, as defined in s. 421.301 (22).

(e) A person transferring a manufactured home used for that person's personal, family or household purposes, if the transfer is an occasional sale and is not part of the business of the transferor.

(39) "Manufactured home community" has the meaning given in s. 101.91 (5m), Stats.

Note: Under s. 101.91 (5m), Stats., "manufactured home community" means any plot or plots of ground upon which 3 or more manufactured homes that are occupied for dwelling or sleeping purposes are located. "Manufactured home community" does not include a farm where the occupants of the manufactured homes are the father, mother, son, daughter, brother or sister of the farm owner or operator or where the occupants of the manufactured homes work on the farm.

(40) "Material hoist" has the meaning as given in s. 101.981 (1) (g), Stats.

Note: Section 101.981 (1) (g), Stats., reads: "Material hoist" means a hoist, other than a personnel hoist, that is used to raise or lower materials during construction, alteration, or demolition of a building or structure.

(41) "Master plumber" has the meaning specified under s. 145.01 (8), Stats.

Note: Under s. 145.01 (8), Stats., "master plumber" means any person skilled in the planning, superintending and the practical installation of plumbing and familiar with the laws, rules and regulations governing the same.

(42) "Master plumber−restricted" means a person licensed under s. 145.14, Stats.

Note: See appendix for further explanatory material.

(43) "Misconduct" means an act performed by an individual relating to the responsibilities or duties for which the individual has been licensed, registered or certified that jeopardizes the interests of the public, including violation of federal or state laws, local ordinances or administrative rules; preparation of deficient or falsified reports; failure to submit information or reports required by law or contract when requested by the municipality or the department; conduct which evidences a lack of trustworthiness; misrepresentation of qualifications such as education, experience or certification; illegal entry of premises; misuse of funds; or misrepresentation of authority.

(44) "Multipurpose piping system" means a type of water distribution system conveying potable water to plumbing fixtures and appliances and automatic fire sprinklers with the intention of serving both domestic water needs and fire protection needs within a one− or 2−family dwelling or manufactured dwelling.

(45) "Municipality" means a city, village, town or county.

(46) "Negligence" means the failure to exercise the degree of care and judgment to protect public health and safety normally expected of an individual performing activities within the scope of a license, certification or registration category.

(47) "Net worth" means the difference between the asset and liability values on a financial statement. Negative net worth is the excess of liabilities over assets.

(48) "New manufactured home" has the meaning given in s. 101.91 (11), Stats.

Note: Under s. 101.91 (11), Stats., "new manufactured home" means a manufactured home that has never been occupied, used or sold for personal or business use.

(49) "Non−broker" means a manufactured home dealer who has a sales lot, inventory or ownership interest in the manufactured homes being sold.

(50) "PECFA" means petroleum environmental cleanup fund award, as established in s. 101.143, Stats.

(51) "Personnel hoist" has the meaning as given in s. 101.981 (1) (h), Stats.

Note: Section 101.981 (1) (h), Stats., reads: "Personnel hoist" means a hoist that is installed inside or outside a building or structure during the construction, alteration, or demolition of the building or structure and that is used to raise and lower workers, other personnel, and materials which the hoist is designed to carry.

(52) "Pipelayer" has the meaning specified under s. 145.01 (9), Stats.

Note: Under s. 145.01 (9), Stats., "pipelayer" means a person registered under s. 145.07 (11).

(53) "Plumbing" has the meaning specified under s. 145.01 (10), Stats.

Note: Section 145.01 (10), Stats., reads:

(10) PLUMBING. (a) "Plumbing" means:

1. All piping, fixtures, appliances, equipment, devices, and appurtenances in connection with water supply systems, water distribution systems, wastewater drainage systems, reclaimed water systems, and stormwater use systems, including hot water storage tanks, water treatment devices, and water heaters connected with these systems and also includes the installation thereof.

2. The construction, connection, installation, service, or repair of any drain or wastewater piping system that connects to the mains or other terminal within the bounds of, or beneath an area subject to easement for highway purposes, including private sewage systems and stormwater treatment and dispersal systems, and the alteration of any such systems, drains or wastewater piping.

3. The construction, connection, installation, service, or repair of water service piping that connects to the main or other water utility service terminal within the bounds of, or beneath an area subject to easement for highway purposes and its connections.

4. The water pressure system other than municipal systems as provided in ch. 281.

5. A plumbing and drainage system so designed and vent piping so installed as to keep the air within the system in free circulation and movement; to prevent with

a margin of safety unequal air pressures of such force as might blow, siphon or affect trap seals, or retard the discharge from plumbing fixtures, or permit sewer air to escape into the building; to prohibit cross−connection, contamination or pollution of the water supply and distribution systems; and to provide an adequate supply of water to properly serve, cleanse and operate all fixtures, equipment, appurtenances and appliances served by the plumbing system.

(br) "Plumbing" does not include any of the following:

1. A rainwater gutter or downspout down to the point that it discharges into a plumbing system, a subsoil drain, or a foundation drain.

2g. A process water reuse system if the process water reuse system is not connected to any plumbing fixture or appliance.

2m. A stormwater culvert under a roadway or walkway that is placed there only to equalize the water level from one end of the culvert to the other end.

3. The practical installation of process piping within a sewage disposal plant.

(54) "Plumbing appliance" means any one of a class of plumbing devices which is intended to perform a special function. The operation or control of the appliance may be dependent upon one or more energized components, such as motors, controls, heating elements, or pressure or temperature sensing elements. The devices may be manually adjusted or controlled by the user or operator, or may operate automatically through one or more of the following actions: a time cycle, a temperature range, a pressure range, a measured volume or weight.

(55) "Plumbing apprentice" has the meaning specified under s. 145.01 (11), Stats.

Note: Under s. 145.01 (11), Stats., "plumbing apprentice" means any person other than a journeyman or master plumber who is engaged in learning and assisting in the installation of plumbing and drainage.

(56) "Place of employment" has the meaning specified under s. 101.01 (11), Stats.

Note: Under s. 101.01 (11), Stats., "place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. "Farming" includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or employees for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, "place of employment" does not include an adult family home, as defined in s. 50.01 (1), or, except for the purposes of s. 101.11, a previously constructed building used as a community−based residential facility, as defined in s. 50.01 (1g), which serves 20 or fewer unrelated residents.

(57) "POWTS" means private onsite wastewater treatment system and has the meaning specified under s. 145.01 (12), Stats., for "private sewage system".

Note: Under s. 145.01 (12), Stats., "private sewage system" means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the department including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure. A private sewage system may be owned by the property owner or by a special purpose district.

(58) "Private interceptor main sewer" has the meaning specified under s. SPS 381.01 (193).

Note: Under s. SPS 381.01 (193) "private interceptor main sewer" means a sewer serving 2 or more buildings and not part of the municipal sewer system.

(59) "Private water main" has the meaning specified under s. SPS 381.01 (195).

Note: Under s. SPS 381.01 (195) "private water main" means a water main serving 2 or more buildings and not part of the municipal water system.

(60) "Process piping" means that piping which is separated from a water supply system or drain system by the appropriate methods or means specified under ch. SPS 382 and is part of a system used exclusively for refining, manufacturing, industrial or shipping purposes of every character and description.

(61) "Public building" has the meaning specified under s. 101.01 (12), Stats.

Note: Under s. 101.01 (12), Stats., "public building" means any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants. When used in relation to building codes, "public building" does not include a previously constructed building used as a community−based residential facility as defined in s. 50.01 (1g) which serves 20 or fewer unrelated residents or an adult family home, as defined in s. 50.01 (1).

(62) "Refrigeration equipment" has the meaning specified under s. 101.177 (1) (c), Stats.

Note: Under s. 101.177 (1) (c), Stats., "refrigeration equipment" means mechanical vapor compression refrigeration equipment except for a mobile air conditioner, as defined in s. 100.45 (1) (b), Stats., or trailer refrigeration equipment, as defined in s. 100.45 (1) (e), Stats.

(63) "Registered learner" has the meaning specified under s. 145.01 (13), Stats.

Note: Under s. 145.01 (13), Stats., "registered learner" means a person, other than a restricted plumber licensee, who is learning a limited type of plumbing and is engaged in assisting a restricted plumber licensee.

(64) "Rental unit" has the meaning specified under s. 101.122 (1) (e), Stats.

Note: Under s. 101.122 (1) (e), Stats., "rental unit" means any rented dwelling units. "Rental unit" does not include:

1. Any building containing up to 4 dwelling units, one of which is owner−occupied.

2. Any building constructed after December 1, 1978, which contains up to 2 dwelling units.

3. Any building constructed after April 15, 1976, which contains more than 2 dwelling units.

4. Any dwelling unit not rented at any time from November 1 to March 31.

5. A building that is subject to a condominium declaration under ch. 703, Stats., and that contains 3 or more units, as defined in s. 703.02 (15), Stats.

(65) "Restricted plumber licensee" has the meaning specified under s. 145.01 (14), Stats.

Note: Under s. 145.01 (14), Stats., "restricted plumber licensee" means any person licensed as a master plumber (restricted) or a journeyman plumber (restricted) under s. 145.14, Stats.

(66) "Retail purchaser" means any purchaser not licensed as a manufactured home dealer or a manufactured home salesperson.

(67) "Sanitary building sewer" has the meaning specified under s. SPS 381.01 (45).

Note: Under s. SPS 381.01 (45) "sanitary building sewer" means a building sewer which conveys wastewater consisting in part of domestic wastewater.

(68) "Site" means any plot of land which is owned or rented, and used or intended to be used for the accommodation of a manufactured home for residential purposes.

(69) "Storm building sewer" has the meaning specified under s. SPS 381.01 (46).

Note: Under s. SPS 381.01 (46) "storm building sewer" means a building sewer which conveys storm water wastes or clear water wastes, or both.

(70) "UDC" means chs. SPS 320 to 325, the Wisconsin uniform dwelling code.

(71) "Used manufactured home" has the meaning given in s. 101.91 (12), Stats.

Note: Under s. 101.91 (12), Stats., "used manufactured home" means a manufactured home that has previously been occupied, used or sold for personal or business use.

(72) "Utility contractor" has the meaning specified under s. 145.01 (15), Stats.

Note: Under s. 145.01 (15), Stats., "utility contractor" means a person licensed under s. 145.07 (10).

(73) "Water service" has the meaning specified under s. SPS 381.01 (282).

Note: Under s. SPS 381.01 (282) "water service" means that portion of a water supply system from the water main or private water supply to the building control valve.

(74) "Water supply system" has the meaning specified under s. SPS 381.01 (284).

Note: Under s. SPS 381.01 (284) "water supply system" means the piping of a private water main, water service and water distribution system, fixture supply connectors, fittings, valves, and appurtenances through which water is conveyed to points of usage such as plumbing fixtures, plumbing appliances, water using equipment or other piping systems to be served.

(75) "Year" means 12 consecutive months.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; corrections made under s. 13.93 (2m) (b), 6. and 7., Stats., Register, October, 1996, No. 490; cr. (1m), (32m), am. (7), (15), (16), (33), (36), (37) and (42), r. (11); Register, March, 1998, No. 507, eff. 4−1−98; r. (12), cr. (30m), am. (32), Register, April, 2000, No. 532, eff. 5−1−00; CR 00−159: cr. (48m), Register September 2001 No. 549 eff. 10−1−01; CR 04−134: cr. (6m), (6s), (8m), (11), (17m), (26m), (27e), (27m), (27s), (27w), (32e), (32h), (46m), (47m), and (48s) Register June 2005 No. 594, eff. 7−1−05; CR 04−058: am. (32m) Register February 2006 No. 602, eff. 5−1−06; CR 06−031: am. (22) Register October 2006 No. 610, eff. 11−1−06; emerg. cr. (10g), (27y) and (32s), eff. 6−1−07; CR 06−127: r. and recr. (9), cr. (10m), renum. (17m) and (18) to be (18) and (19), r. (19), Register September 2007 No. 621, eff. 10−1−07; emerg. cr. (10g), (27y) and (32s), eff. 6−1−07; CR 07−089: cr. (10g), (26t), (27y) and (32s) Register June 2008 No. 630, eff. 7−1−08; CR 08−030: am. (10g) (a) Register December 2008 No. 636, eff. 1−1−09; CR 08−092: cr (26x) Register May 2009 No. 641, eff. 6−1−09; CR 09−028: r. and recr. (17) Register August 2010 No. 656, eff. 9−1−10; CR 11−020: renum. (1m) to (32h) to be (2) to (48), (32m) to (52) to be (50) to (75), cr. (49), Regis-

ter December 2011 No. 672, eff. 1−1−12; correction in (18), (58), (59), (60), (67), (68), (70), (73), (74), as renumbered, made under s. 13.92 (4) (b) 6., 7., Stats., Register December 2011 No. 672.

SPS 305.004 Incorporation of standards by reference. The following standards of the American Welding Society are hereby incorporated by reference into this chapter:

(1) D1.1−10, Structural Welding Code — Steel.

(2) D 1.2−08, Structural Welding Code — Aluminum.

(3) D1.3−08, Structural Welding Code — Sheet Steel.

(4) D 1.6−07, Structural Welding Code — Stainless Steel.

Note: Copies of the American Welding Society (AWS) standards can be purchased from Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112−5776, telephone 800−854−7179, or through the AWS web site at www.aws.org/.

Note: Copies of standards incorporated by reference are on file in the offices of the department and the legislative reference bureau.

History: CR 03−075: cr. Register June 2004 No. 582, eff. 8−1−04; CR 07−089: am. (1) Register June 2008 No. 630, eff. 7−1−08; CR 11−020: am. (1), renum. (2) to be (3) and amend, cr. (2), (4) Register December 2011 No. 672, eff. 1−1−12.

Subchapter I — General Requirements

SPS 305.01 Application. (1) Application for a license, certification or registration or a license, certification or registration examination covered under this chapter shall be submitted on a form prescribed by the department.

Note: Applications and related forms for licenses, certifications or registrations covered under subchapters II to VII and IX of this chapter are available from the Division of Safety and Buildings at P.O. Box 7082, Madison, WI 53707−7082, or at telephone 608/261−8467 and 608/264−8777 (TTY), or at the Safety and Buildings' Web site at http://dsps.wi.gov/SB/. Applications for certifications or registrations covered under subchapter VIII of this chapter are available from the Division of Environmental and Regulatory Services at P.O. Box 7837, Madison, WI 53707−7837, or at telephone 608/266−7874 and 608/264−8777 (TTY), or at the Web sites for petroleum programs and PECFA at dsps.wi.gov.

(2) An application for a license, certification or registration which either requires or recognizes the attendance at or completion of educational courses as a qualification for the license, certification or registration shall be accompanied by such evidence, including but not limited to transcripts, that verifies fulfillment of the prerequisite.

(3) Pursuant to s. 101.02 (20) (b) and (21) (b), Stats., the department may not issue or renew any license, certification or registration under this chapter unless the applicant for the license, certification or registration includes his or her social security number, or in the case of a license, certification or registration for a business, the applicant includes the federal employer identification number. The department shall consider the failure by the applicant to provide a social security number or a federal employer identification number as an incomplete application and shall not process the application further until the appropriate number is provided.

(4) A business having multiple locations covered under one federal employer identification number applying for any of the following licenses, certifications or registrations need not obtain a separate license, certification or registration for each location:

(a) Dwelling contractor.

(b) Electrical contractor.

(c) UDC inspection agency.

(d) HVAC contractor.

(e) PECFA consulting firm.

(f) Tank specialty firm.

(g) Elevator contractor.

(h) Gas supplier.

(i) Building contractor.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) and (2), cr. (3), Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: cr. (4) Register June 2004 No. 582, eff. 8−1−04; CR 07−007: am. (4) (a) Register August 2007 No. 620, eff. 9−1−07; CR 07−089: cr. (4) (g) Register June 2008 No. 630, eff. 7−1−08; CR 08−092: cr. (4) (h) Register May 2009 No. 641, eff. 6−1−09; EmR0904: emerg. cr. (4) (i), eff. 3−2−09; CR 08−110: cr. (4) (i) Register September 2009 No. 645, eff. 10−1−09.

SPS 305.02 Fees. (1) (a) Fees required for the various licenses, certifications or registrations and their processing under this chapter shall be determined in accordance with Table 305.02, except as provided in par. (b).

(b) 1. Pursuant to s. 145.05, Stats., a person who holds a master plumber license, master plumber−restricted license, journeyman plumber license or journeyman plumber−restricted license and who is employed by a city of the first, second or third class as a plumbing inspector is not required to submit a license fee in order to renew his or her license.

2. A person who applies to renew his or her master plumber license, master plumber−restricted license, journeyman plumber license or journeyman plumber−restricted license without the license fee as permitted under subd. 1. shall provide evidence that he or she is a plumbing inspector for a first, second or third class city with the application for renewal.

Note: The exemption of not having to pay a license fee does not relieve an individual of fulfilling all other obligations or responsibilities to renew the license such as continuing education requirements.

(2) Fees required under this chapter for the various licenses, certifications or registrations or their processing examinations shall not be refundable.

(3) The department shall prorate a license, certification or registration fee on a monthly basis for the initial issuance of a license, certification or registration which is issued for less than the full license, certification or registration period.

(4) (a) The fee for a petition for variance submitted for a rule relative to this chapter shall be $200.00, except as provided in par. (b).

(b) The fee for a petition for variance submitted and requested by the submitter to be reviewed on a priority basis shall be $400.00.

(5) A fee of $15.00 shall be charged to replace a lost or destroyed license, certification or registration.

Table 305.02
FEES

	License, Certification or Registration Category	Type	Application Fee	Examination Fee	License, Certification or Registration Fee
	Subchapter II				
1.	Class 1 Blaster	License	$15	$30	$100
2.	Class 2 Blaster	License	$15	$30	$100
3.	Class 3 Blaster	License	$15	$30	$100
4.	Class 4 Blaster	License	$15	$30	$100
5.	Class 5 Blaster	License	$15	$30	$100
6.	Class 6 Blaster	License	$15	$30	$100
7.	Class 7 Blaster	License	$15	$30	$100
8.	Fireworks Manufacturer	License	$15	NA	$70

Table 305.02 (Continued)
FEES

	License, Certification or Registration Category	Type	Application Fee	Examination Fee	License, Certification or Registration Fee
	Subchapter III				
8m.	Building Contractor	Registration	$15[a]	NA	$100
9.	Dwelling Contractor	Certification	$15	NA	$25
10.	Dwelling Contractor Qualifier	Certification	$15	NA	$30
11.	Dwelling Contractor — Restricted	Certification	$15	NA	$25
12.	Manufactured Home Manufacturer	License	$15	NA	$900
13.	Manufactured Home Dealer — Main Business	License	$15	NA	$200
14.	Manufactured Home Dealer — Branch	License	$15	NA	$200
15.	Manufactured Home Salesperson	License	$15	NA	$16
16.	Manufactured Home Installer	License	$15	NA	$100
17.	Soil Tester	Certification	$35	$75	$300
18.	Welder	Registration	$15	NA	$35
19.	Weld Test Conductor	Certification	$15	$20	$80
21.	POWTS Maintainer	Registration	$15	NA	$90
	Subchapter IV				
22.	Electrical Contractor	License	$35	NA	$200
23.	Electrical Contractor — Restricted	Certification	$35	NA	$200
	Note: Line 23 is repealed effective 4−1−13 by CR 09−028.				
24.	Master Electrician	License	$35	$30	$200
24m.	Residential Master Electrician	License	$35	$30	$200
25.	Journeyman Electrician	License	$35	$30	$100
25g.	Industrial Journeyman Electrician	License	$35	$30	$100
25r.	Residential Journeyman Electrician	License	$35	$30	$100
26.	Beginning Electrician	Registration	$15	NA	$20
26e.	Electrical Apprentice	Registration	$15	NA	$15
26m.	Industrial Electrical Apprentice	Registration	$15	NA	$15
26s.	Residential Electrical Apprentice	Registration	$15	NA	$15
	Subchapter V				
27.	Automatic Fire Sprinkler Contractor	License	$25	$100	$2000
28.	Journeyman Automatic Fire Sprinkler Fitter	License	$10	$20	$180
29.	Automatic Fire Sprinkler System Apprentice	Registration	$15	NA	$15
30.	Automatic Fire Sprinkler Contractor — Maintenance	Registration	$25	$50	$400
31.	Automatic Fire Sprinkler Fitter — Maintenance	Registration	$10	NA	$60
32.	Automatic Fire Sprinkler System Tester	Registration	$15	$25	$180
32m.	Automatic Fire Sprinkler System Tester Learner	Registration	$15	NA	$15
	Subchapter VI				
33.	Boiler−Pressure Vessel Inspector	Certification	$15	NA	$120
34.	In−Service Field Inspector	Certification	$15	NA	$120
35.	Commercial Building Inspector	Certification	$15	$25	$40
36.	Commercial Electrical Inspector	Certification	$15	$25	$40
37.	Commercial Plumbing Inspector	Certification	$15	$25	$40
38.	UDC−Construction Inspector	Certification	$15	$25	$40
39.	UDC−Electrical Inspector	Certification	$15	$25	$40
40.	UDC−HVAC Inspector	Certification	$15	$25	$40
41.	UDC−Plumbing Inspector	Certification	$15	$25	$40
42.	UDC Inspection Agency	Registration	$15	NA	$40
43	Soil Erosion Inspector	Certification	$15	NA	$40
44.	Elevator Inspector	License	$15	NA	$120
45.	POWTS Inspector	Certification	$15	$25	$40

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Table 305.02 (Continued)
FEES

	License, Certification or Registration Category	Type	Application Fee	Examination Fee	License, Certification or Registration Fee
46.	Rental Weatherization Inspector	Certification	$15	$25	$40
47.	Tank System Inspector	Certification	$20	$15	$50
	Subchapter VII				
48.	HVAC Contractor	Registration	$15	NA	$160
49.	HVAC Qualifier	Certification	$15	$25	$60
50.	Refrigerant Handling Technician	Certification	$15	NA	$20
50m.	Liquefied Gas Supplier	License	$15	NA	$60
50n.	Liquefied Gas Supplier — Restricted	License	$15	NA	$40
	Subchapter VIII				
51.	PECFA Consulting Firm	Registration	$20	NA	$50
52.	PECFA Consultant	Registration	$20	NA	$50
53.	Tank Specialty Firm	Registration	$20	NA	$50
54.	Tank−System Site Assessor	Certification	$20	$15	$50
55.	Aboveground Tank System Installer	Certification	$20	$15	$50
56.	Underground Tank System Installer	Certification	$20	$15	$50
57.	Tank System Liner	Certification	$20	$15	$50
58.	Tank System Remover−Cleaner	Certification	$20	$15	$50
59.	Tank System Tightness Tester	Certification	$20	NA	$50
60.	Cathodic Protection Tester	Certification	$20	NA	$50
61.	Corrosion Expert	Certification	$20	NA	$50
	Subchapter IX				
62.	Master Plumber	License	$20	$30	$500
63.	Master Plumber−Restricted Service	License	$20	$30	$500
64.	Master Plumber−Restricted Appliance	License	$20	$30	$500
65.	Journeyman Plumber	License	$10	$20	$180
66.	Journeyman Plumber−Restricted Service	License	$10	$20	$180
67.	Journeyman Plumber−Restricted Appliance	License	$10	$20	$180
68.	Plumbing Apprentice	Registration	$15	NA	$15
69.	Plumbing Learner−Restricted Appliance	Registration	$15	NA	$15
70.	Plumbing Learner−Restricted Service	Registration	$15	NA	$15
71.	Utility Contractor	License	$10	$30	$500
72.	Pipelayer	Registration	$15	NA	$180
73.	Cross Connection Control Tester	Registration	$15	NA	$180
	Subchapter X				
74.	Elevator Contractor	License	$15	NA	$100
75.	Elevator Mechanic	License	$15	$50	$90
76.	Elevator Mechanic−restricted	License	$15	$50	$90
77.	Elevator Apprentice	Registration	$15	NA	$15
78.	Elevator Apprentice−restricted	Registration	$15	NA	$15
79.	Elevator Helper	Registration	$15	NA	$15
80.	Lift Mechanic	License	$15	$50	$90
81.	Lift Apprentice	Registration	$15	NA	$15
82.	Lift Helper	Registration	$15	NA	$15

[a] No fee if application is submitted electronically; $15 application fee for a late renewal per s. SPS 305.07 (2) (b) 1. a.

NA means Not Applicable

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; cr. line 11, renum. lines 11 to 63 to be 12 to 64; Register, March, 1998, No. 507, eff. 4−1−98; am. (1) to (3), (5) and Table 5.02, Register, April, 2000, No. 532, eff. 5−1−00; except Table 5.02 line 17 eff. 7−1−00; am. Table 5.02, Register, July, 2000, No. 535, eff. 9−1−00; CR 00−159: renumber Table 5.02 lines 37 to 65 to be lines 38 to 66, cr. line 37; Register September 2001 No. 549 eff. 10−1−01; CR 03−075: am. (1) (a) and Table 5.02 Register June 2004 No. 582, eff. 8−1−04; CR 04−134: cr. lines 11e, 11m and 11s of Table 5.02 Register June 2005 No. 594, eff. 7−1−05; CR 06−031: am. Table 5.02 Register October 2006 No. 610, eff. 11−1−06; CR 06−071: cr. line 11w Register November 2006 No. 611, eff. 12−1−06; CR 07−007: am. lines 9 and 10, cr. line 9m of Table 5.02 Register August 2007 No. 620, eff. 9−1−07; CR 06−127: am. Table 5.02 Line 49, cr. Table 5.02 Lines 54g and 54r, Register September 2007 No. 621, eff. 10−1−07; CR 07−089: am. Table 5.02 line 39, cr. lines 67 to 75 Register June 2008 No. 630, eff. 7−1−08; CR 08−039: am. (5) and Table 5.02 Register November 2008 No. 635, eff. 12−1−08; CR 08−092: cr. lines 50m and 50n of Table 5.02 Register May 2009 No. 641, eff. 6−1−09; EmR0904: emerg. cr. line 8m of Table 5.02, eff. 3−2−09; CR 08−110: cr. line 8m of Table 5.02 Register September 2009 No. 645, eff. 10−1−09; CR 09−046: am. lines 1 to 8, 13 to 15, 18 to 20, 29, 33, 34, 44, 50 and 68 to 70 of Table 5.02 Register March 2010 No. 651, eff. 4−1−10; CR 09−028: am. Table 5.02 lines 22, 24, 25, 26, cr. lines 24m, 25g, 25r, 26e, 26m, and 26s, r. line 23 Register August 2010 No. 656, eff. 9−1−10, except repeal of line 23, eff. 4−1−13; CR 10−039: am. Table 5.02 line 19, r. Table 5.02 line 20 Register November 2010 No. 659, eff. 12−1−10; CR 10−090: cr. Table 5.02 lines 50r to 50t Register

January 2011 No. 661, eff. 2−1−11; CR 11−020: cr. Table 305.02 line 32m, Register December 2011 No. 672, eff. 1−1−12; correction in (1) (a), Table footnote [a] made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672; **CR 12−007: r. Table 305.02 lines 50r. to 50t Register July 2012 No. 679, eff. 8−1−12.**

SPS 305.03 Petitions for variance. An individual may submit a petition for variance to any rule in this chapter in accordance with ch. SPS 303.

Note: Many of the rules relating to credentials reflect specific statutory requirements; in such cases the department is not able to grant a petition for variance if it would supersede a statutory requirement.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.04 Processing times. (1) An application for a license, certification or registration covered under this chapter shall be granted or denied by the department within 21 calendar days after the department receives all of the application materials necessary to obtain the license, certification or registration.

Note: Pursuant to s. 227.116, Stats., the failure by the department to make a determination on an application results in the department having to prepare and file a report with the permit information center of the department. The failure by the department to make a determination on an application does not relieve a person from the obligation to comply with the requirements or qualifications of the license, certification or registration or to secure the license, certification or registration.

(2) (a) If the license, certification or registration application information is insufficient, the department shall request additional information within 21 calendar days of receipt of the application.

(b) If an applicant does not respond to a request by the department for additional information within 3 months after the date of the request, the department shall make a determination on the application based upon the information on hand.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) and (2) (a), Register, April, 2000, No. 532, eff. 5−1−00.

SPS 305.05 Mailing. (1) Unless otherwise provided by law, all orders, notices and other papers may be served by the department by first class mail at the address on file with the department.

(2) A license, certification or registration holder shall be responsible for notifying the department of any change in mailing address.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (2), Register, April, 2000, No. 532, eff. 5−1−00.

SPS 305.06 Terms. (1) A license, certification or registration issued under this chapter shall be valid for a period of time no longer than that specified in Table 305.06.

(2) A license, certification or registration issued under this chapter shall expire at midnight on the day or date of expiration of the term specified in Table 305.06.

Table 305.06
TERMS

	License, Certification or Registration Category	Term	Expiration Date	Continuing Education Cycle
	Subchapter II			
1.	Class 1 Blaster	4 years	Date of Issuance	NA
2.	Class 2 Blaster	4 years	Date of Issuance	NA
3.	Class 3 Blaster	4 years	Date of Issuance	NA
4.	Class 4 Blaster	4 years	Date of Issuance	NA
5.	Class 5 Blaster	4 years	Date of Issuance	NA
6.	Class 6 Blaster	4 years	Date of Issuance	NA
7.	Class 7 Blaster	4 years	Date of Issuance	NA
8.	Fireworks Manufacturer	4 years	Date of Issuance	NA
	Subchapter III			
8m.	Building Contractor	4 years	Date of Issuance	NA
9.	Dwelling Contractor	1 year	Date of Issuance	NA
9m.	Dwelling Contractor Qualifier	2 years	Date of Issuance	3 Months Prior to Date of Expiration
10.	Dwelling Contractor — Restricted	1 year	Date of Issuance	NA
11.	Manufactured Home Manufacturer	4 years	December 31	NA
11e.	Manufactured Home Dealer — Main Business Office	4 years	Date of Issuance	NA
11m.	Manufactured Home Dealer — Branch	4 years	Date of Issuance	NA
11s.	Manufactured Home Salesperson	4 years	Date of Issuance	NA
11w.	Manufactured Home Installer	4 years	Date of Issuance	3 Months Prior to Date of Expiration
12.	Soil Tester	4 years	June 30	March 30
13.	Welder	4 years	Date of Issuance	NA
14.	Weld Test Conductor	4 years	Date of Issuance	NA
16.	POWTS Maintainer	4 years	Date of Issuance	3 Months Prior to Date of Expiration
	Subchapter IV			
17.	Electrical Contractor	4 years	June 30	NA
18.	Electrical Contractor−Restricted	4 years	June 30	NA
	Note: Line 18 is repealed effective 4−1−13 by CR 09−028.			
19.	Master Electrician	4 years	June 30	March 30
19m.	Residential Master Electrician	4 years	June 30	March 30
20.	Journeyman Electrician	4 years	June 30	March 30

Table 305.06 (Continued)
TERMS

	License, Certification or Registration Category	Term	Expiration Date	Continuing Education Cycle
20g.	Industrial Journeyman Electrician	4 years	June 30	March 30
20r.	Residential Journeyman Electrician	4 years	June 30	March 30
21.	Beginning Electrician	1 year	Date of Issuance	3 Months Prior to Date of Expiration
21e.	Electrical Apprentice	1 year	Date of Issuance	NA
21m.	Industrial Electrical Apprentice	1 year	Date of Issuance	NA
21s.	Residential Electrical Apprentice	1 year	Date of Issuance	NA
	Subchapter V			
22.	Automatic Fire Sprinkler Contractor	4 years	June 30	March 30
23.	Journeyman Automatic Fire Sprinkler Fitter	4 years	June 30	March 30
24.	Automatic Fire Sprinkler System Apprentice	1 year	Date of Issuance	NA
25.	Automatic Fire Sprinkler Contractor−Maintenance	4 years	June 30	March 30
26.	Automatic Fire Sprinkler Fitter−Maintenance	4 years	June 30	NA
27.	Automatic Fire Sprinkler System Tester	4 years	Date of Issuance	NA
27m.	Automatic Fire Sprinkler System Tester Learner	1 year	Date of Issuance	NA
	Subchapter VI			
28.	Boiler−Pressure Vessel Inspector	4 years	December 31	September 30
29.	In−Service Field Inspector	4 years	December 31	September 30
30.	Commercial Building Inspector	4 years	June 30	March 30
31.	Commercial Electrical Inspector	4 years	June 30	March 30
32.	Commercial Plumbing Inspector	4 years	June 30	March 30
33.	UDC−Construction Inspector	4 years	June 30	March 30
34.	UDC−Electrical Inspector	4 years	June 30	March 30
35.	UDC−HVAC Inspector	4 years	June 30	March 30
36.	UDC−Plumbing Inspector	4 years	June 30	March 30
37.	UDC Inspection Agency	4 years	Date of Issuance	NA
38.	Soil Erosion Inspector	4 years	June 30	NA
39.	Elevator Inspector	4 years	December 31	September 30
40.	POWTS Inspector	4 years	June 30	March 30
41.	Rental Weatherization Inspector	4 years	June 30	NA
42.	Tank System Inspector	2 years	Date of Issuance	Date of Expiration
	Subchapter VII			
43.	HVAC Contractor	4 years	Date of Issuance	NA
44.	HVAC Qualifier	4 years	Date of Issuance	NA
45.	Refrigerant Handling Technician	4 years	Date of Issuance	NA
45m.	Liquefied Gas Supplier	2 years	Date of Issuance	NA
45n.	Liquefied Gas Supplier — Restricted	2 years	Date of Issuance	NA
	Subchapter VIII			
46.	PECFA Consulting Firm	2 years	Date of Issuance	NA
47.	PECFA Consultant	2 years	Date of Issuance	NA
48.	Tank Specialty Firm	2 years	Date of Issuance	NA
49.	Tank−System Site Assessor	2 years	Date of Issuance	NA
50.	Aboveground Tank System Installer	2 years	Date of Issuance	Date of Expiration
51.	Underground Tank System Installer	2 years	Date of Issuance	Date of Expiration
52.	Tank System Liner	2 years	Date of Issuance	NA
53.	Tank System Remover−Cleaner	2 years	Date of Issuance	NA
54.	Tank System Tightness Tester	2 years	Date of Issuance	NA
	Subchapter IX			
54g.	Cathodic Protection Tester	2 years	Date of Issuance	NA
54r.	Corrosion Expert	2 years	Date of Issuance	NA
55.	Master Plumber	4 years	March 31	December 31
56.	Master Plumber−Restricted Service	4 years	March 31	December 31
57.	Master Plumber−Restricted Appliance	4 years	March 31	December 31

The Wisconsin Administrative Code on this web site is current through the last published Wisconsin Register. See also Are the Codes on this Website Official?

Table 305.06 (Continued)
TERMS

	License, Certification or Registration Category	Term	Expiration Date	Continuing Education Cycle
58.	Journeyman Plumber	4 years	March 31	December 31
59.	Journeyman Plumber−Restricted Service	4 years	March 31	December 31
60.	Journeyman Plumber−Restricted Appliance	4 years	March 31	December 31
61.	Plumbing Apprentice	1 year	Date of Issuance	NA
62.	Plumbing Learner−Restricted Appliance	2 years	Date of Issuance	NA
63.	Plumbing Learner−Restricted Service	2 years	Date of Issuance	NA
64.	Utility Contractor	4 years	March 31	December 31
65.	Pipelayer	4 years	March 31	NA
66.	Cross Connection Control Tester	4 years	Date of Issuance	3 months prior to date of issuance
	Subchapter X			
67.	Elevator Contractor	2 years	Date of Issuance	NA
68.	Elevator Mechanic	2 years	Date of Issuance	3 Months Prior to Date of Expiration
69.	Elevator Mechanic−restricted	2 years	Date of Issuance	3 Months Prior to Date of Expiration
70.	Elevator Apprentice	4 years	Date of Issuance	NA
71.	Elevator Apprentice−restricted	4 years	Date of Issuance	NA
72.	Elevator Helper	4 years	Date of Issuance	NA
73.	Lift Mechanic	2 years	Date of Issuance	3 Months Prior to Date of Expiration
74.	Lift Apprentice	4 years	Date of Issuance	NA
75.	Lift Helper	4 years	Date of Issuance	NA

NA means Not Applicable

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. Table, line 36, Register, January, 1998, No. 505, eff. 2−1−98; renum. lines 11 to 63 to 12 to 64 and am. line 21 and 39, cr. line 11, Register, March, 1998, No. 507, eff. 4−1−98; am. Register, April, 2000, No. 532, eff. 5−1−00; except Table 5.06 line 17 eff. 7−1−00; CR 00−159: renum. Table 5.06, lines 37 to 65 to be 38 to 66, cr. line 37, Register September 2001 No. 549 eff. 10−1−01; CR 03−075: am. (2) and Table 5.06 Register June 2004 No. 582, eff. 8−1−04; CR 04−134: cr. lines 11e, 11m and 11s of Table 5.06 Register June 2005 No. 594, eff. 7−1−05; CR 05−025: am. Table 5.06 lines 28 and 29 Register October 2005 No. 598, eff. 11−1−05; CR 06−031: am. Table 5.06 Register October 2006 No. 610, eff. 11−1−06; CR 06−071: cr. line 11w Register November 2006 No. 611, eff. 12−1−06; CR 07−007: am. lines 9. and 10., cr. line 9m. of Table 5.06 Register August 2007 No. 620, eff. 9−1−07; CR 06−127: am. Table 5.06 Lines 42 and 49 to 53, cr. Table 5.06 Lines 54g and 54r, Register September 2007 No. 621, eff. 10−1−07; CR 07−089: cr. lines 67 to 75 of Table 5.06 Register June 2008 No. 630, eff. 7−1−08; CR 08−092: cr. lines 45m and 45n of Table 5.06 Register May 2009 No. 641, eff. 6−1−09; correction to numbering of lines 45m and 45n made under s. 13.92 (4) (b) 1., Stats., Register May 2009 No. 641; EmR0904: emerg. cr. line 8m of Table 5.06, eff. 3−2−09; CR 08−110: cr. line 8m of Table 5.06 Register September 2009 No. 645, eff. 10−1−09; CR 09−028: am. Table 5.06 line 21, cr. lines 19m, 20g, 20r, 21e, 21m, and 21s, r. line 18 Register August 2010 No. 656, eff. 9−1−10, except repeal of line 18, eff. 4−1−13; CR 10−039: am. Table 5.06 line 14, r. Table 5.06 line 15 Register November 2010 No. 659, ef. 12−1−10; CR 10−064: am. Table 5.06 line 66 Register December 2010 No. 660, eff. 1−1−11; CR 10−090: cr. Table 5.06 lines 45r to 45t Register January 2011 No. 661, eff. 2−1−11; CR 11−020: cr. Table 305.06 line 27m, Register December 2011 No. 672, eff. 1−1−12; correction in (1), (2) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672: **CR 12−007: r. Table 305.06 lines 45r. to 45t. Register July 2012 No. 679, eff. 8−1−12.**

SPS 305.07 Renewal. (1) (a) Except under s. SPS 305.96, a notice of renewal shall be mailed by the department to a license, certification or registration holder at least 30 calendar days prior to the expiration of the license, certification or registration.

(b) Failure to receive a notice for renewal of a license, certification or registration shall not be considered as an excuse or good cause for failure to renew a license, certification or registration prior to the expiration of the license, certification or registration.

(2) (a) Except as provided in par. (b), upon receipt of the renewal application from the department, a person may apply to renew his or her license, certification or registration provided an application, a license, certification or registration fee and evidence of all renewal obligations, if any, are submitted to the department prior to the expiration date of the license, certification or registration.

Note: Qualification obligations for renewal are specified under the appropriate license, certification or registration category sections.

(b) 1. A person may apply to renew his or her license, certification or registration in accordance with par. (a) no later than one term after expiration of the license, certification or registration as specified in Table 305.06 in accordance with all of the following conditions:

a. An application fee as specified in s. SPS 305.02, Table 305.02 shall accompany the renewal application.

b. Any continuing education credit obtained after the time frame specified under s. SPS 305.08 (3) (a), but prior to the one−term deadline for renewal as specified in Table 305.06, that is needed to fulfill the renewal obligations shall be documented and filed with the department on a form prescribed by the department.

Note: The form to document late continuing education credit may be obtained from the Safety and Buildings Division, P.O. Box 7082, Madison, Wisconsin 53707−7082, telephone 608/261−8500.

2. The submission of a form under subd. 1. b. to the department shall include a $25.00 processing fee.

3. a. Subdivisions 1. and 2. and par. (c) do not apply to a license, certification or registration issued under s. SPS 305.68 or ss. SPS 305.82 to 305.88.

b. A person who files for renewal after the expiration date of a license, certification or registration issued under s. SPS 305.68 or ss. SPS 305.82 to 305.88 shall comply with this chapter's requirements for initially receiving that license, certification or registration.

c. A person who files for renewal of a license, certification or registration issued under s. SPS 305.68, 305.84 or 305.85, and who has not obtained all continuing education credit required for renewal shall comply with this chapter's requirements for initially receiving that license, certification or registration.

d. For a license, certification or registration issued under s. SPS 305.68, 305.84 or 305.85, the time period for obtaining con-

tinuing education credits shall extend from the beginning date to the expiration date of that license, certification or registration.

(c) A person who files for renewal more than one term after expiration of his or her license, certification or registration may be reinstated by filing with the department an administrative fee of $200.00, an application, and the application fee and the license, certification or registration fee specified in s. SPS 305.02, Table 305.02. The department may also require demonstration of competence by various methods including, but not limited to, written or oral examination, documentation of relevant work experience in other jurisdictions, or documentation of education or experience in the field. Any education or examination required by the department may not be more extensive than the requirements in effect at the time of the request for reinstatement.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. Register, April, 2000, No. 532, eff. 5−1−00; am. (2), Register, May, 2001, No. 545, eff. 6−1−01; CR 03−075: r. and recr. (2) (c) Register June 2004 No. 582, eff. 8−1−04; CR 06−127: cr. (2) (b) 3., Register September 2007 No. 621, eff. 10−1−07; correction in (1) (a), (2) (b) 1. (intro.), a., b., 3. a., b., c., d., (c) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.08 Continuing education. (1) PROGRAM SPECIFICATIONS. (a) Only courses, programs and seminars approved in writing by the department shall be used for credit to fulfill continuing education requirements.

(b) 1. Requests for a course, program or seminar to be recognized for approval shall be submitted in writing to the department.

2. Requests for approval shall include sufficient information to determine if the course, program or seminar complies with this subsection.

3. The department shall review and make a determination on a request for approval within 21 calendar days of receipt of the request and information necessary to complete the review.

(c) 1. Thirty minutes of attendance in an approved course, program or seminar shall be deemed equal to 0.5 hours of acceptable continuing education.

2. Continuing education credit for attendance in approved continuing education courses, programs or seminars in other than 30 minute increments shall be rounded down to the next half hour.

(d) Courses, programs and seminars to be considered for approval towards continuing education credit shall relate to the skills and knowledge of one or more license, certification or registration categories.

(e) 1. The department may impose specific conditions in approving a course, program or seminar for continuing education credit, including limiting credit to specific license, certification or registration categories.

2. a. Except as provided in subd. 2. c., the approval of a course, program or seminar for continuing education credit shall expire 5 years after the date of approval.

b. Approval of courses, programs or seminars for continuing education credit may be renewed. Renewal shall be in accordance with par. (b).

c. An approval of a course, program or seminar for continuing education credit under s. SPS 305.68 or subch. VIII shall expire either 3 years after the date of approval, or as otherwise specified in the approval.

3. The department may revoke the approval of a course, program or seminar for continuing education credit for any false statements, misrepresentation of facts or violation of the conditions on which the approval was based. The department may not revoke the approval of a course, program or seminar less than 30 calendar days prior to the course, program or seminar being held.

(f) 1. The individual or organization which had obtained the course, program or seminar approval shall maintain an attendance record of those individuals who have attended and completed the course, program or seminar for at least 5 years from the date of the course, program or seminar.

2. The attendance record shall include all of the following:

a. The course name.

b. The course identification number assigned by the department.

c. The date or dates the course was held or completed.

d. The name of each attendee.

e. The name of each license, certification or registration held by the attendee for which the course applies.

f. The license, certification or registration number assigned by the department of each attendee.

3. A copy of the attendance record shall be forwarded by the person or organization which had obtained the course, program or seminar approval to the department within 14 calendar days after completion of the course or program.

(g) Any individual or organization that obtains a course, program, or seminar approval for continuing education credit under s. SPS 305.68 or subch. VIII shall notify the department of any material changes to the information submitted for that approval.

(h) Any individual or organization that obtains a course, program, or seminar approval for continuing education credit under s. SPS 305.68 or subch. VIII shall notify the department if the course, program, or seminar is discontinued before the end of its approval period.

(2) EVIDENCE OF COMPLIANCE. Each license, certification or registration holder shall retain evidence of compliance with continuing education requirements throughout the license, certification or registration period for which continuing education credit was required for renewal of the license, certification or registration.

(a) The department shall accept as evidence of compliance original or copies of documents, certified by the individual or organization providing the course, program or seminar, indicating attendance and completion of the continuing education credit.

(b) The department may require a license, certification or registration holder to submit evidence of compliance for the continuing education credit which was required to renew the license, certification or registration.

(3) CONTINUING EDUCATIONAL CYCLE. (a) Except as provided under s. SPS 305.07 (2) (b), for those license, certification or registration categories which require continuing educational credit for renewal, the license, certification or registration holder shall obtain the necessary amount of continuing educational credit at least 3 months prior to the expiration date of the license, certification or registration as specified in Table 305.06.

(b) Except as provided under s. SPS 305.07 (2) (b), the time period during which a license, certification or registration holder may obtain continuing education credit to fulfill the renewal obligations shall commence 3 months prior to the expiration date of the previous license, certification or registration term.

(c) The attendance of a continuing education course, program or seminar in order to fulfill late renewal obligations under s. SPS 305.07 (2) (b) may not be credited toward more than one renewal cycle for a specific license, certification or registration.

Note: The provisions under par. (c) do not limit an individual in attending or completing courses, programs or seminars multiple times on separate occasions for continuing education credit.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96;am. (3) (a), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (d), (e) 1., (f) 2. e., f., (2) (intro.), (b) and (3), Register, April, 2000, No. 532, eff. 5−1−00; am. (3), Register, May, 2001, No. 545, eff. 6−1−01; CR 03−075: r. (1) (b) 2., renum. (1) (b) 3. and 4. to be (1) (b) 2. and 3., r. and recr. (1) (e) 2. b. Register June 2004 No. 582, eff. 8−1−04; CR 06−127: am. (1) (e) 2. a., cr. (1) (e) 2. c., (g) and (h), Register September 2007 No. 621, eff. 10−1−07; CR 09−046: am. (1) (f) 1. Register March 2010 No. 651, eff. 4−1−10; correction in (1) (e) 2. c., (g), (h), (3) (a), (b), (c) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.09 Examinations. (1) For those license, certification or registration categories which require examination, the department shall conduct at least 4 license, certification or registration examinations annually for each license, certification or

registration category at times and locations specified by the department.

(2) An application and fee for a license, certification or registration that requires an examination shall be received by the department at least 30 calendar days prior to the day of the examination. The department may postpone the applicant's appearance to another examination date if any of the following occur:

(a) The applicant fails to have the application on file with the department within the required time.

(b) The application information or required qualifications are incomplete.

(c) The examination center is filled to capacity.

(3) Upon verification of the application and the required qualifications, the department shall notify an applicant in writing of the date, time and place of the examination.

(4) (a) An applicant for license, certification or registration examination shall provide a photo identification or other appropriate evidence to gain admittance to an examination.

(b) An applicant shall bring to a license, certification or registration examination all necessary materials as specified by the department.

(c) 1. Except as provided in subd. 2., an applicant who fails to appear at a scheduled license, certification or registration examination without giving notice to the department at least 24 hours before the examination shall be considered to have failed the examination and shall be required to submit a re−examination application and examination fee.

2. The department may waive the 24−hour notification requirement of subd. 1. due to inclement weather, if the applicant notifies the department the day of the examination.

(5) The examination for a license, certification or registration shall be based on a job analysis of the knowledge, skills and abilities associated with the license, certification or registration. The examination shall include all of the following subject matter:

(a) Regulations and standards governing the work or activities required or permitted under the license, certification or registration.

(b) Theories, principles, and practices associated with the activities required or permitted under the license, certification or registration.

(6) (a) A grade of 70% or greater in each part of a license, certification or registration examination shall be considered a passing grade.

(b) 1. Except as provided in subd. 2., an applicant failing a part of a multi−part license, certification or registration examination shall be required to retake only those parts failed.

2. An applicant who does not pass all required parts of a multi−part license, certification or registration examination within one year after the date of the initial examination shall apply, retake and pass all parts of the license, certification or registration examination.

(7) (a) The department shall inform an applicant of the results of an examination in writing within 21 calendar days from the examination date.

(b) Upon notification of failing a license, certification or registration examination, an applicant may request another examination in accordance with s. SPS 305.01.

(c) 1. An applicant who has successfully passed a license, certification or registration examination may submit an application and the license, certification or registration fee as specified under s. SPS 305.02, Table 305.02 for the appropriate license, certification or registration within 3 months after the date the department had mailed the results of the examination.

2. Failure to apply for a license, certification or registration in accordance with subd. 1., shall necessitate the applicant to apply, retake and pass another license, certification or registration examination in order to obtain the license, certification or registration.

(8) (a) An applicant may request and make an appointment with the department to review his or her examination.

(b) The request to review an examination relating to subchs. II to VII, but not including s. SPS 305.68, and subchs. IX and X shall be accompanied by a $15 fee.

(c) An applicant who has failed his or her examination may not review the examination less than 7 calendar days before the applicant is scheduled to retake the examination.

(d) The department shall retain license, certification or registration examinations at least 2 months after the date of the examination.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1), (2) (intro.), (4) (a), (b), (c) 1., (5), (6), (7) (b), (c) and (8) (c), Register, April, 2000, No. 532, eff. 5−1−00; CR 09−046: renum. (8) (b) and (c) to be (8) (c) and (d), cr. (8) (b) Register March 2010 No. 651, eff. 4−1−10; correction in (7) (b), (c) 1., (8) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.10 Denial, suspension and revocation. **(1)** Except as provided in sub. (2) pertaining to licenses or registrations for master plumbers, journeyman plumbers, cross connection control testers and utility contractors, the department may deny, suspend or revoke a license, certification or registration under this chapter in accordance with this subsection.

(a) *Reasons.* The department may deny, suspend or revoke a license, certification or registration under this chapter if the department determines that an applicant or holder of the license, certification or registration is responsible for any of the following:

1. Fails to meet the qualifications for the license, certification or registration.

2. Has obtained the license, certification or registration through fraud or deceit.

3. Has demonstrated negligence or incompetence in fulfilling the responsibilities or obligations of the license, certification or registration.

4. Has a conflict of interest in fulfilling the responsibilities or obligations under the license, certification or registration.

5. Has demonstrated misconduct in fulfilling the responsibilities or obligations under the license, certification or registration.

6. Has been arrested or convicted for a crime substantially related to the license, certification or registration.

7. Has a physical or mental impairment which prevents the applicant or holder from fulfilling the responsibilities or obligations under the license, certification or registration.

8. Has violated state, federal or local laws or regulations relating to the conduct of the activities under the license, certification or registration.

9. Has been certified by the department of revenue under s. 73.0301, Stats., to be liable for taxes.

10. Has been delinquent in making court−ordered payments relating to the support of a child or former spouse pursuant to s. 101.02 (21) (a), (c) and (d), Stats.

11. Has failed to comply with a subpoena or warrant issued by the department of workforce development or a county child support agency relating to paternity or child support proceedings pursuant to s. 101.02 (21) (a), (c) and (d), Stats.

12. If registered or certified under ss. SPS 305.80 to 305.81, has performed any of the following:

a. Intentionally shifted costs, for the purpose of making ineligible costs appear to be eligible.

b. Intentionally billed for activities not undertaken at a specific cleanup site.

c. Rebated the deductible or structured a claim to provide a responsible party with a rebate or reimbursement of the deductible.

d. Intentionally submitted invoices or bills containing fraud, or submitted claims that were incomplete or contained fraud.

e. Conducted unnecessary, ineffective or incomplete remedial activities or services.

f. Attempted to defraud, including but not limited to false or double billing of clients for work conducted.

g. Charged a fee that the department determined was excessive, after written notice from the department that the fee was excessive and should not have been charged.

h. Exhibited a pattern of attempting and failing to complete remediations of PECFA sites.

i. Performed activities that result in both exceeding a cost cap established by the department, and submittal of a claim to the department for the cost in excess of that cost cap.

j. Failed to pay a financial penalty assessed under ch. SPS 347 for a grossly ineligible cost.

13. If registered or certified under s. SPS 305.68 or subch. VIII, has performed any of the following:

a. Failed to maintain required records.

b. Denied the department access to requested records.

c. Failed to submit a required notice or report to the department, within a required time period.

d. Submitted false reports to the department.

e. Exhibited a pattern of submitting substantially inadequate reports.

14. If registered under s. SPS 305.31 as a dwelling contractor, has done or has been any of the following:

a. Failed to hold or to engage, as an employee, a person who holds a dwelling contractor qualifier certification under s. SPS 305.315 in obtaining a building permit.

b. Engaged in the construction of a dwelling without a uniform building permit when required under s. SPS 320.08.

c. Convicted of a crime related to the construction of a dwelling.

d. Adjudged bankrupt on 2 or more occasions.

(b) *Notice of denial, suspension or revocation.* Except as provided under s. 101.654 (4), Stats., relative to a dwelling contractor certification, and par. (c), a notice of denial, suspension or revocation shall be sent to the applicant or the license, certification or registration holder. The notice shall include all of the following:

1. The basis for the denial, suspension or revocation, including the facts relied on by the department to make its decision and a citation of applicable statutes and administrative rules establishing the legal basis for the decision; and

2. A statement that the applicant or the license, certification or registration holder may file a request for an administrative hearing.

Note: See the appendix under A305.31 for a reprint of s. 101.654 (4), Stats.

(c) *Summary suspension.* Under s. 227.51 (3), Stats., the department may summarily suspend any license, certification or registration if the department finds that immediate action is necessary for public health, safety or welfare. The summary suspension of a license, certification or registration shall remain in effect until after a final decision is issued following a hearing.

(d) *Hearing.* 1. The request for an administrative hearing shall be received by the office of legal counsel of the department no later than 30 days following the date of mailing of the notice under par. (b), otherwise, the request for hearing shall be denied by the department.

Note: Requests for an administrative hearing may be mailed to the Office of Legal Counsel, P.O. Box 7970, Madison, WI 53707−7970, or faxed to (608) 266−3447. Facsimile requests received after 4:30 p.m. are considered filed on the next business day.

2. Hearings shall comply with the provisions of ch. 227, Stats.

(e) *Surrender of license, certification or registration.* A person whose license, certification or registration has been suspended or revoked shall surrender the license, certification or registration to the department upon request.

(f) *Reinstatement.* 1. Suspension. a. A person whose license, certification or registration has been suspended may apply to have the license, certification or registration reissued only after the time set for suspension by the department or hearing examiner has passed and by complying with the conditions set forth in the suspension order.

b. The request to the department to have a suspended license, certification or registration reissued shall be made in writing.

c. The department may require a person whose license, certification or registration has been suspended to apply for the license, certification or registration by complying with all of the requirements for a new applicant, including paying the application fees and successfully passing an examination.

d. The department may impose conditions on the reissued license, certification or registration to assure compliance with this chapter.

2. Revocation. A person whose license, certification or registration has been revoked may not apply to ever receive such a license, certification or registration.

(2) Pursuant to s. 145.10, Stats., the department may suspend or revoke the license or registration of any master plumber, journeyman plumber, master plumber−restricted, journeyman plumber−restricted, utility contractor, or cross connection control tester in accordance with this subsection.

(a) *General.* The department may suspend or revoke a license or registration for any of the following reasons:

1. The practice of fraud or deceit in obtaining a license or registration.

2. Negligence, incompetence or misconduct in the practice or work allowed by the license or registration.

3. Failure to correct an installation for which the license or registration holder is responsible within the time prescribed by the department.

Note: Section 145.10 (1) (b), Stats., indicates that the correction of an installation must take place within 30 days following notification by the department of a violation.

4. Falsified information on an inspection form under s. 145.20 (5), Stats.

(b) *Investigations.* The department may conduct an investigation of any alleged violations of this chapter or chs. SPS 382 and 383. If it is determined that no further action is warranted, the department shall notify the persons affected. If the department determines that there is probable cause, it shall order a hearing and notify the persons affected.

(c) *Summary suspension.* Under s. 227.51 (3), Stats., the department may summarily suspend any license or registration if the department finds that immediate action is necessary for public health, safety or welfare. The summary suspension of a license or registration shall remain in effect until after a final decision is issued following a hearing.

(d) *Hearings.* The hearing for the suspension or revocation of a license or registration shall be conducted as a contested case hearing in accordance with ch. 227, Stats., and s. 145.10, Stats.

(e) *Findings.* The department may make findings and enter its order on the basis of the facts revealed by its investigation. Any findings as a result of petition or hearing shall be in writing and shall be binding unless appealed to the secretary.

1. Suspension. The period for suspension shall be determined by the hearing examiner or the department. The period for suspension may not exceed one year. A person whose license or registration has been suspended may apply to have the license or registration reinstated by filing a new application and payment of the appropriate fee specified in s. SPS 305.02.

2. Revocation. The period for revocation shall be determined by the hearing examiner or the department. The period for revocation shall not exceed one year. A person whose license or registration has been revoked shall be eligible for the license or registra-

tion only after the time set for revocation by department order has passed. A person whose license or registration has been revoked may apply to have the license or registration reinstated only after submitting a completed application for license or registration examination, if required, payment of the examination fee, passing of the examination and payment of the license or registration fee specified in s. SPS 305.02.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (a) (intro.), r. and recr. (1) (e), (2) (c), cr. (1) (f), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (intro.), (a), (b) (intro.), 2., (c), (e), (f), (2) (intro.) to (a) 3., (c), (d), (e) 1. and 2., cr. (1) (a) 9. to 11., Register, April, 2000, No. 532, eff. 5−1−00; correction in (2) (a) 4. made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532; CR 04−058: cr. (1) (a) 12. Register February 2006 No. 602, eff. 5−1−06; correction in (2) (a) 4. made under s. 13.93 (2m) (b) 7., Stats., Register October 2006 No. 610; CR 07−007: cr. (1) (a) 14., am. (1) (b) (intro.) Register August 2007 No. 620, eff. 9−1−07; CR 06−127: renum. (1) (a) 12. h. to k. to be (1) (a) 13. a. to c. and 12. h., cr. (1) (a) 12. i. and j. and 13. (intro), d. and e., Register September 2007 No. 621, eff. 10−1−07; correction in (1) (a) 12. (intro.), j., 13. (intro.), 14. (intro.), a., b., (2) (b), (e) 1., 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.11 Responsibilities. (1) A person who holds a license, certification or registration under this chapter shall carry on his or her person the license, certification or registration issued by the department while performing or conducting the activity or activities permitted under the license, certification or registration.

(2) A person who holds a license, certification or registration under this chapter shall upon request of the department or its representative present the license, certification or registration for identification.

(3) The requirements of this section apply to licenses, certifications or registrations issued to an individual and not to a business.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; cr. (3), Register, March, 1998, No. 507, eff. 4−1−98; am. Register, April, 2000, No. 532, eff. 5−1−00.

SPS 305.12 Penalties. In addition to the forfeitures provided for in s. SPS 305.125, penalties for violations of the provisions of this chapter may be assessed in accordance with the respective penalty provisions in the statutes, depending upon the license, certification or registration category or activity involved.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am., Register, March, 1998, No. 507, eff. 4−1−98; am. Register, April, 2000, No. 532, eff. 5−1−00; CR 07−069: r. and recr. Register February 2008 No. 626, eff. 3−1−08.; correction in (2) (h) made under s. 13.92 (4) (b) 7., Stats., Register May 2009 No. 641; CR 09−021: am. (1), cr. (2m) Register November 2009 No. 647, eff. 12−1−09; correction in (2) (h) (intro.) made under s. 13.92 (4) (b) 7., Stats., Register December 2009 No. 648; CR 10−039: renum. (1) to be Comm 5.12 and am., renum. (2) to (7) to be Comm 5.125 (1), (2), and (4) to (8) and am. (1) (a) Register November 2010 No. 659, eff. 12−1−10; correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.125 Administrative forfeitures. (1) PLUMBING FORFEITURES. (a) Pursuant to s. 145.12 (5), Stats., the department may assess a forfeiture in the amount listed in pars. (b) to (i) to a violator of the licensing requirements under s. 145.06, Stats.

Note: A violation of each paragraph is considered separately when assessing a first, second or third violation. For example: violating paragraphs (a), (b) and (c) creates a first violation for each paragraph, not a first, second and third violation.

(b) The amount of forfeiture assessed against an individual who does not hold the appropriate type of plumbing license under subch. IX and who installs plumbing when a master plumber is not in charge of the plumbing installation shall be one of the following:

1. First offense — $1,000.
2. Second offense — $1,500.
3. Third and subsequent offense — $2,000.

(c) The amount of forfeiture assessed against an individual who does not hold the appropriate type of plumbing license under subch. IX and who installs plumbing where a master plumber is in charge of the plumbing installation shall be one of the following:

1. First offense — $100.
2. Second offense — $500.
3. Third and subsequent offense — $1,000.

(d) The amount of forfeiture assessed against a master plumber who allows the use of his or her master plumber license for the purpose of obtaining a plumbing permit without that master plumber assuming responsibility for the plumbing installation shall be one of the following:

1. First offense — $1,000.
2. Second offense — $1,500.
3. Third and subsequent offense — $2,000.

(e) The amount of forfeiture assessed against a master plumber who allows another licensed plumber to install plumbing in the master plumber's name when that master plumber is not in charge of the plumbing installation shall be one of the following:

1. First violation offense — $500.
2. Second violation offense — $1,000.
3. Third and subsequent violation offense — $2,000.

(f) The amount of forfeiture assessed against a master plumber who allows an individual who does not hold the appropriate license under subch. IX to install plumbing when that master plumber is in charge of the plumbing installation shall be one of the following:

1. First violation offense — $1,500.
2. Second violation offense — $1,750.
3. Third and subsequent violation offense — $2,000.

(g) The amount of forfeiture assessed against an individual who does not hold an appropriate master plumber license under s. SPS 305.91 and who engages in the business or offers to engage in the business of superintending plumbing installations shall be one of the following:

1. First violation offense — $1,000.
2. Second violation offense — $1,500.
3. Third and subsequent violation offense — $2,000.

(h) The amount of forfeiture assessed against an individual who does not hold a registration as a cross connection control tester under s. SPS 305.99 and who tests cross connection control devices to meet the requirements in s. SPS 382.22 (8) shall be one of the following:

1. First violation offense — $500.
2. Second violation offense — $1,000.
3. Third and subsequent violation offense — $2,000.

Note: See section 145.06, Stats., for exemptions to the licensing requirements.

(i) When a violator creates an imminent health risk the forfeiture amounts under pars. (b) to (h) shall be doubled within the maximum statutory limit of $2,000.

(2) POWTS FORFEITURES. (a) Pursuant to s. 145.12 (5) (a), Stats., the department may assess a forfeiture in the amount listed in par. (b) to a violator of the restriction requirements under s. 145.20 (6) (a), Stats.

Note: See the appendix for a reprint of 145.20 (6) (a), Stats.

(b) The amount of forfeiture assessed against an individual who violates the restriction requirements under s. 145.20 (6) (a), Stats., shall be one of the following:

1. First offense — $1,000.
2. Second offense — $1,500.
3. Third and subsequent offense — $2,000.

(3) CONTRACTOR FORFEITURES. (a) Pursuant to s. 101.147 (3), Stats., the department may assess a forfeiture in the amount listed in pars. (b) and (c) to a violator of the requirements for any of the following licenses, certifications or registrations:

1. Building contractor, pursuant to s. 101.147 (1), Stats.
2. Dwelling contractor, pursuant to s. 101.654 (1) (a), Stats.
3. Dwelling contractor−restricted, pursuant to s. 101.654 (1) (a), Stats.
4. Manufactured home manufacturer, pursuant to s. 101.95, Stats.
5. Manufactured home dealer, pursuant to s. 101.951 (1), Stats.
6. Manufactured home installer, pursuant to s. 101.96 (2), Stats.

The Wisconsin Administrative Code on this web site is current through the last published Wisconsin Register. See also Are the Codes on this Website Official?

7. Electrical contractor, pursuant to s. 101.862 (1), Stats.

8. Electrical contractor−restricted, pursuant to s. 101.862 (1), Stats.

9. HVAC contractor, pursuant to s. 101.178 (2), Stats.

10. An elevator contractor, pursuant to s. 101.984 (1), Stats.

(b) The amount of forfeiture assessed against an individual or entity that does not hold the appropriate type of license, certification or registration required under par. (a) shall be subject to one of the following:

1. First offense — $250.

2. Second offense — $500.

3. Third and subsequent offense — $1,000.

(c) The amount of forfeiture assessed against an individual or entity that holds one of the credentials listed in par. (a) and that contracts with another individual or entity to engage in construction business activities where that other individual or entity is required to hold a credential required under s. SPS 305.30 (1) (a) but does not shall be subject to one of the following:

1. First offense — $250.

2. Second offense — $500.

3. Third and subsequent offense — $1,000.

(4) FORFEITURE PROCESS. (a) The department shall assess an administrative forfeiture in writing.

(b) A notice of administrative forfeiture shall include the following:

1. The rule or rules violated.

2. A statement or explanation of how the violation was determined.

3. The amount of forfeiture.

4. A statement or explanation of how the amount of forfeiture was determined.

5. Information about how to contest the notice of administrative forfeiture.

(5) FORFEITURE PAYMENTS. (a) Except as provided in sub. (6), all forfeitures shall be paid to the department within 30 days after issuance of the notice.

(b) An interest penalty shall be imposed in accordance with s. 145.12 (5) (d), Stats., for a forfeiture not paid in accordance with par. (a).

Note: Section 145.12 (5) (d), Stats., reads: In the case of any failure in the payment of a forfeiture, the department shall impose an interest penalty of 12% per year from the time when the forfeiture should have been paid.

(c) The department may refer unpaid forfeitures to the attorney general.

Note: Section 145.12 (5) (e), Stats., reads: The attorney general may bring an action in the name of the state to collect any forfeiture imposed, or interest accrued, under this subsection if the forfeitures or interest has not been paid after the exhaustion of all administrative and judicial reviews.

(6) FORFEITURE APPEAL. (a) A person assessed an administrative forfeiture may request a review of the assessment of forfeiture issued under sub. (1) and the grounds for the assessment in accordance with all of the following procedures:

1. A request for review of an assessment of forfeiture under this subsection shall be on the basis to completely overturn the assessment.

2. A request for review of an assessment of forfeiture shall be made in writing to the administrator of the Safety and Buildings Division.

Note: Requests for a review by the administrator may be forwarded to Administrator, Safety and Buildings Division, P.O. Box 2599, Madison, WI 53707−2599.

3. A request for review of an assessment of forfeiture shall include a statement of the specific reasons why the person believes the administrative forfeiture and the grounds for the assessment should be overturned.

(b) A request for review of an assessment of an administrative of forfeiture and the grounds for the assessment shall be denied if the request is received more than 30 days after issuance of the forfeiture notice.

(c) 1. The administrator shall make a decision on a request for review of an assessment of administrative forfeiture and the grounds for assessment within 15 days of receipt of the request.

2. If the administrator determines that insufficient reasons are provided in a request for review, the request may be denied.

3. A denial of a request for review shall be in writing and shall state the reasons for denial and information about the right to appeal the denial.

4. If the administrator determines that sufficient reasons are provided in a request for review, the request shall be granted.

5. If the administrator grants a request for review, the administrator shall notify the person making the request in writing of the date, time and location where the review will take place and who will conduct the review. The review shall be scheduled within 10 days after the request for review is granted, unless the person requesting the review asks for and is granted an extension.

6. If a review is granted, the person requesting the review shall be provided an opportunity to meet with the administrator or designee to present statements and documents regarding the contested notice of administrative forfeiture and the grounds for the assessment.

7. If a review is granted, the division shall provide technical expertise to represent the department's position.

(7) ADMINISTRATOR REVIEW. (a) The administrator shall issue a written decision within 30 days following a review under sub. (6) (c) 5.

(b) The written decision from the administrator shall include information about appeal rights and procedures if the decision is to deny overturning the assessment of administrative forfeiture and the grounds for assessment.

(8) SECRETARY REVIEW. (a) A person adversely affected by the decision of the administrator under sub. (7) may request a hearing by the secretary to review an assessment of administrative forfeiture and the grounds for assessment in accordance with all of the following procedures:

1. A request for a hearing shall be made in writing to the secretary.

2. A request for a hearing shall include a statement of the specific reasons why the person believes the forfeiture assessment and the grounds for assessment should be overturned.

3. A request for a hearing shall be denied if the request is received more than 30 days after issuance of the decision by the administrator under sub. (7).

(b) A hearing held by the secretary or designee to review the decision of the administrator on an administrative forfeiture shall be a contested case hearing. The hearing and the decision issued after the hearing shall be governed by the provisions under ch. 227, Stats.

History: CR 10−039: renum. from Comm 5.12 (2) to (8) and am. (1) (a), cr. (3) Register November 2010 No. 659, eff. 12−1−10; corrections in (5) (a), (6) (a) (intro.), (7) (a), (8) (a) (intro.) and 3. made under s. 13.92 (4) (b) 7., Stats., Register November 2010 No. 659; CR 10−090: cr. (3m) Register January 2010 No. 661, eff. 2−1−11; correction in (1) (g) (intro.), (h) (intro.), (3) (c) (intro.), (3m) (a), (b) (intro.), (c) (intro.) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672; **CR 12−007: r. (3m) Register July 2012 No. 679, eff 8−1−12.**

Subchapter II — Blasting and Fireworks

SPS 305.20 Blasters. (1) GENERAL. (a) No person may prepare explosive charges or conduct blasting operations unless the person complies with one of the following conditions:

1. Holds a license issued by the department as a licensed class 1 blaster, licensed class 2 blaster, licensed class 3 blaster, licensed class 4 blaster, licensed class 5 blaster, licensed class 6 blaster or licensed class 7 blaster.

2. Is under the direct supervision of a person who holds a license issued by the department as a licensed blaster in one or more of the categories specified in subd. 1.

(b) The operations and activities associated with a person who holds a license as a licensed class 1 blaster, licensed class 2 blaster, licensed class 3 blaster, licensed class 4 blaster, licensed class 5 blaster, licensed class 6 blaster or licensed class 7 blaster shall be limited to the operations or activities delineated under this paragraph.

1. A person, who either holds a license as a licensed class 1 blaster or is under the direct supervision of a person who holds a license as a licensed class 1 blaster, may conduct blasting operations and activities not closer than 500 feet to an inhabited building for stumps, boulders, ice, frost, concrete, footings, foundations, pole settings, drainage ditches, beaver dams, pot holes, seismic tests, boiler tubes, fertilizer piles, silos, dimension stone, well shooting, metal forms, black powder or coal piles.

2. A person, who either holds a license as a licensed class 2 blaster or is under the direct supervision of a person who holds a license as a licensed class 2 blaster, may conduct blasting operations and activities for stumps, boulders, ice, frost, concrete, footings, foundations, pole settings, drainage ditches, beaver dams, pot holes, seismic tests, boiler tubes, fertilizer piles, silos, dimension stone, well shooting, metal forms, black powder or coal piles.

3. A person, who either holds a license as a licensed class 3 blaster or is under the direct supervision of a person who holds a license as a licensed class 3 blaster, may conduct blasting operations and activities for underground mining, underground construction or tunnels.

4. A person, who either holds a license as a licensed class 4 blaster or is under the direct supervision of a person who holds a license as a licensed class 4 blaster, may conduct blasting operation and activities not closer than 2500 feet to an inhabited building for quarries, open pits, road cuts, trenches, site excavations, basements, underwater demolition or underground excavations.

5. A person, who either holds a license as a licensed class 5 blaster or is under the direct supervision of a person who holds a license as a licensed class 5 blaster, may conduct blasting operations and activities 2500 feet and closer to an inhabited building for quarries, open pits and road cuts.

6. A person, who either holds a license as a licensed class 6 blaster or is under the direct supervision of a person who holds a license as a licensed class 6 blaster, may conduct blasting operations and activities 2500 feet and closer to an inhabited building for trenches, site excavations, basements, underwater demolition, underground excavations or structures 15 feet or less in height.

7. A person, who either holds a license as a licensed class 7 blaster or is under the direct supervision of a person who holds a license as a licensed class 7 blaster, may conduct blasting operations and activities for structures greater than 15 feet in height, bridges, towers or any of the objects or purposes specified under subds. 1. to 6.

(c) A person who holds a valid blaster license which was issued prior to November 1, 1996 shall be deemed to hold the category of blaster license specified in Table 305.20 and may conduct blasting operations and activities under par. (b).

Table 305.20

Blaster License Categories Prior to November 1, 1996	New Blaster License Categories
Class 1−Limited Blasting: 1a, 1b, 1c, 1d, 1g	Class 1 Blaster
Class 1−Limited Blasting: 1e, 1f, 1h; Class 4−Precision Blasting: 4g, 4h	Class 2 Blaster
Class 2−Underground Blasting: 2a, 2b	Class 3 Blaster
Class 3−Surface Blasting: 3a, 3b, 3c, 3d	Class 4 Blaster
Class 4−Precision Blasting: 4a, 4b	Class 5 Blaster
Class 4−Precision Blasting: 4c, 4d, 4e, 4f	Class 6 Blaster
Class 5−Special Blasting: 5a, 5b	Class 7 Blaster

(2) APPLICATION FOR EXAMINATION. A person applying to take a blaster license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. (a) A person applying to take a blaster license examination shall be at least 21 years old.

(b) A person applying to take a blaster license examination shall have one or more of the following qualifying experience:

1. At least 640 hours of experience working under the direct supervision of a person who holds a class 1 blaster license for a class 1 blaster license examination.

2. At least 640 hours of experience working under the direct supervision of a person who holds a class 2 blaster license for a class 2 blaster license examination.

3. At least 640 hours of experience working under the direct supervision of a person who holds a class 3 blaster license for a class 3 blaster license examination.

4. At least 640 hours of experience working under the direct supervision of a person who holds a class 4, class 5 or class 6 blaster license for a class 4 license examination.

5. At least 640 hours of experience working under the direct supervision of a person who holds a class 5 blaster license for a class 5 blaster license examination.

6. At least 1000 hours of experience working under the direct supervision of a person who holds a class 6 blaster license for a class 6 blaster license examination.

7. At least 2000 hours of experience working under the direct supervision of a person who holds a class 7 blaster license for a class 7 blaster license examination.

(4) EXAMINATION. A person seeking to obtain a blaster license shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR LICENSE. Upon notification of the successful passage of the examination for a blaster license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(6) RENEWAL. (a) 1. A person may renew his or her license as a blaster.

2. A blaster license shall be renewed in accordance with s. SPS 305.07.

(b) The renewal of a blaster license shall be contingent upon the applicant completing and passing a take home examination.

(c) The renewal of a blaster license shall be contingent upon the department's review of the applicant's criminal history record from the state department of justice.

Note: The department will obtain the criminal history record directly from the state department of justice.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; cr. (2) (c), (6) (c), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (a) 1. and 2., (b) and (5), Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: r. (2) (c), am. (6) (c) Register June 2004 No. 582, eff. 8−1−04; correction in (1) (c), (2) (a), (b), (4), (5), (6) (a) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.21 Fireworks manufacturers. (1) GENERAL. (a) Pursuant to s. 167.10 (6m), Stats., no person may manufacture fireworks or a listed device in this state unless the person holds a license issued by the department as a licensed fireworks manufacturer.

(b) A fireworks manufacturer license shall be obtained and held for each plant where fireworks or listed devices are to be manufactured.

(2) APPLICATION FOR LICENSE. A person applying for a fireworks manufacturer license shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a license fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR LICENSE. (a) A person applying for a license as a fireworks manufacturer shall hold a federal license issued under 18 USC chapter 40 section 843.

(b) The person applying for a fireworks manufacturer license shall be the owner of the business, a partner in the business applying on behalf of a partnership, or the chairman of the board or chief executive officer applying on behalf of the corporation.

(3m) RESPONSIBILITIES. A person who holds a fireworks manufacturer license shall post the license at the plant where the fireworks are to be manufactured.

(4) RENEWAL. (a) 1. A person may renew his or her license as a fireworks manufacturer.

2. A fireworks manufacturer license shall be renewed in accordance with s. SPS 305.07.

(b) The renewal of a fireworks manufacturer license shall be contingent upon the applicant possessing a federal license issued under 18 USC chapter 40 section 843.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; cr. (3m), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (a) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; correction in (2) (a), (b), (4) (a) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

Subchapter III — Dwellings, Structures and Sites

SPS 305.30 Building contractor. (1) GENERAL. (a) Except as provided in par. (b), no person or entity may engage in a construction business or offer to engage in a construction business that affects public buildings, places of employment, one− and 2− family dwellings, public swimming pools and water attractions, unless the person or entity holds a registration issued by the department as a registered building contractor.

Note: The building contractor registration is a business credential that does not negate the responsibility to obtain and hold other credentials required under this chapter for specific work.

(b) Paragraph (a) does not apply to any of the following:

1. A person or entity that holds any of the following credentials issued by the department:

a. A dwelling contractor certification.

b. A dwelling contractor – restricted certification.

c. A manufactured home manufacturer license.

d. A manufactured home dealer license.

e. A manufactured home installer license.

f. An electrical contractor certification.

g. An electrical contractor – restricted certification.

h. An HVAC contractor registration.

i. An elevator contractor license.

j. A retail gas supplier license.

k. A retail gas supplier−restricted license.

2. A person or entity that works only on real estate or property they own or lease.

(1m) Under this section:

(a) 1. "Construction business" means a trade that constructs, installs, or alters any element, component, material or device within or serving a building or structure where the element, component, material or device is regulated under one of the following codes:

a. Chapter SPS 316, Electrical.

b. Chapters SPS 320 to 325, Uniform Dwelling.

c. Chapter SPS 328, Smoke Detectors.

d. Chapter SPS 333, Passenger Ropeways.

e. Chapter SPS 340, Gas Systems.

f. Chapter SPS 341, Boilers and Pressure Vessels.

g. Chapter SPS 343, Anhydrous Ammonia.

h. Chapter SPS 345, Mechanical Refrigeration.

i. Chapters SPS 361 to 366, Commercial Buildings.

j. Chapters SPS 381 to 384, Plumbing.

k. Chapter SPS 390, Public Swimming Pools and Water Attractions.

2. Notwithstanding subd. 1., "construction business" includes the construction, installation or alteration of permanent devices or structures where the structure or device is regulated under one of the following codes:

a. Chapter SPS 334, Amusement Rides.

b. Chapter SPS 391, Sanitation.

3. "Construction business" includes the activity of installing interior wall coverings in commercial buildings.

4. "Construction business" does not include any of the following:

a. The design of a building or structure.

b. The delivery of building supplies or materials.

c. The manufacture of a building product not on the building site.

d. Nonprofit, volunteer−based programs.

(b) "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(c) "One− and 2− family dwelling" means any building that contains one or 2 dwelling units that construction of which commenced before, on or after December 1, 1978.

(2) APPLICATION FOR BUILDING CONTRACTOR REGISTRATION. A person applying for a building contractor registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(c) The social security number or federal employer identification number for the business.

(d) A statement certifying compliance with worker's compensation requirements under ch. 102, Stats., and unemployment compensation requirements under ch. 108, Stats.

(3) QUALIFICATIONS FOR REGISTRATION. The person applying for a building contractor registration shall be the owner of the construction business, a partner in the construction business applying on behalf of a partnership, or the chairman of the board or chief

executive officer applying on behalf of the construction corporation.

(4) RESPONSIBILITIES. A person or entity that holds a building contractor registration shall do all of the following:

(a) Include his or her registration number on all construction bids and contracts.

(b) Not contract with another person or entity to engage in construction business activities unless the person or entity holds a credential under sub. (1) (a) or (b).

(c) Not commence a construction business activity until a permit is issued for the construction for any project that requires a uniform building permit under s. SPS 320.08.

(d) Not commence a construction business activity until a permit is issued for the construction for any project that requires a municipal building permit involving a public building, a place of employment or a one− or 2− family dwelling.

(e) Not commence a construction business activity until plan approval is required under s. SPS 361.30, 382.20, 383.22, or 390.04.

Note: See s. SPS 361.295 (2) regarding the issuance of building permits by municipalities for the construction of commercial buildings.

(5) RENEWAL. (a) A person may renew a building contractor registration.

(b) A building contractor registration shall be renewed in accordance with s. SPS 305.07.

History: EmR0904: emerg. cr. eff. 3−2−09, except (1) eff. 7−1−09; CR 08−110: cr. Register September 2009 No. 645, eff. 10−1−09; CR 10−039: cr. (1) (b) 1. j., k., (1m) (intro.) and (a), r. (1) (c) (intro.) and 1., renum. (1) (c) 2. and 3. to be (1m) (b) and (c) and am. (c) Register November 2010 No. 659, eff. 12−1−10; correction in (1m) (a) 1. a. to k., 2. a., b., (2) (a), (b), (4) (c), (e), (5) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.31 Dwelling contractor. (1) GENERAL. Pursuant to s. 101.654 (1) (a), Stats., no person may obtain a building permit for a one− or 2−family dwelling unless the person complies with all of the following, except as provided under s. 101.654 (1) (b) and (c) 2., Stats.:

(a) Holds one of the following credentials issued by the department:

1. A dwelling contractor certification.

2. A dwelling contractor — restricted certification.

(b) Holds or engages, as an employee, a person who holds a certification issued by the department as a dwelling contractor qualifier.

Note: Section 101.654 (1) (b), Stats., exempts an owner of a dwelling who resides or will reside in the dwelling and who applies for a building permit to perform work on the dwelling from obtaining a dwelling contractor financial responsibility certification.

Note: Section 101.654 (1) (c) 2., Stats., reads: "The continuing education requirements under par. (a) and the rules promulgated by the department under sub. (1m) do not apply to any person who holds a current license issued by the department at the time that the person obtains a building permit if the work the person does under the permit is work for which the person is licensed."

(2) APPLICATION FOR DWELLING CONTRACTOR CERTIFICATION. A person applying for a dwelling contractor certification or a dwelling contractor — restricted certification shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a certification fee in accordance with s. SPS 305.02, Table 305.02.

Note: A dwelling contractor — restricted certification will be issued to an individual who applies using a bond of less than $25,000. The card issued by the department for a dwelling contractor — restricted certification will read "Financial Responsibility−by a bond under $25,000 Certification".

(3) QUALIFICATIONS FOR CERTIFICATION. (a) A person applying for a dwelling contractor certification or a dwelling contractor — restricted certification shall provide all of the following:

1. A statement certifying that the person complies with the worker's compensation requirements and unemployment compensation requirements as specified under s. 101.654 (2), Stats.

2. Evidence of compliance with the liability or bond insurance requirements as specified under s. 101.654 (2) and (2m), Stats.

Note: See the appendix for a reprint of the requirements under s. 101.654 (2) and (2m), Stats.

(b) The person applying for a dwelling contractor certification or a dwelling contractor — restricted certification shall be the owner of the contracting business, a partner in the contracting business applying on behalf of a partnership, or the chairman of the board or chief executive officer applying on behalf of the contracting corporation.

(4) RESPONSIBILITIES. (a) A person who holds a dwelling contractor certification or a dwelling contractor — restricted certification shall comply with the responsibilities under s. 101.654 (4), Stats.

Note: See the appendix for a reprint of the requirements under s. 101.654 (4), Stats.

(b) For any construction project that requires a uniform building permit under s. SPS 320.08, a person who holds a dwelling contractor certification or a dwelling contractor — restricted certification may not commence construction until a permit is issued for the construction.

(c) For any construction project that involves installation or modification of a private onsite wastewater treatment system, a person who holds a dwelling contractor certification or a dwelling contractor — restricted certification may not commence construction until a sanitary permit is issued for the construction in accordance with s. SPS 383.21.

(d) A person who holds a dwelling contractor certification or a dwelling contractor — restricted certification may not contract with another person or entity to engage in construction business activities unless the person or entity holds a credential under s. SPS 305.30 (1) (a) or (b).

Note: Section 101.16 (4) (a), Stats., provides that: The person performing the work of installing equipment utilizing liquefied petroleum gas for fuel purposes shall furnish the user of the equipment a statement, the form of which shall be prescribed by the department showing the design, construction, location, and installation of the equipment conforms with the rules promulgated by the department under this section.

(5) RENEWAL. (a) Pursuant to s. 101.654 (3), Stats., a dwelling contractor certification or a dwelling contractor — restricted certification shall be valid for no longer than one year after the date of issuance.

(b) 1. A person may renew his or her dwelling contractor certification or dwelling contractor — restricted certification.

2. A dwelling contractor certification or a dwelling contractor — restricted certification shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am., Register, March, 1998, No. 507, eff. 4−1−98; am. (1) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: renum. (4) to be (4) (a), cr. (4) (b) and (c) Register June 2004 No. 582, eff. 8−1−04; CR 07−007: r. and recr. Register August 2007 No. 620, eff. 9−1−07, except (1) (b) eff. 1−1−08; CR 08−110: am. (1) (a), (4) and (5) Register September 2009 No. 645, eff. 10−1−09; correction in (2) (a), (b), (4) (b), (c), (d), (5) (b) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.315 Dwelling contractor qualifier. (1) GENERAL. The purpose of the dwelling contractor qualifier certification is to provide proof of fulfilling the continuing education obligations to the issuers of building permits as required under s. 101.654 (1) (a), Stats.

(2) APPLICATION. A person applying for a dwelling contractor qualifier certification shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a certification fee in accordance with s. SPS 305.02, Table 305.02.

(c) Evidence that the person has completed at least 12 hours in an approved course in dwelling construction within one year prior to the date of application. The course shall include instruction in at least the following subject matter and one or more tests on at least the following subject matter:

1. Construction laws

2. Construction codes.

3. Construction business practices.

(3) RENEWAL. (a) 1. A person may renew his or her certification as a dwelling contractor qualifier.

2. A dwelling contractor qualifier certification shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a certification as a dwelling contractor qualifier shall be contingent upon the individual obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as a dwelling contractor qualifier may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: CR 07−007: cr. Register August 2007 No. 620, eff. 9−1−07; CR 11−020: r. (2) (c) (intro.), 2., renum. (2) (c) 1. to be (2) (c), correction in (2) (a), (b), (3) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.32 Manufactured home manufacturers. (1) GENERAL. (a) Pursuant to s. 101.95, Stats., no manufacturer of manufactured homes may manufacture, sell or distribute for sale manufactured homes unless the manufacturer holds a license issued by the department as a licensed manufactured home manufacturer.

(b) A manufactured home manufacturer license shall be required for each manufacturing plant which manufactures homes to be sold or distributed for sale in the state.

(2) APPLICATION FOR LICENSE. A person applying for a manufactured home manufacturer license shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a license fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR LICENSE. The person applying for a manufactured home manufacturer license shall be the owner of the manufacturing business, a partner in the manufacturing business applying on behalf of the partnership, or the chairman of the board or chief executive officer applying on behalf of the manufacturing corporation.

(4) RESPONSIBILITIES. (a) A person who holds a manufactured home manufacturer license shall post the license at the plant which manufactures homes to be sold or distributed for sale in the state.

(b) A person who holds a manufactured home manufacturer license shall comply with the warranty and disclosure responsibilities under s. 101.953, Stats.

Note: See appendix for a reprint of section 101.953, Stats.

(5) RENEWAL. (a) A person may renew his or her manufactured home manufacturer license.

(b) A manufactured home manufacturer license shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; cr. (3m), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (a) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: am. Register June 2004 No. 582, eff. 8−1−04; correction in (1) (a) made under s. 13.93 (2m) (b) 7., Stats., Register February 2006 No. 602; CR 06−071: renum. (3m) to be (3m) (a), cr. (3m) (b) Register November 2006 No. 611, eff. 12−1−06; CR 11−020: renum. (3m), (4) to be (4), (5), Register December 2011 No. 672, eff. 1−1−12; correction in (2) (a), (b), (5) (b), as renumbered, made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.323 Manufactured home dealer. (1) GENERAL. Under s. 101.951 (1), Stats., no person may engage in the business of selling manufactured homes to a consumer or to the retail market unless the person holds a license issued by the department as a licensed manufactured home dealer. A branch license shall also be obtained for each branch operated by the licensed manufactured home dealer to sell homes.

(2) APPLICATION FOR LICENSE. A person applying for a manufactured home dealer license shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a license fee in accordance with s. SPS 305.02, Table 305.02.

(c) A license fee for each branch in accordance with s. SPS 305.02, Table 305.02.

(d) One of the following forms of security:

1. 'Surety bond.' A surety bond shall be filed on form SBD−10679 and issued by a bonding company licensed by this state. The surety bond shall be payable for the benefit of any person sustaining a loss because of an act of the licensee constituting grounds for the suspension or revocation of a license under s. 101.951 (6), Stats.

2. 'Financial statement.' A financial statement shall be filed on form SBD−10678 or the equivalent in accordance with generally accepted accounting principles and be dated not more than 90 days prior to the date of application. A small business, as defined in s. 227.114 (1), Stats., that does no interim financial reporting may submit a financial statement from the close of the business's most recent fiscal year. Financial statements anticipating some future event shall not be accepted.

(3) QUALIFICATIONS. (a) *Minimum net worth or bond.* The minimum level of net worth or surety bond of an applicant shall be determined in accordance with Table 305.323−1 for a non−broker or Table 305.323−2 for a broker. The department shall deny the license of any applicant who fails to meet the net worth or surety bond criteria specified in the tables.

Table 305.323−1
Minimum Net Worth or Bond for a Non−Broker

Number of Manufactured Homes Sold Per Year	Amount
New Dealer	$50,000
2–50	$50,000
51–up	$100,000

Table 305.323−2
Minimum Net Worth or Bond for a Broker

Number of Manufactured Homes Sold Per Year	Amount
New Dealer	$25,000
2–50	$25,000
51–up	$50,000

(b) *Person applying.* The person applying for a manufactured home dealer license shall be the owner of the business, a partner in the business applying on behalf of a partnership, or the chairperson of the board or chief executive officer applying on behalf of the corporation.

(4) RESPONSIBILITIES. A person who holds a manufactured home dealer license shall post the license at the main business office and shall comply with the trade practices, facilities and records requirements specified in subs. (5) to (9).

(5) ADVERTISING AND SALES REPRESENTATIONS. (a) *Truthful.* The use of false, deceptive or misleading advertising or representations by any licensee to induce the purchase of a manufactured home is prohibited.

(b) *Factual.* Any licensee, making a statement of fact to the public in an advertisement, written statement or representation concerning the manufactured home offered for sale, the services provided or any other aspects of business operation, shall, upon request of the department, furnish evidence of the validity and accuracy of the statement of fact at the time it was made.

(c) *Disclosures required when advertising price.* When the price of a manufactured home is advertised by a licensee, the advertised price shall include all charges that shall be paid by the

retail purchaser to acquire ownership of the advertised home with the exception of sales tax, title registration fees, government required permits, and charges from lenders or other entities.

(d) *Name*. Advertisements for manufactured home sales shall include the licensed business name.

(e) *New or used*. When advertising a manufactured home, a licensee shall state the model year of the home or whether the home is a new manufactured home or a used manufactured home. If the manufactured homes in an advertisement are either all new or all used, one reference in the advertisement designating that they are new or used is sufficient.

(f) *Expiration terms of sales or promotions*. Whenever a sale or promotion offering gifts, merchandise, equipment, accessories, service, discounts, price reductions or cash is advertised, the advertisement shall specifically disclose the expiration terms or date of the sale or promotion.

(g) *Relocations*. Whenever a licensee advertises a manufactured home on a rental lot site that may have to be moved as a condition of the sale, that fact shall be stated in the advertisement.

Note: See Department of Agricultural, Trade and Consumer Protection rules under section ATCP 125.02 regarding tie−in sales; separate or discriminatory charges.

(6) PURCHASE CONTRACT. (a) *Usage*. 1. A licensee shall furnish retail purchasers with a manufactured home purchase contract that clearly states that the retail purchaser is making an offer to purchase a manufactured home. An exact copy of the purchase contract shall be provided to the retail purchaser at the time the retail purchaser signs the offer and again after the offer is accepted by the manufactured home dealer if accepted at a different time than accepted by the retail purchaser. Any changes in the purchase contract after signing by the retail purchaser or subsequent to acceptance by the manufactured home dealer shall be initialed by all the parties on all copies.

2. A manufactured home purchase contract shall be executed whenever the licensee accepts a down payment, deposit, or title for a trade−in unit from a prospective retail purchaser.

(b) *Contract requirements*. A manufactured home purchase contract shall be completed on form SBD−10807.

(c) *Termination of offer to purchase*. 1. Unless otherwise specified in the contract, the offer to purchase is automatically voided if the licensee fails to accept or reject the offer by the close of the manufactured home dealer's next business day.

2. The licensee shall not sell the manufactured home to any other person until the offer is rejected by the licensee or the offer is voided in accordance with this subsection, or the retail purchaser cancels the contract in accordance with par. (d).

3. Any down payment, deposit or title shall be returned to the prospective retail purchaser within 2 working hours of the time the offer to purchase is rejected by the licensee. If the prospective retail purchaser is not present or available during the 2 hour period, those items shall be returned in person or mailed by the close of the manufactured home dealer's next business day.

(d) *Cancellation of agreements*. 1. The purchase contract shall clearly state that cancellation of a manufactured home contract within one business day of acceptance by a manufactured home dealer may subject the retail purchaser to a penalty of up to 1% of the cash price of the manufactured home and that cancellation after the close of the next business day may subject the retail purchaser to a penalty not to exceed the penalty amount specified in the contract. Modification of the purchase contract shall not extend the cancellation period. Documented proof of notification of cancellation is required regardless of the method of notification.

2. The title and any down payment or deposit which is not retained by the manufactured home dealer as a penalty in accordance with subd. 1. shall be returned to the retail purchaser by the close of the manufactured home dealer's next business day following receipt of the retail purchaser's notice of cancellation.

3. Whenever a manufactured home is sold away from the licensed place of business, the manufactured home dealer shall furnish the customer with a written notice of the 3−day consumer cancellation rights in accordance with s. 423.202, Stats.

(e) *Price changes*. Any increase in price to a retail purchaser after the manufactured home dealer has accepted an offer is prohibited except when the price increase is due to any of the following:

1. The addition of new equipment required by local, state or federal law.

2. Local, state or federal tax changes.

3. The reappraisal of a trade−in unit that has suffered damage or is missing furnishings, appliances or accessories that were part of the trade−in unit at the time the purchase contract was executed. Reappraisal by the licensee shall be limited to an amount equal to the retail repair costs of the damage incurred, or to the value of furnishings, appliances or accessories removed.

(f) *Contract notice*. The purchase contract shall include information regarding possible price increases due to any of the items in par. (e) 1. to 3.

(g) *Warranties*. Warranties and disclosures shall be provided in accordance with s. 101.953, Stats.

Note: See appendix for a reprint of section 101.953, Stats.

(h) *Name of prior owner*. The purchase contract shall include the name and address of the current titled owner if the manufactured home is consigned to or listed by the licensee. The name and address of the previous owner shall be kept on file at the manufactured home dealer's main business office if the manufactured home is owned and offered for sale by the licensee.

(i) *On−site sales*. If the manufactured home is displayed for sale on a rental lot site or if a licensee represents that a manufactured home may occupy a site in a specified manufactured home community, the manufactured home dealer shall do all of the following:

1. Clearly state on the purchase contract whether or not the manufactured home may have to be moved from the site.

2. Clearly state on the purchase contract that the contract is voidable by the retail purchaser if the retail purchaser is rejected by, or the purchaser's manufactured home is not permitted in, the manufactured home community.

3. If the manufactured home may remain on site, inform the prospective retail purchaser in writing prior to the execution of the contract that a copy of the current manufactured home community lease and rules may be obtained from the current manufactured home owner or manufactured home community operator.

(j) *Service fees*. A licensee shall not assess a retail purchaser an additional service charge or fee for completing any sales−related home inspection forms that are required by law or rule.

(k) *Waiver*. The use of a manufactured home purchase contract that requires the retail purchaser to waive any claims the retail purchaser may have for breach of contract by the licensee is prohibited.

(7) CONSIGNMENT AND LISTING AGREEMENTS. (a) *Usage and contents*. 1. Form SBD−10808 shall be used whenever a manufactured home dealer lists or offers to sell a used manufactured home on consignment.

2. Form SBD−10807 shall be used whenever a manufactured home dealer sells a listed or consigned used manufactured home.

(b) *On−site sales on rental sites*. Manufactured homes selling agreements for units offered for sale on−site on rental sites shall comply with sub. (6) (i).

(c) *Net sales prohibited*. Licensees shall not obtain, negotiate, or attempt to negotiate any manufactured home selling agreement providing for a stipulated net price to the owner with the excess over the stipulated net price to be received by the licensee as commission.

(8) DISCLOSURE OF THE CONDITIONS OF THE MANUFACTURED HOME. (a) *Model year designation*. Changing the model year of a manufactured home is prohibited. If no model year is designated, the year of manufacture applies.

(b) *New manufactured home disclosure*. The licensee shall, on the face of the new manufactured home purchase contract, disclose all manufactured home dealer installed options or accessories and whether or not the options or accessories are warranted.

(c) *Used manufactured home general condition disclosure*. 1. Before the execution of a purchase contract for a used manufactured home owned by a licensee, the licensee shall inform a prospective retail purchaser of all significant structural or mechanical defects or damage on form SBD−10809. If the licensee is unable to determine whether specific damage or defects exist, that fact shall be noted on the disclosure form. Disclosure of information shall include that which the licensee discovers as a result of a reasonably competent and diligent inspection which shall consist of, but is not limited to, a walk−around and interior inspection, an under−home inspection, roof inspection and inspection of the appliances. A reasonably competent and diligent inspection is not required to cover every possible technical detail. The licensee is not required to dismantle any part of the manufactured home during the inspection process.

2. The seller of a listed or consigned used manufactured home shall provide a completed form SBD−10809 to the licensee. The licensee shall provide the completed disclosure statement to the prospective retail purchaser.

3. Unless otherwise agreed to in the purchase contract, the inspection disclosures shall not create any warranties, expressed or implied, or affect warranty coverage provided for in the purchase contract.

(9) FACILITIES AND RECORDS. (a) *Business facilities*. Manufactured home dealers shall provide and maintain business facilities that comply with all of the following:

1. A main business office that maintains books, records and files necessary to conduct business. The required business office may be established within a residence if the office is accessible to an outside entrance and is used primarily for conducting the manufactured home business.

2. A display lot within the same block or directly across the street from the main business office, if a display lot is provided.

3. A repair shop, or a service agreement with a nearby repair shop, where there are repair tools, repair equipment and personnel to perform the services provided for in a warranty applicable to a manufactured home sold by the manufactured home dealer. Any service agreement shall be on form SBD−10685.

(b) *Relocation*. A main business office may not be relocated without notice to the department.

(c) *Sign*. Manufactured home dealers who carry and display inventory shall provide an exterior business sign in compliance with s. 100.18 (5), Stats.

(d) *Temporary sales locations*. 1. Manufactured home dealers shall be permitted to display and sell manufactured homes at a temporary site other than the licensed place of business.

2. A temporary sales location may not be used for longer than 30 days.

3. A consigned, listed or model manufactured home shall not be considered a temporary sales location.

Note: There may be zoning, building code and permit requirements relating to business locations that are enforced by local municipalities.

(e) *Records kept*. The books, records and files required to be kept and maintained at the main business office by a manufactured home dealer shall include all of the following:

1. A written verification that the manufactured home dealer has in place a dealership arrangement or an established relationship with a manufacturer to sell and advertise the manufacturer's new manufactured homes.

2. The title or other evidence of ownership for each used manufactured home owned and offered for sale and the manufacturer's statement of origin information for each new manufactured home owned and offered for sale. The manufactured home dealer shall also have a factory invoice, a completed manufactured home dealer reassignment form or a purchase contract evidencing trade−in or purchase when a manufacturer or lending institution is holding the title or manufacturer's statement of origin of the manufactured home.

3. A written selling agreement between the owner and the manufactured home dealer for each manufactured home owned by an individual and offered for sale or listed by the manufactured home dealer.

4. The original or a copy of all manufactured home purchase contracts, purchase orders and invoices. The records shall also include a copy of form SBD−10687 as additional evidence of the sale as well as information regarding collection of sales tax and Wisconsin title and registration fees, if applicable.

5. A record of every manufactured home bought, sold, exchanged, consigned, or listed that includes the following information: date acquired, acquired from name and address, new or used, year, model and identification number, date sold or disposed of, disposed of or sold to name and address.

(f) *Maintenance of records.* The records under par. (e) shall be maintained for 5 years. The records shall be open to inspection and copying by the department during reasonable business hours.

(10) RENEWAL. (a) 1. A person may renew his or her manufactured home dealer license.

2. A manufactured home dealer license shall be renewed in accordance with s. SPS 305.07.

(b) The renewal of a license as a manufactured home dealer shall be contingent upon the applicant providing the information required under sub. (2) (d).

History: CR 04−134: cr. Register June 2005 No. 594, eff. 7−1−05; CR 06−031: am. (1) Register October 2006 No. 610, eff. 11−1−06; CR 06−071: r. and recr. (6) (f), am. (6) (h) Register November 2006 No. 611, eff. 12−1−06; CR 11−020: am. (6) (e) (intro.), (i) (intro.), (7) (b), renum. (6) (e) 4., (f) to (g) to be (6) (f), (g) to (k), Register December 2011 No. 672, eff. 1−1−12; correction in (2) (a), (b), (c), (3) (a), (10) (a) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.325 Manufactured home salesperson. **(1)** GENERAL. Under s. 101.952 (1), Stats., no person may engage in the business of selling manufactured homes to a consumer or to the retail market unless the person holds a license issued by the department as a licensed manufactured home salesperson. A manufactured home dealer who acts as a manufactured home salesperson shall secure a manufactured home salesperson license in addition to the manufactured home dealer license.

(2) APPLICATION FOR LICENSE. A person applying for a manufactured home salesperson license shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a license fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR LICENSE. A person applying for a manufactured home salesperson license shall hold a manufactured home dealer license issued by the department or shall be employed by a person who holds a manufactured home dealer license issued by the department.

(4) RESPONSIBILITIES. (a) A person who holds a manufactured home salesperson license shall comply with the responsibilities under ss. 101.952 (3), and 101.953, Stats.

Note: Section 101.952 (3), Stats., indicates that every licensee shall carry his or her license when engaged in his or her business and display the same upon request. The license shall name his or her employer, and, in case of a change of employer, the manufactured home salesperson shall immediately mail his or her license to the department, which shall endorse that change on the license without charge.

Note: See appendix for a reprint of section 101.953, Stats.

(b) A person who holds a manufactured home salesperson license shall comply with the provisions under s. SPS 305.323 that apply to a licensee.

(5) INVALID LICENSE. A manufactured home salesperson license shall remain valid until one of the following conditions occur:

(a) The manufactured home salesperson is not employed by a person who holds a manufactured home dealer license issued by the department.

(b) The department suspends or revokes the manufactured home salesperson's license.

(6) RENEWAL. (a) A person may renew his or her manufactured home salesperson license.

(b) A manufactured home salesperson license shall be renewed in accordance with s. SPS 305.07.

History: CR 04−134: cr. Register June 2005 No. 594, eff. 7−1−05; CR 06−071: am. (4) (a) Register November 2006 No. 611, eff. 12−1−06; CR 11−020: renum. (1) (a)to be (1), renum. (5) (a) (intro.), 1., 4. to be (5) (intro.), (a), (b) and am., r. (1) (b), (5) (a) 2., 3., (b), Register December 2011 No. 672, eff. 1−1−12; correction in (2) (a), (b), (4) (b), (6) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.327 Manufactured home installer. (1) GENERAL. (a) Except as provided in par. (b), beginning on January 1, 2007, pursuant to s. 101.96, Stats., no person may install a manufactured home onto a foundation or other support system unless the person complies with one of the following conditions:

1. The person holds a license issued by the department as a licensed manufactured home installer.

2. The person is under the general supervision of another person who holds a license issued by the department as a licensed manufactured home installer.

(b) 1. The owner of a manufactured home who will reside in the home may install his or her own manufactured home without holding a license as a licensed manufactured home installer. This exemption does not apply to the owner who contracts for or otherwise arranges for the installation.

2. A person is not required to hold a license as a licensed manufactured home installer for electrical, plumbing or HVAC work associated with the installation of a manufactured home.

Note: There may be other state or local licensing requirements involved in the installation of manufactured homes.

(2) QUALIFICATIONS FOR LICENSE. A person applying for a manufactured home installer license shall comply with all of the following conditions:

(a) The person is at least 18 years old.

(b) The person has not been found responsible in any judicial or administrative forum for any violation of s. 101.96, Stats., during the 2 years before the date on which the person's license application is submitted.

Note: See appendix for a reprint of section 101.96, Stats.

(c) The person has not been found responsible in any judicial or administrative forum during the 2 years before the date on which the person's license application is submitted for any failure to perform an installation of a manufactured home as required under contract or for defrauding any person with regard to the provision of installation services.

(3) APPLICATION FOR LICENSE. A person may apply for a license as a licensed manufactured home installer by submitting an application, an application fee and the license fee in accordance with ss. SPS 305.01 and 305.02 and one of the following:

(a) Evidence that the person holds a manufactured home installer license issued by the federal department of housing and urban development.

(b) Evidence that the person holds a manufactured home installer license issued by a state administrative agency (SAA) that has an installer licensing program that is equivalent to the rules under this section.

(c) Evidence that the person has completed at least 12 hours in an approved course or courses in the installation of manufactured homes within one year prior to the date of application. The course or courses shall include instruction in at least the following subject matter and one or more tests on the subject matter:

1. Soil mechanics.
2. Site preparation.
3. Structural support, stabilization and anchorage.
4. Setting.
5. Ventilation of crawl spaces.
6. Connections, plumbing, electrical, HVAC.
7. Joining of home sections.

(4) RESPONSIBILITIES. (a) A person who installs or supervises the installation of manufactured homes as a licensed manufactured home installer shall be responsible for compliance with the installation requirements in ch. SPS 321.

(b) A licensed manufactured home installer may not contract with another person or entity to engage in construction business activities unless the person or entity holds a credential under s. SPS 305.30 (1) (a) or (b).

(5) RENEWAL. (a) 1. A person may renew his or her license as a manufactured home installer.

2. A manufactured home installer license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a manufactured home installer shall be contingent upon the manufactured home installer obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a manufactured home installer may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

(c) The renewal of a license as a manufactured home installer shall be contingent upon all of the following conditions:

1. The person has not been found responsible in any judicial or administrative forum for any violation of s. 101.96, Stats., during the previous 2 years.

2. The person has not been found responsible in any judicial or administrative forum during the previous 2 years for any failure to perform an installation of a manufactured home as required under contract or for defrauding any person with regard to the provision of installation services.

History: CR 06−071: cr. Register November 2006 No. 611, eff. 12−1−06; correction in (4) made under s. 13.93 (2m) (b) 7., Stats., Register July 2007 No. 619; CR 08−110: r. (3) (b), renum. (3) (a) and (4) to be (3) and (4) (a), cr. (4) (b) Register September 2009 No. 645, eff. 10−1−09; correction to renumber of (3) made under s. 13.92 (4) (b) 1., Stats., Register September 2009 No. 645; correction in (3) (intro.), (4) (a), (b), (5) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.33 Soil testers. (1) GENERAL. Pursuant to s. 145.045, Stats., no person may conduct soil evaluations relative to the discharge or disposal of liquid domestic wastes into the soil unless the person holds a certification issued by the department as a certified soil tester.

(2) APPLICATION FOR EXAMINATION. A person applying to take a soil tester certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee specified in s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying to take a soil tester certification examination shall be at least 18 years old.

(4) EXAMINATION. A person seeking to obtain a soil tester certification shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR CERTIFICATION. Upon notification of the successful passage of the examination for soil tester certification, a person may obtain the certification by submitting an application and a certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(6) RESPONSIBILITIES. A certified soil tester who, as an employee of a local governmental unit is responsible for administering regulations governing private onsite wastewater treatment systems may not provide soil evaluations relative to the design, installation or maintenance of private onsite wastewater treatment systems within the boundaries of the local governmental unit and adjacent local governmental units.

(7) RENEWAL. (a) 1. A person may renew his or her certification as a soil tester.

2. A soil tester certification shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a certification as a certified soil tester shall be contingent upon the soil tester obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as a certified soil tester may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1), (5) and (7) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: r. and recr. (7) (b) 1. Register June 2004 No. 582, eff. 8−1−04; CR 08−110: r. and recr. (7) (b) 1. Register September 2009 No. 645, eff. 10−1−09; CR 09−021: am. (6) Register November 2009 No. 647, eff. 12−1−09; correction in (2) (a), (b), (4), (5), (7) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.34 Welders. (1) GENERAL. No person may perform structural steel welding under chs. SPS 334 and 361 to 366 unless the person holds a registration issued by the department as a registered welder.

(2) APPLICATION FOR REGISTRATION. A person applying for a welder registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR REGISTRATION. (a) The person applying for a welder registration shall have taken and passed, not more than one year before the date the application is received by the department, one or more welding tests in accordance with the following standards:

1. American Welding Society D 1.1, section 4, part C.
2. American Welding Society D1.2, section 3, part D.
3. American Welding Society D 1.3, section 4, part C.
4. American Welding Society D1.6, section 4, part B.

(b) The test under par. (a) shall have been conducted by a person who is a certified weld test conductor in accordance with s. SPS 305.35 or is under the general supervision of a certified weld test conductor.

(4) RESPONSIBILITIES. A person who does structural steel welding as a registered welder shall do all of the following:

(a) Perform only those structural welding procedures for which the person has qualified by test within the last 4 years.

(b) Carry proof as to which welding procedures the person has qualified by test.

(c) Present upon request to the department or its representative proof of the qualified welding procedures.

(d) Identify the welding on each structurally significant member with a distinguishing mark stamped on the member by the person doing the welding.

(5) RENEWAL. (a) A person may renew his or her registration as a welder.

(b) A welder registration shall be renewed in accordance with s. SPS 305.07.

(c) The renewal of a welder registration shall be contingent upon the welder having taken and passed not more than one year before the date of the renewal application a welding test in accordance with sub. (3).

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (3) (a) (intro.), (b), (5) (c), Register, March, 1998, No. 507, eff. 4−1−98; am. (1), (2) (b) and (3) (a) (intro.), Register, April, 2000, No. 532, eff. 5−1−00; CR 01−139: am. (1) and (3) (a) (intro.) Register June 2002 No. 558, eff. 7−1−02; CR 03−075: am. (3) (a) Register June 2004 No. 582, eff. 8−1−04; CR 05−011: am. (4) (intro.), (a) and (b), cr. (4) (d) Register July 2005 No. 595, eff. 8−1−05; CR 06−120: am. (1), Register February 2008 No. 626, eff. 3−1−08; CR 07−089: am. (1) and (4) (intro.) Register June 2008 No. 630, eff. 7−1−08; CR 08−110: r. (5) (d) Register September 2009 No. 645, eff. 10−1−09; CR 11−020: am. (2) (b), renum. (3) (a) 2. to be (3) (a) 3., cr. (3) (a) 2., 4., Register December 2011 No. 672, eff. 1−1−12; correction in (1), (2) (a), (b), (3) (b), (5) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.35 Weld test conductors. (1) GENERAL. No person may conduct welding tests for the purpose of qualifying structural steel welders under s. SPS 305.34 unless the person holds a certification issued by the department as a certified weld test conductor.

(2) APPLICATION FOR EXAMINATION. A person applying to take a weld test conductor certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) EXAMINATION. The person seeking to obtain a weld test conductor certification shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATION. Upon notification of the successful passage of the examination for weld test conductor certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(5) RESPONSIBILITIES. A person who conducts welding tests for qualifying structural steel welders under s. SPS 305.34 as a certified weld test conductor shall do all of the following:

(a) Ensure that the welding tests, the testing facilities and testing equipment conform with the following appropriate standard or standards:

1. American Welding Society D 1.1, section 4, part C.
2. American Welding Society D 1.2, section 3, part D.
3. American Welding Society D 1.3, section 4, part C.
4. American Welding Society D 1.6, section 4, part C.

(b) Provide to each individual who passes a qualifying welding test, documentation in a format specified by the department, indicating the welding procedures for which the individual qualified.

(c) 1. Maintain a record of those individuals who passed a structural welding qualifying test, including the procedures for which the individuals qualified, for at least 5 years after the date of the test.

2. Present upon request to the department or its representative the records under subd. 1.

(6) RENEWAL. (a) A person may renew his or her certification as a weld test conductor.

(b) A weld test conductor certification shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1), (4) and (5) (a) (intro.), Register, April, 2000, No. 532, eff. 5−1−00; CR 01−139: am. (5) (a) (intro.) Register June 2002 No. 558, eff. 7−1−02; CR 03−075: am. (5) (a) Register June 2004 No. 582, eff. 8−1−04; CR 05−011: am. (5) (intro.), (b) and (c) 1., Register July 2005 No. 595, eff. 8−1−05; CR 07−089: am. (1) and (5) (intro.) Register June 2008 No. 630, eff. 7−1−08; CR 08−110: r. (6) (c) Register September 2009 No. 645, eff. 10−1−09; CR 10−039: am. (1), (2) (intro.), (3) (a), (5) (intro.) and (6) Register November 2010 No. 659, eff. 12−1−10; CR 11−020: am. (2) (b), renum. (5) (a) 2. to be (5) (a) 3., cr. (5) (a) 2., 4., Register December 2011 No. 672, eff. 1−1−12; (3) (a) renumbered to be (3) under s. 13.92 (4) (b) 1., Stats., correction in (1), (2) (a), (b), (3), (4), (5) (intro.), (6) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.36 POWTS maintainers. (1) GENERAL. Pursuant to s. SPS 383.52 (3), a person who holds a registration issued by the department as a registered POWTS maintainer may evaluate, monitor and maintain POWTS components for the purpose of providing the management of a POWTS under subch. V of Ch. SPS 383.

(2) APPLICATION FOR REGISTRATION. A person applying for a POWTS maintainer registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application and registration fee in accordance with s. SPS 305.02, Table 305.02.

(c) Information or documentation relating to the qualifications under sub. (3).

(3) QUALIFICATIONS FOR REGISTRATION. A person applying for a POWTS maintainer registration shall have completed or obtained at least one of the following:

(a) At least 6 hours in a course or courses approved under s. SPS 305.08 that relate to the theory, operation, maintenance and inspection of POWTS treatment and dispersal components, including instruction in at least all of the following:

1. Sand filters.
2. Effluent pumps and switches.
3. Alarms and floats.
4. Active filtration devices.
5. Valves and solenoids for distributing effluent.
6. Aerobic treatment units.

(b) At least 60 hours of experience as a licensed master plumber, master plumber−restricted service, journeyman plumber or journeyman plumber−restricted service installing POWTS treatment and dispersal components that involve installation of at least all of the devices delineated under par. (a) 1. to 6.

(4) RENEWAL. (a) 1. A person may renew his or her registration as a POWTS maintainer.

2. A POWTS maintainer registration shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a registration as a registered POWTS maintainer shall be contingent upon the POWTS maintainer obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a registration as a POWTS maintainer may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, April, 2000, No. 532, eff. 7−1−00; CR 03−075: r. and recr. (4) (b) 1. Register June 2004 No. 582, eff. 8−1−04; CR 07−100: am. (1) Register September 2008 No. 633, eff. 10−1−08; CR 08−110: r. and recr. (4) (b) 1. Register September 2009 No. 645, eff. 10−1−09; correction in (1), (2) (a), (b), (3) (a) (intro.), (4) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

Subchapter IV — Electrical

SPS 305.40 Electricians. (1) A person who holds a certification issued by the department as a certified electrical contractor, certified electrical contractor−restricted, certified master electrician, certified journeyman electrician or certified beginning electrician may perform electrical construction work in a municipality which requires licensure to perform electrical work pursuant to s. 101.87 (2) to (4), Stats., and in accordance with local ordinances.

Note: Section 101.87 (2) to (4), Stats., was repealed by 2007 Wis. Act 63.

Note: See the appendix for a reprint of the repealed s. 101.87 (2) and (4), 2007 Stats., relating to municipal requirements for electrical contractors.

Note: This subchapter establishes a statewide certification of electricians in various classes, master, journeyman and beginning, recognizing their knowledge and abilities. When an electrician certification is required and what category of certification is needed are determined by individual municipalities.

Note: This section is repealed and recreated effective 4−1−13 by CR 09−028 to read:

SPS 305.40 Electricians. (1) Except as provided under s. 101.862 (4), Stats., no person as of April 1, 2013 may install, repair or maintain electrical wiring unless the person holds a license or registration issued by the department as one of the following:

(a) A licensed master electrician.
(b) A licensed residential master electrician.
(c) A licensed journeyman electrician.
(d) A licensed industrial journeyman electrician.
(e) A licensed residential journeyman electrician.
(f) A registered beginning electrician.
(g) A registered electrical apprentice.
(h) A registered industrial electrical apprentice.
(i) A registered residential electrical apprentice.

(2) (a) Except as provided in par. (b), the electrical wiring activities that may be undertaken by a person who holds a license or registration as a licensed residential master electrician, a licensed residential journeyman electrician or a registered residential electrical apprentice shall be limited to wiring associated with dwellings, dwelling units and detached accessory buildings and structures serving the dwellings or the dwelling units, such as garages, carports, gazebos and swimming pools.

(b) A person who holds a license or registration as a licensed residential master electrician, a licensed residential journeyman electrician or a registered residential electrical apprentice may perform electrical wiring not associated with dwellings and dwelling units, provided the person is under the direct supervision of a licensed master electrician or a licensed journeyman electrician.

(3) (a) The electrical wiring activities that may be undertaken by a person who holds a license or registration as a licensed industrial journeyman electrician or a registered industrial electrical apprentice shall be limited to wiring within the facilities or properties of the business establishment where the person is employed.

(b) A person who holds a license or registration as a licensed industrial journeyman electrician or a registered industrial electrical apprentice may perform electrical wiring not associated with the facilities or properties of the business establishment where the person is employed, provided the person is under the direct supervision of a licensed master electrician or a licensed journeyman electrician.

(4) (a) 1. A person who holds a license as a licensed journeyman electrician or a registration as a registered electrical apprentice shall perform electrical wiring activities under the general supervision of a person who holds a license as a licensed master electrician, except as provided in subd. 2.

2. A person who holds a license as a licensed journeyman electrician or a registration as a registered electrical apprentice may perform electrical wiring activities under the general supervision of a person who holds a license as a licensed residential master electrician provided the wiring is associated with dwellings, dwelling units and detached accessory buildings and structures serving the dwellings or the dwelling units, such as garages, carports, gazebos and swimming pools.

(b) A person who holds a license as a licensed industrial journeyman electrician or a registration as a registered industrial electrical apprentice shall perform electrical wiring within the facilities or properties of the business establishment where the person is employed under the general supervision of a person who holds a license as a licensed master electrician.

(c) A person who holds a license as a licensed residential journeyman electrician or a registration as a registered residential electrical apprentice shall perform electrical wiring activities associated with dwellings and dwelling units under the general supervision of a person who holds a license either as a licensed master electrician or a licensed residential master electrician.

(d) 1. Except as provided in subd. 2., a person who holds a registration as a registered beginning electrician shall perform electrical wiring activities under the direct supervision of a person who holds a license either as a licensed master electrician or a licensed journeyman electrician.

2. A person who holds a registration as a registered beginning electrician may perform electrical wiring activities under the direct supervision of a person who holds a license as a licensed residential master electrician or licensed residential journeyman electrician provided the wiring is associated with dwellings, dwelling units and detached accessory buildings and structures serving the dwellings or the dwelling units, such as garages, carports, gazebos and swimming pools.

3. A person who holds a registration as a registered beginning electrician may perform electrical wiring activities under the direct supervision of a person who holds a license as a licensed industrial journeyman electrician provided the wiring is within the facilities or properties of the business establishment where the industrial journeyman electrician is employed.

(5) At any time, for any electrical wiring project the total number of registered beginning electricians at an installation site may not exceed twice the total number of licensed master electricians and journeyman electricians at the installation site plus two.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. Register, April, 2000, No. 532, eff. 5−1−00; CR 05−011: r. (2) Register July 2005 No. 595, eff. 8−1−05; CR 09−028: r. and recr. Register August 2010 No. 656, eff. 4−1−13.

SPS 305.405 Terminology. For the purposes of this subchapter, electrical contractor certifications and master and jour-

neyman electrician certifications issued prior to April 1, 2013 shall be considered to be licenses.

Note: 2007 Wisconsin Act 63 changed the nomenclature from electrical certifications to electrical licenses.

History: CR 09−028: cr. Register August 2010 No. 656, eff. 9−1−10.

SPS 305.41 Electrical contractors. (1) GENERAL. (a) Pursuant to s. 101.862, Stats., no person or entity, as of April 1, 2013, may engage in the business or offer to engage in the business of installing, repairing, or maintaining electrical wiring unless the person or entity holds a license or certification issued by the department as a licensed electrical contractor, except as provided under s. 101.862 (4), Stats.

(b) For the purposes of section unexpired electrical contractor certifications issued prior to April 1, 2013 shall be considered licenses.

Note: 2007 Wisconsin Act 63 changed the nomenclature from electrical certifications to electrical licenses.

Note: Section 101.862 (4), Stats., exempts the following:

(a) A residential property owner who installs, repairs, or maintains electrical wiring on premises that the property owner owns and occupies as a residence, unless a license or registration issued by the department is required by local ordinance.

(b) A person engaged in maintaining or repairing electrical wiring within a facility or on premises owned or leased by the person or by an entity for which the person is an agent.

(c) A person engaged in installing, repairing, or maintaining electrical wiring, apparatus, or equipment for elevators and escalators.

(d) A person engaged in installing, repairing, or maintaining equipment or systems that operate at 100 volts or less.

(e) A person engaged in installing, repairing, or maintaining an electronic system designed to monitor a premises for the presence of an emergency, to issue an alarm for an emergency, or to detect and summon aid for an emergency.

(f) A person engaged in installing, repairing, or maintaining electrical wiring of transmission facilities, as defined in s. 196.01 (12).

(g) A person engaged in installing, repairing, or maintaining manufactured equipment or a manufactured system that is designed to provide a function that is not primarily electrical in nature if the installation, repair, or maintenance does not involve the modification or installation of conductors beyond the disconnecting point or beyond the last junction, pull, or device box, whichever is nearer to the point where the person is performing the installation, repair, or maintenance.

(h) A person engaged in installing electrical wiring for components of a manufactured home, as defined in s. 101.91 (2), or a manufactured building, as defined in s. 101.71 (6), while the manufactured home or the manufactured building is at or in the facility at which it is being manufactured.

(i) A person employed by an electricity provider, or a subcontractor of an electricity provider, who installs, repairs, or maintains electrical wiring for equipment that is installed in the normal course of providing utility services by the electricity provider.

(j) A person engaged in installing, repairing, or maintaining electrical wiring that provides lighting or signals for public thoroughfares and for public airports.

(k) A person engaged in installing, repairing, or maintaining electric lines on the utility side of substations and other distribution facilities owned or operated by customers or members of electricity providers.

(L) A person employed by an electricity provider, or a subcontractor of an electricity provider, who installs, repairs, or maintains primary voltage electric facilities that are owned by the electricity provider's customers or members and that operate at greater than 600 volts.

(m) A person employed by an electricity provider, or a subcontractor of an electricity provider, who restores service during an emergency.

Note: As of April 1, 2013 the department will no longer issue or renew a certification for electrical contractor−restricted. The department will issue an electrical contractor license to those individuals who hold an electrical contractor−restricted certification prior to April 1, 2013. The issuance of the license will indicate the same expiration date as the current restricted−certification.

(2) APPLICATION FOR LICENSURE. A person applying for an electrical contractor license shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a license fee in accordance with s. SPS 305.02, Table 305.02.

(c) A statement certifying compliance with worker's compensation requirements under ch. 102, Stats., and unemployment compensation requirements under ch. 108, Stats.

(3) QUALIFICATIONS FOR LICENSURE. The person applying for an electrical contractor license shall be the owner of the contracting business, a partner in the contracting business applying on behalf of the partnership, or the chairman of the board or chief executive officer applying on behalf of the contracting corporation.

(4) RESPONSIBILITIES. (a) A licensed electrical contractor shall utilize the appropriately licensed or registered individuals to construct, install, repair or maintain electrical wiring.

(b) For any electrical installation that requires a uniform building permit under s. SPS 320.08, a person who holds an electrical contractor license may not commence installation of electrical wiring until a permit is issued for the installation.

Note: Chapters SPS 320 to 325 apply to one− and 2−family dwellings and manufactured dwellings. The department's uniform building permit is issued either by the municipality in which the dwelling is located or by a UDC inspection agency where the municipality does not administer the Uniform Dwelling Code.

(c) A licensed electrical contractor may not contract with another person or entity to engage in construction business activities unless the person or entity holds a credential under s. SPS 305.30 (1) (a) or (b).

(d) A person or entity that holds a electrical contractor license shall include his or her license number on all construction bids and contracts.

(5) RENEWAL. (a) A person may renew his or her license as an electrical contractor.

(b) An electrical contractor license shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (3), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (a) 2., Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: renum. (3) to be (3) (a), cr. (3) (b) Register June 2004 No, 582, eff. 8−1−04; CR 08−110: cr. (3) (c) Register September 2009 No. 645, eff. 10−1−09; CR 09−028: r. and recr. Register August 2010 No. 656, eff. 9−1−10; correction in (2) (a), (b), (4) (b), (c), (5) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.42 Electrical contractors−restricted. (1) GENERAL. Pursuant to s. 101.87 (3), Stats., a person who holds a certification as an electrical contractor−restricted may continue to perform electrical construction work in one or more municipalities where the person held municipal electrical licenses or certifications.

Note: Section 101.87 (3), Stats., was repealed by 2007 Wis. Act 63.

Note: See the appendix for a reprint of s. 101.87 (3), Stats.

(2) APPLICATION FOR CERTIFICATION. A person applying for an electrical contractor−restricted certification shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a certification fee in accordance with s. SPS 305.02, Table 305.02.

(c) Proof of municipal licensure and the date the municipal ordinance changed to require certification under s. SPS 305.41.

(3) QUALIFICATIONS FOR CERTIFICATION. Pursuant to s. 101.87 (3), Stats., a person applying for an electrical contractor−restricted certification shall hold or have held a license or certification to do electrical construction work issued by one or more municipalities as of the date the municipalities required state certification under s. 101.87 (3), Stats.

Note: Section 101.87 (3), Stats., was repealed by 2007 Wis. Act 63.

(4) RESPONSIBILITIES. (a) For any electrical installation that requires a uniform building permit under s. SPS 320.08, a person who holds an electrical contractor−restricted certification may not commence installation of electrical wiring until a permit is issued for the installation.

(b) A certified electrical contractor−restricted may not contract with another person or entity to engage in construction business activities unless the person or entity holds a credential under s. SPS 305.30 (1) (a) or (b).

Note: Chs. SPS 320 to 325 apply to one− and 2−family dwellings and manufactured dwellings. The department's uniform building permit is issued either by the municipality in which the dwelling is located or by a UDC inspection agency where the municipality does not administer the Uniform Dwelling Code.

(5) RENEWAL. (a) A person may renew his or her certification as an electrical contractor−restricted.

(b) An electrical contractor−restricted certification shall be renewed in accordance with s. SPS 305.07.

Note: This section is repealed effective 4−1−13.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; cr. (2) (c), Register, March, 1998, No. 507, eff. 4−1−98; am. (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: renum. (4) to be (5), cr. (4) Register June 2004 No. 582, eff. 8−1−04; CR 08−110: renum. (4) to be (4) (a), cr. (4) (b) Register September 2009 No. 645, eff. 10−1−09; CR 11−020: r., Register December 2011 No. 672, eff. 4−1−13; correction in (2) (a), (b), (c), (4) (a), (b), (5) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.43 Master electricians. (1) APPLICATION FOR EXAMINATION. A person applying to take a master electrician license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(2) QUALIFICATIONS FOR EXAMINATION. (a) Except as provided in par. (b), a person applying for a master electrician license examination shall have at least 1,000 hours per year of experience for at least 7 years in electrical construction work.

(b) Relative to the experience required under par. (a), each semester spent full−time in a school of electrical engineering or other accredited college, university, technical or vocational school in an electrical−related program shall be considered equivalent to 500 hours of experience, with no more than 3,000 hours and 3 years of experience through education being credited toward the required experience.

(3) EXAMINATION. A person seeking to obtain a master electrician license shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATION. Upon notification of the successful passage of the examination for a master electrician license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(5) RESPONSIBILITIES. (a) For any electrical installation that requires a uniform building permit under s. SPS 320.08, a person who holds a master electrician license may not commence installation of electrical wiring until a permit is issued for the installation.

Note: Chs. SPS 320 to 325 apply to one− and 2−family dwellings and manufactured dwellings. The department's uniform building permit is issued either by the municipality in which the dwelling is located or by a UDC inspection agency where the municipality does not administer the Uniform Dwelling Code.

(b) A person who as a licensed master electrician is responsible for the installation, repair or maintenance of electrical wiring shall utilize the appropriately licensed or registered individuals to construct, install, repair or maintain electrical wiring.

Note: Par. (b) is created effective 4−1−13 by CR 09−028.

(6) EXCHANGES. (a) A person who holds a master electrician license may, upon application to the department, exchange his or her master electrician license for a journeyman electrician license.

(b) A person who has exchanged his or her master electrician license for a journeyman electrician license may, upon application to the department, exchange his or her journeyman electrician license for a master electrician license in accordance with the following provisions:

1. The person holds a valid journeyman electrician license.

2. The person submits with the application a copy of his or her former master electrician license.

3. The license fee for a master electrician specified in s. SPS 305.02, Table 305.02 is submitted.

(7) RENEWAL. (a) 1. A person may renew his or her license as a master electrician.

2. A master electrician license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a licensed master electrician shall be contingent upon the master electrician obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a licensed master electrician may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (2) (b), (5) (b) 1., Register, March, 1998, No. 507, eff. 4−1−98; am. (4) and (5) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: renum. (5) to be (6) and r. and recr. (6) (b) 1., cr. (5) Register June 2004 No. 582, eff. 8−1−04; CR 09−028: am. (1) (intro.), (2) (a), (3) and (4), renum. (5) and (6) to be (5) (a) and (7) and am., cr. (5) (b) and (6) Register August 2010 No. 656, eff. 9−1−10, except (5) (b), eff. 4−1−13; correction in (1) (a), (b), (3), (4), (5) (a), (6) (b) 3., (7) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.435 Residential master electricians. (1) APPLICATION FOR EXAMINATION. A person applying to take a residential master electrician licensure examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(2) QUALIFICATIONS FOR EXAMINATION. (a) Except as provided in par. (b), a person applying for a residential master electrician licensure examination shall have at least 1,000 hours per year of experience for at least 5 years in electrical wiring work.

(b) Relative to the experience required under par. (a), each semester spent full−time in a school of electrical engineering or other accredited college, university, technical or vocational school in an electrical−related program shall be considered equivalent to 500 hours of experience, with no more than 3,000 hours and 3 years of experience through education being credited toward the required experience.

(3) EXAMINATION. A person seeking to obtain a residential master electrician license shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR LICENSURE. Upon notification of the successful passage of the examination for a residential master electrician license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(5) RESPONSIBILITIES. (a) For any electrical installation that requires a uniform building permit under s. SPS 320.08, a person who holds a residential master electrician license may not commence installation of electrical wiring until a permit is issued for the installation.

Note: Chs. SPS 320 to 325 apply to one− and 2−family dwellings and manufactured dwellings. The department's uniform building permit is issued either by the municipality in which the dwelling is located or by a UDC inspection agency where the municipality does not administer the Uniform Dwelling Code.

(b) A person who as a licensed residential master electrician is responsible for the installation, repair or maintenance of electrical wiring shall utilize the appropriately licensed or registered individuals to construct, install, repair or maintain electrical wiring.

(6) EXCHANGES. (a) A person who holds a residential master electrician license may, upon application to the department, exchange his or her residential master electrician license for a residential journeyman electrician license.

(b) A person who has exchanged his or her residential master electrician license for a residential journeyman electrician license may, upon application to the department, exchange his or her residential journeyman electrician license for a residential master electrician license in accordance with the following provisions:

1. The person holds a valid residential journeyman electrician license.

2. The person submits with the application a copy of his or her former residential master electrician license.

3. The license fee for a residential master electrician specified in s. SPS 305.02, Table 305.02 is submitted.

(7) RENEWAL. (a) 1. A person may renew his or her license as a residential master electrician.

2. A residential master electrician license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a licensed residential master electrician shall be contingent upon the residential master electrician obtaining at least 18 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a licensed residential master electrician may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: CR 09−028: cr. Register August 2010 No. 656, eff. 9−1−10; correction in (1) (a), (b), (3), (4), (5) (a), (6) (b) 3., (7) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.44 Journeyman electricians. (1) GENERAL. A person may obtain a license as a licensed journeyman electrician by either one of the following:

(a) Taking and passing the journeyman electrician certification examination.

(b) Completing an electrical construction apprenticeship.

(2) APPLICATION FOR EXAMINATION. A person applying to take a journeyman electrician license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. (a) Except as provided in par. (b), a person applying for a journeyman electrician license examination shall have at least 1,000 hours per year of experience for at least 5 years in electrical construction work.

(b) Relative to the experience required under par. (a), each semester spent full−time in a school of electrical engineering or other accredited college, university, technical or vocational school in an electrical−related program shall be considered equivalent to 500 hours of experience, with no more than 2,000 hours and 2 years of experience through education being credited toward the required experience.

(4) EXAMINATION. Except as provided in sub. (1) (b), a person seeking to obtain a journeyman electrician license shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR CERTIFICATION. (a) Upon notification of the successful passage of the examination for a journeyman electrician license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a license as a licensed journeyman electrician by submitting all of the following:

1. An application, application fee and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02.

2. Evidence of completing an electrical construction apprenticeship program and the program has been recognized by the department under ch. 106, Stats., and the federal department of labor.

(6) RENEWAL. (a) 1. A person may renew his or her license as a journeyman electrician.

2. A journeyman electrician license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a licensed journeyman electrician shall be contingent upon the journeyman electrician obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a licensed journeyman electrician may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

3. A person who initially obtained his or her journeyman electrician license by completing an electrical construction apprenticeship and whose request to renew his or her license is denied because of the failure to fulfill the continuing education requirements of subd. 1., shall be required to take and pass the journeyman electrician license examination in order to reacquire the journeyman electrician license.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (b), (3) (b), (5) (b) 2., (6) (b) 3., Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (intro.), (5) (a), (b) (intro.) and 1., (6) (b) 1. and 2., Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: r. and recr. (6) (b) 1., am. (6) (b) 3. Register June 2004 No. 582, eff. 8−1−04; CR 09−028: am. (1) (intro.), (2) (intro.), (3) (a), (4), (5) (a), (b) (intro.), 1., and (6) Register August 2010 No. 656, eff. 9−1−10; correction in (2) (a), (b), (4), (5) (a), (b) 1., (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.443 Industrial journeyman electricians. (1) GENERAL. A person may obtain a license as a licensed industrial journeyman electrician by either one of the following:

(a) Taking and passing the industrial journeyman electrician licensure examination.

(b) Completing an industrial electrical apprenticeship.

(2) APPLICATION FOR EXAMINATION. A person applying to take an industrial journeyman electrician licensure examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. (a) Except as provided in par. (b), a person applying for a industrial journeyman electrician licensure examination shall have at least 1,000 hours per year of experience for at least 5 years in industrial electrical wiring work.

(b) Relative to the experience required under par. (a), each semester spent full−time in a school of electrical engineering or other accredited college, university, technical or vocational school in an electrical−related program shall be considered equivalent to 500 hours of experience, with no more than 2,000 hours and 2 years of experience through education being credited toward the required experience.

(4) EXAMINATION. Except as provided in sub. (1) (b), a person seeking to obtain an industrial journeyman electrician license shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR LICENSURE. (a) Upon notification of the successful passage of the examination for an industrial journeyman electrician license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a license as a licensed industrial journeyman electrician by submitting all of the following:

1. An application, application fee and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02.

2. Evidence of completing an industrial electrical apprenticeship program and the program has been recognized by the department of workforce development and the federal department of labor.

(6) RENEWAL. (a) 1. A person may renew his or her license as an industrial journeyman electrician.

2. An industrial journeyman electrician license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a licensed industrial journeyman electrician shall be contingent upon the industrial journey-

man electrician obtaining at least 18 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a licensed industrial journeyman electrician may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

3. A person who initially obtained his or her industrial journeyman electrician license by completing an industrial electrical apprenticeship and whose request to renew his or her license is denied because of the failure to fulfill the continuing education requirements of subd. 1., shall be required to take and pass the industrial journeyman electrician licensure examination in order to reacquire the industrial journeyman electrician license.

History: CR 09−028: cr. Register August 2010 No. 656, eff. 9−1−10; correction in (2) (a), (b), (4), (5) (a), (b) 1., (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.447 Residential journeyman electricians. (1) GENERAL. A person may obtain a license as a licensed residential journeyman electrician by either one of the following:

(a) Taking and passing the residential journeyman electrician licensure examination.

(b) Completing a residential electrical wiring apprenticeship.

(2) APPLICATION FOR EXAMINATION. A person applying to take a residential journeyman electrician licensure examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. (a) Except as provided in par. (b), a person applying for a residential journeyman electrician licensure examination shall have at least 1,000 hours per year of experience for at least 3 years in residential electrical wiring work.

(b) Relative to the experience required under par. (a), each semester spent full−time in a school of electrical engineering or other accredited college, university, technical or vocational school in an electrical−related program shall be considered equivalent to 500 hours of experience, with no more than 2,000 hours and 2 years of experience through education being credited toward the required experience.

(4) EXAMINATION. Except as provided in sub. (1) (b), a person seeking to obtain a residential journeyman electrician license shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR LICENSURE. (a) Upon notification of the successful passage of the examination for a residential journeyman electrician license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a license as a licensed residential journeyman electrician by submitting all of the following:

1. An application, application fee and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02.

2. Evidence of completing a residential electrical wiring apprenticeship program and the program has been recognized by the department of workforce development and the federal department of labor.

(6) RENEWAL. (a) 1. A person may renew his or her license as a residential journeyman electrician.

2. A residential journeyman electrician license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a licensed residential journeyman electrician shall be contingent upon the residential journeyman electrician obtaining at least 18 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a licensed residential journeyman electrician may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

3. A person who initially obtained his or her residential journeyman electrician license by completing a residential electrical wiring apprenticeship and whose request to renew his or her license is denied because of the failure to fulfill the continuing education requirements of subd. 1., shall be required to take and pass the residential journeyman electrician licensure examination in order to reacquire the residential journeyman electrician license.

History: CR 09−028: cr. Register August 2010 No. 656, eff. 9−1−10; correction in (2) (a), (b), (4), (5) (a), (b) 1., (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.45 Beginning electricians. (1) APPLICATION FOR REGISTRATION. A person applying for registration as a registered beginning electrician shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(2) RENEWAL. (a) A person may renew his or her registration as a beginning electrician.

(b) A beginning electrician registration shall be renewed in accordance with s. SPS 305.07.

(c) 1. The renewal of a beginning electrician registration with an expiration date after September 1, 2010 shall be for a term of one year.

2. The renewal of a registration as a beginning electrician which has an expiration date after June 30, 2013 shall be contingent upon the beginning electrician obtaining at least 24 hours of acceptable continuing education with the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 3.

3. A person who holds a registration as a registered beginning electrician may apply to the department for waiver of the continuing education requirements under subd. 2. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

4. A person who initially obtained a beginning electrician registration and fails to renew the registration shall be required to complete at least 24 hours of acceptable continuing education within one year prior to date of application to reacquire the beginning electrician registration.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 09−028: r. and recr. Register August 2010 No. 656, eff. 9−1−10; correction in (1) (a), (b), (2) (b), (c) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.46 Electrical apprentices. (1) APPLICATION FOR REGISTRATION. A person applying for registration as a registered electrical apprentice, a registered industrial electrical apprentice, or a registered residential electrical apprentice shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(2) QUALIFICATIONS. A person applying for an electrical apprentice, an industrial electrical apprentice, or a residential electrical apprentice registration shall be entered into an electrical apprentice contract recognized under ch. 106, Stats.

(3) RESPONSIBILITIES. A person who installs, repairs, or maintains electrical wiring as a registered electrical apprentice, regis-

tered industrial electrical apprentice, or registered residential electrical apprentice may do so as long as he or she is entered into an electrical apprentice contract recognized under ch. 106, Stats.

(4) RENEWAL. (a) A person may renew his or her registration as an electrical−apprentice, industrial electrical apprentice, or residential electrical apprentice.

(b) 1. An electrical−apprentice, industrial electrical apprentice, or residential electrical apprentice registration shall be renewed in accordance with s. SPS 305.07.

2. The renewal of registration as an electrical apprentice, industrial electrical apprentice, or residential electrical apprentice shall be contingent upon the person submitting evidence that the person is entered into an electrical apprentice contract recognized under ch. 106, Stats.

History: CR 09−028: cr. Register August 2010 No. 656, eff. 9−1−10; CR 11−020: am. (2), (3), (4) (b) 2., Register December 2011 No. 672, eff. 1−1−12; correction in (1) (a), (b), (4) (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

Subchapter V — Fire Sprinkler

SPS 305.50 Fire sprinkler installers. (1) (a) Except as provided in par. (b), pursuant to ss. 145.15 (4), 145.165 and 145.175, Stats., no person may install, maintain or repair automatic fire sprinkler systems unless the person holds a license or registration issued by the department as a licensed automatic fire sprinkler contractor, a licensed journeyman sprinkler fitter, a registered automatic fire sprinkler system apprentice, a registered automatic fire sprinkler contractor−maintenance, or a registered automatic fire sprinkler fitter−maintenance.

(b) Paragraph (a) does not apply to a person repairing, replacing or maintaining electrical supervisory devices for existing automatic fire sprinkler systems.

(2) No person may conduct the annual activities relative to inspection and testing of an existing automatic fire sprinkler system and components as required by ch. SPS 314 unless the person holds a license or registration issued by the department as a licensed automatic fire sprinkler contractor, a licensed journeyman sprinkler fitter, a registered automatic fire sprinkler system apprentice, a registered automatic fire sprinkler contractor−maintenance, a registered automatic fire sprinkler fitter−maintenance, a registered automatic fire sprinkler system tester or a registered sprinkler tester learner.

Note: The rules of this subchapter further restrict or limit the type of automatic fire sprinkler installations and activities that certain license or registration categories may perform or undertake.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (a), Register, March, 1998, No. 507, eff. 4−1−98; am. Register, April, 2000, No. 532, eff. 5−1−00; CR 01−139: am. (2) Register June 2002 No. 558, eff. 7−1−02; CR 11−020: am. (2), Register December 2011 No. 672, eff. 1−1−12; correction in (2) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.51 Sprinkler contractors. (1) GENERAL. Except as provided in s. SPS 305.54, a person licensed as an automatic fire sprinkler contractor shall be responsible for each installation of an automatic fire sprinkler system.

(2) APPLICATION FOR EXAMINATION. A person applying to take an automatic fire sprinkler contractor license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying for an automatic fire sprinkler contractor license examination shall have one of the following qualifications relating to the engineering principles and skills associated with the design, installation and maintenance of automatic fire sprinkler systems:

(a) At least 1000 hours of experience per year for at least 3 consecutive years as a licensed journeyman automatic fire sprinkler fitter.

(b) Graduated from an accredited 4−year university or college with a degree in civil engineering, mechanical engineering or other approved engineering curriculum related to automatic fire sprinklers.

(c) At least 1000 hours of experience per year for at least 7 years in automatic fire sprinkler design or installation. Each semester spent full−time in a school of civil or mechanical engineering or other accredited college, university, technical or vocational school in an automatic fire sprinkler−related program shall be considered equivalent to 500 hours of experience, with no more than 3,000 hours and 3 years of experience through education being credited toward the 7 years of experience.

(d) A level III certification in fire protection/automatic fire sprinkler system layout from the national institute for certification in engineering technologies.

(4) EXAMINATION. A person seeking to obtain an automatic fire sprinkler contractor license shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR LICENSE. Upon notification of the successful passage of the examination for an automatic fire sprinkler system contractor license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(6) RESPONSIBILITIES. (a) A person who installs, inspects, tests or maintains an automatic fire sprinkler system as a licensed automatic fire sprinkler contractor shall utilize the appropriately licensed or registered persons to install, inspect, test or maintain automatic fire sprinkler systems.

(b) For any construction project that requires a uniform building permit under s. SPS 320.08, a person who holds a sprinkler contractor certification may not commence installation of fire sprinklers until a general construction permit is issued for the installation.

Note: Chs. SPS 320 to 325 apply to one− and 2−family dwellings and manufactured dwellings. The department's uniform building permit is issued either by the municipality in which the dwelling is located or by a UDC inspection agency where the municipality does not administer the Uniform Dwelling Code.

(7) RENEWAL. (a) A person may renew his or her license as an automatic fire sprinkler contractor.

(b) An automatic fire sprinkler contractor license shall be renewed in accordance with s. SPS 305.07.

(c) 1. a. The renewal of a license as an automatic fire sprinkler contractor which has an expiration date on or before June 30, 2010 shall be contingent upon the automatic fire sprinkler contractor obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

b. The renewal of a license as an automatic fire sprinkler contractor which has an expiration date after June 30, 2010 shall be contingent upon the automatic fire sprinkler contractor obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as an automatic fire sprinkler contractor may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; cr. (2m) and (6) (c), am. (4) and (5), Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: renum. (5) to be (5) (a), cr. (5) (b) Register June 2004 No. 582, eff. 8−1−04; CR 06−031: renum. (6) (c) 1. to be 1. a. and am., cr. (6) (c) 1. b. Register October 2006 No. 610, eff. 11−1−06; CR 11−020: renum. (2m) to (6) to be (3) to (7), Register December 2011 No. 672, eff. 1−1−12; correction in (1), (2) (a), (b), and in (4), (5), (6) (b), (7) (b), (c) 1. a., b., as renumbered, made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.52 Journeyman sprinkler fitters. (1) GENERAL. The activities under s. SPS 305.50 that may be undertaken by a person who holds a license as a licensed journeyman auto-

matic fire sprinkler fitter shall be performed under the general supervision of a person who holds a license as a licensed automatic fire sprinkler contractor.

(2) APPLICATION FOR EXAMINATION. A person applying to take a journeyman automatic fire sprinkler fitter license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying for journeyman automatic fire sprinkler fitter license examination shall have completed an automatic fire sprinkler system apprenticeship recognized under ch. 106, Stats.

(4) EXAMINATION. A person seeking to obtain a journeyman automatic fire sprinkler fitter license shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR LICENSE. Upon notification of the successful passage of the examination for a journeyman automatic fire sprinkler system fitter license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(6) RENEWAL. (a) A person may renew his or her license as a journeyman automatic fire sprinkler fitter.

(b) A journeyman automatic fire sprinkler fitter license shall be renewed in accordance with s. SPS 305.07.

(c) 1. a. The renewal of a license as a journeyman automatic fire sprinkler fitter which has an expiration date on or before June 30, 2010 shall be contingent upon the journeyman automatic fire sprinkler fitter obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

b. The renewal of a license as a journeyman automatic fire sprinkler fitter which has an expiration date after June 30, 2010 shall be contingent upon the journeyman automatic fire sprinkler fitter obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a journeyman automatic fire sprinkler fitter may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) and (5), cr. (6) (c), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−031: renum. (6) (c) 1. to be 1. a. and am., cr. (6) (c) 1. b. Register October 2006 No. 610, eff. 11−1−06; correction in (1), (2) (a), (b), (4), (5), (6) (b), (c) 1. a., b. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.53 Sprinkler system apprentices. (1) GENERAL. The activities under s. SPS 305.50 that may be undertaken by a person who holds a registration as a registered automatic fire sprinkler system apprentice shall be performed under the general supervision of a person who is a licensed automatic fire sprinkler contractor.

Note: The Department of Workforce Development, Bureau of Apprenticeship Standards has additional supervision standards for apprentices for the purpose of training and education.

(2) APPLICATION FOR REGISTRATION. A person applying for an automatic fire sprinkler system apprentice registration to install, test or maintain automatic fire sprinkler systems shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR REGISTRATION. A person applying for automatic fire sprinkler apprentice registration to install, test or maintain automatic fire sprinkler systems shall be entered into a sprinkler fitter apprentice contract recognized under ch. 106, Stats.

(4) RENEWAL. (a) 1. A person may renew his or her registration as an automatic fire sprinkler system apprentice.

2. An automatic fire sprinkler system apprentice registration shall be renewed in accordance with s. SPS 305.07.

(b) The renewal of a registration as an automatic fire sprinkler apprentice is contingent upon the person submitting evidence that the person is entered into a sprinkler fitter apprentice contract recognized under ch. 106, Stats.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 11−020: am. (3), (4) (b), Register December 2011 No. 672, eff. 1−1−12; correction in (1), (2) (a), (b), (4) (a) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.54 Sprinkler maintenance contractors. (1) GENERAL. Pursuant to s. 145.175, Stats., the activities under s. SPS 305.50 that may be undertaken by a person who holds a registration as a registered automatic fire sprinkler contractor−maintenance shall be:

(a) Performed only within the facilities or properties of the business establishment where the person is employed; and

(b) Limited to modifying or extending an existing automatic fire sprinkler system by no more than 15 sprinklers per project.

(2) APPLICATION FOR EXAMINATION. A person applying to take an automatic fire sprinkler contractor−maintenance registration examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) EXAMINATION. A person seeking to obtain an automatic fire sprinkler contractor−maintenance registration shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR REGISTRATION. Upon notification of the successful passage of the examination for an automatic fire sprinkler contractor−maintenance registration, a person may obtain the registration by submitting an application and the registration fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(5) RENEWAL. (a) A person may renew his or her registration as an automatic fire sprinkler contractor−maintenance.

(b) An automatic fire sprinkler contractor−maintenance registration shall be renewed in accordance with s. SPS 305.07.

(c) 1. a. The renewal of a registration as an automatic fire sprinkler contractor−maintenance which has an expiration date on or before June 30, 2010 shall be contingent upon the automatic fire sprinkler contractor−maintenance obtaining at least 6 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

b. The renewal of a registration as an automatic fire sprinkler contractor−maintenance which has an expiration date after June 30, 2010 shall be contingent upon the automatic fire sprinkler contractor−maintenance obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a registration as an automatic fire sprinkler contractor−maintenance may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (intro.) and (4), cr. (5) (c), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−031: renum. (5) (c) 1. to be 1. a. and am., cr. (5) (c) 1. b. Register October 2006 No. 610, eff. 11−1−06; CR 06−119: am. (5) (c) 1. b. Register July 2007 No. 619, eff. 8−1−07; correction in (1), (2) (a), (b), (3), (4), (5) (b), (c) 1. a., b. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.55 Sprinkler maintenance fitters. (1) GENERAL. Pursuant to s. 145.165, Stats., the activities under s. SPS

305.50 that may be undertaken by a person registered as an automatic fire sprinkler fitter−maintenance shall be performed:

(a) Only within the facilities or properties of the business establishment where employed; and

(b) Under the general supervision of a person who holds a registration as a registered automatic fire sprinkler contractor−maintenance.

(2) APPLICATION FOR REGISTRATION. A person applying for an automatic fire sprinkler fitter−maintenance registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) RENEWAL. (a) A person may renew his or her registration as an automatic fire sprinkler fitter−maintenance.

(b) An automatic fire sprinkler fitter−maintenance registration shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (2) (b), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (b) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; correction in (1) (intro.), (2) (a), (b), (3) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.56 Sprinkler testers. (1) GENERAL. A person who holds a registration issued by the department as a registered automatic fire sprinkler system tester may conduct the annual activities relative to inspection and testing of an existing automatic fire sprinkler system and components as required by ch. SPS 314 and NFPA 25.

(2) QUALIFICATIONS FOR EXAMINATION. A person applying for an automatic fire sprinkler system tester shall have one of the following qualifications:

(a) A level II certification in the inspection and testing of water−based automatic fire sprinkler systems from the national institute for certification in engineering technologies.

(b) At least 1,500 hour of automatic fire sprinkler system testing as a registered automatic fire sprinkler system tester learner for at least 18 months.

Note: Sub. (2) is created effective 1−1−13.

(3) APPLICATION FOR EXAMINATION. A person applying to take an automatic fire sprinkler system tester registration examination shall submit all of the following:

Note: Sub. (3) is shown as renumbered from sub. (2) effective 1−1−13.

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(4) EXAMINATION. A person seeking to obtain an automatic fire sprinkler system tester registration shall take and pass an examination in accordance with s. SPS 305.09.

Note: Sub. (4) is shown as renumbered from sub. (3) effective 1−1−13.

(5) APPLICATION FOR REGISTRATION. Upon notification of the successful passage of the examination for an automatic fire sprinkler system tester registration, a person may obtain the registration by submitting an application and the registration fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

Note: Sub. (5) is shown as renumbered from sub. (4) effective 1−1−13.

(6) RENEWAL. (a) A person may renew his or her registration as an automatic fire sprinkler system tester.

(b) An automatic fire sprinkler system tester registration shall be renewed in accordance with s. SPS 305.07.

(c) 1. The renewal of a registration as an automatic fire sprinkler system tester which has an expiration date after December 31, 2013 shall be contingent upon the automatic fire sprinkler system tester obtaining at least 12 hours of approved continuing education within the time specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a registration as an automatic fire sprinkler system tester may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

Note: Sub. (6) (a) and (b) are shown as renumbered from sub. (5) (a) and (b) effective 1−1−13 by CR 11−020. Par. (c) was created as sub. (6) (c) eff. 1−1−12, is renumbered to sub. (5) (c) by the LRB under s. 13.92 (4) (b) 7., Stats., effective 1−1−12, and is renumbered back to (6) (c) effective 1−1−13 by CR 11−020.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (2) (b), (4), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) and (4), Register, April, 2000, No. 532, eff. 5−1−00; CR 01−139: am. (1) Register June 2002 No. 558, eff. 7−1−02; CR 11−020: cr. (6) (c), Register December 2011 No. 672, eff. 1−1−12; CR 11−020: renum. (3) to (5) to be (4) to (6), cr. (2), (6) (c), Register December 2011 No. 672, eff. 1−1−13; renumbering of (6) (c) to be (5) (c) under s. 13.92 (4) (b) 1., correction in (1), (3) (a), (b), (4), (5), (6) (b), (c) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.57 Sprinkler tester learners. (1) GENERAL. The automatic fire sprinkler system tester activities that may be undertaken by a person who holds a registration as a registered automatic fire sprinkler system tester learner shall be performed under the direct supervision of a person who holds a fire sprinkler contractor license, a journeyman fire sprinkler license, or automatic fire sprinkler tester registration.

(2) APPLICATION FOR REGISTRATION. A person applying for an automatic fire sprinkler system tester learner registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATION FOR REGISTRATION. A person applying for an automatic fire sprinkler system tester learner registration shall be at least 16 years old and shall have completed the 12th grade in school or equivalent.

History: CR 11−020: cr., correction in (2) (a), (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672, eff. 1−1−12.

Subchapter VI — Inspection

SPS 305.60 Boiler−pressure vessel inspectors. (1) GENERAL. No person may inspect, as required under ch. SPS 341, a boiler or pressure vessel for the purpose of determining compliance with ch. SPS 341 or submit an inspection report to the department documenting compliance or noncompliance with ch. SPS 341 unless the person holds a certification issued by the department as a:

(a) Certified boiler−pressure vessel inspector; or

(b) Certified in−service field inspector working under the general supervision of a certified boiler−pressure vessel inspector who has assumed responsibility for the inspection or the report.

(2) APPLICATION FOR CERTIFICATION. A person applying for a boiler−pressure vessel inspector certification or an in−service field inspector certification shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a certification fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR CERTIFICATION. (a) A person applying for a boiler−pressure vessel inspector certification shall have:

1. Passed the competency examination by the national board of boiler and pressure vessel inspectors; and

Note: See ch. SPS 302 for the fee for the competency examination.

2. a. A degree in engineering from an accredited college or university and at least 1,000 hours in one year of experience in the design, construction, operation or inspection of boilers or pressure vessels;

b. An associate degree in mechanical technology from an accredited college or school and at least 1,000 hours per year for at least 2 years of experience in the design, construction, operation or inspection of boilers or pressure vessels; or

c. At least 1,000 hours per year for at least 3 years of experience in the design, construction, operation, or inspection of boilers or pressure vessels.

(b) A person applying for an in−service field inspector certification shall have:

1. Passed the competency examination by the national board of boiler and pressure vessel inspectors; and

2. a. A degree in engineering from an accredited college or university;

b. An associate degree in mechanical technology from an accredited college or school and at least 1,000 hours in one year of experience in the design, construction, operation or inspection of boilers or pressure vessels; or

c. At least 1,000 hours per year for at least 2 years of experience in the design, construction, operation or inspection of boilers or pressure vessels.

(4) RESPONSIBILITIES. A person who inspects boilers and pressure vessels as a certified boiler−pressure vessel inspector or a certified in−service field inspector shall:

(a) Maintain a record of the inspections made including the dates and the findings of the inspections;

(b) Provide a copy of the inspection report to the property owner or his or her agent; and

(c) Make available to the department upon request or as required under ch. SPS 341, his or her inspection records.

(5) RENEWAL. (a) A person may renew his or her certification as a boiler−pressure vessel inspector or an in−service field inspector.

(b) A boiler−pressure vessel inspector certification and an in−service field inspector certification shall be renewed in accordance with s. SPS 305.07.

(c) 1. The renewal of a certification as a certified boiler−pressure vessel inspector or certified in−service field inspector shall be contingent upon the boiler−pressure vessel inspector or in−service field inspector obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as a certified boiler−pressure vessel inspector or certified in−service field inspector may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. The department shall consider each application for waiver individually on its merits.

3. A person who initially obtained his or her boiler−pressure vessel inspector certification or in−service field inspector certification by providing evidence of having passed the competency examination by the national board and whose request to renew his or her certification is denied because of the failure to fulfill the continuing education requirements of subd. 1., shall be required to take and pass the competency examination in order to reacquire the boiler−pressure vessel inspector certification or the in−service field inspector certification.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (3) (a) 2. a., (4) (b), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (intro.) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; corrections in (1) and (4) (c) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532; CR 05−025: cr. (5) (c) Register October 2005 No. 598, eff. 11−1−05; CR 08−110: r. and recr. (5) (c) 1. Register September 2009 No. 645, eff. 10−1−09; correction in (1) (intro.), (2) (a), (b), (4) (c), (5) (b), (c) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.61 Commercial building inspectors. (1) GENERAL. A person who holds a certification issued by the department as a certified commercial building inspector may conduct inspections of public buildings and places of employment for the purpose of administering and enforcing chs. SPS 361 to 366 and 375 to 379.

Note: Pursuant to s. 101.14 (2), Stats., deputies of the department may perform fire prevention inspections of public buildings and places of employment without holding the certification as a certified commercial building inspector.

(2) APPLICATION FOR EXAMINATION. A person applying to take a commercial building inspector certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) EXAMINATION. Except as provided in sub. (4) (b), a person seeking to obtain a commercial building inspector certification shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATION. (a) Upon notification of the successful passage of the examination for a commercial building inspector certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a certification as a certified commercial building inspector by submitting an application, an application fee and the certification fee in accordance with ss. SPS 305.01 and 305.02 and one of the following:

1. Evidence that the person holds a certificate issued by the International Code Council as one of the following:

a. Commercial combination inspector.

b. Building inspector.

c. Combination plans examiner.

d. Commercial building inspector and commercial mechanical inspector.

e. Building plans examiner and mechanical plans examiner.

2. Evidence that the person holds a registration issued under ch. 443, Stats., as one of the following:

a. Architect.

b. Engineer.

(5) RESPONSIBILITIES. A person who inspects public buildings and places of employment as a certified commercial building inspector shall:

(a) Maintain a record of the inspections made including the dates and the findings of the inspections;

(b) Provide a copy of the inspection report to the owner of the property or his or her agent; and

(c) Make available to the department upon request his or her inspection records.

(6) RENEWAL. (a) 1. A person may renew his or her certification as a commercial building inspector.

2. A commercial building inspector certification shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a certification as a certified commercial building inspector shall be contingent upon the commercial building inspector obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as a certified commercial building inspector may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

3. A person who initially obtained his or her commercial building inspector certification by providing evidence of registration as an architect or engineer and whose request to renew his or her certification is denied because of the failure to fulfill the continuing education requirements of subd. 1., shall be required to take and pass the commercial building inspector certification examination in order to reacquire the commercial building inspector certification.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (6) (a) 2., (b) 2., Register, March, 1998, No. 507, eff. 4−1−98; am. (1) and (4), r. (6) (b), renum. (6) (c) to be (6) (b) and am., Register, April, 2000, No. 532, eff. 5−1−00; CR 01−139: am. (1) Register June 2002 No. 558, eff. 7−1−02; CR 03−075: am. (3), renum. (4) to be (4) (a), cr. (4) (b) and (6) (b) 3., r. and recr. (6) (b) 1. Register June 2004 No. 582, eff. 8−1−04; CR 05−113: am. (1) Register December 2006 No. 612, eff. 4−1−07; CR 06−120: am. (1) Register February 2008 No. 626, eff. 3−1−08; CR 08−110: r. and recr. (6) (b) 1. Register September 2009 No. 645, eff. 10−1−09; CR 10−103: am. (1) Regis-

ter August 2011 No. 668, eff. 9−1−11; correction in (1), (2) (a), (b), (3), (4) (a), (b) (intro.), (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.62 Commercial electrical inspectors. **(1)** GENERAL. Pursuant to s. 101.88 (2), Stats., no person may conduct the inspection of electrical wiring in public buildings and places of employment for the purpose of administering and enforcing ch. SPS 316 unless the person holds a certification issued by the department as a certified commercial electrical inspector.

Note: Those persons who hold a valid certification as a certified restricted commercial electrical inspector will be issued a certification as a certified commercial electrical inspector upon application for renewal.

(2) APPLICATION FOR EXAMINATION. A person applying to take a commercial electrical inspector certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying to take a commercial electrical inspector certification examination shall have:

(a) 1. At least 1,000 hours per year for at least 6 years of experience in electrical work, except as provided in subd. 2.

2. Relative to the experience required under subd. 1., each full−time semester spent in a school of electrical engineering or other accredited college, university, technical or vocational school in an electrical−related program shall be considered equivalent to 500 hours of experience, with no more than 3,000 hours and 3 years of experience through education being credited toward the required experience;

(b) At least 1,000 hours per year for at least 3 years of experience in electrical work and has a degree in electrical engineering from an accredited college or university; or

(c) At least 1,000 hours per year for at least 3 years of experience in electrical work and holds a registration or certification under ch. 443, Stats., as a registered professional engineer, a registered architect or a certified designer of electrical systems.

(4) EXAMINATION. Except as provided in sub. (5) (b), a person seeking to obtain a commercial electrical inspector certification shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR CERTIFICATION. (a) Upon notification of the successful passage of the examination for a commercial electrical inspector certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a certification as a certified commercial electrical inspector by submitting an application, an application fee and the certification fee in accordance with ss. SPS 305.01 and 305.02 and one of the following:

1. Evidence that the person holds a certification as a master electrician issued under s. SPS 305.43.

2. Evidence that the person holds a certification issued by the International Code Council as either an electrical inspector or a commercial electrical inspector.

3. Evidence that the person holds a certification issued under the International Association of Electrical Inspectors/National Fire Protection Association certification program as a certified electrical inspector−master.

(6) RESPONSIBILITIES. A person who inspects electrical construction work as a certified commercial electrical inspector shall:

(a) Maintain a record of the inspections made including the dates and the findings of the inspections;

(b) Provide a copy of the inspection report to the property owner or his or her agent; and

(c) Make available to the department upon request his or her inspection records.

(7) RENEWAL. (a) 1. A person may renew his or her certification as a commercial electrical inspector.

2. A commercial electrical inspector certification shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a certification as a certified commercial electrical inspector shall be contingent upon the commercial electrical inspector obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as a certified commercial electrical inspector may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1), (3), (4) and (7) (b) 2., Register, March, 1998, No. 507, eff. 4−1−98; am. (1), (3) (c) and (5), r. (7) (b), renum. (7) (c) to be (7) (b) and am., Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: am. (1), r. and recr. (5) (b) and (7) (b) 1. Register June 2004 No. 582, eff. 8−1−04; CR 08−110: r. and recr. (7) (b) 1. Register September 2009 No. 645, eff. 10−1−09; correction in (1), (2) (a), (b), (4), (5) (a), (b) (intro.), 1., (7) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.625 Commercial plumbing inspectors. **(1)** GENERAL. (a) Pursuant to s. 145.05 (1), Stats., a city of the first, second or third class shall supervise the installation, alteration and repair of plumbing within its jurisdiction in accordance with one of the following approaches:

1. The city shall utilize at least one supervisor to oversee all plumbing inspections and all plumbing plan reviews who shall hold a certification as a commercial plumbing inspector issued under this section and who shall hold a license as a master plumber issued under s. SPS 305.91 or a license as a journeyman plumber issued under s. SPS 305.93.

2. The city shall utilize at least one individual to conduct all plumbing inspections and all plumbing plan reviews who shall hold a certification as a commercial plumbing inspector issued under this section and who shall hold a license as a master plumber issued under s. SPS 305.91 or a license as a journeyman plumber issued under s. SPS 305.93.

Note: Utilizing the approach under subd. 2. does not prevent the employment of individuals to organizationally supervise the plumbing inspectors and plumbing plan reviewers. In such cases, where the individuals are providing administrative supervision, the supervisors are not required to be certified as commercial plumbing inspectors or to be licensed plumbers.

Note: The requirements for review of plumbing plans by agent municipalities are contained in s. SPS 382.20 (2).

(b) 1. Under par. (a) 1., individuals who, under a supervisor, conduct plumbing inspections and plumbing plan reviews shall hold a certification as a commercial plumbing inspector, except as provided in subd. 2.

2. Individuals who, under a supervisor, conduct plumbing inspections and plumbing plan reviews for the purpose of administering and enforcing ch. SPS 325 shall hold a certification as a commercial plumbing inspector issued under this section or as a UDC−plumbing inspector issued under s. SPS 305.63.

(2) APPLICATION FOR EXAMINATION. A person applying to take a commercial plumbing inspector certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) EXAMINATION. Except as provided in sub. (4) (b), a person seeking to obtain a commercial plumbing inspector certification shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATION. (a) Upon notification of the successful passage of the examination for a commercial plumbing inspector certification, a person may obtain the certifi-

cation by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for certification as a certified commercial plumbing inspector by submitting an application, an application fee and the certification fee in accordance with ss. SPS 305.01 and 305.02 and one of the following:

1. Evidence that the person holds a license as a master plumber issued under s. SPS 305.91.

2. Evidence that the person holds a license as a journeyman plumber issued under s. SPS 305.93.

(5) RESPONSIBILITIES. A person who inspects plumbing as a certified commercial plumbing inspector shall:

(a) Maintain a record of the inspections made including the dates and the findings of the inspections;

(b) Provide a copy of the inspection report to the property owner or his or her agent; and

(c) Make his or her inspection records available to the department upon request.

(6) RENEWAL. (a) A person may renew his or her certification as a commercial plumbing inspector. A commercial plumbing inspector certification shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a certification as a certified commercial plumbing inspector shall be contingent upon the commercial plumbing inspector obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as a certified commercial plumbing inspector may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. The department shall consider each application for waiver individually on its merits.

History: CR 03−075: cr. Register June 2004 No. 582, eff. 8−1−04, except (1) is eff. 2−1−05; CR 06−031: r. (4) (c) Register October 2006 No. 610, eff. 11−1−06; correction in (3) made under s. 13.93 (2m) (b) 7., Register October 2006 No. 610; correction in (1) (a) 1., 2., (b) 2., (2) (a), (b), (3), (4) (a), (b) (intro.), 1., 2., (6) (a), (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.63 Dwelling inspectors. (1) GENERAL. (a) Pursuant to ss. 101.66 (2) and 101.96 (1), Stats., no person may conduct the inspection of one− and 2−family dwellings for the purpose of administering and enforcing chs. SPS 320 to 325, unless the person holds one or more of the following certifications issued by the department:

1. Certified UDC−construction inspector.
2. Certified UDC−electrical inspector.
3. Certified UDC−HVAC inspector.
4. Certified UDC−plumbing inspector.
5. Certified soil erosion inspector.
6. Certified commercial electrical inspector.
7. Certified commercial plumbing inspector.

Note: Pursuant to s. 101.14 (1) (bm), Stats., deputies of the department may perform inspections for smoke detector installation and maintenance without holding a certification issued by the department.

(b) A person who holds a certification as a:

1. Certified UDC−construction inspector may inspect one− and 2−family dwellings for the purpose of administering and enforcing chs. SPS 320 to 322.

2. Certified UDC−electrical inspector or certified commercial electrical inspector may inspect one− and 2−family dwellings for the purpose of administering and enforcing chs. SPS 316 and 324.

3. Certified UDC−HVAC inspector may inspect one− and 2−family dwellings for the purpose of administering and enforcing ch. SPS 323.

4. Certified UDC−plumbing inspector or certified commercial plumbing inspector may inspect one− and 2−family dwellings for the purpose of administering and enforcing chs. SPS 325, 382 and 384.

5. Certified soil erosion inspector may inspect one− and 2−family dwellings for the purpose of administering and enforcing s. SPS 321.125.

(2) APPLICATION FOR EXAMINATION. A person applying to take a UDC−construction inspector certification examination, UDC−electrical inspector certification examination, UDC−HVAC inspector certification examination, or UDC−plumbing inspector certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) EXAMINATION. Except as provided in sub. (4) (a) 2., (b) 2. and (c) 2., a person seeking to obtain a UDC−construction inspector certification, UDC−electrical inspector certification, UDC−HVAC inspector certification, or UDC−plumbing inspector certification shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATIONS. (a) *UDC−construction.* 1. Upon notification of the successful passage of the examination for a UDC−construction inspector certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

2. A person may apply for certification as a certified UDC−construction inspector by submitting all of the following:

a. An application, an application fee and the certification fee in accordance with ss. SPS 305.01 and 305.02.

b. Evidence that the person holds a certification as a commercial building inspector issued under s. SPS 305.61.

(b) *UDC−electrical.* 1. Upon notification of the successful passage of the examination for a UDC−electrical inspector certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

2. A person may apply for certification as a certified UDC−electrical inspector by submitting an application, an application fee and the certification fee in accordance with ss. SPS 305.01 and 305.02 and one of the following:

a. Evidence that the person holds a certification as a journeyman electrician issued under s. SPS 305.44.

b. Evidence that the person holds a certification issued under the International Association of Electrical Inspectors/National Fire Protection Association certification program as a certified electrical inspector−residential.

c. Evidence that the person holds a license as a residential master electrician issued under s. SPS 305.435.

(c) *UDC−HVAC.* 1. Upon notification of the successful passage of the examination for a UDC−HVAC inspector certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

2. A person may apply for certification as a certified UDC−HVAC inspector by submitting an application, an application fee and the certification fee in accordance with ss. SPS 305.01 and 305.02 and one of the following:

a. Evidence that the person holds a certification as an HVAC qualifier issued under s. SPS 305.71.

b. Evidence that the person holds a certification as a commercial building inspector issued under s. SPS 305.61.

(d) *UDC−plumbing.* Upon notification of the successful passage of the examination for a UDC−plumbing inspector certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(e) *Soil erosion.* A person may apply for certification as a certified soil erosion inspector by submitting all of the following:

1. An application, an application fee and the certification fee in accordance with ss. SPS 305.01 and 305.02.

2. Evidence that the person has completed an approved training course on soil erosion control standards.

(5) RESPONSIBILITIES. A person who inspects one− and 2−family dwellings as a certified UDC−construction inspector, certified UDC−electrical inspector, certified UDC−HVAC inspector, certified UDC−plumbing inspector, or certified soil erosion inspector shall:

(a) Maintain a record of the inspections made including the dates and the findings of the inspections;

(b) Provide a copy of the inspection report to the property owner or his or her agent, and

(c) Make available to the department upon request his or her inspection records.

(6) LIMITATIONS. A person who inspects the installation of manufactured homes as a certified UDC−construction inspector may not perform the inspection of a particular manufactured home if the person is, is employed by, or is an independent contractor of any of the following:

(a) A manufactured home manufacturer who was directly involved in the sale of the particular manufactured home.

(b) A manufactured home salesperson who was directly involved in the sale of the particular manufactured home.

(c) An installer who was directly involved in the sale of the particular manufactured home.

(7) RENEWAL. (a) 1. A person may renew his or her certification as a UDC−construction inspector, UDC−electrical inspector, UDC−HVAC inspector, UDC−plumbing inspector or soil erosion inspector.

2. An inspector certification under this section shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a certification as a certified UDC−construction inspector, certified UDC−electrical inspector, certified UDC−HVAC inspector or certified UDC−plumbing inspector shall be contingent upon the inspector obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as a certified UDC−construction inspector, certified UDC−electrical inspector, certified UDC−HVAC inspector, or certified UDC−plumbing inspector may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

3. A person who initially obtained his or her UDC−construction inspector certification or UDC−HVAC inspector certification by providing evidence of certification as a commercial building inspector and whose request to renew his or her certification is denied because of the failure to fulfill the continuing education requirements of subd. 1., shall be required to take and pass the UDC−construction inspector certification examination or UDC−HVAC inspector certification examination in order to reacquire the respective UDC inspector certification.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (a) (intro.), (5) (a), (6) (b), 2., Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (a) (intro.), (b) (intro.), (4) (a) and (b) 1., r. (6) (b), renum. (6) (c) to be (6) (b) and am., Register, April, 2000, No. 532, eff. 5−1−00; corrections in (1) (a) and (b) 1. made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532; CR 03−075: am. (1) (a), (b) 2., 4. and (3), r. and recr. (4) and (6) (b) 1., cr. (6) (b) 3. Register June 2004 No. 582, eff. 8−1−04; CR 06−071: am. (1) (a) (intro.), cr. (5m) Register November 2006 No. 611, eff. 12−1−06; CR 05−113: am. (1) (b) 5. Register December 2006 No. 612, eff. 4−1−07; CR 08−110: r. and recr. (6) (b) 1. Register September 2009 No. 645, eff. 10−1−09; CR 09−028: cr. (4) (b) 2. c. Register August 2010 No. 656, eff. 9−1−10; CR 10−103: am. (1) (b) 5. Register August 2011 No. 668, eff. 9−1−11; CR 11−020: renum. (5m), (6) to be (6), (7), Register December 2011 No. 672, eff. 1−1−12; correction in (1) (a) (intro.), (b) 1. to 5., (2) (a), (b), (3), (4) (a) 1., 2. a., b., (b) 1., 2. (intro.), a., c., (c) 1., 2. (intro.), a., b., (d), (e) 1., (7) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.635 UDC inspection agency. (1) GENERAL. No person may engage in or offer to engage in the activities of facilitating plan review, issuance of Wisconsin uniform building permits, or inspection of one− and 2−family dwellings in a municipality where the department has jurisdiction pursuant to s. 101.651 (3) (b), Stats., unless the person obtains a registration from the department as a registered UDC inspection agency.

Note: Section 990.01 (26), Stats., states that the term "person" includes all partnerships, associations and bodies politic or corporate.

(2) APPLICATION FOR REGISTRATION. A person applying for a UDC inspection agency registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR REGISTRATION. The person applying for a UDC inspection agency registration shall be the owner of the business, a partner in the business applying on behalf of a partnership, or the chairman of the board or chief executive officer applying on behalf of the corporation.

(4) RESPONSIBILITIES. A person who is responsible for facilitating plan review, issuance of Wisconsin uniform building permits and the inspections for one− and 2−family dwellings as a registered UDC inspection agency shall be responsible for all of the following:

(a) Utilizing persons appropriately certified under s. SPS 305.63 to review the plans, issue the permits and conduct the inspections.

(b) Making the records relative to the plan review, issuance of permits and inspections available to the department upon request.

(c) Providing inspection services for all inspections required under s. SPS 320.10.

(d) Cooperating with the department in any program monitoring, enforcement activities, and investigations.

(e) Following all procedures established by the department for UDC enforcement by inspection agencies.

(f) Reporting to the department in writing when the agency has been dismissed by the owner or builder.

(g) Making any records associated with their permit, plan review and inspection activities available to the permit holder upon request.

(5) RENEWAL. (a) A person may renew his or her registration as a UDC inspection agency.

(b) A UDC inspection agency registration shall be renewed in accordance with s. SPS 305.07.

History: CR 00−159: cr. Register September 2001 No. 549 eff. 10−1−01; correction in (2) (a), (b), (4) (a), (c), (5) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.64 Elevator inspectors. (1) GENERAL. No person, as an authorized representative of the department, may provide inspections required under ch. SPS 318 unless the person holds a license issued by the department as a licensed elevator inspector.

(2) APPLICATION FOR LICENSE. A person may apply for a license as a licensed elevator inspector by submitting all of the following:

(a) An application, an application fee and the license fee in accordance with ss. SPS 305.01 and 305.02.

(b) Evidence that the person holds a certification as an American Society of Mechanical Engineers (ASME) for the Qualification of Elevator Inspector (QEI−1).

(3) RESPONSIBILITIES. A person who inspects conveyances as a licensed elevator inspector shall be responsible for all of the following:

(a) Maintain a record of the inspections made including the dates and the findings of the inspections.

(b) Provide a copy of the inspection record to the conveyance owner or his or her agent.

(c) Make available to the department upon request his or her inspection records.

(d) Maintain his or her ASME QEI−1 certification.

(4) RENEWAL. (a) A person may renew his or her license as an elevator inspector.

(b) An elevator inspector license shall be renewed in accordance with s. SPS 305.07.

(c) 1. The renewal of a license as a licensed elevator inspector shall be contingent upon the elevator inspector obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a licensed elevator inspector may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

(d) The renewal of a license as an elevator inspector is contingent upon the person submitting evidence that the person holds a certification as an ASME QEI−1 elevator inspector.

(e) The renewal of a license as an elevator inspector shall be contingent upon the department's review of the applicant's criminal history record from the department of justice.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; r. and recr. (1), renum. (2) and (3) to be (3) and (2) and r. and recr. (2) and (4), cr. (6) (c), Register, January, 1998, No. 505, eff. 2−1−98; am. (5) (c), Register, March, 1998, No. 507, eff. 4−1−98; am. (1), (2) (intro.), (4) and (6) (c) 2., Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: r. and recr. (6) (c) 1. Register June 2004 No. 582, eff. 8−1−04; CR 07−089: r. and recr. Register June 2008 No. 630, eff. 7−1−08; correction in (1), (2) (a), (4) (b), (c) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.66 POWTS inspectors. (1) GENERAL. A person who holds a certification issued by the department as a certified POWTS inspector or a commercial plumbing inspector may inspect privately owned wastewater treatment systems, POWTS, for the purpose of administering and enforcing the provisions of chs. SPS 381 to 387, as an authorized representative of the department or a local governmental unit.

(2) APPLICATION FOR EXAMINATION. A person applying to take a POWTS inspector certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) EXAMINATION. Except as provided in sub. (4) (b), a person seeking to obtain a POWTS inspector certification shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATION. (a) Upon notification of the successful passage of the examination for a POWTS inspector certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a certification as a certified POWTS inspector by submitting an application, an application fee and the certification fee in accordance with ss. SPS 305.01 and 305.02 and one of the following:

1. Evidence that the person holds a license as a master plumber issued under s. SPS 305.91.

2. Evidence that the person holds a license as a master plumber−restricted service issued under s. SPS 305.92.

3. Evidence that the person holds a license as a journeyman plumber issued under s. SPS 305.93.

4. Evidence that the person holds a license as a journeyman plumber−restricted service issued under s. SPS 305.94.

(5) RESPONSIBILITIES. A person who inspects privately owned wastewater treatment systems as a certified POWTS inspector shall:

(a) Maintain a record of the inspections made including the dates and the findings of the inspections;

(b) Provide a copy of the inspection record to the privately owned wastewater treatment system owner or his or her agent; and

(c) Make available to the department upon request his or her inspection records.

(6) RENEWAL. (a) 1. A person may renew his or her certification as a POWTS inspector.

2. A POWTS inspector certification shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a certification as a certified POWTS inspector shall be contingent upon the inspector obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as a certified POWTS inspector may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (5) (c), (6) (a) 2., (b) 2., March, 1998, No. 507, eff. 4−1−98; am. (1) and (4), r. (6) (b), renum. (6) (c) to be (6) (b) and am., Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: am. (1) and (3), renum. (4) to be (4) (a), cr. (4) (b), r. and recr. (6) (b) 1. Register June 2004 No. 582, eff. 8−1−04; CR 08−110: r. and recr. (6) (b) 1. Register September 2009 No. 645, eff. 10−1−09; correction in (1), (2) (a), (b), (3), (4) (a), (b) (intro.), 1. to 4., (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.67 Rental weatherization inspectors. (1) GENERAL. No person may inspect rental units to determine compliance with ch. SPS 367 unless the person holds a certification issued by the department as a certified rental weatherization inspector.

(2) APPLICATION FOR EXAMINATION. A person applying to take a rental weatherization inspector certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) EXAMINATION. A person seeking to obtain a rental weatherization inspector certification shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATION. Upon notification of the successful passage of the examination for a rental weatherization inspector certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(5) RESPONSIBILITIES. A person who inspects rental units as a certified rental weatherization inspector shall:

(a) Maintain a record of the inspections made including the dates and the findings of the inspections;

(b) Provide a copy of the inspection record to the rental property owner or his or her agent; and

(c) Make available to the department upon request his or her inspection records.

(6) RENEWAL. (a) A person may renew his or her certification as a rental weatherization inspector.

(b) A rental weatherization inspector certification shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (5) (c) and (6) (b) 2., cr. (6) (c), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) and (4), r. (6) (b), renum. (6) (c) to be (6) (b) and am., Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: r. (6) (b) Register June 2004 No. 582, eff. 8−1−04; (6) (a) 1., 2. renum-

bered to be (6) (a), (b) under s. 13.92 (4) (b) 1., Stats., correction in (1), (2) (a), (b), (3), (4), (6) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.68 Tank system inspectors. (1) GENERAL. No person may inspect a tank system that is regulated under ch. SPS 310, to administer and enforce ch. SPS 310, unless the person holds a certification issued by the department as a certified tank system inspector.

(2) APPLICATION FOR EXAMINATION. A person applying to take a tank system inspector certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying to take a tank system inspector certification examination shall have completed an approved educational course or training program that included at least 3 days of field exercises, within the 2 years immediately preceding the application.

(4) EXAMINATION. A person seeking to obtain a tank system inspector certification shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR CERTIFICATION. Upon notification of successfully passing the examination for a tank system inspector certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(6) RESPONSIBILITIES. A person who inspects tank systems as a certified tank system inspector shall:

(a) Perform regulatory enforcement of related code requirements in chs. SPS 305 and 310.

(b) Issue non−compliance or violation−correction orders and conduct follow−up inspections as necessary to verify correction.

Note: Inspectors with authority granted by the local municipality may utilize the respective enforcement procedures as granted by the respective authority.

(c) Pursue failure to comply with correction orders through local or department enforcement referral procedures.

(d) Maintain a record of the inspections made including the dates and the findings of the inspections.

(e) Provide a copy of the inspection report to the owner of the tank system or his or her agent.

(f) Make available to the department upon request his or her tank system inspection records.

Note: Section 19.32 (2), Stats., considers a record to be material containing written or electromagnetic information. The department will consider computer records to be equivalent to written reports.

(7) RENEWAL. (a) 1. A person may renew his or her certification as a tank system inspector.

2. A tank system inspector certification shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a certification as a certified tank system inspector shall be contingent upon the inspector obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as a certified tank system inspector may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (2) (b), r. and recr. (4) and (7) (a), Register, March, 1998, eff, 4−1−98; am. (1), (5) and (7) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−127: am. (1), (3) and (7) (b) 1., Register September 2007 No. 621, eff. 10−1−07; CR 11−020: renum. (6) (a) to (c) to be (d) to (f), cr. (6) (a) to (c), Register December 2011 No. 672, eff. 1−1−12; correction in (1), (2) (a), (b), (4), (5), (6) (a), (7) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

Subchapter VII — Mechanical

SPS 305.70 HVAC contractors. (1) GENERAL. (a) Pursuant to ss. 101.177 (2) and (3) (a) and 101.178 (2), Stats., no person, entity or business may engage or offer to engage in the following activities, unless the person, entity or business holds a registration issued by the department as a registered HVAC contractor, except as provided in par. (b):

1. Installing or servicing heating, ventilating or air conditioning equipment.

2. Installing or servicing refrigeration or air conditioning equipment that would release or may release ozone−depleting refrigerant.

3. Selling for reuse used ozone−depleting refrigerant from refrigeration or air conditioning equipment.

(b) 1. A person, entity or business is not required to hold a registration as a registered HVAC contractor to service existing heating, ventilating, air conditioning, or refrigeration equipment within facilities or properties owned by the person, entity or business provided the air conditioning or refrigeration equipment does not involve ozone−depleting refrigerants.

2. A person, entity or business is not required to hold a registration as a registered HVAC contractor to install or service heating, ventilating, air conditioning, or refrigeration equipment within a dwelling owned by the person, entity or business and in which the person, entity or business resides or will reside provided the air conditioning or refrigeration equipment does not involve ozone−depleting refrigerants.

3. A person, entity or business is not required to hold a registration as a registered HVAC contractor for electrical or plumbing work associated with the installation or servicing of the HVAC equipment or systems.

(2) APPLICATION FOR REGISTRATION. A person applying for an HVAC contractor registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR REGISTRATION. The person applying for an HVAC contractor registration shall be the owner of the contracting business, a partner in the contracting business applying on behalf of a partnership, or the chairman of the board or chief executive officer applying on behalf of the contracting corporation.

(4) RESPONSIBILITIES. (a) For any HVAC equipment installation that requires a uniform building permit under s. SPS 320.08, a person, entity or business which holds an HVAC contractor registration may not commence installation of HVAC equipment until a permit is issued for the installation.

(b) A person who holds a HVAC contractor registration may not contract with another person or entity to engage in construction business activities unless the person or entity holds a credential under s. SPS 305.30 (1) (a) or (b).

Note: Chs. SPS 320 to 325 apply to one− and 2−family dwellings and manufactured dwellings. The department's uniform building permit is issued either by the municipality in which the dwelling is located or by a UDC inspection agency where the municipality does not administer the Uniform Dwelling Code.

Note: Section 101.16 (4) (a), Stats., provides that: The person performing the work of installing equipment utilizing liquefied petroleum gas for fuel purposes shall furnish the user of the equipment a statement, the form of which shall be prescribed by the department showing the design, construction, location, and installation of the equipment conforms with the rules promulgated by the department under this section.

(5) RENEWAL. (a) 1. A person may renew his or her registration as an HVAC contractor.

2. An HVAC contractor registration shall be renewed in accordance with s. SPS 305.07.

(b) A person, entity or business upon expiration of their registration to handle ozone−depleting refrigerants may renew the registration as an HVAC contractor in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (b) 3., Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (a), (b) 1., 2. and (2) (b), r. (1) (b) 3.

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and 4., Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: renum. (4) to be (5), cr. (4) Register June 2004 No. 582, eff. 8−1−04; CR 06−031: r. and recr. (1) Register October 2006 No. 610, eff. 11−1−06; CR 08−110: renum. (4) to be (4) (a), cr. (4) (b) Register September 2009 No. 645, eff. 10−1−09; correction in (2) (a), (b), (4) (a), (b), (5) (a) 2., (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.71 HVAC qualifiers. (1) GENERAL. (a) Pursuant to s. 101.178 (3), Stats., an individual may obtain in accordance with this section an HVAC qualifier certification from the department relative to the business of installing or servicing heating, ventilating or air conditioning equipment.

(b) A person or entity who utilizes a person who holds an HVAC qualifier certification under this section shall be deemed to be a certified HVAC business and pursuant to s. 101.178 (3) (c), Stats., may not be required to obtain a local certification, license or other approval in order to engage in the business of installing or servicing heating, ventilating or air conditioning equipment.

(2) APPLICATION FOR EXAMINATION. A person applying to take HVAC qualifier certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying for an HVAC qualifier certification examination shall have completed:

(a) At least 1000 hours per year for at least 4 years of experience in supervising or performing the design, installation, servicing or maintenance of HVAC systems or equipment;

(b) At least 4 years of attendance in a school of mechanical engineering or in an accredited college, university, or technical, vocational or apprenticeship school in an HVAC−related program; or

(c) Any combination of 4 years of experience recognized under par. (a) and education recognized under par. (b).

(4) EXAMINATION. A person seeking to obtain an HVAC qualifier certification shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR CERTIFICATION. Upon notification of the successful passage of the examination for HVAC qualifier certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(6) RESPONSIBILITIES. For any HVAC equipment installation that requires a uniform building permit under s. SPS 320.08, a person who holds an HVAC qualifier certification may not commence installation of HVAC equipment until a permit is issued for the installation.

Note: Chs. SPS 320 to 325 apply to one− and 2−family dwellings and manufactured dwellings. The department's uniform building permit is issued either by the municipality in which the dwelling is located or by a UDC inspection agency where the municipality does not administer the Uniform Dwelling Code.

Note: Section 101.16 (4) (a), Stats., provides that: The person performing the work of installing equipment utilizing liquefied petroleum gas for fuel purposes shall furnish the user of the equipment a statement, the form of which shall be prescribed by the department showing the design, construction, location, and installation of the equipment conforms with the rules promulgated by the department under this section.

(7) RENEWAL. (a) A person may renew his or her HVAC qualifier certification.

(b) An HVAC qualifier certification shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (5), Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: renum. (6) to be (7), cr. (6) Register June 2004 No. 582, eff. 8−1−04; correction in (2) (a), (b), (4), (5), (6), (7) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.72 Refrigerant handling technicians. (1) GENERAL. Pursuant to s. 101.177 (4), Stats., no person may install or service a piece of refrigeration equipment that would release or may release an ozone−depleting refrigerant unless the person holds a certification issued by the department as a certified refrigerant handling technician.

(2) APPLICATION FOR CERTIFICATION. A person applying for a refrigerant handling technician certification shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a certification fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR CERTIFICATION. A person applying for a refrigerant handling technician certification shall hold a Type I, II, III or Universal technician certification issued in accordance with section 608 of the federal Clean Air Act and title 40 CFR part 82, subpart F.

(4) RESPONSIBILITIES. A person who installs or services a piece of refrigeration equipment as a certified refrigerant handling technician shall comply with the responsibilities under s. 101.177 (2), Stats.

Note: See the appendix for a reprint of s. 101.177 (2), Stats.

(6) RENEWAL. (a) A person may renew his or her certification as a refrigerant handling technician.

(b) A refrigerant handling technician certification shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1), r. and recr. (4), Register, March, 1998, No. 507, eff. 4−1−98; am. (1), (2) (b), (3), (5) (intro.) and (a) 2., Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: am. (3) Register June 2004 No. 582, eff. 8−1−04; CR 06−031: r. (5) Register October 2006 No. 610, eff. 11−1−06; correction in (2) (a), (b), (6) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.73 Liquefied gas suppliers. (1) GENERAL. (a) Pursuant to s. 101.16 (3g) (a), Stats., as of August 1, 2009, no person may engage in the business of filling containers with liquefied petroleum gas that is intended to be used directly from the containers as fuel, unless the person holds a license issued by the department as a licensed liquefied gas supplier or liquefied gas supplier — restricted, except as provided under either of the following conditions:

1. The business is engaged in only filling containers that have a water capacity of less than 4 pounds.

2. The filling of the containers with liquefied petroleum gas is for the person's or the entity's own use.

(b) A person who holds a license as a licensed liquefied gas supplier — restricted shall be limited to filling only department of transportation cylinders with liquefied petroleum gas.

Note: Under s. 101.16 (1) (c), Stats., a "department of transportation cylinder" means a container that holds liquefied petroleum gas and that meets the specifications established by the federal department of transportation.

(2) APPLICATION FOR LICENSE. A person applying for a liquefied gas supplier or a liquefied gas supplier — restricted license shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a license fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR LICENSE. (a) A person applying for either a liquefied gas supplier or a liquefied gas supplier — restricted license shall provide proof of financial responsibility as required under s. 101.16 (3r) (c), Stats.

Note: Section 101.16 (3r) (c), Stats., requires any one of the following to prove financial responsibility:

1. A surety bond that is issued by a surety company that is listed as an acceptable surety for federal bonds on the date that the surety bond is obtained in the most recently published U.S. department of the treasury's circular 570.

2. An irrevocable letter of credit that is issued by a financial institution that is authorized to do business in this state or that is federally chartered. The letter of credit shall be for an initial period of at least one year.

3. Commercial general liability insurance as an endorsement to an existing policy or as a separate policy from an insurer, or a risk retention group, that is licensed to transact the business of insurance in this state or that is eligible to provide insurance as a surplus lines insurer in one or more states.

(b) The person applying for either a liquefied gas supplier or a liquefied gas supplier — restricted license shall be the owner of the contracting business, a partner in the contracting business applying on behalf of a partnership, or the chairman of the board or chief executive officer applying on behalf of the contracting corporation.

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(4) RESPONSIBILITIES. (a) A person who holds either a liquefied gas supplier or a liquefied gas supplier — restricted license shall maintain proof of financial responsibility in accordance with s. 101.16 (3r) (a) or (b), Stats.

Note: Section 101.16 (3r) (a) and (b), Stats., reads as follows:

(a) Except as provided in par. (b), a retail supplier (a licensed liquefied gas supplier or a liquefied gas supplier – restricted) shall maintain proof of financial responsibility in the amount of $1,000,000 per occurrence with an annual aggregate of $2,000,000 for compensating 3rd parties for bodily injury and property damages for incidents associated with the release of liquefied petroleum gas.

(b) A retail supplier (a licensed liquefied gas supplier or a liquefied gas supplier – restricted) who only fills department of transportation cylinders or who only fills containers for engine and recreational vehicle fueling systems shall maintain proof of financial responsibility in the amount of $500,000 per occurrence with an annual aggregate of $1,000,000 for compensating 3rd parties for bodily injury and property damages for incidents associated with the release of liquefied petroleum gas.

(b) Pursuant to s. 101.16 (3r) (g), Stats., a person who holds either a liquefied gas supplier or a liquefied gas supplier — restricted license shall notify the department at least 60 days before cancelling or failing to renew a surety bond, letter of credit or general liability insurance as proof of financial responsibility.

Note: Section 101.16 (3r) (f), Stats., requires a 3rd party that issues a surety bond, letter of credit, or general liability insurance to a retail supplier for purposed of this subsection shall provide written notice to the retail supplier and to the department at least 60 days before canceling, revoking, suspending, or failing to renew the bond, letter or insurance.

(c) Pursuant to s. 101.16 (4) (c), Stats., a person who holds either a liquefied gas supplier or a liquefied gas supplier — restricted license and fills a container that is part of a propane gas system shall provide written information notices to customers in accordance with s. 101.16 (4) (c), Stats.

Note: Section 101.16 (4) (c), Stats., reads: Each retail supplier filling a container that is part of a propane gas system shall provide written notice to each custom subject to par. (b) of the customer's duty under par. (b) before the retail supplier's first delivery of propane gas to that customer and shall provide subsequent notices on an annual basis. The notice shall include all of the following information concerning the duty to notify under par. (b):

1. The name, address, and telephone number of the retail supplier.
2. The purpose of giving the notification to the retail supplier.
3. A description of the type of propane gas system that is subject to the notification requirement.
4. A description of the types of activities that constitute a replacement, modification, repair, or servicing of a propane system.
5. A copy of the provisions under s. 101.16 (4) (b).

Note: Section 101.16 (4) (a), Stats., The person performing the work of installing equipment utilizing liquefied petroleum gas for fuel purposes shall furnish the user of the equipment a statement, the form of which shall be prescribed by the department showing the design, construction, location, and installation of the equipment conforms with the rules promulgated by the department under this section.

(5) RENEWAL. (a) A person may renew his or her liquefied gas supplier or liquefied gas supplier — restricted license.

(b) A liquefied gas supplier or a liquefied gas supplier — restricted license shall be renewed in accordance with s. SPS 305.07.

History: CR 08−092: cr. Register May 2009 No. 641, eff. 6−1−09; correction in (2) (a), (b), (5) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

Subchapter VIII — Storage Tanks

SPS 305.80 PECFA consulting firms. (1) GENERAL. (a) A corporation, partnership, sole proprietor or independent contractor that performs or provides professional level engineering or hydrogeological services related to a claim submitted for reimbursement under the PECFA program, ch. SPS 347, shall hold a registration issued by the department as a registered PECFA consulting firm.

Note: See chs. 443 and 470, Stats., for additional requirements relating to the practice of professional engineering; and the practices of professional geology, professional hydrology, and professional soil science, respectively.

(b) The services referred to in par. (a) include but are not limited to:

1. Conducting site investigations;
2. Preparing remedial action plans and alternatives;
3. Designing and supervising the installation of remedial systems; and
4. Planning for passive bio−remediation with long term monitoring.
5. Preparing and submitting bids in the competitive public bidding process prescribed in ch. SPS 347.

(2) APPLICATION FOR REGISTRATION. An entity applying for a PECFA consulting firm registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(c) Proof of employing at least one Wisconsin−registered PECFA consultant.

(d) Proof of being registered by the department to engage in the practice of professional engineering, geology, hydrology, or soil science.

(e) Proof of the liability coverage specified in sub. (4) (a) 3. or (b), and (c).

(3) QUALIFICATIONS FOR REGISTRATION. The person applying for a PECFA consulting firm registration shall be the owner of the consulting business, a partner in the consulting business applying on behalf of a partnership, or the chairman of the board or chief executive officer applying on behalf of the consulting corporation.

(4) RESPONSIBILITIES. (a) An entity that performs or provides professional level engineering, geological, hydrological, or soil science services related to a claim submitted for reimbursement under the PECFA program, ch. SPS 347, as a registered PECFA consulting firm shall do all of the following:

1. Ensure that only Wisconsin−registered professional engineers, professional geologists, professional hydrologists, or professional soil scientists perform professional−level engineering, geological, hydrological, or soil science services related to the PECFA program, unless those services are under the supervision of those professionals.

2. Ensure that only PECFA consultants who are so registered under this chapter perform the services referenced in s. SPS 305.81.

3. Hold errors and omissions professional liability coverage, including pollution impairment liability, of no less than $1,000,000 per claim, $1,000,000 annual aggregate and with a deductible of no more than $100,000 per claim, except as provided in par. (b).

(b) A consulting firm may request the department's approval of an alternate mechanism for meeting the requirement of the maximum deductible in par. (a) 3. The department shall review the request and determine whether it meets the requirement of the rule.

(c) The insurance coverage required under this subsection shall be obtained from a firm that has an A.M. Best rating of at least "A−."

(5) RENEWAL. (a) An entity may renew their registration as a PECFA consulting firm.

(b) A PECFA consulting firm registration shall be renewed in accordance with s. SPS 305.07.

(c) The renewal of a registration as a PECFA consulting firm shall be contingent upon all of the following:

1. Employing at least one Wisconsin−registered PECFA consultant.

2. Being registered by the department to engage in the practice of professional engineering, geology, hydrology, or soil science.

3. Holding the liability coverage specified in sub. (4) (a) 3. or (b), and (c).

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (a) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 04−058: cr. (1) (b) 5., (2) (c) and (d), (4) (a) 2., (b), (c), and (5) (c), r. (5) (b), renum. and am. (4) (intro.), (a) and (b) and (5) (a) 1. and 2. to be (4) (a) (intro.), 1. and 3. and (5) (a) and (b) Register February

2006 No. 602, eff. 5−1−06; CR 06−127: cr. (2) (e) and (5) (c) 3., Register September 2007 No. 621, eff. 10−1−07; correction in (1) (a), (b) 5., (2) (a), (b), (d) (4) (a) (intro.), 2., (5) (b), (c) 2. made under s. 13.92 (4) (b) 6., 7., Stats., Register December 2011 No. 672.

SPS 305.81 PECFA consultants. (1) GENERAL. (a) A person who performs or provides professional level investigation, interpretation, design or technical project management services related to a claim submitted for reimbursement under the PECFA program, ch. SPS 347, shall hold a registration issued by the department as a registered PECFA consultant.

Note: See chs. 443 and 470, Stats., for additional requirements relating to the practice of professional engineering; and the practices of professional geology, professional hydrology, and professional soil science, respectively.

(b) The services referred to in par. (a) include but are not limited to:

1. Conducting site investigations;

2. Preparing remedial action plans and alternatives; or

3. Interpretation of data for passive or active bio−remediation systems.

(2) APPLICATION FOR REGISTRATION. A person applying for a PECFA consultant registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(c) Proof of being registered by the department as a professional engineer, professional geologist, professional hydrologist, or professional soil scientist, or proof of being supervised by a person who is so registered.

(d) Proof of the liability coverage specified in sub. (3).

(3) RESPONSIBILITIES. A person who performs or provides professional level investigation, interpretation, design or technical project management services related to a claim submitted for reimbursement under the PECFA program, ch. SPS 347, as a registered PECFA consultant shall either hold or be covered by errors and omissions professional liability coverage, including pollution impairment liability, of no less than $1,000,000 per claim, $1,000,000 annual aggregate and with a deductible of no more than $100,000 per claim.

(4) RENEWAL. (a) A person may renew his or her registration as a PECFA consultant.

(b) A PECFA consultant registration shall be renewed in accordance with s. SPS 305.07.

(c) The renewal of a registration as a PECFA consultant shall be contingent upon both of the following:

1. Being registered by the department as a professional engineer, professional geologist, professional hydrologist, or professional soil scientist, or proof of being supervised by a person who is so registered.

2. Holding or being covered by the liability coverage specified in sub. (3).

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (a) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 04−058: cr. (2) (c) and (4) (c), r. (4) (b), renum. (4) (a) 1. and 2. to be (4) (a) and (b) Register February 2006 No. 602, eff. 5−1−06; CR 06−127: cr. (2) (d), r. and recr. (4) (c), Register September 2007 No. 621, eff. 10−1−07; correction in (1) (a), (2) (a), (b), (c), (3), (4) (b), (c) 1. made under s. 13.92 (4) (b) 6., 7., Stats., Register December 2011 No. 672.

SPS 305.82 Tank specialty firms. (1) GENERAL. A corporation, partnership, sole proprietor, independent contractor, or person that provides or offers to provide installation, removal, testing, lining, cleaning or assessments for a tank system which is regulated under ch. SPS 310 shall hold both of the following:

(a) A registration issued by the department as a registered tank specialty firm.

(b) Contractor liability coverage, including pollution impairment liability, of no less than $1,000,000 per claim and $1,000,000 annual aggregate and with a deductible of no more than $100,000 per claim.

(2) APPLICATION FOR REGISTRATION. An entity applying for a tank specialty firm registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(c) Proof of the liability coverage specified in sub. (1) (b).

(3) QUALIFICATIONS FOR REGISTRATION. The person applying for a tank specialty firm registration shall be the owner of the business, a partner in the business applying on behalf of a partnership, or the chairman of the board or chief executive officer applying on behalf of the corporation.

(4) RESPONSIBILITIES. An entity that provides storage tank system installation, removal, testing, lining, cleaning or site assessments as a registered tank specialty firm shall utilize the appropriate credentialed persons to install, remove, test, line, or clean storage tanks; to design or install a cathodic protection system for a tank system; or to provide tank−system site assessments.

(5) RENEWAL. (a) A person may renew his or her registration as a tank specialty firm.

(b) A tank specialty firm registration shall be renewed in accordance with s. SPS 305.07.

(c) An application for a renewal under this section shall include proof of the liability coverage specified in sub. (1) (b).

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (5) (a) 2., Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (a) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−127: r. and recr. (1), cr. (2) (c) and (5) (c), am. (4), renum. (5) (a) 1. and 2. to be (5) (a) and (b), r. (5) (b), Register September 2007 No. 621, eff. 10−1−07; CR 11−020: am. (1) (intro.), (a), (2) (intro.), (3), (4), (5) (a), (b), Register December 2011 No. 672, eff. 1−1−12; correction in (1) (intro.), (2) (a), (b), (5) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.83 Tank−system site assessors. (1) GENERAL. (a) No person may conduct a tank−system site assessment required under ch. SPS 310 unless the person holds a certification issued by the department as a certified tank−system site assessor.

(b) Each tank−system site assessment shall be performed by a person who has no personal or monetary interest in the facility and whose employer has no personal or monetary interest in the facility.

(2) APPLICATION FOR EXAMINATION. A person applying to take a tank−system site assessor certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) EXAMINATION. A person seeking to obtain a tank−system site assessor certification shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATION. Upon notification of successfully passing the examination for a tank−system site assessor certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(5) RENEWAL. (a) A person may renew his or her certification as a tank−system site assessor.

(b) A tank−system site assessor certification shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) and (4), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−127: am. (title), (1), (2) (intro.), (3), and (4), renum. (5) (a) 1. and 2. to be (5) (a) and (b) and am., r. (5) (b), Register September 2007 No. 621, eff. 10−1−07; correction in (1) (a), (2) (a), (b), (3), (4), (5) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.84 Aboveground tank system installers. (1) GENERAL. Except as provided in sub. (7), no person may install an aboveground tank system that is regulated under ch. SPS 310 unless the person complies with one of the following:

(a) The person holds a certification issued by the department as a certified aboveground tank system installer.

(b) The person holds a registration as a professional engineer and is competent in the engineering methods and requirements in Wisconsin for designing and installing storage tank systems for flammable, combustible or hazardous liquids.

(c) The person is under the direct supervision of another person who holds a certification or registration under par. (a) or (b) and who is responsible for the installation.

(2) APPLICATION FOR EXAMINATION. A person applying to take an aboveground tank system installer certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) EXAMINATION. A person seeking to obtain an aboveground tank system installer certification shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATION. Upon notification of successfully passing the examination for an aboveground tank system installer certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(5) RESPONSIBILITIES. A person who installs or supervises the installation of tank systems as a certified aboveground tank system installer shall be present at the job site for at least all of the following activities:

(a) Preinstallation tank system testing.

(b) Inspection and repair of coatings.

(c) Placement of tanks.

(d) Installation and testing of all connections and tank−related piping including vapor recovery, vents and supply pipes.

(e) Installation of monitoring or leak detection devices.

(f) Installation of pumps.

(g) Installation of any underground piping.

(6) RENEWAL. (a) 1. A person may renew his or her certification as an aboveground tank system installer.

2. An aboveground tank system installer certification shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a certification as an aboveground tank system installer shall be contingent upon the installer obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as an aboveground tank system installer may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

(7) EXCLUSION. This section does not apply to field−constructed aboveground tanks.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (a), (b) and (4), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−127: am. (1) (intro.) and (5) (e) and (f), cr. (5) (g) and (7), Register September 2007 No. 621, eff. 10−1−07; CR 11−020: r. and recr. (1), am. (6) (b) 1., Register December 2011 No. 672, eff. 1−1−12; correction of numbering (5) (a), as renumbered, under s. 13.92 (4) (b) 1., correction in (1) (intro.), (2) (a), (b), (3), (4), (5), (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.85 Underground tank system installers. **(1)** GENERAL. No person may install an underground tank system that is regulated under ch. SPS 310 unless the person complies with one of the following:

(a) The person holds a certification issued by the department as a certified underground tank system installer.

(b) The person holds a registration as a professional engineer and is competent in the engineering methods and requirements in Wisconsin for designing and installing storage tank systems for flammable, combustible or hazardous liquids.

(c) The person is under the direct supervision of another person who holds a certification or registration under par. (a) or (b) and who is responsible for the installation.

(2) APPLICATION FOR EXAMINATION. A person applying to take an underground tank system installer certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) EXAMINATION. A person seeking to obtain an underground tank system installer certification shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATION. Upon notification of successfully passing the examination for an underground tank system installer certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(5) RESPONSIBILITIES. A person who installs or supervises the installation of tanks as a certified underground tank system installer shall be present at the job site for at least all of the following activities:

(a) Preinstallation tank system testing.

(b) Inspection and repair of coatings.

(c) Placing of bedding material and the setting and bedding of tanks.

(d) Backfilling operations and compacting of backfill around tanks and piping.

(e) Installation or activation of department−accepted, factory−supplied cathodic protection systems.

Note: The Department has accepted factory−supplied cathodic protection systems that comply with the sti−P3® specifications from the Steel Tank Institute, and may accept other systems of this type without a rule change.

(f) Installation and testing of all connections and tank−related piping including vapor recovery, vents and supply pipes.

(g) Installation of leak detection devices and any monitoring wells.

(h) Testing of tanks and piping both prior to and after backfilling.

(i) Installation of pumps.

(6) RENEWAL. (a) 1. A person may renew his or her certification as an underground tank system installer.

2. An underground tank system installer certification shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a certification as an underground tank system installer shall be contingent upon the installer obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as an underground tank system installer may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (a), (b) and (4), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−127: am. (1) (intro.), (5) (e) and (i), Register September 2007 No. 621, eff. 10−1−07; CR 11−020: r. and recr.. (1), am. (6) (b) 1., Register December 2011 No. 672, eff. 1−1−12; correction in (1) (intro.), (2) (a), (b), (3), (4), (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.86 Underground tank system liners. **(1)** GENERAL. No person may line or reline an underground tank system that has held or will hold flammable or combustible liquids which are regulated under ch. SPS 310 unless the person complies with one of the following:

(a) The person holds a certification issued by the department as a certified tank system liner.

(b) The person is under the direct supervision of another person who holds a certification issued by the department as a certified tank system liner.

(2) APPLICATION FOR EXAMINATION. A person applying to take a tank system liner certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) EXAMINATION. A person seeking to obtain a tank system liner certification shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATION. Upon notification of successfully passing the examination for a tank system liner certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(5) RESPONSIBILITIES. A person who lines or supervises the lining of underground tanks as a certified tank system liner shall be present at the job site for at least all of the following activities:

(a) Removal of product from the tanks and making the atmosphere of the tanks inert or vapor−free.

Note: Chapter SPS 310 requires plan submittal and approval prior to lining a tank.

(b) Cutting of openings in tanks.

(c) Removal and handling of sludge and other wastes from tanks.

(d) Sand blasting of the tank interior.

(e) Inspection for holes and wall thickness.

(f) Notifying the owner if an internal tank assessment determines that a tank system assessment under ch. SPS 310 is required.

(g) Repair of holes.

(h) Notifying and arranging for a certified tank system inspector to visit the site and authorize the lining, prior to applying the lining to the tank.

(i) Coating of tanks.

(j) Testing for holidays.

(k) Testing for coating hardness.

(L) Resealing of tanks.

(m) Completing an API 1631 inspection form B, as required by ch. SPS 310, and submitting it to the owner, inspector and department.

(6) RENEWAL. (a) A person may renew his or her certification as a tank system liner.

(b) A tank system liner certification shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (a), (b) and (4), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−127: am. (1) (intro.), and (5) (intro.), renum. (5) (f) and (g) to (j) to be (5) (g) and (i) to (L), cr. (5) (f), (h) and (m), renum. (6) (a) 1. and 2. to be (6) (a) and (b), r. (6) (b), Register September 2007 No. 621, eff. 10−1−07; CR 11−020: r. and recr. (1), Register December 2011 No. 672, eff. 1−1−12; correction in (1) (intro.), (2) (a), (b), (3), (4), (5) (f), (m), (6) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.87 Tank system removers and cleaners. (1) GENERAL. Except as provided in sub. (7), no person may remove or clean a tank system that is regulated under ch. SPS 310 unless the person complies with one of the following:

(a) The person holds a certification issued by the department as a certified tank system remover−cleaner.

(b) The person is under the direct supervision of another person who holds a certification issued by the department as a certified tank system remover−cleaner.

(2) APPLICATION FOR EXAMINATION. A person applying to take a tank system remover−cleaner certification examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(c) Proof of the liability coverage specified in s. SPS 305.82 (1) (b).

(3) EXAMINATION. A person seeking to obtain a tank system remover−cleaner certification shall take and pass an examination in accordance with s. SPS 305.09.

(4) APPLICATION FOR CERTIFICATION. Upon notification of successfully passing the examination for a tank system remover−cleaner certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(5) RESPONSIBILITIES. A person who removes or cleans or supervises the removing or cleaning of tanks as a certified tank system remover−cleaner shall be present at the job site for at least all of the following activities:

(a) Disconnecting and draining of piping.

(b) Capping of piping.

(c) Vapor freeing or inerting of tanks.

(d) Cleaning of tanks and handling of sludge and other wastes.

(e) Removal of tank systems from the ground and loading them for transport or filling the tank systems with an inert material.

(f) Visual inspection of the soils around the excavation or tank system location.

(6) RENEWAL. (a) A person may renew his or her certification as a tank system remover−cleaner.

(b) A tank system remover−cleaner certification shall be renewed in accordance with s. SPS 305.07.

(c) An application for a renewal under this section shall include proof of the liability coverage specified in s. SPS 305.82 (1) (b).

(7) EXCLUSIONS. This section does not apply to any of the following:

(a) Field−constructed aboveground tanks.

(b) Heating fuel tanks located aboveground or in basements of 1− or 2−family dwellings.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (b), (6) (a) 2., Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (a), (b) and (4), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−127: r. and recr. (1) (intro.), renum. (1) (a) and (b) to be (1) (b) and (c) and am. (b), cr. (1) (d), (2) (c), (6) (c) and (7), renum. (6) (a) 1. and 2. to be (6) (a) and (b), r. (6) (b), Register September 2007 No. 621, eff. 10−1−07; CR 11−020: renum. (1) (a) to (c) to be (1) (intro.), (a), (b) and am., r. (1) (d), Register December 2011 No. 672, eff. 1−1−12; correction in (1) (intro.), (2) (a), (b), (c), (3), (4), (6) (b), (c) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.88 Tank system tightness testers. (1) GENERAL. (a) No person may conduct the tightness testing specified in ch. SPS 310 for a tank system unless the person holds a certification issued by the department as a certified tank system tightness tester.

(b) Tank system tightness testing shall be performed by a person with no personal or monetary interest in the facility and whose employer has no personal or monetary interest in the facility.

(2) APPLICATION FOR CERTIFICATION. A person applying for a tank system tightness tester certification shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a certification fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR CERTIFICATION. (a) A person applying for a tank system tightness tester certification shall have completed training in one or more tightness test methods that have been approved under ch. SPS 310, within the 2 years immediately preceding the application.

(b) The test methodology training qualifying for certification shall have been provided by the person or entity that obtained the approval under ch. SPS 310 for the methodology.

(4) RESPONSIBILITIES. A person who conducts tightness tests for tank systems as a certified tank system tightness tester shall do all of the following:

(a) Conduct tightness tests in accordance with the material approval under ch. SPS 310 and any additional manufacturer's instructions.

(b) Employ only those test methodologies for which training has been obtained.

(5) RENEWAL. (a) A person may renew his or her certification as a tank system tightness tester.

(b) A tank system tightness tester certification shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (5) (b), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−127: renum. (1) to be (1) (a) and am., cr. (1) (b), am. (3) and (4) (a), Register September 2007 No. 621, eff. 10−1−07; CR 11−020: am. (3) (a), (4) (intro.), correction in (1) (a), (2) (a), (b), (3) (a), (b), (4) (a), (5) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.89 Cathodic protection specialties. (1) GENERAL. (a) *Cathodic protection tester.* No person may conduct cathodic protection testing of a tank system that is regulated under ch. SPS 310 unless the person holds a certification issued by the department as a certified cathodic protection tester.

(b) *Corrosion expert.* 1. No person may design or install a cathodic protection system for a tank system that is regulated under ch. SPS 310 unless the person holds a certification issued by the department as a certified corrosion expert.

2. This paragraph does not apply to department−accepted, factory−supplied cathodic protection systems.

Note: The Department has accepted factory−supplied cathodic protection systems that comply with the sti−P3® specifications from the Steel Tank Institute, and may accept other systems of this type without a rule change.

(c) *Independence.* Cathodic protection activities covered under this section shall be performed by a person with no personal or monetary interest in the facility and whose employer has no personal or monetary interest in the facility.

(2) APPLICATION FOR CERTIFICATION. A person applying for certification as a cathodic protection tester or a corrosion expert shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and certification fee in accordance with s. SPS 305.02, Table 305.02.

(c) Documentation showing formal education relating to soil resistivity, stray current, structure−to−soil potential, component electrical isolation measurements of buried metal piping and tank systems, and corrosion control.

(d) Documentation from a cathodic protection certification entity recognized by the department, showing the applicant has successfully completed a certification examination that corresponds to the cathodic protection specialty addressed in the application.

Note: The department will accept the following certifications as demonstrating compliance with pars. (c) and (d), for a cathodic protection tester:

NACE certification as a CP1, CP2 or CP3 cathodic protection technician.
NACE certification as a senior corrosion technologist.
NACE certification as a corrosion technologist.
NACE certification as a corrosion technician.
STI certification in UST system cathodic protection monitoring.

Note: The department will accept the following certifications as demonstrating compliance with pars. (c) and (d), for a corrosion expert:

NACE certification as a corrosion specialist.
NACE certification as a CP4 cathodic protection specialist.

Note: NACE, formerly known as the National Association of Corrosion Engineers, can be contacted at NACE International, P.O. Box 218340, Houston, TX 77218. STI can be contacted at Steel Tank Institute, 570 Oakwood Road, Lake Zurich, IL 60047.

(3) RESPONSIBILITIES. A person who conducts cathodic protection tests or who designs or installs cathodic protection systems shall do all of the following:

(a) Conduct all cathodic protection tests in accordance with ch. SPS 310 and any manufacturer's instructions.

(b) Employ only those methodologies for which training has been obtained and documented.

Note: Although several different levels of expertise may qualify for the same certification, this section is intended to prohibit performing cathodic protection activities unless the specific expertise for that activity has been attained and documented.

(4) RENEWAL. (a) A person may renew his or her certification as a cathodic protection tester or corrosion expert.

(b) A certification for a cathodic protection tester or corrosion expert shall be renewed in accordance with s. SPS 305.07.

History: CR 06−127: cr. Register September 2007 No. 621, eff. 10−1−07; CR 11−020: am. (title), cr. (1) (c) (title), Register December 2011 No. 672, eff. 1−1−12; correction in (1) (a), (b) 1., (2) (a), (b), (3) (a), (4) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

Subchapter IX — Plumbing

SPS 305.90 Plumbing. (1) (a) Except as provided under s. 145.06 (4), Stats., and pursuant to s. 145.06, Stats., no person may install plumbing unless the person holds a license or registration issued by the department as a licensed master plumber, licensed master plumber−restricted, licensed journeyman plumber, licensed journeyman plumber−restricted, registered plumbing apprentice, registered plumbing learner−restricted, registered utility contractor or registered pipelayer.

(b) 1. Pursuant to s. 145.14, Stats., the plumbing activities that may be undertaken by a person who holds a license or registration as a licensed master plumber−restricted service, licensed journeyman plumber−restricted service or a registered plumbing learner−restricted service shall be limited to the installation or modification of all of the following:

a. Privately owned wastewater treatment systems and components as defined in ch. SPS 381.

b. Building sewers and private interceptor main sewers as defined in ch. SPS 381.

c. Water services and private water mains as defined in ch. SPS 381.

d. That portion of the drain system or water supply system that connects a building sewer or water service to the connection provided by the manufactured/mobile home manufacturer.

2. a. The plumbing activities that may be undertaken by a person who holds a license as a licensed master plumber−restricted service type 2 or licensed journeyman plumber−restricted service type 2 shall be limited to the installation or modification of underground drain and vent piping and plumbing delineated under subd. 1.

b. The plumbing activities that may be undertaken by a person who holds a license as a licensed master plumber−restricted service type 3 or licensed journeyman plumber−restricted service type 3 shall be limited to the modification of existing water distribution systems and plumbing delineated under subd. 1.

c. The plumbing activities that may be undertaken by a person who holds a license as a licensed master plumber−restricted service type 4 or licensed journeyman plumber−restricted service type 4 shall be limited to the installation or modification of drain and vent piping to existing drain stacks and vent stacks for the conversion from a private sewage system to municipal sewers and plumbing delineated under subd. 1.

Note: Prior to November 1, 1996, plumber−restricted service licenses were referred to as plumber−restricted sewer licenses and those licenses formerly referred to as plumber−restricted sewer type 1 are now titled plumber−restricted service. Restricted service plumbing licenses types 2 to 4 are no longer available to new applicants. Individuals who currently hold these types of licenses are permitted to renew the licenses and continue to perform the activities under subd. 2. Individuals who hold a journeyman plumber−restricted service type 2 to 4 may seek to obtain the appropriate type of master plumber−restricted service license in accordance with s. SPS 305.92.

3. Pursuant to s. 145.14, Stats., the plumbing activities that may be undertaken by a person who holds a license or registration as a licensed master plumber−restricted appliance, licensed journeyman plumber−restricted appliance, or registered plumbing learner−restricted appliance shall be limited to the installation and modification of water heaters, water softeners, water treatment

devices and other items in connection with an existing water supply system which do not require direct connection to the drain system.

4. The plumbing activities that may be undertaken by a person who holds a license or registration as a licensed utility contractor or registered pipelayer shall be limited to the installation or modification of water services, private water mains, building sewers, and private interceptor main sewers.

(2) Pursuant to s. 145.06 (3m), Stats., no person may perform the required testing of cross connection control devices unless the person holds a registration issued by the department as a cross−connection control tester.

(3) A business engaged in the installation of plumbing that utilizes plumbing learners shall maintain a ratio of at least one journeyman plumber or journeyman plumber−restricted for each plumbing learner. For this purpose, a master plumber or master plumber−restricted may act as a journeyman plumber or journeyman plumber−restricted, respectively.

(4) Pursuant to s. 145.09, Stats., a person may be accepted for examination for the appropriate classification of license upon submittal of all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(c) A petition for variance fee in accordance with s. SPS 305.02 (4).

(d) A petition for variance documenting evidence of equivalency as provided in s. 145.09 (1) or (2), Stats.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) and (2), Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: am. (1) (b) 1. a. to c., cr. (1) (b) 1. d. and (4) Register June 2004 No. 582, eff. 8−1−04; CR 11−020: am. (1) (b) 4., Register December 2011 No. 672, eff. 1−1−12; correction in (1) (b) 1. a., b., c., (4) (a), (b), (c) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.91 Master plumbers. (1) GENERAL. A person may obtain a license as a licensed master plumber by either:

(a) Taking and passing the master plumber license examination; or

(b) Possessing a master plumber license−retiree.

Note: After November 1, 1996, plumber licenses−retiree are no longer available to new applicants.

(2) APPLICATION FOR EXAMINATION. A person applying to take a master plumber license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying for a master plumber license examination shall have one of the following qualifications:

(a) At least 1,000 hours of plumbing−related work experience per year for at least 3 consecutive years as a licensed journeyman plumber.

(b) Graduated from an accredited engineering university or college with a degree in civil engineering, mechanical engineering or other approved engineering curriculum related to plumbing.

(4) EXAMINATION. Except as provided in sub. (1) (b), a person seeking to obtain a master plumber license shall take and pass an examination in accordance with s. SPS 305.09.

Note: After December 31, 2001, the examination for a master plumber license will include questions relative to the design and installation of multipurpose piping systems.

(5) APPLICATION FOR LICENSE. (a) Upon notification of the successful passage of the examination for a master plumber license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a license as a licensed master plumber by submitting:

1. An application, application fee and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02; and

2. Evidence of possessing a master plumber license−retiree.

(6) RESPONSIBILITIES. (a) A person who as a licensed master plumber is responsible for the installation or modification of plumbing shall utilize the appropriately licensed or registered persons to install or modify plumbing.

(b) 1. A person who has obtained his or her master plumber license prior to January 1, 2002 and who is responsible for the installation or modification of a multipurpose piping system shall have completed an approved course in the engineering principles and skills associated with the design, installation and maintenance of multipurpose piping systems prior to installing such a system.

2. A course to fulfill the obligation under subd. 1. shall be approved and conducted in accordance with s. SPS 305.08.

(c) For any plumbing installation that requires a uniform building permit under s. SPS 320.08, a person who holds a master plumber license may not commence installation of plumbing until a permit is issued for the installation.

Note: Chs. SPS 320 to 325 apply to one− and 2−family dwellings and manufactured dwellings. The department's uniform building permit is issued either by the municipality in which the dwelling is located or by a UDC inspection agency where the municipality does not administer the Uniform Dwelling Code.

(d) For any construction that involves installation or modification of a private onsite wastewater treatment system, a person who holds a master plumber license may not commence installation of plumbing until a sanitary permit is issued for the installation in accordance with s. SPS 383.21.

Note: Section 101.16 (4) (a), Stats., provides that: The person performing the work of installing equipment utilizing liquefied petroleum gas for fuel purposes shall furnish the user of the equipment a statement, the form of which shall be prescribed by the department showing the design, construction, location, and installation of the equipment conforms with the rules promulgated by the department under this section.

(7) EXCHANGES. (a) A person who holds a master plumber license may, upon application to the department, exchange his or her master plumber license for a journeyman plumber license.

(b) A person who has exchanged his or her master plumber license for a journeyman plumber license may, upon application to the department, exchange his or her journeyman plumber license for a master plumber license provided:

1. The person holds a valid journeyman plumber license;

2. The person submits with the application a copy of his or her former master plumber license; and

3. The license fee for a master plumber specified in s. SPS 305.02, Table 305.02 is submitted.

(8) RENEWAL. (a) 1. A person may renew his or her license as a master plumber.

2. A master plumber license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a master plumber shall be contingent upon the master plumber obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a master plumber may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (intro.), (5), (7) (b) 3. and (8) (b), renum. (6) to be (6) (a) and am., cr. (6) (b), Register, April, 2000, No. 532, eff. 5−1−00, except (6) (b) 1. eff. 8−1−00; CR 03−075: am. (3) (a), cr. (6) (c) and (d) Register June 2004 No. 582, eff. 8−1−04; CR 06−031: renum. (8) (b) 1. to be 1. a. and am., cr. (8) (b) 1. b. Register October 2006 No. 610, eff. 11−1−06; CR 11−020: r. (8) (b) 1. a., renum. (8) (b) 1. b. to be (8) (b) 1. and amend, Register December 2011 No. 672, eff. 1−1−12; correction in (2) (a), (b), (4), (5) (a), (b) 1., (6) (b) 2., (c), (d), (7) (b) 3., (8) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.92 Master plumbers−restricted. (1) GENERAL. A person may obtain a license as a licensed master plumber−restricted by either:

(a) Taking and passing the master plumber−restricted license examination; or

(b) Possessing a master plumber−restricted license−retiree.

Note: After November 1, 1996, plumber−restricted licenses−retiree are no longer available to new applicants.

(2) APPLICATION FOR EXAMINATION. A person applying to take a master plumber−restricted service license examination or master plumber−restricted appliance license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. (a) A person applying for a master plumber−restricted service license examination shall have at least 1,000 hours of plumbing−related work experience per year for at least 2 consecutive years as a licensed journeyman plumber or a licensed journeyman plumber−restricted service.

(b) A person applying for a master plumber−restricted appliance license examination shall have at least 1,000 hours of plumbing−related work experience per year for at least 2 consecutive years as a licensed journeyman plumber or a licensed journeyman plumber−restricted appliance.

(4) EXAMINATION. Except as provided in sub. (1) (b), a person seeking to obtain a master plumber−restricted service or a master plumber−restricted appliance license shall take and pass an examination in accordance with s. SPS 305.09.

Note: After December 31, 2001, the examination for a master plumber−restricted appliance license will include questions relative to the design and installation of multipurpose piping systems.

(5) APPLICATION FOR LICENSE. (a) Upon notification of the successful passage of the examination for a master plumber−restricted service or master plumber−restricted appliance license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a license as a licensed master plumber−restricted service or a licensed master plumber−restricted appliance by submitting:

1. An application, application fee and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02; and

2. Evidence of possessing the appropriate master plumber−restricted license−retiree.

(6) RESPONSIBILITIES. (a) A person who, as a licensed master plumber−restricted service or licensed master plumber−restricted appliance, is responsible for an installation or modification of plumbing shall utilize the appropriately licensed or registered persons to install or modify plumbing.

(b) 1. A person who has obtained his or her master plumber−restricted appliance license prior to January 1, 2002 and who is responsible for the installation or modification of a multipurpose piping system shall have completed an approved course in the engineering principles and skills associated with the design, installation and maintenance of multipurpose piping systems prior to installing such a system.

2. A course to fulfill the obligation under subd. 1. shall be approved and conducted in accordance with s. SPS 305.08.

(c) For any plumbing installation that requires a uniform building permit under s. SPS 320.08, a person who holds a master plumber−restricted appliance license or a master plumber−restricted service license may not commence installation of plumbing until a permit is issued for the installation.

Note: Chs. SPS 320 to 325 apply to one− and 2−family dwellings and manufactured dwellings. The department's uniform building permit is issued either by the municipality in which the dwelling is located or by a UDC inspection agency where the municipality does not administer the Uniform Dwelling Code.

(d) For any construction that involves installation or modification of a private onsite wastewater treatment system, a person who holds a master plumber−restricted service license may not commence installation of plumbing until a sanitary permit is issued for the installation in accordance with s. SPS 383.21.

Note: Section 101.16 (4) (a), Stats., provides that: The person performing the work of installing equipment utilizing liquefied petroleum gas for fuel purposes shall furnish the user of the equipment a statement, the form of which shall be prescribed by the department showing the design, construction, location, and installation of the equipment conforms with the rules promulgated by the department under this section.

(7) EXCHANGES. (a) A person who holds a master plumber−restricted service license or master plumber−restricted appliance license may, upon application to the department, exchange his or her master plumber license for the appropriate journeyman plumber−restricted license.

(b) A person who has exchanged his or her master plumber−restricted license for a journeyman plumber−restricted license may, upon application to the department, exchange his or her journeyman plumber−restricted license for the appropriate master plumber−restricted license provided:

1. The person holds a valid journeyman plumber−restricted license;

2. The person submits with the application a copy of his or her former master plumber−restricted license; and

3. The license fee for a master plumber−restricted license specified in s. SPS 305.02, Table 305.02 is submitted.

(8) RENEWAL. (a) 1. A person may renew his or her license as a master plumber−restricted service or master plumber−restricted appliance.

2. A master plumber−restricted service license and a master plumber−restricted appliance license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a master plumber−restricted service or master plumber−restricted appliance shall be contingent upon the master plumber obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a master plumber−restricted service or master plumber−restricted appliance may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (7) (b) (intro.), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (intro.), (5), (6), (7) (b) 3. and (8) (b), Register, April, 2000, No. 532, eff. 5−1−00; am. (3), Register, May, 2001, No. 545, eff. 6−1−01; CR 03−075: am. (3), renum. (6) to be (6) (a), cr. (6) (b) and (c) Register June 2004 No. 582, eff. 8−1−04; CR 05−011: renum. (6) (b) and (c) to be (6) (c) and (d), cr. (6) (b) Register July 2005 No. 595, eff. 8−1−05; CR 06−031: renum. (8) (b) 1. to be 1. a. and am., cr. (8) (b) 1. b. Register October 2006 No. 610, eff. 11−1−06; CR 11−020: r. (8) (b) 1. a., renum. (8) (b) 1. b. to be (8) (b) 1. and amend, Register December 2011 No. 672, eff. 1−1−12; correction in (2) (a), (b), (4), (5) (a), (b) 1., (6) (b) 2., (c), (d), (7) (b) 3., (8) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.93 Journeyman plumbers. (1) GENERAL. (a) The plumbing activities that may be undertaken by a person who holds a license as a licensed journeyman plumber shall be performed under the general supervision of a person who holds a master plumber license, master plumber−restricted license, or utility contractor license.

Note: A journeyman plumber who is working under the general supervision of a licensed master plumber−restricted or licensed utility contractor is limited to the type of plumbing installations associated with the specific license of the person providing the supervision.

(b) A person may obtain a license as a licensed journeyman plumber by either:

1. Taking and passing the journeyman plumber license examination; or

2. Possessing a journeyman plumber license−retiree.

Note: After November 1, 1996, plumber licenses−retiree are no longer available to new applicants.

(2) APPLICATION FOR EXAMINATION. A person applying to take a journeyman plumber license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying for a journeyman plumber license examination shall have completed a plumbing apprenticeship program recognized under ch. 106, Stats.

(4) EXAMINATION. Except as provided in sub. (1) (b), a person seeking to obtain a journeyman plumber license shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR LICENSE. (a) Upon notification of the successful passage of the examination for a journeyman plumber license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a license as a licensed journeyman plumber by submitting:

1. An application, application fee and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02; and

2. Evidence of possessing a journeyman plumber license−retiree.

(6) RENEWAL. (a) 1. A person may renew his or her license as a journeyman plumber.

2. A journeyman plumber license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a journeyman plumber shall be contingent upon the journeyman plumber obtaining at least 24 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a journeyman plumber may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (6) (a) 2., Register, March, 1998, No. 507, eff. 4−1−98; am. (1) (a), (b) (intro.) and (5), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−031: renum. (6) (b) 1. to be 1. a. and am., cr. (6) (b) 1. b. Register October 2006 No. 610, eff. 11−1−06; CR 11−020: r. (6) (b) 1. a., renum. (6) (b) 1. b. to be (6) (b) 1. and amend, Register December 2011 No. 672, eff. 1−1−12; correction in (2) (a), (b), (4), (5) (a), (b) 1., (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.94 Journeyman plumbers−restricted. **(1)** GENERAL. (a) 1. The plumbing activities as delineated under s. SPS 305.90 (1) (b) that may be undertaken by a person who holds a license as a licensed journeyman plumber−restricted service shall be performed under the general supervision of a person who is a licensed master plumber or a licensed master plumber−restricted service.

2. The plumbing activities as delineated under s. SPS 305.90 (1) (b) that may be undertaken by a person who holds a license as a licensed journeyman plumber−restricted appliance shall be performed under the general supervision of a person who is a licensed master plumber or a licensed master plumber−restricted appliance.

(b) A person may obtain a license as a licensed journeyman plumber−restricted by either:

1. Taking and passing the journeyman plumber−restricted license examination; or

2. Possessing a journeyman plumber−restricted license−retiree.

Note: After November 1, 1996, plumber−restricted licenses−retiree are no longer available to new applicants.

(2) APPLICATION FOR EXAMINATION. A person applying to take a journeyman plumber−restricted service license examination or journeyman plumber−restricted appliance license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. (a) A person applying for a journeyman plumber−restricted service license examination shall have:

1. At least 1,000 hours of plumbing−related work experience as a registered learner−restricted service; and

2. Received shop training and instruction in at least the following:

a. Forty hours of plumbing code, chs. SPS 381 to 387.

b. Twenty hours of blueprint or blueline reading.

c. Ten hours of transit or builder's level.

d. Twenty hours of plumbing−related mathematics.

e. Ten hours of first aid and safety.

(b) A person applying for a journeyman plumber−restricted appliance license examination shall have:

1. At least 1,000 hours of plumbing−related work experience as a registered learner−restricted appliance; and

2. Received shop training and instruction in at least the following:

a. Forty hours of plumbing code, chs. SPS 381 to 387.

b. Twenty hours of blueprint or blueline reading.

c. Twenty hours of plumbing−related mathematics.

d. Thirty hours of appliance and equipment servicing.

(4) EXAMINATION. Except as provided in sub. (1) (b), a person seeking to obtain a journeyman plumber−restricted service license or a journeyman plumber−restricted appliance license shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR LICENSE. (a) Upon notification of the successful passage of the examination for a journeyman plumber−restricted license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a license as a licensed journeyman plumber−restricted service or a licensed journeyman plumber−restricted appliance by submitting:

1. An application, application fee and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02; and

2. Evidence of possessing the appropriate journeyman plumber−restricted license−retiree.

(6) RENEWAL. (a) 1. A person may renew his or her license as a journeyman plumber−restricted service or a journeyman plumber−restricted appliance.

2. A journeyman plumber−restricted service license and a journeyman plumber−restricted appliance license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a journeyman plumber−restricted service or journeyman plumber−restricted appliance shall be contingent upon the journeyman plumber obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a journeyman plumber−restricted service or a journeyman plumber−restricted appliance may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) (a), (b) (intro.) and (5), Register, April, 2000, No. 532, eff. 5−1−00; corrections in (3) made

under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532; CR 03−075: r. and recr. (3) Register June 2004 No. 582, eff. 8−1−04; CR 06−031: renum. (6) (b) 1. to be 1. a. and am., cr. (6) (b) 1. b. Register October 2006 No. 610, eff. 11−1−06; CR 11−020: r. (6) (b) 1. a., renum. (6) (b) 1. b. to be (6) (b) 1. and amend, Register December 2011 No. 672, eff. 1−1−12; correction in (1) (a) 1., 2., (2) (a), (b), (3) (a) 2. a., (b) 2. a., (4), (5) (a), (b) 1., (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.95 Plumbing apprentices. (1) GENERAL. A person who holds a registration as a registered plumbing apprentice may install or modify plumbing under the general supervision of a person who is a licensed master plumber.

Note: The Department of workforce development, bureau of apprenticeship standards has additional supervision standards for apprentices for the purpose of training and education.

(2) APPLICATION FOR REGISTRATION. A person applying for a plumbing apprentice registration to install plumbing shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS. A person applying for plumbing apprentice registration to install plumbing shall be entered into a plumbing apprentice contract recognized under ch. 106, Stats.

(4) RESPONSIBILITIES. A person who installs or modifies plumbing as a registered plumbing apprentice may do so if he or she is entered into a plumbing apprentice contract recognized under ch. 106, Stats.

(5) RENEWAL. (a) 1. A person may renew his or her registration as a plumbing apprentice.

2. A plumbing apprentice registration to install plumbing shall be renewed in accordance with s. SPS 305.07.

(b) The renewal of a registration as a plumbing apprentice is contingent upon the person submitting evidence that the person is entered into a plumbing apprentice contract recognized under ch. 106, Stats.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (5) (b), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 11−020: am, (3), (4), (5) (b), Register December 2011 No. 672, eff. 1−1−12; correction in (2) (a), (b), (5) (a) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.96 Plumbing learners. (1) GENERAL. (a) The plumbing activities that may be undertaken by a person who holds a registration as a registered learner−restricted service shall be performed under the direct supervision of a person who holds a master plumber license, a master plumber−restricted service license, a journeyman plumber license or a journeyman plumber−restricted service license.

(b) The plumbing activities that may be undertaken by a person who holds a registration as a registered learner−restricted appliance shall be performed under the direct supervision of a person who holds a master plumber license, a master plumber−restricted appliance license, a journeyman plumber license or a journeyman plumber−restricted appliance license.

(2) APPLICATION FOR REGISTRATION. A person applying for a plumbing learner−restricted service registration or plumbing learner−restricted appliance registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR REGISTRATION. A person applying for a plumbing learner−restricted service registration or plumbing learner−restricted appliance registration to install or modify plumbing shall be at least 16 years old and shall have completed the 12th grade in school or its equivalent.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; correction in (2) (a), (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.97 Utility contractors. (1) GENERAL. A person may obtain a license as a licensed utility contractor by taking and passing the utility contractor license examination.

(2) APPLICATION FOR EXAMINATION. A person applying to take an utility contractor license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. The person applying for an utility contractor license examination shall be at least 18 years old.

(4) EXAMINATION. A person seeking to obtain an utility contractor license shall take and pass an examination in accordance with s. SPS 305.09.

(5) APPLICATION FOR LICENSE. Upon notification of the successful passage of the examination for a utility contractor license, a person may obtain the license by submitting an application and a license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(6) RESPONSIBILITIES. A person who, as a licensed utility contractor, installs or modifies water services, private water mains, sanitary building sewers, storm building sewers, or private interceptor main sewers shall utilize the appropriately licensed or registered persons to install or modify the plumbing.

(7) RENEWAL. (a) A person may renew his or her license as a utility contractor.

(b) An utility contractor license shall be renewed in accordance with s. SPS 305.07.

(c) 1. The renewal of a license as a utility contractor shall be contingent upon the utility contractor obtaining at least 6 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a utility contractor may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (1), (5) and (6), Register, April, 2000, No. 532, eff. 5−1−00; CR 06−031: cr. (7) (c) Register October 2006 No. 610, eff. 11−1−06; CR 11−020: r. and recr. (1), am, (7) (c) 1., Register December 2011 No. 672, eff. 1−1−12; correction in (2) (a), (b), (4), (5), (7) (b), (c) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.98 Pipelayers. (1) GENERAL. Pursuant to s. 145.07 (11), Stats., a person who holds a registration as a registered pipelayer may install or modify water services, private water mains, sanitary building sewers, storm building sewers, or private interceptor main sewers under the general supervision of a licensed utility contractor, licensed master plumber, or a licensed master plumber−restricted service.

(2) APPLICATION FOR REGISTRATION. A person applying for a pipelayer registration to install plumbing shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR REGISTRATION. A person applying for a pipelayer registration to install plumbing shall be at least 18 years old.

(4) RENEWAL. (a) A person may renew his or her registration as a pipelayer.

(b) A pipelayer registration shall be renewed in accordance with s. SPS 305.07.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96; am. (2) (a) and (b), Register, March, 1998, No. 507, eff. 4−1−98; am. (1) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; correction in (2) (a), (b), (4) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

The Wisconsin Administrative Code on this web site is current through the last published Wisconsin Register. See also Are the Codes on this Website Official?

SPS 305.99 Cross connection control testers. (1) GENERAL. Pursuant to s. 145.06 (3m), Stats., no person may conduct a performance test of a cross connection control assembly as required by s. SPS 382.22 (8) unless the person holds a registration issued by the department as a registered cross connection control tester.

(2) APPLICATION FOR REGISTRATION. A person applying for a cross connection control tester registration shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR REGISTRATION. A person applying for a cross connection control tester registration shall have completed at least 40 hours in an approved course or courses in the theory of cross connection control, the operation, testing and maintenance of cross connection control assemblies, and the national standards for these cross connection control assemblies. The course or courses shall include instruction in at least all of the following:

(a) Reduced pressure principle backflow preventers.

(b) Reduced pressure detector fire protection backflow prevention assemblies.

(c) Pressure vacuum breaker assembly.

(d) Double check detector fire protection backflow prevention assemblies.

(e) Double check fire protection backflow prevention assemblies.

(f) Spill resistant vacuum breakers.

(4) RESPONSIBILITIES. A person who, as a registered cross connection control tester, conducts performance tests of cross connection control assemblies shall be responsible for all of the following:

(a) Maintaining a record of each cross connection control assembly performance test conducted, including the date and the result of the test, for at least 2 years.

(b) Making available to the department upon request his or her performance test records.

(c) Following all procedures established by the department for conducting performance tests and filing the results.

(5) RENEWAL. (a) A person may renew his or her registration as a cross connection control tester.

(b) A cross connection control tester registration shall be renewed in accordance with s. SPS 305.07.

(c) 1. The renewal of a certification as a cross connection control tester which has an expiration date after June 30, 2013 shall be contingent upon the cross connection control tester obtaining at least 6 hours of approved continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a certification as a cross connection control tester may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. The department shall consider each application for waiver individually on its merits.

History: Cr. Register, October, 1996, No. 490, eff. 11−1−96;am. (3) (b) to (e), cr. (3) (f), Register, February, 1997, No. 494, eff. 3−1−97; am. (1) and (2) (b), Register, April, 2000, No. 532, eff. 5−1−00; CR 03−075: am. (3) (intro.) Register June 2004 No. 582, eff. 8−1−04; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register May 2009 No. 641; CR 09−050: am. (1) and (3), renum. (4) to be (5), cr. (4) Register December 2009 No. 648, eff. 1−1−10; CR 10−064: cr. (5) (c) Register December 2010 No. 660, eff. 1−1−11; correction in (1), (2) (a), (b), (5) (b), (c) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

Subchapter X — Conveyances

SPS 305.9905 Elevator contractor. (1) GENERAL. (a) Pursuant to s. 101.984 (1), Stats., no person or entity, as of June 1, 2008, may engage in the business or offer to engage in the business of constructing, installing, altering, servicing, replacing or maintaining conveyances unless the person or entity holds a license issued by the department as a licensed elevator contractor, except as provided under par. (b).

(b) A person, entity or business is not required to hold a license as a licensed elevator contractor to service or maintain existing conveyances within facilities or properties owned by the person, entity or business.

(2) APPLICATION FOR LICENSE. A person applying for an elevator contractor license shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a license fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR LICENSE. (a) A person applying for an elevator contractor license shall provide all of the following:

1. A statement certifying that the person complies with the worker's compensation requirements under ch. 102, Stats.

2. Evidence of compliance with the liability insurance requirements as specified under s. 101.985 (1), Stats.

Note: Section 101.985 (1), Stats. reads: "Except as otherwise provided in this subsection, the department shall issue an elevator contractor's license to each person who demonstrates to the satisfaction of the department that the person is adequately qualified and able to engage in business as elevator contractor. The department may summarily issue an elevator contractor's license to a person who is licensed as an elevator contractor under the laws of another state, if, in the opinion of the department, that state's regulation of elevator contractors is substantially the same as this state's. Every person who applies for a license under this subsection shall provide the department with a certificate of insurance issued by one or more insurers authorized to do business in this state, indicating that the person is insured in the amount of at least $1,000,000 per occurrence because of bodily injury to or death of others, is insured in the amount of at least $500,000 per occurrence because of damage to the property of others, and is insured to the extent required under ch. 102. A person who is issued a license under this subsection shall notify the department in writing of any material change in these insurance coverages at least 10 days before the change takes effect."

(b) The person applying for an elevator contractor license shall be the owner of the contracting business, a partner in the contracting business applying on behalf of a partnership, or the chairman of the board or chief executive officer applying on behalf of the contracting corporation.

(4) RESPONSIBILITIES. (a) A licensed elevator contractor shall be responsible for the contractor's work on conveyances with respect to compliance to ch. SPS 318.

(b) A licensed elevator contractor shall utilize the appropriately licensed or registered individuals to construct, install, alter, service, replace or maintain conveyances.

(c) For any construction, installation, alteration, repair or replacement of a conveyance or conveyance component that requires a permit under s. SPS 318.1007, a licensed elevator contractor may not commence the work until a permit is issued for the project.

(d) A licensed elevator contractor shall maintain their liability insurance as specified under s. 101.985 (1), Stats.

Note: See "note" under s. SPS 305.9905 (3) (a) 2. for reprint of s. 101.985 (1), Stats.

(e) A licensed elevator contractor may not contract with another person or entity to engage in construction business activities unless the person or entity holds a credential under s. SPS 305.30 (1) (a) or (b).

(5) RENEWAL. (a) 1. A person may renew his or her elevator contractor license.

2. An elevator contractor license shall be renewed in accordance with s. SPS 305.07.

(b) The renewal of a license as an elevator contractor shall be contingent upon the department's review of the applicant's criminal history record from the department of justice.

History: CR 07−089: cr. Register June 2008 No. 630, eff. 7−1−08, except (1) eff. 1−1−09; renumber from Comm 5.990 made under s. 13.92 (4) (b) 1., Stats., Register June 2008 No. 630; correction in (4) (c) made under s. 13.92 (4) (b) 7., Stats., Register June 2008 No. 630; CR 08−110: cr. (4) (e) Register September 2009 No. 645, eff.

10−1−09; correction in (2) (a), (b), (4) (a), (c), (e), (5) (a) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.991 Elevator installers. (1) GENERAL. (a) Except as specified in sub. (2), no person may erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances unless the person holds a license or registration issued by the department as one of the following:

1. A licensed elevator mechanic.
2. A licensed elevator mechanic−restricted.
3. A registered elevator apprentice.
4. A registered elevator apprentice−restricted.
5. A registered elevator helper.
6. A licensed lift mechanic.
7. A registered lift apprentice.
8. A registered lift helper.

(b) The activities under par. (a) (intro.) that may be undertaken by a person who holds a license or registration as a licensed elevator mechanic−restricted or a registered elevator apprentice−restricted shall be limited to the repair and maintenance of conveyances and the replacement of conveyance components and subsystems except the replacement of hoist ropes and governor ropes.

(c) The activities under par. (a) (intro.) that may be undertaken by a person who holds a license or registration as a licensed lift mechanic, a registered lift apprentice, or a registered lift helper shall be limited to the erection, construction, alteration, replacement, maintenance, repair, removal or dismantling of conveyances covered under ASME A18.1 and ASME A17.1 sections 5.2, 5.3, 5.4, 7.1, 7.2, 7.3 and 7.8.

(2) EXCEPTIONS. (a) *Removal or dismantling of conveyances.* The requirements under sub. (1) do not apply to the removal or dismantling of conveyances as addressed under s. 101.984 (2) (c) 1., Stats.

Note: Section 101.984 (2) (c) 1., Stats. reads: "Paragraph (a) does not apply to an individual who removes or dismantles a conveyance that is destroyed as a result of a complete demolition of a building or where the hoistway or wellway is demolished back to the basic support structure such that the hoistway or wellway is inaccessible."

(b) *Maintenance or repair of conveyances.* The requirements under sub. (1) do not apply to maintenance or repair activities that do not affect the operation of the conveyance including any of the following:

1. Changes to the interior finishes of a conveyance that do not significantly affect the dead load of the conveyance.
2. Changing lamps for conveyance illumination.

History: CR 07−089: cr. Register June 2008 No. 630, eff. 1−1−09; CR 08−030: am. (1) (c) Register December 2008 No. 636, eff. 1−1−09.

SPS 305.992 Elevator mechanic. (1) GENERAL. A person may obtain a license as a licensed elevator mechanic by one of the following methods:

(a) Taking and passing the elevator mechanic license examination.

(b) Completing an elevator apprenticeship program lasting at least 4 years and recognized under ch. 106, Stats., or recognized by the U.S. department of labor.

(c) 1. Having been employed for at least 1,000 hours per year for 5 years preceding the date of license application and the employment includes elevator mechanic level work experience in each year of the 5 years.

2. This paragraph does not apply 2 years after July 1, 2008.

(2) APPLICATION FOR EXAMINATION. A person applying to take an elevator mechanic license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying for an elevator mechanic license examination shall have been employed for at least 1,000 hours per year for 5 consecutive years immediately preceding the date of application and the employment includes elevator mechanic level work experience in each year of the 5 years.

(4) APPLICATION FOR LICENSE. (a) Upon notification of the successful passage of the examination for an elevator mechanic license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a license as a licensed elevator mechanic by submitting all of the following:

1. An application, application fee and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02.

2. The appropriate evidence documenting eligibility under sub. (1) (b) or (c).

(5) RESPONSIBILITIES. A person, who as a licensed elevator mechanic provides supervision of a registered elevator apprentice, a registered elevator apprentice−restricted, a registered elevator helper, a registered lift apprentice or a registered lift helper, shall be responsible for the work of the apprentice or helper with respect to compliance to ch. SPS 318.

(6) RENEWAL. (a) 1. A person may renew his or her license as an elevator mechanic.

2. An elevator mechanic license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as an elevator mechanic shall be contingent upon the elevator mechanic obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as an elevator mechanic may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

3. A person, who initially obtained his or her elevator mechanic license by completing an elevator apprenticeship and whose request to renew his or her license is denied because of failure to fulfill the continuing education requirements of subd. 1., shall be required to take and pass the elevator mechanic examination in order to reacquire the elevator mechanic license.

(c) The renewal of a license as an elevator mechanic shall be contingent upon the department's review of the applicant's criminal history record from the department of justice.

History: CR 07−089: cr. Register June 2008 No. 630, eff. 7−1−08; correction in (2) (a), (b), (4) (a), (b) 1., (5), (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.993 Elevator mechanic−restricted. (1) GENERAL. A person may obtain a license as a licensed elevator mechanic−restricted by one of the following methods:

(a) Taking and passing the elevator mechanic−restricted license examination.

(b) Completing an elevator maintenance apprenticeship program lasting at least 2 years and recognized under ch. 106, Stats., or recognized by the U.S. department of labor.

(c) 1. Having been employed for at least 1,000 hours per year for 3 years preceding the date of application and employment includes elevator mechanic−restricted level work experience in each year of the 3 years.

2. This paragraph does not apply 2 years after July 1, 2008.

(2) APPLICATION FOR EXAMINATION. A person applying to take an elevator−restricted mechanic license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying for an elevator mechanic−restricted license examination shall have been employed for at least 1,000 hours per year for 3 consecutive years immediately preceding the date of application and the employment includes elevator mechanic−restricted level work experience in each year of the 3 years.

(4) APPLICATION FOR LICENSE. (a) Upon notification of the successful passage of the examination for an elevator mechanic−restricted license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a license as a licensed elevator mechanic−restricted by submitting all of the following:

1. An application, application fee and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02.

2. The appropriate evidence documenting eligibility under sub. (1) (b) or (c).

(5) RESPONSIBILITIES. A person, who as a licensed elevator mechanic−restricted provides supervision of a registered elevator apprentice, a registered elevator apprentice−restricted, a registered elevator helper, a registered lift apprentice or a registered lift helper, shall be responsible for the work of the apprentice or helper with to respect to compliance to ch. SPS 318.

(6) RENEWAL. (a) 1. A person may renew his or her license as an elevator mechanic−restricted.

2. An elevator mechanic−restricted license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as an elevator mechanic−restricted shall be contingent upon the elevator mechanic obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as an elevator mechanic−restricted may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

3. A person, who initially obtained his or her elevator mechanic−restricted license by completing a elevator maintenance apprenticeship and whose request to renew his or her license is denied because of failure to fulfill the continuing education requirements of subd. 1., shall be required to take and pass the elevator mechanic−restricted examination in order to reacquire the elevator mechanic−restricted license.

(c) The renewal of a license as an elevator mechanic−restricted shall be contingent upon the department's review of the applicant's criminal history record from the department of justice.

History: CR 07−089: cr. Register June 2008 No. 630, eff. 7−1−08; correction in (2) (a), (b), (4) (a), (b) 1., (5), (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.994 Elevator apprentice. (1) GENERAL. (a) The activities of an individual, who holds a registration issued by the department as a registered elevator apprentice to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances, shall be performed under the general supervision of a person who is a licensed elevator mechanic, except as provided in par. (b).

(b) 1. The activities of an individual, who holds a registration issued by the department as a registered elevator apprentice to maintain and repair conveyances and to replace conveyance components and subsystems, except the replacement of hoist ropes and governor ropes, shall be performed under the general supervision of a person who is a licensed elevator mechanic or a licensed elevator mechanic−restricted.

2. The activities of an individual, who holds a registration issued by the department as a registered elevator apprentice to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances covered under ASME A18.1 and ASME A17.1 section 5.2, shall be performed under the general supervision of a person who is a licensed elevator mechanic or lift mechanic.

Note: The Department of workforce development, bureau of apprenticeship standards may have additional supervision standards for apprentices for the purpose of training and education.

(2) APPLICATION FOR REGISTRATION. A person applying for an elevator apprentice registration to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS. A person applying for an elevator apprentice registration to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances shall be entered into an elevator apprentice contract recognized under ch. 106, Stats., or by the U.S. department of labor.

(4) RESPONSIBILITIES. A person who erects, constructs, alters, replaces, maintains, repairs, removes or dismantles conveyances as a registered elevator apprentice may do so if he or she is entered into an elevator apprentice contract recognized under ch. 106, Stats., or the U.S. department of labor.

(5) RENEWAL. (a) 1. A person may renew his or her registration as an elevator apprentice.

2. An elevator apprentice registration to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances shall be renewed in accordance with s. SPS 305.07.

(b) The renewal of a registration as an elevator apprentice is contingent upon the person submitting evidence that the person is entered into an elevator apprentice contract program recognized under ch. 106, Stats., or by the U.S. department of labor.

History: CR 07−089: cr. Register June 2008 No. 630, eff. 7−1−08; CR 11−020: am. (3), (4), (5) (b), Register December 2011 No. 672, eff. 1−1−12; correction in (2) (a), (b), (5) (a) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.995 Elevator apprentice−restricted. (1) GENERAL. (a) The activities of an individual, who holds a registration issued by the department as a registered elevator apprentice−restricted to maintain and repair conveyances and replace conveyance components and subsystems, except the replacement of hoist ropes and governor ropes, shall be performed under the general supervision of a person who is a licensed elevator mechanic or licensed elevator mechanic−restricted, except as provided in par. (b).

(b) The activities of an individual, who holds a registration issued by the department as a registered elevator apprentice−restricted to maintain and repair conveyances covered under ASME A18.1 and ASME A17.1 section 5.2, shall be performed under the general supervision of a person who is a licensed elevator mechanic, a licensed elevator mechanic−restricted, or a licensed lift mechanic.

Note: The Department of workforce development, bureau of apprenticeship standards may have additional supervision standards for apprentices for the purpose of training and education.

(2) APPLICATION FOR REGISTRATION. A person applying for an elevator apprentice−restricted registration to maintain or repair conveyances or replace conveyance components or subsystems, except the replacement of hoist ropes and governor ropes, shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS. A person applying for an elevator apprentice−restricted registration to maintain or repair conveyances or replace conveyance components or subsystems, except the replacement of hoist ropes and governor ropes, shall be

entered into an elevator apprentice contract recognized under ch. 106, Stats., or by the U.S. department of labor.

(4) RESPONSIBILITIES. A person who maintains or repairs conveyances or replaces conveyance components or subsystems, except the replacement of hoist ropes and governor ropes, as a registered elevator apprentice−restricted may do so if he or she is entered into an elevator apprentice contract recognized under ch. 106, Stats., or the U.S. department of labor.

(5) RENEWAL. (a) 1. A person may renew his or her registration as an elevator apprentice−restricted.

2. An elevator apprentice−restricted registration to maintain or repair conveyances or replace conveyance components or subsystems, except the replacement of hoist ropes and governor ropes, shall be renewed in accordance with s. SPS 305.07.

(b) The renewal of a registration as an elevator apprentice−restricted is contingent upon the person submitting evidence that the person is entered into an elevator apprentice contract recognized under ch. 106, Stats., or by the U.S. department of labor.

History: CR 07−089: cr. Register June 2008 No. 630, eff. 7−1−08; CR 11−020: am. (3), (4), (5) (b), Register December 2011 No. 672, eff. 1−1−12; correction in (2) (a), (b), (5) (a) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.996 Elevator helpers. (1) GENERAL. (a) Pursuant to s. 101.984 (2), Stats., the activities of an individual, who holds a registration as a registered elevator helper to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances, shall be performed under the direct supervision of a licensed elevator mechanic, except as provided in par. (b).

(b) 1. The activities of an individual, who holds a registration as a registered elevator helper to maintain and repair conveyances and to replace conveyance components and subsystems, shall be performed under the general supervision of a person who is a licensed elevator mechanic or a licensed elevator mechanic−restricted.

2. The activities of an individual, who holds a registration issued by the department as a registered elevator helper to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances covered under ASME A18.1 and ASME A17.1 section 5.2, shall be performed under the general supervision of a person who is a licensed elevator mechanic or lift mechanic.

(2) APPLICATION FOR REGISTRATION. A person applying for an elevator helper registration to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR REGISTRATION. A person applying for an elevator helper registration to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances shall be at least 18 years old.

(4) RENEWAL. (a) A person may renew his or her registration as an elevator helper.

(b) An elevator helper registration shall be renewed in accordance with s. SPS 305.07.

History: CR 07−089: cr. Register June 2008 No. 630, eff. 7−1−08; correction in (2) (a), (b), (4) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.997 Lift mechanic. (1) GENERAL. A person may obtain a license as a licensed lift mechanic by one of the following methods:

(a) Taking and passing the lift mechanic license examination.

(b) Completing a lift apprenticeship program lasting at least 2 years and recognized under ch. 106, Stats., or recognized by the U.S. department of labor.

(c) 1. Having been employed for at least 1,000 hours per year for 3 years preceding the date of application and employment includes lift mechanic level work experience in each year of the 3 years.

2. This paragraph does not apply 2 years after July 1, 2008.

(2) APPLICATION FOR EXAMINATION. A person applying to take a lift mechanic license examination shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying for a lift mechanic license examination shall have been employed for at least 1,000 hours per year for 3 consecutive years immediately preceding the date of application and the employment includes lift mechanic level work experience in each year of the 3 years.

(4) APPLICATION FOR LICENSE. (a) Upon notification of the successful passage of the examination for a lift mechanic license, a person may obtain the license by submitting an application and the license fee in accordance with ss. SPS 305.01 and 305.09 (7) (c).

(b) A person may apply for a license as a licensed lift mechanic by submitting all of the following:

1. An application, application fee and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02.

2. The appropriate evidence documenting eligibility under sub. (1) (b) or (c).

(5) RESPONSIBILITIES. A person who as a licensed lift mechanic provides supervision of a registered lift apprentice or a registered lift helper shall be responsible for the work of the apprentice or helper with to respect to compliance to ch. SPS 318.

(6) RENEWAL. (a) 1. A person may renew his or her license as a lift mechanic.

2. A lift mechanic license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a lift mechanic shall be contingent upon the lift mechanic obtaining at least 12 hours of acceptable continuing education within the time period specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a lift mechanic may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

3. A person, who initially obtained his or her lift mechanic license by completing a lift apprenticeship and whose request to renew his or her license is denied because of failure to fulfill the continuing education requirements of subd. 1., shall be required to take and pass the lift mechanic examination in order to reacquire the lift mechanic license.

(c) The renewal of a license as an elevator mechanic−restricted shall be contingent upon the department's review of the applicant's criminal history record from the department of justice.

History: CR 07−089: cr. Register June 2008 No. 630, eff. 7−1−08; correction in (2) (a), (b), (4) (a), (b) 1., (5), (6) (a) 2., (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.998 Lift apprentice. (1) GENERAL. (a) The activities of an individual, who holds a registration issued by the department as a registered lift apprentice to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances as described under s. SPS 305.991, shall be performed under the general supervision of a person who is a licensed lift mechanic or a licensed elevator mechanic, except as provided in par. (b).

(b) The activities of an individual, who holds a registration issued by the department as a registered lift apprentice to maintain and repair conveyances under the scope of ASME A18.1 and ASME A17.1 sections 5.2, 5.3, 5.4, 7.1, 7.2, 7.3 and 7.8, shall be performed under the general supervision of a person who is a

licensed lift mechanic, a licensed elevator mechanic or a licensed elevator mechanic−restricted.

Note: The department of workforce development, bureau of apprenticeship standards may have additional supervision standards for apprentices for the purpose of training and education.

(2) APPLICATION FOR REGISTRATION. A person applying for a lift apprentice registration to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS. A person applying for a lift apprentice registration to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances shall be entered into an elevator apprentice contract recognized under ch. 106, Stats., or by the U.S. department of labor.

(4) RESPONSIBILITIES. A person who erects, constructs, alters, replaces, maintains, repairs, removes or dismantles conveyances as a registered lift apprentice may do so if he or she is entered into an elevator apprentice contract recognized under ch. 106, Stats., or the U.S. department of labor.

(5) RENEWAL. (a) 1. A person may renew his or her registration as a lift apprentice.

2. A lift apprentice registration to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances shall be renewed in accordance with s. SPS 305.07.

(b) The renewal of a registration as a lift apprentice is contingent upon the person submitting evidence that the person is entered into an elevator apprentice contract recognized under ch. 106, Stats., or by the U.S. department of labor.

History: CR 07−089: cr. Register June 2008 No. 630, eff. 7−1−08; CR 08−030: am. (1) (b) Register December 2008 No. 636, eff. 1−1−09; CR 11−020: am. (3), (4), (5) (b), Register December 2011 No. 672, eff. 1−1−12; correction in (1) (a), (2) (a), (b), (5) (a) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

SPS 305.999 Lift helpers. (1) GENERAL. (a) Pursuant to s. 101.984 (2), Stats., the activities of an individual, who holds a registration as a registered lift helper to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances as described under s. SPS 305.991, shall be performed under the general supervision of a person who is a licensed lift mechanic or a licensed elevator mechanic, except as provided in par. (b).

(b) The activities of an individual, who holds a registration issued by the department as a registered lift helper to maintain and repair conveyances under the scope of ASME A18.1 and ASME A17.1 sections 5.2, 5.3, 5.4, 7.1, 7.2, 7.3, and 7.8, shall be performed under the general supervision of a person who is a licensed lift mechanic, a licensed elevator mechanic or a licensed elevator mechanic−restricted.

(2) APPLICATION FOR REGISTRATION. A person applying for a lift helper registration to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a registration fee in accordance with s. SPS 305.02, Table 305.02.

(3) QUALIFICATIONS FOR REGISTRATION. A person applying for a lift helper registration to erect, construct, alter, replace, maintain, repair, remove or dismantle conveyances shall be at least 18 years old.

(4) RENEWAL. (a) A person may renew his or her registration as a lift helper.

(b) A lift helper registration shall be renewed in accordance with s. SPS 305.07.

History: CR 07−089: cr. Register June 2008 No. 630, eff. 7−1−08; CR 08−030: am. (1) (b) Register December 2008 No. 636, eff. 1−1−09; correction in (1) (a), (2) (a), (b), (4) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.