

## Chapter SPS 391

### SANITATION

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**Note:** Chapter Comm 91 was renumbered chapter SPS 391 under s. 13.92 (4) (b) 1., Stats., Register December 2011 No. 672.

**SPS 391.01 Purpose.** This chapter has the following purposes:

(1) This chapter establishes minimum standards and criteria for the design, installation and maintenance of sanitation systems and devices which are alternatives to water-carried waste plumbing fixtures and drain systems so that these sanitation systems and devices are safe and will safeguard public health and the waters of the state.

(2) This chapter establishes criteria for equal speed of access to toilets for each gender in restrooms serving an amusement facility and a specialty event center where the public congregates.

**Note:** Chapter SPS 361 to 366 relating to commercial buildings and structures specifies the minimum number of toilet facilities for women and men.

**Note:** Chapter SPS 390 relating to swimming pools and water attractions contains minimum number of toilet facilities for women and men.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 04-072: am. Register July 2005 No. 594, eff. 1-1-06.

**SPS 391.02 Scope.** (1) This chapter has the following applications:

(a) This chapter applies to all composting toilet systems, incinerating toilets, pit privies and vault privies installed or constructed on or after the effective date of this chapter.

(b) This chapter applies to separate-gender restrooms serving an amusement facility and a specialty event center where the public congregates that are constructed or altered as specified in s. SPS 391.14.

(2) The provisions of this chapter are not retroactively applied to existing installations unless specifically stated in the administrative rule.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 04-072: am. (1) Register July 2005 No. 594, eff. 1-1-06; correction in (1) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

**SPS 391.03 Definitions.** In this chapter:

(1) "Amusement facility" has the meaning given in s. 101.128 (1) (a), Stats.

**Note:** Section 101.128 (1) (a), Stats., reads as follows:

"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.

(2) "Composting toilet system" means a method that collects, stores and converts by bacterial digestion nonliquid-carried human wastes or organic kitchen wastes, or both, into humus.

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

(4) "Facility where the public congregates" has the meaning given in s. 101.128 (1) (b), Stats.

**Note:** The relevant portions of section 101.128 (1) (b), Stats., read as follows: "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
3. A specialty event center.

(5) "Incinerating toilet" means a self-contained device for the treatment of nonliquid carried wastes that deposits the wastes

directly into a combustion chamber, reduces the solid portion to ash and evaporates the liquid portion.

(6) "Pit privy" means an enclosed nonportable toilet into which nonwater-carried human wastes are deposited to a subsurface storage chamber that is not watertight.

(7) "Portable restroom" means a self-contained portable unit that includes fixtures, incorporating holding tank facilities, designed to receive human excrement.

(8) "Specialty event center" has the meaning given in s. 101.128 (1) (g), Stats.

**Note:** Section 101.128 (1) (g), Stats., reads as follows:

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

(9) "Vault privy" means an enclosed nonportable toilet into which nonwater-carried human wastes are deposited to a subsurface storage chamber that is watertight.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 04-072: renum. (1) to (6) to be (2), (3), (5) to (7) and (9), cr. (1), (4) and (8), Register July 2005 No. 594, eff. 1-1-06; correction in (3) made under s. 13.92 (4) (b) 6., Stats., Register December 2011 No. 672.

**SPS 391.04 Registrations.** The installation of a vault privy or a pit privy to serve a state-owned facility shall be registered with the department prior to installation. The registration of a vault privy shall be accompanied by sufficient information to determine compliance with s. SPS 384.25. The registration of a pit privy shall be accompanied by sufficient soil information to determine compliance with s. SPS 383.44 (4) (b).

**History:** CR 02-129: cr. Register January 2004 No. 577, eff. 2-1-04; correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

**SPS 391.10 Composting toilet systems.** (1) The materials, design, construction and performance of a composting toilet system shall conform to NSF Standard 41.

(2) All composting toilet systems shall be listed by a testing agency acceptable to the department.

**Note:** Listing agencies acceptable to the department include the American Gas Association; Canadian Standards Association; NSF International; Underwriter's Laboratories; and Warnock Hersey.

(3) (a) Components for the storage or treatment of wastes shall be continuously ventilated.

(b) Ventilation ducts or vents for the composting toilet system shall conform to s. SPS 382.31 (16).

**Note:** See appendix for a reprint of portions of s. SPS 382.31 (16).

(4) (a) The disposal of the compost shall be in accordance with EPA part 503.

(b) The disposal of any liquid from a composting toilet system shall be either to a public sanitary sewer system or a POWTS conforming to ch. SPS 383.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; correction in (3) (b), (4) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

**SPS 391.11 Incinerating toilets.** (1) The design, construction and installation of a gas-fired incinerating toilet shall conform to ANSI Z21.61.

(2) The materials, design, construction and performance of an electric-fired incinerating toilet shall conform to NSF Standard 41.

(3) All electric and gas-fired incinerating toilets shall be listed by a testing agency acceptable to the department.

**Note:** Listing agencies acceptable to the department include the American Gas Association, Canadian Standards Association, NSF International, Underwriter's Laboratories, and Warnock Hersey.

(4) (a) The disposal of the end product shall be of in accordance with 40 CFR Part 503, Standards for the Use or Disposal of Sewage Sludge.

**Note:** EPA materials relating to EPA 503, including, "Domestic Septage Regulatory Guidance: A Guide to the EPA 503 Rule", are available from the Office of Water Resource, US EPA, 401 M Street SW, Washington D.C. 20460.

(b) The disposal of any liquid from an incinerating toilet shall be either to a public sanitary sewer system or a POWTS conforming to ch. SPS 383.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; correction in (4) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

**SPS 391.12 Privies.** (1) (a) The storage chamber of a vault privy shall conform with the requirements of s. SPS 384.25 relating to holding tanks, and shall have a minimum storage capacity of 200 gallons or one cubic yard.

(b) 1. The storage chamber of a pit privy shall be sited and located in soil recognized to provide treatment and dispersal in accordance with s. SPS 383.44 (4) (b).

**Note:** Chapter SPS 385 establishes procedures for conducting soil evaluations and preparing soil evaluation reports. Section SPS 305.33 delineates the qualifications and certification procedures for individuals who conduct soil evaluations.

2. Governmental units may set standards for the structure above the vault or pit for one- and two-family dwellings.

3. Privies for public use shall meet the requirements of this section and chs. SPS 361 to 366.

**Note:** Chapters NR 811 and 812 establish minimum separation distances between a pit or vault privy and a potable well. Chapters NR 811 and 812 are administered by the department of natural resources.

(c) The storage chamber of a vault privy shall be anchored to prevent flotation caused by saturated soil conditions.

(2) (a) The storage chamber of a pit or vault privy shall be provided with a vent for the purpose of relieving explosive gases.

(b) The vent serving the storage chamber of a privy shall be:

1. At least 3 inches in diameter;
2. Installed in accordance with s. SPS 382.31 (16) (a) to (f); and

3. Fabricated or provided with screening to prevent insects from entering the storage chamber.

(3) The servicing of a vault privy relative to the pumping, transporting and disposal of the contents shall be in accordance with ch. NR 113.

(4) The abandonment of a vault privy shall be accomplished by:

(a) Having the contents of the storage chamber pumped and disposed of in accordance with ch. NR 113;

(b) Removing the entire top of the chamber; and

(c) Filling the remaining portion of the emptied storage chamber with soil or other inert material to an elevation equal to or above the surrounding grade.

(5) The abandonment of a pit privy shall be accomplished by filling the storage chamber with soil or other inert material to an elevation equal to the surrounding grade.

**Note:** The requirements of the commercial building code, chs. SPS 361 to 366, apply to the structures built over those privies serving public buildings and places of employment.

(6) (a) A privy may not be installed in a floodway.

(b) A privy may be installed in the floodfringe provided that the area is filled to remove it from the floodfringe designation or the vault is flood-proofed.

**Note:** The department of natural resources determines if filling or flood-proofing is in accordance with current rules in effect for development in a floodfringe area.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 01-139: am. (1) (b) 3. Register June 2002 No. 558, eff. 7-1-02; correction in (1) (a), (b) 1., 3., (2) (b) 2. made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

**SPS 391.13 Portable restrooms.** (1) The storage chamber of a portable restroom into which human waste is to be deposited shall be watertight.

(2) The entire floor and the side walls to a height of not less than 4 inches of a portable restroom shall be of a material impervious to water.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00.

**SPS 391.14 Equal speed of access to toilets.**

(1) APPLICATION. This section applies to the toilet fixtures in separate-gender restrooms serving an amusement facility and a specialty events center where the public congregates that are constructed or renovated on or after January 1, 2006 only if one of the following occurs:

(a) New separate-gender restrooms are constructed or separate-gender toilets are provided, in which case this section applies only to the new restrooms.

(b) More than 50% of the square footage of an existing separate-gender restroom is renovated, in which case this section applies only to the renovated portion.

**Note:** Under section 101.128 (1) (d), Stats., "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."

(2) NUMBER OF TOILET FACILITIES. When separate public restrooms or other toilet facilities are provided for males and females at an amusement facility and a specialty event center where the public congregates, the number of toilets for the females shall be provided at a ratio of 2 for every toilet and every urinal provided for the males.

**History:** CR 04-072: cr. Register July 2005 No. 594, eff. 1-1-06.

**SPS 391.20 Incorporation of standards by reference.**

(1) CONSENT. Pursuant to s. 227.21, Stats., the attorney general and the revisor of statutes have consented to the incorporation by reference of the standards listed in sub. (3).

(2) COPIES. Copies of the adopted standards are on file in the offices of the department, the secretary of state and the legislative reference bureau. Copies of the standards may be purchased through the respective organizations listed in sub. (3).

(3) ADOPTION OF STANDARDS. The standards referenced in pars. (a) and (b) are hereby incorporated by reference into this chapter.

(a) American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018, GAS-FIRED TOILETS, Z21.61-1983.

(b) NSF International, 3475 Plymouth Road, P.O. Box 130140, Ann Arbor, Michigan 48113-0140, NON-LIQUID SATURATED TREATMENT SYSTEMS, NSF 41-1998.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; correction in (2) made under s. 13.92 (4) (b) 6., Stats., Register December 2011 No. 672.

## Chapter SPS 391

### APPENDIX

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The material and information contained in this appendix is for clarification purposes only. Appendix material and information are numbered to correspond to the rule number as it appears in the text of the code. Material and information included in this appendix is subject to change without notice, including names, addresses, phone numbers and forms, and reflects information known at the time of publication.

**A-391.10 (3) (b)** Section SPS 382.31 (16) (a) to (f) reads as follows:

**382.31 (16) VENT TERMINALS.** All vents and vent systems shall terminate in the open air in accordance with this subsection.

(a) *Extension above roofs.* Extensions of vents through a roof shall terminate at least 8 inches above the roof. Where the roof is to be used for any purpose other than weather protection, the vents shall extend at least 7 feet above the roof.

(b) *Waterproof flashings.* The penetration of a roof system by a vent shall be made watertight with an approved flashing.

(c) *Prohibited uses.* Vent terminals shall not be used as flag poles, support for antennas or other similar purposes.

(d) *Location of vent terminals.* 1. A vent shall not terminate under the overhang of a building.

2. All vent terminals shall be located:

a. At least 10 feet from an air intake;

b. At least 5 feet from a power exhaust vent;

c. At least 10 feet horizontally from or 2 feet above roof scuttles, doors and openable windows; and

d. At least 5 feet from or 2 inches above parapet walls.

3. Where a structure has an earth covered roof extending from surrounding grade, the vent extension shall run at least 7 feet above grade and terminate with an approved vent cap. The portion of vent pipe outside the structure shall be without joints, except one fitting may be installed where the pipe leaves the top or side of the structure.

(e) *Extension through wall.* Where approved by the department, a vent may terminate through an exterior wall. Such a vent shall terminate at least 10 feet horizontally from any lot line and shall terminate downward. The vent shall be screened and shall comply with par. (d).

(f) *Extensions outside buildings.* Drain or vent pipe extensions shall not be located or placed on the outside of an exterior wall of any new building, but shall be located inside the building.



## Chapter SPS 431

### DIESEL TRUCK IDLING REDUCTION GRANTS

SPS 431.10 Purpose.  
SPS 431.20 Definitions.  
SPS 431.30 Eligibility.

SPS 431.40 Applications for grants.  
SPS 431.50 Awarding of grants.

**Note:** Chapter Comm 131 was created as an emergency rule effective July 1, 2006. Chapter Comm 131 was renamed chapter SPS 431 under s. 13.92 (4) (b) 1., Stats., Register December 2011 No. 672.

**SPS 431.10 Purpose.** Pursuant to s. 101.45 (5m), Stats., this chapter sets forth the requirements for applying for, receiving, and using grants for purchasing and field testing diesel truck idling reduction units.

**History:** CR 06-034: cr. Register December 2006 No. 612, eff. 1-1-07; correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

**SPS 431.20 Definitions.** In this chapter:

(1) The definitions in s. 101.45 (1), Stats., shall apply.

**Note:** See Appendix for a reprint of s. 101.45 (1), Stats., and the statute sections referenced in that section.

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

(3) "Headquartered in this state," as referenced under s. SPS 431.30 (1), means the applicant's principal central administrative office is located in Wisconsin, or the applicant's business pays at least 80% of its payroll to employees employed in Wisconsin.

**History:** CR 06-034: cr. Register December 2006 No. 612, eff. 1-1-07; correction in (1), (2), (3) made under s. 13.92 (4) (b) 6., 7., Stats., Register December 2011 No. 672.

**SPS 431.30 Eligibility.** (1) **ELIGIBLE APPLICANTS.** (a) Only applicants meeting all of the eligibility criteria in s. 101.45 (3), Stats., and in par. (b) may receive grants under this chapter.

(b) 1. The applicant is not failing to comply with any conditions imposed by the department on any previous grant received under this chapter.

2. If requested by the department, the applicant agrees to pay a percentage of the eligible costs that exceeds the 50 percent specified in s. 101.45 (3) (c), Stats.

(2) **ELIGIBLE COSTS.** Grants awarded under this chapter shall only be used to cover costs that are established as eligible in s. 101.45 (4) (a) and (b), Stats.

**Note:** See Appendix for a reprint of s. 101.45 (3) and (4) (a) and (b), Stats.

**History:** CR 06-034: cr. Register December 2006 No. 612, eff. 1-1-07; CR 08-037: am. (1) (b) 2. Register October 2008 No. 634, eff. 11-1-08; correction in (1) (a), (b) 2., (2) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

**SPS 431.40 Applications for grants.** Every application for a grant under this chapter shall be submitted to the department on a fully completed, valid form provided by the department.

**Note:** The department's application form is generally available at the department's Web site at <http://dps.wi.gov>, through links there for the diesel truck idling reduction grant program.

**History:** CR 06-034: cr. Register December 2006 No. 612, eff. 1-1-07.

**SPS 431.50 Awarding of grants.** (1) **LIMITS.** Every grant awarded under this chapter shall comply with the limits established in s. 101.45 (4) (d), Stats.

**Note:** As specified in s. 101.45 (2), Stats., the department's authority to award grants under this chapter expires on June 30, 2015.

(2) **TRUCK TRACTORS WITHOUT SLEEPER CABS.** The department may refuse to award a grant for purchasing and installing an idling reduction unit on a truck tractor that does not have a sleeper berth.

(3) **ALLOCATION FOR SMALL FLEETS.** The department may annually allocate up to 25 percent of the grant funding under this chapter, for awarding only to applicants who own and operate 50 or fewer truck tractors.

(4) **PREFERENCE FOR FLEETS WITHOUT PREVIOUS AWARDS.** The department may preferentially direct funding to an applicant who owns a fleet for which no previous grant has been awarded under this chapter.

(5) **PRORATING AWARDS.** The department may set cutoff dates for accepting the applications specified in s. SPS 431.40, and then prorate the awards to the applicants if the total funding requested in the applications exceeds the available revenue.

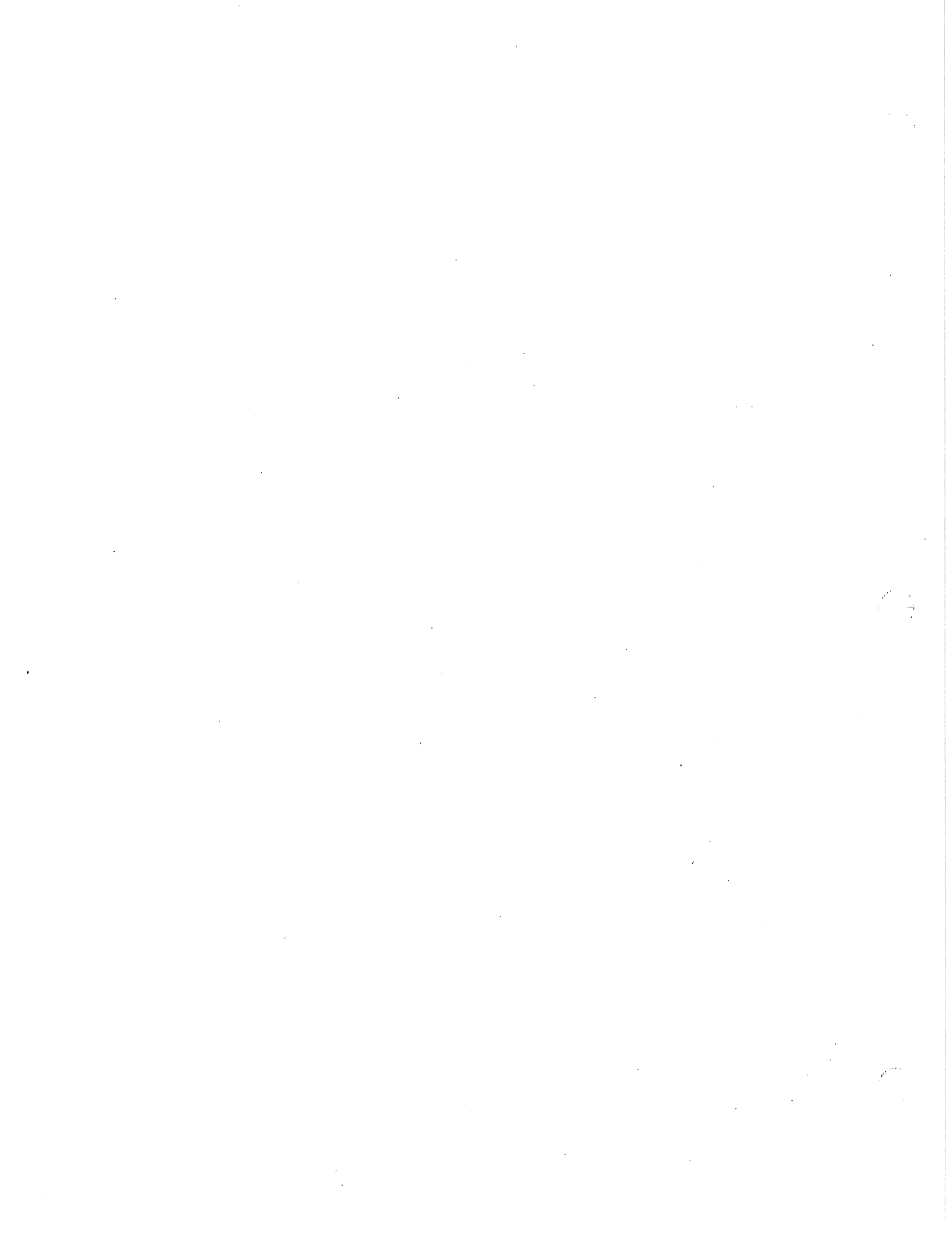
(6) **CONDITIONS.** (a) **General.** Each recipient of a grant awarded under this chapter shall comply with any corresponding conditions imposed by the department, as authorized under s. 560.125 (4) (f), Stats.

**Note:** Section s. 560.125 (4) (f) was repealed.

(b) **Reports.** Each recipient of a grant awarded under this chapter shall submit six- and twelve-month post-installation reports in a format prescribed by the department. These reports shall include evidence of being derived from on-board, electronically recorded data.

**Note:** As required by s. 101.45 (5), Stats., the department will collect information from recipients of grants under this section relating to the operation and performance of idling reduction units. The department will also summarize the information collected and make it available to common motor carriers, contract motor carriers, and private motor carriers, on the department's Web site at <http://dps.wi.gov>, through links there for the diesel truck idling reduction grant program.

**History:** CR 06-034: cr. Register December 2006 No. 612, eff. 1-1-07; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register December 2009 No. 648; correction in (1), (5) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.



## Chapter SPS 431

### APPENDIX

The material contained in this appendix is for informational purposes only, and is numbered to correspond to the number of the rule, as the rule appears in the text of the code.

(Statutes cited are current through 2011 Wisconsin Act 45.)

**A-431.20 Reprint of s. 101.45 (1), Stats., and the statute sections (in italics) referenced in that section.**

"101.45 (1) (a) 'Common motor carrier' has the meaning given in s. 194.01 (1). [*"194.01 (1) 'Common motor carrier' means any person who holds himself or herself out to the public as willing to undertake for hire to transport passengers by motor vehicle between fixed end points or over a regular route upon the public highways or property over regular or irregular routes upon the public highways. The transportation of passengers in taxicab service or in commuter car pool or van pool vehicles with a passenger-carrying capacity of less than 16 persons or in a school bus under s. 120.13 (27) shall not be construed as being that of a common motor carrier."*]

(b) 'Contract motor carrier' has the meaning given in s. 194.01 (2). [*"194.01 (2) 'Contract motor carrier' means any person engaged in the transportation by motor vehicle over a regular or irregular route upon the public highways of property for hire, including the transportation of buildings, as defined in s. 348.27 (12m) (a) 1."*]

(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). [*"194.01 (11) 'Private motor carrier' means any person except a common or contract motor carrier engaged in the transportation of property by motor vehicle other than an automobile or trailer used therewith, upon the public highways."*]

(f) 'Truck tractor' has the meaning given in s. 340.01 (73). [*"340.01 (73) 'Truck tractor' means a motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn."*]

**A-431.30 and 431.50 Reprint of s. 101.45 (3) and (4), Stats.** "101.45 (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).





## Chapter SPS 456

### MANUFACTURED HOUSING REHABILITATION AND RECYCLING

SPS 456.10 Authority and purpose.  
 SPS 456.20 Definitions.  
 SPS 456.30 Eligible applicants.  
 SPS 456.32 Eligible activities.  
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 SPS 456.60 Contracts.  
 SPS 456.70 Completions.

**Note:** Chapter Comm 156 was renumbered chapter SPS 456 under s. 13.92 (4) (b) 1., Stats., Register December 2011 No. 672.

**SPS 456.10 Authority and purpose.** Under the authority in s. 101.934 (3), Stats., this chapter establishes a grant program for rehabilitation and recycling of manufactured housing.

**History:** CR 08-008: cr. Register August 2008 No. 632, eff. 9-1-08; correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

**SPS 456.20 Definitions.** In this chapter:

(1) "Abandoned manufactured home" means a manufactured home that is either of the following:

- (a) Vacant or in need of extensive repair.
- (b) An unreasonable danger to public health, safety, welfare or the environment.

(2) "Administrative costs" means the expenses incurred by a grantee in providing funds to or on behalf of participating households. This includes staff costs, office expenses, and costs for printing, mailing, travel, training, accounting, auditing and reporting.

(3) "Critical repair" means permanent, essential rehabilitation to an owner-occupied manufactured home, that is intended to ensure that the home is decent, safe, and sanitary.

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

(5) "Eligible homeowner" means an individual who owns and resides in a manufactured home that is in need of critical repairs; and whose income, when combined with all other members of the household, does not exceed 80 percent of the median annual household income, as established by the US department of housing and urban development, in the county where the household is located.

(6) "Household" means one or more persons occupying a manufactured home.

(7) "Manufactured home" has the meaning given in s. 101.91 (2), Stats.

**Note:** Under section 101.91 (2) of the Statutes, "manufactured home" means either (1) a structure which is designed to be used as a dwelling with or without a permanent foundation, and which is certified by the federal Department of Housing and Urban Development as complying with the standards established under 42 USC 5401 to 5425; or (2) a mobile home. Under section 101.91 (10) of the Statutes, "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.

(8) "MHRR" means manufactured housing rehabilitation and recycling.

(9) "Municipality" means any city, village, town, county or federally recognized American Indian tribe or band in this state.

(10) "Rehabilitation" means a permanent improvement to an owner-occupied manufactured home; including installation or replacement of windows, doors, roofing, plumbing, water heaters, heating systems, insulation, tie downs, footings and foundations.

**History:** CR 08-008: cr. Register August 2008 No. 632, eff. 9-1-08; correction in (4) made under s. 13.92 (4) (b) 6., Stats., Register December 2011 No. 672.

**SPS 456.30 Eligible applicants.** The department shall accept applications for administration of funding under this chapter only from nonprofit organizations that are identified as tax exempt under section 501(a) of the Internal Revenue Code.

**History:** CR 08-008: cr. Register August 2008 No. 632, eff. 9-1-08.

**SPS 456.32 Eligible activities.** MHRR funds may only be used for the following activities:

(1) To assist eligible homeowners with critical repairs of their primary residence.

(2) To assist municipalities, organizations and persons involved in disposal of abandoned manufactured homes, and for the purpose of supporting environmentally sound disposal.

(3) To offset costs for administering an MHRR program.

**History:** CR 08-008: cr. Register August 2008 No. 632, eff. 9-1-08.

**SPS 456.34 Eligible property.** (1) For all eligible-homeowner activities, the property shall be a manufactured home that will serve as the owner's principal residence. The home shall be located either on land that is owned by the homeowner, or on land for which the homeowner has a written lease as defined in s. 710.15 (1) (ag), Stats.

**Note:** Section 710.15 (1) (ag) of the Statutes reads as follows: "'Lease' means a written agreement between an operator and a resident establishing the terms upon which the mobile home or manufactured home may be located in the community or the resident may occupy a mobile home or manufactured home in the community."

(2) For all disposal activities, the property shall be an abandoned manufactured home.

**History:** CR 08-008: cr. Register August 2008 No. 632, eff. 9-1-08.

**SPS 456.36 Eligible costs.** (1) Any administrative costs, including project-related soft costs, may not exceed ten percent of the total housing activity funds requested, except payments for relocation services may be excluded from this ten-percent portion.

(2) Contracted administrative costs shall be eligible for MHRR funding only when incurred through a request-for-proposal process.

(3) The cost of critical repairs for an owner-occupied manufactured home is eligible for MHRR funding.

**History:** CR 08-008: cr. Register August 2008 No. 632, eff. 9-1-08.

**SPS 456.40 Applying for a grant from the department.** All applications for administration of funding under this chapter shall be in a format prescribed by the department and shall include proof of tax-exempt status.

**Note:** The format that is currently prescribed can be obtained from the department at MHRR, P.O. Box 7970, Madison, WI, 53707; and may be available by accessing the department's Web site at <http://dps.wi.gov> and searching for the manufactured housing rehabilitation and recycling program.

**History:** CR 08-008: cr. Register August 2008 No. 632, eff. 9-1-08.

**SPS 456.50 Evaluation criteria.** The department may adjust an award amount from an amount requested in an application submitted under s. SPS 456.40, based on the following criteria:

(1) The applicant's capacity to complete the proposed activities.

(2) The technical expertise of the applicant's staff, with manufactured housing.

(3) Geographic coverage of activities.

(4) The applicant's performance and progress in any other housing program.

(5) Financial-audit results from any other housing program.

(6) The extent to which the applicant will direct program funding to actual repairs for homeowners who are most in need of the financial assistance, rather than to inspections, appraisals and administrative costs.

**History:** CR 08-008: cr. Register August 2008 No. 632, eff. 9-1-08; correction in (intro.) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.

**SPS 456.60 Contracts.** (1) Each recipient of a grant

award from the department shall enter into a contract with the department for eligible activities.

(2) The department shall release the funds for an award upon signing of the contract by all parties, and submission of any required contract information.

**History:** CR 08-008: cr. Register August 2008 No. 632, eff. 9-1-08.

**SPS 456.70 Completions.** (1) Upon completion of any repairs to a manufactured home that are funded under this chapter, the home shall be connected to permanent utility hook-ups, and shall meet all applicable state and local building codes, rehabilitation standards and ordinances, and zoning ordinances.

(2) Abandoned manufactured homes shall be disposed of utilizing environmentally sound disposal practices.

**History:** CR 08-008: cr. Register August 2008 No. 632, eff. 9-1-08.

## Chapter SPS 500

### SMALL BUSINESS ENFORCEMENT DISCRETION

SPS 500.01 Purpose.  
SPS 500.02 Policy.

SPS 500.03 Definitions.  
SPS 500.10 Enforcement of rules.

**Note:** Chapter Comm 200 was renumbered chapter SPS 500 under s. 13.92 (4) (b) 1., Stats., Register December 2011 No. 672.

**SPS 500.01 Purpose.** The purpose of this chapter is to set forth the extent of discretion the department will exercise in enforcement actions undertaken to obtain compliance with department rules and guidelines, by a small business.

**Note:** This chapter does not limit the department's general statutory authority, such as under s. 101.02, Stats., to exercise discretion in the enforcement of rules in order to gain compliance by any business.

**History:** CR 07-005: cr. Register March 2008 No. 627, eff. 4-1-08.

**SPS 500.02 Policy.** The department acknowledges the objectives under s. 895.59, Stats., as an obligation to evaluate and consider the potential impacts on small businesses with regard to the department's enforcement actions. This obligation is shared by all divisions of the department.

**History:** CR 07-005: cr. Register March 2008 No. 627, eff. 4-1-08.

**SPS 500.03 Definitions.** In this chapter:

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

(2) "Small business" has the meaning given in s. 895.59 (1) (b), Stats.

**Note:** Section 895.59 (1) (b), Stats., reads as follows:

"Small business" has the meaning given in s. 227.114 (1), but does not include an entity, as defined in s. 48.685 (1) (b) or 50.065 (1) (c).

**Note:** Section 227.114 (1), Stats., reads in part, as follows:

"Small business" means a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs 25 or fewer full-time employees or which has gross annual sales of less than \$5,000,000.

**Note:** Section 48.685 (1) (b), Stats., reads as follows:

"Entity" means a child welfare agency that is licensed under s. 48.60 to provide care and maintenance for children, to place children for adoption, or to license foster homes; a foster home that is licensed under s. 48.62; an interim caretaker to whom subsidized guardianship payments are made under s. 48.623 (6); a group home that is licensed under s. 48.625; a shelter care facility that is licensed under s. 938.22; a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14); a child care provider that is certified under s. 48.651; or a temporary employment agency that provides caregivers to another entity.

**Note:** Section 50.065 (1) (c), Stats., reads as follows:

"Entity" means a facility, organization or service that is licensed or certified by or registered with the department to provide direct care or treatment services to clients; or an agency that employs or contracts with an individual to provide personal care services. "Entity" includes a hospital, a home health agency licensed under s. 50.49, a temporary employment agency that provides caregivers to another entity, and the board on aging and long-term care. "Entity" does not include any of the following:

1. Licensed or certified child care under ch. 48.

2. Kinship care under s. 48.57 (3m) or long-term kinship care under s. 48.57 (3n).

3. A person certified as a medical assistance provider, as defined in s. 49.43 (10), who is not otherwise approved under s. 50.065 (1) (cm), licensed or certified by or registered with the department.

4. An entity, as defined in s. 48.685 (1) (b).

6. A public health dispensary established under s. 252.10.

**History:** CR 07-005: cr. Register March 2008 No. 627, eff. 4-1-08; correction in (1) made under s. 13.92 (4) (b) 6., Stats., Register December 2011 No. 672.

**SPS 500.10 Enforcement of rules. (1)** Except as provided in sub. (2), the department shall exercise the following discretion in the enforcement of rules and guidelines with respect to an entity that identifies itself as a small business:

(a) The department shall provide for a reduction or waiver of penalties, upon voluntary disclosure by the small business, of actual or potential violations of rules or guidelines, when the penalties are under the direct control of the department.

(b) The department may consider the small business's ability to pay when determining the amount of any monetary penalty, when the monetary penalty is under the control of the department.

**Note:** Most monetary penalties are determined and imposed by the judicial system. The department may only determine the amount of a monetary penalty that is imposed by citation or administrative forfeiture under specific statutory authority.

**Note:** Under s. 101.02 (6), Stats., the department may grant an extension of time to any entity, regardless of size, as may be reasonably necessary to achieve compliance with a rule or guideline.

(2) (a) The department will not exercise discretion in the enforcement of a rule or guideline with respect to a small business in any of the following situations:

1. The department discovers the violation before the small business discloses the violation.

2. The violation is disclosed after a department audit or inspection of the small business has been scheduled.

3. The violation was identified as part of the monitoring or sampling requirements that are consistent with the requirements under an existing permit.

4. The violation results in a substantial economic advantage for the small business.

5. The small business has repeatedly violated the same rule or guideline.

6. The violation may result in an endangerment to the environment, or to public health or safety.

(b) The department may decline to exercise discretion in the enforcement of a rule or guideline with respect to a small business, if the small business fails to correct the violation in accordance with the department's rules and guidelines.

(3) The requirements of this chapter apply to any exercise of department discretion in an enforcement action against an entity after the entity has notified the department that it meets the definition of small business, and the department determines that the entity is a small business.

**History:** CR 07-005: cr. Register March 2008 No. 627, eff. 4-1-08.

