

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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DIVISION OF INDUSTRY SERVICES

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[www.wisconsin.gov](http://www.wisconsin.gov)



Tony Evers, Governor

Dawn B. Crim, Secretary

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NOTICE OF VIOLATIONS AND ORDERS

October 5, 2021

Rusk County Highway Dept.

N4711 Highway 27

Ladysmith, WI 54848

**SITE:**

**N6335 State Hwy 27 (Asphalt Plant)**

**Ladysmith, WI 54848**

**ORDER 0007615**

**Regulated Objects:**

Nature of Complaint Summary: Public Sector Safety Issues with Rusk County Highway Department

Object Type: Complaint (21 COM 104)

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**INVESTIGATION NOTES:** The Department received a complaint alleging that Rusk County Highway Department provided a work environment that was in violation of public sector safety statutes and codes. The Department inspected the Asphalt Plant and reviewed the County's policies and procedures. This order stems from that investigation.

**NOTE:** Due to the uncertainty caused by COVID-19 the Department will extend compliance dates so long as work is being made on gaining compliance with orders or if the site is not being used due to restrictions.

**Wis. Admin. Code § SPS 332.15 OSHA Safety and health standards.** Except as provided in s. SPS 332.16 and subch. IV, all places of employment and public buildings of a public employer shall comply with the federal Occupational Safety and Health Administration (OSHA) requirements adopted under s. SPS 332.50.

**Wis. Admin. Code § SPS 332.50 Incorporation of standards by reference:** The standards listed in the following table are hereby incorporated by reference into this chapter under the authority provided in s. 101.055 (3) (a), Stats.

The following violations were found from the investigation:

**1. Condition found:** Compressed gas cylinders were not properly secured.

**Wis. Admin Code § SPS 332.25** Compressed gases [29 CFR 1910.101]. This department rule is in addition to 29 CFR 1910.101: (1) All compressed gas cylinders shall be secured around the body of the cylinder to prevent falling.

**Action Required:** The gas cylinders should be chained to prevent from falling.

**2.Condition Found:** Disconnects feeding the North and South tanks were not labeled.

**Wis. Admin. Code § SPS 316.12 NEC 110-22** Each disconnecting means required by this code for motors and appliances, and each service, feeder, or branch circuit at the point where it originates, shall be legibly marked to indicate its purpose unless located and arranged so the purpose is evident. The marking shall be of sufficient durability to withstand the environment involved.

**Action Required:** Label all disconnecting means.

**3.Condition Found:** Virgin feed bins were not labeled as confined spaces.

**§ 29 CFR 1910.146(c)(2)** If the workplace contains permit spaces, the employer shall inform exposed employees, by posting danger signs or by any other equally effective means, of the existence and location of and the danger posed by the permit spaces. Note: A sign reading "DANGER-PERMIT-REQUIRED CONFINED SPACE, DO NOT ENTER" or using other similar language would satisfy the requirement for a sign.

**Action Required:** Properly sign all confined spaces.

**4.Condition Found:** The county could not present records of monthly fire extinguisher inspections.

**§ 29 CFR 1910.157(e)(2)** Portable Fire extinguishers or house used in lieu thereof under paragraph (d)(3) of this section shall be visually inspected monthly.

**Action Required:** Inspect fire extinguishers monthly and document.

**5. Condition Found:** Lockout/tagout procedures were not present.

**§ 29 CFR 1910.147(c)(4)(ii)**

The procedures shall clearly and specifically outline the scope, purpose, authorization, rules, and techniques to be utilized for the control of hazardous energy, and the means to enforce compliance including, but not limited to, the following:

1910.147(c)(4)(ii)(A)

A specific statement of the intended use of the procedure.

1910.147(c)(4)(ii)(B)

Specific procedural steps for shutting down, isolating, blocking and securing machines or equipment to control hazardous energy.

1910.147(c)(4)(ii)(C)

Specific procedural steps for the placement, removal and transfer of lockout devices or tagout devices and the responsibility for them; and

1910.147(c)(4)(ii)(D)

Specific requirements for testing a machine or equipment to determine and verify the effectiveness of lockout devices, tagout devices, and other energy control measures.

**Action Required:** Develop and implement specific lockout/tagout procedures.

**6. Condition Found:** Lockout/tagout periodic inspection were not being performed.

**§ 29 CFR 1910.147(c)(6)(1) Periodic Inspection.** The employer shall conduct a periodic inspection of all the energy control procedures at least annually to ensure that the procedure and the requirements of the standard are being followed.

- a) The periodic inspection shall be performed by authorized employee other than the ones(s) utilizing the energy control procedures being inspected.
- b) The periodic inspection shall be conducted to correct any deviations or inadequacies identified.
- c) Where lockout is used for energy control, the periodic inspection shall include a review between the inspector and each authorized employee, of that employee's responsibilities under the energy control procedure being inspected.

**Action Required:** Perform and document lockout/tagout periodic inspections.

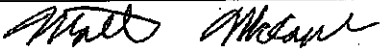
You are hereby ordered to have the installation corrected to conform to the indicated provisions of the Wisconsin Administrative Code and/or Wisconsin Statutes. This installation shall be corrected by the compliance date noted, and upon correction of violations Ryan Geiger and I must be notified. If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

If you have any questions regarding this matter, please feel free contact Jane Dienger at 715-538-3308.

**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: 7/2021
PHONE/WORK HOURS: (608) 266-9814	
E-MAIL: matthew.mccasland@wisconsin.gov	INVESTIGATION TYPE: Requested
SIGNATURE: _____ DATE: _____	INVESTIGATION SOURCE: Other
	COMPLIANCE DATE: 1/1/2022

 8/24/2021	
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cc:Jane Dienger

Lucas Dederich