

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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Tony Evers, Governor  
Dawn B. Crim, Secretary

## NOTICE OF VIOLATIONS AND ORDERS

January 27, 2020

CUST ID No.: 1341015      TRANSACTION No.: 3292264  
Phone: 920.826.7610

PENSAUKEE FIRE DEPARTMENT  
4710 BROOKSIDE ROAD  
ABRAMS WI 54101

Site ID No.: 816672 Pensaukee Fire Department  
SITE ADDRESS: 4710 Brookside Road  
Oconto County, Town of Abrams  
Site Contact: Pat Aerts  
Contact Phone: (920) 826-7610

ORDER 0006630

### Regulated Objects:

Nature of Complaint Summary: FIRE DEPARTMENT HAS SAFETY CODE VIOLATIONS  
Object Type: Complaint    Regulated Object ID No.: 1843798  
Last Inspection Date: December 16, 2019

**INVESTIGATION NOTES:** Fire Departments are regulated by Wis. Admin. Code Chapter 330. Per Wis. Admin. Code § SPS 330.002, the scope of the chapter includes the requirements set forth in Wis. Admin. Code Chapter 332, Public Employee Safety and Health. Wisconsin adopts OSHA standards for fire departments per Wis. Admin. Code §§ SPS 332.50 and 332.15 unless there is a specific standard stated in SPS 330. See Wis. Admin. Code § SPS 332.16(12). These violations reflect those code standards.

This DEPARTMENT ORDER is issued as a result of an inspection on the above referenced site.

The following violations were revealed:

**1. Violation:** The Fire Department does not have an established Occupational Safety and Health Committee

**Wis. Admin. Code § SPS 330.05** Occupational safety and health committee.

(1) Every fire department shall establish an occupational safety and health committee which shall advise the chief of the fire department on issues related to the program. The committee shall include representatives of fire department management and fire fighters or representatives of fire fighter organizations or other persons. Any representatives of a fire service organization. The chief of the fire department shall appoint the other members of the committee.

(2) The committee appointed under Sub. (1) shall: (a) Conduct research, develop recommendations and study and review matters pertaining to the program; and (b) hold regularly scheduled meetings at least biannually and may hold special meetings as it determines necessary. The committee shall make a written record of its meetings available to all fire fighters in the fire department.

**Suggested Action:** Establish an Occupational Safety and Health Committee. Ensure that the committee meets the additional requirements specified in this section.

**2. Violation:** The Fire Department does not have an Exposure Control Plan. Annual Blood Borne Pathogens Training was not being completed/documented.

**Wis. Admin. Code § SPS 330.07(1)** Training and education program. Every fire department shall...establish and maintain a member training and education program that identifies specific goals and objectives for the prevention and elimination of ... exposure to communicable disease.

**29 CFR § 1910.1030(c)(1)(i)** Each employer having employees with occupational exposure as defined by paragraph (b) *Occupational Exposure* means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.) of this section shall establish a written Exposure Control Plan designed to eliminate or minimize employee exposure.

(iv) The Exposure Control Plan shall be reviewed and updated at least annually and whenever necessary to reflect new or modified tasks and procedures which affect occupational exposure and to reflect new or revised employee positions with occupational exposure.

**29 CFR § 1910.1030(g)(2)(iv)** Annual (bloodborne pathogen) training for all employees shall be provided within one year of their previous training. 1910.1030(g)(2)(viii) The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address. 1910.1030(h)(2) Training Records. Training records shall include the following information:

- a) The dates of the training sessions;
- b) The contents or a summary of the training sessions;
- c) The names and qualifications of persons conducting the training; and
- d) The names and job titles of all persons attending the training sessions.

**Suggested Action:** Develop an Exposure Control Plan and complete annual review. Complete annual Blood Borne Pathogen Training.

**3. Violation:** The Fire Department does not have an incident command system written guideline. The Fire Department had not conducted training related to any incident command system written guidelines. (Several firefighters have completed NIMS 100/700.)

**Wis. Admin. Code § SPS 330.14(1)** Incident management.

Every fire department shall do all of the following:

- (a) Conduct emergency operations and other hazardous situations, including training exercises, in a manner to recognize hazards and to prevent accidents and injuries.
- (b) Establish, and ensure use of, an incident management system in accordance with NIMS that includes written standard operating guidelines applicable to all members involved in an emergency operation.
- (c) Provide NIMS training to all members involved in emergency operations.  
Note: Information on NIMS training is available on FEMA's website at [training.fema.gov/nims](http://training.fema.gov/nims).
- (d) Require the incident commander of an emergency operation to be responsible for the overall safety of all fire fighters and activities occurring at the scene of the operation. The incident commander has overall authority and responsibility for conducting incident operations and is responsible for the management of emergency operations and the activities of emergency personnel at the incident site.
- (e) Require the incident commander of an emergency operation to assign safety responsibilities to supervisory personnel at each level of operations and establish an organization with sufficient supervisory personnel to control the position and function of all fire fighters operating at the scene of that emergency operation to ensure that safety requirements are satisfied.
- (f) Use a standardized system to identify and account for the assignment of each fire fighter at the scene of an emergency operation.

**Suggested Action:** Establish incident command written guidelines and ensure all staff are trained on them.

**4. Violation:** The Fire Department has not verified a workplace hazard assessment through written certification. The Fire Department did not have a maintenance and inspection program for protective clothing and equipment. The Fire Department does not have documented personal protective equipment training for staff.

**Wis. Admin. Code § SPS 330.11(1)** Protective clothing and equipment. (1) Every fire department shall:

- (a) Provide, and enforce the use of, a protective ensemble and equipment to all fire fighters who engage in structural fire fighting or are exposed to hazards or potential hazards in accordance with 29 CFR 1910.132, subject to all of the following:
  1. Protective clothing and equipment shall provide protection related to the fire fighter's job duties.
  2. New protective clothing and equipment shall meet the applicable standards as specified in NFPA 1971.
  3. Existing protective clothing and equipment shall meet the NFPA standard that was current when the protective clothing or equipment was purchased or obtained by the fire department.
  4. Required protective clothing and equipment shall be provided at no cost to the fire fighter.
  5. Ensure protective clothing and equipment is used and maintained in accordance with manufacturer instructions and 29 CFR 1910.132.
  6. Establish a maintenance and inspection program for protective clothing and equipment and assign specific responsibilities for inspection and maintenance.
  7. When protective clothing and equipment is assigned or available for use to a fire fighter, provide training to each fire fighter under this paragraph in the proper care, use, inspection, cleaning, decontamination, maintenance, and limitations of the protective clothing and equipment.

**29 CFR § 1910.132(d)(2)** The employer shall verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.

**29 CFR § 1910.132(f)(1)** The employer shall provide training to each employee who is required by this section to use personal protective equipment (PPE). Each employee shall be trained to know at least the following:

- (i) When PPE is necessary;

- (ii) What PPE is necessary;
- (iii) How to properly don, doff, adjust, and wear PPE;
- (iv) The limitations of the PPE; and,
- (v) The proper care, maintenance, useful life and disposal of the PPE.

1910.132(f)(4) The employer shall verify that each affected employee has received and understood the required training through a written certification that contains the name of each employee trained, the date(s) of the training, and that identifies the subject of the certification.

**Suggested Action:** Complete a workplace hazard assessment. Complete a maintenance and inspection program. Complete documentation of protective clothing and equipment training and requirements with staff.

**5. Violation:** The Fire Department does not have evidence of monthly training being held or evidence to suggest that any training was provided by a qualified instructor.

**Wis. Admin. Code § SPS 330.07** Training and education program. Every fire department shall do all of the following:

- (1) Establish and maintain a member training and education program that identifies specific goals and objectives for the prevention and elimination of occupational accidents, injuries, illnesses, exposures to communicable disease, and fatalities.
- (2) Assure that the training and education provided under this section are based upon the fire department's written standard operation guidelines.
- (3) Assure that the training and education required under this section and s. SPS 330.08 are provided by a qualified instructor.
- (4) Provide training and education commensurate with the duties and functions the member is expected to perform.
- (5) Assure that a member obtains the minimum fire fighter training and education requirements before that member performs any interior structural firefighting activity or within an IDLH environment as determined by the incident safety officer in accordance with s. SPS 330.14 (1) (g).
- (6) Provide training and education to fire fighters about special hazards to which they may be exposed during a fire and other emergencies and advise of any changes that occur in relation to the special hazards. The procedures to address special hazards shall be maintained in written form. Training and education under this subsection shall be provided at least biannually.
- (7) Assure that the training and education are conducted frequently enough to ensure that each fire fighter is able to perform the assigned duties and functions satisfactorily and in a safe manner so as not to endanger other fire department members or employees.
- (8) Assure that fire fighters whose duties include interior structural firefighting receive training and education consistent with established fire ground operating procedures. Training and education under this subsection shall be provided at least monthly.
- (9) Assure that training and education involving live fire fighting exercises meet the standards specified in NFPA 1403.
- (10) Assure that a training and education program for any fire fighter engaged in fire ground operations includes procedures to perform a safe exit from a dangerous area in the event of equipment failure or sudden change in fire conditions.
- (11) Assure that fire fighters receive training and education on the incident management system in accordance with s. SPS 330.14 (1) (c).

**Suggested Action:** Ensure that training meets the requirements of § SPS 330.07. Ensure that training documentation identifies the instructor and that training is consistent with written guidelines.

**6. Violation:** The Fire Department does not have a Respiratory protection program and was not completing inspections and maintenance on SCBAs and equipment.

**Wis. Admin. Code § SPS 330.12** Self-contained breathing apparatus. (1) (c) Adopt and maintain a respiratory protection program that satisfies the requirements of 29 CFR 1910.134.

**29 CFR § 1910.134(c)(1)** In any workplace where respirators are necessary to protect the health of the employee or whenever respirators are required by the employer, the employer shall establish and implement a written respiratory protection program with worksite-specific procedures. The program shall be updated as necessary to reflect those changes in workplace conditions that affect respirator use. The employer shall include in the program the following provisions of this section, as applicable:

- (i) Procedures for selecting respirators for use in the workplace;
- (ii) Medical evaluations of employees required to use respirators;
- (iii) Fit testing procedures for tight-fitting respirators;
- (iv) Procedures for proper use of respirators in routine and reasonably foreseeable emergency situations;
- (v) Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators;
- (vi) Procedures to ensure adequate air quality, quantity, and flow of breathing air for atmosphere-supplying respirators;
- (vii) Training of employees in the respiratory hazards to which they are potentially exposed during routine and emergency situations;

- (viii) Training of employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance; and
- (ix) Procedures for regularly evaluating the effectiveness of the program.

**Suggested Action:** Complete a respiratory protection program which meets the code requirements. Ensure that firefighters are trained in the proper use of respirators. Ensure that medical evaluations are completed prior to initial fit testing. Complete annual fit testing. Ensure that proper maintenance and inspections are being completed on SCBAs.

**7. Violation:** The Fire Department has not been completing weekly Personal Alert Safety System (PASS) alarm tests/inspections.

**Wis. Admin. Code § SPS 330.13** Every fire department shall provide, and enforce the use of, a PASS device to every fire fighter using SCBA while engaged in rescue, fire fighting, or other hazardous operations. Each PASS device shall be tested at least weekly and prior to each use as specified in NFPA 1982 and shall be maintained in accordance with the manufacturer's instructions.

**Suggested Action:** Complete required PASS Alarm tests/inspections

**8. Violation:** The Fire Department has not been completing/documenting portable equipment inspection and testing as required.

**Wis. Admin. Code § SPS 330.10 (1)** Inspection and testing of portable equipment. Every fire department shall do all of the following:

- (a) Visually inspect, at least monthly and within 24 hours after use, all equipment carried on fire apparatus or designated for training.
- (b) Maintain inventory records for equipment carried on each fire apparatus and for equipment designated for training.
- (c) At least annually, test all equipment carried on fire apparatus or designated for training according to the instructions and applicable standards of the manufacturer.
- (d) Remove from service and repair or replace any fire fighting equipment that is defective or unserviceable as specified in the applicable NFPA standard as specified under s. SPS 330.02.
- (e) Inspect and service test all ground ladders.
- (f) Inspect and service test all fire hose.
- (g) Inspect, maintain, and test all fire extinguishers in compliance with ch. SPS 314.

**Suggested Action:** Complete and document monthly portable equipment inspection and testing. Maintain an inventory log. Complete hose testing. Complete ladder inspection and testing. Ensure Fire Extinguishers are tested and inspected.

**9. Violation:** The Fire Department does not have a written policy for Firefighter Assistance Referral Program.

**Wis. Admin. Code § SPS 330.16** Member Assistance Referral Program. Every fire department shall establish and adopt a written policy statement for a fire fighters assistance referral program that identifies and assists fire fighters with alcohol or substance abuse, stress and personal problems adversely affecting their job performance. The assistance program shall refer fire fighters to health care services as appropriate for the recovery of their health and job performance abilities.

**Suggested Action:** Establish a written policy that will refer firefighters to proper health care services for any assistance that they may need for the recovery of their health and job performance abilities.

**10. Violation:** The Fire Department does not have an emergency operations procedure relating to hazardous materials, trench rescues, confined spaces, diver operations, or other technical rescue. The department calls for mutual aid assistance.

**Wis. Admin. Code § SPS 330.20 Hazardous materials.** Fire departments engaged in emergency operations relating to hazardous materials shall comply with s. 29 CFR 1910.120 as adopted by reference in ch. SPS 332.

**Wis. Admin. Code § SPS 330.23 Miscellaneous hazardous situations.** Fire departments engaged in miscellaneous emergency operations and hazardous situations such as, but not limited to, structural collapse rescue, elevator rescue, trench rescue and terrorism responses shall comply with s. SPS 330.14, and with s. 29 CFR 1910.132 and any other applicable standard in 29 CFR 1910 and 29 CFR 1926, as adopted by reference in ch. SPS 332.

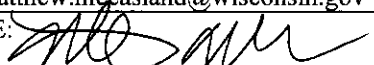
**Suggested Action:** Develop, implement and document an emergency operations procedure relating to applicable standards.

You are hereby ordered to have the Department corrected to conform to the indicated provisions of the Wisconsin Administrative Code and/or Wisconsin Statutes. These department policies shall be implemented by the compliance date noted, and upon correction of violations I must be notified. If you fail to comply, this order is enforceable in circuit court pursuant to Wis. Stat. § 101.02(13), with forfeitures ranging from \$10 to \$100 per day for each violation.

If you have any questions regarding this matter, please feel free to contact me at the number listed below.

**Wis. Admin. Code § SPS 303.03 Permits any person affected by a rule of the department to petition for a variance of the rule. The petition needs to establish equivalency to the rule, be provided on the form from the department and be submitted with accompanying fee and municipal recommendation.**

**Wis. Stat. § 101.02(6) 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. All requests must be received within 30 days of the date of this Order and shall set 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.**

ATTORNEY NAME: Matthew McCasland	INVESTIGATION DATE: 11/26/2019
PHONE: (608)266-9814	
E-MAIL: matthew.mccasland@wisconsin.gov	INVESTIGATION TYPE: Requested
SIGNATURE:  DATE: 1/27/2020	INVESTIGATION SOURCE: Other
	COMPLIANCE DATE: 05/15/20

cc: April A Hammond, Safety Inspector, (608) 225-6593  
Richard Sommerfeld